Planning Report
104 Main Street, Blackburn
Residential Apartment Building
October 2013
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1 Introduction/Overview

1.1 Instructions

Ratio Consultants Pty Ltd continue to act for Lifestyle 104 Pty Ltd, the owner and permit applicant, in respect to a proposed residential development at 104 Main Street, Blackburn.

Following the Tribunal’s determination to refuse a former development proposal for the site on 7 August 2013 in Application for Review P2242/2012, Ratio has assisted the permit applicant in preparing an amended development scheme which has been modified in response to the Tribunal’s decision (copy attached at Appendix A).

This redesign forms the basis of this application and is examined in this report.

1.2 Investigation & Research

In the course of preparing this report we have:

- carried out relevant planning investigations, including inspections of the subject site and surrounding land;
- assessed the proposal according to the relevant planning controls and policies in the Whitehorse Planning Scheme;
- reviewed the Tribunal’s order in Application for Review P2242/2012; and
- attend a pre-application meeting on 5 September 2013 with Senior Planning Officers of Council, including Jeff Green (Manager) and Anne Hollensen (Development Planner).

1.3 Summary Opinion

In short, we believe the proposed development as amended should be supported, primarily because:

- It has been appropriately modified from the previous application on the site to respond to the matters raised in the Tribunal’s order of 7 August 2013 in Application for Review P2242/2012;
- It is consistent with the strategic directions contained in the State and Local Planning Policy Frameworks of the Whitehorse Planning Scheme as they relate to urban consolidation in appropriate locations, the more efficient use of infrastructure, the provision of housing diversity etc.;
- It has been designed to ensure it achieves an appropriate degree of “fit” with its urban context;
- It will not unreasonably impact upon the amenity of neighbouring properties; and
- It will provide an appropriate level of amenity for future occupants.
2 Existing Conditions

2.1 Subject Site

The subject site is located on the western side of Main Street, approximately 100 metres to the north of Canterbury Road, Blackburn.

Figure 1: Locality Map

The key features of the site are summarised as follows:

- The site is regular in shape with a frontage to Main Street of 16.46, a maximum depth of 109.88 metres, and overall area of approximately 1,717.59m²;
- The site slopes significantly from west to east by approximately 5 metres (3.8+ degree fall in parts);
- The site is currently occupied by a single storey weatherboard dwelling that is setback 14.8 metres from the site’s front boundary, and 1.2 metres from the site’s southern boundary;
- A single-width vehicle cross-over is provided to Main Street within the site’s north-east corner. The cross-over provides vehicles access to a access drive which runs parallel to the site’s northern side boundary leading to a single fibro garage to the rear of the dwelling;
- An additional shed is located to the rear of the dwelling; and
- The site contains no significant vegetation.
Figure 2: Cadastral Plan

Photo 1: Frontage
Photo 2: View of the rear of the site taken from land to the immediate south
Photo 3: Aerial Photo of Site and Surrounds
2.2 **Adjoining Properties**

With respect to adjoining and nearby properties, we observe:

**North**
- No. 102 Main Street, which supports a part single, part double storey brick dwelling. The dwelling is setback 30.15 metres from the site’s front boundary, and 1.97 metres from the common side boundary (southern). The dwelling has three (3) habitable room windows with an outlook towards the site. The dwelling includes an in-ground swimming pool within the rear secluded private open space area, along with a carport which is constructed to the common side boundary with the site. The dwelling’s common side boundary is characterised by boundary planting.
- Further north is a succession of multi-unit development ranging from one to two storeys in scale.

**East (front)**
- To the immediate east is Main Street, which is a designated “smart bus” route and part of the PPTN. Main Street is a connector road which runs in a north-south direction, connecting Canterbury Road with the ‘Blackburn Neighbourhood Activity Centre’ and Train Station to the north of the site. A “smart bus” stop is located along Main Street proximate to the site.
- On the eastern side of Main Street, opposite the site is the intersection of Main Street and Norvel Street, and a mix of single and double storey dwellings, and multi-unit development on land located within the Residential 1 Zone.

**South**
- To the south of the site is the Blackburn South Neighbourhood Activity Centre.
- No. 117-125 Canterbury Road is directly to the south of the site, which supports a Woolworths Supermarket and associated customer car park. The supermarket is sited to front Canterbury Road, and is setback a minimum of 3.1 metres from the common boundary. The supermarket’s loading dock is located immediately to the south. A landscaping strip is sited along the common boundary.
- Also to the south, at No. 127 Canterbury Road (on the corner of Canterbury Road and Main Street), is a McDonalds fast food restaurant and drive-thru.
- The land to the south is located within the Business 1 Zone.

