

PORT PHILLIP PLANNING SCHEME

AMENDMENT C149

EXPLANATORY REPORT

Who is the Planning Authority?

This Amendment has been prepared by the Minister for Planning who is the planning authority for this amendment.

The Amendment has been made at the request of Port Phillip City Council, on behalf of the Victorian Pride Centre Ltd.

Land affected by the Amendment

The Amendment applies to the following sites, as shown within the map below:

- 3/77 Fitzroy Street, St Kilda (Lot 2 on LP132961);
- 79-81 Fitzroy Street, St Kilda (Lot 1 on TP345977L); and
- Crown Land adjacent to 79-81 Fitzroy St, St Kilda.



A mapping reference table is attached at Attachment 1 to this Explanatory Report.

What the Amendment does

The Amendment inserts the *Victorian Pride Centre, June 2018 (Incorporated Document)* into the schedules to Clause 51.01 (Specific sites and exclusions) and Clause 72.04 (Documents incorporated into the scheme) of the Port Phillip Planning Scheme.

The Amendment also rezones 3/77 Fitzroy Street, St Kilda from Public Use Zone Schedule 6 to Commercial 1 Zone.

The Victorian Pride Centre project consists of a five-storey community and commercial building including accessible rooftop (and basement) to be used for (but not limited to) offices, shops, food and drink premises, radio station, medical centre, place of assembly (including a function centre), reading room, gallery, the sale and consumption of liquor and associated facilities such as car parking, bicycle

parking and amenities. Land subdivision and the creation of an easement also forms part of the project. Conditions are included in the Incorporated Document which seek to limit and manage various land uses and development occurring on site.

The Amendment will allow the use and development of the land in the project area for the purpose of the project in accordance with the Incorporated Document.

Strategic assessment of the Amendment

Why is the Amendment required?

The Amendment is required to facilitate the timely, coordinated and consistent delivery of the project. The use and development of land for the Victorian Pride Centre will be an integrated mixed-use civic building comprised of (but not limited to) offices, radio station, health facility, café, shops, theatre, reading room, function rooms and associated car and bicycle parking, licenced premises, consumption of liquor, advertising signage, subdivision and creation of easements, to be delivered in accordance with the control in this Incorporated Document.

Schedule 6 of the Design and Development Overlay (which relates to the St Kilda Central Activity Centre) applies to the land currently. It sets a mandatory building height of 16.5 metres and a mandatory street wall height of 10.5 metres within 10 metres of the Fitzroy Street frontage. Components of the proposed building (excluding a mast) reach a maximum overall height of approximately 21 metres and of 12.5 metres within 10 metres of the Fitzroy Street frontage.

Despite areas of non-compliance, the proposal is considered to meet the design objectives of the DDO6-2 and has significant merit, as it provides a mixed-use development consistent with State and Local Policy objectives relating to high quality design, positive social and economic benefits and a commitment to an ecologically sustainable development outcome.

The Amendment is therefore required to vary these requirements on a site-specific basis to enable the development of the Victorian Pride Centre to proceed. Given the unique nature of the building and its civic importance, it is considered the inclusion of such a site-specific variation is appropriate, subject to community consultation on the proposal. The draft amendment would also rezone parts of the land to ensure that it is solely within the Commercial 1 Zone.

In order to deliver this project of State and National significance, it is considered that the most appropriate mechanism is a tailored approach which, along with approving the project, can establish design, development and ongoing use parameters for the site and facility.

How does the Amendment implement the objectives of planning in Victoria?

The Amendment implements the objectives of planning in Victoria as set out at Section 4 (1) of the *Planning and Environment Act 1987*, in particular:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (c) and (d).
- (g) to balance the present and future interests of all Victorians.

The Amendment will provide clear and consistent direction for the use and development of the land and will facilitate a catalyst project to assist in stimulating the revitalisation of Fitzroy Street.

How does the Amendment address any environmental, social and economic effects?

Social effects:

The development of the Victorian Pride Centre delivered through this amendment is expected not only to have positive social benefits for both the LGBTIQ community as well the wider St Kilda and Victorian community, but it will also deliver a significant civic and community facility that will be the first of its kind in Australia.

The Amendment will create social benefits through the following:

- Acting as a catalyst for the revitalisation of the Fitzroy Street Precinct;
- Improves passive surveillance of Fitzroy Street and enhancements to the public realm and amenity of the area through the design of the building;
- Supporting diversity within the community;
- The civic nature of the facility along with the striking design of the building;
- The range and diversity of occupiers in the facility which is likely to encourage further investment in the Fitzroy Street Precinct; and
- The provision of new community, business, leisure and health facilities.

Economic effects:

The project will involve investment of over \$50 million and will also represent a significant part of the regeneration of Fitzroy Street as well generating a high level of local spend and creating employment through both the construction stage and the ongoing operation of the centre.

The development will assist Port Phillip to cement its 'creative city' status and further develop key industry attracting clusters to promote economic development within the municipality.

Environmental effects:

The subject site is urban in character however does have some existing landscaping present, particularly along the Jackson Street boundaries. The proposal responds to this by seeking to retain the two Peppercorn Trees along the eastern edge of the site, subject to arboricultural advice.

The Pride Centre development includes landscaping on all levels of terracing and outdoor amenity spaces, and along with the contemporary and iconic design of the building, is expected to produce positive impacts on the Fitzroy Street environment.

Environmental improvements will be further addressed through conditions of the Incorporated Document requiring the preparation of a sustainability management plan prior to the development of the site commencing.

Does the Amendment address relevant bushfire risk?

The subject site is not in a designated bushfire prone area or within a Bushfire Management Overlay therefore bushfire risk is not a relevant consideration.

Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Ministerial Direction – The Form and Content of Planning Schemes

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the *Planning and Environment Act 1987*.

Ministerial Direction 9 – Metropolitan Planning Strategy

The Amendment is consistent with the following directions and policies of the Metropolitan Strategy (*Plan Melbourne –2017-2050*):

- Direction 4.3 Achieve and promote design excellence
- Direction 4.4 Respect Melbourne's heritage as we build for the future
- Direction 5.2 Create neighbourhoods that support safe communities and healthy lifestyles
- Direction 5.3 Deliver social infrastructure to support strong communities

Ministerial Direction 11 – Strategic Assessment of Amendments

The requirements of Ministerial Direction 11 have been followed in the course of preparing this amendment, and are reflected in the relevant documentation.

