Planning and Environment Amendment (General) Act 2013
No. 3 of 2013

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Planning and Environment Amendment (General) Act 2013†
No. 3 of 2013
[Assented to 19 February 2013]

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 abolish Development Assessment Committees;
   (ii) to establish the Planning Application Committee;
(iii) to streamline processes under that Act;
(iv) to improve generally the operation of that Act; and
(b) to amend the **Subdivision Act 1988** in relation to public open space; and
(c) to make consequential amendments to the **Local Government Act 1989**.

2 **Commencement**

(1) Subject to subsection (2), 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 28 October 2013, it comes into operation on that day.
PART 2—DEVELOPMENT ASSESSMENT COMMITTEES ABOLISHED

3 Exemption from giving notice
   Section 20(6) of the Planning and Environment Act 1987 is repealed.

4 Responsible authority to consider all applications
   (1) In section 58(1) of the Planning and Environment Act 1987, for "Subject to subsection (2), the" substitute "The".
   (2) Section 58(2) of the Planning and Environment Act 1987 is repealed.

5 Repeal of Part 4AA
   Part 4AA of the Planning and Environment Act 1987 is repealed.

6 Section 219 repealed
   Section 219 of the Planning and Environment Act 1987 is repealed.
7 Section 78B(3)(ca) of the Local Government Act 1989 repealed

Section 78B(3)(ca) of the Local Government Act 1989 is repealed.
PART 3—PLANNING APPLICATION COMMITTEE

8 Definitions

Insert the following definition in section 3(1) of the Planning and Environment Act 1987—

"Planning Application Committee means the Planning Application Committee established under Part 4AA;".

9 Responsible authority to consider all applications

After section 58 of the Planning and Environment Act 1987 insert—

"58A Responsible authority may request advice from Planning Application Committee

A responsible authority, with the consent of the Minister, may ask the Planning Application Committee for advice in relation to an application for a permit or a class of applications for permits.".

10 Insertion of new Part 4AA

After Part 4 of the Planning and Environment Act 1987 insert—

"PART 4AA—PLANNING APPLICATION COMMITTEE

97MA Planning Application Committee

The Minister may establish a Planning Application Committee.

97MB Membership of Planning Application Committee

(1) The Planning Application Committee is to consist of—

(a) a chairperson appointed by the Minister from the list of persons prepared under subsection (2); and
(b) at least 4 other members appointed by the Minister.

(2) The Minister must prepare a list of names of persons available for appointment as a chairperson of the Planning Application Committee.

(3) The Minister must consult with the following bodies in respect of the list before making any appointment from that list—

(a) the Municipal Association of Victoria established under the Municipal Association Act 1907;

(b) the Victorian Local Governance Association;

(c) 2 bodies that the Minister considers represent the planning and development industry.

(4) The Public Administration Act 2004 (other than Part 3 of that Act) applies to a member of the Planning Application Committee in respect of the office of member.

97MC Functions of the Planning Application Committee

The Planning Application Committee has the following functions—

(a) to advise the Minister on any matters which the Minister refers to it in relation to an application for a permit or class of applications for permits;

(b) to advise a responsible authority on any matters which the authority, with the consent of the Minister, refers to it in relation to an application for a permit or class of applications for permits;
(c) to carry out, as delegate, any function delegated to it by the Minister under section 190;

(d) to carry out, as delegate, any function delegated to it by a responsible authority under section 188.

97MD  Proceedings of Planning Application Committee

Subject to the regulations (if any), the Planning Application Committee may regulate its own proceedings.

97ME  Subcommittees

(1) The Planning Application Committee may appoint one or more subcommittees for the purposes of carrying out any of its functions.

(2) A subcommittee may consist of—

(a) members of the Planning Application Committee; or

(b) one or more members of the Planning Application Committee and co-opted members appointed by the Committee.

(3) The Planning Application Committee must appoint a member of the Planning Application Committee to be the chairperson of a subcommittee.

97MF  Delegation to subcommittee

The Planning Application Committee may, by instrument, delegate to the members of a subcommittee any of its functions, including any function delegated to it, but not including this power of delegation.
97MG Payment of members of Committee and subcommittees

A member of the Planning Application Committee or a subcommittee of that Committee is entitled to be paid the fees and allowances (if any) fixed in respect of the member by the Minister.

97MH Responsible authority to assist Planning Application Committee

A responsible authority, which has requested the advice of the Planning Application Committee or delegated a function to the Committee, must provide the Committee with any information or assistance that the Committee requires in order to provide the advice or carry out the function.

97MI Responsible authority to contribute to costs of Planning Application Committee

A responsible authority must, on the request of the Minister, contribute an amount specified by the Minister towards the costs of the Planning Application Committee or a subcommittee of that Committee that are incurred in providing advice to, or carrying out a function under delegation from, that authority.

11 Responsible authorities may delegate certain powers to Planning Application Committee

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

"(3) A responsible authority, with the consent of the Minister, may by instrument delegate to the Planning Application Committee any of its powers, discretions or functions under
sections 58, 59, 60, 61 and 62 in relation to an application for a permit or an amendment to a permit, or a class of applications for permits or amendments to permits.”.

