

# PORT PHILLIP PLANNING SCHEME

## INCORPORATED DOCUMENT

256-262 Normanby Road, 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 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 and use and development of the land identified in Clause 3 for a mixed-use development comprising dwellings, offices and retail premises and alteration of access to a road in 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 256 to 262 Normanby Road, South Melbourne being the land contained in Certificates of Title Volume 9666 Folio 725 and Volume 9669 Folio 524 and more particularly described in Plans of Consolidation 161765S and 161789C. The land is identified in Figure 1 below.

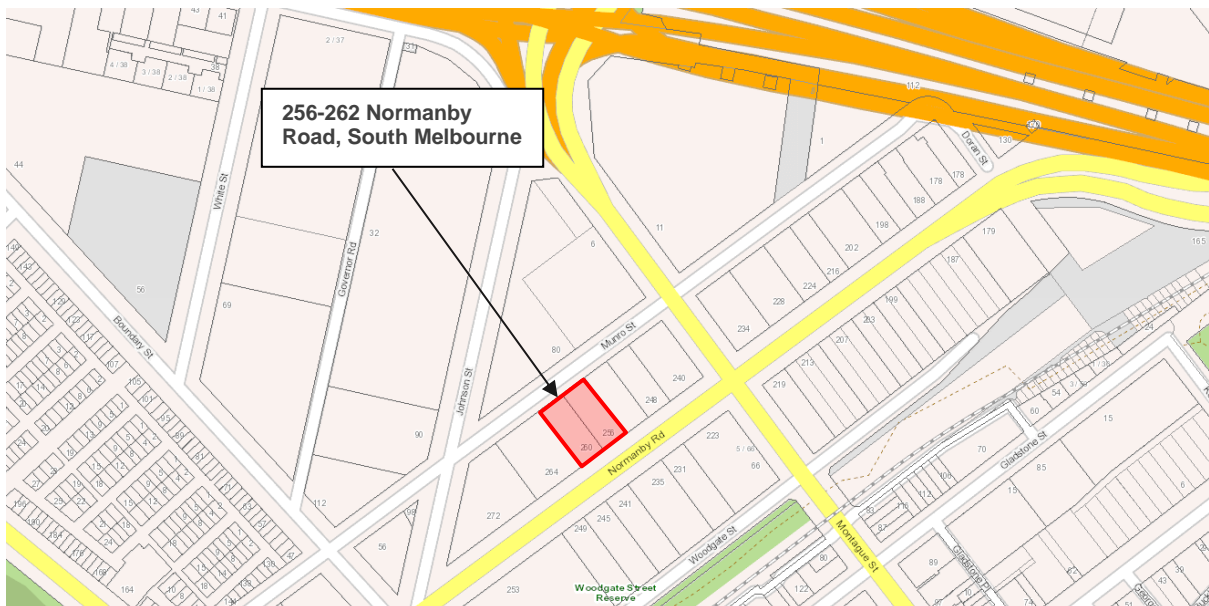


Figure 1 – Map of land subject to this Incorporated Document

## 4. CONTROL

### Exemption from the Planning Scheme requirements

- 4.1. The land identified in Figure 1 of this document may be used and developed in accordance with the specific control contained in Clause 4 of this document.
- 4.2. The control in this Clause 4 prevails over any contrary or inconsistent provision in the Planning Scheme.
- 4.3. Subject to Clause 4.4, 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.
- 4.4. A permit is required to subdivide the land except where the subdivision creates a road and no additional lot is created.
- 4.5. An application for subdivision is exempt from the requirements in Clause 45.11 (Infrastructure Contributions Overlay) of the Planning Scheme but not from the requirements in Clause 53.01 (Public Open Space Contributions) if applicable.
- 4.6. Notwithstanding Clauses 4.4 and 4.5, 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 approved documents

