

# PORT PHILLIP PLANNING SCHEME

## INCORPORATED DOCUMENT

272-280 Normanby Road, South Melbourne

August 2022

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* (Vic) (Act).
- 1.2. The Minister for Planning is the responsible authority for administering Clause 45.12 of the Planning Scheme with respect to this Incorporated Document except that:
  - a) Port Phillip City Council is the responsible authority for matters expressly required by the Incorporated Document to be endorsed, approved or done to the satisfaction of the Port Phillip City Council;
  - 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; and
  - c) Port Phillip City Council is the responsible authority for the enforcement of the Incorporated Document.

## 2. PURPOSE

- 2.1. To facilitate the demolition of existing building for the use and development of the land in Clause 3 for a mixed use development including retail premises, office, restricted recreation facility, place of assembly and dwellings and creation or alteration of access to a Road Zone Category 1 in accordance with Clause 4 of this document.

## 3. LAND DESCRIPTION

- 3.1. The control in Clause 4 applies to the land at 272-280 Normanby Road, South Melbourne being the land contained in Certificate of Titles Volume 09666 Folio 398 and more particularly described as Land in Plan of Consolidation 161638A (Land). The Land is identified in Figure 1 below.

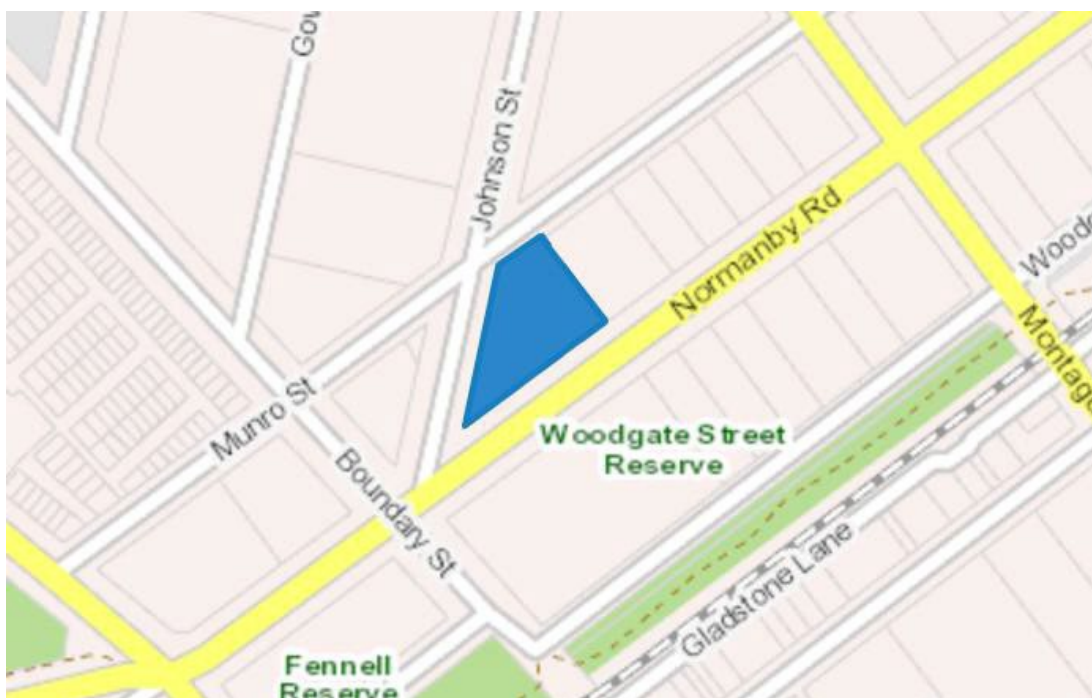


Figure 1: 272-280 Normanby Road, South Melbourne

## **4. CONTROL**

### **Exemption from the Planning Scheme requirements**

- 4.1. The Land 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 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 Port Phillip City Council, before a Statement of Compliance is issued, of a public open space contribution equal to 8% of the site value of the Land.

