

# Planning and Environment Amendment (General) Bill

## Exposure Draft

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Victoria

# **Planning and Environment Amendment (General) Bill**

## **Exposure Draft**

### **PART 1—PRELIMINARY**

#### **1 Purpose**

The main purpose of this Act is to amend the **Planning and Environment Act 1987**—

- (a) to provide for State significant developments;
- (b) to allow authorised persons to prepare amendments to planning schemes;
- (c) to streamline processes under that Act;
- (d) to improve generally the operation of that Act.

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Part 1—Preliminary

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**2 Commencement**

- (1) This Act comes into operation on a day or days to be proclaimed.
  - (2) If a provision of this Act does not come into operation before 1 July 2011 it comes into operation on that day.
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**PART 2—STATE SIGNIFICANT DEVELOPMENT**

**3 Amendment of heading to Part 9A**

In the heading to Part 9A of the **Planning and Environment Act 1987** for "**PROJECTS**" substitute "**DEVELOPMENT**".

See:  
Act No.  
45/1987.  
Reprint No. 8  
as at  
17 August  
2005  
and  
amending  
Act Nos  
13/2005,  
32/2006,  
33/2006,  
80/2006,  
81/2008,  
47/2007 and  
27/2009.  
LawToday:  
www.  
legislation.  
vic.gov.au

**4 New heading inserted in Part 9A**

After the heading to Part 9A of the **Planning and Environment Act 1987** insert—

**"Division 1—Projects of State and regional significance"**.

**5 Amendments to Part 9A**

- (1) In sections 201E, 201G, 201J(1) for "this Part" (wherever occurring) substitute "this Division".
- (2) In section 201I(2)(a) before "Part 9A" insert "Division 1 of".



**6 New Division 2 inserted in Part 9A**

At the end of Part 9A of the **Planning and Environment Act 1987** insert—

**"Division 2—Development of State Significance**

**Subdivision 1—Introduction**

**201QA Definitions**

In this Division—

*proponent* means the person or body proposing to carry out a State significant development;

*State significant development* means any use or development of land that is declared, or in a class declared, under section 201QB to be State significant development.

**201QB What is State significant development?**

- (1) The Minister may, by notice published in the Government Gazette, declare a proposed use or development or class of proposed use or development to be State significant development.
- (2) The notice may specify the land to which the declaration relates and may do so by reference to a map or plan or planning scheme.

**201QC Effect of declaration on development**

- (1) A State significant development cannot commence until—
  - (a) it is approved under Subdivision 2; and

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Part 2—State Significant Development

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- (b) either—
  - (i) the relevant planning scheme is amended to permit the development without further approval under this Act; or
  - (ii) a permit is granted under Subdivision 3 for the development.
- (2) Nothing in subsection (1) prevents the following in relation to land that is to be used or developed (or both) for a State significant development—
  - (a) the continued use of the land for a purpose for which it could be lawfully used before the publication of the notice under section 201QB; or
  - (b) the use or development of the land for a purpose for which a permit has been granted and which has not expired or been cancelled before the publication of the notice under section 201QB; or
  - (c) the use or development of land for a purpose for which a permit is not required under the planning scheme and which is not prohibited by that scheme; or
  - (d) the use or development of the land by a Minister, government department, public authority or municipal council, if the planning scheme is not binding on the Minister or that body in relation to that use or development.

**201QD Notice of declaration**

The Minister must give notice of a declaration of a State significant development to any Minister, public authority, municipal council or person who or which is prescribed by the regulations.

**201QE Directions of Minister**

The Minister may issue directions in relation to any matter relating to the operation of this Division.

**201QF Exemption**

The Minister may by notice in the Government Gazette exempt part of a State significant development from all or any of the requirements of Subdivision 2.

**Subdivision 2—Application for approval of State significant development**

**201QG Application for approval of State significant development**

- (1) A proponent may apply to the Minister for approval of a State significant development.
- (2) The application must—
  - (a) be made in accordance with the regulations; and
  - (b) be accompanied by the prescribed application fee.

**201QH Amendment of application**

- (1) The proponent may ask the Minister to amend an application at any time before the Minister makes a decision on the application.
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- (2) With the agreement of the proponent, the Minister may, before notice is given under section 201QL, make any amendment to the application that the Minister considers necessary.

**201QI Preliminary consideration of application by Secretary**

- (1) Notice of an application must not be given under section 201QL unless the Secretary is satisfied that the application and any information provided with it are in an appropriate form and address the matters required by the regulations and the Minister's directions.
- (2) In determining whether an application is satisfactory, the Secretary may require the proponent to consult with a public authority or any other person.
- (3) The Secretary may, in writing, ask the proponent to provide specified information or documents in respect of the application.

**201QJ Secretary to advise proponent whether satisfied with application**

The Secretary must advise the proponent in writing as to whether or not the Secretary is satisfied as to the matters in section 201QI(1).

**201QK Minister may determine who is to consult**

Unless the Minister requires the proponent to give notice of an application for a State significant development and carry out consultation, the Secretary must give the notice and carry out the consultation.

**201QL Notice of application**

- (1) The notice of an application must—
  - (a) be given in a form specified by the Minister; and
  - (b) be given to the persons and bodies specified by the Minister; and
  - (c) be published in the Government Gazette and on the Department's Internet site; and
  - (d) specify a date by which submissions can be made to the Minister in respect of the application (which must be not less than 14 days after the notice is published in the Government Gazette).
- (2) The Minister must make a copy of an application, together with any information and documents provided with the application, available at the offices of the Department for any person to inspect during office hours free of charge until the Minister makes a decision on the application.

**201QM Consultation**

Consultation on an application must be carried out—

- (a) in accordance with the Minister's directions and any requirement of the Secretary under section 201QI; and
- (b) with the persons and bodies specified by the Minister.

**201QN Submissions**

- (1) Any person may make a submission to the Minister about an application.
- (2) The Minister must consider all submissions received on or before the closing date for submissions and may consider a late submission.
- (3) The Minister must make a copy of each submission to be considered by the Minister available on the Department's Internet site in accordance with the regulations until the Minister makes a decision on the application.
- (4) The Minister may ask the proponent to prepare and submit a report that responds to the issues raised in the submissions.

**201QO Referral to panel**

- (1) After the closing date for submissions, the Minister must refer the application and the proponent's report (if any) to a panel appointed under section 201QP.
- (2) The Minister—
  - (a) must also refer to the panel any submissions made on the application on or before the closing date for submissions; and
  - (b) may refer to the panel any late submission.

**201QP Appointment of panel**

- (1) The Minister must appoint a panel to consider an application.
  - (2) Part 8 (except sections 153, 156(2B) to (4) and 166) applies to a panel appointed under this section as if any reference in those sections—
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- (a) to a panel were a reference to a panel appointed under this section; and
  - (b) to a relevant planning authority were a reference to the Secretary.
- (3) The Minister may ask the proponent to contribute an amount specified by the Minister to the costs of the panel.

**201QQ Procedure of panel**

- (1) The panel must consider—
- (a) any application referred to it; and
  - (b) any submission made in respect of the application that is referred to it; and
  - (c) the proponent's report (if any); and
  - (d) any other matter the Minister specifies.
- (2) The panel—
- (a) must give the proponent and any person who made a submission referred to it a reasonable opportunity to be heard; and
  - (b) may give any other person affected a reasonable opportunity to be heard.

