

To whom it may concern

**Submission from Kingston Barton Residents Group (KBRG) in response to consultation paper on
ACT Government Review of Lease Variation Charge (LVC)**

The Kingston Barton Residents Group wishes to provide comment on the Consultation Paper published on the ACT Government 'Your say' at <https://yoursay.act.gov.au/lease-variation-charge> in September 2018. We also wish to point out that we have had only about four weeks to consider and respond on the questions raised in the consultation paper which is not sufficient for a community organisation run by volunteers. It is important that community views are taken into account on these issues.

KBRG is happy for this submission to be published on-line.

Summary of KBRG concerns

The principal concerns of the KBRG regarding LVC are:

1. Provisions for change of lease for heritage areas should be identified to ensure these are adequately protected and to minimise incentives which can arise where destruction could allow more profitable development of a site.
2. Apparent anomalies exist regarding valuation of land zoned for community use where developers seek to change zoning and there be provision for objections or appeals on decisions regarding these changes.
3. Related to 2 above, appropriate processes are required to ensure developers are required to substantiate claims of 'public benefit' when changing from community to commercial use.
4. Compliance is required to follow up after lease variations are granted.

General comments

The KBRG supports the continuation of the Lease Variation Charge, because the community should share the benefit from changes in the value of land resulting from a change of use for that land and this should not be a benefit for developers.

If a sporting or other club has obtained land from the government on a concessional basis, that concession should not allow them to sell the land and profit from it at community expense.

The Lease Variation Charge should be based on recent comparable land sales in the area and be a percentage of that figure using the concessional land value as a base, charging the LVC on the difference.

Widespread community concern has arisen with the recent valuation for the Canberra Services Club site on Canberra Avenue near Manuka Oval and their site in Barton which valued the land at significantly less than a vacant residential blocks in Barton. The valuations for both sites are also significantly less than commercial sites in the area (which is their potential future use).

Importance of industry data to support developers' claims of perverse incentives

We note the importance given in the Consultation Paper to industry data and project costings to substantiate claims made by developers that the LVC will stifle innovation and lead to increased costs for

housing and other construction. KBRG, as a community group, is unable to provide this data ourselves but we believe that it is vital for developers to substantiate their claims with verifiable data.

It is important that public policy is made on the basis of objective data on projects and costs and this information should be made available to the general public so they will understand the basis on which policy is made. We are aware that some information may be commercially sensitive but there are many ways for industry to provide data in confidence and for this information to be de-identified for publication or to be appropriately aggregated. This is standard practice for sensitive business data, including small data sets, published by ABS and other government agencies.

Use of district aggregations for charge schedules

KBRG notes that current schedules include values for each suburb based on the increased number of dwellings proposed for a variation¹ and that industry stakeholders propose use of schedules with data aggregated at district level. KBRG opposes this approach as in inner suburbs there are significant variations within each district and developers could be tempted to cherry-pick values to suit their purposes. KBRG concurs with a statement made on page 8 of the Consultation Paper which notes “the variance of an aggregated value from the actual uplift will result in leaseholders in some suburbs benefitting at the expense of other leaseholders, potentially distorting long term development outcomes”.

LVC effect on affordable housing

Developers claim the LVC does not support the goal of seeing existing properties repurposed for affordable housing, however it is noted in the Consultation Paper that LVC is only paid where a lease variation is required in order to undertake a particular development. As it is levied on the value uplift of the change in lease, the LVC reflects the price that would be paid for the land if the lease already enabled the proposed development. The LVC puts a proposed development on an equal footing with a development on land which already includes the appropriate development rights. Developers’ claims should not be accepted unless they are willing to back their claims with verifiable data.

Developers have further claimed that the LVC disincentivises the development of medium sized townhouses which provide a housing option between larger detached houses and smaller apartments. KBRG is aware that many residents of Kingston and Barton are highly connected to their local area and wish to remain in close by after they downsize from current dwellings. They often indicate a preference for a townhouse rather than an apartments but there are few on the market.

Noting the relatively high value of all land in the inner south of Canberra then developers will prefer to build apartments to derive greater return and townhouses are more likely to be built where land lease values are relatively lower. There are few separate houses in Kingston and Barton that are not in the heritage housing precincts, and heritage protection has thus had the effect of preserving the diversity of housing options which would otherwise be all apartments with only a few townhouses in areas such as Telopea Park East built in the 1980s.

The Consultation Paper states [p 8] “It is considered unlikely that the supply of affordable and lower priced townhouses in these areas would significantly increase even if a separate lower LVC was instituted to favour townhouses, given current land values.” It is also stated: “An important consideration for the Government is whether this is likely to be better targeted and provide better outcomes than existing policies, and how any changes to LVC policy would interact and align with these existing policies.”

