

PORT PHILLIP PLANNING SCHEME

INCORPORATED DOCUMENT

2-28 Montague Street and 80 Munro Street, South Melbourne

August 2020

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 existing buildings on the land identified in Clause 3 for a staged use and development of three multi-storey buildings comprising dwellings, residential hotel (including serviced apartments), motor vehicle sales, food and drink premises, childcare centre, office, retail premises and create or alter access to a road in a Road Zone Category 1 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.

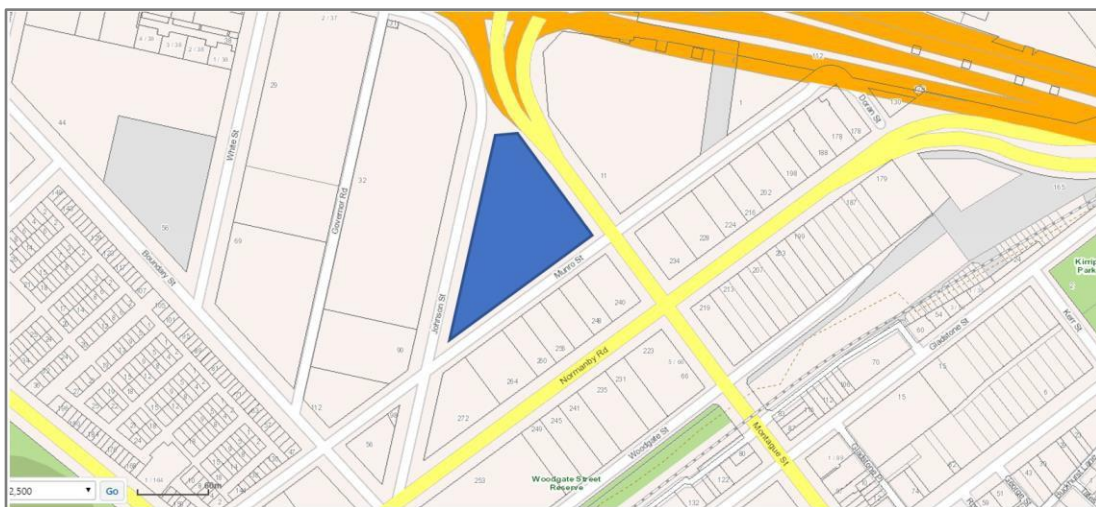


Figure 1: 2-28 Montague Street and 80 Munro Street, South Melbourne

4. CONTROL

Exemption from the Planning Scheme requirements

- 4.1. Subject to Clause 4.2, 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 Clause 4.
- 4.2. A permit is required to subdivide the land and any such application is:
 - a) Exempt from the requirements in Clause 45.11 (Infrastructure Contributions Overlay) of the Planning Scheme.
 - b) Exempt from the requirements in Clause 53.01 (Public Open Space Contributions) of the Planning Scheme.
- 4.3. Notwithstanding Clause 4.2(b), any permit allowing subdivision of the land must include a condition requiring payment to the City of Port Phillip before a statement of compliance is issued, of a public open space contribution equal to 8% of the site value of the land.

Compliance with the endorsed plan

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

Layout and use of the development not to be altered

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

Amended Master Plan

- 4.6. 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 Responsible Authority. The Master Plan must generally be in accordance with the architectural plans dated 3 April 2020, prepared by Cox Architects but modified to show:
 - a) The height of Tower 2 reduced from 28 storeys to 24 storeys.
 - b) Car parking provided at a rate consistent with the planning scheme requirements of Clause 3 of Schedule 1 to the Parking Overlay.
 - c) Bicycle parking, motorcycle parking and car share spaces provided at a rate consistent with the planning scheme requirements of Clause 4.2 of Schedule 1 to the Capital City Zone.
 - d) Ground, podium rooftop and tower rooftop plans to detail principal open space, laneways and pedestrian connections, landscaping (including opportunities for deep soil planting) and sustainable design features of the proposal (as applicable).
 - e) Cross-section drawings of all buildings, including basement levels.
 - f) Elevation drawings of all buildings including nominal details of materials and finishes.
 - g) Elevation and cross-section detail drawings of ground level transitions from footpath level to any vehicle entries and raised building entries and internal lanes within the site.
 - h) All plan and elevation drawings to show principal dimensions, including natural ground level, building ground floor levels, and maximum building heights, with heights expressed to Australian Height Datum (AHD).
 - i) Provision of all public realm connections through the site, between Johnson Street to

Montague Street and Johnson Street to Munro Street to form part of and be delivered by Stage 1.

