

# Final Report on the Review of the Change of Use Charges System in the ACT

**Commissioned By:**

***ACT Treasury***

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## Authors Note

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The authors would like to thank Amy Willis from **Macroeconomics** for her research support during the current project.



## Table of Acronyms

Acronym	
<b>AAT</b>	Administrative Appeals Tribunal
<b>ACAT</b>	ACT Civil and Administrative Tribunal
<b>ACT</b>	Australian Capital Territory
<b>ACTPLA</b>	ACT Planning and Land Authority
<b>API</b>	Australian Property Institute
<b>AVO</b>	Australian Valuation Office
<b>CBA</b>	Cost Benefit Analysis
<b>CHC</b>	Community Housing Canberra
<b>CUC</b>	Change of Use Charge
<b>DA</b>	Development Application
<b>DCP</b>	Development Contributions Plan
<b>DCP</b>	Development Control Plan
<b>EP&amp;A Act</b>	Environmental Planning and Assessment Act 1979
<b>GFA</b>	Gross Floor Area
<b>HIA</b>	Housing Industry Association
<b>ICS</b>	Infrastructure Charges Schedule
<b>IPA</b>	Integrated Planning Act (1997)
<b>IPOLAA</b>	Integrated Planning and Other Legislation Amendment Act 2001
<b>LAPS</b>	Department of Land and Property Services
<b>LDR</b>	Law of Diminishing Returns
<b>LVC</b>	Lease Variation Charge
<b>MBA</b>	Master Builders Association
<b>PB</b>	Parsons Brinckerhoff Australian P/L
<b>PCA</b>	Property Council of Australia
<b>PIP</b>	Priority Infrastructure Plans
<b>PSRP</b>	Planning System Reform Project
<b>SGS</b>	SGS Economics
<b>SPA</b>	Sustainable Planning Act 2009
<b>TAMS</b>	Territory and Municipal Services
<b>The Act</b>	Planning and Development Act 2007
<b>The Regulation</b>	Planning and Development Regulation 2008



## Executive Summary

### Background

The Australian Capital Territory (ACT) is the only Australian jurisdiction with a leasehold land tenure system. A fundamental principle of the leasehold system is the unearned increment in the bundle of rights belongs to the community and thus remains with the community. The Change of Use Charge (CUC) introduced in 1971 ensures that a proportion of any windfall gain accruing to a lessee from a variation to their lease is returned to the community as originally intended.

The CUC has undergone a number of changes since its introduction. Over time, the system has become complex, resulting in uncertainty over CUC determinations and delays in development approvals. In response to these concerns, the Government announced a review of the CUC system in the 2009-10 Budget. The review has been undertaken by **Macroeconomics**, and led by Professor Des Nicholls of the Australian National University.

This is the Final Report from the consultants, addressing the Terms of Reference as well as the requirements of the engagement as set out by ACT Treasury.

### Terms of Reference and the Scope of the Review

The Terms of Reference (Section 1.2) required the consultants to:

- review the efficiency and effectiveness of the current system, and recommend areas for improvement;
- undertake research and investigate the existing models for CUC; and
- develop a framework to codify the CUC, ensuring concerns around the current system are addressed including, complexity, uncertainty, delays, cost and potential for speculation.

The consultants were required to undertake comprehensive consultation with the stakeholders in developing the framework.

The project also required a cost-benefit analysis and a Regulatory Impact Statement to be provided with the Final Report.

### Proposed Codification Model

We recommend codifying the system to provide a clear and upfront indication of the potential costs to the proponent of a development. Codification involves establishing a public register of fixed charges for different land uses in all suburbs across the Territory.

The principle of market valuation of the additional rights is proposed to be retained. The report includes codified schedules reflecting current market values for individual suburbs and the



respective uses developed by the Australian Valuation Office (AVO), an independent Commonwealth Government agency.

The valuation basis in the proposed codification model does not take account of the on-site improvements, or the cost of demolition.

This approach will ensure developers pay a charge commensurate with the increase in the value through the additional bundle of rights granted through the change in use.

The 2010-11 schedules included in this Report have been reviewed by a panel of experts, including the AVO, ACT Planning and Land Authority (ACTPLA), Australian Property Institute (API) and Treasury. Should the Government adopt codification, we recommend an annual review and update of the schedules.

There will be a small number of cases where codification will not apply. In these cases, the current system of valuing the 'before' and 'after' values will be applied.

We propose that the CUC be renamed as Lease Variation Charge (LVC) as the bundle of rights can be increased by only expanding the current use, rather than changing it.

## Other Reforms

The proposed codification framework includes a number of other reforms to the system (see **Box 1** for more detail), including:

- removing the right of appeal for codified charges (but retaining it for cases where codification does not apply);
- formalising the current mediation process before a dispute proceeds to the ACAT; and
- separating the consideration and financing of off-site works from the consideration of LVC.

## Rectification of the Change of Use Charge System

In analysing the current system, we noted and highlighted a long term practice of 'fixing' the added value for dual occupancy (\$5,000), townhouse (\$2,500) and unit (\$1,500) redevelopments irrespective of location.

We have estimated this practice to cost the Government up to around \$20 million in revenue per annum. In response to this finding, the Government has rectified the system, by announcing that site by site valuations would be undertaken in line with legislative requirements. This system is currently in practice.

It is important to note in this context that the codified schedules reflect considerable increase from the practice in place until May 2010. However, from the rectified system (which is consistent with the intent of the current legislation), in principle there should be no significant increase.



## Consultation and Input from the Stakeholders

We were required to consult extensively with the stakeholders, and report how the issues and concerns raised have been addressed.

This Report is the result of two rounds of wide consultation including face to face to discussions, and a third round of consultation and specialist review of the schedules. It includes discussion of the industry feedback on each of the rounds of consultation as well as a list of the issues raised and how they have been addressed.

The first round of consultation began in November 2009 with the release of a discussion paper including an outline of the codification framework. This was to provide an early opportunity to the stakeholders to provide input and comment on the framework. Professor Nicholls held discussions with the key stakeholders, and a total of 7 submissions were received in this round.

The second round commenced early 2010 and continued for a period of ten weeks with the release of a draft report and codified schedules. During this time, Professor Nicholls conducted a series of industry briefings to discuss concerns and to respond to queries from stakeholders. In this round, 19 submissions were received including 7 from the property related organisations.

Details of the industry feedback and input are provided in the Sections 7 and 8 of the Report. Key concerns raised relate to:

- the potentially significant increase in charges for residential developments;
- the exclusion of on-site improvements and demolition costs from consideration of valuations; and
- potential for increased costs to the Territory and delays in developments if the off-site works are subjected to a separate process.

As mentioned earlier, the significant increase apparent in the schedules is from the pre rectified system. The increase relates to rectification, and it would be wrong to attribute it to codification.

There are sound conceptual and policy reasons to exclude the on-site improvements and demolition costs, as:

- this is consistent with the underlying philosophy of betterment. The model is intended to capture only the change in value of land due to the additional rights and privileges granted; and
- while a properly constructed charge reflecting increase in the value of land should not distort investment decisions, incorporating on-site improvements and demolition costs into the charge will distort decisions, and provide perverse incentives.



In relation to off-site works, the potential cost efficiencies from the developer delivering the infrastructure works as part of the development works is recognised. Conversely, the developer may not be best placed to deliver the project, for example, road works or intersection changes related to a block of units.

In addition to this, it is important that consideration is also given to the need, scope and financing of the works. In principle, it should be possible to develop an efficient process across government agencies that allows for such considerations outside of a budget process and without causing unnecessary delays for the development.

A number of specific suggestions were also received through the consultation process. The Report discusses how the various suggestions have been treated. Of the significant proposals, briefly:

- the Report recognises the need for transition arrangements following rectification. A codified system provides the most effective means for transition. This, however, is a matter for Government's consideration;
- we have not accepted the proposal to provide a choice between codified charges and 'before' and 'after' valuations as under the current system. This would create administrative complexities besides the potential for 'shopping'; and
- we have accepted the proposal that the schedules have input from the professional valuation industry. Indeed, with assistance from Treasury, the schedules in the report have been reviewed by a panel with two members from the Australian Property Institute. We also propose that the panel continue to be in place for annual review of the schedules.

## Cost Benefit Analysis and Impacts on the Industry

The Cost Benefit Analysis highlights significant benefits for the development industry through reduced processing times and administrative savings for Government as well as the applicants. Based on the activity in 2008-09, it is estimated that with codification, there would be:

- around **6,500** less processing days (a 38 per cent reduction) with large potential for cost savings by developers;
- around **\$375,000** in savings for applicants, by reducing the cost of undertaking private valuation reports; and
- around **\$100,000** in administrative savings to Government due primarily by reducing the need for ACAT mediation and verification of all applications by the AVO.

In addition, there are benefits from clarity and certainty for the industry and individual projects. Such benefits although difficult to quantify, are likely to be substantial. Indeed they have been mentioned regularly throughout the consultation.



An analysis of the 2008-09 activity included in the report indicates around **\$21 million** in additional revenue would have been received:

- around **\$17.8 million** relates to the removal of fixed fees or rectification, and would impact on residential sector;
- around **\$2.7 million** relates to the exclusion of on-site improvements and demolition costs; and
- around **\$0.2 million** for off-site works (although we have reasons to conclude that these could be considerably higher but have not been captured in the reporting systems).

Concerns have been raised in relation to the potential impacts such as, decrease in the developers' profits, increase in dwelling prices, and/or drop in land values. The report examines the four ways that a developer may pass on any increased cost including:

- the property owner (through a reduced price for the property);
- the developer (through a lower profit and risk ratio);
- the end user (through higher prices paid for the property); or
- a combination of the above.

It is acknowledged that there may be short term disruptions to the market for those developers who purchased land in anticipation of the fixed fees. However, as with all microeconomic reform, it is certain that the market adjusts to rectification. It is possible, however, that in some instances, the developments become less viable financially. As with any reform, it is not unreasonable to consider appropriate transition arrangements.

We have suggested a phase-in over a period of three years with the remission reducing progressively to the current level of 25 per cent. This is a matter for Government's consideration. In making this suggestion, we note that:

- firstly, transition (with remissions of such magnitude) would not have been necessary for codification, as codification in itself does not increase charges; and
- secondly, the longer the rectified system remains in operation without codification, the lesser would be the need for transition.

As under the current system, the Government will have the discretion to waive/adjust the LVC to achieve the desired outcome if there are positive external benefits.

## Acknowledgements

Finally, we thank the various organisations and individuals for devoting their valuable time to providing written input as well as for direct discussions. The review and its report have benefited considerably from their engagement. We also wish to thank the Government agencies, particularly the officers in the ACTPLA, for their support and assistance throughout the project.



## Box 1: Codification: Summary of the Reform

Under the proposed codification framework, a number of changes will be required to the current CUC system, including a name change. It is proposed to change the name from CUC to Lease Variation Charge (LVC) to more accurately reflect the underlying transactions (some CUCs do not result from a change of use, e.g., an increase in the gross floor area).

A detailed discussion of these changes is included in the Report; however, a summary of the reforms proposed is outlined below. Notwithstanding, under the proposed system the Government would retain the right to partially or wholly waive the LVC.

A number of these changes address concerns raised during the recent rounds of consultation.

### 1. Schedules of Codes

- Under codification, schedules of codified values will be released for implementation on 1 July each year. The schedules will cover residential, commercial and industrial redevelopment in the ACT.
- For residential codification, it is proposed that:
  - a schedule of fees will apply for all ACT suburbs;
  - the fees will be calculated using a market rate index based on land values, calculated by the Australian Valuation Office (AVO), averaged over three years; and
  - fees will be categorised according to dual occupancy developments and medium/high density developments.
- For commercial and industrial codification, it is proposed to use a rate per square metre of gross floor area for commercial and industrial zones within the Territory Plan.
- Particular cases will require the input of a certified practising valuer, to determine the “before” and “after” values to determine the amount of LVC payable.
- Certain identified lease variations will attract a set fee.

### 2. Review of Codes and Input from Valuation Profession

- It is proposed to establish a committee to review the codes prior to their release each year. It is proposed that this committee include representatives from the AVO, the Australian Property Institute (API) and the ACT Government.

### 3. Appeals Process

- It is proposed that there will be no right to appeal under codification. However, in special cases where codification does not apply, the current appeals process through the ACT Civil and Administrative Tribunal (ACAT) will be used.

### 4. Mediation Process

- It is proposed that the current mediation process before a dispute proceeds to ACAT be formalised and for the API to appoint an independent valuer to make an expert determination on disputed valuations. If this mediation process is unsuccessful, either party would retain the option to appeal the decision to ACAT.

### 5. Offsetting the value of improvements and onsite works against the LVC payable

- It is proposed that improvements, onsite costs (including the costs for demolition) and offsite works will not be taken into account in determining the amount of LVC payable.

### 6. Offsite Works

- For mandatory offsite works, it is proposed that an efficient process be established between the relevant government agencies to consider the reasonableness and scope of offsite works, whom will pay for the mandated costs and how they will be funded.



## Box 2: Recommendations

It is recommended that:

### Rectification

1. the Government notes that the Territory has lost significant revenue through charging fixed fees for residential redevelopments, including dual occupancy (\$5,000), townhouse (\$2,500) redevelopments and unit redevelopments (\$1,500) irrespective of location (Section 2.5.3);
2. the Government notes that the Change of Use Charge recorded and received under the current system has been significantly reduced as a result of offsetting onsite/offsite user charges (Section 2.5.4);

### Codification

3. the Government notes that development charges applied in other states apply to community facilities in a freehold land tenure system, and that for the ACT with a leasehold system, charges under a betterment principle remain appropriate (Section 3);
4. the ten core principles of effectiveness, simplicity, transparency, fairness, growth, timeliness, certainty, exclusivity, stability and universality underpin the proposed codification framework (Section 4.1);
5. the name 'Change of Use Charge' be changed to 'Lease Variation Charge' to more accurately reflect the range of transactions covered (Section 5);
6. the Government adopt a codification system where:
  - a. the schedule of fees is based on a market value of land and excludes associated improvements, onsite and offsite costs (Section 4.1-4.4);
  - b. the costs of mandatory offsite works associated with a redevelopment are accounted for separately and not offset against the determined Lease Variation Charge (Section 2.5.4);
  - c. associated improvements, on site and off site costs are not offset against the Lease Variation Charge (Section 4.1 4.4); and
  - d. an efficient process is established between relevant government agencies to consider the reasonableness, scope and financial arrangements for offsite works (Section 2.5.4);
7. there be no right to appeal the codified schedules (Section 4.10);
8. the schedules be reviewed annually by a panel of experts (Section 4.5);
9. determination of the Lease Variation Charge for concessional leases should be in accordance with the procedure outlined in the Section 4.9 of the Report; and
10. the current arrangements relating to the licensing of land for outdoor seating for commercial premises should not be changed under the new system (Section 4.8).

Subject to the Government's adoption of the codification, it is recommended that:

Cases where Codification will not apply

11. the special cases, where codification will not apply, continue to use the current 'before' and 'after' valuation approach, requiring input from a certified practicing valuer;

**Box 2: Recommendations (cont.)**

12. for special cases, the valuations provided by independent valuers be verified by the Australian Valuation Office (Section 4.10);
13. for those valuations in dispute, the President of the ACT Division of the Australian Property Institute should appoint an independent expert to make an expert determination, through its Presidential Appointment Services. In setting up this service, issues referred to by the Australian Property Institute (listed in Section 4.1) should be addressed, including the right of either party to appeal an expert determination to the ACT Civil and Administrative Tribunal (Section 4.10);

**Transition Arrangements**

14. the codified system for determining the Lease Variation Charge should be introduced as soon as possible through a phased in transitional period (Section 5.1);
15. the Government consider phasing codification through changing the rate of remission – for example, 75% in the first year, 50% in the second year and 25% in the final year;

**Administrative Matters**

16. when there is uncertainty whether codification will apply, ACTPLA should refer the application to an independent expert body, such as the Australian Valuation Office for clarification and advice (Section 4.5);
17. when an applicant submits a Development Approval (which requires a lease variation), they are required to include the calculated Lease Variation Charge with the application (Section 5.1);
18. ACTPLA should, in conjunction with the Australian Valuation Office, develop a readily accessible internet site for the community to identify the Lease Variation Charge payable for each block and section;
19. processes be implemented in relevant agencies to consolidate and simplify existing databases for recording and summarising land transaction data to produce accurate, meaningful and timely summary statistics. This system should take note of the time taken to process different types of Development Approvals, including the Lease Variation Charge;
20. useful summary information be provided to the general public on an annual basis through relevant agency reports and websites (Section 5.4 and Section 6.3.1.3);
21. the responsibility for oversight of policy relating to the codification system, including setting the rate of remission and annually reviewing the schedule of codified values be with Treasury. The administration of the codification system should continue to be the responsibility of ACTPLA;
22. an independent organisation, such as the Australian Valuation Office should have responsibility for determining and updating the schedules of fees used for the codification model (Section 4.10);
23. a panel of experts be established to annually review the codified schedules, including the Regional Manager (Australian Valuation Office), two members of the Australian Property Institute (nominated by the President), an independent Chair and representatives from relevant government agencies (Section 4.10); and
24. an independent review of the codification system be undertaken three years after the transition period.



# 1 Introduction

## 1.1 The Project

In the 2009-10 Budget, the Australian Capital Territory (ACT) Government committed to codifying the Change of Use Charge (CUC) in the Territory. The initiative was in response to industry's concerns around the uncertainty in the CUC determinations, and the associated delays in developments from complexities associated with such determinations<sup>1</sup>.

The codification is to be completed during 2009-10 and implemented in 2010-11.

**Macroeconomics** was engaged by the ACT Treasury to develop the codes. The review was headed by Professor Des Nicholls of the Australian National University for **Macroeconomics**.

The project was overseen by a Steering Committee comprising senior officials from Treasury (Chair), ACT Planning and Land Authority (ACTPLA) and the Department of Land and Property Services (LAPS).

## 1.2 Terms of Reference

The Terms of Reference required the consultant to:

- review the efficiency and effectiveness of the current CUC system and recommend areas for improvement;
- investigate and undertake background research on existing models before determining whether any existing models could form the basis for the ACT model;
- report fortnightly to the Chair of Steering Committee on progress of the project. All final pieces of work should be sent electronically to the Chair, including all working spreadsheets;
- develop a framework to codify the CUC, ensuring concerns around the current system are addressed including complexity, uncertainty, delays, cost and potential for speculation;
  - the model should be robust and based on econometric or any other suitable modelling technique. The consultant must clearly document the methodology applied in its development. The framework should include a methodology for ongoing maintenance of the system and be easy to update as required by the Territory;
  - the model will include a public register of land values by location, for all land uses, including specialist uses (outdoor restaurants and nursing homes). The public register will also account for various floor space scenarios; and
- make technical experts and necessary analysts available for any industry briefing required during the consultation process.

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<sup>1</sup> ACT Budget 2009-10 B.P. No. 3, Page 35.



### 1.3 Approach to the Task

In announcing the CUC Review, the Government committed to undertaking comprehensive consultation with stakeholders. The project work plan provided for consultation with industry and the community at two stages.

In the first stage, a Discussion Paper was released on **20 November 2009** seeking written submissions on the overall framework for codification. These were due by **16 December 2009**.

Drawing on this input, and its analysis, the consultant team developed a set of codified schedules and other fixed charges, as well as a framework for the proposed administrative system. The codified schedules are contained in an attachment to this report. All of this information was made available to the public to inform industry briefings and discussions during the second round of public consultation.

### 1.4 Purpose and Structure of this Paper

The purpose of the Report is to review the operation of the current CUC system, recommend an approach for the proposed codification system and provide a response to community input and comment.

The Report provides a comprehensive analysis of the efficiency and effectiveness of the current system (Term of Reference 1), and an overview of the existing models employed in other States (Term of Reference 2).

For the sake of completeness, and to assist understanding, some background information and characteristics of the current system are included in the paper.

The remainder of this Report is organised as follows.

Section 2 provides a brief overview of the current system. Section 2.1 contains a history and concepts underpinning the CUC system. Section 2.2 includes details of previous reviews of the CUC system. Section 2.3 outlines the current legislative framework for the CUC. Section 2.4 provides comparative measures of activity and revenues under the current CUC system. Section 2.5 highlights some of the problems with the current CUC system.

This Section also includes a discussion of the structural problems associated with the current CUC system, which provides useful context to the proposed framework.

Section 3 provides an analysis of frameworks applied in a number of other states, namely Victoria, Queensland and New South Wales.

Section 4 provides a description of the proposed codification framework. Section 4.1 begins by identifying the principles underpinning the proposed framework. Section 4.2 provides a general outline of the framework. Section 4.3 describes the key concepts and the methodology through



which the schedules will be developed, and how they will be maintained and updated. Section 4.4 describes the structure and content of the codification schedules. Section 4.5 discusses the circumstances where codification will not apply and how the system will operate in such situations. Section 4.6 discusses the issue of the appropriate rate of remission under CUC. Section 4.7 considers the naming of the new system. Section 4.8 presents examples of the application of the framework to various development proposals. Section 4.9 discusses the issue of outdoor seating. Section 4.10 considers the issue of concessional leases. Section 4.11 outlines the approach to reviews and appeals under the proposed new arrangements.

Section 5 outlines the process for the implementation of the codification system. Section 5.1 examines the timeline for the introduction of the new system as well as transition arrangements, including rates of remission. Section 5.2 discusses the operation of the new system. Section 5.3 outlines reforms to the legislative framework and Section 5.4 outlines reforms to the administrative arrangements.

Section 6 discusses the results of the cost benefit analysis of the codification system. Section 6.1 outlines the approach to the task. Section 6.2 identifies the costs and the benefits of the codification system. Section 6.3 presents the results of the analysis. Section 6.4 estimates the net benefits of the codification system.

Section 7 summarises issues raised in submissions responding to the Discussion Paper.

Section 8 addresses issues raised in submissions, discussions with individuals, and roundtable meetings which followed the release of the Draft Report.



## 2 Overview of the Current System

### 2.1 History and Concepts

The CUC, or betterment as it was originally known, came into effect in 1971 following the abolition of land rents and the move towards a premium based leasehold system in the ACT. The betterment levy was applied to any rise in property values attributed to an approved lease variation.

#### 2.1.1 Philosophy of a Change of Use Charge

Betterment is defined as a benefit conferred by the public on some identifiable beneficiaries. If it is not recovered, the benefit becomes an 'unearned' windfall conferred by the public to private beneficiaries. A windfall is unearned in the sense that in the current context it is a creation of the ACT Government's ability to assign value (in the form of rights and privileges) through lease conditions, to parcels of land across the Territory. Leaseholders may receive a benefit without having to make any improvement to their property. Because this value is 'gifted' to the leaseholder, rather than earned, it is socially efficient and equitable that government retains a significant proportion of that windfall and uses it for the benefit of the community.<sup>2</sup>

However, there is a policy trade-off here for Government. If Government chooses to retain the entire windfall, it may contribute to reducing incentive for property development. Development activity itself can generate real improvements in land values and a lower CUC rate may spur development activity. But the lower the CUC rate the greater the community benefit that passes into private hands. The task for policy makers is to find the right balance between these two competing objectives to maximise economic development.

Previous reviews of the CUC have concluded that generally charging the CUC is not a disincentive to development. However, the ACT Government has recognised that the level of CUC could influence the rate of property development under certain circumstances.<sup>3</sup> This assumption underlies the decision to reduce the rate of CUC by an additional 25 percentage

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<sup>2</sup> The value provided to private citizens through a development application (DA) is:

'...akin to the Government's sale of licences to access other rent generating activities which are rationed for the sake of overall community well being and market efficiency, for example taxi licences, radio frequency licences...'

'...the licence has a market value independent from the circumstances or intentions of the bidders/purchasers. The equilibrium market value of the licence is determined by the present value of future earnings (including a return on capital) from operating the licence minus the costs, assuming a reasonably efficient operator...' SGS 2006 p.31.

<sup>3</sup> It has been observed that in considering the outcomes of previous CUC reviews:

*'One of the most important observations made in a number of these reviews is that there is no empirical evidence to support the argument that the charging of CUC is a disincentive to development.'*  
(ACTPLA, 2005, p.22)



points for the 12 months from 1 June 2009 to support investment in the context of the Global Financial Crisis.

### 2.1.2 Evolution of the CUC system

While a betterment levy as a principle is firmly entrenched in policy, the CUC system as applied in the ACT has been through many changes. The administrative details of the charge remained relatively unchanged for the first twenty years it operated, since 1990 however; it has been subject to review and re-calculation on a number of occasions.<sup>4</sup>

Following the abolition of land rents in 1970 and the movement from a rent based to a premium based leasehold system; some of the increase in value as a result of a change of land use has been recovered through the introduction of a CUC. The purpose of this charge was to take account of the fact that, upon a lease variation, the land may have become more valuable to the lessee.

From 1970 to 1990 the method of calculation of the CUC, as indicated was determined by Section 11A of the City Area Leases Ordinance 1936. Since 1990, following the introduction of self government, there has been a significant number of changes to the method of determining the CUC. Each method requires the determination of a value both before and after the lease variation. The difference between the before and after values, the 'added value', is used as the basis for the determination of the amount of CUC to be paid.

Most changes to the CUC have related to the method of determining the added value and the percentage of this value to be paid. Each of the methods of calculating the CUC, labelled Methods A-G is outlined below. It is of interest to note the time each method survived before being replaced:

Method A (20 years), Method B (26 months), Method C (17 months), Method D (36 months), Method E (10 months), Method F (18 months) and Method G (9 months).

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<sup>4</sup> An overview of the evolution of the CUC system up to 1999 is summarised in Nicholls (1999).

**Method A (January 1971 – February 1990)**

For this method both the before and after values were required for the determination of the added value, which was then used as the basis for the determination of the amount of CUC to be paid. Both the before and after values were based on the value of the land and improvements.

The before value was the value of the property in its current use, that is assuming there would be no change in the purpose clause during the term of the lease. The after value was the value of the land and pre-existing improvements for the new use - that is, it included the cost of demolition if that was required.

It is notable that the before value excluded consideration of potential for redevelopment. Consequently the land component of the before value would be different to the unimproved value for rating purposes. The *Rates and Land Tax Act 1926* requires that this latter unimproved value be determined assuming potential for redevelopment.

The CUC charged was 50 per cent of the added value, less \$1,500.

**Method B (February 1990 – April 1992)**

A major change here was that the added value was calculated as the difference between the before and after values, each of which was based on the unimproved value (so that improvements were excluded). The before value was defined by reference to the *Rates and Land Act 1926* and as a result the potential for redevelopment was not excluded. The after value was the unimproved value immediately after the lease variation had been made. In determining the before value, it was also assumed that the lease would remain in effect for 99 years regardless of the lease's remaining term.

While 100 per cent CUC was implemented, this method also introduced a schedule of remissions ranging from 50 per cent for leases held for at least 20 years to zero for leases held for less than 5 years.

**Method C (April 1992 – September 1993)**

This method came into effect upon commencement of the Land Act. As in the case of Method B, improvements were not included. The main change from Method B was to omit the assumption that leases would extend to 99 years. The relevant provisions in the legislation were paragraph 184(b) of the Act and Regulations 12 and 13. The remission schedule introduced for Method B was retained meaning that most properties qualified for the full 50 per cent remission of the determined added value.

There was significant criticism relating to this method and its adoption. It was seen as a system that granted development rights at less than their true value and, as such, resulted in an implicit subsidy to the lessee/developer.

**Method D (September 1993 – September 1996)**

This method was based on the before and after values being determined from land values only. The before value was changed to assume that no variation to the lease would be granted during the life of the lease, that is the before value excluded potential. The after value remained the unimproved value of the land after the variation was approved.

