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**9.2 Amendment C95 to the Manningham Planning Scheme -**

**Request to Rezone land at 3-9 & 11 Mitchell Street, Doncaster**

**East - Consideration of Application**

Responsible Director: Director Planning & Environment

File No. C95

The ultimate destination for this report is: COUNCIL AGENDA

Neither the responsible Director, Manager nor the Officer authoring this report has a

conflict of interest in this matter.

**SUMMARY**

*The land affected by the Amendment comprises two lots, known as 3-9 and 11*

*Mitchell Street, Doncaster East.*

*The proposal is for a combined Planning Permit and Planning Scheme Amendment*

*request under section 96(A) of the* Planning and Environment Act 1987 *(the Act),*

*which seeks to provide for the use and development of the land at 3-11 Mitchell*

*Street, Doncaster East for the purpose of a five-storey (approximately 19 metres)*

*mixed use development. The Amendment proposes to rezone the subject land from*

*a Residential 1 Zone (R1Z) to a Mixed Use Zone (MUZ). The Amendment also*

*proposes to remove the Design and Development Overlay Schedule 8 (DDO8) –*

*Residential Areas Surrounding Activity Centres and Along Main Roads from the site.*

*The rezoning request has been accompanied by a planning permit application to*

*use and develop the site for a multi-storey mixed-use building for the purpose of a*

*shop (supermarket), restaurant/reception centre, three levels of residential*

*apartments and basement car park. The application also seeks a reduction in the*

*number of car spaces and removal of an easement from the rear of the property.*

*While there is some merit to the proposal, within the context of Manningham’s*

*hierarchy of activity centres, and in considering the strategic basis of the proposal*

*there is not a clear policy basis that provides support for the proposal. Furthermore,*

*while recognising that the site is appropriate for development and putting aside the*

*zoning issue, it is considered that the degree of change including the height and*

*scale of the building, is excessive and does not provide a suitable transition to the*

*adjacent residential properties. Further the proposed height of the development*

*does not respect the designated neighbourhood character of the local area, would*

*have a detrimental impact on adjoining residents and set a precedent for*

*consideration of heights above 13.5 metres in and around other Neighbourhood*

*Activity Centres.*

*It is therefore proposed to not support the request for an amendment to the*

*Manningham Planning Scheme and planning permit application on the grounds that*

*the proposed height of the development, at almost 19 metres, is not an acceptable*

*outcome for this site, having regard to the context of its location within a*

*Neighbourhood Activity Centre and the character of the local area.*

*It is recommended that any development of the subject land be set at a discretionary*

*height of 13.5 metres, which is consistent with the heights endorsed by Council for*

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*sites on the periphery of other Neighbourhood Activity Centres and allows for a level*

*of flexibility to increase height in response to site context and good design*

*outcomes. It also provides a suitable transition from the subject site to adjacent*

*residentially zoned land, which has a preferred height of 11m (which is proposed to*

*be introduced as a mandatory height under Amendment C96 which is currently with*

*the Minister for Planning awaiting approval).*

**1. BACKGROUND**

1.1. The land affected by the Amendment comprises two lots, known as 3-9 and 11

Mitchell Street, Doncaster East (Refer Attachment 1). The land at 3-9 Mitchell

Street is currently occupied by a two-storey building comprising the Monte

Carlo reception centre, Casivini restaurant and the former YMCA recreation

centre (now used by a church organisation). The land located at 11 Mitchell

Street, to the south of Casivini's car park, is developed with a single storey

detached dwelling. A drainage easement affects a portion of the western

(rear) boundary of the site.

1.2. The site covers an area of 3,661sqm and has a frontage of approximately 93

metres to Mitchell Street. It is located on the western side of Mitchell Street,

approximately 48m south of the intersection of Mitchell Street and Doncaster

Road. It is located at the western interface of the Jackson Court Shopping

Centre, which is one of ten identified Neighbourhood Activity Centres within

the municipality.

1.3. The subject land is in a Residential 1 Zone and is also affected by Schedule 8

to the Design and Development Overlay (DDO8) – Residential Areas

Surrounding Activity Centres and Along Main Roads. The land is identified as

being within sub-precinct A of the DDO8 (Refer Attachment 2 – Site Context).

**Previous Planning Application**

1.4. On 21 April 2011, Council received a planning application for the use and

development of land at 3-9 Mitchell Street, Doncaster East. The proposal was

for a five storey (16.5m high) redevelopment comprising the existing ground

floor of the café/restaurant, function venue and gymnasium/office, with three

levels of residential apartments and two penthouse apartments to a partial fifth

floor level and three levels of basement car parking.

