



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2023-354

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	30
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** Freedom of Information request  
**Date:** Tuesday, 10 October 2023 2:21:47 PM

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**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

**All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.**

Title:  
First Name:  
Last Name:  
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory:  
Phone/mobile:  
Email address:



### Request for informat

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

Documents relating to the Missing Middle Canberra Campaign, including proposed Rz1 reform, upzoning, changes to the Territory Plan to implement the Missing Middle Reforms, any analysis done by EPSDD on the effects of implementing the Missing Middle Canberra or Rz1 Reform, Ministerial Briefings on zoning reform including Rz1 reform, Missing Middle Canberra reforms, upzoning.

I do not want to access the following documents in relation to my request::

general planning documents not related to either Rz1 upzoning, Missing Middle Canberra reforms, or changes to Canberra's zoning.

Thank you.  
Freedom of Information Coordinator



## FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 10 October 2023. Specifically, you sought access to the following information held by CMTEDD:

- *“Documents relating to the Missing Middle Canberra Campaign, including proposed Rz1 reform, upzoning, changes to the Territory Plan to implement the Missing Middle Reforms, any analysis done by EPSDD on the effects of implementing the Missing Middle Canberra or Rz1 Reform, Ministerial Briefings on zoning reform including Rz1 reform, Missing Middle Canberra reforms, upzoning.”*
- *“[Excluding] general planning documents not related to either Rz1 upzoning, Missing Middle Canberra reforms, or changes to Canberra's zoning.”*

On 24 October 2023, this request was partially transferred to the Environment Planning and Sustainable Development Directorate.

### Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

### Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision within 30 working days of the access application being received. Therefore, a decision on access is due by **21 November 2023**.

### Decision on access

Searches were completed for relevant documents and three documents were identified that fall within the scope of your request. These documents include ministerial briefings and cabinet submissions.

I have included as **Attachment A** to this decision the schedule of the relevant documents. This provides a description of the documents that fall within the scope of your request and the access decision for each of those documents.

I have decided to grant **full access** to one document and **refuse access** to two documents as I consider them to contain information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

My access decisions are detailed further in the following statement of reasons and the document released to you is provided as **Attachments B** to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

### **Statement of Reasons**

In reaching my access decisions, I have taken the following into account:

- the Act;
- the scope of your requested information;
- the content of the documents that fall within the scope of your request.

### **Exemption claimed**

My reasons for deciding not to grant access to components of these documents are as follows:

#### Contrary to the public interest information under schedule 1 of the Act

Two of the identified documents contain information that is considered to be contrary to the public interest under schedule 1 of the Act.

#### Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per schedule 1 of the Act, and
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in schedule 2.

#### I have determined that some of the information within the scope of your application contains information that is taken to be contrary to the public interest to disclose under schedule 1 of the Act.

Under the Act schedule 1, section 1.6 *Cabinet Information* is defined as:

*(1) Information—*

*(a) that has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose; or*

*(b) that is an official record of Cabinet; or*

*(c) that is a copy of, or part of, or contains an extract from, information mentioned in paragraph (a) or (b); or*

*(d) the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).*

The purpose of this exemption is to maintain the confidentiality of the Cabinet process and to uphold the principle of collective ministerial responsibility. This exemption was discussed in *The Commonwealth v Northern Land Council* [1993] HCA 24; (1993) 176 CLR 604 (21 April 1993). Paragraph 6 of the decision, states that:

... it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made.

Therefore, access to information that would divulge Cabinet deliberations has been refused.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

Factors favouring disclosure in the public interest:

(a) *disclosure of the information could reasonably be expected to do any of the following:*

(i) *promote open discussion of public affairs and enhance the government's accountability.*

(ii) *contribute to positive and informed debate on important issues or matters of public interest.*

(viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

I have placed some weight on the above factor favouring disclosure. The release of this information can reasonably be expected to provide some background and context into the administration and decision-making process relating to a government program which may be of interest to others within the community. This information could promote open discussion and informed debate on important issues of interest to the ACT community.

I am satisfied that this factor favouring disclosure carries some weight.

Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to information held by CMTEDD within the scope of your request that can be released.

**Charges**

Processing charges for this request are not applicable as less than 50 pages are being released to you.

**Disclosure Log**

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application and my decision **will be published** on the CMTEDD disclosure log. Your personal contact details will not be published. You may view CMTEDD disclosure log at

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>

## **Ombudsman Review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day this decision has been published on the disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

## **ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT:

ACT Civil and Administrative Tribunal  
GPO Box 370  
CANBERRA ACT 2601  
Telephone: (02) 6207 1740  
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the CMTEDD FOI team by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



Emma Hotham  
Information Officer  
Chief Minister, Treasury and Economic Development Directorate  
20 November 2023



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

# FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST		Reference NO.
<p><i>"Documents relating to the Missing Middle Canberra Campaign, including proposed Rz1 reform, upzoning, changes to the Territory Plan to implement the Missing Middle Reforms, any analysis done by EPSDD on the effects of implementing the Missing Middle Canberra or Rz1 Reform, Ministerial Briefings on zoning reform including Rz1 reform, Missing Middle Canberra reforms, upzoning."</i></p> <p><i>"[Excluding] general planning documents not related to either Rz1 upzoning, Missing Middle Canberra reforms, or changes to Canberra's zoning."</i></p>		CMTEDDFOI2023-354

