



New South Wales

Local Government Amendment (Ecologically Sustainable Development) Act 1997 No 94

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Local Government Amendment (Ecologically Sustainable Development) Act 1997 No 94

Act No 94, 1997

An Act to amend the *Local Government Act 1993* to require councils to take into consideration the principles of ecologically sustainable development and to enhance requirements as to state of the environment reporting by councils; and for related purposes. [Assented to 4 November 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Ecologically Sustainable Development) Act 1997*.

2 Commencement

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

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 7 What are the purposes of this Act?

Omit section 7 (e). Insert instead:

- (e) to require councils, councillors and council employees to have regard to the principles of ecologically sustainable development in carrying out their responsibilities.

[2] Section 8 The council's charter

Omit "to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible" and the preceding bullet point.

Insert instead:

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development

[3] Section 89 Matters for consideration

Insert at the end of section 89 (1) (b):

, and

- (c) must take into consideration the principles of ecologically sustainable development.

[4] Section 89 (2)

Omit the subsection. Insert instead:

- (2) If no requirements are prescribed for the purposes of subsection (1) (a), and no criteria are adopted for the purposes of subsection (1) (b), the council in determining an application:

- (a) is to take into consideration, in addition to the principles of ecologically sustainable development, all matters relevant to the application, and
- (b) is to seek to give effect of the applicant's objectives to the extent to which they are compatible with the public interest.

[5] Section 403 Contents of draft management plan with respect to council's work and activities

Omit "activities to protect environmentally sensitive areas and to promote the ecological sustainability of the area undertaken by the council" from section 403 (2) and the preceding bullet point.

Insert instead:

- activities to properly manage, develop, protect, restore, enhance and conserve the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development
- activities in response to, and to address priorities identified in, the council's current comprehensive report as to the state of the environment and any other relevant reports

[6] Section 428 Annual reports

Omit section 428 (2) (c). Insert instead:

- (c) a report as to the state of the environment in the area, and in particular in relation to the following environmental sectors:
 - (i) land,
 - (ii) air,
 - (iii) water,
 - (iv) biodiversity,
 - (v) waste,
 - (vi) noise,
 - (vii) Aboriginal heritage,

(viii) non-Aboriginal heritage,

with particular reference, with regard to each such environmental sector, to:

(ix) management plans relating to the environment,

(x) special council projects relating to the environment,

(xi) the environmental impact of council activities.

[7] Section 428 (2) (i)

Omit the paragraph.

[8] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1:

Local Government Amendment (Ecologically Sustainable Development) Act 1997

[9] Dictionary

Insert in alphabetical order:

principles of ecologically sustainable development means the following statements of principle:

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

- (a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
 - (ii) an assessment of the risk-weighted consequences of various options,
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations,
- (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
- (d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:
- (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

- (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

[Minister's second reading speech made in—
Legislative Assembly on 17 September 1997
Legislative Council on 16 October 1997 p.m.]