12 Minister may delegate certain powers to Planning Application Committee

After section 190(1) of the Planning and Environment Act 1987 insert—

"(1A) The Minister may, by instrument, delegate to the Planning Application Committee any of the Minister's powers, discretions or functions as the responsible authority under sections 58, 59, 60, 61 and 62 in relation to an application for a permit or an amendment to a permit, or a class of applications for permits or amendments to permits.”.

13 Indirect interest because of conflicting duties

After section 78B(3)(c) of the Local Government Act 1989 insert—

"(ca) the person is only a member of the Planning Application Committee established under Part 4AA of the Planning and Environment Act 1987 or a member or co-opted member of a subcommittee of that Committee;".
PART 4—AMENDMENTS RELATING TO REFERRAL AUTHORITIES

14 Definitions

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

"determining referral authority" means, in relation to an application for a permit or an amendment to a permit, a person or body that a planning scheme specifies as a determining referral authority for applications of that kind;

"recommending referral authority" means, in relation to an application for a permit or an amendment to a permit, a person or body that a planning scheme specifies as a recommending referral authority for applications of that kind;

"referral authority" means a body or person specified in a planning scheme as—

(a) a determining referral authority; or

(b) a recommending referral authority;".

15 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

(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 Minister.

16 Responsible authority to keep register

Insert the following heading to section 49 of the Planning and Environment Act 1987—
"Responsible authority to keep register".

17 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.

(4) A planning scheme may specify that a referral authority is—
(a) a determining referral authority; or
(b) a recommending referral authority.

18 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, without delay, a copy of any decision and comments it gives to the
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 at its office during office hours for any person to inspect free of charge."

amended application may go to referral authorities

(1) In section 57C(1) of the Planning and Environment Act 1987, after "amended application" insert ", together with the prescribed information,".

(2) 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."

decision on application

(1) In section 61(2) of the Planning and Environment Act 1987, after "a relevant" insert "determining".
(2) After section 61(2) of the Planning and Environment Act 1987 insert—

"(2A) The responsible authority may decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of the permit.".

22 What conditions can be put on permits?

(1) In section 62(1)(a) of the Planning and Environment Act 1987, after "relevant" insert "determining".

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

"(ab) a condition recommended by a recommending referral authority; and".

(3) In section 62(6)(c) of the Planning and Environment Act 1987, after "condition that a" insert "determining".

23 Grant of permit

(1) In section 63 of the Planning and Environment Act 1987—

(a) for "Once" substitute "Subject to section 64A, once";

(b) after "objected" insert "under section 57".

(2) In section 64(1) of the Planning and Environment Act 1987, for "objector" substitute "person who objected under section 57".

(3) In section 64(3)(a) of the Planning and Environment Act 1987, for "an objector" substitute "a person who objected under section 57".

(4) In section 64(5) of the Planning and Environment Act 1987, for "objector" substitute "person who objected under section 57".
24 New section 64A inserted

After section 64 of the Planning and Environment Act 1987 insert—

"64A Grant of permit—recommending referral authority objected or recommended condition that was not included

If a relevant recommending referral authority has objected to the grant of a permit, or recommended a condition on the permit that the responsible authority has decided not to include on the permit, the responsible authority must not issue the permit to the applicant—

(a) until the end of the period within which a recommending referral authority may apply to the Tribunal for review of the decision to grant the permit; or

(b) if an application for review is made within that period, until the application is determined by the Tribunal or withdrawn.".

25 Refusal of permit

(1) In section 65(1) of the Planning and Environment Act 1987, for "objector" substitute "person who objected under section 57".

(2) In section 65(2) of the Planning and Environment Act 1987, for "referral authority" substitute "determining referral authority".

26 Notice to referral authority

(1) In section 66 of the Planning and Environment Act 1987, after "relevant" insert "determining".
(2) At the end of section 66 of the Planning and Environment Act 1987 insert—

"(2) The responsible authority must give a recommending referral authority a notice in the prescribed form of its decision to grant a permit if—

(a) the recommending referral authority objected to the grant of the permit; or

(b) the responsible authority decided not to include a condition on the permit recommended by the recommending referral authority.

(3) A notice of a decision given under subsection (2) must set out any conditions to which the permit will be subject.

(4) The responsible authority must give a recommending referral authority a notice in the prescribed form of its decision to refuse to grant a permit if—

(a) the recommending referral authority objected to the grant of the permit; or

(b) the recommending referral authority recommended that a condition be included on the permit.

(5) A notice given under subsection (4) must set out the specific grounds on which the permit is refused and state whether the grounds were those of the responsible authority or a determining referral authority.

(6) The responsible authority must give a recommending referral authority a copy of any permit which it decides to grant and a copy of any notice given under section 64 or 65 if—
(a) the recommending referral authority did not object to the grant of the permit; or
(b) the recommending referral authority did not recommend a condition be included on the permit.”.

27 Issue of amended permit if no objectors

In section 74 of the Planning and Environment Act 1987—

(a) for "Once" substitute "Subject to section 75A, once";
(b) after "objected" insert "under section 57".

