

PORT PHILLIP PLANNING SCHEME

118 Bertie Street, Port Melbourne
INCORPORATED DOCUMENT

July 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 an existing building, use and development of the land identified in Clause 3 for a mixed-use development comprising dwellings, offices and retail premises in accordance with Clause 4 of this document.

3. LAND DESCRIPTION

- 3.1. The control in Clause 4 applies to the land at 118 Bertie Street, Port Melbourne being the land contained in Certificate of Title Volume 10267 Folio 567 and more particularly described as Lot 1 on Plan of Subdivision 342848C. The land is identified in Figure 1 below.

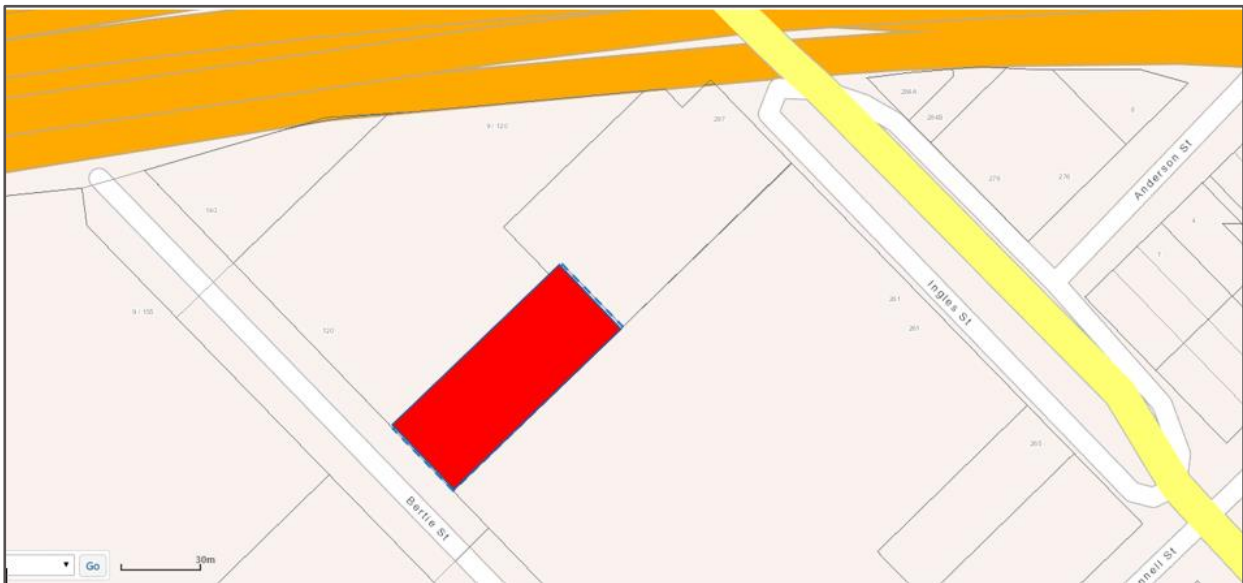


Figure 1: Map of Land subject to this Incorporated Document

4. CONTROL

Exemption from the Planning Scheme requirements

- 4.1. 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 this Clause 4.
- 4.2. A permit is required to subdivide the land, with the exception of a subdivision which creates a road and no additional lots are created.
- 4.3. 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 Contribution and Subdivision) if applicable.

Approved use and development

- 4.4. The dwellings approved by this control may only be used for a Build to Rent scheme (where the land is held in single ownership and occupation is comprised of rental tenancies with shared facilities provided through a centralised management arrangement), unless otherwise approved in writing by the Responsible Authority.
- 4.5. The use and development of the land must be undertaken generally in accordance with all documents approved under Clause 4.

