

0.0 Planning Application PLA22/0031 for an amendment to Planning Permit PL14/024793 at 1026-1030 Doncaster Road, Doncaster East

PL14/024793 was issued for an apartment style residential building (106 dwellings, part three-storey, part six-storey above three levels of basement car parking) and alteration to access to a Road Zone Category 1

File Number:	IN23/213
Responsible Director:	Director City Planning
Applicant:	Ratio Consultants Pty Ltd
Planning Controls:	Residential Growth Zone, Schedule 2 (RGZ2); General Residential Zone, Schedule 2 (GRZ2); Design and Development Overlay, Schedule 8 (DDO8-1); Design and Development Overlay, Schedule 8 (DDO8-2); Principal Public Transport Network (PPTN); Transport Zone 2
Ward:	Manna
Attachments:	<ol style="list-style-type: none">1 Legislative Requirements - PLA22/0031 - 1026 - 1030 Doncaster Road2 Decision Plans S57 PLA220031 - 1026 - 1030 Doncaster Road3 Further Decision Plans PLA22/0031 - 1026 - 1030 Doncaster Road4 Decision Landscape plan s57 PLA22/0031 - 1026-1030 Doncaster Road DONCASTER EAST5 Previous Decision Plans PLA22/0031 - 1026 - 1030 Doncaster Road6 Objector map - PLA22/0031 - 1026 - 1030 Doncaster Road (confidential)

1. EXECUTIVE SUMMARY**Purpose**

1. This report provides Council with an assessment of the application to amend Planning Permit PL14/024793, submitted for the land at 1026-1030 Doncaster Road, Doncaster East.
2. The application is being reported to Council as it proposes an amendment to a Major Application (more than 20 dwellings and the cost of works greater than \$10 million). The original application was refused by Council on 27 October 2015 and a Planning Permit was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT)).

Proposal

3. Planning Permit PL14/024793 was issued for an apartment style residential building (part three-storey, part six-storey) comprising 106 dwellings above three levels of basement car parking and alteration to access to a Road Zone Category 1.

4. The permit expiry has been extended and will expire if the development is not commenced by 23 May 2025.
5. The scale, massing, and intensity of the apartment development has been established by the existing permit approved by VCAT. The scope of this assessment is limited to a comparison of the proposed changes and ensuring an improved, if not comparable outcome against the relevant planning scheme objectives.
6. Many policy requirements have changed since the permit was issued, such as the introduction of the Principal Public Transport Network (PPTN), which waives visitor car space requirements in this location, and Clause 58 (Apartment Development Standards), for which the proposal is exempt. The proposal has, however been redesigned to comply with Clause 58.
7. The application seeks to amend Planning Permit PL14/024793 generally by increasing the number of apartments by one additional dwelling to a total of 107 dwellings, modifying the overall design and appearance of the building, provision of a new rooftop communal deck and associated structures, an increase in site coverage, minor variations in the building footprint, deletion of car parking, changes to dwelling typologies and building height.
8. The overall building scale and layout remains largely consistent with the permit approval, continuing to provide a comparable 3 and 6 storey scaled building. The building footprint, height and massing remain largely consistent with the existing permit approval, however the design and style has changed holistically. The height of the building has increased slightly due to the inclusion of a rooftop communal deck, accessed by a lift overrun and foyer and an increase in height of the parapet at level 5 by 640mm from the permit approval.



Renders from the applicant's website indicative of the 2016 permit approval:



Proposed renders:

9. Vehicle access arrangements from Blackburn Road to a basement carpark have been maintained. The proposal has deleted a basement level which has resulted in the removal of 72 spaces, along with visitor spaces and car parking reconfigurations.
10. The proposal however still provides for a total of 42 surplus spaces including 5 visitor spaces. The site is located within the Principal Public Transport Network (PPTN) area where no visitor spaces are required to be provided. Even with the car parking reconfiguration the proposal complies and exceeds the car parking provisions contained within the Manningham Planning Scheme (the Scheme).

Notification

11. Notice of the application was given over a four week period, which concluded on 18 January 2023.
12. To date, 11 objections have been received to the proposal. The objections included concerns primarily relating to traffic and car parking, height, landscaping positioning, daylight access, internal amenity, overdevelopment, overlooking, overshadowing, neighbourhood character, typology of single bed units, wind tunnel impact, equitable development, vehicle construction management, visual bulk/massing, property devaluation, and air pollution to future residents.
13. Amended plans pursuant to Section 57A were submitted on 24 February 2023, in response to outstanding officer and objector concerns. These amended plans form the decision plans and have made significant reductions/improvements to the overall proposal.
14. Notice of the amended application was given over a two week period, which concluded on 19 April 2023.
15. No new objections were received to the amended proposal, nor were any objections withdrawn. Three further submissions were received by original objectors who reaffirmed their grounds of objection.
16. The location of objectors are shown on a map provided in Confidential Attachment 6.

Key issues in considering the application

17. The key issues for Council in considering the proposal relate to:
 - Planning Policy Framework;
 - Design and built form;
 - Amenity impacts;
 - Car parking and traffic;
 - Amendment to permit conditions and compliance with conditions; and
 - Objector concerns.

Assessment

18. The scope of this assessment is generally limited to a comparison of the changes and ensuring an improved, if not comparable outcome of the approved three and six storey apartment building against the relevant planning scheme requirements.
19. The proposed amendment will result in holistic changes to the appearance of the development and internal layout. The design has been robustly reviewed by Officers in conjunction with external independent urban design advice. The proposal has responded to the major urban design recommendations made to date and has been further refined through amendments to make a positive contribution to the site and surrounds. Some design issues remain, mainly with the street landscaping and with Level 5, however these have been addressed in the recommended conditions.
20. The amendment to the layout of the access, car parking and dwellings are satisfactory, subject to further refinement by additional permit conditions. The change in dwelling typologies to reduce the 1-2 bedroom dwellings by 20 and increase the 3 bedroom dwellings by 22 is noteworthy within an apartment format and will provide a greater diversity of housing choices within the development.
21. During the application process, officers pursued changes to the plans to ensure that the proposal closely aligned with the permit approval in terms of massing, siting, and off-site amenity impacts. Some visual and shadow impacts remain, and these have also been addressed in the recommended conditions.
22. The permit approval provided substantially more parking than the minimum statutory requirement. The amendment now seeks to remove and reallocate car parking spaces. The parking requirements have been revised in response to the application of the Principal Public Transport Network (PPTN). The deletion of car parking spaces and reallocation for private residential use is considered acceptable in a policy context.
23. The proposal continues to comply and exceed the statutory parking requirements by 42 additional spaces, pursuant to Clause 52.06 (Car Parking) of the Manningham Planning Scheme. The applicant has also voluntarily provided five visitor car spaces as encouraged by Officers. There is no scope or policy basis for Council to require more visitor spaces or prohibit the reallocation of spaces.

Conclusion

24. The proposed amendments are considered satisfactory. The changes positively respond to the objectives of the Manningham Planning Scheme as they relate to siting, form, car parking and access and along with some additional changes through permit conditions which will result in an overall more refined building.
25. It is recommended that the amendment application be supported, subject to conditions.

RECOMMENDATION

That Council:

- A. Having considered all objections, issue a Notice of Decision to Grant an Amended Permit PL14/024793 in relation to Planning Application PLA22/0031 at 1026-1030 Doncaster Road, Doncaster East, for:

Preamble Amended (new/modified additions underlined)

- Construction of two or more dwellings on a lot
- To construct a building and construct or carry out works
- Alteration of an access to a road in a **Transport Zone 2** in accordance with the endorsed plans

subject to the following conditions (new/modified conditions underlined):

Amended Plans

- 1 Before the development starts, amended plans drawn to scale and dimensioned, must be submitted to the satisfaction of the Responsible Authority and approved by the Responsible Authority. When approved, the plans will then form part of the permit. The plans must be generally in accordance with the **amended plans, prepared by Cera Stribley, Job No. 21254, dated 1 September 2022, 17 November 2022, 7 December 2022 and 14 February 2023, 24 February 2023, Revisions B to F, but modified to show:**

- (a) **Deleted;**
- (b) the part of the building within the General Residential Zone having a maximum height of 10 metres;
- (c) details of screening, obscured or highlight windows, and internal dividing screens/fences to be notated on both floor and elevation plans to prevent overlooking from windows within a 9m of the site's boundaries;
- (d) a materials **sample / detailed colour** schedule for all proposed external materials, colours and finishes including flooring and fencing;
- (e) the maximum height for all retaining walls fronting Doncaster Road;
- (f) the width of the crossover and vehicular access ramp designed to accord with Design Standard 1 and Design Standard 3 of Clause **52.06-9** (Car Parking) of the Manningham Planning Scheme;
- (g) a longitudinal section for the critical side of the vehicle crossing and vehicular access ramp to the entry of the basement to be taken from Blackburn Road showing headroom clearance, driveway grades, lengths of grades, reduced levels at both sides of the grade and

demonstrating compliance with Design Standard 3 of Clause 52.06-9 (Car Parking) of the Manningham Planning Scheme;

- (h) details for basement ventilation (design, location) ensuring any external flues are designed and integrated into the building design;
- (i) a plan notation stating the driveway entrance must be kept clear of all obstructions for at least 2m measured laterally along the property boundary and 2.5m into the property, to provide safe and effective sight lines for pedestrians;
- (j) parking spaces dedicated for People with disabilities to be shown on the Basement 1 car park in accordance with DDA requirement and AS/NZS 2890.6.
- (k) details of external lighting installed to provide safe entry and exit for occupants and visitors of the building;
- (l) Deleted;
- (m) the location, capacity and access details to rainwater storage tanks and/or solar hot water systems and roof mounted solar panels which are discretely located, designed and integrated into the building design;
- (n) any batter slope no steeper than 1:3;
- (o) the location of any air conditioning units and any retractable clotheslines to dwellings (both designed so that they have limited visibility from the street and adjoining properties);
- (p) Deleted;
- (q) details for all communal areas including use, layout, functionality;
- (r) any relevant changes as a result of Transport for Victoria conditions on this permit and to Council assets, road reserve and bus stop on Blackburn Road;
- (s) any relevant changes as a result of any management plan (Sustainability Management Plan, Landscaping Plan, Waste Management Plan etc) required and endorsed under other conditions of this permit;
- (t) Level 5 glazing to be tinted to achieve 65% visible light transmittance or similar, or to the satisfaction of the Responsible Authority;
- (u) Apartment 507 southern wall to be setback approximately 2.5 metres from the lower roof edge, to be in line with the southern wall of bedroom 3 of Apartment 506;
- (v) Southern roof eaves to Apartments 506 and 507 to be no deeper than 300mm from the respective wall or deleted;
- (w) A curved concave balustrade to Apartment 216 and 217, consistent

with the curved profile elsewhere;

- (x) A curved concave eave that accentuates the rebates above the balconies of Apartments 218 and 219, 216 and 217, 214 and 215, consistent with the curved eave profiles on the northern building;
- (y) Deletion of the roof above the balcony of Apartments 409 and 410, and replacement with a maximum 600mm wide eave;
- (z) Detailed drawing of all balcony planter boxes or any other screening, along with adequate plan notations, demonstrating they are adequate fixed structures to limit internal overlooking below;
- (aa) Internal overlooking screening or alternative design solutions to limit views between Apartments 102-104, 208-210, 308-311, 407-409, 508, and terraces below;
- (bb) Screen all east facing habitable room windows to limit views where adjacent to 1032 Doncaster Road to a height of 1.7 metres from each finished floor level, by fixed obscured glass or other screening methods;
- (cc) Remove the hallway wall to the ground floor study of Townhouse 9;
- (dd) Increase the functional living area of Apartment G06 to provide an additional 3 sqm of open planned living/dining space;
- (ee) Increase the functional living area of Apartment G09 to provide an additional 5 sqm of open planned living/dining space;
- (ff) Common property landscaping adjacent to Blackburn Road to be provided in the first 3 metres depth within a raised bed, and the front fence set back to 3 metres;
- (gg) Each terraced private open space to Apartments G10 to G16 increased to achieve a minimum area of 15 square metres for one-two bedroom apartments and 20 square metres for three bedroom apartments, and be designed to maximise useability and to maintain adequate landscaping in the street setback;
- (hh) Deletion of the private dwelling entries to Blackburn Road, with the exception of the retention of one of the entries to either Apartment G13 or G14, and retention of one of the entries to either Apartment G11 or G12;
- (ii) Sense of address to the southernmost Blackburn Road communal dwelling entry be enhanced by a wider street entry, deletion of the gate, and provision of bicycle parking;
- (jj) Each front fence demonstrated as 50 per cent transparent;
- (kk) The three garden beds adjacent to Doncaster Road set aside for canopy tree planting demonstrated to be wholly at street level with no barriers in between the total soil volume;

- (ll) The terrace west of Townhouse 1 replaced with a landscaped bed to be combined with and be at level with the surrounding garden bed. The front fence in this section to be relocated 1 metre from the western wall of Townhouse 1, with the area west of the fence set aside as common property;
- (mm) Details of site services within the property frontage, adequately located and integrated into the frontage or fence design;
- (nn) All visitor bicycle spaces provided adjacent to communal building entries, with the number of spaces provided and designed in accordance with Clause 52.34 (Bicycle Parking) of the Manningham Planning Scheme;
- (oo) Access to basement storage adjacent to a car space from sliding doors that do not open into a car space;
- (pp) Deletion of the rooftop planting on the three-storey building;
- (qq) The following plan corrections and notations:
- (i) Notations on plan to match fence position and proposed height on elevations;
 - (ii) Minimum boundary setbacks dimensioned to each level on floor plans, including the basement;
 - (iii) Easements correctly depicted on the proposed ground floor plans;
 - (iv) Wall heights dimensioned to each elevation;
 - (v) Each north and west elevation labelled to include its respective street name;
 - (vi) Eave outline dotted on level 5 floor plans;
 - (vii) Outline of level above shown on floor plans;
 - (viii) Deletion of previous approved development outlines and notations;
 - (ix) Internally dimension all bedrooms;
 - (x) Obscured glazing within southern light court notated to apply to all windows except where windows are adequately offset from one another to avoid internal overlooking;
 - (xi) Indicative vegetation removed from development plans.

