

# **Subdivision (Further Amendment) Bill**

No.

## **TABLE OF PROVISIONS**

### **PART 1—PRELIMINARY**

*Clause*

1. Purposes
2. Commencement

### **PART 2—AMENDMENTS TO THE SUBDIVISION ACT 1988**

3. Amendments relating to public open space
4. Statements of compliance—staged subdivision
5. Plan registration—staged subdivision
6. Easements and rights of way—loss of amenity
7. Staged subdivision
8. Court orders

### **PART 3—TRANSITIONAL PROVISIONS**

9. Transitional provisions regarding staged subdivisions
10. Transitional provisions regarding statements under section 36



# LEGISLATIVE ASSEMBLY

---

Read 1° 20 April 1994

*(Brought in by Mr Maclellan (Pakenham) and Mr John)*

## A BILL

to further amend the **Subdivision Act 1988** and for other purposes.

### **Subdivision (Further Amendment) Act 1994**

**The Parliament of Victoria enacts as follows:**

#### **PART 1—PRELIMINARY**

##### **1. *Purposes***

The purposes of this Act are to amend the **Subdivision Act 1988** to—

- (a) provide for variation of the public open space requirements;
- (b) amend provisions relating to the compulsory acquisition or removal of easements or rights of way to clarify the use of the procedure;

---

Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984**.)

*Subdivision (Further Amendment)*

- (c) allow for land to be subdivided in stages by using sequential separate plans or the special procedure involving a master plan;
- (d) clarify the powers of a court to make orders where a unanimous resolution of a body corporate cannot be obtained.

5

**2. Commencement**

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

**PART 2—AMENDMENTS TO THE SUBDIVISION ACT 1988**

10

**3. Amendments relating to public open space**

Act No.  
53/1988.  
Reprinted  
to Act No.  
57/1993 and  
subsequently  
amended by  
Nos 79/1993  
and 126/1993.

- (1) In section 18 (1) of the **Subdivision Act 1988**, for paragraphs (a) and (b), **substitute—**

- “(a) set aside on the plan, for public open space, in a location satisfactory to the Council, a percentage of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or

15

- (b) pay or agree to pay to the Council a percentage of the site value of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent. or”.

20

25

- (2) In section 18 (1) (c) of the **Subdivision Act 1988**, after “5 per cent” **insert** “of the site value of all the land in the subdivision”.

- (3) In section 18 (2) of the **Subdivision Act 1988**, after “In the case of a staged subdivision” **insert** “using the procedure under section 37”.

30

**4. Statements of compliance—staged subdivision**

(1) In section 21 (2) of the **Subdivision Act 1988**, after “In the case of a staged subdivision” **insert** “using the procedure under section 37”.

5 (2) In section 21 (4) (a) of the **Subdivision Act 1988**, after “a staged subdivision” **insert** “within the meaning of section 37 (1)”.

(3) After section 21 (4) of the **Subdivision Act 1988** **insert**—

10 “(4A) In sub-section (4), “stage” means—

(a) for a staged subdivision using the procedure under section 37, a stage provided for in that section; or

15 (b) for a subdivision of land in stages not using that procedure, the land in a plan of subdivision that, in accordance with the authorising planning scheme or permit, forms one of those stages.”.

**5. Plan registration—staged subdivision**

20 In section 22 (1) of the **Subdivision Act 1988**—

(a) in paragraph (d), after “a staged subdivision” **insert** “using the procedure under section 37”;

(b) in paragraph (da), after “a staged subdivision” **insert** “using the procedure under section 37”.

25 **6. Easements and rights of way—loss of amenity**

(1) In section 36 (1) of the **Subdivision Act 1988**, before “the owner may apply to the Administrative Appeals Tribunal” **insert** “and that the removal or acquisition will not result in an unreasonable loss of amenity in the area affected by the removal or acquisition,”.

30 (2) In section 36 (1AA) of the **Subdivision Act 1988**, after “engineering” **insert** “and amenity”.

*Subdivision (Further Amendment)***7. Staged subdivision**

- (1) In section 3 (1) of the **Subdivision Act 1988**, in the definition of “master plan”, after “staged subdivision” **insert** “using the procedure under section 37”.
- (2) After section 37 (1) of the **Subdivision Act 1988** **insert**— 5  
 “(2) If a planning scheme or permit authorises a staged subdivision, that staged subdivision may be done—  
 (a) as a series of separate subdivisions in accordance with the provisions of this Act other than this section; or 10  
 (b) by using the procedure set out in sub-sections (3) to (10).”.
- (3) In section 37 (3) of the **Subdivision Act 1988**, after “authorises a staged subdivision” **insert** “and the procedure in this section is used”. 15

**8. Court orders**

- In section 38 of the **Subdivision Act 1988**—
- (a) in sub-section (3) (a), for “alter the plan in any of the ways” **substitute** “do any of the things”; 20
- (b) in sub-section (3) (aa), for “the alteration of a plan in any of the ways” **substitute** “the doing by the body corporate of any of the things”;
- (c) in sub-section (3) (b), for “altering the plan” **substitute** “doing any action”; 25
- (d) in sub-section (6A), for “alteration of the plan” **substitute** “action”;
- (e) in sub-section (6B) (c) for “alteration of the plan” **substitute** “action”; 30
- (f) in sub-section (6B) (c) (i), for “alteration” **substitute** “action”;
- (g) in sub-section (6B) (c) (ii)—
- (i) for “alteration is sought” **substitute** “action is to be taken”; 35

- (ii) for “alteration” **substitute** “action”;
- (h) in sub-section (6C), for “alteration” **substitute** “action”.

### **PART 3—TRANSITIONAL PROVISIONS**

5        **9. *Transitional provisions regarding staged subdivisions***

- 10        (1) If, before the commencement of this Act, a planning scheme or permit under the **Planning and Environment Act 1987** authorised the subdivision of land in stages and, instead of using the procedure under section 37 of the **Subdivision Act 1988**, the other provisions of that Act were used for that subdivision, that subdivision is as valid as if when it was done and since then, section 37 (2) of that Act as amended by this Act were in operation.
- 15        (2) Sub-section (1) applies to each stage of the subdivision.

**10. *Transitional provisions regarding statements under section 36***

- 20        (1) Section 36 of the **Subdivision Act 1988** continues to apply to statements made by councils before the commencement of this Act as if Part 2 of this Act had not been enacted.
- 25        (2) Section 36 of the **Subdivision Act 1988** as amended by this Act applies to statements made by councils on or after the commencement of this Act.