Amended plans

- 4.6. 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 No. 1518 - A 0000 Rev D to 1518 - A 9001 Rev D (64 sheets), all dated 20 May 2019, prepared by Mako Architecture but modified to show:
 - a) A zero lot line to the ground level retail tenancy to the Bertie Street and new roadway frontage.
 - b) Reduced setback of the ground floor residential entrances, entrance to the bicycle store and entry into the lobby of the tower from the new roadway to provide improved safety to pedestrians.
 - c) Improved legibility through design for the building entry to the tower to provide a line of sight from the concierge area from the new roadway.
 - d) A recess in the south elevation (from ground level to level 6) to provide a readily identifiable entrance into the lobby of the building (in a similar architectural expression, dimension and setback adopted in the building entry from Bertie Street).
 - e) Provision of an airlock between the car park and the apartments in the podium at levels 2, 3 and 4.
 - f) Refinement of the design of the truck bay entry, roller door position and associated services to reduce visual impacts on the public realm and enhance pedestrian safety.
 - g) The layout of apartments to comply with the Standards of Clause 58 of the Port Phillip Planning Scheme.
 - h) A plan and cross section of the new road showing above and below ground placement of services, streetlights and trees (as applicable).

- i) Consistent paving treatment for the crossover/driveway to the south-east corner of the land and the pedestrian path that runs the length of the south-east side boundary.
- j) The vehicle crossing off the new road to incorporate an intermediate pedestrian refuge or be reduced in width to 6.1m or less.
- k) Plan notations for all vehicle crossing works to be in accordance with the City of Port Phillip Vehicle Crossing Guidelines and Standard Drawings.
- l) Plan notations for the project to achieve a minimum 5 Star Green Star Design and As-Built rating (with a 10% buffer, achieving 66 points) with the Green Building Council of Australia.
- m) Plan notations for the project to include the Sustainable Design Measures and Water Sensitive Urban Design measures of the approved Sustainable Management Plan and Water Sensitive Urban Design Response.
- n) Visitor bicycle parking for the retail / commercial spaces; spaces should be in a location that is visible on approach to the building and in a space with public surveillance.
- o) Swept path plans confirming a B85 and B99 vehicle can enter/exit all ramps at the same time.
- p) A swept path plan confirming truck access to and from the loading bay.
- q) The disabled car park design to meet AS 2890.6.
- r) An additional 300mm clearance around the two car share bays.
- s) Headroom clearance in the car park and along all ramps.
- t) Any changes necessary to meet the requirements of the Melbourne Water conditions below and any consequential design changes required to ensure a seamless transition from the public realm to the private realm.
- u) 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.
- v) Plan notations requiring the project to meet:
 - the requirements of the Façade Strategy in the corresponding condition(s) below.
 - the requirements for external reflectivity in the corresponding condition(s) below.
 - the requirements for Landscaping and the Public Realm in the corresponding condition(s) below.
 - the requirements for Traffic, Parking and Loading and Unloading in the corresponding condition(s) below.
 - the requirements for new Roads and Laneways in the corresponding condition(s) below.
 - the requirements of the Waste Management Plan in the corresponding condition(s) below.
 - the Noise Attenuation and Mitigation requirements in the corresponding condition(s) below.
 - the requirements of the Amenity Impact Report in the corresponding condition(s) below.
 - the requirements of the Wind assessment in the corresponding condition(s) below.
 - the requirements of Melbourne Water in the corresponding condition(s) below.

- the Environmentally Sustainable Design, Green Star and Third Pipe requirements in the corresponding condition(s) below, including details of the proposed roof top solar PV.

Layout and use of the development not to be altered

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

Aboriginal Cultural Heritage

- 4.8. Before the development starts, including demolition, bulk excavation and site preparation works and works to remediate contaminated land, one of the following must be provided to the Responsible Authority:
- 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.

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

- 4.9. Before the plans required by Clause 4.6 are approved, 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 be generally in accordance with the Design response dated 17 April 2019 prepared by Mako Architecture 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 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 method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or material.
 - e) Information about how the façade will be accessed, maintained and cleaned.
 - f) Example prototypes and/or precedents that demonstrate the intended design outcome as indicated on plans and perspective images, to produce a high-quality built form outcome in accordance with the design concept.