Endorsed Plans

- 2 The development as shown on the approved plans must not be altered without the prior written consent of the Responsible Authority.
- 3 Floor levels shown on the endorsed plans must not be altered or modified.

Any alterations must be approved in writing by the Responsible Authority.

Sustainability Management Plan

- 4 **Concurrent with the submission of development plans for endorsement under Condition 1 of this permit, an amended Sustainability Management Plan (SMP) must be submitted to and approved by the Responsible Authority. When approved, the SMP will be endorsed and will then form part of the permit. The SMP must be generally in accordance with the submitted plan prepared by Sustainable Development Consultants, Revision V3, dated 16 March 2023, but modified to show:**
- (a) **Maximum daylight access to all dwellings;**
 - (b) **Deleted.**
 - (c) **Deleted.**
 - (d) **Deleted.**
 - (e) **Deleted.**
 - (f) **Deleted.**
 - (g) **Deleted.**
 - (h) **Washing machine with a minimum 4 Star WELS rating provided as part of the fit-out to each dwelling, or if not amend BESS entry to "Occupant to install".**
 - (i) **Efficient electric induction cooktops, electric coil / ceramic cooktops.**
 - (j) **Show on plans rainwater tank size and connection to toilet flushing and irrigation.**
 - (k) **Show on plans and SMP report a clear commitment to achieving a minimum 6.5-star average NatHERS rating.**
 - (l) **Show on plans the rooftop 20kWp solar photovoltaic system.**
 - (m) **Show on plans the electric vehicle charging station within a car space.**
 - (n) **The SMP report updated and plans to show the provision of a 15A dedicated circuit for future electric vehicle charging to at least one car space for every dwelling.**
 - (o) **Show on plans glazing specification of a minimum Visual Light Transmittance (VLT) of 70% to both clear and obscure glazing to all living areas and bedrooms.**
 - (p) **Show on plans for the non-visible flat roofs and exposed concrete driveway, light coloured or reflective finishes / materials (Solar Reflective Index >50 or Solar Absorptance<0.6).**
 - (q) **Any amended changes must meet the minimum 50% overall score and**

minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS to demonstrate best practice in sustainable design, to the satisfaction of the Responsible Authority.

- 5 The Sustainability Management Plan approved under Condition 4 of this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Waste Management

- 6 The Waste Management Plan prepared by Leigh Design dated **6 April 2022** must be submitted to Council for endorsement. Once endorsed, the Waste Management Plan will form part of this permit.

Landscaping

- 7 **Concurrent with the submission of development plans for endorsement under condition 1 of this permit, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be generally in accordance with the plans prepared by John Patrick Landscape Architects, Revision C, dated 10 March 2023; but modified to show:**
- (a) Any details as relevant or directed by any other condition of this Permit.
 - (b) Existing vegetation to be retained/or has been removed.
 - (c) Location, species and number of proposed plantings.
 - (d) A planting schedule detailing species, numbers of plants, approximate height, spread of proposed planting and planting/pot size and deep-rooted planting along the site's eastern and .
 - (e) All external surface treatments.
 - (f) All retaining walls, including dimensions and soil depth, with cross-sections to show landscaping beds atop retaining walls and within the Doncaster Road and Blackburn Road setbacks.
 - (g) Details of site and soil preparation mulching, maintenance and irrigation.
 - (h) **Deleted.**
 - (i) Suitable planting within communal and private areas shaded by the building;
 - (j) Canopy tree and shrub planting with all trees 1.5 metres in height at

the time of planting.

- (k) The three Lemon Scented gums along the Doncaster Road frontage replaced with medium sized canopy trees capable of reaching at least 8 metres high at maturity. The soil volume for each tree must be demonstrated as being adequate, and each garden bed be at street level with no barriers or terracing that restricts the total soil volume.
- (l) Reposition the proposed Red Box trees adjacent to the eastern boundary a further 2 metres to the west.
- (m) Reposition the Lemon scented gum adjacent to the northern communal entry to be centrally within the revised garden bed.

The use of synthetic grass as a substitute for open lawn area within secluded private open space or a front setback will not be supported. Synthetic turf may be used in place of approved paving decking and/or other hardstand surfaces.

8 Deleted.

Tree Protection

- 9 All trees shown as being retained on the endorsed plans including any street trees must be protected by Tree Protection Fencing (TPF) to form an appropriate and effective Tree Protection Zone (TPZ) or Vegetation Protection Zone (VPZ), to the satisfaction of the Responsible Authority.**

Construction Management

- 10 Before the development starts, a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority using Manningham's CMP template. When approved the CMP will be endorsed and will then form part of the permit.**

Stormwater – On-site detention system

- 11 The owner must provide onsite storm water detention storage or other suitable system (which may include but is not limited to the re-use of stormwater using rainwater tanks), to limit the Permissible Site Discharge (PSD) to that applicable to the site coverage of 35 percent of hard surface or the pre existing hard surface if it is greater than 35 percent. The PSD must meet the following requirements:**
- (a) Be designed for a 1 in 5 year storm; and
 - (b) Storage must be designed for 1 in 10 year storm.

- 12 Before the development starts, a construction plan for the system required by Condition 11 of this permit must be submitted to and approved by the Responsible Authority. The system must be maintained by the Owner thereafter in accordance with the approved construction plan to the satisfaction of the Responsible Authority.
- 13 The whole of the subject land, including landscaped and paved areas, must be drained to the proposed onsite detention system to the satisfaction of the Responsible Authority.
- Drainage
- 14 Stormwater must not be discharged from the subject land other than by means of drainage to the legal point of discharge. The drainage system within the development must be designed and constructed to the requirements and satisfaction of the relevant Building Surveyor. A connection to Council maintained assets must not be constructed unless a Miscellaneous Works Permit is first obtained from the Responsible Authority.
- 15 The whole of the land, including landscaped and paved areas must be graded and drained to the satisfaction of the Responsible Authority, to prevent ponding and to minimise overland flows onto adjoining properties.
- 16 All engineering works relating to access, parking and drainage must be carried out in accordance with detailed construction plans approved by the Responsible Authority prior to the commencement of site works.

Car Parking and Bicycle Parking

- 17 The areas set aside for the parking of vehicles, together with the aisles and access lanes as delineated on the endorsed plans must:
- (a) be provided and completed to the satisfaction of the Responsible Authority prior to the occupation of the development hereby permitted;
 - (b) be used for no other purpose and must be line-marked and maintained at all times to the satisfaction of the Responsible Authority;
 - (c) be made available for such use at all times and not used for any other purpose; be properly formed to such levels that it can be used in accordance with the endorsed plan; and
 - (d) be drained and sealed with an all weather seal coat.
- 18 Before the occupation of the approved dwellings, all basement car parking spaces must be numbered and signposted to provide allocation to each dwelling and visitors, to the satisfaction of the Responsible Authority.

Vehicle Crossings

- 19 **Deleted.**
- 20 **Prior to the construction of the vehicle crossover, the developer must obtain a “Vehicle Crossing Permit”. The crossover must be constructed to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.**
- 21 **All redundant crossovers must be removed and reinstated with kerb, channel, footpath and nature strip to the satisfaction of the Responsible Authority.**
- 22 **The costs of all of road infrastructure reinstatements and rectification works associated with utility service provision and building works must be borne by the developer.**
- 23 **Any damaged road(s) and footpath(s) adjacent to the development site as a result of the development must be reinstated to the satisfaction of the Responsible Authority. All costs associated with these works must be borne by the permit holder.**

Site Services

- 24 **All services, including water, electricity, gas, sewerage and telephone, must be installed underground and located to the satisfaction of the Responsible Authority.**
- 25 **All upper level service pipes (excluding stormwater downpipes) and any wall mounted spa-bath pump must be concealed and screened respectively to the satisfaction of the Responsible Authority.**
- 26 **All plant and equipment, including air-conditioning units and solar hot water tanks, must be installed within an appropriate location as depicted on the endorsed plans or within the basement, unless otherwise agreed in writing with the Responsible Authority.**
- 27 **Communal lighting must be connected to reticulated mains electricity and be operated by a time switch, movement sensors or a daylight sensor to the satisfaction of the Responsible Authority.**
- 28 **Any clothes-drying rack or line system located on a balcony must be lower than the balustrade of the balcony and must not be visible from off the site to the satisfaction of the Responsible Authority.**
- 29 **An intercom and an automatic basement door opening system (connected to each dwelling) must be installed, so as to facilitate convenient 24 hour access to the basement car park by visitors to the satisfaction of the Responsible Authority.**

Noise

30 All noise emanating from any mechanical plant must comply with the relevant State noise control legislation and in particular, any basement exhaust duct/unit must be positioned so as to minimise noise impacts on residents of the subject building and adjacent properties to the satisfaction of the Responsible Authority.

31 Deleted.

32 In the event of excavation causing damage to an existing boundary fence, the owner of the development site must (at their own) cost repair or replace the affected fencing to the satisfaction of the Responsible Authority.

Completion

33 Before the occupation of the approved dwellings, landscaped areas must be fully planted and mulched or grassed generally in accordance with the approved plan and to the satisfaction of the Responsible Authority.

34 Privacy screens and obscure glazing as required in accordance with the endorsed plans must be installed prior to occupation of the approved dwellings to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

Maintenance

35 Buildings, paved areas, drainage and landscaping must be maintained to the satisfaction of the Responsible Authority.

Transport for Victoria (public transport) conditions

36 Before the development starts, a functional layout plan to the satisfaction of the Head, Transport for Victoria must be submitted and approved by the Head, Transport for Victoria. Once approved, the plans will form part of this planning permit. The functional layout plan must show:

- (a) An additional 'no right turn' sign and pavement arrow markings installed at the access point/crossover along Blackburn Road.
- (b) Relocation of the bus stop in the manner set out in Condition 43(a).
- (c) Extension of the physical median at Blackburn Road to minimise illegal turns and additional 'no u-turn sign' installed at the end of the median without blocking the driveway adjacent to the property as shown in Attachment 1. (Please note that drawing is not to scale).

37 The edges of the vehicular crossover must be angled at 60 degrees to the road reserve boundary, to improve entry and exit conditions, to the

satisfaction of the Responsible Authority.

- 38 The crossover and driveway are to be constructed to the satisfaction of the Responsible Authority prior to the commencement of the use of the works hereby approved.
- 39 Prior to the commencement of the use of the works hereby approved, the access lanes, driveways, crossovers and associated works must be provided and available for use and be:
- (a) Formed to such levels and drained so that they can be used in accordance with the plan.
 - (b) Treated with an all-weather seal or some other durable surface.
- 40 Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (eg by spilling gravel onto the roadway).
- 41 The level of the footpaths must not be lowered or altered in any way to facilitate access to the site, except with the written consent of the Responsible Authority.
- 42 All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of and at no cost to the Head, Transport for Victoria prior to the commencement of the use of the works hereby approved.

Transport for Victoria conditions

- 43 Before the development starts, or other time agreed in writing with the Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the 'Ground Floor Plan', (drawing number TP.1100 – revision F dated 24.02.2023) submitted with the amended application, but modified to show:
- (a) Details of the bus stop and all associated infrastructure relocated five metres further north of its existing location along Blackburn Road (development side);
 - (b) Details of the relocation of the 'yellow box' line marking 5 metres further north from its existing location along Blackburn Road;
 - (c) All works must comply with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002;
 - (d) All works must be to the satisfaction of the Head, Transport for

Victoria.

- 44 Before the commencement of the works along Blackburn Road, the bus stop and shelter, including all associated infrastructure, must be relocated or replaced at the full cost of the permit holder to the satisfaction of the **Head, Transport for Victoria** and deemed compliant with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002.
- 45 The permit holder must ensure that public transport infrastructure is not altered without the consent of the **Head, Transport for Victoria** or damaged. Any damage to public transport, infrastructure must be rectified to the satisfaction the **Head, Transport for Victoria**, at the full cost of the permit holder.
- 46 The permit holder must take all reasonable steps to ensure that disruption to bus operations is kept to a minimum during construction. Foreseen disruptions to bus operations must be communicated with mitigation measures to the **Head, Transport for Victoria** and bus operators one (1) week prior.
- 47 This permit will expire if one of the following circumstances applies:
- (a) The development is not started within three years of the issued date of this permit.
 - (b) The development is not completed within five years of the issued date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

2. BACKGROUND**Permit history**

- 2.1 Planning Application PL14/024793 for a part three and seven storey apartment building comprising 121 dwellings was initially refused by Council on the 27 October 2015, generally on grounds of overdevelopment, excessive height and massing, amenity impacts, daylight access, visual bulk, overshadowing, inadequate landscaping, poor basement design.
- 2.2 As part of the application to appeal Council's decision at the Victorian Civil Administrative Tribunal (VCAT), the applicant circulated amended plans. The significant changes included deletion of the seventh storey and 15 dwellings in total, increasing street setbacks, enhancing the architectural form, improving daylight access and internal amenity, reducing overshadowing, and increasing landscaping opportunities at street level.