**201QR Report by panel**

- (1) The panel must report its findings to the Minister.
- (2) In its report, the panel may make any recommendations it thinks fit.

**201QS Amendment of application after notice is given**

- (1) The proponent may ask the Minister to amend an application at any time after notice is given under section 201QL before the Minister makes a decision on the application.
-

- (2) If the proponent asks the Minister to amend an application before the Minister has referred the application to a panel under section 201QO—
  - (a) the Minister must determine what additional notice (if any) of the amended application is required; and
  - (b) sections 201QK to 201QR apply to the amended application.
- (3) If the proponent asks the Minister to amend an application after the Minister has referred the application to a panel under section 201QO, the Minister may—
  - (a) determine what additional notice of the amended application (if any) is required and the form of that notice; and
  - (b) refer the amended application to the panel together with any submissions received on the amended application.

**201QT Decision of Minister**

- (1) Before deciding whether or not to approve a State significant development or part of that development, the Minister must consider—
    - (a) the objectives of planning in Victoria; and
    - (b) the Victoria Planning Provisions and any relevant planning scheme; and
    - (c) any significant effects which the Minister considers the State significant development may have on the environment or which the Minister considers the environment may have on the State significant development; and
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- (d) any significant social and economic effects of the State significant development; and
  - (e) the report of the panel.
- (2) After complying with subsection (1), the Minister may—
- (a) advise the proponent in writing that the Minister has decided to approve the State significant development or any part of it, with or without changes, by doing either or both of the following—
    - (i) amending the planning scheme under Subdivision 3 to permit the State significant development;
    - (ii) granting a permit under Subdivision 3 for a purpose related to the State significant development; or
  - (b) advise the proponent in writing that the Minister has decided not to approve the State significant development or any part of it on any grounds the Minister thinks fit.
- (3) The Minister must publish notice of a decision under this section on the Department's Internet site.

**Subdivision 3—Approval of State significant development**

**201QU Amendment of planning scheme for State significant development**

- (1) This section applies if the Minister has decided under section 201QT to amend the relevant planning scheme—
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- (a) to provide that a permit may be granted for a purpose related to a State significant development; or
  - (b) to provide that a permit is not required for a State significant development.
- (2) The Minister may prepare and approve an amendment to the relevant planning scheme to give effect to that decision.
- (3) Sections 12(2) and 12(3) do not apply to the preparation and approval of an amendment under subsection (2).
- (4) Part 3 (except Divisions 1 and 2 and sections 39(1) to 39(5)) applies to the preparation and approval of an amendment under subsection (2).

**201QV Grant of permit for State significant development**

- (1) This section applies if the Minister has decided under section 201QT—
  - (a) to grant a permit for a purpose related to a State significant development; or
  - (b) to amend the relevant planning scheme to provide that a permit may be granted for a purpose related to a State significant development.
- (2) The Minister may grant the permit referred to in subsection (1)(a).
- (3) The Minister may grant the permit referred to in subsection (1)(b) at the same time as the approval of the amendment to the planning scheme under Division 3 of Part 3.

- (4) A permit granted under subsection (3) is deemed to be cancelled if the amendment to which the permit applies is revoked under section 38.
- (5) Sections 60(2), (4) and (5) apply to the consideration of a decision to grant a permit under this section as if any reference to the responsible authority were a reference to the Minister.
- (6) Sections 62(2) to (6) apply to a permit granted under this section by the Minister as if a reference to the responsible authority in sections 62(2) (where first occurring), 62(4), 62(5) and 62(6) were a reference to the Minister.
- (7) If the Minister grants a permit under this section, the Minister must issue the permit to the proponent.

**201QW Notice of decision to grant permit**

On the grant of the permit under section 201QV, the Minister must—

- (a) give a copy of the permit to the responsible authority; and
- (b) publish a copy of the permit on the Department's Internet site; and
- (c) make a copy of the permit available at the offices of the Department for inspection by any person during office hours free of charge.

**201QX Effect of issue of permit**

Once a permit is issued under section 201QV, the responsible authority under the planning scheme becomes the responsible authority for the administration and enforcement of this Act and the relevant

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planning scheme in respect of the permit (whether or not the permit is amended) except that the Minister remains the responsible authority in respect of—

- (a) any matters which the permit specifies to be done by, approved by or done to the satisfaction of the Minister; and
- (b) any extension of time under section 69 in relation to the permit; and
- (c) the correction of the permit under section 71(1); and
- (d) the amendment of the permit under this Subdivision.

**201QY Application for amendment of permit**

- (1) A person who is entitled to use or develop land in accordance with a permit issued under this Subdivision may apply to the Minister for an amendment to the permit.
  - (2) Section 52 applies to an application under this section as if it were an application for a permit.
  - (3) A notice under section 52 in relation to an application under this section must specify a date by which submissions can be made to the Minister in respect of the application.
  - (4) Subdivision 2 (except sections 201QK, 201QL, 201QM and 201QT) applies to an application under this section as if it were an application under that Subdivision.
  - (5) Section 201QO(1) applies as if it provided that after the closing date for submissions under subsection (3) on an application for an amendment to a permit, the Minister may refer the submissions made under section
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201QN and the proponent's report (if any) to a panel appointed under section 201QP.

- (6) The Minister is not required—
- (a) to refer submissions to a panel if no objections have been received in respect of the application; or
  - (b) to refer objections or submissions to a panel if no notice of the application is required to be given under section 52(1) or the planning scheme.

**201QZ Decision on amendment**

- (1) Before deciding to amend a permit under this section, the Minister must—
- (a) consider the objectives of planning in Victoria; and
  - (b) have regard to the Victoria Planning Provisions and any relevant planning scheme; and
  - (c) take into account any significant effects which the Minister considers the State significant development may have on the environment or which the Minister considers the environment may have on the State significant development; and
  - (d) take into account any significant social and economic effects of the State significant development; and
  - (e) consider the report of the panel (if any).
- (2) Sections 60(2), (4) and (5) apply to the consideration of a decision to amend a permit under this section as if any reference to the responsible authority were a reference to the Minister.
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- (3) After complying with subsections (1) and (2), the Minister may—
  - (a) amend the permit; or
  - (b) amend the permit subject to conditions; or
  - (c) refuse to amend the permit on any ground he or she thinks fit.
- (4) Sections 62(2) to (6) apply to an amendment to a permit under this section by the Minister as if a reference to the responsible authority in sections 62(2) (where first occurring), 62(4), 62(5) and 62(6) were a reference to the Minister.

**201QZA Notice of decisions**

- (1) The Minister must give notice of—
  - (a) the decision under section 201QZ to the applicant; and
  - (b) a correction of the permit under section 71 or the amendment of the permit under section 201QZ to the responsible authority; and
  - (c) the amendment of the permit under section 201QZ to any person who made a submission in respect of the amendment.
- (2) A notice under subsection (1)(c) may be given by notice published in a newspaper circulating generally in the area to which the relevant planning scheme applies.

