

Planning and Development (Land Rent Payout) Policy Direction 2015 (No 1)

Disallowable instrument DI2015–308

made under the

Planning and Development Act 2007, section 272C(1) (Policy directions for paying out rent)

1 Name of instrument

This instrument is the *Planning and Development (Land Rent Payout) Policy Direction 2015 (No 1)*.

2 Commencement

This instrument commences on the commencement of the *Building (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015*, section 34.

3 Repeal of DI2009-162

DI2009-162 is repealed.

4 Policy direction—loose-fill asbestos eradication scheme

- (1) This policy direction applies to a land rent lease of a parcel of land granted under the Act, section 238 (1) (d) to a former owner of the parcel of land.
- (2) If the former owner of the parcel of land applies under the Act, section 272A (2) for a variation of the lease of the parcel of land to reduce the rent payable to a nominal rent, the amount to be paid by the former owner to the Territory under the Act, section 272B (2) (d) is an amount equal to the current market value.

5 Policy direction—prescribed leases

- (1) This policy direction applies to a lease included in a class of leases prescribed in the *Planning and Development Regulation 2008*, section 160.
- (2) If a lessee of the lease applies under the Act, section 272A (2) for a variation of the lease to reduce the rent payable to a nominal rent, the amount to be paid by the lessee to the Territory under the Act, section 272B (2) (d) is an amount equal to the current market value of the lease.

6 Policy direction—other land rent leases

- (1) This policy direction applies to a land rent lease, other than a land rent lease to which clause 4 or clause 5 applies.
- (2) If a lessee of the land rent lease applies under the Act, section 272A (2) for a variation of the lease to reduce the rent payable to a nominal rent, the amount to be paid by the lessee to the Territory under the Act, section 272B (2) (d) is an amount equal to—
 - (a) if the unimproved value has not been determined for the lease for the year in which the lessee applies for the variation of the lease—the current market value of the lease; or
 - (b) in any other case—whichever of the following the lessee specifies:
 - (i) the unimproved value of the lease;
 - (ii) the current market value of the lease.

7 Definitions

In this instrument:

Act means the *Planning and Development Act 2007*.

current market value, of a lease, 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.

market value, of a lease, 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; and
- (b) that the lease has its full term unexpired; and
- (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, of a lease, 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 under the Act, section 272A for a variation of the lease to reduce the rent payable to a nominal rent.

Mick Gentleman
Minister for Planning
10 November 2015