



New South Wales

Environmental Planning and Assessment Amendment (Development Contributions) Regulation 2019

under the

Environmental Planning and Assessment Act 1979

[The following enacting formula will be included if this Regulation is made—]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning and Public Spaces

Explanatory note

The objects of this Regulation are—

- (a) to provide for information about amounts received and expended by councils and other planning authorities under planning agreements and contributions plans to be made available to members of the public on a website rather than in the office of the planning authority, and
- (b) to clarify the information that is to be made available, and
- (c) to require planning authorities to have regard to any relevant practice note prepared by the Secretary of the Department of Planning, Industry and Environment when preparing an explanatory note for a planning agreement, and
- (d) to remove a provision that permitted a higher levy under section 7.12 of the *Environmental Planning and Assessment Act 1979* for land in Gosford.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 7.10, 7.12, 7.18 and 10.13 (the general regulation-making power).

Environmental Planning and Assessment Amendment (Development Contributions) Regulation 2019

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Development Contributions) Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 25E Explanatory note

Omit clause 25E(2)–(4). Insert instead—

- (2) In preparing the explanatory note, the planning authority is to have regard to any relevant practice note prepared by the Planning Secretary under clause 25B(2).

[2] Clauses 25F(2) and 25G(2)

Insert “, a description of the development (if relevant)” after “parties” wherever occurring.

[3] Clause 25F Councils to facilitate public inspection of relevant planning agreements

Omit “(free of charge) during the ordinary office hours” from clause 25F(3).

Insert instead “on the website”.

[4] Clause 25F(3)(d)

Insert after clause 25F(3)(c)—

- (d) annual statements covering a period for the previous financial year that show—
- (i) the monetary amounts received by the council under planning agreements and what that money has been expended on, and
 - (ii) the works in kind delivered under planning agreements that apply to the area of the council (including the location and value of those works and any assets provided to, or held by, the council in relation to those works), and
 - (iii) the land delivered under planning agreements that apply to the area of the council (including the location and value of the land).

[5] Clause 25F(3A)

Insert after clause 25F(3)—

- (3A) A council may, with the agreement of the Planning Secretary, make the information under subclause (3) available on the NSW planning portal rather than the website of the council.

[6] Clause 25G Planning Secretary to facilitate public inspection of relevant planning agreements

Omit “(free of charge) during the ordinary office hours of the Department” from clause 25G(3).

Insert instead “on the NSW planning portal”.

[7] Clause 25G(3)(d)

Insert after clause 25G(3)(c)—

- (d) financial reports covering a period for the previous financial year that show—
- (i) the monetary amounts received by the Minister under planning agreements and what that money has been expended on, and
 - (ii) the works in kind delivered under planning agreements to which the Minister is a party (including the location and value of those

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works and any assets provided to, or held by, the Minister in relation to those works), and

- (iii) the land delivered under planning agreements to which the Minister is a party (including the location and value of the land).

[8] Clause 25H

Omit the clause. Insert instead—

25H Other planning authorities to facilitate public inspection of relevant planning agreements

- (1) A planning authority must keep a planning agreement register.
- (2) The planning authority must record in the register a short description of any planning agreement (including any amendment) to which it is a party, including the date the agreement was entered into, the names of the parties, a description of the development (if relevant) and the land to which it applies.
- (3) A planning authority must make the following available for public inspection on a website of the planning authority—
 - (a) the planning agreement register kept by the planning authority,
 - (b) copies of all planning agreements (including amendments) to which it is a party,
 - (c) copies of the explanatory notes relating to those agreements or amendments,
 - (d) financial reports covering a period for the previous financial year that show—
 - (i) the monetary amounts received by the planning authority under planning agreements and what that money has been expended on, and
 - (ii) the works in kind delivered under planning agreements to which the planning authority is a party (including the location and value of those works and any assets provided to, or held by, the planning authority in relation to those works), and
 - (iii) the land delivered under planning agreements to which the planning authority is a party (including the location and value of the land).
- (4) A planning authority may, with the agreement of the Planning Secretary, make the information under subclause (3) available on the NSW planning portal rather than the website of the planning authority.
- (5) In this clause—
planning authority does not include a council or the Minister.

[9] Clause 25K Section 7.12 levy—maximum percentage

Omit “*Wollongong City Centre Local Environmental Plan 2007*” from the Table to clause 25K(1)(b).

Insert instead “*Wollongong Local Environmental Plan 2009*”.

[10] Clause 25K(1)(b), Table

Omit the matter relating to **Land identified on the Land Application Map under the *Gosford City Centre Local Environmental Plan 2007***.

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[11] Clause 25K(1A)

Insert after clause 25K(1)—

- (1A) For the avoidance of doubt, the Table to subclause (1)(b) continues to apply to the land specified in that Table even if the local environmental plan used to describe the land has been repealed.

[12] Clause 30A

Insert after clause 30—

30A Division does not apply to certain subsequent contributions plan

This Division does not apply to a draft contributions plan if—

- (a) the plan is a subsequent contributions plan that is to amend a contributions plan, and
- (b) the Minister has notified the council in writing that this Division is not to apply to the draft contributions plan.

[13] Clause 34 Councils must maintain contributions register

Insert “(including the development application to which the development consent relates, the relevant consent authority and the date on which the development consent was granted)” after “imposed” in clause 34(2)(a).

[14] Clause 34(2)(b)

Insert “(including the purpose for which the contribution or levy was received, the amount of each monetary contribution or levy, and the value and location of any land dedicated or material public benefit provided)” after “service”.

[15] Clause 34(2)(c)

Insert “(including the name of the contributions plan)” after “imposed”.

[16] Clause 35 Accounting for contributions and levies

Omit clause 35(2). Insert instead—

- (1A) The accounting records for a contributions plan must also identify all contributions received by the council under the plan and for each contribution, whether the contribution was in the form of—
- (a) a monetary contribution, or
- (b) the dedication of land, or
- (c) the provision of a material public benefit (other than the dedication of land or the payment of a monetary contribution), or
- (d) a combination of the forms set out in paragraph (a)–(c).
- (2) The accounting records for a contributions plan must show all section 7.11 contributions or section 7.12 levies received under the plan, by reference to the various kinds of public amenities or services for which they have been received.

[17] Clause 35(3)(c)

Omit the paragraph. Insert instead—

- (c) how section 7.11 contributions or section 7.12 levies have been used or expended under the contributions plan, including the following—

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- (i) details of the projects (and the specific components of those projects) to which the contributions and levies have been used or expended,
- (ii) the amount expended on each of those components,
- (iii) for each of those components the percentage of the cost of the component that has been funded by the contributions or levies,
- (iv) how any land dedicated or material public benefit provided is being used,
- (v) whether money expended has been temporarily borrowed from money to be expended under another contributions plan,

[18] Clause 36 Councils must prepare annual statements

Omit “appear in the notes to its annual financial report” from clause 36(2).

Insert instead “be included in its accounting records or notes to its annual financial report”.

[19] Clause 37 Councils must make certain records available for public inspection

Insert after clause 37(1)(a)—

- (a1) the current contribution rates under each of those plans,

[20] Clause 37(2) and (2A)

Omit clause 37(2). Insert instead—

- (2) The documents must be made available for public inspection on the website of the council.
- (2A) A council may, with the agreement of the Planning Secretary, make the documents available on the NSW planning portal rather than the website of the council.