

Australian Capital Territory

Land (Planning and Environment) (Further Rural Lease Grant Conditions) Determination 2007 (No 1)

Disallowable Instrument DI 2007 – 69

made under the

Land (Planning and Environment) Act 1991, section 171A(2) (Grant of further rural leases)

1. Name of Instrument

This Instrument is the *Land (Planning and Environment)(Further Rural Lease Grant Conditions) 2007 No 1*.

2. Commencement

The instrument commences on the day after it is notified

3. Instrument Revoked

This instrument revokes *Land (Planning and Environment)(Further Rural Lease Grant Conditions) 2005 No 1* DI2005-74

4. Further Rural Lease Conditions

I determine that the conditions set out in Attachment A apply to the grant of a further rural lease under section 171A of the *Land (Planning and Environment) Act 1991*.

Simon Corbell MLA
Minister for Planning

14 March 2007

Interpretation

In this Instrument:

“*further lease*” means a further rural lease granted pursuant to section 171A of the *Land (Planning and Environment) Act 1991* (ACT);

“*Lanyon Bowl Area*” means the area described in the National Capital Plan under Appendix B and shown in Figure 27;

“*Map*” means the Maximum Rural Lease Term Map set out in Schedule 1; and

“*Territory owned improvement*” means any improvements on the land to which sections 173(2)(a)(i) or (ii) of the *Land (Planning and Environment) Act 1991* (ACT) applies at the date of surrender of the existing lease.

The Planning and Land Authority, on behalf of the Executive will grant a further lease subject to the conditions set out in this determination.

1. The maximum term of a further lease of land will not exceed the maximum term for a lease of that land specified in the Map.
2. The Planning and Land Authority may limit the number of dwellings on the land under a further lease to the existing dwellings approved by the Planning and Land Authority.
3. Subject to paragraph 5, the Planning and Land Authority will not grant a further lease for a term exceeding 20 years unless the lessee has paid to it an amount determined to be payable by the lessee in accordance with this determination, and purchases all Territory owned improvements (except timber treatment) for an amount determined by the Planning and Land Authority.
4. Where a further lease is for a term exceeding 20 years the amount payable by a lessee for the further lease will be determined as follows:
 - (1) for a further lease of land depicted by shading in the Map - an amount condition applies, and the applicable formulae for calculating the amounts payable are:
 - (a) except for a further lease of land specified in Schedule 4, the relevant formula specified in Schedule 3, and
 - (b) for a further lease of land specified in Schedule 4 – the relevant formula specified in Schedule 5; and
 - (2) for a further lease of land not specified in Schedule 2 – the market value of the land.

5. A lessee will not be required to make any payment for a further lease if the lessee has previously paid:
 - (1) market value for a lease granted under section 161 or a further lease granted under section 171A; or
 - (2) an amount calculated in accordance with an amount condition for a further lease granted under section 171A.
6. Where a further lease is to be granted subject to an amount condition, the lessee must nominate by which of the following methods the lessee will pay the determined amount:
 - (1) as a lump sum; or
 - (2) in quarterly instalments in advance over a period of 30 years at a fixed interest rate of 8% per annum on reducing balances; or
 - (3) as a partial lump sum with the remaining balance payable in quarterly instalments over 30 years at a fixed interest rate of 8% per annum on reducing balances.
7. Where a further lease has a maximum lease term of 20 years, the rent payable by a lessee for the further lease will be determined as follows:
 - (1) for a lease where an amount condition applies in accordance with Schedule 2, the relevant formula in Schedule 6, applies from the date of commencement of the lease; or
 - (2) for a lease where an amount condition in accordance with Schedule 2 does not apply - 5% of the market value of any Territory owned improvements comprising dwellings, plus 3% of the market value of any other Territory owned improvements, plus 3% of the unimproved value of the land, as defined in the *Rates Act 2004* (ACT).
8. The Planning and Land Authority may review the market value of land and improvements and adjust the rent accordingly once every three years.
9. Except for land that is depicted by shading in the plan set out in Schedule 7, the Planning and Land Authority will not grant a further lease unless a land management agreement has been entered into by the lessee.
10. The Planning and Land Authority will not grant a further lease until all moneys due under or in respect of the existing lease have been paid, including rent and any discharge amount determined in accordance with section 186E or section 186F, as relevant.

