



## **SECTION 173 AGREEMENTS**

### **WHAT IS A SECTION 173 AGREEMENT?**

In some instances (typically as part of a planning permit application), the Responsible Authority may require an agreement with an owner of land to set out particular conditions or restrictions on the way land is used or developed, or to achieve other planning objectives in relation to the land.

These agreements are commonly known as Section 173 Agreements. The power to enter into the agreement arises under section 173 of the *Planning and Environment Act 1987* (the Act).

Like other agreements, a section 173 agreement is a legal contract. However, the benefit of a section 173 agreement is that it can be registered over the title to the land so that the owner's obligations under the agreement bind future owners and occupiers of the land. A section 173 agreement can also be enforced in the same way as a permit condition or planning scheme.

The purpose of an agreement is to make it easier to achieve planning objectives for an area or a particular parcel of land than is possible when relying on other statutory mechanisms.

### **WHATS REQUIRED IF A CONDITION ON MY PLANNING PERMIT REQUIRES ME TO ENTER INTO A SECTION 173 AGREEMENT?**

If you are required to enter into a Section 173 Agreement with Council you should contact Beck Legal (Council's Solicitor) as they can draft the 173 Agreement and organize for the agreement to be registered on title. The following items will be required for the Solicitor to draft this agreement.

- A copy of the Planning Permit;
- A recent copy of the certificate of title for the land (less than 3 months old).

Once a draft has been prepared, a copy is sent to Council's planning department for review. Once the final form of the agreement is approved, 3 copies of the agreement must be executed (signed and witnessed) by the landowner and any mortgagee and provided to Council for final execution.

The agreement is then sent to Council's solicitors (Beck Legal) who will attend to the registration of the agreement with the land titles office. An invoice will be sent to you and once this is paid the registration will be finalised.

A copy of the registered agreement and a 'dealing number' (formal proof of registration of the agreement on your Title) will then be forwarded to Council for their records.

**Beck Legal**  
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If you have any further questions, please contact the Planning Department on 5349 1100.