- j) Detailed dimensions of all public and private areas within the development, including the east- west through block link.

Staging

4.7. 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:

- a) details of staging of the development;
- b) plans and information detailing any public realm works, including those to Johnson Street.
- c) details of any 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.

Detailed Development Plans

4.8. Before the development of any stage starts, excluding demolition, excavation, piling and site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Responsible Authority for that stage. 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 4.6 but modified to show:

- a) Detailed dimensioned plan drawings of all basement, podium and tower levels detailing car, motorcycle and bicycle parking and associated access ways, loading bays, waste storage rooms and collection points, stores, land uses and nominal dwelling layouts.
- b) Detailed ground, podium rooftop and tower rooftop plans showing open space, laneways and pedestrian connections, landscaping and sustainable design features (as applicable).
- c) The public realm, including the 'Town Square' and laneways must achieve design excellence and user amenity, including through the provision of way-finding, legibility, Crime Prevention through Environmental Design (CPTED) benefits, connectivity within the subject land and to surrounding streets and connections, be open to the sky and include quality hard and soft landscaping and lighting.
- d) A reduction in the width/extent of awnings over the internal lane and appurtenant Council Roads.
- e) A reduction in the reliance on screens and awnings for wind mitigation in lieu of revisions to tower forms, orientation, height and architecturally resolved and integrated solutions.
- f) Elevation drawings showing details of materials and finishes.
- g) Detailed cross-section drawings of all buildings, including basement levels.
- h) The layout of all dwellings (including affordable housing) to comply with the Standards of Clause 58 of the planning scheme.
- i) At least 25% of apartments be 3-bedroom dwellings.

- j) The width and number of vehicle crossings reduced; where a wide crossing is necessary, it must incorporate a pedestrian refuge.
- k) Vehicle exits to incorporate pedestrian sight lines.
- l) Communal open space for in each stage must satisfy the objectives of Clauses 58.03-2 and 58.03-3 of the planning scheme.
- m) All ground level tenancies and lobbies to have direct accessibility from adjoining streets or laneways.
- n) Details of bicycle end-of-trip facilities, convenient to principle bike stores.
- o) The location of car share spaces (including EV charging) in all stages.
- p) The layout and design of the car parks and ramps to meet the design standards of Clause 52.06 of the planning scheme.
- q) Cross-sections for each commercial and retail tenancy (as appropriate) showing finished floor levels of both external and internal areas and their interface between the public and private realm.
- r) Details of how the threshold spaces between steps and tenancy frontages are proposed to be used to offset adverse impacts on active frontages due to flood requirements.
- s) Visitor bike parking integrated into the design so as to not clutter the public realm and impede access/activation of site edges.
- t) The podium facades differentiated to address the hierarchy and functions of the future street network and broken up vertically and by variations in materiality.
- u) Details of back of house for the commercial tenancies, including access to waste stores and a loading bay.
- v) Elevation and cross-section detail drawings of ground level transitions from footpath level to any vehicle entries and raised building entries and internal lanes within the site.
- w) Any changes required to meet the requirements of the Façade Strategy in the corresponding condition(s) below.
- x) Any changes required to meet the requirements of the Landscaping Strategy in the corresponding condition(s) below.
- y) Any changes required to meet the requirements of the Lighting Strategy in the corresponding condition(s) below.
- z) Any changes required to meet the requirements of the Traffic Impact Assessment Report in the corresponding condition(s) below.
- aa) Any changes required to meet the requirements of the Waste Management Plan in the corresponding condition(s) below.
- bb) Any changes required to meet the applicable accessibility provisions of the Building Code of Australia and the applicable provisions of the Disability (Access to Premises – Buildings) Standards 2010 in the corresponding condition(s) below.
- cc) Any changes required to meet the requirements of the Wind assessment in the corresponding condition(s) below.
- dd) Any changes required to meet the requirements of the Amenity Impact report in the corresponding condition(s) below.
- ee) Any changes required to meet the drainage/engineering requirements in the corresponding condition(s) below.