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

### Amended plans

- 4.8. Before the development starts, excluding demolition, excavation, piling and site preparation works, amended plans must be submitted to and approved by the Responsible Authority. 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 architectural plans entitled Drawing S02\_A03.01- A03.05, S02\_A10.01-A10.04, S02\_A11.01, S02\_A20, 21 and 30, all dated 14 April 2020, prepared by Hayball Pty Ltd but modified to show:
  - a) The new laneway reduced in width from 4.5m to 4.45m with the ground floor and podium levels along the new laneway to increase by 50mm;
  - b) The tower form, comprising levels 5 to 20, modified to a slender elliptical form generally in accordance with the drawings prepared by Hayball entitled "S02 – New Built Form" and "Normanby Road – Elevation" date printed 12/06/2020 with the following minimum tower setbacks:
    - i. 5000mm setback from Normanby Road street wall;
    - ii. 4000mm setback from the new laneway street wall;
    - iii. 6300mm from the boundary with 264-270 Normanby Road; and
    - iv. 5000mm setback from the Munro Street wall;
  - c) Updated elevations and sections showing the new tower form including the lift overruns, rooftop services and parapet projections above the roof height (69.600 AHD);
  - d) Revised apartment layouts within the new built form which achieve the objectives of Clause 58 of the Port Phillip Planning Scheme as applicable to the satisfaction of the Responsible Authority;
  - e) A revised development summary;
  - f) The Munro Street podium façade consistent with the true height of each floor of the podium;

- g) Details of temporary urban public art applied to the western podium concrete wall;
- h) Better street level presentation of the building with the public realm and legibility of entry points through:
  - i. Reconfiguration of the entries/interface of retail tenancies to Normanby Road, by
    - consolidating stairs and disabled ramp (or lift) for each tenancy,
    - provision of broader entrances that are splayed and recessed, to also provide shelter,
    - extending retail floorspace to the façade such as by providing openable windows and/or balconies overlooking the street.
    - provision of a second entry to the eastern-most retail tenancy fronting Normanby Road from the laneway.
  - ii. Provision of more fine-grained and pedestrian scale entries to retail tenancies on all street/laneway frontages. The legibility of entry points should be designed to communicate the use.
  - iii. The use of different materiality and a variation in the facade and awning to convey a sense of address for the residential entry foyer abutting the laneway.
  - iv. Relocation of the commercial lobby further south along the new laneway (with opportunities for indoor and outdoor seating to benefit from the northeast aspect).
  - v. The laneway interface and access enhanced with seating and external ramps delivering more active edge to the laneway and equitable access from both the residential foyer area and direct link to the laneway.
  - vi. Reduction of the height of the ground level canopies from 3.8 metres to 3.0 metres, except where it extends over a driveway.
- i) A direct path of travel within the laneway, landscape beds and seating;
- j) Provision of a footpath along the Munro Street frontage;
- k) Ground floor tenancies provided with safe rear entries to allow for 'back of house' and service/water/delivery access;
- l) The column adjacent to the loading bay (closest to the aisle) relocated to ensure safe entry/egress of the loading area;
- m) Detailed cross-sections of the laneway;
- n) Dimensions of the at-grade front portion of the retail premises. This area should have a width of at least four metres before transitioning to a floor level of 2.4m AHD unless otherwise agreed by the Responsible Authority;
- o) A cross section through the north eastern and south eastern retail tenancies and the new laneway, and resolution of floor levels between the retail tenancies and new laneway to achieve floor level alignment and street activation to the greatest extent possible;
- p) Location of fire booster cupboards and any other services along street frontages as required. This service must be integrated as part of the architectural design of the building;
- q) Dimensions of commercial floor areas that sleeve the car parks;
- r) Location of all affordable housing units within the development and allocated bicycle spaces;
- s) The communal outdoor open space provided in accordance with Standards D7 and D8 of Clause 58.03-3 (Apartment Developments);
- t) All three-bedroom dwellings within the development to comply with Standard D25 of Clause 58.07-2 (Room depth);
- u) The communal outdoor open space provided with larger lawn and casual seating areas, and the indoor communal spaces allowed more flexibility to be fitted out and equipped as required to meet the diverse needs of future residents;

