

PORT PHILLIP PLANNING SCHEME

INCORPORATED DOCUMENT

Specific controls for No. 2-28 Montague Street and 80 Munro Street, South Melbourne

DATE TO BE INSERTED

Incorporated document pursuant to Section 6(2)(j) of the *Planning and Environment Act 1987*

Incorporated document in the Schedules to Clauses 45.12 and 72.04 of the Port Phillip Planning Scheme

1. INTRODUCTION

- 1.1. This document is an Incorporated Document in the schedules to Clauses 45.12 and 72.04 of the Port Phillip Planning Scheme (the Planning Scheme) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.
- 1.2. The land identified in Clause 3 of this document may be used and developed in accordance with the specific control contained in Clause 4 of this document.
- 1.3. The control in Clause 4 prevails over any contrary or inconsistent provision in the Planning Scheme.
- 1.4. The Minister for Planning is the responsible authority for administering Clause 45.12 of the Planning Scheme with respect of this Incorporated Document except that:
 - a) The City of Port Phillip is the responsible authority for matters expressly required by the Incorporated Document to be endorsed, approved or done to the satisfaction of the City of Port Phillip;
 - b) The Victorian Planning Authority is the responsible authority for matters under Division 2 of Part 9 of the Act relating to any agreement that makes provision for development contributions;
 - c) The City of Port Phillip is the responsible authority for the enforcement of the Incorporated Document.

2. PURPOSE

- 2.1. To facilitate the demolition of the existing buildings on the Land and staged construction of three multi-level buildings containing dwellings, serviced apartments, residential hotel, motor vehicle sales, retail, restaurant, food and drink premises, and childcare centre, provision of additional car parking under the Parking Overlay, and alteration and access to a Road Zone Category 1 road, in accordance with Clause 4 of this document.

3. LAND DESCRIPTION

- 3.1. The control in Clause 4 applies to the land at 2-28 Montague Street and 80 Munro Street, South Melbourne being the land contained in Certificate of Titles Volume 03174 Folio 609, and Volume 09795 Folio 735 and more particularly described as Crown Allotment 107 City of South Melbourne Parish of Melbourne South, and Crown Allotments 108A and 108B City of South Melbourne Parish of Melbourne South. The land is identified in Figure 1 below.



Figure 1: Map of Land subject to this Incorporated Document

4. CONTROL

Exemption from the Planning Scheme requirements

- 4.1. No planning permit is required for, and no provision in the Planning Scheme operates to prohibit, control or restrict the use or development of the land in accordance with the provisions contained in this Clause 4 with the exception of:
 - a) any subdivision of the land under the Planning Scheme, except where the subdivision creates a road to be vested in the City of Port Phillip and does not otherwise create any additional lots.
- 4.2. An application for subdivision is exempt from the requirements in Clause 45.11 (Infrastructure Contributions Overlay) of the Planning Scheme.

Compliance with the endorsed plan

- 4.3. The use and development of the land must be undertaken generally in accordance with all documents approved under Clause 4.

Amended Master Plan

- 4.4. Before the commencement of the development, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, an amended Master Plan must be submitted to and approved by the Minister for Planning. The Master Plan must generally be in accordance with the architectural plans entitled Drawing STAG01 – STAG07, MP-01 – MP-24, TP-01 – TP014, ELEV-01-ELEV-05, SECT-01 – SECT-02, all dated 13 June 2019, prepared by Cox Architects but modified to show:
 - a) Revisions to the principles and design criteria as required.
 - b) Wind tunnel testing for the overall development, which:
 - i. Include wind tests taken at various points within the surrounding road network, including, carried out on a model of the approved building inclusive of the modifications required to determine the wind impacts of the development and provide recommendations for any modifications which must be made to the design of the building to improve any adverse wind conditions within the public realm and podium rooftop and open space areas.
 - ii. Demonstrate (or provided recommendations) that the development will ensure all publicly accessible areas, including footpaths will not be unreasonably affected by 'unsafe wind conditions' as specified in Table 7 of Schedule 32 to Clause 43.02 Design and Development Overlay of the Port Phillip Planning Scheme.
 - c) Amenity Impact Report.