- ff) Any changes required to meet the requirements of Melbourne Water in the corresponding condition(s) below.
- gg) Any changes required to meet the Environmentally Sustainable Design, Green Star and Third Pipe requirements in the corresponding condition(s) below, including details of rooftop solar PV on the roof plan.
- hh) Any changes required to meet the Department of Transport requirements in the corresponding condition(s) below.
- ii) Any changes required to meet the noise attenuation and mitigation requirements in the corresponding condition(s) below.
- jj) Any changes and technical information required as a consequence of any other provision in Clause 4.

Aboriginal Cultural Heritage

- 4.9. 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:
- a) 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
 - b) 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
 - c) A letter from Aboriginal Victoria confirming a CHMP has been approved for the land.
- 4.10. 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*.

Johnson Street, Town Square and Laneways

- 4.11. Prior to the occupation of the abutting buildings, the following works, including as required, paving, lighting, servicing infrastructure and installation of street furniture, must be undertaken to the satisfaction of and at no cost to the City of Port Phillip:
- a) Reconstruction of Johnson Street in accordance with the approved landscape master plan and civil construction plan.
 - b) Construction of the 'Town Square' including paving and landscaping incorporating best practice Water Sensitive Urban Design.
 - c) Construction of the internal laneway from Johnson Street to Munro Street to Montague Street.
- 4.12. The 'Town Square' and laneways located within the subject land may remain in private ownership but must be accessible 24 hours, 7 days per week to the public to the satisfaction of the City of Port Phillip.
- 4.13. The owner must, at its cost, maintain the 'Town Square' and laneways on the subject land to the same standards as is required by the City of Port Phillip for the adjoining road(s).

Façade Strategy & Materials and Finishes

- 4.14. Before the plans required by Clause 4.8 are approved a Façade Strategy for that stage must be submitted to and approved 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.
- g) Details of a temporary treatment of any blank walls that may be temporarily visible to the public realm, as a result of the staged development of the land.

Reflectivity

4.15. Except with the consent of the Responsible Authority, all external facade materials and finishes 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 surface of the facade.

Landscaping and Public Realm

4.16. 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) Details of the reconstruction of the part of Johnson Street that abuts the subject land, including landscaping, mature tree planting and Water Sensitive Urban Design elements.
- b) Any changes required to accord with the amended Master Plan and Detailed Development Plans required by Clauses 4.6, 4.8 and 4.9.
- c) 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.
- d) Deep soil zones of at least 1.5m or planter pits for canopy trees.
- e) Details of green facades, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.
- f) How the landscaping responds to water sensitive urban design principles, including how rainwater will be captured, cleaned and stored.
- g) Details of all hard-landscaping materials, finishes and treatments and urban design elements including paving, lighting, seating and balustrading.

- h) Details of surface materials and finishes and construction of retaining walls, pathways, kerbs and access ways.
- i) Elevations, sections, levels and details including materials and finishes of public realm works including reconstruction of public assets.
- j) Any landscaping works within land owned by City of Port Phillip must be undertaken to its standard of materials, plant species and finishes.

4.17. 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

4.18. 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.

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

Demolition Management Plan

4.20. 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.

