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## SCHEDULE 4 TO CLAUSE 37.04 CAPITAL CITY ZONE

Shown on the planning scheme map as **CCZ4**.

### FISHERMANS BEND URBAN RENEWAL AREA

#### Purpose

To implement the *Fishermans Bend Vision, September 2016* and the *Fishermans Bend Framework, XX 2018*.

To create a world leading sustainable area that incorporates sustainable transport patterns and best practice sustainable design into all developments.

To create a highly liveable mixed-use area that ~~prioritises~~ ~~gives priority to~~ employment uses over residential uses.

To ~~achieve~~ ~~ensure the overall floor area aligns with~~ the population targets, job growth and residential densities ~~of Fishermans Bend and~~ to enable a scale of growth that is aligned with the provision of infrastructure.

To ~~require~~ ~~provide~~ a public benefit where the scale of growth exceeds planned infrastructure provision.

#### 1.0

#### Table of uses

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#### Section 1 - Permit not required

| Use  | Condition  |
|--|--|
| <b>Accommodation (other than Dwelling, Corrective institution, Motel, Residential aged care facility, Residential hotel, Residential village and Retirement village)</b> | Must meet the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10. |
| <b>Art and craft centre</b>  |  |
| <b>Bank</b>  | Must be located with frontage to a primary or secondary active frontage street.                                  |
| <b>Child care centre</b>   | Must meet the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10. |
| <b>Cinema based entertainment facility</b>   | Must be located with frontage to a primary or secondary active frontage street.                                  |
| <b>Department store</b>  | Must be located in a core area with frontage to a primary or secondary active frontage street.                   |
| <b>Display home</b>  |  |
| <b>Education centre</b>  | Must meet the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10.     |
| <b>Home occupation</b>   | Must meet requirements of Clause 52.11.  |
| <b>Informal outdoor recreation</b>   |  |
| <b>Minor sports and recreation facility</b>  |  |
| <b>Office (other than Bank)</b>  |  |
| <b>Place of assembly (other than Amusement parlour, Function centre and Nightclub)</b>   |  |
| <b>Railway station</b>   |  |

| Use  | Condition  |
|--|--|
| Retail premises (other than Hotel, Shop and Tavern)<br>Restricted retail premises                  | Must not exceed 1000 square metres gross leasable floor area.  |
| Residential aged care facility<br>Residential hotel<br>Motel                                       | Must meet the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10. |
| Shop (other than Adult sex bookshop, Department store, Supermarket and Restricted retail premises) |  |
| Supermarket  | Must be located with frontage to a primary or secondary active frontage street.                              |
| Tramway  |  |
| Any use listed in Clause 62.01   | Must meet the requirements of Clause 62.01.  |

### Section 2 - Permit required

| Use   | Condition   |
|---|---|
| Car park  | Must not be an open lot car park.                 |
| Dwelling  | <del>If the section 1 condition is not met.</del> |
| <a href="#">Function centre</a>   |   |
| Hotel   |   |
| Industry  |   |
| <del>Function centre</del>  |   |
| Leisure and recreation (other than Informal outdoor recreation, Minor sport and recreation facility, Motor racing track and Racecourse) |   |
| Nightclub   |   |
| Residential village   |   |
| Retirement village  |   |
| Tavern  |   |
| Transport terminal (other than Airport and Railway station)   |   |
| Utility installation  |   |
| Warehouse   |   |
| Any other use not in Section 1 or 3   |   |

### Section 3 - Prohibited

| Use |
|-----|
|-----|

**Airport**  
**Agriculture (other than Apiculture and Crop raising)**  
[Brothel](#)  
**Cemetery**  
**Corrective institution**  
**Motor racing track**  
**Racecourse**  
**Pleasure boat facility**