28 New section 75A inserted

After section 75 of the Planning and Environment Act 1987 insert—

"75A Decision to amend permit if recommending referral authority objected to or recommended condition that was not included

Section 64A (with any necessary changes) applies to a decision to grant an amendment to a permit as if—

(a) a reference to a decision to grant a permit were a reference to the decision to grant the amendment; and
(b) a reference to the issue of a permit were a reference to the issue of an amended permit.”.

29 Refusal of amendment

(1) In section 76(1) of the Planning and Environment Act 1987, for "objector" substitute "person who objected under section 57".
(2) In section 76(2) of the Planning and Environment Act 1987, for "referral authority" substitute "determining referral authority".

30 Notice to referral authority

(1) In section 76A of the Planning and Environment Act 1987, after "relevant" insert "determining".

(2) At the end of section 76A of the Planning and Environment Act 1987 insert—

"(2) The responsible authority must give a recommending referral authority a notice in the prescribed form of its decision to grant an amendment to a permit if—

(a) the recommending referral authority objected to the grant of the amendment to the permit; or

(b) the responsible authority decided not to include a condition on the amended permit recommended by the recommending referral authority.

(3) A notice given under subsection (2) must set out any conditions to which the permit will be subject.

(4) The responsible authority must give a recommending referral authority a notice in the prescribed form of its decision to refuse to grant an amendment to a permit if—

(a) the recommending referral authority objected to the grant of the amendment to the permit; or

(b) the recommending referral authority recommended that a condition be included on the amended permit.
(5) A notice given under subsection (4) must set out the specific grounds on which the application is refused and state whether the grounds were those of the responsible authority or a determining referral authority.

(6) The responsible authority must give a recommending referral authority a copy of any amended permit, if it decides to grant an amendment to the permit, and a copy of any notice given under section 64 or 76 if—

(a) the recommending referral authority did not object to the grant of the amendment to the permit; or

(b) the recommending referral authority did not recommend a condition be included on the amended permit.”.

31 Powers of Minister in relation to application

In section 76D(3) of the Planning and Environment Act 1987, after "64," insert "64A, ".

32 New section 82AAA inserted

After section 82 of the Planning and Environment Act 1987 insert—

"82AAA Request for review by recommending referral authority

A recommending referral authority may apply to the Tribunal for review of a decision of the responsible authority—

(a) to grant a permit, if the recommending referral authority objected to the grant of the permit; or

(b) not to include a condition on the permit that the recommending referral authority recommended.".
33 Parties to review

(1) For section 83(1) of the Planning and Environment Act 1987 substitute—

"(1) In addition to any other party to a proceeding for review under this Act, a determining referral authority is a party to a proceeding for review of a refusal to grant a permit if—

(a) the determining referral authority had objected to the grant of the permit; or

(b) it was refused because a condition required by the determining referral authority conflicted with a condition recommended by a recommending referral authority or required by another determining referral authority.".

(2) After section 83(2) of the Planning and Environment Act 1987 insert—

"(3) In addition to any other party to a proceeding for review under this Act, a recommending referral authority is a party to a proceeding for review if the recommending referral authority—

(a) is given notice of the application for review under this Act; and

(b) in accordance with the Victorian Civil and Administrative Tribunal Act 1998, lodges with the Tribunal a statement of the grounds on which the recommending referral authority intends to rely at the hearing of the proceeding.".

34 Objectors entitled to notice

In section 83A(1) of the Planning and Environment Act 1987, after "grant of a permit" insert "under section 57".
35  New section 83AB inserted

After section 83A of the Planning and Environment Act 1987 insert—

"83AB  Recommending referral authority entitled to notice

A recommending referral authority is entitled to notice of an application by the applicant for the permit for a review of a decision by the responsible authority to refuse to grant a permit or for review of a condition in a permit if that recommending referral authority had—

(a) objected to the grant of a permit or to the amendment of the permit; or

(b) recommended that the condition that is the subject of the application be included in the permit.".

36  Tribunal may confine review with agreement

In section 84AB of the Planning and Environment Act 1987, after "82" insert "82AAA".

37  Right to compensation

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

"(2A)  A referral authority is liable to pay the compensation referred to in subsection (2) instead of the responsible authority if the permit is cancelled or amended under this Division because of a material mistake in relation to the issue of the permit that arose from an act or omission of the referral authority.".
38 Referral of applications to Minister
In section 97D(2) of the Planning and Environment Act 1987, after "64," insert "64A,"

39 Notice of availability
In section 97G(2) of the Planning and Environment Act 1987, for "referral authority" substitute "determining referral authority".

40 Cancellation or amendment of certificate
For section 97Q(5) of the Planning and Environment Act 1987 substitute—
"(5) The following provisions (with any necessary changes) apply to a request and direction under this section as if any reference in those provisions to a permit were a reference to a certificate of compliance under this Part—
(a) section 88;
(b) section 89(2) and (3);
(c) section 92;
(d) section 93;
(e) section 94 (except subsection (2A))."

41 Expedition
In section 197 of the Planning and Environment Act 1987, after "planning authority," insert "referral authority,\".
PART 5—AUTHORISATION OF PLANNING AUTHORITIES

42 Section 8A substituted and new section 8B inserted

For section 8A of the Planning and Environment Act 1987 substitute—

"8A Municipal council as planning authority for its municipal district

(1) A municipal council is a planning authority for any planning scheme in force in its municipal district.