4.21. 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

- 4.22. 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 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 but modified to include:
- a) Confirmation of pedestrian sight splays at all vehicle exits;
 - b) Details of crossing widths including pedestrian refuges as required.
 - c) Details of how traffic within the internal aisle directly abutting the accessway to the street will be managed.
 - d) Details of internal aisle design near the accessway to ensure there is no queuing onto the street.
 - e) Details of how vehicle access will be provided for each stage.
 - f) Confirmation that the car park has been designed to meet the design standards of Clause 52.06 of the planning scheme including car space dimensions, motorcycle spaces in accordance with AS2890.1, clearance from walls / columns / obstructions, aisle widths, ramp clearances etc.
 - g) Details of traffic flow for the childcare use confirming users do not have to reverse or do U-turns to exit the basement.
 - h) Details of any boom gates or similar restricted access points in the two basement car park levels, including confirmation vehicles at access points do not overhang or obstruct pedestrian access.
 - i) Clarification of the accuracy of Drawing No. MP-07 Tower 1 ramp or otherwise.
 - j) Details of disabled person spaces, including headroom clearance in accordance with Clause 52.06-9 of the planning scheme.
 - k) Confirmation, including on plans, of the number and location of staff, visitor and resident parking.
 - l) Details, including on plans and longitudinal cross-section drawings, of all ramp lengths, widths and heights (to AHD).
 - m) An empirical assessment of the expected traffic generation and impact for each premises.
 - n) Ground floor level visitor bike parking racks to be horizontal.
 - o) Details, including on plans or bike rack spacing and aisle widths, and the location of visitor, staff and resident spaces.
 - p) The number of scattered bike stores in the basements rationalised to a lesser number of stores, conveniently located near access points and end-of-trip change rooms etc.
 - q) Details, including on plans and cross-section drawings, of loading areas conveniently located near lifts and commercial spaces.
 - r) Details of at least 10% of all car spaces to incorporate common source EV charge points.
 - s) Details of Green Travel Plan measures.

- 4.23. 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.
- 4.24. 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.
- 4.25. Traffic access and parking and loading/unloading arrangements must not be altered without the prior written consent of the City of Port Phillip.
- 4.26. Before any stage of the development is completed, 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

- 4.27. 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 but modified to include:
 - a) A detailed summary of the proposed land uses including number of bedrooms for each dwelling, serviced apartment and hotel room, details of the childcare centre including no. of children and staff and kitchen area, and details of retail and commercial uses including the motor vehicle sales and service use.
 - b) A detailed description of the waste management arrangements including disposal, storage and collection per the amended application drawings.
 - c) Separate refuse rooms for residential and commercial tenements.
 - d) Allocated space for E-waste, organic waste collection and waste from the motor vehicle sales and service use.
 - e) Plan details of bin/refuse rooms with clearly marked bin sizes, numbers and colours.
 - f) Plan details of retail and commercial back-of-house waste storage and access to bin rooms.
 - g) Loading bay locations and dimensions including minimum height clearances.
 - h) Swept path diagrams confirming waste collection vehicles can enter and exit in a forward direction.
 - i) Details of measures to minimise the number of waste collections such as incorporation of compaction units and glass crushers if possible.
- 4.28. 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

- 4.29. 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 specify noise attenuation measures to achieve a maximum level not greater than:

- a) 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am; and
- b) 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm;

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.

- 4.30. 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

- 4.31. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an amended 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 and amended to include:

- a) More details of the operation conditions of the Port Phillip Resource Recovery Centre such as the size of the plant, equipment, hours of operation, delivery times, truck numbers, processes and management.
- b) An assessment of the odour emissions from the Melbourne Water sewer vent, including amenity impacts it may have on the future residents of the development and any amelioration works that may be required.

The approved Amenity Impact Report must be implemented to the satisfaction of the City of Port Phillip.

- 4.32. Should the odour assessment require the undertaking of at source mitigation works, then prior to both the commencement of works and any proposed subdivision of the land, the landowner must enter into an agreement, with Melbourne Water and the Responsible Authority, pursuant to Section 173 of the *Planning and Environment Act, 1987*. The agreement must be registered on title and must, to the satisfaction of the Responsible Authority and Melbourne Water, provide for:

- a) The carrying out of any 'at source' mitigation works required by the odour assessment at the landowner's cost;
- b) The landowner and/or any subsequent owners corporation to pay any maintenance costs associated with the mitigation works; and
- c) The waiver or rebate by Melbourne Water of any liability attaching to the landowner or its successors in title arising from the replacement, repair or upgrading of the Melbourne Main Replacement Sewer up to the value of the works and maintenance costs paid by the owner or its successors in title if the replacement, repair or upgrade occurs within 10 years of the completion of the development.