Noting that the LVC is intended to capture a share of the increase in land value arising from a change in development rights, while planning requirements are set with a broader range of objectives in mind KBRG

¹ <http://www.legislation.act.gov.au/di/2017-208/default.asp>

believes that it may be appropriate to consider a separate lower LVC to encourage provision of affordable townhouses, but is also mindful of the needs for equity between charges for different types of housing so as not to advantage parts of the community over another. It is feasible to design townhouses on small areas of land with small environmental impacts compared to some apartments, noting the supposed environmental benefits of the higher density claimed for multi-storey apartments is being strongly challenged (for example <https://www.domain.com.au/news/highdensity-living-worse-for-environment-than-suburban-sprawl-new-study-shows-20171031-gzcdkw/>).

KBRG wishes to encourage the ACT Government to require the provision of industry data, or a case study, to substantiate the claims regarding disincentives to build townhouses in the Inner South. This should be done before any decision is made on allowing a lower LVC for townhouses.

Improving alignment of the LVC framework with planning requirements for relevant zones – the case of the Canberra Services Club LVC

The Canberra Services Club ('the Club') was established on community zoned land to provide a social club but is now seeking to change the lease to allow extensive development of apartments and commercial facilities (the Club is seeking this for two locations; Griffith and Barton). The valuation of the land for the calculation of the LVC for the site has attracted strong community criticism [see <https://www.canberratimes.com.au/national/act/250-000-for-2500-sq-m-block-at-manuka-residents-challenge-valuation-20180419-p4zaip.html>]. It is the view of KBRG that the LVC to be charged on this lease change allows a major benefit to a Club through a very small LVC when it should be higher and we believe that there should be a separate LVC or additional considerations where a lease on community zoned land is being considered.

In addition, it is worth noting that the Griffith Site is already zoned CZ6 (Accommodation and Leisure) while the Barton site is Designated Land under the NCA. It is unclear to the KBRG if the Club could be exempt paying a LVC for the Griffith site (further impacting the community as no recompense for loss of this concessional land) or how the lease variation process is managed where the land is within NCA managed areas.

The process for deconcessionalising a lease and the application for the LVC should be considered together in one process in order for the Minister for Planning to be able to adequately access the Public Good of any such decisions. Currently these processes can be done separately which means an applicant does not have to disclose the possible/planned future use of the site before a lease is deconcessionalised.

It should also be noted that the Griffith site had a heritage building (the heritage listing was removed with little or no public consultation for this significant site) and also contains significant trees. A fire destroyed the building, which was greatly loved by the Canberra community. Many believe this site should remain community land in recognition of Lady Gowrie's gift to the returned servicemen and because of the long social history and connection to the site. The community has expressed strong concerns about height and extent of the development proposed, noting many similarities to the controversial proposals for apartments on land immediately surrounding Manuka Oval.

KBRG wishes to emphasise that, in addition to capturing community value from uplift in land value, the approval process for changes of community land require the developer to demonstrate that it will benefit the community, but recent retrospective consultations on the development have not provided any information on the scale and type of development to enable the affected community to provide informed comment. This is ludicrous given ACTPLA must take account of community consultations in agreeing to the lease change.

The ongoing LVC applications to community land is a whole-of-Canberra issue. In the case of the Club, the Kingston, Griffith and Barton areas could see the loss of two significant community assets/sites with no

guarantee of replacement. As Canberra embraces increased urbanisation and densification the need for community land/facilities and green space will increase rather than decrease. This needs to be reviewed and acted upon now before it is too late. There are already several significant examples of loss of community assets including the Brumbies site in Griffith, Gold Creek Golf Course, loss of the Bowling Club in Braddon and a proposal by the Raiders in Braddon. Many of these sites are in highly urbanised suburbs that need to be supported by community assets and green open space.

LVC remissions

KBRG believes that adding remissions for environmental incentives does not assist the goal of streamlining and simplification of LVC charges. In addition, KBRG is concerned that it is often difficult and expensive for government to ensure compliance for these requirements.

For example, energy efficiency benefits the owner or renter, not necessarily the community and the achievement of environmental benefits are often difficult to measure after construction and basing the remissions on design details provided by the developer would need to be independently evaluated. There are already significant incentives for commercial projects for energy efficiency so why double the benefits?

KBRG is also wary of proposals for remissions for aged person accommodation unless covenants or other sureties are provided by the developer. Barton residents have been disappointed where developers claimed to be providing accommodation of this type, and used these claims to secure development approvals, but the residents who occupied the buildings after construction were not aged persons and the developer benefitted at community detriment.

KBRG would like the Review to consider the impact of approving LVCs where there is no finalised or agreed Master Plans. The KBRG believes this can be problematic as developers may use this loophole to change the use of a site before there has been an agreed plan for an area. A case in point is the Club site in Griffith where any development on the site would have a significant impact on the Manuka Oval Precinct and Manuka Business Centre yet there is no finalised Master Plan to assess against. In addition for this site is the complexity of both the physical and social heritage that is an important part of Canberra's history and future. Changes approved before there is an agreed Master Plan sets a precedent that the ACT Government and the community may not support.



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