(2) A municipal council must not prepare an amendment to the State standard provisions or the local provisions of a planning scheme in force in its municipal district unless it has applied to the Minister under this section and the Minister has authorised it to do so.

(3) An application under this section must be made in accordance with the regulations and contain the information required by the Minister.

(4) The Minister, on the application of a municipal council under this section, may decide—

(a) to authorise the municipal council to prepare the amendment; or

(b) that the application requires further review; or

(c) to refuse to authorise the municipal council to prepare the amendment.

(5) The Minister must notify the municipal council in writing of his or her decision.
(6) The Minister may authorise the preparation of an amendment subject to any conditions the Minister wishes to impose, including conditions relating to the giving of notice under the amendment.

(7) Despite subsection (2), a municipal council that has made an application under this section may prepare the amendment specified in the application without the authorisation after the end of the period of 10 business days after the Minister receives the application if the Minister has not notified the council of his or her decision within that period.

(8) If the Minister decides that an application requires further review, the Minister may, following that review, decide to authorise or refuse to authorise the municipal council to prepare the amendment.

(9) Despite anything to the contrary in this section, a municipal council must not 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.

8B Municipal council as planning authority for area adjoining municipal district

(1) A municipal council is a planning authority for any planning scheme applying to an area adjoining its municipal district for which it is authorised under this section to prepare an amendment.

(2) The Minister, on the application of a municipal council under this section, may authorise that municipal council to prepare an amendment to any part of the State.
standard provisions and local provisions of a
planning scheme applying to an area
adjoining its municipal district.

(3) The authorisation must be in writing.

(4) An application under this section must be
made in accordance with the regulations and
contain the information required by the
Minister.

(5) The Minister may authorise the preparation
of an amendment subject to any conditions
the Minister wishes to impose, including
conditions relating to the giving of notice of
the amendment.

(6) The Minister cannot authorise a municipal
council 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.".
PART 6—STREAMLINED PROCESS FOR PRESCRIBED AMENDMENTS

43 Restrictions and powers relating to the preparation of amendments

In section 10(2) of the Planning and Environment Act 1987, after "A planning authority" insert "(including the Minister)".

44 New section 20A inserted

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

"20A Minister may determine to prepare prescribed amendments—exception to sections 17, 18 and 19

(1) The regulations may prescribe a class or classes of amendment to a planning scheme for the purposes of this section.

(2) The Minister may determine to prepare an amendment in a prescribed class or classes in accordance with this section.

(3) If the Minister determines to prepare an amendment in a prescribed class or classes in accordance with this section, sections 17, 18 and 19 do not apply in respect of that amendment.

(4) In preparing an amendment referred to in subsection (3) to a planning scheme applying in a municipal district, the Minister must consult with the municipal council for the municipal district unless—

(a) the amendment is being prepared at the request of the municipal council; or

(b) the amendment is of a class exempted from this requirement by the regulations.".
45 Parliament may revoke an amendment

(1) After section 38(1) of the Planning and Environment Act 1987 insert—

"(1AAA) A notice under subsection (1) must state whether the Minister prepared the amendment under section 20A.".

(2) In section 38(1B) of the Planning and Environment Act 1987, after "exemption" (where first occurring) insert "referred to in subsection (1A)".
PART 7—AGREEMENTS

46 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".

(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".

47 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.".

48 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.".
49 Section 178 substituted and new sections 178A 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) otherwise in accordance with this Division.

Note
Section 180 provides that an agreement must not require or allow anything to be done which would breach a planning scheme or permit.

178A Proposal to amend or end agreement

(1) An owner of land, or a person who has entered into an agreement under section 173 in anticipation of becoming the owner of the 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) An application under subsection (1) must—

(a) be made in accordance with the regulations; and

(b) be accompanied by the information required by the regulations; and

(c) be accompanied by the prescribed fee.
(3) The responsible authority must notify the owner as to whether it agrees in principle to the proposal under subsection (1).

(4) If an application under subsection (1) was made by a person who has entered into an agreement under section 173 in anticipation of becoming the owner of the land, the responsible authority must notify the owner and that person as to whether it agrees in principle to the proposal.

(5) 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) the reasons why the responsible authority entered into the agreement; and
(f) if the amendment is to remove land from the application of the agreement, whether the land is subject to any further liability under the agreement; and
(g) any relevant permit or other requirements the land is subject to under the Subdivision Act 1988; and

(h) 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) the reasons why the responsible authority entered into the agreement; and

(e) any relevant permit or other requirements the land is subject to under the Subdivision Act 1988; and

(f) 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 persons, if the responsible authority considers that the decision to amend or end the agreement may cause material detriment to them.

(3) Subsection (2)(a) is subject to any provision of the agreement that specifies the parties to the agreement to be notified of a proposal to amend or end an agreement.

(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 and submissions 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 or end 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 or end the agreement in accordance with the proposal; or
   (b) decide to amend or end the agreement in a manner that is not substantively different from the proposal; or
   (c) propose to amend or end the agreement in a manner that is substantively different from the proposal; or
   (d) refuse to amend or end the agreement.