Reflectivity

- 4.10. 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

- 4.11. Before the plans required by Clause 4.6 are approved, 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 NBRIS & Partners Pty Ltd dated 16/05/2019 (Revision B) and accompanying report, and include:
- a) Detailed landscaping for the ground floor, podium and roof communal areas.
 - b) 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.
 - c) How the landscaping responds to water sensitive urban design principles, including how rainwater will be captured, cleaned and stored.
 - d) Details of all hard-landscaping materials, finishes and treatments and urban design elements including paving, lighting, seating and balustrading.
 - e) Details of surface materials and finishes and construction of retaining walls, pathways, kerbs and access ways.
 - f) Elevations, sections, levels and details including materials and finishes of public realm works including reconstruction of public assets.
- 4.12. All landscaping shown in the approved landscape and public realm plans must be carried out and completed prior to occupation of the building and thereafter maintained to the satisfaction of the City of Port Phillip.

Public Lighting Plan

- 4.13. 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.
- 4.14. The approved lighting plan must be implemented as part of the development to the satisfaction of the City of Port Phillip.

Demolition Management Plan

- 4.15. 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.

4.16. 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

- 4.17. Before the plans required by Clause 4.6 are approved, 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 Transport and Traffic Planning Associates, Rev 1 dated May 2019.
- 4.18. 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.
- 4.19. 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.
- 4.20. Traffic access and parking and loading/unloading arrangements must not be altered without the prior written consent of the City of Port Phillip.
- 4.21. 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.

New roads and laneways

- 4.22. 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 works and associated drainage to the satisfaction of the City of Port Phillip.
 - b) A cross section of the new road must be submitted showing above and below ground placement of services, streetlights and trees (as applicable).
 - c) The plans and cross section of the new road must demonstrate how services, driveways and street lights will be placed so as to achieve the street reserve width and accommodate street tree planting (as applicable).

- d) Independent drainage, the direction of stormwater runoff and a point of discharge for the land to the satisfaction of the City of Port Phillip.
- 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) All works for stormwater, Water Sensitive Urban Design, drainage, street trees, and landscaping.
- g) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements.
- h) A plan certified by an engineer showing the extent and depth and compaction of fill in excess of 300mm placed on the land.
- i) Payment to the City of Port Phillip of an engineering design checking fee equivalent to 0.75% of the values of documented works.

4.23. Before the development is occupied, any land identified or set aside as a new road on the approved plans must be transferred to, or vested in the relevant road authority as a public road at no cost to the relevant road authority.

Section 173 Agreement for Build to Rent Scheme

4.24. Before the development starts, excluding demolition, bulk excavation and site preparation works and works to remediate contaminated land the owner of the land must:

- a) Enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the Responsible Authority;
- b) Register the Agreement on the Title for the land in accordance with Section 181 of *the Planning and Environment Act 1987*; and
- c) Provide the Responsible Authority with the dealing number confirming the registration of the Title.

The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.

The agreement must provide the following:

- a) The dwellings approved may only be used for a Build to Rent scheme (where the land is held in single ownership and occupation is comprised of rental tenancies with shared facilities provided through a centralised management arrangement), unless otherwise approved in writing by the Responsible Authority.

Waste Management Plan

4.25. Before the plans required by Clause 4.6 are approved, 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 Rev G dated 16/05/2019 prepared by Elephants Foot Recycling Solutions but modified to:

- a) Require number of bin allocation and collection points for both Core 1 and Core 2 buildings (for total 165 residential units).
- b) Provide more details regarding on site waste compaction.
- c) Allocate space for hard waste.
- d) Provide more detail on fire prevention on both chute compactor rooms and other waste areas.

- 4.26. 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

- 4.27. 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.
- 4.28. 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.

