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## 1. INTRODUCTION

- (1) I am a Senior Associate Urban Designer and Planner at Kinetica Studio Pty Ltd. I hold qualifications in urban design and planning and have over 12 years professional experience. Further details of my qualifications and experience are outlined in Appendix A.
- (2) In August 2021, I was instructed by Rigby Cooke Lawyers on behalf of AH Meydan Property Ltd to undertake an independent urban design assessment of a planning scheme amendment for 32-68 Mollison Street, Abbotsford (the 'Site') for the purpose of informing its planning review at Planning Panels Victoria.
- (3) More specifically, my brief was confined to the dispute regarding the reference to both storeys and metres in the Incorporated Plan Overlay 1 (IPO1) and the 32-68 Mollison Street Incorporated Plan (March 2021). Based on my assessment I confirm that I support the removal of reference to height in storeys in the proposed IPO1 and the Incorporated Plan.
- (4) Due to Covid-19 restrictions and my current residency in Tasmania, I was unable to attend the Site in person. However, the Site was attended by proxy on 16 September 2021 by Danielle Cull (Senior Consultant, **kinetica**) who has also assisted in the preparation of this statement. I was able to inspect the Site and surrounding streets via the use of Zoom video conferencing which was guided by Danielle Cull. I further note I have a general familiarity with the Site and the suburb of Abbotsford, having prepared an urban design referral for the City of Yarra in 2020 for a proposal at 350-356 Johnston Street, Abbotsford.
- (5) My evidence is organised as follows:
  - **Section 2.0** describes the Site and surrounding context
  - Section 3.0 reviews relevant planning practice notes and recent panel decisions regarding the preference in design controls to reference height in storeys or metres
  - **Section 4.0** assesses the potential urban design implications of referencing height in metres only
  - Section 5.0 concludes

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(6) I have summarised the key aspects of the Site's physical and policy context from an urban design perspective at Appendices B and C.

# 2. CONTEXT

### 2.1. Surrounding context

- (7) Abbotsford consists of an eclectic mix of both built form and land uses creating a diverse neighbourhood. The commercial precinct that surrounds the Site is typically 1 and 2 storey warehouse buildings. In recent years development has increased and as a result the demand for higher built form.
- (8) Yarra's policy for the area has become outdated, with the most relevant built form controls (Clause 22.10 Built Form and Design Policy) dating back to 2009. This is also the case with the current IPO for the Site that was introduced through Amendment C130.
- (9) The IPO dates back to 2013 where an overall height of 23m (5 storeys) reflected the emerging built form at the time. Since Amendment C130 was approved there have been numerous approvals with greater heights approved. Figure 1 illustrates the emerging character of the area.
- (10) This is evident in approvals adjacent to the Site in the order to 7-9 storeys with commercial office buildings (figures 2 and 3) under construction.

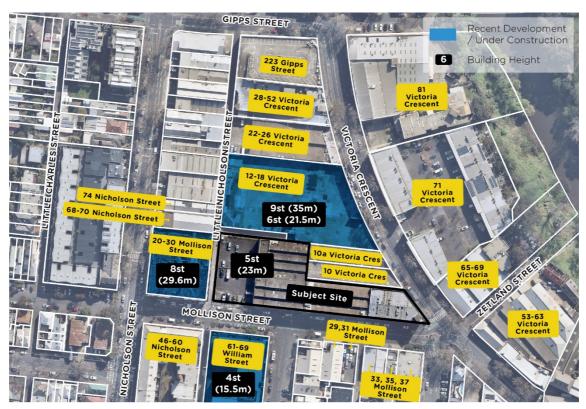


Figure 1: Site context and approvals





Figures 2 & 3: 20-30 Mollison Street (left) and 12-18 Victoria Crescent (right)

#### 2.2. Sites interfaces

- (11) The Site sits within a commercial/industrial precinct with the following interfaces:
  - To the north are IN1Z properties which include;
    - 10 Victoria Cres to the east, which includes a single storey building; and
    - 12-20 Victoria Cres to the west, currently under construction with a part 21.5m
      (6 storeys) and part 35m office building (9 storeys).
  - To the east is Victoria Crescent, a 20m (approx.) road reserve with 1 and 2 storey office developments opposite.
  - To the south is Mollison Street, a 20m (approx.) road reserve with 1 to 4 storey built form opposite, contained in a mix of zones. The most recent development consists of a 4-storey (15.5m) residential building at 61-69 William Street.
  - To the west is 20-30 Mollison Street, which is currently under construction with a 29.62m (8 storeys) office development.