- 2.3 Planning Permit PL14/024793 was issued at the direction of VCAT on the 23 May 2016, for an apartment building comprising 106 dwellings, part three-storey, part six-storeys in height above three levels of basement car parking and alteration to access to a Road Zone Category 1 on the subject land.
- 2.4 Following the hearing and the subsequent issue of a planning permit, condition 1 plans have not been submitted for endorsement.
- 2.5 The permit remains live having been extended four times by Council, the last extension granted allowed for the commencement of the development by 23 May 2025 and completion by 23 May 2027.

Current application

- 2.6 As part of the initial further information request to the applicant on 26 May 2022, the applicant was advised the proposal was unlikely to be supported broadly due to significant design, height, massing, amenity, and landscaping concerns.
- 2.7 The proposal was presented to the Sustainable Design Taskforce meeting on 14 July 2022. In addition to the above, separate concerns were raised regarding the urban design response, carparking and access, overland flow, daylight, dwelling access, sunken terraces, and loss of visitor parking.
- 2.8 Revised plans submitted on 8 December 2022, as part of a further information request addressed some preliminary concerns. Reductions were made to the 3 storey building footprint and envelope to more closely align with the permit approval, the proposal introduced compliance with garden area requirements for the GRZ2 land, a compliant building height for the building located in the GRZ2, and near compliant overshadowing diagrams.
- 2.9 The application was advertised and 11 objections received from 10 properties.
- 2.10 Amended plans pursuant to Section 57A were submitted on 24 February 2023, in response to outstanding officer and objector concerns. These amended plans form the decision plans, and made further significant reductions/improvements to the proposal, including:
 - Deletion of one dwelling (Apartment 407, 1 bedroom).
 - Reduction of Apartment 408 from 3 to 2 bedrooms.
 - Urban design improvements to increase level 1 brickwork material and height.
 - Level 4 eastern side setback increased to match the building line of the permit approval.
 - Level 5 northern Doncaster Road setback increased by 1 metre. Design and materials changed.
 - Landscaping increased along Doncaster Road and in the centre south-east corner of the building for canopy tree provision.
 - Internal layout changes to increase daylight to apartments by larger light courts and internal rearrangements.
 - Increased visitor car parking from 1 space to 5 spaces in total.

- 2.11 The amended plans were re-advertised to the objectors and three resubmissions were received by existing objectors who reaffirmed their grounds of objection.
- 2.12 The statutory clock that applies to planning applications provides an applicant with the option of appealing to VCAT on a failure to determine ground, after 60 days. For the subject applicant this time passed on 25 April 2023 however no failure appeal has been lodged by the applicant.

3. THE SITE AND SURROUNDS

The Site

- 3.1 The site comprises six lots located at the intersection of Doncaster Road and Blackburn Road, on the south-eastern corner, in Doncaster East.
- 3.2 The site has a frontage of approximately 53.65 metres to Doncaster Road, a splayed north-west corner, a frontage to Blackburn Road of approximately 67.73 metres and an overall site area of approximately 4,250 square metres.
- 3.3 The site is currently developed with a single-storey (split-level), detached concrete building, associated structures (sheds) and at-grade bitumen car park. Existing buildings are generally located to the north-west, with car parking provided at the rear to the south.
- 3.4 Temporary hoarding secures the site. The site is vacant and was previously used by the Doncaster Christian Fellowship and Doncaster East Pre-School Centre.
- 3.5 The site has a single-width crossover to Doncaster Road to the north-east corner of the site. Three single-width crossovers spaced at regular intervals are located along Blackburn Road. Powerlines are located along both frontages and a bus stop to Blackburn Road.
- 3.6 A range of trees are located within the subject site, none of which are considered to be significant, all of which are approved for removal by the existing planning permit. Two mature street trees are located along the Doncaster Road frontage and will be retained.
- 3.7 The topography of the site falls from east to west between 2.2 metres and 2.4 metres, and falls from north to south between 950mm and 1.6 metres.
- 3.8 Three 1.83 metre wide drainage and sewerage easements run partially across the site near the north western corner, and along the eastern site boundary to 2 and 4 Rupert Street and northern abuttal to 4 Rupert Street. Easements are depicted on the Existing Site Plan.
- 3.9 There are no restrictions, covenants, or section 173 agreement listed on title.

Surrounds

- 3.10 The site is located on the edge of a neighbourhood centre, the 'Doncaster East Village Activity Centre' as described under planning policy, which is located along Doncaster Road, west of Blackburn Road. The centre is predominantly

Commercial 1 Zone where the Design and Development Overlay Schedule 1 applies, generally a one to three storey scale.

- 3.11 In the broader area, along Doncaster Road further to the west is Jackson Court and notably a five-storey mixed use apartment building (906-912 Doncaster Road). To the east along Doncaster Road is land zoned for Residential Growth, comprising a mix of residential and non-residential uses (medical practitioners, dentist etc), and includes some residential apartments ranging from three storeys (1058 Doncaster Road) to four storeys (1042 Doncaster Road).
- 3.12 Blackburn Road further north is developed by a mix of commercial and non-residential uses (including a veterinary clinic), and further to the south generally residential development zoned General Residential.
- 3.13 The site is within proximity to a range of activity centres, primary and secondary schools, open space, and freeway connections. Public transport services include Smart Bus routes 902 (Chelsea – Airport West) and 907 (City – Mitcham via Doncaster Road) along Doncaster Road, Smart Bus routes 906 (City – Warrandyte via The Pines SC) and 901 (Frankston – Melbourne Airport) along Blackburn Road.
- 3.14 The site has direct abuttals with the following properties:

Direction	Address	Description
North	Doncaster Road	<p>To the site's immediate north is Doncaster Road, zoned Transport Zone 2 (TRZ2).</p> <p>Beyond this, land on the northern side of Doncaster Road (north-east corner of Doncaster Road and Blackburn Road) and opposite the subject site is located within the Residential Growth Zone Schedule 2.</p> <p>1037 Doncaster Road is a single-storey building used by the <i>Doncaster Veterinary Hospital</i>.</p> <p>1039 Doncaster Road is developed with a single-storey, multi-unit residential development.</p> <p>On the north-west corner of Doncaster Road and Blackburn Road is located within the Commercial 1 Zone, incorporating a <i>McDonald's</i> restaurant.</p>
South	148 Blackburn Road	<p>Land to the south of the subject site is located within the General Residential Zone – Schedule 2.</p> <p>148 Blackburn Road is developed by three dwellings, the original single storey dwelling to the front and two double storey dwellings to the rear. A small area of Secluded Private Open Space (SPOS) is located at the rear, adjacent to the shared boundary with the subject site.</p>
East	<p>1032 and 1034 Doncaster Road</p> <p>2 and 4 Rupert Street</p>	<p>Land to the east of the subject site is located within the Residential Growth Zone – Schedule 2 (1032 and 1034 Doncaster Road) and within the General Residential Zone – Schedule 2 (2 and 4 Rupert Street).</p> <p>The site abuts three lots to the east:</p> <ul style="list-style-type: none"> • 1032 Doncaster Road, which is developed with a single-storey brick building occupied by a medical clinic. Beyond this, further east at number 1034 Doncaster Road is a single-storey brick building occupied by a medical clinic. • 2 Rupert Street is developed by three two-storey dwellings in tandem. A small area of SPOS is located at the rear, adjacent to the shared boundary with the subject site. • 4 Rupert Street is developed by three single and two-storey dwellings in tandem. A small area of SPOS is located at the rear, adjacent to the shared boundary with the subject site.
West		<p>To the site's immediate west is Blackburn Road, zoned Transport Zone 2 (TRZ2).</p>

Direction	Address	Description
		<p>Beyond this, on the western side of Blackburn Road (on the south-west corner of Blackburn Road and Doncaster Road) is a multi-level (three-storey equivalent) commercial building.</p> <p>Land on the western side of Blackburn Road, opposite the subject site, is located within the Commercial 1 Zone and the General Residential Zone – Schedule 2.</p> <p>147 Blackburn Road, is developed with a two-storey, multi-unit development.</p> <p>145 Blackburn Road is developed with a single-storey medical clinic.</p>

4. THE PROPOSAL

- 4.1 The proposal is outlined on the plans prepared by Cera Stribley, Job No. 21254, dated 1 September 2022, 17 November 2022, 7 December 2022 and 14 February 2023, 24 February 2023, Revisions B to F. Refer to Attachment 2. These are the plans amended pursuant to Section 57A. These plans form the decision plans to be relied upon in this assessment. Attachment 3 includes further decision plans as initially advertised.
- 4.2 A copy of the previous decision plans (prepared by Rothe Lowman dated 11 & 17 March 2016) upon which the permit was granted at the direction of VCAT is provided in Attachment 5 to this report. It should be noted that these plans are not endorsed.
- 4.3 The main changes sought by this amendment are summarised as follows:
- Overall redesign of the buildings appearance;
 - Site coverage increased from 54% to 62.7%;
 - Increase in the number of dwellings by one (1) additional dwelling to 107 dwellings overall;
 - Doncaster Road street setback reduced by 500mm at ground level, from 6 metres to 5.5 metres (all levels above maintaining a 6 metre setback);
 - An increase in overall building height shown in yellow (parapet) for level 5 by 640mm and the inclusion of a new rooftop access (lift overrun and foyer), centrally located with a height of 3.3m – total height 19.9m.



Yellow highlight shows increase in building height from previous approval – red dotted line is existing approval

- Deletion of basement 3 and rearrangement of car parking layout, (72 car spaces removed) – total of 176 spaces provided;
- Visitor parking reduced from 24 to 5 spaces.
- 42 excess parking spaces above the statutory requirement to be reallocated for private use;
- Internal layout changes to all dwellings;
- Removal of individual dwelling entries along Doncaster Road and inclusion of one additional communal entry point from Blackburn Road. Individual entries maintained along Blackburn Road;
- Townhouse style dwellings fronting Doncaster Road rearranged from previous approval, with living areas now situated below street level and bedrooms at street level;
- Revised landscaping and tree opportunities abutting each street;
- Revised front fences.

4.4 The proposal also seeks to amend the following permit conditions:

Existing Permit Conditions	Proposed change and applicant's justification
1 d) A materials samples board/detailed colour schedule for all proposed external materials, colours and finishes including flooring and fencing.	Delete the word/reference to 'samples board'. A hard copy of the materials board is no longer required for approvals, a soft copy is now common practice to detail materials and finishes
1 f) The width of the crossover and vehicular access ramp designed to accord with Design Standard 1 and Design Standard 3 of Clause 52.06-8 (Car Parking) of the Manningham	Update wording and policy reference from 'Clause 52.06-8' to 'Clause 52.06-9' due to a clerical change in policy.

<i>Planning Scheme.</i>	
<i>1 g) A longitudinal section for the critical side of the vehicle crossing and vehicular access ramp to the entry of the basement to be taken from Blackburn Road showing headroom clearance, driveway grades, length of grades, reduced levels at both sides of the grade and demonstrating compliance with Design Standard 3 of Clause 52.06-8 (Car Parking) of the Manningham Planning Scheme.</i>	Update wording and policy reference from 'Clause 52.06-8' to 'Clause 52.06-9' due to a clerical change in policy.
<i>1 h) Details for basement ventilation (design, location and noise levels) ensuring any external flues are designed and integrated into the building design</i>	Update wording to delete reference to 'noise levels'. The location of the car parking exhaust is shown on the plans. Whilst the more specific details are not provided, the design and location has been considered, and the EPA noise control guidelines are considered sufficient to ensure there are no detrimental impacts to the future occupants or surrounding properties
<i>1 l) A sense of personal address to be provided to the entry of all dwellings fronting the street through numbering or a suitable alternative such as lighting or colour.</i>	Delete condition. The revised design deletes the individual pedestrian access from dwellings fronting Doncaster Road, instead providing a revised design outcome with two separate communal building entrances to service both the north and south parts of the development from Blackburn Road. Individual entries are maintained to each dwelling fronting Blackburn Road.

4.5 The following reports and documents were provided in support of the application:

- Planning submission prepared by Ratio Consultants dated 7 December 2022;
- Landscape Plans prepared by John Patrick Landscape Architects, Revision C, dated 10 March 2023;
- Sustainable Management Plan prepared by Sustainable Development Consultants, Revision V3, dated 16 March 2023;
- Transport Impact Assessment prepared by Traffix Group dated 17 November 2022; and
- Waste Management Plan prepared by Leigh Design dated 6 April 2022.