(4) Sections 178C, 178D and this section apply to a proposal under subsection (3)(c) as if it were a new proposal.
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 an agreement, it must give notice of its decision to—

(a) any person who applied to amend or end the agreement under section 178A; and

(b) each person who made an objection or a submission.

(2) If the responsible authority decides under section 178E(2)(c) or (3)(d) to refuse to amend or end an agreement, it must give notice of its decision to—

(a) any person who applied to amend or end the agreement under section 178A; and

(b) each person who made an objection or a submission.

(3) A notice under subsection (2) must set out the grounds on which the responsible authority refused to amend or end the agreement.

(4) The responsible authority must not proceed to amend or end an agreement under section 178E—

(a) subject to paragraph (b), 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.
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 184F or 184G.

(2) The responsible authority must, without delay—
   (a) sign the amended agreement; and
   (b) give a copy of the signed amended agreement to each other party to the agreement.

(3) It is not necessary for the amended agreement to be signed or otherwise agreed to by any other party to the agreement.

(4) A party to an agreement is bound by the agreement as amended and signed by the responsible authority even though the party did not sign the amended agreement.

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 pay the costs of—
   (a) giving the required notices under section 178C; and
   (b) preparing the amended agreement.

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

(1) Subject to this section, an amendment or the ending of an agreement under this Subdivision or under section 184F or 184G comes into effect on the day on which the Registrar of Titles—
(a) cancels in whole or part the recording of the agreement in the Register under section 183(2); or

(b) makes a recording in the Register of the matters notified under section 183(1).

(2) An amendment to an agreement relating to Crown land under this Subdivision or under section 184F or 184G comes into effect on the day on which it is signed under section 178G.

(3) If an agreement relating to Crown land ends under this Subdivision or under section 184F or 184G, the responsible authority must notify, in writing, each party to the agreement of the ending of the agreement.

(4) The ending of an agreement relating to Crown land comes into effect on the day the responsible authority notifies the last party to the agreement of the ending of that agreement under subsection (3).

(5) A reference to the ending of an agreement in this section is a reference to the ending of the agreement wholly or in part or as to any part of the land.

50 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.
51 Recording of agreement

(1) Insert the following heading to section 181 of the Planning and Environment Act 1987—
"Recording of agreement".

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

(3) After section 181(1) of the Planning and Environment Act 1987 insert—
"(1A) Despite subsection (1), where the responsible authority has entered into an agreement under section 173 with a person in anticipation of that person becoming the owner of the land—

(a) if that person is not the owner of the land—the responsible authority may, with the consent of the owner of the land, apply to the Registrar of Titles to record the agreement; or

(b) if that person becomes the owner of the land—the responsible authority must apply to the Registrar of Titles, without delay, to record the agreement.".

(4) Insert the following heading to section 182 of the Planning and Environment Act 1987—
"Effect of recording".

(5) Insert the following heading to section 183 of the Planning and Environment Act 1987—
"Cancellation or alteration of recording".

(6) In section 173(4) of the Planning and Environment Act 1987, for "registered" substitute "recorded".
52 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 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."

53 Application to Tribunal

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

54 New sections 184A to 184G 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 amend or end an agreement under Subdivision 2 may apply to the Tribunal for review of a decision by the responsible authority under section 178E—

(a) to amend the agreement in a manner that is different from the proposal; or

(b) to end the agreement in a manner that is different from the proposal; or
(c) to refuse—
   (i) to amend the agreement; or
   (ii) to end the agreement, wholly or in part or as to any part of the land subject to the agreement.

(2) If the responsible authority—
   (a) fails to give notice of a proposal under section 178C for the amendment of an agreement or the ending of an agreement within the prescribed time after the responsible authority gives notice that it agrees in principle under section 178A(3) or (4); or
   (b) fails to decide on an application under section 178E within the prescribed time after the responsible authority gives notice that it agrees in principle under section 178A(3) or (4)—

the applicant may apply to the Tribunal for review of the failure to make a decision on the matter.

184B Application to Tribunal by party to agreement
A party to an agreement (other than a person referred to in section 184A) may apply to the Tribunal for review of a decision by a responsible authority under section 178E to amend or end the agreement.

184C Application to Tribunal by objector
An objector may apply to the Tribunal for review of a decision by a responsible authority under section 178E to amend or end an agreement.
184D Application to Tribunal by affected person

Any person who was entitled to object to a proposal to amend or end an agreement but did not object because the person was not given notice under section 178C, may apply to the Tribunal for review of a decision by the responsible authority under section 178E to amend or end the agreement.

184E Objectors entitled to notice

An objector 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.

184F Application to amend or end agreement may be determined after application for review 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.

184G 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).”.

55 Secretary's powers to dispose of land

In section 201J(3) of the Planning and Environment Act 1987—

(a) in paragraph (c), for "omitted;" substitute "omitted.";

(b) paragraph (d) is repealed.
PART 8—ACQUIRING AUTHORITIES AND COMPENSATION

56 Designation of acquiring authorities in planning schemes

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

"(fa) designate a Minister, public authority or municipal council as an acquiring authority for the purposes of this Act for land reserved for public purposes;".