**West (rear)**
- No. 21 Baldwin Road, which supports a single storey weatherboard dwelling setback 28.9 metres from the common boundary. On either side of this site the properties have been, or are being, developed with dual occupancy developments. Further west is Baldwin Road with residentially zoned and developed land beyond.

2.3 **Locality**

Broadly speaking, the site is located at the edge of the Blackburn South Neighbourhood Activity Centre and is therefore proximate to a range of commercial and community facilities as well as public transport services, including:

- Blackburn South ‘Neighbourhood Activity Centre’ located to the site’s immediate south (which includes a full-line supermarket);
Blackburn ‘Neighbourhood Activity Centre’, about 1.2km to the site’s north;

Forest Hill Chase ‘Major Activity Centre’, about 1.3km to the site’s south-east;

Bus route No.’s 703 & 765 (Mitcham – Box Hill via Brentford Square, Forest Hill, Blackburn) which run along Main Street;

Various areas of public open space within 1km including Blackburn Creeklands Reserve, R.H.L Sparks Reserve, Blackburn Lake Sanctuary, Morton Park, and Orchard Grove Reserve; and

Various education facilities within 1km including Laburnum Primary School, St Paschal College, St Thomas the Apostle Primary School, St Luke Catholic School, Orchard Grove and Aurora Primary School and International Student Centre/Hays International College.

The nearest train station is Blackburn Station, which is approximately 1.2km to the north and accessible to the subject site via Bus Route No.’s 703 & 765.
3 Planning Background

3.1 What were the findings of the Tribunal regarding the previous development proposal?

The current application has been significantly modified from the previous development application on the site which was ultimately refused by VCAT in the matter of Lifestyle 104 Pty Ltd v Whitehorse CC (Application for Review P2242/2012). A copy of the Tribunal’s order dated 7 August 2013 is attached at Appendix A.

Whilst the previous development proposal was not deemed worthy of approval, the Tribunal made positive findings on many key aspects to the extent that it concluded at paragraph 102 that “an apartment building generally of three storeys height is appropriate for the review site”.

The Tribunal, however, had concerns relating to how the building presented to its northern neighbour which ultimately lead to its failure (as explained later in the report).

Below is a summary of the Tribunal decision including both the positive and negative aspects that were considered.

Did the Tribunal identify any positive or redeeming aspects?

Yes. To summarise, the Tribunal made favourable findings in a significant number of key areas as follows:

- Strategic support for a three storey development in an apartment style format.
- Street setbacks.
- Southern interface to the supermarket.
- Northern interface at the rear section of the building (the rear 25 metre portion).
- Rear (west) interface.
- Internal amenity.
- Pedestrian access.
- North-facing balconies.
- Traffic and parking.
- Tree impacts.

We expand on the Tribunal’s findings in relation to the above matters later in the report.

What were the fatal design issues raised by the Tribunal?

The concerns raised by the Tribunal which lead to the determination to refuse a permit are of relatively limited scope. This is largely because the Tribunal came to the view that there were a number of key aspects of the previous development proposal that were satisfactory (as outlined above).

The chief concerns of the Tribunal are summarised in the following comments:

“59. However, the building’s northern elevation does not sit comfortably with the residential hinterland to the north. This results from its combination of height, length, proximity to the northern boundary, and lack of any built form in the first 30 metres of the property to the north.”
63. I have chosen to assess the north elevation in three parts, being:

a) the 39 metres from the front boundary to the end of the ‘basement’ void;

b) the 41 metres from the end of the void to the western tree planting area; and

c) the remaining 29 metres from the western tree planting area to the rear boundary.

64. In short, I find the first section of the building does not fit comfortably with its residential hinterland, the central section unacceptably impinges on the amenity of 102 Main Street and the rear section of the building is acceptable. I elaborate on these reasons below:

As evident from the above findings, the Tribunal was not satisfied with the front and middle portions of the building as they related to the northern neighbour. Helpfully, the Tribunal provided specific recommendations on how the issues can be resolved, which is set out in the following commentary:

- **The front section (the front 39 metre portion)**

  73. I find this section of the proposed building would move significantly towards being acceptable if the ‘basement’ level was a genuine basement rather than an undercroft. In this section, this ‘basement’ level is over 3 metres high at the frontage and 2.6 metres high at the end of the void. If its height was reduced by 1.8 metres throughout this length, with the current setbacks retained, the building would be a better ‘fit’ in its context.

