

Ss. (3) amended
by Nos. 8531 s. 2
(1) (c), 8557 s. 9
(k) (ii), 9022 s. 22
(2) (a) (b).

(3) Within seven days of the submission to the council of a plan the engineer shall refer the plan for report unless he is of the opinion that in the circumstances a reference of the plan is unnecessary, to the Postmaster General of the Commonwealth of Australia, and every corporation company firm or person making or supplying under any enactment gas for lighting heating motive power or other purposes and disposing of same for reward.

Ss. (4)
substituted by
No. 7052 s. 3 (a).

(4) Within one hundred days of the plan being submitted to the council it—

(a) may subject to the provisions of this Act fix the level of every street or road proposed to be made or laid out on the land; and

(b) shall subject to the provisions of this Act cause the plan to be sealed with the seal of the municipality or serve on the person who submitted the plan to the council notice in writing of the council's refusal to seal the plan and of the council's reasons for such refusal.

Ss. (5) repealed
by No. 7052 s. 3
(a).

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Ss. (6) repealed
by No. 8531 s. 2
(1) (d).

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(7) The council shall refuse to seal the plan—

(a) unless it is satisfied—

(i) that the said land and every such new street road lane or passage can be sufficiently drained as hereinbefore provided;

(ii) that all the provisions of the *Health Act* 1958, the *Building Control Act* 1981 or this Act or any by-law or regulation under the said Acts are complied with; and

(iii) that every allotment into which such land is to be subdivided is capable of being used for a purpose permitted by any such by-law or regulation;

(aa) if any allotment shown on the plan is accessible only over Crown land which has not been set aside, reserved, or proclaimed as a road under the provisions of the *Land Act* 1958 or any corresponding previous enactment and the Minister of Lands has not consented to the use of the Crown land for access to the allotment;

(b) where the plan is required under sub-section (2) to be referred to the body corporate known as the Director-General of Water Resources established by section 17 of the *Water Act* 1958 or the Rural Water Commission of Victoria established by section 18 of the *Water Act* 1958 without the consent of the Director-General or the Rural Water Commission or, except in the case of land situated in an irrigation or drainage district under the *Water Act* 1958, in any case where the Director-General or the Rural Water

Sub-para. (ii)
amended by
Nos. 7332 s. 2
(1st Sch. Item
72), 10019 s. 52
(1) (i) (i).

Sub-para. (iii)
amended by No.
8531 s. 2 (1)
(e) (i).

Para. (aa)
inserted by No.
8781 s. 32.

Para. (b)
substituted by
No. 8531 s. 2 (1)
(e) (ii), amended
by No. 10081 s. 5
(1).

Commission has refused to consent without the consent of the Governor in Council;

- (ba) where the plan is required under sub-section (2) to be referred to the First Mildura Irrigation Trust, without the consent of the Trust;

Para. (ba) inserted by No. 8149 s. 9 (f), substituted by No. 8531 s. 2 (1) (e) (ii).

- (c) where the plan is required under any paragraph of sub-section (2) (other than paragraph (ak)) to be referred to an authority (other than the body corporate known as the Director-General of Water Resources established by section 17 of the *Water Act* 1958 or the Rural Water Commission of Victoria established by section 18 of the *Water Act* 1958 or the First Mildura Irrigation Trust) without the consent of that authority or in any case where the authority has refused to consent, without the consent of the Governor in Council;

Para. (c) substituted by No. 8531 s. 2 (1) (e) (ii), amended by No. 10081 s. 5 (1).

- (d) if an interim development order is in force under the *Town and Country Planning Act* 1961 in respect of the area in which the land or any part of the land is situated—

Para. (d) substituted by No. 8531 s. 2 (1) (e) (ii).

- (i) unless the subdivision and the use or development of the land in the manner contemplated in the subdivision is permitted under the order; and

- (ii) any necessary permit for such subdivision use or development has been obtained from the responsible authority;

- (e) if a planning scheme has been made under the *Town and Country Planning Act* 1961 in respect of the area in which the land or any part of the land is situated—

Para. (e) inserted by No. 8531 s. 2 (1) (e) (ii).

- (i) unless the subdivision and the use or development of the land in the manner contemplated in the subdivision is permitted under the scheme; and

- (ii) any necessary permit for such subdivision use or development has been obtained from the responsible authority;

- (f) where a requirement of a council for the setting apart of an easement under section 656F has not been complied with or an agreement to transfer a reserve under section 656G has not been executed, without the consent of the Governor in Council.

Para. (f) inserted by No. 9573 s. 16.

(7A) The issue of a permit by the Melbourne and Metropolitan Board of Works as a responsible authority under the *Town and Country Planning Act* 1961 does not constitute the consent of the Board to the sealing of the plan of subdivision for the purposes of paragraph (c) of sub-section (7).

Ss. (7A) inserted by No. 7272 s. 6 (b) (i), substituted by No. 8531 s. 2 (1) (f).

(7B) If within sixty days of the reference of plan to an authority as required by sub-section (2) no consent or refusal has been received the authority shall be deemed to have consented to the sealing of the plan by the council.

Ss. (7B) inserted by No. 8531 s. 2 (1) (f).