Figure 4: Zoning map



Figure 5: Overlays map

# 3. REFERENCING HEIGHT IN THE PLANNING SCHEME

- The approach to referencing height in planning schemes varies depending on the purpose and circumstances. Reference to building height in storeys is more commonly seen in Design and Development Overlays (DDO) and Activity Centre Zone Schedules (ACZ), and less commonly seen in Incorporated Plan Overlays (IPO) and Development Plan Overlays (DPO).
- There are only two IPO's in the Yarra Planning Scheme, which include ICO1 (32-68 MOLLISON STREET AND 61-69 WILLIAM STREET, ABBOTSFORD JULY 2013) which seeks reference to building height in metres and storeys, and IPO2 (18-62 TRENERRY CRESCENT, ABBOTSFORD, MAY 2018), which seeks to reference building height in metres only. From an analysis of five other IPO's and Incorporated Plans of relevance in other inner-city municipalities, the most common building height reference is in metres, with no reference to storeys (refer to Appendix D).
- (14) From an analysis of the 26 DDO's within the Yarra Planning Scheme, 17 reference height in metres only, 5 reference both metres and storeys, and the remaining 4 have no reference to height.
- In further informing my opinion, Planning Practice Notes 13 'Incorporated and Background Documents (PPN13), 23 'Applying the Incorporated Plan and Development Plan Overlays' (PPN23), and 60 'Height and Setback Controls for Activity Centres' (PPN60) were reviewed for direction regarding the preferred approach to referencing height.
- (16) PPN13 describes that 'it is important that the planning scheme gives absolute clarity about the role and function of the particular incorporated document. What the document contains and how the document is referred to in the planning scheme will determine how it is used and interpreted.'
- (17) PPN23 describes the IPO as a flexible tool that can be used to implement a plan to guide the future use and development of the land, such as an outline development plan, detailed development plan or master plan. The overlay can ensure that permits granted

are in general conformity with the plan incorporated. The plan often details the form and conditions that must be met by future use and development of the land.

- (18) The requirements for plan content as discussed in PPN23 provide the basic content that a plan should address. There are no statutory requirements that govern the form of a plan. However, the practice note advises that the plan should show the future distribution of built development and include:
  - Maximum heights or building envelopes.
  - Design objectives for the new building envelopes. These may include objectives such as daylight, overlooking, external appearance, materials and finishes.
- (19) PPN23 does not specifically comment on its preferred approach to referencing height. However, the example incorporated plan within the practice note provides buildings and works requirements in table form, where building heights are specified in metres only.
- (20) PPN60 provides guidance on the department's preferred approach to the application of height and setback controls for activity centres. I consider it relevant as it discusses the statutory implementation of height and setback controls. It states the following:

"The preferred expression of heights and setbacks is in metres and should be in reference to a defined point such as the footpath or Australian Height Datum. If height is measured in terms of storeys, this should be expressed in relation to a preferred height provision of metres as well."

- (21) In summarising, from an analysis of relevant planning controls and practice notes, I find that:
  - On balance, the examples of DDOs and IPOs reviewed as part of preparing this evidence predominantly refer to height in metres, not storeys; and
  - The preferred method of referencing height in the relevant practice notes is in metres.

In my opinion, I consider the use of metres to reference building heights to be the most definitive approach to outlining the preferred built form character for a site.

(22) In relation to Amendment C280, the Incorporated Plan references height in both metres and storeys. As the Site is zoned C2Z, accommodation is prohibited. The Incorporated

Plan seeks use and development for office, commercial and other compatible uses. And though commercial uses require higher floor-to-floor heights than residential uses (typically 3.1m minimum), it is very unlikely that floor-to-floor heights of any greater than 3.5m are required over the whole building. Even with a 4.0m floor-to-floor at the ground floor for a retail offering, the proposed 32m height limit would comfortably fit 8 storeys.

- (23) Based on my knowledge of typical commercial floor-to-floor heights, I assess the number of storeys referenced in the proposed Incorporated Plan to be unresponsive to the proposed building height maximums, and therefore recommend their removal. Expressing height in metres only will give clarity on what the primary measure is, and more certainty in relation to the eventual built form outcome.
- In conclusion, as the proposed 32m height limit does not match or equate to the reference to 7 storeys, I recommend the removal of the reference to storeys throughout the Incorporated Plan. I consider referencing height metres will still appropriately guide the intended built form massing outcome for the Site, while providing flexibility to accommodate the applicable number of storeys.