Amenity Impact Report

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

Disability Access

- 4.31. 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

- 4.32. 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 28 May 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 road network, including, carried out on a model of the approved building inclusive of the modifications required to determine the wind impacts of the development and provide recommendations for any modifications which must be made to the design of the building to improve any adverse wind conditions within the public realm and podium rooftop and open space areas.

- b) Demonstrate (or provided 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 32 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 32 to Clause 43.02 Design and Development Overlay of the Port Phillip Planning Scheme.
- 4.33. 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.
- 4.34. 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

- 4.35. 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) Require that development contributions are to be indexed annually from 1 July 2020 using the Price Index of Output of the Construction Industries (Victoria) issued by the Australian Bureau of Statistics.
 - c) Require registration of the Agreement on the titles to the affected lands as applicable.
 - d) Include a schedule of the types of infrastructure to be delivered by the Victorian Planning Authority or their successor.
 - e) Confirm that contributions will be payable to the Victorian Planning Authority or their successor.
 - f) Confirm that the Victorian Authority Planning or its successor, will use the contributions 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) Make provision for its removal from the land following completion of the obligations contained in the agreement.
 - j) Require the owner of the Land to pay all reasonable legal cost and expense of this agreement including preparation, execution and registration on title.

Drainage/Engineering

- 4.36. 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.
- 4.37. 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)

- 4.38. The internal finished floor level of lift lobbies and the concierge area must be set no lower than 3.05 metres to Australian Height Datum (AHD) which is 600mm above the applicable 2100 year flood level of 2.45 metres to AHD.
- 4.39. The finished floor levels of the truck bay and adjoining service areas (with the exception of the electrical substation) must be set no lower than 2.4 metres to AHD.
- 4.40. All areas accommodating 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 the relevant service authority.
- 4.41. The finished floor level of the bicycle storage area must be set no lower than 2.4 metres to AHD.
- 4.42. The entry points into the two internal pedestrian paths (corridors shown in dark blue on the plans – Drawing No. 1518, Revision D dated 20/05/2019) must ramp up internally to achieve a finished floor level no lower than 2.45 metres to AHD before reaching the internal stairwells, with a seamless transition from internal areas to the public realm.
- 4.43. All retail and commercial spaces fronting Bertie Street must be constructed with finished floor levels no lower than 2.45 metres to AHD with all other retail and commercial spaces constructed with finished floor levels no lower than 2.4 metres to AHD.

Environmental Audit

- 4.44. 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.
- 4.45. 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.
- 4.46. If there are conditions on a Statement of Environmental Audit that the Responsible Authority considers require significant ongoing maintenance and/or monitoring, the applicant 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 landowner must meet all costs associated with drafting and execution of the Agreement, including those incurred by the Responsible Authority.

Environmentally Sustainable Design

Sustainability Management Plan & Water Sensitive Urban Design Response

- 4.47. Before plans required by Clause 4.6 are approved, an amended Sustainability 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 Sustainability Management Plan & Water Sensitive Urban Design Response prepared by Ark Resources Reference: File 1014A - Revision I, dated 24 May 2019, but modified to show:
- a) Details of external shading to habitable rooms in the north-east and north-west tower elevations (if proposed).
 - b) The number of bicycle spaces to be consistent with the architectural plans.
 - c) Rainwater tank capacity to meet the FBURA tank sizing requirement of 0.5m³ per 10m² of roof catchment.
 - d) The rainwater tank to connected to all toilets throughout the development.
 - e) Design actions to minimise impacts of air pollution such as locating ventilation intakes on the side of the building away from the Westgate Freeway.
- 4.48. 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.
- 4.49. Prior to the occupation of the building, 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 all measures specified in the approved SMP and WSUD report have been implemented.

Green Star rating

- 4.50. 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 (with a 10% buffer, achieving 66 points) with the Green Building Council of Australia.
- 4.51. 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 (with a 10% buffer, achieving 66 points).