1.5. On 30 May 2011, Council officers requested further information and also

identified preliminary concerns with the proposal, including that the proposal

was contrary to the Manningham Planning Scheme, in particular the DDO8.

Areas of non-compliance with the DDO8 included insufficient setbacks,

excessive site coverage, excessive building height and lack of articulation. It

was also noted that all references to ‘retail’ needed to be deleted from the

plans as retail use was prohibited in a Residential 1 Zone (R1Z).

**Combined Planning Scheme Amendment & Planning Permit**

1.6. Following discussions with Council officers, on 27 October 2011, the applicant

lodged a combined planning scheme amendment and planning permit

application under section 96(A) of the *Planning and Environment Act 1987*.

The proposed amendment to the Manningham Planning Scheme sought to

rezone the land at 3-9 Mitchell Street, Doncaster East from a Residential 1

Zone (R1Z) to a Business 1 Zone (B1Z) (now known as the Commercial 1

Zone) and to delete the DDO8. The rezoning is required in order to facilitate

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the retail component of the development which proposes to incorporate a

supermarket.

1.7. The planning permit application sought an amendment to the initial application

to allow construction of a five storey building, encompassing four levels of

residential, ground level retail (incorporating a supermarket) and two levels of

basement car parking (these preliminary plans show an indicative height of

approximately 17.6 metres).

1.8. On 29 November 2011, Council officers requested further information in

relation to the revised proposal, including strategic justification for the rezoning

of the land to B1Z (as the amendment is proposing to expand the activity

centre boundary), and details on how the proposed development would link to

and integrate with the activity centre and respond to the interface of the

adjoining residential areas. That correspondence also raised preliminary

concerns with the proposal, including the scale and height of the building and

concerns in relation to traffic movement.

1.9. Council officers also advised the applicant that in principle support for the

rezoning request would only be provided where the proposal incorporated

provision for the use and development of a supermarket on the subject land

(refer to additional discussion in Section 2 of this Report).

1.10. In November 2012, a revised proposal was lodged, which included land at 11

Mitchell Street, Doncaster East. The revised application for planning permit

proposes to allow use and development of the land for a five storey building

(18.9m high), comprising a supermarket at ground level (5 metre height), three

storeys of residential and a restaurant on the top level, a reduction in car

parking rates, dispensation for the provision of shower/change room pursuant

to Clause 52.34 and removal of the easement located along a portion of the

western boundary (Refer Attachment 3 – Development Plans).

1.11. On 11 December 2012, the application was presented to a Strategic Briefing

Session of Council, where a number of concerns were raised by officers

including the proposed expansion of the shopping centre, which is inconsistent

with current Council policy and various concerns with regard to the

development proposal, particularly in respect to the height and scale of the

proposed building and impact on residential amenity.

1.12. In a letter to the proponent dated 9 January 2013, Council officers raised a

number of specific concerns in relation to the proposal, primarily relating to the

height of the proposed building, the floor area, design and management of the

supermarket, the residential interface and amenity issues. Further information

was also requested to address specific matters relating to the planning permit

application.

1.13. The proponent subsequently presented to a Strategic Briefing Session on 19

February 2013 where Councillors indicated their support for proceeding with

the process of considering the proposed amendment to rezone the land from

R1Z to B1Z and to remove the DDO8, together with the proposed planning

permit application based on the applicant’s submitted proposal.

1.14. A further letter to the proponent was sent in March 2013, generally reiterating

the concerns previously raised by officers and requesting additional

information to address specific matters relating to the planning permit

application.

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1.15. On 28 March 2013, the application was presented to the Sustainable Design

Taskforce. Some of the issues raised at the taskforce included the need for

further information outlining the economic benefits, opportunities for

beautification of the public realm and community benefits of the proposal,

opportunities to improve pedestrian access across Mitchell Street to better

integrate with the existing shopping centre, presentation of western facades to

adjoining residences, noise from the commercial activities and ensuring that

traffic and traffic management is adequately addressed. Generally positive

feedback was provided from the external architect in relation to the

architectural design response.

1.16. On 14 May 2013, the proponent submitted a written response in relation to

Council’s March correspondence and provided amended plans to address

some of the officers concerns. Whilst the applicant did not provide all of the

additional information requested, officers determined to proceed with

assessing the application based on the information provided to date.

**2. PROPOSAL/ISSUE**

2.1. The current proposal is for a combined Planning Permit and Planning Scheme

Amendment request under section 96(A) of the *Planning and Environment Act*

*1987* (the Act), which seeks to provide for the use and development of the

land at 3-11 Mitchell Street, Doncaster East for the purpose of a five-storey

(approximately 19 metres) mixed use development.