# 4. URBAN DESIGN IMPLICATIONS

- (25) Amendment C280 seeks to update the current Incorporated Plan which currently consists of preferred heights in metres and storeys. It seeks an increase in height from 5 storeys and 23m across the entire site to a part 5 storey (23m) and part 7 storey (32m) redevelopment.
- (26) Council are supportive of the amendment and the new heights pursued in the proposed IPO and put forward the recommendation for authorisation of the amendment to the Minister.
- (27) The current endorsed plans, which are based on the original IPO1 implemented via Amendment C130, have floor-to-floor heights of 5.2m for the Ground Floor and 4.4m for the levels above with an overall height of 23m. Arguably, these are generous floor-to-floor dimensions that could be reduced and still provide a high level of amenity for future occupants.
- As the proposed Incorporated Plan seeks an overall building height envelope of 32m, I assess that applying a 7-storey building height reference will lead to ambiguity in terms of the desired built form outcome. I also consider that by deleting the reference to storeys, there will be no impact to the proposal's ability to respond to the emerging character of the area, or to minimise public realm and off-site amenity impacts.
- (29) This opinion is further expressed below.

## 4.1. Emerging character

- (30) Aside from the existing IPO1, the Site and surrounds are within a policy vacuum, therefore first principles should be applied to determine the appropriate building height and contextual response for the Site.
- (31) The scale and density of development approved and proposed within Abbotsford has increased substantially in recent years. Of note, recent approvals adjacent to the Site include a 29.62m office building at 20-30 Mollison Street to the west and a 35m office building at 12-20 Victoria Street directly north.

In response to the emerging character, the Incorporated Plan proposes a 5 storey (23 metres) building within the eastern half of the Site fronting Victoria Crescent, and a 7 storey (32 metre) building on the western half of the Site. It also requires a street wall that transitions from 3 storeys (13.8 metres) at the western end of the Site (Area A) to 4 (18.4) storeys at the eastern end of the Site (Area B).

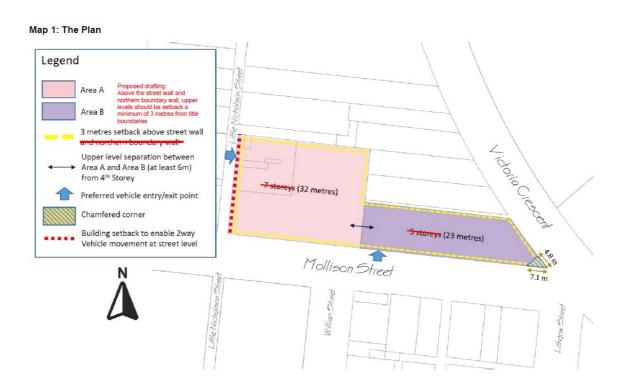


Figure 6: Proponent preferred Incorporated Plan

- (33) In response to the prescribed massing envelopes, Area A could conceivably include a building envelope with a 13.8m street wall with 4.5m floor-to-floors over 3 storeys, and an 18.2m upper form spread over 5 storeys (3.6m floor-to-floors). I consider this to be an appropriate response to the approved building envelope at 20-30 Mollison Street, which includes a 11.5m street wall and an 18.12m upper form, and the emerging character along the balance of Mollison Street.
- (34) Similarly, to Area A, Area B could comfortably include 5 storeys within the proposed 18.4m street wall with a recessed level above, totalling 6 storeys. Or the street wall height could be reduced to 15.8m, allowing for 4 storeys with 2 storeys set back above.

The 15.8m street wall height would still enable a transition from the 3 storeys at the western end. Again, I consider both massing outcomes to be responsive to the adjacent streetscape character and context, with the approved building envelope at 12-20 Victoria Crescent proposing a 21.5m building along the street frontage.

(35) Overall, the proposal can maintain its proposed street wall and upper form massing and respond to the emerging character, without the need to retain the reference to height in storeys.

