

Planning and Development (Land Rent Payout) Policy Direction 2009 (No 1)

Disallowable Instrument DI2009-162

made under the

Planning and Development Act 2007 section 272C(1)

EXPLANATORY STATEMENT

Section 272B(2)(d) of the *Planning and Development Act 2007* provides for rental lessees to 'pay out' their rental commitment on their rental leases for an amount determined by the planning and land authority with reference to any policy direction made by a disallowable instrument in exchange for a lease of nominal rent.

Section 272A(2) states that a lessee may apply to the planning and land authority for a variation of the lease to reduce the rent payable to a nominal rent. Section 272A states that the section applies to a lease that is a land rent lease and a lease that is included in a class of leases prescribed by regulation. Regulation 160 of the *Land and Development Regulation 2008* (the Regulations) prescribes the applicable classes of lease as follows:

- (a) rental leases granted for the full market rental value of the lease;
- (b) concessional leases provided that the lease is not a *recently commenced lease* within the meaning of regulation 180 of the Regulations or a lease formerly granted under section 163 of the *Land (Planning and Environment) Act 1991*.

The instrument sets out the policy direction for determining the amount a lessee must pay if the lessee applies to the planning and land authority to pay out the land rent payable under the lease.

In the case of a land rent lease, the amount to be paid is an amount equal to the unimproved value of the lease or the current market value whichever the lessee specifies. The introduction of an option for the lessee of a land rent lease to specify the unimproved value or current market value guarantees the amount to be paid at the time the application is made but still allows the lessee to choose the method of calculation which is most advantageous to the lessee.

For leases referred to in section 272A(1)(b) of the Act and prescribed by section 160 of the Regulations, the amount to be paid to the Territory is an amount equal to the current market value of the lease.