

Planning (Lease Variation Charge Deferred Payment Scheme) Determination 2023

Disallowable instrument DI2023–282

made under the

***Planning Act 2023*, s 343 (1) (b) (Approval to defer payment of lease variation charges) and s 344 (2) (Conditions of deferral arrangement)**

1 Name of instrument

This instrument is the *Planning (Lease Variation Charge Deferred Payment Scheme) Determination 2023*.

2 Commencement

This instrument commences on the commencement of the Act, division 10.7.3 (Variation of nominal rent leases).

3 Definitions

In this instrument:

Act means the *Planning Act 2023*.

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

- (a) 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
- (b) the interest chargeable at the rate specified in section 5 (1) or section 5 (2) in this instrument.

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

lease variation charge—see Act, dictionary.

market rate means the rate worked out in accordance with the *Taxation Administration Act 1999*, section 26 (2) (b).

4 Determination of amount to be deferred—s 343 (1) (b)

For the purposes of the Act, section 343 (1) (b), I determine that the amount of the lease variation charge to be deferred is:

- (1) for a lease variation charge subject to a reduction under:
 - (a) *Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2020*; and
 - (b) *Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2021*;—at least \$1; and
- (2) in all other circumstances—at least \$50 000.

5 Determination of other conditions—s 344 (2)

For the purposes of the Act, section 344 (2), I determine that:

- (1) the rate of interest charged on the amount payable under the deferral arrangement is the market rate only where:
 - (a) a lessee is a gaming machine club; and
 - (b) 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;
- (2) for any other lessee—the rate of interest charged on the amount payable under the deferral arrangement is the sum of:
 - (a) the market rate; and
 - (b) a margin of 1.8 percentage points per annum;
- (3) the interest chargeable under subsection 5 (1) or 5 (2) on the amount payable shall be:
 - (a) calculated from the date of the execution of the lease variation until the amount payable under the deferral arrangement is paid in full;
 - (b) worked out:
 - (i) for each month that the amount is deferred or unpaid;
 - (ii) on the 1st day of that month; and
 - (iii) at the interest rate applying to that day; and
 - (iv) on the total amount payable that is deferred or unpaid on a day when the interest is worked out;

- (4) for subsection 5 (3) (b) (i) of this instrument if an amount remains unpaid for part of a month, interest is payable for the whole month.

Andrew Barr MLA
Treasurer

24 November 2023