5. LEGISLATIVE REQUIREMENTS

- 5.1 Refer to Attachment 1.
- 5.2 The applicable zones and overlays and permit requirements remain as was originally considered, under the following provisions of the Manningham Planning Scheme:
- Clause 32.07-5 Residential Growth Zone Schedule 2 (RGZ2), a planning permit is required to construct two or more dwellings on a lot. This applies to the northern portion of the land.
 - Clause 32.08-6 General Residential Zone Schedule 2 (GRZ2), a planning permit is required to construct two or more dwellings on a lot. This applies to the southern portion of the land.
 - Clause 43.02 Design and Development Overlay Schedule 8-1 (northern portion zoned RGZ2) and Schedule 8-2 (southern portion zoned GRZ2), a planning permit is required to construct a building and construct or carry out works.
 - Clause 52.29 Land Adjacent to the Principal Road Network, (formally known as 'Land Adjacent to a Road Zone Category 1'), a permit is required for creation or access to a road in a Transport Zone 2.
- 5.3 The proposed amendment does not introduce any new planning permit triggers.
- 5.4 The following changes to the Manningham Planning Scheme have occurred since permit issue, as relevant:
- Mandatory Garden Area requirement by amendment VC110 in 27 March 2017 to all planning schemes. Within this application, this applies to part of the land zoned General Residential Zone 2. It does not apply to the Residential Growth Zoned portion of the land. The proposal must fully comply with the garden area requirements of Clause 32.08-4. It does not benefit from the transitional provisions under Clause 32.08-15 as accrued rights for garden area within the GRZ land are not applicable, as established in the Tribunal (Red Dot) decision Owen v Boroondara CC [2021] VCAT 175.
 - Principal Public Transport Network (PPTN) by Amendment VC148 on 31 July 2018 to all planning schemes. This changes Clause 52.06 (Car parking) to reduce car parking requirements for land that is (wholly or partly) within 400 metres of public transport on the Principal Public Transport Network (PPTN). There is no longer a visitor parking requirement for this application.
 - Better Apartments Design Standards by Amendment VC136 on 13 April 2017 forming Clause 58 to all planning schemes. This amendment application is exempt from Clause 58 as the original permit application was lodged before the approval date of Amendment VC136. Despite this, the application has been designed in-principle to meet the requirements of Clause 58.
 - Transport Zone 2 by Amendment VC205 on 20 January 2022 to all planning schemes. This renames all Road Zones to Transport Zones and renamed Clause 52.29 'Land Adjacent to a Road Zone Category 1' to Clause 52.29 'Land Adjacent to the Principal Road Network'. Within this application, a permit is now required for creation or access to a road in a Transport Zone 2.

- Neutral policy translation by amendment C133mann on 25 January 2023 that replaces the Local Planning Policy Framework of the Manningham Planning Scheme with a new Municipal Planning Strategy at Clause 02, a modified Planning Policy Framework at Clauses 11-19 and a selected number of local schedules to overlays and operational provisions. This translation has little bearing on the application with comparison to the previous assessment as the same policy intentions continue to apply.

6. REFERRALS

External

Department of Transport

- 6.1 Pursuant to Clauses 52.29 and 66.03 of the Manningham Planning Scheme, Department of Transport is a *determining* referral authority as the application seeks to create / alter access to a road in a Transport Zone 2 (Blackburn Road).
- 6.2 Transport for Victoria (formally VicRoads) responded on 12/7/2022 having no objection to the proposal subject to clerical conditions to reflect the current plan reference and the change in organisation name to Head, Transport for Victoria. The application plans have since been amended but were not required to be re-referred as there was no change to access arrangements, thus the plans referenced under Condition 43 will be updated to the latest plan reference.

Internal

6.3 The application was referred to the following internal departments. The following table summarises their response:

Service Unit	Comments
Independent Urban Design Advice	<p>Advice was received on 22/12/22 which raised significant concerns with the initial advertised application including:</p> <ul style="list-style-type: none"> • Excessive massing of the Doncaster Road frontage between levels 2 to 5, and not in keeping with character. • Level 5 not sufficiently visually recessive and should be further setback and rearranged to make it distinct from the level below. • Overall composition is not visually interesting and relies on a relatively homogenous architectural treatment across large areas of the northern and western facades. • Roof top elements, screening, awnings too prominent. • Podium not adequately visible or prominent and the ground floor design and material should be raised by 1 storey. • Inequitable development impacts to the eastern adjoining property due to a 4 storey wall created on this side. Recommended the 4th level be setback as was initially approved to limit this to a 3 storey profile adjacent to eastern boundary. • Minor encroachments by ~500mm into the preferred 6m

Service Unit	Comments
	<p>Doncaster Road setback were acceptable.</p> <p>These matters are largely addressed by the submission of the amended s57 plans, and otherwise are responded to within the body of the report or by additional permit conditions.</p>
City Infrastructure	<p>Advice was received on 20/2/23 and did not object to the application subject to minor design conditions, including:</p> <ul style="list-style-type: none"> • Noted that the car parking provision met and exceeded the statutory parking requirements. • The submitted Waste Management Plan by Leigh Design, dated 6 April 2022 was satisfactory to be endorsed. • Recommended that further changes to the Blackburn Road median strip be incorporated to meet the requirements of DOT. Planning Officer's note that Department of Transport (DoT) are the Responsible Authority in this instance and have not necessarily approved the current proposal, only provided no objection subject to existing conditions being met. Thus the proposal will be put to DoT again as part of any plan endorsement to be duly considered.
Statutory Planning Arborist	<p>Arboricultural advice was received on 27/2/23 and did not object to the application subject to conditions, including:</p> <ul style="list-style-type: none"> • There is an inconsistency of soil volumes for proposed same trees along the frontage. This was insufficient to accommodate two of the three proposed Lemon Scented gums (<i>Corymbia citriodora</i>) along Doncaster Road. This has been addressed by the recommended Officer conditions. • It was noted that all trees on site have been previously approved for removal. • Inclusion of a condition for a Tree Protection and Management Plan to protect neighbouring trees and the retained street tree. <p>Planning Officers note that there is already an existing condition to this effect and plans and details on the landscape plan to demonstrate tree protection, thus a further condition is not warranted.</p>
Independent Sustainable Design Advice	<p>Advice was received on 25/11/22 which raised significant concerns with the initial advertised application including:</p> <ul style="list-style-type: none"> • Daylight access is a major issue, with a number of habitable rooms that fail to meet the minimum recommended BESS daylight factor. • Many bedrooms are reliant on inadequate internal light wells for daylight and ventilation. • Many living rooms with narrow terraces and deep overhangs

Service Unit	Comments
	<p>are likely to have poor daylight access.</p> <ul style="list-style-type: none"> • Daylight to townhouses with living areas below street level has not been justified by adequate daylight modelling. • To address the above, rearrangement to affected dwellings is required, increase the area of the northern light court, update daylight model and make further changes where necessary. <p>Further referral advice to the s57 amended proposal was received on 31/3/23, as summarised:</p> <ul style="list-style-type: none"> • The amended changes were supported and addressed daylight issues. • 5th floor will be subject to excessive heat loads. To meet energy commitments, the floor should be revised with better external shading, reduce the glazing area or specify very high performance glazing. • SMP V3 requires further refinements to meet best practice which can be met by minor conditional changes.

7. CONSULTATION / NOTIFICATION

- 7.1 Notice of the application was given by Council which concluded on 18 January 2023, by sending letters to the owners and occupiers of abutting and adjoining properties and by displaying 2 signs on the site frontages for a four week period. This resulted in 11 objections from 10 properties.
- 7.2 The objections included concerns primarily related to traffic and car parking, height, landscaping positioning, daylight access, internal amenity, overdevelopment, overlooking, overshadowing, neighbourhood character, typology of single bed units, wind tunnel impact, equitable development, vehicle construction management, visual bulk/massing, property devaluation, and air pollution to future residents.
- 7.3 A response to these grounds of objection is included in the assessment section of this report.
- 7.4 A Consultation Meeting was not held given this is an amendment application comparable to the permit approval. It was also noted multiple submissions were received from either the same people or same family.
- 7.5 In lieu of a Consultation Meeting, amended plans that made improvements to address objector concerns were directly circulated to all objectors on 19 April 2023. Objectors were given a further two-week period to respond.
- 7.6 No new objections were received to the amended proposal, nor were any objections withdrawn. Three further resubmissions were received by original objectors who reaffirmed their grounds of objection.

8. ASSESSMENT

Planning Policy Framework

8.1 The site falls within two different zones, the RGZ2 with the DDO8-1 on the northern portion and GRZ2 with the DDO8-2 on the southern portion, as shown below:



8.2 The following requirements apply to the different portions of the land:

	Northern portion of land	Southern portion of land
Zone	RGZ2 (North)	GRZ2 (South)
Preferred character designation under Clause 15.01-5L-02	Precinct 2: Residential Areas surrounding activity centres and main roads. The objective is to promote substantial change that is high quality, contemporary and designed to provide a transition between sub-precincts in Precinct 2	
	DDO8-1 – Sub-Precinct Main Road	DDO8-2 – Sub-Precinct A Support apartment-style

	Northern portion of land	Southern portion of land
Zone	RGZ2 (North)	GRZ2 (South)
	Support apartment-style developments along main roads and on larger, consolidated lots.	development of two-storeys, or three-storeys on larger consolidated lots.
Height	<p>RGZ – Discretionary height – should not exceed 14.5 metres (on a sloped site)</p> <p>RGZ2 (Schedule 2) – No height specified</p> <p>DDO8-1 - Discretionary 11 metres as the land size condition of 1800sqm land has been met.</p> <p>A permit can be granted to vary the height.</p>	<p>GRZ – Mandatory – the building height must not exceed 12 metres (on a sloped site) and must contain no more than 3 storeys at any point.</p> <p>GRZ2 (Schedule 2)– No height specified</p> <p>DDO8-2 – Mandatory 10 metres (on a sloped site) as the land size condition of 1800sqm land has not been met.</p> <p>A permit <u>cannot</u> be granted to vary the height.</p>
Officer Comment:	<p>Total height – 19.9m</p> <p>There is an increase in the parapet height at level 5 by 640mm.</p> <p>The provision of a centrally sited lift overrun and foyer (3.3m) for the roof top garden has increased the total height of the building to 19.9m. This new building component has been sited to minimise views externally therefore only under these circumstances is considered appropriate.</p>	<p>Complies - Total Height – 9.2m</p> <p>Complies - No more than 3 storeys.</p> <p>Condition 1b) of permit also included a requirement that the building within the GRZ2 land has a maximum height of 10 metres.</p> <p>The height of the building complies with the requirements of the DDO8-2 and the permit condition.</p>
Overlay	DDO8-1 (Main Road Sub-precinct)	DDO8-2 (Sub-precinct A)

	Northern portion of land	Southern portion of land
Zone	RGZ2 (North)	GRZ2 (South)
Site coverage	<u>Discretionary</u> - 60% site coverage preferred under DDO8 62.7% proposed overall	
Garden Area	N/A	<u>Mandatory</u> 35% minimum applies. Complies - 38.72%

- 8.3 The proposal maintains the same two-part response in scale and intensity to the existing permit approved by VCAT. The proposal aptly responds to the preferred character which broadly seeks substantial change in such a location.
- 8.4 Overall, the proposal generally contains modest changes to boundary setbacks, dwelling numbers, site coverage, appreciable height and building envelope. Whilst the appearance of the building has significantly changed, it is considered that the appearance of the newly proposed building is more refined, elegant, and visually pleasing than the previous proposal.
- 8.5 Notably the zones, overlays, and local policy intent have not changed since the previous decision.
- 8.6 The proposal on this site is supported by a raft of State policies including Clauses 11.01-1S (Settlement), 15.01-1S (Urban Design), 15.01-2S (Building Design), 15.01-5S (Neighbourhood Character), 16.01-1S (Housing Supply) and 18.01-1S (Land Use and Transport Integration). These policies broadly seek to encourage urban consolidation on large, consolidated sites along existing transport routes.
- 8.7 At a local level, the proposal responds to the preferred character outlined within Clause 15.01-5L-02 Neighbourhood character and the DDO8, offering a well-designed contemporary development that can accommodate substantial change in such a location.
- 8.8 Given the vast similarities between the approved and the proposed development, the application remains consistent with the relevant state and local planning policies, reflecting the vision set out within these policies by an appropriately scaled and responsive development consistent with the VCAT decision.

Tribunal Decision (VCAT)

- 8.9 The Tribunal decision by Member Deidun [*JD Manningham Pty Ltd v Manningham CC [2016] VCAT 747*] was strongly in support of an apartment proposal on this land and directed Council to issue a permit for 106 dwellings, three and six storeys, with conditional changes.
- 8.10 It was found by the Tribunal that a development of this scale and intensity enjoyed a high level of policy and contextual support due to the significant and rare opportunities the site presented and was considered a primary target for additional housing.

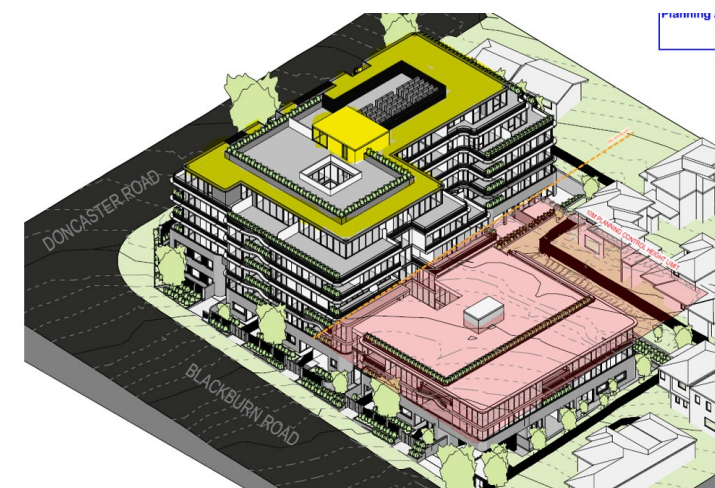
- 8.11 As such, it has been established by this decision and permit issue that the site is suitable for scale, massing and intensity.

