

Authorised Version No. 013
Victorian Environmental Assessment Council
Act 2001

No. 81 of 2001

Authorised Version incorporating amendments as at
15 December 2017

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Authorised Version No. 013
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The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose and outline of Act

(1) The purpose of this Act is to establish the Victorian Environmental Assessment Council to conduct investigations and assessments, provide advice and make recommendations relating to the protection and ecologically sustainable management of the environment and natural resources of public land.

S. 1(1)
amended by
No. 44/2016
s. 11(1).

(2) In outline this Act—

- establishes the Victorian Environmental Assessment Council with 5 members appointed by the Governor in Council;
- enables the appointment of additional members of the Council for particular investigations, assessments and the provision of advice;
- provides for the Council to establish Committees and Community Reference Groups;
- requires the Council to report on its operations;

S. 1(2)
amended by
No. 44/2016
s. 11(2).

- sets out the process for requesting investigations or assessments to be carried out by the Council, and for requesting advice to be provided by the Council;
- sets out the considerations the Council is to have regard to in investigations, assessments, advice and recommendations;
- sets out the process for public submissions;
- requires requests for investigations, assessments and advice to be tabled in Parliament and made publicly available;
- requires reports on investigations, assessments and advice to be tabled in Parliament and made publicly available;
- requires a statement of the response of the Government to recommendations to be tabled in Parliament and made publicly available;
- requires the Government to implement recommendations to the extent that they are accepted by the Government;
- repeals the **Environment Conservation Act 1997**.

(3) Subsection (2) is intended only as a guide to readers as to the general scheme and effect of this Act.

2 Commencement

- (1) Section 1 and this section come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come 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 31 December 2001, it comes into operation on that day.

3 Definitions

In this Act—

additional member means a person appointed under section 8(4);

Council means the Victorian Environmental Assessment Council established under this Act;

Department Head has the same meaning as it has in section 3(1) of the **Conservation, Forests and Lands Act 1987**;

S. 3 def. of ***Department Head*** inserted by No. 44/2016 s. 12(1).

investigation means an investigation requested by the Minister under section 15;

member means a person appointed under section 8(1) and includes the Chairperson of the Council;

public land means—

- (a) any unalienated land of the Crown, including land temporarily or permanently reserved under the **Crown Land (Reserves) Act 1978**;
- (b) State forest within the meaning of the **Forests Act 1958**;
- (c) park, within the meaning of the **National Parks Act 1975**;
- (d) land vested in any public authority, other than a municipal council.

S. 3 def. of ***public land*** amended by No. 44/2016 s. 12(2).

* * * * *

Victorian Environmental Assessment Council Act 2001
No. 81 of 2001
Part 1—Preliminary

**S. 3 def. of
request
repealed by
No. 44/2016
s. 12(3).**

* * * * *

Part 2—Victorian Environmental Assessment Council

4 Establishment of Council

There is established a Council to be called the "Victorian Environmental Assessment Council".

5 Objectives of Council

The objectives of the Council are to—

- (a) provide independent and strategic advice to the Government of Victoria on matters relating to the protection and ecologically sustainable management of the environment and natural resources of public land; and
- (b) ensure that it performs its functions in a manner that facilitates the objectives of this Act.

6 Functions

The functions of the Council are to—

- (a) carry out investigations and assessments and provide advice as requested by the Minister on matters relating to the protection and ecologically sustainable management of the environment and natural resources of public land; and
- (b) carry out any other functions that are conferred on the Council by this or any other Act.

S. 6(a)
amended by
No. 44/2016
s. 13.

7 Powers

- (1) Subject to this Act, the Council may do anything reasonably necessary or convenient to enable it to carry out its functions.

- (2) Without limiting its other powers, the Council may—
- (a) appoint committees in accordance with section 12; and
 - (b) with the consent of the Minister administering the relevant Department, make use of the services of any person employed in the Department.

