

Version No. 007
Southgate Project Act 1994
No. 57 of 1994

Version incorporating amendments as at
18 October 2012

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Preamble

It is proposed to redevelop land at Southgate on the south bank of the Yarra river for residential and commercial purposes and, to assist the redevelopment, it is necessary to make special provision for the subdivision of the area to be redeveloped, and the integrated management of that area and land in its vicinity, and to modify the application in the Southgate project area of certain laws relating to building and planning:

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purpose

The main purpose of this Act is to facilitate the Southgate project by making special provision for—

- (a) the subdivision of the project land;
- (b) the integrated management, by agreement, of the project land and land in its vicinity;
- (c) the modified application to the project land of planning and building controls.

2 Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3 Definitions

In this Act—

adjoining area means the area bordered red on Plan LEGL/94-7 lodged at the Central Plan Office (excluding the project land) or, if that area is varied under section 4, that area as varied for the time being;

boundary adjustment plan means a plan to which section 11 applies;

Central Plan Office means the Central Plan Office under the **Survey Co-ordination Act 1958**;

Council means the Melbourne City Council under the **Local Government Act 1989**;

first subdivision means the first subdivision of the project land after the commencement of this Act;

internal boundary means a boundary of a road, reserve, lot or common property on a plan under the **Subdivision Act 1988** of any of the project land other than a common boundary of that road, reserve, lot or common property and land outside the subdivision;

listed purpose means—

- (a) the purpose of access to, or use or maintenance of, services or facilities for common use by the owners of the project land; or
- (b) the purpose of car parking; or
- (c) the purpose of storage; or

- (d) the purpose of the placement of equipment; or
- (e) a purpose listed under section 5;

management statement means a management statement under Part 3;

owner includes—

- (a) for Crown land that is a road within the meaning of the **Road Management Act 2004**, Victorian Rail Track within the meaning of section 3 of the **Transport Integration Act 2010**;
- (b) for Crown land under the management or control of a Minister (other than the Minister administering the **Crown Land (Reserves) Act 1978**) or public authority, that Minister or public authority;
- (c) for other Crown land, whether reserved or not, the Minister administering the **Crown Land (Reserves) Act 1978**;
- (d) for land under the **Transfer of Land Act 1958**, the registered proprietor of an estate in fee simple in the land or a person who is empowered by or under an Act to execute a transfer of the land;

S. 3 def. of **owner** amended by Nos 54/2001 s. 43, 6/2010 s. 203(1) (Sch. 6 item 44) (as amended by No. 45/2010 s. 22).

project land means the land shown as Parcels A and B on the plan in the Schedule;

service includes service for—

- (a) water, sewerage or drainage; or
- (b) gas, electricity or oil; or
- (c) air conditioning; or
- (d) the storage or disposal of trade waste or garbage; or

- (e) ventilation or air extraction; or
- (f) telecommunications or data transmission, including television and telephone.

4 The adjoining area

- (1) The Minister may recommend to the Governor in Council that land be removed from the adjoining area if satisfied that—
 - (a) there is no need for the integrated management of that land and the project land; and
 - (b) there is no management statement for the time being applying to that land; and
 - (c) there is no easement or restrictive covenant, created in accordance with Part 2, that benefits or burdens the land.
- (2) The Minister may recommend to the Governor in Council that land (including Crown land) in the vicinity of the adjoining area be added to that area if satisfied that, for the purposes of this Act, it is desirable that there should be integrated management of that land and the project land.
- (3) On the Minister's recommendation under subsection (1) or (2) the Governor in Council, by Order published in the Government Gazette, may remove land from or add land to the adjoining area.
- (4) Without limiting what an Order may specify, an Order under this section may specify land by reference to a plan of survey.
- (5) An Order under subsection (3)—
 - (a) may revoke and consolidate previous Orders; and

(b) may substitute a plan for Plan LEGL/94-7 or for the plans in previous Orders.

5 Listed purposes

- (1) The Minister may recommend to the Governor in Council that a purpose be listed under subsection (2) if satisfied that the purpose is for the benefit of the whole or any part of the project land or land in the adjoining area.
- (2) On the Minister's recommendation, the Governor in Council, by Order published in the Government Gazette, may list a purpose for which an easement or restrictive covenant may be created to benefit or burden all or any part of the project land or land in the adjoining area.
- (3) A purpose may be recommended for listing or listed under this section even though, apart from this Act, it is not a purpose for which an easement or restrictive covenant may be created.