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## 2.0

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## Use of land

### Application requirements

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- An application to use the land for a dwellings, residential village or retirement village must be accompanied by a report which addresses:
  - ~~How how the proposal contributes to the creation of, diverse, inclusive, lively mixed use neighbourhoods that foster social inclusion.~~
  - How the proposal contributes to an activated ~~ground floor~~ frontage.
  - How the proposal achieves the dwelling density of the [Fishermans Bend Urban Renewal Local Policy](#) ~~Clause 22.27~~, including an assessment of the composition and size of dwellings proposed.
  - How the proposal contributes to the job growth targets and employment floor area set out in the Fishermans Bend Urban Renewal Area Local Policy.
- An application to use land for a dwellings, a residential village, retirement village, hostel, child care centre, education centre, or informal outdoor recreation use which does not meet the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10, or that is within 300 metres of any existing warehouse or industrial use, must be accompanied by an Amenity Impacts Plan which includes, as appropriate:
  - A site plan that identifies the type and nature of the industrial/warehouse uses surrounding the site.
  - An assessment of the impact of the proposed sensitive use on existing industry/warehouse uses
  - An assessment of the amenity impact of nearby port operations, freight routes or major transport infrastructure on the proposed sensitive uses.
  - Measures proposed to mitigate potential amenity impacts of existing industry/warehouse uses or port, freight, ~~or~~ transport infrastructure on the proposed sensitive use, to within acceptable levels.
- An application to use land for an industry or warehouse must be accompanied by the following information, as appropriate:
  - ~~The type and quantity of goods to be stored, processed or produced.~~
  - ~~The likely effects, if any, on the neighbourhood, including noise levels, air borne emissions, emissions to land or water, traffic, including the hours of delivery and despatch, and light spill or glare.~~
  - ~~Strategies to mitigate the above effects.~~
    - [The purpose of the use and the types of processes to be utilised.](#)
    - [The type and quantity of goods to be stored, processed or produced.](#)
    - [How land not required for immediate use is to be maintained.](#)

- Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.
- Whether a notification under the Occupational Health and Safety Regulations 2017 is required, a licence under the Dangerous Goods Act 1985 is required, or a fire protection quantity under the Dangerous Goods (Storage and Handling) Regulations 2012 is exceeded.
- The likely effects, if any, on the neighbourhood, including:
  - Noise levels.
  - Air-borne emissions.
  - Emissions to land or water.
  - Traffic, including the hours of delivery and despatch.
  - Light spill or glare.

### Exemption from notice and review

An application for the use of land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This exemption does not apply to an application to use land for a nightclub, tavern, hotel ~~brothel~~ or adult sex bookshop.

### Decision ~~Guidelines~~guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- ~~Whether the use of land is generally in accordance with the Fishermans Bend Framework, XY 2018 and any relevant Neighbourhood Precinct Plan.~~
- If dwellings, ~~residential village or, retirement village uses are~~ is proposed, whether the proposal:
  - Delivers dwelling diversity and dwelling density that aligns with the population targets and provision of community infrastructure.
  - Creates an activated ground floor.
  - Provides home-offices or communal facilities that support ‘work from home’ or ‘mobile’ employment.
- The impact the proposal has on the realisation of employment targets, ensuring that employment uses are maximised and safeguarded in areas, well serviced by public transport.
- Whether the use provides for employment uses in line with targets set out in the Fishermans Bend Urban Renewal Area Local Policy.
- ~~Potential interim or T~~temporary uses of land not immediately required for the proposed use.
- If a dwelling is located within a buffer area to the Port of Melbourne, whether the intensity of use is appropriate to its location.
- ~~Whether the proposed use is appropriate to its location.~~
- Whether the proposal incorporates appropriate measures to mitigate against adverse amenity from existing uses.
- ~~The impacts proposed uses may have on the surrounding area.~~

## 3.0

## Subdivision

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## Permit requirements

The following requirements apply to subdivide land:

- The layout of the subdivision must make provision for any new streets, laneways, or public open space generally in accordance with Map 2 and Map 3 [of this schedule](#).
- Car parking areas are to be retained in a single or a consolidated title as common property, unless the responsible authority is satisfied that this requirement is not required.
- ~~For subdivisions that includes residential subdivision the requirements of Clause 56 as appropriate.~~