**201QZB Register kept by responsible authority**

The responsible authority must include in the register kept by that responsible authority under section 49 details of—

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- (a) any permit granted under this Division of which the responsible authority is given a copy under section 201QW; and
- (b) any correction or amendment of a permit of which the responsible authority is notified under section 201QZA.

**201QZC Provisions of Act not to apply**

Divisions 2 and 3 of Part 4 and section 149A do not apply in relation to—

- (a) a declaration made by the Minister under this Division; or
- (b) an application made to the Minister under this Division; or
- (c) a permit issued under this Division; or
- (d) an amendment to a permit issued under this Division.

**201QZD Register**

- (1) The Secretary must keep a register containing the prescribed information in respect of—
    - (a) all declarations made under this Division;
    - (b) all applications to the Minister for approval under this Division;
    - (c) all decisions by the Minister in respect of applications under this Division;
    - (d) all permits granted or issued under this Division;
    - (e) all corrections and amendments of permits under this Division.
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Part 2—State Significant Development

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- (2) The Secretary must make the register available during office hours for any person to inspect free of charge."
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**PART 3—AUTHORISATION OF PERSONS TO PREPARE  
PLANNING SCHEME AMENDMENTS**

**7 Definitions**

In section 3(1) of the **Planning and Environment Act 1987** insert the following definition—

*"authorised person* in relation to an amendment to a planning scheme, means a person authorised under section 11 to prepare that amendment;"

**8 New section 11 substituted**

For section 11 of the **Planning and Environment Act 1987** substitute—

**"11 Authorisation of person for amendment to planning scheme**

- (1) The Minister, on the application of a person, may authorise the person to prepare an amendment to any part of the State standard provisions and local provisions of a planning scheme.
- (2) The Minister must consult with the municipal council before authorising a person under this section to prepare an amendment to a planning scheme in force in its municipal district.
- (3) The power given to an authorised person to prepare an amendment to the State standard provisions of a planning scheme extends only to the inclusion of a provision in or the deletion of a provision from the State standard provisions of the planning scheme.
- (4) The Minister cannot authorise a person to prepare an amendment to a planning scheme applying to the Port of Melbourne Area

- unless the amendment does not affect or apply to land in that Area.
- (5) An application under subsection (1) must be in writing in a form approved by the Minister and contain the information required by the Minister.
  - (6) An authorisation must be in writing.
  - (7) An authorisation must specify in accordance with Schedule 2—
    - (a) the functions of a planning authority that the authorised person is authorised to carry out in respect of the amendment; and
    - (b) the person or body who is to be the planning authority in respect of the amendment.
  - (8) The Minister may grant an authorisation subject to any conditions the Minister wishes to impose, including conditions relating to the giving of notice of the amendment.
  - (9) The Minister must give a copy of an authorisation under this section to the planning authority specified under subsection (7)(b).
  - (10) Schedule 2 applies in respect of an authorisation under this section."

#### **9 Approval of amendment by Minister**

In section 35(1) of the **Planning and Environment Act 1987** after "section 31" insert "or Division 3 of Part 2 of Schedule 2".

#### **10 Notice to Parliament**

In section 38(1A) of the **Planning and Environment Act 1987** after "planning authority" insert ", authorised person".

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**11 Defects in procedure**

In section 39(1) of the **Planning and Environment Act 1987** after "planning authority" insert ", an authorised person".

**12 Notices**

In section 145(1) of the **Planning and Environment Act 1987** after "responsible authority" insert ", an authorised person".

**13 New Schedule 2 inserted**

At the end of the **Planning and Environment Act 1987** insert—

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**SCHEDULE 2**

**PREPARATION OF AMENDMENTS BY  
AUTHORISED PERSONS**

**PART 1—AUTHORISATION**

**1 What functions of a planning authority  
can an authorised person carry out in  
relation to an amendment?**

- (1) An authorisation under section 11 may authorise a person to carry out any specified function of a planning authority under any provision of—
  - (a) Division 1 of Part 3;
  - (b) Division 2 of Part 3 (except sections 21, 21A(1) and (2) and 28);
  - (c) section 32.
- (2) If a person is authorised to carry out a function of a planning authority under a provision of this Act, that provision

(as modified by Part 2 of this Schedule)  
applies to the person as if the person were  
the planning authority.

- (3) Anything done by an authorised person  
under this Act in respect of an amendment to  
a planning scheme is taken to have been  
done by the planning authority.

**2 What duties does an authorised person  
have in relation to the preparation of an  
amendment?**

- (1) In preparing an amendment to a planning  
scheme, an authorised person must—
- (a) comply with any direction of the  
Minister under section 7(5); and
  - (b) comply with sections 12(1)(a) and (e)  
and 12(2).
- (2) Nothing in section 12(1)(d) prevents an  
authorised person from preparing an  
amendment to a planning scheme in  
accordance with his or her authorisation.

**3 Additional functions and duties of  
authorised person**

Part 2 of this Schedule confers additional  
functions and duties on an authorised person  
in respect of an amendment.

**4 Who can be the planning authority for the  
amendment?**

- (1) Any of the following may be the planning  
authority for the amendment—
- (a) the Minister;
  - (b) a municipal council, if the amendment  
is to a planning scheme in force in its  
municipal district;
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- (c) another Minister or a public authority if authorised under section 9.
- (2) The authorised person is not the planning authority.
- (3) Subject to clause 6(3), the planning authority for an amendment to be prepared by an authorised person cannot carry out any function of a planning authority in respect of the amendment that the authorised person is authorised to carry out.

#### **5 Additional functions and duties of planning authority**

Part 2 of this Schedule confers additional functions and duties on a planning authority in respect of an amendment prepared by an authorised person.

#### **6 Withdrawal of authorisation**

- (1) The Minister may at any time, by notice in writing, withdraw an authorisation given under section 11.
- (2) If the Minister withdraws an authorisation given under section 11, the Minister may ask the planning authority to complete the preparation of the amendment (if necessary) and to carry out any functions of a planning authority in respect of the amendment that the authorised person had been authorised to carry out.
- (3) The planning authority may carry out any function requested under subclause (2) without further authorisation under Part 2 of this Act.

- (4) If the Minister is the planning authority, the Minister may carry out any function conferred on the authorised person under section 11 if the authorisation is withdrawn.
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**PART 2—MODIFIED PROCEDURES FOR  
AMENDMENTS PREPARED BY AUTHORISED  
PERSONS**

**Division 1—Modifications of Division 1 of  
Part 3 (exhibition and notice of amendment)**

**7 Application of Division**

This Division is to be read and construed as if it formed part of Division 1 of Part 3 of this Act.

**8 Copies of amendment to be given to certain persons**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 17.
- (2) The authorised person is also required to give a copy of the amendment and the other documents referred to in section 17(1) to the planning authority.

**9 Availability of amendment**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 18.
- (2) The planning authority must also make a copy of any document given to it under clause 8(2) and section 17(2) available at its office during office hours for any person to
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inspect free of charge until the amendment is approved or lapses.