6 Crown to be bound

This Act binds the Crown in right of the state of Victoria and, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

7 Act to be read with other Acts

- (1) This Act must be read as one with the **Subdivision Act 1988** and the **Transfer of Land Act 1958**.
 - (2) If a provision of this Act is inconsistent with a provision of the **Subdivision Act 1988** or the **Transfer of Land Act 1958**, the provision of this Act prevails.
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**PART 2—THE FIRST SUBDIVISION AND RELATED
MATTERS**

**8 First subdivision exempt from Part 3 Subdivision
Act**

- (1) Section 5(3)(d) and Part 3 of the **Subdivision Act 1988** do not apply to the plan for the first subdivision.
- (2) Section 22(1) of the **Subdivision Act 1988** applies to the plan for the first subdivision as if for paragraph (b) there were **substituted**—
 - "(b) the applicant provides a statement that the plan is a plan of the first subdivision (within the meaning of the **Southgate Project Act 1994**) and is exempt from Part 3;"

9 Consent to plan registration

- (1) Consent to registration of the plan for the first subdivision is not required from any of the following persons with an interest in or encumbrance over any of the land in the plan—
 - (a) a registered lessee, registered sub-lessee or registered annuitant;
 - (b) a caveator whose caveat is recorded in the Register and who claims an interest in the land otherwise than under a mortgage, charge or other document intended to create a security for the payment of money.
- (2) Section 22(1A) of the **Subdivision Act 1988** applies to the plan for the first subdivision as if—
 - (a) for paragraph (a) there were **substituted**—
 - "(a) a registered mortgagee;"

(b) in paragraph (c) after "register" there were inserted "and claims an interest under a mortgage, charge or other document intended to create a security for the payment of money";

(c) paragraphs (b) and (d) were **omitted**.

10 Internal boundary requirements

- (1) A Council must not refuse to certify a plan under the **Subdivision Act 1988** of any of the project land only because it shows an internal boundary by dimensions instead of by reference to a part of a building.
- (2) Subsection (1) applies despite anything to the contrary in section 6 of the **Subdivision Act 1988** or in any planning scheme or permit under the **Planning and Environment Act 1987**.

11 Boundary adjustment plans

- (1) A boundary adjustment plan is a plan of resubdivision of any land on a registered plan for the whole or any part of the project land in respect of which the Council is satisfied, and states in the certification of the plan, that the sole purpose of the plan is—
 - (a) to correct a minor error in the description or position of an internal boundary; or
 - (b) to make a minor change to an internal boundary, to rationalise that boundary; or
 - (c) to make a minor change to an internal boundary by showing it by reference to a part of a building instead of by dimensions.
- (2) A statement in accordance with subsection (1) is conclusive evidence that the Council is satisfied about the matters referred to in that statement.

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- (3) Sections 5(3)(d), 6(1)(c) (d) and (f), 8, 9 and 10 and Part 3 of the **Subdivision Act 1988** do not apply to a boundary adjustment plan.
- (4) Section 22(1) of the **Subdivision Act 1988** applies to a boundary adjustment plan as if—
- (a) for paragraph (b) there were **substituted**—
"(b) the certification of the plan includes a statement referred to in section 11(1) of the **Southgate Project Act 1994**";
 - (b) in paragraph (da) for "the land on the plan" there were **substituted** "land that the plan states, is removed from a road, reserve, lot or common property because of a boundary adjustment made by the plan".
- (5) Without limiting section 24 of the **Subdivision Act 1988**, on the registration of a boundary adjustment plan land which, because of a boundary adjustment made by the plan, is removed from a road, reserve, lot or common property and added to another road, reserve, lot or to common property—
- (a) if it is added to a lot, vests in fee simple in the owner of the lot to which it is added and, if that lot is not in common ownership so vests in the owner of the land in the lot adjoining the land so added; and
 - (b) if it is added to common property, vests in fee simple in the owners of the lots affected by the owners corporation having the common property in accordance with their lot entitlements; and