- **The middle section (the central 41 metre portion)**

  83. Mr Peake proposed expanding the western tree planting area and relocating it opposite the swimming pool. This would be advantageous yet would need to be done in concert with applying a design response comparable to that of Units 11, 24 and 34 in order to ensure sufficient space for a tall canopy tree such as the Chanticleer Pear (12 metres high and 6 metres wide at maturity) that Mr Patrick proposes next to those dwellings.

  84. Otherwise, I find this section of the proposed building would move considerably towards being acceptable if the ‘basement level’ was a genuine basement. As mentioned earlier, it is considerably higher than natural ground level for much of this section’s length and this contributes to the building’s visual bulk when viewed from 102 Main Street and should be lowered by 1 metre or thereabouts.

The current application has been modified in a way that is consistent with the recommendations of the Tribunal however in some instances goes above and beyond what has been specified by the Tribunal. A detailed explanation of how the current proposal responds to each of these matters is provided later in the report.
4 The Proposal

4.1 Summary

It is proposed to construct a three storey apartment building with basement car park comprising a total of 31 dwellings.

4.2 Comparison of current scheme to previous scheme – how has it changed?

The current application has been significantly modified from the previous application on the site.

To assist in comparing the ‘old vs new’ the architect has overlayed an outline of the previous proposal over the top of the current plans. The red line represents the previous location of the walls, and the blue line represents the previous location of balconies.

We summarise the key changes between the previous scheme and the current scheme as follows:

General

- A reduction in the overall number of apartments from 35 to 31. The apartment mix includes 3 x 1 bed and 28 x 2 bed.
- A reduction in the overall number of car spaces from 40 (including 35 for residents and 5 for visitors) to 37 (including 33 for residents and 4 for visitors).
- A reduction of the maximum building height by 2.43 metres, from 12.34 metres to 9.91 metres. This is achieved by lowering the basement level.
- The site coverage has reduced from 63.12% to 58.37%.
- The site permeability has increased from 32.54% to 35.14%.

Basement

- Lower the FFL by as much as 2.44 metres at the front (from RL89.28 to RL86.84) which reduces to 0.84 metre at the rear (from RL89.28 to RL88.44).
- Relocate the tree planting area further east where it is adjacent to the swimming pool at No.102.
- Increase the northern setback at the front portion to create improved landscaping. The increased setback ranges between 2.56 to 3.57 metres, whereas previous the setback ranged from zero to 2.49 metres.

Ground Floor

- Lower the FFL by 2.11 metres at the front (Apt’s 1-3) and by 1.55 metres in the middle (Apt’s 4-8).
- Increase the northern setbacks to offer greater visual relief and landscaping, generally including:
  
  › Apt’s 1 and 2 at the front are setback between 3.46 to 9 metres in lieu of previous setback of 2.01 metres.
  
  › Apt 3 (formerly Apt’s 3 and 4) is setback a minimum of 3.17 metres in lieu of previous setback of 3 metres.
Planning Submission – 104 Main Street, Blackburn

Apt’s 5-7 (formerly Apt’s 6-8) are setback a minimum of 4.02 metres in lieu of previous setback of 2.44 metres.

Relocate the recessed area at the rear further east where it is adjacent to the swimming pool at No.102. More specifically, the rebated area which offers a maximum setback of 6.97 metres is provided for Apt 8 (previously Apt 9 which was setback 3.38 metres) instead of Apt 10 (previously Apt 11 which was setback 6.78 metres)