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-4	Ministerial Brief - Lease Variation Charge (LVC) – application to residential zone 1 (RZ1) blocks	13 September 2023	Full		Yes
2	-	Ministerial Brief - To provide information on housing affordability as requested by your office		Exempt	Schedule 1. s 1.6	No
3	-	Cabinet Submission - Lease Variation Charge and Stamp Duty options for RZ1 dual occupancies		Exempt	Schedule 1. s 1.6	No
<b>Total No of Docs</b>						
3						



Chief Minister, Treasury and Economic Development Directorate

To: Treasurer

Tracking No.: CMTEDD2023/4179

Date: 13/09/2023

From: Executive Branch Manager, Economic and Financial Analysis Branch

Subject: Lease Variation Charge (LVC) – application to residential zone 1 (RZ1) blocks

Critical Reason: For information only

- UT 14/09/23

Recommendations

That you:

1. Note how LVC will apply to RZ1 blocks over 800 square metres that unit title into two dwellings under the new Territory Plan.

Noted / Please Discuss

Andrew Barr MLA ..... *Andrew Barr* ..... 15/9/23

Minister's Office Feedback

Consistent with prior discussion ~ options to be developed for tax policy to drive/support updated RZ1 requirements. This will extend beyond LVC to stamp duty.



## Background

1. From 27 November 2023, RZ1 blocks over 800 square metres that contain two standalone dwellings where one dwelling is no larger than 120 square metres will be able to be unit titled, subject to Territory Plan requirements.

## Issues

2. For the dwellings of a dual occupancy to be unit titled and sold separately, a lease variation is required to specify a maximum of two (or more) dwellings are permitted.
3. Codified schedules are used to calculate LVC on variations that limit or increase the maximum number of dwellings permitted on a residential lease.
  - a. LVC is a betterment tax intended to return 75 per cent of the value uplift in land, due to lease variations that allow new development, to the community.
  - b. The schedules avoid bespoke valuations for every lease variation and provide certainty to leaseholders on the amount of LVC they will need to pay.
4. In 2021-22, LVC revenue from the residential codified schedules accounted for 10 per cent of total LVC revenue.

### *Application of LVC to RZ1 blocks that unit title into two dwellings*

5. Schedule 1 Item 1: For residential leases that do not currently limit the maximum number of dwellings, a lease variation to specify the maximum number of dwellings attracts LVC of \$40,000 per dwelling in 2023-24. This charge is scheduled to increase to \$55,000 per dwelling over the next 5 years.
  - a. LVC of \$80,000 will apply to allow two dwellings on these leases in 2023-24. This charge will increase to \$110,000 over the next five years.
  - b. This charge applies to variations of older residential leases (generally those drafted prior to around 1990 and issued sometime thereafter) and will capture most variations.
  - c. In 2021-22, Schedule 1 variations accounted for around 86 per cent of codified LVC revenue.
6. Schedule 2: For leases that already specify a limit on the maximum number of dwellings, a codified schedule with separate charges for each suburb applies.
  - a. LVC ranging from \$47,500 to \$236,250 will apply to increase the number of dwellings from one to two in 2023-24, examples are at Attachment A. These charges are scheduled to increase over the next three years to 75 per cent of market values, with most currently significantly below this level.
  - b. These charges generally apply to variations of newer residential leases, and most relevant variations would be in suburbs established after 1990.

- c. In 2021-22, Schedule 2 variations accounted for around 8 per cent of codified LVC revenue.
- 7. Valuation approach: For blocks in more recently established suburbs, such as Strathnairn and Whitlam, LVC of 75 per cent of the increase in land value assessed by a qualified professional valuer will apply.
  - a. These suburbs are not currently included in the codified LVC schedules but are expected to be added over the next few years, as Schedule 2 charges increase to 75 per cent of market values.

**Financial Implications**

- 8. N/A

**Consultation**

Internal

- 9. Brett Wilesmith, Senior Director, Objections and Policy, Revenue Office

Cross Directorate

- 10. Jonathan Teasdale, Senior Director, Leasing Services, Environment, Planning and Sustainable Development Directorate.

External

- 11. N/A

**Work Health and Safety**

- 12. N/A

**Benefits/Sensitivities**

- 13. N/A

**Communications, media and engagement implications**

- 14. N/A

Signatory Name: Nathan Brown Phone: 73531  
Action Officer: Lien-Jane O'Rourke Phone: 55086

**Attachments**

Attachment	Title
Attachment A	Example Schedule 2 LVC for increasing the maximum number of dwellings to two.

Examples of schedule 2 LVC to increase the maximum number of dwellings from one to two

<b>Suburb</b>	<b>2023-24 LVC*</b>
Waramanga	\$54,375
Gordon	\$47,500 to \$49,375
Ngunnawal	\$48,750 to \$52,500
Kambah	\$47,500 to \$56,875
Florey	\$63,750
Watson	\$108,750 to \$116,250
Bruce	\$76,250
Garran	\$116,250 to \$138,750
Campbell	\$140,625 to \$144,375
Lyneham	\$131,250 to \$138,750
Narrabundah	\$108,750 to \$138,750
Griffith	\$161,250 to \$191,250
Forrest	\$236,250

\*These are the codified values with the 25 per cent remission applied