Australian Capital Territory

Planning and Development (Lease Variation Charge Deferred Payment Scheme) Determination 2019 (No 2)

**Disallowable instrument DI2019–236**

made under the

*Planning and Development Act 2007*, s 279AA (1) (b) (Application to defer payment of lease variation charges) and s 279AC (2) (Conditions of deferral arrangement)

**1 Name of instrument**

This instrument is the *Planning and Development (Lease Variation Charge Deferred Payment Scheme) Determination 2019 (No 2)*.

**2 Commencement**

This instrument commences on the day after its notification date.

**3 Determination of amount to be deferred—s 279AA (1) (b)**

For the purposes of the *Planning and Development Act 2007*,
section 279AA (1) (b), I determine that the amount of the lease variation charge to be deferred is at least $50 000.

**4 Determination of other conditions—s 279AC (2)**

For the purposes of the *Planning and Development Act 2007*,
section 279AC (2), I determine that:

1. the rate of interest charged on the amount payable under the deferral arrangement is the market rate only where:
2. a lessee is a gaming machine club; and
3. the Treasurer is satisfied that a public benefit will be derived from the development and/or use of the land subject to the lease variation charge;
4. for any other lessee*—*the rate of interest charged on the amount payable under the deferral arrangement is the sum of:
5. the market rate; and
6. a margin of 1.8 percentage points per annum;
7. the interest chargeable under section 4 (1) or 4 (2) on the amount payable shall be:
8. calculated from the date of the execution of the lease variation until the amount payable under the deferral arrangement is paid in full;
9. worked out:
10. for each month that the amount is deferred or unpaid;
11. on the 1st day of that month; and
12. at the interest rate applying to that day; and
13. on the total amount payable that is deferred or unpaid on a day when the interest is worked out;
14. for sub-section (3)(b)(i) if an amount remains unpaid for part of a month, interest is payable for the whole month;
15. In this section:

***amount payable*** means the amount of the lease variation charge that is deferred and includes:

1. the costs and expenses reasonably incurred by the Territory in attempting to recover the lease variation charge and any other amounts payable under the deferral arrangement; and
2. the interest chargeable at the rate specified in section 4 (1) or section 4 (2).

***gaming machine club*** means a club that holds a class C licence under the *Gaming Machine Act 2004*.

***market rate*** means the monthly 90-day bank bill rate worked out in accordance with the *Taxation Administration Act 1999*, section 26.

**5 Revocation**

This instrument revokes *Planning and Development (Lease Variation Charge Deferred Payment Scheme) Determination 2019*, DI2019-140*.*

**6 Transitional**

The *Planning and Development (Lease Variation Charge Deferred Payment Scheme) Determination 2019*, DI2019-140 continues to apply in relation to a lease variation charge assessed under the *Planning and Development Act 2007*, section 276D (1), within the period 1 July 2019 to the notification date of this instrument, inclusive.

Andrew Barr MLA

Treasurer

25 October 2019