8 Constitution and membership of the Council

- (1) The Council consists of 5 members appointed by the Governor in Council on the recommendation of the Minister.
- (2) In making a recommendation under subsection (1), the Minister must have regard to the need for the Council to collectively have experience, skills and knowledge in the following areas—
- (a) environment protection and conservation;
 - (b) natural resources management;
 - (c) tourism and recreation;
 - (d) economics and business management;
 - (e) rural and regional affairs;
 - (f) issues relating to indigenous peoples;
 - (g) local government;
 - (h) social and community affairs;
 - (i) community consultation and participation.
- (3) The Governor in Council must, on the recommendation of the Minister, appoint one of the members to be the Chairperson of the Council.
- (4) The Governor in Council, on the recommendation of the Minister, may appoint one or more additional members of the Council for the

S. 8(4)
substituted by
No. 44/2016
s. 14(1).

purposes of conducting a particular investigation or assessment or for the purposes of the provision of particular advice.

- (5) In making a recommendation under subsection (4), the Minister must have regard to the need for the Council to have experience, skills and knowledge in the areas most directly related to the particular investigation, assessment or advice.
- (6) Before an appointment can be made under subsection (1), the Minister must publish notice of the vacancy in newspapers circulating generally throughout Victoria.

S. 8(5)
amended by
No. 44/2016
s. 14(2).

S. 8(6)
amended by
No. 44/2016
s. 14(3).

9 Terms and conditions of office of members

- (1) Subject to this section, a member holds office for a term not exceeding 3 years as is specified in the instrument of appointment.
- (2) A member is eligible for re-appointment.
- (3) An additional member holds office for the period of the investigation or assessment or the provision of advice for which that member is appointed.
- (4) The instrument of appointment of a member may specify terms and conditions of appointment not inconsistent with this Act.
- (5) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

S. 9(3)
amended by
No. 44/2016
s. 15(1).

S. 9(5)
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 221),
80/2006
s. 26(Sch.
item 109).

- (6) A member is entitled to the remuneration and allowances (if any) fixed by the Minister.

S. 9(6)
amended by
No. 53/2017
s. 55.

- (7) If a member is ill or absent, the Governor in Council, on the recommendation of the Minister, may appoint a person to act in the office of that member during the period of illness or absence.
- (8) A member may resign in writing addressed to the Governor in Council.
- (9) The office of a member becomes vacant if the member retires, resigns or dies.
- (10) The Governor in Council, on the recommendation of the Minister, may remove a member from office if the member has—
 - (a) refused, neglected or failed to carry out his or her duties; or
 - (b) demonstrated inefficiency or misbehaviour in carrying out his or her duties.
- (11) If a member is removed from office under subsection (10), the Minister must cause to be laid before each House of the Parliament a full statement of the grounds of the removal within 7 sitting days after the removal.
- (12) If there is a vacancy in the office of a member under subsection (9) or (10), the vacancy must be filled in accordance with section 8.
- (13) In subsections (4) to (12) a reference to a member includes a reference to an additional member.

S. 9(11)
amended by
No. 44/2016
s. 15(2).

10 Proceedings of the Council

- (1) The Chairperson is to preside at any meeting of the Council at which he or she is present.
- (2) If the Chairperson is absent from a meeting of the Council, the members present at the meeting must elect one of those present to preside at the meeting.

- (3) Subject to subsection (2), meetings of the Council are to be held at such times and places as the Chairperson determines.
- (4) The Chairperson may at any time convene a meeting, but must do so when requested by a member.
- (5) A majority of the members and additional members for the time being constitutes a quorum of the Council.
- (6) A question arising at a meeting must be determined by a majority of votes of members and additional members present and voting on that question.
- (7) If the voting is equal, subject to subsection (9), the person presiding has a casting vote as well as a deliberative vote.
- (8) An additional member is eligible to vote only in respect of a question directly relating to the investigation or assessment or the provision of advice in respect of which he or she is appointed. **S. 10(8) amended by No. 44/2016 s. 16.**
- (9) If the person presiding is an additional member, he or she does not have a casting vote or a deliberative vote in respect of any question not directly relating to the investigation or assessment or the provision of advice in respect of which he or she is appointed. **S. 10(9) amended by No. 44/2016 s. 16.**
- (10) The person presiding at a meeting must ensure that minutes of the meeting are kept.
- (11) Subject to this section, the Council may regulate its own proceedings.