In addition the provisions of remission were retained only for changes from residential to more intensive uses or from commercial to residential uses in line with the Government's 50/50 policy aimed at urban renewal. The CUC for other variations was 100 per cent.

**Method E (September 1996 – June 1997)**

This method was the same as Method D for the purpose of calculating the added value. The betterment of 100 per cent of added value was changed to 75 per cent for all leases except prescribed leases for which a sliding scale of remissions was applied.

**Method F (June 1997 – December 1998)**

This method reverted to the determination of before and after values being based on improved values and the term 'betterment' was replaced with 'CUC'. In addition, the sliding scale of remissions was removed and a CUC of 75 per cent of the added value was applied for all lease variations. However, the regulations provided for remissions or increases of the determined amount.

The CUC was to revert to 100 per cent of the added value on 24 December 1998.

With the change in the leasehold system to one where leases could now be automatically renewed for a further 99 years on payment of a small administrative fee, there was no longer a need for a schedule of remissions based on the length the lease has been held (or equivalently the length remaining in the current lease).

**Method G (January 1999 – August 1999)**

This method is the same as Method F except that the reversion of the CUC to 100 per cent was extended until 31 August 1999.

**Method H (September 1999 – December 2009)**

In his 1999 review Nicholls proposed two options, one based on the CUC and a second based on a structure of development control plans on areas, locations or zones, rather than on individual leases, through instruments which would include the Territory Plan, Local Area Development Control Plans and Section Master Plans. The Government adopted the first option, namely that based on a CUC approach, and amended the legislation and administration of the CUC system.

The 2006 SGS report noted (Section 2.2) that:



*'Following the Nicholls recommendations, amendments were made to the legislation and administration of the CUC system. These amendments are best understood by reference to the current legislation and practical operation of the system, which have not substantially changed since the changes arising from the Nicholls report were introduced.'*

Recently the *Land (Planning and Environment) Act 1991* was repealed with the *Planning and Development Act 2007*, which is now the legislation applicable to lease variations (see **Attachment 1**). However, the formula for the determination of the CUC has not changed in the new legislation. In the 2009-10 ACT Budget, the Government reduced the percentage of CUC payable from by 25 per cent until 30 June 2010 in an effort to stimulate development activity in the construction industry. In the case of a recently commenced lease, where CUC would have been 100 per cent, this was reduced to 75 per cent.

## 2.2 Previous Reviews of the CUC System

Expert reviews and reports into the CUC system have consistently found it complex to administer and easily contestable, and as a result, lacking in timeliness and transparency for both lessees and the community/government. The resulting lack of certainty has negatively impacted on incentives and outcomes for developers, government and the broader community.

The Stein Review (1995) highlighted the lack of transparency in the planning process and in particular the lack of certainty associated with planning charges. This review warned of the potential for this uncertainty – more than the leasehold system itself – to negatively impact on investment and development in the ACT.

The ACT Auditor General (1997) found that the application of the CUC system was deficient.<sup>5</sup> This report reiterated the complexity issues associated with the charge highlighted by previous reviews. However, a subsequent report (1998) found that the problems that had led to these deficiencies had been overcome.

The Nicholls Report (1999) reviewed the procedures associated with the determination of the CUC and concluded that the process lacked transparency, simplicity and timeliness. He proposed two reform options, one based on the CUC and a second based on a structure of development control plans on areas, locations or zones, rather than on individual leases, through instruments which would include the Territory Plan, Local Area Development Control Plans and Section Master Plans. The Government adopted the CUC approach, and amended the legislation and administration of the CUC system. The amendments adopted have not substantially changed since those adopted from the Nicholls report were introduced.

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<sup>5</sup> The Auditor General found that four significant applications for lease purpose variations were incorrectly assessed and cost the ACT Government and community \$3.7 million in revenue.



In 2005, as part of the Planning System Reform Project (PSRP), ACTPLA produced a number of technical papers describing proposed reforms to the ACT planning system. These included two directions papers: *Leasehold administration in the ACT. Its role in the planning system* (Technical Paper 1), and *Review of the Territory Plan* (Technical Paper 2).

When discussing the CUC in Technical Paper 1, ACTPLA made a number of observations based on 'earlier reviews and criticism'.

1. *'Developers prefer a system that is designed to provide a quick and seamless approvals process, and that costs associated with the development are known and minimised wherever possible. The community is often concerned that the change does not necessarily support its aspirations, and that the current system is not accessible or transparent. A further criticism is the perception that CUC is too negotiable (p.21).'*
2. *'... the current system lacks certainty and transparency, acts as a disincentive to investors and developers, and does not provide sufficient financial return to the Territory for the administrative effort taken to administer it. ...the potential returns through CUC have been reduced as a result of government policies over time, which discounts the rate of CUC that applies in order to encourage particular planning and development outcomes (p.22).'*
3. *'One of the most important observations made in a number of these reviews is that there is no empirical evidence to support the argument that the charging of CUC is a disincentive to development. The disincentive that is related to CUC is the confusion over how it is determined and what will be the final cost (p.22).'*

These observations succinctly summarise overall perceptions, held by many, of the current CUC system. In considering an alternative to CUC, the paper quite rightly emphasises that CUC is not an infrastructure or development charge, but a payment for the increased rights achieved through a lease variation. It recommended the development of a codified development rights charging system that included a public register containing a list of fees that would apply depending on the type of use to be added.

In 2006, ACTPLA commissioned a review of the CUC system by SGS Economics and Planning (SGS). The report identified similar weaknesses to those of the above mentioned studies and supported the adoption of a public register of charges for straightforward lease variations attracting CUC based on common features such as floor space, car spaces, number of beds, geographic location, etc. so as to achieve transparency and operational efficiency.

## 2.3 The Current Legislative Framework

The aim of the CUC system is to capture the majority of any 'windfall gains' from a lease variation through a CUC for the community. Following the PSRP, new legislation governing planning and development in the ACT was enacted through the *Planning and Development*



Act 2007 (the Act) and the associated *Planning and Development Regulation 2008* (the Regulation). The current CUC system is controlled by this legislation, through Part 9.6 of the Act relating to lease variations, including the variation of nominal rent leases, and Part 5.5 of the Regulation relating to CUCs.

The statutory formula for calculating the CUC when varying leases has the general form:

$$\text{CUC} = (V_1 - V_2) \times 75\%.^6$$

However, if  $V_1 \leq V_2$  no CUC is payable.

## 2.4 Comparative Measures of Activity and Revenue

The pre rectified CUC system collects comparatively little revenue compared to other sources of revenue, as Table 1 indicates.<sup>7</sup> While revenues obtained from land ownership (general rates, land tax and CUC) contributed \$263 million in 2008-09, CUC only contributed \$7 million, or 2.7 per cent, while sales of land stock contributed \$227 million. Overall CUC contributed less than one per cent to total taxation revenue in 2008-09.

**Table 1: ACT Government Revenue Sources (\$m)**

Revenue Category	2008-09
<b>Taxation Revenue</b>	<b>986</b>
General rates	170
Land tax	86
<b>Change of use charges</b>	<b>7</b>
Other taxation revenue	723
<b>Grants Revenue</b>	<b>1,432</b>
<b>User charges for other goods and services</b>	<b>625</b>
<b>Regulatory fees</b>	<b>52</b>
<b>Sales / rental of land stock</b>	<b>227</b>
<b>Total Revenue</b>	<b>3,322</b>

Note: Numbers may not total due to rounding

Source: ACT Consolidated Annual Financial Report 2008-09

<sup>6</sup> Where:

*CUC is the change of use charge for the variation of the lease.*

*V<sub>1</sub> means the capital sum the lease might be expected to realise if a lease were varied as proposed and then sold immediately afterwards; and*

*V<sub>2</sub> means the capital sum that the lease might be expected to realise if the lease were not to be varied but still sold immediately afterwards.*

<sup>7</sup> The existing CUC system and revenues referred to relate to the system as in place until 30 April 2010. At the time of the completion of this report, the system has been rectified.



Table 2 provides details of CUC revenues and transactions, along with public land sales revenues and transactions in the ACT from 2004-05. It shows that average annual revenue from CUC has been around \$8 million, compared to an average of \$244 million received annually from land sales from 2004-05.<sup>8</sup> In addition, while the volume of transactions for CUC has been relatively steady at around 120 per year, the volume of residential and commercial sales has been trending upwards over the past five years.

**Table 2: Revenue from CUCs and Land Sales and Measures of Transactions Volume**

	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Total Revenue from CUC (\$m)</b>	5.2	12.0	5.7	9.3	7.2
<b>Transactions (no.)*</b>	86	136	106	128	161
<b>Total Revenue from Land Sales (\$m)</b>	164	181	210	437	227
<b>Residential (No.)</b>	N/A	670	2,241	4,200	4,700
<b>Commercial (sqm)</b>	N/A	17,000	30,000	110,000	70,000

Source: ACTPLA and ACT Treasury

Note: \* Excludes transactions resulting in nil CUC

Table 3 provides disaggregated details of CUC transactions and revenues in the ACT and further disaggregates total transactions into categories based on CUC eventually paid by DA applicants from 2004-05 to 2008-09.

The following points arise from a study of Table 3:

- The total CUC payments received each year over this five year period has varied from \$5.2 million to \$9.3 million, with the exception of the 2005-06 financial year when \$12.0 million was paid. The reason for this year being significantly higher than other years was that two development applications attracted a combined CUC in excess of \$6.3 million.
- Overall, the number of CUC payments made each year is small when compared to the number of DAs with CUCs approved. Indeed the percentage of such payments, over the period 2004-05 to 2008-09, varies from 47.3 per cent to 67.3 per cent, with a five year average of 52.9 per cent. There may be a number of reasons why the number of CUC payments made each year is small when compared to the number of DAs with CUCs approved. For instance, where applicants do not proceed with a development or where DA approval is given in one year, but the CUC payment is not made until the following year.

<sup>8</sup> We compare CUC revenues to land sales as either transaction allows the Government to assign rights and privileges through lease conditions, and hence value, to parcels of land across the Territory. Whereas the CUC system impacts the established end to the market, land sales are for Greenfield sites.

**Table 3: Detail on CUC Transactions, Revenues & Breakdown of Actual CUC Payments Made By Successful DA Applicants**

Transactions, Revenues, Appeals & Refunds	2004-05	2005-06	2006-07	2007-08	2008-09
Total number of DAs – Lodged (No.)	5,012	5,207	4,851	4,480	2,476
Total number of DAs – Approved (No.)	5,005	5,074	4,858	4,566	2,602
Number of DAs with CUC – Lodged (No.)	203	208	216	291	317 <sup>#</sup>
Number of DAs with CUC – Approved (No.)	179	202	201	260	340 <sup>#</sup>
CUC Amount (\$million)	5.2	21.2	5.8	9.3	7.2
Average charge (\$'000) (does not include zero CUC transactions)	60.3	81.2	44.2	51.0	42.2
Number of AAT/ACAT appeals - full hearing (No.)	0	2	0	1	0
Number of AAT/ACAT appeals – mediation (No.)	2	1	2	1	1
Number of AAT/ACAT appeals – withdrawn (No.)	1	0	1	1	1
Reductions in CUC by AAT/ACAT (\$'000) (does not include refunds)	29.7	678.7	761.3	225.0	56.3
Refunds by AAT/ACAT (\$million)	0	9.2	0.1	0	0
Refunds – other (\$'000)	7.5	40	0	0	1
Total reduction in revenue (\$million)	0.0	9.9	0.9	0.2	0.1
Transactions resulting in nil CUC (No.)	26	30	26	25	30
Proportion of Zero CUCs from no. DAs with CUC Approved (%)	15	15	13	9	9
Net CUC Revenue Total CUC - Total reductions (\$million)	5.2	12.0	5.7	9.3	7.2
Payments Made By Successful DA Applicants	2004-05	2005-06	2006-07	2007-08	2008-09
<i>CUC Payments</i>					
Small (<\$5,000)	39	49	41	47	82
Medium (\$5,000 - \$25,000)	24	35	33	31	42
Large (\$25,000+)	23	52	32	50	37
Total No. CUC Payments	86	136	106	128	161
% (No. of Nil transactions)/ (No. of Nil transactions + CUC Payments)	23.2	18.1	19.7	16.3	15.7
%( Total number of CUC payments)/(Number of DAs with CUC approved)	48.0	67.3	52.7	49.2	47.3

Source: ACTPLA

**Note:** The Table shows a significant drop in total DAs lodged between 2007-08 and 2008-09. This is because of changes to the Regulations that exempted most single residential development. However, this did not impact on the level of CUC activity. Total DAs lodged with CUC continued to rise over the period.

<sup>#</sup> The difference between DAs lodged with CUC and DAs approved with CUC is a timing difference between when an application is first brought forward and when it is approved by the planning authority.



- In 2004-05 there were a total of 179 DAs with CUC approved.
  - There were 26 transactions with zero CUC.
  - There were 86 transactions with a positive CUC including 39 Small (<\$5,000), 24 Medium (\$5,000 to \$25,000) and 23 Large (\$25,000+).
  - That is, 23.4 per cent of these 112 transactions resulted in a zero CUC.
    - For the following years the equivalent percentages were 18.1 per cent (2005-06), 19.7 per cent (2006-07), 16.3 per cent (2007-08) and 15.7 per cent (2008-09). The average for the five year period was 18.6 per cent. This data indicates that a large amount of administrative effort goes into determining and confirming a high number of DA approvals with nil CUC.
- An inspection of the *Small* CUC payments category indicates that most of the transactions related to dual occupancy developments where a standard 'fixed' CUC of \$3,750 (75 per cent of \$5,000) was applied, irrespective of location (suburb). This has resulted in a 'windfall gain' to applicants, which has been significantly higher for applicants in some inner city suburbs compared to applicants in other suburbs. Over the five year period the average number of payments for dual occupancy developments compared to the total number of payments (expressed as a percentage) was in excess of 37 per cent, while the total amount of CUC revenue received from dual occupancy approvals, when expressed as a percentage of total revenue received, was less than 5 per cent.
- Following a review of historical CUC transactions data by **Macroeconomics** it emerged that there has been an added value relating to lease variations of \$2,500 per dwelling for town house developments and \$1,500 per unit for multi-unit developments with a CUC, effectively a fixed fee, with a 25 per cent rate of remission.
- Very few CUC determinations proceeded to the Administrative Appeals Tribunal (AAT)/ACT Civil and Administrative Tribunal (ACAT), either for mediation or for a full hearing.

A further source of income for the ACT Government from property is through direct sales. Table 4 summarises information relating to direct sales for the three year period 2006-07 to 2008-09.

- It reveals that over the three year period the value of the concessions granted ranged from \$17,550 to \$1.8 million. Over the same period the average concession granted was \$300,556.
- As Table 4 shows, even when compared to revenue received from direct sales, CUC revenue is not large.

**Table 4: Direct Sales: Revenue and Concessions**

	2006-07	2007-08	2008-09	Total
No. of Direct Sales	13	15	29	57
Amount paid by Applicants (\$million)	14.8	12.8	26.1	53.7
No. of Concessions granted	2	5	11	18
Value of Concessions for Associated Works (\$million)	0.5	1.3	3.6	5.4
CUC Revenue (\$million)	5.7	9.3	7.2	22.2

Source: ACT Treasury

The data presented in the above tables indicates the contribution made by land related activities to the ACT economy as a source of revenue. What is evident is that gross revenue received from the CUC is not large when compared to other land related sources of revenue, including rates, land tax, and direct sales of land.

## 2.5 Problems with the Current System

The CUC system that has emerged over nearly forty years of operation has moved a long way from the betterment principle. It is perceived by many within industry and the community to be arbitrary, complex, inefficient and inequitable.

### 2.5.1 The level of uncertainty surrounding charge determinations

The source of much of the subjectivity in the calculation of the CUC is its reliance on the determination of the 'before' and 'after' values. This means that the basis of the CUC is a 'matter of opinion', irrespective of how well informed that opinion may be.<sup>9</sup> Because the system is underpinned by subjective judgments, it allows for the possibility of (significant) variations in outcomes even where valuation professionals follow best practice and have the best intentions.<sup>10</sup> The criticism was extended in the ACTPLA Technical Report No.1:

*'A further criticism is the perception that the CUC is too negotiable'. (ACTPLA, 2005, p.21)*

<sup>9</sup> It is recognised that the valuation of real property is not an 'exact science' and as such, different valuers may determine different estimates for  $V_1$  and  $V_2$  leading to different estimates of a CUC for a lease variation. Valuers take into consideration a number of factors in determining estimates of values of rights and privileges attached to a lease. Depending on the type of valuation, these include realisable value based on comparative sales, capitalisation rates, income streams, recent sales evidence, market trends, current and forecast future vacancy rates, value of land and improvements, value of site works (including car parking required by the DA for the new development), access to the site, and demolition costs.

<sup>10</sup> For example, the current CUC framework allows for valuers to take account of factors which include the highest and best use within the limits of the lease purpose clauses, improvements, and capital deductions for demolition costs, offsite works, etc. This approach is seen to be difficult to apply to multi-use variations (i.e. more complex developments).



The subjective nature of the CUC calculation in many cases leads to disputation. Disputes over valuations can cause delays in the lease variation process resulting in uncertainty and holding costs for developers. This contrasts with property developers' preference for a system that provides quick and seamless approvals (ACTPLA 2005, 21).

When the Australian Valuation Office (AVO) disagrees with a valuation, parties enter into a discussion process. If agreement is not reached at this stage it then proceeds to the appeal phase in the ACAT. While the majority of these cases are resolved through the mediation phase the resolution process is time consuming. There are also a small number of cases that proceed to an ACAT hearing where they can then be subject to further possible lengthy legal processes.

### **2.5.2 Administrative fees associated with administering the CUC**

It is not clear that current arrangements cover the full cost of administering lease purpose variations, including costs incurred by ACTPLA. Currently the basic fee for a DA which includes a lease variation, consolidation or subdivision is \$1,628.60 with modest additional fees for more complex DAs. If the real cost of administering the system is more than the fees received for providing the service, then the shortfall can be regarded as a cost imposed on the broader community, rather than those who benefit from the system.

### **2.5.3 The levels of revenue leaking under the current system**

Under the pre rectified CUC system, the ACT community has forgone revenue from its share of the increase in the value of public leasehold. The revenue base for the CUC is very broad (potentially every established residential and commercial block of land in the ACT) and the volume of DAs requiring a lease variation is significant and reasonably stable at around 200 to 300 in a typical year. However, while the underlying leasehold assets have appreciated in value significantly over the past few years the revenue from CUC has not risen proportionately.

One of the most marked examples where the revenue from CUC has not kept pace with land values is the case of dual occupancy developments. As stated earlier, CUCs for dual occupancy developments have been in the form of a 'fixed' CUC charge of \$3,750 (75 per cent of \$5,000), irrespective of the location (suburb). As a result, the 'windfall gain' has been made by all applicants. However, the windfall gains in some inner city suburbs have been significantly higher than for applicants in other suburbs.

To determine the loss of revenue as a result of the application of a fixed fee (\$3,750) for dual occupancy developments (irrespective of where they were located), an analysis was undertaken of individual approved DAs which involved a lease variation during 2008-09. It revealed there was a total of 78 approvals for dual occupancies which produced revenue of \$292,500. Based on Codification Schedules like that in Attachment B, the Territory would have



collected around \$3.8 million had if market valuations were applied during 2008-09 (assuming the rate of uptake for dual occupancy is price inelastic). The difference or loss of revenue to the Government was around \$3.5 million. This clearly indicates the levels of revenue leakage that has occurred under the system at the time.

In recent years the development of townhouse sites and unit sites has resulted in the application of fixed fees of \$1,875 (75 per cent of \$2,500) per townhouse site and \$1,125 (75 per cent of \$1,500) per unit site, irrespective of the location of the development. As in the case of dual occupancies, this arrangement has resulted in significant 'windfall' gains to applicants.

Under a codified CUC system, many of the shortcomings relating to the current system should be avoided/overcome, including the potential for long delays, uncertainties, inefficiencies and inequities. In addition, it will be administratively simpler to manage.

#### **2.5.4 The offsetting of infrastructure costs against CUC**

The current CUC system in the ACT incorporates the following parts:

- a betterment levy, which relates to an increase in a property value as a result of a lease variation;
- onsite capital costs required to prepare the land for redevelopment;<sup>11</sup> and
- offsite costs required for the redevelopment to proceed. There are two kinds:
  - capital works/infrastructure that would be required irrespective of the type of development; and
  - development specific infrastructure required as a direct result of the particular development proposal.<sup>12</sup>

Under the current system all these user costs, as well as improvements, are taken into consideration in the determination of the CUC<sup>13</sup>. Developers are able to offset (a proportion of)

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<sup>11</sup> Onsite costs include demolition costs associated with the removal of building(s) and other infrastructure (which would not be used in the redevelopment) and the costs associated with the remediation in the case of contaminated sites.

<sup>12</sup> The distinction between different kinds of offsite works is important because the first is infrastructure which the Government may choose to pay for or subsidise; the other is purely development driven and consideration needs to be given to the attribution of benefits and costs. Offsite works in the first category will usually represent an opportunity to improve public infrastructure in circumstances where the new development represents only an incremental increase in infrastructure usage. Were the Government to wish to extract a proportion of costs for new offsite infrastructure, this raises questions about contributions from other private property owners already established in the same area and using the public infrastructure.

<sup>13</sup> Infrastructure costs may be reflected in the 'before' value (e.g. demolition costs), or deducted from the 'after' value (e.g. construction of the footpath and landscaping in front of the block), or deducted directly from the CUC payable (e.g. the cost of a school fence requested by the Department of Education). In all cases the CUC payable has been impacted by these costs.



the increase in land value from a successful lease variation application against onsite and offsite user costs. However, the original concept of the payment of a betterment was to charge for additional developmental rights; it was not intended to compensate developers for expenditure, both onsite and offsite, required to undertake the redevelopment. Over time, however, these offsets have become a component of the current CUC system.

It is important to recognise that a CUC is not an infrastructure or development charge, but a payment for a lease variation which results in increased rights to be associated with the lease.

The CUC and user charge are fundamentally different and as such should be separated in their determination and charging. Under the current system, as a result of developers being able to offset both onsite and offsite costs against CUC, the actual revenue from the betterment component is significantly reduced.

A considerable amount of the discussion with industry during the course of this study has revolved around the treatment of user charges relating to onsite and offsite costs relating to Brownfield development/redevelopment sites. In considering these issues it was noted that the ACT Government has the right to remit *all* or *part* of a CUC for the variation of a lease under certain circumstances which are broadly based. Indeed sections 175-177 of the Regulation relate to the remission of CUC (see **Attachment 1**).

In the case of onsite costs, including demolition costs<sup>14</sup>, it was argued by a number of stakeholders that such costs should be included in the determination of the CUC where this was necessary to make a redevelopment economically viable.<sup>15</sup> It is difficult to justify this approach in general, as such costs should be reflected in the price paid for the property for redevelopment, or alternatively, would be passed on to the end user of the redeveloped property, or shared between the two parties.

If the Government agrees that such costs will be offset from the amount determined as a CUC by means of a remission, the full CUC should be recorded as a charge resulting from the lease variation. Accounting arrangements can then be put in place for the amount to be paid to reflect the CUC less any remission relating to demolition or other onsite costs.

With respect to offsite costs, our understanding is that the majority of these are mandatory costs imposed by the Government as part of the DA process. Such costs include intersections and road upgrades, for example. The requirement from the developer to undertake these

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<sup>14</sup> Onsite costs such as demolition costs are reflected in the 'before' value.

<sup>15</sup> This is in contrast to the statement referred to earlier in the ACTPLA (2005) Technical Paper in which it is observed that in 'a number of these reviews is that there is no empirical evidence to support the argument that the charging of CUC is a disincentive to development. The disincentive that is related to CUC is the confusion over how it is determined and what will be the final cost' (p.22).



offsite works as part of a development/redevelopment appears to have worked well. This approach satisfies the requirement of timeliness and efficiency from the point of view of project delivery.

As in the case of onsite costs however, these mandatory offsite costs should not be included as part of the CUC. Infrastructure costs should be considered separately from the determination of the CUC and each reported separately.

Discussions between Professor Nicholls and the Leasing Section of ACTPLA have indicated that under the present system, when a developer is required to undertake mandatory offsite infrastructure works associated with a particular development, the developer is required to supply these costs. The developer is also required to supply a separate third party certified costing by an appropriately qualified professional.

In the case of larger mandatory offsite works, the Leasing Section advises that it would discuss the reasonableness or otherwise, of the costs with the Infrastructure Policy Group of ACTPLA. Discussion between Professor Nicholls and the Infrastructure Policy Group reveal that they usually look at the third party certification to see if it is a 'ballpark figure'.

As such there appears to be no formal arrangements/requirements to deal with the confirmation of costings associated with mandatory infrastructure requirements in the case of Brownfield developments/redevelopments.

LAPS also indicated the need for an appropriate structure for the formalisation of the handling of mandatory infrastructure services. Similarly, Territory and Municipal Services (TAMS) has mandatory infrastructure requirements relating to particular Brownfield developments.

A formal process developed and overseen by appropriate government agencies to identify, verify and where appropriate fund mandatory offsite infrastructure requirements should be developed. This process should assist the Government, developers and other stakeholders in the management of any mandatory offsite infrastructure requirements in a timely and transparent manner.

As is currently required, the developer should be required to supply an estimate of undertaking this work.

The Government should develop an administrative structure with an appropriately constituted committee to formally consider and confirm, or otherwise, the issues including costs associated with mandatory infrastructure requirements which are not regarded as being of a minor nature.<sup>16</sup> Consideration should be given to this committee having access to a panel of

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<sup>16</sup> Only those works which are of a significant nature should be considered by the committee. The minimum values of such works which should be referred to the committee should be determined by representatives of the relevant



professionals (including quantity surveyors) from which advice can be sought if and when required. The adopted structure should be such that decisions can be made in a timely manner.

As has already been indicated, mandatory infrastructure costs should be dealt with separately from the LVC. In following sections we set out how we propose that the Government streamline the operation and funding of mandatory infrastructure works in the ACT.

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agencies which will be serviced by the committee in consultation with Treasury. Currently only those mandatory infrastructure works exceeding \$250,000 require a deed of agreement.



### 3 Frameworks Applied In Other States

The ACT is unique in its leasehold system, with other states operating primarily under a freehold land title system. While other states and the Northern Territory may have some leasehold land, e.g., pastoral leases in the Northern Territory and ski field areas in the Kosciusko National Park in New South Wales, for the purpose of land development/redevelopment, they generally operate a freehold land title system. The ACT is the only state/territory that has no freehold land.

Under the leasehold system in the ACT the land remains the property of the Commonwealth Government and is managed by the ACT Government on behalf of the Commonwealth. Under the freehold land title system operating in other jurisdictions, the land is owned by the purchaser(s) of a property. This fundamental difference justifies a public charge for betterment/CUC in the ACT but not in other jurisdictions. As such the legislative frameworks that operate in other jurisdictions have no bearing on practices in the ACT.

The freehold land title systems operating in states such as Queensland, Victoria and New South Wales, generally require property developers to pay infrastructure charges based on a relevant contributions plan. The underlying principle is that the primary beneficiary from a property development should cover the costs to the public of that development. Development contributions are payments for in-kind works, or facilities or services provided by developers towards the supply of infrastructure to meet the future needs of a particular community in which the development is to be located. In other states these costs and charges are normally transparent and pre-notified, a situation not currently mirrored in the ACT's leasehold system.

A paper developed for ACTPLA on Infrastructure Charging by SGS Economics in 2006, and a report by Parsons Brinckerhoff Australia P/L (PB) prepared for the ACT Chief Minister's Department in 2009 on the implementation of community infrastructure policy, both summarise developer contributions schemes for infrastructure charges in Victoria, Queensland and New South Wales.