- v) The plant equipment on the podium level relocated to a more discreet area such as the mid-block, side setback area away from the laneway and Normanby Road and setback at least 3.0 metres behind the building façade and screened to reduce views from the public realm if required;
- w) Safe pedestrian accessibility from residential car parking areas to residential lift doors;
- x) Confirmation that the walls separating the commercial tenancy on the same level from the car park could largely be removed to enable a future commercial reuse;
- y) Any changes required to meet:
  - i. the requirements of the Façade Strategy in the corresponding condition(s) below.
  - ii. the requirements for Landscaping and the Public Realm in the corresponding condition(s) below.
  - iii. the requirements for Traffic, Parking and Loading and Unloading in the corresponding condition(s) below.
  - iv. the requirements for new Roads and Laneways in the corresponding condition(s) below.
  - v. the requirements of the Waste Management Plan in the corresponding condition(s) below.
  - vi. the Noise Attenuation and Mitigation requirements in the corresponding condition(s) below.
  - vii. the requirements of the Wind assessment in the corresponding condition(s) below.
  - viii. the requirements of Melbourne Water in the corresponding condition(s) below.
  - ix. the Environmentally Sustainable Design, Green Star and Third Pipe requirements in the corresponding condition(s) below, including details of the maximised proposed roof top solar PV.
- z) Plan notations requiring the project to meet the requirements for external reflectivity in the corresponding condition(s) below.

**Layout and use of the development not to be altered**

- 4.9. 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.

**Aboriginal Cultural Heritage**

- 4.10. 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 satisfaction of 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.

- 4.11. 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**

4.12. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a Façade Strategy must be submitted to and approved by the Responsible Authority in consultation with the City of Port Phillip. Unless specified otherwise by the Responsible Authority, the Façade Strategy must 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 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) Details of design treatment along the eastern elevation of the retail floor space where it interfaces with the new laneway to ensure that visual interest is achieved and views to any possible storage or 'back of house' areas is minimised;
- e) Cross sections or other method of demonstrating all typical facade systems, including fixing details indicating junctions between materials and significant changes in form and/or material;
- f) Information about how the façade will be accessed, maintained and cleaned;
- g) 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**

4.13. Except with the consent of the Responsible Authority, all external façade 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 glass surface.

## **Landscaping, Lane and Public Realm**

4.14. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed landscaping and public realm plan(s) 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 Tract Consultants dated 20 February 2020 and accompanying report, but modified to include:

- a) *Platanus orientalis* and *Betula pendula* replaced with other plants species with less allergen concerns;
- b) Details of drainage and soil volumes on the podium level to ensure resilient and long-lasting plantings;
- 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) Details of how the landscaping responds to water sensitive urban design principles, including how rainwater will be captured, cleaned and stored;
- e) Details of all hard-landscaping materials, finishes and treatments and urban design elements including paving, lighting, seating and balustrading;
- f) Details of surface materials and finishes and construction of retaining walls, pathways, kerbs and access ways;

- g) Elevations, sections, levels and details including materials and finishes of public realm works including reconstruction of public assets.

4.15. Before the building is occupied, all landscaping, lane and public realm works shown in the approved landscape and public realm plans must be carried out and completed to the satisfaction of the City of Port Phillip and thereafter maintained to the satisfaction of the City of Port Phillip.

#### **No Damage to Existing Street Trees**

4.16. The proposed development and works must not cause any damage to the existing street tree(s). All trees will require a tree protection zone which complies with AS 4970-2009 at all times throughout the demolition and construction phase of the development. A tree protection fence must be installed around any tree that is likely to be impacted by construction. The fence must be constructed in a diamond or square position around each tree trunk from 4 panels of a minimum height 1.8m x minimum length 2.1m, interlocking by bolted clamps and concrete pads. No entry to this area is permitted without the consent of the City of Port Phillip.

#### **Pruning of Root Systems of Existing Street Trees**

4.17. Any pruning of the root system of any existing tree to be retained is to be done by hand by a qualified Arborist to the satisfaction of the City of Port Phillip.

#### **Pruning of Canopies of Existing Street Trees**

4.18. Any pruning that is required to be done to the canopy of any trees retained on-site or where the canopy of neighbouring property tree/s overhang the site, is to be done by a qualified Arborist to AS 4373 - 2007 *Pruning of Amenity Trees* to the satisfaction of the Responsible Authority.

