

Planning and Development (Circumstance for, and Amount of, Change of Use Charge Remission-Prohibition of Smoking) Policy Direction 2009 (No 1)

Disallowable instrument DI2009–221

made under the

Planning and Development Regulation 2008 section 177

1 Name of Instrument

This instrument is the *Planning and Development (Circumstance for, and Amount of, Change of Use Charge Remission-Prohibition of Smoking) Policy Direction 2009 (No 1)*

2 Commencement

This instrument is taken to have commenced on 31 March 2008.

3 Policy Direction – Circumstance for Remission of Change of Use Charge

Pursuant to section 177 of the *Planning and Development Regulation 2008* (Regulation), I make the following policy direction for section 175 (1) (b) of the Regulation:

1. This policy direction applies in the following circumstances:
 - (a) The planning and land authority has before it a current application for a variation of a lease; and
 - (b) There are 1 or more buildings erected on the lease; and
 - (c) 1 or more of the buildings erected on the lease include a public place within the building; and
 - (d) The application to vary the lease seeks to permit an increase in the gross floor area of all buildings on the lease of no more than 10% of the gross floor area of all buildings that was, immediately prior to the application, permitted under the lease; and
 - (e) The application for variation of the lease must have been necessitated solely by an application to alter 1 or more of the

buildings so as to assist the occupier of the premises to provide additional facilities because of the *Smoking (Prohibition in Enclosed Public Places) Act 2003* part 2

- (f) Each applicant for variation of the lease must certify that a reason for the application to alter 1 or more of the buildings on the lease is to provide additional facilities because of the *Smoking (Prohibition in Enclosed Public Places) Act 2003* part 2.

4 Policy Direction – Amount of Remission of Change of Use Charge

Pursuant to section 177 of the *Planning and Development Regulation 2008* (Regulation), I make the following policy direction for section 175 (2) (a) of the Regulation:

1. This policy direction applies to circumstances referred to in clause 3 of this Policy Direction.
2. The planning and land authority must remit the whole of the change of use charge.

5. Definitions

In this Policy Direction the words or phrases “enclosed public place”, “occupier” and “public place” have the same respective meanings as in the *Smoking (Prohibition in Enclosed Public Places) Act 2003*.

Andrew Barr
Minister for Planning

Dated: 19 October 2009