

## Authorised Version

# Planning and Environment Amendment (Public Land Contributions) Act 2018

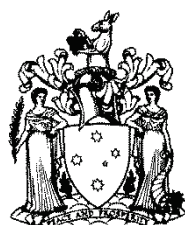
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Victoria

# Planning and Environment Amendment (Public Land Contributions) Act 2018<sup>†</sup>

No. 7 of 2018

[Assented to 27 February 2018]

The Parliament of Victoria enacts:

## Part 1—Preliminary

### 1 Purposes

The main purposes of this Act are—

- (a) to amend the **Planning and Environment Act 1987**—
  - (i) to introduce a land contribution model for the infrastructure contributions plan scheme; and

- (ii) to increase and provide for the indexation of the community infrastructure levy; and
- (iii) to make other miscellaneous amendments; and
- (b) to make related amendments to the **Subdivision Act 1988** and the **Building Act 1993**.

## **2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 September 2018, it comes into operation on that day.

## **3 Principal Act**

In this Act, the **Planning and Environment Act 1987** is called the Principal Act.

## **Part 2—Amendments relating to the provision of a public land component in infrastructure contributions**

### **Division 1—Amendments to the Planning and Environment Act 1987**

#### **4 Definitions**

In section 3(1) of the Principal Act **insert** the following definitions—

*"approved development contributions plan—*  
see section 46H;

*approved infrastructure contributions plan—*  
see section 46GA;

*building permit* has the same meaning as in Part 3  
of the **Building Act 1993**;

*building work* has the same meaning as in  
section 3(1) of the **Building Act 1993**;

*collecting agency—*see section 46GA;

*development agency—*see section 46GA;

*ICP plan area—*see section 46GA;

*infrastructure contributions plan—*see  
section 46GG;

*inner public purpose land—*see section 46GA;

*land credit amount—*see section 46GA;

*land equalisation amount—*see section 46GF;

*statement of compliance* means a statement of  
compliance issued under section 21 of the  
**Subdivision Act 1988**;

## 5 Who may make a submission?

After section 21(4) of the Principal Act **insert**—

- "(5) Despite subsection (1), if an amendment is to incorporate an infrastructure contributions plan into a planning scheme, a person is not entitled to make a submission to the planning authority requesting a change to—
- (a) any land credit amount or land equalisation amount specified in the plan; or
  - (b) any estimate of the value of public purpose land (within the meaning of Part 3AB) on which the amounts referred to in paragraph (a) are based.

### Note

An affected owner may make a submission under Division 4 of Part 3AB objecting to the estimate of the value of inner public purpose land in the ICP plan area of an infrastructure contributions plan."

## 6 Planning authority to consider submissions

After section 22(4) of the Principal Act **insert**—

- "(5) Despite subsection (1), a planning authority must not consider a submission which requests a change to—
- (a) any land credit amount or land equalisation amount specified in an infrastructure contributions plan that is to be incorporated into a planning scheme by the amendment; or

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- (b) any estimate of the value of public purpose land (within the meaning of Part 3AB) on which the amounts referred to in paragraph (a) are based.

**Note**

An affected owner may make a submission under Division 4 of Part 3AB objecting to the estimate of the value of inner public purpose land in the ICP plan area of an infrastructure contributions plan."

**7 Decisions about submissions**

After section 23(4) of the Principal Act **insert**—

- "(5) Subsection (1) does not apply to a submission which requests a change to—
  - (a) any land credit amount or land equalisation amount specified in an infrastructure contributions plan that is to be incorporated into a planning scheme by the amendment; or
  - (b) any estimate of the value of public purpose land (within the meaning of Part 3AB) on which the amounts referred to in paragraph (a) are based.

**Note**

An affected owner may make a submission under Division 4 of Part 3AB objecting to the estimate of the value of inner public purpose land in the ICP plan area of an infrastructure contributions plan."

**8 Report by panel**

After section 25(4) of the Principal Act **insert**—

- "(5) A panel must not make a recommendation that an amendment be adopted with a change to—
  - (a) any land credit amount or land equalisation amount specified in an infrastructure contributions plan that

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is to be incorporated into a planning  
scheme by the amendment; or

- (b) any estimate of the value of public  
purpose land (within the meaning  
of Part 3AB) on which the amounts  
referred to in paragraph (a) are based.

**Note**

An affected owner may make a submission under  
Division 4 of Part 3AB objecting to the estimate of  
the value of inner public purpose land in the ICP plan  
area of an infrastructure contributions plan."

**9 Adoption of amendment**

At the foot of section 29 of the Principal Act  
**insert—**

**"Note**

Under section 46GU, the planning authority must not adopt  
an amendment to incorporate an infrastructure contributions  
plan into a planning scheme in certain circumstances."

**10 New Part 3AB substituted—Infrastructure  
contributions**

For Part 3AB of the Principal Act **substitute—**

**"Part 3AB—Infrastructure  
contributions**

**Division 1—Preliminary**

**46GA Definitions**

In this Part—

*approved infrastructure contributions plan*  
means an infrastructure contributions  
plan that—

- (a) is incorporated into an approved  
planning scheme; or



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(b) forms part of a precinct  
structure plan or strategic plan  
that is incorporated into an  
approved planning scheme;

***collecting agency*** means a Minister, public  
authority or municipal council specified  
in an infrastructure contributions plan  
as the collecting agency;

***contribution land*** means the land in the  
ICP plan area of an infrastructure  
contributions plan in respect of which  
an infrastructure contribution is to be  
imposed under the plan if any of that  
land is developed;

**Note**

See also section 46GI(1)(b).

***development agency*** means a Minister,  
public authority or municipal  
council specified in an infrastructure  
contributions plan as a development  
agency;

***development contribution levy*** means a  
development infrastructure levy or  
community infrastructure levy that  
is payable under Part 3B;

***ICP land contribution percentage*** has the  
meaning given by section 46GB;

***ICP plan area*** means the area specified in an  
infrastructure contributions plan as the  
area to which the plan applies;

**Note**

See also section 46GI(1)(a).

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***infrastructure contribution*** has the meaning  
given by section 46GC;

***infrastructure contributions plan***—  
see section 46GG;

***inner public purpose land*** means land in  
the ICP plan area of an infrastructure  
contributions plan that is specified in  
that plan as land to be set aside for  
public purposes;

***land component***, of an infrastructure  
contribution, has the meaning  
given by section 46GE;

***land credit amount***, in relation to a parcel  
of land in an ICP plan area, means  
the amount specified in an approved  
infrastructure contributions plan as the  
land credit amount that relates to that  
parcel of land;

***land equalisation amount*** has the meaning  
given by section 46GF;

***Minister's direction*** means a direction issued  
by the Minister under section 46GJ;

***monetary component***, of an infrastructure  
contribution, has the meaning given by  
section 46GD;

***outer public purpose land*** means land  
outside of the ICP plan area of an  
infrastructure contributions plan that  
is specified in that plan as land to be  
acquired for public purposes;

***parcel contribution percentage***, in relation  
to a parcel of land in the ICP plan  
area, means the percentage of the  
contribution land in that parcel of

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land that is to be set aside as inner  
public purpose land;

**Example**

$$PCP = \left( \frac{TIPPL}{TCL} \right) \times \frac{100}{1}$$

where—

PCP is the parcel contribution percentage;

TIPPL is the total area of the inner public  
purpose land to be set aside in the parcel;

TCL is the total area of contribution land in  
the parcel.

***plan preparation costs*** means the  
costs and expenses referred to  
in section 46GG(1)(c);

***public purpose land*** means any inner  
public purpose land or any outer  
public purpose land specified in  
the infrastructure contributions  
plan, or both;

***public purposes*** means any of the following  
purposes—

- (a) public open space;
- (b) community and recreation  
facilities;
- (c) transport infrastructure;
- (d) other infrastructure that is  
essential to the development  
of the ICP plan area;

***type of land***, in relation to land in the  
ICP plan area of an infrastructure  
contributions plan, means a type of  
land or area that is identified according  
to certain characteristics or location

and specified in a Minister's direction  
applying to the plan.