#### **Public Lighting Plan**

4.19. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed lighting plan 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.

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

#### **Demolition Management Plan**

4.21. 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.

4.22. 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**

4.23. Before 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 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 TTM Consulting (Vic) Pty Ltd, dated 12 June 2015 (amended 25 February 2020) but modified to show:

- a) Expected movements between residents and retail/commercial premises;
- b) Impact with reference the future streetscape and cumulative traffic;
- c) The location of the six (6) car share spaces, details of who will occupy these spaces and how they will be managed;
- d) At least 50% of all car parking spaces shown with EV charging points (provided in all car park levels);
- e) Full pedestrian sight triangles for vehicles exiting to Munro Street in accordance with Clause 52.06;
- f) Swept path assessment show two (B85 and B99) vehicles can enter/exit the site at the same time;
- g) Confirmation if a swipe card access arrangement (e.g. boom gate) is proposed. Any boom gate proposed must be installed/setback in such a way that any queuing is contained wholly within the site. A Car Parking Management Plan including details of which movements near the entrance have priority must be provided;
- h) Bicycles facilities table updated to reflect current scheme and numbers;
- i) Basement and upper level bike facilities located conveniently so that they are accessible from building entrance;
- j) At least 20% of bike racks should be horizontal (i.e. not wall mounted) as per AS 2890.3;
- k) Residents/visitors and retail/commercials bike racks clearly distinguished.

4.24. 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.

4.25. 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.

4.26. Traffic access and parking and loading/unloading arrangements must not be altered without the prior written consent of the City of Port Phillip.

4.27. Loading/unloading and waste collection must be undertaken during non-peak hours due to the location of the loading bay location adjacent to vehicle entry.



- 4.28. Before 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.
- 4.29. The carpark and mechanical stackers designed in accordance with clause 52.06 of the Port Phillip Planning Scheme unless otherwise agreed by the Responsible Authority.
- 4.30. Bicycle facilities designed in accordance with Clause 52.34 of the Port Phillip Planning Scheme.

#### **New Roads and Laneways**

- 4.31. Before the development starts excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land Engineering Drawings and Computations (as applicable) must be submitted to and approved by the City of Port Phillip the following matters:
- a) All road / lane works and associated drainage to the satisfaction of the City of Port Phillip;
  - b) A cross section of the new Lane must be submitted showing above and below ground placement of services, lighting and landscaping (as applicable);
  - c) Independent drainage, the direction of stormwater runoff and a point of discharge for the land to the satisfaction of the City of Port Phillip;
  - d) All works for stormwater, Water Sensitive Urban Design, drainage, and landscaping.
  - e) All bearings, distances, levels, and easements;
  - f) A plan certified by an engineer showing the extent and depth and compaction of fill in excess of 300mm placed on the land;
  - g) Payment to the City of Port Phillip of an engineering design checking fee equivalent to 0.75% of the values of documented works.

#### **Legal Agreement for Laneway Construction and Public Access**

- 4.32. 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 City of Port Phillip 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) Give rights of access to the internal laneway within the site to the public at all times and ensure that access is maintained in a safe and sightly condition;
  - b) Construct the internal lane to the satisfaction of the City of Port Phillip before the occupation of the building;
  - c) Require the owner, at its cost, to maintain the internal lane to the same standard as is required by the City of Port Phillip for the adjoining roads;
  - d) Provide that all requirements of the City of Port Phillip being met regarding the design and physical treatment of the internal lane including landscaping, street furniture, lighting and servicing infrastructure;
  - e) Require that a bank guarantee to the value of 50% of the construction cost of the internal laneway be deposited with the City of Port Phillip prior to the commencement of the works. The bank guarantee will be returned upon final completion of the internal laneway to the satisfaction of the City of Port Phillip;

- f) Provide for the parties to enter into a further agreement regarding the use and development of the internal laneway in the event that the land at 248-254 Normanby Road is developed. The further agreement must;
  - i. Continue the rights of public access referred to at (a) above;
  - ii. Provide for the construction of the internal lane referred to at (b) above, if not already completed;
  - iii. Provide for the continued maintenance of the internal lane referred to (c) above; and
  - iv. Provide for the termination of any previous s 173 agreement regarding the laneway.