S. 11(5)(b)
amended by
No. 69/2006
s. 224(Sch. 3
item 8.1).

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- (c) if it is added to a reserve, vests in fee simple in the body in which the reserve is vested; and
 - (d) if it is added to a road, vests in fee simple in the Council or other person or body in which the road is vested; and
 - (e) is freed and discharged from any estate, interest or encumbrance (other than an easement) applying to the road, reserve, lot or common property from which it was removed; and
 - (f) is deemed to be included in any mortgage, charge, lease, sub-lease or restrictive covenant relating to the whole of the land comprised in the lot or common property to which it is added immediately before the plan was registered.
- (6) No stamp duty is payable on the vesting of land under subsection (5).
- (7) The Registrar may make any amendments to the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of subsection (5) and for that purpose—
- (a) may dispense with the production of any relevant certificate of title or other instrument; and
 - (b) does not have to give notice to or obtain the consent of any person.
- (8) This section does not limit section 9 or any provision of the **Subdivision Act 1988** relating to the amendment of registered plans or the creation of folios of the Register.

12 Implied easements

- (1) Section 12(3A) of the **Subdivision Act 1988** does not apply to the first subdivision.
- (2) If a plan for the first subdivision or the management statement provides that an easement or right mentioned in section 12(2) of the **Subdivision Act 1988** is not implied over specified land, then despite section 12(3A) of that Act, a plan for a subsequent subdivision of all or any part of that land may also provide that that easement or right is not implied over any part of that land included in the plan.
- (3) Despite subsection (1) the plan for the first subdivision may only provide that an easement or right of support, shelter or protection is not implied over any land on that plan if the plan specifies a proposed easement for that purpose over that land under section 12(1) of the **Subdivision Act 1988**.
- (4) Section 12(2) of the **Subdivision Act 1988** applies to the first subdivision and a subsequent subdivision of any of the project land as if for paragraph (d) there were **substituted**—
"(d) the provision of services within the meaning of section 3 of the **Southgate Project Act 1994**";.

13 Restrictions and express easements

- (1) Without limiting section 12(1) of the **Subdivision Act 1988** a plan for the first subdivision may specify proposed easements for a listed purpose.
- (2) Without limiting the **Subdivision Act 1988** a plan for the first subdivision may specify restrictions for a listed purpose.

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- (3) If a plan for the first subdivision specifies an easement or restriction referred to in subsection (1) or (2), then despite anything in the **Subdivision Act 1988** a plan for a subsequent subdivision of all or any of the project land may also specify that easement or restriction, to the extent that it applies to land in that plan.
 - (4) An easement or restrictive covenant may be created for a listed purpose over any of the project land or, for the benefit of any of the project land, over land in the adjoining area in accordance with the **Transfer of Land Act 1958**.
 - (5) An easement or restrictive covenant created under the **Subdivision Act 1988** or the **Transfer of Land Act 1958** and that burdens the project land may benefit land in the adjoining area, if the application for the registration of the plan or the instrument creating the easement or restrictive covenant includes the consent of or is executed by the owner of that benefited land.

14 Easements and restrictive covenants over Crown land

- (1) The owner of Crown land may, in accordance with this section, create an easement or restrictive covenant over that land for the benefit of the whole or any part of the project land, whether or not together with any other land in the adjoining area.
- (2) Without limiting subsection (1) an easement or restrictive covenant may be created under that subsection for a listed purpose.
- (3) An easement or restrictive covenant referred to in this section is created on the owner of the Crown land lodging at the Central Plan Office an instrument—

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- (a) describing the nature of the easement or covenant and the land burdened and benefited by it; and
 - (b) including the consent of the owner of the land benefited by the easement or covenant; and
 - (c) including the consent of each lessee or sub-lessee of the land burdened by the easement or covenant.
- (4) This section applies, with the necessary modifications, to the variation or extinguishment of an easement or restrictive covenant created under this section in the same way as it does to its creation.
- (5) This section has effect despite anything to the contrary in the **Land Act 1958** or the **Crown Land (Reserves) Act 1978**.

15 Effect of easements and restrictive covenants

- (1) An easement or restrictive covenant referred to in section 13 or 14 may be created and is effective and enforceable even though at the time of its creation or afterwards the same person may have or may acquire an interest in the land burdened and benefited by it.
- (2) Subsection (1) does not prevent—
- (a) an easement or restrictive covenant over Crown land being extinguished by agreement under section 14; or
 - (b) an easement or restrictive covenant being removed by a plan under the **Subdivision Act 1988**; or
 - (c) an easement being extinguished or a restrictive covenant discharged by agreement recorded under the **Transfer of Land Act 1958**.

