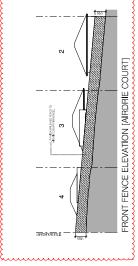


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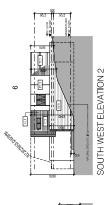
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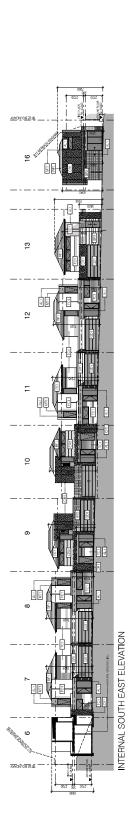
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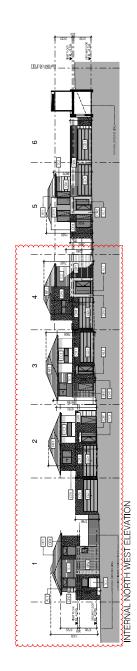
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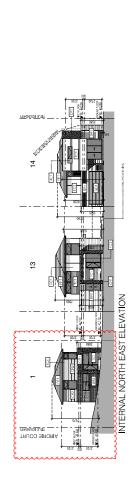
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#### 5. LEGISLATIVE REQUIREMENTS

## 5.1 PLANNING AND ENVIRONMENT ACT 1987 (THE ACT)

The *Planning and Environment Act 1987* is the relevant legislation governing planning in Victoria. The Act identifies subordinate legislation in the form of Planning Schemes to guide future land use and development.

Section 60 of The *Planning and Environment Act*, requires the Responsible Authority to consider the following before deciding on an application:

- The relevant planning scheme;
- The objectives of planning in Victoria;
- All objections and other submissions which it has received;
- Any decision and comments of a referral authority which it has received; and
- Any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.

Section 61(4) of the Act makes specific reference to covenants. Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restrictive covenant.

#### 5.2 MANNINGHAM PLANNING SCHEME

# Clauses of the Manningham Planning Scheme the Responsible Authority must consider:

- State Planning Policy Framework
- Local Planning Policy Framework
- Clause 32.08 General Residential Zone, Schedule 1
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot and Residential Buildings
- Clause 65 Decision Guidelines

#### Zone

#### Clause 32.08 General Residential Zone, Schedule 1

The purpose of the General Residential Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.

A Planning Permit is required to construct two or more dwellings on a lot within this zone.

An assessment for buildings and works for two or more dwellings is required under the provisions of Clause 55 of the Manningham Planning Scheme.

The purpose of Clause 55 is generally to provide well designed dwellings with considered regard to internal amenity, while at the same time, maintaining the amenity and character of the locality, with particular emphasis on the amenity of adjoining residents.

### **State Planning Policy Framework**

The relevant sections of the state planning policy framework are as follows:

# Clause 15.01-1 Urban design

The objective of this policy is:

 To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

## Clause 15.01-2 Urban design principles

The objective of this policy is:

 To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

## Clause 15.01-4 Design for safety

The objective of this policy is:

• To improve community safety and encourage neighbourhood design that makes people feel safe.

## Policy guidelines

Planning must consider as relevant:

• Safer Design Guidelines for Victoria (Crime Prevention Victoria and Department of Sustainability and Environment, 2005).

## Clause 15.01-5 Cultural identity and neighbourhood character

The objective of this policy is:

• To recognise and protect cultural identity, neighbourhood character and sense of place.

### Clause 15.02-1 Energy and resource efficiency

The objective of this policy is:

 To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.

#### Clause 16.01-1 Integrated housing

The objective of this policy is:

To promote a housing market that meets community needs.

## Clause 16.01-2 Location of residential development

The objective of this policy is:

• To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

## Clause 16.01-4 Housing diversity

The objective of this policy is:

To provide for a range of housing types to meet increasingly diverse needs.

## Clause 16.01-5 Housing affordability

The objective of this policy is:

• To deliver more affordable housing closer to jobs, transport and services.

#### **Local Planning Policy Framework (LPPF)**

#### **Municipal Strategic Statement**

### Clause 21.03 Key Influences

This clause identifies that future housing need and residential amenity are critical land-use issues that will challenge Manningham's future growth and sustainable development. The MSS acknowledges that there is a general trend towards smaller household size as a result of an aging population and smaller family structure which will lead to an imbalance between the housing needs of the population and the actual housing stock that is available.

This increasing pressure for re-development raises issues about how these changes affect the character and amenity of our local neighbourhoods. In meeting future housing needs, the challenge is to provide for residential re-development in appropriate locations, to reduce pressure for development in more sensitive areas, and in a manner that respects the residential character and amenity valued by existing residents.

## Clause 21.05 Residential

This policy outlines the division of Manningham into four Residential Character Precincts. The precincts seek to channel increased housing densities around activity centres and main roads where facilities and services are available. In areas which are removed from these facilities a lower intensity of development is encouraged. A low residential density is also encouraged in areas that have identified environmental or landscape features.