How does the Amendment support or implement the Planning Policy Framework and any adopted State policy?

The Amendment supports and implements the following State Planning Policy Framework:

- Clause 11 – Settlement

Clause 11 provides strategic guidance for responding to the needs of existing and future communities through the provision of appropriately zoned and serviced land for housing, employment, commercial and community facilities among other considerations.

The Amendment supports Clause 11 by introducing an Incorporated Document which includes controls to allow for the development of an integrated civic and community facility which will provide community use, health, retail and leisure facilities along with employment opportunities in the area.

- Clause 11.03 – Activity Centres

The objective of the clause is to encourage, amongst other things, the concentration of major commercial, administrative, entertainment and cultural developments into activity centres.

The Amendment will help achieve this by facilitating the development of the headquarters and associated space for the major LGBTQI organisations from across Australia within a major activity centre identified through Plan Melbourne.

- Clause 15.01-1R Urban design – Metropolitan Melbourne

The clause looks to create a distinctive and liveable city with quality design and amenity through supporting the creation of well-designed places that are memorable, distinctive and liveable and maintaining Melbourne's distinctiveness as a leading cultural city with world class facilities along with providing spaces and facilities that encourage and support the growth and development of Melbourne's cultural precincts and creative industries.

The building design for the subject land is architecturally striking and will create a cultural landmark providing a range of civic and community spaces. This includes significant community and cultural spaces, including a gallery, reading room and theatre.

- Clause 15.01-2S Building Design

A strategy included in this clause states that development must consider the cultural and strategic context of its location. The proposed building design will establish the building as a major landmark building within Fitzroy Street without compromising the significance of other key landmarks, views and vistas.

- Clause 17.02 Commercial

The objective of the clause is to encourage development which meet the community needs for retail, entertainment, office and other commercial services. A Strategy to achieve this is to ensure commercial facilities are aggregated and provide net community benefit in relation to accessibility, efficient infrastructure use. Whilst it is acknowledged that the VPC will principally be a civic and community focussed facility, the building will also provide accommodation to several LGBTQI organisations and be accessible to the wider community in a location identified as a Major Activity Centre.

How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The Amendment supports and implements the following objectives and strategies of the Local Planning Policy Framework:

- Clause 21.03 Ecologically Sustainable Development

The Amendment supports the Ecologically Sustainable Development policy which has an objective to promote sustainable design and development.

The Amendment will achieve this through a commitment to the building being assessed against the Green Building Council of Australia's building tool to a 5 Star standard.

- Clause 21.04-2 Activity Centres

The clause contains a table which provides guidance on the future role and function of the Activity Centres within Port Phillip. The Fitzroy/Acland Street Major Activity Centre is identified for, amongst other things, speciality retail goods and services and a focus for community services and facilities. The amendment supports this clause by proposing a mixed-use civic building which will include services and facilities to support both the LGBTQI and wider community.

- Clause 21.05 Built Form

The Amendment introduces the *Victorian Pride Centre Incorporated Document June 2018* which will guide the development of a significant building with high standards in architecture and urban design. The Incorporated Document accords with the objectives of the clause through seeking to ensure the development encourages a high quality design which contributes to the heritage values of the area. Clause 21.05-2 looks to protect and enhance the varied, distinctiveness and valued character of the neighbourhoods across Port Phillip. The amendment will achieve this through delivering a building which draws its inspiration from St Kilda's architectural history and influence from other significant buildings within Fitzroy Street and the surrounding area.

- Clause 21.06-6 St Kilda

The Amendment supports the objective of the clause which has a vision to continue St Kilda's role and function as a creative and cultural hub along with residents of, and visitors to St Kilda. The Amendment supports this by providing creative, cultural, community and health facilities within the heart of St Kilda.

- Clause 22.04 Heritage

The Amendment supports and implements the overall objectives of the policy by ensuring the development is respectful to and integrates with the character of the surrounding area. The design of the building is strongly defined by the historic and unique architecture within St Kilda.

- Clause 22.06 Urban Design Policy for Non-Residential Development and Multi Unit Residential Development

The Amendment is consistent with the objective of the clause which is to achieve high quality urban design and architecture that, amongst other things responds to the context of the place, integrates with the prevailing neighbourhood character and contributes to the amenity and vitality of the area. The amendment helps deliver the policy contained in the clause, which encourages the protection and enhancement of the public realm, through the distinctive portico structure over the Fitzroy Street footpath.

Through its design, the amendment supports policy which achieves an attractive and visually interesting façade at street level with clearly legible entrances and surveillance over the street. The amendment will create an iconic landmark for Fitzroy Street, located between the Prince of Wales and the George Hotel (two other key land mark buildings within the street).

Does the Amendment make proper use of the Victoria Planning Provisions?

The Amendment uses the schedules to Clause 51.01 and Clause 72.04 of the Port Phillip Planning Scheme to facilitate the project. The purpose of Clause 51.01 is to provide specific controls designed to achieve a particular land use and development. The specific control is detailed in the Incorporated Document and allows the use and development of the land in the project area for the project in accordance with the conditions in the Incorporated Document.

How does the Amendment address the views of any relevant agency?

The views of relevant agencies were sought during the preparation of this amendment including the City of Port Phillip, the Department of Premier and Cabinet, the Department of Treasury and Finance,

the Department of Environment Land Water, the Department of Health and Human Services, the Department of Economic Development, Jobs, Transport and Resources and Planning and the Department of Justice and Regulation.

Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The Amendment is not considered likely to have a significant impact on the transport system as defined by the *Transport Integration Act 2010*.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The Amendment is unlikely to have an adverse impact on resource and administrative costs to the Responsible Authority.

ATTACHMENT 1 - Mapping reference table

Location	Land /Area Affected	Mapping Reference
St Kilda	Land at 3/77 Fitzroy St, St Kilda	Port Phillip C149 001znMap06 Exhibition

Planning and Environment Act 1987

PORT PHILLIP PLANNING SCHEME

AMENDMENT C149

INSTRUCTION SHEET

The planning authority for this amendment is the Minister for Planning, who is the planning authority for this amendment.

The Port Phillip Planning Scheme is amended as follows:

Planning Scheme Maps

The Planning Scheme Maps are amended by a total of one attached map sheet.

Zoning Maps

1. Amend Planning Scheme Map No. 06 in the manner shown on the attached map marked "Port Phillip Planning Scheme, Amendment C149."