### **Compliance with the endorsed plan**

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

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

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

### **Amended development plans**

- 4.9. Before the development starts, excluding demolition, excavation, piling and site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Responsible Authority. 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). The plans must be generally in accordance with the plans prepared by Hayball, dated August 2022 but modified to show:
  - a) Reduction of building height to a maximum of 24 storeys;
  - b) The tower setbacks to comply with Clause 2.8 of DDO30 of the Port Phillip Planning Scheme.
  - c) At least 20% of dwellings to contain three or more bedrooms, in addition to a detailed design and plan notations demonstrating how adaptable floor plates will facilitate future conversion of a sufficient number of dwellings containing one and two bedrooms to achieve an overall ratio of at least 25% of all dwellings containing three or more bedrooms (as the demand arises) in accordance with Clause 22.15 of the Scheme;
  - d) A minimum plot ratio not used for Dwelling of 1.4:1, in addition to a detailed design of car parking areas demonstrating how the building floor to floor heights, layout and design will facilitate future conversion of car parking areas to other employment generating uses to achieve a minimum plot ratio not used for Dwelling of 1.6:1 in accordance with Clause 22.15 of the Scheme;

- e) The ground floor level of the site to the west and northwest raised so that the finished floor level at the ground floor is at grade with the future park;
- f) Any raised finished floor levels to Johnson Street integrated into the public realm to provide for spill out activation and seating, while also providing for integrated approaches to universal access;
- g) The provision of a pedestrian and universally accessible entrance to the main lobby of the building from the lane and the ramping of the lane so that finished floor levels at the ground floor are at grade with the lane;
- h) The provision of operable windows to ground floor Type 2 tenancies that interface with Johnson Street;
- i) **Deleted**
- j) Cross-sections for each commercial and retail tenancy (as appropriate) showing finished floor levels to AHD of both external and internal areas and their interface between the public and private realm demonstrating good physical and visual connection between Normanby Road and interior, and Johnson Street Park and interior. A range of measures such as minimal transitional areas within retail tenancies and public realm urban design outcomes (slopes and stairs etc.) can be utilised to achieve this outcome;
- k) A detailed elevation scaled at not less than 1:50 to demonstrate the frontages along the ground level to a height of 2.5 metres, excluding any solid plinth or base are:
  - at least 80% clear glazing or alternatively open to Normanby Road; and,
  - at least 60% clear glazing or alternatively open to Johnson Street.
- l) DDA compliance from the public realm to all retail, commercial and SoHo tenancies and 'private public places' such as apartment lobbies and lifts from Normanby Rd;
- m) Detailed internal layout plans of commercial tenancies within the podium to demonstrate active use of these internal spaces where they interface Normanby Road and Johnson Street;
- n) **Deleted**
- o) A detailed design of the proposed external communal areas, showing how multiple use of the space (by children, for informal gatherings and as a running track) will operate;
- p) The layout of all dwellings (including affordable housing) to comply with the requirements of Clause 58 of the Planning Scheme with the exception of Standard D8 – Solar access to communal outdoor open space;
- q) The number of car parking spaces to not exceed the maximum rates specified in Table 1 of Schedule 1 to the Parking Overlay;
- r) Bicycle and motorcycle parking in accordance with at least the minimum parking provision specified in Table 2 of Schedule 1 to the Capital City Zone at Clause 37.04 of the Planning Scheme.  
 In addition, bicycle parking provision in accordance with the minimum parking provision specified in Table 1 of Clause 52.34-5 where the requirements of Table 2 to the Capital City Zone at Clause 37.04 do not apply;
- s) Ground floor bicycle parking to include ramp access from Normanby Road and the lane, access (including doors) of at least 1.5 metre width, and horizontal visitor racks;
- t) Deletion of the car stackers at Level 1;

- u) At least four car share spaces;
- v) Plan and cross section drawings of the laneway showing vehicle access from Munro Street, pedestrian priority at the trafficable areas, separation of trafficable areas and barriers to prevent vehicle access beyond the car park entry, level transitions, lighting, street furniture, landscaping, surface materials and above and below ground services;
- w) At least 25% of all car parking spaces on all levels to have access to an EV charging point;
- x) Details of back of house for the retail, commercial and SoHo tenancies, including access to waste stores and a loading bay;
- y) Vehicle crossing width reduced to 6 metres, or if greater than 6.1 metres in width to include an intermediate pedestrian refuge;
- z) Full pedestrian sight triangles provided in accordance with Clause 52.06;
- aa) Plan notations for all vehicle crossing works to be in accordance with the City of Port Phillip Vehicle Crossing Guidelines and Standard Drawings;
- bb) Details of any boom gate or similar barrier at the vehicle entry including setbacks to ensure vehicles queuing do not overhang the footpath;
- cc) Disabled car park design to meet AS 2890.6;
- dd) **Deleted**
- ee) Headroom clearance in the car park (confirming minimum 3.8 metres clearance for mechanical stackers), and along all ramps, and the length, width and levels of all ramps;
- ff) **Deleted**
- gg) Loading area headroom clearance as per AS 2890.2 2018;
- hh) Access from the loading bay to the apartment lobby;
- ii) The building setback from Melbourne Water's pipe assets in Johnson Street to the satisfaction of Melbourne Water;
- jj) The length, width and height including underside clearance of all projections beyond the Title boundaries, confirming clearances from existing tree canopies;
- kk) Verandahs / awnings to Normanby Road, Johnson Street and the laneway;