Third pipe and rain tank water

- 4.52. A third pipe must be installed for recycled water to supply non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.
- 4.53. 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.
- 4.54. 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.
- 4.55. Rainwater captured from roof harvesting areas must be re-used for toilet flushing and irrigation, or controlled release.

3D Model

- 4.56. Before 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. 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

- 4.57. 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

- 4.58. 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 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) Vehicle crossings;
 - 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) Payment to the City of Port Phillip of a supervision fee equivalent to 2.5% of the actual cost of street construction works as specified in the relevant Street Construction Contract Schedule for the roadway to be transferred to the City of Port Phillip as a public road.
 - g) Issue of a Final Completion Certificate by the City of Port Phillip Asset Management Section, for the acceptance of street construction, site grading etc;
 - h) Infill planting of mature (2-3 metres height) street trees (of an approved species, number and location) along Bertie Street;
 - i) Filling, shaping and grading of the land to drain satisfactorily to an approved place of discharge;
 - j) Street nameplates or payment in this respect;
 - k) Steel or concrete poles for public street lighting;

- l) Street lighting in accordance with the relevant Australian Standard;
- m) 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;
- n) A full set of 'as constructed' digitised construction plans for works, roads and drainage;
- o) A certified plan showing the extent and depth of fill in excess of 300mm placed on the land.

Advertising Signs

- 4.59. 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 (Network Planning – Transport Group)

- 4.60. 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 GTP. The objectives must be linked to measurable targets, actions and performance indicators.
- b) A description of the existing active private and public transport context.
- c) 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; and
 - Installation of signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3.
- d) Timescale and costs for each action initiative.
- e) The funding and management responsibilities, including identifying a person(s) responsible for the implementation of actions initiatives.
- f) A monitoring and review plan requiring annual review for at least five years.

Affordable Housing

- 4.61. 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*).

- 4.62. 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).
- 4.63. 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 percent 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 the dwellings within the development as affordable housing under the management of a registered housing agency, housing provider or trust approved by the Responsible Authority at a minimum 35% discount from market rent for a period no less than 30 years the building approved under this control. The overall value of the leased dwellings must be equivalent or higher than 4.63(a) (i);
 - iii) any other mechanism providing a contribution of equivalent or higher value to Clause 4.63(a)(i) to the satisfaction of the Responsible Authority.
 - b) The affordable housing delivered under Clause 4.63(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, including communal open space, swimming pool and gymnasium at no extra fee for occupants of affordable housing dwellings;
 - v) allocate one or more bicycle parking space allocated per dwelling for the term of the agreement,unless otherwise agreed in writing by the Responsible Authority.
 - c) Provide that if the affordable housing is delivered under Clause 4.63(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.
- 4.64. The agreement may provide that:
- a) In lieu of delivering all or part of the affordable housing in accordance with Clause 4.63(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.

- 4.65. 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).

Tree Protection

- 4.66. Before the development starts, a tree protection fence must be erected around the northernmost existing street tree on Bertie Street to comply with AS 4970 - 2009 Tree protection on development sites to the satisfaction of the City of Port Phillip.

No Damage to Existing Street Tree

- 4.67. The proposed works must not cause any damage to the retained existing street tree. Root pruning of the tree must be carried out to the satisfaction of the City of Port Phillip prior to the construction of the crossover/works.

Removal and Replacement of Street Tree

- 4.68. Before the development starts, the amenity value and removal and replacement cost of the southernmost Bertie Street tree must be paid by the applicant/owner to the City of Port Phillip. Removal and replacement, including 24 month maintenance of the street tree, may only be undertaken by the City of Port Phillip.

Expiry

- 4.69. 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 four (4) years after the approval date of Amendment C172port; or
 - b) use of that land has not commenced five (5) years after the approval date of Amendment C172port; or
 - c) development of that land is not completed five (5) years after the approval date of Amendment C172port.

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