11 Validity of decisions

- (1) An act or decision of the Council is not invalid merely because of—
 - (a) a defect or irregularity in, or in connection with, the appointment of a member; or
 - (b) a vacancy in the membership of the Council, including a vacancy arising from the failure to appoint an original member.
- (2) Anything done by or in relation to a person purporting to act as Chairperson or as a member is not invalid merely because—
 - (a) the occasion for the appointment had not risen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect.

12 Committees of the Council

- (1) For the purposes of this Act, the Council may appoint any committees that it considers necessary and may abolish any such committee.
- (2) The membership of a committee is not restricted to the membership of the Council.
- (3) The Council may determine the procedure of each committee.

13 Community Reference Groups

- (1) The Council must establish a Community Reference Group in respect of each investigation for the purpose of providing advice to the Council.
- (1A) The Council must establish a Community Reference Group for the purpose of providing advice to the Council in respect of an assessment or advice, if directed to do so by the Minister under section 26B(1).

S. 13(1A)
inserted by
No. 44/2016
s. 17(1).

(2) The members of a Community Reference Group should include representatives who have an interest relevant to the investigation, assessment or advice, including, but not limited to, representatives from the following—

S. 13(2)
inserted by
No. 44/2016
s. 17(2).

(a) environment protection and conservation groups;

(b) industry;

(c) farmers;

(d) unions and employees;

(e) tourism industry;

(f) lease holders of relevant public land;

(g) licence holders of relevant public land;

(h) recreational users of relevant public land;

(i) indigenous peoples;

(j) local government;

(k) other community interests.

(3) The Council may determine the procedure of each Community Reference Group.

14 Report on operations

(1) The Council must submit a report on its operation to the Minister on or before 31 October in each year.

(2) A report under subsection (1) must include the following—

S. 14(2)
amended by
No. 44/2016
s. 18(1).

(a) a report on each investigation completed, commenced or conducted during the preceding financial year;

(b) a report on each assessment completed, commenced or conducted during the preceding financial year;

S. 14(2)(b)
substituted by
No. 44/2016
s. 18(2).

S. 14(2)(c)
inserted by
No. 44/2016
s. 18(2).

(c) a report on each advice in preparation or provided during the preceding financial year;

S. 14(2)(d)
inserted by
No. 44/2016
s. 18(2).

- (d) a statement of the resources used during the preceding financial year in—
- (i) conducting each investigation, whether or not completed; and
 - (ii) conducting each assessment, whether or not completed; and
 - (iii) providing advice, whether or not completed.

S. 14(3)
amended by
No. 44/2016
s. 18(3).

- (3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 7 sitting days after the report has been submitted to the Minister.

Part 3—Investigations, assessments and advice

Division 1—Investigations

15 Minister to request investigation

- (1) The Minister may request the Council to carry out an investigation for the purposes of this Act.
- (2) The Minister may make a request to the Council under subsection (1) after the Minister has—
 - (a) caused a notice of the investigation to be published in newspapers circulating generally throughout Victoria which specifies the proposed terms of reference for the investigation;
 - (b) complied with subsection (3).
- (3) The Minister must allow 28 days for the notification period under subsection (2).
- (4) A request under subsection (1)—
 - (a) must be in writing;
 - (b) must specify the time within which the Council is to report on the completed investigation;
 - (c) must specify that the Council is to prepare a discussion paper and a draft proposals paper, unless subsection (5) applies;
 - (d) may give the Council directions as to the number of public submission periods to be held and the length of time to be allowed for public submissions.
- (5) Despite subsection (4)(c), the Minister may in respect of a particular investigation specify in the request any or all of the following—
 - (a) that a discussion paper is not to be prepared;

Pt 3 (Heading)
substituted by
No. 44/2016
s. 19(1).

Pt 3 Div. 1
(Heading)
inserted by
No. 44/2016
s. 19(2).

S. 15(4)
amended by
No. 44/2016
s. 20(1).

- (b) that a draft proposals paper is not to be prepared;
 - (c) that one or more other stages or processes as identified in the request are to be undertaken during the investigation.
- (6) The Minister may, at any time during the course of an investigation—
- (a) direct the Council on any matters it is to take into consideration;
 - (b) amend or withdraw the request for the investigation.
- S. 15(6)(b)
amended by
No. 44/2016
s. 20(2).

