



| **Date:** 23 September 2021

**Submission on behalf of the Planning Authority**  
Amendment C280yara to the Yarra Planning Scheme

| **Council's submission: Part A**

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## INTRODUCTION

1. This submission is made on behalf of Yarra City Council (**Council**).
2. Council is the Planning Authority for Amendment C280yara (**Amendment**) to the Yarra Planning Scheme (**Scheme**).
3. Council has prepared the Amendment at the request of the Meydan Group (AH Meydan Pty Ltd) which is the proponent of this Amendment.
4. The Amendment applies to land at 32-68 Mollison Street, Abbotsford (**Subject Site**).
5. The purpose of the Amendment as set out in the Explanatory Report is to:
  - a) increase the allowable building height from 5 storeys (23m) to 7 storeys (32m) for part of the land which would match other allowable heights in the employment area;
  - b) retain certainty for a modified built form, amenity outcomes for the site;
  - c) retain or enhance the existing amenity of the public realm; and
  - d) provide for improved traffic access and movement outcomes.
6. Broadly speaking, the Amendment proposes to replace the Incorporated Plan Overlay (Schedule 1) (**IPO1**) and incorporated document that applies to 32-68 Mollison Street.
7. More specifically, the Amendment proposes to:
  - 7.1 amend Schedule 1 to the existing Incorporated Plan Overlay, Clause 43.03 (IPO1);
  - 7.1 delete the IPO1 from the property at 61-69 William Street, Abbotsford; and
  - 7.2 amend Clause 72.04 to replace the incorporated document “32-68 Mollison Street and 61-69 William Street, Abbotsford July 2013” with “32-68 Mollison Street Incorporated Plan (March 2021).
8. Together, these changes will:
  - 8.1 increase the allowable building height from 5 storeys (23m) to 7 storeys (32m) for the part of the western part of the Subject Site, while retaining the existing 5 storey limit on the eastern part;
  - 8.2 increase the street wall height from 3 storeys to 4 storeys at the eastern end of the Subject Site;
  - 8.3 increase the upper level setbacks from 2 metres to 3 metres;
  - 8.4 introduce a ground level setback on Little Nicholson Lane to support two-way traffic;
  - 8.5 introduce a requirement for a chamfer at the intersection of Mollison Street and Victoria Crescent;
  - 8.6 introduce a requirement for upper building separation of 6 metres;

- 8.7 introduce a solar access requirement to the southern footpath on Mollison Street between 10am and 2pm at the September equinox;
- 8.8 introduce a requirement for a minimum of 80% active frontages to Mollison Street and Victoria Crescent;
- 8.9 introduce a requirement for materials definition between lower and upper levels of buildings;
- 8.10 introduce a requirement that car parking is concealed from Victoria Crescent and Mollison Street;
- 8.11 introduce a requirement for bicycle parking;
- 8.12 limit vehicle access to Little Nicholson Street and Mollison Street;
- 8.13 require pedestrian access to be from streets (with primary access from laneways to be avoided); and
- 8.14 require service cabinets to be appropriately located and integrated with the design of the building where possible.

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## PANEL DIRECTIONS

- 9. This submission responds to Direction 5 of the Panel's Directions issued on 07 September 2021 (**Panel Directions**) requiring Council to circulate its opening submission, including a Part A submission, to all parties by 12pm on Thursday 23 September 2021 and specifying the items to be included in its submission.
- 10. This submission comprises both Council's opening submission and Part A submission, and is arranged under the following headings, in accordance with the Panel Directions:
  - 10.1 background to the Amendment (including chronology of events);
  - 10.2 strategic context and assessment;
  - 10.3 issues identified in submissions.
- 11. Together with this Part A submission, Council circulates the evidence of Leanne Hodyl, Hodyl & Co.

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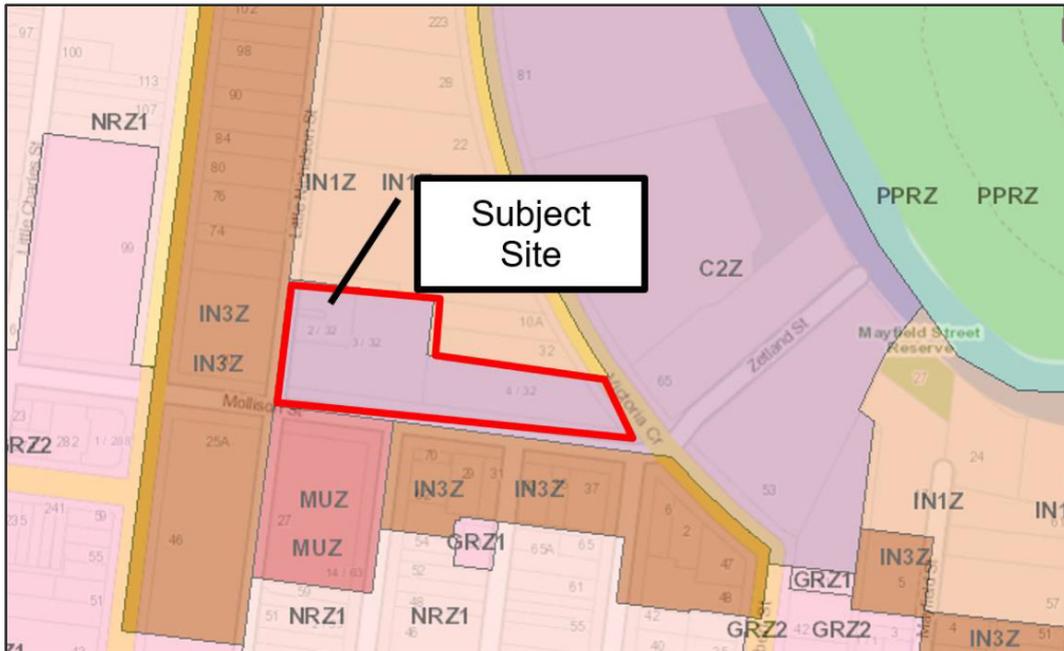
## BACKGROUND TO THE AMENDMENT

### Chronology of events

- 12. A chronology of events forms **Attachment A** to Council's submission.