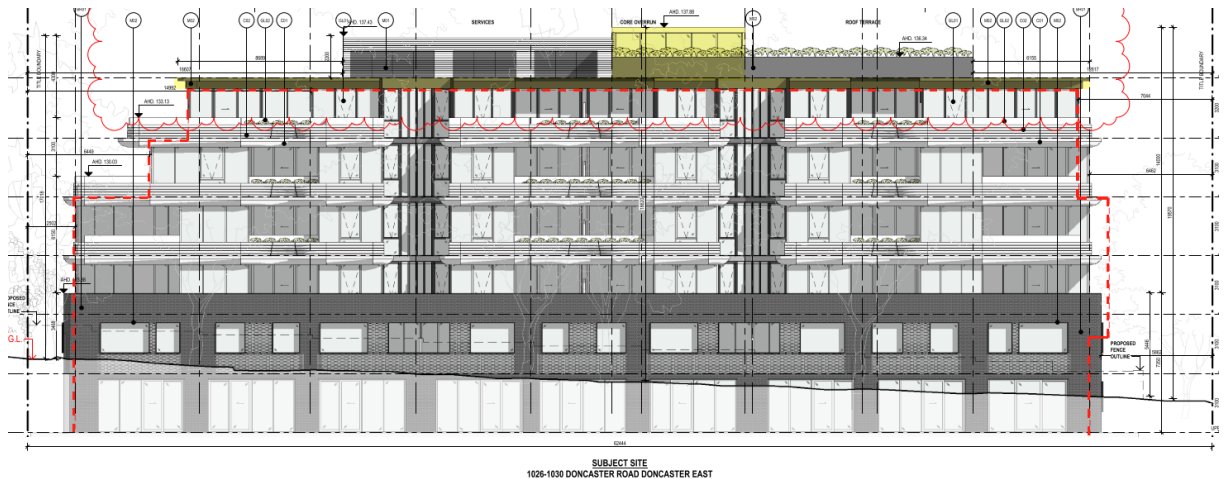
Design and Built Form

- 8.12 The overall architectural expression, level of articulation, building heights, scale and massing of the development generally remains consistent with the original decision plans. The amended proposal is however considered an improvement of the original, offering a more refined and elegant built form that is more appealing in its presentation, and sits more comfortably into its setting, positively contributing to the surrounding area, subject to further refinement by conditions.
- 8.13 Internal amenity is strengthened, resulting in dwellings benefiting from reconfigurations to maximise daylight and functionality, overall offering a high number of dwellings that exceed best practise for environmentally sustainable design.

Height

- 8.14 **RGZ2 zoned land** -The existing permit has an approved height exceeding the preferred maximum height of 14.5m. The proposal increases the parapet height of level 5 by approximately 640mm. In addition, a new lift overrun and lobby is proposed for access to the rooftop garden area. This structure is approximately 2.65m above the top of the parapet. The proposed height remains generally consistent with the previous approval (other than the inclusion of the new lift overrun and lobby) with a maximum height of approximately 19.9 metres, well setback from the building edge and limited to the central portion of the building.
- 8.15 The comparable building height can be seen on the diagrams below where the dotted red line represents the approved envelope and the yellow highlight the additional building height (note: balustrading and services screening are not considered building height):





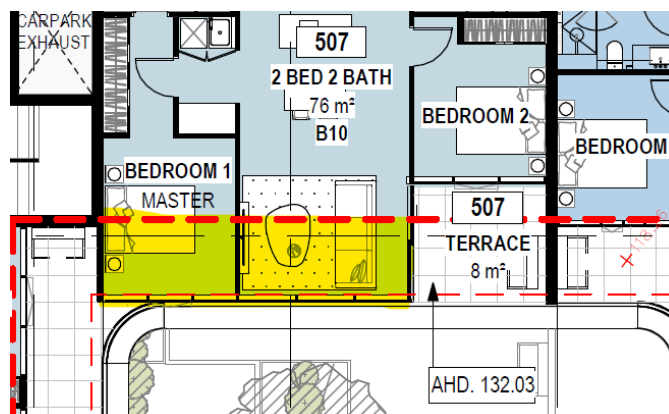
Proposed plans - Doncaster Road (above)

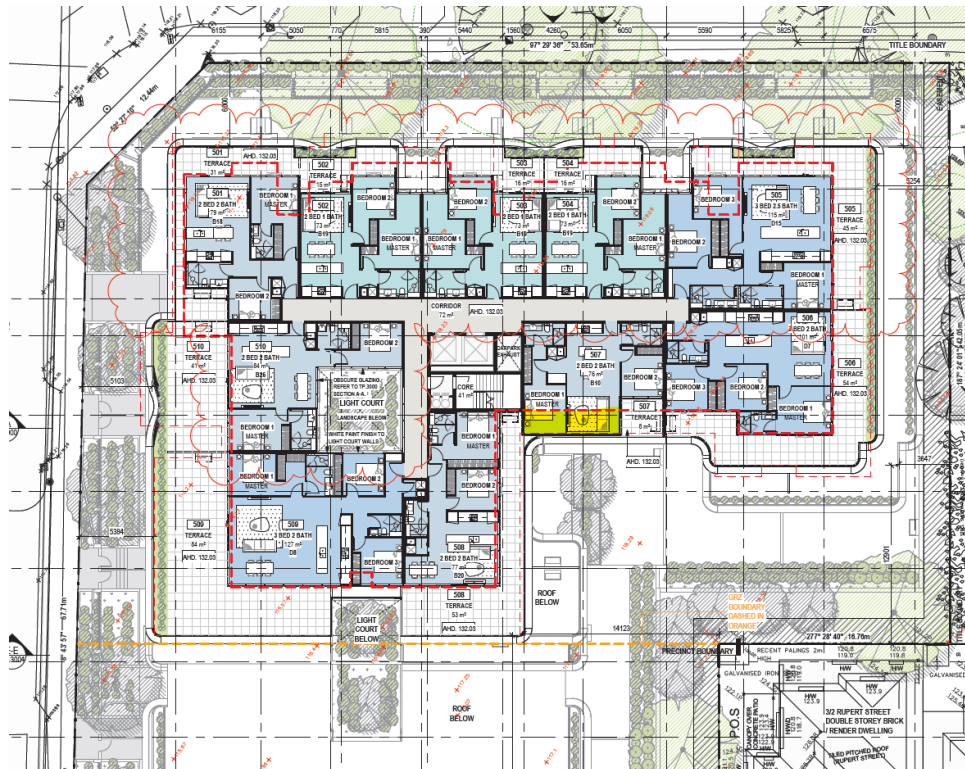


Permit decision plans from VCAT approval – Doncaster Road (above)

- 8.16 The additional height allows for central rooftop access from the lifts to the new communal open space. This pop-up structure is well set back from the roof edge to a point that it will be imperceptible when viewed from footpaths opposite and only partially visible in long range views.
- 8.17 Balustrades and screening to services have also been set back from the roof edge to be inconspicuous from footpaths opposite. Some views to the vegetation within the new planter boxes, once established, may be visible, which is considered a positive improvement.
- 8.18 Council received independent external urban design advice that was critical of the initial advertised proposal and the lack of recessive form of Level 5 to combat the height increase. A number of recommendations were made:-
 - Make Level 5 a distinct, recessive cap with a different expression in building envelope and materiality;

- Set back Level 5 further from each street, and
 - Reduce the service screening.
- 8.19 Recommendations have been incorporated into the amended design response, including a greater Doncaster Road setback, simple squared off eaves clad in dark metal, and reduced service screening heights.
- 8.20 To ensure the principle of the urban design recommendations are achieved, Council officers recommend a condition to ensure Level 5 appears as a darker, recessive form. The following is recommended:-
- Level 5 glazing to be tinted to achieve 65% visible light transmittance or similar, or to the satisfaction of the Responsible Authority.
- 8.21 It is noted this recommended condition is also intended to reduce the heat gains to the glazing as there are only minimal eaves that would give inadequate shading. This percentage is only medium tinting and will still be compliant with the existing Condition 1p) that requires the avoidance of 'heavily shaded windows'.
- 8.22 In terms of other changes to the building height, the roofline of the top storey (Level 5) has increased by approximately 640mm. This height increase is offset by an increase in upper floor setback to Doncaster Road (northern) by an additional 1 metre further and a partial increase to the Blackburn Road setback by 3m (no change to minimum setback).
- 8.23 To the rear of the site further modifications are required to Apartment 507 to address building height adjacent to neighbours. Apartment 507 presents as a five-storey wall opposite existing SPOS of 3/2 Rupert Street. This lack of recession opposite a lower order zone (GRZ2) fails to adequately transition the building and would present an excessive scale opposite sensitive areas. The design fails to present a recessive cap to all sides which is considered critical to gaining the support of Council officers for a height increase. To address this, conditions are recommended for the following changes:
- Apartment 507 southern wall to be setback approximately 2.5 metres from the lower roof edge, to be in line with the southern wall of bedroom 3 of Apartment 506.
 - Southern roof eaves to Apartments 506 and 507 to be no deeper than 300mm from the respective wall or deleted.





- 8.24 Communal open space was previously located at ground level within the building and the south-eastern side of the building near 3 Rupert Street. It is considered that the location of the new communal open space is far superior in terms of solar access and sunlight provision.
- 8.25 **GR22 zoned land** – The existing approval required further changes to the lower scale building in the GR22 to comply with mandatory height requirements in the Scheme. The proposal provides a building height of 9.2 metres which is compliant with the Scheme and the condition on permit.

Street setbacks

Doncaster Road

- 8.26 Street setbacks to Doncaster and Blackburn Road are proposed to be reduced at street level (includes sunken dwelling) by 500mm.
- 8.27 Doncaster Road has a preferred setback of 6 metres under DDO8-1, whereas a revised setback of 5.5 metres is proposed, a variation of 500mm is sought.
- 8.28 It is considered that the 500mm setback variation to Doncaster Road as shown on the Ground Level and Level 01 plans is acceptable due to the following:-
 - The 500mm setback variation will be visually negligible when the building is viewed holistically.
 - The variation will assist in removing the verticality of the building to Doncaster Road;

- The proposed 5.5 metre setback at the lower level of the building is consistent with the setback of the adjacent medical centre.
- The Tribunal in their decision provided all parties clear direction that a 5.5 metre street setback was acceptable if the proposal was revised.

Blackburn Road

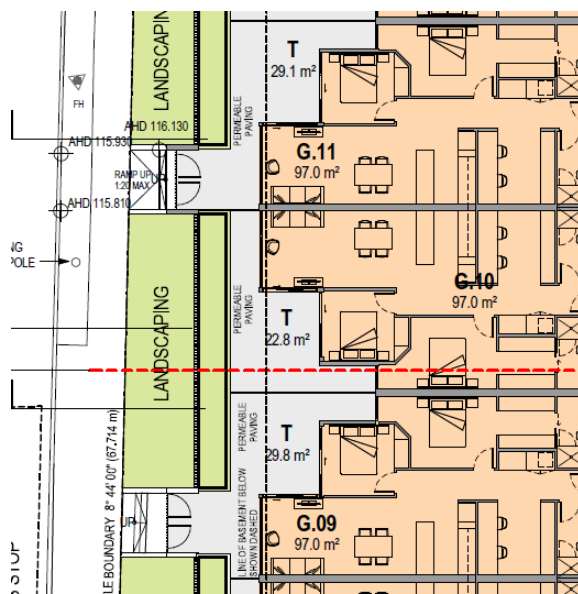
8.29 Blackburn Road has a minimum street setback requirement of 3 metres under DDO8-2 (which references Clause 55.03-1 requirements). A 4.5 metres setback is proposed which complies with the requirements of the Scheme.

Landscaping/Open Space

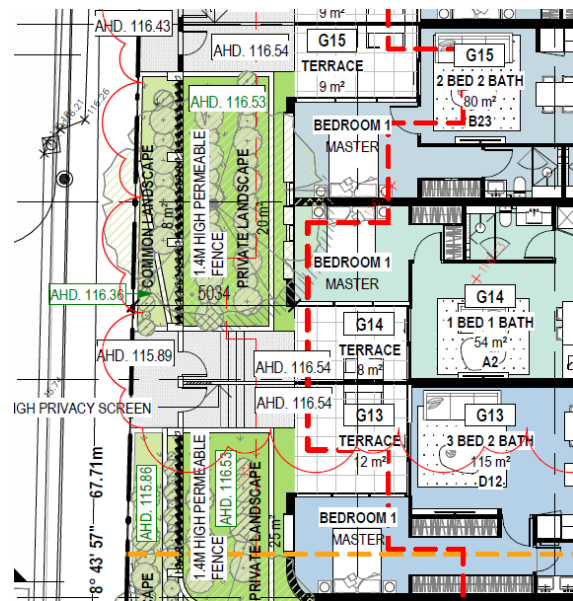
8.30 Landscaping changes have occurred to each street frontage.

8.31 Landscaping variations to Blackburn Road consists of a comparable amount of garden bed areas, a reduction of usable private open space in the terraces and a reduction of common property landscaping.

Blackburn Road frontage – Approved



Proposed



8.32 This landscaping arrangement is not acceptable as it compromises future management and ongoing upkeep, potentially resulting in the removal of key landscaped outcomes in future. As such the following condition is recommended which brings the proposal closer in line with the original approval:

- Common property landscaping adjacent to Blackburn Road to be provided in the first 3 metres depth within a raised bed, and the front fence set back to 3 metres.

