



GREATER
SHEPPARTON

Section 173 Agreements

Information

What is a Section 173 Agreement?

A Section 173 Agreement is a legal agreement made between the Council and the landowner under Section 173 of the *Planning and Environment Act 1987*. In some cases a third party, such as a referral authority may also be involved in an agreement.

A Section 173 Agreement is generally required by the Council in a planning permit where a condition on a planning permit or Planning Scheme controls are not adequate for particular requirements. A Section 173 Agreement is recorded on the Title relating to the land.

An agreement may provide for:

- The prohibition, restriction or regulation of the use or development of the land
- The conditions subject to which the land may be used or developed for specified purposes
- Any matter intended to achieve or advance the objectives of planning in Victoria or the objectives of the Greater Shepparton Planning Scheme or an amendment to the Planning Scheme, for which notice has been given

A Section 173 Agreement may be used, for example

- To protect native vegetation
- To restrict development to within an approved building envelope
- To prevent development in an approved building exclusion zone
- To ensure development of land is undertaken in accordance with a planning permit
- To secure off-site vegetation plantings in lieu of the removal of native vegetation
- To prevent the further subdivision of land

Always know your obligations and responsibilities under your Section 173 Agreement

There are many properties within the City of Greater Shepparton that have a Section 173 Agreement registered on title. A Section 173 Agreement can be registered to a residential block, rural lot or even an industrial site. It is therefore important that landowners know whether or not a Section 173 Agreement affects their property, and if so, they understand their obligation under the agreement.

Check your Agreement before you commence any use, development or remove vegetation

Due to the complexity of some Section 173 Agreements, if you are contemplating purchasing land, developing your land and/or removing vegetation and/or carrying out an action that may be in contravention of your Section 173 Agreement, it is imperative that you discuss your proposal with a Planning Officer at the Council before commencing such work. Please note that substantial penalties apply for a breach to a Section 173 Agreement.

Continued Overleaf

Section 173 Agreements are enforceable legal documents with penalties for breaches

Section 173 Agreements are enforceable by the Council, and the Council takes breaches to Section 173 Agreements very seriously. As such, landowners are obliged to comply with the provisions of a Section 173 Agreement affecting their land. If an unforeseen circumstance eventuates which requires your proposal to deviate from any requirement contained within your agreement, you are strongly encouraged to obtain advice from a planning officer at the Council to establish what legal avenues are available to you prior to proceeding. Contacting the Council before undertaking any deviations from the requirements of your agreement may avoid enforcement action being taken.

Ceasing or changing a Section 173 Agreement

An agreement can end after a specified event or time period if outlined in the agreement, or if all parties bound by the agreement and the Council agree to end the Section 173 Agreement. The agreement would then be removed from the title. Such action should be pursued through a legal practitioner. If you are considering changing or removing an agreement, the Council highly recommends that you seek your own independent legal advice.

Due to the complexity of the controls relating to Section 173 Agreements within the Greater Shepparton Planning Scheme, it is requested that if you have a Section 173 Agreement registered to your title you should discuss your proposal with a Planning Officer to ensure the proposal does not breach the agreement before you commence. An appointment can be made to meet with a planning officer by contacting the Council on (03) 5832 9700 or online at <http://www.greatershepparton.com.au/bookings/>.

This advice sheet is to be used as a general guide only. It is recommended that readers seek professional advice before acting or making decisions on the basis of this information.