

Australian Capital Territory

Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2021

Disallowable instrument DI2021–13

made under the

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

1 Name of instrument

This instrument is the *Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2021*.

2 Commencement

This instrument is taken to have commenced on 24 December 2020.

3 Definitions

In this instrument:

Act means the *Planning and Development Act 2007*.

approved—in relation to a development application, means approved under the Act, chapter 7.

chargeable variation means s 276E chargeable variation and s 277 chargeable variation.

commence—in relation to construction of a development:

- (i) means substantial earthworks, excavations, demolition and physical building work; and
- (ii) does not include preparatory works.

development—see the Act, dictionary

development application—see the Act, dictionary.

lease—see the Act, dictionary.

lease variation charge—see the Act, dictionary.

Note The lease variation charge is the amount as calculated under the Act before any other remission or concession.

nominal rent lease—see the Act, dictionary.

s 276E chargeable variation—see the Act, section 276.

s 277 chargeable variation—see the Act, section 276.

4 Determination of circumstances—s 278 (1)

- (1) I, the Minister for the Planning and Land Management, determine the following circumstances in which an amount of a lease variation charge for a chargeable variation of a nominal rent lease must be remitted:
- (a) a development application for the variation has been approved; and
 - (b) the development approval in subsection 4 (a) relates to the development of a building on the land under the lease; and
 - (c) the lease variation charge to be remitted is only in respect of that part of a lease variation charge that is less than or equal to \$500,000; and
 - (d) prior to 24 December 2020, the lease variation charge:
 - (i) had not been paid; or
 - (ii) was not already subject to a deferral arrangement under subdivision 9.6.3.3 of the Act; and
 - (e) an application under section 279AA of the Act to defer payment of the lease variation charge is lodged on or before 30 June 2021 and subsequently approved under section 279AB of the Act; and
 - (f) construction under the development approval has not commenced prior to 24 December 2020 but commences on or before 30 September 2021; and
 - (g) where the lease variation charge for the development application is not subject to a remission under the *Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2020*.

5 Determination of the amount to be remitted—s 278 (2)

- (1) This section applies to a chargeable variation of a nominal rent lease to which the circumstances mentioned in section 4 applies.
- (2) I, the Treasurer, determine the amount of the lease variation charge for the chargeable variation to be remitted is 25% of the lease variation charge.

Note The maximum amount of remission for a lease variation charge is \$125,000 by virtue of subsection 4 (c).

6 Expiry

This instrument expires on 30 September 2021.

Andrew Barr
Treasurer

12 January 2021

Mick Gentleman
Minister for Planning and Land Management

18 January 2021