## Application requirements

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The location of abutting roads, services, infrastructure, and street trees.
- Information which demonstrates how the subdivision makes provision for the streets, laneways, and open spaces, generally in accordance with ~~the Fishermans Bend Framework, XX 2018,~~ Map 2 and Map 3 [of this schedule](#).
- Information which demonstrates how the subdivision will allow for the [transition of car parking spaces to alternate uses over time](#).
- [A layout plan, drawn to scale and fully dimensioned showing:](#)
  - ~~transition of car parking spaces to alternate uses over time.~~ [The location, shape and size of the site.](#)
  - [The location of any existing buildings, car parking areas and private open space.](#)
  - [The location, shape and size of the proposed lots to be created.](#)
  - [The location of any easements on the subject land.](#)
  - [Any abutting roads.](#)
  - [Any proposed common property to be owned by a body corporate and the lots participating in the body corporate.](#)
- ~~A Functional Layout Plan showing, as the provision, if any, of:~~
  - ~~Land reserves and their function.~~
  - ~~Streets and/or laneways, including intersections and typical cross sections.~~
  - ~~Pedestrian and/or cycling paths.~~
  - ~~Spatial requirements for car and bicycle parking.~~
  - ~~Trenching required for drainage, electrical, access and servicing.~~
  - ~~Existing significant trees and tree protection zones.~~
  - ~~Any proposed common property to be owned by an owner's corporation and the lots participating in the owner's corporation.~~
- A land budget showing the extent of land provided as a public benefit.

## Exemption from notice and review

An application for the subdivision of land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

### Decision ~~Guidelines~~guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the layouts of streets, laneways and open space are consistent with those shown in ~~the *Fishermans Bend Framework, XX 2018*~~, Map 2 and Map 3 of this schedule.
- The contribution the proposed subdivision makes to a fine grain precinct, and pedestrian and bicycle permeability.
- ~~How~~Whether the proposed car parking areas are designed for future adaptation or repurposing of land in line with the future provision of public transport.
- ~~Whether car parking areas are retained in a single or consolidated title as common property.~~
- Where the application to subdivide land provides for residential development, the objectives of Clause 56, ~~as appropriate~~.
- Whether the subdivision provides for the necessary utilities infrastructure to service the development of the subdivided parcels, and allows for shared trenching.
- Whether any proposed staging of development is appropriate.
- Impacts the subdivision may have on landscape opportunities along street frontages, particularly for large canopy trees.
- Whether the subdivision ~~of land~~ can accommodate an appropriate building envelope.

## 4.0 Buildings and works

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### Permit ~~Requirement~~requirement

A permit must not be granted to construct a building or construct or carry out works where the provision for any new streets, laneways, or public open space generally in accordance with Map 2 and Map 3 is not provided.

A permit must not be granted to construct a building or construct or carry out works where the vehicle access points and crossovers are located along roads designated as 'no cross overs permitted' in ~~the~~ Map 2 of this schedule, except where a new street or laneway is being created in accordance with that plan, or no other access is possible.

A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) to construct a building or construct or carry out works with a floor area ratio in excess of the ~~Floor-floor Area-area Ratios-ratios~~ in Table 1 unless:

- In a core area as defined on Map 1 of this schedule:
  - The additional floor area that results from exceeding the floor area ratio is not used for Dwelling, or
  - A public benefit and floor area uplift as calculated and specified in a manner agreed to and approved by the responsible authority is provided, and the permit includes a condition (or conditions) which requires the provision of the public benefit to be secured via an agreement made under section 173 of the *Planning and Environment Act 1987*, or
  - A combination of the above.

**Table 1 Floor Area Ratios**

| Precinct | Core Area |
|----------|-----------|
| Lorimer  | 5.4:1     |

**No Permit Required**

No permit is required to construct a building or construct or carry out works for the following:

- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works.
- An addition or modification to a verandah, awning, sunblind or canopy of a building.
- External works to provide disabled access to a building or works that complies with legislative requirements.
- Building or works which rearrange, alter or renew a plant area if the area or height of the plant equipment is not increased.
- Bus and tram shelters required for public purposes by or on behalf of the Crown or a public authority.