#### 3.1 Victoria

In Victoria developer contributions are one of a number of options available to the State and Local government for funding infrastructure. The *Planning and Environment Act 1987* allows for development contributions through the:

- planning scheme amendment process;
- planning permit process; and
- building process.

These contributions are payments, or in-kind works, made by the proponent that contribute towards the provision or upgrade of infrastructure including roads, public transport, storm water



and urban run-off management systems, open spaces and community facilities. The Victorian planning system allows for development contributions to be obtained by means of Development Contributions Plans (DCPs), conditions on planning permits and voluntary agreements.

The Development Contributions Guidelines provide guidance for the preparation of DCPs. They contain a detailed methodology for preparing DCPs which can be applied under Part 3B of the *Planning and Environment Act 1987*.

The guidelines provide:

- a context for the legislative provisions in the *Planning and Environment Act 1987*;
- councils, developers and infrastructure agencies with a clear explanation of the development contributions system; and
- practical advice to ministers, public authorities and municipal councils wishing to prepare and implement a DCP for the purpose of levying development contributions.

Following an extensive review of the development contributions system, overseen by an independent steering committee with representation from local government, the housing and urban sectors, the Government passed revised legislation, the *Planning and Environment (Development Contributions) Act 2004*. This legislation provides a more acceptable approach to raising developer contributions, offering greater flexibility for the provision of social and community infrastructure. It also provides guidance for councils on the principles and methodologies to be applied in preparing DCPs using a public register of infrastructure charges.

### 3.2 Queensland

Legislation relating to planning and development is in transition in Queensland.

The current principal legislation that guides planning and development assessment are the *Integrated Planning Act (1997)* (IPA) and its amending Act, the *Integrated Planning and Other Legislation Amendment Act 2001* (IPOLAA). These Acts provide mechanisms for the funding of infrastructure, including infrastructure charges schedules, infrastructure payment schedules and regulated charges and infrastructure partnerships (refund agreements).

The IPA provides powers for the imposition of conditions, charges and agreements relating to development infrastructure. The infrastructure charges provisions of the IPA introduce a regime of development contributions based on the *user pays* principle. It limits development infrastructure 'to networks that provide basic and essential facilities and services to ensure the safe, healthy and efficient functioning of local communities'. Development infrastructure



includes local community facilities, including community halls, public libraries and other facilities needed to service the local community.<sup>17</sup>

Mechanisms associated with the IPA include Priority Infrastructure Plans (PIP) and the related Infrastructure Charges Schedule (ICS). A PIP can only identify the land for community infrastructure and a ICS can only include the cost of the land and works on the land. Infrastructure charges in Queensland cannot be collected for built structures. As the PB report also notes, the legislation does not allow for charges to be collected for the recurrent costs of maintaining the infrastructure or service. Specific charges for development infrastructure items are identified in, and regulated by, the ICS, which lists the items to be funded, the actual charges, the estimated timing of the provision, the locations to which they apply and the categories of liable developments or uses.

New principal legislation to guide planning and development assessment was passed on 16 September 2009 in the form of the *Sustainable Planning Act 2009* (SPA). This Act replaces the IPA, while transitional provisions from the IPA to the SPA have been designed to minimise disruption and to ensure that all processes commenced under the IPA can be completed under the IPA.

The SPA contains new arrangements allowing the guidelines for making infrastructure charges schedules to provide for:

- the phasing in of infrastructure charges;
- indexation of charge rates; and
- credits recognising factors such as current use.

New provisions have also been included in the Act to allow for negotiations about infrastructure charges notices, regulated infrastructure charges notices and regulated State infrastructure charges notices.

The broad policy objective behind these changes is aimed at achieving more equitable infrastructure charging, and introducing an effective, low cost dispute mechanism to minimise the need to resort to appeals about the amount of charges.<sup>18</sup>

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<sup>17</sup> PB report, p.18.

<sup>18</sup> Indeed the Department of Infrastructure and Planning states that the SPA:

- shifts the focus from the planning process to delivering sustainable outcomes;
- reduces complexity through standardisation;
- adopts a risk management approach to development assessment;
- introduces a broader range of opportunities for people to reach agreement and resolve disputes; and
- provides improved opportunities for the community to understand and participate in the planning system.

'These changes will assist in delivering a contemporary planning, development and building system that can provide sustainable development outcomes for all Queenslanders'.

See [www.sip.qld.gov/about-planning/planning-reform.html](http://www.sip.qld.gov/about-planning/planning-reform.html)



The SPA and the associated Sustainable Planning regulations came into effect on 18 December 2009.<sup>19</sup>

### 3.3 New South Wales

The NSW development contributions system is intended to assist in providing new and increasing communities with appropriate infrastructure. *The Environmental Planning and Assessment Act 1979* (EP&A Act) is the relevant legislation which sets out how the State's development contribution system works. Section 94 of the EP&A Act allows consent authorities (usually local councils) to levy the development process to help fund local infrastructure such as roads, drainage, parks and essential community facilities.

Section 94 Contributions Plans allow for the delivery of local infrastructure by local councils which is provided for communities directly serviced by, or surrounding, the infrastructure.

State infrastructure is funded by the NSW Government using State infrastructure contributions and general revenue. The State infrastructure contributions only apply in certain development areas. This larger scale infrastructure, such as regional roads or schools, is planned for by looking at regional rather than local needs.

The NSW Premier announced a package of reforms to the development contributions system in December 2008. The package resulted from a review of infrastructure contributions which as the Department of Planning states on its website, 'aims to balance the cost of contributions with the need to ensure there is sufficient incentive to develop new land for housing' and includes:

- a change in the way state infrastructure contributions are calculated and collected;
- the establishment of a \$20,000 threshold<sup>20</sup> for local development contributions and a review process related to this threshold; and
- the immediate cessation of some water infrastructure charges.

The State Government has published Development Contributions Practice Notes to assist councils, applicants and the community in understanding the issues and legal requirements of the relevant sections of the EP&A Act relating to planning agreements and contributions. These notes provide advice on a range of issues that are relevant to the preparation and administration of development control plans (DCPs) and the implementation of planning agreements. The notes, in addition to addressing other outcomes, provide templates for Section 94 and Section 94A DCPs, and planning agreements that should be followed.

Section 3.3.1 contains an example of the Queanbeyan City Council.

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<sup>19</sup> The Queensland Planning provisions were made available for public consultation in late September and have been available since the commencement of the SPA.

<sup>20</sup> This upper limit has recently been raised to \$30,000.



### 3.3.1 Queanbeyan City Section 94 Contributions Plan

Section 94 of the EP&A Act permits Queanbeyan Council to plan, identify and levy contributions upon new developments where it has established that the development is likely to result in increased demand for public services and public amenities within a local government area. In order to levy contributions, the Council prepares a contributions plan in accordance with the requirements of the EP&A Act and associated regulations. Table 5 presents an example of the developer contributions payable. The developer can see exactly what they are liable for as a levy for a particular type of development, as well as how the levy is to be distributed across the various classes of allowable expenditure by the Council.

**Table 5: Queanbeyan City Council - Summary of Developer Contributions for Particular Types of Development**

	Residential Subdivision (\$)	Industrial Subdivision (\$)	Medium/high Density (3+ bedrooms per dwelling) (\$)	Medium/high Density (2 bedrooms per dwelling) (\$)	Medium/high Density (1 bedrooms per dwelling) (\$)	Commercial Development (\$)
Queanbeyan Multi-purpose	180	n/a	180	108	90	n/a
City Cultural Centre	381	n/a	381	229	191	n/a
Bicycle Paths	411	n/a	411	246	205	n/a
Car Parking	n/a	n/a	n/a	n/a	n/a	9,009 per space
Footpaths	911	n/a	911	911	911	n/a
City Indoor Pool	260	n/a	260	156	130	n/a
Library facilities	98	n/a	98	59	49	n/a
Open Space	257	n/a	257	154	128	n/a
Roads	Nil	n/a	Nil	Nil	Nil	Nil
Civic Improvements	164	n/a	164	98	82	2,082 per 100m <sup>2</sup>
Plan Administration	6	92	6	3	3	70 per m <sup>2</sup>
<b>Total</b>	<b>2,668</b>	<b>92</b>	<b>2,668</b>	<b>1,964</b>	<b>1,789</b>	<b>As above</b>

Source: [www.qcc.nsw.gov.au](http://www.qcc.nsw.gov.au)



### 3.4 Summary

The freehold land title systems operating in states such as Victoria, Queensland and New South Wales, generally require property developers to pay infrastructure charges based on a relevant contributions plan. The underlying principle is that the primary beneficiary from a property development should cover the costs to the public of that development. Development contributions are payments for in-kind works, or facilities or services provided by developers towards the supply of infrastructure to meet the future needs of a particular community in which the development is to be located. In other states these costs and charges are normally transparent and pre-notified, a situation not currently mirrored in the ACT's leasehold system.



## 4 A Codification Framework for the ACT

**Codification** involves the establishment of a public register of fixed charges for different, and permitted, land uses in different regions or suburbs within the ACT. It is associated with the determination of a DA for variation to a Crown Lease.

### 4.1 Principles for the Codification Framework

Underpinning the proposed codification scheme are 10 core principles, which will be applied to the whole LVC system and not just those transactions subject to codification.

1. Effectiveness – the system should return an appropriate proportion of economic benefits to the community from the grant of development rights.
2. Simplicity – the system should be simple to administer and easy to update regularly.
3. Transparency – the system should be open and accountable for all parties concerned.
4. Fairness – the system should be fair to all parties involved.
5. Growth – the system should promote property development activity in the ACT.
6. Timeliness – the system should permit accurate assessments to be generated quickly.
7. Certainty – the system should generate predictable outcomes which accord with the planning system.
8. Exclusivity – the system should only assess land values and not improvements, onsite or offsite costs.
9. Stability – the system should assess general property value trends in order to smooth market volatility.
10. Universality – the system should apply these principles in all cases.

Below is an overview of the proposed codification system framework which illustrates how each of the core principles is applied.

### 4.2 Outline of the Framework

Applicants who submit a DA requiring a lease variation under the codification system will include the calculated LVC with the application for the site. The amount of the LVC will be confirmed, or otherwise, by ACTPLA. The LVC will not be collected until after the DA has been approved (to avoid the possibility of a LVC having to be refunded if an associated DA is refused).

#### 4.2.1 The basics of the proposed CUC

When the applicant performs the LVC calculation, he/she will need to refer to the schedule of codified values for leases to determine the added values applicable to the lease variation relating to their property. The codified values will be presented in a register with entries derived from market values applying in different geographic locations for different land use categories



(residential, commercial or industrial). When the codification schedule applies, no longer will the CUC assessment be based on the valuation of the specific property referred to in the DA, but will refer to codified fees in a given area.

The schedule of codified fees will be underpinned by current land value indexes (market rate index values) calculated from the market value of property sales in the same area for similar property uses, or classes of uses. To overcome market fluctuations, the index values are based on a rolling three year average of market values of land in each suburb for specific (Territory Plan) zones and identified localities within those zones, where appropriate. In a rising market which is generally the case, the average value is less than the current market valuation. In a falling market the Government could introduce other policy measures.

It is important to recognise that the schedules of values relate to the **added** values attached to the leases as a result of a lease variation. Consequently if a commercial lease is to be varied to allow for residential redevelopment then the added value would be the difference between the added value relating to the commercial lease and the appropriate added value relating to the appropriate residential development. The LVC would be determined from the difference.

When a lease variation results in a zero LVC determination outside the codification system, a fixed fee will be devised by the ACT Government. Fees will reflect appropriate cost recovery principles so that higher fees will be charged for more complex applications. These fees, together with the schedules of codified fees, will comprise the register of fees.

The imposition of economic administrative fees to determine LVC charges may mean that the ACT Government receives more revenue under the codified model (in addition to eliminating any leakage under current arrangements). However, this revenue will be spread across a broader number of participants. Offsetting this policy, the Government may also wish to achieve other policy objectives through, for example expanding the range of permitted uses in the Crown lease purpose clause from the outset.

#### 4.2.2 Residential codification

The approach to residential codification focuses on identifying codified values for dual occupancy and medium/high density sites. The valuation principle underpinning the codification is the concept of **market 'site' values**. The market site values establish residential land values based on the average of the last three years analysed land sales factoring in the various locality features within a suburb. For dual occupancy and medium/high density sites the applicant will be required to pay the LVC determined from the codified fee applicable for their



suburb/locality with the applicable fee being dependent on the number of units to be constructed on the site (a dollar rate per unit applies for each locality in each suburb).<sup>21</sup>

The revised approach to residential codification is simpler for applicants because there is no need to assess a 'before' value as part of the DA for dual occupancy or medium/high density residential developments. The system also requires applicants to refer to the **ACTmap-i** to determine the exact location of their block within a suburb.

#### 4.2.3 Commercial and industrial codification

For commercial and industrial property, the proposed approach is based on the valuation concept referred to here as the market rate index value. The **market rate index value** for commercial and industrial land is based on a rate per square metre of gross floor area (GFA) for each zoned land use category by suburb. As for residential codes this market rate index value is based on market sales transactions relevant to each ACT suburb for each zoned land use, averaged over the last three years. In other words, there is no change to the approach proposed in the Discussion Paper.

#### 4.2.4 Developing and updating the schedules

The actual public register of schedules of codified added values for leases for different land uses in each suburb of the ACT was prepared by the Australian Valuation Office (AVO), an independent Commonwealth Government agency (see **Attachment 2**). The public register is linked to Zone Development Tables in the Territory Plan 2008 to assist the future administration of the CUC system by ACTPLA.

The public register (as part of the Draft Report) was made available for comment during the ten week consultation following the release of this report. Stakeholders had the opportunity to access the proposed schedules and comment on the values and to shape the final public register.

Once the final form and content of the schedules are determined (following a review process discussed below), it is not envisaged that there will be appeal rights for the applicant using the proposed codification system. Once the applicant has matched their property to the relevant use fee(s) applying in the register/schedule, there should be no scope for disagreement between the applicant and ACTPLA for the LVC determination.

During the first round of consultation in November 2009, Professor Nicholls held discussions with members of the AVO, relevant ACT Government agencies, the Housing Industry Association (HIA), the Australian Property Institute (API), the Property Council of Australia

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<sup>21</sup> Of course, there should be no disincentive or financial penalty for legitimate special purpose developments on a single title. For example, extensions to accommodate the needs of family members or to facilitate 'carer' arrangements or other community oriented support activity.



(PCA) and individual valuers and developers. A number of submissions were received by these groups at the conclusion of consultation (as discussed in Section 7). Many of these concerns have been taken on board and developed into the codification framework proposed in this report.

A similar approach took place during the ten week consultation period following the release of the Draft Report (see **Attachment 6** for discussion/consultation details).

#### **4.2.5 Improvements, onsite and offsite costs revisited**

A noteworthy reform associated with the introduction of codification is the treatment of onsite and offsite works which will be treated separately from the calculation of LVC.

The proposed codification system will be based on variations to permitted uses that would result in changes in land values (by means of an index value determined from the market value of land averaged over three years), excluding improvements and those onsite and offsite user costs which are allowable under the current CUC system. This is in line with the principles for the codified framework stated in Section 4.1 above. By taking this approach some of these costs, such as demolition costs, would be reflected in either the offset or premium paid for the land to be redeveloped or would be passed on to the end users/owners of the land through increased purchase prices/rents payable. This is in contrast to the current system where, by allowing these costs to be accounted for in the determination of  $V_1$  and  $V_2$ , the community is effectively paying for much of the user charges/costs. This approach also has the potential to distort development decisions in supporting demolition of improvements.

As with the current CUC system and as stated earlier, the ACT Government would still retain the right to fully or partially waive the determined CUC in certain cases (in accord with Sections 175-177 of the Regulation or Disallowable Instrument). This right, as at present, would be in the form of a regulation.

While mandatory offsite works will need to be calculated separately from the LVC charge, in response to the feedback received from industry since the release of the Discussion Paper, we are recommending to Government that consideration be given to an efficient process to manage the incidence of benefits and costs of offsite infrastructure. Whilst there should be no justification for the Government to pay for offsite infrastructure upgrades that arise as a result of the operational needs of a particular development, we agree that developers should be compensated for the mandated offsite works, especially if the benefits are realised by the wider community. In such circumstances, the proposed approach allows the developers to be paid the full value of mandated works, whereas under the current system, they are only allowed to deduct a percentage of these costs.



Separating out the value of mandatory offsite works under the new arrangements is consistent with the principles of codification identified previously (in particular, timeliness, growth, transparency and simplicity). The consultant recognises that if a development is to be undertaken in a timely fashion, both the scope and funding for mandatory offsite costs will need to be established upfront in a transparent fashion.

For the future administration of offsite costs, we suggest that an appropriate structure and process be established to give due consideration to the reasonableness and scope of these works, who will pay the mandated costs and how they will be funded.

Our understanding is that under the current system many DAs requiring mandatory offsite works have had the cost of these works included as part of the overall construction costs; that is they are not separately identified and costed.

Under the new LVC system, where mandatory offsite works are to be undertaken by the developer, these works should be separately identified and costed prior to approval by the relevant government agency.

#### **4.2.6 If codification does not apply**

There are situations where codification would not apply as discussed in Section 4.5 below. In these cases it would be necessary to employ a certified practising valuer to assess the 'before' and 'after' values. In these situations the Australian Property Institute Professional Practice guidelines shall be adopted as the standard required for any valuation reports submitted as part of a framework consistent with the 10 core principles of the proposed codified system outlined previously. Valuations would be based on land values only excluding any structural improvements, or any onsite and offsite costs requirements. For those cases where the 'before' and 'after' values are assessed in professionally qualified valuation reports rather than the codification schedule, mediation and appeal legislative processes to ACAT would be allowable as at present.

### **4.3 Key Concepts and Methodology for the Schedules**

The following section explains some of the key concepts and methodology through which the schedules would be developed, maintained and updated.

#### **4.3.1 Market rate index value**

The codified fees employed in the LVC determination are based on the **market rate index value** for residential land blocks, or market value rates per square metre of GFA for commercial and industrial land, averaged over three years.

The market rate index value for **residential** land determines the added value associated with current land value components of a typical benchmark property for each land use category by



locality in each suburb. They are calculated from recent market sales transactions in each locality. From these, appropriate codified fixed fees are determined, depending on the type of development (dual occupancy, medium/high density) to be undertaken.

The market rate index value for **commercial** and **industrial** land would be based on a rate per square metre of GFA for commercial and industrial land for each zoned land use category by locality/district. Again this market rate index value would be based on market sales transactions relevant to each ACT suburb or district for each zoned land use.

#### 4.3.2 How the schedules would be updated

A market rate index averaged over a three year period has been adopted for the codification process. The codified values populating the schedules in this Report are based on the average values for the last three years to 31 March 2010. Annual assessments of market values by the AVO at 31st March for each following year are to be incorporated in this process. ACT Treasury should have responsibility for the updating of the Schedules each year.

#### 4.4 How the Codification Would Work

The current section explains the application of the framework to various development proposals.

The codification of LVC assessments would operate in conjunction with the Territory Plan 2008. The system would combine the Territory Plan development control zones with market rate index value locality plans for each residential suburb.<sup>22</sup> The AVO has developed codification schedules for residential, commercial and industrial zones contained in the Territory Plan (see **Attachment 2**).

Schedule 1 contains the relevant codified fees, i.e. added values, (in dollars per unit) relating to residential developments.<sup>23</sup>

Within each suburb blocks are grouped into different localities (A, B, and C). An applicant wishing to develop a particular block will determine the locality of their block (by reference of its block and section number) from the **ACTmap-i**. In the case of a residential development, it is then a straightforward matter to refer to the appropriate entry in Schedule 1 to determine the

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<sup>22</sup> The definitions of relevant zones and applicable land uses are contained in the Territory Plan.

<sup>23</sup> The residential schedules are divided into three categories based on location. These include:

- Category A – Inner suburbs;
- Category B – Mid location suburbs; and
- Category C – Outer location suburbs.



codified fee. This fee will represent the added value from the lease variation. The appropriate remission rate (determined by Government) applied to this added value will represent the LVC payable.

Schedule 2 lists the Local Centres codification schedule of values for the commercial CZ4 zone based on an average \$/m<sup>2</sup> of GFA.

Schedule 3 lists the Town Centres codification schedule of values for each relevant commercial zone based on an average \$/m<sup>2</sup> of GFA.

Schedule 4 lists the Commercial Properties codification of values in relevant commercial zones in particular suburbs.

Schedule 5 lists the Industrial codification schedule of values for each industrial/commercial zone in the relevant location.

The schedules should be notifiable instruments.

## 4.5 Where Codification Would Not Apply

Situations will occur where the codification does not apply. These cases may either attract a set fee for straightforward matters or require a certified practising valuer to provide input in more complex cases. These situations are discussed below. In all cases valuations would be based on the land component only; improvements and user costs would be excluded in the determination of the before and after values. As stated earlier infrastructure costs should be considered separately from the quantification of the LVC. Where there is uncertainty how a particular DA should be categorised, ACTPLA should immediately refer the case to the AVO for clarification.

### 4.5.1 Special use variations

Special use variations will be dealt with outside the codification process and will normally require input from a certified practicing valuer. Three categories are discussed in turn below.

#### I. Where an applicant attempts to change a business purpose clause

Any DA seeking to add the permitted uses of either “shop” or “non retail commercial” uses to any purpose clause that is not seeking a variation to the GFA will have to submit a private valuation for review by the AVO.<sup>24</sup>

However, if a variation to the GFA is sought in addition to a variation to the purpose clause to add either “shop” or “non retail commercial” as permitted uses, the LVC assessment will be dealt with under the Codified Schedule of Values for the suburb/locality applicable to the relevant property.

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<sup>24</sup> Refer to the Territory Plan definition of terms for ‘shop’ and ‘non retail commercial’ uses.



## II. Where a property exists within certain zones

Any property that exists within the following zones will require the applicant to supply a private valuation for review by the AVO.

- i. Commercial Zone CZ6 Leisure and Accommodation Zone.
- ii. Community Facility Zone.
- iii. Parks and Recreation Zone.
- iv. Transport and Services Zone.
- v. Non Urban Zone.

## III. Where the purpose clause permits only a single use

Specific permitted use that has been identified where codification may **NOT** apply includes the following, where a **single permitted use only exists in the purpose clause**:

- a. service stations;
- b. clubs;
- c. child care centres;
- d. hotel and/or motel;
- e. caravan parks/camping grounds;
- f. municipal depots;
- g. nursing homes/ residential care accommodation;
- h. retirement complex;
- i. car parking;
- j. public utilities/installation sites;
- k. churches/places of assembly; and
- l. municipal depots.

However, the following exceptions/circumstances may result in a set minimal codified fee for variations in relation to the above mentioned specified permitted uses.

### 4.5.2 Lease variations where a set fee would apply

In the following specific situations where a DA is required, it may be considered appropriate to apply a codified charge or set fee. The fee (identified below) would be reviewed annually by AVO and would apply in residential and industrial zones where the Territory Plan requires that the Crown lease cannot be subdivided under the *Unit Titles Act 2001* unless the lease expressly provides for the number of dwellings or units provided for in the proposed subdivision. This rule applies to leases in residential and industrial zones but does not currently apply to any of the other zones in the Territory Plan.

- I. Approval of a development application for such a lease variation does not authorise subdivision under the *Unit Titles Act 2001 (Act)* but establishes the preconditions necessary to make an application under the Section 17 of that Act.

**Lease variation to express the number of dwellings or units in the Crown lease.**

When the lease is to be varied to permit a maximum of three units:

residential use (units/dwellings)	\$7,500 per unit; and
industrial (units)	\$7,500 per unit.

When the lease is to be varied to permit more than three units:

residential use (units/dwellings)	\$7,500 per unit for the first three units and \$5,000 per unit thereafter; and
industrial (units)	\$7,500 per unit for the first three units and \$5,000 per unit thereafter.

A codified (set) fee would also apply in the following circumstances in any zone where consolidation or subdivision is permitted by the Territory Plan and a Development Application has been approved.

**Lease variation to consolidate or subdivide a Crown lease**

Consolidation of up to three blocks	\$7,500
Consolidation of more than three blocks	\$7,500 for the first three blocks; and \$5,000 for each additional block thereafter.
Subdivision of a block into a maximum of three blocks <sup>25</sup>	\$7,500
Subdivision of a block into more than three blocks	\$7,500 for the first three blocks and \$5,000 for each additional block thereafter.

- II. If a DA seeks to amend the maximum GFA only of any property, with a single permitted use of **Club** only, an AVO annually reviewed codified market rate index value will be applied. Based upon current market land values for properties with a permitted use of **Club** only, a codified market rate index value of \$250/m<sup>2</sup> will apply at the commencement of the codification process.

Any other variation to the Crown Lease will require a private valuation.

- III. If a development application seeks to amend the number of permissible child places only, in a Child Care Centre which has a single permitted use of Child Care Centre only, the set fee is \$10,000 per child.

Any other variation to the Crown Lease will require a private valuation.

<sup>25</sup> This applies to blocks with existing structures or vacant land.



- IV. If a development application seeks to amend the number of beds in a Nursing Home/ Residential Care Accommodation property<sup>26</sup> which is the only permitted use, the set codified charge (fee) considered appropriate is:
- i. Independent living units                      \$40,000 per bed
  - ii. High & Low Care beds                      \$10,000 per bed
- Any other variation to the Crown Lease will require a private valuation.
- V. If a DA seeks to vary the GFA of an existing service station site where the permitted use is for a service station and/or ancillary uses only. A recommended set minimum codified charge (fee) of \$500/m<sup>2</sup> of GFA will be applied.
- Any other variation to the Crown Lease will require a private valuation.
- VI. Any minor amendments requiring a development application should have a minimum fee of \$7,500 for residential properties and for commercial/industrial uses.
- This situation may include variations to the wording of the Crown Leases where there are no variations to the permitted uses or gross floor areas.
- VII. If a DA seeks to remove the wording in the lease purpose clause relating to the maximum GFA or building height in a Crown lease purpose clause, any DA that results in the existing or permitted building GFA, or building height, increasing will be required to pay the amount determined from the codified market rate index value as specified in the codification schedule of values applicable for that suburb/locality. This can only be implemented if the lease variation application includes a DA for design and siting.<sup>27</sup>
- VIII. If a DA seeks to remove an Association use from a lease purpose clause the set codified fee will be \$7,500.

#### 4.6 Rate of Remission

Under the codification system, it has been argued by some during the consultation process that there should be no remission of the CUC charge, that is the full **100 per cent** CUC charge should be payable.<sup>28</sup> It is useful to note that under codification, for example, the fee (added

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<sup>26</sup> The market for Nursing Home/Residential Care Accommodation differs from normal residential accommodation. This market is aimed at the aged or disabled demographic. As a result these values need to be distinguished from the market for villas/town houses/units which is open to the wider public market, compared to the smaller nursing home/residential care market.

<sup>27</sup> ACTPLA has indicated that in the absence of a combined DA, the Leasing Section of ACTPLA will not know the dimensions of the built outcome and, therefore, will not be able to calculate the amount from the schedule.

<sup>28</sup> There indeed is an argument for the recovery of the full increase in asset value resulting from the variation in lease.



value) applied to a given residential block (in a particular location, in a particular suburb) would be derived from a land value index determined for all blocks in that location. There will be a distribution of land values of blocks (in that location) around the land value index derived for that location. For this reason there may be some, but not unequivocal justification to reduce the charge rate from 100 per cent. In the case of DAs requiring a lease variation within the first five years of purchase, there would continue to be no remission, i.e. the full 100 per cent CUC would still be applicable.