Staging

- 4.5. Before the development starts, excluding demolition, excavation, piling and site preparation works and works to remediate contaminated land, a Staging Plan must be submitted to and be approved to the satisfaction of the Responsible Authority. This Staging Plan must include plans and information detailing any public realm works, proposed temporary treatment and use of vacant land. The development must proceed in the order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the Responsible Authority.

Amended plans

- 4.6. Before the development of any stage starts as defined under Clause 4.5, excluding demolition, excavation, piling and site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Minister for Planning. The plans must be drawn to scale and fully dimensioned including to show natural ground level, floor levels, wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and three copies

plus an electronic copy must be provided. The plans must be generally in accordance with the master plan approved under Clause 4.4 but modified to show:

- a) Detailed plans for any stage
- b) Require that a plan be prepared showing which dwellings within the development will be allocated as affordable housing and integrated within the balance of the development.
- c) Plan notations requiring the project to meet:
 - the requirements of the Façade Strategy in the corresponding condition(s) below.
 - the requirements for external reflectivity in the corresponding condition(s) below.
 - the requirements for Landscaping and the Public Realm in the corresponding condition(s) below.
 - the requirements for Traffic, Parking and Loading and Unloading in the corresponding condition(s) below.
 - the requirements of the Waste Management Plan in the corresponding condition(s) below.
 - the Noise Attenuation and Mitigation requirements in the corresponding condition(s) below.
 - the requirements of the Amenity Impact Report in the corresponding condition(s) below.
 - the requirements of the Wind assessment in the corresponding condition(s) above.
 - the requirements of Melbourne Water in the corresponding condition(s) below.
 - the Environmentally Sustainable Design, Green Star and Third Pipe requirements in the corresponding condition(s) below.

Layout and use of the development not to be altered

- 4.7. The use and development on the land as shown on the approved plans must not be altered or modified without the prior written consent of the Responsible Authority

Aboriginal Cultural Heritage

- 4.8. Before the development starts, including demolition, bulk excavation and site preparation works and works to remediate contaminated land, one of the following must be provided to the Responsible Authority:
 - b) A report prepared by a suitably qualified professional confirming to the satisfaction of the Responsible Authority that a Cultural Heritage Management Plan (CHMP) pursuant to the *Aboriginal Heritage Act 2006* is not required; or
 - c) A certified Preliminary Aboriginal Heritage Test (PAHT) under sections 49B and 49C of the *Aboriginal Heritage Act 2006* in respect of the development of the land; or
 - d) A letter from Aboriginal Victoria confirming a CHMP has been approved for the land.
- 4.9. All works on the land must be carried out or constructed in accordance with the requirements of any approved CHMP or otherwise in accordance with the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2018*.

Façade Strategy & Materials and Finishes

- 4.10. Before any stage (as defined in Clause 4.5) of the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a Façade Strategy for that stage must be submitted to and approved by the by the Responsible Authority. Unless specified otherwise by the Responsible Authority, the Façade Strategy must be generally in accordance with the Design response dated July 2019 prepared by Cox Architects and also include:
 - a) A concise description by the architect of the building design concept and how the façade works to achieve this.

- b) A schedule of external colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints, to show the materials and finishes linking them to a physical sample board with clear coding.
- c) Elevation details generally at a scale of 1:50, or other suitable scale agreed to by the Responsible Authority, illustrating typical building details, entries and doors, utilities, and any special features which are important to the building's presentation.
- d) Cross sections or other documentation method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or material.
- e) Information about how the façade will be accessed, maintained and cleaned.
- f) Example prototypes and/or precedents that demonstrate the intended design outcome as indicated on plans and perspective images, to produce a high-quality built form outcome in accordance with the design concept.

Reflectivity

- 4.11. Except with the consent of the Minister for Planning, all external glazing must be of a type that does not reflect more than 20% of visible light when measured at an angle of incidence normal to the glass surface.