**Conditions on permits**

For a permit granted to construct a building, other than alterations and additions to an existing building, conditions must be included to the effect that:

- Prior to the commencement of buildings and any works, evidence must be submitted that demonstrates the project has been registered to seek a minimum 4 Star Green Star Design ~~& and~~ As-Built rating (or equivalent): with the Green Building Council of Australia.
- Prior to the occupation of the building, evidence must be submitted that demonstrates the building ~~has~~ can achieved a minimum 4 Star Green Star Design Review certification (or equivalent).
- Within 12 months of occupation of the building, certification must be submitted that demonstrates that the building has achieved a minimum 4 Star Green Star Design ~~& and~~ As Built rating (or equivalent).
- Where a permit is granted to construct a building, other than alterations and additions to an existing building, where the building is within 50 metres of a potential future metro ~~route~~ alignment shown on Map 2 of this schedule, a condition must be included to the effect that:
  - Prior to the commencement of buildings and works ~~construction commencing~~, plans must be submitted to the satisfaction of the responsible authority in consultation with Transport for Victoria showing that the proposed building footings and foundations will not compromise delivery of the proposed future metro ~~route~~ alignment.

**Demolition or removal of buildings requirements**

A permit is required to demolish or remove a building or works, except for:

- The demolition or removal of temporary structures.
- The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation and/or local law.

Before deciding on an application to demolish or remove a building or works, the responsible authority must consider any need for a condition to enter an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* between the landowner and the responsible authority to the effect of requiring:

- Temporary [buildings or](#) works on the vacant site should it remain vacant for ~~6~~ [six](#) months after completion of the demolition-
- Temporary [buildings or](#) works on the vacant site where demolition or construction activity has ceased for ~~6-six~~ months, or an aggregate of ~~6-six~~ months; after commencement of the construction-
- ~~Temporary temporary works must be constructed to the satisfaction of the responsible authority.~~
- Temporary [buildings or](#) works may include:
  - The construction of temporary buildings for short-term retail or commercial use. Such structures shall include the provision of an active street frontage.
  - Landscaping of the site for the purpose of public recreation and open space.

### Application ~~Requirements~~[requirements](#)

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A written urban context report documenting the key planning influences on the development and how it relates to its surroundings.
- A design response, detailing how the proposal responds to the Fishermans Bend Urban Renewal Area Local Policy and how the design makes provision for the streets, laneways, and open spaces, generally in accordance with ~~the Fishermans Bend Framework, XX 2018,~~ Map 2 and Map 3 [of this schedule](#).
- A 3D digital model suitable for insertion into the responsible authority's interactive city model.
- An assessment and report of the proposed floor area ratio and if the proposed floor area ratio exceeds the floor area ratio in Table 1 [of this schedule](#), details of the public benefit and/or, additional floor area not to be used for Dwelling to be provided.
- An application for buildings and works associated with accommodation, child care centre, education centre, or located within 100 metres of a freight ~~route~~[alignment](#) shown in the *Fishermans Bend Framework, XX 2018* or located within 100 metres of the West Gate freeway, or located within 300 metres of an existing industry must be accompanied by the following information to show how the development is designed to protect future occupants from potential adverse amenity impacts, including:
  - Incorporation of noise attenuation measures in accordance with [Australian Standard 2107 and SEPP N- 1](#)
  - ~~If if incorporating private open spaces, including balconies, locates or screens those areas, to attenuation ofe industrial noise to within the requirements of SEPP N- 1.~~
  - Measures to protect against the impacts of vibration, light pollution, and odours and poor air quality.
- Any technical or supporting information necessary, prepared by suitably qualified professionals, including:
  - Environmentally Sustainable Design Statement addressing ESD, Waste and Water management



- Sustainable Transport Plan demonstrating how the development supports sustainable travel behaviour and promotes active transport modes.
- ~~· Overshadowing overshadowing assessment showing existing and proposed shadows at hourly intervals on 22 June and 22 September between 10:00am and 3:00pm~~
- ~~· Wind wind impacts assessment which demonstrates that safe and comfortable wind conditions are achieved.~~
- Landscape Plan for all areas of open space, except private open space for dwellings, providing for biodiversity, canopy tree planting, water sensitive urban design, and microclimate management of buildings.
- A demolition plan, detailing the staging of demolition and any temporary site activation works proposed.
- ~~▪ Details on how the proposal will achieve a minimum 4 Star Green Star Design & As-Built rating (or equivalent).~~

### Exemption from notice and review

An application to demolish or remove a building or to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

### Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- ~~▪ How the proposal responds to the Fishermans Bend Urban Renewal Area Local Policy.~~
- Whether the layouts of streets, laneways and open space are consistent with those shown in ~~the Fishermans Bend Framework, XX 2018~~, Map 2 and Map 3 of this schedule.
- How the proposal contributes to establishing sustainable transport as the primary mode of transport through integrated walking, cycling and pedestrian links.
- Whether the development compromises the function, form and capacity of public spaces and public infrastructure.
- Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.
- Whether the building design at street level provides for active street frontages, pedestrian engagement and weather protection.
- Whether the proposal delivers a diversity of households and housing typologies, and provides the necessary community infrastructure and facilities.
- Any impacts to the future metro train alignment routes and potential future elevated freight alignment route.
- Whether the proposal includes appropriate mitigation measures to protect against off-site amenity impacts.
- Whether the proposal is designed for all deliveries, servicing and waste management to occur on-site.
- Any constraints to vehicle access to the site, the impact of vehicle access on the provision of public transport, pedestrian and cyclist safety.
- The proposed 4 Star Green Star Design ~~&~~ and As-Built rating (or equivalent).

- ~~If~~ Whether appropriate sustainable water, waste and energy management is proposed.
- ~~Where part of a site is developed, whether an agreement has been entered into to ensure that the floor area ratio across the site will not be exceeded and whether the development is sited so that adequate setbacks are maintained in the event that the site is subdivided or otherwise altered to create a separate future development site. Securing the floor area ratio across a site where a site is developed in part to ensure:~~
  - ~~That that an agreement be entered into to acknowledge that the remaining site cannot be later developed;~~
  - ~~That that the proposed building is sited so that adequate setbacks are maintained in the event that the land is subdivided or separate land holdings are administratively effected to create a future development site.~~
- If a public benefit is proposed:
  - The appropriateness of the value of the public benefit(s) commensurate to the increase in floor area ratio sought.
  - The management and maintenance of the public benefit(s).
  - How the public benefit will be delivered in a complete and timely manner.
- The views of Transport for Victoria for any proposal to construct a building, other than alterations and additions to an existing building-s that are ~~is~~ within 50 metres of a potential future elevated freight route shown in the *Fishermans Bend Framework, XX 2018* to ensure the proposed building location and access points will not compromise construction of the future freight route.
- Whether Encouraging residential development to include floor plate layouts and servicing strategies that demonstrate future capacity to allow one and two bedroom dwellings to be combined and adapted into three or more bedroom dwellings.

## 5.0 Advertising signs

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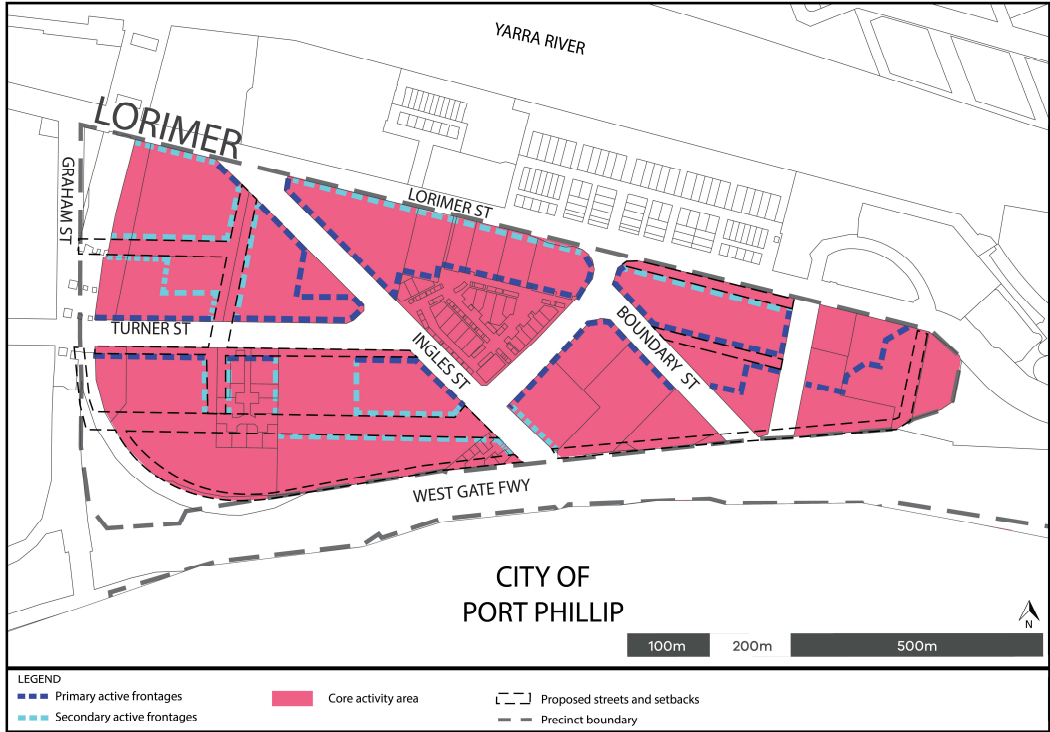
A permit is required to construct and display a sign except for:

- Advertising signs exempted by Clause 53.05-4.
- Renewal or replacement of an existing internally illuminated business identification sign.
- A home occupation sign with an advertisement area not more than 0.2 square metres.
- A direction sign where there is only one to each premises.
- A business identification sign, bed and breakfast sign, home occupation sign, or promotion sign, that have a combined total advertisement area to each premises not exceeding 8 square metres. ~~This does not include a sign with an advertisement area exceeding 1.5 square metres that is below a verandah, or, if no verandah, that is less than 3.7 metres above pavement level.~~
- An internally illuminated sign of no greater than 1.5 square metres ~~and the~~ No part of the sign is not ~~may be~~ above a verandah or, ~~if no verandah,~~ more than 3.7 metres above pavement level, ~~and~~ The sign must be more than 30 metres from a residential zone or pedestrian or traffic lights.
- A non-illuminated sign provided no part of the sign protrudes ~~above or below~~ the fascia of the building.

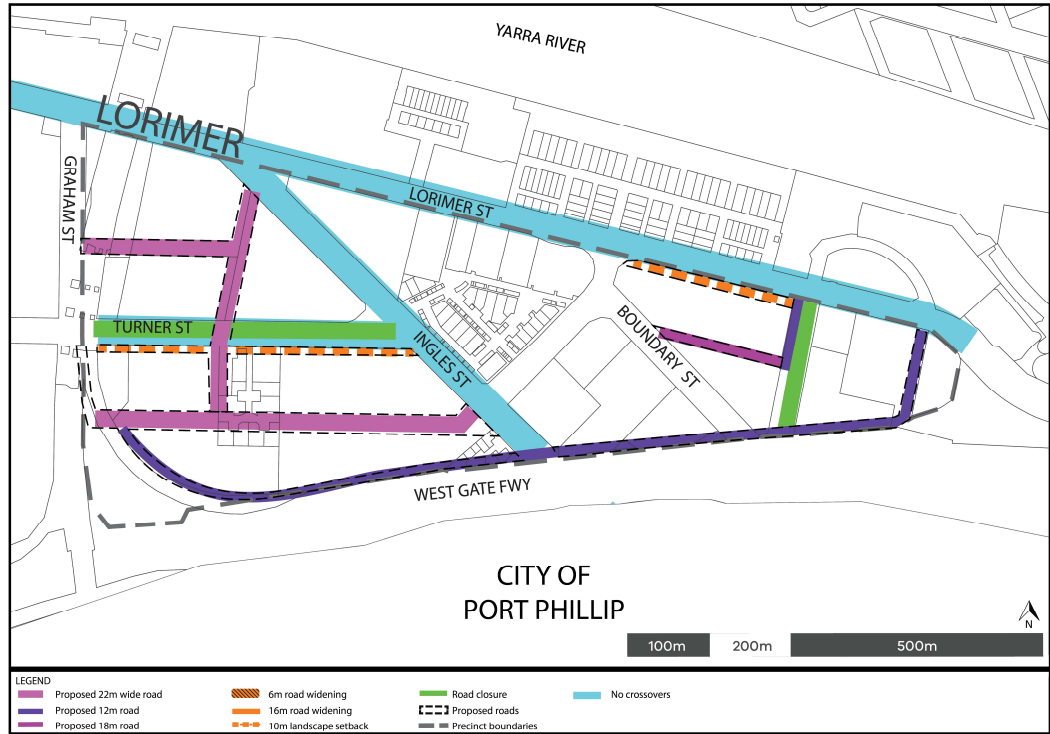
**Exemption from notice and review**

An application to construct and display a sign is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