### Subject Site

- 13. The Subject Site is shown on the map extract and aerial image below:



Source: Vicplan



Source: Nearmap – retrieved 10 September 2021

14. In summary, the Subject Site:

14.1 comprises a number of lots on separate Titles, including allotments:

- (a) Lots 1 and 2, and part of Lots 4 and 5, on Plan of Subdivision 208064F;
- (b) Lot 1 on Title Plan 10831L;
- (c) Lot 1 on Title Plan 900661X.

- 14.2 has an overall area of approximately 4,360 sqm with a frontage of approximately 147m to Mollison St;
- 14.3 is currently developed with an at grade carpark at the western end adjoining Little Nicholson Street, and a three-storey office building across the remainder;
- 14.4 is currently located within the Commercial 2 Zone and is subject to:
- (a) Incorporated Plan Overlay – Schedule 1;
  - (b) Environmental Audit Overlay; and
  - (c) Development Contribution Overlay.
15. The Subject Site is part of an employment area generally located between Mollison Street to the south, Gipps Street to the north, the Yarra River to the east, and Nicholson Street to the west.
16. The surrounding area is currently developed with a mix of one to three storey older industrial and warehouse style buildings.
17. The surrounding land is zoned mostly for non-residential uses, with the exception of the Mixed Use land on the south side of Mollison Street. This includes Industrial 1 zoned land to the north, Industrial 3 zoned land to the west, Industrial 3 zoned land to the south and Commercial 2 zoned land to the east.
18. The Subject Site is in proximity to Victoria Street activity centre, two train stations and a tram line (along Victoria Street).

### **The existing Incorporated Plan Overlay – Schedule 1 and permits**

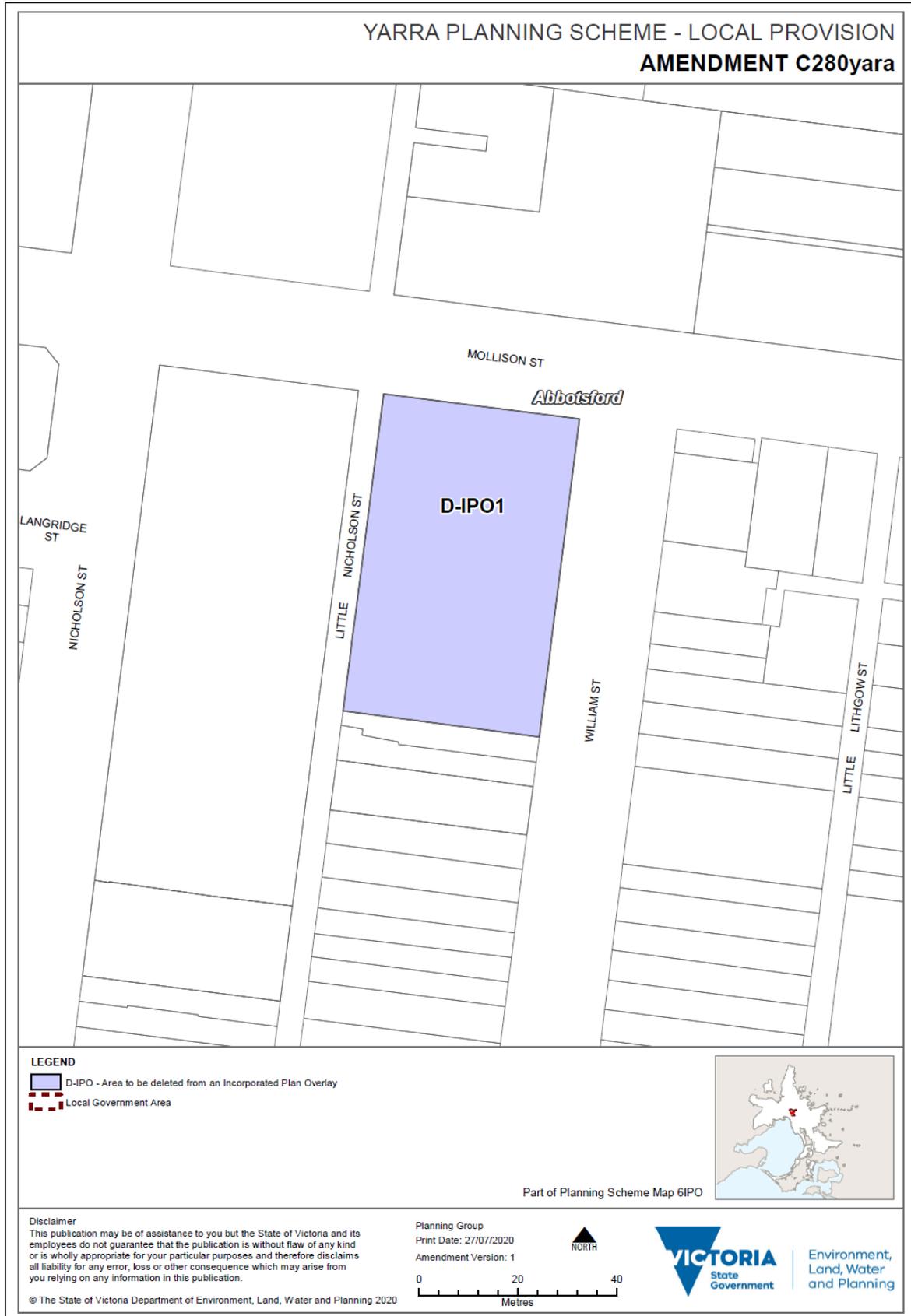
19. The existing IPO1 was introduced by amendment C170, on 17 October 2013. In summary, it:
- 19.1 applies to the Subject Site, as well as to 61-69 Williams Street, which has since been developed;
  - 19.2 allows a building height of up to 5 storeys, across the Subject Site; and
  - 19.3 contains minimal urban design requirements to guide good built form outcomes.
20. On 17 May 2018, Council granted permit PLN17/0697, authorising:<sup>1</sup>
21. Development of the land for construction of a five-storey building(s) and a change of use to office and shop and reduction in the associated car parking requirement.
22. Since IPO1 was introduced, permits have also been granted enabling development to between 4 and 9 storeys on several neighbouring (as summarised in the material circulated by Council on 16 September 2021).