Disability Access

- 4.33. 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

- 4.34. Before plans required by Clause 4.6 are approved an amended comprehensive wind tunnel test and environmental climate assessment report must be submitted to and approved by the Responsible Authority in consultation with the City of Port Phillip. The amended report must be generally in accordance with the report prepared by Windtech, dated 23 August 2019 but modified to address all changes required under this Clause 4 and must:
- a) Include wind tests taken at various points within the surrounding public realm 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 buildings to improve any adverse wind conditions within the public realm and communal open space areas.
 - b) Demonstrate (or provide built form 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 30 to Clause 43.02 Design and Development Overlay of the Port Phillip Planning Scheme.
 - c) Demonstrate (or provide built form recommendations) that the development will be able to achieve 'comfortable wind conditions' as specified in Table 7 of Schedule 30 to Clause 43.02 Design and Development Overlay of the Port Phillip Planning Scheme.
 - d) Any further modifications required to the development in order to ensure acceptable wind conditions to the surrounding streets and public areas must be carefully developed as an integrated high-quality solution with the architectural design and must not rely on street trees or wind amelioration screens within the public realm to the satisfaction of the City of Port Phillip.
- 4.35. The recommendations and requirements of the approved Wind Impact Assessment Report must be implemented to the satisfaction of the City of Port Phillip before the development is occupied.

Development Contribution

- 4.36. 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 Victorian Planning Authority and the Responsible Authority 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 Responsible Authority. 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) Any development contribution required by Clause 4.36a may be offset by any agreed costs of delivering approved changes to Johnson Street to the satisfaction of the City of Port Phillip in consultation with the Fishermans Bend Taskforce.
 - c) 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.

- d) Require registration of the Agreement on the titles to the affected lands as applicable.
- e) Include a schedule of the types of infrastructure to be delivered by the Victorian Planning Authority or their successor.
- f) Confirm that contributions will be payable to the Victorian Planning Authority or their successor.
- g) Confirm that the contributions will be used by Victorian Planning Authority or its successor, to deliver the schedule of types of infrastructure.
- h) 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.
- i) 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.
- j) 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

- 4.37. 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.
- 4.38. 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

- 4.39. Before the development starts excluding demolition, excavation, piling and site preparation works, and works to remediate contaminated land or a sensitive use commences on the land, the Responsible Authority 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 *Environment Protection Act 1970* in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

Compliance with Statement of Environmental Audit

- 4.40. Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.
- 4.41. Where a Statement of Environmental Audit is issued for the land, before the

commencement of the use, and before the issue of a Statement of Compliance under the Subdivision Act 1988, and before the issue of an occupancy permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

- 4.42. Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning & Environment Act 1987*, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the *Subdivision Act 1988*. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering, execution and ending of the Agreement, including those incurred by the Responsible Authority, must be met by the owner(s).

Remediation Works Plan

- 4.43. Before any remediation works are undertaken in association with the environmental audit, a 'remediation works plan' must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plans are permitted to be carried out before the issue of a Certificate or Statement of Environmental Audit.

Affordable Housing

- 4.44. Before the development starts, excluding demolition, bulk excavation, piling, site preparation works, and remediation works, the owner must enter into an agreement with the Responsible Authority and City of Port Phillip 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*).