Planning Scheme Ordinance

The Planning Scheme Ordinance is amended as follows:

2. In Specific Sites and Exclusions – Clause 51.01, amend the Schedule with a new Schedule in the form of the attached document.
3. In Incorporated Documents – Clause 72.04, amend the Schedule with a new Schedule in the form of the attached document.

End of document

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SCHEDULE TO CLAUSE 51.01 SPECIFIC SITES AND EXCLUSIONS

1.0

Specific sites and exclusions

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Address of land	Title of incorporated document
10, 11, 12 / 339 Williamstown Road, Port Melbourne	10, 11, 12 / 339 Williamstown Road, Port Melbourne, Transitional Arrangements, January 2017
12 Acland Street, St Kilda	12 Acland Street, St Kilda
315-317 Beaconsfield Parade and 109-111 Park Street, St Kilda	315-317 Beaconsfield Parade and 109-111 Park Street, St Kilda
29 Fitzroy Street, St Kilda	29 Fitzroy Street, St Kilda
14-16 The Esplanade, St Kilda	14-16 The Esplanade, St Kilda
1-29 Albert Road, South Melbourne	1-29 Albert Road, South Melbourne
132-134 Bank Street and 223-227 Moray Street, South Melbourne	132-134 Bank Street and 223-227 Moray Street, South Melbourne
400-410 City Road, 2-48 Cecil Street and 127-135 Whiteman Street, South Melbourne	400-410 City Road, 2-48 Cecil Street and 127-135 Whiteman Street, South Melbourne
582-584 St Kilda Road, South Melbourne	582-584 St Kilda Road, South Melbourne
360-370 St Kilda Road, South Melbourne	360-370 St Kilda Road, South Melbourne
414-416 and 418 St Kilda Road, South Melbourne	414-416 and 418 St Kilda Road, South Melbourne
114-124 Albert Road, South Melbourne	114-124 Albert Road, South Melbourne
Melbourne Sports & Aquatic Centre, Albert Park	Melbourne Sports & Aquatic Centre,
Land zoned CDZ1, Beacon Cove, Port Melbourne.	Beacon Cove Development, Port Melbourne including Bayside Concept Plan No. 1, Bayside Precinct Plan No. 1, Bayside Residential Component Guidelines No. 1 (dated October 1994) and Plan named Bayside Port Melbourne showing areas subject to an environmental audit, drawing number 1255z4, dated 3 November, 1994
89 Fitzroy Street, St Kilda	89 Fitzroy Street, St Kilda
167 Fitzroy Street, St Kilda	167 Fitzroy Street, St Kilda
Albert Park	Albert Park Masterplan
61 Bertie Street, Port Melbourne	Part 61 Bertie Street, Port Melbourne, November 2001
Land comprising Melbourne Convention Centre Development Southbank and associated Northbank redevelopment Docklands, Precinct Plan area, generally bounded by the southern alignment of the West Gate Freeway, Ford Street, Munro Street, Doran Street and Normanby Road, South Melbourne.	Melbourne Convention Centre Development, Southbank and North Wharf redevelopment, Docklands, April 2006, Amended May 2016
Land between Yarraville and Doveton adjacent to and encompassing the West Gate Freeway, the City Link Southern Link and Western Link south of the Bolte	M1 Redevelopment Project, October 2006

Address of land	Title of incorporated document
Bridge, the Monash Freeway and the South Gippsland Freeway, insofar as the land is in the City of Port Phillip	
Land at 313-317 Kingsway, South Melbourne 312 Kingsway, South Melbourne 278-282 Kingsway and 1-5 Fitzpatrick Street, South Melbourne 380 City Road, South Melbourne	Major Promotional Signs
400-430 City Road, 10-24 Cecil Street and 115-131 Whiteman Street, Southbank	400-430 City Road, Southbank, February 2010
Land within Albert Park including the Lakeside Oval precinct on Albert Road Drive and the Sports Fields Precinct on Aughtie Drive, Albert Park.	State Sports Facilities Projects Albert Park, September 2009 (amended May 2012).
12B Chapel Street, St Kilda	12B Chapel Street, St Kilda, September 2013
29 Fitzroy Street, St Kilda	Prince Apartments Stage 2 Development Plans – 29 Fitzroy Street, St Kilda, December 2013
30 Jacka Boulevard, St Kilda	Stokehouse – 30 Jacka Boulevard, St Kilda, July 2014
Land required for the Acland Street Upgrade Project as shown on the project area map in the incorporated document.	Acland Street Upgrade Project Incorporated Document, December 2015
St Kilda Cricket Ground, generally bounded by Lakeside Drive, Queens Road, St Kilda Road and Fitzroy Street, St Kilda	Victorian Cricket and Community Centre, St Kilda Cricket Ground, May 2016
The land identified in clause 3 of the Melbourne Metro Rail Project Incorporated Document, May 2017	Melbourne Metro Rail Project Incorporated Document, May 2017
Land affected by Schedule 31 to the Design and Development Overlay	Melbourne Metro Rail Project – Infrastructure Protection Areas Incorporated Document, December 2016
Land identified in Clause 3.0 of the Tramway Infrastructure Upgrades Incorporated Document, May 2017	Tramway Infrastructure Upgrades Incorporated Document, May 2017
2-4 Buckhurst Street, South Melbourne and surrounding streets, being land required for the Montague community park and associated streetscape works as shown on the project area map in the Incorporated Document	Montague Community Park and associated Streetscape Works, August 2017
Land affected by Schedules 28 and 29 to the Design and Development Overlay.	Hospital Emergency Medical Services - Helicopter Flight Path Protection Areas Incorporated Document, June 2017
79-81 Fitzroy Street, St Kilda	Victorian Pride Centre, June 2018

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SCHEDULE TO CLAUSE 72.04 TABLE OF DOCUMENTS INCORPORATED IN THIS SCHEME