**10 Notice of amendment**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 19.
  - (2) Section 19(1) applies as if it required the authorised person to give notice of the preparation of the amendment to the following persons instead of the persons set out in section 19(1)(a) and (b)—
    - (a) to every Minister, public authority and municipal council that the Secretary to the Department believes may be materially affected by the amendment;
    - (b) to the owners and occupiers of land that the Secretary to the Department believes may be materially affected by the amendment.
  - (3) Section 19(1A) applies to the giving of notice referred to in subclause (2)(b) as if—
    - (a) a reference to the planning authority were a reference to the authorised person; and
    - (b) for "it considers" there were substituted "the Secretary considers".
  - (4) Section 19(1B) applies as if the steps to be taken under that subsection were the reasonable steps determined by the Secretary.
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**11 Exemption from giving notice**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 20.
- (2) The Minister may consult with the planning authority, as well as the responsible authority and any other person, before exercising the powers under section 20(2).

**Division 2—Modifications of Division 2 of  
Part 3 (public submissions)**

**12 Application of Division**

This Division is to be read and construed as if it formed part of Division 2 of Part 3 of this Act.

**13 Submissions**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 22.
- (2) The planning authority must give to the authorised person without delay a copy of any submissions received under section 21 about the amendment prepared by the authorised person.

**14 Decisions about submissions**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 23.
- (2) Section 23(1) applies as if instead of paragraph (c) it provided that the authorised person may recommend to the planning authority that the amendment or part of the amendment be refused.



### **15 Hearing by panel**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 24 in respect of submissions.
- (2) The panel must give the planning authority as well as the authorised person an opportunity to be heard under section 24.
- (3) Part 8 of this Act applies as if any reference in that Part to a planning authority were a reference to the authorised person.

### **16 Report by panel**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 25.
- (2) The panel must report its findings to the planning authority as well as the authorised person under section 25.

### **17 Consideration of panel's report**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 27.
  - (2) Section 27 applies as if for subsection (1), there were substituted—
    - "(1) The authorised person must consider the panel's report before deciding whether or not to recommend to the planning authority that the amendment or part of the amendment be approved."
  - (3) Section 27 applies as if for subsection (3) there were substituted—
    - "(3) The Minister may exempt the authorised person from subsection (1) if the Minister considers that delay in
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considering whether or not to recommend the approval of the amendment would adversely affect the planning of the area, and may impose conditions to which the exemption is subject."

### **18 Decision of authorised person**

- (1) This clause applies if the authorised person is authorised to carry out functions under section 27.
- (2) After complying with any functions and duties conferred on the authorised person under Division 1 and this Division, the authorised person may recommend to the planning authority—
  - (a) that the amendment or part of the amendment be approved with or without changes; or
  - (b) that the amendment be refused.
- (3) Nothing in this clause or section 27 prevents the authorised person from at any time recommending to the planning authority that the amendment be refused.

### **Division 3—Modification of Division 3 of Part 3 (approval of amendment)**

#### **19 Application of Division**

This Division is to be read and construed as if it formed part of Division 3 of Part 3 of this Act.

**20 Determination of planning authority on amendment**

- (1) This clause applies if an amendment has been prepared by an authorised person and the authorised person has made a recommendation to the planning authority under section 27.
  - (2) The planning authority must consider the amendment prepared by the authorised person and must determine to recommend to the Minister that—
    - (a) the amendment be approved with or without changes; or
    - (b) the amendment be refused.
  - (3) If the planning authority makes a determination under subclause (2), the planning authority must submit the recommendation together with the amendment and the prescribed information to the Minister.
  - (4) The planning authority must not make a determination under subclause (2) unless the planning authority has received and considered the recommendation of the authorised person under clause 18 in respect of the amendment.
  - (5) If the authorised person recommends the refusal of an amendment and a submission was received under section 21 requesting a change to the amendment and the submission was not referred to a panel appointed under Part 8 of this Act, the planning authority must—
    - (a) change the amendment in the manner requested in the submission before recommending its approval; or
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- (b) refer the submission to a panel appointed under Part 8 of this Act; or
  - (c) recommend to the Minister that the amendment be refused.
- (6) If the planning authority refers a submission to a panel under this clause, the planning authority must consider the report of the panel before making a recommendation to the Minister under this clause.
- (7) Sections 28 and 31 do not apply if this clause applies.

**21 Planning authority to advise Minister of notice given by authorised person**

- (1) This clause applies if the authorised person has carried out functions under section 19.
- (2) If the authorised person did not give notice of the amendment under section 19(1)(b) for the reasons set out in section 19(1A), the planning authority must inform the Minister of this when submitting the amendment under section 31(1) or clause 20.
- (3) The planning authority must give the Minister details of the steps taken under section 19(1B) in respect of the amendment.

**22 Consideration by Minister of recommendation to refuse amendment**

- (1) This clause applies if—
- (a) the planning authority has recommended to the Minister that an amendment be refused; and
  - (b) submissions received under Division 2 of Part 3 of this Act in respect of the amendment have not been referred to a panel under that Division.
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- (2) The Minister may refer the submissions received under Division 2 of Part 3 of this Act to a panel appointed under Part 8 of this Act.
- (3) Sections 34(2) to (4) apply to submissions referred to a panel under this clause.

**23 Application of section 32**

If the authorised person is authorised to carry out a function under section 32, that section applies as if a reference to the planning authority were a reference to the authorised person.'

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## PART 4—GENERAL AMENDMENTS

### 14 Definitions

In section 3 of the **Planning and Environment Act 1987** insert the following definition—

*"permit* includes any plans, drawings or other documents approved under a permit;"

### 15 Objectives

(1) For section 4(1) of the **Planning and Environment Act 1987** substitute—

"(1) The objectives of planning in Victoria are—

- (a) to provide for the fair, orderly and sustainable use and development of land;
  - (b) to secure a pleasant, efficient, healthy and safe working, living and recreational environment for all people in Victoria;
  - (c) to balance environmental, social and economic considerations, and respond to population and demographic changes, in decisions about the use and development of land;
  - (d) to balance the present and future interests of all Victorians;
  - (e) to achieve high quality and sustainable design in public and private places in Victoria;
  - (f) to integrate land use, transport and infrastructure to enable the co-ordinated provision of sustainable transport for the benefit of the community;
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- (g) to provide for the maintenance of ecological processes and the protection of biological diversity;
- (h) to conserve and enhance those buildings, areas or other places which are of aesthetic, archaeological, architectural, cultural, historical, scientific or social significance;
- (i) to protect natural and man-made resources, infrastructure, utilities and other assets and enable the orderly provision and co-ordination of infrastructure, utilities and other facilities for the benefit of the community;
- (j) to facilitate use and development of land in accordance with these objectives."

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

- "(ca) to ensure that land use planning and development, and transport planning, services and infrastructure, are integrated;"

**16 What can a planning scheme provide for?**

(1) After section 6(2)(ha) of the **Planning and Environment Act 1987** insert—

- "(hb) set out different procedures for particular classes of applications for permits;"

(2) After section 6(2)(ke) of the **Planning and Environment Act 1987** insert—

- "(kf) set out classes of applications for permits that are exempted wholly or in part from the requirements of sections 60(1)(b) to (e) and (1A);
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- (kg) set out classes of applications for review that are exempted wholly or in part from the requirements of sections 84B(2)(b) to (ja);".