**Note**

An example of a type of land in the ICP plan  
area of an infrastructure contributions plan is  
metropolitan greenfield growth land.

**46GB Meaning of *ICP land contribution  
percentage***

An *ICP land contribution percentage* is  
the total area of the public purpose land  
specified in an infrastructure contributions  
plan divided by the total area of the  
contribution land in the ICP plan area  
of the plan, expressed as a percentage,  
determined in respect of each class of  
development of land specified in the plan.

**Example**

$$\text{LCP} = \left( \frac{\text{TPPL}}{\text{TCL}} \right) \times \frac{100}{1}$$

where—

LCP is the ICP land contribution percentage;

TPPL is the total area of the public purpose land  
specified in the plan;

TCL is the total area of the contribution land in  
the ICP plan area of the plan.

**46GC Meaning of *infrastructure contribution***

- (1) An *infrastructure contribution* is  
a contribution imposed under an  
infrastructure contributions plan in  
relation to the development of land  
in the ICP plan area of the plan.

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- (2) An infrastructure contribution may consist of either or both of the following—
- (a) a monetary component;
  - (b) a land component.

**Note**

See section 46GV for when and how an infrastructure contribution must be provided.

**46GD Meaning of *monetary component***

- (1) The *monetary component* of an infrastructure contribution is either or both of the following—
- (a) the standard levy calculated in accordance with the standard levy rate specified in the plan;
  - (b) the supplementary levy calculated in accordance with the supplementary levy rate specified in the plan.
- (2) The monetary component of an infrastructure contribution imposed under an infrastructure contributions plan may only be used to fund—
- (a) the provision of works, services or facilities referred to in section 46GG(1)(a) in relation to the plan; and
  - (b) the plan preparation costs in relation to the plan.

**46GE Meaning of *land component***

The *land component* of an infrastructure contribution in relation to a parcel of land in an ICP plan area is—

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- (a) any inner public purpose land that forms part of the parcel of land; and
- (b) any land equalisation amount in relation to the parcel of land.

**46GF Meaning of *land equalisation amount***

A *land equalisation amount* is an amount—

- (a) specified in an approved infrastructure contributions plan as the land equalisation amount in relation to a parcel of land in the ICP plan area;
- (b) that is payable to the collecting agency on the development of that parcel of land if the parcel contribution percentage of the land is less than the ICP land contribution percentage for that class of development.

**Notes**

- 1 A person must pay the land equalisation amount under section 46GV(3) to the collecting agency.
- 2 The method for calculating the land equalisation amount is specified in a Minister's direction applying to the approved infrastructure contributions plan.

**Division 2—Infrastructure  
contributions plans**

**46GG Infrastructure contributions plans**

- (1) Without limiting section 6, a planning scheme may incorporate one or more infrastructure contributions plans for the purposes of imposing infrastructure contributions to fund—
  - (a) the provision of works, services or facilities—
    - (i) in the ICP plan area; and

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- (ii) outside of the ICP plan area, if the works, services or facilities are essential to, and the need for which is generated by, the development of land in the ICP plan area; and

**Note**

Works, services or facilities may also be provided on land outside the ICP plan area that is not outer public purpose land but which is land already owned by a development agency.

- (b) the provision of land for public purposes—
  - (i) in the ICP plan area; and
  - (ii) outside of the ICP plan area that is essential to, and the need for which is generated by, the development of land in the ICP plan area; and
- (c) the reasonable costs and expenses incurred by the planning authority (other than the Victorian Planning Authority) in preparing the infrastructure contributions plan and the related precinct structure plan or strategic plan.

**Note**

The planning authority that prepares the precinct structure plan or strategic plan and related infrastructure contributions plan may not be the same planning authority that subsequently prepares the amendment to the planning scheme to incorporate the infrastructure contributions plan.

- (2) Subsection (1) is subject to section 46GH.

**46GH Infrastructure contributions plans not to apply to certain growth area land for provision of State infrastructure**

An infrastructure contributions plan must not be incorporated in a planning scheme if—

- (a) under the plan an infrastructure contribution is to be imposed in relation to the development of land in the contribution area (within the meaning of Part 9B); and
- (b) a development agency specified in the plan is not a municipal council.

**46GI Contents of infrastructure contributions plans**

- (1) An infrastructure contributions plan must—
  - (a) specify the ICP plan area; and
  - (b) specify the contribution land in the ICP plan area; and
  - (c) specify any inner public purpose land to be provided under the plan (including any inner public purpose land forming part of each parcel of land in the ICP plan area); and
  - (d) specify any outer public purpose land to be funded through the plan and the development agency responsible for acquiring that land; and
  - (e) specify the types of public purposes for which inner public purpose land and outer public purpose land may be used and developed; and



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- (f) specify the classes of development of land in relation to which an infrastructure contribution is to be imposed under the plan; and
- (g) specify, for each class of development, the ICP land contribution percentage; and
- (h) specify the parcel contribution percentage for each parcel of land in the ICP plan area; and
- (i) specify the land credit amount or land equalisation amount in respect of each parcel of land in the ICP plan area; and
- (j) specify the timing and method of adjustment to be applied to the land credit amounts and land equalisation amounts specified in the plan, including by way of indexation or any other method of adjustment; and
- (k) specify the plan preparation costs, works, services or facilities to be funded through the plan; and
- (l) set out the staging of the provision of the works, services or facilities or public purpose land specified in the plan; and
- (m) relate the need for the plan preparation costs, works, services or facilities to be funded through the plan to the proposed development of land in the ICP plan area; and
- (n) relate the need for the provision of public purpose land under the plan to the proposed development of land in the ICP plan area; and

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- (o) specify the plan preparation costs, works, services or facilities to be funded from a standard levy; and
- (p) specify a standard levy rate for each class of development of land according to the type of land to be developed; and
- (q) specify the method and timing of annual indexation to be applied to a standard levy rate; and
- (r) specify the following in relation to any supplementary levy imposed under the plan—
  - (i) the works, services or facilities to be funded from the supplementary levy;
  - (ii) the amount of the plan preparation costs and the estimated cost of each of the works, services or facilities to be funded from the supplementary levy;
  - (iii) the method and timing of annual indexation to be applied to the estimated cost of each of the works, services or facilities to be funded from the supplementary levy;
  - (iv) the proportion of the total of the costs referred to in subparagraph (ii) to be funded from the supplementary levy; and
- (s) specify the supplementary levy rate for each class of development of land according to each type of land to be developed; and

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- (t) specify a Minister, public authority or municipal council as the entity that is the collecting agency for the purposes of this Part and the plan; and
  - (u) specify a Minister, public authority or municipal council as an entity that is a development agency for the purposes of this Part and the plan and the works, services, facilities or public purpose land for which the development agency is responsible under the plan; and
- Note**
- There may be more than one development agency.
- (v) provide for the procedures, including the timing, for the collection of an infrastructure contribution; and
  - (w) include any other matter required to be included in the plan by a Minister's direction.
- (2) An infrastructure contributions plan may—
- (a) provide for different rates for the monetary component of an infrastructure contribution to be provided in respect of different classes of development for a type of land in the ICP plan area; and
  - (b) provide for a lower rate of standard levy for a class of development of a particular type of land than the rate specified in a Minister's direction if—
    - (i) the planning authority, the affected landowners, the municipal council of the municipal district in which the land is located and the

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development agency or agencies  
specified in the plan agree; or

(ii) the Minister consents.

- (3) An infrastructure contributions  
plan may specify the same person  
to be both the collecting agency  
and a development agency.