First Floor

- Lower the FFL by 2.11 metres at the front (Apt’s 13-15) and by 1.55 metres in the middle (Apt’s 16-19).
- Apt’s 2-7 (formerly Apt’s 2-8) are provided with at grade courtyards instead of balconies as their private open space. This is due to the lowering of the FFL’s.
- Increase the northern setbacks to offer greater visual relief and landscaping, generally including:
  - Apt 13 (formerly Apt’s 14-15) is setback 6.46 to 8.62 metres in lieu of previous setback of 5.08 metres.
  - Apt 14 (formerly Apt 16) is setback between 5.8 to 7 metres in lieu of previous setback of 4.26 metres.
  - Apt’s 15-16 (formerly Apt 17-19) are setback between 4.38 to 6.8 metres in lieu of previous setback of 3.12 metres.
  - Apt’s 17-18 (formerly Apt’s 20-21) are setback between 4 to 5.8 metres in lieu of previous setback of 3.83 metres.
  - Relocate the recessed area at the rear further east where it is adjacent to the swimming pool at No.102. More specifically, the rebated area which offers a maximum setback of 6.97 metres is provided for Apt 19 (formerly Apt 22 which was setback 3.4 metres) instead of Apt 21 (formerly Apt 24 which was setback 6.78 metres).

Second Floor

- Lower the FFL by 2.11 metres at the front (Apt’s 24-25) and by 1.55 metres in the middle (Apt’s 26-28).
- Increase the northern setbacks to offer greater visual relief and landscaping, generally including:
  - Apt 27 (formerly Apt 30) is setback in part 7.7 metres in lieu of previous setback of 5.56 metres.
  - Apt 28 (formerly Apt’s 31-32) is setback between 6.52 to 8.57 metres in lieu of previous setback of 5.08 metres.
  - Apt 29 (formerly Apt 33) is setback between 5.41 to 6.82 metres in lieu of previous setback of 5.08 metres.

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Landscaping

- Greater provision for landscaping along the northern boundary at the front portion of the site.
- Due to the reduced basement footprint and increased building setbacks from the northern boundary, there is greater in ground space for root growth and greater above ground space for canopy spread.
5 Planning Controls

5.1 Overview

The relevant policies and provisions of the Whitehorse Planning Scheme that affect the site, including the zoning, the state and local planning policy framework and Clause 55 are thoroughly outlined and addressed in the Tribunal’s order as well as the planning evidence of Mr. Crowder of Ratio Consultants in respect of the previous application on the site.

As there have been no subsequent changes to the Whitehorse Planning Scheme that affect the site since the Tribunal’s previous determination, we do not consider it necessary to repeat them here.

5.2 Housing and Neighbourhood Character Review 2013

We understand that Council has progressed strategic work relating to the Housing and Neighbourhood Character Review 2013. This consists of the following:

- Draft Whitehorse Neighbourhood Character Study 2013
- Draft Whitehorse Housing Strategy 2013
- Draft Whitehorse Neighbourhood Activity Centre Urban Design Guidelines 2013

The Council is presently undertaking public consultation during the period from 9 September to 21 October 2013.

As these are draft documents that do not form part of the planning scheme and are only in their infant stages, they are not considered to be seriously entertained planning documents at this point in time.

In any event, we observe:

- Draft Whitehorse Neighbourhood Character Study 2013 - the site is located with a ‘Bush Suburban 2’ area.
- Draft Whitehorse Housing Strategy 2013 - the site is classified as part of a ‘Natural Change’ area.
- Draft Whitehorse Neighbourhood Activity Centre Urban Design Guidelines 2013 – the adjacent Blackburn South Shopping Centre is categorised as a ‘Large neighbourhood centre on a wide main road’.

Based on the Council’s website, it is understood the Review will provide Council with a framework to apply the new residential zones and also provide the basis for any variation to the standard built form requirements within these new zones.
6 Planning Considerations

6.1 Introduction

We believe that a primary consideration in assessing this application is whether the current proposal has adequately responded to the previous VCAT determination for the site in Application for Review P2242/2012. To this end, it may be said that the previous VCAT decision for the site acts as a ‘guidepost’ in determining the merits of this current proposal.

Significantly, the nature of the concerns raised by the Tribunal in regard to the previous proposal were of limited scope. It is not necessary to undertake an entire redesign because in many respects the Tribunal made positive findings on the previous application (as outlined previously in this report and further below).

Accordingly this report focuses on the manner in which the current proposal has been modified to address the concerns of the Tribunal, also having regard to provisions and policies of the Whitehorse Planning Scheme along with the pre-application feedback received from Senior Officers of the City of Whitehorse.

6.2 Does the proposal adequately respond to the previous VCAT decision?

It is submitted that the current application provides an appropriate response to the matters raised by the Tribunal that were ultimately fatal to the previous development proposal for the site.

As the Tribunal recorded favourable findings in respect of a number of key aspects of the previous development proposal, we note the concerns raised by the Tribunal which lead to the refusal are of relatively limited scope.