### 4.2. Public realm amenity

- (36) In relation to public realm amenity, the Incorporated Plan seeks to encourage development design that promotes pedestrian activity and passive surveillance, contributes to a high-quality public realm, and avoids overshadowing to footpaths on the opposite side of the street.
- In Table 1 of the exhibited Incorporated Plan, active frontages are required to a minimum of 80% of the Mollison Street and Victoria Crescent frontage. However, due to the nature of the area and its industrial built form character, I consider the requirement for 80% activation to be both onerous and unnecessary. As per the Proponent preferred version of the Incorporated Plan, I consider 65% active frontage provision to be more responsive the nature and character of the area, while still contributing to the safety and liveliness of the public realm.
- (38) In relation to overshadowing, Incorporated Plan seeks development that avoids overshadowing of opposite footpaths on Mollison and Victoria Crescent. More specifically, it requires that "development proposals for buildings include detailed shadow analysis to demonstrate no overshadowing to the southern footpath along Mollison Street on September 22<sup>nd</sup> from 10am to 2pm."
- (39) Figure 7 below consists of massing for a 32m building with a 3m setback above the street wall varying from 13.8m to 18.4m. It confirms that a building that reaches the maximum height in metres will not overshadow the southern footpath of Mollison Street between 10am and 2pm at the equinox.

(40) Overall, I assess that deleting the reference to height in storeys will not result in any additional public realm amenity impacts.

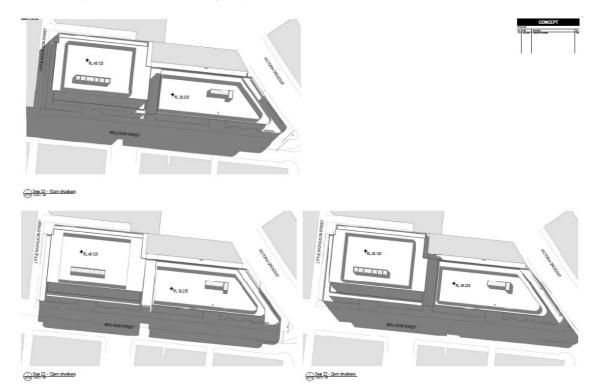


Figure 7: Proposed massing and overshadowing (Source: wireframe architecture)

## 4.3. Off-site amenity

- (41) The Incorporated Plan includes an objective that seeks "to ensure development responds to sensitive use to the south of Mollison Street by requiring that the overall scale and form of development on the Land protects these properties from an unreasonable loss of amenity through visual bulk and overshadowing.
- Due to the Site's particularly long frontage to Mollison Street (147m), it's visibility from adjacent streets will be heightened. To ameliorate the proposal's potential visual bulk impacts to the streets adjacent to the Mollison Street interface, the proposed Incorporated Plan directs a street wall varying from 13.8m in the west to 18.4m to the east, with levels above setback a minimum of 3 metres. The Incorporated Plan also seeks an upper level building separation between Area A and Area B of 6 metres, which will break down the mass and minimise visual bulk impacts experienced from adjacent streets.

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(43) As discussed in the previous sections, a building of 7 storeys or 8 storeys, provided it fits within the preferred maximum building height requirements of the Incorporated Plan, will have no material difference on the perceived visual bulk from properties along Mollison Street, or create any additional overshadowing impact.

# 5. CONCLUSION

- (44) In conclusion, I support the proposed Amendment, and consider that by deleting the reference to building height in storeys, there will be no impact to the proposal's ability to respond to the emerging character of the area, or to minimise public realm and off-site amenity impacts.
- (45) I consider the proposed approach to refer to height in metres only in the Incorporated Plan aligns with both the preferred method directed in the relevant practice notes, and the approach taken in the balance of the DDO and IPO examples reviewed.

# APPENDIX A: SUMMARY OF EXPERIENCE AND PERSONAL DETAILS

#### NAME AND ADDRESS

Julia Chloe Bell

Senior Associate Urban Designer

kinetica, Level 25/500 Collins Street

Melbourne VIC 3000

#### **QUALIFICATIONS**

- Member of the Planning Institute of Australia, 2008
- MA Urban Design, Oxford Brookes University, UK, 2013
- Diploma Urban Design, Oxford Brookes University, UK, 2013
- Bachelor of Urban Planning and Development, University of Melbourne, 2007

#### PROFESSIONAL EXPERIENCE

- Associate Urban Designer and Planner, David Lock Associates (Australia), March 2015 to present
- Senior Strategic Planner, Hume City Council (Australia), 2014 to 2015
- Strategic Planner, Hume City Council (Australia), 2010 to 2014
- Development Planner, GHD (Australia), 2005 to 2010

#### **AREA OF EXPERTISE**

I have over ten years' experience in private and public practice with various planning and urban design consultancies in Victoria, Queensland and Tasmania.