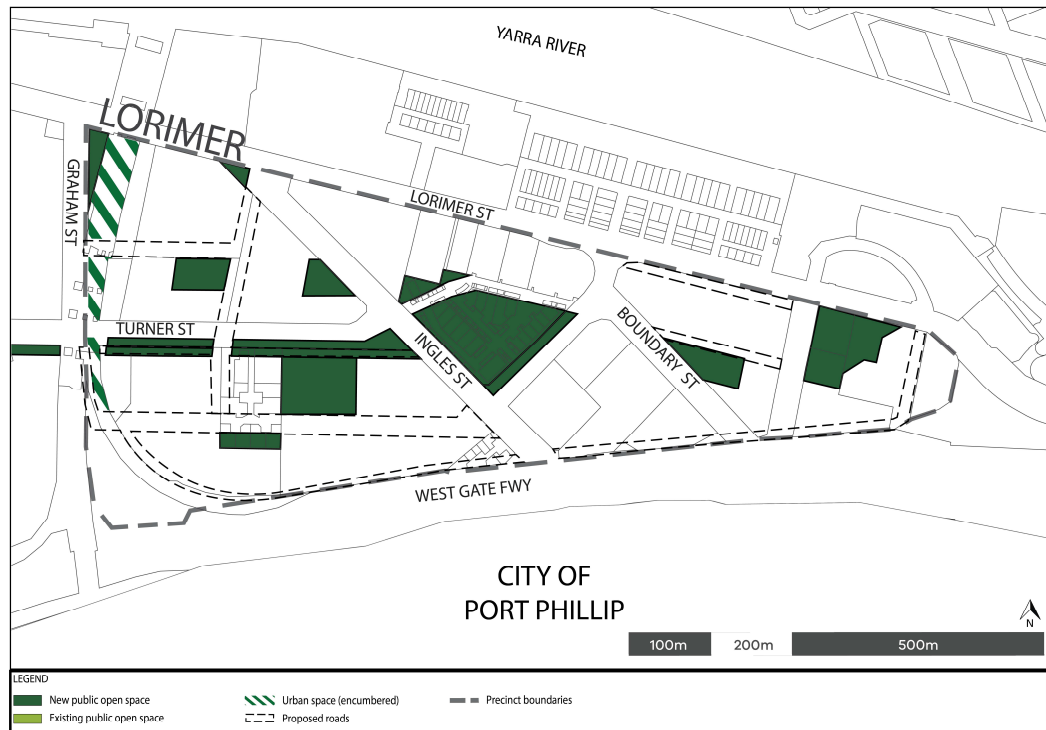
Map 1 **core** **Core** areas and active street frontages



Map 2 Street and laneway layout



Map 3 Open space layout



### Definitions

The following definitions apply for the purposes of interpreting this schedule:

**Active frontage street** is a street shown ~~to~~ as a ‘~~Primary~~ primary active frontages’ or a ‘~~Secondary~~ secondary active frontages’ on ~~the~~ Map 1.

**Core land and non-core land** is located as shown on Map 1.

**Floor area ratio** means the gross floor area divided by the gross developable area.

**Gross developable area** means the area of the proposal land, including any proposed streets or laneways, new public open space and land for ~~Community~~ community infrastructure (public benefit).

**Gross floor area** means the area above ground of all buildings on a site, including all enclosed areas, services, lifts, car stackers and covered balconies. ~~–~~ Dedicated communal residential facilities and recreation spaces are excluded from the calculations of gross floor area. ~~–~~ Voids associated with lifts, car stackers and similar service elements should be considered as multiple floors of the same height as adjacent floors or ~~3.0~~ metres if there is no adjacent floor

**New public open space** is land identified in the *Fishermans Bend Framework, XX 2018* and as shown in Map 3 and is to be provided for public recreation or public resort, or as parklands, or for use for active or passive public open space.