16 Requests, amendments and withdrawals to be laid before the Parliament

- S. 16(1)
amended by
No. 44/2016
s. 21(1)(a).
- S. 16(1)(a)
amended by
No. 44/2016
s. 21(1)(b).
- (1) The Minister must cause a copy of a request under section 15(1) or a copy of an amendment or a withdrawal under section 15(6)(b)—
- (a) to be laid before each House of the Parliament, within 7 sitting days;
 - (b) to be published in the Government Gazette, within 7 days;
 - (c) to be published on the internet, within 7 days—
- after the request, amendment or withdrawal is made.
- S. 16(2)
amended by
No. 44/2016
s. 21(2).
- (2) Within 7 sitting days after the period specified in section 15(3), the Minister must cause to be laid before each House of the Parliament a statement specifying how any comments received on the proposed terms of reference have been dealt with.

17 Minister to approve resources for investigation

- (1) The Council must, within the specified period after receiving a request from the Minister under section 15(1), submit a business plan and budget for the investigation to the Minister.
- (2) In subsection (1), *specified period* means—
 - (a) 30 days; or
 - (b) any longer period specified in writing by the Minister.
- (3) A plan must include an estimate of the financial and other resources needed to carry out the investigation.
- (4) The Minister must—
 - (a) consult with the Council over the estimate of the resources;
 - (b) ensure that the Department Head makes available those resources which the Minister considers are required to effectively carry out the investigation.

S. 17(1)
amended by
No. 44/2016
s. 22(1).

S. 17(4)(b)
amended by
Nos 29/2011
s. 3(Sch. 1
item 104),
44/2016
s. 22(2).

18 Matters to be taken into account in investigations and recommendations

The Council must have regard to the following considerations in carrying out an investigation and in making recommendations to the Minister—

- (a) the principles of ecologically sustainable development;
- (b) the need to conserve and protect biological diversity;
- (c) the need to conserve and protect any areas which have ecological, natural, landscape or cultural interest or significance, recreational

S. 18(d)
amended by
No. 44/2016
s. 23(1).

- value or geological or geomorphological significance;
- (d) the need to provide for the creation and preservation of a comprehensive, adequate and representative system of parks and reserves within the State;
 - (e) the existence of any international treaty ratified by the Commonwealth of Australia which is relevant to the investigation;

S. 18(f)
amended by
No. 44/2016
s. 23(2).

- (f) any agreement at a national, inter-state or local government level into which the Government has entered, or under which the Government has undertaken any obligation in conjunction with the Commonwealth, a State, Territory or municipal council, which relates to the subject matter of the investigation;
- (g) the potential environmental, social and economic consequences of implementing the proposed recommendations;
- (h) any existing or proposed use of the environment or natural resources.

19 Role of Departments and public authorities

- (1) The Council must confer with any Department or public authority which may be affected by the conduct or results of an investigation.
- (2) Departments and public authorities must give practicable assistance to the Council in carrying out an investigation.

20 Notice of investigation

- (1) The Council must cause notice of an investigation to be published.

- (2) If, at any time during the course of an investigation, the Council proposes to receive further submissions on the investigation, the Council must cause notice that it is to receive further submissions on the investigation to be published.
- (3) A notice under subsection (1) or (2) must—
- (a) be published—
 - (i) in a newspaper circulating generally throughout the State; and
 - (ii) on the internet;
 - (b) include a statement of the subject of the investigation;
 - (c) specify an address and the address of the internet site where a copy of the Minister's request for the investigation may be obtained;
 - (d) state that submissions may be made;
 - (e) specify—
 - (i) the period of time; and
 - (ii) the form and the manner—in which submissions can be made.
- (4) If an investigation is likely to affect the existing rights in the relevant public land of any lease holder, licence holder or recreational user, the Council must—
- (a) make reasonable efforts to advise those persons and peak bodies representing those persons; and

S. 20(3)(c)
amended by
No. 44/2016
s. 24(1).

S. 20(4)(b)
amended by
Nos 29/2011
s. 3(Sch. 1
item 104),
44/2016
s. 24(2).

- (b) where practicable, cause notices to be placed on Department of Environment, Land, Water and Planning notice boards in and around the relevant public land.

