

Planning and Environment (Planning Schemes) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 states the purpose of the Act.
- Clause 2 provides for commencement of the Act on the day on which it receives the Royal Assent.
- Clause 3 states that the Planning and Environment Act 1987 is the Principal Act.

PART 2—AMENDMENT OF THE PLANNING AND ENVIRONMENT ACT 1987

- Clause 4 inserts in section 3 of the Principal Act a definition of "Victoria Planning Provisions".
- Clause 5 inserts a new Part 1A in the Principal Act in relation to the Victoria Planning Provisions. Part 1A provides for proposed sections 4A to 4J.

Section 4A provides for the preparation, content and approval of the Victoria Planning Provisions.

Section 4B provides for the persons or bodies who may prepare an amendment to the Victoria Planning Provisions, and for the application of specified provisions of the Principal Act to the preparation of an amendment.

Section 4C provides that the Minister may approve or refuse to approve an amendment to the Victoria Planning Provisions.

Section 4D provides for publication of a notice of approval of an amendment to the Victoria Planning Provisions in the Government Gazette.

Section 4E provides for commencement of an amendment to the Victoria Planning Provisions.

Section 4F provides that sections 38 and 39 of the Principal Act apply to an amendment to the Victoria Planning Provisions.

Section 4G provides that an approved amendment to the Victoria Planning Provisions must be lodged with specified persons and bodies.

Section 4H provides that specified persons or bodies must keep an approved amendment to the Victoria Planning Provisions available for public inspection.

Section 4I provides that specified persons or bodies must keep an up to date copy of the Victoria Planning Provisions available for public inspection.

Section 4J provides that an amendment to the Victoria Planning Provisions may also provide for an amendment to one or more specified planning schemes.

- Clause 6 inserts a new paragraph in section 6(1) of the Principal Act to provide that a planning scheme must contain a municipal strategic statement in specified circumstances, and may contain a range of specified documents relating to the use or development of land.
- Clause 7 substitutes section 7 of the Principal Act. The new section provides that a planning scheme must include State standard provisions and local provisions. It also makes provision for interpreting the scheme if there is an inconsistency between provisions of the scheme, and makes provision for the Minister to issue directions and guidelines about the form and content of schemes.
- Clause 8 amends section 8(1) of the Principal Act and substitutes sub-sections (3) to (6) of section 8 of the Principal Act in relation to powers of planning authorities to prepare amendments to schemes. The changes are consequential on the substitution of section 7 of the Principal Act.
- Clause 9 omits specified words in section 11(b) of the Principal Act. The changes are consequential on the substitution of section 7 of the Principal Act.
- Clause 10 inserts two new paragraphs in section 12(2) of the Principal Act to require additional specified matters to be taken into account by a planning authority in preparing an amendment to a scheme.
- Clause 11 inserts a new section 12A in the Principal Act to make provision for preparation, purpose, content and review of a municipal strategic statement.
- Clause 12 inserts additional sub-sections in sections 21, 22, 23 and 25 of the Principal Act in relation to certain submissions about an amendment to a planning scheme.
- Clause 13 inserts a new section 25A in the Principal Act to allow a panel to recommend to the Minister that an amendment to the Victoria Planning Provision be prepared.

Clause 14 inserts a new Division 5 in Part 4 in the Principal Act in relation to a combined permit and amendment process. The new Division provides for sections 96A to 96N.

Section 96A provides for that a planning authority may agree to consider an application for a permit concurrently with the preparation of an amendment to a planning scheme.

Section 96B provides that specified provisions of the Principal Act apply to the application for a permit.

Section 96C sets out requirements for the giving of notice of both the preparation of the amendment and of the application.

Section 96D applies section 24 of the Principal Act so that a panel is required to give a reasonable opportunity to be heard to the applicant for the permit.

Section 96E makes provision for a panel to be able to recommend that a permit be granted if it recommends the adoption of the amendment.

Section 96F requires the planning authority to consider the panel's report before deciding whether or not to recommend the granting of a permit.

Section 96G provides that a planning authority may recommend to the Minister that a permit be granted and may determine to refuse to recommend that a permit be granted.

Section 96H provides that if a planning authority recommends that a permit be granted, it must submit the recommendation and the proposed permit at the same time as it submits the adopted amendment. It also provides that the Minister may direct the planning authority to give more notice of the application.

Section 96I provides that the Minister may grant a permit at the same time as the Minister approves the amendment.

Section 96J provides that the responsible authority must issue the permit.

Section 96K provides that the responsible authority may be directed by the Minister to give notice of the refusal of the permit.

Section 96L provides that if a permit is granted and the amendment to which the permit applies is revoked under section 38 of the Principal Act, the permit is deemed to be cancelled on that revocation.

Section 96M applies specified provisions of the Principal Act to an application and a permit under the new Division.

Section 96N provides that the responsible authority becomes responsible authority in respect of a permit granted under this Division once the permit is granted.

- Clause 15 substitutes section 161(2) of the Principal Act in relation to the powers of a panel to require the production of documents.
- Clause 16 inserts new sub-sections (2) and (3) in section 201D of the Principal Act to provide that it is the intention of sections 4F, 4J and 96M(2) and (4) to alter or vary section 85 of the **Constitution Act 1975**.

PART 3—TRANSITIONAL

- Clause 17 provides that the Principal Act continues to apply to existing schemes in relation to specified matters.
- Clause 18 provides that each municipal council must prepare a new planning scheme for its municipal district as soon as practicable after the commencement of the Act.
- Clause 19 provides that each municipal council must prepare a municipal strategic statement for inclusion in the scheme prepared under section 18.
- Clause 20 provides that a municipal council must submit the scheme prepared under section 18 to the Minister on or before the date specified by the Minister. If the scheme is not submitted by the specified date, the Minister may prepare and approve the scheme.
- Clause 21 provides that the Minister may prepare a scheme under this Part for any part of Victoria outside a municipal district.
- Clause 22 provides for the validation of a scheme prepared and approved under this Part.
- Clause 23 provides that a municipal council in preparing a scheme under section 18 may recommend to the Minister under section 96G of the Principal Act that a permit be granted, and allows the Minister to grant the permit on or within 3 months of the approval of the scheme.
- Clause 24 provides that an existing planning scheme in force in an area is revoked on the commencement of a scheme prepared under this Part.

- Clause 25 makes transitional provisions for an application for a permit made but not decided before the commencement of the scheme prepared under this Part.
- Clause 26 makes transitional provisions for an appeal lodged or entitled to be lodged before the commencement of the scheme prepared under this Part.
- Clause 27 provides that it is the intention of section 22(2) to alter or vary section 85 of the Constitution Act 1975.