### **The Amendment**

23. Figure 1 below shows the land to be excluded from map 6IPO.

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<sup>1</sup> Circulated by Council on 16 September 2021.



**Figure 1 - Land to be excluded from map 6IPO**





**Figure 3: Proposed 'Incorporated Plan- Map 1'**

26. The proposed IPO1 and Incorporated Plan aims to, in addition to providing more contemporary planning parameters, provide certainty for the built form outcome by:
  - 26.1 providing active frontages towards Mollison Street and Victoria Crescent and removing vehicle access from Victoria Crescent;
  - 26.2 introducing a range in street wall height from three to four storeys: three storeys to Little Mollison Street and four storeys to the corner of Mollison Street and Victoria Crescent;
  - 26.3 introducing a setback above the street wall of 3 metres from northern boundary, Mollison Street, Victoria Crescent and Little Nicholson Street to create a more distinctive break between the podium and upper levels and assist in managing visual bulk at upper levels;
  - 26.4 continuing the chamfered corner of Mollison St and Victoria Crescent to mark corner and provide a generous pedestrian standing area;
  - 26.5 providing for upper-level building separation (minimum 6m building separation from the 4th Storey and above) and design treatments so that the upper level forms to read as separate buildings;
  - 26.6 varying height across the site that responds to the emerging heights of adjacent approvals, coupled with upper level building separation has the following benefits;
  - 26.7 reducing visual bulk from adjacent buildings, Mollison St and streets to the south (low scale residential development) of the subject site; and
  - 26.8 creating a perception of multiple buildings of varying heights rather than one large monolithic building.

27. As described in the explanatory report, the proposed IPO1 and Incorporated Plan aims to improve the surrounding public realm and amenity by:
- 27.1 requiring the building to have active frontage of a minimum 80% of the Mollison Street & Victoria Crescent frontage, keeping inactive facades to a minimum;
  - 27.2 introducing a chamfered building corner at the Mollison Street and Victoria Crescent intersection with no cantilevering at the upper levels to create a safer traffic zone;
  - 27.3 removing vehicle access from Victoria Crescent frontage to ensure a safer pedestrian environment;
  - 27.4 limiting vehicular access to one from Little Nicholson Street and one from Mollison Street to create safer pedestrian environment; and
  - 27.5 avoiding overshadowing of the southern footpath along Mollison Street between 10 am and 2 pm on 22 September.
28. The proposed IPO1 and Incorporated Plan includes aims to manage traffic and movement by:
- 28.1 requiring a ground level setback from Little Nicholson Street to enable two-way traffic movements;
  - 28.2 requiring a traffic engineering report to be prepared at the planning permit stage that demonstrates, amongst other matters, how the development reduces car dependence and promotes sustainable transport modes;
  - 28.3 ensuring pedestrian entrances are clearly visible, secure and have an identifiable sense of address; and
  - 28.4 requiring staff bicycle parking to be located and designed to be secure and conveniently accessible from the street and end of trip uses.

**Proposed IPO1**

29. Proposed IPO1 relates to the property '32-68 Mollison Street, Abbotsford'. The purpose of the IPO is:
- To implement the Municipal Planning Strategy and the Planning Policy Framework.
  - To identify areas which require:
    - The form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land.
    - A planning scheme amendment before the incorporated plan can be changed.
  - To exempt an application from notice and review if it is generally in accordance with an incorporated plan.
30. There are no requirements specified at Clause 1.0 Requirement before a permit is granted of the proposed IPO1.
31. Clause 2.0 of the proposed IPO1 sets out the requirements before a permit is granted. It provides:

**Permits not generally in accordance with incorporated plan**

A permit granted for the following is not required to be in accordance with the incorporated plan.

- use of an existing building;
- construction or carrying out of minor works to or associated with existing buildings;
- subdivision of land, provided that the subdivision is the result of a consolidation of all or part of the land or the re-subdivision of the land and the number of lots is not increased;
- removal or creation of easements or restrictions; or
- construction or carrying out of buildings or works associated with the remediation of land in accordance with or for the purpose of obtaining a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970*.

Before granting a permit the responsible authority must be satisfied that the issue of the permit will not prejudice the future use and development of the land in an integrated manner, and that the use or development allowed by the permit will contribute to the vision for the site whereby the land is developed according to a new mid-rise character along Mollison Street for the purpose of office, commercial and other compatible uses in such a way that promotes pedestrian activity and passive surveillance, contributes to a high quality public realm and avoids overshadowing of opposite footpaths.

