Australian Capital Territory

Planning (Lease Variation Charge Deferred Payment Scheme) Determination 2023

**Disallowable instrument DI2023–282**

made under the

*Planning Act 2023*, s 343 (1) (b) (Approval to defer payment of lease variation charges) and s 344 (2) (Conditions of deferral arrangement)

**1 Name of instrument**

This instrument is the *Planning (Lease Variation Charge Deferred Payment Scheme) 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*** meansthe *Planning Act 2023****.***

***amount payable*** means the amount of the lease variation charge that is deferred and includes:

1. the costs and expenses reasonably incurred by the Territory in attempting to recover the lease variation charge and any other amounts payable under the deferral arrangement; and
2. the interest chargeable at the rate specified in section 5 (1) or section 5 (2) in this instrument.

***gaming machine club*** means a club that holds a class C licence under the *Gaming Machine Act 2004*.

***lease variation charge****—*see Act, dictionary.

***market rate*** means the rate worked out in accordance with the *Taxation Administration Act 1999*, section 26 (2) (b).

**4** **Determination of amount to be deferred—s 343 (1) (b)**

For the purposes of the Act, section 343 (1) (b), I determine that the amount of the lease variation charge to be deferred is:

1. for a lease variation charge subject to a reduction under:

1. *Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2020*; and
2. *Planning and Development (Remission of Lease Variation Charges—Construction Sector Recovery) Determination 2021*;

*—*at least $1; and

1. in all other circumstances—at least $50 000.

**5 Determination of other conditions—s 344 (2)**

For the purposes of the Act, section 344 (2), I determine that:

1. the rate of interest charged on the amount payable under the deferral arrangement is the market rate only where:
2. a lessee is a gaming machine club; and
3. the Treasurer is satisfied that a public benefit will be derived from the development and/or use of the land subject to the lease variation charge;
4. for any other lessee*—*the rate of interest charged on the amount payable under the deferral arrangement is the sum of:
5. the market rate; and
6. a margin of 1.8 percentage points per annum;
7. the interest chargeable under subsection 5 (1) or 5 (2) on the amount payable shall be:
8. calculated from the date of the execution of the lease variation until the amount payable under the deferral arrangement is paid in full;
9. worked out:
10. for each month that the amount is deferred or unpaid;
11. on the 1st day of that month; and
12. at the interest rate applying to that day; and
13. on the total amount payable that is deferred or unpaid on a day when the interest is worked out;
14. for subsection 5 (3) (b) (i) of this instrument if an amount remains unpaid for part of a month, interest is payable for the whole month.

Andrew Barr MLA

Treasurer

24 November 2023