**2024-2025**

Preparation Service for Section 173 Agreement where required under a condition of Planning Permit

\*This form is not relevant to agreements relating to requirements for Development Contributions and Open Space Contributions. For information on these types of agreements contact Council’s Strategic Planning and Property Team.

**What is a Section 173 Agreement?**

A Section 173 (S173) Agreement is a legal contract that can be made between Council and a landowner and 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 utility authority, may also be involved.

A S173 Agreement normally provides for continuous restrictions or on-going requirements on the use and or development of the land.

**Why would a Section 173 Agreement be required?**

A S173 Agreement may be required as a condition of permit. An agreement may be used, to restrict or prohibit certain uses or development on the land where a planning permit has been granted.

**Who Prepares a Section 173 Agreement?**

Wyndham City Council utilise external legal services to prepare S173 Agreements and review agreements which have been drafted by an applicant’s legal representative.

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

Council charges a fee to cover the administrative costs associated with its own tasks to review, sign and formalise the preparation of the agreement.

The owner/applicant will also be responsible for the legal costs charged by Council’s external legal services associated with the preparation/review and registration of the agreement. These costs will vary depending on the complexity of the agreement.

**Registration of a Section 173 Agreement**

A S173 Agreement must be registered on the title to the land to which it applies. Council’s legal services will organize for the registration of the agreement with Land Use Victoria.

**Process for S173 Agreements Prepared by Council**

1. Applicant submits completed application form for the preparation/review of the agreement to statplanning@wyndham.vic.gov.au.

2. Council will register the request and send an invoice for the payment of Council’s administrative fees.

3. Once the application fee is paid, Council will direct the applicant to contact Council’s external legal representative who in turn will provide the applicant with a cost agreement that will detail the total approximate costs associated with the preparation and ultimate registration of the agreement.

4. Council’s external legal services will prepare the draft agreement. The agreement will then be circulated to be reviewed by Council officers and the applicant/owner.

5. Once all parties are satisfied with the draft agreement Council’s external legal services will send a request to all parties for the agreement to be electronically signed.

6. The signed agreement will be registered with Land Use Victoria (LUV).
\*LUV timeframes vary and registration may take up to 1 month.

**Section 173 Agreement Checklist**

When applying for Council to prepare a S173 agreement on your behalf, the following documentation must be submitted.

| **Checklist item**  | **Have you provided**  |
| --- | --- |
| **Completed application form***Remember it is against the law to give false and misleading information.* |  |
| **The appropriate fee (Council can send an invoice for payment of fee once application form received)**Council charges a fee of $700 to prepare an agreement or $726.70 to amend or end an agreement. This covers Council’s administrative costs associated with the processing of the request only. Council’s external legal services charge a separate fee for the preparation and registration of the agreement which must be paid by the applicant.  |  |

Application for the Preparation of a Section 173 Agreement

Please contact the town planning department prior to submitting this application form to confirm that the required agreement is appropriate for this service.

**APPLICANT**

|  |  |
| --- | --- |
| Name: |  |
| Organisation (if applicable): |  |
| Address: |  |
| Telephone No. |  |
| Email Address: |  |

|  |  |
| --- | --- |
| Have you discussed the agreement with a Town Planning Officer prior to submitting this application?  | Yes / No |
| Planners Name:  |

**PERMIT DETAILS**

|  |  |
| --- | --- |
| Planning Permit No. requiring the S173 Agreement:  |  |
| Address: |  |
| Condition of Permit requiring a S173 Agreement |  |
| Lot Number:  |  | Plan of Subdivision Number: |  |
| Address: |  | Suburb: |  |
| Volume: |  | Folio: |  |

|  |
| --- |
| What must the S173 Agreement provide for (refer to condition of permit requiring agreement: |
|  |

|  |
| --- |
| Name of the Parties entering into the Agreement: |
|  |

|  |
| --- |
| Address of the Parties entering into the Agreement: |
|  |

|  |
| --- |
| If the land is owned by a company please provide ABN |
|  |

**DECLARATION:** This form must be signed. Complete box A, B **or** C.

|  |  |  |
| --- | --- | --- |
| **A.** I declare that I am the Applicant and Owner of this land and that all information given is true and correct. | Owner/ Applicant signature:  | Date: |
| **B.** I am the Owner of the land. I have seen this application. I/We the Applicant declare that all information given is true and correct.  | Owner signature: Applicant signature:  | Date:Date: |
| **C.** I / We the Applicant declare that I / We have notified the owner about this application and that all information given is true and correct.  | Applicant signature:  | Date: |

|  |
| --- |
| **SUBMIT** |
| 1. Completed form
2. Fee of **$700.00** with [credit card payment](https://www.wyndham.vic.gov.au/sites/default/files/2016-06/Credit%20Card%20Payment%20Form.pdf)
3. Evidence of commencement of works (where applicable)
 | Via email mail@wyndham.vic.gov.au or alternatively please contact Council on 9742 0777. |

**PRIVACY COLLECTION STATEMENT** –The personal information collected on this Form is required by Council in order to process your request in accordance with the requirements of the *Planning and Environment Act* 1987.

Your information will be made public and available for inspection while being considered by Council or the Victorian Civil and Administrative Tribunal. Your information will be stored in Council’s Customer Database and used to identify you when communicating with Council and for the delivery of services and information. For further information on how your personal information is handled, visit [Council's Privacy Policy](https://www.wyndham.vic.gov.au/privacy-policy). [WCC Privacy Policy](https://www.wyndham.vic.gov.au/about-council/your-council/administration/privacy-policy-website-privacy-disclaimer)