57 Loss on sale—notice to acquiring authority

(1) In section 106(1)(b) and (2)(a) of the Planning and Environment Act 1987, for "the planning authority" substitute "the relevant authority".

(2) After section 106(2) of the Planning and Environment Act 1987 insert—

"(3) In this section relevant authority means—

(a) the Minister, public authority or municipal council designated in the planning scheme as the acquiring authority for the purposes of this Act in respect of the land; or

(b) if there is no acquiring authority, the planning authority.".

58 When is compensation payable by other authorities?

(1) In section 109(1) of the Planning and Environment Act 1987—

(a) for "A Minister or public authority" substitute "Subject to subsection (1A), a Minister, public authority or municipal council";
Part 8—Acquiring Authorities and Compensation

(b) for "the Minister or public authority"

substitute "the Minister, public authority or municipal council".

(2) After section 109(1) of the Planning and Environment Act 1987 insert—

"(1A) If the planning scheme designates a Minister, public authority or municipal council as an acquiring authority for the purposes of this Act for land reserved for public purposes, the acquiring authority is liable to pay any compensation payable under this Part which arises from that reservation.".

(3) In section 109(3) of the Planning and Environment Act 1987, after "public authority" insert "the relevant municipal council".

(4) In section 109(4) of the Planning and Environment Act 1987, after "public authority" insert "or municipal council".

59 Reimbursement of compensation paid

(1) For section 112(1)(b) of the Planning and Environment Act 1987 substitute—

"(b) another person—

(i) acquires the land or part of the land in respect of which the statement was lodged; or

(ii) is designated under the planning scheme as the acquiring authority for the purposes of this Act for the land or part of the land in respect of which the statement was lodged—".

(2) In section 112(1)(d) of the Planning and Environment Act 1987, for "that part." substitute "that part; or".
(3) After section 112(1)(d) of the Planning and Environment Act 1987 insert—

"(e) if the acquiring authority is designated under the planning scheme in respect of only part of the land, the proportion of the compensation which is attributable to that part.".
PART 9—PROCEEDINGS BEFORE THE TRIBUNAL

60 Application for amendment of permit

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

61 Applications for review relating to extensions of time

(1) After section 81(2) of the Planning and Environment Act 1987 insert—

"(3) Despite subsection (1) and clause 62 of Schedule 1 to the Victorian Civil and Administrative Tribunal Act 1998, an application cannot be made to the Tribunal for review of a decision referred to in subsection (1)(a) or (aa) or a failure referred to in subsection (1)(b) unless the request to the responsible authority for the extension of time was made within the time specified under section 69(1) or (1A) (as the case requires)".

(2) In section 96M(2) of the Planning and Environment Act 1987, after "81(1)" insert "and (3)".

62 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".

Authorised by the Chief Parliamentary Counsel

45
Part 9—Proceedings before the Tribunal

(2) After section 83B(1)(b) of the Planning and Environment Act 1987 insert—

"(c) the applicant for a permit to give or publish notice of the application for review to the persons, in the manner and within the time specified by the President.".

63 New section 84AB inserted

After section 84A of the Planning and Environment Act 1987 insert—

"84AB Tribunal may confine review with agreement

The Tribunal may confine a review in respect of an application made under section 77, 78, 79, 80, 81, 82 or 82B to particular matters in dispute if all the parties agree, and for this purpose section 84B applies as if the reference to an application for review were a reference to an application for review as so confined.".

64 Determination of applications

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 contain 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.".

65 Hearing by Tribunal

Section 90(1)(d) of the Planning and Environment Act 1987 is repealed.
66 Review of failure or refusal to issue certificate

(1) **Insert** the following heading to section 97P of the **Planning and Environment Act 1987**—
"Review of failure or refusal to issue certificate".

(2) After section 97P(1) of the **Planning and Environment Act 1987** **insert**—
"(1A) In reviewing a decision or failure to issue a certificate under this section, the Tribunal may confine its review to particular matters in dispute if all parties agree, and for this purpose section 84B applies as if the reference to an application for review were a reference to an application for review as so confined.".

67 Application by specified person for declaration

After section 149A(1) of the **Planning and Environment Act 1987** **insert**—
"(1A) A specified person or a party to the agreement may apply to the Tribunal for the determination of a matter relating to the interpretation of an agreement under section 173.".

68 Insertion of section headings

(1) **Insert** the following heading to section 77 of the **Planning and Environment Act 1987**—
"Applications for review of refusals to grant permits".

(2) **Insert** the following heading to section 78 of the **Planning and Environment Act 1987**—
"Applications for review of requirements".
(3) Insert the following heading to section 79 of the Planning and Environment Act 1987—
"Applications for review of failures to grant permits".

(4) Insert the following heading to section 80 of the Planning and Environment Act 1987—
"Applications for review of conditions on permits".

(5) Insert the following heading to section 81 of the Planning and Environment Act 1987—
"Applications for review relating to extensions of time".

(6) Insert the following heading to section 82 of the Planning and Environment Act 1987—
"Applications for review where objectors".

(7) Insert the following heading to section 82AA of the Planning and Environment Act 1987—
"Applications for review—coastal Crown land".

(8) Insert the following heading to section 85 of the Planning and Environment Act 1987—
"Determination of applications".