32. The following conditions and/or requirements for permits are specified at clause 3.0 of the proposed IPO1. It provides:

**Permit requirements**

- A new development that requires access from Little Nicholson Street must provide a laneway widening of Little Nicholson Street to allow two-way traffic to the satisfaction of the responsible authority.
- A new development must not overshadow the southern footpath of Mollison Street between 10 am and 2 pm on the 22nd of September.
- The proposed development must incorporate the findings and recommendations of a car parking and traffic impact assessment that demonstrates:
  - the safe entry and exit of vehicles to and from the land and that these movements minimise conflict with any existing pedestrian and cycle links; and
  - the provision of car parking, appropriate circulation and layout of car parking, and the recommended bicycle parking provision rates.
- A new development must chamfer the corner of the development at the Mollison Street and Victoria Crescent intersection, with no cantilevering at upper levels;
- A new development must provide active frontages towards Mollison Street and Victoria Crescent.

**Permit conditions**

- A permit to construct a building or construct or carry out works must include conditions that require the widening of Little Nicholson Street to be designed and constructed to the satisfaction of the Responsible Authority.

33. Clause 4.0 of the proposed IPO1 sets out the decision guidelines:

**Decision guidelines**

The following decision guidelines apply to an application for a permit under Clause 43.03 which is not generally in accordance with the incorporated plan, in addition to those specified in Clause 43.03 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposed development provides façade articulation;
- Whether the layout and appearance of areas set aside for vehicular access, loading and unloading and the location of any proposed car parking is practicable, safe and supports a pedestrian-oriented design outcome.
- The impact of traffic generated by the development on the capacity of the surrounding road network, including the functionality of the intersection of Mollison Street and Victoria Crescent; and
- Whether the development provides opportunities for active frontages and engaging edges to the public realm through landscaping and/or architectural design features;
- The impact of the design and appearance of the building or works in relation to the surrounding built form and character.

34. Clause 5.0 of IPO1 sets out the requirements for an incorporated plan. It provides that a development plan must include the following information:

**Preparation of the incorporated plan**

An incorporated plan must include the following requirements:

- Objectives for the future use and development of the site;
- A plan showing:
  - maximum building heights for each area in metres and storeys;
  - setbacks from Little Nicholson Street to enable two-way vehicle movement at street level;
  - upper level separation between the eastern and western part of the proposed building(s);
  - retention of the corner splay (chamfered corner) at the intersection of Mollison Street and Victoria Crescent; and
  - the preferred location of vehicle entry and exit points for the land.

35. The following outlines the proposed differences to the existing IPO1 and associated Plan and elements that create a modified built form, traffic / access and movement outcomes and retain or enhance the existing amenity of the public realm.

36. The proposed IPO1 differs from the existing IPO1, in that it:

- 36.1 is drafted in accordance with the Ministerial Direction for *'The form and content of Planning Scheme'* and *Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays* (November 2018);
- 36.2 removes controls that specifically relate to the land at William Street as the development of that site has been completed;
- 36.3 extends the set of conditions that apply to a permit to relate to road widening, built form and amenity outcomes, and car parking / traffic impact;

- 36.4 removes the requirement for a permit to address the *'the proximity of properties to the north in a different zone including the potential impacts from noise, light, odour and 24 hour traffic movements'* as this is addressed in Clause 22.05 Interface Uses Policy in the Yarra Planning Scheme and the approved planning permit for the site to the north is for office, not industry;
  - 36.5 removes the decision guideline to consider the extent to which environmentally sustainable design features are adopted as this is now a requirement in Clause 22.17 *Environmentally Sustainable Design Policy* in the Yarra Planning Scheme;
  - 36.6 removes the decision guideline related to 'design of the car park building', as the proposal is introducing a requirement for active frontage at ground level and for car parking to be concealed from the Victoria Crescent and Mollison Street frontages;
  - 36.7 removes the decision guideline relating to 'screening of mechanical plant equipment' and 'reverse amenity impacts' as this can be addressed through Clause 22.05 *Interface Uses Policy* in the Yarra Planning Scheme;
  - 36.8 removes the decision guidelines relating to 'the proposed development has regard to the heritage values of the site as applicable' as the subject site is not affected by Heritage Overlay, this was specific to the property 61-69 William Street; and
  - 36.9 changes to the requirements to prepare an *Incorporated Plan* to include additional built form controls and remove provisions relating to land use. Land use is controlled by the 'Commercial 2' Zone.
37. Table 1 below provides a comparison between the existing and proposed Incorporated Plans.

**Table 1: Comparison between the Existing and Proposed Incorporated Plans**

	<b>Current Incorporated Plan (refer to Figure 2)</b>	<b>Proposed Incorporated Plan (refer to Figure 3)</b>
Height	Building height for 32-68 Mollison Street, Abbotsford must not exceed 23 metres and 5 storeys.	Building height in Area A is increased must not exceed 7 storeys (32 metres).  Building height in Area B must not exceed 5 storeys (23 metres).
Street wall	Existing building Street Wall (three storey)	Street wall height should transition from 3 storeys (13.8 metres) at the western end of the site (Area A) to 4 (18.4 metres) storeys at the eastern end of the site (Area B).
Upper level setback from street wall and northern boundary	Manage edge to provide for continued industrial purposes on the northern side.  2m setback as shown on the Incorporated Plan.	Above the street wall and northern boundary wall, upper levels should be setback a minimum of 3 metres from the northern boundary, Mollison Street, Victoria Crescent and Little Nicholson Street.  Upper level setbacks above the street wall and northern boundary should be contained within a maximum of two steps (including the setback above the boundary wall below as one step) to avoid repetitive stepping of individual levels.



