

Planning and Environment (Development Contributions) Act 1995

No. 50 of 1995

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Victoria

No. 50 of 1995

Planning and Environment (Development Contributions) Act 1995

[Assented to 14 June 1995]

The Parliament of Victoria enacts as follows:

1. *Purpose*

The main purpose of this Act is to amend the **Planning and Environment Act 1987** in relation to development contributions.

2. *Commencement*

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (4), sections 3 and 5 of this Act come into operation on a day to be proclaimed.

- (3) Section 4 comes into operation on the day which is 18 months after the day on which sections 3 and 5 come into operation.
- (4) If sections 3 and 5 do not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, they come into operation on the first day after the end of that period.

3. *New Part 3B inserted*

Before Part 4 of the **Planning and Environment Act 1987** insert—

‘PART 3B—DEVELOPMENT CONTRIBUTIONS

46H. *Definitions*

In this Part—

“**approved development contributions plan**” means a development contributions plan which forms part of an approved planning scheme;

“**dwelling**” means a building that is used, or is intended, adapted or designed for use, as a separate residence, (including kitchen, bathroom and sanitary facilities) for an occupier who has a right to the exclusive use of it but does not include—

- (a) a building that is attached to a shop, office, warehouse or factory and is used, or is intended, adapted or designed for use, as a residence for an occupier or caretaker of the shop, office, warehouse or factory; or

- (b) any part of a motel, residential club or residential hotel or residential part of licensed premises under the **Liquor Control Act 1987**;

“relevant municipal council” in relation to land means the municipal council in the municipal district of which the land is situated.

46I. *Development contributions plan*

Without limiting section 6, a planning scheme may include one or more development contributions plans for the purpose of levying contributions for the provision of works, services and facilities.

46J. *What can a plan provide for?*

A development contributions plan may provide for either or both of the following—

- (a) the imposition of a development infrastructure levy;
- (b) the imposition of a community infrastructure levy—

in relation to the development of land in the area to which the plan applies.

46K. *Contents of plan*

- (1) A development contributions plan must—
 - (a) specify the area to which it applies; and
 - (b) set out the works, services and facilities to be funded through the plan, including the staging of the provision of those works, services or facilities; and

- (c) relate the need for the works, services and facilities to the proposed development of land in the area; and
 - (d) specify the estimated costs of each of the works, services and facilities; and
 - (e) specify the proportion of the total estimated cost of the works services and facilities which is to be funded by a development infrastructure levy or community infrastructure levy or both; and
 - (f) specify the land in the area and the types of development in respect of which a levy is payable and the method for determining the amount of levy payable in respect of any development of land; and
 - (g) provide for the procedures for the collection of a development infrastructure levy in respect of any development for which a permit under this Act is not required.
- (2) A development contributions plan may—
- (a) exempt certain land or certain types of development from payment of a development infrastructure levy or community infrastructure levy or both; and
 - (b) provide for different rates or amounts of levy to be payable in respect of different types of development of land or different parts of the area.

46L. *Community infrastructure levy not to exceed maximum*

- (1) An approved development contributions plan must not in respect of a development of land require payment of an amount of

community infrastructure levy which is greater than—

- (a) in the case of the construction of a dwelling, \$450 for each dwelling to be constructed; and
 - (b) in any other case, 0.25 cents in the dollar of the cost of the building work for the development.
- (2) The Governor in Council may from time to time by Order published in the Government Gazette vary the maximum amount which may be collected under sub-section (1).

46M. Directions

- (1) The Minister may issue written directions to planning authorities in relation to the preparation and content of development contributions plans.
- (2) Without limiting sub-section (1), the Minister's directions may—
 - (a) set out the works, services or facilities for which a levy may or may not be imposed under a development contributions plan;
 - (b) set out the works, services and facilities which may or may not be funded from a development infrastructure levy;
 - (c) set out the works, services and facilities which may or may not be funded from a community infrastructure levy;
 - (d) specify the means by which or the factors in relation to which the estimated cost of the works, services or facilities may or may not be calculated;

- (e) specify the means by which or the factors in relation to which the estimated total amount of a levy may or may not be calculated or determined;
 - (f) specify the means by which or the factors in relation to which the amount of levy payable in respect of any development of land may or may not be calculated or determined;
 - (g) specify requirements for the staging and timing of the provision of works, services and facilities funded by a development contributions plan;
 - (h) specify any other information to be included in a development contributions plan.
- (3) The Minister must cause notice to be published in the Government Gazette of all directions issued under this section.

46N. Collection of development infrastructure levy

- (1) Without limiting section 62, if—

- (a) an approved development contributions plan provides that a development infrastructure levy is payable in respect of the development of any land; and
- (b) an application is made under this Act for a permit to carry out that development on that land—

the responsible authority must include a condition in the permit that the applicant—

- (c) pay the amount of the levy to the relevant municipal council within a specified time or within a time

specified by the municipal council;
or

- (d) enter into an agreement with the relevant municipal council to pay the amount of the levy within a time specified in the agreement.