- 4.45. The agreement must:

- a) Provide for the delivery of at least 6% of the total number of apartments for affordable housing as defined by Section 3AA of the *Planning and Environment Act 1987* before the development is occupied. Unless otherwise approved by the Responsible Authority to achieve the provision of 6% of affordable housing, the allocation must include:
 - i) No less than four dwellings; and
 - ii) The gifting of no less than 20 social housing dwellings to the Women's Housing Limited or other social housing provider to the satisfaction of the Responsible Authority.
- b) In respect of Clause 4.45(a) and unless otherwise agreed by the Responsible Authority, utilise one or more of the following mechanisms for the delivery of the affordable housing:
 - i) Transfer of the dwellings to a registered housing agency or other housing provider or trust entity 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 approved by the Responsible Authority, for a period not less than 30 years.
- c) Require the affordable housing to be delivered:
 - i) Within the development;
 - ii) In the form of a mix of one, two or three bedroom dwellings, with one or more bicycle parking space allocated per dwelling;
 - iii) Have internal layouts identical to other comparable dwellings in the building; and

- iv) Be externally indistinguishable from other dwellings.
- d) Subject to Clause 4.45(a), provide that in lieu of delivering all or part of the affordable housing in accordance with Clauses 4.45(a)(i) and 4.45(a)(ii), the Responsible Authority will agree to payment of an amount of money to a registered housing agency (or other housing provider or trust entity) 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.

4.46. For the purpose of these provisions, 'value' means the monetary value of a dwelling offered for sale at the date of the agreement as determined by an independent valuer (appointed 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 Section 3AB of the Planning and Environment Act 1987 in force at the time of entry into the agreement.

Environmentally Sustainable Design

Sustainability Management Plan & Water Sensitive Urban Design

4.47. 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 4.8 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) Evidence of how the proposal will achieve the 5 Star Green Star As-Built rating.
- b) The number of bicycle spaces to be consistent with the architectural plans.
- c) Details of any external shading to habitable rooms in the north-east and north-west tower elevations.
- d) Rainwater tank capacity to meet the FBURA tank sizing requirement of 0.5m³ per 10m² of roof catchment.
- e) The rainwater tank to connected to all toilets throughout the development.
- f) A green Travel Plan
- g) That sufficient rooftop space is available to accommodate the proposed 130kW solar PV.
- h) How the Urban Heat Island reduction commitments in the SMP would be achieved.
- i) The improvement on current National Construction Code energy efficiency standards including for building envelopes, lighting and building services increased from 10 to 20%.
- j) Confirmation the residential development can achieve and average 7 star NatHERS rating for each building.
- k) Details of non-glazed materials exposed to summer sun having a low solar absorptance.

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.

- 4.48. 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

- 4.49. 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 (with a 10% buffer) for that stage with the Green Building Council of Australia.
- 4.50. 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 (with a 10% buffer).

Third pipe and rain tank water

- 4.51. 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.
- 4.52. 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.
- 4.53. 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.
- 4.54. 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.

Childcare use

- 4.55. The Child Care Centre (excluding the ground floor multi-purpose hall) may only operate between the hours of 6:00am and 7:00pm, Monday to Saturday, unless with the prior written consent of the Responsible Authority.
- 4.56. No more than 80 children may be cared for at the Child Care Centre at any one time, unless with the prior written consent of the Responsible Authority.

No External Amplified Equipment

- 4.57. Without the further written consent of the Responsible Authority, no form of public address system, loudspeakers or sound amplification equipment must be used so as to be audible outside the premises.

Building Appurtenances

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

3D Model

- 4.59. 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 Responsible Authority), a 3D digital model of the development and its immediate surrounds must be submitted to and approved by the Responsible Authority 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.

Advertising Signs

- 4.60. No advertising signs either external or internal to the building/s shall be erected, painted or displayed without the prior written approval of the Responsible Authority.

Department of Transport

- 4.61. Before the development is occupied, a Green Travel Plan (GTP) must be submitted to and approved by the Department of Transport. The Green Travel Plan must include, but not be limited to, the following:

- a) Objectives for the Plan;
- b) The objectives must be linked to measurable targets, actions and performance indicators;
- c) A description of the existing active private and public transport context;
- d) Initiatives that would encourage [residents/employees/visitors/customers] of the development to utilise active private and public transport and other measures that would assist in reducing the amount of private vehicle traffic generated by the site;
- e) Timescale and costs for each action;
- f) The funding and management responsibilities, including identifying a person(s) responsible for the implementation of actions; and
- g) A monitoring and review plan requiring annual review for at least five years.

