

# Planning and Development (Remission of Lease Variation Charges for Adaptive Re-use—Environmental Performance) Revocation 2014 (No 1)

## Disallowable instrument DI2014–47

made under the

**Planning and Development Act 2007, s 278E (When commissioner must remit lease variation charges-other)**

## EXPLANATORY STATEMENT

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### 1. OBJECTIVES

The objective of this disallowable instrument (instrument) is to revoke the instrument DI2012-78.

### 2. BACKGROUND

The instrument came into effect on 1 July 2012 and will expire on 30 June 2015 if not revoked before that date.

The instrument sought to give effect to government policy to provide a remission of up to 75 per cent of the Lease Variation Charge (LVC) for high environmental performance adaptive re-use projects.

It was anticipated that these projects would convert office stock to residential accommodation resulting in carbon savings which would be greater than the baseline for meeting current practice standards.

The instrument required an applicant to use a calculator, published on the ACT planning and land authority and Revenue websites, to estimate carbon savings and for those savings to be verified by regulatory practices before a remission would be given. This meant that there could be a considerable period of time before an applicant could access the remission. Further the degree of complexity of complying with the instrument has meant that no applicants have sought a remission under the instrument.

The new remission instrument mentioned at 3 below provides a much simpler process and provides the remission up-front. Therefore the delivery of sustainability

outcomes, which includes adaptive re-use, are likely to be achieved at a greater rate than under the instrument being revoked.

### 3. OVERVIEW

On 6 March 2014 the ACT Government announced a stimulus package with the aim of generating construction and investment activity at a time when demand is easing off and to encourage higher sustainability outcomes in those developments. The policy objectives of that announcement are delivered through disallowable instrument *Planning and Development (Remission of Lease Variation Charges – Economic Stimulus and Sustainability) Determination 2014 (No 1)* (DI2014-xx). The instrument commences on 6 March 2014 and applies to any eligible development application not approved on or after the 6 March 2014.

Eligible DA is defined in the explanatory statement as a DA for a lease variation which is a s277 chargeable variation and for the development of a building on the land under the lease. This means that a DA may have already been lodged, but not approved, and if the DA meets the criteria or circumstances prescribed in the instrument then it may be eligible for a remission.

The instrument only applies to a s277 chargeable variation as defined at section 276 *Definitions – div 9.6.3, s277 chargeable variations*. It cannot apply to a s276E chargeable variation.

A detailed explanatory statement is available on the ACT Legislation Register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

This instrument provides broader remissions to proponents than those provided in the instrument being revoked. Further, the remission is given at the time the notice of assessment of the chargeable lease variation is given to the lessee under the Act, s276D. This means that the proponent has the benefit of the remission at the time the lease variation is approved, and does not have to wait years to gain it. This is a greater benefit to proponents and the community as it will promote construction and investment activity.

This instrument means that there is not a reason to continue with the instrument being revoked. Revoking the instrument will also ensure the legislation register is not cluttered with un-necessary instruments and that industry will not be confused by different instruments for remission.