#### **4.7 Naming the New System**

The original betterment scheme was changed to and became known as a CUC. During the course of this project it has become obvious that CUC is a misnomer for what is actually occurring. Indeed there are occasions where a lease variation must be made which incurs a charge, but there is no change of use. For example, if a lease allows for a commercial building and the owner wishes to increase the GFA then he/she must pay a CUC relating to the increase in GFA. In such cases this is not a change of use but a lease variation. A more appropriate terminology would be a Lease Variation Charge (LVC). It is recommended that this name change be adopted.

#### **4.8 Some Examples of How the Codification Will Work**

The current section explains the application of the framework to various development proposals.

##### **4.8.1 Residential**

To account for the lessee's existing building rights, the codification system will recognise the existing number of residential units permissible as an offset deduction against the proposed total number of units in the assessment of any CUC.

Any additional units will be assessed for CUC purposes at the corresponding codified rate of the total number of units proposed.

For example the lessee wishes to undertake a dual occupancy (two units) development in Amaroo. Currently the lease permits one residential dwelling. The number of additional units is therefore one.

The residential codification schedule of values indicates that the dual occupancy (two unit) value in Amaroo is \$45,000. Therefore the value of the project is assessed as described below.

Proposed Amaroo development - two units

Total development size = 2 units

Codified schedule for 2 units = \$45,000/unit

Therefore 1 additional unit X \$45,000 = \$45,000

**LVC before remission charge \$45,000**

**With 25 per cent remission, LVC = \$33,750**

For this development, as the lease currently allows for one dwelling, LVC is only payable on three units (but charged at the rate for four units).

Proposed Amaroo development - four units

When the proposed Amaroo development is for a larger four unit project, the following occurs:

Total development size = 4 units

Codified schedule for 4 units = \$45,000/unit

Therefore 3 additional units X \$45,000 = \$135,000

**LVC before remission charge \$135,000**

**With 25 per cent remission, LVC = \$101,250**

Proposed Amaroo development – increase from 20 to 110 units

If another block currently has 20 units on it and the owner wants to knock these down and build 110 units, instead, LVC is only payable on the additional 90 units (but charged at the rate for 110 units):

Total development size = 110 units

Codified schedule for 110 units = \$25,000/unit

Therefore 90 additional units X \$25,000 = \$2,250,000

**LVC before remission charge \$2,250,000**

**With 25 per cent remission, LVC = \$1,687,500**

#### 4.8.2 Medium density development

If the existing dwelling on the proposed dual occupancy site is demolished, the assessment would adopt the same methodology as described above, i.e., the LVC assessment would be based entirely on the land value index.

**Example**

A developer owns two blocks in Campbell. As per the Territory Plan the properties are in the residential RZ4 (Medium density) zone. The developer proposes to amalgamate the two sites and develop a new complex that will accommodate eight new units as the lease currently allows for two dwellings (one on each block) LVC is only payable on the additional 6 units (but charged at the rate for 8 units). The developer will be liable for two separate charges:

**Consolidation of two leases = \$7,500**

**(There is no remission applicable to this set fee.)**

**Plus**

**From Schedule 1 Category B for Campbell, codified fee for**

Total development size = 8 units

Codified schedule for 8 units = \$60,000/unit

Therefore 6 additional units X \$60,000 = \$360,000

**LVC before remission charge \$360,000**

**With 25 per cent remission, LVC = \$270,000**

**4.8.3 Commercial, industrial and retail codification****4.8.3.1 Commercial Crown lease variation**

A variation of a commercial Crown lease will be assessed by a set minimum fee to be determined by the ACT Government for any variation to a permitted use of an existing Crown lease. This policy for commercial use will be only approved if that use is currently allowed to occur on the site as per the Territory Plan Zone.

**Example**

A property in Fyshwick has a current purpose clause that allows for warehousing and bulky-goods retail. A lessee requests that the 'indoor recreation facility' use be added to the allowable uses permitted within the purpose clause. As per the Territory Plan zoning IZ1 indoor recreation facility use is allowed in that area and the lessee will be granted the indoor recreation facility use for the determined set fee of \$7,500 as outlined in Section 4.5.2 (VI).



#### 4.8.3.2 Increase of Commercial GFA variation

A lessee can apply to increase the maximum allowable GFA on a site by identifying via the **ACTmap-i** process the location of the property on the Territory Plan. The location of the property combined with the Territory Plan Zone sets the market rate index value at which a lessee can purchase extra GFA for that site.

##### **Example**

A lessee has recently varied the purpose clause of permitted uses to allow office use in the Crown lease of a property. The lessee now wants to demolish the existing building of 500m<sup>2</sup> to then erect a new building of 1,000m<sup>2</sup> in the Commercial CZ1 in the City. From Schedule 3 the increase of 500m<sup>2</sup> of GFA in the Commercial CZ1 zone is \$835/m<sup>2</sup> of GFA.

<b>Codified Fee:</b>	<b>500 m<sup>2</sup> × \$835 = \$417,500</b>
<b>LVC before remission change</b>	<b>\$417,500</b>
<b>With 25 per cent remission, LVC =</b>	<b>\$313,125</b>

## 4.9 Outdoor Seating

The issue of outdoor seating associated with commercial premises, such as cafés and coffee shops, has been identified for consideration in the Terms of Reference. Currently most outdoor seating is located on unleased Territory land licensed by the operator of the restaurant, café etc. As this land is not part of the lease, CUC cannot be charged as there is no lease over the land being used.

There is an argument to support the treatment of outdoor seating through the current licensing arrangements. If the current lease and associated licensing arrangements were to be changed to capture the right to have outdoor seating as part of the lease variation, this may cause problems in the future where Government saw a need to change/vary/upgrade the streetscape, part of which was incorporated in a varied/extended lease. Such an upgrade could result in the need to pay the affected leaseholder compensation.

There have been no compelling arguments presented to change the current arrangements with respect to outdoor seating associated with commercial premises. Given the identified potential problems (as a result of most outdoor seating being located on unleased land), it is not recommended that the current system be changed with respect to the licensing of land used for outdoor seating.



#### 4.10 Concessional Leases<sup>29</sup>

The *Planning and Development (Concessional Leases) Amendment Bill 2010* has recently been passed, amending the *Planning and Development Act 2007*, effective from 7 October 2010.

Division 9.4.2 of the Act deals with the variation of a concessional lease to remove its concessional status. If the lease is deconcessionalised and it is varied to permit other development, then the CUC applies to the variation.

However a concessional lease does not have to be deconcessionalised before it can be varied. Under Section 181 of the *Planning and Development Regulation 2008*, CUC is increased by 25 per cent for the addition of a use other than a community use.

#### 4.11 Reviews and Appeals

As identified in Section 4.4, once the applicant has matched their property to the relevant use indices applying in the schedule, or determined the appropriate added value from the schedule, and from these determined the appropriate LVC, there should be no scope for disagreement between the applicant and ACTPLA with respect to the LVC determination.<sup>30</sup> For this reason there is no need for appeal rights for the applicant using the schedule of set fees and/or codified values.

During the course of this project, on a number of occasions, the issue of appeals when LVCs are to be determined using codified values has been raised by industry participants. Some have argued that from the point of view of natural justice there should be an appeals mechanism.

Appeals mechanism under a system of schedules of fees would be counterproductive. A more effective approach would be to review the schedules with involvement from professionals prior to their release. As the AVO will have responsibility for annually updating the codified values in the schedules, a small review committee should be set up which could include representation from the AVO and industry to annually review the updated schedules. It is envisaged that such a committee would include the Regional Manager from the Canberra based AVO office, or his/her nominee, two members of the API nominated by the President of the API, one of whom will have a good working knowledge of residential values and the other the commercial/industrial values, representatives from relevant government agencies and an independent chairperson.

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<sup>29</sup> The authors acknowledge the helpful advice from C. Wheeler (Mallesons Stephen Jaques) relating to the application of the Act to concessional leases.

<sup>30</sup> The consultants acknowledge the significant input made by the API in creating an effective mechanism to deal with the review of the codified schedules and the proposed appeal mechanism.



A committee was established to review and approve the 2010-11 schedules which appear in the Final Report. It is envisaged that this committee will be reconvened annually with secretariat support provided from Treasury.

For those cases where codification will not apply and hence where the 'before' and 'after' values are assessed using professionally qualified valuers for the determination of the CUC, mediation and appeal processes by the ACAT could be considered as are currently used. However, as shown in Table 3, over a five year period (2004-05 to 2008-09) there were only seven CUC AAT/ACAT appeals which went to mediation and three which went to a full hearing. While this appeals process appears to work well in that only a small number of cases are considered by ACAT, there can be significant delays and expense involved in following such a path. Our understanding is that ACAT currently has no panel members with real property valuation expertise.

An alternative mechanism would involve the president of the ACT Division of the API appointing an expert to examine the facts and give an expert determination in such situations<sup>31</sup>. The service could be offered by the API through its Presidential Appointment Services, a commercial service provided by this Institute.<sup>32,33</sup> This approach, which is supported by the API, has the advantage that disputes would be heard by experts in the field. If such an appeal mechanism were to be adopted, following appropriate legal advice on this issue it might be necessary to allow for either party to appeal any decision made under this process to the ACAT. The appointment process would also ensure that there are no conflicts of interest.

In supporting this approach the API has raised a number of issues which will need to be noted/addressed by the Government.

1. The API has not appointed mediators or arbitrators but does conduct a service for the appointment of members to undertake expert determinations. The API states 'the rule and law for these appointments are quite different, as are the requirements for professional indemnity insurance cover.'
2. The API seeks clarification on the possible grounds for appeal to ACAT following expert determination. The ACT Government is asked to seek appropriate legal advice in this regard. In almost all instances that an expert is appointed to determine a matter then the resulting determination is final and binding on all parties.

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<sup>31</sup> While it may be seen as preferable to have a committee of, say, three experts to hear appeals, the ACT Division of the API is limited in its membership and the number of valuers who could act as experts on such a committee. This is particularly so when the potential for a conflict of interest may eliminate a number of such experts for appointment to this role.

<sup>32</sup> The API currently supplies this service, at the national level, in the case of rental determinations.

<sup>33</sup> There would be a fee payable for such a service which would include an administrative fee payable to the API and a sitting fee for the appointed expert.



3. The API has indicated that it is now common practice for appointed experts to seek and obtain from both parties signed 'hold harmless' agreements indemnifying the expert from action against the expert for matters arising from the determination. The ACT Government should be aware of this current practice which has resulted from the litigious actions of parties to such determinations creating a lack of willingness from professional valuers to undertake such determinations. As the API points out, departure from this practice would have severe implications for the legal and insurance obligations of valuers appointed as experts.
4. The API has questioned that if there are rights of appeal from the expert's determination to ACAT, would it be possible for the legislation to provide indemnification to the expert for adverse findings or dissatisfied parties as a result of an ACAT decision or process. The API believes such indemnification during the processes of both expert determination and the ACT appeal will be necessary and is equitable at law.

We are strongly of the opinion that neither the API nor its members who are to act as experts in their proposed roles (as members of the committee to review the codified schedules, in addition to other members of the review committee) should be in any way penalised for acting in this role, or as a result of any decision made as an expert handing down an expert determination. Taking into account the issues raised above, the relevant legislation should be drafted to ensure such an outcome.



## 5 Implementation and Operation of the Reforms

The following section discusses changes to the institutional/administrative structure of the DA process required to introduce codification.

### 5.1 Timeline and Transition Arrangements for Codification

It was originally proposed that the new LVC system be introduced from 1 July 2010. However, consultation was extended by four weeks, resulting in a 10 week consultation phase. The 'flow on' effect of this decision has meant that the implementation of the new LVC system based on codified schedules was not possible by 1 July 2010. When it was identified that residential CUC determinations were operating under a fixed fee system, the Government was advised that a fixed fee system was contrary to Section 277 of the *Planning and Development ACT 2007*. The Government rectified this anomaly and CUC determinations are currently based on site valuations in accord with current legislation.

With the introduction of codification, where the codified values have been determined from the market value of land averaged over a three year period, any potential impact of the new system on land values will not fully impact on the scheduled values for three years. Consequently it makes sense to phase in the new system over a period of time. This approach has received wide support from industry and is recommended in this Report.

In a transitional period there will be developers/potential developers who have bought property under the current system applying for lease variations where the CUC was determined taking into account improvements, demolition costs etc. These stakeholders would be unduly penalised under an immediate introduction of the new system which is based on the market value of land and excludes the consideration of these user charges in determining the LVC to be applied. By phasing in the new system over, say, a three year period by temporally increasing the rate of remission applied to a site's added value, and gradually reducing the rate of remission each year, developers should not be as disadvantaged, compared to the case where no transitional arrangements were put in place.

One submission proposed that the LVC should be in the order of 25 per cent of the added values (in the schedules of codified values) in the first year, rising to 50 per cent of the added value in the second year and 75 per cent in the third year. Under this transitional arrangement, the appropriate percentage of added value and the annual increase during the transition period would be set in advance by the government following the initial review of the schedules.

The final form of the transition arrangements, along with the final rate of remission to be applied for the determination of the LVC, will be a matter for Government.

It is not envisaged that these transitional arrangements would apply to lease variations for which fixed fees have been determined. They would only apply to those LVCs determined



from the schedules of values codified by suburb/locality and land use type, in addition to those more complex cases which require input from a professional valuer for the determination of 'before' and 'after' values.

The adoption of such a transitional approach will allow the government, through the determination of the length of the transition period, to determine the LVC, to allow developers/lease holders who have purchased or hold land under the current system, to have an appropriate period of time to react to the introduction of the new system.

## 5.2 Operation of the New System

When applicants submit a DA requiring a lease variation under the codification system they will be required to include the calculated LVC with the application for the site.

In performing the LVC calculation, when applicable, the applicant will need to refer to **ACTmap-i** to identify the locality of the block and section number of the property to be developed, as well as the online schedules of codified fees. These codified fees have been derived from land market values applying in different geographic locations (suburbs) for different land use categories (residential, commercial, industrial etc), and different localities in suburbs in the case of residential blocks. Schedule 1 relating to residential blocks, divides suburbs into three categories: A (Inner), B (Mid location), or C (Outer location) suburbs.

Once the applicant has matched their property to the relevant use fee(s) applying in the appropriate schedule(s) to determine the LVC payable; there should be no scope for disagreement between the applicant and ACTPLA in the determination of the LVC in this manner.<sup>34</sup>

In cases where codification will not apply, the applicant will require a certified practising valuer to provide input into the determination of the CUC, as under the current system. In all cases 'before' and 'after' valuations will be based on land values and exclude improvements, onsite and offsite costs. LVCs determined in this manner would allow for expert determination/appeals.

## 5.3 Administration of the New System

In obtaining data for analysis for this project it became evident that it was extremely difficult to extract relevant data relating to DAs, including those requiring a lease variation. With respect to the introduction of the new LVC system we recommend that appropriate information technology (IT) systems be put in place, not only to trace the progress of DAs through the

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<sup>34</sup> As a result there is no need for appeal rights for applicants who determine the CUC payable using the codification register.



approval process, but also to summarize planning and budget outcomes. These databases need to be maintained through time so that relevant agencies that require such data can obtain it in an automatic and timely manner. Once appropriate databases are in place to achieve these outcomes, consideration should also be given to recording transactions data from the historical period in the new system.

Discussions with ACTPLA have indicated that they have been establishing an eDevelopment platform. The new system enables the online lodgement of DAs and their processing through an internal workflow and management module. The system will also incorporate the online lodgement of Building Applications and allow applicants to track the progress of their application online.

With respect to the current CUC system it has been stated<sup>35</sup>:

‘Monitoring and reporting on the assessment and payment of Change of Use Charge has proved to be a problem because information relating to the process is recorded in a number of data bases. It will be important with the codification of CUC to have a system which will easily record, track and report on the CUC to enable better revenue projections (including when payments are actually receipted), assessment levels and other performance drivers around the approval and commencement of development.

Building on the eDevelopment platform, it is proposed to develop a case management module which would have general application across ACTPLA, but which, importantly, could be customised by business areas to meet their specific needs. In relation to change of use charge, a user interface would be created to include a series of attributes against which information about the DA subject to a CUC determination could be recorded. ‘Event’ fields would enable the recording of notes on particular determinations as they occur and finally record the date of payment. The benefit of having this case management module is that it would integrate with all activities across ACTPLA and enable reports to be produced on all activities and issues associated with a particular lease in the ACT.’

Such an approach, which will integrate with all activities across ACTPLA and facilitate the accurate and timely production of LVC budget estimates and actuals for Treasury, is strongly supported.

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<sup>35</sup> E-mail from ACTPLA dated 23 March 2010



## 5.4 Legislative Changes

Legislative amendments will be required to establish and operate the codified system as outlined in **Attachment 5**. Legal advice should be sought by the ACT Government to support the underpinnings of the new system.



## 6 The Cost Benefit Analysis

The Terms of Reference for the CUC project included the guideline to ‘develop a framework to codify the CUC, ensuring concerns around the current system are addressed including complexity, uncertainty, delays, cost and potential for speculation.’ What follows is the formal Cost Benefit Analysis (CBA) for the CUC project which attempts to identify and quantify (where possible) the aspects associated with the current system and the move to codification.

### 6.1 Introduction

In considering potential changes to the CUC system it was necessary to conduct an analysis of the effects on all related parties arising from the introduction of codification. The following impact analysis is intended to consider all the implications of moving to codification.

#### 6.1.1 Purpose

This CBA was intended to achieve the following:

- to fulfil the Terms of Reference for the Codification Project as set by Treasury;
- to inform the Regulatory Impact Statement accompanying any legislative changes associated with CUC codification; and
- to meet the specific requests of some industry participants raised during consultation periods.

#### 6.1.2 Methodology

The CBA was conducted in the following steps.

1. Identify and describe all potential benefits and costs associated with the move from the current CUC system and shift to codification (‘the reform’).
2. Quantify the benefits and costs associated with the reform (where possible).
3. Establish the likely net impact of the reform and present findings.

Where it was possible to quantify the impact of a potential benefit or cost of the reform, the consultants adopted the following approach.

- Firstly, we developed an extensive database of CUC transactions relevant to the 2008-09 year from planning records provided by ACTPLA.
- Secondly, a revenue estimate of the impact of **rectification** and **codification** was generated for the 2008-09 year assuming that the structure of transactions remained the same, the codified schedule outlined in **Attachment 2** applied, along with a 25 per cent rate of remission.



- Thirdly, specific benefits and costs were then estimated for relevant items by employing the 2008-09 financial year database supplemented by additional information provided by ACTPLA and property developers, always considering the net impact on the ACT economy and not just ACT Government finances.

### 6.1.3 Limitations of Our Methodology

There are a number of limitations associated with the approach to CBA outlined above.

Firstly, codification could result in changes to demand for different types of lease variations. Our analysis does not attempt to forecast changes in demand for different types of lease variations in future years, nor do we estimate the revenue implications for Government associated with demand shifts. Because we have no forecasts of future revenue impacts, we do not attempt to calculate the net present value of future cost and benefits based on shifts in demand for lease variations.

The reasons we do not attempt to forecast future demand revenue trends and their financial impacts is that there is no way to reliably forecast the impact of the reform on the composition of demand for lease variations over time within a reasonable confidence interval. This is because there does not appear to be an adequate economic database available to estimate a demand model for different types of lease variations, and for the same reason we cannot isolate the impact of the reform on the final demand model for different types of lease variations. There is also the problem that we do not yet understand the final structure of the reform as the final codified schedule in place, nor any transitional arrangements yet to be announced. For these reasons we considered that the most reliable estimate of demand structure for lease variation types, even in the event of codification, was the previous structure of demand for lease variations as revealed by 2008-09 transactions data.<sup>36</sup>

Secondly, it has been argued by some participants in the consultation process that the introduction of codification could lead to a variety of broader negative impacts on activity in the ACT economy (including a reduction in development activity through declining investment and associated employment, an associated reduction in housing affordability, and reduction of activity and employment in the property valuation industry). We have not sought to test the validity of most of these claims in undertaking the CBA because in our view elementary economic analysis suggests they are not correct. The most basic principle of economics is that incentives to undertake activity are influenced only by marginal changes of policy, and not by changes in the distribution of wealth. The reform considered in this Review modifies the CUC system from one based on professional valuation of specific sites, to reliance on a codified

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<sup>36</sup> One exception to this is that we assumed that revenue from dual occupancies will be significantly curtailed in future for reasons detailed previously in this Report.



schedule, with the rate of remission unchanged, but offsets for any onsite and offsite costs no longer permitted. Because the adjustment mechanism is the evolution of property price over time, codification represents a redistribution of wealth from private developers to the ACT community. But it has little or no negative impact on the incentives faced by property developers and those working in the valuation industry in terms of whether they chose to invest, hire or work within the sector. In fact it can be argued that greater certainty should facilitate investment at the margin. **Macroeconomics** (acting for ACT Treasury) has also commissioned independent experts to assess the veracity of the claims made by industry participants.

## 6.2 Step 1: Identification of Potential Benefits and Costs

This following section identifies and describes the major benefits and costs which are associated with the reform, and considers whether they are quantifiable or non quantifiable.

### 6.2.1 Benefits

What follows is a description of each of the major benefits associated with the introduction of the proposed codification scheme. Each benefit item includes a description of the stakeholder groups impacted under the reform and along with consideration of which benefit items are quantifiable/non quantifiable and which are likely to be one-and-for-all or permanent gains.

#### 6.2.1.1 Gains from appropriate pricing of changes in lease conditions

The major gain from codification has been the removal of the bias under the current CUC system which systematically undercharged for many types of lease variation. Prompted by our preliminary findings, the ACT Government has corrected this anomaly.<sup>37</sup> Before this time many DA applicants were able to secure agreements to change lease conditions for substantially less than market value.

To establish this point **Macroeconomics** examined the 181 CUC transactions processed by ACTPLA in 2008-09 where final determinations were issued and compared the revenue that was collected under the current fee structure to that which would apply under codified schedule included in **Attachment 2**. This analysis is outlined in **Section 6.3.1.1** below.

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<sup>37</sup> It could be argued that the imposition of changes to the CUC fee structure represents a transfer payment between development applicant and ACT Government with no economic impact other than the potential deadweight loss associated with changed economic behaviour on the part of applicants. However, this view is incorrect. The CUC is not a tax, but a charge for an asset, where payment reflects the leasehold rights purchased by the applicant from the ACT Government. If the ACT Government were to gift these rights to the applicant, then it would be giving up economic value to real resources without receiving fair compensation.



- We estimated the extent of underpricing of leasehold assets by transaction type by employing a classification system incorporating 14 distinct DA categories.<sup>38</sup> This data was subsequently validated by the Australian Valuation Office (AVO).
- We then identified the revenue impact of the fixed fee agreements discussed previously for certain residential categories (dual occupancy, townhouse and multi-unit applications).
- We identified (where possible) the revenue impacts of allowing developers certain offsets against their CUC assessment under current arrangements including total demolition costs and mandatory offsite costs.

In terms of the nature of the benefits to a major stakeholder (the ACT community), the impacts are quantifiable and ongoing through time.

#### **6.2.1.2 Administrative savings for Government due to codification**

There are also a limited number of administrative savings accruing to the ACT Government and community from the introduction of codification. This includes the reduction of fees paid by ACTPLA to the AVO for reviewing each LVC calculation. Under codification the LVC calculation can be performed within a few minutes so it will not be necessary for the AVO to review these transactions. We expect that the AVO will only be required to review around 25 to 30 per cent of transactions when codification is first introduced and that this number may fall over time to around 10 per cent of transactions as more anomaly type transactions are captured under the code. We expect the expert review panel will be a great assistance to this end.

In terms of the nature of the benefits to the major stakeholder (the ACT community), the impacts are quantifiable and ongoing through time. Our estimate of the quantum of these administrative benefits is contained below in **Section 6.3.1.2** below.

#### **6.2.1.3 Lower holding costs for developers due to codification**

Property developers are also likely to be better off under codification to the extent that the LVC calculation may be performed more quickly and DAs are processed more quickly, reducing the holding costs (for example, interest charges) accruing to a given project.

One element of a DA clearance process is the LVC calculation. As mentioned in the previous section, we anticipate that under codification, it will be possible to perform the LVC calculation within a few minutes in around **70-75 per cent** of cases where codification applies. This compares to the current system where the CUC calculation is performed by professional

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<sup>38</sup> While applications for each of the 14 DA categories would be expected in any particular year, one category (Multi-complex development – Industrial Use) did not have a relevant DA in 2008-09. The remaining 13 effective categories are discussed in Section 6.3.



valuers and later verified by the AVO. Therefore codification should speed up the approval process in many cases, providing an interest saving to property developers.

In terms of the nature of the benefits to the major stakeholder (the development industry), the impacts are quantifiable and occur once only. Our estimate of the quantum of these administrative benefits is contained in **Section 6.3.1.3** below.

#### 6.2.1.4 Administrative savings for applicants due to codification

All applicants for a lease variation (including developers and lease holders) are better off under codification to the extent that they do not have to pay for valuation reports. This should be true in at least **70-75 per cent** of cases where the codified schedule incorporates the type of lease variation that the applicant wishes to undertake.

In terms of the nature of the benefits to the major stakeholders (applicants for a lease variation), the impacts are quantifiable and are 'once-and-for-all' in nature. Our estimate of the quantum of these administrative benefits is contained in **Section 6.3.1.4** below.

#### 6.2.1.5 Savings for applicants from fee predictability due to codification

All applicants for a lease variation are better off under codification to the extent that they can accurately anticipate the CUC they will incur under codification compared to current arrangements. Predictability allows for certainty in planning which reduces overall project risk. Unfortunately, it is not clear how to quantify this benefit.

In terms of the nature of the benefits to the major stakeholders (applicants for a lease variations), the impact of greater certainty through codification is **not quantifiable** but occurs once only.

A comparison of the benefits of moving from the current CUC system to codification are summarised in Table 6 below.

**Table 6: Main Benefits of Moving From the Current CUC System to Codification**

Item	Description	Beneficiary	Quantifiable	Duration
6.2.1.1	Appropriate pricing of changes in lease conditions	Community	Yes	Ongoing
6.2.1.2	Administrative savings for Government	Community	Yes	Ongoing
6.2.1.3	Lower holding costs for developers	Developers	Yes	One-off
6.2.1.4	Administrative savings for applicants	Applicants	Yes	One-off
6.2.1.5	Savings from fee predictability	Applicants	No	One-off



## 6.2.2 Costs

What follows is a description of each of the likely costs associated with the introduction of the proposed codification scheme. Each item includes a description of the stakeholder group impacted and identification of whether the item is quantifiable and long lasting.

### 6.2.2.1 Cost associated with the CUC codification project

One of the upfront direct costs associated with codification is the cost to Government of paying consultants to provide a range of business services (economic policy advice, legal and valuation). The cost of these services has been incurred on a one-off basis during the Review. The total of these consulting fees is contained in **Section 6.3.2.1** below.

### 6.2.2.2 Cost associated with administrative changes due to codification

Another direct cost associated with the Codification project is the cost of to Government of paying AVO to annually review and update codification schedules along with the costs of establishing and operating the expert review panel. The cost of these services will be incurred on an ongoing basis. Our understanding of the total of these administrative fees is contained below in **Section 6.3.2.2** below.

### 6.2.2.3 Cost associated with loss of appeal rights

An indirect cost associated with the Codification project is the loss of appeal rights for those applicants whose DAs are subject to the codified schedules so do not require a valuation report. Whilst applicants have certainty under the codified schedule in terms of fee structure, they may experience a loss due to the real or perceived unfairness of such an approach. This is likely to be an ongoing problem associated with codification, especially if it is perceived that the determined final schedule of codified values is too high. While the schedules of values are important, it is the determined remission rate which ultimately determines the LVC payable.