### **Division 3—Directions of Minister**

#### **46GJ Directions of Minister**

- (1) The Minister may issue written directions  
to planning authorities in relation to the  
preparation and content of infrastructure  
contributions plans.
- (2) Without limiting subsection (1), a Minister's  
direction may specify any one or more of the  
following—
- (a) the types of land to which an  
infrastructure contributions plan  
may, or must not, apply;
  - (b) the type of land which may be  
specified as public purpose land  
under an infrastructure contributions  
plan;
  - (c) the types of public purposes for which  
public purpose land may be used or  
developed;
  - (d) the method for calculating the  
estimated value of any inner public  
purpose land—
    - (i) for the purposes of calculating  
land credit amounts and land  
equalisation amounts; and
    - (ii) for the purposes of Division 4;

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- (e) the method for calculating the estimated value of any outer public purpose land to be acquired by a development agency;
- (f) the timing, procedure and method of adjustment of the estimated land values referred to in paragraphs (d) and (e), including by way of indexation or any other method of adjustment;
- (g) the method for calculating the land credit amount or land equalisation amount in respect of each parcel of land in the ICP plan area of an infrastructure contributions plan;
- (h) the timing and method of adjustment to be applied to the land credit amounts and land equalisation amounts referred to in paragraph (g), including by way of indexation or any other method of adjustment;
- (i) the classes of development of land in respect of which a standard levy or a supplementary levy or both of those levies may or must not be imposed under an infrastructure contributions plan;
- (j) the types of plan preparation costs and works, services or facilities that may or must not be funded from a standard levy or a supplementary levy or both of those levies under an infrastructure contributions plan;

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- (k) the standard levy rates to be applied under an infrastructure contributions plan for each class of development of land according to the type of land to be developed;
- (l) the method for determining the amount of standard levy payable in respect of a development of land according to the type of land to be developed;
- (m) the method and timing of annual indexation to be applied to standard levy rates;
- (n) the requirements that a planning authority must comply with, and the criteria that the authority must have regard to, when deciding whether to impose a supplementary levy for the development of land under an infrastructure contributions plan;
- (o) the method for estimating the cost of the works, services or facilities to be funded from a supplementary levy under an infrastructure contributions plan;
- (p) the method and timing of annual indexation to be applied to the estimated cost of each of the works, services or facilities to be funded from a supplementary levy under an infrastructure contributions plan;
- (q) the method for determining the amount of supplementary levy payable in respect of any development of land in the ICP plan area;

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- (r) the maximum amount of any standard levy imposed under an infrastructure contributions plan that may be used for the provision of community and recreation works, services or facilities according to the type of land to be developed and the class of development of that land;
  - (s) the method and timing of annual indexation of the maximum amount referred to in paragraph (r);
  - (t) the maximum proportion of any standard levy or supplementary levy imposed under an infrastructure contributions plan that may be used to fund plan preparation costs in relation to that plan;
  - (u) the type of land in an ICP plan area of an infrastructure contributions plan to which section 18(1AB) of the **Subdivision Act 1988** applies;
  - (v) requirements for the staging and timing of the provision of the works, services or facilities or public purpose land to be funded through an infrastructure contributions plan;
  - (w) any requirements relating to a notice under section 46GO, including information to be included in the notice;
  - (x) any other information to be included in an infrastructure contributions plan.
- (3) The Minister must publish in the Government Gazette notice of every Minister's direction as soon as is practicable after a direction is issued.

**46GK Planning authorities must comply with directions of Minister**

A planning authority must comply with a Minister's direction that applies to the authority.

**Division 4—Valuation and dispute resolution process for inner public purpose land**

**46GL Definitions**

In this Division—

*affected owner*—see section 46GO(1);

*valuer-general* means the valuer-general under the **Valuation of Land Act 1960** and includes any deputy valuer-general and any valuer nominated by the valuer-general to make valuations of land referred to in section 3 of that Act.

**46GM Application of Division**

This Division applies if a planning authority is preparing an infrastructure contributions plan that provides for an infrastructure contribution that includes a land component.

**Note**

This Division applies to an infrastructure contributions plan that includes a land component whether or not an amendment to a planning scheme to incorporate the plan is exempted from any of the requirements of sections 17, 18 and 19 and the regulations under section 20 or 20A. Any submissions about the estimated value of inner public purpose land in the ICP plan area of the infrastructure contributions plan must be made under this Division.



**46GN Planning authority must arrange for estimates of values of inner public purpose land**

- (1) The planning authority must arrange for a valuer to prepare a report containing an estimate of the value of any inner public purpose land in a parcel of land in the ICP plan area of an infrastructure contributions plan if the parcel contribution percentage of the land is more than the ICP land contribution percentage for the class of development that may be carried out on that land.
- (2) A valuer referred to in subsection (1) must use the methodology set out in a Minister's direction applying to the infrastructure contributions plan to calculate the estimate of the value of the inner public purpose land.
- (3) A valuer referred to in subsection (1) must hold the qualifications and experience referred to in section 13DA(2) of the **Valuation of Land Act 1960**.

**46GO Planning authority must give notice to owners of certain inner public purpose land**

- (1) The planning authority must give a notice to each owner of a parcel of land in the ICP plan area of an infrastructure contributions plan if the parcel contribution percentage of the land is more than the ICP land contribution percentage for the class of development that may be carried out on that land (an *affected owner*).

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- (2) A notice under subsection (1) must—
- (a) comply with any requirements for the notice in a Minister's direction applying to the infrastructure contributions plan; and
  - (b) include the following—
    - (i) the estimated value per hectare (or other appropriate unit of measurement) of the inner public purpose land in the parcel of land, according to the class of development that may be carried out on that land;
    - (ii) the estimated land credit amount, calculated in accordance with a Minister's direction applying to the infrastructure contributions plan, which the affected owner will be entitled to be paid under this Part;
    - (iii) a statement that the affected owner may make a submission under section 46GQ to the planning authority and the date by which the submission must be made;
    - (iv) any other information required to be included in the submission by a Minister's direction applying to the infrastructure contributions plan.

**46GP Notice under section 46GO to be given to affected owners and collecting agency**

A notice under section 46GO must be given to every affected owner and the collecting agency specified in the infrastructure

contributions plan before the adoption of an amendment to the planning scheme to incorporate the infrastructure contributions plan.

**46GQ Affected owner may make submission on estimated value of inner public purpose land**

- (1) An affected owner who is given a notice under section 46GO may make a written submission to the planning authority objecting to the estimated value per hectare (or other appropriate unit of measurement) of the inner public purpose land included in that notice.
- (2) A submission must—
  - (a) include the reasons for making the submission; and
  - (b) include an estimate of the value per hectare (or other appropriate unit of measurement) of the inner public purpose land, which is prepared by a valuer using the same methodology that was used to calculate the estimate of the value of the inner public purpose land included in the notice under section 46GO; and
  - (c) be accompanied by a copy of the valuer's report, which must include the estimate of the value of the inner public purpose land, and any other document stated in the notice under section 46GO to accompany the submission; and
  - (d) include any other information stated in the notice under section 46GO to be included in the submission.

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- (3) A submission must be made to the planning authority no later than one month after the date on which the notice under section 46GO is given to the affected owner.
- (4) A valuer referred to in subsection (2) must hold the qualifications and experience referred to in section 13DA(2) of the **Valuation of Land Act 1960**.

**46GR Planning authority must consider submission**

- (1) The planning authority must consider every submission that is made to it under section 46GQ if the submission has been made by the closing date for submissions included in the notice under section 46GO.
- (2) The planning authority may consider a late submission and must consider one if directed to do so by the Minister.

**46GS Decision about submissions**

- (1) The planning authority may accept or reject the estimate of the value of the inner public purpose land in a submission made under section 46GQ.
- (2) If the planning authority rejects the estimate of the value of the inner public purpose land in the submission, the planning authority must—
  - (a) refer the matter to the valuer-general;  
and
  - (b) notify the affected owner of that rejection and that the matter has been referred to the valuer-general.

