

# **Bayside Project Bill**

## **EXPLANATORY MEMORANDUM**

### **PART 1—PRELIMINARY**

*Clause 1* states the purpose of the Bill.

*Clause 2* provides for the commencement of the Bill. *Clause 38* comes into operation when the Minister is satisfied that at least 5 per cent of the Bayside land is set aside in suitable locations as public open space.

*Clause 3* sets out definitions that apply to the Bill. Sub-clause (2) enables land in the immediate vicinity to be added to the Bayside land and for land to be excluded from the Bayside land.

*Clause 4* provides that the Act binds the Crown.

### **PART 2—BAYSIDE LAND**

*Clauses 5* and *6* deem implied easements to be created on subdivision empower the Registrar of Titles to issue a single certificate of title for a part or parts of the Bayside land and enable conditional pre-selling of allotments subject to completion of subdivision.

*Clause 7* enables appropriate parts of the Bayside land to be declared one allotment for the purposes of the Building Control Act on conditions determined by the Governor in Council.

*Clause 8* provides that a plan of sub-division may be sealed or approved despite the need for certain easements.

*Clause 9* permits roads within the Bayside land to be closed by Order in Council. The Order is subject to disallowance under the Subordinate Legislation Act.

*Clause 10* ensures that the area which may be reclaimed can be vested in the Urban Land Authority and enables the sale of Princes Pier.

*Clause 11* enables reclamation of any part of the Bayside land.

*Clause 12* permits the boundary of Port Melbourne City Council to be extended to incorporate the Bayside site.

*Clause 13* provides that an Amendment, declaration, assessment, decision, approval or exemption made or given under certain Acts, is valid despite any technical defect, omission or irregularity. An appeal presently before the Administrative Appeals Tribunal is saved.

*Clauses 14* and *15* enable the creation of bodies corporate which will assume ownership of common property. Vesting of common property in the bodies corporate will be exempt from stamp duty.

*Clause 16* applies relevant provisions of certain Acts to bodies corporate created under *Clause 14* with modifications similar to those in the South Yarra Project (Subdivision and Management) Act.

*Clauses 17* to *19* deal with the powers and duties of a body corporate including responsibility for maintenance of waterways in the development.

*Clause 20* allows for rates, taxes, charges, etc. to be levied either on the body corporate or the registered proprietors.

*Clause 21* prohibits a body corporate from holding any real property other than common allotments.

*Clauses 22 to 24* empower a body corporate to make rules and by-laws relating to the management and use of common allotments, and provide for the entitlement or liability of members of a body corporate.

*Clause 25* enables the Court to make orders relating to the reinstatement of improvements on a common allotment which have been damaged or destroyed.

*Clause 26* grants access for members of the public who are not members of the body corporate to open space areas accessible to the public in the common allotments.

*Clauses 27 and 28* provide for the amalgamation of bodies corporate and common property.

*Clause 29* provides for additions to and amendment of Schedule 3 which relates to the body corporate structure to be created following the subdivision.

### **PART 3—REFERENCES TO ARBITRATION**

*Clause 30* enables the appointment of a panel of arbitrators.

*Clause 31* provides for applications or appeals under certain other Acts to be referred to arbitration.

*Clause 32* requires an arbitration to be conducted in accordance with the Commercial Arbitration Act, provides additional powers for an arbitrator and for meeting the costs of the arbitration.

### **PART 4—APPLICATION OF OTHER ACTS**

*Clause 33* enables the Governor in Council on the recommendation of the Ministers concerned to exempt or vary existing laws in their application to the Bayside land to the extent that they are inconsistent with the development plan in force under the Planning Scheme. Any such Order in Council is subject to disallowance by either House of Parliament.

*Clauses 34 and 38* contain provisions similar to those in the South Yarra Project Act to exempt common allotments from land tax and rates (except for water and sewerage service provided by the M.M.B.W.). The exemption does not apply to land used for commercial or residential purposes. The clauses also overcome the necessity to provide an additional 5 per cent open space contribution in each subdivision beyond the normal requirements if the Bayside land was treated as a whole. In consolidating the Bayside land, the Urban Land Authority, Port of Melbourne Authority, Metropolitan Transit Authority and State Transport Authority are exempt from stamp duty.

*Clause 35* excludes from the Port of Melbourne Authority Act those parts of the Bayside land that are currently within its jurisdiction and enables land forming part of the Bayside land to be revested in the Port of Melbourne Authority.

*Clause 36* exempts relevant statutory authorities involved in assembly of the Bayside land from special land tax.

*Clause 37* provides that the Minister administering the Building Control Act may determine who is to be responsible for the administration and enforcement of that Act in relation to the Bayside land.

*Clause 38.* (See note on Clauses 34 and 38 above.)

*Clause 39* enables a responsible authority to enter into an agreement with a body corporate in relation to a common or primary allotment.

*Clause 40* prevents development activity on any part of the contaminated land until the Council of the City of Port Melbourne has been consulted and the Environment Protection Authority declares the contamination in that part has been removed or treated to its satisfaction.

*Clause 41* enables the Port of Melbourne Authority to take appropriate action if Princes Pier falls into a state of disrepair, erect navigational aids and approve works in the vicinity of the pier which may affect navigation.

## **SCHEDULES**