- ll) Revisions to the laneway ground floor plan to conceal building services, with the exception of the hydrant;
- mm) **Deleted**
- nn) **Deleted**
- oo) **Deleted**
- pp) The location and dimensions of all building services and utility installations including air conditioning; all such services and installations must be architecturally resolved and incorporated into the design of the building and minimised facing any street or laneway;
- qq) Plan notations requiring the project to meet the requirements of the corresponding conditions below relating to:
- Façade Strategy;
  - External reflectivity;
  - Landscaping and the public realm;
  - Traffic, parking and loading/unloading;
  - Laneway;
  - Waste Management Plan;
  - Noise attenuation;
  - Amenity Impact Report;
  - Wind Assessment;
  - Melbourne Water;
  - Environmentally Sustainable Design, Water Sensitive Urban Design, Green Star and Third Pipe.

#### **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 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*.

## **Legal agreement for laneway construction and public access and landscape maintenance**

- 4.12. 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 Act with the Responsible Authority and Port Phillip City Council;
  - b) Register the Agreement on the Title for the Land in accordance with Section 181 of the Act; and
  - c) Provide Port Phillip City Council with the dealing number confirming the registration on the Title.

The agreement must be in a form to the reasonable satisfaction of Port Phillip City Council, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including Port Phillip City Council's reasonable costs and expense (including legal expenses) incidental to the preparation, registration of the agreement. The agreement must provide the following:

- a) Full construction of the laneway from Munro Street to Normanby Road to the satisfaction of and no cost to Port Phillip City Council before the occupation of the building;
- b) Give rights of public access to the laneway located within the subject land 24 hours, 7 days a week but for the lane to remain at all times in private ownership as part of the subject land;
- c) The owner must, at its cost, maintain the laneway to the same standards as is reasonably required by Port Phillip City Council for the adjoining road(s);
- d) All requirements of Port Phillip City Council being met regarding the design and physical treatment of the laneway including landscaping, street furniture, lighting and servicing infrastructure.

## **Affordable housing**

- 4.13. 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 Port Phillip City Council under Section 173 of the Act, to the satisfaction of the Responsible Authority, for the delivery of affordable housing (as defined in the Act).
- 4.14. 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).
- 4.15. The agreement must be in a form to the satisfaction of the Responsible Authority and Port Phillip City Council 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 Act, 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 4.15(a)(i); or
- iii. Any other mechanism providing a contribution of equivalent or higher value to Clause 4.15(a)(i) to the satisfaction of the Responsible Authority.
- b) The Affordable housing delivered under Clause 4.15(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 4.15(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 Act and by reference to relevant Regulations, Ministerial Notices, Orders in Port Phillip City Council and the like.

4.16. The agreement may provide that:

- a) In lieu of delivering all or part of the affordable housing in accordance with Clause 4.15(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 Port Phillip City Council 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.

4.17. 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).



### **Façade Strategy and materials and finishes**

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

### **Reflectivity**

- 4.19. 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**

- 4.20. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed landscaping and public realm plan must be submitted to and approved by Port Phillip City Council. The plan must be generally in accordance with the plans prepared by Oculus dated August 2022 and accompanying report, and
- a) Describes the landscaping vision;
  - b) A planting schedule of all proposed trees and other vegetation including botanical name, common names, soil depths and/or pot sizes and volumes, height and canopy at maturity, and quantity of each plant and their protection and maintenance;
  - c) Details of green facades, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions;
  - d) Plans, elevations and cross-sections associated with the podium level green facade to include appropriate vegetation selection and planting arrangement to realise the cascading landscaping and details of irrigation (at establishment and ongoing) and maintenance and any other requirements to ensure the ongoing health and vitality of plants in accordance with the landscape vision;

