

# Environmental Planning and Assessment (Planning Agreements) Direction 2019

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 7.9 of the *Environmental Planning and Assessment Act 1979*, give the following Direction.



The Hon. Anthony Roberts MP  
Minister for Planning

Dated: 28/2/19

## 1 Name of Direction

This Direction is the *Environmental Planning and Assessment (Planning Agreements) Direction 2019*.

## 2 When Direction takes effect

This Direction takes effect on the date of its publication on the NSW Planning Portal.

## 3 Planning authorities to which Direction is given

This Direction is given to all local councils as planning authorities within the meaning of Division 7.1 of the Act.

## 4 Definitions

In this Direction:

*affordable housing condition* means a condition that may be imposed on development consent, under section 7.32 of the Act, requiring the dedication of land or a monetary contribution for the purpose of providing affordable housing.

*affordable housing contribution scheme* means a scheme referred to in section 7.32 (3)(b) of the Act set out in or adopted in a local environmental plan.

*the Act* means the *Environmental Planning and Assessment Act 1979*.

## 5 Matters to be considered by councils

- (1) This clause applies to a council if it is negotiating the terms of a proposed planning agreement that includes provision for affordable housing in connection with a development application or proposed development application.

- (2) The council is to consider:
- (a) whether the consent authority for the development application is authorised by a local environmental plan to impose an affordable housing condition on a grant of development consent to the application,
  - (b) whether it is proposed that the planning agreement provide for affordable housing (including by making a monetary contribution for that purpose) instead of local infrastructure contributions that may be imposed under section 7.11 or section 7.12 of the Act,
  - (c) whether the development application includes, or will include, development for the purpose of affordable housing,
  - (d) whether affordable housing (such as a hostel, boarding house or low-rental residential building) on the land subject to the development application will, or has been, demolished,
  - (e) the terms of any affordable housing contribution scheme for dedications or contributions set out in or adopted by a local environmental plan, and
  - (f) having regard to the above matters, whether it is reasonable for the planning agreement to include a contribution of the value proposed by the council for the purpose of affordable housing.
- (3) Before entering into a planning agreement in connection with the provision of affordable housing, a council must prepare and publish, or otherwise make publicly available, a policy setting out the circumstances to which they may seek to negotiate a planning agreement where the consent authority for development in a local government area is authorised to impose an affordable housing condition.

## **6 Transitional provision**

The Direction does not affect the entry into a planning agreement by a council where negotiations in respect of that planning agreement have commenced before this Direction takes effect.

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