

### How to Amend or End a Section 173 Agreement

You are able to apply to Bass Coast Shire Council to amend or end a Section 173 Agreement on a land title.

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 either a Form 22 or Form 23 to take to the Land Titles Office to register.

Section 178(a-i) of the *Planning & Environment Act 1987* sets out the process for proposal to amend or end an agreement. [http://www.austlii.edu.au/au/legis/vic/consol\\_act/paea1987254/s178a.html](http://www.austlii.edu.au/au/legis/vic/consol_act/paea1987254/s178a.html)

### What fees are involved with a Section 173 Agreement?

Council charges an application fee of **\$643.00** to cover the administrative costs (including advertising) 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 - you will be provided with an estimate of costs prior to any review being undertaken.

### 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 land owners are aware of, and bound by, the requirements of the Section 173 Agreement. It is the Applicant's responsibility to ensure that the Agreement is registered at the Titles Office in a timely manner.

### 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.

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

## Process for Amending of Ending a Section 173 Agreement

1. Applicant submits Amending/Ending Section 173 Agreement Application Form to Council.
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 party, as applicable.
5. Council Officer writes report with recommendation to Development Services Manager.
6. Council decision on whether to support the proposal is issued as a letter.
7. If Approval is issued, the signed letter and Form 22 or Form 23 is sent to the applicant.
8. It is the responsibility of the applicant to take the required documentation to the Land Titles Office for registration. The proposal (amended or ended agreement) must be registered on 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 Tribunal. In the event that Council supports the proposal, any objectors can appeal the decision to the Tribunal. For more details, see [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

Council collects and holds this Personal Information in accordance with the *Privacy and Data Protection Act 2014 (Vic)* Principles.

## Amending or Ending a Section 173 Agreement Checklist

When applying for Council to amend or end a S173 agreement on your behalf, the following documentation must be submitted:

Checklist Item	Have you provided?
<p><b>A completed application form.</b>            This form can be downloaded from <a href="http://www.basscoast.vic.gov.au">www.basscoast.vic.gov.au</a>  <i>Remember it is against the law to give false and misleading information.</i></p>	
<p><b>A copy of the Title.</b>            A full, current copy of the title of the property including any restrictions/covenants listed. A copy of this can be purchased from the Land Titles Office <a href="http://www.landata.vic.gov.au">www.landata.vic.gov.au</a>. Copies of Titles must not be older than 3 months from the lodgment date.</p>	
<p><b>Details of all parties to the Section 173 Agreement</b>            A suitably qualified legal practitioner must prepare this information.</p>	
<p><b>A company search.</b>            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 3 months from the lodgment date.</p>	
<p><b>The appropriate fee.</b>            A statutory fee of <b>\$643.00</b> 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. An estimate of costs will be provided prior to the application being referred.</p>	
<p><b>Written statement outlining the reasons for amending or ending the agreement</b>            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.</p>	

## Application Form for Amending or Ending a Section 173 Agreement

### Applicants Details

Name:	
Postal Address	
Email Address	
Contact Phone	

Have you discussed the agreement with a Council Officer? Yes/ No (If so, who \_\_\_\_\_)

### Section 173 Agreement Details

Reference and Date of Section 173 Agreement:	
Planning Permit Number that required the Section 173 Agreement	
Address of Subject Land	
Volume, Folio and Plan of Subdivision Number	

### Please Detail

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?

### Declaration

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the application.

Signature: \_\_\_\_\_ Date \_\_\_\_\_

### Office Use Only

Receipt No: \_\_\_\_\_ Date \_\_\_\_\_