- 4.62. The endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

- 4.63. The Green Travel Plan must not be amended without the prior written consent of the Responsible Authority.

Roads

- 4.64. Before the development starts, unless with the prior written agreement from the Responsible Authority, the owner of the land must obtain a Crown land stratum licence under Section 138A of the Land Act 1958 for any part of the development that projects more than 300mm beyond the Montague Street boundary.

- 4.65. The canopy along the Montague Street property boundary to be setback back no less than 750mm from the back of kerb and remain clear of road infrastructure and assets including all street, directional, speed limit signage and LED sign/s.

- 4.66. The canopy projection located along the Montague Street facade at the corner of Munro Street must provide a minimum setback of 0.5 metres from any part of the traffic signals at this location.

4.67. Before the development of Stage 1 starts, the following roadworks at the intersection of Munro Street and Montague Street must be completed to the satisfaction of the Responsible Authority and at no cost to Department of Transport:

- a) The removal of the redundant north eastern crossover on Munro Street and associated Keep Clear line marking.

4.68. All disused or redundant vehicle crossing/s abutting the subject site must be removed and the area reinstated to kerb and channel to the satisfaction of the Responsible Authority and at no cost to the Department of Transport (Head, Transport for Victoria) prior to the occupation of the staged development hereby approved.

Melbourne Water (Flooding, Drainage and Sea Level Rise)

4.69. With the exception of retail areas, commercial lobbies and non-habitable transitional areas, the Finished Floor Levels (FFLS) of all ground floor areas (including residential lift and stair lobbies and the childcare centre lobby must be set no lower than 3.0 metres to Australian Height Datum (AHD).

4.70. The FFLs of retail areas must be set no lower than 2.4 metres to AHD, with the exception of transitional areas which may be at a lower finished floor level, to the satisfaction of Melbourne Water.

4.71. The FFLs of areas with electrical installations (e.g. electrical sub-stations, switch-rooms etc.) must be set no lower than 3.0 metres to AHD unless with the prior written consent of Melbourne Water.

4.72. All lift entries, stairwells, windows, opening, vents or any other entry and exit points that could allow entry of floodwaters to the basement levels must be set no lower than 3 metres to AHD unless with the prior written consent of Melbourne Water.

4.73. The basement ramps must incorporate a flood proof apex set no lower than 3 metres to AHD to prevent floodwaters entering the basement levels during a flood event.

4.74. All building setbacks must be maintained from the sewer unless with the prior written consent of Melbourne Water.

4.75. A build over agreement is required to be entered into with Melbourne Water and must include details of engineering plans confirming the required angle of repose requirements.

4.76. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to any Melbourne Water drain or watercourse.

4.77. Prior to the issue of an Occupancy Permit for Buildings 1, 2 and 3 a certified survey plan showing as constructed finished floor levels for each building must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

Expiry

4.78. 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 any stage one has not commenced within four (4) years after the approval date of Amendment C176port; or
- b) development of stage two has not commenced within four (4) years after the approval date of Amendment C176port; or
- c) development of stage three has not commenced within eight (8) years after the approval date of Amendment C176port;
- d) use of the land in any stage of the development has not commenced within two (2)

- years of completion of that stage of the development; or
- e) development of all stages is not completed within ten (10) years after the approval date of Amendment C176port.

Notes:

Melbourne Water

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.

Department of Transport note

Separate consent may be required from Department of Transport (Head, Transport for Victoria) under the Road Management Act 2004 for all buildings and works (including projections, canopies, fixed shading devices, balcony framing etc) undertaken outside the title boundary within a Road Zone Category 1.

Department of Transport requests that the written certification of building projections qualifying for an exemption be directed to Department of Environment, Land, Water and Planning at property.portphillip@delwp.vic.gov.au

END OF DOCUMENT