

# Town and Country Planning (Amendment) Bill 1984

No.

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## SCHEDULE

### Amendments to *Port Phillip Authority Act 1966*

# LEGISLATIVE COUNCIL

Read 1° 17 April 1984

(Brought in by the Honourable Evan Walker)

(No. 3)

## A BILL

To amend the *Town and Country Planning Act 1961*,  
the *Port Phillip Authority Act 1966* and the *Planning  
Appeals Board Act 1980* and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by  
and with the advice and consent of the Legislative Council and  
the Legislative Assembly of Victoria in this present Parliament  
assembled and by the authority of the same as follows (that is to  
5 say) :

1. This Act may be cited as the *Town and Country Planning* Short title.  
(*Amendment*) Act 1984.

2. (1) The several provisions of this Act except section 15 shall  
10 come into operation on the day, or on the successive days, to be fixed  
by proclamation, or successive proclamations, of the Governor in  
Council published in the *Government Gazette*. Commencement.

(2) Section 15 shall be deemed to have come into operation on  
3 November 1980.

3. In this Act the *Town and Country Planning Act 1961* is called  
15 the Principal Act. Principal Act No. 6849.

Reprinted to No. 9902.

Subsequently amended by Nos. 9910, 9936 and 9963.

Amendment of No. 6849 s. 3 (1).

4. (1) In section 3 (1) of the Principal Act after the interpretation of "Construct" there shall be inserted the following interpretation:

"Copy".

"Copy", in relation to a planning scheme, includes a document which reproduces in substance the provisions of the planning scheme or the planning scheme as amended or varied (as the case requires) if—

- (a) the document contains all the information contained in the planning scheme or the planning scheme as amended or varied; and
- (b) the form of the document is certified by the Secretary for Planning and Environment or, if the Minister so directs, by the responsible authority.

Consequential.

(2) Section 31 (3A) of the Principal Act is repealed.

Amendment of No. 6849.

5. After section 3 of the Principal Act there shall be inserted the following section:

Delegation by Minister.

"4. (1) The Minister may delegate to the Secretary for Planning and Environment all or any of the powers, discretions, functions or authorities conferred or imposed on the Minister by this Act or any regulations made under the Act other than—

- (a) this power of delegation; and
- (b) the power to make recommendations to the Governor in Council.

(2) A delegation under this section is revocable at any time by the Minister and no delegation shall prevent the exercise of any power, discretion, function or authority by the Minister.

(3) Where the exercise or performance of any power, discretion, function or authority delegated by the Minister to another person pursuant to this section requires that the Minister have or reach an opinion, belief or decision in relation to any matter then such opinion, belief or decision may be that of the other person, and the power, discretion, function or authority may be exercised or performed upon that opinion, belief or decision.

(4) The power of delegation conferred by this section, or the exercise of that power, does not in any way derogate from any other power of the Minister to delegate or give authority to another person."

Amendment of No. 6849 s. 11D. Delegation by Secretary.

6. In section 11D (1) of the Principal Act—

- (a) after the words "by this" there shall be inserted the words "or any other"; and
- (b) for the word "hereunder" there shall be substituted the word "thereunder".

Conditions in permits.

7. (1) In the heading preceding section 18 of the Principal Act after the word "Orders" there shall be inserted the words "and Schemes".

(2) In section 18 (1) of the Principal Act after the word “order” there shall be inserted the words “or planning scheme”.

(3) After section 18 (2A) of the Principal Act there shall be inserted the following sub-section:

5 “(2B) A permit may be granted subject to such conditions (if any) as are specified in the scheme or order.”.

(4) In sections 18B (1) and 18BA (2) of the Principal Act after the words “interim development order” (wherever occurring) there shall be inserted the expression “, planning scheme”.

10 (5) Section 27 (2) of the Principal Act is repealed.

(6) Notwithstanding anything to the contrary in the Principal Act, on the commencement of this section there shall be revoked so much of any planning scheme under the Principal Act as provides that the responsible authority may include conditions subject to which a permit  
15 under the planning scheme is granted.

(7) Subject to sub-section (8) the amendments to the Principal Act by this section, and the revocation of a scheme or part of a scheme by sub-section (6), shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under any permit granted pursuant to  
20 that scheme before the commencement of this section.

(8) Where a permit under a planning scheme was granted—

(a) before the commencement of this section; and

(b) subject to a condition or conditions to which a permit issued after the commencement of this section could validly be subject—  
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the permit shall be deemed to have been validly granted, subject to that condition or those conditions.

