

**ENVIRONMENTAL PLANNING AND ASSESSMENT
(CONTRIBUTIONS PLANS) AMENDMENT ACT 1991 No. 64**

NEWSOUTHWALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Environmental planning and Assessment Act 1979 No. 203

SCHEDULE 1—AMENDMENTS

**ENVIRONMENTAL PLANNING AND ASSESSMENT
(CONTRIBUTIONS PLANS) AMENDMENT ACT 1991 No. 64**

NEW SOUTH WALES



Act No. 64, 1991

An Act to amend the Environmental Planning and Assessment Act 1979 with respect to conditions of development consent concerning public amenities and public services; and for related purposes. [Assented to 17 December 1991]

Environmental Planning and Assessment (Contributions Plans) Amendment 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Environmental Planning and Assessment (Contributions Plans) Amendment Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Environmental Planning and Assessment Act 1979 No. 203

3. The Environmental Planning and Assessment Act 1979 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 94 (**Payment towards provision or improvement of amenities or services**):

- (a) From section 94 (3), omit “in trust”, insert instead “(and any additional amount earned from its investment)”.
- (b) After section 94 (6), insert:

(7) When granting consent to a development application made on or after the first anniversary of the date of assent to the Environmental Planning and Assessment (Contributions Plans) Amendment Act 1991 or such earlier day as may be fixed by proclamation for the purposes of this subsection, a council may impose a condition referred to in this section only if it is of a kind allowed by, and is determined in accordance with, a contributions plan approved under section 94AB.

(8) A condition of a kind allowed by a contributions plan may be disallowed or amended by the Court on appeal because it is unreasonable, even if it was determined in accordance with the plan.

Environmental Planning and Assessment (Contributions Plans) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(2) Sections 94AA–94AC:

After section 94, insert:

Section 94 conditions imposed by the Minister or Director

94AA. (1) The Minister or the Director, as the consent authority determining a development application, may impose conditions referred to in section 94 if the application relates:

- (a) to land within a growth centre; or
- (b) to other land within a single area

(2) Section 94, as modified by this section, applies to the Minister or the Director determining 'such a development application as consent authority.

(3) When the development application relates to land within a growth centre, section 94 applies as if references in that section to the area were references to the growth centre.

(4) Before imposing any condition referred to in section 94, the Minister or the Director must have regard to any contributions plan approved under section 94AB that applies to the whole or any part of the growth centre or area in which the relevant land is situated.

(5) The Minister or the Director may impose a condition referred to in section 94 even though it is not of a kind allowed by, or not in accordance with, a contributions plan.

(6) Any monetary contribution paid in accordance with a condition referred to in section 94 imposed by the Minister or the Director:

- (a) must be paid by the Minister or Director to the corporation for the growth centre or the council of the area concerned; and
- (b) must (together with any additional amount earned from its investment) be applied within a reasonable time for the purpose for which it was levied.

(7) This section applies to the Minister as consent authority whether or not the Minister is consent authority pursuant to section 101.

SCHEDULE 1—AMENDMENTS—*continued*

(8) In this section, “growth centre” means:

- (a) a growth centre, within the meaning of the Growth Centres (Development Corporations) Act 1974; or
- (b) a designated area, within the meaning of the Albury-Wodonga Development Act 1974.

Contributions plans—making

94AB. (1) A council may prepare and approve a contributions plan for the purpose of imposing conditions referred to in section 94.

(2) One or more contributions plans may be made for all or any part of the council’s area and in relation to one or more public amenities or public services.

(3) The council must not approve a contributions plan that is inconsistent with any direction given to it under section 94A.

(4) A draft contributions plan must be publicly exhibited for a period of not less than 28 days.

(5) Except as provided by this section, the format, structure, subject-matter and procedures for the preparation, public exhibition, approval, amendment and repeal of a contributions plan are to be as prescribed.

(6) It is to be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a contributions plan have been complied with and performed.

Contributions plans—judicial notice, validity etc.

94AC. (1) Judicial notice is to be taken of a contributions plan and of the date on which the plan came into effect.

(2) The validity of any procedure required to be followed in making or approving a contributions plan is not to be questioned in any legal proceeding except those commenced in the Court by any person within 3 months of the date on which the plan came into effect.

Environmental Planning and Assessment (Contributions Plans) Amendment 1991

SCHEDULE 1—AMENDMENTS— *continued*

(3) The amendment or repeal, whether in whole or in part, of a contributions plan does not affect the previous operation of the plan or anything duly done under the plan.

*[Ministers second reading speech made in—
Legislative Assembly on 10 December 1991
Legislative Council on 19 November 1991]*