Landscaping and Public Realm

- 4.12. Before any stage of the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed landscaping and public realm plan(s) for that stage must be submitted to and approved by the City of Port Phillip. The plan(s) must be generally in accordance with the plans prepared by Jack Merlo Design dated 2 September 2018 and accompanying report, and include:

- a) A planting schedule of all proposed trees and other vegetation including botanical name, common names, pot sizes, sizes at maturity, and quantity of each plant and their protection and maintenance.
- b) How the landscaping responds to water sensitive urban design principles, including how rainwater will be captured, cleaned and stored.
- c) Details of all hard-landscaping materials, finishes and treatments and urban design elements including paving, lighting, seating and balustrading.
- d) Details of surface materials and finishes and construction of retaining walls, pathways, kerbs and access ways.
- e) Elevations, sections, levels and details including materials and finishes of public realm works including reconstruction of public assets.

- 4.13. All landscaping shown in the approved landscape and public realm plans must be carried out and completed prior to occupation of buildings under each stage and thereafter maintained to the satisfaction of the City of Port Phillip.

Public Lighting Plan

- 4.14. Before any stage of the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed lighting plan for that stage must be prepared and approved by the City of Port Phillip. This plan must:

- a) Identify all proposed lighting sources, lux levels and spillage details and address how the lighting will integrate with the existing lighting in the interfacing public spaces.
- b) Require all public lighting to conform with AS1158, AS3771 and the Public Lighting Code September 2001.

- 4.15. The approved lighting plan must be implemented as part of the development to the satisfaction of the City of Port Phillip.

Demolition Management Plan

- 4.16. Before demolition starts, a detailed Demolition Management Plan (DMP) must be submitted to and approved by the City of Port Phillip. The DMP's objectives must be to minimise the impact of works associated with the demolition on neighbouring buildings and structures and activities conducted in the area generally. The DMP must address the following matters:
- a) Staging of dismantling/demolition.
 - b) Site preparation.
 - c) Public safety, amenity and site security.
 - d) Management of the construction site and land disturbance.
 - e) Operating hours, noise and vibration controls.
 - f) Air and dust management.
 - g) Waste and materials reuse.
 - h) Stormwater and sediment control.
 - i) Management of public access and vehicle, bicycle and pedestrian linkages around the site during demolition.
 - j) Protection of existing artworks in the public realm.
 - k) Site access and traffic management (including any temporary disruptions to adjoining vehicular, bicycle and pedestrian access ways).
 - l) Details of temporary buildings or works (such as landscaping works to activate and improve the site and street frontage) to be constructed should works cease and the site remain vacant for 6 months after completion of demolition.
- 4.17. Demolition must be carried out in accordance with the approved DMP to the satisfaction of the City of Port Phillip.

Traffic, Parking and Loading/Unloading

- 4.18. Before any stage of the development starts, excluding demolition, piling, excavation, site preparation works, and works to remediate contaminated land, an updated traffic engineering assessment including functional layout plans and other supporting information as appropriate for that stage must be submitted to and approved by the City of Port Phillip. The traffic engineering assessment must be generally in accordance with the Traffic Impact Assessment Report prepared by Traffix, dated June 2019.
- 4.19. The internal design of the car park and loading docks, the positioning of boom gates, card readers, control equipment, including car park control points, and ramp grades must be generally in accordance with the Australian and New Zealand Standard 2890.1-2004 and to the satisfaction of the City of Port Phillip.
- 4.20. The loading and unloading of vehicles and delivery of goods to and from the premises must at all times take place within the boundaries of the site and should not obstruct access to the car park of the development to the satisfaction of the City of Port Phillip.
- 4.21. Traffic access and parking and loading/unloading arrangements must not be altered without the prior written consent of the City of Port Phillip.
- 4.22. Before any stage of the development is occupied, vehicle crossings must be constructed in accordance with the City of Port Phillip's Vehicle Crossing Guidelines and standard drawings to the satisfaction of the City of Port Phillip. All redundant crossings must be removed and the footpath, nature strip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the City of Port Phillip.