21 Notice of preparation of discussion paper and draft proposals paper

- (1) After the Council has prepared a discussion paper on an investigation, the Council must cause notice of the preparation of the discussion paper to be published.
- (2) After the Council has prepared a draft proposals paper on an investigation, the Council must cause notice of the preparation of the draft proposals paper to be published.
- (3) A notice under subsection (1) or (2) must—
- (a) be published—
 - (i) in a newspaper circulating generally throughout the State; and
 - (ii) on the internet;
 - (b) include a statement of the subject of the investigation;
 - (c) specify an address and the address of the internet site where a copy of the paper may be obtained;
 - (d) state that submissions may be made;
 - (e) specify—
 - (i) the period of time; and
 - (ii) the form and the manner—
in which submissions can be made.

22 Submissions

- (1) Any person or body is entitled to make a submission to the Council on—
 - (a) an investigation;
 - (b) a discussion paper;
 - (c) a draft proposals paper.
- (2) A submission must be made within the specified time of the publication of a notice under section 20 or 21.
- (3) Despite anything to the contrary in section 20 or section 21 or this section, the Council may allow an extension of the specified time for a particular submission or class of submissions.
- (4) In this section, *specified time* means the period of time specified in the notice under section 20 or 21 being—
 - (a) the time, if any, specified by the Minister in the request for the investigation; or
 - (b) if the Minister did not specify a time, within 60 days or a longer period determined by the Council.

S. 22(4)(a)
amended by
No. 44/2016
s. 25.

23 Report on the investigation

- (1) The Council must submit a written report on the results of its investigation to the Minister within the time specified by the Minister in the request for the investigation.
- (2) The report must specify—
 - (a) any recommendations resulting from the investigation;
 - (b) a detailed rationale for each of the recommendations;

S. 23(1)
amended by
No. 44/2016
s. 26(1).

S. 23(5)(a)
amended by
No. 44/2016
s. 26(2).

- (c) the main proposals made in submissions to the Council and the reasons why the Council accepted, rejected or modified those proposals.
- (3) The report must be accompanied by a copy of each submission received in relation to the investigation.
- (4) The Council must provide the Minister with copies of the report to be made publicly available.
- (5) The Minister must cause a copy of the report—
 - (a) to be laid before each House of the Parliament, within 7 sitting days;
 - (b) to be available for public perusal, within 7 days;
 - (c) to be published on the internet, within 7 days—after the report has been presented to the Minister.

24 Extension of time

- (1) The Council may apply for an extension of time to complete an investigation.
- (2) An application must—
 - (a) be made not later than 30 days before the date on which the Council is required to submit the report;
 - (b) be in writing addressed to the Minister;
 - (c) explain the reasons why an extension of time is necessary.
- (3) The Minister must either grant or refuse the application.

- (4) The Minister must—
- (a) advise the Council in writing of his or her decision; and
 - (b) if the application is granted, must specify a new time within which the Council is to report on the investigation.

25 Government response—Investigations

- (1) The Minister must cause a Government response to a report under section 23 to be prepared.
- (2) A response prepared under subsection (1) must—
 - (a) specify the action (if any) proposed to be taken with respect to each recommendation of the Council specified in the report; and
 - (b) identify which Minister, Department or public authority (as the case may be) has responsibility for undertaking any proposed action.
- (3) The Minister must cause the response to a report under section 23 to be laid before each House of the Parliament not later than the first sitting day after the period of 6 months after the sitting day on which the report was laid before each House of the Parliament.
- (4) Within 7 days after the response is laid before each House of the Parliament, the Minister must ensure that a copy of the response is published—
 - (a) in the Government Gazette; and
 - (b) on the Internet.

S. 25
substituted by
No. 44/2016
s. 27.

26 Statement in relation to amended Government response—Investigations

- (1) The Minister may amend a response prepared under section 25 or an earlier statement prepared under this section in relation to a particular

S. 26
substituted by
No. 44/2016
s. 27.

recommendation contained in a report under section 23 after consulting any other Minister who the Minister considers is affected by the amendment.