- e) How the landscaping responds to water sensitive urban design principles, including how rainwater will be captured, cleaned and stored for onsite use and the location and type of irrigation systems to be used including the location of water tanks;
- f) Details of all hard-landscaping materials, finishes and treatments and urban design elements including paving, lighting, seating and balustrading;
- g) Details of surface materials and finishes and construction of retaining walls, pathways, kerbs and access ways;
- h) Elevations, sections, levels and details including materials and finishes of public realm works including reconstruction of public assets;
- i) Any landscaping works within land owned by Port Phillip City Council must be to Port Phillip City Council's standard materials, plant species and finishes
- j) Provide for the through-block link along the northeast boundary, generally in accordance with the Ground Floor Plan dated 29/05/2020;
- k) Identify how the public open spaces (including the external staircase to the podium) will be publicly accessible for use by workers, residents and visitors to the site during daylight hours;
- l) Verandahs / awnings provided to Normanby Road and Johnson Street and the laneway to improve the pedestrian experience and provide weather protection from wind, sun and rain;
- m) Details of buildings and trees on neighbouring properties with a structural or root protection zone within the title boundary, including street trees;
- n) Location of servicing infrastructure for future assets such as conduits as a contingency for additional electrical assets within the public realm.

4.21. 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 Port Phillip City Council.

#### **Public lighting plan**

4.22. 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 Port Phillip City Council. 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 generally conform with AS1158.3.1-2000 *Lighting for roads and public spaces Pedestrian area (Category P) lighting – Performance and design requirements*, AS/NZS 428:2019.2 *Control of the obtrusive effects of outdoor lighting*, AS/NZS 428:2019.2 *Control of the obtrusive effects of outdoor lighting* and the Public Lighting Code December 2015 (v2).

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

#### **Demolition Management Plan**

4.24. Before demolition starts, a detailed Demolition Management Plan (DMP) must be submitted to and approved by Port Phillip City Council. 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 and be

consistent with the Remediation Works Plan (RWP). 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;
- m) Management of potentially contaminated land.

4.25. Demolition must be carried out in accordance with the approved DMP to the satisfaction of Port Phillip City Council.

#### **Construction management – piling**

4.26. Piling works must not include driven piling. Piling must be by bored, screw, or sheet piling or similar only unless otherwise agreed by Port Phillip City Council through an approved Construction Management Plan.

#### **Traffic, parking and loading/unloading**

4.27. Before the development starts, excluding demolition, piling, excavation, site preparation works, and works to remediate contaminated land, an updated traffic engineering assessment and other supporting information as appropriate must be submitted to and approved by Port Phillip City Council. The traffic engineering assessment must be generally in accordance with the Traffic Impact Assessment Report prepared by Ratio, dated August 2022 but modified to include:

- a) The number of car parking spaces not exceeding the maximum rates of the Parking Overlay;
- b) The location of at least four car share spaces, details of who will occupy these spaces and how they will be managed;
- c) Swept path plans confirming:
  - A B85 and B99 vehicle can enter/exit and pass along the length of all ramps at the same time;
  - Delivery and waste collection truck access to and from the loading bay;
  - Entry and exit for all critical car parking spaces; for example end of aisle, adjacent to columns or walls.

- d) On-going monitoring and review of car-share demand within the building with a commitment to increasing the number of spaces if there is demonstrated demand. A review must be submitted within 12 months of occupation.
- 4.28. 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 Port Phillip City Council.
- 4.29. 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 Port Phillip City Council.
- 4.30. Traffic access and parking and loading/unloading arrangements must not be altered without the prior written consent of Port Phillip City Council.
- 4.31. Before the development is completed, vehicle crossings must be constructed in accordance with Port Phillip City Council's Vehicle Crossing Guidelines and standard drawings to the satisfaction Port Phillip City Council. 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 Port Phillip City Council.
- 4.32. The carpark and mechanical stackers designed in accordance with clause 52.06 of the Planning Scheme unless otherwise agreed by the Responsible Authority.
- 4.33. Bicycle facilities designed in accordance with Clause 52.34 of the Planning Scheme.
- 4.34. All car parking spaces must be retained in a single or a consolidated title as common property.
- 4.35. The area set aside for car parking and access of vehicles and accessways must be constructed, delineated and clearly lined marked to indicate each car space, the access ways and the direction in which vehicles must proceed along the accessways in conformity with the endorsed plans. Parking areas and accessways must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
- 4.36. Mechanical exhaust systems to the car park must be sound attenuated to prevent noise nuisance to the occupants of the building and surrounding properties to the satisfaction of the Responsible Authority.