**17 Municipal councils are planning authorities**

In section 8A(6) of the **Planning and Environment Act 1987** omit ", including conditions relating to the giving of notice of the amendment".

**18 Duties of planning authorities**

- (1) In section 12(1) of the **Planning and Environment Act 1987**—

(a) in paragraph (e) for "scheme." substitute "scheme;";

(b) after paragraph (e) insert—

"(f) provide information and reports as required by the regulations."

- (2) In section 12(2)(c) of the **Planning and Environment Act 1987** for "may" substitute "must".

**19 New section 13 substituted**

For section 13 of the **Planning and Environment Act 1987** substitute—

**"13 Responsible authority**

- (1) This section specifies who is the responsible authority for the administration and enforcement of—
- (a) a planning scheme;
  - (b) a provision of a planning scheme;
  - (c) a planning scheme or provision of a planning scheme in relation to an area of land covered by the planning scheme;



- (d) a planning scheme or provision of a planning scheme in relation to a type of use or development.
- (2) The person who is the responsible authority is—
  - (a) the municipal council if the planning scheme applies to land which is wholly or partly in its municipal district unless the planning scheme specifies any other person as the responsible authority; or
  - (b) the Minister, if the planning scheme applies only to land outside a municipal district, unless the planning scheme specifies any other person as the responsible authority; or
  - (c) any person whom the planning scheme specifies as a responsible authority for that purpose."

**20 What are the duties of a responsible authority?**

At the end of section 14 of the **Planning and Environment Act 1987** insert—

- "(2) In carrying out any duty under this Act, a responsible authority must have regard to the Minister's directions."

**21 New section 14A inserted**

After section 14 of the **Planning and Environment Act 1987** insert—

**"14A What are the duties of a referral authority?**

A referral authority must, in relation to any matter referred to it under this Act—

- (a) have regard to the objectives of planning in Victoria in considering the matter; and
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- (b) have regard to the Minister's directions;  
and
- (c) comply with this Act; and
- (d) have regard to the planning scheme;  
and
- (e) provide information and reports as  
required by the regulations."

**22 New section 16A inserted**

In Division 1 of Part 3 of the **Planning and Environment Act 1987**, before section 17  
**insert—**

**"16A Amendment to be certified by Secretary**

- (1) After preparing an amendment to a planning scheme, a planning authority must submit the amendment to the Secretary to the Department to be certified as being in an appropriate form.
- (2) A planning authority must not—
  - (a) give a copy of the amendment to any person under section 17; or
  - (b) give notice of the amendment under section 19—

unless the amendment has been certified by the Secretary to the Department under this section.

- (3) Before certifying an amendment under this section, the Secretary to the Department may require any changes to the amendment that are necessary to ensure that it is in an appropriate form.

(4) The Secretary to the Department may certify the amendment subject to any conditions the Secretary wishes to impose, including conditions relating to the giving of notice of the amendment.

(5) This section does not apply to an amendment prepared by the Minister."

**23 New section 20A inserted**

After section 20 of the **Planning and Environment Act 1987** insert—

**"20A Exception for prescribed amendments**

Sections 17, 18 and 19 do not apply in respect of an amendment that is prepared by the Minister if the amendment is of a prescribed class or classes."

**24 Reasons for submissions**

After section 21(1) of the **Planning and Environment Act 1987** insert—

"(1A) A submission must include a statement of the reasons for the submission."

**25 Decisions about submissions**

For section 23(1)(c) of the **Planning and Environment Act 1987** substitute—

"(c) recommend to the Minister that the amendment or part of the amendment be refused."

**26 Hearing by panel**

After section 24(c) of the **Planning and Environment Act 1987** insert—

"(d) any person who asked the planning authority to prepare the amendment;"

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**27 Report by panel**

In section 25(3) of the **Planning and Environment Act 1987**, for "be adopted" substitute "be approved".

**28 Reports to be made public**

In section 26(1)(a) of the **Planning and Environment Act 1987**, for "whether or not to adopt" substitute "to recommend to the Minister to approve or refuse to approve".

**29 Planning authority to consider panel's report**

(1) In section 27(1) of the **Planning and Environment Act 1987**, for "whether or not to adopt" substitute "to recommend to the Minister to approve or refuse to approve".

(2) In section 27(3) of the **Planning and Environment Act 1987**, for "adopt" substitute "recommend to the Minister to approve".

**30 Section 28 substituted**

For section 28 of the **Planning and Environment Act 1987** substitute—

**"28 Planning authority may recommend refusal of amendment**

The planning authority may at any time recommend to the Minister to refuse to approve an amendment or part of an amendment."

**31 Amendment of heading to Division 3 of Part 3**

In the heading to Division 3 of Part 3 of the **Planning and Environment Act 1987** for "Adoption and approval" substitute "Approval".

**32 Section 29 substituted and section 29A inserted**

For section 29 of the **Planning and Environment Act 1987** substitute—

**"29 Planning authority may recommend approval of amendment**

- (1) After complying with Divisions 1 and 2 in respect of an amendment or part of an amendment, the planning authority may make a recommendation to the Minister to approve the amendment or that part, with or without changes.
- (2) This section does not apply if the Minister is the planning authority.

**29A Recommendation to refuse or approve part of an amendment**

- (1) If a planning authority recommends under section 28 that a part of an amendment be refused, that part becomes a separate amendment.
- (2) If a planning authority recommends the approval of part of an amendment (with or without changes) under section 29, that part becomes a separate amendment.
- (3) Subsections (1) and (2) do not apply if a planning authority recommends under section 28 or 29 that part of an amendment be approved (with or without changes) and the remaining part be refused."

**33 When does an amendment lapse?**

(1) For section 30(1) of the **Planning and Environment Act 1987** substitute—

- "(1) An amendment or part of an amendment prepared by a planning authority other than the Minister lapses—
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- (a) at the end of two years after the date of publication of the notice in the Government Gazette under section 19(3) unless—
    - (i) the planning authority makes a decision under section 28 or 29 with respect to the amendment within that period; or
    - (ii) the Minister allows a longer period for the planning authority to make a decision under section 28 or 29; or
  - (b) at the end of any period which the Minister allows unless the planning authority makes a recommendation on the amendment to the Minister within that period; or
  - (c) when the Minister refuses to approve it under this Act.
- (1A) An amendment or part of an amendment prepared by the Minister lapses—
- (a) at the end of 2 years after the date of publication of the notice in the Government Gazette under section 19(3) unless—
    - (i) the Minister approves it under section 35; or
    - (ii) the Minister determines that a longer period is required to decide whether or not to approve the amendment under section 35; or
  - (b) at the end of any period determined under paragraph (a)(ii); or
  - (c) when the Minister refuses to approve it under this Act."
-

(2) In section 30(2) of the **Planning and Environment Act 1987** for "subsection (1)(b), (c) or (d)" **substitute** "subsection (1)(b) or (d) or (1A)(b)".

(3) In section 30(4) of the **Planning and Environment Act 1987**—

(a) after "subsection (1)(a)" **insert** "or (1A)(a)";

(b) after "subsection (1)(a)(ii)" **insert** "or (1A)(a)(ii)".