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- (3) Despite anything to the contrary in any Act or law an easement or restrictive covenant referred to in section 13 or 14 may be expressed to operate only during a specified period or specified periods.
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PART 3—MANAGEMENT STATEMENTS

16 What is a management statement?

- (1) A management statement is a document providing for the management of areas, services or facilities intended for common use by the owners of the project land, or by those owners and owners of land in the adjoining area.
- (2) Without limiting subsection (1) a management statement may provide for all or any of the following in relation to land in the project area or the adjoining area—
 - (a) car parking;
 - (b) land use;
 - (c) insurance of land and improvements;
 - (d) cost sharing;
 - (e) the establishment of a management committee, its membership, powers, functions, duties and procedure and dissolution;
 - (f) the appointment of a manager, and his or her remuneration and conditions of appointment, and powers, functions and duties;
 - (g) maintenance and repairs;
 - (h) disposal and storage of garbage or trade waste;
 - (i) specifying land to be restricted land and—
 - (i) restricting the use of that land in specified ways or by specified persons or classes of persons;
 - (ii) restricting access to that land;
 - (iii) specifying the conditions on which persons may use that land;

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- (iv) restricting the period during which that land may be used;
 - (j) measures for the safety of the public and owners or persons using land;
 - (k) security measures;
 - (l) the records to be kept and reports made by any management committee established or manager appointed;
 - (m) inspection of records and other documents in the custody or under the control of a management committee or manager;
 - (n) levies on land to which the statement applies to meet the costs attributable to that land under the statement, and the collection of those levies;
 - (o) noise control measures;
 - (p) prohibiting or regulating trading;
 - (q) measures to ensure consistency of building design and landscaping;
 - (r) dispute resolution mechanisms, including disputes about amendment of the statement and unreasonable refusal of, or failure to, consent to an amendment.
- (3) The management statement—
- (a) may be general or limited in application; and
 - (b) may contain different provisions for any case or class of cases; and
 - (c) may provide for different provisions to commence on different dates or on the happening of different events; and
 - (d) may provide for rights or obligations to last indefinitely or for a limited period; and
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- (e) may provide for obligations that burden land in the adjoining area, if they benefit all or any part of the project land; and
 - (f) may provide for obligations that burden all or any part of the project land, whether for the benefit of other project land or land in the adjoining area; and
 - (g) may provide that any specified easement or right that would otherwise be implied under section 12(2) of the **Subdivision Act 1988**—
 - (i) is not implied over land specified in the statement, if the relevant plan has not been registered under the **Subdivision Act 1988** at the date when the statement applies to that land; or
 - (ii) in any other case, is extinguished in respect of land specified in the statement.
- (4) If an owner of land has signed the management statement before it is lodged under the **Transfer of Land Act 1958**—
- (a) the management statement has effect in relation to that land on and from its lodgement under that Act; and
 - (b) there must be lodged with the management statement an application to the Registrar, in an appropriate approved form, to have appropriate recordings made in any relevant folio of the Register or amendments made to any other document specified in the application; and

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- (c) the Registrar may make any recordings in the Register or amendments to any other document that are necessary because of the application and, for that purpose, may dispense with the production of any relevant instrument or certificate of title.
 - (5) Subject to subsection (4), the management statement has no effect in relation to land under the **Transfer of Land Act 1958** unless and until an instrument prepared by the owner in accordance with this Part is recorded in the Register or the statement is amended under section 20 to apply to that land.
 - (6) The management statement has no effect in relation to Crown land unless and until the owner lodges at the Central Plan Office an instrument prepared in accordance with this Part.
 - (7) The management statement has effect despite anything to the contrary in the **Land Act 1958** or the **Crown Land (Reserves) Act 1978**.

17 Lodgement of the management statement

- (1) Division 1A of Part V of the **Transfer of Land Act 1958** applies to the management statement as if—
 - (a) it referred to the management statement instead of a memorandum;
 - (b) section 91A(1) referred to the owners of any of the project land or land in the adjoining area instead of to any person;
 - (c) section 91B referred to the management statement instead of a common provision; and
 - (d) section 91B referred to an instrument under Part 3 of the **Southgate Project Act 1994** instead of to an instrument.

