

# Melbourne City Link Authority Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

*Clause 1* sets out the purpose of the Act.

*Clause 2* provides for the Act to come into operation on the day the Act is proclaimed. If any part is not proclaimed 3 months after the Act receives Royal Assent, that part comes into operation on the first day after the 3 month period.

*Clause 3* inserts the definition of the “Authority”, the “chairperson”, a “contractor”, a “member” of the Authority, and the “Project” as set out in Clause 4.

*Clause 4* describes the Project in terms of defining the southern link and the western link.

*Clause 5* defines the area where the project is to be undertaken.

*Clause 6* binds the Crown in right of Victoria and, so far as the legislative power of parliament permits, the Crown in all its other capacities.

### PART 2—MELBOURNE CITY LINK AUTHORITY

#### Division 1—The Authority

*Clause 7* establishes the Melbourne City Link Authority as a body corporate with a common seal, which may sue and be sued in its own name as well as being able to acquire, hold and dispose of real and personal property. The Authority’s common seal must only be used as authorised by the Authority. All courts must take judicial notice of the Authority’s seal on the presumption that it was properly affixed.

*Clause 8* subjects the Authority to the general direction and control of the Minister. In addition, written directions may be given to the Authority by the Treasurer in relation to financial matters and by the Minister in relation to any other matters.

*Clause 9* requires the Authority to have not less than 3 and not more than 5 members appointed by the Governor in Council on a part-time basis for a period not exceeding 5 years. Provisions are included concerning the terms and conditions of the appointment of members and the application of the **Public Sector Management Act 1992**.

*Clause 10* sets out the circumstances under which the office of a member shall become vacant. A member may also resign by writing delivered to the Minister or the Governor in Council may remove a member, or all members, from office.

*Clause 11* concerns the process for the appointment of acting members, the terms and conditions of their appointment, their powers and duties and the termination of the acting appointment.

*Clause 12* provides for the duties of a member in the disclosure of a direct or pecuniary interest in a matter being considered, or about to be considered, by the Authority.

*Clause 13* concerns the arrangements for the person to preside at meetings of the Authority.

*Clause 14* requires that one half of the members of the Authority shall constitute a quorum of the Authority. If voting is equal at a meeting of the Authority, the chairperson or presiding member will have a casting vote in addition to their deliberative vote. Accurate minutes of the Authority's meetings must be kept.

*Clause 15* outlines the process whereby the members may pass a resolution without a meeting of the Authority.

*Clause 16* provides that an act or decision of the Authority is not invalid by reason of irregularities in the appointment of a member, a vacancy in the office of a member or because the occasion for an acting member to act had not arisen or ceased.

*Clause 17* set out the conditions for immunity to personal liability of a member, chief executive officer or delegate of the Authority.

*Clause 18* relates to the appointment of a chief executive officer for the Authority.

### **Division 2—Functions and powers**

*Clause 19* lists the functions of the Authority. The Authority is to assist in the development of the Project, evaluate submissions for the Project, negotiate with and recommend on persons to undertake the Project, facilitate and co-ordinate consultations with relevant State statutory authorities and agencies, ensure the Project is undertaken and completed in accordance with agreements and arrangements between the contractor and the State, and any other functions as are conferred on the Authority.

*Clause 20* provides the Authority with the power to make recommendations to the Minister about the agreements to be entered into by the Minister, to exercise the powers specified in an agreement under part 3, to employ or engage staff or consultants and do all things necessary for the performance of its functions.

*Clause 21* permits the Authority, by instrument under its common seal, or with the approval of the Minister, to delegate any of its powers excepting the power of delegation.

### **Division 3—Financial**

*Clause 22* requires that money received by the Authority be paid into a bank account established by the Authority and that, except as authorised by the Minister and Treasurer, expenditure by the Authority must be in accordance with a budget approved by the Minister and Treasurer.

*Clause 23* provides the Authority with the powers conferred on it by the **Borrowing and Investment Powers Act 1987**. The Authority may also, with the approval of the Treasurer, move to protect the value of its assets or liabilities against movements in interest or currency rates.

*Clause 24* empowers the Minister, with the approval of the Treasurer, for the Treasury Corporation of Victoria, or any other person approved by the Treasurer, to take over the obligations and rights relating to any financial accommodation and security obtained by a person in relation to the Project.

### PART 3—THE PROJECT

*Clause 25* requires that the agreements relating to the Project entered into by the Minister must include those matters listed in Schedule 1 of the Act and may include those matters listed in Schedule 2. The Governor in Council may also include other matters not listed in Schedule 1 or Schedule 2. The agreements relating to this section may specify the powers required by the Authority enable it to monitor the Project and enforce the agreement. They may allow the rights of the Minister under the agreement to be assigned to another person and conversely provide for another person to assume the obligations of the Minister under the agreement.

*Clause 26* provides for the Minister administering the **Planning and Environment Act 1987**, on the recommendation of the Minister, to prepare, adopt and approve amendments to any planning scheme applying to land in the area of the Project. Such an amendment may impose conditions on the development and use of the land, provide that no permit is required for the development or use of the land, and specify the Minister administering the **Planning and Environment Act 1987** as the responsible authority for the enforcement of a planning scheme applicable to the Project.

*Clause 27* sets out the Authority's power and obligations in entering land with the approval of the Minister for the purpose of carrying out surveys or investigations connected with the Project.

*Clause 28* sets out the Authority's powers over unreserved Crown Land to develop or use the land and to construct, extend, realign or relocate roads. The Minister administering the **Land Act 1958** may grant leases, licences, rights, or privileges over unreserved Crown land in the Project area on any terms and conditions the Ministers thinks fit.

*Clause 29* allows the Minister administering the **Historic Buildings Act 1981** to exempt any building or land in the area, whether it is registered under the Act or not, from the operation of the Act.

*Clause 30* exempts the application of the **Environment Effects Act 1978** from any works forming part of the Project except where anything has been done before this section comes into effect. The Southern and Western Bypasses Environment Effects Statement process under that Act will conclude by 31 January 1995 or such later date as determined by Governor in Council.

*Clause 31* provides that the Governor in Council may require a public statutory body in which land in Project area is vested to surrender it to the Crown and may divest land in that area from a public statutory body for the purposes of the Project.

*Clause 32* provides that the Governor in Council may require that a Department head (within the meaning of the **Public Sector Management Act 1992**), public statutory authority or municipal council to carry out their functions related to the Project within a time specified in the Order.

*Clause 33* establishes the Authority is a referral authority in each planning scheme or amendment to any part of the city of Melbourne, the City of Essendon, the City of Footscray, the City of Moreland, the City of Yarra or the City of Port Phillip.

*Clause 34* exempts land used for a freeway or road forming part of the Project from rates under the **Local Government Act 1989**.

#### **PART 4—GENERAL**

*Clause 35* concerns the obligations of persons connected with the Authority with regard to the use of information acquired because of that person's connection with the Authority.

*Clause 36* provides that the Governor in Council may make regulations with regard to any matter to give effect to this Act.

#### **PART 5—AMENDMENT**

*Clause 37* outlines amendments to the **Borrowing and Investment Powers Act 1987** as a consequence of this Act.

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#### **SCHEDULE 1**

*Clause 1* sets out those matters which must be included in an agreement for the Project.

*Clause 2* sets out those matters that may be included in an agreement for the Project.