8.33 It is considered that terraced open space areas can be increased in size and the numbers of private entrances from Blackburn Road reduced. This will assist in increasing the landscaping and open space opportunities for the dwellings and

place a greater emphasis on the Blackburn Road communal entry. As such the following conditions are recommended:

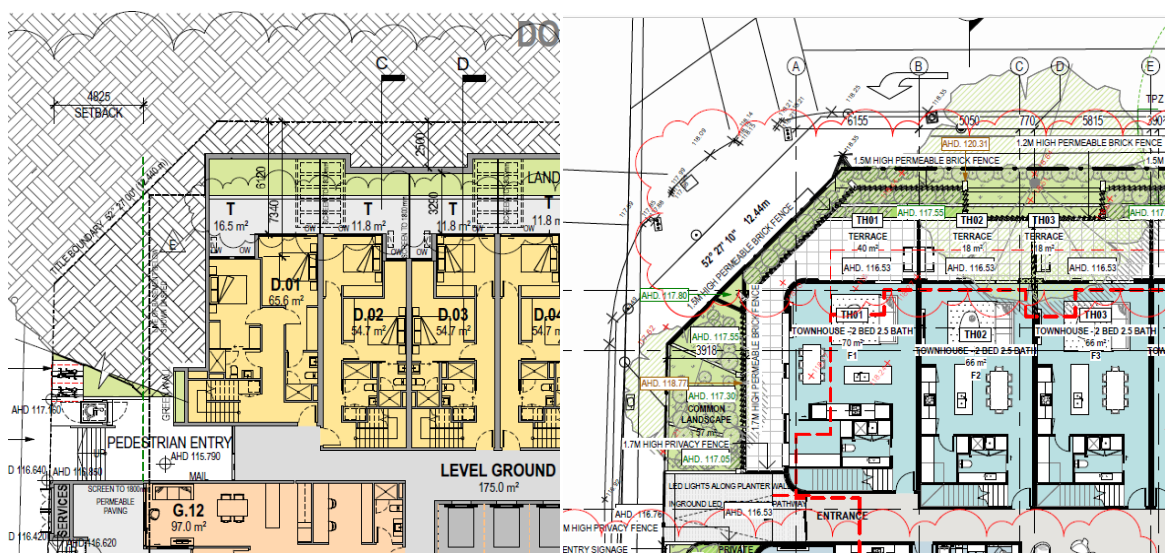
- Each terraced private open space to Apartments G10 to G16 increased to achieve a minimum area of 15 square metres for one-two bedroom apartments and 20 square metres for three bedroom apartments, and be designed to maximise useability and to maintain adequate landscaping in the street setback.
- Deletion of the private dwelling entries to Blackburn Road, with the exception of the retention of one of the entries to either Apartment G13 or G14, and retention of one of the entries to either Apartment G11 or G12.

8.34 A second communal entry has also been proposed providing additional access for future residents. This new communal entry point is narrow, gated and not well signposted and does not provide an appropriate design response for sense of address. In addition site services are also not shown on the plans. As such the following conditions are recommended:

- Sense of address to the southernmost Blackburn Road communal dwelling entry be enhanced by a wider street entry, deletion of the gate, and provision of bicycle parking.
- Details of site services within the property frontage, adequately located and integrated into the frontage or fence design

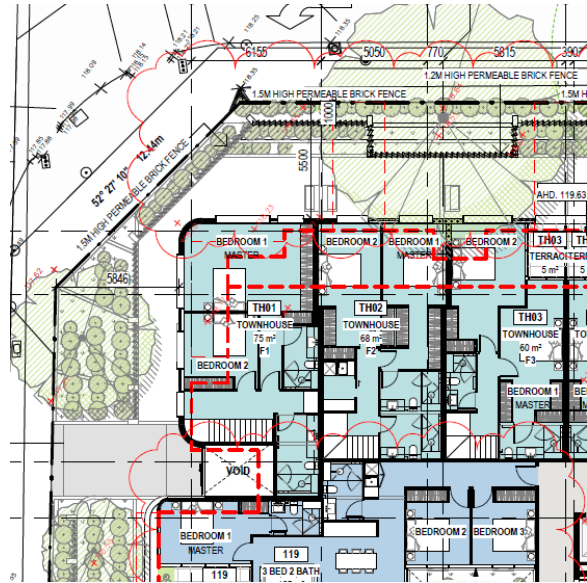
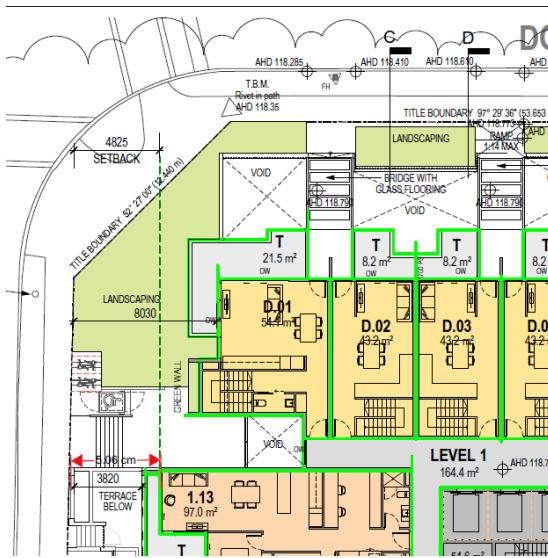
8.35 The amended proposal seeks multiple changes to the Doncaster Road frontage, including landscaping, townhouse arrangement, fencing, and dwelling entries, as shown below:

Ground level (sunken) – Decision Plans Ground level (sunken) – Proposed

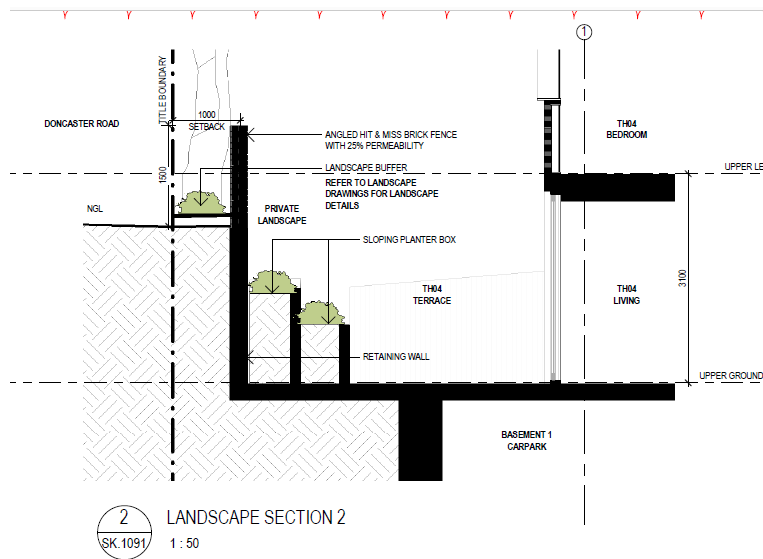


Level 1 (street level) – Decision plans:

Level 1 (street level) – Proposed:



Proposed Townhouse 4 section showing sunken terrace/living



8.36 The proposal reconfigures the layout of the nine townhouses fronting Doncaster Road. Living areas (previously bedrooms) are now proposed in the sub-ground level situated 1.9m to 3.8m below footpath level. Bedrooms are now located at street level. This is the reverse of the existing permit approval which provided bedrooms in the sunken area and living areas at street level. Street level ‘balconies’ have also been deleted, now providing all secluded POS in the sunken areas below natural ground level.

8.37 The proposal also deletes the individual entries from Doncaster Road and the gantry walkways. With this, the applicant seeks to delete condition 11) which required: ‘a sense of personal address to be provided to the entry of all dwellings

fronting the street through numbering or a suitable alternative such as lighting or colour.

- 8.38 Deletion of this condition and the individual entries is not opposed as the additional glazed gantry walkways over the sunken terraces were poorly designed and restricted daylight access. Activation to Doncaster Road will still be maintained by the high number of balconies and habitable rooms that are orientated to the street.
- 8.39 The matter of sunken gardens and habitable rooms below ground level has already been contested by Council at VCAT. It was found acceptable by the Tribunal on the basis there remained opportunities for landscaping and canopy trees to achieve the boulevard frontage sought by DDO8.
- 8.40 DDO8 requires that: *'On sites where a three storey development is proposed include at least 3 canopy trees within the front setback, which have a spreading crown and are capable of growing to a height of 8.0m'*
- 8.41 The existing permit approved five x 11-15sqm garden areas, which provided adequate soil volume for 6 metre high trees. It is considered that there are inadequate soil volumes for the three proposed Lemon scented gums along Doncaster Road. Therefore, the following condition to the submitted landscape plan (Attachment 4) is recommended:
- The three Lemon Scented gums along the Doncaster Road frontage replaced with medium sized canopy trees capable of reaching at least 8 metres high at maturity. The soil volume for each tree must be demonstrated as being adequate, and each garden bed be at street level with no barriers or terracing that restricts the total soil volume.
- 8.42 The basement has also changed, reducing its setback slightly to Blackburn Road to align with the new ground floor setback, and reducing its eastern boundary setback in part. The basement setback has also been increased to the street corner. Overall these changes have no negative impacts on landscaping opportunities, noting the basement car park is below the ground level which itself is below NGL for the most part.
- 8.43 Council officers have also focused heavily on ensuring there will be an acceptable internal amenity to these townhouses. Council's independent ESD advice reviewed the daylight model and was satisfied that the sunken living areas will receive good daylight that exceeds best practice (allows a small amount of less than 1.0% daylight factor). Each townhouse living room would receive a daylight factor of 1.0% to full depth. Daylight modelling is inclusive of the fence and planter boxes for canopy trees along the frontage.
- 8.44 To Doncaster Road, the replacement of small balconies with larger POS areas adjacent to a living room is considered an enhancement, even if the POS would be heavily shaded. On balance, if accepting these POS areas are comparable to south facing POS due to the high northern walls/fencing that would fail to meet Standard B29, in total there remains less than 30% of dwellings with south facing POS, which is an acceptable benchmark.
- 8.45 The low 1.5 metre, permeable front fence, as requested by Officers, also assists in improving daylight access as it reduces the northern barrier to the SPOS to each townhouse. This height complies with the DDO8 requirements, however not

the permeability requirements. To ensure this fence is adequately permeable for DDO8 and for daylight access to sunken areas, a condition of permit is recommended to require:

- Each front fence demonstrated as 50 per cent transparent.

8.46 There are inadequate landscaping opportunities to the street corner, a marked departure from the previous approval which provided a 65sqm landscaped area. This is due to the increased sunken terrace around Townhouse 1, which is unnecessary as there is adequate daylight access and private open space on its northern side. There is scope for an additional 20sqm of landscaping, sufficient to soften the street corner and allow the proposed large Lemon scented gum adequate growth to achieve its 15-20 metre height (following the Clause 58 canopy tree soil requirements). This is recommended to be achieved by the following conditions (and where highlighted in green on below plan):

- The terrace west of Townhouse 1 replaced with a landscaped bed to be combined with and be at level with the surrounding garden bed. The front fence in this section to be relocated 1 metre from the western wall of Townhouse 1, with the area west of the fence set aside as common property.
- Reposition the Lemon scented gum adjacent to the northern communal entry to be centrally within the revised garden bed.



Amenity impacts

Massing, setbacks, site coverage

8.47 The proposed building remains close in envelope to the permit approval. The proposal therefore maintains a comparable scale and boundary setbacks near abutting lots. The proposal will adequately maintain the future development potential of these lots, particularly of 1032 Doncaster Road, which is also located within the RGZ2 with the policy expectation for substantial change.