**46GT Valuer-general must hold conference to determine value of inner public purpose land**

- (1) If a matter is referred to the valuer-general under section 46GS(2), the valuer-general must arrange for a conference to be held at which the following persons must attend—
  - (a) the valuer-general;
  - (b) a valuer acting for or on behalf of the planning authority (the *planning authority's valuer*);
  - (c) a valuer acting for or on behalf of the affected owner (the *affected owner's valuer*).
- (2) The valuer-general may fix a fee for arranging and attending the conference of which half must be paid by the affected owner and half must be paid by the planning authority.
- (3) The valuer-general must use all reasonable efforts to achieve agreement between the planning authority's valuer and the affected owner's valuer as to the estimated value of the inner public purpose land.
- (4) If the planning authority's valuer and the affected owner's valuer agree on the estimated value of the inner public purpose land, the valuer-general must give written confirmation of that agreement to the affected owner and the planning authority.
- (5) If the planning authority's valuer and the affected owner's valuer cannot agree on the estimated value of the inner public purpose land, the valuer-general must make a determination as to the estimated

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value of that land within 15 business days  
after the date on which the conference ends.

- (6) The valuer-general must give written notice of a determination under subsection (5) to the affected owner and the planning authority.

**46GU Infrastructure contributions plan must be consistent with estimated value of public purpose land**

- (1) The planning authority must not adopt an amendment under section 29 to incorporate an infrastructure contributions plan that specifies a land credit amount or a land equalisation amount that relates to a parcel of land in the ICP plan area of the plan unless—
  - (a) in the case of the land credit amount—that amount is based on the estimated value of the inner public purpose land in that parcel of land; and
  - (b) in the case of the land equalisation amount—the component of the land equalisation amount that relates to any inner public purpose land is based on the estimated value of that inner public purpose land.
- (2) For the purposes of this section, the estimated value of inner public purpose land is the value of that land—
  - (a) contained in the notice given to the affected owner under section 46GO if there are no submissions made under section 46GQ by the affected owner; or
  - (b) accepted by the planning authority under section 46GS(1); or

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- (c) confirmed by the valuer-general under section 46GT(4); or
- (d) determined by the valuer-general under section 46GT(5).

**Note**

Any component of the land equalisation amount that relates to any outer public purpose land is to be based on the estimated value of the outer public purpose land calculated in accordance with the method specified in a Minister's direction applying to the plan.

**Division 5—Imposition and collection  
of infrastructure contribution**

**46GV Imposition of infrastructure contribution**

- (1) This section applies if an approved infrastructure contributions plan provides that an infrastructure contribution is imposed in relation to the development of land in the ICP plan area of that plan.
- (2) An infrastructure contribution is imposed in relation to the development of any of the land at the earlier time at which a person (the *applicant*) makes an application for either of the following—
  - (a) a permit under this Act to develop the land;
  - (b) a building permit under the **Building Act 1993** to carry out building work on the land.
- (3) The applicant must pay the monetary component and any land equalisation amount of the infrastructure contribution to the collecting agency in a manner specified by the collecting agency—

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- (a) before the earliest of the following—
    - (i) if the development of the land involves a plan under the **Subdivision Act 1988**—the issue of the statement of compliance in relation to that plan;
    - (ii) if the development of the land requires a building permit—the issue of the building permit;
    - (iii) a time specified in the approved infrastructure contributions plan;  
or
  - (b) before a time specified in an agreement entered into by the collecting agency and the applicant.
- (4) Subject to subsection (8), if any land component of the infrastructure contribution includes any inner public purpose land, the applicant must ensure that the inner public purpose land is provided in accordance with subsections (5) and (6) to—
- (a) in the case of inner public purpose land required for a road—the development agency responsible for the use and development of the land;
  - (b) in any other case—the collecting agency.
- (5) The applicant must provide the inner public purpose land under subsection (4) by ensuring that—
- (a) any inner public purpose land for a road is set aside on a plan under the **Subdivision Act 1988** to vest in the development agency responsible for



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the use and development of that land;  
and

- (b) any other inner public purpose land is set aside on a plan under the **Subdivision Act 1988** to vest in the collecting agency.
- (6) The applicant must lodge any plan referred to in subsection (5) for registration under section 22 of the **Subdivision Act 1988** within a time specified in a permit under this Act or an agreement entered into by the collecting agency and the applicant (as the case requires).
- (7) Without limiting section 62, if the applicant applies for a permit under this Act to develop the land in the ICP plan area, the responsible authority must impose the requirements set out in subsections (3) and (4) as conditions on that permit.
- (8) If any part of the inner public purpose land required to be provided to a development agency or the collecting agency under subsection (4) is acquired by that development agency or collecting agency before the time that it is required to be provided under this section, that part of the inner public purpose land is taken to have been provided under subsection (4) at the time of the acquisition of the land.
- (9) The collecting agency may require the payment of a monetary component or the provision of the land component of an infrastructure contribution under this section to be secured to its satisfaction.

**46GW Payment of land credit amounts**

- (1) This section applies if on development of a parcel of land in the ICP plan area of an approved infrastructure contributions plan—
  - (a) a person must, in accordance with section 46GV(4), provide inner public purpose land forming part of that parcel of land to the collecting agency or a development agency; and
  - (b) the parcel contribution percentage of the parcel of land to be developed is more than the ICP land contribution percentage for that class of development.
- (2) The person is entitled to be paid the land credit amount in relation to the parcel of land by the collecting agency.

**Notes**

- 1 The collecting agency must pay the land credit amount to the person under section 46GZ(7).
- 2 The method for calculating the land credit amount is specified in a Minister's direction applying to the approved infrastructure contributions plan.

**46GX Collecting agency may accept works, services or facilities in satisfaction of monetary component**

- (1) Subject to subsection (2), the collecting agency may accept the provision of works, services or facilities by an applicant under section 46GV(3) in part or full satisfaction of the monetary component of an infrastructure contribution payable by the applicant to the collecting agency under that section.

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- (2) Before accepting the provision of works, services or facilities by an applicant under subsection (1), the collecting agency must obtain the agreement of the development agency or agencies specified in the approved infrastructure contributions plan, unless the collecting agency is the only development agency specified in that plan.
- (3) Subsection (2) applies to works, services or facilities provided before or after an applicant is required to pay the monetary component of an infrastructure contribution under section 46GV(3).

**Division 6—Responsibilities of collecting agencies and development agencies**

**46GY Responsibilities of the collecting agency to keep proper accounts and records**

- (1) The collecting agency under an approved infrastructure contributions plan must keep proper and separate accounts and records of the following—
  - (a) in relation to any monetary component—
    - (i) any monetary component paid to the collecting agency; and
    - (ii) any monetary component, the whole or part of which is forwarded to a planning authority or to a development agency by the collecting agency;
  - (b) in relation to any land component—
    - (i) any land equalisation amount paid to the collecting agency; and

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- (ii) any land equalisation amount, the whole or part of which is—
  - (A) expended by the collecting agency; or
  - (B) forwarded to a development agency by the collecting agency; and
- (iii) any inner public purpose land that is vested in the collecting agency under the **Subdivision Act 1988**; and

**Note**

Inner public purpose land will only be vested as a road in a collecting agency if the collecting agency is also the development agency that has responsibility for that road.

- (iv) any inner public purpose land that is acquired by the collecting agency before the time it is required to be provided to the collecting agency under section 46GV(4); and
  - (v) any inner public purpose land referred to in subparagraph (iii) or (iv) that is transferred to a development agency by the collecting agency;
- (c) any land credit amount paid to a person by the collecting agency.
- (2) If the collecting agency is a municipal council, the accounts and records to be kept under subsection (1) must be kept in accordance with the **Local Government Act 1989**.