Unfortunately it is very difficult to quantify such impacts in a rigorous way as they are subjective and likely to vary from once applicant to the next. It may be, however, that these costs are not large for the following reasons:

- Relatively few cases have been to mediation under the current system (only two cases have been before the ACAT over the last five years).
- The creation of the expert review panel provides a means through which applicants can identify problems/anomalies with the system and feedback their complaints/queries.

Summing up, the loss of appeal rights is likely to have a small (if any) ongoing cost to the ACT community that is practically impossible to quantify.



#### 6.2.2.4 Cost associated with reduction in valuation business

In 6.2.1.4 above we noted that development applicants are better off under codification to the extent they do not have to pay for valuation reports. However, this gain is matched by the loss of fee income to the valuation industry. This will be a permanent impact stemming from codification and it is quantifiable as set out in **Section 6.3.2.4** below.

#### 6.2.2.5 Cost associated with valuations based on the use of market indexes rather than site specific assessments

The use of land market indexes under residential codification, rather than the valuation specific to a specific property used under the current CUC system means some property holders may be disadvantaged, while others will be advantaged. This will be a permanent impact stemming from codification and has been judged by AVO to be unquantifiable but negligible as explained below in **Section 6.3.2.5**.

A comparison of the costs of moving from the current CUC system to codification are summarised in Table 7 below.

**Table 7: Main Costs of Moving From the Current CUC System to Codification**

Item	Description	Beneficiary	Quantifiable	Duration
6.3.1.1	CUC codification project	Government	Yes	Once-off
6.3.1.2	Administrative costs for Government	Government	Yes	Ongoing
6.3.1.3	Loss of appeal rights	Applicants	No	Ongoing
6.3.1.4	Reduction of valuation business	Valuation firms	Yes	Ongoing
6.3.1.5	Use of market indexes	Applicants	No	Ongoing

### 6.3 Step 2: Quantification of the Benefits and Costs from the Reform

What follows is an estimate of the quantifiable gains and losses stemming from the introduction of codification.

All estimates of the quantifiable benefits and costs are in 2008-09 dollars which is the base year of the study.

#### 6.3.1 Benefits

What follows is a quantification of each of the relevant benefit categories described in Section 6.2 above.

##### 6.3.1.1 Gains from appropriate pricing of changes in lease conditions

An estimate of the likely revenue impact to the ACT Government from the introduction of codification (including rectification) is provided below in Table 8. This estimate compares the CUC that was paid for DA applications finalised in 2008-09 against what would have been



payable under the preliminary schedule outlined in **Attachment 2** and assuming a 25 per cent rate of remission. The table provides revenue estimates across 13 types of DA categories. The estimates approximate the budgetary impact of codification (rectification) and the elimination of offsets for demolition and offsite works, based on 2008-09 DA activity, at around **\$21 million**<sup>39</sup>.

**Table 8: Revenue Impact of Codification (Rectification) by 13 DA Categories in 2008-09**

Categories	No. Cases	Existing CUC (\$)	New LVC (\$)	Difference (\$)
Change in GFA – Commercial	10	857,500	3,194,625	2,337,125
Change in GFA – Industrial	3	196,250	385,540	189,290
Change of Purpose – Commercial	19	266,250	285,754	19,504
Change of Purpose – Industrial	5	56,250	54,250	-2,000
Change of Purpose – Mixed	12	731,750	1,255,984	524,234
Childcare/Nursing home	2	348,750	555,000	206,250
Dual occupancy	78	288,750	3,798,750	3,510,000
Floorspace Allocation/User requirement	7	68,750	68,750	0
Multi-complex development – Mixed	2	468,750	468,750	0
Multi-complex development – Commercial	3	2,568,750	2,568,750	0
Multi-dwelling development – Residential	31	783,375	15,108,000	14,324,625
Special Purpose/Mixed Sites	2	0	0	0
Subdivisions/Consolidations	7	126,250	128,350	2,100
<b>Total</b>	<b>181</b>	<b>6,761,375</b>	<b>27,872,503</b>	<b>21,111,128</b>

Source: ACTPLA

The DA categories driving the **\$21 million** increase are primarily residential applications, specifically residential multi-dwelling developments (**\$14.3 million**) and dual occupancies (**\$3.5 million**). Under the previous CUC arrangements, fixed fees were assigned for each dual occupancy, townhouse or multi-unit development, as discussed in Section 2.5.3. Our estimate of the revenue gain on residential applications compares the revenue collected under the previous fixed fees agreement to that which would be collected under the preliminary codified schedule (see **Attachment 2**) as outlined in Table 9. In total, **\$17.8 million** of the **\$21 million** revenue increase under rectification and codification is due to the removal of fixed fees for residential applications (i.e. **rectification**) and their replacement with fees derived from market values.

The largest burden of the imposition of market pricing on developments will fall on developers of large residential unit complexes, who in 2008-09 acquired development rights worth

<sup>39</sup> Estimates contained in Table 8 employ a conservative methodology which may undervalue the applicable LVC under codification. In three DA cases which involved significant changes to the use of the land (e.g. petrol station sites converted to multi-complex residential blocks) the previously charged CUC was employed as the best estimate of the LVC. In such cases calculating the change in valued added associated with the new development is made difficult because the new and old uses are so different. It can be argued that the value of the site in the previous is now zero and this would increase our revenue estimate by around \$2.4 million. However we do not feel this approach is consistent with our handling of other cases, nor is it conservative.



**\$15 million** for less than **\$800,000**. The market pricing of development rights restores the benefits of development to the community where previously it had been transferred to developers.

**Table 9: Revenue Impact of Codification regarding Fixed Fees**

Categories	Existing CUC (\$)	New CUC (\$)	Difference in CUC (\$)
Dual Occupancy	288,750	3,798,750	3,510,000
Townhouses	54,750	911,250	856,500
Units	728,625	14,196,750	13,468,125
<b>Total</b>	<b>1,072,125</b>	<b>18,906,750</b>	<b>17,834,625</b>

Source: ACTPLA

The **\$21 million** total revenue gain from the introduction of codification (including rectification) will also be **overstated** to the extent that significant additional revenues are flowing from dual occupancy applications which we understand are likely to comprise only around 10 applications per year under the new regulations introduced in September 2009. This would reduce the revenue gain by around **\$3 million**.

In recognising all factors associated with the historical undervaluing of CUC assessments, the volume and value of offsets applied to CUC assessments is worth considering. Table 10 provides summary information about the value and volume of construction, demolition and mandatory offsite costs associated with the 2008-09 DA sample cases where CUC applied.<sup>40</sup>

The **\$21 million** total revenue gain from the introduction of codification (including rectification) will be **understated** to the extent that the existing CUC applied in 2008-09 was offset by demolition costs or (more unlikely) the value of construction costs. This is because under the new system such costs cannot be offset against the CUC charge. Analysis of the valuation reports relevant to the 2008-09 DA sample confirms that the final value of demolition costs offset against the CUC payable was around **\$2.7 million** claimed over a total of 24 sites. The total value of new construction associated with the 2008-09 DA sample was **\$69 million**.

The **\$21 million** total revenue gain from the introduction of codification (including rectification) will be **overstated** to the extent that the existing CUC applied in 2008-09 was offset against the value of mandatory offsite works. This is because under the new system it is proposed that a proportion of such costs would be funded directly by Government rather than offset against the CUC. However, ACTPLA have advised that the final value of mandatory offsite works relevant to the sample cases was probably zero or negligible in 2008-09.

<sup>40</sup> The consultants understand that many instances of mandatory costs have been absorbed into total construction costs, although this fact was not disclosed in valuation reports.

**Table 10: Revenue Impact of Codification regarding Offsets including Demolition Costs and Mandatory Offsite Costs**

Categories <sup>41</sup>	No. Cons. Costs	Value of Cons. Costs (\$)	No. Dem. Costs	Value of Dem. Costs (\$)	No. Offsite Costs	Value of Offsite Costs (\$)
Change in GFA – C	5	42,382,409	1	55,250		
Change in GFA – I	1	291,000				
Change of Purpose – C	3	1,005,750	3	816,750		
Change of Purpose – M	1	100,000	3	475,888		
Childcare/Nursing home	1	678,000	1	10,000		
Floorspace Allocation/User requirement	1	810,000				
Multi-complex development – M	1	574,740	1	175,000	1	202,000
Multi-complex development - C			2	845,000		
Multi-dwelling development - R	13	23,131,608	13	313,500		
<b>Total</b>	<b>26</b>	<b>68,973,507</b>	<b>24</b>	<b>2,691,388</b>	<b>1</b>	<b>202,000</b>

Source: ACTPLA

Note: C is Commercial; I is Industrial; M is Mixed Use; R is Residential.

### 6.3.1.2 Administrative savings for Government due to codification

ACTPLA advise that the total fees paid to AVO to review CUC calculations was \$165,280 in 2008-09 for a total of 159 cases.<sup>42</sup> Under codification, in any given year, only 20 to 25 per cent of all cases are ever likely to require AVO review (because they are not codifiable). This is consistent with **Macroeconomics** analysis of the 181 cases where CUC was charged in 2008-09, as we found that around 45 of the 181 cases were not codifiable. This suggests on a simple pro rata basis that the total review fees paid to AVO will fall by around \$120,000 each year. However, it may be that the more complicated cases excluded from codification require more review time and hence attract a larger fee. Even so, it should be possible for Government to achieve an administrative saving of around **\$100,000** per year through codification by lowering fees paid to AVO.

<sup>41</sup> These costs were not mentioned in any application in four categories of DAs (Change of Purpose – Industrial, Dual Occupancy, Special Purpose/Mixed Sites and Subdivisions/Consolidations) and these categories have been omitted from the table.

<sup>42</sup> The total service fee paid to the AVO in 2008- 09 for all services associated with the CUC was \$165,280. The number of cases examined by the AVO was 159. The number of hours billed by AVO was 939 hours. The number of appeals attended was one. The number of mediation sessions attended was one.

Also, ACTPLA estimate that their own officers spent the following hours in 2008-09 in informal mediation (these hours represent actual meeting time but do not include meeting preparation time): SOGA - 5 hours; SOGB - 14 hours; SOGC - 12 hours; ASO6 - 7 hours; ASO5 - 4 hours; and ASO4 - 14 hours .



### 6.3.1.3 Lower holding costs for developers due to codification

Under codification the time taken by ACTPLA to process DAs can be reduced for an overall efficiency gain to the ACT economy. The total estimated effective processing time across DA categories in 2008-09 is displayed in Table 11.<sup>43</sup> The 127 codified cases represented a significant proportion of the time taken to process all lease variation categories across cases.<sup>44</sup> A total of 18,358 days was taken to process all codifiable applications in 2008-09.

**Table 11: Effective Time to Process Applications across 13 DA Categories in 2008-09**

Categories	No. Cases 2008-09		Av. Eff. Processing Time (codified cases) (days)	Av. Eff. Processing Time (all cases) (days)	Total Eff. Processing Time (codified cases) (days)	Total Eff. Processing Time (all cases) (days)
	Codifiable	Total				
Change in GFA – C	6	9	129	140	773	1,258
Change in GFA – I	2	2	140	140	279	279
Change of Purpose – C	3	19	172	176	515	3,351
Change of Purpose – I	2	5	205	162	410	811
Change of Purpose – M	1	11	74	136	74	1501
Childcare/Nursing home	2	2	154	154	308	308
Dual Occupancy	74	74	109	109	8,038	8,038
Floorspace Allocation/User requirement		7		110		769
Multi-complex development – M		2		456		912
Multi-complex development - C	2	3	208	165	416	494
Multi-dwelling development - R	30	30	215	215	6,448	6,448
Special Purpose/Mixed Sites		2		84		168
Subdivisions/Consolidations	5	6	219	194	1,097	1,161
<b>Total</b>	<b>127</b>	<b>172</b>	<b>145</b>	<b>148</b>	<b>18,358</b>	<b>25,498</b>

Source: ACTPLA

Straightforward DAs such as dual occupancies (which had fixed fees imposed) had an average processing time of more than 3 months, while more complex applications such as commercial multi-complex developments took almost 15 months to process on average.

Further information regarding processing time spent on codifiable DAs by various Government agencies is displayed in Table 12. Under codification, codifiable cases will not require an independent AVO valuation, resulting in an administrative saving of around 6,497 processing days for government and similar time saving for developers in 2008-09. To cost the saving from these reduced processing days depends on the 'average' value added by the typical developer on a given day. Unfortunately, this information was not available to the consultants at the time of release of the Final Report.

<sup>43</sup> Effective processing time was calculated as the number of days from the complete lodgement of the DA (including submission of the Valuation Report) until the final CUC determination was released by ACTPLA.

<sup>44</sup> In nine instances the consultant was not provided with complete documentation for the DA, so only 127 of the 136 codifiable cases were available for inference for this purpose. The total number of all cases examined was 181.

**Table 12: Time (in days) to Process Codified Applications by Category in 2008-09**

Categories <sup>45</sup>	No. codifiable cases 2008-09	ACTPLA (L'ment to NoD)	AVO valuation	Other stages	Total effective
Change in GFA – C	6	73	50	5	128.8
Change in GFA – I	2	60	71	9	139.5
Change of Purpose – C	3	84	30	58	171.7
Change of Purpose – I	2	94	18	94	205.0
Change of Purpose – M	1	63	51	NA	74.0
Childcare/Nursing home	2	74	78	2	154.0
Dual occupancy	74	67	50	NA	108.6
Multicomplex development - C	2	53	92	63	208.0
Multi-dwelling development - R	30	127	54	34	214.9
Subdivisions/Consolidations	5	154	44	20	219.4
<b>Average across categories</b>	<b>127</b>	<b>85</b>	<b>51</b>	<b>8</b>	<b>144.6</b>
<b>Total days</b>		<b>10,820</b>	<b>6,497</b>	<b>1041</b>	<b>18,358</b>

Source: ACTPLA Subject to rounding.

Notes: ACTPLA (Lodgement to Notice of Decision) time is counted from when the application is lodged in full to when the Notice of Decision (NoD) is released.<sup>46</sup> AVO Valuation Time counts from when AVO's valuation is requested by ACTPLA until their valuation report is released. Other Stages counts the time taken from the point where the NoD is issued to ACTPLA's issuing the final CUC determination.

To help secure the efficiency gains examined previously, it is our recommendation that the time taken to process each DA and determine the LVC is recorded for each case.

#### 6.3.1.4 Administrative savings for applicants due to codification

Most applicants will be better off under codification because they do not have to pay for the preparation of a professional valuation report as part of their DA. Table 12 below estimates the possible savings for development applicants in the 2008-09 year by lease variation type based on our understanding of the transactions that were codifiable. The estimated savings to development applicants are presented in the far right column.

<sup>45</sup> Only 10 categories are included in this table as the Floorspace Allocation/User requirement, Mixed Use Multicomplex Developments and Special Purpose/Mixed Sites categories did not include any modifiable cases in 2008-09.

<sup>46</sup> If the application is resubmitted (12 cases) then counting begins from the date of the latest resubmission. If an appeal is made (3 cases) then counting ends when the Reconsideration Applications is released.

**Table 13: Summary of Costs to Applicants from Valuation Reports**

Categories	No. Cases 2008-09		Typical fee for val. reports (\$)	Est. cost of val's 2008-09 (\$)	Cost of codified val's (\$)
	Codifiable	Total			
Change in GFA – C	7	10	3,000	30,000	21,000
Change in GFA – I	3	3	2,500	7,500	7,500
Change of Purpose – C	3	19	2,750	52,250	8,250
Change of Purpose – I	2	5	2,500	12,500	5,000
Change of Purpose – M	2	12	3,500	42,000	7,000
Childcare/Nursing home	2	2	3,000	6,000	6,000
Dual occupancy	78	78	900	70,200	70,200
Floorspace Allocation		7	1,200	8,400	0
Multicomplex development – M		2	8,000	16,000	0
Multicomplex development - C	2	3	7,000	21,000	14,000
Multi-dwelling development - R	31	31	7,000	217,000	217,000
Special Purpose/Mixed Sites		2	4,000	8,000	0
Subdivisions/Consolidations	6	7	3,000	21,000	18,000
<b>Total</b>	<b>136</b>	<b>181</b>		<b>511,850</b>	<b>373,950</b>

Source: Colliers

The total benefit to applicants associated with removing the need for valuation reports in codified cases is estimated at **\$374,000** in 2008-09. If we adjust the fee income earned for a smaller number of dual occupancy developments the number the total benefit is likely to be closer to **\$313,000**.

#### 6.3.1.5 Savings from fee predictability.

Savings from fee predictability have been determined non-quantifiable.

### 6.3.2 Costs

What follows is a quantification of each of the relevant cost categories described in Section 6.2 above.

#### 6.3.2.1 Cost associated with the CUC codification project

The one-off cost of employing consultants (**Macroeconomics** and the AVO) to review the codification system is estimated to be **\$337,000** in 2008-09 dollars.

#### 6.3.2.2 Cost associated with administrative changes due to codification

The ongoing cost of employing consultants (the AVO) to prepare and review the codification schedules is expect to be around **\$7,570**. This does not include costs associated with establishing and operating the expert review panel, which have been estimated at **\$28,400**. Therefore the total ongoing annual cost for Government associated with administrative changes surrounding codification are estimated to be around **\$35,970** thousand per year in 2008-09 dollars.



### 6.3.2.3 Cost associated with loss of appeal rights

Costs associated with the loss of appeal rights have been determined non-quantifiable but are anticipated to be relatively small (for reasons stated in **Section 6.2.2.3**).

### 6.3.2.4 Cost associated with reduction in valuation business

The total estimated cost of valuation reports to applicants with codifiable applications in 2008-09 was \$373,950 as outlined in **Section 6.3.1.4** and Table 12. Under codification this expenditure would not need to be made, reducing the revenue of the valuation business by the same amount. If we adjust the fee income earned for a smaller number of dual occupancy developments the total cost is likely to be closer to **\$313,000**.

### 6.3.2.5 Cost associated with residential valuations based on the use of market indexes rather than site specific assessments

The total cost associated with using valuations based on indexes rather than site specific valuations has been determined by the AVO to be unquantifiable. Importantly this potential cost only applies to residential properties because there are no site specific factors used for the estimation of the LVC payable in residential cases (unlike industrial or commercial cases). The AVO have also advised that for every loser under codification there is likely to be an offsetting winner given that they have allowed a 90 per cent confidence interval (+/- 5 per cent) in preparing the residential market index values for each suburb.<sup>47</sup> Given these factors the average cost to residential property associated with the adoption of market indexes under codification is likely to be small or nil.

## 6.4 Step 3: Establish the Likely Net Impact of the Reform

The above financial impact of the benefits and costs in the 2008-09 and beyond may be compared in order to draw conclusions about the effect of codification on the ACT community. Table 14 tabulates the estimates from Section 6.3.

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<sup>47</sup> By employing market indices to estimate the value of lease variations, it is inevitable that some charges will overstate the value of the development while others will be understated. The extent of the disadvantage/advantage experienced by a particular applicant will depend on the divergence between the valuation of land values for relevant property and the median value for properties in a given area based on recent sales data. The spread of values within a given suburb can be measured statistically. If the spread is normally distributed it will be true that the winners and losers under the new system will be evenly balanced.

**Table 14: Estimate of the Total Benefits and Costs from Codification from 2008-09**

Item	Description	Beneficiary	Benefit (Cost)	Duration
6.3.1.1	Appropriate pricing of changes in lease conditions	Government	\$21 million	Ongoing
6.3.1.2	Administrative savings for Government	Government	\$0.1 million	Ongoing
6.3.1.3	Lower holding costs for developers	Developers	6,500 project days	Ongoing
6.3.1.4	Administrative savings for applicants	Applicants	\$0.31 million	Once-off
6.3.1.5	Savings from fee predictability	Applicants	Non-quantifiable	Project life
6.3.2.1	CUC codification project	Government	\$0.337million	Once-off
6.3.2.2	Administrative costs for Government	Government	\$0.036million	Ongoing
6.3.2.3	Loss of appeal rights	Applicants	Non-quantifiable	Ongoing
6.3.2.4	Reduction of valuation business	Valuation firms	\$0.31 million	Ongoing
6.3.2.5	Use of market indexes	Applicants	Non-quantifiable	Ongoing

Our conclusion based on the previous analysis is that the financial impact of codification is a clear net benefit to the ACT community.



## 7 Industry Feedback on the Discussion Paper

The following section discusses the feedback received as part of the request for written submission following the release of the CUC Discussion Paper. Prior to submission Professor Nicholls held discussions with members of the AVO, relevant ACT Government agencies, the HIA, the API, the PCA and individual valuers and developers.

### 7.1 Introduction

A total of seven written submissions were received, including four from property related industry organizations (API, PCA, Master Builders Association (MBA) and the HIA).<sup>48</sup> A summary of the key issues raised in the submissions along with the consultant's response is provided in **Attachment 3**.<sup>49</sup> Many of the issues raised in the submissions emerged during discussions which took place with industry professional groups prior to, and during, the development of the Draft Report. Consequently the majority of the matters raised in the submissions have been addressed in this Report.

Overall there was support for codification. One of the industry organisations believed that codification 'had merit', while the other three supported codification in principle. In the case of the other two submissions, one supported codification while the other proposed a two stream system of determining the CUC, one of which was the current approach based on 'before' and 'after' values and the other codification.

The main issues raised in the submissions received are addressed in the following sections.

### 7.2 Revenue and Remissions

One submission which supported codification raised issues with respect to the availability of financial information relating to revenues, including the effect of remissions, as well as the lack of information with respect to relative revenue contributions from different classes of development. There was also a concern expressed that 'the ACT regrettably does not provide a Tax Expenditure Statement along the lines of the Australian Treasury statement.'<sup>50</sup> The

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<sup>48</sup> From the API (ACT Division), Mr Brendan Preiss, CB Richard Ellis, MBA of ACT, PCA (ACT), HIA and Mr Ron Gilbert.

<sup>49</sup> A submission was received from Mr Ron Gilbert that focused on broader community concerns. He argued in favour of the introduction of development contributions, based on a sliding scale. However, given that the ACT Government decided in 1999 to reject a development contributions approach, it was not considered necessary to respond directly to this submission. However, the proposed codification schedule set out in Attachment 2 does incorporate a sliding scale of charges.

<sup>50</sup> The key functions of that statement are identified in the submission as: 'scrutiny of tax expenditure, comprehensive assessment of government activity, and contribution to public information and debate on tax system design.'



submission concluded that the ACT should be improving its accountability framework in this area.

During the course of this project, and as this Report recognises, much of the financial and other data supplied in Tables 1-4 were not readily available from the relevant government agencies. It was not possible to extract this information in a simple and timely manner. To obtain data (in some cases) it was necessary to go back to paper files including the original DAs (lease variations associated with DA applications). If the relevant agencies had appropriate IT systems in place the extraction of such data would be straight forward. However, at present this is not the case. For agencies to be able to summarize and supply land related data to each other, and other stakeholders, in a timely manner, appropriate IT systems need to be developed.

### **7.3 Dual System for Determining the CUC**

Two submissions from the valuation profession proposed that codification should be ‘a choice, not a requirement’. It was argued that leaseholders should be able to choose a development path of either using the codified approach or using a value based on a ‘before and after’ approach. However, this approach is not supported by the research and analysis undertaken for this Report, particularly given what has emerged under the current system in the case of residential developments.

A dual system as proposed in these submissions would lead to administrative complexities within the system and would allow a developer to “shop around” for the best deal. This process would also be costly for government to undertake and would increase uncertainty.

### **7.4 Cost Benefit Analysis**

The need for a CBA was identified in the submissions. Such an analysis had been identified early in discussions relating to this project has been included in the Final Report (see Section 6).

The CBA has analysed and discussed the impact of the introduction of the codification scheme on relevant stakeholder groups, and where relevant data is available, quantitatively compared the impact of the current system with the codification system. While significant revenue leakage has been identified due to the fixed fees, it is mainly due to the implementation of the current system rather than the inherent characteristics of the current system.



## 7.5 Townhouses and Multiple Units

It was proposed in one submission that an inequity is created if townhouse and apartment developments in RZ3 and RZ4 land zones receive the same valuation treatment (per unit) 'given that the Land Value of these two types of development/property is quite considerable'.

In the case of multi unit residential development, in determining the appropriate values in the codification schedules, the LDR has been applied. That is, on a particular site, in a particular suburb, as the number of units to be developed on the site increases, the lease variation charge per unit decreases. This will allow the developer to determine the best value for money from a particular development. It will be the developer's choice in the RZ3 and RZ4 zones as to whether he/she chooses to construct a number of townhouse, or a (larger) number of units.

## 7.6 CUC as a Disincentive to Development

Two submissions responded to a statement in the Discussion Paper which appeared in the ACTPLA Technical Paper 1 (2005) which stated that previous reviews indicated that the CUC was not a disincentive to development. One of these submissions quite rightly pointed out that this was as a result of the amount of CUC applicable. Given the levels of determined CUCs in recent years, particularly in the case of fixed CUCs for dual occupancies, townhouses and units, these could not be regarded as a disincentive to the development.

The same could also be argued in the case of commercial and industrial development. This could be exemplified by the fact that the property industry, at a forum arranged by the MBA in late December 2009, requested that the Government slow down the release of further large scale development as the industry was currently stretched in meeting its commitments to major developments being undertaken in the ACT. Such developments include major residential apartment/unit complexes, and mixes of these with commercial and retail uses.

As was identified in the Discussion Paper and in submissions, to encourage development the Government increased the remission by 25 per cent of the added value for the current financial year, and waived the entire CUC in the case of service station redevelopments, to encourage the redevelopment of these sites. The industry has indicated that this has been a success, particularly in the case of service station sites. Just how successful this has been will be able to be determined at the end of the financial year.<sup>51</sup>

With the introduction of codification based on the schedules (produced from market sales by the AVO) in this Report, particularly in the case of residential land developments, the current

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<sup>51</sup> It is notable that in the case of service station redevelopment sites, the recent ACT budget (May 2010) has had to extend the waiver for a further twelve months as a result of delays in the redevelopment of these sites.



fixed fees for dual occupancies, townhouses and units will be replaced by market based codified fees on a suburb-by-suburb basis, and the LDR.<sup>52</sup>

When microeconomic reform takes place there will be changes for which the market may take time to adjust. This is recognised as being inevitable, particularly in the case of inner suburbs where redevelopment is to be considered. However if there are specific sites where the Government wishes to encourage redevelopment, it always has the power under Sections 175-177 of the Regulation to partially or wholly waive a CUC. As has been indicated above, this has happened in 2009-10 in the case of disused service station sites.

## 7.7 Improvements, Onsite and Offsite Costs

The issue of improvements, onsite and offsite costs was identified in submissions, but has already been addressed earlier in this Report. We support the principle that demolition and onsite and offsite costs should not be taken into account in determining the CUC. This Report also recognises the efficiencies associated with developers undertaking mandatory offsite works and that this practice should continue. However, while the costs of these mandatory offsite works must be offset against the CUC; both items should be separately determined and reported, with the developer being responsible for the payment of the relevant difference between the CUC payable and mandatory offsite costs.

One submission states:

‘... Values adopted in any codified value list will (and must) assume that there are no costs associated with demolition, remediation and mandatory offsite development requirements. The codified values will assume a development ready site. It is incongruous and goes against long standing valuation principles not to deduct these items from the resulting CUC arrived at by codification values’.

The first two statements are correct, the codified values have been determined from the land market values. The Report has concluded that improvements, onsite costs (including demolition costs) and non-mandatory offsite costs should not be subsidised by the community. They are costs which should be the responsibility of the developer and should be reflected in the price paid for the land to be developed, the developer’s profit, the price paid by the end user(s) for the developed property, or some combination of all three of these. This overall approach is consistent with the original intention of the betterment levy and accords with some earlier versions of the CUC such as Method B discussed in Section 2.1.2.