1.0

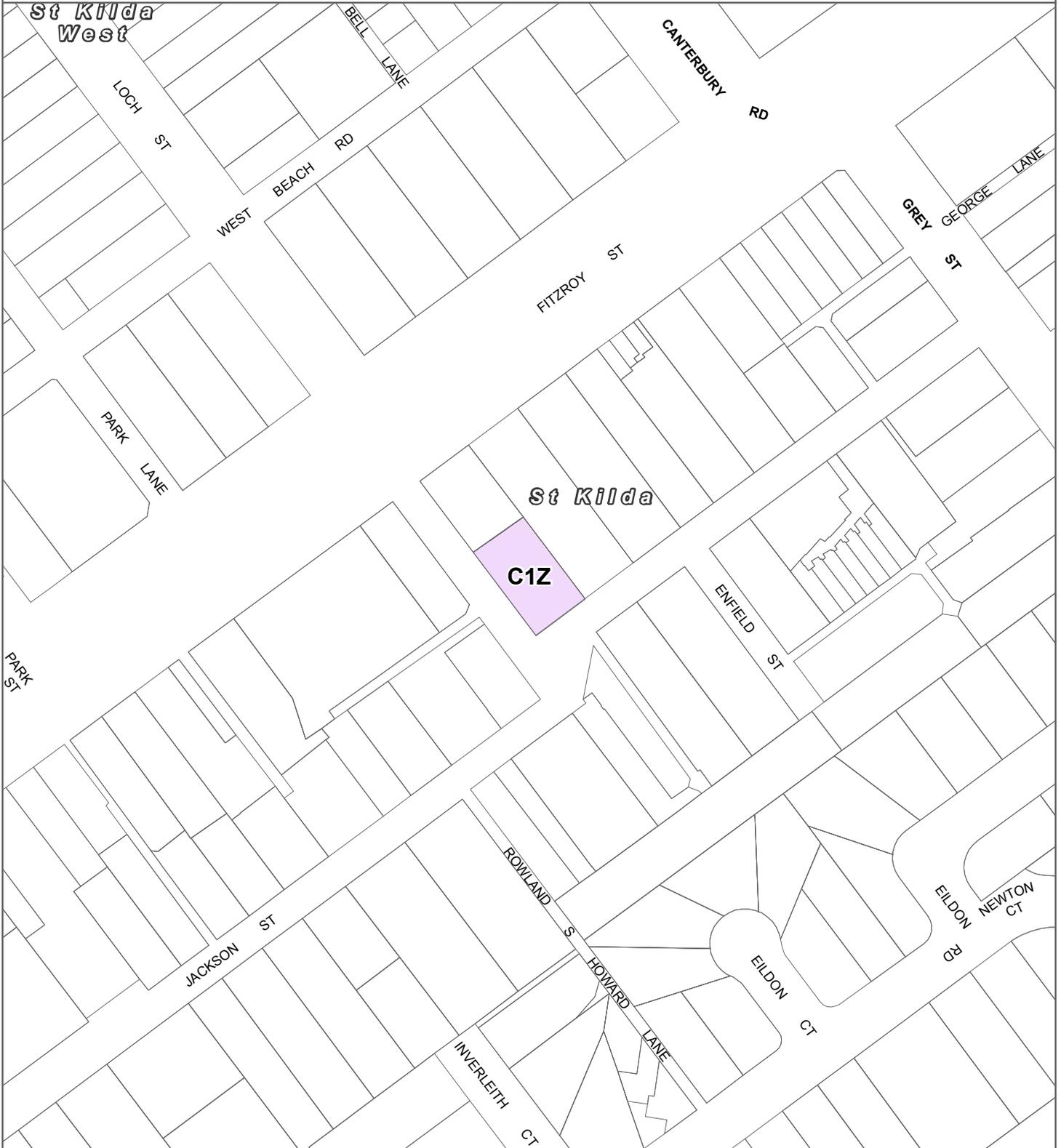
Incorporated documents

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Name of document	Introduced by:
10, 11, 12 / 339 Williamstown Road, Port Melbourne, Transitional Arrangements, January 2017	C136
114-124 Albert Road, South Melbourne	NPS1
12 Acland Street, St Kilda	NPS1
12B Chapel Street, St Kilda, September 2013	C96
1-29 Albert Road, South Melbourne	NPS1
132-134 Bank Street and 223-227 Moray Street, South Melbourne	NPS1
14-16 The Esplanade, St Kilda	NPS1
167 Fitzroy Street, St Kilda	NPS1
29 Fitzroy Street, St Kilda	NPS1
315-317 Beaconsfield Parade and 109-111 Park Street, St Kilda	NPS1
360-370 St Kilda Road, Melbourne, Revised November 2001	C33
400 - 430 City Road, Southbank, December 2010	C85
400-410 City Road, 2-48 Cecil Street and 127-135 Whiteman Street, South Melbourne	NPS1
414-416 and 418 St Kilda Road, Melbourne	NPS1
582-584 St Kilda Road, Melbourne	NPS1
89 Fitzroy Street, St Kilda	NPS1
Acland Courtyard Development Plan	NPS1
Acland Street Upgrade Project Incorporated Document, December 2015	C124
Albert Park Master Plan	NPS1
Beacon Cove Development, Port Melbourne (revised) 2013 (including Beacon Cove Concept Plan No.1, Beacon Cove Precinct Plan No. 1, Beacon Cove Residential Component Guidelines No.1 and Plan named Beacon Cove Port Melbourne showing areas subject to an environmental audit)	C104
Becton, Port Melbourne Development Concept Plan and Building Envelope Plan	NPS1
City of Port Phillip Heritage Policy Map (Updated Version 25, May 2018) (Part of Port Phillip Heritage Review)	C143
City of Port Phillip Neighbourhood Character Map (Updated Version August 2017) (Part of Port Phillip Heritage Review)	C132
Fishermans Bend Strategic Framework Plan, July 2014 (amended September 2016)	GC50
Hospital Emergency Medical Services - Helicopter Flight Path Protection Areas Incorporated Document, June 2017	GC49
Incorporated Plan - Sea Wall and Promenade - September 2008	C70
Luna Park	NPS1
M1 Redevelopment Project, October 2006	C58