## Maddocks

Ground Level Setback	No requirement. (in current IPO1 and Incorporated Plan)	The building must be setback along the western boundary of the property to provide for two-way vehicle access on Little Nicholson Street.
Corner treatment	No requirement. (in current IPO1 and Incorporated Plan)	The corner of the development at the Mollison Street and Victoria Crescent intersection should be chamfered as shown on The Plan.  No cantilevering should occur at the upper levels.
Upper Level building separation	No requirement. (in current IPO1 and Incorporated Plan)	Upper level development (4th storey and above) should be separated by a minimum of 6 metres between Area A and Area B (as shown on Map 1) to ensure proposed buildings on Area A and Area B do not appear as one building mass.
Overshadowing	No requirement. (in current IPO1 and Incorporated Plan)	New development must not overshadow the footpath on the southern side of Mollison Street between 10 am and 2 pm on the 22nd of September.
Active frontages	As per the IPO1, <u>Conditions and requirements for permits</u>  An active ground floor frontage incorporated into the design of the car park building at 32 Mollison Street.  <u>Decision Guidelines</u>  The relationship of any new buildings to the street including entrances that provide opportunities for active or visual engagement.	Active frontages should be provided to a minimum of 80% of the Mollison Street and Victoria Crescent frontage, keeping inactive facades to a minimum.
Material definition (podium and upper levels)	No requirement. (in current IPO1 and Incorporated Plan)	Façade articulation and composition should achieve cohesive design including material definition between podium and upper levels that is responsive to local context and character. Podium materials should be detailed and robust with visually recessive materials used at upper levels.
Car Parking	Requirement for a car parking building on the western part of the property.	Car parking should be concealed from the Victoria Crescent and Mollison Street frontages.
Bicycle Parking	No requirement (in current IPO1 and Incorporated Plan)	Staff bicycle parking should be located and designed to be secure and conveniently accessible from the street and associated uses (e.g. changing facilities).
Vehicular access	Three access points from Mollison Street and one from Victoria Crescent. (as shown on the Incorporated Plan)	Vehicular access must be limited to a maximum of one crossover from Little Nicholson Street and one crossover

		from Mollison Street as shown on Map 1. Vehicular access must not be provided from Victoria Crescent.
Pedestrian Access	No requirement (in current IPO1 and Incorporated Plan)	Pedestrian access to buildings should be via Mollison Street and/or Victoria Crescent and primary access from laneways should be avoided. Where pedestrian access from a laneway is appropriate, it should include a pedestrian refuge or landing and include lighting.  Pedestrian entrances must be clearly visible, secure and have an identifiable sense of address.
Service cabinets	No requirement (in current IPO1 and Incorporated Plan)	Service cabinets must be appropriately located and integrated with the design of the building utilising the laneway where possible.

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## STRATEGIC CONTEXT & ASSESSMENT

38. This section provides an overview of the strategic basis for the Amendment, including the relevant State and local policies, expressed through the Planning Policy Framework. It is noted that the Explanatory Report exhibited with the Amendment includes a strategic assessment. That assessment is adopted for the purpose of Council's submission.

39. There were no submissions that questioned the strategic justification for the Amendment.

### ***Planning and Environment Act 1987***

40. The Amendment implements the following objectives of planning in Victoria, outlined in s 4(1) of the Act:

- a) to provide for a fair, orderly, economic and sustainable use, and development of land;
- b) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- c) 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;
- d) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- e) to balance the present and future interests of all Victorians.

41. The Amendment helps to implement these objectives by:

- 41.1 providing greater clarity regarding built form outcomes and expectations. In doing so, the proposed provisions will support more efficient and orderly planning processes;
- 41.2 achieving better built form and public realm outcomes and assisting to improve public safety at local intersections; and
- 41.3 achieving positive social and economic benefits through the facilitation of better built form outcomes, and accommodating office and commercial activity situated near an activity centre that is well served by public transport and other services.

## Planning Policy Framework

- 42. It is submitted that the strategic justification for the Amendment is firmly grounded in the State and local provisions of the newly integrated PPF.
- 43. The Amendment supports the following provisions of the PPF:
  - 43.1 Clause 11 (Settlement);
  - 43.2 Clause 15 (Built Environment and Heritage);
  - 43.3 Clause 17 (Economic Development); and
  - 43.4 Clause 18 (Transport).
- 44. More specifically, the Amendment supports:
  - 44.1 **Clause 11.02-1S Supply of Urban Land** – To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
  - 44.2 The Amendment is supported by the above strategies which retains and increases the capacity of the commercial land within existing urban areas. In particular, the Amendment will facilitate long established commercial facility in Abbotsford that will service both the local community, as well as the broader region of Melbourne, in a convenient location with good access to public transport.
  - 44.3 **Clause 15.01 – Built environment:**
    - (a) **Clause 15.01-1S Urban Design** – To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
    - (b) **Clause 15.01-1R Urban Design – Metropolitan Melbourne** – To create a distinctive and liveable city with quality design and amenity
    - (c) **Clause 15.01-2S Building Design** – To achieve building design outcomes that contribute positively to the local context and enhance the public realm.
    - (d) **Clause 15.01-4S Healthy Neighbourhood** – To achieve neighbourhoods that foster healthy and active living and community wellbeing.
    - (e) **Clause 15.01-4R Healthy Neighbourhood – Metropolitan Melbourne** – Create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.