(9) Insert the following heading to section 149A of the Planning and Environment Act 1987—
"Application by certain persons for declarations".

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PART 10—GENERAL AMENDMENTS TO PLANNING AND ENVIRONMENT ACT 1987

69 Definitions

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

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

70 Removal of power to authorise planning authorities to approve amendments

(1) Sections 11, 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 omit "or approve".

(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".

71 What are the duties and powers 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 Minister.".

(2) In section 12(2)(c) of the Planning and Environment Act 1987 for "may" substitute "must".
Part 10—General Amendments to Planning and Environment Act 1987

72 What are the duties of a responsible authority?

In section 14(d) of the Planning and Environment Act 1987, for "regulations" substitute "Minister".

73 Copies of amendment to be given to certain persons

After section 17(2) of the Planning and Environment Act 1987 insert—

"(3) A planning authority must give copies of any amendment, explanatory report and any document applied, adopted or incorporated in the amendment to the Minister under subsection (1)(c) not less than 10 business days before it first gives a required notice of the amendment under section 19.

(4) Subsection (3) does not apply if—

(a) the planning authority is not required to give notice under section 19; or

(b) the Minister is the planning authority.".

74 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;".

75 Amendments to change term "working days" to "business days"

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

"business day means a day other than—

(a) a Saturday or a Sunday; or

(b) a day appointed under the Public Holidays Act 1993 as a public holiday or public half-holiday;".
(2) In section 52(2A) of the Planning and Environment Act 1987, for "working days" substitute "business days".

(3) In section 84(6) of the Planning and Environment Act 1987, for "working days" substitute "business days".

(4) In section 86 of the Planning and Environment Act 1987, for "working days" (where twice occurring) substitute "business days".

76 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 effects and economic effects which the responsible authority considers the use or development may have.".

(3) Section 60(1A)(a) of the Planning and Environment Act 1987 is repealed.

(4) In section 6(2)(kcb) of the Planning and Environment Act 1987, for "(e)" substitute "(f)".

(5) In section 60(3A) of the Planning and Environment Act 1987, for "(e)" substitute "(f)".

77 Extension of time

(1) In section 69(1) of the Planning and Environment Act 1987, for "three months" substitute "6 months".
(2) After section 69(1) of the Planning and Environment Act 1987 insert—

"(1A) The owner or occupier of land to which a permit for a development applies may ask the responsible authority for an extension of time to complete the development or a stage of the development if—

(a) the request for an extension of time is made within 12 months after the permit expires; and

(b) the development or stage started lawfully before the permit expired.".

(3) In section 69(3) of the Planning and Environment Act 1987, for "lapsed" substitute "expired".

78 Application for amendment of permit

Section 72(3) of the Planning and Environment Act 1987 is repealed.

79 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.".

80 Application for amendment of permit

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

81 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 appointed under Part 8—

(a) section 159; and

(b) section 161(1), (3) and (5); and

(c) section 161(2) as if the reference to a planning authority were omitted; and

(d) sections 162 to 165 and 169."

82 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 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.”.

83 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.”.

84 New section 170 substituted

For section 170 of the Planning and Environment Act 1987 substitute—

"170 Immunity for panel members

(1) A member of a panel is not personally liable for anything done or omitted to be done in good faith—

(a) in the exercise of a power or the
    performance of a duty under this Act or
    the regulations; or

(b) in the reasonable belief that the action or omission was in the exercise of the power or the performance of the duty under this Act or the regulations.

(2) Any liability resulting from an act or omission that would but for subsection (1) attach to a member of a panel, attaches instead to the State.”.
85 Transitional provisions

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

"221 Transitional provisions—Planning and Environment Amendment (General) Act 2013

(1) Section 56A does not apply to an application referred to an authority under section 55 or 57C before the commencement of section 19 of the 2013 Act.

(2) An authorisation for a municipal council to prepare an amendment to a planning scheme in force in its municipal district given under section 8A before the commencement of section 42 of the 2013 Act is taken to be an authorisation under section 8A as in force after that commencement.

(3) An authorisation for a municipal council to prepare an amendment to a planning scheme applying to an area adjoining its municipal district given under section 8A before the commencement of section 42 of the 2013 Act is taken to be an authorisation under section 8B.

(4) Despite the amendments made to section 181 by section 51 of the 2013 Act, section 181 as in force before the commencement of section 51 of the 2013 Act continues to apply to an agreement entered into before that commencement.

(5) Despite subsection (4), section 181 as in force after the commencement of section 51 of the 2013 Act applies to an agreement entered into before that commencement, if the agreement is amended after that commencement.
(6) Section 184 as in force immediately before the commencement of section 53 of the 2013 Act continues to apply to an application made to the Tribunal before that commencement.

(7) The amendments made to section 109 by section 58 of the 2013 Act apply to a Minister, public authority or municipal council designated under a planning scheme as an acquiring authority whether the Minister, public authority or municipal council was designated as an acquiring authority before or after the commencement of section 58 of the 2013 Act.

(8) Despite the amendment of section 81 by section 61 of the 2013 Act, section 81(3) does not apply to an application for review that was made before the commencement of section 61 of the 2013 Act.