8. In section 24 of the Principal Act—

30 (a) in sub-section (1) after the words “interim development order” there shall be inserted the words “or planning scheme”;

(b) for paragraph (e) of sub-section (1) there shall be substituted the following paragraph:

35 “(e) decide that the permit should be revoked or modified in such manner as is specified by the responsible authority.”;

(c) in sub-section (1) all words and expressions after paragraph (e) are repealed;

(d) in sub-section (1c)—

40 (i) for the words “the Minister” there shall be substituted the words “a responsible authority”; and

Amendment of  
No. 6849 s. 24.  
Revocation of  
permits.

- (ii) for the words “he may” there shall be substituted the expression “the responsible authority may, subject to sub-section (2), and”;
- (e) for sub-section (2) there shall be substituted the following sub-section: 5
- “(2) A responsible authority other than the Minister shall not, under sub-section (1C), revoke or modify a permit in respect of which the Planning Appeals Board has made a determination under section 22 (1) (a), (b) or (d); unless—
- (a) the responsible authority has applied to the Planning Appeals Board for an authorization for the revocation or modification of the permit; and 10
- (b) the Planning Appeals Board has heard and determined the application and has authorized the revocation or modification.”; 15
- (f) in sub-section (2A)—
- (i) for the word “Where” there shall be substituted the word “Unless”;
- (ii) for the words “do not” there shall be substituted the word “all”; and 20
- (iii) for the word “Minister” there shall be substituted the words “responsible authority”;
- (g) in sub-section (2B)—
- (i) for the words “The Minister may in his” there shall be substituted the words “The responsible authority may in its”; and 25
- (ii) for the expression “sub-section (2A)” there shall be substituted the expression “this section”;
- (h) sub-section (3) is repealed;
- (i) in sub-section (4AA)— 30
- (i) for the words “the Minister” (where first occurring) there shall be substituted the words “a responsible authority”; and
- (ii) for the words “the Minister” (where second occurring) there shall be substituted the words “the responsible authority”; 35
- (j) sub-section (4A) is repealed; and
- (k) in sub-section (4B) the expression “or (4A)” is repealed.
- (2) Despite the amendments made by sub-section (1), a submission or recommendation made under section 24 of the Principal Act before the commencement of sub-section (1) shall be dealt with as if sub-section (1) had not been enacted, and for that purpose the Planning Appeals Board and the Minister administering the Principal Act shall continue to have the rights, powers and jurisdiction they had before the commencement of sub-section (1). 40 45

9. In section 25 of the Principal Act—

- (a) for the expression which commences “Where a responsible” and finishes “thing on any land” there shall be substituted the expression:

Amendment of  
No. 6849 s. 25.  
Where  
responsible  
authority is  
owner or  
developer.

“Where—

- (a) a responsible authority in the exercise of any powers conferred by any other Act proposes to use or develop any land or to do or carry out any other matter or thing on any land; or

- (b) a responsible authority is the owner of any land where another person proposes to use or develop that land or to do or carry out any other matter or thing on that land—”; and

- (b) for the expression “(a) where” there shall be substituted the expression “(c) where”;

- (c) for the expression “(b) in” there shall be substituted the expression “(d) in”; and

- (d) for the words “therefor and appeals” there shall be substituted the expression “therefor, appeals, modifications and revocations”.

10. In section 28 (1) of the Principal Act—

- (a) after sub-paragraph (ii) of paragraph (a) the word “and” is repealed; and

- (b) after sub-paragraph (iii) of paragraph (a) there shall be inserted the following expression:

“and

- (iv) at such other place or places as the Minister may specify—”.

Amendment of  
No. 6849 s. 28.  
Exhibition of  
proposed  
schemes.

11. (1) After section 30 (3) of the Principal Act there shall be inserted the following sub-sections:

Amendment of  
No. 6849 ss. 30  
and 32.  
References to  
panel.

“(3A) Where a submission is made to the Minister under paragraph (d) of sub-section (3), the Minister may direct that a panel shall consider the modifications or alterations to the scheme.