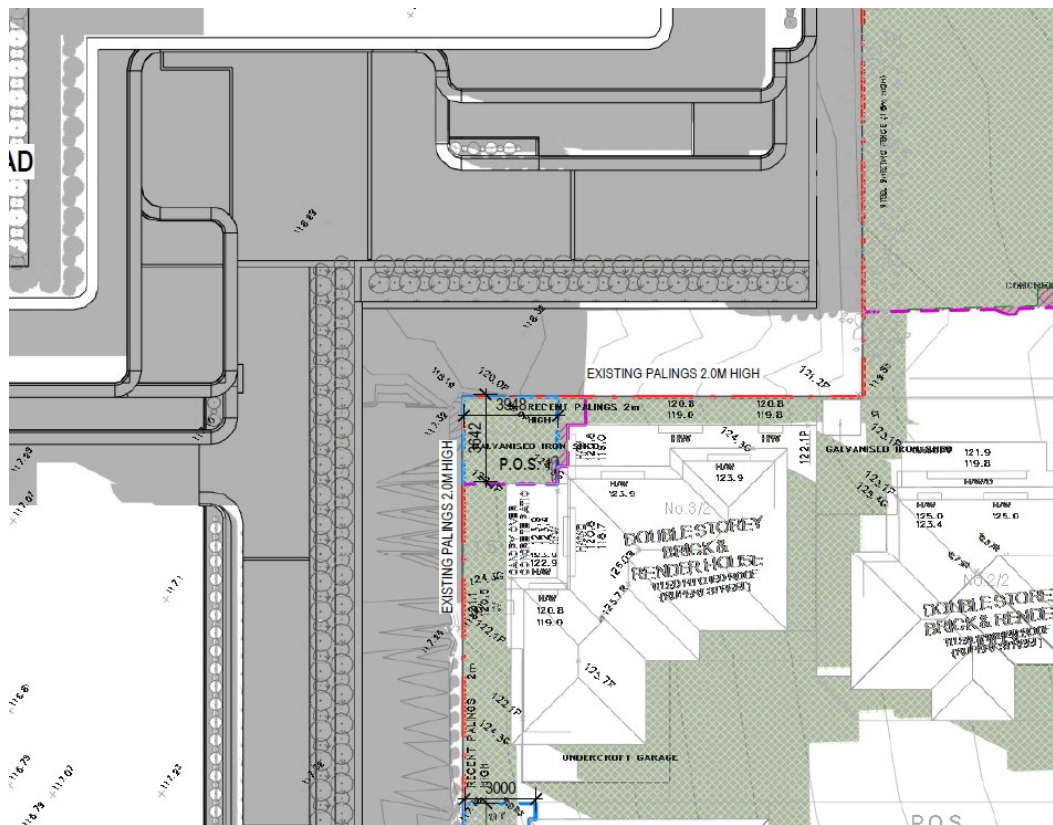
- 8.48 The proposed side and rear setbacks are generally identical to the permit approval, although setbacks are to be modestly decreased in some areas by 300-500mm. Given the ground floor is predominantly situated below natural ground level, as was approved, these setback reductions will not be greatly evident from abutting properties.
- 8.49 The upper levels of the proposed three-storey building have been modified by reducing the deep rebates that previously punctuated the building. Nonetheless all minimum side and rear setbacks have been maintained; 5.2 metres to the south, and 10 metres to the eastern boundary, which provides generous separation from existing property boundaries.
- 8.50 Visually, the consistent architectural style is considered suitable to moderate any sense of visual massing when viewed from surrounding properties. Adequate detail design is offered by the ridged balustrades and gentle organic curves, along with integrated planter boxes to each balcony and the rooftop.
- 8.51 However, not all the positive design details of the six-storey form have been applied to the three-storey building. The three-storey building suffers from being simplified, losing the curved roof eaves that accentuate the rebates to all sides, and notably having no curve to the balustrades either along the southern side, therefore presenting with reduced visual interest to this elevation. These curved concave elements are considered important to be carried over to the three-storey form to add visual interest and accentuate the rebates. As such the following conditions are recommended:
- A curved concave balustrade to Apartment 216 and 217, consistent with the curved profile elsewhere.
 - A curved concave eave that accentuates the rebates above the balconies of Apartments 218 and 219, 216 and 217, 214 and 215, consistent with the curved eave profiles on the northern building.
- 8.52 Rooftop planting is shown on the three-storey building to give some sense of amenity value however it is poorly located, unserviceable and unlikely to have any success or provide value. As such its deletion is recommended as per the following condition:
- Deletion of the rooftop planting on the three-storey building.
- 8.53 The proposed site coverage of 62.7% is consistent with development outcomes occurring along the main/arterial roads of Manningham, the nearby built up activity centre, and appropriate to achieve the policy intentions with the Residential Growth Zone. The amended building envelope and subsequent site coverage for the development will continue to ensure an appropriate built form outcome that is close to the preferred coverage of 60% outlined within the DDO8.

Overshadowing

- 8.54 The abutments to the rear of the site have changed since the issue of the existing permit. To the east, 2 Rupert Street has now been developed with three townhouses, resulting in SPOS of units adjoining the subject site.
- 8.55 The Tribunal considered the future overshadowing impacts of the building on the then proposed unit development at 2 Rupert Street utilising the approved

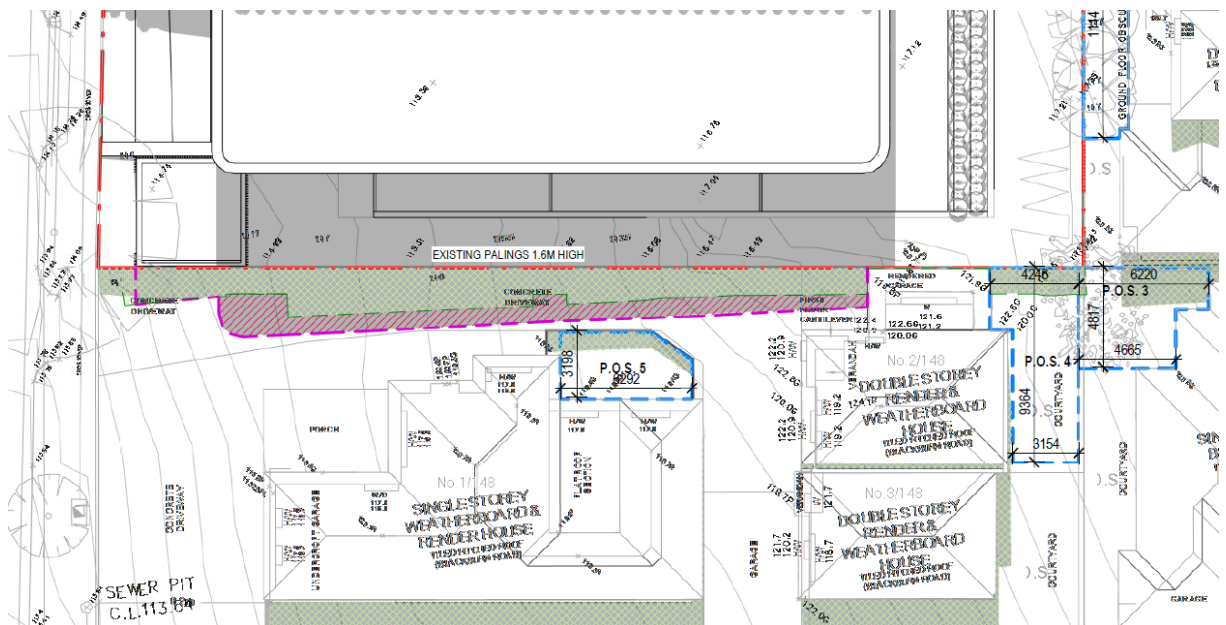
development plans. The Tribunal found that the development complied with Standard B21 (Overshadowing of Open Space) of Clause 55.

- 8.56 The SPOS of 3/2 Rupert Street receives only minimal sunlight at present, mainly in the morning. It is overshadowed by its own structures, including a large, covered patio, a shed located in the north-western corner of the backyard, and by boundary fencing. This SPOS does not receive the required 5 hours of sunlight between 9am and 3pm, and as such, Standard B21 states that sunlight should not be further reduced.
- 8.57 Contrary to Standard B21, the proposal further reduces the available sunlight (compared to the approval) at 3pm to 3/2 Rupert Street, as shown below in pink hatching:



Enlargement of above shadow plan.

- 8.58 The green hatched area on the plan represents both the existing shadows and the existing permit approved shadows. The additional (pink hatched area) overshadowing is due to the Level 4 covered roof to balconies of Apartments 409 and 410. To ensure that the amount of sunlight is not further reduced as a result of the new proposal, a condition has been included on the permit to address this issue.
- 8.59 In response to officer and objector concerns during the application process, setbacks of Level 4 on the eastern side adjacent to 1032 Doncaster Road were increased to match the approved envelope by deletion of a dwelling. This was due to concerns of equitable development impacts to the 1032 Doncaster Road (currently a medical centre). As such the proposed shadows onto this land will closely align with the permit approval.
- 8.60 With respect to the revised three-storey building, as the proposal maintains the approved height and side and rear boundary setbacks, there will be no new additional overshadowing to the SPOS of adjacent properties to the south. New shadows will fall within existing shadows or on non-sensitive areas (such as driveways):



Overlooking

- 8.61 Condition 1c) requires:
- details of screening, obscured or highlight windows, and internal dividing screens/fences to be notated on both floor and elevation plans to prevent overlooking from windows within a 9m of the site's boundaries;*
- 8.62 This condition is met for external views, but not for internal views. Internal overlooking appears to be limited by planter boxes in some locations, however no details are provided to demonstrate they will limit downwards views. To address internal overlooking, the following conditions are required:
- Detailed drawing of all balcony planter boxes or any other screening, along with adequate plan notations, demonstrating they are adequate fixed structures to limit internal overlooking below.

- Internal overlooking screening or alternative design solutions to limit views between Apartments 102-104, 208-210, 308-311, 407-409, 508, and terraces below.
- 8.63 The proposal includes a range of screening measures to limit overlooking. The proposal adequately limits views from habitable room windows, balconies and terraces to adjoining properties habitable rooms and SPOS, within 9 metres. Buildings setback greater than 9 metres do not require screening to be provided.
- 8.64 The new communal roof top deck is setback from the roof edges sufficiently to avoid the potential for downwards views to adjoining properties. As such it does not require any screening and the proposed balustrade is acceptable.
- 8.65 The proposal reorientates dwellings to face the eastern boundary adjacent to 1032 Doncaster Road and provides no screening to any window or terrace. This is an unacceptable outcome in terms of development equity and will compromise the potential future design response of 1032 Doncaster Road. To address future equitable development issues, the following condition is recommended:
- Screen all east facing habitable room windows to limit views where adjacent to 1032 Doncaster Road to a height of 1.7 metres from each finished floor level, by fixed obscured glass or other screening methods.

Internal amenity

- 8.66 The amendment seeks to completely redesign the development including the internal arrangement of dwellings.
- 8.67 The permit approval, designed in 2014, offered a reasonable level of internal amenity and overall had generous apartment floor areas which is unusual of its time. Daylight access to some dwellings however were considered substandard, hence permit conditions required further improvements to south facing windows, avoiding heavily tinted windows and utilising light coloured finishes for reflectivity, and the broad ranging requirement of a condition on the permit which asks for a revised Sustainability Management Plan that provides:
- 4a) Maximum daylight access to all dwellings;*
- 8.68 Several significant concerns were raised with the preliminary design, where daylight access and living room functionality of some dwellings were found to be substandard resulting in a number of dwelling rearrangements. To further respond to these concerns, the applicant submitted a Daylight Assessment which modelled the future daylight access to apartments habitable rooms, taking into account all fixed structures external to the windows and future building massing on neighbouring sites. From these findings, further improvements were made by amended plans to enlarge the northern light court and rearrange dwellings to increase daylight access.
- 8.69 Some minor matters remain to daylight access to all townhouses, as discussed below, and to Townhouse 9 which continues to have a large (4x3m), enclosed study below ground with no windows which would be deemed a bedroom under the planning scheme and has a right to adequate daylight.
- 8.70 Functional spaces of Apartments G06 and G09 also remain inadequate, each 2 or 3 bedrooms, with substandard spatial living spaces either due to no dining

area (within kitchen bench), or a narrow living area. These matters can be addressed by the following conditions:

- Remove the hallway wall to the ground floor study of Townhouse 9.
- Increase the functional living area of Apartment G06 to provide an additional 3 sqm of open planned living/dining space.
- Increase the functional living area of Apartment G09 to provide an additional 5 sqm of open planned living/dining space.

8.71 The development will meet best practice daylight levels outlined under SDAPP Indoor Environment Quality guidelines and the Built Environment Sustainable Scorecard (BESS) tool. The above recommendations will also ensure that the conditions of permit are met and the proposal fully compliant.

Car parking and traffic

Car Parking Provision and Bicycle Provision

8.72 The proposal includes an increase in the overall number of dwellings by one, and a change in the mix of apartment/dwellings to reduce the one-two bedroom dwellings by 20 and increase the three bedroom dwellings by 22.

8.73 It is noted that since the permit was issued, the subject site is now subject to the PPTN and therefore there is no requirement in the Manningham Planning Scheme for the provision of visitor car parking spaces.

8.74 The permit approval always had substantially more parking than the minimum statutory requirement, and now seeks to delete surplus parking. Parking has been revised in response to the application of the PPTN. As such the deletion of surplus parking spaces and reallocation of most visitor spaces for private resident use is acceptable.

8.75 The proposal continues to comply and exceed the statutory parking requirements by 42 additional spaces, pursuant to Clause 52.06 (Car Parking) of the Manningham Planning Scheme. The applicant has voluntarily provided five visitor car spaces as encouraged by Officers. There is no scope or policy basis for Council to require more visitor spaces or prohibit the reallocation of spaces.

8.76 The following table demonstrates compliance with the parking provision under Clause 52.06 (Car Parking) of the Manningham Planning Scheme:

Use	Proposed Dwellings	Statutory Parking Rate	Statutory Parking requirement (Proposal)	Car Parking provided (Proposal)
1 Bedroom Dwellings	15	1 space per one or two bedroom dwelling	15	171
2 Bedroom Dwellings	65	1 space per one or two bedroom dwelling	65	
3 Bedroom Dwellings	27	2 spaces per three+ bedroom dwelling	54	

Use	Proposed Dwellings	Statutory Parking Rate	Statutory Parking requirement (Proposal)	Car Parking provided (Proposal)
Visitor Car Parking for residential component	-	None required (within PPTN)	0	5
Total	107 dwellings		134 required	176 provided in excess by 42 spaces

8.77 Visitor car parking has been allocated on the basement floor plan. The remaining parking spaces have not been allocated, however it is understood from the applicant that the excess spaces will be sold to residents.

8.78 Car parking allocation is required by an existing condition of the permit and visitor car parking will be clearly identified on the plans:

Before the occupation of the approved dwellings, all basement car parking spaces must be numbered and signposted to provide allocation to each dwelling and visitors, to the satisfaction of the Responsible Authority.

8.79 One car space has been allocated in the SMP for a dedicated EV charging station which is required to be shown on plans. Further to this, officers consider that a further condition requiring an updated SMP report and plans be submitted which shows the provision of a 15A dedicated circuit for future electric vehicle charging to at least one car space for every dwelling.

8.80 The table below demonstrates compliance of the amended proposal with the statutory bicycle parking requirement set out in Clause 52.34 (Bicycle Parking) of the Scheme.

