

Planning and Development (Land Rent Payout) Policy Direction 2009 (No 1)*

Disallowable instrument DI2009–162

made under the

Planning and Development Act 2007 section 272C(1)

1 Name of instrument

This instrument is the *Planning and Development (Land Rent Payout Policy) Direction 2009 (No 1)*.

2 Commencement

This instrument commences on the day after notification.

3 Repeal of Disallowable Instrument DI2008-203

I repeal Disallowable Instrument DI2008-203.

4 Policy Direction

Pursuant to subsection 272C(1) of the *Planning and Development Act 2007* (Act) I make the following policy direction for the purposes of paragraph 272B(2)(d) of the Act:

1. This policy direction applies only to a lease that is:
 - a) a land rent lease referred to in section 272A(1)(a) of the Act; and
 - b) a lease included in a class of lease referred to in section 272A(1)(b) of the Act and prescribed by section 160 of the *Planning and Development Regulation 2008*.
2. The amount to be paid to the Territory, pursuant to section 272B(2)(d) of the Act, by a lessee of land, the subject of a land rent lease, to reduce the rent payable under the lease to nominal rent is an amount equal to whichever one of the following values the lessee specifies:
 - (a) the unimproved value of the lease; or
 - (b) the current market value;

Provided that if the unimproved value has not been determined for the lease for the year in which the lessee applies pursuant to section 272A of the Act for a variation of the lease to reduce the rent payable to a

*Name amended under Legislation Act, s 60

nominal rent, the lessee must pay an amount equal to the current market value.

3. The amount to be paid to the Territory, pursuant to section 272B(2)(d) of the Act, by a lessee of land, the subject of a lease referred to in section 272A(1)(b) of the Act and prescribed by section 160 of the *Planning and Development Regulation 2008*, to reduce the rent payable under the lease to nominal rent is an amount equal to the current market value of the lease.
4. In this instrument:

“current market value” means the market value of the lease determined by the planning and land authority at the time the lessee applies to reduce the rent to nominal rent; and

“market value” means, subject to any contrary meaning expressed in the lease, the amount that could be expected to be paid for the lease on the open market if it were sold by a willing but not anxious seller to a willing but not anxious buyer, it being assumed:

- a) that the only improvements on or to the leased land are the improvements (if any) by way of clearing, filling, draining, levelling or excavating made by the Commonwealth or the Territory or the cost of which has been paid by the Commonwealth or the Territory;
- b) that the lease has its full term unexpired;
- c) that rent payable throughout the term of the lease is a nominal rent; and
- d) that there is no enhancement or detriment to the value of the lease attributable to any contemplated variation of the lease.

“unimproved value” means the unimproved value of the parcel of land comprised in the lease determined under the *Rates Act 2004* for the year in which the lessee applies pursuant to section 272A of the Act for a variation of the lease to reduce the rent payable to a nominal rent.

Andrew Barr
Minister for Planning

13 July 2009