They include:

- The impact to the north at the front section (the front 39 metre portion)
- The impact to the north at the middle section (the central 41 metre portion)

The current application has been significantly modified in a way that is consistent with the recommendations of the Tribunal. In some instances, in fact, the amendments go well beyond what has been recommend by the Tribunal.

Prior to specifically addressing these two matters, we note that since the date of the Tribunal’s order that:

- There have been no changes in the physical context of the land and its surrounds.
- There have been no changes in planning policy.
- There have been no changes in the interpretation of the facts or law relevant to the Tribunal’s decision.

A detailed explanation of how the current proposal responds to each of the matters raised by the Tribunal is provided as follows.
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<th>Tribunal Finding</th>
<th>Response</th>
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<td>The impact to the north at the front section (the front 39 metre portion)</td>
<td>The basement level has been significantly lowered to become a genuine basement. The FFL has been dropped by 2.44 metres (from RL89.28 to RL86.84), which far exceeds the 1.8 metre difference that was recommended by the Tribunal. The changes made to the proposed development directly respond to the Tribunal’s recommendations and go further by increasing the northern setbacks of this front portion of the building particularly at ground and first floors. This ensures the proposed tree plantings along the northern boundary (Callery Pears) are separated from the adjacent balconies so as to not detract from the internal amenity of the dwellings. We note: The ground level Apt’s 1-3 now have at grade courtyards instead of balconies hard up against the proposed trees. The first floor balconies of Apt’s 13-18 (formerly Apt’s 14-17) are setback between 4 to 4.66 metres in lieu of previous setbacks of 1.54 to 3.29 metres. This enables the trees to grow with spreading crowns without impacting on the amenity of the balconies. The proposal fully complies with the various Standards specified at Clause 55 that are useful indicators of building bulk (i.e. – Standard B17 – “Side and rear setbacks” and Standard B18 – “Walls on boundaries”). For the above reasons, we consider the lowering of the basement coupled with the additional setbacks from the northern boundary will reduce the building bulk and also enable a successful landscape response along the northern boundary that will not detract from the internal amenity of the apartments.</td>
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The western tree planting area has been expanded and relocated further east where is it opposite the adjacent swimming pool at No.102 to the north. Additionally, the northern setbacks in this location have been significantly increased to create a recessed / rebated area for Apt’s 8, 19 and 28, which generally reflect the northern setbacks of former Apt’s 11, 24 and 34. More specifically, Apt 8 is setback 6.97 metres, Apt 19 is setback 6.52 metres and Apt 28 is setback 6.52 metres. The additional setbacks have been provided in unison with achieving a Chanticleer Pear (12m x 6m) in the POS of Apt 8. This tree is to be planted in ground which is allowed for by the basement footprint, and will enable a strong green buffer from the next
6.3 Response to other key matters

Strategic support

It is submitted that State policy provides strong support for the redevelopment of this site in an intensive way for residential purposes. Housing policies and strategies within the LPPF call for the provision of a wide range of housing types to meet the changing needs of the population, and to ensure higher density housing is directed to specific areas including activity centres with excellent access to public transport.

The Tribunal identified in respect of the policy context affecting the site:

“To summarise, I find the planning policy framework encourages the intensive use of this site subject to a proper application of state and local objectives for built form and character.”

After balancing the various policies relating to built form character, the Tribunal concluded that:

“I have found that an apartment building generally of three storeys height is appropriate for the review site.”

On this basis, we believe the policy framework lends itself to a development of the kind proposed.

Southern interface

The site interfaces with the supermarket and car park to the south. With regard to the previous development proposal, the Tribunal stated:

“The south elevation is an acceptable response to its interface with the supermarket car park. The robust setting of the activity centre can accommodate a long and large building that is similar in these aspects to the supermarket building and is considerably better articulated.”

The current proposal has generally retained the same setbacks to the southern boundary, although due to the lowering of the basement the overall building height has been considerably reduced. This includes a reduction in height of 2.12 metres at the front and approx. 0.8 metre midway along the building.

For these reasons, the bulk impacts to the south under the current proposal will be far less than the previous scheme notwithstanding the Tribunal came to the view that the southern setbacks were previously acceptable.
Front (east) and rear (west) setbacks

The Tribunal was supportive of the front and rear setbacks of the previous development proposal, where it held:

“55. Its front and rear setbacks are acceptable as they comply with or exceed what would be expected under clause 55 of the Planning Scheme and, apart from that, are an acceptable response to the context. I accept the building will sit forward of its neighbours to the north and south, yet the front setback is deep enough to provide landscaping that is consistent with that in the residential area to the north and the robust character of the activity centre can accommodate the proposed building being set forward of the supermarket building.”