### **Waste Management Plan**

- 4.33. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land an amended Waste Management Plan 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 20 March 2020 prepared by Leigh Design but modified to:
- a) Show use of compaction units;
  - b) Show space for E-waste;
  - c) Separate bin rooms for commercial and residential bins;
  - d) A more convenient passage from bin rooms to loading bay, such as the passage width increased and dimensioned, doors relocated and aligned and replaced with roller doors;
  - e) Loading/unloading and waste collection will be undertaken during non-peak hours due to the location of the loading bay location adjacent to vehicle entry.
- 4.34. 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**

- 4.35. Before the development starts, excluding demolition and site preparation works, an Acoustic Report 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 a maximum noise level not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am and 40dB(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;
  - c) Noise levels of the plant equipment effects on the public realm and how any excessive noise will be mitigated so the proposal delivers a high-quality public realm.
- 4.36. 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 to the satisfaction of the City of Port Phillip.

### **Disability Access**

- 4.37. Before development is occupied, a Disability Discrimination Act Assessment / Audit, 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

- 4.38. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an amended comprehensive wind tunnel test and environmental climate assessment report must be submitted to and approved by the Minister for Planning in consultation with the City of Port Phillip. The amended report must be generally in accordance with the report prepared by Vipac Engineers and Scientists dated 7 May 2019 (amended 13 March 2020) but modified to address all changes required under Clause 4 and must:
- a) Reflect all changes to the building including building height, setbacks, facades, canopies and any other features that may impact wind conditions;
  - b) Include wind tests taken at various points within the surrounding road network, publicly accessible areas within an assessment distance determined in accordance with Clause 2.11 of Schedule 30 to Clause 43.02 Design and Development Overlay of the Port Phillip Planning Scheme. The tests are to be undertaken in accordance with industry best practice, 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;
  - c) 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;
  - d) 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;
  - e) Meet the DDO30 requirements for wind effects on the public realm;
  - f) Correspond to the comfort criteria in DDO30;
  - g) Assess and satisfy appropriate comfort criteria to all components of common areas and open balconies.
- 4.39. 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.
- 4.40. 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

- 4.41. 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 its successor;
- f) Confirm that the contributions will be used by Victorian Planning Authority or its 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 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.

### **Overshadowing**

- 4.42. The building must not result in any overshadowing of parks protected by mandatory overshadowing controls as shown on Map 4 of Clause 43.02 Schedule 30 (Design Development Overlay) of the Port Phillip Planning Scheme.

### **Drainage/Engineering**

- 4.43. Before 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, must be submitted to and approved by the City of Port Phillip.
- 4.44. 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.

### **Melbourne Water (Flooding, Drainage and Sea Level Rise)**

- 4.45. With the exception of retail areas and commercial lobbies the Finished Floor Levels (FFLs) of all ground floor areas (including all lift and stair lobbies but excluding lift platforms) must be set no lower than 3.0 metres (m) to Australian Height Datum (AHD).
- 4.46. The FFLs of retail areas and commercial lobbies must be set no lower than 2.4 m to AHD, with the exception of transitional areas up to four metres wide (including sacrificial retail areas) containing lift platforms, landings, steps or ramps to the satisfaction of Melbourne Water. This does not include lift and stair lobbies which must be constructed with minimum FFLs of 3.0 m to AHD, in accordance with condition 4.45 above.
- 4.47. Areas with finished floor levels below 2.4 m to AHD must be constructed with flood resilient design elements and materials, including waterproof doors and windows, elevated power outlets, and flood resistant floor and wall materials etc.
- 4.48. All areas with electrical installations (e.g. electrical substations, switch rooms etc) must be set no lower 3.0 m to the AHD.
- 4.49. All basement entry and exits points, including lift entries, stairwells, windows, openings and vents, that could allow entry of floodwaters to the basement levels, must be set no lower than 3.0 m to AHD. The basement ramps must incorporate a flood proof apex set no lower than 3.0 m to AHD, to prevent floodwaters entering the basement levels during a flood event.