(2) If—

- (a) an approved development contributions plan provides that a development infrastructure levy is payable in respect of the development of any land; and

- (b) a permit is not required under this Act for the development—

a person who proposes to carry out that development of the land must—

- (c) pay the amount of the levy to the relevant municipal council within a time and in a manner specified by the municipal council in accordance with the approved development contributions plan; or

- (d) enter into an agreement with the relevant municipal council to pay the amount of the levy within a time specified in the agreement.

460. Collection of community infrastructure levy

(1) If—

- (a) an approved development contributions plan provides that a community infrastructure levy is payable in respect of the development of any land; and

- (b) an application is made under the **Building Act 1993** for a building

permit to carry out building work in respect of that development—

the applicant must, before the building permit is issued—

- (c) pay the amount of the levy to the relevant municipal council; or
- (d) enter into an agreement with the relevant municipal council to pay the amount of the levy within a time specified in the agreement.

(2) If—

- (a) an approved development contributions plan provides that a community infrastructure levy is payable in respect of the development of any land; and
- (b) a building permit under the **Building Act 1993** is not required for the building work for that development—

a person who proposes to carry out that development of the land must, before commencing the development—

- (c) pay the amount of the levy to the relevant municipal council; or
- (d) enter into an agreement with the relevant municipal council to pay the amount of the levy within a time specified in the agreement.

46P. Provisions applying to collection of levies

- (1) The relevant municipal council may require the payment of an amount of levy referred to in section 46N or 46O to be secured to its satisfaction.
- (2) The relevant municipal council may accept the provision of land, works,

services or facilities by the applicant in part or full satisfaction of the amount of levy payable.

- (3) Sub-section (2) applies to land, works, services or facilities provided before or after the application for the permit was made or the development is carried out.
- (4) Sub-section (2) does not apply to land provided in accordance with any requirement of the **Subdivision Act 1988** or any corresponding previous enactment.

46Q. Responsibilities of municipal councils

- (1) Subject to this section, a municipal council must—
 - (a) in accordance with the **Local Government Act 1989**, keep proper accounts of any amount of levy paid to it under this Part; and
 - (b) apply that amount only for a purpose relating to the provision of the works, services and facilities in respect of which the levy was imposed and in accordance with the approved development contributions plan.
- (2) A municipal council to which an amount of levy is paid under this Part may forward any part of the levy to a Minister, referral authority or public authority, if any works, services and facilities for which the levy was imposed are to be carried out by or on behalf of that Minister or authority.
- (3) A municipal council may refund any amount of levy paid to it under this Part in respect of a development if it is satisfied that the development is not to proceed.

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(4) If—

- (a) an amount of levy has been paid to a municipal council under this Part for the provision of works, services or facilities in an area; and
- (b) that amount has not been expended within the period required by the approved development contributions plan—

the relevant municipal council must within 6 months after the end of that period—

- (c) with the consent of the Minister and in the manner approved by the Minister, pay that amount to the current owners of land in the area; or
- (d) in accordance with Part 3, submit to the Minister an amendment to the approved development contributions plan to provide for the expenditure of that amount; or
- (e) with the consent of the Minister and in the manner approved by the Minister, expend that amount for the provision of other works, facilities or services in that area.

- (5) A municipal council may recover any amount of levy payable to it under this Part as a debt due to the council in any court of competent jurisdiction.’.

4. Conditions on permits

- (1) Section 62 (2) (h) of the **Planning and Environment Act 1987** is repealed.

(2) After section 62 (4) of the **Planning and Environment Act 1987** insert—

“(5) In deciding to grant a permit, the responsible authority may—

(a) include a condition required to implement an approved development contributions plan; or

(b) include a condition that specified works which the responsible authority considers necessary as a result of the grant of the permit—

(i) be provided on or to the land; and

(ii) be paid for wholly by the applicant or partly by the applicant where the remaining cost is to be met by any Minister, referral authority, public authority or council providing the works.

(6) The responsible authority must not include in a permit a condition requiring a person to pay an amount for or provide services or facilities other than—

(a) a condition required to implement an approved development contributions plan; or

(b) a condition requiring services or facilities to be provided in accordance with an agreement under section 173.”.

5. Building permits

After section 24 (4) of the **Building Act 1993** insert—

“(5) If an amount of community infrastructure levy is payable under Part 3B of the **Planning and Environment Act 1987** in respect of a development for which building work is required, the relevant building surveyor must

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not issue a building permit in respect of that building work unless he or she is satisfied that—

- (a) that amount of levy has been paid to the relevant municipal council under that Part; or
 - (b) an agreement to pay that amount of levy has been entered into under that Part.”.
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NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 4 May 1995

Legislative Council: 25 May 1995

2. The long title for the Bill for this Act was “A Bill to amend the **Planning and Environment Act 1987** in relation to development contributions and for other purposes.”.
3. Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)