

Australian Capital Territory

# Planning and Development (Remission of Lease Variation Charges—Environmental Sustainability) Determination 2018 (No 1)

Disallowable instrument DI2018–40

made under the

**Planning and Development Act 2007, s 278 (When commissioner must remit lease variation charge—sustainability)**

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## 1 Name of instrument

This instrument is the *Planning and Development (Remission of Lease Variation Charges—Environmental Sustainability) Determination 2018 (No 1)*.

## 2 Commencement

This instrument commences on 7 March 2018.

## 3 Application

This instrument applies to a lease variation charge for a s 277 chargeable variation of a nominal rent lease if—

- (a) a development application for the variation is approved on or after 7 March 2018; and
- (b) the approval also relates to the development of a building on the land under the lease.

## Determined energy efficiency requirements—Act, s 278 (2)

4 I, the Minister for Planning and Land Management, determine the following requirements:

- (a) a Green Star rating of 5 or 6;
- (b) a NatHERS rating of—
  - (i) 6.5 or 7; or
  - (ii) 7.5 or more.

*Note* Green Star ratings may be accessed at [www.gbca.org.au](http://www.gbca.org.au). NatHERS ratings may be accessed at [www.nathers.gov.au](http://www.nathers.gov.au).

## **5 Remission of lease variation charge for certain energy efficient developments—Act, s 278 (3) (a)**

- (1) This section applies to a s 277 chargeable variation of a nominal rent lease.
- (2) I, the Treasurer, determine the following amounts of the lease variation charge for the chargeable variation to be remitted:
  - (a) if the relevant development application nominates an average Green Star rating of 5 for the building—an amount equal to 10% of the charge;
  - (b) if the relevant development application nominates an average Green Star rating of 6 for the building—an amount equal to 25% of the charge;
  - (c) if the relevant development application nominates an average NatHERS rating of 6.5 or 7 for the building—an amount equal to 10% of the charge;
  - (d) if the relevant development application nominates an average NatHERS rating of 7.5 or more for the building—an amount equal to 25% of the charge.

## **6 When amounts must be remitted—Act, s 278 (3) (b)**

I, the Treasurer, determine that an amount to be remitted under section 5 must be remitted at the time the notice of assessment of the chargeable lease variation is given to the lessee under the Act, section 276D.

## **7 Disapplication of Legislation Act, s 47 (5)**

The Legislation Act, section 47 (5) does not apply to the following under this instrument:

- (a) a Green Star rating or related document;
- (b) a NatHERS rating or related document.

*Note 1* The text of another instrument applied under this instrument is taken to be applied as in force when this instrument was made (see Legislation Act, s 47 (4) (b)).

*Note 2* Green Star ratings and related documents may be accessed at [www.gbca.org.au](http://www.gbca.org.au). NatHERS ratings and related documents may be accessed at [www.nathers.gov.au](http://www.nathers.gov.au).

## **8 Definitions**

In this instrument:

**Green Star rating** means a rating under the national environmental rating system for buildings called the ‘Green Star’ rating system developed by the Green Building Council of Australia.

**NatHERS rating** means a rating under the Nationwide House Energy Rating Scheme (NatHERS) administered through the Ministerial Council of Energy.

**9 Expiry**

This instrument expires on the commencement of the *Planning and Development (Lease Variation Charge Deferred Payment Scheme) Amendment Act 2018*.

Andrew Barr  
Treasurer  
6 March 2018

Mick Gentleman  
Minister for Planning and Land Management  
6 March 2018