(9) Despite the amendment of this Act by section 70 of the 2013 Act, this Act continues to apply to an amendment adopted by a municipal council before the commencement of section 70 of the 2013 Act as if section 70 of the 2013 Act had not been enacted.

(10) Subsection (9) ceases to apply at the end of 6 months after the commencement of section 70 of the 2013 Act.

(11) Despite the amendment of section 52(2A) by section 75 of the 2013 Act, section 52(2A) as in force immediately before the commencement of section 75 of the 2013 Act continues to apply to an application made to the responsible authority before that commencement.
(12) Subsection (11) ceases to apply at the end of 6 months after the commencement of section 75 of the 2013 Act.

(13) In this section 2013 Act means the Planning and Environment Amendment (General) Act 2013.".
PART 11—AMENDMENTS TO THE SUBDIVISION ACT 1988

86 Construction and maintenance of works

After section 17(3B) of the Subdivision Act 1988 insert—

'(3C) If an agreement under subsection (2)(c) is under seal—

(a) section 182A of the Planning and Environment Act 1987 does not apply to it; and

(b) section 181(1) of the Planning and Environment Act 1987 applies to it as if for the expression "must apply to the Registrar of Titles, without delay," there were substituted the expression "may apply to the Registrar of Titles".'.

87 Council may require public open space

(1) Before section 18(1) of the Subdivision Act 1988 insert—

"(1AA) This section applies if a requirement for public open space is not specified in the planning scheme.".

(2) In section 18(1) of the Subdivision Act 1988, for "If a requirement for public open space is not specified in the planning scheme, a Council," substitute "A Council".
88 New section 18A inserted in the Subdivision Act 1988

After section 18 of the Subdivision Act 1988 insert—

"18A Requirement for public open space in planning scheme

(1) This section applies to a requirement for public open space that is specified in a planning scheme.

(2) If a person is required to pay or agrees to pay an amount in respect of an open space requirement—

(a) the amount must be paid to the Council before the Council issues its statement of compliance; and

(b) subject to paragraph (a), the time for payment of the amount is at the person's discretion; and

(c) despite paragraph (a), the whole or any part of the amount may be paid after the Council issues its statement of compliance if the person and the Council so agree under section 21(1)(b)(ii).

(3) In the case of a staged subdivision using the procedure under section 37—

(a) the open space requirement must be made for the master plan, but may be expressed to apply to any particular stage or stages; and

(b) if the requirement applies to the second or a subsequent stage, the location of the open space need not be defined except on the plan for that stage; and
(c) if the requirement applies to the second or a subsequent stage and the requirement is to be met by a monetary payment, the total amount to be paid may be apportioned between particular stages, and the proportion need not be specified except for the plans of the appropriate stages.

(4) A public open space requirement may be made only once in respect of any of the land to be subdivided whether the requirement was made before or after the commencement of this section, unless subsection (5) applies.

(5) A further open space requirement may only be made when a building is subdivided and a public open space requirement was not made under section 569H of the Local Government Act 1958 or section 21A of the Building Control Act 1981 when the building was constructed.

(6) If any amount is paid to the Council under this section and the Council is satisfied that it is no longer intended to subdivide the land to create any additional lot, the Council may refund the amount paid to it.”.

89 Valuation of land for public open space

(1) In section 19(1) of the Subdivision Act 1988 after "the land" insert "for the purposes of section 18 or 18A or a public open space requirement in a planning scheme".
(2) For section 19(2) of the Subdivision Act 1988 substitute—

"(2) The land is to be valued on a day not more than 12 months before the date for compliance with the public open space requirement.".

(3) For section 19(5) of the Subdivision Act 1988 substitute—

"(5) If the public open space requirement is not complied with within 12 months after it is required under section 18 or 18A or a planning scheme, the Council may obtain a revaluation at each anniversary of the making of the requirement, and vary the requirement accordingly.".

90 Statement of compliance with statutory requirements

For section 21(8) of the Subdivision Act 1988 substitute—

'(8) Sections 179 to 183 (except sections 181(1) and 182A) of the Planning and Environment Act 1987 apply to the ending or amending of an agreement under this section.

(8A) Section 181(1) of the Planning and Environment Act 1987 applies to the ending or amending of an agreement under this section as if for the expression "must apply to the Registrar of Titles, without delay," there were substituted the expression "may apply to the Registrar of Titles".'
91  Enforcement of agreements

After section 21A(2) of the Subdivision Act 1988 insert—

'(2A) If an agreement referred to in subsection (2) is under seal—

(a) section 182A of the Planning and Environment Act 1987 does not apply to it; and

(b) section 181(1) of the Planning and Environment Act 1987 applies to it as if for the expression "must apply to the Registrar of Titles, without delay," there were substituted the expression "may apply to the Registrar of Titles".'.
PART 12—REPEAL OF AMENDING ACT

92 Repeal of amending Act

This Act is repealed on 28 October 2014.

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).
ENDNOTES

†  Minister's second reading speech—

  Legislative Assembly: 30 August 2012
  Legislative Council: 29 November 2012

The long title for the Bill for this Act was "A Bill for an Act to amend the Planning and Environment Act 1987, the Subdivision Act 1988 and the Local Government Act 1989 and for other purposes.”