#### EXPERTISE TO PREPARE THIS REPORT

I have been involved in the design and assessment of numerous site specific development projects and planning scheme amendments in Victoria. These have included:

- Evidence for Amendment C191 (Yarra City Council) Swan Street.
- Evidence for Amendment C231 (Yarra City Council) Queens Parade.
- Evidence for Amendment C161 (Darebin City Counil) for Fairfield Village, Fairfield.
- Evidence for Amendment GC81 (Port Phillip City Council) Fishermans Bend Urban Renewal Precinct.
- Evidence for Amendment C178 (Moreland City Council) Gronn Place Brunswick West.
- Evidence for Amendment C223 (Stonnington City Council) 110-122 Wattletree Road, Malvern Malvern Central.
- Built Form Framework for Bridge Road and Victoria Street, (Yarra City Council).
- Structure Plans for Hawksburn Activity Centre (Stonnington City Council) and Greensborough Activity Centre (Banyule City Council).
- Urban Design Framework for Postcode 3081 (Banyule City Council).
- Involved in the independent review of numerous inner urban development projects from an urban design perspective.

#### INSTRUCTIONS WHICH DEFINE THE SCOPE OF THIS REPORT

I am engaged by the AH Meydan Properties Ltd.

I have received verbal and written instructions from the Rigby Cooke Lawyers, including various documents relating to the proposal.

#### FACTS, MATTERS AND ASSUMPTIONS RELIED UPON

Inspection of the subject site and surrounding area; and

Review of planning controls and policies affecting the area.

#### **DOCUMENTS TAKEN IN ACCOUNT**

- The Yarra Planning Scheme and relevant Reference Documents;
- Amendment C170 Panel report;
- Current endorsed plans and planning permit;
- Planning Scheme request for amendment;

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- Proposed concept perspective and south elevation;
- IPO Schedule draft;
- Council response to schedule draft;
- Various 173 agreements;
- Council meeting agenda and minutes;
- C280 Exhibited materials;
- Urban Design review by Hodyl & Co;
- Objectors submissions;
- Directions letter;
- Proponent submission;
- Councils Approvals report; and
- Various correspondences relating to the proposed development.

#### **SUMMARY OF OPINIONS**

Refer to the conclusion of this statement.

#### **PROVISIONAL OPINIONS**

There are no provisional opinions in this report.

# QUESTIONS OUTSIDE MY AREA OF EXPERTISE, INCOMPLETE OR INACCURATE ASPECTS OF THE REPORT

This report does not address questions outside my area of expertise, and is complete and accurate to the best of my knowledge.

I have made all the inquiries that I believe are desirable and appropriate and confirm that no matters of significance which I regard as relevant have to my knowledge been withheld from the Tribunal.

Julia Bell

# **APPENDIX B: URBAN CONTEXT**

The following aspects of the site and its physical context are most notable from an urban design perspective:

- The subject site is approximately 4,400m² and regular in shape;
- The site has the following interfaces:
  - North: to the north are IN1Z properties with;
  - 10 Victoria Cres to the east, a single storey building
  - 12-20 Victoria Cres to the west, currently under construction with a part 21.5m (6 storeys) and part 35m (9 storeys) office building.
  - East: to the east is Victoria Crescent, a 20m (approx.) road reserve with 1 and 2 storey office developments opposite (C1Z).
  - South: to the south is Mollison Street, a 20m (approx.) road reserve with 1 to 4 storey built form opposite, contained in a mix of zones. With the most recent being a 4-storey (15.4m) residential building (MUZ).
  - West: to the west is 20-30 Mollison Street, which is currently under construction with a 29.6m (8 storeys) office development (IN3Z).

# **APPENDIX C: POLICY FRAMEWORK**

From an urban design perspective, the key planning controls, policies, Incorporated and Reference Documents in the Yarra Planning Scheme include:

#### **ZONES & OVERLAYS**

#### **CLAUSE 34.02 - COMMERCIAL 2 ZONE**

Encourages commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services. Seeks to ensure development responds to the existing or preferred character.

#### CLAUSE 43.03 - INCORPORATED PLAN OVERLAY SCHEDULE 1

Seeks to facilitate the use and development of the land at 32-68 Mollison Street for office, commercial and compatible uses that will provide jobs and business activity for the local area.

