

# Planning and Development (Remission of Lease Variation Charges—Affordable Rental Development Concession) Determination 2019\*

Disallowable instrument DI2019–229

made under the

*Planning and Development Act 2007*, s 278 (Remission of lease variation charges)

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## 1 Name of instrument

This instrument is the *Planning and Development (Remission of Lease Variation Charges—Affordable Rental Development Concession) Determination 2019*.

*Note* Terms used in this instrument have the same meaning that they have in the *Planning and Development Act 2007* (see Legislation Act, s 148). For example, the following terms are defined in the *Planning and Development Act 2007*, Dictionary:

- chargeable variation
- lease variation charge
- nominal rent lease
- s 276E chargeable variation
- s 277 chargeable variation.

## 2 Commencement

This instrument is taken to have commenced on 1 October 2019.

## 3 Definitions

(1) In this instrument:

***affordable rental*** means housing that is rented:

- (a) at a rate that is less than 75 per cent of the current market rent; and
- (b) by an eligible household comprising a person or persons whose combined gross income is less than or equal to the income limits provided in 3 (2) below;

***certificate of occupancy***—see the *Building Act 2004*.

***child*** means a person 18 years of age who is financially dependent on a person within an eligible household.

\*Name amended under Legislation Act, s 60

**combined gross income** of an eligible household means the combined gross income of person or those persons at the time the parcel of land is first rented.

**Community Housing Providers National Law (ACT)** means the provisions applying because of the *Community Housing Providers National Law (ACT) Act 2013*, section 7.

**the land** means the land under the lease that is the subject of the lease variation.

**registered community housing provider**—see the *Community Housing Providers National Law (ACT)*, section 4 (1).

- (2) For the purposes of this instrument, the affordable rental income limits are the greater of:
- (a) \$100,000 per annum; or
  - (b) the income amounts described in Table 1.

**Table 1—Household composition income amounts per annum for 2019-20**

First Adult	\$51,398
First Sole Parent	\$54,060
Each Additional Adult	\$19,663
Each Child	\$17,050

- (c) In Table 1:

**income amounts** for a household means for each subsequent year beginning 1 May, the amounts for the previous year indexed in accordance with the tenant income index, rounded to the next whole dollar.

**tenant income index** means the All Groups component of the Consumer Price Index, Percentage Change from Corresponding Quarter of Previous Year, December quarter, using the all groups weighted average of eight capital cities, as published in the Australian Bureau of Statistics publication Cat. no. 6401.0—Consumer Price Index, Australia, CPI: Groups, Weighted Average of Eight Capital Cities, Index Numbers and Percentage Changes, rounded to the nearest single decimal point.

#### **4 Determination of circumstances for affordable rental development concession—s 278 (1)**

- (1) Pursuant to the *Planning and Development Act 2007*, section 278 (1), I the Minister for Planning and Land Management, determine the following circumstances for which an amount of a lease variation charge for a chargeable variation of a nominal rent lease must be remitted:
- (a) The land is leased by a registered community housing provider;
  - (b) The development application for the chargeable variation is approved by the grant of a development approval under section 162 of the *Planning and Development Act 2007* on or after the commencement of this instrument; and

- (c) The development approval and the varied lease include a condition that the lessee develop and use the land, or part of the land, for affordable rental for a minimum of 7 years from the date of the grant of certificate of occupancy.

## 5 Determination of concession amount—s 278 (2)

- (1) For the purposes of this instrument and the *Planning and Development Act 2007*, section 278 (2), I the Treasurer, determine the amount of the lease variation charge for the chargeable variation to be remitted for a development application under section 4 to be an amount equal to 25 per cent of the lease variation charge for the land, or that part of the land, to be developed and used for affordable rental.
- (2) For this section, the remittable amount for the land, or part of the land, to be developed and used for affordable rental is calculated based on the following formulae:
- (a) Where all the land is to be developed and used for affordable rental, the amount of the lease variation charge to be remitted is—

$$\frac{25}{100} \times \text{the lease variation charge for } B$$

- (b) Where part of the land is to be developed and used for affordable rental—
- (i) For a s 276E chargeable variation, the amount of the lease variation charge to be remitted is—

$$\frac{25}{100} \times \left[ \frac{A}{B} \times \text{determined charge for } B \right]$$

- (ii) For a s 277 chargeable variation, the amount of the lease variation charge to be remitted is—

$$\frac{25}{100} \times \left[ \frac{A}{B} \times \text{the lease variation charge for } B \right]$$

- (3) In this section:

**A** means the number of dwellings specified in the development approval for development and use for affordable rental.

**B** means all the dwellings specified in the development approval for development on the land.

**determined charge** means the codified lease variation charges determined under Schedules 1 and 2 of Planning and Development (Lease Variation Charges) Determination 2017 (No 2), DI2017-208.

## **6 Expiry**

This instrument expires on 30 June 2022.

Chris Steel MLA  
Acting Minister for Planning and Land  
Management

Yvette Berry MLA  
Acting Treasurer

4 October 2019