### **Waste Management Plan**

- 4.37. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an amended Waste Management Plan (WMP) must be prepared and submitted to and be approved by Port Phillip City Council. The WMP must be generally in accordance with the Reduce, Reuse, Recycle Strategy prepared by Hip v Hype dated August 2022, but amended to include:
  - a) Provision for organic/green waste storage;
  - b) Details of back-of-house access to the Refuse Zone(s) for the retail tenancies;
  - c) Details of clearance widths to the waste rooms.
- 4.38. The approved WMP must be implemented to the satisfaction of Port Phillip City Council. Waste storage and collection must be undertaken in accordance with the approved WMP 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**

- 4.39. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an Acoustic Report prepared by a qualified acoustic consultant must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the Amenity Impact Report prepared by SLR dated April 2022 and amended to:
- a) Achieve compliance with the following noise criteria for all dwellings within the development of:
    - 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am;
    - 40dB(A) for living areas, assessed as an LAeq,16h from 6am to 10pm.
  - b) Be generally in accordance with the technical requirements for measuring noise in Planning Practice Note 83 (August 2017) *Assessing external noise impacts for apartments*;
  - c) Identify 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.

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

- 4.40. 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.

## **Incorporation of noise attenuation measures**

- 4.41. Upon completion and prior to the occupation of the building, a report by a suitably qualified acoustic consultant must be submitted to, approved by and be implemented to the satisfaction of the Responsible Authority and Port Phillip City Council:
- a) Certifying that the dwellings incorporate the noise attenuation measures as specified in the endorsed Acoustic Report and shown on the endorsed plans;
  - b) Verifying the dwellings achieve the internal noise levels specified in the corresponding condition(s) in this permit.

The report must detail the set-up on site and methodology of the testing process.

Where post construction measurement and testing shows internal noise levels exceeding those specified in the corresponding condition above, the applicant must make rectifications and retest as necessary to demonstrate compliance with the noise levels to the satisfaction of the Responsible Authority.

The cost of certification acoustic works is to be met by the owner.

## **No external amplified equipment**

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

## **Amenity impact**

- 4.43. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an amended Amenity Impact Report prepared by a suitably qualified environmental consultant must be submitted to and approved by Port Phillip City Council. The report must be generally in accordance

with the reports titled Amenity Impact Assessment – Noise (April 2022) and Adverse Amenity Impact Assessment – Air Quality (April 2022) both prepared by SLR dated April 2022 and amended to include:

- a) More details of the operation conditions of the Port Phillip Resource Recovery Centre such as the size of plant, equipment, hours of operation, delivery times, truck numbers, processes and management,
- b) New amenity issues that may be highlighted by this study and any subsequent mitigation measures that may be required to address these concerns.

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

### **Disability access**

- 4.44. Before the development is occupied, a Disability Discrimination Act Assessment / Audit, prepared by a suitably qualified consultant, must be submitted to Port Phillip City Council. 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**

- 4.45. Before the development starts, excluding demolition, excavation, piling, and 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 Responsible Authority in consultation with Port Phillip City Council. The amended report must be generally in accordance with the report prepared by Vipac, dated August 2022 but modified to address all changes required under this Clause 4 and must:

- a) Include wind tests taken at various points within the surrounding public realm with an assessment area determined in accordance with Clause 2.11 of Schedule 30 to Clause 43.02 Design and Development Overlay of the Planning Scheme and communal open space areas, 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 communal open space areas;
- b) Include in the assessment the cumulative wind impacts from surrounding existing and approved developments at the time of the assessment; and
- c) Demonstrate (or provide built form recommendations) that the development will ensure all publicly accessible areas, including footpaths will not be adversely affected by 'unsafe wind conditions' as specified in Table 7 of Schedule 30 to Clause 43.02 Design and Development Overlay of the Planning Scheme.