Name of document	Introduced by:
Major Promotion Signs – Permit Provisions December 2008	C100
Melbourne CityLink Project – Advertising Sign Locations, November 2003	VC20
Melbourne Convention Centre Development, Southbank and North Wharf redevelopment, Docklands, April 2006, Amended May 2016	GC44
Melbourne Metro Rail Project Incorporated Document, December 2016	GC45
Melbourne Metro Rail Project – Infrastructure Protection Areas Incorporated Document, May 2016	GC67
Melbourne Sports & Aquatic Centre, Albert Park	NPS1
Montague Community Park and associated Streetscape Works, August 2017	C135
Part 61 Bertie Street, Port Melbourne, November 2001	C33
Port Melbourne Mixed Use Area Development Contributions Plan (Streetscape Works) July 1999	C13
Port Phillip Heritage Review - Volumes 1-6 (Version 25, May 2018)	C143
Prince Apartments Stage 2 Development Plans – 29 Fitzroy Street, St Kilda (December 2013)	C94
Shrine of Remembrance Vista Controls, April 2014	C140
St Kilda Foreshore Urban Design Framework, 2002	C36
St Kilda Seabaths	NPS1
St Kilda Station Redevelopment plans prepared by Billard Leece Partnership dated July 1999	C9
State Sports Facilities Project Albert Park, September 2009 (amended May 2012)	C120
Stokehouse – 30 Jacka Boulevard, St Kilda, July 2014	C110
Tramway Infrastructure Upgrades Incorporated Document, May 2017	GC68
Victorian Cricket and Community Centre, St Kilda Cricket Ground, May 2016	C119
West Beach Pavilion Precinct Incorporated Plan, 2004	C36
Victorian Pride Centre, June 2018	C149

PORT PHILLIP PLANNING SCHEME - LOCAL PROVISION AMENDMENT C149



LEGEND

- C12 - Commercial 1 Zone
- Local Government Area



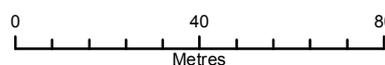
Part of Planning Scheme Map 6

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Planning Group
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Environment,
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PORT PHILLIP PLANNING SCHEME

PORT PHILLIP PLANNING SCHEME

INCORPORATED DOCUMENT

Victorian Pride Centre
79-81 Fitzroy Street, St Kilda

This document is an Incorporated Document in the Port Phillip Planning Scheme pursuant to Section 6(2)(j) of the Planning and Environment Act 1987

1.0 INTRODUCTION

This document is an incorporated document in the Port Phillip Planning Scheme (the Planning Scheme) and is made pursuant to section 6(2)(j) of the Planning and Environment Act 1987.

The land identified in Clause 3.0 of this document may be used and developed in accordance with the specific controls and conditions contained in Clause 4.0 of this document.

The controls in this document prevails over any contrary or inconsistent provision in the planning scheme.

2.0 PURPOSE

The purpose of this incorporated document is to allow the use and development of the land for the purposes of the Victoria Pride Centre (the Project), a mixed-use community and commercial facility.

3.0 LAND DESCRIPTION

The controls in this document apply to the following land (the land):

- 3/77 Fitzroy Street, St Kilda described as Lot 2 on LP132961.
- 79-81 Fitzroy Street, St Kilda described as Lot 1 on TP345977L.
- Crown Land adjacent to 79-81 Fitzroy Street, St Kilda and airspace over the footpath.

Commented [KM1]: DELWP suggestion. Policy neutral.

4.0 CONTROL

4.1 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Despite any provision to the contrary or any inconsistent provision in the Planning Scheme, no planning permit is required for, and no planning provision in the Planning Scheme operates to prohibit, restrict or regulate the use and development of the land for the purposes of the project.

The land may be used and developed for the Project subject to the conditions in Clause 4.3 and generally in accordance with the Development Plans that form part of this Incorporated Document.

The Project includes the following use and development:

- Demolition of existing buildings.
- Consolidation of the land.
- Creation of an easement.
- Construction of a multi-storey community and commercial building including an accessible rooftop and a basement to be used for (but not limited to) offices, shops, food and drink premises, radio station, medical centre, place of assembly (excluding a nightclub), reading room, gallery and the sale and consumption of liquor.

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- On-site car and bicycle parking.
- Building services and amenities including store areas, toilets and change facilities and kitchens.
- Environmentally sustainable design facilities including solar panels and rainwater tanks.
- Display of direction, promotion and business identification signs.

4.2 DEVELOPMENT PLANS

The Development Plans that form part of this incorporated document are:

Add description

4.3 CONDITIONS

The use and development of the land must be undertaken in accordance with the conditions set out in this Incorporated Document and in conformity with the Endorsed Plans.

Plans to be endorsed

1. Prior to the commencement of development (other than demolition or works to remediate contaminated land), plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and an electronic copy submitted to the Responsible Authority. The plans must be generally in accordance with the Development Plan, but modified to show:
 - a) Any design changes resulting from recommendations contained in the approved:
 - i. Arborist Assessment Report as required by Condition 4
 - ii. Traffic Impact Assessment as required by Condition 11
 - iii. Waste Management Plan as required by Condition 13
 - iv. Noise and Amenity Action Plan as required by Condition 27
 - v. Acoustic Report as required by Condition 28
 - vi. Green Travel Plan as required by Condition 12;
 - b) Any design changes resulting from recommendations contained in the CPTED Safety in Review Report 79-81 Fitzroy Street, St Kilda, prepared by Salus Risk Consulting, Revision 2, dated 13 August 2018;
 - c) Details of the fencing provided around the rear ground floor sunken courtyard;
 - d) Details of loading / unloading facilities;
 - e) Addresses and Lot Details on Drawing A0002;
 - f) Dimensions of all building setback distances from each title boundary on each level;
 - g) The crossover on Jackson Street constructed as a rollover crossover and the footpath retained as its existing level and materials, with this detail submitted as a section diagram;
 - h) The public car parking spaces having a 3-hour time limit;
 - i) An electronic directional sign on Jackson Street that provides an indication of the availability of the public bays, for advertising the availability of public bays;
 - j) Clearly defined land uses on each level and rooftop, stating net floor areas;
 - k) A schedule and sample panel of all external materials and finishes showing materials, colours and finishes, roof and glazing treatment;
 - l) Details of all signs; and

Commented [KM2]: Technical wording change to allow for amended plans to be endorsed as 'Endorsed Plans' that are generally in accordance with the Development Plans. This allows for future amendments to the Endorsed Plans without the need for a Planning Scheme Amendment

Commented [KM3]: Additional conditions inserted; the Independent Advisor supports Council's submission to include these conditions.

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- m) Details of the carriageway easement which benefits the adjoining land contained in certificate of title volume 4354 folio 607 known as 2/77 Fitzroy Street, St Kilda.

Use and Development

2. The use and development must be constructed and operated in accordance with the Endorsed Plans, unless with the prior written consent of the Responsible Authority.

