

## Authorised Version

# Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017

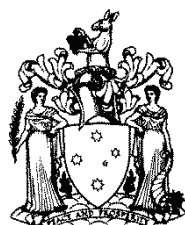
No. 47 of 2017

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**Authorised Version**



**Victoria**

**Planning and Building Legislation  
Amendment (Housing Affordability and  
Other Matters) Act 2017<sup>†</sup>**

**No. 47 of 2017**

[Assented to 26 September 2017]

**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purposes**

The main purposes of this Act are—

- (a) to amend the **Planning and Environment Act 1987**—
  - (i) to facilitate affordable housing supply;  
and

- (ii) to modify the requirements for determining certain applications to amend wind farm planning permits; and
- (b) to make miscellaneous amendments to the **Building Act 1993** and the **Building Amendment (Enforcement and Other Measures) Act 2017**.

## 2 Commencement

- (1) This Act (except Part 2) comes into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), Part 2 comes into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 1 June 2018, it comes into operation on that day.

## **Part 2—Amendment of Planning and Environment Act 1987**

### **Division 1—Facilitation of affordable housing supply**

#### **3 Definitions**

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

*"affordable housing* has the meaning given by section 3AA;"

#### **4 New sections 3AA and 3AB inserted**

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

##### **"3AA Meaning of *affordable housing***

- (1) For the purposes of this Act, *affordable housing* is housing, including social housing, that is appropriate for the housing needs of any of the following—
  - (a) very low income households;
  - (b) low income households;
  - (c) moderate income households.
- (2) For the purposes of determining what is appropriate for the housing needs of very low income households, low income households and moderate income households, regard must be had to the matters specified by the Minister by notice published in the Government Gazette.
- (3) Matters specified by the Minister by notice under subsection (2) cannot include price ranges or prices for the purchase or rent of housing.

(4) In this section—

*low income households* means households with a household income within the income range specified as a very low income range by Order under section 3AB;

*moderate income households* means households with a household income within the income range specified as a moderate income range by Order under section 3AB;

*social housing* has the same meaning as in section 4(1) of the **Housing Act 1983**;

*very low income households* means households with a household income within the income range specified as a very low income range by Order under section 3AB.

**3AB Order in Council specifying income ranges**

- (1) The Governor in Council, on the recommendation of the Minister, by Order published in the Government Gazette, may specify—
  - (a) a range of household income as a very low income range; and
  - (b) a range of household income as a low income range; and
  - (c) a range of household income as a moderate income range.
- (2) An Order under this section may specify a range of household income as a very low income range, a low income range or a moderate income range by reference to

statistical data published by the Australian  
Bureau of Statistics."

## 5 Objectives

After section 4(1)(f) of the **Planning and  
Environment Act 1987** insert—

"(fa) to facilitate the provision of affordable  
housing in Victoria;"

## 6 Responsible authority may enter into agreements

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

"(1A) Without limiting subsection (1), a  
responsible authority may enter into an  
agreement with an owner of land for the  
development or provision of land in  
relation to affordable housing."

(2) In section 173(3) of the **Planning and  
Environment Act 1987**, after "subsection (1)"  
insert "or (1A)".

## Division 2—Applications to amend referred wind energy facility planning permits

### 7 Definitions

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

*"referred wind energy facility permit* means a  
permit required by a planning scheme to be  
obtained for the use or development of land  
as a wind energy facility, the application for  
which was referred to and determined by the  
Minister under Division 6 of Part 4;

*wind energy facility* means an electricity  
generation facility that generates electricity  
by converting wind energy into electricity;"

## **8 What can a planning scheme provide for?**

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

"(kf) specify classes of applications to amend referred wind energy facility permits that are wholly exempted from the requirements under section 97E(1) or for which the requirements under section 97E(1) are modified so as to require referral of objections and submissions to an advisory committee established under section 151;"

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

"(2A) For the purposes of subsection (2)(kf), a class of application to amend a referred wind energy facility permit may be specified by reference to any of the following characteristics of a wind energy facility—

- (a) the total number of turbines;
- (b) the maximum height of turbines;
- (c) the location of turbines."

## **9 Application for amendment of permit**

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

"(3) Without limiting subsection (2), if an application for an amendment of a referred wind energy facility permit is of a class of application specified in a planning scheme for which objections and submissions must be referred to an advisory committee, section 97E applies to the application for the amendment of the permit as if a reference to a panel were a reference to the advisory committee."



## **Part 3—Amendment of Building Act 1993**

### **10 Work not to be carried out until protection requirements met**

For the note at the foot of section 88(1) of the **Building Act 1993** substitute—

**"Note**

There is a right of appeal to the Building Appeals Board under section 141 against a determination under section 87 as to the appropriateness of protection work or a requirement under section 87 to give more information. Under section 146, a decision under section 87 in respect of which there is a right of appeal does not take effect until the end of the appeal period, or the decision is affirmed on appeal."

### **11 Grounds for immediate suspension**

In section 180(a) of the **Building Act 1993**, for "insolvent under administration" (where secondly occurring) **substitute** "subject to external administration within the meaning of section 5-5 of Schedule 2 to the Corporations Act".

### **12 Council to administer building provisions in its municipal district**

Before section 212(2) of the **Building Act 1993** insert—

"(1B) A council is not responsible for enforcing an indictable offence against this Act."

### **13 Proceedings for offences**

In section 241(1) of the **Building Act 1993**, for "an offence" **substitute** "a summary offence".

Planning and Building Legislation Amendment (Housing Affordability and  
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Part 4—Amendment of Building Amendment  
(Enforcement and Other Measures) Act 2017

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## **Part 4—Amendment of Building Amendment (Enforcement and Other Measures) Act 2017**

### **14 New sections 80A and 80B inserted**

In section 6 of the **Building Amendment  
(Enforcement and Other Measures) Act 2017**,  
in proposed section 80A of the **Building  
Act 1993**, for "( ) If" substitute "(4) If".

## **Part 5—Repeal of amending Act**

### **15 Repeal of amending Act**

This Act is **repealed** on 1 June 2019.

#### **Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 21 June 2017*

*Legislative Council: 10 August 2017*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Planning and Environment Act 1987** to facilitate affordable housing supply and to modify the requirements for determining certain applications to amend wind farm planning permits, to make miscellaneous amendments to the **Building Act 1993** and the **Building Amendment (Enforcement and Other Measures) Act 2017** and for other purposes."