- 4.46. Demonstrate achievement of the wind comfort criteria outlined in Clause 2.11 of DDO30 for areas within the assessment distance as follows:

- a) Sitting: Areas in the public realm / publicly accessible private areas that are designed for long-term stationary outdoor seating;
- b) Standing: Main building entrances and activated frontages;
- c) Walking: The new park (Johnson Street closure), the Normanby Road footpaths, the new laneway and the remaining publicly accessible areas.

- 4.47. Any further modifications required to the development in order to ensure acceptable wind conditions to the surrounding streets and public areas must be located within the development (not on public land) except for the approved projections, carefully developed as an integrated high-quality solution with the architectural design and must not rely on street trees or rely on wind amelioration screens within the public realm to the satisfaction of Port Phillip City Council.
- 4.48. The recommendations and requirements of the approved Wind Impact Assessment Report must be implemented to the satisfaction of Port Phillip City Council before the development is occupied.

#### **Development contribution**

- 4.49. 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 Responsible Authority and make application to the Registrar of Titles to have the agreement(s) registered on the title to the Land under Section 181 of the Act to the satisfaction of the Responsible Authority. The agreement(s) must:
- a) Require the developer to pay a development contribution of:
    - \$16,916.51 per dwelling;
    - \$191.51 per sqm of gross office/commercial floor area; and
    - \$159.59 per sqm of gross retail floor area;
  - b) Any development contribution required by Clause 4.49a may be offset by any agreed costs of delivering approved changes to community infrastructure, including the future Johnson Street park which is encouraged to be delivered as part of the development to the satisfaction of Port Phillip City Council in consultation with the Fishermans Bend Taskforce;
  - c) Require that development contributions are to be indexed annually from 1 July 2020 using the Price Index of Output of the Construction Industries (Victoria) issued by the Australian Bureau of Statistics;
  - d) Require registration of the Agreement on the titles to the affected lands as applicable;
  - e) Include a schedule of the types of infrastructure to be delivered by the Victorian Planning Authority or their successor;
  - f) Confirm that contributions will be payable to the Victorian Planning Authority or their successor;
  - g) Confirm that the contributions will be used by Victorian Planning Authority or their successor, to deliver the schedule of types of infrastructure;
  - h) Require payment of the development contribution/s before the earliest of the following:
    - The issue of an occupancy permit for any stage of the development; or
    - The issue of a Statement of Compliance in relation to the subdivision of the land in accordance with the development allowed under this specific control other than a boundary realignment or subdivision to create or vary a parcel for a road or otherwise with the consent of Port Phillip City Council in consultation with the Fishermans Bend Taskforce;

- i) Confirm the procedure for refunding monies paid if an approved Development Contribution Plan or Infrastructure Contributions Plan for the area is less than the amount stipulated in the Section 173 agreement;
- j) The agreement must make provision for its ending and removal from the land following completion of the obligations contained in the agreement.

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

### **Drainage and engineering**

- 4.50. 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 Port Phillip City Council. The stormwater drainage system design must:
- a) Include a detailed response to Clause 22.12 (Stormwater Management (Water Sensitive Urban Design)) of the Planning Scheme;
  - b) Incorporate a legal point of discharge (LPD) to the satisfaction of Port Phillip City Council.
- 4.51. 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 Port Phillip City Council.
- 4.52. Before the development starts excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, plans, engineering drawings and computations (as applicable) must be submitted to and approved by Port Phillip City Council for:
- a) All laneway works and associated drainage to the satisfaction of Port Phillip City Council;
  - b) A cross section of the laneway showing lighting, trees and below ground placement of services;
  - c) Independent drainage, the direction of stormwater runoff and a point of discharge for the land to the satisfaction of Port Phillip City Council;
  - d) All works for stormwater, Water Sensitive Urban Design, drainage, street trees, and landscaping.

### **Services Plan and Report**

- 4.53. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, a Services Plan and Report prepared by a suitably qualified person must be prepared and approved by the Responsible Authority. The plan must detail the type, location and service authority requirements for the building based on the floor area and height of the building, number of dwellings, and all uses, and must identify the location, floor area and height required and allocated for each service, its visibility and ease of accessibility, and operational requirements including distances from entries and connection points, and safety.

### **Tree protection**

- 4.54. Before the development starts, including demolition, excavation, piling, site preparation works, and works to remediate contaminated land:
- a) A Tree Protection Management Plan (TPMP), setting out how the two Port Phillip City Council owned nature strip trees on Normanby Road will be protected during construction, must be submitted to and approved by the responsible authority.