11. If a further lease includes:

- (1) public land; or
- (2) land that lies within an area specified in the Map as having a maximum lease term of 20 years, but not including public land in a lease where all or part of the lease lies in the Lanyon Bowl Area,

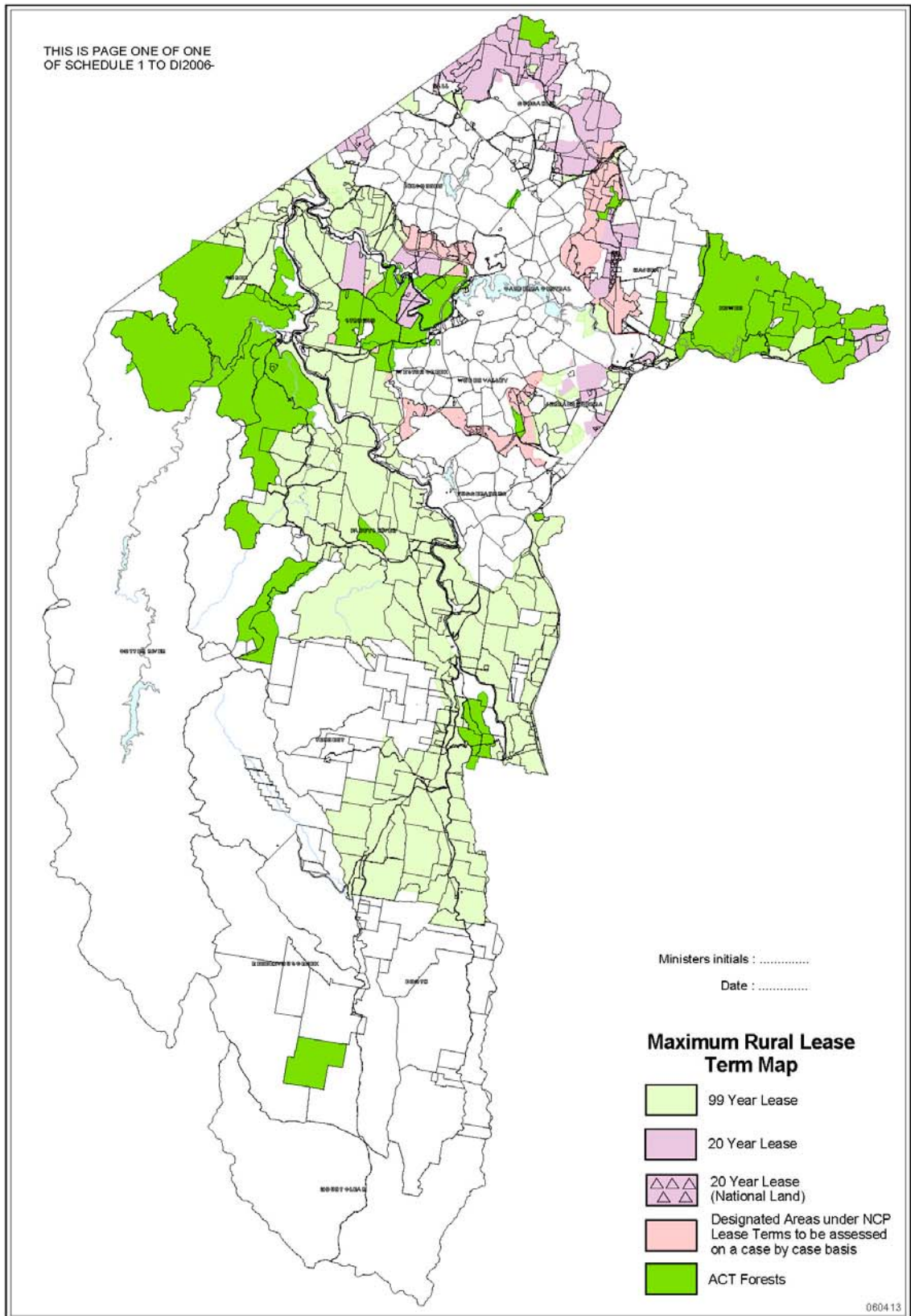
the further lease granted by the Planning and Land Authority will contain a condition allowing the Planning and Land Authority to withdraw all or part of that land from the lease.

12. If a further lease includes:

- (1) public land in a lease where all or part of the lease lies in the Lanyon Bowl Area; or
- (2) land that is identified as having high conservation value and is, or will be, subject to the preparation of an Action Plan under the *Nature Conservation Act 1980* (ACT); or
- (3) land in respect of which an Action Plan has been prepared or approved, and which identifies that land for reservation; or
- (4) land which has been identified as potentially being required for future public purposes,

the further lease granted by the Planning and Land Authority may contain a condition allowing the Planning and Land Authority to withdraw all or part of that land from the lease.