**46GZ Other responsibilities of the collecting agency**

- (1) This section applies to the collecting agency under an approved infrastructure contributions plan, whether or not the collecting agency is also a development agency under that plan.
- (2) The collecting agency to which a monetary component is paid must forward any part of the monetary component that is imposed for—
  - (a) plan preparation costs—to the planning authority that incurred those costs, unless the agency is that planning authority; and
  - (b) the provision of works, services or facilities—to the development agency that is specified in the plan as responsible for those works, services or facilities.
- (3) If the collecting agency is not a municipal council, the collecting agency must pay into the Consolidated Fund any part of a monetary component that is not forwarded to a planning authority or a development agency under subsection (2).

**Note**

A collecting agency that is not a municipal council will only pay into the Consolidated Fund all or part of the monetary component under subsection (3) if the monetary component is imposed for plan preparation costs incurred by the collecting agency in its capacity as a planning authority or for the provision of works, services or facilities by or on behalf of the collecting agency in its capacity as a development agency.

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- (4) The collecting agency must use any land equalisation amounts that are paid to the collecting agency to pay land credit amounts under subsection (7), except any part of those amounts that are to be forwarded to a development agency under subsection (5).
- (5) The collecting agency must forward any part of a land equalisation amount required for the acquisition of outer public purpose land by a development agency specified in the approved infrastructure contributions plan to that development agency.
- (6) Subsections (2)(b) and (5) do not apply to the collecting agency if the collecting agency is the relevant development agency.
- (7) The collecting agency must pay to each person who must provide an infrastructure contribution under the approved infrastructure contributions plan any land credit amount to which the person is entitled under section 46GW.
- (8) If the collecting agency is not a municipal council, the collecting agency must pay into the Consolidated Fund any land equalisation amounts that are not immediately used by the collecting agency to pay land credit amounts under subsection (7).
- (9) If any inner public purpose land is vested in the collecting agency under the **Subdivision Act 1988** or is acquired by the collecting agency before the time it is required to be provided to the collecting agency under section 46GV(4), the collecting agency must transfer the estate in fee simple in the land to the development agency specified in the approved infrastructure contributions plan as responsible for the use and development of

that land, unless the collecting agency is that development agency.

**46GZA Responsibility of a development agency to keep accounts and records**

- (1) A development agency under an approved infrastructure contributions plan must keep proper and separate accounts and records of—
- (a) any part of a monetary component or land equalisation amount forwarded to the development agency by the collecting agency; and
  - (b) any part of a monetary component or land equalisation amount expended by the development agency; and
  - (c) the following inner public purpose land (if any)—
    - (i) land vested as a road in the development agency under the **Subdivision Act 1988**;
    - (ii) land acquired by the development agency before the time it is required to be provided under section 46GV(4);
    - (iii) land transferred to the development agency by the collecting agency; and
  - (d) the use and development by the development agency of any inner public purpose land; and
  - (e) the acquisition and use and development by the development agency of any outer public purpose land.

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- (2) If the development agency is a municipal council, the accounts and records to be kept under subsection (1) must be kept in accordance with the **Local Government Act 1989**.

**46GZB Other responsibilities of a development agency**

- (1) This section applies to a development agency under an approved infrastructure contributions plan, whether or not the development agency is also the collecting agency.
- (2) If the development agency is not a municipal council, the development agency must pay into the Consolidated Fund any part of a monetary component or land equalisation amount forwarded to the development agency by the collecting agency under this Part.
- (3) Subject to subsection (4), the development agency must—
- (a) apply the monetary component of an infrastructure contribution only—
    - (i) for the purpose of plan preparation costs if the development agency is the planning authority that incurred those costs; or
    - (ii) for the provision of works, services or facilities in respect of which the infrastructure contribution was imposed and for which the development agency is responsible under the approved infrastructure contributions plan; and



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- (b) in relation to any inner public purpose land—
  - (i) vested in the development agency under the **Subdivision Act 1988**—use and develop that land for a road specified in the approved infrastructure contributions plan; or
  - (ii) transferred to the development agency by the collecting agency—use and develop that land for a public purpose specified in the approved infrastructure contributions plan; or
  - (iii) acquired by the development agency before the time it was required to be provided under section 46GV(4)—use and develop that land for a public purpose specified in the approved infrastructure contributions plan; and
- (c) in relation to any outer public purpose land to be acquired by the development agency—
  - (i) acquire that outer public purpose land by applying any part of a land equalisation amount imposed for acquiring that outer public purpose land; and
  - (ii) use and develop that outer public purpose land for a public purpose specified in the approved infrastructure contributions plan.

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- (4) If the Victorian Planning Authority is the collecting agency under an approved infrastructure contributions plan, a development agency under that plan to which any part of an infrastructure contribution is provided by the Authority under this Part must, in accordance with any requirements of the Authority—
- (a) report on the use of the infrastructure contribution in the development agency's annual report; and
  - (b) provide reports on the use of the infrastructure contribution to the Authority.

**Division 7—Responsibilities of collecting agencies and development agencies if infrastructure contributions not expended**

**46GZC Application of Division**

- (1) This Division applies despite anything to the contrary in Division 6.
- (2) This Division applies to the collecting agency or a development agency under an approved infrastructure contributions plan, whether or not the agency is a municipal council.

**46GZD Responsibility of collecting agency and development agency if monetary component not expended within life of a plan**

- (1) This section applies if—
  - (a) the whole or any part of a monetary component is forwarded or paid to a development agency specified

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- in an approved infrastructure contributions plan for the provision by the development agency of works, services or facilities in the ICP plan area; and
- (b) an amount of the monetary component has not been expended by the development agency before the date on which the plan expires.
- (2) The development agency must, within 6 months after the date on which the approved infrastructure contributions plan expires—
- (a) with the consent of the Minister and in the manner approved by the Minister—expend the remaining amount of the monetary component for the provision of other works, services or facilities in the ICP plan area; or
- (b) if the development agency does not expend the remaining amount of the monetary component under paragraph (a)—pay that amount to the collecting agency, unless the development agency is the collecting agency.
- (3) The collecting agency must—
- (a) divide the remaining amount of the monetary component among the current owners of each parcel of land in the ICP plan area in respect of which a monetary component under the approved infrastructure contributions plan has been paid; and
- (b) pay each current owner the divided amount.

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- (4) For the purposes of subsection (3), the divided amount must be in proportion to the area of contribution land in that current owner's parcel of land compared to the area of contribution land in the ICP plan area in respect of which a monetary component under the approved infrastructure contributions plan has been paid.
- (5) The collecting agency must make the payments under subsection (3) as follows—
  - (a) if the collecting agency is not the development agency—within 12 months after the date on which the payment of the remaining monetary component under subsection (2)(b) is received;
  - (b) if the collecting agency is the development agency—within 12 months after the date on which the approved infrastructure contributions plan expires.

**46GZE Responsibility of collecting agency and development agency if land equalisation amount not expended within life of a plan**

- (1) This section applies if—
  - (a) any part of a land equalisation amount has been paid to the collecting agency or forwarded to a development agency specified in an approved infrastructure contributions plan; and

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- (b) any part of that amount has not been expended at the date on which the plan expires.
- (2) If any part of a land equalisation amount paid or forwarded to a development agency for acquiring outer public purpose land has not been expended by the development agency to acquire that land at the date on which the approved infrastructure contributions plan expires, the development agency must forward the land equalisation amount back to the collecting agency within 6 months after that expiry date, unless the development agency is the collecting agency.
- (3) The collecting agency must, within 12 months after the date on which the approved infrastructure contributions plan expires—
  - (a) with the consent of the Minister and in the manner approved by the Minister—expend the remainder of the land equalisation amount to acquire land in the municipal district in which the ICP plan area is situated for a public purpose specified in a Minister's direction applying to the plan; or
  - (b) if the collecting agency does not expend the remainder of the land equalisation amount under paragraph (a)—
    - (i) divide that amount among the current owners of each parcel of land in the ICP plan area in respect of which a land equalisation amount has been paid or inner public purpose land has been provided under the approved

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infrastructure contributions plan;  
and

(ii) pay each current owner the  
divided amount.