#### PLANNING POLICY FRAMEWORK

# CLAUSE 11 - VICTORIA (11.01-1S SETTLEMENT, 11.01-1R1 SETTLEMENT - METROPOLITAN MELBOURNE)

Encourages increased densities and opportunities to capitalise on urban renewal and infill development in locations well served by public transport with good access to amenities, in addition to respecting the surrounding character context. Seeks to create new mixed use neighbourhoods at varying densities to offer housing choice, jobs and better access to services and facilities.

# CLAUSE 15 - BUILT ENVIRONMENT AND HERITAGE (15.01-1S URBAN DESIGN, 15.01-1R - URBAN DESIGN METROPOLITAN MELBOURNE, 15.012S - BUILDING DESIGN)

Promotes good urban design that fosters safe, healthy and functional neighbourhoods. It also encourages building design outcomes that contribute positively to the local context and enhance the public realm.

#### CLAUSE 17 ECONOMIC DEVELOPMENT (17.02-1S BUSINESS)

Encourages development that meets the community's needs for retail, entertainment, office and other commercial services with adequate supply of commercial land in appropriate locations.

#### LOCAL PLANNING POLICY FRAMEWORK

#### **CLAUSE 21.03 VISION**

Seeks to provide increased opportunities for employment.

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#### **CLAUSE 21.04 LAND USE**

Seeks to increase the number and diversity of local employment opportunities. it also supports rezonings, as identified on the relevant Neighbourhood plan, to permit increased commercial and office use in existing industrial areas.

#### **CLAUSE 21.05 BUILT FORM**

Seeks to improve the interface of development with the street in non-residential areas.

#### **CLAUSE 22.10 BUILT FORM AND DESIGN POLICY**

Seeks to ensure that new development positively responds to the context ... and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character. It also seeks to ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.

#### REFERENCE DOCUMENTS

#### SAFER DESIGN GUIDELINES FOR VICTORIA (DSE 2005)

Seeks to facilitate the planning and design of safer urban environments for all Victorian communities.

#### URBAN DESIGN CHARTER FOR VICTORIA (DPCD, 2009)

Encourages best practice urban design throughout Victoria based on a series of principles. Seeks to make cities and towns throughout Victoria.

# **APPENDIX D: IPO PRECEDENTS**

A review of IPO's both in Yarra and other Local Government Areas illustrate the common practice of specifying height of built form in metres, without a reference to stories. The following table demonstrates the specification of height through metres:

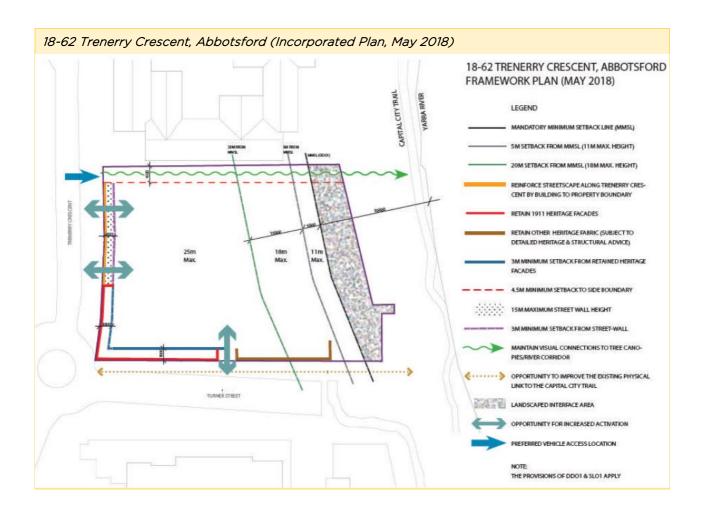
LGA	IPO
Yarra	IPO Schedule 2 - 18-62 TRENERRY CRESCENT, ABBOTSFORD, MAY 2018

#### **Height description in IPO**

- **4.0 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:
  - How the proposed development responds to the purpose and objectives of the Incorporated
    Plan and accords with the 18-62 Trenery Crescent Framework Plan;
  - How the proposed development responds to the land use and built form guidelines and principles in Part 4 of the Johnston Street Local Area Plan, 2015;
  - The impact of the height, bulk, design and appearance of the building or works on the character and amenity of the surrounding area;
  - The scale and design of new development and its transition to the adjoining building at 64
    Trenerry Crescent;