- (f) **Clause 15.01-5S Neighbourhood Character** – To recognise, support and protect neighbourhood character, cultural identity, and sense of place.
- 44.4 Collectively, these objectives and strategies seek to facilitate development that will achieve high quality architectural and environmentally sustainable design outcomes.
- 44.5 The Amendment is also supported by **Clause 17 (Economic Development)**, in particular:
- (a) **Clause 17.01-1S Diversified Economy** – To strengthen and diversify the economy.
  - (b) **Clause 17.02-1S Business** – To encourage development that meets the community’s needs for retail, entertainment, office and other commercial services.
- 44.6 The Amendment is also supported by **Clause 18 (Transport)**, in particular:
- (a) **Clause 18.01-2S Transport System** – To coordinate development of all transport modes to provide a comprehensive transport system.
  - (b) **Clause 18.02-1S Sustainable Personal Transport** – To promote the use of sustainable personal transport.
  - (c) **Clause 18.02-1R Sustainable Personal Transport – Metropolitan Melbourne** - Improve local travel options for walking and cycling to support 20 minute neighbourhoods.
  - (d) **Clause 18.02-2S Public Transport** – To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.
  - (e) The Amendment supports these policies by requiring the incorporated plan to include:
    - (i) requiring a ground level setback from Little Nicholson Street to enable two-way traffic movements;
    - (ii) requiring a traffic engineering report to be prepared at the planning permit stage that demonstrates, amongst other matters, how the development reduces car dependence and promotes sustainable transport modes;
    - (iii) ensuring pedestrian entrances are clearly visible, secure and have an identifiable sense of address; and
    - (iv) requiring staff bicycle parking to be located and designed to be secure and conveniently accessible from the street and end of trip uses.

**Municipal Planning Strategy and the Local Planning Policy Framework**

45. The Amendment is consistent with, and gains support from Council’s Municipal Planning Strategy and Local Planning Policy Framework as follows:
- 45.1 At **Clause 21.03 (Vision in the City of Yarra in 2020)** the MPS seeks to achieve all new development will demonstrate design excellence.

45.2 **Clause 21.04-3 – Industry, Office and Commercial**

Objective 8 - To increase the number and diversity of local employment opportunities.

Strategy 8.5 Support opportunities for new uses on isolated industrial sites provided they reflect the predominant surrounding uses.

45.3 **Clause 21.05-2 - Urban design**

Objective 16 - To reinforce the existing urban framework of Yarra.

Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.

Objective 19 - To create an inner city environment with landscaped beauty.

Strategy 19.1 Require well resolved landscape plans for all new development.

Strategy 19.2 Encourage opportunities for planting suitable trees and landscape areas in new development.

Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric.

Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.

Objective 21 - To enhance the built form character of Yarra's activity centres.

Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form.

Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.

**Plan Melbourne 2017- 2050**

46. The Amendment also supports a number of directions identified in Plan Melbourne.
47. Plan Melbourne is the long-term plan for Melbourne's future growth in population and employment to the year 2050. Plan Melbourne discusses the concept of vibrant cities being those that evolve and endure, and the Amendment seeks to achieve this through recognising and facilitating the redevelopment opportunities which are present for the Subject Site.
48. The Amendment is consistent with the Metropolitan Strategy identified in Plan Melbourne and, in particular the following directions:
- 48.1 **Direction 1.1 – Create a city structure that strengthens Melbourne's competitiveness for jobs and investment** which seeks to strengthen the competitiveness of Melbourne's employment areas. The Amendment provides appropriate policy direction for the planning and development of the employment areas to ensure that it continues to meet community needs.
- 48.1 **Direction 5.1 – Create a city of 20-minute neighbourhoods** which aims to cluster new housing, access to jobs, services and public transport to accommodate growth. The amendment will facilitate employment generation near a Major Activity

Centre (Victoria Street) which will improve local employment and commercial opportunities.

49. Consistent with the above policies, Council submits the Amendment:
- 49.1 seeks to ensure future built form on the Subject Site achieves design excellence and responds to its surrounding context; and
  - 49.2 seeks to ensure ongoing commercial (office) activity in the municipality.

### Ministerial Directions

50. The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes. The proposed ordinance changes have been prepared in accordance with the relevant requirements of the Ministerial Direction.
51. Council submits the Amendment has also been prepared in accordance with other relevant Ministerial directions:
- 51.1 Ministerial Direction No. 9 – Metropolitan Planning Strategy;
  - 51.2 Ministerial Direction No. 11 – Strategic Assessment of Planning Scheme Amendments; and
  - 51.3 Ministerial Direction No. 15 – The Planning Scheme Amendment Process.
  - 51.4 The Amendment complies with the Ministerial Direction for *'The form and content of Planning Scheme'* under Section 7(5) of the Act and *Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays* (November 2018).

### Yarra Spatial Economic and Employment Strategy 2018 (SEES 2018)

#### Abbotsford Employment Precinct

52. The Yarra Spatial Economic and Employment Strategy 2018 (SEES 2018) identifies the Abbotsford employment precinct as a significant employment area for the City of Yarra and it includes one of the largest concentrations of employment in the municipality.
53. The subject site is within the Abbotsford employment precinct, therefore, the proposed IPO1 is allowing opportunities to increase the capacity of the land by allowing two more storeys on the western part of the Subject Site to allocate more space for employment.