In analysing the different approaches to the issue for the Report, it has been difficult to reconcile what has been stated with respect to the current application of the ‘before’ and ‘after’

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<sup>52</sup> The ACT Budget 2010-11 rectified this anomaly so that under the current legislation these fixed fees will no longer apply.



valuation approach to determining the appropriate CUC, and what has happened in practice. As has been highlighted elsewhere in the Report, fixed fees have been applied in the case of residential redevelopments involving dual occupancies, townhouses and multiple units, irrespective of location and block size. The submission also stated;

‘Omitting improvements from the before value risks halting all redevelopment until the existing improvements are well beyond their physical as well as economic life. This will result in urban decay and underutilised community facilities. Effectively development will only occur on Greenfield sites (i.e. no improvements).’

Conversely, defacto funding of demolition costs by the community has the perverse intent of demolishing useful assets before the end of their economic life. More generally, these statements are speculative and of a sweeping nature. It would be expected that the property market (and redevelopment activity) would undergo a period of transition but would then adjust to the new set of arrangements whilst continuing to function efficiently. During the transition, if necessary, the Government may choose use its powers under Sections 175-177 of the Regulation to partially or wholly waive the CUC.

It is recognised that in some cases, for example, the amalgamation of blocks in inner suburbs for multiple unit redevelopment, the adoption of the proposed codification system will result in higher lease variation charges being applicable than in the case of the (small) fixed fees applicable for such redevelopments in recent years. However, they will more accurately reflect the true increase in the market value of land as a result of the change of use of the land.

## 7.8 Review/Appeals Processes

A number of submissions identified the need for a mechanism to review values assigned to different types of development, including an appeals process. This Report has proposed a review committee to annually review the codification schedules prior to their updating. The establishment and role of this committee has been supported by both the Regional Manager of the AVO and the President of the ACT Division of the API. It is for Government to agree to any review panel, and its membership.<sup>53</sup>

For the determination of LVCs which are not fixed or are not covered by the codification schedules, and which require the determination of ‘before’ and ‘after’ land values, the Report recognises that the current mediation and appeals process through the ACAT could be applied. As the ACAT panel does not have a member with real property valuation expertise, this has resulted in an alternative mediation/appeals process being developed.

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<sup>53</sup> The Schedule in Attachment 2 was reviewed and agreed to by the panel.



As the report indicates this process will involve the API appointing an independent expert to make an expert determination on disputed determinations based on 'before' and 'after' values. Following this process either party would have the option to appeal the resulting decision to the ACAT, if it determined that such grounds exist. This alternative appeals mechanism is supported by the API. The amended appeals mechanism will be among the consultants final recommendations.

## 7.9 Other Issues

One submission suggested that codification schedules need to reflect the value of the bundle of development rights without the value of land ownership. The bundle of development rights and the value of the land are not mutually exclusive; the value of land reflects the impact of the bundle of rights. As has been identified in this report, and is reflected in the codification schedules, the same bundle of rights attached to blocks in different suburbs will have a different impact on what developers are prepared to pay for land.

There was a proposal in one submission that the 'change of use' name attached to the charge for the lease variation is a misnomer; as is the case when the charge is related to expanding the current use, not changing the use. The report has recognised this and proposed a change of name to a 'lease variation charge (LVC)' to more correctly reflect reality.

When discussing codified values, one submission stated:

'The Government will conceptually need to give something in return for what is hoped to be a simpler and more transparent system. For example, if when setting/reviewing coded values the market evidence suggests a range of possible values in a particular Zone, then the adopted value will need to be at a point of that range that ensures the value is relevant .....'

This point has been recognised in the Report in Section 4.6 when discussing rates of remission. It recognises that a codified value is a value based on the market value of land, averaged over three years, and in any one location there will be a distribution of values (in that location) around the land value index derived for that location. It has been proposed that this would be accounted for by giving a remission on the percentage of the relevant codified charge (currently 50 per cent in the case of the CUC, but to return to 25 per cent from 1 July 2010).

One of the submissions included a case study of a recent residential redevelopment in Forrest (the codified fees used in their examples were significantly different to those appearing in the relevant schedules in this Report). A copy of the submissions received can be found at <http://www.treasury.act.gov.au/about/publications.shtml>.

**Example 1**

Example 1 contains an example from the submission of a developers' profit from undertaking a triple occupancy redevelopment in Forrest.

While the submission claims that codification will impact solely on the developers' profits, there are a number of ways the increased cost from codification could be passed on. These include sharing the costs between:

- the property owner (through a reduced price paid for the property);
- the developer (through a reduced profit and risk ratio);
- the end user (through paying a higher price for the property); and
- some combination of the above.

Table 6 below indicates the costs and profits to a developer from undertaking a residential redevelopment in Forrest (triple occupancy) and how they may vary depending on the actual transmission mechanism (whether via land value, sales price or profit margin). In that table we show the situation where 100 per cent of the adjustment occurs through changes to Land Values (Column 4), Sales Price (Column 5) and Profit Margins (Column 6).

**Table 15: Example: Triple Occupancy Development in Forrest**

	Current Arrangements	Submission View of the Impact*	Codification 100% Impact on Land Values	Codification 100% Impact on Sales Price	Codification 100% Impact on Profit Margins
Sale Price of property (3 units)	\$4,575,000	\$4,575,000	\$4,575,000	\$4,749,375	\$4,575,000
Development and Constructions costs	\$1,700,000	\$1,700,000	\$1,700,000	\$1,700,000	\$1,700,000
Other costs (selling, holding land, GST)	\$628,054	\$628,054	\$628,054	\$628,054	\$628,054
Stamp duty, rates	\$99,750	\$99,750	\$99,750	\$99,750	\$99,750
Change of Use Charge	\$5,625	\$325,000	\$180,000	\$180,000	\$180,000
Developers Profit (\$)	\$544,891	\$217,784	\$544,891	\$544,891	<b>\$370,516</b>
Developers Profit	<b>12%</b>	<b>5%</b>	<b>12%</b>	<b>12%</b>	<b>8%</b>
<b>Residual land value</b>	\$1,596,680	\$1,604,412	<b>\$1,422,305</b>	\$1,604,412	\$1,604,412

**Source:** Figures (construction, other costs, rates, etc.) cited in this table draw upon the relevant CUC submission.

\* The data in this column was drawn directly from the submission and presents a view of the project financials based on an inflated CUC charge of \$325,000. The actual LVC under the proposed system for this development would be \$180,000 as is presented in Columns 4 to 6 in the table above.



Essentially, the submission argues that all the increase in CUC would impact on profits, and that there would be no ability to pass on this cost. However, any increase in CUC could be distributed between the developers' profit, the purchase price paid for the property to be redeveloped, or through the determination of the final design/construction costs of town houses and the resulting prices paid for them.

### **Example 2**

Example 2 contains an example of a dual occupancy in Higgins. Under the current system, a fixed fee of \$3,750 would be paid. The example provided in the submission assumes that under a codification system the CUC payable would be \$93,750. This is incorrect. Using the codification schedules included in this Report, it can be seen that the lease variation charge payable (assuming a remission of 25 per cent for comparative purposes) would be \$33,750 (75 per cent of \$45,000).

This LVC is based on the increase in the market value of land, averaged over three years and more accurately reflects reality than does the fixed fee of \$3,750. The claim in the submission is that 'development would not occur and force buyers to Greenfield's suburb.' It is not clear that this would occur, particularly when the costs associated with buying and selling, together with the outcomes resulting from both dwelling scenarios, are taken into account.

### **Example 3**

Example 3 contains an example of a multi residential unit development in Dickson, from 2 to 8 townhouses. Under the existing system the CUC payable is \$11,250 or \$1,875 each (75 per cent of \$2,500). This fixed fee does not reflect the true increase in the land value as a result of increasing the number of dwellings from 2 to 8.

Using the codification schedules contained in this report, an LVC for each of the 6 additional units of \$41,250 per unit (75 per cent of \$55,000) would be applicable.

The three examples have all used scenarios where, under the current system, a fixed fee dual occupancy or townhouse development has been adopted, irrespective of the location of the development. These figures do not accurately represent the additional benefits attributed to the leaseholder from a change in lease conditions. These fees treat all residential development in a similar manner and do not take into account the location of redevelopment in the ACT.

## **7.10 Conclusion**

The final codification system has been impacted by constructive inputs from stakeholders in the property industry. The approach will benefit from ongoing involvement and input from the industry, through its professional organisations, and individuals in the development and



operation of a expert determination/appeals process (through the API) and the creation of a committee to review and advise on the annual setting/updating of the codification schedules.



## 8 Industry Feedback on the Draft Report

This section summarises and discusses the feedback received during the consultation period on the release of the Draft Report formally ending 21 May 2010, both through written submissions and discussions with interested stakeholders.

### 8.1 Introduction

The draft report was released with a consultation period of six weeks. Following a request from one organisation this period was extended for a further four weeks, with a closing date of 21 May 2010.

A total of 19 written submissions were received, including seven from property related organisations (API, PCA, HIA, Independent Property Group, LJ Hooker, Master Property Developments and Domain Design Projects), the Gungahlin Community Council and the Canberra Pedestrian Forum. Three submissions identified themselves as being residential property owners in identified multi dwelling residential redevelopment zones. In general, the vast majority of submissions supported, either outright or in principle, the introduction of a codified system for the determination of lease variation charges.

In addition to written submissions, consultation and presentations were made to interested parties by Professor Des Nicholls. These included individual meetings with the HIA, MBA, API, PCA, AVO, PrimeSpace Property Investment, Chamberlains Law Firm and Clubs ACT. The PCA organised a forum of members with in excess of 80 registrants. Professor Nicholls addressed the Forum and then participated in an extensive Q&A session.

A complete list of the written submissions and the consultations appears in **Attachment 6**

### 8.2 Quantification of the LVC Payable

A significant number of responses, from both individuals and organisations, commented on the level of perceived lease LVC which would be payable. The values in the schedules in the Draft Report were seen to be too high, and in many cases were interpreted as the charge payable, rather than the added value as a result of the increase in the bundle of rights attached to the lease.

The schedules of codified values have been reviewed and agreed to by an expert panel. A number of points need to be noted. First, the increase mainly relates to rectification rather than codification. Second, the codified values are derived from the market value of land (without taking account of on-site improvements and demolition costs). Third, the value will be subject to remission as determined by government (currently at 25 per cent). Finally, the schedules of codified values were yet to be reviewed by a panel of representative from industry and government. This has since occurred.



A number of submissions did not recognise that there was a remission rate to be applied to the added values as listed in the schedules. The level of the remission rate adopted by the Government will have a significant impact on the determination of the quantity of the charge to be applied for a lease variation. The concern expressed in a number of submissions relating to what may be a large and instantaneous jump in the LVC payable will be addressed by the choice of the level of remission rate applicable and the adopted transitional arrangements.

The major concerns relating to this issue can be appropriately addressed by means of the determined remission rate and the transitional arrangements finally adopted by the Government.

### 8.3 Transitional Arrangements

The issue of the introduction of the new LVC system based on codification was also addressed in a number of submissions, as was the date of commencement of the new system.

Codification was proposed to commence on 1 July 2010. However, as a result of the extended consultation and other unforeseen circumstance the commencement date was not achieved. The former practice of charging a fixed fee for residential redevelopments has been addressed and rectified by the Government. The current legislation will be applicable until the new LVC system is introduced. A number of suggestions relating to the introduction of the new system have been put forward and include:

- delaying the introduction of codification;
- operating a dual system with a choice between the current CUC system and the proposed new LVC system;
- phasing in the codification starting with residential redevelopments, followed at a later date by commercial/industrial developments; and
- phasing in codification over a three period starting with a 75 per cent rate of remission falling to a 25 per cent rate of remission in the third year.

While there will be an inevitable delay from the initial aim to introduce the new system on 1 July 2010, we believe the new LVC based on codification should be introduced as soon as is practicable. Any likely economic impact associated with the introduction of the LVC system can be managed through appropriate transitional arrangements and the remission rate.

As was indicated in the response to submissions to the Discussion Paper (Section 7.3 of this Report) the introduction and operation of a dual system for a period is not supported (for the reasons given earlier).

With respect to the consideration of a staged introduction through different land use categories, once the schedules of codified values have been determined following review, given the system will be in place for all land use categories, it makes sense to introduce the system as a



whole, rather than a piecemeal introduction. If a staged approach based on land use categories was adopted, in the case of mixed (commercial and residential) redevelopments the situation could arise where part of the redevelopment was based on a codified schedule of values while the other part would be subject to the current system. The introduction of the new LVC system applied to all land use categories at the same time avoids the possibility of such situations arising.

As identified in Section 5.1 relating to alternative options for transitional arrangements, given that the codified values in the schedules will be based on the market value of land averaged over three years, if the market value of land is to be affected by the introduction of the codified system, it will take three years to fully impact on the entries in the schedules. This would indicate that consideration be given to a phased in approach over a three year period, with either the rate of remission or the percentage of the added value to be adopted to vary each year over the three year period, before the final level is reached. The effect would be a phased rising of any LVC payable compared to the current system. In addition, the Government can manage any adverse economic impact coinciding with the introduction of the codification system through increasing the rate of remission if required. Consideration was given to a proposal to phase in the level of the remission rate for residential lease redevelopment only. However, taking into account that some commercial/industrial properties will have been purchased under current lease variation arrangements and that demolition costs etc. will not be included under the new system based on land values, we argue that phase in arrangements of three years should apply to **all** LVC determinations.

## 8.4 Draft Legislation

Two organisations requested that once the relevant legislation has been drafted, interested stakeholder organisations should be given the opportunity to review and comment on the proposal. As the new system has adopted transparency as one of the ten core principles in its development and application, this makes sense, though any such review of the draft should be conducted in a timely manner. The opportunity to comment on the draft legislation should be undertaken within a reasonable timeframe and should avoid the possibility of a significant delay in enacting the legislation.

## 8.5 Improvements, Onsite and Offsite Costs

While issues relating to improvements, onsite and offsite costs were raised again in a couple of submissions, the views expressed in Section 7.7 of this report have not changed.

One submission, in support of including improvements in the determination of the schedules of codified values, proposed the inclusion of a scale of depreciation values applicable to improvements. This is not accepted. The approach proposed in this report is for the schedule



of codified values to be based on the market value of land, excluding improvements, onsite and offsite costs. The reason for this, as already stated, is that the LVC should be determined to reflect the increase in the value of the lease as a result of the increase in the bundle of rights associated with the lease. It should not reflect the value of improvements, demolition and other onsite and offsite costs.

If a commercial building is to be demolished to be replaced by a residential unit development, the LVC will be determined from the added value of the **additional** development rights resulting from the lease variation. That is, the added value will be the difference between the added value of the current bundle of rights attached to the commercial lease (based on GFA) and the added value relating to the proposed bundle of rights attached to the multi-unit residential lease (based on the number of residential units to be constructed).

One submission which referred to the methodology of determining the codified values stated that 'the methodology for determining codified values must disregard all additional value attributable to unusual or associated arrangements (such as pre-leasing commitments etc) which artificially inflate sales values'

This argument is supported. Indeed this same argument is applicable in the case of improvements, demolition, onsite and offsite costs.

Discussions with stakeholders during the consultation period, and written submissions, have raised the issue of lessees of property which has been purchased under the current CUC system and who do not propose redevelopment until after the new system is introduced. There is always a risk attached to any investment strategy, as is normally built into the profit and risk factor in determining the viability of the development. This risk may not normally include sovereign risk, however.

For those developers who have purchased property for redevelopment under the current system and will not be able to include improvements, demolition costs etc in the determination of the LVC under the new system, account of this can be recognised in the proposed phasing in of the new system and setting of the level of the remission charge.

By commencing with a remission charge in line with that proposed by the HIA, starting at 25 per cent of the added value for the first year, increasing to 50 per cent the second year and 75 per cent in the third year, this would be a real incentive for those currently holding redevelopment blocks to undertake the redevelopments as soon as possible. Such an approach would be seen as a real stimulus to encourage redevelopment. This approach is equivalent to temporarily raising the rate of remission to 75 per cent in the first year, lowering it to 50 per cent in the second year and finally lowering it to 25 per cent (the present level) in the third and subsequent years.



## 8.6 Review of the Schedules

With respect to procedures for the preparation and review of the codified values outlined in the Draft Report, the PCA believes that the codified values should be determined by independent valuers appointed by the API. This final report has proposed a review committee structure which will comprise an independent chair, a representative of the AVO, government representatives from government agencies and two valuers who are members of the API, one of which to be a specialist in residential valuations and the other in commercial/industrial valuations.

In determining the individual entries in the schedules in the Draft Report, we understand that the AVO made significant use of information relating to the market value of residential land supplied by an independent property valuation and advisory group in Canberra.

The API 'sees the likely role of the review panel as a particularly onerous task' and states 'no-one on the review panel will have daily experience across all markets. With a mix of Government and non-Government representatives and professional valuers drawn from both interested sides, the pressure on the members will be extreme. The potential of achieving a consensus is considered remote due to the subjectivity required.'

What will be important will be to determine the appropriate relativities of values between different locations/suburbs. Once the values for the entries in the schedules (which are to be based on an averaging of the market value for land over a three year period) have been determined, and recognising that these values are indices relating to the added value of land as a result of a lease variation, the Government can then determine an appropriate rate of remission to return an appropriate share of the 'windfall gain' to the community.

## 8.7 Decoupling of LVCs from the DA

Two submissions proposed the decoupling of the LVCs from the DA. One from an inner city residential leaseholder argued that leaseholders should be able to apply for a lease variation without having to submit a DA to redevelop the property. This would then allow the leaseholder to sell the property with the lease variation in place. This approach assumes that the current lessee would know in advance how a potential purchaser would be going to redevelop the property. It could lead to situations where a developer has to get a further lease variation to allow for a development which was not allowed under the initial lease variation.

The API proposes that one mechanism for encouraging investment 'would be to allow decoupling of development approvals from the requirement to pay a CUC.' This organisation argues that developers would be able to commence works as soon as the development approval is obtained, and that 'proponents would not have to wait until the CUC is determined and the CUC would still remain an obligation to be paid.' Such an approach would leave the



Government exposed to a potential increase in the risk associated with the non-payment of the LVC, either partially or wholly, after the redevelopment had commenced. If a developer were to get into financial difficulties and the LVC had not been paid, the Government would be exposed to a potential loss of LVC revenue.

We do not find either argument for the decoupling of the lease variation charges from the DA, and the payment of the LVC prior to the commencement of any redevelopment, convincing and would not support such a proposal. It could lead to increased gaming opportunities and could lead to a potential loss of revenue to the Government.

## 8.8 Accounting for Existing Use Values

The codified schedules of values reflect the **added values** resulting from particular lease variations. During the consultation process, and in written submissions, it has become evident that readers have not recognised the fact that the scheduled values are determined from the **increase** in the market value of the land as a result of the **increase** in the bundle of rights associated with a lease variation.

For example, if a commercial lease with a specified GFA was to be varied to allow for a multi-unit residential development, the added value from this lease variation would be the difference between the added value attached to the commercial lease and the added value for the residential multi-unit development.

Similarly, if a lease is to be varied to increase the number of residential units from 50 to 110, say, then the added value for the lease would be the difference between the calculated added value determined for 50 units at the appropriate scheduled value and calculated added value for the 110 units. For example if the added value for 41-100 units was \$30,000 per unit and for >100 units was \$25,000, then the added value associated with the lease variation would be \$1.25 million (= \$2.75 million - \$1.5 million). The lease variation charge applicable would then be determined by applying the appropriate remission rate to this added value.

## 8.9 Other Issues

Submissions raised a number of other issues which are summarised included:

1. One submission proposed that there should be separate charges for builders 'who make huge profits on multi unit homes' and a lower charge for home owners 'who just want to add another home on the block to reduce size of the original and have an investment income for the future'. This proposal is not supported.
2. The Canberra Pedestrian Forum stated that the Government 'appears to have a financial incentive to accommodate Canberra's growing population by continuing to release new land for development, rather than operating within the existing boundary.' The submission



highlights long term costs imposed on both the Government and residents as a result of urban expansion compared to urban consolidation. It proposes addressing the issue of comparative costs associated with local and downstream transport infrastructure, the cost of transport for urban expansion and the cost of travel time for urban expansion, compared with urban consolidation. This has not been done as it is seen to be much broader than the TOR associated with the CUC review. Rather than assessing the cost or benefit of codification compared to existing arrangements, this is a proposal to quantify the tangential link to urban expansion, compared to urban consolidation.

The Government's current target of 50 per cent Greenfield and 50 per cent Brownfield development/redevelopment will assist in addressing the issues raised by the Canberra Pedestrian Forum.

3. With regard to the identified shortfall in CUC revenue from lease variations relating to residential redevelopments, one submission has indicated an additional measure available to the Government. With the CUC prescribed by the *Planning and Development Act 2007* (with any changes to be also prescribed by that Act), that Act should be declared to be a 'tax law' by regulation, under the provision of Section 4 of the *Taxation Administration Act 1999*. It is argued that adding the CUC prescribing legislation would be appropriate. The submission concludes by stating that 'the advantages in giving increased transparency and probity in administering this tax would be significant'. Our understanding is that the ACT Treasury is aware of the implications of including the relevant Act in the *Taxation Administration Act* and has given it consideration.
4. One submission argued that to be more prospective (on the assumption that the new LVC system would be introduced on 1 July 2010), 'the new CUC charges should apply only to rezoning provisions announced after 1 July 2010, rather than to development applications lodged after 1 July in respect of zoning provisions that already existed at that date.' This proposal is not supported.

The same submission also proposed allowing all existing owners in existing redevelopment zones 'to purchase a change of use (lease variation) under the present change of use charge provisions, independent of the development application, for whatever uses the owner chose from those under the relevant zoning provisions'. This suggestion has been rejected (see Section 7.7).

5. An individual submission has presented an argument to extend the windfall profits from the CUC to 'include taxing windfall profits (and losses) when any lease is sold or mortgaged'. It proposes a formula (based on the unimproved value of land) to be applied to determine the appropriate tax. It is not appropriate to consider such a proposal as it is outside the TOR. The TOR did not extend to the determination of an appropriate tax on



the gains (and losses) when **any** lease is sold or mortgaged; only lease variations which were to attract a lease variation charge were to be considered.

6. It was suggested in a submission that 'reduction in CUC should not be left to the whim of the Minister of the day but a well considered policy supported by triple bottom line analysis. In the CBA value should be given to social and environmental outcomes not just revenue outcomes.'

The determination of the CUC is not left to the 'whim of the Minister of the day'. It is prescribed through relevant legislation. While the Minister can vary the determined CUC when it is in the community interest to do so (as was the case in the last year to assist in reducing the impact of the GFC), any such change is subject to decision by Cabinet and is a notifiable instrument, and appropriate safeguards are in place.

The CBA outlined in **Chapter 6** compared the existing arrangements (for the determination of the CUC) with the proposed LVC system. Assuming that an appropriate transitional procedure is adopted for the introduction of the codification system, social and environmental outcomes should not be significantly affected as a result of this change. Other Government initiatives would be expected to impact more on social outcomes (e.g. affordable housing initiatives/requirements) than a change in the system for the determination of lease variation charges.

## 8.10 Conclusion

Issues raised both in written submissions, e-mails, face to face discussions and round table meetings have all been considered in this Report. Many of the proposals have been adopted into the methodology and recommendations, particularly those relating to the schedules of codified values and the transitional arrangements relating to the introduction of the new LVC system. While some argued that improvements, demolition costs and other associated costs should be accounted for in the determination of the lease variation charge, this approach has been rejected. It makes sense to base the codified values on the market value of land, which will reflect the added value associated with changing of the land use.

For those who have purchased or own blocks for the purpose of redevelopment, to account for the fact that they have purchased under the current system and may redevelop under the new system, a significant transition period has been recommended with appropriate remission charges being set so that in the initial period the percentage of the added value set as the LVC will be lower than in later period(s). The impact of any changes to the LVC can be efficiently managed through the choice of the remission charge and the length of time for which it is to operate.



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## Attachment 1: Legislation Relating to the Current CUC System

Following the Planning System Reform Project, new legislation governing planning and development in the ACT was enacted through the *Planning and Development Act 2007* (the Act) and the associated *Planning and Development Regulation 2008* (the Regulation). The current CUC system is controlled by this legislation, through Part 9.6 of the Act relating to lease variations, including the variation of nominal rent leases, and Part 5.5 of the Regulation relating to CUCs.

Appeals relating to decisions made with regard to the CUC system may be made to the ACT Civil and Administrative Tribunal (ACAT) in accordance with Sections 408 and 409 of the Act, with requests for reviewable decision notices being prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

### Part 9.6 of the Act

Part 9.6 of the Act relates to Lease variations.

The first section of Division 9.6.3 (section 276(1)) states that the planning and land authority must not execute a variation of a nominal rent lease unless the lessee has paid the Territory any CUC worked out by the authority, less any remission under section 278, plus any increase under section 279. A variation of a lease has no effect if the CUC payable under section 276(1) for the variation is not paid (section 276(2)), while section 276(3) states that this section does not apply to a variation of a nominal rent lease if the only effect of the variation would be to alter the common boundary between two or more adjoining leases and the land comprised in each adjoining lease is leased for the same purpose and none of the adjoining leases is a rural lease.

Section 277 relates to the calculation of the CUC. Section 272(1) states that the planning and land authority works out the change of use charge for a variation of a lease as follows:

$$\text{CUC} = (V_1 - V_2) \times 75\% \text{ where;}$$

*CUC* means the change of use charge payable for the variation of the lease.

$V_1$ —

- (a) for a variation other than a consolidation or subdivision, means the capital sum that the lease might be expected to realise if—
  - (i) the lease were varied as proposed; and
  - (ii) the lease were genuinely offered for sale immediately after the variation on the reasonable terms and conditions that a genuine seller would require; and



- (iii) the rent payable throughout the term of the lease or, for a variation that involves the surrender of a lease and issue of a new lease, the new lease, were a nominal rent; or
- (b) for a variation that is a consolidation or subdivision, means the capital sum that the new lease or leases to be granted under the consolidation or subdivision might be expected to realise if—
  - (i) the consolidation or subdivision were to take place as proposed; and
  - (ii) the new lease or leases were genuinely offered for sale immediately after the variation on the reasonable terms and conditions that a genuine seller would require; and
  - (iii) the rent payable throughout the term of the new lease or leases were a nominal rent.

$V_2$ —

- (a) for a variation other than a consolidation or subdivision, means the capital sum that the lease might be expected to realise if—
  - (i) the lease were not varied during the remainder of its term; and
  - (ii) the lease were genuinely offered for sale immediately before the variation on the reasonable terms and conditions that a genuine seller would require; and
  - (iii) the rent payable throughout the term of the lease, or lease to be surrendered, were a nominal rent; or
- (b) for a variation that is a consolidation or subdivision, means the capital sum that the lease or leases to be surrendered under the consolidation or subdivision might be expected to realise if—
  - (i) no consolidation or subdivision were to take place during the remainder of the term of the surrendered lease or leases; and
  - (ii) the lease or leases were genuinely offered for sale immediately before the consolidation or subdivision on the reasonable terms and conditions that a genuine seller would require; and
  - (iii) the rent payable throughout the term of the lease or leases to be surrendered were a nominal rent.

If the capital value assessed as  $V_1$  is equal to or less than the capital value assessed as  $V_2$ , no change of use charge is payable (Section 277(3)).



Section 278(1) relates to the requirement that the planning and land authority must remit all or part of a CUC for a variation of a lease under section 276 as prescribed by regulation, with a regulation being able to prescribe the amount to be remitted (section 278(2)). Section 279(1) states that the planning and land authority must increase a CUC for a variation of a lease under section 276 as prescribed by regulation and that a regulation must prescribe this amount (section 279(2)).

