

NORTHERN TERRITORY OF AUSTRALIA

PLANNING AMENDMENT ACT 1989

No. 77 of 1989

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NORTHERN TERRITORY OF AUSTRALIA

No. 77 of 1989

AN ACT

to amend the *Planning Act*

[Assented to 12 December 1989]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Planning Amendment Act 1989*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Planning Act* is in this Act referred to as the Principal Act.

4. AUTHORITY MAY ENFORCE PLANNING INSTRUMENTS

Section 64 of the Principal Act is amended by adding at the end the following:

"(2) Where a monetary contribution is to be paid to a municipality under a condition subject to which a development application was granted, the municipality may take proceedings to enforce or secure the observance of the condition in its own name."

Planning Amendment

5. NEW SECTION

The Principal Act is amended by inserting after section 65 the following:

"65A. PAYMENTS TOWARDS PROVISION OF CAR PARKS

"(1) Subject to subsection (2), where a consent authority is satisfied that a planning instrument relating to a use or development or proposed use or development of land requires the provision of car parks or parking spaces, the consent authority may consent to an application for that use or development or proposed use or development subject to a condition requiring the payment of a monetary contribution to the municipality within the jurisdiction of which the relevant land is situated in lieu of the provision of the car parks or parking spaces or any of them.

"(2) A condition referred to in subsection (1) shall be imposed only -

(a) where a planning instrument requires the provision of car parks or parking spaces as a consequence of carrying out the use or development or proposed use or development of the land in accordance with that instrument and contains a provision that a contribution under subsection (1) may be required as a condition to consent being given to that development; and

(b) where the contribution is in accordance with this section and with the Regulations (if any).

"(3) A municipality shall hold any monetary contribution under this section in a trust account within the meaning of the *Local Government Act* for the purpose for which the payment was required, and shall apply the money towards providing, within a reasonable time, car parks or parking spaces in a policy area (within the meaning of the Regulations) in the municipality that has identifiable parking problems in such a manner as will, as far as practicable, mitigate or solve those problems.

"(4) Where a consent authority proposes to impose a condition under subsection (1) relating to a monetary contribution in lieu of car parks or parking spaces or any of them, the consent authority shall, with the agreement of the council of the municipality, take into account any land that the applicant has transferred, or is willing and able to transfer, free of cost to the municipality within the area of its jurisdiction or any money or property previously paid or given to the municipality other than as a condition to consent to the current application or for any approval, consent, or permission under this Act at any time, being money or property in the nature of a benefaction to the municipality.

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"(5) Where -

- (a) a condition imposed under subsection (1) has been complied with; and
- (b) a municipality would, but for this subsection, be entitled under any other Act to require, in relation to or in connection with the development to which the condition relates a payment of money in respect of the provision of public amenities or public services or both (including car parks or parking spaces),

then, notwithstanding that other Act, compliance with the condition referred to in paragraph (a) shall be deemed to have satisfied the requirement referred to in paragraph (b) to the extent of the value (determined, if the by-laws of the municipality so provide, in accordance with the by-laws) of the amount of money paid in compliance with the condition.

"(6) Without limiting the generality of section 165, regulations may be made under that section -

- (a) authorizing the council of a municipality, by resolution, to determine the methods of calculating the amount of a contribution referred to in subsection (1) having regard to the land value of a car park or parking space and the cost of construction of a ground level car park or parking space on that land and as may best take into account different circumstances in different policy areas of the municipality specified pursuant to paragraph (c);
 - (b) specifying the time or times at which monetary contributions under this section shall be paid, providing for discounts on contributions paid in advance, providing for interest at specified rates to be payable on contributions paid late, and providing for the remission of all or part of a contribution or any interest by resolution of the council of a municipality in the special circumstances of a case; and
 - (c) authorizing the council of a municipality, by resolution, to specify areas in a municipality that have identifiable parking problems (such areas to be known as policy areas) in respect of which a contribution referred to in subsection (1) may be required."
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