

Planning (Reduction of Lease Variation Charges for Environmental Remediation) Determination 2023

Disallowable instrument DI2023–280

made under the

Planning Act 2023, s 338 (Reduction of lease variation charges)

1 Name of instrument

This instrument is the *Planning (Reduction of Lease Variation Charge for Environmental Remediation) 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*.

chargeable variation—see the Act, dictionary.

environmental audit—see *Environment Protection Act 1997*, dictionary.

environment protection authority means the authority established under section 11 of the *Environment Protection Act 1997*.

lease variation charge—see the Act, dictionary.

nominal rent lease —see the Act, dictionary.

remediation—see the *Environment Protection Act 1997*, dictionary.

service station means an entity whose function or purpose includes, but need not be limited to, one or more of the following:

- (i) fuelling motor vehicles through the use of fuel pumps or similar;
- (ii) the service or repair of motor vehicles (other than body building, panel beating or spray painting);

- (iii) the sale or distribution of fuel for motor vehicles; or
- (iv) the storage of fuel for motor vehicles.

the land means the land under the lease that is the subject of the lease variation charge.

Note The *Environment Protection Act 1997*, dictionary states that remediation:

In relation to contaminated land, includes –

- (a) preparing a long-term management plan (if any) for the land; and
- (b) removing, dispersing, destroying, reducing, mitigating or containing the contamination of the land; and
- (c) eliminating or reducing any hazard arising from the contamination of the land (including by preventing the entry of people or animals on the land).

4 Determination of circumstances which apply to the variation—s 338 (1)

- (1) Pursuant to section 338 (1) of the Act, I, the Minister, determine the following circumstances in which an amount of a lease variation charge for a chargeable variation of a nominal rent lease must be reduced:
 - (a) the Environment Protection Authority has given the Territory Planning Authority an endorsement of an environmental audit of the land and the endorsement verifies that the audit:
 - (i) satisfies the requirements of the *Environment Protection Act 1997*;
 - (ii) affirms that an assessment of the land to determine whether remediation to make the land suitable for the purposes authorised by the lease as varied has been undertaken;
 - (iii) affirms that remediation of the land or part of the land was required and the required remediation has been undertaken; and
 - (iv) affirms that the assessment and remediation has been undertaken and completed as required by the *Environment Protection (Contaminated Sites) Environment Protection Policy 2017*, NI2017-698 made under the *Environment Protection Act 1997*, section 27 (Making of environment protection policy);
 - (b) the lease to be varied authorises the land or part of the land to be used for the purpose of a service station, however expressed, and the lease as varied does not authorise the land or part of the land to be used for this purpose;
 - (c) the development application for the chargeable variation is approved by the grant of a development approval under section 185 of the Act ; and
 - (d) the development approval includes a condition that the lessee carry out remediation of the land under the lease.

5 Determination of the amount to be reduced—s 338 (2)

Pursuant to section 338 (2) of the Act, I, the Treasurer, determine the amount of the lease variation charge for the chargeable variation is to be reduced is an amount equal to 100% of the charge.

Mick Gentleman
Minister for Planning and Land Management

November 2023

Andrew Barr
Treasurer

24 November 2023