

APPENDIX C:

AMENDED ENVIRONMENTAL SIGNIFICANCE OVERLAY

24/05/2012
C125

SCHEDULE 4 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO4**.

PORT OF MELBOURNE ENVIRONS

1.0 Statement of environmental significance

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The overlay manages potential conflicts between land in the port environs and the adjoining Port of Melbourne, [an asset that is of State and National significance](#). Land within this overlay should not be developed for any purpose that might compromise the long term protection and expansion of port operations, infrastructure and associated storage facilities.

2.0 Environmental objective to be achieved

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- Minimise the potential for future land use conflicts between the port and port environs.
- Ensure that any use and intensity of development in the overlay area does not constrain the ongoing operation and development of the commercial port [or impede its future expansion](#).

3.0 Permit requirement

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A permit is not required to:

- ~~Use, construct a building or construct or carry out works, unless the building or works is associated with the following uses:~~
 - Accommodation
 - Child care centre
 - Education centre
 - Place of Assembly
 - Office
 - Food and Drinks Premises
 - Display Home
- Remove, destroy or lop any vegetation, including dead vegetation.

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[A permit is required to subdivide land.](#)

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Subdivide land. ¶

4.0 Conditions and requirements for permits

[Any permit for accommodation must include the following conditions:](#)

[Noise From Port](#)

[The subject development must maintain noise mitigation treatment to limit noise from commercial operations from the Port of Melbourne \(PoM\) \(west of Todd Road\) to the external private open areas of all dwellings to Leq58 dB\(A\) or lower for daytime periods and Leq51dB\(A\) or lower for evening and night-time periods, adjusted in accordance with State Environment Protection Policy No. N-1.](#)

- [The Responsible Authority may, periodically at its discretion and/or in response to a](#)

resident noise complaint, require the owner or Owners Corporation to undertake, or cause to be undertaken a Noise Commissioning Assessment by a suitably qualified acoustic consultant. The noise assessment must exclude traffic noise emissions from Todd Road and Williamstown Road and be completed in accordance with the requirements State Environment Protection Policy (Noise from Industry, Commerce or Trade) No. N-1.

- If the Noise Commissioning Assessment determines that noise from the Port of Melbourne (PoM) (west of Todd Road) exceeds the above limits, the owner or Owners Corporation must undertake or cause to be undertaken additional noise mitigation treatment to meet the above noise limits.

Incorporation of Noise attenuation Measures

- Upon completion and prior to the occupation of the building(s) allowed by this permit, a report by a suitably qualified acoustic consultant must be submitted to, approved by and be to the satisfaction of the Responsible Authority:
 - Certifying that the dwellings incorporate the noise attenuation measures as specified in the endorsed Acoustic Report and shown on the endorsed plans.
 - 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 Permit Applicant.

Agreement under Section 173 of the Planning and Environment Act 1987

Before the development starts (other than demolition or works to remediate contaminated land), the applicant must:

- Enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority and the Port of Melbourne Operations:
 - Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and
 - Provide the Responsible Authority with the dealing number confirming the registration of the agreement.
- The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, execution, registration, enforcement and ending of the agreement.
- The agreement must contain the following obligations as covenants to run with the land, and must provide for the following:
 - Confirm that the land is located adjacent to an active, 24 hour per day working port located at the Port of Melbourne;
 - Acknowledge the adjacent Port is projected to expand and increase its operations from circa 1 one million standard containers in 2017 to six million standard

containers by 2040, generally in accordance with the Port Development Strategy 2035 Vision, Port of Melbourne Corporation, August 2009, as amended from time to time.

- Require that the dwellings to be constructed on the land must be constructed to the acoustic standards above.
- Require that the dwellings must be designed and constructed to comply with the ventilation requirements of the Building Code of Australia, AS3666 and AS1668 with all windows and doors closed.
- Require that the owner of each dwelling, prospective owner of each dwelling and/or the Owners Corporation at the time is made aware of their responsibility, in writing, for maintaining the outdoor acoustic standards required by the conditions of this permit and the construction of any additional noise attenuation structures or features to achieve the outdoor acoustic standards required by the conditions of this permit.
- Require that the dwellings allowed by this permit must at all times comply with the acoustic standards required by permit;
- Require that the owner of each dwelling, prospective owner of each dwelling and/or the Owners Corporation at the time is made aware of their responsibilities, in writing, to maintain doors, glazing and acoustic seals to fulfil the indoor acoustic standards required by the conditions of the Planning Permit.
- The owner must inform every prospective purchaser or tenant of a dwelling in the building, in writing, that the adjacent Port may be a source of significant noise.

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Decision guidelines

Before deciding on an application, the responsible authority must consider:

- Whether the proposed use or development is appropriate to the site by virtue of the proximity to the port.
- Whether the intensity of the proposed use or development might impede the long term operations of the port.
- Whether the proposed use or development might impede the long term development and operation of the port.
- Whether the proposed use or development has the potential to expose people unnecessarily to any off-site impacts associated with the 24-hour, 7 day a week operation of the port.
- Whether the siting and design of the proposed use or development includes appropriate measures to ensure that the amenity of the proposed use will not be impacted by off-site impacts associated with the 24-hour, 7 day a week operation of the port.
- Whether the proposal is compatible with the present and future operation of the commercial trading port as detailed in a port development strategy approved under the *Port Management Act 1995*.
- Whether the proposal will result in an increase in the number of people affected by noise or road or rail traffic arising from port operations.

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PORT PHILLIP PLANNING SCHEME

- Whether the proposal will result in an increase in the number of people affected by exposure to risk to health or life arising from port operations.

5.0 Reference

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Port Development Strategy 2035 Vision (Port of Melbourne Corporation 2009).