Waste Management Plan

- 4.23. Before any stage of the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land an amended Waste Management Plan for that stage must be prepared and submitted to and be approved by to the City of Port Phillip. The Plan must be generally in accordance with the Waste Management Plan dated 21 August 2019 prepared by Leigh Design.
- 4.24. The approved Waste Management Plan must be implemented to the satisfaction of the City of Port Phillip. Waste storage and collection must be undertaken in accordance with the approved Waste Management Plan and must be conducted in such a manner as not to affect the amenity of the surrounding area and which does not cause any interference with the circulation and parking of vehicles on abutting streets.

Noise Attenuation

- 4.25. Before any stage of the development starts, excluding demolition, site preparation works and works to remediate contaminated land, an Acoustic Report for that stage prepared by a qualified acoustic consultant must be submitted to and approved by the Responsible Authority. The report must:
- a) Specify noise attenuation measures to achieve compliance with AS/NZS 2107 which includes a maximum noise level not greater than 40dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am and 45dB(A) for living areas, assessed as an LAeq,16h from 6am to 10pm;
 - b) Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed and be based on average external noise levels measured as part of a noise level assessment.
- 4.26. All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.

Amenity Impact Report

- 4.27. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an Amenity Impact Report prepared by a suitably qualified environmental consultant must be submitted to and approved by the City of Port Phillip. The report must be generally in accordance with the Amenity Impact Report prepared by SLR dated August 2019.
- 4.28. The approved Amenity Impact Report must be implemented to the satisfaction of the City of Port Phillip.

Disability Access

- 4.29. Before any stage of the development is occupied, a Disability Discrimination Act Assessment / Audit for that stage, prepared by a suitably qualified consultant, must be submitted to the City of Port Phillip. This document must provide an assessment of the development (including public realm works or publicly accessible areas) against the applicable accessibility provisions of the Building Code of Australia and the applicable provisions of the Disability (Access to Premises – Buildings) Standards 2010.

Wind Assessment

- 4.30. The recommendations and requirements of the approved Wind Impact Assessment Report must be implemented to the satisfaction of the City of Port Phillip before any stage of the development is occupied.

Development Contribution

- 4.31. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, the owner of the land must enter into agreement(s) pursuant to section 173 of the *Planning and Environment Act 1987* with the Minister for Planning and make

application to the Registrar of Titles to have the agreement(s) registered on the title to the land under section 181 of the Act to the satisfaction of the Minister for Planning. The agreement(s) must:

- a) Require the developer to pay a development contribution of:
 - \$16,916.51 per dwelling;
 - \$191.51 per sqm of gross office/commercial floor area; and
 - \$159.59 per sqm of gross retail floor area.
- b) Require that development contributions are to be indexed annually from 1 July 2020 using the Price Index of Output of the Construction Industries (Victoria) issued by the Australian Bureau of Statistics.
- c) Require registration of the Agreement on the titles to the affected lands as applicable.
- d) Include a schedule of the types of infrastructure to be delivered by the Victorian Planning Authority or their successor.
- e) Confirm that contributions will be payable to the Victorian Planning Authority or their successor.
- f) Confirm that the contributions will be used by Victorian Planning Authority or their successor, to deliver the schedule of types of infrastructure.
- g) Require payment of the development contribution/s before the earliest of the following:
 - The issue of an occupancy permit for any stage of the development; or
 - The issue of a statement of compliance in relation to the subdivision of the land in accordance with the development allowed under this specific control.
- h) Confirm the procedure for refunding monies paid if an approved Development Contribution Plan or Infrastructure Contributions Plan for the area is less than the amount stipulated in the section 173 agreement.
- i) The agreement must make provision for its removal from the land following completion of the obligations contained in the agreement.

The owner of the Land must pay all reasonable legal cost and expense of this agreement including preparation, execution and registration on title.

Drainage/Engineering

- 4.32. Before any stage of the development starts excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, or as otherwise agreed by the Responsible Authority, a stormwater drainage system design incorporating integrated water management design principles for that stage, must be submitted to and approved by the City of Port Phillip.
- 4.33. The stormwater drainage system must be constructed in accordance with the design approved under this incorporated document, connected to the existing stormwater drainage system and completed prior to the occupation of the building to the satisfaction of the City of Port Phillip.