13. If the lessee applies for a consolidation of separate leases over parcels of land, and the Authority approves that consolidation, the Authority may grant a lease for the consolidated land under a single further lease, and in those circumstances the lessee will not be required to pay an amount in respect of the further lease over the consolidated land greater than would have been payable by the lessee if separate further leases were granted for the land.



ELIGIBILITY FOR PAYMENT TO BE BASED ON AN AMOUNT CONDITION

1. An amount condition applies to an application for the grant of a further lease made on or before:
 - (1) for land within Region 1: 30 June 2004;
 - (2) for land within Region 2: 30 June 2004;
 - (3) for land within Region 3: 30 June 2005;
 - (4) for land within Region 4: 31 December 2005; or
 - (5) for land in other regions of the ACT: 30 June 2004.
2. Despite paragraph 1, an amount condition ceases to apply if a lessee does not accept an offer of a further lease and execute that further lease within 3 months of the date of a letter of offer from the Planning and Land Authority for the grant of a further lease.

Region 1 means the land listed as follows:

<u>District/Division</u>	<u>Block</u>
Belconnen	All, excluding Blocks 50, 1329 and 1541
Booth	All
Coree	All, excluding Block 65
Fyshwick	Block 3 Section 52, Block 6 Section 59, Block 8 Section 59, Block 3 Section 73 and Block 1 Section 78 only
Kowen	All
Majura	Blocks 55, 56, 57, 60 and 513 only
Paddys River	All
Stromlo	All
Tennent	All
Tuggeranong	All
Weston Creek	All

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Region 2 means the land listed as follows:

<u>District/Division</u>	<u>Block</u>
Belconnen	Block 50 only
Coree	Block 65 only
Gungahlin	All
Hall	Block 8 Section 23 only
Majura	All, excluding Blocks 55, 56, 57, 60 and 513
Symonston	Block 1 Section 103, Block 5 Section 103, Block 7 Section 103 and Block 8 Section 103 only

Region 3 means the land listed as follows:

<u>District/Division</u>	<u>Block</u>
Hume	All
Jerrabomberra	All
Symonston	All, excluding Block 1 Section 103, Block 5 Section 103, Block 7 Section 103 and Block 8 Section 103

Region 4 means the land listed as follows:

<u>District/Division</u>	<u>Block</u>
Belconnen	Block 1541 only
Narrabundah	Block 4 Section 129 only

LAND VALUE PAYMENT FORMULAE FOR RURAL LEASES

Definitions

“DSE” means Dry Sheep Equivalent.

“ha” means hectare.

“value” means a value determined by the Planning and Land Authority.

Formula 1

1. Subject to paragraphs 1(2) and 1(3), for areas greater than 16 hectares, inclusive of the right for a principal dwelling the following formulae apply:
 - (1) more than 16 ha and no more than 80 ha \$190 per DSE less 15% for ACT factors = \$162/DSE
 - (2) more than 80 ha and no more than 600 ha \$160 per DSE less 15% for ACT factors = \$136/DSE
 - (3) more than 600 ha and no more than 1000 ha \$150 per DSE less 15% for ACT factors = \$128/DSE
 - (4) more than 1000 ha \$130 per DSE less 15% for ACT factors = \$110/DSE
2. Where there is no right to a dwelling, the values will be reduced by 7.5%.
3. For the second and each additional dwelling, an additional amount of \$16,615 per dwelling is added (representing an annual rent of \$1,000.00 capitalised over 99 years).

Formula 2

For leases of 16 ha or less not containing the right to a dwelling, excluding leases in Pialligo and all other leases in areas other than those within a “broadacre” or “rural” designation under the Territory Plan:

\$235/DSE less 15% for ACT factors = \$200/DSE

Formula 3

1. For leases of 16 ha or less containing a right to one dwelling, excluding leases in Pialligo and all other leases in areas other than those within a “broadacre” or “rural” designation under the Territory Plan:

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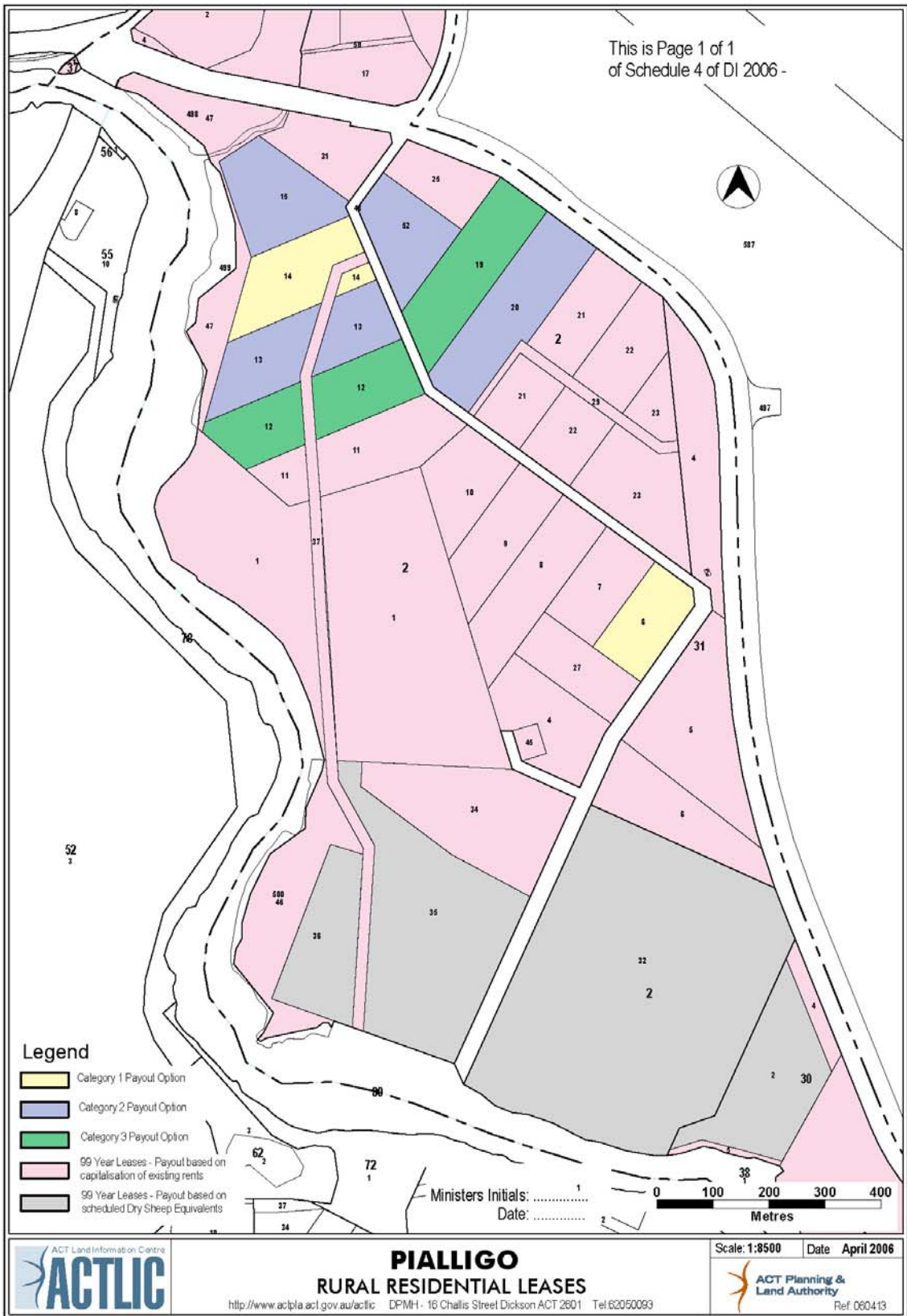
- (1) subject to paragraph 2, up to 8 ha \$2,500 per annum capitalised at 6% over 99 years less 15% for ACT factors = \$37,400; or
 - (2) subject to paragraph 2, from 8 ha to 16 ha \$3,000 per annum capitalised at 6% over 99 years less 15% for ACT factors = \$42,400; and
2. For the second and each additional dwelling, an additional amount of \$16,615 per dwelling is payable.

Formula 4

For leases under 16 ha and not within a “broadacre” or “rural” designation under the Territory Plan, the existing rent capitalised over 99 years at 6% pa less 15% for ACT factors.

Formula 5

1. Subject to paragraphs 2 and 3, the added land value for horse agistment and related activities is a sliding scale based on the percentage of the land’s carrying capacity used for horses for agistment purposes as follows:
 - (1) if 1% to 20% of total equivalent carrying capacity is used for horses for agistment purposes – add 10% to primary production value;
 - (2) if more than 20% but not more than 50% of total equivalent carrying capacity is used for horses for agistment purposes – add 20% to primary production value; or
 - (3) if more than 50% of total equivalent carrying capacity is used for horses for agistment purposes – add 30% to primary production value.
2. For all leases of 16 ha or less, the addition of 30% to the DSE rate, or capitalised site value, as appropriate.
3. The portion of the property used for primary production purposes will be calculated by applying DSE values in Formula 1.