~~Before any use commences, amended development plans showing the location of each and every specific use as defined by the Planning Scheme and a planning report providing specific details about the type, extent and spatial breakdown of each use as defined by the Planning Scheme shown on the amended plan, including any potential amenity impacts and measures to manage these impacts. If deemed satisfactory by the Responsible Authority, the amended plans and report will be approved and then form part of this Incorporated Document and cannot be altered without the written consent of the Responsible Authority.~~

- 2-3. Any activity conducted on the land must not include a land use prohibited by the provisions of the Commercial 1 Zone.

Materials and Finishes

- a. ~~Before any buildings or works begin on the land (excluding demolition and site preparation), a schedule and sample panel of all external materials and finishes showing materials, colours and finishes, roof and glazing treatment must be submitted to the satisfaction and approval of the Responsible Authority. If satisfactory, the materials and finishes will be approved and then form part of this Incorporated Document.~~

Retention of specified trees

- 3-4. Prior to the approval of the Endorsed Plans under Condition 1, an Arborist Assessment Report prepared by a qualified landscape architect/arborist must be submitted to and approved by the Responsible Authority. The Arborist Assessment Report must specify the existing trees on and immediately adjacent to the site proposed for retention and how they will be retained and protected during construction in accordance with 'AS 4970-2009 Tree protection on development sites', and maintained in good health once the Project is completed.

When approved, the Report will be endorsed and will form part of the Incorporated Document.

The actions and recommendations of the Report must be implemented to the satisfaction of the Responsible Authority.

Removal and Replacement of Street Tree

Commented [KM4]: The Independent Advisor recommends that this condition be deleted. Refer to discussion in the Council Report. Condition 1.i requires this information to be shown on the Endorsed Plans, and other conditions manage any potential amenity impacts.

Commented [KM5]: Suggest deletion. This requirement is now in Condition 1.j. Policy neutral change.

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4-5. Prior to the commencement of development, the amenity value and removal and replacement cost of the street tree must be paid by the land owner to the Responsible Authority. Removal and replacement, including 24-month maintenance of the street tree, may only be undertaken by the Responsible Authority.

Pruning of Canopies of trees to be Retained

5-6. Any pruning required to the canopy of any trees retained on-site or on adjacent land, is to be done by a qualified Arborist to AS 4373 - 2007 Pruning of Amenity Trees to the satisfaction of the Responsible Authority.

Pruning of Root Systems of Trees to be Retained

6-7. Any pruning of the root system of any existing tree to be retained is to be done by hand by a qualified Arborist to the satisfaction of the Responsible Authority.

Sustainable Management Plan

~~Before any buildings or works begin on the land (excluding demolition and site preparation), a Sustainable Management Plan (SMP) outlining proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When approved, the SMP will be endorsed and will then form part of the Incorporated Document and the development must incorporate the sustainable design initiatives listed.~~

Green Star Rating

7-8. Prior to the commencement of buildings and works, evidence must be submitted to the Responsible Authority that demonstrates the project has been registered to seek a minimum 5 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.

8-9. Prior to the occupation of the building, evidence must be submitted to the Responsible Authority that demonstrates the building can achieve a minimum 5 Star Green Star Design Review certification (or equivalent).

9-10. Within 12 months of occupation of the building, certification must be submitted to the Responsible Authority that demonstrates that the building has achieved a minimum 5 Star Green Star Design and As Built rating (or equivalent).

Traffic Impact and Parking

10-11. Prior to the approval of the Endorsed Plans under Condition 1, a Traffic Impact Assessment prepared by a qualified person must be submitted to and approved by the Responsible Authority. The Traffic Impact Assessment must be to the satisfaction of the Responsible Authority and include:

- a. A car parking and traffic engineering design assessment for the Project
- b. All development and ongoing uses on the site
- c. Access and loading arrangements to be implemented

Commented [KM6]: The Independent Advisor recommends the inclusion of this condition (Recommendation 9). This recommendation is varied slightly to require a monetary contribution as opposed to replacement tree planting. This accords with Council's standard planning permit condition.

Commented [KM7]: New conditions included at the request of statutory planning. Policy neutral.

Commented [KM8]: Policy change. This requirement is replaced with the Green Star Rating conditions. This achieves a better outcome. Agreed with VPC Board. Statutory Planning agree.

Commented [KM9]: Additional conditions. VPC agree that the development will achieve a 5 Star Green Star Design and As-Built rating.

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- d. Method to clearly define the Victorian Pride Centre car parking spaces from the Public Car Parking Spaces in the Basement level

When approved, the Traffic Impact Assessment will be endorsed and will form part of the Incorporated Document.

The actions and recommendations of the Traffic Management Plan must be carried out to the satisfaction of the Responsible Authority.

Green Travel Plan

~~44.12.~~ Prior to the approval of the Endorsed Plans under Condition 1, a Green Travel Plan prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. The Green Travel Plan must provide detailed advice regarding how traffic movements and staff parking will be managed and ensure that alternative, non-private vehicle transport modes will be encouraged and maximised. The plan should also identify specific opportunities for the provision of more sustainable transport options and encouragement of their use. The plan must include, but not be limited to:

- e. Maximisation of bicycle related infrastructure including increased provision of bicycle parking, provision of air pumps at on-site bicycle parking areas, increased bicycle hoops at the Fitzroy Street frontage of the site and at other off-site locations within 50 metres of the site, provision of additional bicycle user amenities (lockers, showers, towel drying facilities, etc.).
- f. Installation of permanent fixtures within the building to erect signs in prominent locations advising of directions to nearest tram, train and bus stops and associated timetabling; information regarding the location of nearby car share services; and information on nearby bicycle routes and on-site / nearby bicycle parking facilities.
- g. Establishment of a Commuter Club that requires tenants to pay an annual fee to fund car share membership, myki passes and electric fleet bicycles.
- h. Introduction of a strategy to encourage visitors to the VPC to utilise sustainable travel modes.
- i. Scooter / electric bicycle charging points.
- j. Provision of scooter / motorcycle parking.
- k. Introduction of a strategy to maximise the use of car share services for tenants and visitors of the site where car movements are necessary.
- l. Introduction of time limitations on public parking on-site to discourage use by commuters to the VPC.
- m. Specific targets to guide and monitor the ongoing implementation of the Green Travel Plan.
- n. Identification of persons responsible for the implementation of actions.
- o. Estimated timescales and costs for each action.
- p. Inclusion of a plan for the monitoring and review of the Travel Plan every 3 years after the use of the building commences.