Environmental Audit

- 4.34. Before the development is occupied, excluding demolition, excavation, piling and site preparation works, and works to remediate contaminated land, or a sensitive use commences on the land, the Minister for Planning must be provided with either:
 - a) A certificate of environmental audit issued for the land in accordance with Part IXD of the *Environment Protection Act 1970*; or
 - b) A statement issued by an environmental auditor appointed under the *Environmental Protection Act 1970* in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

Environmentally Sustainable Design

Sustainability Management Plan & Water Sensitive Urban Design

- 4.35. Before any stage of the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land and prior to endorsement of plans under Clause 4.36 of this approval, an amended Sustainability Management Plan and Water Sensitive Urban Design Response (WSUDR) for that stage must be submitted to, be to the satisfaction of and approved by the City of Port Phillip. The SMP and WSUDR must be generally in accordance with the Sustainability Management Plan & Water Sensitive Urban Design Response prepared by ADP Consulting and Engineering, dated 3 July 2019, but modified to show:
- a) The number of bicycle spaces to be consistent with the architectural plans.
- 4.36. Where alternative Environmentally Sustainable Design measures are proposed to those specified in this condition, the City of Port Phillip may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes.
- 4.37. Prior to the occupation of the building of any stage, a report (or reports) from the author of the Sustainability Management Plan & Water Sensitive Urban Design Response approved under this Incorporated Document, or similarly qualified person or company, must be submitted to the satisfaction of the City of Port Phillip and must confirm measures specified in the approved SMP and WSUD report have been implemented.

Green Star rating

- 4.38. Prior to the commencement of buildings and works under any stage, evidence must be submitted to the satisfaction of the City of Port Phillip, that demonstrates the project has been registered to seek a minimum 5 Star Green Star As-Built rating (or equivalent) for that stage with the Green Building Council of Australia.
- 4.39. Within 12 months of occupation of the building under any stage, certification must be submitted to the satisfaction of the City of Port Phillip, that demonstrates that the building within that stage has achieved a minimum 5 Star Green Star As-Built rating (or equivalent).

Third pipe and rain tank water

- 4.40. A third pipe must be installed for recycled water to supply non-potable outlets within the development for toilet flushing, irrigation, and washing machine, unless otherwise agreed by the relevant water authority.
- 4.41. An agreed building connection point must be provided from the third pipe, designed to the satisfaction of the relevant water supply authority, to ensure readiness to connect to a future precinct-scale recycled water supply.
- 4.42. A rainwater tank must be provided that:
- a) Has a minimum effective volume of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% of suitable roof rainwater harvesting areas (including podiums); and
- b) Is fitted with a first flush device, meter, tank discharge control and water treatment with associated power and telecommunications equipment approved by the relevant water authority.
- 4.43. Rainwater captured from roof harvesting areas must be re-used for selected toilet flushing, washing machine and irrigation, controlled release or as detailed within approved SMP.

3D Model

- 4.44. Before any stage of the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land (or as otherwise agreed with the Minister for Planning), a 3D digital model of the development and its immediate surrounds must be submitted to and approved by the Minister for Planning for that stage. The 3D model must be in accordance with the *Technical Advisory Note for 3D Digital Model Submissions* prepared by the Department of

Environment, Land, Water and Planning. The development must be in accordance with the endorsed 3D model, to the satisfaction of the Minister for Planning.

Building Appurtenances

4.45. All building plant and equipment on the roofs and public thoroughfares must be concealed to the satisfaction of the City of Port Phillip.

Advertising Signs

4.46. No permanent advertising signs external to the building shall be erected, painted or displayed without the prior written approval of the City of Port Phillip unless in accordance with the Port Phillip Planning Scheme.

Department of Transport (Network Planning – Transport Group)

4.47. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Affordable Housing

4.48. Before the development starts, excluding demolition, bulk excavation, piling, site preparation works, and remediation works, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987, to the satisfaction of the Responsible Authority, for the delivery of affordable housing (as defined in the Planning and Environment Act 1987).

