

# CONSTITUTION ACT 1975

## PLANNING LEGISLATION AMENDMENT BILL 2009

Whereas:

- (a) On 11 August 2009 the Legislative Assembly referred the Planning Legislation Amendment Bill 2009 to the Dispute Resolution Committee ('the Committee') under section 65(1) of the *Constitution Act 1975*;
- (b) The Committee has reached a Dispute Resolution in the terms set out below;
- (c) Although discussions are taking place on funding arrangements, it is acknowledged that such arrangements are not part of the terms of this Dispute Resolution.

### DISPUTE RESOLUTION

The Committee resolves to recommend to the Legislative Assembly and Legislative Council that:

- (1) A further bill be introduced and passed by the Legislative Assembly and Legislative Council without amendment and that such bill take the form of the Planning Legislation Amendment Bill 2009 redrafted to incorporate the amendments set out in the schedule below.
- (2) Accordingly, no steps be taken to reinstate and pass the Planning Legislation Amendment Bill 2009 in the form it was referred to the Committee.

### Schedule of amendments

1. Clause 3, omit this clause.
2. Clause 4, omit this clause.
3. Clause 6, line 8, omit "In" and insert "(1) In".
4. Clause 6, after line 25 insert—

**"Relevant Activity Area** means any of the suburbs listed in Column 1 of the following Table—

<i>Column 1</i> <i>Suburb</i>	<i>Column 2</i> <i>Municipal District in which suburb is located:</i> <i>Municipal district of:</i>
Airport West	Moonee Valley City Council
Box Hill	Whitehorse City Council
Broadmeadows	Hume City Council
Camberwell	Boroondara City Council
Chadstone	Stonnington City Council
Cheltenham	Kingston City Council
Coburg	Moreland City Council
Cranbourne	Casey City Council
Dandenong	Greater Dandenong City Council
Doncaster	Manningham City Council
Epping	Whittlesea City Council
Footscray	Maribyrnong City Council
Frankston	Frankston City Council
Geelong	Greater Geelong City Council
Glen Waverley	Monash City Council
Greensborough	Banyule City Council
Hawthorn	Boroondara City Council
Maribyrnong	Maribyrnong City Council
Moonee Ponds	Moonee Valley City Council
Narre Warren	Casey City Council
Prahran	Stonnington City Council
South Yarra	Stonnington City Council
Preston	Darebin City Council
Ringwood	Maroondah City Council
Sunshine	Brimbank City Council
Sydenham	Brimbank City Council
Wantirna South	Knox City Council
Werribee	Wyndham City Council

***Relevant Activity Centre Zone*** means a contiguous area designated in a planning scheme in respect of a Relevant Activity Area as an Activity Centre Zone.

(2) Despite anything to the contrary in this Act—

- (a) not more than one Activity Centre Zone may be designated in a planning scheme in respect of each Relevant Activity Area other than Preston; and
  - (b) not more than 2 Activity Centre Zones may be designated in a planning scheme in respect of the Preston Relevant Activity Area."
- 5. Clause 6, page 5, lines 14 to 16, omit all words and expressions on these lines and insert—
  - "(b) the area or areas in a Relevant Activity Centre Zone or Zones for which the DAC is established and to which any such class of application applies."
- 6. Clause 6, page 5, line 17, omit "area of Victoria" and insert "area or areas".
- 7. Clause 6, page 6, line 4, omit "of Victoria" and insert "for which the DAC is established".
- 8. Clause 6, page 6, after line 31 insert—
 

**"97MCA Referral to Advisory Committee**

  - (1) Before making a recommendation to the Governor in Council under section 97MB or 97MC, the Minister must refer the matter to an Advisory Committee under section 151 for advice as to the classes of applications for permits that are to be decided on by the DAC.
  - (2) The Advisory Committee must consult with the following before giving advice to the Minister under this section—
    - (a) any municipal council for the area or areas for which the DAC is to be established;
    - (b) the owners and occupiers of land that it believes may be materially affected by the proposal;
    - (c) any public authority that it believes may be materially affected by the proposal."
- 9. Clause 6, page 7, lines 10 and 11, omit "in Victoria".
- 10. Clause 6, page 9, lines 12 to 17, omit all words and expressions on these lines.
- 11. Clause 6, page 10, line 16, after "Minister" insert "from the list of persons prepared under subsection (3)".
- 12. Clause 6, page 10, after line 27 insert—
  - "(3) The Minister must prepare a list of names of persons available for appointment as Chairperson or Alternate Chairperson of a DAC and must consult with the following bodies in respect of that list before making any nomination from that list—

- (a) the Municipal Association of Victoria;
- (b) the Victorian Local Government Association."

13. Clause 6, page 10, line 34, after Minister insert "from the list of persons prepared by the Minister under section 97MK(3)".
14. Clause 6, page 12, line 4, omit "DAC; or" and insert "DAC."
15. Clause 6, page 12, lines 5 and 6, omit all words and expressions on these lines.
16. Clause 6, page 15, after line 20 insert—  
**"97MTA Meetings to be open to the public**
  - (1) Unless subsection (2) applies, any meeting of a DAC must be open to members of the public.
  - (2) A DAC may close a meeting to the public if the meeting is discussing confidential information or legal advice or any other matter that the DAC considers would prejudice the DAC or another person.
  - (3) If a DAC decides to close a meeting to members of the public, the reason must be recorded in the minutes of the meeting.
  - (4) A DAC must give public notice of a meeting of the DAC if practicable."

NEW CLAUSE

17. Page 3, insert the following New Clause to follow the heading to Part 2—  
**'AA Exemption from giving notice**  
After section 20(5) of the **Planning and Environment Act 1987**  
**insert—**
  - "(6) The Minister cannot, under this section, exempt a planning authority or himself or herself from any requirement if the amendment is to include an Activity Centre Zone for a Relevant Activity Area within the meaning of Part 4AA or to amend the boundaries of such a Zone."

Dated 10 September 2009