The impacts of overshadowing on windows to habitable rooms in the existing building to the south and southern side footpath on Turner Street, caused by upper levels of new development, between 9am and 3pm on September 22 (equinox);

#### **Incorporated document**



LGA	IPO
Melbourne	IPO Schedule 1 - 236-254 ST KILDA ROAD, SOUTHBANK

#### **Height description in IPO**

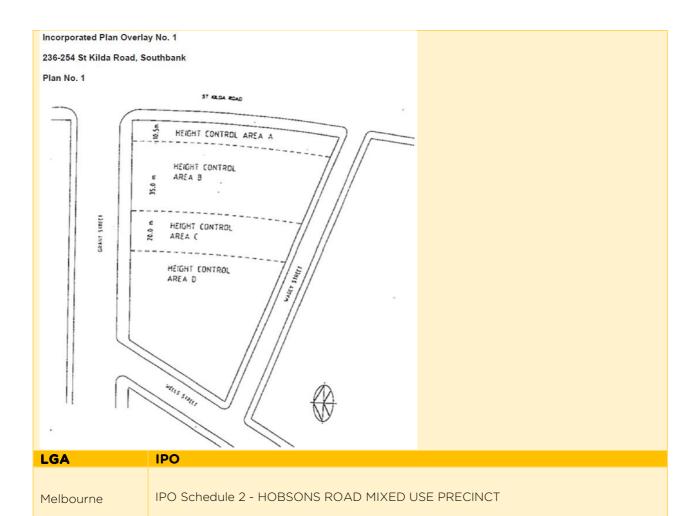
**4.2 Height and setback:** In areas marked Height Control Area B, C or D on Plan 1, buildings must not be constructed above the respective heights listed in Column 1 of Table 1.

#### Table to Schedule 1

Height Control Area	Column 1	Column 2
	Height (Ahd)	Height (Ahd)
В	25 metres	45 metres
С	50 metres	70 metres
D	60 metres	75 metres

Notwithstanding the above, buildings may be constructed above the heights listed in Column 1, but not exceeding the height nominated in Column 2, for the respective parts of the land if the responsible authority is satisfied that such buildings are generally in keeping with the relevant design guidelines as specified in Clause 2 to this schedule.

#### **Incorporated document**



#### **Height description in IPO**

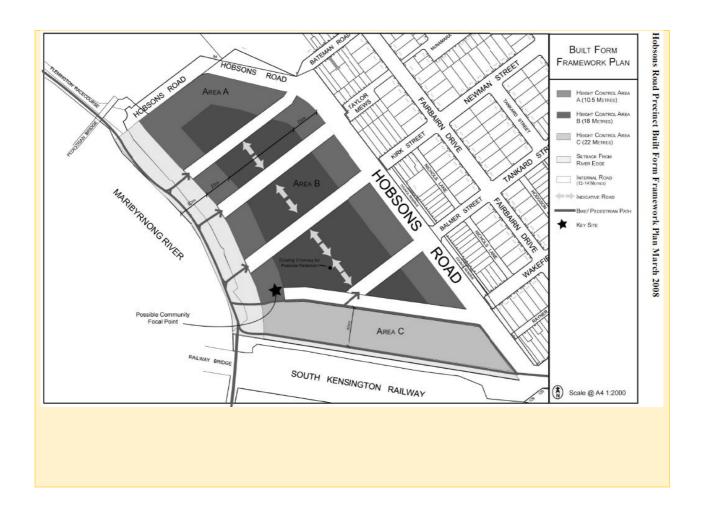
#### 4.0 Conditions and requirements for permits

**Building Heights:** In areas marked Height Control Areas A, B or C on the "Hobsons Road Precinct Built Form Framework Plan March 2008", buildings should not be constructed above the heights listed in Column 1 of Table 1.

