Planning and Environment Act 1987
No. 45 of 1987
Part 1—Preliminary

(3) The Governor in Council may by order published in the Government Gazette—

(a) include any area of land adjoining the Port of Melbourne Area in the Port of Melbourne Area; or

(b) exclude any area of land from the Port of Melbourne Area.

3A Transport Integration Act 2010

This Act is interface legislation within the meaning of the Transport Integration Act 2010.

4 Objectives

(1) The objectives of planning in Victoria are—

(a) to provide for the fair, orderly, economic and sustainable use, and development of land;

(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

(e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;

(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
(g) to balance the present and future interests of all Victorians.

(2) The objectives of the planning framework established by this Act are—

(a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;

(b) to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;

(c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;

(d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;

(e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;

(f) to provide for a single authority to issue permits for land use or development and related matters, and to co-ordinate the issue of permits with related approvals;

(g) to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities;
(h) to establish a clear procedure for amending planning schemes, with appropriate public participation in decision making;

(i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice;

(j) to provide an accessible process for just and timely review of decisions without unnecessary formality;

(k) to provide for effective enforcement procedures to achieve compliance with planning schemes, permits and agreements;

(l) to provide for compensation when land is set aside for public purposes and in other circumstances.
Part 2—Planning schemes

5 What are the planning schemes to which this Act applies?

This Act applies to any planning scheme approved under this Act as in force from time to time under this Act.

6 What can a planning scheme provide for?

(1) A planning scheme for an area—

(a) must seek to further the objectives of planning in Victoria within the area covered by the scheme; and

(aa) must contain a municipal strategic statement, if the scheme applies to the whole or part of a municipal district; and

(b) may make any provision which relates to the use, development, protection or conservation of any land in the area.

(2) Without limiting subsection (1), a planning scheme may—

(a) set out policies and specific objectives;

(b) regulate or prohibit the use or development of any land;

(c) designate land as being reserved for public purposes;

(d) include strategic plans, policy statements, codes or guidelines relating to the use or development of land;

(e) regulate or prohibit any use or development in hazardous areas or in areas which are likely to become hazardous areas;
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Part 2—Planning schemes

(b) may include any other provision which applies only to the area of the planning scheme.

(3A) Subsection (3)(a)(i) does not apply to any part of a municipal district that is within the Port of Melbourne Area.

(4) If there appears to be an inconsistency between different provisions of a planning scheme—

(a) the scheme must, so far as practicable, be read so as to resolve the inconsistency; and

(b) subject to paragraph (a)—

(i) the State standard provisions prevail over the local provisions; and

(ii) a specific control over land prevails over a municipal strategic statement or any strategic plan, policy statement, code or guideline in the planning scheme.

(5) The Minister may issue directions or guidelines as to the form and content of any planning scheme or planning schemes.

(6) A planning authority must comply with a direction of the Minister under subsection (5).

8 Minister is planning authority

(1) The Minister may prepare—

(a) a planning scheme for any municipal district or other area of Victoria; or

(b) amendments to any provision of a planning scheme.

(2) The Minister is a planning authority under this Act.
(3) Only the Minister may include in an amendment a provision setting out the classes of land, use or development exempted from section 96(1) or 96(2).

12 What are the duties and powers of planning authorities?

(1) A planning authority must—

(a) implement the objectives of planning in Victoria;

(b) provide sound, strategic and co-ordinated planning of the use and development of land in its area;

(c) review regularly the provisions of the planning scheme for which it is a planning authority;

(d) prepare amendments to a planning scheme for which it is a planning authority;

(e) prepare an explanatory report in respect of any proposed amendment to a planning scheme;

(f) provide information and reports as required by the Minister.
Part 5—Compensation

98AA Definitions

In this Part—

occupier does not include a committee of management;

owner does not include an owner within the meaning of paragraph (c) or (d) of the definition of owner in section 3.

98 Right to compensation

(1) The owner or occupier of any land may claim compensation from the planning authority for financial loss suffered as the natural, direct and reasonable consequence of—

(a) the land being reserved for a public purpose under a planning scheme; or

(b) the land being shown as reserved for a public purpose in a proposed amendment to a planning scheme of which notice has been published in the Government Gazette under section 19; or

(c) a declaration of the Minister under section 113 that the land is proposed to be reserved for a public purpose; or

(d) access to the land being restricted by the closure of a road by a planning scheme.