When approved the TPMP will be endorsed and form part of the permit. The TPMP should generally follow the layout of Section 5 (i.e. General, Tree Protection Plan, Pre- construction, Construction stage and Post Construction) of AS4970 'Protection of trees on development sites'.

- b) A tree protection fence must be erected around the two (2) Port Phillip City Council owned nature strip trees on Normanby Road to comply with AS 4970 - 2009 Tree protection on development sites to the satisfaction of Port Phillip City Council.

#### **No damage to existing street tree**

- 4.55. The proposed works must not cause any damage to any retained existing street tree.

Any existing street tree must not be removed, lopped or pruned (including root pruning) without the prior consent of Port Phillip City Council. Root pruning of any tree must be carried out to the satisfaction of the Port Phillip City Council prior to the construction of buildings or works including crossover works.

#### **Removal and replacement of street trees**

- 4.56. Prior to the commencement of development the amenity value of the eight street trees to be removed and the removal, replacement (where required) and maintenance costs must be reimbursed to Port Phillip City Council by the owner. The removal of any street trees and replacement (if required) including 24 months maintenance of any new street trees, may only be undertaken by Port Phillip City Council.

#### **Environmental Audit**

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

#### **Compliance with Statement of Environmental Audit**

- 4.58. Where a Statement of Environmental Audit is issued for the Land, the buildings and works and the use(s) of the Land that are the subject of this permit must comply with all directions and conditions contained within the statement.
- 4.59. Where a Statement of Environmental Audit is issued for the Land, before the commencement of the use, and before the issue of a Statement of Compliance under the *Subdivision Act 1988*, and before the issue of an occupancy permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.
- 4.60. Where a Statement of Environmental Audit is issued for the Land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987*, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the *Subdivision Act 1988*. All such expenses related to the Section 173 Agreement including drafting, negotiating, lodging, registering, execution and ending of the Agreement, including those incurred by the Responsible Authority, must be met by the owner.

## **Remediation Works Plan**

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

## **Sustainability Management Plan and Water Sensitive Urban Design**

- 4.62. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated, an amended Sustainability Management Plan (SMP) and Water Sensitive Urban Design Response (WSUDR) must be submitted to, be to the satisfaction of and approved by Port Phillip City Council. The SMP and WSUDR must be generally in accordance with the Sustainable Management Plan Report prepared by Hip v Hype, dated August 2022 but modified to show:

- a) Increase rainwater tank sizing to 0.5m<sup>3</sup> per 10m<sup>2</sup> of catchment;
- b) All rainwater tanks to be connected to all potable water outlets within the development;
- c) Provision of a plan to demonstrate 75% of site covered in surfaces to reduce urban heat island effect;
- d) Specification of non-glazed façade materials with low solar absorbance;
- e) Specify frequency of building systems tuning.

Where alternative Environmentally Sustainable Design measures are proposed to those specified in this condition, Port Phillip City Council may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes.

When approved, the updated SMP will be endorsed and will then form part of this permit. The ESD initiatives in the endorsed SMP must be fully implemented and must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

## **Water Sensitive Urban Design**

- 4.63. Prior to the endorsement of plans under condition 4.9 of this Incorporated Document, a Water Sensitive Urban Design (Stormwater Management) Report that outlines proposed stormwater treatment measures must be submitted to, be to the satisfaction of and approved by Port Phillip City Council.

The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended. This can be demonstrated by providing:

- a) MUSIC modelling;
- b) A plan showing the catchment area in square metres;

- c) The stormwater device included on the relevant floor plans (devices are to include raingarden(s), rainwater tank(s), permeable paving etc. or a combination of one or more).

The report must demonstrate how the stormwater device will be maintained on an on-going basis. This can be demonstrated by providing a maintenance manual including the following information:

- a) A full list of maintenance tasks;
  - b) The required frequency of each maintenance task (monthly, annually etc.);
  - c) Person responsible for each maintenance task.
- 4.64. 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 Port Phillip City Council and must confirm measures specified in the approved SMP and WSUD report have been implemented.