4.49. The agreement must:

- a) Provide for the delivery of affordable housing, as defined by Section 3AA of the Planning and Environment Act 1987, before the development is occupied. The quantum to be provided should consist of the balance of dwellings required to achieve a combined total of 6% affordable housing and social housing (noting 20 social housing units to be provided under condition 4.52)
- b) Unless otherwise agreed by the Responsible Authority, utilise one or more of the following mechanisms for the delivery of the affordable housing:
 - i) Sale of the dwellings to a registered housing agency or other housing provider or trust approved by the Responsible Authority; or
 - ii) Leasing of the dwellings as affordable housing under the management of a registered housing agency or housing provider or trust or other entity approved by the Responsible Authority for a period of not less than 20 years.
- c) Require the affordable housing to be delivered:
 - i) Within the development; and
 - ii) In the form of one or two or three bedroom dwellings with one or more bicycle parking space allocated per dwelling.
- d) Provide that in lieu of delivering all or part of the affordable housing in accordance with within Clause 4.48(a), (b) and (c), the Responsible Authority may agree to payment of an amount of money to a registered housing agency (or other housing provider or trust) if the Responsible Authority is satisfied that:
 - i) The owner has made best endeavours to secure a registered housing agency recipient (or other housing provider or trust) for the affordable housing and has not been successful; and
 - ii) The payment amount is equivalent to the value of the affordable housing that would otherwise have to be delivered less the value of any affordable housing provided within the development).

4.50. Provide that where the affordable housing is to be delivered using only the mechanism in Clause 4.49b)i) the Responsible Authority may accept a lesser percentage of affordable housing in satisfaction of Clause 4.49a) provided it is of equivalent value.

- 4.51. For the purpose of these provisions, 'value' means the monetary value of a dwelling offered for sale at a sufficient discount from market value as determined by an independent valuer (approved by the President of the Australia Property Institute – Victorian Division) to meet the needs of households with income ranges specified within any Ministerial Order made under 3AB of the *Planning and Environment Act 1987* in force at the time of entry into the agreement.

Social Housing

- 4.52. Prior to the occupation of Stage 3 commencing (excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land), provide evidence that a legal agreement has been entered into between the owner and Women's Housing Limited providing or other registered agency approved by relevant authority for no less than 20 dwellings to be gifted. The agreement should detail the location, design and mix of the dwellings. The Agreement must confirm that all dwellings meet the relevant standards of Clause 58 of the Port Phillip Planning Scheme, are to be connected to reticulated services and provision made for digital communication services (e.g. internet connections) in a manner commensurate with the remainder of dwellings within the development. The Agreement must also detail any allocation of car parking provided to these dwellings.
- 4.53. The social housing units identified in the agreement under condition 4.52 must remain in the ownership of a registered Social Housing provider, unless otherwise agreed with the written consent of the Relevant Authority.

Legal Agreement

- 4.54. Before the commencement of the development, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land (or as otherwise agreed with the Minister for Planning), the owner of the land must enter into an agreement with the Port Phillip City Council, pursuant to Section 173 of the *Planning and Environment Act 1987*. The owner of the land must pay all of Port Phillip City Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title. The agreement must provide for the following:
- a) 24 hours a day, 7 days a week public access must be provided for the proposed ground level pedestrian link and town square.
 - b) The serviced apartments provided on the Land are to be used for the exclusive purpose of providing accommodation in serviced rooms for persons away from their normal place of residence, in accordance with the endorsed plans.

Expiry

- 4.55. The control in this document expires in respect of land identified in Clause 3 of this document if any of the following circumstances apply:
- a) development of a stage has not commenced three (5) years after the approval date of Amendment C173; or
 - b) use of a stage of that land has not commenced seven (8) years after the approval date of Amendment C173; or
 - c) development of a stage is not completed seven (8) years after the approval date of Amendment C173.

Note: Melbourne Water may issue a notice under the Water Act 1989 requiring the owner of the subject land to contribute to the cost of flood mitigation and drainage works in the Fishermans Bend urban renewal area. Any such contribution will be in addition to any contribution required under this Incorporated Document.

END OF DOCUMENT