- (2) If the Minister amends a response prepared under section 25 or an earlier statement prepared under this section, the Minister must cause a statement to be prepared.
- (3) A statement prepared under this section must—
 - (a) identify the particular recommendation of the report in relation to which the Minister has amended the response prepared under section 25 or an earlier statement prepared under this section; and
 - (b) state the particulars of the amendment; and
 - (c) state the rationale for the amendment.
- (4) Within 7 sitting days after recording the decision to make the amendment referred to in subsection (1), the Minister must cause a copy of the statement to be laid before each House of the Parliament.
- (5) Within 7 days after recording the decision to make the amendment referred to in subsection (1), the Minister must cause a copy of the statement to be published—
 - (a) in the Government Gazette; and
 - (b) on the Internet.

S. 26A
inserted by
No. 44/2016
s. 27.

26A Implementation of recommendations— Investigations

A Minister who, or Department or public authority that, is identified in a response prepared under section 25 or in a statement prepared under section 26 as having responsibility for undertaking a proposed

action with respect to a recommendation of the Council must ensure that the action is undertaken to implement the recommendation to the extent that it is accepted in that response or statement, as the case may be.

Division 2—Assessments and advice

Pt 3 Div. 2
(Heading and
ss 26B–26I)
inserted by
No. 44/2016
s. 27.

26B Minister may request assessment or advice

S. 26B
inserted by
No. 44/2016
s. 27.

- (1) For the purposes of this Act, the Minister may request the Council to conduct an assessment or to provide advice in relation to a matter that, in the opinion of the Minister, does not require an investigation under Division 1, having regard to the matter's limited scale or scope or the technical nature of the matter.
- (2) A request under subsection (1)—
 - (a) must be in writing; and
 - (b) must specify the time within which the Council is to report on the completed assessment or advice; and
 - (c) may direct the Council to have regard to any specified considerations, including any or all of the following—
 - (i) the principles of ecologically sustainable development;
 - (ii) the need to conserve and protect biological diversity;
 - (iii) the need to conserve and protect any areas which have ecological, natural, landscape or cultural interest or significance, recreational value or

- geological or geomorphological significance;
- (iv) the need to provide for the creation and preservation of a comprehensive, adequate and representative system of parks and reserves within the State;
 - (v) the existence of any international treaty ratified by the Commonwealth of Australia which is relevant to the assessment or advice, as the case may be;
 - (vi) any agreement at a national, inter-state or local government level into which the Government has entered, or under which the Government has undertaken any obligation in conjunction with the Commonwealth, a State, Territory or municipal council, which relates to the subject matter of the assessment or advice, as the case may be;
 - (vii) the potential environmental, social and economic consequences of implementing the proposed recommendations;
 - (viii) any existing or proposed use of the environment or natural resources; and
- (d) may direct the Council to establish a Community Reference Group under section 13 for the purpose of providing advice to the Council; and
 - (e) may specify what public consultation is required, if any; and
 - (f) may direct the Council to comply with any requirement imposed under Division 1 on the carrying out of investigations by the Council, subject to any necessary modification and as

if a reference in Division 1 to an investigation were a reference to an assessment or advice, as the case may be.

- (3) At any time before the Council has completed conducting the assessment or has provided the advice, the Minister may in writing amend or withdraw the request for the assessment or advice.

26C Notice of requests, amendments and withdrawals under section 26B to be laid before each House of the Parliament and published

S. 26C
inserted by
No. 44/2016
s. 27.

- (1) Within 7 sitting days after making a request, amendment or withdrawal under section 26B, the Minister must cause notice of the request, amendment or withdrawal to be laid before each House of the Parliament.
- (2) Within 7 days after making a request, amendment or withdrawal under section 26B, the Minister must cause notice of the request, amendment or withdrawal to be published—
- (a) in the Government Gazette; and
 - (b) on the Internet.
- (3) If the conduct of an assessment or the provision of advice is likely to affect the existing rights in the relevant public land of any lease holder, licence holder or recreational user, the Council must—
- (a) make reasonable efforts to advise those persons and peak bodies representing those persons; and
 - (b) if practicable, cause notices to be placed on Department of Environment, Land, Water and Planning notice boards in and around the relevant public land.