### **Green Star rating**

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

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

- 4.67. A third pipe must be installed for recycled and rain water to supply non-potable outlets within the development for toilet flushing, irrigation and washing machines, unless otherwise agreed by the relevant water authority.
- 4.68. An agreed building connection point must be provided from the third pipe, designed to the satisfaction of the relevant water supply authority, to ensure readiness to connect to a future precinct-scale recycled water supply.
- 4.69. A rainwater tank must be provided that:
- a) Includes a combination of rainwater and detention tanks that have 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.
- 4.70. Rainwater captured from roof harvesting areas must be re-used for toilet flushing, washing machine and irrigation, controlled release or as detailed within the approved SMP.

### **Building Appurtenances**

- 4.71. All building plant and equipment on the roofs and public thoroughfares must be concealed and acoustically treated (as applicable) to the satisfaction of Port Phillip City Council.

### **3D Model**

- 4.72. 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.

### **Advertising Signs**

- 4.73. No advertising signs either external or internal to the building/s shall be erected, painted or displayed without the prior written approval of the Responsible Authority, unless otherwise in accordance with Clause 52.05 of the Planning Scheme.

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

- 4.74. The following floor levels and installation requirements must be met:
- a) With the exception of retail areas and commercial floorspace including SoHo apartments the Finished Floor Levels (FFLs) of all ground floor areas (including all lift and stair lobbies), must be set no lower than 3.0 metres to Australian Height Datum (AHD);
  - b) 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 containing 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 metres to AHD;
  - c) All areas with electrical installations (e.g. electrical substations, switch rooms etc) must be set no lower 3.0 metres to the AHD;
  - d) FFLs of the service areas for rubbish must be constructed no lower than 2.5 metres to the AHD;
  - e) **Deleted**
  - f) Rainwater tanks must be shown to be designed to discharge in response to predicted rainfall events that could cause flooding;
  - g) Lateral clearance for asset replacement access for manholes and pipelines is to be a minimum of 2.5m (or other distance agreed by Melbourne Water) from the outside edge of the Johnson Street Main Drain and Melbourne Replacement Sewer, or outside any easement, whichever is greater. No permanent structures are permitted within this lateral clearance zone except with the approval of Melbourne Water;
  - h) The depth of the footings must be adequate to satisfy the angle of repose relative to the drain to the satisfaction of Melbourne Water.

### **Department of Transport conditions or Head, Transport for Victoria**

#### Public Transport (Bus Stop Works)

- 4.75. If the existing bus stop on Normanby Road (development side) cannot be used during the demolition and construction of the development a temporary bus stop must be provided in an alternative location at no cost and to the satisfaction of the Head, Transport for Victoria.
- 4.76. Any request for written consent to disrupt bus operations or a temporary bus stop on Normanby Road during the demolition and construction of the development must be

submitted to and approved by the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption / temporary bus stop relocation and must detail measures that will occur to mitigate the impact of the planned disruption or temporary bus stop.

- 4.77. Prior to the occupation of the development, all works outlined on the endorsed plans for the updated bus stop (if any), bike facilities and public real works must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria. Any temporary bus stop (if required) must be removed and the site reinstated to the satisfaction of the Head, Transport for Victoria.

#### Green Travel Plan

- 4.78. Prior to the occupation of each stage of the development, a Green Travel Plan must be submitted to and approved by the Responsible Authority in consultation with the City of Port Phillip and the Head, Transport for Victoria. The Green Travel Plan must include, (but is not limited to), the following:
- a) Objectives for the Plan which are 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 and visitors to 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 end of trip facilities;
  - d) Timescale and costs for each action;
  - e) The funding and management responsibilities, including identifying a person(s) responsible for the implementation of actions; and
  - f) A monitoring and review plan requiring annual review for at least five years.
- 4.79. The Green Travel Plan when approved must be implemented and complied with to the satisfaction of the and at no cost to Responsible Authority.

#### Roads

- 4.80. All disused or redundant vehicle crossings along Normanby Road must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to the Head, Transport for Victoria prior to the occupation of the buildings hereby approved.

#### **Expiry**

- 4.81. The control in this document expires in respect of the Land if any of the following circumstances apply:
- a) development of the Land has not commenced within three years after the approval date of Amendment C177port; or
  - b) development of the Land is not completed within five years after the approval date of Amendment C177port;
  - c) The use of the Land has not commenced within five years of the gazettal date of Amendment C177port to this Scheme.

**END OF DOCUMENT**