#### **34 Planning authority to submit amendment to Minister**

(1) For section 31(1) of the **Planning and Environment Act 1987 substitute**—

"(1) If a planning authority decides under section 28 or 29 to recommend the refusal or approval of an amendment, the planning authority must submit the amendment to the Minister, together with the prescribed information, without delay."

(2) In section 31(2) of the **Planning and Environment Act 1987 omit** "adopted".

#### **35 Removal of power to authorise planning authorities to approve amendments**

(1) Sections 31(3), 35A, 35B, 38(1AA) and 40(1A) of the **Planning and Environment Act 1987 are repealed.**

(2) In section 39(4)(b)(i) of the **Planning and Environment Act 1987 substitute**—

"(i) the planning authority must not make a recommendation to approve or refuse to approve the amendment or a specified part of the amendment; or".

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(3) In section 46F of the **Planning and Environment Act 1987** omit "or 35B".

(4) In section 46X of the **Planning and Environment Act 1987** omit "or 35B".

**36 Heading to section 49 inserted**

**Insert** the following heading to section 49 of the **Planning and Environment Act 1987**—

**"Responsible authority to keep register"**.

**37 Application to go to referral authorities**

(1) In section 55(1) of the **Planning and Environment Act 1987**, after "must give a copy of an application" **insert** ", together with the prescribed information,".

(2) After section 55(2) of the **Planning and Environment Act 1987** **insert**—

"(3) The referral authority must give to the applicant, without delay, a copy of any request that it makes to the responsible authority under subsection (2) in respect of the application."

**38 Action by referral authority on application**

After section 56(3) of the **Planning and Environment Act 1987** **insert**—

"(3A) The referral authority must give to the applicant a copy of any decision and comments it gives to the responsible authority in respect of the application."



**39 New section 56A inserted**

After section 56 of the **Planning and Environment Act 1987** insert—

**"56A Referral authority to keep register**

- (1) The referral authority must keep a register containing the prescribed information in respect of all applications referred to it under sections 55 and 57C.
- (2) The referral authority must make the register available during office hours for any person to inspect free of charge."

**40 Amended application may go to referral authorities**

After section 57C(2) of the **Planning and Environment Act 1987** insert—

- "(3) A referral authority must give to the applicant, without delay, a copy of any request that it makes to the responsible authority under subsection (2) in respect of the amended application."

**41 What matters must a responsible authority consider?**

- (1) In section 60(1)(e) of the **Planning and Environment Act 1987**, for "development." substitute "development; and".
- (2) After section 60(1)(e) of the **Planning and Environment Act 1987** insert—

"(f) any significant social and economic effects of the use or development for which the application is made."
- (3) Section 60(1A)(a) of the **Planning and Environment Act 1987** is repealed.

(4) For section 60(1A)(h) of the **Planning and Environment Act 1987** substitute—

"(h) any amendment to the planning scheme which a planning authority has decided under section 29 to recommend to the Minister to approve but which has not, as at the date on which the application is considered, been approved by the Minister; and".

(5) After section 60(3) of the **Planning and Environment Act 1987** insert—

"(3A) If an application for a permit is of a class that is exempted by a planning scheme wholly or in part from the requirements of subsections (1)(b) to (e) and (1A), the responsible authority is not required to consider the exempted matters before deciding the application."

**42 What conditions can be put on permits?**

(1) In section 62(2)(a) of the **Planning and Environment Act 1987**, before "a condition" insert "subject to subsection (3),".

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

"(h) a condition that the owner of the land, or the applicant for the permit in anticipation of becoming the owner of the land, is to enter into an agreement (not being an agreement made under Division 2 of Part 9) with the responsible authority to deposit with the responsible authority—

(i) a sum of money fixed or determined in accordance with the agreement; or

(ii) an undertaking to pay that sum together with security in a form determined by or in accordance with the agreement; and".

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

"(3) The responsible authority must not include in the permit a condition allowing plans, drawings or other documents approved under the permit to be amended to the satisfaction of or with the approval of specified persons, including a person specified in subsection (2)(a)."

(4) After section 62(6) of the **Planning and Environment Act 1987** insert—

"(7) An agreement under subsection (2)(h) may provide that the sum or part of the sum is forfeited if there is any failure by the owner to comply with the permit to the satisfaction of the responsible authority.

(8) Any money paid under an agreement referred to in subsection (2)(h) must be returned to the owner on a date or dates specified in the agreement to the extent that it has not been forfeited.

(9) Any money payable under an agreement referred to in subsection (2)(h) is a charge on the land which is the subject of the agreement."

**43 Application for amendment of permit**

(1) For section 72(2)(a) of the **Planning and Environment Act 1987** substitute—

"(a) a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible

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authority must not amend that permit or that part of the permit (as the case requires); or".

- (2) In section 72(2)(b) of the **Planning and Environment Act 1987**, for "Division 6." **substitute** "Division 6; or".
- (3) After section 72(2)(b) of the **Planning and Environment Act 1987** **insert**—
  - "(c) a permit ordered to be granted by the Governor in Council under clause 61 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**; or
  - (d) a permit granted by the Minister under Division 2 of Part 9A."
- (4) For section 72(3) of the **Planning and Environment Act 1987** **substitute**—
  - "(3) In this section an amendment to a permit includes an amendment under a condition on a permit."

#### **44 Notice if permit application was made without notice**

- (1) In section 83B(1)(b) of the **Planning and Environment Act 1987** for "President." **substitute** "President; or".
  - (2) After section 83B(1)(b) of the **Planning and Environment Act 1987** **insert**—
    - "(c) the applicant for the permit to give or publish notice of the application for review in the manner and within the time specified by the President."
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#### **45 Matters for Tribunal to take into account**

- (1) For section 84B(2)(g) of the **Planning and Environment Act 1987** substitute—

"(g) must (where appropriate) have regard to any amendment to a planning scheme which a planning authority has decided under section 29 to recommend to the Minister to approve but that has not, as at the date on which the application for review is determined, been approved by the Minister;"

- (2) After section 84B(2) of the **Planning and Environment Act 1987** insert—

"(3) If an application for review is of a class that is exempted by a planning scheme from the requirements of subsection (2)(b) to (ja), the Tribunal is not required to take into account or have regard to the exempted matters in determining the application."

#### **46 Determination of appeal**

After section 85(1) of the **Planning and Environment Act 1987** insert—

"(1A) If the Tribunal directs the responsible authority to issue a permit under subsection (1)(b) or directs that a permit include specified conditions under subsection (1)(e), the Tribunal may direct that the permit or a specified part of the permit must not be amended by the responsible authority under Division 1A."

#### **47 Hearing by Tribunal**

Section 90(1)(d) of the **Planning and Environment Act 1987** is repealed.

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#### **48 Right to compensation**

After section 94(2) of the **Planning and Environment Act 1987** insert—

"(2A) Despite subsection (2), a referral authority is liable to pay compensation instead of the responsible authority if a permit was amended or cancelled under this Part because there was a material mistake in relation to the issue of the permit that arose from an act or omission of the referral authority."

#### **49 Panel**

After section 97E(2) of the **Planning and Environment Act 1987** insert—

"(2A) The panel must give the applicant a reasonable opportunity to be heard."