# The site is within "Precinct 1 – Residential Areas Removed from Activity Centres and Main Roads."

This precinct applies to the areas that are removed from activity centres (shopping centres) and main roads. An incremental level of change is anticipated in Precinct 1. The future development vision is to encourage development that reinforces existing front and rear setbacks and site coverage to provide opportunities for landscaping and retain areas of open space. Accordingly, this precinct will encourage a less intense urban form. Whilst the design of future dwellings may vary from the existing built form, dwellings in this area will need to provide increased open space for the planting or retention of trees and associated landscaping. The prevailing character of low front fences, retaining walls or the absence of front fences will also be encouraged.

### Clause 21.05-2 Housing

The relevant objectives of this policy are:

- To accommodate Manningham's projected population growth through urban consolidation, in infill developments and Key Redevelopment Sites.
- To ensure that housing choice, quality and diversity will be increased to better meet the needs of the local community and reflect demographic changes.
- To ensure that higher density housing is located close to activity centres and along main roads in accordance with relevant strategies.
- To promote affordable and accessible housing to enable residents with changing needs to stay within their local neighbourhood or the municipality.
- To encourage development of key Redevelopment Sites to support a diverse residential community that offers a range of dwelling densities and lifestyle opportunities.
- To encourage high quality and integrated environmentally sustainable development.

#### The strategies to achieve these objectives include:

- Ensure that the provision of housing stock responds to the needs of the municipality's population.
- Promote the consolidation of lots to provide for a diversity of housing types and design options.

- Ensure higher density residential development occurs around the prescribed activity centres and along main roads identified as Precinct 2 on the Residential Framework Plan 1 and Map 1 to this clause.
- Encourage development to be designed to respond to the needs of people with limited mobility, which may for example, incorporate lifts into three storey developments.

## Clause 21.05-4 Built form and neighbourhood character

The objective of this policy is:

 To ensure that residential development enhances the existing or preferred neighbourhood character of the residential character precincts as shown on Map 1 to this Clause.

The strategies to achieve this objective include:

- Require residential development to be designed and landscaped to make a positive contribution to the streetscape and the character of the local area.
- Ensure that where development is constructed on steeply sloping sites that any development is encouraged to adopt suitable architectural techniques that minimise earthworks and building bulk.
- Ensure that development is designed to provide a high level of internal amenity for residents.
- Require residential development to include stepped heights, articulation and sufficient setbacks to avoid detrimental impacts to the area's character and amenity.

## **Local Planning Policy**

## Clause 22.08 Safety through urban design

This policy applies to all land in Manningham. It endeavours to provide and maintain a safer physical environment for those who live in, work in or visit the City of Manningham. The policy seeks attractive, vibrant and walkable public spaces where crime, graffiti and vandalism in minimised.

## Clause 22.09 Access for disabled people

This policy also applies to all land in Manningham. It seeks to ensure that people with a disability have the same level of access to buildings, services and facilities as any other person. The policy requires the needs of people with a disability to be taken into account in the design of all proposed developments.

## Clause 22.12 Environmentally Sustainable Development

The overarching objective of this policy is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. In the context of this policy, best practice is defined as a combination of commercially proven techniques, methodologies and systems, appropriate to the scale of development and site specific opportunities and constraints, which are demonstrated and locally available and have already led to optimum ESD outcomes. Best practice in the built environment encompasses the full life of the build. It is a policy to encourage innovative technology, design and processes in all development, which positively influence the sustainability of buildings.

#### Clause 22.15 Dwellings in the General Residential Zone, Schedule 1

This policy applies to an application to construct or extend one dwelling on a lot less than 500 square metres and the construction and extension of two or more dwellings on a lot, a dwelling on common property and a residential building on land in the General Residential Zone, Schedule 1.

This policy implements the objectives for the 'Residential Areas Removed from Activity Centres and Main Roads' identified in Clause 21.05 Residential which seek to ensure that residential development contributes to a preferred neighbourhood character and provides for an incremental level of change.

The objectives of this policy are:

- To reinforce the existing garden character of the area by ensuring open space allows for the retention and planting of canopy trees.
- To ensure that the natural landscape and topography are identified as principal elements of neighbourhood character.
- To reinforce the open streetscape character by having no, or low fencing to allow views to the front gardens.
- To encourage a lesser intensity of development which provides a range of single and double storey dwellings and provides for a diversity of housing types for the community.
- To ensure that new development is well articulated and that two storey elements are not unduly bulky or visually intrusive.
- To encourage roof styles that reflect those in the existing streetscape.
- To encourage spacing between dwellings to reinforce the pattern of development of the street.

It is policy that each application should have regard to the siting and form of the dwellings, car parking and access, landscaping and fencing. This area is slated for incremental change.

#### **Particular Provisions**

#### Clause 52.06 Car Parking

Pursuant to Clause 52.06-5, car parking is required to be provided at the following rate:

- 1 space for 1 and 2 bedroom dwellings
- 2 spaces for 3 or more bedroom dwellings
- 1 visitor space to every 5 dwellings for developments of 5 or more dwellings

Clause 52.06-9 outlines various design standards for parking areas that should be achieved.

### Clause 55 Two more dwellings on a lot and residential buildings

The development of two or more dwellings on a lot must meet the requirements of this clause. An assessment against this clause is provided in this report.

#### **General Provisions**

#### Clause 65 Decision Guidelines

This clause outlines that before deciding on an application, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.

#### 5.3 OTHER RELEVANT LEGISLATION AND POLICY

The following are relevant documents referenced in the Scheme that are particularly applicable to this application: