

AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) (REMISSION OF CHANGE OF USE CHARGE) POLICY DIRECTION 2004 (No 1)

LAND (PLANNING AND ENVIRONMENT) REGULATIONS 1992

DISALLOWABLE INSTRUMENT DI2004-209

EXPLANATORY STATEMENT

Outline

Sections 184C and 187C of the *Land (Planning and Environment) Act 2001* (the Act) empower the Minister to make regulations that provide for the remission or increase of change of use charges for the variation of leases, or for the consolidation or subdivision of leases, in prescribed circumstances.

Regulations 21 and 32 of the *Land (Planning and Environment) Regulations 1992* (the Regulations) empower the Minister to give written policy directions for determining remissions of the change of use charge, in circumstances prescribed by regulations 20 and 31.

Regulation 20 sets out the prescribed circumstances for lease variations under section 184C of the Act. In order to remit the charge, it must be necessary or desirable to:

- a) promote development of an area; or
- b) change the purposes for which land or buildings may be used; or
- c) promote the construction of housing meeting good design or construction criteria; or
- d) promote the construction of attached houses, apartments or 2 or more detached houses on a single lot; or
- e) promote the construction of housing accessible to, or adaptable for, frail or disabled persons; or
- f) provide land for the exclusive use of community organisations.

Regulation 31 sets out the prescribed circumstances for consolidation or subdivision under section 187C of the Act. In order to remit the charge, it must be necessary or desirable to:

- a) promote development of an area; or
- b) change the purposes for which land may be used.

This disallowable instrument is made under subsections 21 and 32 of the regulations and makes a policy direction for determining remissions of change of use charges in one circumstance.

The instrument provides that the Planning and Land Authority must entirely remit the change of use charge for the type of lease variation or consolidation or subdivision referred to in Schedule 1 of the instrument.

Schedule 1 describes the type of lease variation, consolidation or subdivision to which a full remission of change of use charge applies.

This instrument revokes DI2003-250 and redetermines the prescribed period for lodging an application to vary a lease to which the remission applies in accordance with Schedule 1. The remission shall apply to applications lodged on or before 30 June 2003.

Retrospective application of the policy direction will not result in any person's rights being prejudicially affected, or any liabilities being imposed on any person during the period of retrospectivity.

Schedule 1

Schedule 1 lists only one type of lease variation to which a full remission of change of use charge will apply:

“The variation of a lease, in the City West area, providing for office use to permit the use of the land for ‘residential’ purposes or ‘commercial accommodation’, provided the application to vary the lease was lodged on or before 30 June 2003. The remission applies only to that portion of the added value attributable to a variation of the lease to allow the lessee to use the existing gross floor area of buildings on the land, but that area may include replacement buildings or parts of buildings. ”

The City West area is described by the map in Schedule 1.