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- (2) The management statement may be lodged under Division 1A of Part V of the **Transfer of Land Act 1958** (as modified by subsection (1) of this section) before or after the registration of the plan for the first subdivision.
 - (3) If the owner of Crown land in the adjoining area has signed the management statement that owner must lodge a copy of the management statement at the Central Plan Office on the same day on which it is lodged under the **Transfer of Land Act 1958**.
 - (4) If an owner of land under the **Transfer of Land Act 1958** signs the management statement the statement must include consent to the application of the statement to that land by the following persons with an interest in or encumbrance over that land—
 - (a) a registered mortgagee or registered annuitant;
 - (b) a caveator whose caveat is recorded in the Register;
 - (c) an annuitant whose charge, or a person whose mortgage or caveat, is lodged under that Act before the lodgement of the management statement.
 - (5) If an owner of land signs the management statement, that statement may include consent to the application of the statement to that land by—
 - (a) the registered lessee or registered sub-lessee, if the land is under the **Transfer of Land Act 1958**; or
 - (b) the lessee or sub-lessee, if the land is Crown Land.
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18 Management statement may apply to other land

- (1) The owner of any of the project land or land in the adjoining area in respect of which the management statement does not have effect may, by instrument, consent to the management statement having effect in respect of that land.
- (2) If the instrument relates to land under the **Transfer of Land Act 1958**, it must include consent from the following persons with an interest in or encumbrance over that land—
 - (a) a registered mortgagee or registered annuitant;
 - (b) a caveator whose caveat is recorded in the Register;
 - (c) an annuitant whose charge, or a person whose mortgage or caveat is lodged for registration before the instrument is lodged under that Act.
- (3) The instrument may include the consent of—
 - (a) the registered lessee or registered sub-lessee, if the land is under the **Transfer of Land Act 1958**; or
 - (b) the lessee or sub-lessee, if the land is Crown land.
- (4) If the instrument relates to land under the **Transfer of Land Act 1958**, the owner who signed it may apply to the Registrar—
 - (a) to have the lodged management statement amended so that it applies to the land in the instrument; and
 - (b) to have the instrument recorded on any relevant folio of the Register or other document specified in the application.

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- (5) If the instrument relates to Crown land, the owner who signed it—
- (a) may apply to the Registrar to have the lodged management statement amended to include that land; and
 - (b) may lodge a copy of that instrument and the amended management statement at the Central Plan Office.
- (6) An application to the Registrar under this section must be in an appropriate approved form.
- (7) On an application under this section the Registrar may make any amendments to a lodged management statement or any recordings in the Register or any other document that are necessary because of the application and for that purpose may dispense with the production of any instrument or certificate of title.

19 Effect of management statement

- (1) On and from the date on which, under section 17 or 18, the management statement applies to land—
- (a) it so applies as amended and in force for the time being; and
 - (b) it binds—
 - (i) the owner from time to time of that land; and
 - (ii) any lessee or sub-lessee of that land whose lease or sub-lease is entered into after the date on which the management statement applies to the land; and
 - (iii) any other person with an interest in or mortgage, charge or other encumbrance over the land that is created on or after

- the date on which the management statement applies to the land; and
- (iv) the occupiers from time to time of the land whose occupation commences on or after the date on which the statement applies to the land; and
 - (v) if the land is affected by an owners corporation, that owners corporation; and
 - (vi) each person whose consent is included in the management statement or in an instrument under section 17 or 18—
as if each of those persons had agreed under seal to be bound by the management statement.
- (2) The management statement has effect and is enforceable by and against the persons for the time being bound by it as if it were a contract entered into between all of them.

