

# Project Development and Construction Management Bill

## EXPLANATORY MEMORANDUM

*Summary* The Bill will facilitate certain development projects in Victoria, provide for matters related to the management of construction projects in the public sector, establish the Secretary to the Department of Planning and Development as a body corporate, provide for the transfer of certain matters from the Urban Land Authority to the Secretary to the Department of Planning and Development, amend the **Bayside Project Act 1988**, repeal the **Public Lands and Works Act 1964** and make consequential amendments to other Acts.

### PART 1—PRELIMINARY

*Clause 1* states the main purposes of the Act.

*Clause 2* provides for commencement.

*Clause 3* defines various words and terms.

*Clause 4* states that the Act binds the Crown in right of the State of Victoria.

*Clause 5* specifies requirements relating to application orders which must be met for a provision of Part 3 of the Act to apply. A function conferred by an application order is additional to and does not derogate from any other function of the Minister or facilitating agency.

### PART 2—NOMINATION OF PROJECTS

*Clause 6* allows a development to be declared a project to which the Act applies, by a nomination order published in the Government Gazette (“a nominated project”).

*Clause 7* provides that the contents of a nomination order must specify the reasons for declaring a project to be subject to the Act, the Minister who is to be responsible for the project and the statutory corporation (if any) which is to be responsible for the project.

*Clause 8* enables one or more of the provisions in Part 3 to apply to a nominated project by Order in Council (“application order”).

*Clause 9* requires the tabling in each House of Parliament of each nomination order and application order.

*Clause 10* provides a power of delegation of the Minister’s functions under the Act.

*Clause 11* provides a power of delegation of the functions of a facilitating agency under the Act.

*Clause 12* enables the Minister responsible for a nominated project to give directions to the facilitating agency for the project.

*Clause 13* enables the Treasurer to give directions to a facilitating agency in relation to the financing of any nominated project which involves a financial liability.

### PART 3—PROVISIONS RELATING TO NOMINATED PROJECT

*Clause 14* allows a facilitating agency to enter into contracts and agreements and other arrangements for the purposes of a nominated project.

*Clause 15* enables a facilitating agency to enter into certain arrangements with others, with the approval of the Treasurer, for the purposes of a nominated project.

*Clause 16* describes the scope of matters which may be covered under an agreement or an arrangement which a facilitating agency may make with a Minister, government department or public body for the purposes of a nominated project. It also requires the facilitating agency to consult with the Treasurer over certain agreements or arrangements.

*Clause 17* enables Crown land which is not reserved and land surrendered or divested under section 18 to be granted to a facilitating agency for the purposes of a nominated project. The Governor in Council may require the agency to pay for the land.

*Clause 18* enables the Governor in Council to require a public body to surrender or divest land, excluding land reserved under the **Crown Lands (Reserves) Act 1978**, on the joint recommendation of the Minister responsible for a nominated project and the Minister administering the Act under which the public body is established.

*Clause 19* states that a facilitating agency may acquire an interest in land by agreement.

*Clause 20* enables the Minister responsible for a nominated project or the facilitating agency to acquire an interest in land by compulsory process, subject to the **Land Acquisition and Compensation Act 1986**. Any such interest in land acquired by the Minister vests in the Crown and is deemed to be unalienated land of the Crown.

*Clause 21* provides that a facilitating agency is an authority under section 22A of the **Land Act 1958** for the purposes of surrendering land to the Crown.

*Clause 22* provides for the sale or disposal of a facilitating agency's interest in any land and where its interest is disposed to another person, the entering into an agreement with the person concerning the use or development of the land. Division 2 of Part 9 of the **Planning and Environment Act 1987** applies to any such agreement.

*Clause 23* enables the Minister responsible for a nominated project or the facilitating agency to construct, realign, relocate, open or close any road and to carry out or operate associated works or facilities. It provides for the payment of compensation to any person in whom the relevant land is vested and to certain other affected property owners.

*Clause 24* requires publication and advertisement of a decision to close, realign or relocate a road. The clause also provides, upon publication of the notice, for the relevant land to cease to be a road, for all rights, easements and privileges claimed in the land to cease and for the land to be deemed to be unalienated land of the Crown. The clause also allows for temporary closure of a road to traffic.

*Clause 25* states that the Minister administering the **Building Act 1993** may declare that the facilitating agency or any other person or body is to carry out the administration of that Act in relation to all or part of a nominated project, in accordance with the terms and conditions of the order made by that Minister.

*Clause 26* enables the Treasurer to exempt a nominated project from, or defer the payment of, any duty, rate, tax or charge on any land, document or transaction relating to the project. The written consent of the person or body responsible for levying the duty, rate, tax or charge other than one payable into the Consolidated Fund must be obtained.