- (4) For the purposes of subsection (3)(b), the divided amount must be in proportion to the area of contribution land in that current owner's parcel of land compared to the total area of contribution land in the ICP plan area in respect of which a land equalisation amount has been paid, or inner public purpose land has been provided, under the approved infrastructure contributions plan.

**46GZF Responsibility of collecting agency and development agency if public purpose land is no longer required**

- (1) This section applies if at the date on which an approved infrastructure contributions plan expires, all or part of the following public purpose land is no longer required for a public purpose specified in the plan—
- (a) inner public purpose land that has vested under the **Subdivision Act 1988** in, been acquired by, or been transferred to, a development agency;
  - (b) outer public purpose land acquired by a development agency.
- (2) The development agency must, within 12 months after the date on which the approved infrastructure contributions plan expires—
- (a) use the public purpose land for a public purpose approved by the Minister; or
  - (b) sell the public purpose land.

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- (3) If land is sold under subsection (2)(b), the development agency must—
- (a) pay the proceeds of the sale (less the sale expenses) within 3 months after the sale to the collecting agency, unless the development agency is also the collecting agency; or
  - (b) with the consent of the Minister and in the manner approved by the Minister—
    - (i) expend the proceeds of the sale (less the sale expenses) for the acquisition of other land in the municipal district in which the ICP plan area is situated; and
    - (ii) ensure the land acquired under subparagraph (i) is used for a public purpose specified in a Minister's direction applying to the approved infrastructure contributions plan.
- (4) The collecting agency must—
- (a) divide the proceeds of the public purpose land among the current owners of each parcel of land in the ICP plan area, in respect of which a land equalisation amount has been paid, or inner public purpose land has been provided, under the approved infrastructure contributions plan; and
  - (b) pay each current owner a portion of the proceeds in accordance with subsection (5).
- (5) For the purposes of subsection (4), the portion of the proceeds must be in proportion to the area of contribution land in that current owner's parcel of land compared to

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the total area of contribution land in the ICP plan area in respect of which a land equalisation amount has been paid, or inner public purpose land has been provided, under the approved infrastructure contributions plan.

- (6) The collecting agency must make the payments under subsection (4) as follows—
- (a) if the collecting agency is not the development agency—within 6 months after being paid the proceeds of the sale of the public purpose land under subsection (3)(a);
  - (b) if the collecting agency is the development agency—within 18 months after the date on which the approved infrastructure contributions plan expires.

### **Division 8—General**

#### **46GZG Appropriation of Consolidated Fund**

The Consolidated Fund is appropriated to the extent necessary for the purposes of sections 46GZ(7), 46GZB(3), 46GZD(2) and (3), 46GZE(2) and (3) and 46GZF(3) and (4).

#### **46GZH Recovery of monetary component or land equalisation amount of infrastructure contribution as a debt**

The collecting agency may recover the monetary component, or any land equalisation amount of the land component, of an infrastructure contribution payable to the collecting agency under this Part as a debt due to the collecting agency in any court of competent jurisdiction.



**46GZI Reporting requirements of collecting agencies and development agencies**

- (1) A collecting agency or development agency must prepare and give a report to the Minister, at the times required by the Minister, relating to—
  - (a) in the case of a collecting agency—
    - (i) any infrastructure contribution provided to the collecting agency under this Part; and
    - (ii) any works, services or facilities accepted by the collecting agency in part or full satisfaction of the monetary components of any infrastructure contributions to be provided to the collecting agency under this Part; and
    - (iii) any land credit amounts paid to persons under this Part; and
  - (b) in the case of a development agency—
    - (i) the expenditure of any monetary components of infrastructure contributions forwarded to the development agency under this Part; and
    - (ii) the use and development of any inner public purpose land that is part of the land component of any infrastructure contribution, which has vested in, been acquired by or been transferred to, the development agency under this Part; and

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- (iii) the use made by the development agency of any works, services or facilities referred to in paragraph (a)(ii); and
  - (iv) the expenditure of any land equalisation amounts paid or forwarded to the development agency under this Part; and
  - (v) the use and development of any outer public purpose land acquired by the development agency.
- (2) A report under subsection (1) must be prepared in accordance with any requirements of the Minister.

**46GZJ Minister to report annually**

The Minister must cause to be tabled in each House of Parliament at intervals not exceeding 12 months a report setting out—

- (a) the total infrastructure contributions provided, and the total amount of the development contribution levies paid, to a municipal council that is a collecting agency or a development agency during the period covered by the report; and
- (b) the total infrastructure contributions provided, and the total amount of the development contribution levies paid, to a collecting agency or a development agency that is not a municipal council during the period covered by the report; and
- (c) the total amount of the monetary components of infrastructure contributions, land equalisation amounts and development contribution

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levies paid into the Consolidated Fund during the period covered by the report; and

- (d) the total amount of the monetary components of infrastructure contributions, land equalisation amounts and development contribution levies paid out of the Consolidated Fund during the period covered by the report; and
- (e) the total infrastructure contributions provided, and the total amount of the development contribution levies paid, during the period covered by the report.

**46GZK Collecting agency or development agency may deal with public purpose land under this Part**

Despite any other Act (except the **Charter of Human Rights and Responsibilities Act 2006**), public purpose land which has vested under the **Subdivision Act 1988** in, been acquired by, or been transferred to, a collecting agency or a development agency under this Part may be dealt with by the collecting agency or development agency (as the case requires) in accordance with this Part and the relevant approved infrastructure contributions plan."

**11 What conditions can be put on permits?**

- (1) For section 62(5)(a) of the Principal Act **substitute—**

"(a) include a condition to implement an approved development contributions plan or an approved infrastructure contributions plan; or"

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- (2) In section 62(6)(a) of the Principal Act,  
for "section 46N or 46GG" **substitute**  
"section 46N(1) or 46GV(7)".

**12 Right to compensation**

- (1) In section 98(3)(b) of the Principal Act, for  
"payable." **substitute** "payable; or".
- (2) After section 98(3)(b) of the Principal Act  
**insert—**
- "(c) the land has been, or is required to be,  
provided to a development agency or the  
collecting agency under section 46GV(4); or
- (d) the land has been, or is to be, acquired by a  
development agency in accordance with an  
approved infrastructure contributions plan.".
- (3) After section 98(4) of the Principal Act **insert—**
- "(5) In this section, *land being reserved for a  
public purpose under a planning scheme*  
does not include land referred to in  
subsection (3)(c) or (d).".

**13 New Division 1A inserted in Part 9**

After Division 1 of Part 9 of the Principal Act  
**insert—**

**"Division 1A—Compulsory acquisition  
of public purpose land specified in  
infrastructure contributions plans**

**Subdivision 1—General**

**172A Definitions in this Division**

The terms used in this Division include the  
terms defined for the purposes of Part 3AB.

**172B Application of Land Acquisition and  
Compensation Act 1986**

The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—

- (a) the **Planning and Environment Act 1987** is the special Act; and
- (b) the collecting agency or the development agency referred to in section 172C or 172D is the Authority.

**Subdivision 2—Acquisition of outer  
public purpose land**

**172C Development agency may acquire outer  
public purpose land**

A development agency specified in an approved infrastructure contributions plan may compulsorily acquire any outer public purpose land that is specified in that plan to be acquired by the development agency.