S. 19(1)(b)(v) substituted by No. 69/2006 s. 224(Sch. 3 item 8.2).

20 Amendment of management statement

- (1) An owner of land to which the management statement applies may by instrument amend it.
- (2) An instrument amending the management statement must include the consent of any of the following persons with an interest in or encumbrance over the land directly affected by the amendment—
 - (a) an owner of land, other than the owner who prepared the instrument of amendment;
 - (b) in the case of land under the **Transfer of Land Act 1958**—
 - (i) a registered mortgagee or registered annuitant;

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- (ii) a caveator whose caveat is recorded in the Register;
 - (iii) an annuitant whose charge, or a person whose mortgage or caveat, is lodged for registration before the instrument of amendment is lodged under this section;
 - (iv) if the amendment applies the management statement to land to which it did not previously apply, a registered lessee or registered sub-lessee of that land or a person whose lease or sub-lease of that land was lodged before the lodgement of the instrument of amendment under that Act;
 - (c) if the amendment applies the management statement to Crown land to which it did not previously apply, the lessee or sub-lessee of that land.
- (3) An instrument under this section and section 18 may be contained in one document.
- (4) An owner of land who prepares an instrument amending the management statement may apply to the Registrar in an appropriate approved form—
- (a) to have the lodged management statement amended in accordance with the instrument; and
 - (b) to have the amendment recorded on any folio of the Register or other document specified in the application.
- (5) If an instrument amending the management statement relates to Crown land, the owner who prepared it may lodge a copy of the instrument at the Central Plan Office.
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- (6) An amendment of the management statement has no effect unless and until—
- (a) to the extent that it relates to land under the **Transfer of Land Act 1958**, the Registrar amends the lodged management statement; or
 - (b) to the extent that it relates to Crown land, a copy of the instrument of amendment is lodged at the Central Plan Office.
- (7) The Registrar may make any amendments to the Register or any other document that are necessary because of an application under this section and for that purpose may dispense with the production of any relevant instrument or certificate of title.
- (8) Section 16 applies to an amendment of the management statement.
- (9) If the dispute resolution in a management statement provides that, in the determination of a dispute about whether a refusal or failure of consent to an amendment of a management statement is unreasonable, a direction may be made to dispense with that consent, this section has effect in relation to the management statement to which the dispute relates as if the requirement for that consent were omitted.
- (10) In this section *amendment* in relation to a management statement includes—
- (a) a change in, or a deletion, substitution or addition, of a term;
 - (b) including land in or excluding land from the management statement.

S. 20(7)
amended by
No. 10/2005
s. 3(Sch. 1
item 20).

21 Cancellation of management statement

- (1) The owners of all the land to which a management statement applies may cancel it.
- (2) The cancellation must be in writing under seal.
- (3) The owners of the land to which a management statement applies may apply in the appropriate approved form to the Registrar to record on the lodged management statement that it is cancelled and make any amendments in the Register or to any other document that are necessary because of that cancellation.
- (4) If the management statement applies to Crown land, the persons who prepare an instrument cancelling the statement must lodge a copy of the instrument at the Central Plan Office on the same day as they apply to the Registrar under this section.
- (5) The Registrar must make any amendments to a document, or a recording in the Register, that are necessary because of an application under this section.
- (6) The management statement is cancelled—
 - (a) to the extent that it applies to land under the **Transfer of Land Act 1958**, when the Registrar records on the management statement that it is cancelled; or
 - (b) to the extent that it applies to Crown land, when a copy of the instrument of cancellation is lodged at the Central Plan Office.
- (7) For the purposes of this section the Registrar may dispense with the production of any relevant instrument or certificate of title.

22 Implied covenants in leases and sub-leases

- (1) This section applies despite anything to the contrary in any Act or law or in any lease or sub-lease, whether entered into before or after the commencement of this section.
 - (2) By force of this section, on and from the date on which the management statement applies to land there is implied in each lease or sub-lease of that land a covenant by the lessee or sub-lessee to comply with the management statement insofar as it relates to that land.
 - (3) Despite subsection (2), a lease or sub-lease may expressly exclude or modify a covenant implied by that subsection.
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PART 4—GENERAL

23 Yarra river pedestrian bridge

- (1) On receiving a plan, signed by the Surveyor-General, of a stratum of land consisting of—
 - (a) that part of the land shown on Plan LEGL/94-7 lodged at the Central Plan Office as a footbridge over the Yarra river, or that land as nearly as practicable; and
 - (b) any other Crown land that the Minister determines is used as the approaches to, and supports of, that footbridge—the Minister may recommend to the Governor in Council that the plan be approved.
- (2) A stratum of land shown in a plan referred to in subsection (1) may consist of land of any shape, whether above, or below, or partly above and partly below, the surface of the land, but all its dimensions must be limited.
- (3) On the Minister's recommendation under subsection (1), the Governor in Council, by Order published in the Government Gazette, may approve the plan.
- (4) On the date of publication of the Order in the Government Gazette, the stratum shown in the plan of survey vests in fee simple in the Council free and discharged from all leases, sub-leases and other interests and encumbrances.
- (5) The **Subdivision Act 1988** does not apply to the vesting of land in the Council by virtue of this section.
- (6) Land vested in the Council by subsection (4) is deemed to be declared a public highway under section 203 of the **Local Government Act 1989**.