### Part 5.5 of the Regulation

Section 170(1) defines **added value** as the difference between  $V_1$  and  $V_2$ , i.e.  $V_1 - V_2$ .

Division 5.5.2 relates to remission of CUCs.

Section 175 (Act section 278(1) and (2)) concerns remission of CUCs generally and states that:

- (1) The planning and land authority must remit all or part of a CUC for a variation of a lease:
  - (a) if the variation of the lease is necessary and desirable to—
    - (i) promote development in an area; or
    - (ii) change the purposes for which land or buildings, or parts of land or buildings, in an area may be used; or
    - (iii) promote the construction of well designed or constructed housing; or
    - (iv) promote the construction of attached houses, apartments or 2 or more detached houses on a single lease; or
    - (v) promote the construction of housing that is suitable for frail or disabled people; or
    - (vi) provide land for the exclusive use of a community organisation; or
    - (vii) assist occupiers of premises affected by the *Smoking (Prohibition in Enclosed Public Places) Act 2003*, part 2 (Smoking prohibited in enclosed public places) to provide additional facilities at the premises;
  - (b) in a circumstance, or for a period, stated in a policy direction.
- (2) The amount of the change of use charge to be remitted is—
  - (a) if a policy direction applies to the variation—the amount worked out in accordance with the policy direction; or
  - (b) in any other case—the amount (if any) that the planning and land authority decides is appropriate in the circumstances.



- (3) Subsection (1) (a) (vii) applies only if the application for a variation of the lease is made before **1 December 2009**.
- (4) In this section:  
**policy direction** means a policy direction under section 177.
- (5) Subsection (1) (a) (vii), subsection (3) and this subsection expire on **1 December 2010**.

With respect to the remission of CUCs for the housing commissioner (Act section 278(1) and (2)), section 176 states that the amount of the CUC charge to be remitted for the variation of a lease granted to the housing commissioner for a term beginning before 17 December 1987 is an amount equal to 25 per cent of the added value for the variation. Section 177 allows the Minister to make a policy direction which allows for a remission of CUCs (Act section 278(1) and (2)), in a circumstance, or for a period, stated in the policy direction. Section 177(2) states that a policy direction is a disallowable instrument.

Division 5.5.3 relates to increasing the CUC. Section 180(1) defines the meaning of a recently commenced lease in relation to the variation of a lease as:

- (a) a lease that commenced not more than 5 years before the application for the variation is made; or
- (b) a further lease granted under the Act, section 254 following the surrender of a lease that commenced not more than 5 years before the application for the variation is made; or
- (c) a lease regranted following the surrender of a lease if—
  - (i) the regranted lease includes all or part of the land comprised in the surrendered lease and is not in an area identified in the territory plan as a future urban area; and
  - (ii) the surrendered lease commenced not more than 5 years before the application for the variation is made; or
- (d) a market value lease granted following the surrender of a concessional lease if—
  - (i) the market value lease is granted to the same lessee as the surrendered lease; and
  - (ii) the surrendered lease commenced not more than 5 years before the application for the variation is made; or



- (e) a lease granted following the surrender of two or more leases of the same size if any of the leases commenced not more than 5 years before the application for the variation is made; or
  - (f) a lease granted following the surrender of two or more leases of at least 2 different sizes if the largest lease commenced not more than 5 years before the application for the variation is made.
- (2) In this section:

**largest lease**, of the surrendered leases, means the lease, or any of the leases, with the largest area.

**regrant**, of a surrendered lease, means the grant of a new lease, subject to different provisions, to the same lessee as the surrendered lease.

Section 181 concerns increases in the CUC for concessional leases (section 279(1) and (2) of the Act).

- (1) The variation of a concessional lease is prescribed if—
- (a) the variation is for a use other than a community use; or  
*Note Community use*—see the Territory Plan (13 Definitions).
  - (b) the lease was not granted to the housing commissioner for a term beginning before **17 December 1987**; or
  - (c) if the lease as varied is a consolidated or subdivided concessional lease—
    - (i) the lease is a recently commenced lease; and
    - (ii) the amount payable under section 182 in relation to the variation is less than the amount payable under this section for the variation.
- (2) The CUC for the variation must be increased by an amount equal to 25 per cent of the added value for the variation.
- (3) In this section:
- consolidated or subdivided concessional lease**—see the Act, section 235 (3).

Section 182 increases of CUC for recently commenced leases—(Act, section 279 (1) and (2)). Section 182 relates to increases of CUC for recently commenced leases (Act section 279(1) and (2)) and states that the variation of a recently commenced lease is prescribed if—

- (1) The variation of a recently commenced lease is prescribed if —



- (a) the variation is not only to correct an error in the surrendered lease; or
- (b) the lease is a concessional lease and the amount payable under section 181 in relation to the variation is less than the amount payable under this section for the variation.

**Note Concessional lease**—see the Act, section 235.

- (2) The CUC for the variation must be increased by an amount equal to 25 per cent of the added value for the variation.



## Attachment 2: Codification Schedules

The codification schedules presented below have been prepared by the AVO and API representatives. Each schedule has been determined from a three year average of the market value of land, in particular land use zones, in particular suburbs, as at **31 March 2008, 2009 and 2010** and so reflect land market values as at **31 March 2010**. Depending on the timing of the introduction of the proposed new system, it may be necessary to revise these schedules to reflect land market values as at 31 March 2011.

The schedules should be notifiable instruments.

### SCHEDULE 1: RESIDENTIAL CODIFICATIONS

Schedule 1 contains the relevant codified fees (in dollars per unit) relating to residential developments. This schedule is sectioned into three categories of suburbs:

- Category A – Inner suburbs
- Category B – Mid location suburbs
- Category C – Outer location suburbs

Blocks are grouped into different localities (A, B, C) within each suburb. An applicant wishing to develop a particular block will consult the **ACTmap-i** (located at <http://www.actmap.i.act.gov.au>) and determine its locality (by block reference and section number). It is then straightforward to refer to the appropriate entry in Schedule 1 to determine the codified fee. This fee represents the added value from the variation of a lease. A percentage of the value (e.g. 75 per cent) will represent the CUC payable, subject to Government determination and transition arrangements.

**SCHEDULE 1: CATEGORY A – INNER SUBURBS**

Description	Locality A	Locality B	Locality C
<b>Suburb: Barton</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$150,000		
3 Units	\$80,000		
4 Units	\$75,000		
5-10 Units	\$70,000		
11-20 Units	\$65,000		
21-40 Units	\$60,000		
41-100 Units	\$55,000		
>100 Units	\$50,000		
<b>Suburb: Braddon</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$150,000		
3 Units	\$80,000		
4 Units	\$75,000		
5-10 Units	\$70,000		
11-20 Units	\$65,000		
21-40 Units	\$60,000		
41-100 Units	\$55,000		
>100 Units	\$50,000		
<b>Suburb: Deakin</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$130,000	\$150,000	
3 Units	\$80,000	\$90,000	
4 Units	\$75,000	\$85,000	
5-10 Units	\$70,000	\$80,000	
11-20 Units	\$65,000	\$75,000	
21-40 Units	\$60,000	\$70,000	
41-100 Units	\$55,000	\$65,000	
>100 Units	\$50,000	\$60,000	
<b>Suburb: Forrest</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$180,000		
3 Units	\$80,000		
4 Units	\$75,000		
5-10 Units	\$70,000		
11-20 Units	\$65,000		
21-40 Units	\$60,000		
41-100 Units	\$55,000		



Description	Locality A	Locality B	Locality C
>100 Units	\$50,000		
<b>Suburb: Griffith</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$160,000	\$150,000	\$130,000
3 Units	\$80,000	\$75,000	\$60,000
4 Units	\$75,000	\$70,000	\$60,000
5-10 Units	\$70,000	\$65,000	\$55,000
11-20 Units	\$65,000	\$60,000	\$50,000
21-40 Units	\$60,000	\$55,000	\$50,000
41-100 Units	\$55,000	\$50,000	\$45,000
>100 Units	\$50,000	\$45,000	\$40,000
<b>Suburb: Kingston</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$130,000		
3 Units	\$80,000		
4 Units	\$75,000		
5-10 Units	\$70,000		
11-20 Units	\$65,000		
21-40 Units	\$60,000		
41-100 Units	\$55,000		
>100 Units	\$50,000		
<b>Suburb: Red Hill</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$130,000	\$160,000	\$180,000
3 Units	\$80,000	\$90,000	\$120,000
4 Units	\$75,000	\$85,000	\$115,000
5-10 Units	\$70,000	\$80,000	\$105,000
11-20 Units	\$65,000	\$75,000	\$95,000
21-40 Units	\$60,000	\$70,000	\$90,000
41-100 Units	\$55,000	\$65,000	\$85,000
>100 Units	\$50,000	\$60,000	\$75,000
<b>Suburb: Reid</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$170,000	\$150,000	
3 Units	\$80,000	\$75,000	
4 Units	\$75,000	\$70,000	
5-10 Units	\$70,000	\$65,000	
11-20 Units	\$65,000	\$60,000	
21-40 Units	\$60,000	\$55,000	
41-100 Units	\$55,000	\$50,000	



Description	Locality A	Locality B	Locality C
>100 Units	\$50,000	\$45,000	
<b>Suburb: Turner</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$150,000		
3 Units	\$80,000		
4 Units	\$75,000		
5-10 Units	\$70,000		
11-20 Units	\$65,000		
21-40 Units	\$60,000		
41-100 Units	\$55,000		
>100 Units	\$50,000		
<b>Suburb: Yarralumla</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$150,000	\$180,000	
3 Units	\$80,000	\$100,000	
4 Units	\$75,000	\$95,000	
5-10 Units	\$70,000	\$85,000	
11-20 Units	\$65,000	\$80,000	
21-40 Units	\$60,000	\$75,000	
41-100 Units	\$55,000	\$70,000	
>100 Units	\$50,000	\$60,000	

**SCHEDULE 1: CATEGORY B – MID LOCALITY SUBURBS**

Description	Locality A	Locality B	Locality C
<b>Suburb: Ainslie</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$110,000	\$120,000	\$130,000
3 Units	\$65,000	\$75,000	\$75,000
4 Units	\$60,000	\$65,000	\$70,000
5-10 Units	\$55,000	\$60,000	\$65,000
11-20 Units	\$50,000	\$55,000	\$60,000
21-40 Units	\$45,000	\$50,000	\$50,000
41-100 Units	\$40,000	\$45,000	\$45,000
>100 Units	\$35,000	\$40,000	\$40,000
<b>Suburb: Belconnen</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$65,000		
4 Units	\$60,000		
5-10 Units	\$55,000		
11-20 Units	\$50,000		
21-40 Units	\$45,000		
41-100 Units	\$40,000		
>100 Units	\$35,000		
<b>Suburb: Bruce</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$80,000		
3 Units	\$65,000		
4 Units	\$60,000		
5-10 Units	\$55,000		
11-20 Units	\$50,000		
21-40 Units	\$45,000		
41-100 Units	\$40,000		
>100 Units	\$35,000		
<b>Suburb: Campbell</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$110,000	\$110,000	\$130,000
3 Units	\$65,000	\$70,000	\$85,000
4 Units	\$60,000	\$65,000	\$80,000
5-10 Units	\$55,000	\$60,000	\$75,000
11-20 Units	\$50,000	\$55,000	\$65,000
21-40 Units	\$45,000	\$50,000	\$60,000
41-100 Units	\$40,000	\$45,000	\$55,000



Description	Locality A	Locality B	Locality C
>100 Units	\$35,000	\$40,000	\$45,000
<b>Suburb: Chifley</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$80,000	\$80,000	
3 Units	\$65,000	\$65,000	
4 Units	\$60,000	\$60,000	
5-10 Units	\$55,000	\$55,000	
11-20 Units	\$50,000	\$50,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$40,000	
>100 Units	\$35,000	\$35,000	
<b>Suburb: Curtin</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$90,000	\$120,000	
3 Units	\$65,000	\$85,000	
4 Units	\$60,000	\$75,000	
5-10 Units	\$55,000	\$70,000	
11-20 Units	\$50,000	\$65,000	
21-40 Units	\$45,000	\$55,000	
41-100 Units	\$40,000	\$50,000	
>100 Units	\$35,000	\$45,000	
<b>Suburb: Dickson</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$65,000		
4 Units	\$60,000		
5-10 Units	\$55,000		
11-20 Units	\$50,000		
21-40 Units	\$45,000		
41-100 Units	\$40,000		
>100 Units	\$35,000		
<b>Suburb: Downer</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$90,000		
3 Units	\$65,000		
4 Units	\$60,000		
5-10 Units	\$55,000		
11-20 Units	\$50,000		
21-40 Units	\$45,000		
41-100 Units	\$40,000		



Description	Locality A	Locality B	Locality C
>100 Units	\$35,000		
<b>Suburb: Farrer</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$90,000	\$120,000	
3 Units	\$65,000	\$115,000	
4 Units	\$60,000	\$105,000	
5-10 Units	\$55,000	\$95,000	
11-20 Units	\$50,000	\$90,000	
21-40 Units	\$45,000	\$80,000	
41-100 Units	\$40,000	\$70,000	
>100 Units	\$35,000	\$60,000	
<b>Suburb: Garran</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$90,000	\$120,000	
3 Units	\$65,000	\$100,000	
4 Units	\$60,000	\$90,000	
5-10 Units	\$55,000	\$85,000	
11-20 Units	\$50,000	\$75,000	
21-40 Units	\$45,000	\$70,000	
41-100 Units	\$40,000	\$60,000	
>100 Units	\$35,000	\$55,000	
<b>Suburb: Greenway</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$65,000		
4 Units	\$60,000		
5-10 Units	\$55,000		
11-20 Units	\$50,000		
21-40 Units	\$45,000		
41-100 Units	\$40,000		
>100 Units	\$35,000		
<b>Suburb: Hackett</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$70,000	\$90,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	



Description	Locality A	Locality B	Locality C
>100 Units	\$35,000	\$40,000	
<b>Suburb: Hughes</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$80,000	\$90,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	
>100 Units	\$35,000	\$40,000	
<b>Suburb: Isaacs</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$90,000	\$100,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	
>100 Units	\$35,000	\$40,000	
<b>Suburb: Lyneham</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$100,000	\$110,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	
>100 Units	\$35,000	\$40,000	
<b>Suburb: Lyons</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$70,000	\$80,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	



Description	Locality A	Locality B	Locality C
>100 Units	\$35,000	\$40,000	
<b>Suburb: Mawson</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$70,000	\$80,000	
3 Units	\$65,000	\$80,000	
4 Units	\$60,000	\$70,000	
5-10 Units	\$55,000	\$65,000	
11-20 Units	\$50,000	\$60,000	
21-40 Units	\$45,000	\$55,000	
41-100 Units	\$40,000	\$50,000	
>100 Units	\$35,000	\$40,000	
<b>Suburb: Narrabundah</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$120,000	\$80,000	\$90,000
3 Units	\$65,000	\$75,000	\$75,000
4 Units	\$60,000	\$65,000	\$70,000
5-10 Units	\$55,000	\$60,000	\$65,000
11-20 Units	\$50,000	\$55,000	\$60,000
21-40 Units	\$45,000	\$50,000	\$50,000
41-100 Units	\$40,000	\$45,000	\$45,000
>100 Units	\$35,000	\$40,000	\$40,000
<b>Suburb: O'Connor</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$110,000	\$110,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	
>100 Units	\$35,000	\$40,000	
<b>Suburb: O'Malley</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$150,000	\$150,000	\$150,000
3 Units	\$65,000	\$75,000	\$75,000
4 Units	\$60,000	\$65,000	\$70,000
5-10 Units	\$55,000	\$60,000	\$65,000
11-20 Units	\$50,000	\$55,000	\$60,000
21-40 Units	\$45,000	\$50,000	\$50,000
41-100 Units	\$40,000	\$45,000	\$45,000



Description	Locality A	Locality B	Locality C
>100 Units	\$35,000	\$40,000	\$40,000
<b>Suburb: Pearce</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$80,000	\$110,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	
>100 Units	\$35,000	\$40,000	
<b>Suburb: Phillip</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$90,000		
3 Units	\$65,000		
4 Units	\$60,000		
5-10 Units	\$55,000		
11-20 Units	\$50,000		
21-40 Units	\$45,000		
41-100 Units	\$40,000		
>100 Units	\$35,000		
<b>Suburb: Torrens</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$80,000	\$90,000	\$110,000
3 Units	\$65,000	\$75,000	\$75,000
4 Units	\$60,000	\$65,000	\$70,000
5-10 Units	\$55,000	\$60,000	\$65,000
11-20 Units	\$50,000	\$55,000	\$60,000
21-40 Units	\$45,000	\$50,000	\$50,000
41-100 Units	\$40,000	\$45,000	\$45,000
>100 Units	\$35,000	\$40,000	\$40,000
<b>Suburb: Watson</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$70,000	\$70,000	
3 Units	\$65,000	\$75,000	
4 Units	\$60,000	\$65,000	
5-10 Units	\$55,000	\$60,000	
11-20 Units	\$50,000	\$55,000	
21-40 Units	\$45,000	\$50,000	
41-100 Units	\$40,000	\$45,000	



Description	Locality A	Locality B	Locality C
>100 Units	\$35,000	\$40,000	

**SCHEDULE 1: CATEGORY C – OUTER SUBURBS**

Description	Locality A	Locality B	Locality C
<b>Suburb: Amaroo</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Aranda</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Banks</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$65,000	
4 Units	\$45,000	\$60,000	
5-10 Units	\$40,000	\$50,000	
11-20 Units	\$35,000	\$45,000	
21-40 Units	\$32,000	\$40,000	
41-100 Units	\$30,000	\$40,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Bonner</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		



Description	Locality A	Locality B	Locality C
>100 Units	\$25,000		
<b>Suburb: Bonython</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Casey</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Calwell</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Charnwood</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		



Description	Locality A	Locality B	Locality C
>100 Units	\$25,000		
<b>Suburb: Chapman</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$50,000	\$60,000	\$90,000
3 Units	\$50,000	\$60,000	\$80,000
4 Units	\$45,000	\$55,000	\$75,000
5-10 Units	\$40,000	\$50,000	\$65,000
11-20 Units	\$35,000	\$45,000	\$60,000
21-40 Units	\$30,000	\$40,000	\$50,000
41-100 Units	\$30,000	\$35,000	\$50,000
>100 Units	\$25,000	\$30,000	\$40,000
<b>Suburb: Chisholm</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Conder</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Cook</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$50,000	\$45,000	
3 Units	\$50,000	\$40,000	
4 Units	\$45,000	\$35,000	
5-10 Units	\$40,000	\$30,000	
11-20 Units	\$35,000	\$25,000	
21-40 Units	\$30,000	\$25,000	



Description	Locality A	Locality B	Locality C
41-100 Units	\$30,000	\$25,000	
>100 Units	\$25,000	\$20,000	
<b>Suburb: Crace</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Dunlop</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$50,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Duffy</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$50,000	\$70,000	\$90,000
3 Units	\$50,000	\$65,000	\$80,000
4 Units	\$45,000	\$60,000	\$75,000
5-10 Units	\$40,000	\$55,000	\$65,000
11-20 Units	\$35,000	\$45,000	\$55,000
21-40 Units	\$30,000	\$40,000	\$50,000
41-100 Units	\$30,000	\$40,000	\$50,000
>100 Units	\$25,000	\$35,000	\$40,000
<b>Suburb: Evatt</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$50,000	
3 Units	\$50,000	\$65,000	
4 Units	\$45,000	\$60,000	
5-10 Units	\$40,000	\$50,000	
11-20 Units	\$35,000	\$45,000	



Description	Locality A	Locality B	Locality C
21-40 Units	\$30,000	\$40,000	
41-100 Units	\$30,000	\$40,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Fadden</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$50,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Forde</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Franklin</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$50,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Fisher</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Florey</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$50,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Flynn</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$50,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Fraser</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Giralang</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$50,000	
3 Units	\$50,000	\$58,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Gilmore</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Gordon</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$45,000	\$45,000	\$45,000
3 Units	\$50,000	\$55,000	\$45,000
4 Units	\$45,000	\$50,000	\$45,000
5-10 Units	\$40,000	\$45,000	\$40,000
11-20 Units	\$35,000	\$40,000	\$35,000
21-40 Units	\$30,000	\$35,000	\$30,000
41-100 Units	\$30,000	\$35,000	\$30,000
>100 Units	\$25,000	\$30,000	\$25,000
<b>Suburb: Gowrie</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Gungahlin</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Hall</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$90,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Harrison</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Hawker</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Higgins</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Holder</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Holt</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Isabella Plains</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Kambah</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	Per Additional Unit
2 Units (Dual Occupancy)	\$45,000	\$45,000	\$60,000
3 Units	\$50,000	\$54,000	\$70,000
4 Units	\$45,000	\$50,000	\$65,000
5-10 Units	\$40,000	\$45,000	\$55,000



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000	\$40,000	\$50,000
21-40 Units	\$30,000	\$35,000	\$45,000
41-100 Units	\$30,000	\$35,000	\$45,000
>100 Units	\$25,000	\$25,000	\$35,000
<b>Suburb: Kaleen</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$50,000	\$45,000	
3 Units	\$50,000	\$45,000	
4 Units	\$45,000	\$45,000	
5-10 Units	\$40,000	\$38,000	
11-20 Units	\$35,000	\$35,000	
21-40 Units	\$30,000	\$30,000	
41-100 Units	\$30,000	\$30,000	
>100 Units	\$25,000	\$25,000	
<b>Suburb: Latham</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Macarthur</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Macgregor</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$45,000	
4 Units	\$45,000	\$40,000	
5-10 Units	\$40,000	\$35,000	



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000	\$30,000	
21-40 Units	\$30,000	\$30,000	
41-100 Units	\$30,000	\$25,000	
>100 Units	\$25,000	\$20,000	
<b>Suburb: Macquarie</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: McKellar</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Melba</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$25,000	
<b>Suburb: Monash</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Ngunnawal</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$50,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Nicholls</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$50,000	\$60,000	
3 Units	\$50,000	\$55,000	
4 Units	\$45,000	\$50,000	
5-10 Units	\$40,000	\$45,000	
11-20 Units	\$35,000	\$40,000	
21-40 Units	\$30,000	\$35,000	
41-100 Units	\$30,000	\$35,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Oaks Estate</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Oxley</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Page</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$50,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Palmerston</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$50,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Richardson</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Rivett</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Scullin</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Spence</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Stirling</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$50,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Tharwa</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$50,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Theodore</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$65,000	
4 Units	\$45,000	\$60,000	
5-10 Units	\$40,000	\$50,000	
11-20 Units	\$35,000	\$45,000	
21-40 Units	\$30,000	\$40,000	
41-100 Units	\$30,000	\$40,000	
>100 Units	\$25,000	\$30,000	
<b>Suburb: Wanniasa</b>			
Total Development Application Units	Per Additional Unit	Per Additional Unit	
2 Units (Dual Occupancy)	\$45,000	\$45,000	
3 Units	\$50,000	\$45,000	
4 Units	\$45,000	\$40,000	
5-10 Units	\$40,000	\$40,000	
11-20 Units	\$35,000	\$35,000	
21-40 Units	\$30,000	\$30,000	
41-100 Units	\$30,000	\$25,000	
>100 Units	\$25,000	\$25,000	
<b>Suburb: Waramanga</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$45,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Weetangera</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		



Description	Locality A	Locality B	Locality C
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		
<b>Suburb: Weston</b>			
Total Development Application Units	Per Additional Unit		
2 Units (Dual Occupancy)	\$60,000		
3 Units	\$50,000		
4 Units	\$45,000		
5-10 Units	\$40,000		
11-20 Units	\$35,000		
21-40 Units	\$30,000		
41-100 Units	\$30,000		
>100 Units	\$25,000		



## Summary of Commercial Interpretations

If a commercial property owner is seeking to vary a current Crown Lease or increase the allowable GFA of an existing Crown Lease they firstly need to correctly identify the location of the property. The location through the use of the **ACTmap-i** zones will define the subject commercial centre and zone classification within a commercial centre. Once the correct centre and zone classification is identified the owner can refer to the codification tables. These zone classifications define the allowable usage and the values of varying usages within the codification tables for each type of centre. The codification tables reflect the values associated with the location and usage allowed within each zone of a centre. All commercial zones are structured to reflect the concept of a hierarchy of allowable usages with centres, which comprise the following City Centre, town centres, group centres and local centres.

The allowable usages of these commercial centres are defined in the Territory Plan as following:

### **CZ1 Core Zone**

This Zone is the main business core of higher commercial centres and is the primary location of shop, non-retail commercial uses, restaurants, commercial accommodation, and indoor entertainment facilities. Residential and community uses are also permissible, subject to design and siting to minimise incompatibility with primary uses.

### **CZ2 Business Zone**

This Zone is intended for more fringe commercial activities, primarily non-retail commercial uses, commercial accommodation, and some restaurants and indoor entertainment and recreation facilities.

### **CZ3 Services Zone**

This Zone is intended for fringe retailing, which includes bulky goods, light industry, services trades, services stations, restaurants and indoor entertainment and recreation facilities.

### **CZ4 Local Centre Zone**

This Zone is intended for local shops, non-retail commercial and community uses, service stations, and restaurants to service a local community uses.

### **CZ5 Mixed Use Zone**

This Zone provides for high-density residential users in highly accessible locations in conjunction with non-retail commercial uses, commercial accommodation and limited shops, restaurant and community uses.



## **CZ6 Leisure and Accommodation Zone**

This Zone provided for indoor entertainment and recreation facilities, clubs, drink establishments, restaurants and commercial accommodation. Limited shops, residential and non-retail commercial and community uses may also be included.

Three commercial schedules are presented in turn below. They are Schedule 2: Local Centres; Schedule 3 Town Centres (including City Centre); and Schedule 4 Commercial Centres.



## SCHEDULE 2: LOCAL CENTRES

Schedule 2 lists the Local Centres' codification schedule of values for the Commercial CZ4 zone based on average value of GFA per square metre for each suburb.