LAND VALUE PAYMENT FORMULAE FOR RURAL LEASES

Leases which include non-primary production commercial lease purpose clauses

1. Subject to 2, the amount to be paid for further leases with wholly non-primary production, commercial purposes, or a combination of primary production and commercial purposes, in accordance with the following Categories listed in Schedule 4 is:

Category 1 - \$97,750;

Category 2 - \$86,250; or

Category 3 - \$80,500.

2. Lessees who are required to complete a Land Management Agreement will receive a 15% discount on the amount to be paid.

99 year leases with payment based on existing rents capitalised

1. Subject to paragraph 2, the amount to be paid for further leases shown in Schedule 4 as being based on existing rents capitalised is:

Existing rents capitalised over 99 years at a rate of 6% pa.

2. Lessees who are required to complete a Land Management Agreement will receive a 15% discount on the amount to be paid.

99 year leases with payment based on Dry Sheep Equivalent value

The amount to be paid for leases listed in Schedule 4 as being based on DSE values in Formula 1 is - payment in accordance with the relevant formula in Schedule 3.

LAND VALUE PAYMENT FORMULAE FOR RURAL LEASES LESS THAN 21 YEARS

Definitions

“DSE” means Dry Sheep Equivalent.

“ha” means hectare.

“value” means a value determined by the Planning and Land Authority.

Formula 1

1. Subject to 2 and 3, for areas greater than 16 ha, inclusive of the right for a principal dwelling:
 - (1) more than 16 ha and no more than 80 ha \$190 per DSE less 15% for ACT factors = \$162/DSE
 - (2) more than 80 ha and no more than 600 ha \$160 per DSE less 15% for ACT factors = \$136/DSE
 - (3) more than 600 ha and no more than 1000 ha \$150 per DSE less 15% for ACT factors = \$128/DSE
 - (4) more than 1000 ha \$130 per DSE less 15% for ACT factors = \$110/DSE
2. Where there is no right to a dwelling, the values will be reduced by 7.5%.
3. For the second and each additional dwelling, an additional amount of \$16,615 per dwelling is added (representing an annual rent of \$1,000 capitalised at 6% over 99 years).

Formula 2

For leases of land greater than 16 ha, annual rent will be charged at 3% of the land value, derived from the DSE values in Formula 1 and Formula 7, plus an annual rent of 3% will be charged for the value of any Territory owned improvements comprising farm buildings and dwellings on the land (excluding fencing, water and pasture improvements).

Formula 3

Subject to Formula 7, for leases of 16 ha or less not containing the right to a dwelling, excluding leases in Pialligo and all other leases of land in areas other than those within a “broadacre” or “rural” designation under the Territory Plan:

\$235/DSE less 15% for ACT factors = \$200/DSE

Formula 4

For leases of land of 16 ha or less containing a right to one dwelling (adjusted for ACT factors), excluding leases of land in Pialligo and all other leases in areas other than those within a “broadacre” or “rural” designation under the Territory Plan:

- (1) subject to paragraph (3), up to 8 ha \$2,500 per annum capitalised at 6% over 99 years less 15% = \$37,400;
- (2) subject to paragraph (3), from 8 ha to 16 ha \$3,000 per annum capitalised at 6% over 99 years less 15% = \$42,400;
- (3) for the second and each additional dwelling, an additional amount of \$16,615 per dwelling is payable (representing an annual rent of \$1,000 capitalised at 6% over 99 years).

Formula 5

For leases of land of 16 ha or less and not within a “broadacre” or “rural” designation under the Territory Plan, the existing rent capitalised over 99 years at 6% pa less a 15% deduction for ACT factors.

Formula 6

For leases of land of 16 ha or less and within a “broadacre” or “rural” designation under the Territory Plan, the annual rent is 3% of the land value derived from application of Formula 3, Formula 4 or Formula 5, as applicable, and of Formula 7; plus an annual rent of 3% of the value of any Territory owned improvements comprising farm buildings and dwellings (exclusive of fencing, water and pasture improvements).

Formula 7

1. Subject to paragraphs 2 and 3, the added land value for a horse agistment and related activities is a sliding scale based on the percentage of a property’s carrying capacity used for horses for agistment purposes as follows:
 - (1) if 1% to 20% of total equivalent carrying capacity is used for horses for agistment purposes – add 10% to primary production value;
 - (2) if more than 20% but not more than 50% of total equivalent carrying capacity is used for horses for agistment purposes – add 20% to primary production value;
 - (3) if more than 50% of total equivalent carrying capacity is used for horses for agistment purposes – add 30% to primary production value.

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2. For all leases of land of 16 ha or less, the addition of 30% to the DSE value, or capitalised site value, as appropriate.
3. The portion of the property used for primary production purposes will be calculated by applying the DSE values in Formula 1.