*Clause 27* states that the Treasurer may execute a guarantee, indemnity or covenant relating to an agreement or a contract for a nominated project, after first obtaining the written consent of each Minister who is a party to the relevant agreement or contract or, in any other case, the written consent of any public body which is a party to the relevant agreement or contract and the Minister administering the Act by or under which that public body is constituted. The clause also provides for section 30 of the **Borrowing and Investment Powers Act 1987** to apply to the guarantee, indemnity or covenant.

*Clause 28* enables the facilitating agency to be deemed to be an authority for the purposes of the **Borrowing and Investment Powers Act 1987** and for certain sections of that Act to apply to the agency, if any of these sections are specified in the application order.

#### **PART 4—STANDARDS AND DIRECTIONS FOR PUBLIC CONSTRUCTION**

*Clauses 29, 30 and 31* state that the Minister may set standards and issue written directions relating to public construction. The standards and directions are not to be inconsistent with other Acts or statutory rules. However, if there is any inconsistency with supply policies under the **Financial Management Act 1994**, then the provisions of the standards and directions will prevail to the extent of the inconsistency.

*Clause 32* contains provisions concerning the application and content of the standards and directions and enables them to incorporate other standards and codes.

*Clause 33* provides for standards and directions to apply to any public construction undertaken, except to the extent specified in the standards or directions, or determined by the Minister.

*Clause 34* requires that the Minister publish a list of any standards and directions and notice of where they are available for inspection.

#### **PART 5—THE SECRETARY**

*Clause 35* establishes the Secretary to the Department of Planning and Development as a body corporate.

*Clause 36* provides for the name of the body corporate to change with any change in the title etc. of the Secretary.

*Clauses 37 and 38* assign functions and provide powers to the Secretary, including the power to enter into any agreement or arrangement with any person or body, and allow the Secretary to perform its functions and exercise its powers within or outside Victoria.

*Clause 39* provides that the Secretary is to be subject to the direction and control of the Minister.

*Clause 40* maintains the powers and functions as a Department Head of the person who constitutes the Secretary and provides for these not to be affected by the establishment of the Secretary as a body corporate.

*Clause 41* allows the Secretary to delegate any of the Secretary's powers other than this power of delegation. In relation to nominated projects, the Secretary will also have powers of delegation under section 11 of the Act.

## **PART 6—GENERAL**

*Clauses 42, 43 and 44* require certain persons connected with a nominated project not to make improper use of that information.

*Clause 45* requires the Registrar-General and the Registrar of Titles to make all entries and any recordings that are necessary because of the operation of this Act, but not including anything done under Part 7 of the Act.

*Clause 46* enables regulations to be made to give effect to this Act.

## **PART 7—TRANSFER OF MAJOR PROJECTS**

*Clause 47* contains definitions of words and terms used in Part 7 and enables the Ministers for Planning and Major Projects to fix the date when all the assets and liabilities relating to the Office of Major Projects are to transfer to the Secretary to the Department of Planning and Development.

*Clause 48* provides for the Urban Land Authority and the Secretary to the Department of Planning and Development to agree a statement or statements of the assets and liabilities of the Office of Major Projects which are to be transferred. The statement or statements must be prepared within 3 months after Royal Assent and submitted to the Treasurer and Ministers for Planning and Major Projects for approval.

*Clause 49* enables the Chairman of the Urban Land Authority to issue a certificate certifying that the assets or liabilities specified have been transferred to the Secretary.

*Clause 50* provides that on the date fixed under clause 47, the assets and liabilities allocated to the Secretary under the allocation statement are transferred from the Urban Land Authority to the Secretary.

*Clause 51* provides that property which is transferred to the Secretary is subject to any existing encumbrances.

*Clauses 52 to 55* provide for the substitution of the Secretary for the Urban Land Authority in agreements, other instruments and proceedings relating to projects of the Office of Major Projects.

*Clause 56* requires the Registrar of Titles to make recordings on the Register necessary as a result of the transfers under this Part.

*Clause 57* provides that no taxes are payable in respect of a transaction relating to transfers under this Part.

*Clause 58* deals with admissibility of evidence for or against the Secretary in substitution for the Urban Land Authority.

*Clause 59* provides that of itself no transfer arising under this Part will give rise to a breach of contract, etc. No pre-existing breach of contract, etc. will be affected.

## PART 8—BAYSIDE PROJECT

*Clause 60* repeals provisions of the **Bayside Project Act 1988** and includes a sunset provision whereby the remainder of the Act will be repealed 10 years after the commencement of this section.

*Clause 61* amends the **Port of Melbourne Authority Act 1958** so as to maintain the powers which the Authority presently has in relation to Princes Pier under the **Bayside Project Act 1988**.

*Clause 62* repeals the remaining provisions of the **Public Lands and Works Act 1964** and a number of Acts which amended that Act.

*Clause 63* repeals the **Town and Country Planning (Amalgamation) Act 1980**.

*Clauses 64–69* amend other Acts, as a consequence of the repeal of the **Public Lands and Works Act 1964**.

*Schedule* This lists the projects which are or have been the responsibility of the Office of Major Projects or its predecessor the Major Projects Unit.