### SCHEDULE 2: LOCAL CENTRES

Zones	Description	Cost per GFA/m <sup>2</sup>
<b>Suburb: Ainslie</b>		
Commercial CZ4	Local Centre	\$970
<b>Suburb: Aranda</b>		
Commercial CZ4	Local Centre	\$350
<b>Suburb: Banks</b>		
Commercial CZ4	Local Centre	\$500
<b>Suburb: Bonner</b>		
Commercial CZ4	Local Centre	\$825
<b>Suburb: Bonython</b>		
Commercial CZ4	Local Centre	\$425
<b>Suburb: Campbell</b>		
Commercial CZ4	Local Centre	\$850
<b>Suburb: Chifley</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Cook</b>		
Commercial CZ4	Local Centre	\$520
<b>Suburb: Curtin</b>		
Commercial CZ4	Local Centre	\$585
<b>Suburb: Downer</b>		
Commercial CZ4	Local Centre	\$585
<b>Suburb: Duffy</b>		
Commercial CZ4	Local Centre	\$435
<b>Suburb: Dunlop</b>		
Commercial CZ4	Local Centre	\$590
<b>Suburb: Evatt</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Fadden</b>		
Commercial CZ4	Local Centre	\$485
<b>Suburb: Farrer</b>		
Commercial CZ4	Local Centre	\$470
<b>Suburb: Fisher</b>		
Commercial CZ4	Local Centre	\$385
<b>Suburb: Florey</b>		
Commercial CZ4	Local Centre	\$665
<b>Suburb: Forrest</b>		
Commercial CZ4	Local Centre	\$585



Zones	Description	Cost per GFA/m <sup>2</sup>
<b>Suburb: Fraser</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Garran</b>		
Commercial CZ4	Local Centre	\$650
<b>Suburb: Giralang</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Gordon</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Gowrie</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Hackett</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Hall</b>		
Commercial CZ4	Local Centre	\$585
<b>Suburb: Higgins</b>		
Commercial CZ4	Local Centre	\$565
<b>Suburb: Holder</b>		
Commercial CZ4	Local Centre	\$535
<b>Suburb: Hughes</b>		
Commercial CZ4	Local Centre	\$715
<b>Suburb: Issacs</b>		
Commercial CZ4	Local Centre	\$750
<b>Suburb: Isabella Plains</b>		
Commercial CZ4	Local Centre	\$535
<b>Suburb: Kaleen</b>		
Commercial CZ4	Local Centre	\$585
<b>Suburb: Latham</b>		
Commercial CZ4	Local Centre	\$470
<b>Suburb: Lyons</b>		
Commercial CZ4	Local Centre	\$835
<b>Suburb: MacGregor</b>		
Commercial CZ4	Local Centre	\$335
<b>Suburb: McKellar</b>		
Commercial CZ4	Local Centre	\$470
<b>Suburb: Melba</b>		
Commercial CZ4	Local Centre	\$585
<b>Suburb: Monash</b>		
Commercial CZ4	Local Centre	\$650
<b>Suburb: Narrabundah</b>		
Commercial CZ4	Local Centre	\$535



Zones	Description	Cost per GFA/m <sup>2</sup>
<b>Suburb: Ngunnawal</b>		
Commercial CZ4	Local Centre	\$565
<b>Suburb: Nicholls</b>		
Commercial CZ4	Local Centre	\$650
<b>Suburb: O'Connor</b>		
Commercial CZ4	Local Centre	\$985
<b>Suburb: Page</b>		
Commercial CZ4	Local Centre	\$395
<b>Suburb: Palmerston</b>		
Commercial CZ4	Local Centre	\$585
<b>Suburb: Pearce</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Red Hill</b>		
Commercial CZ4	Local Centre	\$650
<b>Suburb: Richardson</b>		
Commercial CZ4	Local Centre	\$400
<b>Suburb: Rivett</b>		
Commercial CZ4	Local Centre	\$395
<b>Suburb: Scullin</b>		
Commercial CZ4	Local Centre	\$485
<b>Suburb: Spence</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Tharwa</b>		
Commercial CZ4	Local Centre	\$300
<b>Suburb: Theodore</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Torrens</b>		
Commercial CZ4	Local Centre	\$550
<b>Suburb: Waramanga</b>		
Commercial CZ4	Local Centre	\$470
<b>Suburb: Watson</b>		
Commercial CZ4	Local Centre	\$815
<b>Suburb: Weetangera</b>		
Commercial CZ4	Local Centre	\$395
<b>Suburb: Yarralumla</b>		
Commercial CZ4	Local Centre	\$950



## SCHEDULE 3: TOWN CENTRES

Schedule 3 lists the Town Centres' codification schedule of values based on average value of GFA per square metre for each suburb.

### SCHEDULE 3: TOWN CENTRES

Zones	Description	Cost per GFA/m <sup>2</sup>
<b>Suburb: Braddon</b>		
Commercial CZ2	Town Centre-Business	*
Commercial CZ3	Town Centre Service Zone	*
Commercial CZ5	Mixed Use Area	*
<b>Suburb: Belconnen</b>		
Commercial CZ1	Town Centre -Retail Core	\$535
Commercial CZ2	<b>Town Centre -Business</b>	
Commercial CZ2	Less than 10,000m <sup>2</sup> GFA maximum	\$715
Commercial CZ2	10,000m <sup>2</sup> to 20,000m <sup>2</sup> GFA maximum	\$665
Commercial CZ2	20,000m <sup>2</sup> GFA maximum and above	\$435
Commercial CZ3	<b>Services Zone</b>	
Commercial CZ3	Less than 5,000m <sup>2</sup> GFA maximum	\$665
Commercial CZ3	5,000m <sup>2</sup> GFA maximum and above	\$615
<b>Suburb: City</b>		
Commercial CZ1	Less than 10,000m <sup>2</sup> GFA maximum	\$835
Commercial CZ1	10,000m <sup>2</sup> to 20,000m <sup>2</sup> GFA maximum	\$600
Commercial CZ1	20,000m <sup>2</sup> GFA maximum and above	\$525
<b>Suburb: Greenway</b>		
Commercial CZ1	Town Centre Retail Core	\$535
Commercial CZ2	Town Centre Business	\$395
Commercial CZ3	Town Centre Service Zone	\$370
<b>Suburb: Gungahlin</b>		
Commercial CZ1	Town Centre -Retail Core	\$535
Commercial CZ2	Town Centre -Business	\$410
Commercial CZ3	Town Centre Service Zone	\$370
Commercial CZ5	Mixed Use Area	\$280
<b>Suburb: Philip</b>		
Commercial CZ1	Town Centre Retail Core	\$535
Commercial CZ2	Less than 10,000m <sup>2</sup> GFA maximum	\$665
Commercial CZ2	10,000m <sup>2</sup> to 20,000m <sup>2</sup> GFA maximum	\$550
Commercial CZ2	20,000m <sup>2</sup> GFA maximum and above	\$450
Commercial CZ3	Town Centre Service Zone	\$735

\* Values to be determined by a certified practising valuer until market stabilises following changes to the Territory Plan.



## SCHEDULE 4: COMMERCIAL PROPERTIES

Schedule 4 lists the Commercial Properties' codification schedule of values in relevant commercial zones for particular suburbs.

### SCHEDULE 4: COMMERCIAL PROPERTIES

Zones	Description	Cost per GFA/m <sup>2</sup>
<b>Suburb: Amaroo</b>		
Commercial CZ3	Group Centre-Service Zone	\$490
<b>Suburb: Barton</b>		
Commercial CZ5	Mixed Use Area	\$600
<b>Suburb: Bruce</b>		
Commercial CZ4	Local Centre	\$600
Commercial CZ5	Mixed Use Area	\$485
<b>Suburb: Calwell</b>		
Commercial CZ1	Group Centre-Core Zone	\$785
Commercial CZ3	Group Centre-Service Zone	\$585
Commercial CZ4	Local Centre	\$345
<b>Suburb: Charnwood</b>		
Commercial CZ1	Group Centre-Core Zone	\$800
Commercial CZ2	Group Centre-Business	\$550
Commercial CZ3	Group Centre Service Zone	\$355
Commercial CZ4	Local Centre	\$425
<b>Suburb: Chisholm</b>		
Commercial CZ1	Group Centre-Core Zone	\$650
Commercial CZ3	Group Centre-Service Zone	\$525
Commercial CZ4	Local Centre	\$450
<b>Suburb: Conder</b>		
Commercial CZ1	Group Centre-Core Zone	\$850
Commercial CZ2	Group Centre-Business Zone	\$750
Commercial CZ3	Group Centre-Service Zone	\$650
<b>Suburb: Curtin</b>		
Commercial CZ1	Group Centre-Retail Zone	\$850
Commercial CZ2	Business Zone	\$585
Commercial CZ3	Services Zone	\$600
Commercial CZ4	Local Centre	\$590
<b>Suburb: Deakin</b>		
Commercial CZ2	Group Centre-Business Zone	\$965
Commercial CZ4	Local Centre	\$715
Commercial CZ5	Mixed Use Area	\$550
<b>Suburb: Dickson</b>		
Commercial CZ1	Group Centre-Retail Core	\$1,665
Commercial CZ2	Group Centre-Business	\$920



Zones	Description	Cost per GFA/m <sup>2</sup>
Commercial CZ3	Group Centre-Service Zone	\$850
Commercial CZ5	<b>Mixed Use Area</b>	
Commercial CZ5	Less than 10,000m <sup>2</sup> GFA maximum	\$700
Commercial CZ5	10,000m <sup>2</sup> and 20,000m <sup>2</sup> GFA maximum	\$550
Commercial CZ5	20,000m <sup>2</sup> GFA maximum and above	\$485
<b>Suburb: Franklin</b>		
Commercial CZ4	Local Centre	\$475
Commercial CZ5	Mixed Use Area	\$295
<b>Suburb: Griffith</b>		
Commercial CZ1	Group Centre-Core Zone	\$1,700
Commercial CZ2	Group Centre-Business	\$1,030
Commercial CZ4	Local Centre	\$560
<b>Suburb: Harrison</b>		
Commercial CZ4	Local Centre	\$550
Commercial CZ5	Mixed Use Area	\$260
<b>Suburb: Hawker</b>		
Commercial CZ1	Group Centre-Core Zone	\$1,200
Commercial CZ2	Group Centre-Business	\$900
Commercial CZ3	Group Centre Service Zone	\$485
<b>Suburb: Holt</b>		
Commercial CZ1	Group Centre-Retail Core	\$775
Commercial CZ2	Group Centre-Business	\$685
Commercial CZ3	Services Zone	\$655
Commercial CZ4	Local Centre	\$495
<b>Suburb: Kaleen</b>		
Commercial CZ1	Group Centre-Core Zone	\$785
Commercial CZ4	Local Centre	\$585
<b>Suburb: Kambah</b>		
Commercial CZ1	Group Centre-Core Zone	\$1,230
Commercial CZ2	Group Centre-Business	\$485
Commercial CZ3	Group Centre Service Zone	\$535
Commercial CZ4	Local Centre	\$515
<b>Suburb: Kingston</b>		
Commercial CZ1	Group Centre-Core Zone	\$1,300
Commercial CZ2	Group Centre-Business	\$935
Commercial CZ5	Mixed Use Area	\$685
<b>Suburb: Lyneham</b>		
Commercial CZ4	Local Centre	\$1,065
Commercial CZ5	Mixed Use Area	\$685
<b>Suburb: Macquarie</b>		
Commercial CZ1	Group Centre-Core Zone	\$985



Zones	Description	Cost per GFA/m <sup>2</sup>
Commercial CZ2	Group Centre-Business	\$585
Commercial CZ3	Group Centre Service Zone	\$550
Commercial CZ4	Local Centre	\$425
<b>Suburb: Mawson</b>		
Commercial CZ1	Group Centre-Retail Core	\$785
Commercial CZ2	Group Centre-Business	\$585
Commercial CZ3	Group Centre Service Zone	\$635
Commercial CZ4	Local Centre	\$550
<b>Suburb: Oakes Estate</b>		
Commercial CZ5	Mixed Use Area	\$400
<b>Suburb: Turner</b>		
Commercial CZ2	Town Centre-Business Zone	\$1,100
Commercial CZ5	Mixed Use Area	\$700
<b>Suburb: Wanniasa</b>		
Commercial CZ1	Group Centre-Core Zone	\$850
Commercial CZ2	Group Centre-Business	\$700
Commercial CZ3	Group Centre Service Zone	\$585
<b>Suburb: Weston</b>		
Commercial CZ1	Group Centre-Core Zone	\$800
Commercial CZ3	Group Centre Service Zone	\$600
Commercial CZ4	Local Centre	\$550



## SCHEDULE 5: INDUSTRIAL CODIFICATIONS

Schedule 5 lists the Industrial codification schedule of values.

### SCHEDULE 5: INDUSTRIAL CODIFICATIONS

Zones	Description	Cost per GFA/m <sup>2</sup>	
		Locality A	Locality B <sup>54</sup>
<b>Suburb: Fyshwick</b>			
Industrial IZ1	General Industrial Zone	\$290	\$285
Industrial IZ2	Mixed Use Industrial Zone		
Industrial IZ2	Precinct 'a'	\$360	
Industrial IZ2	Precinct 'b'	\$515	
Industrial IZ2	Precinct 'c'	\$450	
Industrial IZ2	Precinct 'd'	\$370	
Commercial CZ2	Business Zone	\$530	
<b>Suburb: Hume</b>			
Industrial IZ1	General Industrial < 5,000m <sup>2</sup> GFA	\$270	
Industrial IZ1	General Industrial 5,000m <sup>2</sup> to 10,000m <sup>2</sup> GFA	\$235	
Industrial IZ1	General Industrial > 5,000m <sup>2</sup> GFA	\$160	
Commercial CZ4	Local Centre	\$380	
<b>Suburb: Mitchell</b>			
Industrial IZ1	General Industrial	\$265	
Industrial IZ2	Mixed Use Industrial	\$390	
Commercial CZ4	Local Centre Zone	\$465	
<b>Suburb: Symonston</b>			
Industrial IZ1	General Industrial	\$455	

<sup>54</sup> Locality B refers to the area south of the railway line and between Ipswich and Newcastle Streets.



## Attachment 3: Matrix of Comments and Responses to the Draft Discussion Paper

A copy of the submissions received can be found at <http://www.treasury.act.gov.au/about/publications.shtml>.

Issue/Concern	Industry Body raising Concern	Comment/How issue addressed
Undertake a Cost Benefit Analysis on the proposed codification model	Australian Property Institute (API) CB Richard Ellis	<b>Supported.</b> This is included in the project work plan and will be undertaken as part of the Final Report to Government.
Implement a dual system for determining the amount of CUC payable. (Allow developer the choice between codification and the current system for determining the CUC payable.)	CB Richard Ellis Property Council	<b>Not Supported.</b> This approach was analysed, but it was not supported on a number of grounds. A dual system would lead to administrative complexities within the system and would allow a developer to “shop around” for the best deal. It would also be costly for government and increase uncertainty.
Allow for a reduced CUC rate for a higher number of units and townhouses.	Housing Institute Australia	<b>Not Supported.</b> The codification schedules have been developed with the understanding that these will be diminish returns from multi unit developments as the number of units increases. For example, in Lyneham, it will cost \$60,000 per dwelling for the construction of four units, however, it will only cost \$55,000 per dwelling for the construction of 5-10 units.
“CUC is a disincentive to development.”	API CB Richard Ellis Property Council	<b>Not Supported.</b> Given the relatively low fixed flat fee charges for residential development under the current system, CUC could not be regarded as a disincentive to development. Under codification, the Government will still retain the right to waive CUC payments to stimulate redevelopment under certain circumstances.  With the introduction of codification, there will be a period of adjustment for the market to adjust to the new set of arrangements.
Establish a review process for the codification schedules.	API MBA HIA CB Richard Ellis	<b>Supported.</b> It has been proposed to establish a committee to annually review the codification schedules. This proposal has been discussed and agreed with the Regional Manager of the Australian Valuation Office and the President of the ACT Division of the API.



Issue/Concern	Industry Body raising Concern	Comment/How issue addressed
<p><b>Allow codification schedules to be appealable.</b></p>	<p>API MBA HIA CB Richard Ellis</p>	<p><b>Not Supported.</b></p> <p>Under codification, there will be no right to appeal the schedules. However, in special cases where codification does not apply, the current mediation and appeals process through ACAT is proposed to be retained. The API will appoint an independent expert to mediate on the disputed valuations. If this process is unsuccessful, either party will retain the option to appeal the decision to ACAT.</p>
<p><b>Offsetting improvements, onsite/offsite against the amount of CUC payable.</b></p>	<p>API Property Council HIA</p>	<p><b>Supported in part.</b></p> <p>The proposed framework does not support the principle that demolition and onsite/offsite costs should be taken into account when determining the amount of CUC payable. Under the current system, these costs are subsidised by the community. However, these costs are the responsibility of the developer and should therefore be reflected in the price paid for the land to be developed, the developers profit or the price paid by the end user of the property.</p> <p>Where offsite costs are mandated, however, then developers should be able to deduct the value of these works from the CUC for the project.</p>
<p><b>CUC for townhouses/units/dual occupancy would inhibit development</b></p>		<p><b>Not Supported.</b></p> <p>Through this review, it has become apparent that CUC determinations under the current system are grossly understated and as a result, the government is missing out on a large portion of revenue. Under current arrangements, all dual occupancy developments CUCs are based on a fixed added value of \$5,000 per dwelling, regardless of location or block size. Under the proposed codification model, the added value for a dual occupancy would be \$45,000 in Higgins, or \$100,000 in Braddon, which more accurately reflects the changes in lease conditions.</p> <p>The consultants consider that contrary to the suggestions from the Property Council, the costs (which reflect market values) will be passed backwards to land values, or forwards to the purchase price of the developed dwellings.</p>
<p><b>CUC is the wrong name for a charge relating to lease variation.</b></p>	<p>MBA</p>	<p><b>Supported.</b></p> <p>During the course of this project it has become obvious that CUC is a misnomer for what is actually occurring. There are occasions where a lease variation must be made which incurs a charge, but there is no change of use. For example, if a</p>



Issue/Concern	Industry Body raising Concern	Comment/How issue addressed
		<p>lease allows for a commercial building and the owner wishes to increase the GFA then he/she must pay a CUC relating to the increase in GFA. In such cases this is not a change of use but a lease variation.</p> <p>The consultants consider that a more appropriate terminology would be a Lease Variation Charge (LVC).</p>



## Attachment 4: Matrix of Comments and Responses to the Draft Report

Issue/Concern	Industry Body raising Concern	Comment/How issue addressed
The level of the LVC payable	HIA, PCA, API Independent Property Group, Domain Design Projects, Master Property Developments, Private individuals	<b>Noted.</b> The level of the LVC payable will be set following a review of the schedules. A proposed phasing in of the LVC through the adoption of a significant transitional period will address this issue.
Concern about the commencement date of 1 July 2010 for the introduction of the system based on codification	PCA, Master Property Developments, API, Private individuals.	<b>Supported.</b> As a result of an extension of the consultation period relating to the draft report for a further four weeks until 21 May 2010, the original proposal to introduce the new system from 1 July 2010 is not achievable.
Proposal to introduce a transitional period	HIA, API, PCA.	<b>Supported.</b> The review has proposed a phasing in of the new system, by means of the adoption of a significant remission charge in the first year, with this charge decreasing in the second year and stabilising in the third year, and beyond. The length of the transitional period and the levels of remission through this period are to be determined by the Government
Opportunity to review and comment on the draft legislation.	API, PCA	<b>Supported.</b> This process should be for a clearly defined, and limited, time period.
Improvements, onsite and offsite costs to be accounted for in determining the LVC	API, PCA, HIA	<b>Supported in part.</b> As stated in the response to this issue in the Draft Discussion Paper, the proposed framework does not support the principle that demolition and onsite/offsite costs should be taken into account when determining the amount of CUC payable. Under the current system, these costs are subsidised by the community. These costs are the responsibility of the developer and should therefore be reflected in the price paid for the land to be developed, the developers profit or the price paid by the end user of the property.  Where offsite works are mandated, however, then developers should be compensated for undertaking these works



Issue/Concern	Industry Body raising Concern	Comment/How issue addressed
Review of the schedules	API, HIA, PCA, Private individuals	<b>Supported</b> It is proposed that a small committee, including two professional valuers nominated by the API, will review the schedules prior to their implementation, and then on an annual basis to take account of movements in the market.
Decoupling of LVCs from the DA	API, residential leaseholder.	<b>Not Supported.</b> The arguments supporting this proposal were not convincing; the adoption of such a proposal could lead to increased gaming opportunities and could lead to a potential loss of revenue to the Government.
Accounting for existing use values.	API, Private individuals	<b>Supported.</b> The scheduled values are determined from the increase in the market value of land as a result of the increase in the bundle of rights associated with a lease variation. This was not recognised by some in the draft report. It has been clarified in the final report.
LVCs should only apply to rezoning provisions announced after the implementation date.	Private individual	<b>Not Supported.</b> The LVC should be applied to all DAs requiring a lease variation rather than rezoning provisions.



## Attachment 5: Draft Legislation Regulatory Requirements

### Regulatory Requirements for the Introduction of Lease Variation Charges (LVC) based on Codification.

Compliance will be achieved through appropriate amendments to the relevant legislation, namely the *Planning and Development Act 2007* (the Act) and the associated *Planning and Development Regulation 2008* (the Regulation)

A new or amended Division in the Act would:

- Prescribe that a LVC is payable for certain classes of lease variations, as defined by regulation, according to either
  - a schedule of land values as set out within the regulation; and/or
  - a fixed fee as set out in the regulation; and/or
  - a LVC determined from the difference between 'before' and 'after' land values in situations where the application of the schedule of fees or the fixed fee is not applicable.
- Prescribe that ACTPLA's determination in accordance with the schedule of fees or the fixed fee specified in the regulation is final.
- Prescribe that the scheduled values and fixed values will be updated annually as prescribed in the regulation.
- Prescribe that in the case of a LVC determined from a consideration of the 'before' and 'after' land value associated with a lease variation, ACTPLA's determination can be reviewed through a mediation/appeal process as described in the Regulation.

A new or amended part of the **Regulation** would:

- Define a 'Lease Variation Charge' as a charge associated with the change of the lease purpose clause(s), and which is payable to the ACT Government.
- Provide definitions of the classes of lease variations according to the categories set out in the schedules. Matters to be explained would include:
  - categories of use i.e. residential, commercial, retail, industrial, etc,
  - 'GFA' and 'Land value per GFA m<sup>2</sup>', and
  - submarkets (suburbs) and localities within suburbs



- Prescribe that applications for lease variations must be accompanied by a determination of the LVC payable in accordance with the formula and the appropriate charge(s).
- Prescribe the schedule of codified values for different geographic locations (suburbs), localities within suburbs, and identify the location of residential blocks within localities/suburbs. This may be by reference to the appropriate internet web site.
- Provide instructions with respect to applying the schedules. The key elements include the need to identify
  - the (geographic) submarket in which the land (to which the application applies) is located;
  - the nature of the change of use ie from single residential to multiple unit residential, from community use to commercial/residential, etc.
- Prescribe the remission rate applicable to LVCs determined both in the case of the codified schedules of land values as set out within the Regulation, and from the difference between 'before' and 'after' land values in situations where the application of the schedule of fees or the fixed fee is not applicable.
- Prescribe that ACTPLA maintains the right to (partially or wholly) waive a LVC payable for any individual lease variation.
- Prescribe that the annually updated scheduled and fixed values should be reviewed by a small committee of experts of which one will be the ACT Regional Manager of the AVO (or his/her nominee) and another appointed by the President of the ACT Division of the API.
- For situations where the 'before' and 'after' values are assessed for the determination of the LVC using professionally qualified valuers, for cases where a determined charge is in dispute, prescribe instructions allowing for the President of the ACT Division of the API to appoint an independent expert to make an expert determination. This service should be offered by the Institute through its Presidential Appointment Services. Under this process either party should have the right to challenge the expert determination decision in the ACAT.
- The API has raised a number of issues to be addressed which relate to the supply of experts to make determinations. These include;



1. The API has not appointed mediators or arbitrators but does conduct a service for the appointment of members to undertake expert determinations. The API states 'The rule and law for these appointments are quite different, as are the requirements for professional indemnity insurance cover.'
2. The API seeks clarification on the possible grounds for appeal to ACAT following expert determination. The ACT Government is asked to seek appropriate legal advice in this regard. In almost all instances that an expert is appointed to determine a matter then the resulting determination is final and binding on the parties.
3. The API has indicated that it is now common practice for appointed experts to seek and obtain from both parties signed 'hold harmless' agreements indemnifying the expert from action against the expert for matters arising from the determination. The ACT Government should be aware of this current practice which has resulted from the litigious actions of parties to such determinations creating a lack of willingness from professional valuers to undertake such determinations. As the API points out, departure from this practice would have severe implications to the legal and insurance obligations of valuers appointed as experts.
4. The API queries that if there are rights of appeal from the expert's determination to ACAT, will it be possible for the legislation to provide indemnification to the expert for adverse findings or dissatisfied parties as a result of an ACAT decision or process? The API believes such indemnification during the processes of both expert determination and the ACAT appeal will be necessary and is equitable at law.



## **Attachment 6: Respondents to the Draft Discussion Paper and the Draft Report**

### **Respondents to the Draft Discussion Paper:**

ACT Treasury,  
ACTPLA,  
Australian Property Institute  
AVO  
CB Richard Ellis,  
Chamberlains Law Firm,  
Chief Minister's Department,  
Domain Design Projects (Z Tokic),  
R Gilbert,  
Goodwin Homes,  
Housing Industry Association,  
Master Builders Association,  
B Preiss,  
Professional Valuers (including valuers from CBRE, Colliers, Capital Valuers),  
Property Council of Australia,

### **Draft Report:**

#### **Submissions/e-mails:**

P Tzanetos – Master Property Developments  
Z Tokic – Domain Design Projects  
L Cetrtek  
B Preiss (2)  
L Arundell – Canberra Pedestrian Forum  
J Bright  
Housing Industry Association  
R Bomford  
C Alexandrou  
C Webb  
D Faggioni  
Property Council of Australia  
A Kerlin – Gungahlin Community Council  
K Palmer  
A Forrest



K Cox  
Independent Property group  
G Pinkas  
API

**Draft Report:**

**Consultations/Discussions:**

17 March: J Thistleton – Canberra Times  
18 March: Chamberlains Law Firm – T Chamberlain, A Spottiswood  
19 March: G Stuart - Bartier Perry Law Firm, Sydney  
23 March: M Rabey – LJ Hooker Dickson  
23 March T Hedley-Property Council of Australia  
24 March: Meeting with the Board of the Property Council of Australia.

**Attendees:**

T Hedley (President)  
C Wheeler (Mallesons Stephen Jaques)  
D Toole (Williams, Love and Nicol)  
S Flannery (CBRE)  
R Swinbourne (Capital Valuers)  
D Barnes (CBRE)  
Y Domazet (Doma Group)  
N McDonald Crowley (CBRE)

24 March: S Collins – HIA  
24 March: Y Domazet – Doma Group  
25 March: J Casben – Woolworths Legal  
25 March: J Miller (MBA)  
25 March: C Wheeler – Mallesons Stephen Jaques  
29 March: M Rabey – LJ Hooker Dickson  
30 March: B Preiss  
31 March: G McInerney – AVO  
7 April: J McGrane – Angus Hall, Architects  
8 April: T Streatfield – Revolution Planning  
9 April: Meeting with the HIA

**Attendees:**

S Collins (Executive Director)  
D O’Keeffe – Madison



11 April: S Burns – Hindmarsh Group

13 April: Meeting with the Board of the Australian Property Institute

Attendees:

R Smyth (President) – Weston Advisory

R Swinbourne – Capital valuers

J Pooley – Jones Lang La Salle

M Bowden – United Services Group

C Mowbray – Egan national valuers

G Worth – Hindmarsh Group

M Curtis – Colliers International

P Powderly – Colliers International

D James Herron Todd White

15 April: Meeting with MBA

Attendees:

J Miller (Executive Director)

J Howard (Deputy Executive Director)

19 April: J Kelleher

22 April: G McInerney (AVO)

23 April: R Swinbourne (Capital Valuers)

23 April R Smyth (Weston Advisory)

27 April: Property Council of Australia CUC Forum.

83 Registrations;

30 Minute presentation followed by 2 hours of Q&A.

6 May: C Wheeler - Mallesons Stephen Jaques

8 May; R Bell - Canberra Investment Corporation

7 May: A Ewer – Ewer Constructions

18 May: A McDonald – Prime Space Property Investment

25 May: A McDonald – Prime Space Property Investment

28 May: R Docker, S Brennan – Clubs ACT

31 May: R Swinbourne – Capital Valuers

1 June: J Keeley – Old Narrabundah Community Council

2 June: J Miller – MBA

8 June: J McGrath

11 June: R Norton – L J Hooker Holt

22 June: K Veraar – L J Hooker Project Marketing

29 June: C Brennan – CHC

30 June: J Thistleton – Canberra Times



1 July: R Brooker – ACTPLA

19 July: K Horsham – Northside Community Centre

19 July: M Spool – Commonwealth Department of Ageing and Health

19 July: B Preiss

25 July: R Bell – CIC

26 July: R Bell – CIC

26 July: M Chapman – ACTPLA