

Amending or Ending a Section 173 Agreement Request Form



South Gippsland
Shire Council

You are able to apply to the South Gippsland Shire Council to amend or end a Section 173 Agreement on a land title pursuant to Section 178 of the *Planning and Environment Act 1987*.

Depending on the complexity of the Agreement, the amending/ending proposal will be dealt with by Council officers and may be referred to Council's solicitors if required.

Interested parties to the Section 173 Agreement may be notified of the proposal, as applicable.

If the proposal to amend or end a Section 173 Agreement is supported, you will be issued with a letter of Council's decision and Form 19. Council will then notify the Registrar to the Land Titles Office to either amend or end the Agreement.

[Section 178\(a-i\) of the *Planning and Environment Act 1987*](#) sets out the process for proposals to amend or end an agreement.

Section 173 Agreement Details

Reference and Date of Section 173 Agreement: _____

Planning Permit Number that required the Section 173 Agreement (as applicable):

Address of Subject Land: _____

Legal Description of Subject Land: _____

Detail the nature of the change sought to the Section 173 Agreement (e.g. Amend or End):

Reason for the proposed change to the Section 173 Agreement:

Has written consent to the proposed change been obtained from parties to the Section 173 Agreement?

The Applicant

Name: _____

Organisation: _____

Postal Address: _____ Postcode: _____

Best Contact Phone Number: _____

Email Address: _____

Declaration

Remember it is against the law to provide false or misleading information, which could result in a fine and cancellation of the application.

I declare all the information in this application is true and correct, and the owner (if not myself) has been notified of the amendment application.

Name: _____

Signature: _____ Date: _____

If you have any queries in relation to this form, please contact the Planning Department Advisory Officer on 5662 9203.

Privacy Collection Statement

I acknowledge South Gippsland Shire Council's primary purpose of collecting personal information within this *Amend or End a Section 173 Agreement* form will be used for enabling consideration and review by South Gippsland Shire Council as part of a planning process under the *Planning and Environment Act 1987*. Failure to provide correct details may result in Council being unable to provide appropriate advice and/or unable to process your application. All personal information provided in this form will be managed in accordance with the *Privacy and Data Protection Act 2014*.

Process for Amending or Ending a Section 173 Agreement

1. The applicant submits an Amending/Ending Section 173 Agreement Application Form to Council and pays the relevant fee.
2. Council considers the application and conducts any required referrals.
3. Council indicates whether the application has 'in-principle' support.
4. Council notifies any interested part, as applicable.
5. Council Officer prepares a report with recommendation to delegate officer.
6. Council decision on whether to support the proposal is issued as a letter.
7. If approval is issued, the signed letter and relevant form in accordance with the *Planning and Environment Regulations 2015* is sent to the applicant.
8. Council will then notify the Registrar to the Land Titles Office to register the amended agreement or to end the agreement. The proposal must be registered on the relevant title in accordance with the requirements of the *Planning and Environment Act 1987*. Any costs associated with the registration of the agreement are entirely the responsibility of the applicant.

Note: In the event that Council refuses the proposal, the applicant can appeal the decision to the Victorian Civil and Administrative Tribunal (VCAT). In the event that Council supports the proposal, any objectors can appeal the decision to VCAT. For more details, visit VCAT's website: www.vcat.vic.gov.au

Fees

South Gippsland Shire Council charges an application fee (refer to current Statutory Planning Fee Schedule) to cover the administrative costs associated with considering Section 173 Agreements. If Council's solicitors are required to be consulted, you will be responsible for covering any such costs additional to the application fee.

Registration of a change to a Section 173 Agreement

Any change to a Section 173 Agreement must be registered on the title to the land to which it applies. This ensures that all future landowners are aware of, and bound by, the requirements of the Section 173 Agreement.

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, or in some cases a third party such as a referral authority may also be involved.

An agreement provides for continuous restrictions or ongoing requirements on the use or development of the land.

Amending or Ending a Section 173 Agreement Checklist

Documentation Required to be Provided

Have you Provided it?

A Completed Application Form

Please Note: It is against the law to give false and/or misleading information.

A Copy of the Title/s

A full, current copy of the title of the property, including any restrictions/covenants listed (a copy of all encumbrances affecting the land must be provided). A copy of this can be purchased from the Land Titles Office: www.landata.vic.gov.au

Copies of Title/s must not be older than three months from the lodgment date.

A Company Search

If the subject land is owned by a company, a company search must be submitted with the application to confirm the correct ownership details. The company search must not be older than three months from the lodgment date.

The Appropriate Fee

A statutory fee (refer to the current Statutory Planning Fee Schedule) is required. This covers the administrative costs (including advertising or referral) of amending or ending the agreement. Please note fees may be subject to change.

Please Note: If the agreement requires referral to Council's solicitors, the applicant will be responsible for any associated costs.

Written Statement Outlining the Reasons of Amending or Ending the Agreement

The application must be accompanied by a written statement that outlines the purpose of the amendment or ending of the agreement, why the amendment or ending of the agreement is required, and any changes in circumstances that necessitates the proposed amendment or ending.

Please return the completed form to:

South Gippsland Shire Council – Planning Department
9 Smith Street (Private Bag 4) Leongatha, VIC 3953

Phone: (03) 5662 9200

Fax: (03) 5662 3754

Email: council@southgippsland.vic.gov.au



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