(3B) Where the Minister makes a direction under sub-section (3A)—

- (a) despite sub-section (3), the Minister is not required to personally receive or consider submissions, but may refer any submissions to the panel;

- (b) the panel shall consist of either—

(i) 1 person sitting alone; or

(ii) 3 persons, one of whom shall be appointed as chairman;

- (c) the provisions of sub-sections (1G) to (1M) and (1O), (1P) and (1Q) of section 28 apply in relation to the panel;
- (d) the panel shall give a reasonable opportunity of being heard by it to any person who has stated in a submission which is referred to the panel by the Minister that he or she wishes to be heard with respect to it; 5
- (e) after conducting a hearing, the panel shall report to the Minister on the modifications or alterations and its recommendation in relation to them; and
- (f) the Minister shall provide the panel with such secretarial and other assistance as the panel requires to carry out its functions.” 10

(2) After sections 32 (7) of the Principal Act there shall be inserted the following sub-section:

“(8) Where a submission is made to the Minister by a person who may be affected by a proposed amendment to a planning scheme, the Minister may direct that a panel shall consider the proposed amendment. 15

- (9) Where the Minister makes a direction under sub-section (8)—
  - (a) the Minister is not required to personally receive or consider submissions, but may refer any submission to the panel; 20
  - (b) the panel shall consist of either—
    - (i) 1 person sitting alone; or
    - (ii) 3 persons, one of whom shall be appointed as chairman; 25
  - (c) the provisions of sub-sections (1G) to (1M) and (1O), (1P) and (1Q) of section 28 apply in relation to the panel;
  - (d) the panel shall give a reasonable opportunity of being heard by it to any person who has stated in a submission which is referred to the panel by the Minister that he or she wishes to be heard with respect to it; 30
  - (e) after conducting a hearing, the panel shall report to the Minister on the proposed amendment and its recommendation in relation to them; and
  - (f) the Minister shall provide the panel with such secretarial and other assistance as the panel requires to carry out its functions.” 35

12. (1) In section 40 of the Principal Act—

- (a) in sub-section (1) for the words “responsible authority may purchase or with the approval of the Minister compulsorily take” there shall be substituted the expression “Minister may purchase or compulsorily acquire, and a responsible authority may purchase or, with the approval of the Minister, compulsorily acquire”; 40

(b) for paragraph (b) of sub-section (1) there shall be substituted the following paragraph:

“(b) any land (including any easement, right or privilege in, over or affecting such land) to enable the better use, development or planning of an area—”; and

(c) in sub-section (3) for the word “taking” there shall be substituted the word “acquiring”.

(2) In section 40A of the Principal Act—

(a) the words “for a public purpose” are repealed;

(b) for the words “responsible authority may with the approval of the Minister” there shall be substituted the expression “Minister, or the responsible authority with the approval of the Minister, may”.

13. In section 41 of the Principal Act—

(a) in sub-section (3)—

(i) for the words “this section by a responsible authority” there shall be substituted the words “this or another Act by an acquiring authority”; and

(ii) for the words “responsible authority” (where lastly occurring) there shall be substituted the words “acquiring authority”;

(b) in sub-section (5)—

(i) in paragraph (a) for the words “a responsible authority” there shall be substituted the words “an acquiring authority”; and

(ii) in paragraph (b) for the words “responsible authority” there shall be substituted the words “acquiring authority”; and

(c) after sub-section (6) there shall be inserted the following sub-section:

“(7) In sub-sections (3) and (5) “acquiring authority” includes a responsible authority, the Crown, the Minister of Education, a municipality or a public authority.”.

14. In section 52B of the Principal Act—

(a) for sub-section (2) there shall be substituted the following sub-section:

“(2) The responsible authority shall make an application to the Registrar under sub-section (1) forthwith after the coming into effect of an agreement which is intended by the parties to run with the land affected.”; and

(b) in sub-section (4)—

Amendment of  
No. 6849 s. 41.  
Compensation to  
be noted on title.

Amendment of  
No. 6849 s. 52B.  
Registration of  
agreements.



- (i) after the words "Where an agreement" there shall be inserted the words "which is intended by the parties to run with the land"; and
- (ii) for the words "the making of the agreement" there shall be substituted the words "the agreement has come into effect".

Amendment of No. 6849 s. 58. Improper grant of permit.

15. In section 58 (6) of the Principal Act after the word "council" there shall be inserted the words "or its delegate".

Amendments to No. 7498. Reprinted to No. 8081. Subsequently amended by Nos. 9126, 9425, 9487, 9512, 9658 and 9861.

16. (1) The *Port Phillip Authority Act* 1966 is amended or repealed to the extent mentioned in the Schedule.