#### **50 Applications for amendment of permits**

Section 97I(1A) of the **Planning and Environment Act 1987** is repealed.

#### **51 Application by specified person for declaration**

(1) In section 149A(1)(a) of the **Planning and Environment Act 1987** for "land;" substitute "land; or";

(2) After section 149A(1)(a) of the **Planning and Environment Act 1987** insert—

"(ab) the matter relates to the interpretation of an agreement under section 173; or".

**52 New section 152 inserted**

After section 151 of the **Planning and Environment Act 1987** insert—

**"152 Powers of advisory committee**

- (1) This section applies if an advisory committee conducts a hearing into a matter.
- (2) The following sections (with any necessary changes) apply to the advisory committee as if it were a panel—
  - (a) section 159; and
  - (b) sections 161(1), 161(3) and 161(5); and
  - (c) section 161(2) as if the reference to a planning authority were omitted; and
  - (d) sections 162 to 165 and 169."

**53 Costs and expenses of panel**

For section 156(4) of the **Planning and Environment Act 1987** substitute—

- "(4) If, when asked, a person does not agree to contribute to the amount required to be paid by the planning authority, the planning authority may recommend to the Minister that the amendment or part of the amendment be refused."

**54 New Division 1A inserted in Part 8**

After section 158 of the **Planning and Environment Act 1987** insert—

**"Division 1A—Directions panel**

**158A Appointment of directions panel**

- (1) The Minister may appoint a directions panel to give directions under section 159 in
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respect of hearings to be conducted by a panel appointed under Division 1.

- (2) A directions panel may consist of one or more members.
- (3) A member of a directions panel is not required to be a member of a panel appointed under Division 1.
- (4) Sections 155 to 158 (with any necessary changes) apply to a panel appointed under this Division as if it were a panel appointed under Division 1.

**158B Directions by directions panel**

- (1) A directions panel may give any directions in relation to a hearing that a panel may give under section 159.
- (2) Any direction given by a directions panel has effect as if it were a direction of a panel under section 159."

**55 Directions about hearings**

For section 159(2) of the **Planning and Environment Act 1987** substitute—

- "(2) The panel may refuse to hear any person who fails to comply with—
- (a) a direction of the panel; or
  - (b) a direction of the directions panel."

**56 Insertion of headings in Division 2 of Part 9**

- (1) Before section 173 of the **Planning and Environment Act 1987** insert—

**"Subdivision 1—Making of agreements"**.

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- (2) Before section 177 of the **Planning and Environment Act 1987** insert—

**"Subdivision 2—Ending and amendment of agreements"**.

- (3) Before section 179 of the **Planning and Environment Act 1987** insert—

**"Subdivision 3—General"**.

#### **57 Bonds and guarantees**

- (1) In section 175(1) of the **Planning and Environment Act 1987** omit "other than an agreement with a Minister".

- (2) After section 175(4) of the **Planning and Environment Act 1987** insert—

"(5) An agreement must not include a condition requiring a Minister to provide a bond or guarantee to the responsible authority."

#### **58 When does an agreement end?**

For section 177(2) of the **Planning and Environment Act 1987** substitute—

- "(2) An agreement may be ended wholly or in part or as to any part of the land—
- (a) by agreement between the responsible authority and all persons who are bound by any covenant in the agreement; or
  - (b) otherwise in accordance with this Division."

**59 New sections 178 to 178I inserted**

For section 178 of the **Planning and Environment Act 1987** substitute—

**"178 Amendment of agreements**

An agreement may be amended—

- (a) by agreement between the responsible authority and all persons who are bound by any covenant in the agreement; or
- (b) in accordance with section 178E.

**178A Proposal to amend or end agreement**

- (1) An owner of land may apply to the responsible authority for agreement to a proposal—
  - (a) to amend an agreement in respect of that land; or
  - (b) to end an agreement in respect of that land, wholly or in part or as to any part of that land.
- (2) The responsible authority must notify the owner as to whether it agrees in principle to the proposal notified under subsection (1).
- (3) The responsible authority may, on its own initiative, propose to amend or end an agreement.

**178B Matters to be considered in considering proposal to amend or end agreement**

- (1) In considering a proposal under section 178A to amend an agreement, the responsible authority must consider—
    - (a) the purpose of the agreement; and
    - (b) the purpose of the amendment; and
-

- (c) whether any change in circumstances necessitates the amendment; and
  - (d) whether the amendment would disadvantage any person, whether or not a party to the agreement; and
  - (e) any other prescribed matter.
- (2) In considering a proposal under section 178A to end an agreement, the responsible authority must consider—
- (a) the purpose of the agreement; and
  - (b) whether and why the agreement is no longer required; and
  - (c) whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement; and
  - (d) any other prescribed matter.

**178C Notice of proposal**

- (1) This section applies if—
- (a) an application is made under section 178A and the responsible authority agrees with the proposal in principle; or
  - (b) the responsible authority proposes to amend or end an agreement.
- (2) The responsible authority must give notice of the proposal to—
- (a) all parties to the agreement; and
  - (b) any other person whose interests may be materially affected by the proposal.
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- (3) Subsection (2)(a) is subject to any provision of the agreement that specifies the parties to be notified of a proposed amendment.
- (4) The responsible authority may also give notice of the proposal—
  - (a) in all or any of the following ways—
    - (i) by placing a sign on the land concerned;
    - (ii) by publishing a notice in newspapers generally circulating in the area in which the land is situated;
    - (iii) by giving the notice personally or sending it by post; or
  - (b) in any other way that the responsible authority considers appropriate.
- (5) A notice under this section is to include the prescribed information.

**178D Objections to responsible authority**

Any person who was given or ought to have been given notice under section 178C of a proposal to amend or end an agreement may object to, or make any other submission in relation to, the proposal.

**178E Decision to amend or end agreement**

- (1) If the responsible authority is required under section 178C to give notice of a proposal to amend or end an agreement, the responsible authority must not make a decision on the proposal until at least 14 days after the giving of the last notice under section 178C.

- (2) If no objections are made under section 178D, the responsible authority may, after considering the matters in section 178B—
  - (a) amend or end the agreement in accordance with the proposal; or
  - (b) amend the agreement in a manner that is not substantively different from the proposal; or
  - (c) refuse to amend or end the agreement.
- (3) The responsible authority, after considering any objections or other submissions and the matters in section 178B, may—
  - (a) decide to amend the agreement or end the agreement in accordance with the proposal; or
  - (b) decide to amend the agreement in a manner that is not substantively different from the proposal; or
  - (c) propose to amend the agreement in a manner that is substantively different from the proposal; or
  - (d) refuse to end or amend the agreement.
- (4) Sections 178C, 178D and this section apply to a new proposal under subsection (3)(c).

**178F Notice of decision to amend or end agreement**

- (1) If the responsible authority decides under section 178E(3)(a) or (b) to amend or end the agreement, it must give notice of its decision to—
    - (a) the owner of the land who applied to amend or end the agreement under section 178A (if applicable); and
-

- (b) any other person who made an objection or a submission.
- (2) The responsible authority must not proceed to amend or end an agreement under section 178E—
  - (a) until at least 21 days after the giving of notice under subsection (1); or
  - (b) if an application for review is made in respect of the decision within that period, until the application is determined by the Tribunal or withdrawn.
- (3) Subsection (1)(a) is subject to any provision of the agreement that specifies the parties to be notified of a proposed amendment.