The current proposal has generally kept the same setbacks to the front and rear boundaries.

Although, the building bulk will be considerably reduced when viewed from the streetscape, however, as the overall height of the front façade has been significantly reduced by approx. 3 metres due to additional recessing provided to the upper level balcony (Apt 24) in combination with the lowering of the basement. In turn, the front portion of the building will essentially read as a standard two storey height (7.28 metres) instead of three storeys (10.3 metres) under the previous scheme. Therefore we consider the bulk impacts to the streetscape under the current proposal will be far less than the previous scheme notwithstanding the Tribunal came to the view that the front setbacks were previously acceptable.

The height and form of the building as viewed from the adjacent properties to the rear (west) is generally unchanged. Due to the site cuts the height of the two storey parapet is significantly reduced, and this element is setback a minimum of 4 metres with the upper level recessed to 7.93 metres. The basement footprint if offset from the west boundary to enable deep rooted planting opportunities for new canopy trees in this key location.

For the above reasons, the built form presentation to the streetscape as well as the rear neighbours is considered appropriate.

Landscaping

Consistent with the Tribunal’s recommendations there is greater provision made for landscaping along the northern boundary at the front portion of the site. This will assist in mitigating the bulk of the building from oblique views in the streetscape as well as the neighbouring property at No.102. Owing to the additional setbacks provided to the building in this location, there will be appropriate separation between the vegetation and the adjacent apartments to ensure the internal amenity is not compromised by the proximity of balconies and tree canopies. Additionally, the reduced basement footprint in this location enables more in ground space for canopy trees with deep root growth therefore optimising the long-term viability of the landscape response.

Aside from the above matters, the Tribunal did not appear to have any further concerns in regard to the landscape plan prepared by John Patrick which boasts numerous new canopy trees in the front and rear setbacks as well as the entire northern boundary.

Internal amenity

The Tribunal held no concerns with previous development proposal in regard to the level of internal amenity offered to future occupants. On this matter, it stated:

“56. I find the internal amenity of the dwellings is acceptable. The north-south orientation of the dwellings ensures the living rooms and balconies have good access to sunlight notwithstanding that the balconies are screened, and the layout of the dwellings allows good ventilation.”
The layout and orientation of the apartments under current proposal is not dissimilar to the previous scheme, where all apartments have living areas and POS with a strong northern aspect. Whilst this may be undesirable for the adjoining property at No.102, this matter was assessed as satisfactory by the Tribunal where it held:

“58. I find the numerous balconies face towards 102 Main Street is acceptable, in principle. I acknowledge this results in a greater sense of activation of the northern elevation, with consequent negative impacts on the secluded use of the rear of 102 Main Street. However, the northern orientation of these balconies considerably benefits the proposed dwellings’ internal amenity and I consider this outweighs the adverse impacts on 102 Main Street.”

It is noted that the provision of POS for some ground level apartments has significantly increased due to the lowering of the basement which has enabled Apt’s 2-7 to have courtyards measuring 23 to 32sqm in area instead of balconies. The upper level dwellings will have private open space areas in the form of balconies in excess of 8sqm that will adequately meet the recreational needs of future occupants.

All habitable rooms have direct access to natural light with no reliance on ‘borrowed light’.

In all, the on-site amenity provided for future residents of the development is of a reasonable standard particularly having regard to the locational context of the site adjacent to an activity centre.

**Northern interface at the rear (the rear 25 metre portion)**

The height and setbacks of the rear portion of the building as viewed from the north is generally unchanged bearing in mind the Tribunal made positive findings as follows:

“85. I am satisfied with the design response of the rear 25 metre length of the building and find the design response of Units 9, 22 and 32 can replace the more recessive Units 11, 24 and 34. My finding is influenced by the design response in this section of the building, the distance of this part of the building from the sensitive areas of 102 Main Street and the high, blank wall of the adjacent supermarket.”