Use	No. of Dwellings	Statutory bicycle space rate	Statutory bicycle space requirement	Bicycle space provided.
Resident spaces	107	1 per 5 dwellings	22	97 within Basement 1 and 2
Visitor spaces	107	1 per 10 dwellings	11	
Total Bicycle parking provided for the residential component			33	97

8.81 Design of the bicycle parking is provided by a mix of vertical and horizontal rails and is in accordance with AS2890.3-2015. However, bicycle parking is not convenient to visitors, all located deep within the basement and behind security doors. It is noted that the proposal deletes the at-grade visitor bicycle parking near the building entry from the permit approval. 11 visitor spaces are required and to be conveniently located.

8.82 To comply with the standards, a condition is recommended as follows:

- All visitor bicycle spaces provided adjacent to communal building entries, with the number of spaces provided and designed in accordance with Clause 52.34 (Bicycle Parking) of the Manningham Planning Scheme.

Vehicular Access and Car Parking Layout

8.83 The car parking design has been completely modified and a basement level deleted.

8.84 The vehicle crossover is retained in a similar position off Blackburn Road in the south-western corner of the site. The site is subject to overland flows along Blackburn Road. The proposal has been amended to incorporate a raised hump at the entry to prevent overland flows or excess runoff from the road entering the site.

8.85 Council’s Engineers have no objection to the car parking layout, ramps, vehicle splays, passing areas and driveway hump to limit overland flow. Further refinement to the car parking design was recommended by the following condition:

- Access to basement storage adjacent to a car space from sliding doors that do not open into a car space.

8.86 The Department of Transport (DoT) has no objection to the revised access and maintains the same permit conditions, albeit updated to reflect the current organisation name. The DoT previously approved the existing bus shelter on Blackburn Road for relocation 5 metres away.

Amendment to permit conditions and compliance with conditions

Amendment to permit conditions

8.87 To facilitate the new proposal, a number of permit conditions will also be required to be amended/deleted.

Condition	Proposed change
<i>1a) Provision of wider south facing windows to the living areas of Apartment 1.17, 2.24, 3.15 and 4.15.</i>	Deletion. The proposal has also been subject to daylight modelling and a revised SMP for which Council Officers are satisfied with in this respect.
<i>1d) a materials samples board / detailed colour schedule for all proposed external materials, colours and finishes including flooring and fencing;</i>	Vary. Delete the word/reference to ‘samples board’. It is agreed with the applicant that a hard copy of the materials board is no longer required for approvals. To read:

	<i>1d) a materials samples / detailed colour schedule for all proposed external materials, colours and finishes including flooring and fencing;</i>
<i>1f) The width of the crossover and vehicular access ramp designed to accord with Design Standard 1 and Design Standard 3 of Clause 52.06-8 (Car Parking) of the Manningham Planning Scheme.</i>	Vary. It is agreed with the applicant to update wording and policy reference from 'Clause 52.06-8' to 'Clause 52.06-9' due to a clerical change to the policy number.
<i>1g) A longitudinal section for the critical side of the vehicle crossing and vehicular access ramp to the entry of the basement to be taken from Blackburn Road showing headroom clearance, driveway grades, length of grades, reduced levels at both sides of the grade and demonstrating compliance with Design Standard 3 of Clause 52.06-8 (Car Parking) of the Manningham Planning Scheme.</i>	Vary. It is agreed with the applicant to update wording and policy reference from 'Clause 52.06-8' to 'Clause 52.06-9' due to a clerical change to the policy number.
<i>1 h) Details for basement ventilation (design, location and noise levels) ensuring any external flues are designed and integrated into the building design</i>	<p>Vary. Update wording to delete reference to 'noise levels'.</p> <p>It is agreed with the applicant that showing the location of the mechanical car parking exhaust in a suitable location on plans is sufficient for such developments. EPA noise control guidelines sit independently of planning considerations and will be sufficient to ensure there are no detrimental impacts to the future occupants or surrounding properties.</p> <p>To read:</p> <p><i>1 h) Details for basement ventilation (design, location) ensuring any external flues are designed and integrated into the building design</i></p>
<i>1 I) A sense of personal address to be</i>	Deletion. It is agreed with the

<p><i>provided to the entry of all dwellings fronting the street through numbering or a suitable alternative such as lighting or colour.</i></p>	<p>applicant that the condition can be deleted to accommodate the proposed outcome for reasons previously provided in the body of the report.</p>
<p><i>1p) The type of glazing throughout the building (avoiding heavily tinted glazing for windows and balcony balustrades that will restrict daylight to dwellings) with clear glazing and light-coloured external finishes provided to lower level dwellings fronting Doncaster Road and Blackburn Road and to the outdoor areas of dwellings oriented to the south and south-east in order to maximise solar access</i></p>	<p>Deletion. The revised proposal departs from the materials and finishes this condition requires and is considered acceptable in its current form.</p> <p>The proposal has also been subject to daylight modelling and a revised SMP for which Council Officers are satisfied with in this respect.</p>
<p><i>1r) Any relevant changes as a result of VicRoads conditions on this permit and to Council assets, road reserve and bus stop on Blackburn Road.</i></p>	<p>Update wording for clerical reasons to:</p> <p><i>1r) Any relevant changes as a result of Department of Transport conditions on this permit and to Council assets, road reserve and bus stop on Blackburn Road.</i></p>
<p><i>7h) An analysis of whether the locations of the proposed Lemon Scented Gums along Doncaster Road need to be reviewed given the location of the adjacent street trees.</i></p>	<p>Deletion. Trees have been adequately relocated to suitable locations.</p>
<p><i>Landscape Bond</i></p> <p><i>8. Before the release of the approved landscape plan for the development, a \$10,000 cash bond or bank guarantee must be lodged with the Responsible Authority to ensure the completion and maintenance of landscaped areas and such bond or bank guarantee will only be refunded or discharged after a period of 13 weeks from the completion of all works, provided the landscaped areas are being maintained to the satisfaction of the Responsible Authority.</i></p>	<p>Deletion. Landscape Bonds are no longer required by Council.</p>
<p><i>10. Before the development starts, three</i></p>	<p>Update wording to reflect current CMP</p>

<p><i>copies of a Construction Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will form part of the permit. The plan must address, but not be limited to, the following:</i></p> <ul style="list-style-type: none"> <i>(a) Hours of demolition and construction with regard given to the service hours of the adjoining Church.</i> <i>(b) Methods to contain dust, dirt and mud within the site, and the method and frequency of clean up procedures;</i> <i>(c) On site facilities for vehicle washing;</i> <i>(d) The protection measures for site features to be retained (e.g. vegetation, retaining walls, buildings, other structures and pathways, etc);</i> <i>(e) Delivery and unloading points and expected frequency;</i> <i>(f) A liaison officer for contact by residents and the responsible authority in the event of relevant queries or problems experienced;</i> <i>(g) The movement of construction vehicles to and from the site must be regulated to ensure that no traffic hazards are created in and around the site;</i> <i>(h) Parking facilities for construction workers;</i> <i>(i) Measures to minimise the impact of construction vehicles arriving at and departing from the land;</i> <i>(j) An outline of requests to occupy public footpaths or roads, and anticipated disruptions to local services;</i> <i>(k) The processes to be adopted for the separation, re-use and recycling of demolition materials;</i> <i>(l) The measures to minimise the</i> 	<p>requirements. There is also no adjoining church thus this variation has not been carried over.</p> <p>Before the development starts, a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority using Manningham's CMP template. When approved the CMP will be endorsed and will then form part of the permit.</p>
--	---

<p><i>amount of waste construction materials; the provision for the recycling of demolition and waste materials; and the return of waste materials to the supplier (where the supplier has a program of reuse or recycling);</i></p> <p><i>(m) The measures to minimise noise and other amenity impacts from mechanical equipment and demolition/construction activities, especially outside of daytime hours;</i></p> <p><i>(n) The provision of adequate environmental awareness training for all on-site contractors and sub contractors; and</i></p> <p><i>(o) An agreed schedule of compliance inspections.</i></p>	
<p><i>12. Before the development starts, a construction plan for the system required by Condition 12 of this permit must be submitted to and approved by the Responsible Authority. The system must be maintained by the Owner thereafter in accordance with the approved construction plan to the satisfaction of the Responsible Authority.</i></p>	<p>Update wording to correctly refer to Condition 11, the condition prior.</p>
<p><i>19. Prior to the construction of vehicle crossings, the applicant must obtain a Miscellaneous Works Permit and construct the vehicle crossings to the satisfaction of the Responsible Authority.</i></p>	<p>Delete as this Council requirement for a Miscellaneous Works Permit is obsolete.</p>
<p><i>31. Prior to the occupancy of the development, all fencing must be in a good condition to the satisfaction of the Responsible Authority.</i></p>	<p>Delete. The condition of fencing is no longer required within Council's standard permit conditions. It is noted that boundary fencing is a civil matter governed under the Fencing Act 1968.</p>
<p><i>41. The level of the footpaths must not be lowered or altered in any way to facilitate</i></p>	<p>Vary as this outdated Council requirement may restrict future development. It is recommended an</p>

<i>access to the site.</i>	option be given for changes by consent, including the words: <i>except with the consent of Responsible Authority Council.</i>
----------------------------	---

8.88 The following clerical plan corrections are also required by condition:

- Notations on plan to match fence position and proposed height on elevations
- Minimum boundary setbacks dimensioned to each level on floor plans, including the basement
- Easements correctly depicted on the proposed ground floor plans
- Wall heights dimensioned to each elevation
- Each north and west elevation labelled to include its respective street name
- Eave outline dotted on level 5 floor plans
- Outline of level above shown on floor plans
- Deletion of previously approved development outlines and notations
- Internally dimension all bedrooms
- Obscured glazing within southern light court notated to apply to all windows except where windows are adequately offset from one another
- Indicative vegetation removed from development plans

Assessment against Condition 1 requirements

8.89 Several of the required changes under the existing Condition 1 of the permit have demonstrated as met on the proposed amended plans.

8.90 Whilst these conditions could technically be removed from the permit on the basis that they have now been met, it is considered more appropriate to keep the conditions on the permit as they arose out of a mediated outcome and would retain greater weight and protection against future change (i.e. future amendments) if they remain as expressed requirements on the permit.

8.91 Further, it is also noted that the Applicant has not sought to delete any of the specific Condition 1 requirements that have been met.

8.92 On this basis, all existing Condition 1 requirements should be retained and assessed for compliance when plans are submitted for endorsement.

Objector concerns

8.93 A response to the grounds of objection is provided in the paragraphs below:

Ground of objection / submission	Response
Neighbourhood character Overdevelopment Height Equitable development	<p>The amendment is a variation on an already approved development which has already had a permit issue for the same proposal in-principle. The amended proposal maintains the same scale, massing, and intensity that was considered appropriate previously. It continues to align with the preferred character within this precinct which seeks higher density development and a substantial level of change. This is further justified within the assessment above under the Planning policy framework section of the report.</p>
Traffic and car parking	<p>It is noted that since the permit was issued, the subject site is now subject to the Principal Public Transport Network (PPTN) area and therefore there is no requirement in the Manningham Planning Scheme for the provision of visitor car parking spaces.</p> <p>The amended proposal continues to exceed the statutory car parking requirement of the Manningham Planning Scheme - Clause 52.06 (Car Parking) by 42 car spaces.</p> <p>There is no statutory basis for Council to require more car parking.</p> <p>Traffic evidence was provided at the VCAT hearing by an traffic expert. It was considered that the surrounding road network will be able to accommodate the increased traffic from this proposed development. It is considered that an additional dwelling along with changes to dwelling typology in the amended proposal will not significantly increase or impact traffic and vehicle movements in the area. The amended proposal was referred to Department of Transport (DOT) who had no objection to the amended proposal and had no additional conditions or required changes.</p>
Overlooking Overshadowing Visual bulk/massing Daylight access Internal amenity	<p>These matters have been responded to within the above detailed assessment and found to be substantially compliant, subject to further conditional changes as recommended under the relevant policy considerations and in the recommended permit conditions.</p>

Landscaping positioning of Red Box trees adjacent to the eastern boundary of dwellings at 2, 4 & 6 Rupert Street	The three proposed Red Box trees are large with the canopy overhanging into the adjoining properties, noting the full canopy has not been depicted on the plans. In addition these trees are also situated close to an existing easement. It is considered that these should be more centrally positioned within the site itself. A condition is considered appropriate to: Reposition the proposed Red Box trees adjacent to the eastern boundary 2 metres a further to the west.
Typology, excessive number of one-bedroom apartments	The proposal includes an increase in the overall number of dwellings by one, and a change in the mix of apartment/dwellings to reduce the 1-2 bedroom dwellings by 20 and increase the 3 bedroom dwellings by 22.
Wind tunnel impact	Wind tunnel requirements within the Clause 58 (Apartment Standards) for five storeys and above do not apply to this application given the permit was issued prior to Clause 58 being gazetted into the planning scheme. Further the proposed building envelope and scale closely reflect the permit approval which had no wind tunnel requirements.
Property devaluation Air pollution to future residents.	These are outside the scope of this application. They are not planning considerations under the Manningham Planning Scheme or the Planning & Environment Act 1987.
Construction vehicle parking	The existing condition 10 on the permit will require a Construction Management Plan to be submitted which requires traffic management and construction worker parking details to be submitted for approval to Council prior to commencement of the development.

9. CONCLUSION

9.1 It is recommended that the application be supported, subject to conditions.

10. DECLARATION OF CONFLICT OF INTEREST

10.1 No officers involved in the preparation of this report have any general or material conflict of interest in this matter.