

# Planning and Development (Remission of Lease Variation Charges—Environmental Sustainability) Determination 2018 (No 2)

Disallowable instrument DI2018–89

made under the

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

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## 1 Name of instrument

This instrument is the Planning and Development (Remission of Lease Variation Charges—Environmental Sustainability) Determination 2018 (No 2).

## 2 Commencement

This instrument commences on the commencement of the *Planning and Development (Lease Variation Charge Deferred Payment Scheme) Amendment Act 2018*, section 2.

## 3 Determination of circumstances for environmental sustainability remission – s 278 (1)

Pursuant to the *Planning and Development Act 2007*, section 278 (1), I the Minister for Planning and Land Management, determine the following circumstances for which an amount of a lease variation charge for a chargeable variation of a nominal rent lease must be remitted:

- (1) The lease variation charge is for a section 277 chargeable variation of a nominal rent lease; and
- (2) The development application for the variation is:
  - (a) approved on or after the commencement of this instrument; and
  - (b) the approval relates to the development of a building on the land under the lease; and
- (3) The building to which the development application under sub-section (2) relates:
  - (a) Complies when completed, with the following energy efficiency requirements:
    - (i) a Green Star rating of 5 or 6; or
    - (ii) a NatHERS rating of—

- (aa) 6.5 or 7; or
  - (bb) 7.5 or more; and
- (b) Evidence of compliance with the energy efficiency requirements stated in sub-section 3(a)(i) or (ii) is:
  - (i) obtained by the applicant at the applicant's own cost from an independent, licensed building assessor, and
  - (ii) provided to the Commissioner for Revenue; and
- (4) The applicant for the remission must have entered into a deferral arrangement with the Commissioner for Revenue under the *Planning and Development Act 2007*, Subdivision 9.6.3.3 in respect of any remission amount.

#### **4 Determination of lease variation charge remission amounts for certain energy efficient developments – s 278 (2)**

For the purposes of this instrument and the *Planning and Development Act 2007*, section 278 (2), I the Treasurer, determine the amounts of the lease variation charge for the chargeable variation to be remitted as follows:

- (a) if the building to which the development application under section 3(2) relates complies when completed, with an average Green Star rating of 5 for the building—an amount equal to 10% of the charge;
- (b) if the building to which the development application under section 3(2) relates complies when completed, with an average Green Star rating of 6 for the building—an amount equal to 25% of the charge;
- (c) if the building to which the development application under section 3(2) relates complies when completed, with an average NatHERS rating of 6.5 or 7 for the building—an amount equal to 10% of the charge;
- (d) if the building to which the development application under section 3(2) relates complies when completed, with an average NatHERS rating of 7.5 or more for the building—an amount equal to 25% of the charge.

#### **5 Disapplication of Legislation Act, s 47 (5)**

The *Legislation Act 2001*, section 47 (5) does not apply to the following under this instrument:

- (a) a Green Star rating or related document;
- (b) a NatHERS rating or related document.

*Note 1* The text of another instrument applied under this instrument is taken to be applied as in force when this instrument was made (see *Legislation Act*, s 47 (4) (b)).

*Note 2* Green Star ratings and related documents may be accessed at [www.gbca.org.au](http://www.gbca.org.au). NatHERS ratings and related documents may be accessed at [www.nathers.gov.au](http://www.nathers.gov.au).

#### **6 Definitions**

In this instrument:

**Green Star rating** means a rating under the national environmental rating system for buildings called the ‘Green Star’ rating system developed by the Green Building Council of Australia.

**licensed building assessor** means a building assessor licensed under the *Construction Occupations (Licensing) Act 2004*.

**NatHERS rating** means a rating under the Nationwide House Energy Rating Scheme (NatHERS) administered through the Ministerial Council of Energy.

*Note* Green Star ratings may be accessed at [www.gbca.org.au](http://www.gbca.org.au). NatHERS ratings may be accessed at [www.nathers.gov.au](http://www.nathers.gov.au).

## **7 Revocation**

DI2018-40, the Planning and Development (Remission of Lease Variation Charges—Environmental Sustainability) Determination 2018 (No 1) is hereby revoked.

## **8 Expiry**

This instrument expires on 30 June 2019.

Mick Gentleman MLA  
Minister for Planning and Land Management

16 May 2018

Andrew Barr MLA  
Treasurer

16 May 2018