- 4.50. All electronic hydraulic services associated with the lift platform must be set no lower than 3.0m to AHD, unless enclosed within a waterproof housing to the satisfaction of Melbourne Water.
- 4.51. Prior to the commencement of buildings and works, a Flood Risk Management Plan prepared by an accredited risk management professional must be submitted to the satisfaction of Melbourne Water and endorsed by the Responsible Authority covering any areas within the building with finished floor levels below 2.4 metres to AHD (including any at grade transition areas). Any requirements of the Flood Risk Management Plan endorsed under this Incorporated Document must be implemented to the satisfaction of the Responsible Authority and Melbourne Water at all times. The Flood Risk Management Plan must address any matter relevant to managing flood risk at the site, to the satisfaction of Melbourne Water, including:
- a) identify the flood risk/s;
  - b) clearance from electrical and other services;
  - c) implement flood resilient construction materials within flood affected areas of the building;
  - d) provide for on-going building maintenance;
  - e) identify a clear protocol to activate the flood response plan;
  - f) provide for the installation of flood depth indicators;
  - g) provide for the installation of flood advisory signs;
  - h) describe evacuation procedures and assembly points; and
  - i) include a recovery procedure after the flood has receded.
- 4.52. Where finished floor levels are below 2.4 metres to AHD, before the occupation of the development, the owner must enter into an agreement with the Responsible Authority and Melbourne Water pursuant to Section 173 of the *Planning and Environment Act 1987*. The Agreement must be registered on title and must provide for the following to the satisfaction of the Responsible Authority and Melbourne Water:
- a) Prospective and future owners of the property to be informed that the Land and building is subject to inundation from flood waters;
  - b) Melbourne Water to be indemnified against any loss or damages associated with flooding; and
  - c) The implementation of the approved Flood Risk Management Plan.
- All costs associated with the creation, review, execution and registration of the agreement must be borne by the proponent and/or landowner/s.

### **Environmental Audit**

- 4.53. 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 (with the exception of any works required by an accredited auditor), 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.
- 4.54. Where a Statement of Environmental Audit is provided, all the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the responsible authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.

4.55. If there are conditions on a Statement of Environmental Audit that the Responsible Authority considers require significant ongoing maintenance and/or monitoring, the owner must enter into a Section 173 Agreement under the Planning and Environment Act 1987. The Agreement must be executed on title prior to the commencement of the use and prior to the issue of a Statement of Compliance under the Subdivision Act 1988. The owner must meet all costs associated with drafting and execution of the Agreement, including those incurred by the Responsible Authority.

## **Environmentally Sustainable Design**

### **Sustainable Management Plan & Water Sensitive Urban Design**

4.56. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land and prior to endorsement of plans under Clause 4.57 of this approval, an amended Sustainable Management Plan and Water Sensitive Urban Design Response (WSUDR) 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 Sustainable Management Plan & Water Sensitive Urban Design Response prepared by Simpson Kotzman, dated 31 March 2020, but modified to show:

- a) The revised building tower form, internal layout and other relevant changes required by Clause 4.8;
- b) Shading or other appropriate devices to the north façade sized appropriately to reduce unwanted heat gains;
- c) Methods of reducing heat transfer between outside and habitable spaces such as provision of thermally broken window frames;
- d) Any changes required to reflect the design approved under Clause 4.8 if any aspects of the SMP, NatHERS and Green Star Design and As-Built rating and individual Green Star credits may be affected;
- e) An updated Green Star spreadsheet to reflect the current version of Green Star Design and As Built and that reflects the actual proposed design and specification;
- f) A current Confirmation of Registration Certificate for a Green Star Design and As-Built Rating of the proposed project by the Green Building Council of Australia;
- g) A current Green Star Design Review Rating Certificate showing that the project has achieved a 5 Star Design Review Rating and is therefore on track to achieving the 5 Star Green Star Design and As Built Rating. This should include the respective Green Star scorecard with the independent assessor's comments and points achieved for each credit and category. This scorecard needs to match Simpson Kotzman's submitted Green Star spreadsheet above;
- h) Third pipe connection and rainwater tank capacity consistent with the 'Third pipe and rain tank water' conditions below.
  - i) The rainwater tank connected to all toilets throughout the development;
  - j) Green roof components on the podium roof clearly specified;
  - k) Renewable energy generation maximised on the roof top.