**178G Copy of amended agreement to be given to parties**

- (1) This section applies if the responsible authority amends an agreement in accordance with this Subdivision or section 184A.
  - (2) The responsible authority must, without delay, give a copy of the amended agreement to all parties to the agreement.
  - (3) It is not necessary for the amended agreement to be signed or otherwise agreed to by other parties.
  - (4) Despite subsection (2), it is not necessary for the responsible authority to give a copy of the amended agreement to parties who are not materially affected by the amendment.
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**178H Responsible authority may require payment of costs**

A responsible authority may require a person who applies to amend or end an agreement under this Subdivision to agree to pay the costs of—

- (a) giving the required notices under section 178C; and
- (b) preparing the amended agreement; and
- (c) advising the Registrar of Titles under section 183 of the amendment or ending of the agreement.

**178I When does amendment or ending of agreement take effect?**

An amendment to an agreement, or the ending of an agreement (wholly or in part or as to any part of the land), under this Subdivision or section 184A comes into effect on the day on which, under section 183(2), the Registrar of Titles cancels in whole or part the recording of the agreement in the Register or makes a recording in the Register of the matters notified under section 183(1)."

**60 Copy of agreement to be kept**

- (1) **Insert** the following heading to section 179 of the **Planning and Environment Act 1987**—  
**"Responsible authority to keep copy of agreement"**.
- (2) Section 179(1) of the **Planning and Environment Act 1987** is repealed.

**61 Registration of agreement**

In section 181(1) of the **Planning and Environment Act 1987**, for "may apply to the Registrar of Titles" **substitute** "must apply to the Registrar of Titles, without delay,".

**62 New section 182A inserted**

After section 182 of the **Planning and Environment Act 1987** insert—

**"182A New parties to an agreement**

- (1) If the land or any part of the land which is subject to an agreement between the owner and the responsible authority is transferred or otherwise disposed of to another person, that other person becomes a party to that original agreement.
- (2) Subsection (1) is subject to any provision to the contrary in the agreement.
- (3) An agreement may specify the extent to which any party to an agreement is to be treated as a party for the purposes of a proposed amendment of the agreement."

**63 Application to Tribunal**

Sections 184(3) and 184(4) of the **Planning and Environment Act 1987** are **repealed**.

**64 New sections 184A to 184E inserted**

After section 184 of the **Planning and Environment Act 1987** insert—

**"184A Application to Tribunal by applicant in relation to decisions under Subdivision 2**

- (1) A person who applied to end or amend an agreement under Subdivision 2 may apply to the Tribunal for review of a decision by the responsible authority to refuse—
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- (a) to amend an agreement; or
  - (b) to end an agreement, wholly or in part or as to any part of the land subject to the agreement.
- (2) If the responsible authority—
- (a) does not give notice of an application under Subdivision 2 for amendment of an agreement within the prescribed time after the application is lodged; or
  - (b) does not decide on an application under Subdivision 2 within the prescribed time after the application is lodged—
- the applicant may apply to the Tribunal for review of the failure to make a decision on the matter.

**184B Application to Tribunal by objector**

An objector may apply to the Tribunal for review of a decision by a responsible authority to amend or end an agreement.

**184C Objectors entitled to notice**

A person who objected to the proposal to amend or end an agreement is entitled to notice of an application by the applicant for review of—

- (a) a decision under Subdivision 2 to amend or end an agreement; or
- (b) a decision under subdivision 2 to refuse to amend or end an agreement; or
- (c) a failure of a responsible authority under Subdivision 2 to amend or end an agreement.

**184D An application to amend or end an agreement may be determined after an appeal has been lodged**

- (1) A responsible authority may decide to amend or end an agreement at any time after an application is made for review of the failure of the responsible authority to make a decision.
- (2) Except in accordance with the advice of the principal registrar under subsection (5), the responsible authority must not amend or end the agreement, or give notice of the decision to the applicant or any objector after an application is made to the Tribunal for review of a failure to amend or end an agreement.
- (3) The responsible authority must inform the principal registrar if the responsible authority decides to amend or end an agreement after an application is made for the review of its failure to end or amend the agreement.
- (4) The principal registrar must refer the decision of the responsible authority to a presidential member of the Tribunal for consideration.
- (5) If the presidential member of the Tribunal so directs, the principal registrar must advise the responsible authority that the agreement may be amended or ended in accordance with the responsible authority's decision.

**184E Determination of application**

- (1) The Tribunal may decide the matter by—
    - (a) directing the responsible authority to amend or end the agreement in accordance with the direction; or
-

- (b) determine that the agreement should not be amended or ended.
- (2) If the Tribunal directs the responsible authority to amend or end an agreement, the responsible authority must comply with that direction without delay.
- (3) If the application is for the failure of the responsible authority to make a decision, the Tribunal may direct the responsible authority to give notice in accordance with section 178C or to give notice in the manner the Tribunal directs.
- (4) Section 84B(2) does not apply to the determination of a matter under subsection (1)."

**65 New section 185AAB inserted**

After section 185A of the **Planning and Environment Act 1987** insert—

**"185AAB Minister has powers of responsible authority**

The Minister has the powers that a responsible authority has under section 171."

**66 Delegation of power by responsible authority**

(1) After section 188(1)(b) of the **Planning and Environment Act 1987** insert—

"(ba) if the responsible authority is an officer of a municipal council, to another officer of the municipal council; or".

(2) After section 188(1) of the **Planning and Environment Act 1987** insert—

"(1A) Section 80B of the **Local Government Act 1989** applies to a delegation referred to in subsection (1)(ba) as if it were a delegation by the municipal council."

**67 Expedition**

In section 197 of the **Planning and Environment Act 1987**, after "planning authority," insert "referral authority,".

**68 Fees regulations**

(1) After section 203(1)(c) of the **Planning and Environment Act 1987** insert—

"(ca) applications under Division 2 of Part 9A; and"

(2) For section 203(2)(c) of the **Planning and Environment Act 1987** substitute—

"(c) prescribe composite fees payable to the planning authority for consideration of amendments; and

(ca) provide for composite fees to reflect the cost of provision and operation of electronic operating systems provided by responsible authorities, planning authorities, referral authorities and the Minister to facilitate the consideration of applications and amendments under this Act; and

(cb) require a responsible authority or planning authority to give the Minister and referral authorities fees collected on their behalf; and"

**69 Transitional—Amendment of permits**

Section 216 of the **Planning and Environment Act 1987** is repealed.

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**70 New section 219 inserted**

At the end of Part 11 of the **Planning and Environment Act 1987** insert—

**"219 Amendment of approved documents to be under section 72 or 87**

If a condition of a permit granted before the commencement of section 42(3) of the **Planning and Environment Amendment (General) Act 2009** allows a plan, drawing or other document approved under the permit to be amended with the consent of or to the satisfaction of a specified person or body, a person seeking the amendment of that document must apply for an amendment to the permit under section 72 or 87."

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**ENDNOTES**