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## PROCESSING THE AMENDMENT

### Preparing the Amendment

54. On 15 August 2019, the proponent lodged a request with Council to consider a Planning Scheme Amendment (C280yara) to the Incorporated Plan Overlay – Schedule 1 (IPO1) and the associated Incorporated Plan (an Incorporated Document).
55. The following is an extraction of the Planning Scheme Amendment request:

*"The purpose of the proposed planning scheme amendment is to ensure that the site is not underutilised. Through support for recent approvals, it is evident that Council recognises the potential of the precinct in which the site is located to provide to accommodate a greater intensity of use and built form to contribute to the objective of local employment opportunities.*

*The proposed planning scheme amendment will enable a planning permit application to be considered that provides a built form outcome more equivalent to that being permitted on the surrounding sites.*

*While 20-30 Mollison Street and 12-20 Victoria Crescent have achieved support for 8 storey office developments, it is sought to increase the development potential of the site from five storeys to seven storeys, although of an approximately equivalent overall height."*

56. At an ordinary Council meeting after considering a report on the request for the Amendment on 01 September 2020, Council resolved that it:
- a) notes the officer report in relation to the proposal by the Meydan Group in relation to the amendment at land 32-68 Mollison Street, Abbotsford;
  - b) notes the proposal, the officer analysis and the attachments in relation to the amendment;
  - c) as the planning authority, applies to the Minister for Planning under section 8A(3) of the Planning and Environment Act 1987, for authorisation to prepare Amendment C280yara to the Yarra Planning scheme;
  - d) as the planning authority, prepares Amendment C280yara to the Yarra Planning Scheme in accordance with section 8A(2) of the Planning and Environment Act 1987, if authorised to do so by the Minister for Planning;
  - e) exhibit Amendment C280yara, in accordance with section 17, 18 and 19 of the Planning and Environment Act 1987, if authorisation to prepare Amendment C280yara is received under section 8A(4) of the Planning and Environment Act 1987;
  - f) endorses, for the purpose of exhibition, the draft amendment documentation at Attachments 1 and 2;
  - g) authorises officers to make changes to the draft amendment documentation at Attachments 1 and 2 required to correct any administrative errors and to meet any conditions the Minister for Planning imposes through authorisation; and
  - h) authorise the CEO to formalise the commitments made by the proponent to widen Little Nicholson Street (laneway) and to install a formal and raised pedestrian crossing across Mollison Street at the Victoria Crescent intersection through section 173 agreements.
57. Council commissioned Hodyl & Co to undertake a peer review of the urban design component of the proposed amendment. That Report made the following recommendations:
- (a) *Provide a pedestrian link that connects William Street to the existing laneway to the north of the site (nominally 6m in width).*
  - (b) *Vehicle access to the subject site should occur off a new service laneway within the site.*
  - (c) *Maximum overall height of 32 metres to the west of the site, stepping down to 23 metres to the east of the site.*
  - (d) *Street wall height should range from three to four storeys: three storeys to Little Mollison Street and four storeys to the corner of Mollison Street and Victoria Crescent.*

- (e) *Introduce a setback above the street wall of 3m from Mollison Street and Victoria Crescent*
- (f) *Introduce a 5m setback above the street wall at Little Nicholson Street*
- (g) *Require material definition between the podium and upper levels that is responsive to the local context and character. Podium materials should be detailed and robust with visually recessive materials used at upper levels.*
- (h) *Corner should be chamfered at the Mollison St and Victoria Crescent intersection to mark the corner. No cantilevering should occur at upper levels.*
- (i) *Building should read as three separate upper level forms set within a three/four storey podium.*
- (j) *Upper level forms should have a minimum separation of 6 metres.*
- (k) *Maximum overall height of 32 metres to the west of the site, stepping down to 23 metres to the east of the site.*
- (l) *As per the recommendations, a specific street wall height, variable overall height, requirement for separation between upper level forms, minimum separation distance between upper levels forms and a setback above the street wall height should be introduced.*
- (m) *The statement 'separation of the built form OR design treatments to ensure it does not appear as one building mass' is not supported, design treatments must occur in combination with building separation to effectively manage visual bulk. The objective should therefore use the word AND not OR.*
- (n) *The modification of the 'active ground floor' requirements are not supported. The proposed development should provide above 80% active frontages to the Mollison Street and Victoria Crescent frontage (including individual entrances to tenancies). This will be facilitated by the provision of a service laneway.*
- (o) *The suggestion to incorporate an overshadowing requirement to protect the south side of Mollison Street is supported.*

58. Council adopted these recommendations except for (a) and (b) for the following reasons:

58.1 The proponent is proposing to setback the building along the western boundary to allow two-way vehicle movement from Little Nicholson Street (existing laneway).

58.2 Council's internal review suggested that the widening of Little Nicholson Street would serve the purpose of vehicle access being provided from a laneway as well as pedestrian movement.

59. Council also considered this would be difficult to achieve because the proponent already had a planning permit approved and was proposing to proceed with Stage 1 of its planning permit. In addition, the proponent offered to widen the laneway if Council could provide the proponent with certainty and enable it to proceed with the planning permit.

## Authorisation

60. On 10 September 2020, Council submitted the Amendment to the Minister for Planning (**Minister**) requesting authorisation to prepare the Amendment.

61. On 19 February 2021, Council received authorisation to prepare the Amendment from the Minister for Planning (under delegation), subject to the following conditions:

*Make change to the proposed IPO1 as follows:*

*a) In section 2.0, modify the wording to clarify that only permits that provide for the specified minor works can be considered.*

*b) In section 3.0:*

*i. Include separate sub-headings for permit conditions and permit requirements.*

*ii. Modify wording to clarify the first condition requirement applies to only relevant development/types or development in relevant locations.*

*iii. Delete the requirement that development must not 'appear as one building mass along Mollison Street'.*

*c) In section 4.0, review the proposed decision guidelines and remove those that are not relevant to consideration of buildings and works that can be considered under section 2.0 of the proposed IPO1.*

*2. Make changes to the proposed incorporated plan titled 32-68 Mollison Street Incorporated Plan (March 2020) as follows:*

*a) Under 'Performance measures', delete the 'Design and appearance' performance measures.*

*b) In Table 1:*

*i. Specify the street wall height requirement in metres as well as storeys.*

*ii. Provide clarity as to what 'visually recessive materials, while lower level materials should be detailed and robust' means under the 'material definition (podium / lower level and upper levels)' buildings and works requirement.*

