

Section 173 Agreement Information Sheet



What is a Section 173 Agreement?

A Section 173 Agreement is a legal contract made between Council and another party (or parties) under Section 173 of the Planning and Environment Act 1987. A landowner is normally the other party to the Agreement, while in some cases, a third party such as a referral authority may also be involved.

A Section 173 Agreement will generally be a requirement of a condition placed on the applicant's planning permit. Not all planning permits require one, but the applicant will need to read the conditions carefully and act on it, if there is a requirement to do so.

A Section 173 Agreement generally provides for continuous restrictions or on-going requirements on the use or development of the land. An Agreement may be used, for example (but not limited to):

- To allow the subdivision of the land to occur prior to the completion of the development of the land, in accordance with an approved development permit
- To prevent the further subdivision of land
- To prevent a dwelling being constructed on a new rural lot created by subdivision
- To provide for the provision of infrastructure

Who prepares a Section 173 Agreement?

All Section 173 Agreements required by Council are prepared by Maddocks Lawyers. You will be required to provide Maddocks with a copy of the following documentation:

- The planning permit
- Any endorsed plans
- Certificate of Title (if available)
- A written request for Maddocks to prepare the agreement
- Your contact information (telephone, email and postal address)

Any reasonable costs and expenses (including legal expenses) incurred with a Section 173 Agreement must be borne by the applicant. This will include the cost of any review undertaken. This is consistent with the requirement of relevant conditions placed on planning permits. A flow chart at the end of this sheet provides an outline of the process for Section 173 Agreements.

Contact Details:

Maddocks Lawyers
Collins Square Tower Two
Level 25, 727 Collins Street
MELBOURNE VIC 3008
Phone: 9258 3555

Email: section173@maddocks.com.au Website: <https://www.maddocks.com.au/section173/>

Registration of a Section 173 Agreement

The Section 173 Agreement must be approved and signed by all parties. It is then the responsibility of Maddocks Lawyers to apply to Land Victoria to have the Agreement registered on the Certificate of Title.

A Section 173 Agreement is registered on the Certificate of Title of the land to which it applies. This ensures that all future owners are aware of, and bound by, the requirements of the Agreement.

Can the Section 173 Agreement be amended?

To change the Agreement, all parties including Council, must consent to the proposed changes.

The application form, "Amending or Ending a Section 173 Agreement Application Form" is to be completed and submitted to Council for approval.

When does the Section 173 Agreement end?

Whilst generally intended to have ongoing effect, an Agreement can end after a specified event or time period outlined in the Agreement. A person may also apply to Council if the Agreement is no longer considered relevant.

Please contact the Planning Team if you have any queries regarding Section 173 Agreements.

Preparation of an agreement under section 173 of the *Planning and Environment Act 1987*