(2) Without affecting the generality of section 12 of the *Port Phillip Authority (Amendment) Act* 1980, and after the commencement of this section—

- (a) the Minister administering the Act referred to in sub-section (1) shall become and be the successor in law of the Port Phillip Authority;
- (b) all acts, matters and things of a continuing nature made, done or commenced by or on behalf of, or in relation to, the Port Phillip Authority which, immediately before it ceases to exist, is of any force or effect or is capable of acquiring any force or effect by virtue of any Act shall be deemed to have been done or commenced by or on behalf of or in relation to that Minister and shall have effect and may be continued and completed by or on behalf of or in relation to that Minister accordingly; and
- (c) any reference to the *Port Phillip Authority Act* 1966 or the Port Phillip Authority in any Act, proclamation, Order in Council, rule, regulation, by-law, notice, demand, order or document or writing of any kind shall, so far as it relates to any period after the commencement of this section, if not inconsistent with the context or subject-matter, be deemed to refer to the *Port Phillip Coastal Planning and Management Act* 1966 or the Minister administering that Act (as the case may be).

Consequential amendments to No. 6849.

17. (1) Section 59E (1) of the Principal Act is amended as follows:

- (a) Before paragraph (a) the word "submitted" is repealed;
- (b) In paragraph (a) before the words "by the" there shall be inserted the word "submitted";
- (c) For paragraph (b) there shall be substituted the following paragraph:

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“(b) is approved under section 5B (1) of the *Port Phillip Coastal Planning and Management Act 1966*—”; and

(d) After paragraph (b) for the word “Authority” there shall be substituted the expression “Minister administering the *Port Phillip Coastal Planning and Management Act 1966*”.

(2) In section 59EA of the Principal Act—

(a) for the expression “*Port Phillip Authority Act 1966*” there shall be substituted the expression “*Port Phillip Coastal Planning and Management Act 1966*”; and

(b) for the words “Port Phillip Authority” there shall be substituted the expression “Minister administering the *Port Phillip Coastal Planning and Management Act 1966*”.

18. (1) In section 13 (e) of the *Planning Appeals Board Act 1980* for the expression “*Port Phillip Authority Act 1966*” there shall be substituted the expression “*Port Phillip Coastal Planning and Management Act 1966*”.

Consequential amendments to No. 9512.

(2) Before section 18 of the *Planning Appeals Board Act 1980* there shall be inserted the following section:

“17C. The jurisdiction, powers and duties conferred or imposed on the chief chairman by section 9 of the *Port Phillip Coastal Planning and Management Act 1966* may be exercised or performed by the chief chairman, or may be delegated by the chief chairman to a senior member.”.

Delegation power re. Act No. 7498.



## SCHEDULE

## Section 1

Amendments to *Port Phillip Authority Act 1966*

<i>Provision</i>	<i>Extent of Amendment or Repeal</i>
Section 1 (1)	For the expression " <i>Port Phillip Authority Act 1966</i> " there shall be substituted the expression " <i>Port Phillip Coastal Planning and Management Act 1966</i> ".
Section 2	The interpretations of "Authority" and "Chairman" are repealed.
Section 3	For this section there shall be substituted the following section: "3. (1) The Minister may delegate to the Secretary for Planning and Environment or to any officer of the Ministry for Planning and Environment all or any of the powers, discretions, functions or authorities conferred or imposed on the Minister by this Act or regulations under this Act other than— (a) this power of delegation; and (b) functions and powers under section 5B (1). (2) Every delegation under this section shall be revocable at any time by the Minister and no delegation shall prevent the exercise of any power, discretion, function or authority by the Minister. (3) Where the exercise or performance of any power, discretion, function or authority delegated by the Minister to another person pursuant to this section requires that the Minister have or reach an opinion, belief or decision in relation to any matter than such opinion, belief or decision may be that of the other person, and the power, discretion, function or authority may be experienced or performed upon that opinion, belief or decision.
Section 4 (1) to (14)	These sub-sections are repealed.
Section 4 (15)	For the word "Authority" there shall be substituted the words "Minister in the performance of the Minister's functions under this Act".
Section 5 (1)	For the words "Authority shall be responsible for advising the Minister on" there shall be substituted the words "responsibilities of the Minister include responsibility for considering".
Section 5 (2)	For the words "The authority may recommend to the Minister that" there shall be substituted the words "For the purposes of discharging the responsibilities imposed by sub-section (1), the Minister may determine whether it is appropriate that". In paragraph (c) for the word "Authority" there shall be substituted the word "Minister".
Section 5A	This section is amended as follows: (a) For the expression "5A subject to the general direction and control of the Minister, the Authority shall" there shall be substituted the expression "5A. (1) The Minister";

## Provision

## Extent of Amendment or Repeal

- (b) In paragraph (a) before the words "carry out" there shall be inserted the word "may";
- (c) In paragraph (b) for the expression "prepare management plans, and" there shall be substituted the expression "may prepare management plans, and shall";
- (d) In paragraph (c) for the words "where the Authority" there shall be substituted the expression "may, where the Minister";
- (e) In paragraph (d) for the expression "with the consent of the Minister given after consultation by him with the Minister for Planning," there shall be substituted the word "shall"; and
- (f) For paragraph (e) there shall be substituted the following paragraph:
  - "(e) shall consider submissions in respect of proposed management plans."