4.57. 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.

4.58. Prior to the occupation of the building, a report (or reports) from the author of the Sustainable 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 all measures specified in the approved SMP and WSUD report have been implemented.

### **Green Star rating**

- 4.59. Prior to the commencement of buildings and works, 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 Design and As-Built rating (or equivalent) with the Green Building Council of Australia.
- 4.60. Within 12 months of occupation of the building, certification must be submitted to the satisfaction of the City of Port Phillip, that demonstrates that the building has achieved a minimum 5 Star Green Star Design and As-Built rating (or equivalent).

### **Third pipe and rain tank water**

- 4.61. A third pipe must be installed for recycled and rain water to supply non-potable outlets within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.
- 4.62. An agreed building connection point must be provided from the third pipe, designed in conjunction with the relevant water supply authority, to ensure readiness to connect to a future precinct-scale recycled water supply.
- 4.63. 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.
- 4.64. Rainwater captured from roof harvesting areas must be re-used for toilet flushing, washing machine and irrigation, or controlled release.

### **3D Model**

- 4.65. Before 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. 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.

### **Building Appurtenances**

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

### **City of Port Phillip Engineering Requirements**

- 4.67. Before the issue of a Statement of Compliance for the subdivision of the land or occupation of any building approved under this control, the following must be undertaken or caused to be provided to the satisfaction of the City of Port Phillip:
- a) The land must be independently drained and provided with a legal point of discharge;
  - b) Full construction of all new roads, lanes and footpaths, and drainage at no cost to the City of Port Phillip unless otherwise agreed;
  - c) Fire plugs and water supply in accordance with the requirements of the Metropolitan Fire and Emergency Services (MFB) 'Planning Guidelines for Emergency Vehicle Access and Minimum Water Supplies within the Metropolitan Fire District (Guideline No: GL-27)' to the satisfaction of the City of Port Phillip Fire Safety Officer and the Chief Officer of the Metropolitan Fire Brigade;
  - d) Construction of any new vehicle crossing;

- e) Underground reticulated water (including dual reticulation and a connection point to connect to a potential future precinct scale alternative water supply via a third pipe network), sewerage, gas, electricity and telecommunications located and bundled (utilising common trenching) to the satisfaction of the City of Port Phillip and the relevant servicing authority(s);
- f) Issue of a Final Completion Certificate by the City of Port Phillip Asset Management Section, for the acceptance of street construction, site grading etc;(as applicable);
- g) Filling, shaping and grading of the land to drain satisfactorily to an approved place of discharge;
- h) Street nameplates or payment in this respect;
- i) Steel or concrete poles for public street lighting;
- j) Street lighting in accordance with the relevant Australian Standard;
- k) Payment of a bond, to be held by the City of Port Phillip, to ensure that all works are satisfactorily completed (including defect rectification), and landscaping works are maintained to the satisfaction of the City of Port Phillip for a period of 12 months, after which the City of Port Phillip would assume responsibility for maintenance of landscaping works within the public roads;
- l) A full set of 'as constructed' digitised construction plans for works, roads and drainage;
- m) A certified plan showing the extent and depth of fill in excess of 300mm placed on the land.

### **Advertising Signs**

4.68. No advertising signs either external or internal to the building/s shall be erected, painted or displayed without the prior written approval of the City of Port Phillip.

### **Department of Transport**

4.69. 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) A description of the existing active private and public transport context;
- b) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
- c) Details of GTP funding and management responsibilities including details of a designated 'manager' or 'champion' responsible for coordination and implementation;
- d) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
- e) The types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
- f) Security arrangements to access the employee bicycle storage spaces;
- g) Reference to electrical vehicle charging points within the car park and provision of electrical infrastructure for future expanded provision;
- h) A monitoring and review plan requiring review and update of the GTP at least every five years;
- i) Initiatives that would encourage [residents/employees/visitors/customers/students] 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 including but not limited to:
  - Resident/employee/student welcome packs (e.g.: including provision of Myki/public transport travel card)
  - Promotion of various public transport smartphone applications, such as the Public Transport Victoria app and/or train or tram tracker;