Commented [KM10]: Condition required as part of the consideration of car parking dispensation as per consideration of report of Independent Advisor in Council Report.

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Once approved, the Green Travel Plan should be implemented via the introduction of an Agreement pursuant to Section 173 of the *Planning and Environment Act 1987* that ties the requirements to the title of the land. This will ensure that the provisions of the Green Travel Plan will be able to be enforced in perpetuity.

Waste Management Plan

~~12~~13. Prior to the approval of the Endorsed Plans under Condition 1, a Waste Management Plan prepared by a qualified Waste Management Engineer or Waste Management Planner must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be prepared in accordance with the City of Port Phillip's Waste Management Plan Guidelines for Developments (or successor document). The Plan must include reference to the following:

- ~~b~~a. Land use type.
- ~~c~~b. The estimated garbage and recycling volumes for the whole development.
- ~~d~~c. Bin quantity, size and colour.
- ~~e~~d. The garbage and recycling equipment to be used.
- ~~f~~e. Collection frequency.
- ~~g~~f. Collection must be after 10am on any day.
- ~~h~~g. The location and space allocated to the garbage and recycling bin storage area and collection point.
- ~~i~~h. The waste services collection point for vehicles.
- ~~j~~i. Waste collection provider.
- ~~k~~j. Scaled waste management drawings.
- ~~l~~k. Signage.

When approved, the Waste Management Plan will be endorsed and will form part of the Incorporated Document.

The actions and recommendations of the Waste Management Plan must be carried out to the satisfaction of the Responsible Authority.

Amenity, Noise and the sale and consumption of liquor

~~13~~14. All external lighting must be baffled to ensure no adverse impact on abutting or adjacent properties to the satisfaction of Responsible Authority.

~~14~~15. All external building elevations, fixtures and works must be maintained in good condition at all times in accordance with the schedule of finishes shown on the Endorsed Plans to the satisfaction of Responsible Authority.

~~15~~16. The amenity of the area must not be detrimentally affected by the use or development of the land to the satisfaction of the Responsible Authority, including through the:

- a. Transport of materials, goods or commodities to or from the land
- b. Appearance of any building, works or materials
- c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, water, waste products, grit or oil

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d. Presence of vermin.

~~46-17.~~ The use of the outdoor areas on the site (excluding the adjacent Fitzroy Street footpath at Ground Floor Level) must cease after 10pm. All doors, windows and openable areas to these outdoor areas on the site must remain closed after 10pm. This can be varied with the written consent of the Responsible Authority.

~~47-18.~~ Prior to the commencement of use the kitchen(s) mechanical exhaust system must be constructed in accordance with the Australian Standard number 1668 and/or to the satisfaction of the Responsible Authority. Prior to the commencement of use a report prepared by a suitably qualified professional demonstrating compliance with the requirement must be submitted to and approved by the Responsible Authority.

~~48-19.~~ The kitchen(s) exhaust system must provide for a vertical discharge to the atmosphere at a point and velocity which allows for effective dispersal of fumes to not create a nuisance (as defined under the Public Health and Wellbeing Act 2008) to the surrounding amenity to the satisfaction of the Responsible Authority.

~~49-20.~~ The sale, storage and consumption of liquor must only occur within the red line area as shown on the Endorsed Plan.

~~20-21.~~ The sale, storage and consumption of liquor must only occur within the following hours:

Ground floor	10am – 1am the following day
Level 2 indoor function space	10am – 1am the following day
Level 2 outdoor function space	10am – 10pm
Roof top	10am – 10pm

During these times, patron numbers are limited to:

Ground floor	90
Level 2 function space	140 (indoor and outdoor function space)
Roof top	100

This can be varied with the prior written consent of the Responsible Authority.

~~The land owner must ensure that all employees of the premises engaged in the service of alcohol have undertaken a "Responsible Serving of Alcohol" course.~~

Commented [KM11]: Technical wording change - No change to intent. Combined two separate conditions.

Commented [KM12]: Recommended deletion by VPC, the Independent Advisor and Council Officers – this is required under the Liquor Control Reform Act 1998; this condition is a duplication of other legislation.

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- 21-22. Prior to the commencement of use signs must be erected near the entrance/exit and in the toilets requesting that patrons leave the building in a quiet and orderly manner so as not to disturb the peace and quiet of the neighbourhood to the satisfaction of the Responsible Authority.
- 22-23. Noise levels must not exceed the permissible noise levels stipulated in *State and Environment Protection Policy N-1 (Control of Noise from Industrial Commercial and Trade Premises within the Melbourne Metropolitan Area)* and *State and Environment Protection Policy N-2 (Control of Music Noise from Public Premises)* to the satisfaction of the Responsible Authority.
- 23-24. Amplified music may only be played through the Permanently Installed Sound System with an installed and operating Device to ensure compliance with *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2)* to the satisfaction of the Responsible Authority.
- 24-25. Before the use commences, the land owner must install and maintain a Noise Limiter ("the Device"), set at a level by a qualified acoustic engineer, to ensure the escape of amplified music does not exceed the requirements of SEPP N-2 to the satisfaction of the Responsible Authority.
- 25-26. Live music performances in outdoor spaces must only be acoustic with no percussive instruments and must not exceed the requirements of *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2)* to the satisfaction of the Responsible Authority. This can be varied with the prior written consent of the Responsible Authority.
- 26-27. Before occupation of the building, a Noise and Amenity Action Plan prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority, and contain the following:
- a. The identification of all noise sources associated with the licensed premise (including, but not limited to, music noise, external areas allocated for smokers, queuing lines, entries and exits to the premises).
 - b. Hours of operation for all parts of the premises.
 - c. Design details to ensure that ground level patrons at the rear are confined within the boundaries of the site.
 - d. Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.
 - e. The identification of noise sensitive areas including residential uses and accommodation in close proximity to the licensed premise.
 - f. Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures, including but not limited to:
 - i. The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
 - ii. The measures to be taken by management and staff to ensure that patrons queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.

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- a. Details of staffing arrangements including numbers and working hours of all security staff.
- b. Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, an authorised officer of the responsible authority or an officer of the liquor licensing authority.
- c. A telephone number provided for residents to contact the premises and linked to the complaints register;
- d. The maintenance of a complaint register, which must, on reasonable request, be made available for inspection by the Responsible Authority.
- e. Location of lighting within the boundaries of the site, security lighting outside the licensed premise and any overspill of lighting.
- f. Details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.
- g. Any other measures to be undertaken to ensure minimal amenity impacts from the licensed premise.
- h. Location and operation of air-conditioning, exhaust fan systems, security alarms and the like.