(2) The owner or occupier of any land may claim compensation from a responsible authority for financial loss suffered as the natural, direct and reasonable consequence of a refusal by the responsible authority to grant a permit to use or develop the land on the ground that the land is or will be needed for a public purpose.
(3) A person cannot claim compensation under subsection (1) if—

(a) the planning authority has purchased or compulsorily acquired the land or part of the land; or

(b) a condition on the permit provides that compensation is not payable.

(4) The responsible authority must inform any person who asks it to do so of the person or body from whom the first-mentioned person may claim compensation under this Part.

99 When does the right to compensation arise?

A right to compensation and the liability of a planning authority or responsible authority to pay compensation arises—

(a) under section 98(1)(a), (b) or (c) after—

(i) the responsible authority has refused to grant a permit for the use or development of the land on the ground that it is or may be required for a public purpose; or

(ii) the Tribunal directs that a permit must not be granted on the ground that the land is or may be required for a public purpose; or

(iii) the responsible authority—

(A) fails to grant a permit within the period prescribed for the purposes of section 79; or
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(B) grants a permit subject to any condition which is not acceptable to the applicant—

and the Tribunal disallows any application for review of the failure or condition on the ground that the land is or may be required for a public purpose; or

(b) under section 98(1)(a), (b) or (c), on the sale of the land concerned under section 106; or

(c) under section 98(1)(d), on the coming into operation of the relevant provision of the planning scheme; or

(d) under section 98(2), on the refusal of the permit.

100 Increased compensation for effect on residence

(1) The amount of compensation payable under section 98 in respect of a residence may be increased by an amount which is reasonable to compensate the claimant for any intangible and non-financial disadvantages arising from the circumstances which gave rise to the claim under section 98.

(2) The amount paid under this section must not exceed 10% of the amount of compensation which would have been payable except for this section.

(3) All relevant circumstances must be taken into account in assessing the amount payable under this section including—

(a) the interest of the claimant in the residence;

(b) the length of time during which the claimant has occupied the residence;

(c) the age of the claimant;
(d) the number, age and circumstances of any other people living with the claimant;

(e) the amount of compensation payable arising from a sale of the residence compared with the value of the land at the date of the sale.

101 Claim for expenses

If compensation is payable under section 98, the owner or occupier of any land may also claim from the planning authority or responsible authority any legal, valuation or other expenses reasonably incurred in preparing and submitting the claim.

102 What if compensation has been previously paid?

In determining the compensation to be paid under this Part, regard must be had to any amount already paid or payable in respect of the land by way of compensation under—

(a) this Part, or any corresponding previous enactment; and

(b) any other Part of this Act or any other Act.

103 Small claims

A planning authority or responsible authority may reject a claim for compensation under this Part if the financial loss is less than the greater of—

(a) $500 or any greater amount prescribed by the regulations; or

(b) 0.1% of the value that the land would have had if the land had not been affected by any circumstance set out in section 98(1) or (2) or 107.
determination of that compensation as if section 60 of that Act had not been enacted.

105 Land Acquisition and Compensation Act 1986 to apply

Parts 10 and 11 and section 37 of the Land Acquisition and Compensation Act 1986, with any necessary changes, apply to the determination of compensation under this Part as if the claim were a claim under section 37 of that Act.

106 Loss on sale

(1) The owner of land may claim compensation under section 98 after the sale of the land if—
   
   (a) the owner of the land sold it at a lower price than the owner might reasonably have expected to get if the land or part of the land had not been reserved or proposed to be reserved; and
   
   (b) before selling the land, the owner gave the relevant authority not less than 60 days notice in writing of the owner's intention to sell the land.

(2) The owner is not required to give notice under subsection (1)(b) if—

   (a) the owner and the relevant authority have agreed that the owner does not have to give notice; or

   (b) before or after the sale, the Minister exempts the owner from giving notice on the ground that the requirement to give notice would cause hardship to the owner.