- Installation of tram, train and bus timetables in prominent locations in lifts and public areas (on noticeboards, etc);
  - Installation of signs in prominent locations advising of the location of existing and proposed car-share schemes, bicycle parking facilities for residents and visitor, tram stops, taxi ranks, railway stations, bus stops and bicycle paths;
  - Installation of signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
  - Details of bicycle parking and bicycle routes.
- 4.70. Once approved, the Green Travel Plan must be implemented and complied with to the satisfaction of the Department of Transport and must not be amended without the prior written consent of the Department of Transport.
- 4.71. All disused or redundant vehicle crossings along Normanby Road (east side of Montague Street) must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to the road authority, prior to the occupation of the building hereby approved.
- 4.72. 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 Normanby Road boundary.
- 4.73. Adequate sight distances to be provided to vehicular access on Normanby Road including but not limited to tree pruning and/or removal of any roadside visual obstructions etc to the satisfaction of and at no cost to the Responsible Authority.

### **Affordable Housing**

- 4.74. 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*).
- 4.75. The agreement must be registered on title to the land and the owner must be responsible for the expense of preparation and registration of the agreement including the Responsible Authority and Port Phillip City Council's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and ending of the agreement (where applicable).
- 4.76. The agreement must be in a form to the satisfaction of the Responsible Authority and the City of Port Phillip and must include covenants that run with title to the land to:
- a) Provide for the delivery of at least 6% of the total number of dwellings, for affordable housing as defined by section 3AA of the *Planning and Environment Act 1987*, before the development is occupied. This may be provided by utilising one or more of the following mechanisms for the delivery of affordable housing:
    - i. Transferring dwellings within the development to a registered housing agency or other housing provider or trust entity approved by the Responsible Authority at a minimum 35% discount to market value; or
    - ii. Leasing dwellings within the development as affordable housing under the management of a registered housing agency or housing provider or trust approved by the Responsible Authority at a minimum 35% discount from market rent for a period of not less than 30 years for the building approved under this control. The overall value of the leased dwellings must be equivalent or higher to 4.76(a)(i); or
    - iii. any other mechanism providing a contribution of equivalent or higher value to Clause 4.76(a)(i) to the satisfaction of the Responsible Authority.
  - b) The Affordable housing delivered under Clause 4.76(a) must:
    - i. be delivered within the development approved by this control;
    - ii. take the form of one or two or three bedroom dwellings representative of the approved dwelling mix;

- iii. be functionally and physically indistinguishable from conventional dwellings within the development;
  - iv. include access to all common facilities within the building at no extra fee for occupants of affordable housing dwellings; and
  - v. allocate one or more bicycle parking space per dwelling for the life of the Affordable housing, unless otherwise agreed in writing by the Responsible Authority.
- c) Provide that if the affordable housing is delivered under Clause 4.76(a)(ii), the agreement must contain a mechanism for review of the minimum discount from market rent by reference to updated income and rental figures upon request by the Responsible Authority to ensure the housing continues to meet the definition of Affordable housing in the *Planning and Environment Act 1987* and by reference to relevant Regulations, Ministerial Notices, Orders in Council and the like.

4.77. The agreement may provide that:

- a) In lieu of delivering all or part of the affordable housing in accordance with Clause 4.76(a), the Responsible Authority may agree to payment of an equivalent amount of money to a registered housing agency or other housing provider or trust to be expended for affordable housing in the Fishermans Bend Urban Renewal Area provided the Responsible Authority and the City of Port Phillip are 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.

4.78. For the purpose of these provisions, 'value' means the monetary value of a dwelling offered for sale at the date of the transfer (if applicable) or otherwise at the date of the agreement as determined by an independent valuer (appointed by the President of the Australia Property Institute – Victorian Division).

## **Expiry**

4.79. 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 that land has not commenced three (3) years after the approval date of Amendment C166port; or
- b) use of that land has not commenced five (5) years after the approval date of Amendment C166port; or
- c) development of that land is not completed five (5) years after the approval date of Amendment C166port.

*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**