

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- *All objections and other submissions which it has received and which have not been withdrawn;*
- *Any decision and comments of a referral authority which it has received;*
- *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; and*
- *Any significant social effects and economic effects which the responsible authority considers the use or development may have.*

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 32.07 Residential Growth Zone, Schedule 2
- Clause 43.02 Design and Development Overlay, Schedule 8
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot and Residential Buildings
- Clause 65 Decision Guidelines

Zone

Clause 32.07 Residential Growth Zone, Schedule 2

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 provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*

- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

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

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.

Overlay

Clause 43.02 Schedule 8 to the Design and Development Overlay

The design objectives are as follows:

- *To increase residential densities and provide a range of housing types around activity centres and along main roads.*
- *To encourage development that is contemporary in design that includes an articulated built form and incorporates a range of visually interesting building materials and façade treatments.*
- *To support three storey, 'apartment style', developments within the Main Road sub-precinct and in sub-precinct A, where the minimum land size can be achieved.*
- *To support two storey townhouse style dwellings with a higher yield within sub-precinct B and sub-precinct A, where the minimum land size cannot be achieved.*
- *To ensure new development is well articulated and upper storey elements are not unduly bulky or visually intrusive, taking into account the preferred neighbourhood character.*
- *To encourage spacing between developments to minimise a continuous building line when viewed from a street.*
- *To ensure the design and siting of dwellings have regard to the future development opportunities and future amenity of adjoining properties.*
- *To ensure developments of two or more storeys are sufficiently stepped down at the perimeter of the Main Road sub-precinct to provide an appropriate and attractive interface to sub-precinct A or B, or other adjoining zone.*
- *Higher developments on the perimeter of sub-precinct A must be designed so that the height and form are sufficiently stepped down, so that the scale and form complement the interface of sub-precinct B or other adjoining zone.*
- *To ensure overlooking into adjoining properties is minimised.*
- *To ensure the design of carports and garages complement the design of the building.*
- *To ensure the design of basement and undercroft car parks complement the design of the building, eliminates unsightly projections of basement walls above natural ground level and are sited to allow for effective screen planting.*
- *To create a boulevard effect along Doncaster Road and Manningham Road by planting trees within the front setback that are consistent with the street trees.*
- *To encourage landscaping around buildings to enhance separation between buildings and soften built form.*

Permit Requirement

- *A permit is required to construct or carry out works*
- *A permit is required to construct or extend a front fence within 3 metres of a street, if the fence is associated with 2 or more dwellings on a lot or a residential building.*

Building Height & Setbacks

- Any building or works must comply with the requirements set out in Table 1 and 2 of this Schedule.
- A permit cannot be granted to vary the condition regarding the minimum land size and configuration specified in Table 2 to this Schedule.
- A permit cannot be granted to vary the Maximum Building Height specified in Table 2 to this Schedule. This does not apply to:
 - The rebuilding of a lawful building or works which have been damaged or destroyed.
 - A building which exceeds the specified building height for which a valid building permit was in effect prior of the introduction of this provision.
- For the purposes of this Schedule, the Maximum Building Height does not include building services, lift over-runs and roof mounted equipment, including screening devices.
- For the purposes of this Schedule, balconies, terraces, and verandahs may encroach within the Street Setback by a maximum of 2.0m, but must not extend along the width of the building.

Table 1

Sub-Precinct	Maximum Building Height	Condition regarding minimum land size	Street setback
DDO8-1 (Main Road) Sub-precinct	11 metres provided the condition regarding minimum land size is met. If the condition is not met, the maximum height is 9 metres, unless the slope of the natural ground level at any cross section wider than eight metres of the site of the building is 2.5 degrees or more, in which case the maximum height must not exceed 10 metres.	1,800 square metres must be all in the same sub-precinct. Where the land comprises more than one lot, the lots must be consecutive lots which are side by side and have a shared frontage	For one dwelling on a lot: <ul style="list-style-type: none"> • Minimum front street setback is the distance specified in Clause 54.03-1 or 6 metres, whichever is the lesser • Minimum side street setback is the distance specified in Clause 54.03-1 For two or more dwellings on a lot or a residential building: <ul style="list-style-type: none"> • Minimum front street setback is the distance specified in Clause 55.03-1 or 6 metres, whichever is the lesser • Minimum side street setback

is the
distance
specified in
Clause 55.03-
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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 2 –Residential Areas Surrounding Activity Centres and Along Main Roads".

A substantial level of change is anticipated in Precinct 2. Whilst this area will be a focus for higher density developments, there are three sub-precincts which each stipulate different height, scale and built form outcomes to provide a transition between each sub-precinct and adjoining properties, primarily in Precinct 1 – Residential Areas Removed from Activity Centres and Main Roads.

The three sub-precincts within Precinct 2 consist of:

Sub-precinct – Main Road (DDO8-1) is an area where three storey (11 metres) 'apartment style' developments are encouraged on land with a minimum area of 1,800m². Where the land comprises more than one lot, the lots must be consecutive lots which are side by side and have a shared frontage. The area of 1,800m² must all be in the same sub-precinct. All development in the Main Road sub-precinct should have a maximum site coverage of 60 percent.

Higher developments on the perimeter of the Main Road sub-precinct should be designed so that the height and form are sufficiently stepped down, so that the scale and form complement the interface of sub-precinct A or B, or other adjoining zone.

Sub-precinct A (DDO8-2) is an area where two storey units (9 metres) and three storey (11 metres) 'apartment style' developments are encouraged. Three storey, contemporary developments should only occur on land with a minimum area of 1800m². Where the land comprises more than one lot, the lots must be consecutive lots which are side by side and

have a shared frontage. The area of 1800m² must all be in the same sub-precinct. In this sub-precinct, if a lot has an area less than 1800m², a townhouse style development proposal only will be considered, but development should be a maximum of two storeys. All development in Sub-precinct A should have a maximum site coverage of 60 percent. Higher developments on the perimeter of sub-precinct A should be designed so that the height and form are sufficiently stepped down, so that the scale and form complement the interface of sub-precinct B, or other adjoining zone.

Sub-precinct B (DDO8-3) is an area where single storey and two storey dwellings only will be considered and development should have a maximum site coverage of 60 percent. There is no minimum land area for such developments.

The site is located within the **Main Road Sub-Precinct**.

Development in Precinct 2 should:

- *Provide for contemporary architecture*
- *Achieve high design standards*
- *Provide visual interest and make a positive contribution to the streetscape*
- *Provide a graduated building line from side and rear boundaries*
- *Minimise adverse amenity impacts on adjoining properties*
- *Use varied and durable building materials*
- *Incorporate a landscape treatment that enhances the overall appearance of the development.*
- *Integrate car parking requirements into the design of buildings and landform.*

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 is 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

This policy applies throughout the City of Manningham to residential and non-residential development that requires a planning permit in accordance with the thresholds in Table 1 of this Policy (except for land affected by the Activity Centre Zone (Schedule 1) that applies to Doncaster Hill). The policy contains an overarching objective that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

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 52.06-8 outlines various design standards for parking areas that should be achieved.

Clause 52.34 Bicycle Facilities

No bicycle spaces are required to be provided as the development is less than 4 storeys.

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 Appendix 1 of 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.*