**Subdivision 3—Acquisition of inner  
public purpose land**

**172D Collecting agency or development agency  
may acquire inner public purpose land**

- (1) A collecting agency specified in an approved infrastructure contributions plan may compulsorily acquire any inner public purpose land that is specified in the plan before the time that the land is required to be provided to the collecting agency under section 46GV(4).

- (2) A development agency specified in an approved infrastructure contributions plan may compulsorily acquire any inner public purpose land, the use and development of which is to be the responsibility of the development agency under the plan, before the time that the land is required to be provided under section 46GV(4).

### **Subdivision 4—Compensation for acquisition of inner public purpose land**

#### **172E Application of this Subdivision**

This Subdivision applies if—

- (a) inner public purpose land forms part of a parcel of land in an ICP plan area of an approved infrastructure contributions plan; and
- (b) either of the following applies—
- (i) the collecting agency compulsorily acquires any part of the inner public purpose land before the time that part of the inner public purpose land is required to be provided to the collecting agency under section 46GV(4);
- (ii) a development agency compulsorily acquires any part of the inner public purpose land (the use and development of which is to be the responsibility of the development agency under the plan) before the time that part of the inner public purpose land is required to be provided under section 46GV(4).

**172F Amount of compensation payable to owner of inner public purpose land**

- (1) This section applies if the parcel contribution percentage relating to the parcel of land is more than the ICP land contribution percentage for the land in the ICP plan area for the class of development that may be carried out on that land.
- (2) Part 4 of the **Land Acquisition and Compensation Act 1986** does not apply for the purposes of calculating any amount of compensation payable to the owner of the parcel of land by the collecting agency or the development agency (as the case requires).
- (3) However, the owner of the parcel of land is entitled to be paid an amount of compensation under the **Land Acquisition and Compensation Act 1986** that equates to the land credit amount relating to the parcel of land that the owner would have been entitled to be paid by the collecting agency under section 46GZ(7) as at 30 June before the date of acquisition of the inner public purpose land as if an application referred to in section 46GV(2) had been made in relation to the parcel of land on that date of acquisition.
- (4) For the purposes of subsection (3), if only part of the inner public purpose land has been acquired by the collecting agency or a development agency, the amount of compensation payable is the proportion of the land credit amount that equates to the proportion of the inner public purpose land that has been acquired.

**172G Owner of inner public purpose land not entitled to compensation under the Land Acquisition and Compensation Act 1986**

- (1) This section applies if the parcel contribution percentage relating to the parcel of land is equal to or less than the ICP land contribution percentage for the land in the ICP plan area for the class of development that may be carried out on that land.
- (2) The owner of the parcel of land is not entitled to make a claim for compensation under Part 3 of the **Land Acquisition and Compensation Act 1986** in respect of the acquisition of the inner public purpose land."

**14 Definitions in Part 9B**

In section 201R of the Principal Act, the definitions of *building permit*, *building work* and *statement of compliance* are repealed.

**15 New section 224 inserted**

After section 223 of the Principal Act insert—

**"224 Regulations dealing with transitional matters relating to the Planning and Environment Amendment (Public Land Contributions) Act 2018**

- (1) The Governor in Council may make regulations containing provisions of a transitional nature, including matters of an application or savings nature, arising as a result of the enactment of the **Planning and Environment Amendment (Public Land Contributions) Act 2018**.



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- (2) Regulations under this section may—
- (a) have a retrospective effect to a day on or after a day not earlier than the day on which the **Planning and Environment Amendment (Public Land Contributions) Act 2018** receives the Royal Assent; and
  - (b) be of limited or general application; and
  - (c) differ according to time, place or circumstance; and
  - (d) leave any matter or thing to be decided by a specified person or class of person.
- (3) To the extent to which any provision of the regulations under this section takes effect from a date that is earlier than the date of its making, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its making; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its making.
- (4) Regulations under this section have effect despite anything to the contrary in any Act (other than this Act or the **Charter of Human Rights and Responsibilities Act 2006**) or in any subordinate instrument.

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- (5) Sections 6 and 7 of the **Subordinate Legislation Act 1994** do not apply to any regulations made under this section.
- (6) This section expires on 1 September 2020."

## **Division 2—Amendment of the Subdivision Act 1988**

### **16 Definitions**

Insert the following definitions into section 3(1) of the **Subdivision Act 1988**—

*"approved infrastructure contributions plan* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;

*collecting agency* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;

*development agency* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;

*infrastructure contribution* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;"

### **17 Council may require public open space**

For section 18(1AB) of the **Subdivision Act 1988** substitute—

- "(1AB) This section does not apply to a parcel of land to which a planning scheme applies if—
- (a) the planning scheme includes an approved infrastructure contributions plan that applies to that parcel of land; and

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- (b) on the development of the parcel of land—
- (i) any land in that parcel of land specified in the approved infrastructure contributions plan to be set aside as public open space must be provided as part of the land component of an infrastructure contribution imposed under the approved infrastructure contributions plan; or
  - (ii) a land equalisation amount (within the meaning of section 46GF of the **Planning and Environment Act 1987**) will be imposed under the approved infrastructure contributions plan to pay for any land to be set aside for public open space under the plan; and
- (c) the land in the parcel of land is of a type of land specified in a direction of a Minister pursuant to section 46GJ(2)(u) of the **Planning and Environment Act 1987** as being land to which this subsection applies."

**18 What must the Council do with public open space?**

After section 20(4) of the **Subdivision Act 1988**  
**insert—**

- "(5) This section does not apply in relation to any land that is specified in an approved infrastructure contributions plan as land to be set aside as public open space."

**19 Statement of compliance with statutory requirements**

(1) In section 21(1) of the **Subdivision Act 1988**, for "subsection (2C)" **substitute** "subsections (2C) and (2CA)".

(2) After section 21(2C) of the **Subdivision Act 1988** **insert—**

"(2CA) A Council must not issue a statement of compliance under this section in relation to a plan relating to land, in respect of which an infrastructure contribution is imposed under an approved infrastructure contributions plan, unless the applicant has satisfied the Council that—

(a) in the case of a monetary component amount and any land equalisation amount of the infrastructure contribution—

(i) the applicant has paid those amounts to the collecting agency in accordance with section 46GV(3) of the **Planning and Environment Act 1987**; or

(ii) the applicant has entered into an agreement with the collecting agency under section 46GV(3) of that Act for the payment of those amounts; and

(b) if any of the land in the plan is required to be provided to the collecting agency or a development agency as part of the land component of the infrastructure contribution—that land has been set aside as a reserve or a road on the plan to vest in the collecting agency or the

development agency (as the case  
requires) under this Act."

## **20 What is the effect of registration?**

(1) After section 24(2)(a) of the **Subdivision Act 1988** insert—

"(ab) land set aside as a reserve for public purposes in accordance with an approved infrastructure contributions plan vests in the collecting agency named in that plan freed and discharged from any mortgage, charge, notice or memorandum of charge, restriction, lease or sub-lease; and"

(2) In section 24(2)(ba) of the **Subdivision Act 1988**, for "Council under paragraph (a) or (b)" substitute "Council or a collecting agency under paragraph (a), (ab) or (b)".

## **Division 3—Amendment of the Building Act 1993**

### **21 Definitions**

**Insert** the following definitions in section 3(1) of the **Building Act 1993**—

*approved infrastructure contributions plan* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;

*collecting agency* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;

*development agency* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;

*infrastructure contribution* has the same meaning as in Part 3AB of the **Planning and Environment Act 1987**;"

## 22 Refusal of building permit

After section 24(5) of the **Building Act 1993**  
**insert—**

- "(6) If a monetary component amount and any land equalisation amount of an infrastructure contribution imposed under an approved infrastructure contributions plan is payable in respect of the carrying out of building work, the relevant building surveyor must not issue a building permit in relation to that building work unless the applicant satisfies the relevant building surveyor that—
- (a) those amounts have been paid to the collecting agency in accordance with section 46GV(3) of the **Planning and Environment Act 1987**; or
  - (b) the applicant has entered into an agreement with the collecting agency under section 46GV(3) of that Act for the payment of those amounts.
- (7) If any land component of an infrastructure contribution imposed under an approved infrastructure contributions plan in respect of the carrying out of building work includes the provision of inner public purpose land (within the meaning of Part 3AB of the **Planning and Environment Act 1987**), the relevant building surveyor must not issue a building permit for that building work unless the applicant satisfies the relevant building surveyor—

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- (a) that the inner public purpose land has been set aside as a road or reserve on a plan under the **Subdivision Act 1988** to vest in the collecting agency or a development agency (as the case requires) under that Act; and
- (b) the plan has been lodged for registration under section 22 of the **Subdivision Act 1988**."