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- (7) This section does not affect any right, power or interest held by a public authority in the land referred to in subsection (4) in connection with any sewers, drains, pipes, wires or cables under the control of the authority in or near the land.
 - (8) The Council must not discontinue a road on land vested by subsection (4) without first getting the written consent of the owners of the project land.
 - (9) Subsection (8) does not apply to the temporary closure of a road to traffic.
 - (10) At least 24 hours before it temporarily closes to traffic a road on land vested in it by this section for any reason other than the safety of the public or an emergency, the Council must cause notice of the proposed closure to be displayed in a conspicuous place at or near each main entrance to the project land.

24 Planning—open space contributions

- (1) On and from the commencement of this section, a public open space contribution cannot be required and is not payable under section 18 of the **Subdivision Act 1988** or a planning scheme or permit under the **Planning and Environment Act 1987** in respect of the project land.
- (2) This section has effect despite anything to the contrary in a planning scheme or permit under the **Planning and Environment Act 1987**.
- (3) Subsections (1) and (2) do not affect any public open space contribution paid in respect of the project land before the commencement of this section.
- (4) Subject to subsections (1) and (2) this Act does not otherwise affect the operation of the **Planning and Environment Act 1987** or an agreement or other instrument under that Act.

25 Application of building controls

- (1) For the purposes of—
 - (a) a provision of the **Building Control Act 1981** relating to the building regulations within the meaning of that Act; or
 - (b) a provision of the **Building Act 1993** relating to the building regulations within the meaning of that Act; or
 - (c) the Building Regulations within the meaning of an Act referred to in paragraph (a) or (b)—

the project land is to be regarded as one allotment in a single occupancy for the purposes of requirements relating to fire prevention and protection, fire escape routes, the provision of services, structural strength, integrity and stability, access to natural light or ventilation.

- (2) Subsection (1) does not limit any power of a building surveyor under a provision referred to in subsection (1) to treat land as one allotment.

26 Redevelopment

- (1) An owner or registered mortgagee of any of the project land may apply to the Supreme Court for an order under this section.
- (2) The applicant must give notice of the application to any person with an interest in or encumbrance over the land to which the application relates.
- (3) If satisfied that it is desirable to do so to assist the redevelopment of any of the project land or the refurbishment of a building on that land and that it is just and equitable to do so having regard to the interests of the owners of the project land as a whole, the Supreme Court may make an Order providing for all or any of the following—

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- (a) the consolidation or resubdivision of all or any of the project land;
 - (b) the amendment or replacement of any plan relating to the project land;
 - (c) the variation or extinguishment of an easement (express or implied) or restriction;
 - (d) the creation or extinguishment of an interest, right, privilege or obligation;
 - (e) the amendment or cancellation of the management statement;
 - (f) directing or authorising the Registrar to make any amendment in the Register or to a registered plan, dispense with the production of any certificate of title or other document, or to do any other act or thing;
 - (g) direct or authorise any person to lodge a document at the Central Plan Office;
 - (h) make any other order that it considers appropriate to facilitate the redevelopment or refurbishment;
 - (i) modify the application of this Act, the **Transfer of Land Act 1958** or the **Subdivision Act 1988** in respect of any matter dealt with in the Order;
 - (j) make incidental Orders, including Orders as to costs.
- (4) An Order under this section has effect despite anything to the contrary in any Act or law.

27 Fences Act 1968 not to apply

The **Fences Act 1968** does not apply to the project land.

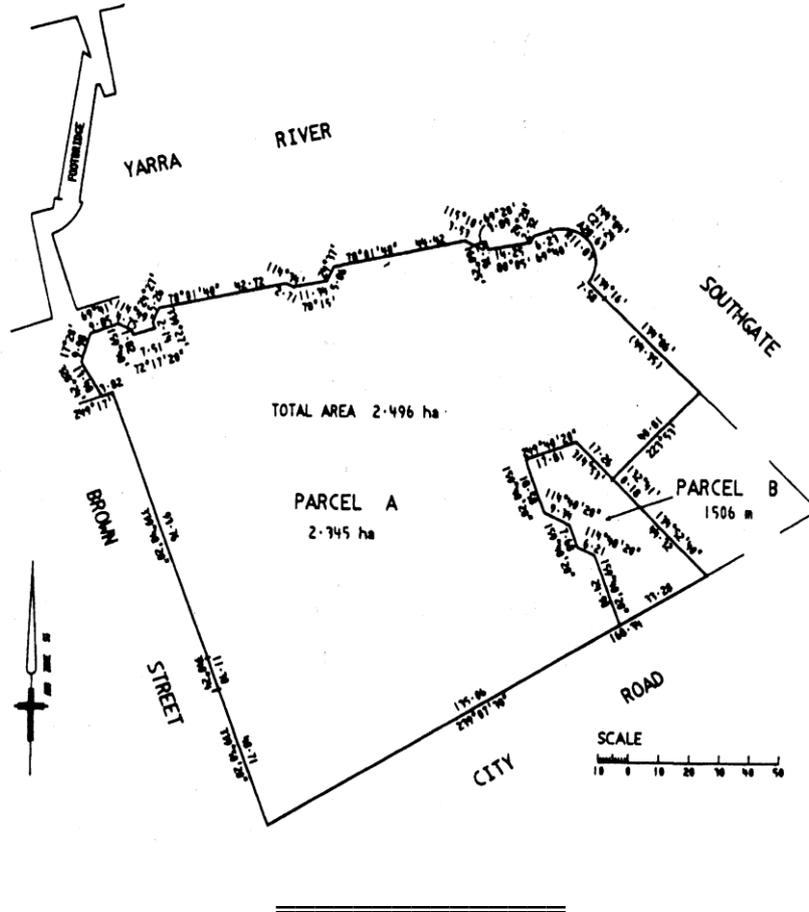
PART 5—REGULATIONS

28 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
- (a) plans, management statements, instruments and other matters provided for in this Act;
 - (b) exempting a plan for all or any of the project land from any of the regulations under the **Subdivision Act 1988**;
 - (c) exempting an instrument, application or document under this Act from any of the regulations under the **Transfer of Land 1958**;
 - (d) prescribing any other matter or thing necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstance; and
 - (c) may confer discretionary authority or impose a duty on, or leave any matter or thing to be determined by, a specified person or class of persons; and
 - (d) may provide for exemptions referred to in subsection (1)(b) or (c) or authorise the exemption to be granted by the Registrar or the Minister, may provide for conditions on the exemptions, and the revocation of exemptions.
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SCHEDULE

SOUTHGATE PROJECT LAND



ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 17 May 1994

Legislative Council: 27 May 1994

The long title for the Bill for this Act was "A Bill to facilitate the Southgate project and for other purposes."

The **Southgate Project Act 1994** was assented on 15 June 1994 and came into operation on 15 June 1994: section 2.

2. Table of Amendments

This Version incorporates amendments made to the **Southgate Project Act 1994** by Acts and subordinate instruments.

Transport (Further Amendment) Act 2001, No. 54/2001

Assent Date: 2.10.01
Commencement Date: S. 43 on 30.6.03: s. 2(5)
Current State: This information relates only to the provision/s amending the **Southgate Project Act 1994**

Statute Law Revision Act 2005, No. 10/2005

Assent Date: 27.4.05
Commencement Date: S. 3(Sch. 1 item 20) on 28.4.05: s. 2
Current State: This information relates only to the provision/s amending the **Southgate Project Act 1994**

Owners Corporations Act 2006, No. 69/2006

Assent Date: 19.9.06
Commencement Date: S. 224(Sch. 3 item 8) on 31.12.07: s. 2(2)
Current State: This information relates only to the provision/s amending the **Southgate Project Act 1994**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: S. 203(1)(Sch. 6 item 44) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Southgate Project Act 1994**

Endnotes

3. Explanatory Details

No entries at date of publication.