S. 26D
inserted by
No. 44/2016
s. 27.

**26D Role of Departments and public authorities—
Assessments and advice**

- (1) The Council must confer with any Department or public authority which may be affected by the provision of an assessment or advice requested under section 26B.
- (2) A Department or public authority referred to in subsection (1) must give practicable assistance to the Council in preparing an assessment or advice.

S. 26E
inserted by
No. 44/2016
s. 27.

26E Report on assessment or advice

- (1) The Council must submit to the Minister, within the time specified by the Minister in the request made under section 26B, a written report—
 - (a) on the results of its assessment; or
 - (b) containing the advice it prepared.
- (2) The report must specify—
 - (a) any recommendations resulting from the assessment or advice; and
 - (b) a detailed rationale for each of the recommendations; and
 - (c) if applicable, the main proposals in any submissions made to the Council and the reasons why the Council accepted, rejected or modified those proposals.
- (3) The report must be accompanied by a copy of each submission received in relation to the assessment or advice.
- (4) The Council must provide the Minister with copies of the report to be made publicly available.
- (5) Within 7 sitting days after receiving the report, the Minister must cause a copy of the report to be laid before each House of the Parliament.

- (6) Within 7 days after receiving the report, the Minister must cause a copy of the report to be—
 - (a) available for public perusal; and
 - (b) published on the Internet.

26F Extension of time—Assessments and advice

S. 26F
inserted by
No. 44/2016
s. 27.

- (1) The Council may apply for an extension of time to complete an assessment or to provide advice.
- (2) An application under subsection (1) must—
 - (a) be made not later than 30 days before the date on which the Council is required to submit the assessment or advice to the Minister; and
 - (b) be in writing addressed to the Minister; and
 - (c) explain the reasons why an extension of time is necessary.
- (3) The Minister may either grant or refuse the application.
- (4) The Minister must—
 - (a) advise the Council in writing of the Minister's decision; and
 - (b) if the application is granted, specify a new time within which the Council is to report on the assessment or advice.

26G Government response—Assessments or advice

S. 26G
inserted by
No. 44/2016
s. 27.

- (1) The Minister must cause a Government response to a report under section 26E to be prepared.
- (2) A response prepared under subsection (1) must—
 - (a) specify the action (if any) proposed to be taken with respect to each recommendation of the Council specified in the report; and

- (b) identify which Minister, Department or public authority (as the case may be) has responsibility for undertaking any proposed action.
- (3) The Minister must cause the response to a report under section 26E to be laid before each House of the Parliament not later than the first sitting day after the period of 6 months after the sitting day on which the report was laid before each House of the Parliament.
- (4) Within 7 days after the response is laid before each House of the Parliament, the Minister must cause a copy of the response to be published—
 - (a) in the Government Gazette; and
 - (b) on the Internet.

S. 26H
inserted by
No. 44/2016
s. 27.

26H Statement in relation to amended Government response—Assessments or advice

- (1) The Minister may amend a response prepared under section 26G or an earlier statement prepared under this section in relation to a particular recommendation contained in a report under section 26E after consulting any other Minister who the Minister considers is affected by the amendment.
- (2) If the Minister amends a response prepared under section 26G or an earlier statement prepared under this section, the Minister must cause a statement to be prepared.
- (3) A statement prepared under this section must—
 - (a) identify the particular recommendation of the report in relation to which the Minister has amended the response prepared under section 26G or an earlier statement prepared under this section; and
 - (b) state the particulars of the amendment; and

- (c) state the rationale for the amendment.
- (4) Within 7 sitting days after recording the decision to make the amendment referred to in subsection (1), the Minister must cause a copy of the statement to be laid before each House of the Parliament.
- (5) Within 7 days after recording the decision to make the amendment referred to in subsection (1), the Minister must cause a copy of the statement to be published—
 - (a) in the Government Gazette; and
 - (b) on the Internet.

26I Implementation of recommendations—Assessments or advice

S. 26I
inserted by
No. 44/2016
s. 27.

A Minister who, or Department or public authority that, is identified in a response prepared under section 26G or in a statement prepared under section 26H as having responsibility for undertaking a proposed action with respect to a recommendation of the Council must ensure that the action is undertaken to implement the recommendation to the extent that it is accepted in that response or statement, as the case may be.