As suggested by the Tribunal the recessed area at the rear has been relocated further east where it is adjacent to the swimming pool at No.102. In turn, Apt’s 9, 21 and 30 (formerly Apt’s 11, 24 and 34) have slightly reduced setbacks as contemplated by the Tribunal due to the separation from the most sensitive areas of No.102 and the existing views of the bulky supermarket building.

**Traffic and Parking**

The development provides for a total of 37 car spaces within the basement, including 33 resident spaces and 4 visitor spaces.

Given the proposal includes a total of 31 dwellings of which none have more than two bedrooms, the provision of car parking for residents exceeds the parking rate of 1 space per dwelling under Clause 52.06. The provision of 4 visitor spaces does not meet the parking rate required by Clause 52.06 of 1 space per 5 dwellings (shortfall of 2). This matter is addressed in the accompanying submission by Ratio’s Traffic Engineers.

It is noted that the Tribunal held no concerns in respect of parking and traffic matters with the previous development proposal for the site, where it stated:

“95. I agree with Mr Fairlie’s evidence on traffic and parking. It is clear that there is a degree of existing congestion at the intersection of Main Street and Canterbury Road and that existing traffic volumes along Main Street are reasonably high. The proposed development is not expected to resolve or ameliorate these existing issues.”

For these reasons, we consider the current scheme offers sufficient car parking for residents and visitors and will not cause undue impacts on the surrounding road network.
Tree impacts

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Building Height

The maximum building height is 9.91 metres, which we note is compliant with Standard B7 of Clause 55 which allows 10 metres due to the slope of the land which far exceeds 2.5 degrees over a cross section wider than 8 metres.

When compared with the previous proposal, the maximum height under the current proposal has reduced by 2.43 metres which is achieved by lowering the basement level. It is noted that the Tribunal was supportive of a three storey building for the site due to its strategic and locational context.

Site Coverage and Permeability

The proposed site coverage is 58.37%, which we note is compliant with Standard B8 of Clause 55 which requires 60%. Further, the site coverage is markedly lower than the previous scheme for the site which was 63.12%. The proposed site coverage reflects that a considerable proportion of the site is devoted towards open space and landscaping to ensure the garden characteristics of the locale are respected.

The site permeability is 35.14%, which exceeds the 20% required by Standard B9 of Clause 55 and represents an increase of 2.6% from the previous scheme for the site (32.54%). This ensures there is appropriate stormwater infiltration, and in addition to this we note there is provision made for a large water tank in the basement.

Overlooking

The north and west elevations of the building which are located within a 9 metre viewing arc of the neighbouring dwellings have been suitably screened to accord with Standard B22 of Clause 55.

This is achieved using a number of techniques such as highlight windows with raised sill heights to 1.7m, opaque glass to 1.7m and horizontal metal screening blades. The section diagrams (C-C, E-E and I-I) provide detail of the screening devices to demonstrate that there is no potential for downward views in the POS to the north.
**Overshadowing**

The proposal will cause no additional shadow impacts on secluded private open space, which is largely due to the commercial nature of the adjacent land to the south.

**Pedestrian Access**

The provision of pedestrian access via open walkways along the southern side of the building has been retained, and this was found to be acceptable by the Tribunal where it stated:

“57. I find the open pedestrian walkways that provide access to each dwelling are acceptable, as they face an activity centre where activity and surveillance are valued. It also improves the access to daylight for the rooms on the south side of the dwellings. I agree with Mr Peake that the third level walkways should be covered rather than being open to the sky, yet consider this could be easily addressed.”

The upper level walkway is partly covered above the entries of the dwellings as appropriate.
7 Conclusion

Significantly, a previous development proposal on the site has been well considered by the Tribunal and was found to be unacceptable due to specific issues relating to the impact of the building at the northern interface. Significantly however, when tested on other key matters relating to the policy support, front and rear setbacks, internal amenity and car parking to name a few, the Tribunal was supportive of the previous scheme.

In response the current proposal offers significant changes from the previous proposal so as to appropriately address the issues raised by the Tribunal, and to this end we consider the amended scheme warrants a departure from the Tribunal’s determination. The nature of the changes will provide a more sympathetic response to the amenity of No.102 to the north as well as the streetscape character and will ensure a suitable built form and landscape outcome is achieved for the site.

Having regard to the above and to the various other supporting documents provided with this application, it is respectfully submitted that the proposal is worthy of support.

Robbie McKenzie  
Ratio Consultants Pty Ltd
APPENDIX A

VCAT order in Application for Review P2242/2012
APPENDIX B

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