At the end of this section there shall be inserted the following sub-sections:

- "(2) Where a submission is made in respect of a proposed management plan, the Minister may direct that a panel shall consider the proposed management plan.
- (3) Where the Minister makes a direction under sub-section (2)—
  - (a) despite paragraph (e) of sub-section (1), the Minister is not required to personally receive or consider submissions but may refer any submissions to the panel;
  - (b) the panel shall consist of either—
    - (i) 1 person sitting alone; or
    - (ii) 3 persons, one of whom shall be appointed as chairman;
  - (c) the provisions of sub-section (1G) to (1M) and (1O) and (1P) of section 28 of the *Town and Country Planning Act 1961* apply in relation to the panel;
  - (d) the panel shall give a reasonable opportunity of being heard by it to any person who has stated in a submission which is referred to the panel by the Minister that he or she wished to be heard with respect to it;
  - (e) after conducting a hearing, the panel shall report to the Minister on the proposed management plan and its recommendation in relation to it; and
  - (f) the Minister shall provide the panel with such secretarial and other assistance as the panel requires to carry out its functions.

## Section 5B

For sub-section (1) there shall be substituted the following sub-section:

- "(1) Where a management plan—
  - (a) is prepared in accordance with section 5A;
  - or

<i>Provision</i>	<i>Extent of Amendment or Repeal</i>
	(b) is prepared, by a committee of management— the Minister may approve the plan in the form prepared or as modified or amended by the Minister or may refuse to approve the plan.”.
Section 5c (1), (2), (3) and (5)	For the word “Authority” wherever occurring there shall be substituted the word “Minister”.
Section 6	In sub-section (1) for the word “Authority” there shall be substituted the word “Minister”. In sub-section (2)— (a) for the word “Authority” there shall be substituted the word “Minister”; and (b) the word “its” is repealed. In sub-section (2A) for the word “Authority” (where twice occurring) there shall be substituted the word “Minister”. In sub-section (2B)— (a) for the word “Authority” there shall be substituted the word “Minister”; and (b) for the word “it” there shall be substituted the word “the Minister”. In sub-section (2C) for the word “Authority” (where twice occurring) there shall be substituted the word “Minister”. In sub-section (2D)— (a) for the word “Authority” (where twice occurring) there shall be substituted the word “Minister”; (b) for the words “its consent” there shall be substituted the words “consent given under this section”; and (c) for the word “it” (where twice occurring) there shall be substituted the words “the Minister”. In sub-section (2E)— (a) for the word “Authority” there shall be substituted the word “Minister”; and (b) for the words “its consent” there shall be substituted the words “consent under this section”. In sub-section (3)— (a) for the word “Authority” there shall be substituted the word “Minister”; and (b) for the word “it” there shall be substituted the words “the Minister”. In sub-section (4) the words “after consultation with the Authority” are repealed.
Section 9	For this section there shall be substituted the following section: “9. (1) A person who is aggrieved by a decision, or the revocation or modification of a decision, by the Minister pursuant to this Act, may make a submission to the Minister.

<i>Provision</i>	<i>Extent of Amendment or Repeal</i>
	<p>(2) Where a submission is made to the Minister under sub-section (1), the Minister may refer the matter to the chief chairman of the Planning Appeals Board who shall furnish to the Minister a report with respect to the submission containing—</p> <p>(a) a summary of the submission and a recommendation as to whether an action should be taken under that Act with respect to the decision; and</p> <p>(b) the reasons for that recommendation.</p> <p>(3) Where a submission is referred to the chief chairman of the Planning Appeals Board under sub-section (2), the person who made the submission is entitled to be heard in relation to it.</p> <p>(4) After receiving a recommendation from the chief chairman of the Planning Appeals Board pursuant to sub-section (2), the Minister may take any action authorized by this Act.”.</p>
Section 10	<p>This section is amended as follows:</p> <p>(a) in sub-section (1) for the word “Authority” there shall be substituted the word “Minister”; and</p> <p>(b) sub-section (2) and (3) are repealed.</p>
Section 10A	For the word “Authority” (where twice occurring) there shall be substituted the word “Minister”.
Section 11	Sub-sections (2) and (3) are repealed.