Part 4—Miscellaneous and transitional

27 Repeal of Environment Conservation Council Act 1997

The **Environment Conservation Council Act 1997** is repealed.

28 Saving of recommendations

- (1) The repeal of the **Environment Conservation Council Act 1997** does not affect the continuing operation of—
 - (a) any recommendation made under the **Environment Conservation Council Act 1997**;
 - (b) any act, matter or thing done to give effect to a recommendation referred to in paragraph (a);
 - (c) any recommendation made under the **Land Conservation Act 1970** (whether or not notice had been given of that recommendation under section 10(3) of that Act); and
 - (d) any act, matter or thing done to give effect to a recommendation referred to in paragraph (c).
- (2) Any recommendation to which subsection (1)(c) applies may be amended or revoked by the Governor in Council on the recommendation of the Minister.
- (2A) If the Governor in Council, acting on a recommendation of the Minister under subsection (2), has amended or revoked a recommendation to which subsection (1)(c) applies, the Minister must cause a statement to be prepared that—

S. 28(2A)
inserted by
No. 44/2016
s. 28(1).

- (a) specifies the recommendation that is amended or revoked; and
- (b) provides a rationale for the amendment or revocation.

(2B) Within 7 sitting days after the Governor in Council amends or revokes a recommendation to which subsection (1)(c) applies, the Minister must cause a copy of the statement to be laid before each House of the Parliament.

S. 28(2B)
inserted by
No. 44/2016
s. 28(1).

(2C) Within 7 days after the Governor in Council amends or revokes a recommendation to which subsection (1)(c) applies, the Minister must cause a copy of the statement to be published—

S. 28(2C)
inserted by
No. 44/2016
s. 28(1).

- (a) in the Government Gazette; and
- (b) on the Internet.

(3) Any recommendation to which subsection (1)(a) applies is deemed to be a recommendation of the Council contained in a report submitted to the Minister under section 23(1) and this Act applies accordingly.

S. 28(3)
amended by
No. 44/2016
s. 28(2).

29 Transitional—National Parks and Victorian Environmental Assessment Council Acts Amendment Act 2016

S. 29
repealed by
No. 28/2007
s. 3(Sch.
item 71),
new s. 29
inserted by
No. 44/2016
s. 29.

A statement of the response of the Government laid before each House of the Parliament before the commencement of section 27 of the **National Parks and Victorian Environmental Assessment Council Acts Amendment Act 2016** is taken to comply with the requirements of section 25 of this Act as in force immediately after that commencement.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 2 November 2000

Legislative Council: 20 March 2001

The long title for the Bill for this Act was "A Bill to establish the Victorian Environmental Assessment Council, to repeal the **Environment Conservation Council Act 1997** and for other purposes."

The **Victorian Environmental Assessment Council Act 2001** was assented to on 4 December 2001 and came into operation as follows:

Sections 1 and 2 on 5 December 2001: section 2(1); rest of Act on 31 December 2001: section 2(3).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Victorian Environmental Assessment Council Act 2001** by Acts and subordinate instruments.

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 221) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Victorian Environmental Assessment Council Act 2001**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 109) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Victorian Environmental Assessment Council Act 2001**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 71) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Victorian Environmental Assessment Council Act 2001**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 104) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Victorian Environmental Assessment Council Act 2001**

National Parks and Victorian Environmental Assessment Council Acts Amendment Act 2016, No. 44/2016

Assent Date: 23.8.16
Commencement Date: Ss 11–29 on 7.9.16: Special Gazette (No. 278) 6.9.16 p. 1
Current State: This information relates only to the provision/s amending the **Victorian Environmental Assessment Council Act 2001**

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Parks and Crown Land Legislation Amendment Act 2017, No. 53/2017

Assent Date: 24.10.17

Commencement Date: S. 55 on 15.12.17: Special Gazette (No. 433) 12.12.17
p. 1

Current State: This information relates only to the provision/s
amending the **Victorian Environmental Assessment
Council Act 2001**

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

No entries at date of publication.