## **Part 3—Other amendments to the Planning and Environment Act 1987**

### **23 Meaning of *affordable housing***

In section 3AA(4) of the **Planning and Environment Act 1987**, in the definition of *low income households* omit "very".

### **24 Community infrastructure levy not to exceed maximum**

- (1) In section 46L(1)(a) of the Principal Act, for "\$900" **substitute** "the maximum dwelling amount".
- (2) After section 46L(2) of the Principal Act **insert**—
  - "(3) The *maximum dwelling amount* is—
    - (a) for the financial year beginning on 1 July 2018, \$1150; and
    - (b) for the financial year beginning on 1 July 2019 and each subsequent financial year, the adjusted maximum dwelling amount determined in accordance with section 46LA for that financial year.
- (4) The Secretary must cause to be published on the Department's Internet site the maximum dwelling amount for a financial year on or before 1 July of each financial year for which the amount is adjusted in accordance with section 46LA."



## 25 New sections 46LA to 46LC inserted

After section 46L of the Principal Act **insert**—

### **46LA Adjusted maximum dwelling amount**

- (1) The adjusted maximum dwelling amount for a financial year is to be determined in accordance with the following formula—

$$\text{AMDA} = \frac{\text{PMDA} \times \text{A}}{\text{B}}$$

where—

AMDA is the adjusted maximum dwelling amount being determined;

PMDA is the maximum dwelling amount for the previous financial year;

#### **Example**

For the purposes of determining the maximum dwelling amount—

- for the financial year beginning on 1 July 2019, "PMDA" is the maximum dwelling amount for the financial year beginning on 1 July 2018, which is \$1150—see section 46L(3)(a); and
- for the financial year beginning on 1 July 2020, "PMDA" is the maximum dwelling amount for the financial year beginning on 1 July 2019, which is the adjusted maximum dwelling amount calculated in accordance with this section for that financial year—see section 46L(3)(b).

A is the sum of the producer price index numbers for—

- (a) the last reference period in the financial year 2 years earlier than the financial year in respect of which the adjusted maximum

dwelling amount is being determined; and

- (b) each of the reference periods (other than the last) in the financial year immediately preceding the financial year in respect of which the adjusted maximum dwelling amount is being determined;

B is the sum of the producer price index numbers for—

- (a) the last reference period in the financial year 3 years earlier than the financial year in respect of which the adjusted maximum dwelling amount is being determined; and
- (b) each of the reference periods (other than the last) in the financial year 2 years earlier than the financial year in respect of which the adjusted maximum dwelling amount is being determined.

**Example**

In the case that the reference periods are the quarterly periods of a financial year, the variables "A" and "B" for the determination of the adjusted maximum dwelling amount for the financial year beginning on 1 July 2020 are as follows—

- "A" is the sum of the producer price index numbers for the June quarter in the financial year beginning on 1 July 2018 and the September, December and March quarters in the financial year beginning on 1 July 2019;

- "B" is the sum of the producer price index numbers for the June quarter in the financial year beginning on 1 July 2017 and the September, December and March quarters in the financial year beginning on 1 July 2018.
- (2) The adjusted maximum dwelling amount determined under subsection (1) is to be rounded up or down to the nearest \$10 (and, if the amount by which the amount to be rounded is \$5, is to be rounded up).
- (3) In this section—
- maximum dwelling amount* has the same meaning as in section 46L(3);
- producer price index* means—
- (a) the producer price index for non-residential building construction in Victoria as published by the Australian Bureau of Statistics; or
  - (b) any other index specified by the Governor in Council by Order published in the Government Gazette.

**46LB Adjustment of dwelling amount specified in an approved development contributions plan**

- (1) This section applies if an approved development contributions plan provides that an amount of a community infrastructure levy is payable in respect of each dwelling to be constructed (a *payable dwelling amount*).
- (2) The payable dwelling amount is to be adjusted in accordance with section 46LC for—

- (a) the financial year after the first financial year; and
  - (b) each subsequent financial year.
- (3) The relevant collecting agency must publish on its Internet site the payable dwelling amount for a financial year on or before 1 July of each financial year for which the amount is adjusted under subsection (2).
- (4) The *first financial year*, in relation to an approved development contributions plan, is—
- (a) if the plan is approved on or before 30 June 2019, the financial year beginning on 1 July 2018; and

**Example**

The first financial year for a development contributions plan approved on 1 February 2016 is the financial year beginning on 1 July 2018.

- (b) in any other case, the financial year in which the plan is approved.

**Example**

The first financial year for a development contributions plan approved on 1 December 2019 is the financial year beginning on 1 July 2019.

**46LC Adjusted payable dwelling amount**

- (1) The adjusted payable dwelling amount for a financial year is to be determined in accordance with the following formula—

$$APDA = \frac{PPDA \times A}{B}$$

where—

APDA is the adjusted payable dwelling amount being determined;

PPDA is the payable dwelling amount or the adjusted payable dwelling amount determined (as the case requires) for the previous financial year;

**Example**

A development contributions plan approved on 1 December 2018 specifies a dwelling amount of \$1000. For the purposes of determining the adjusted payable dwelling amount—

- for the financial year beginning on 1 July 2019, "PPDA" is the payable dwelling amount for the financial year beginning on 1 July 2018, which is \$1000; and
- for the financial year beginning on 1 July 2020, "PPDA" is the adjusted payable dwelling amount for the financial year beginning on 1 July 2019.

A is the sum of the producer price index numbers for—

- (a) the last reference period in the financial year 2 years earlier than the financial year in respect of which the adjusted payable dwelling amount is being determined; and
- (b) each of the reference periods (other than the last) in the financial year immediately preceding the financial year in respect of which the adjusted payable dwelling amount is being determined;

B is the sum of the producer price index numbers for—

- (a) the last reference period in the financial year 3 years earlier than the financial year in respect of which the adjusted payable dwelling amount is being determined; and
- (b) each of the reference periods (other than the last) in the financial year 2 years earlier than the financial year in respect of which the adjusted payable dwelling amount is being determined.

(2) The adjusted payable dwelling amount determined under subsection (1) is to be rounded up or down to the nearest \$10 (and, if the amount by which the amount to be rounded is \$5, is to be rounded up).

(3) In this section—

*adjusted payable dwelling amount* means a payable dwelling amount adjusted in accordance with section 46LB(2);

*payable dwelling amount*—see section 46LB(1);

*producer price index* means—

- (a) the producer price index for non-residential building construction in Victoria as published by the Australian Bureau of Statistics; or

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- (b) any other index specified by the Governor in Council by Order published in the Government Gazette.'.

## **Part 4—Repeal of amending Act**

### **26 Repeal of amending Act**

This Act is **repealed** on 1 September 2019.

#### **Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 20 September 2017*

*Legislative Council: 21 November 2017*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Planning and Environment Act 1987** to introduce a land contribution model for the infrastructure contributions plan scheme, to increase and provide for the indexation of the community infrastructure levy and to make other miscellaneous amendments, to make consequential amendments to the **Subdivision Act 1988** and the **Building Act 1993** and for other purposes."