When approved, the Noise and Amenity Action Plan will be endorsed and will form part of the Incorporated Document.

The actions and recommendations of the Noise and Amenity Action Plan must be carried out to the satisfaction of the Responsible Authority.

27-28. Before occupation of the building, an Acoustic Report prepared by a suitably qualified Acoustic Consultant must be submitted to and approved by the Responsible Authority. This Report must confirm that a Noise Monitor/s and Limiter/s ("the Device") is operating and has all of the following characteristics which are also operating:

- a. Each Device limits internal noise levels so as to ensure compliance with the music noise limits according to *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2)*.
- b. Each Device is a limiter suitable for interfacing with a Permanently Installed Sound System which will include any amplification equipment and loudspeakers.
- c. Each Device monitors noise levels at frequencies between 50Hz and 100Hz and is wired so as to ensure that the limiter governs all power points potentially accessible for amplification.
- d. Each Device controls are in a locked metal case that is not accessible by personnel other than a qualified acoustic engineer or technician nominated by the owner of the land and notified to the Responsible Authority.
- e. Each Device is installed to control all amplification equipment and associated loudspeakers.
- f. Each Device is set in such a way that the power to the amplification equipment is disconnected for 15 seconds if the sound level generated by the amplification equipment exceeds for one second the maximum sound level for which the monitor is set.
- g. The monitor level component of the Device includes a calibratable frequency discriminating sound analyser with an internal microphone incorporated in its own tamper-proof enclosure (beyond the normal reach of a person). Such a sound analyser will indicate by green, amber and red illuminated halogen lamps

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the approach and exceeding of the set maximum noise level. The lamps must be in the clear view of the staff and any disc jockey in the room.

- h. Each Device must prevent a relevant noise level referred to in these conditions being exceeded;
- i. Which report demonstrates compliance with the *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2)* noise limits.

When approved, the Acoustic Report will be endorsed and will form part of the Incorporated Document.

The actions and recommendations of the Acoustic Report must be carried out to the satisfaction of the Responsible Authority.

~~28-29.~~ A bottle crusher must be located within the premises and used for the disposal of bottles and glass. Disposal of the crushed bottles and glass outside of the premises must not occur after 10pm or before 8am Monday to Saturday or after 10 pm or before 10am on Sunday. This can be varied with the prior written consent of the Responsible Authority.

Consolidation of Site

- ~~29-30.~~ Before occupation of the building, the following lots must be consolidated:
- a. 3/77 Fitzroy Street, St Kilda (Lot 2 on LP132961)
 - b. 79-81 Fitzroy Street, St Kilda (Lot 1 on TP345977L)

A copy of the Certificate of Title must be submitted to the Responsible Authority.

Crown Land

~~30-31.~~ The owner of the land must seek a tenure authorisation under the Land Act 1958 from the relevant road manager or an appropriate road reserve licence under the Road Management Act 2004 from VicRoads for any building projections over Crown Land (adjacent to 79-81 Fitzroy Street). That authorisation must indemnify the City of Port Phillip, the Department of Environment, Land, Water and Planning and VicRoads (as appropriate) against any claim regarding the projections. Should the owner of the property seek to commence works prior to the issue of this authorisation, the owner must first enter into a legal agreement under Section 173 of the Planning and Environment Act 1987, that specifies the liability for claims relating to or arising from those parts of the development projecting into airspace or sub-soil of land under the care and management of the City of Port Phillip. The owner of the subject land must pay all reasonable legal costs and expenses of the City of Port Phillip for the agreement, including preparation, execution and registration on title.

General Conditions

~~31-32.~~ Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

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~~32-33.~~ Parking areas and access ways must be kept available for those purposes at all times.

~~33-34.~~ The open section of land in the south-west corner of the site, at ground level, is to be maintained by the relevant Owners' Corporation(s) to the satisfaction of the Responsible Authority.

~~34-35.~~ Before occupation of the building vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, nature strip, kerb and road reinstated as necessary at the cost of the land owner, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.

Commented [KM13]: Condition requested by VPC. No change to intent of Incorporated Document.

~~35-36.~~ Before occupation of the building the land owner must:

- a. Pay the costs of all alterations to, and reinstatement of Council and Public Authority assets as necessary and required by such Authorities for the development;
- b. Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement works; and
- c. Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

Commented [KM14]: Condition requested by VPC. No change to intent of Incorporated Document.

Section 173 Agreement

~~36-37.~~ Before the development starts (other than demolition or works to remediate contaminated land), the owner of the land must enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the land owner 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 for the following:

Commented [KM15]: S173 requested by VPC. Technical wording change for their condition to be in accordance with the statutory planning standard conditions and Council's legal advice.

- a. The removal of all window or building openings located on a common boundary are to be removed by the land owner if deemed necessary by the Responsible Authority as part of the redevelopment of an adjoining property;
- b. The implementation of the endorsed Green Travel Plan that forms part of the Incorporated Document for 79-81 Fitzroy Street St Kilda (the endorsed Green Travel Plan must be attached to the Section 173 Agreement);
- c. The arrangements for projections over Fitzroy Street including matters to the satisfaction of Council, including arrangements to deal with (but not be limited to) the following matters:

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- iii. Licence – term, no easements of support, licence fee and payment, no claim by adverse possession;
- iv. Maintenance and compliance with laws – construction requirements, repair and maintenance, no alterations, cleaning, compliance with laws, make good arrangements;
- v. Nuisance;
- vi. Indemnities in favour of Council;
- vii. Insurances; and
- viii. Rights for council to access.

The land owner must pay all of the City of Port Phillip's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

The agreement must be registered on Title in accordance with Section 181 of the *Planning and Environment Act 1987*.

Prior to the commencement of use, a dealing number must be provided to the Responsible Authority.

Expiry

30. The specific controls contained in this Incorporated Document will expire if one of the following circumstances applies:

- a. The development is not commenced by 30 June 2021;
- b. The development is not completed by 30 June 2025;
- c. The use of the land for the project is not commenced within two (2) years of completion of the development.

The Responsible Authority may extend these periods referred to if a request is made in writing before these controls expire or within six (6) months afterwards.

END OF DOCUMENT