*The amendment must be submitted to the Minister for approval.*

62. Council amended the Amendment documentation in accordance with the above conditions.

### **Public Exhibition**

63. The Amendment was formally exhibited between 15 April 2021 and 17 May 2021 in accordance with the Act and included:

63.1 Notification (including information brochure) to owners and occupiers affected by the Amendment, including the owner and occupier of the Subject Site as shown on figure 4;



**Figure 4 – Notification Area**

- 63.2 notice in the Government Gazette; and
  - 63.3 notice in The Age newspaper.
64. The exhibited Amendment documentation comprised the following documents which were placed on Council’s Planning Scheme Amendment webpage and at Planning Counter, Richmond Town Hall:
- 64.1 Explanatory Report;
  - 64.2 Instruction Sheet;
  - 64.3 Schedule 1 to the IPO;
  - 64.4 Incorporated Plan (March 2021)
  - 64.5 IPO Map 6;
  - 64.6 The Planning Scheme Amendment request, August 2019; and
  - 64.7 The Urban Design Peer Review by Hodyl & Co.

**Submissions**

65. As a result of exhibition, eleven (11) submissions (one late submission from the proponent) were received. In summary:
- 65.1 one submission is from a nearby business owner not directly objecting;
  - 65.2 one submission from the proponent supporting the Amendment; and
  - 65.3 nine (9) objecting submissions from surrounding residents.
66. Broadly, issues raised in the submissions relate to:

- 66.1 Building height;
- 66.2 Loss of character;
- 66.3 Overshadowing;
- 66.4 Traffic impact;
- 66.5 Parking; and
- 66.6 Architectural and design treatment.

### Consideration of submissions

67. Council considered the submissions and a report at its ordinary meeting on 03 August 2021.
68. At its meeting on 03 August 2021, Council resolved to:
- a) note and consider all submissions made on or before the last date of exhibition of Amendment C280yara to the Yarra Planning Scheme, in accordance with section 22(1) of the of the *Planning and Environment Act 1987* (Vic);
  - b) note the officer report and Attachments 1-5 in relation to the Amendment;
  - c) in relation to all submissions which were considered by Council, refer those submissions to an independent Planning Panel appointed by the Minister under Part 8 of the Act in accordance with section 23 of the Act;
  - d) authorise officers to consider any further late or modified submissions received prior to a hearing by a Planning Panel appointed by the Minister under Part 8 of the Act and determine whether to refer any late submissions to the independent Planning Panel;
  - e) authorise officers to present submissions to the Planning Panel, adopting a position of advocacy for the Amendment, including requesting recommendations from the Planning Panel for any proposed changes or revisions to the exhibited Amendment, generally in accordance with the officer report, officer recommendations and Attachments 1-5;
  - f) authorises officers to write to all submitters to Amendment C280yara to advise of the Council resolution; and
  - g) receive a further report after the Panel Report is received from Planning Panels Victoria to enable further consideration of the Amendment by Council.
69. The Panel has previously been provided with a copy of the Council meeting minutes of 3 August 2021 (including the officer's report and officer's response to submissions – Attachments 1 to the Council meeting agenda of 03 August 2021).
70. On 05 August 2021 Council wrote to the Minister and requested that the Minister appoint a Panel pursuant to Part 8 of the Act, to consider submissions to the Amendment.

### Panel Appointment

71. On 13 August 2021, the Minister advised that a Panel had been appointed to consider submissions to the Amendment.
72. On 06 September 2021, a directions hearing was held.

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**OVERVIEW OF ISSUES IDENTIFIED IN SUBMISSIONS**

- 73. Council considered and adopted a report and officer responses to the submissions on 3 August 2021 and resolved to refer the Amendment to a Planning Panel.
- 74. A detailed response to the issues raised in submissions are addressed in **Attachment B** to this submission.

**Post-exhibition Changes**

- 75. There are no post-exhibition changes to the Amendment as a result of consideration of submissions.
- 76. The Overlay prevents the granting of permits before a plan has been approved, unless a schedule states that a permit may be granted. According to the PPN23, the purpose of this provision is to limit or allow consideration of use and development of the land until a plan has been prepared and ensure that future use and development of the land is carried out in accordance with that plan.
- 77. The Overlay exempts permit application that is generally in accordance with the plan from notice and review.

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**CONCLUSION**

- 78. This completes Council's opening submissions.
- 79. Council will file a short addendum submission addressing the recommendations of the Urban Design expert witnesses.
- 80. Council reserves its right to respond to any additional matters raised in submissions and evidence either verbally during the hearing or by way of an addendum submission.

*Maddocks*.....  
Per Terry Montebello  
Maddocks Lawyers  
Solicitors for the Planning Authority  
23 September 2021

## Attachment A – Chronology of Events

Date	Event
15 August 2019	Council receives Planning Scheme Amendment request
October 2019	Urban Design Peer Review prepared by Hodyl & Co
01 September 2020	Council resolves to seek authorisation to prepare the Amendment and publicly exhibit the Amendment.
19 February 2021	Council receives authorisation from the Minister to prepare the Amendment.
15 April 2021	Public exhibition of the Amendment commences.
17 May 2021	Public exhibition of the Amendment ceases.
03 August 2021	Council meeting held to consider submissions received in respect of the Amendment. Council resolves to request a Panel hearing be held to consider submissions.
13 August 2021	The Minister (under delegation) appointed the Planning Panel to consider submissions to the Amendment.
06 September 2021	Directions hearing in respect of the Amendment is held.



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**Attachment B – Council’s response to submissions**