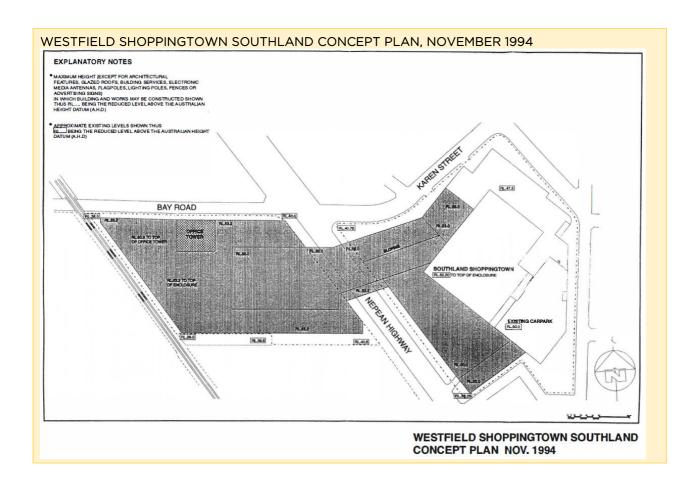
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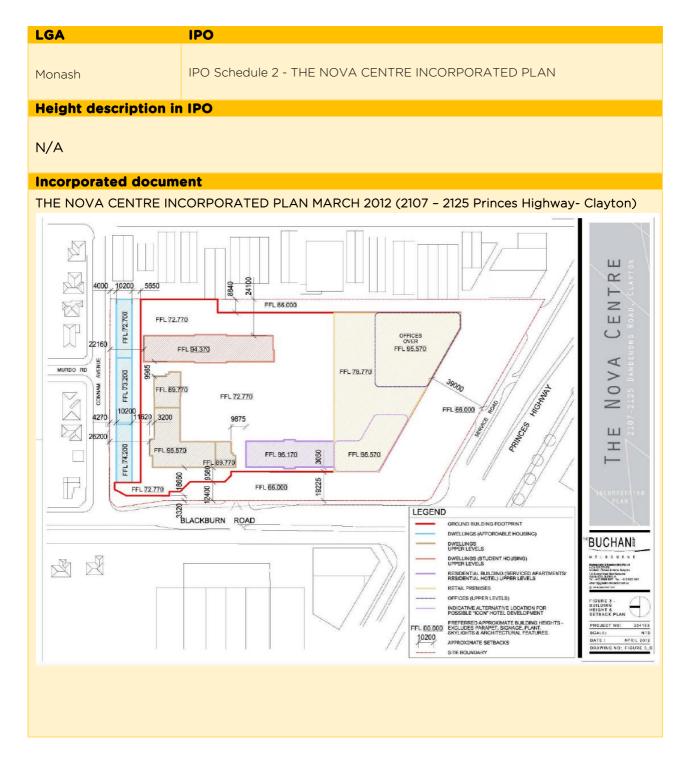
Height Control Area	Column 1-Building Height	
Α	10.5 metres	
В	18 metres	
С	22 metres	

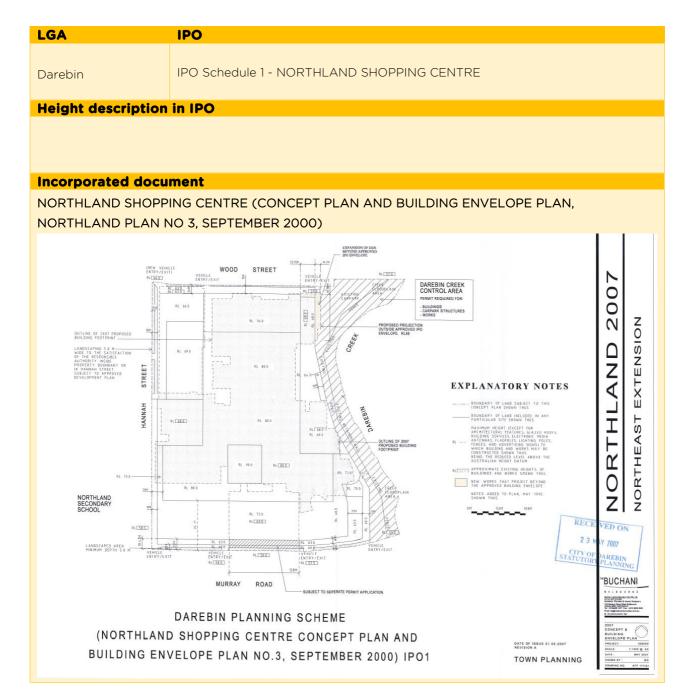
#### **Incorporated document**



LGA	IPO	
Kingston	IPO Schedule 1 - WESTFIELD SHOPPINGTOWN SOUTHLAND CONCEPT PLAN, NOVEMBER 1994	
Height description in IPO		
N/A		
Incorporated d	ocument	









kinetica

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