2.2. The Amendment proposes to rezone the subject land from a Residential 1

Zone (R1Z) to a Mixed Use Zone (MUZ). The Amendment also proposes to

remove the Design and Development Overlay Schedule 8 (DDO8) –

Residential Areas Surrounding Activity Centres and Along Main Roads from

the site.

2.3. The rezoning request has been accompanied by a planning permit application

to use and develop the site for a multi-storey building for the purpose of a

shop (supermarket), restaurant/reception centre, three storeys of residential

apartments and basement car park. The application also seeks a reduction in

the number of car spaces and removal of an easement from the rear of the

property.

**Planning Scheme Amendment - Zoning**

2.4. Whilst the proposal seeks to rezone the land from a R1Z to a B1Z (now known

as the Commercial 1 Zone – C1Z), following the release of the reformed

residential and commercial zones, and subsequent introduction of these zones

into the Victoria Planning Provisions (and local planning schemes), it is

necessary to consider the request for amendment in the context of the new

zones (The three new residential zones were introduced into the VPP on 1

July 2013, the reformed residential zones [including the Mixed Use Zone] and

new commercial zones were introduced to the VPP and local planning

schemes on 14 July 2013).

2.5. The request for amendment has been assessed against the suitability of using

the Residential Growth (RGZ), General Residential (GRZ), Commercial 1

(C1Z) and Mixed Use Zones (MUZ). Whilst both the Commercial 1 Zone and

Residential Growth Zone could be considered, it is considered that if the

scheme was to be amended, that the Mixed Use Zone would be the most

appropriate in terms of achieving the desired planning outcomes for the site.

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2.6. The purpose of the MUZ includes providing for a range of residential,

commercial, industrial and other uses which would complement the mixed use

function of the area; providing housing at higher densities; and encouraging

development that responds to the existing or preferred neighbourhood

character of the area.

2.7. Further, in the event that development of the site does not proceed as

currently proposed, the MUZ would help ensure that any future development

of the site incorporates a residential component and that the site is not just

developed for commercial activities. The MUZ also provides for greater

consideration of the residential component of a development, including its

impact on the amenity of adjoining residential areas than the C1Z.

2.8. Although building height is discussed separately in this section, the Schedule

to the MUZ would also enable a maximum mandatory height to be specified,

which would avoid the need to use an alternative planning tool to

control/mandate a preferred height for the site e.g. section 173 Agreement or

Design and Development Overlay (DDO). The application of a

preferred/mandatory height to the site is considered essential to provide

greater certainty to the local community and to assist with decision making.

2.9. As Council has not yet formally determined its approach to the application of

the three new residential zones, it is considered somewhat premature to apply

the new residential zones to this site (noting that the proposed shop

component of this development could now be considered under the

Residential Growth Zone). Further, the purpose of the Residential Growth

Zone supports applying it only to those areas where heights up to and

including 4 storeys are proposed. Given the current development proposal

has a height of approximately 19m, the RGZ would not be appropriate in this

regard.

2.10. The proponent has been provided advice in this regard and has not offered

any particular objection to the application of a MUZ to the site.

**Planning Permit Application**

2.11. Pursuant to the site being rezoned Mixed Use, the permit triggers for the

proposed development under the Manningham Planning Scheme are:

Clause 32.04

(Mixed Use Zone)

The use of land for shop (supermarket), restaurant and

reception centre

Clause 32.04

(Mixed Use Zone)

The construction of a multi-storey buildings comprising

apartments and the above uses with associated basement car

parking

Clause 52.02

(Easements)

The removal of easement E-2 on Lot 2 of PS206485Q

Clause 55.06 (Car

Parking)

A reduction in statutory parking requirements

2.12. The proposed development complies with the statutory requirements of the

following potential permit triggers under the Manningham Planning Scheme:

Clause 55.06-8 The car park design accords with the planning scheme

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(Design Standards

for Car Parking)

requirement in relation to space size, aisle width and access

arrangements.

Council’s Engineers have raised no issue with this aspect of

the development, other than providing a clearance in the

disabled parking space that would appear to have been met.

Clause 55.07

(Loading)

The proposed supermarket and restaurant has a loading area

of around 100sqm which far exceeds the statutory minimum

of 27.4sqm. The length, width and clearance requirements

are also easily exceeded.

Turning templates have been submitted with the Traffic and

Car Parking Assessment that demonstrates the loading areas

capacity to function using single axle 12.5m vehicles.

Council’s Engineers have raised no issue with this aspect of

the development.

Clause 52.34

(Bicycle Facilities)

There is a statutory bicycle parking rate of 41 spaces (24

resident + staff and 14 visitor). There is also a requirement

for a shower and change room facilities.

The development provides 8 visitor bicycle spaces at the

Mitchell Street frontage, 18 visitor and staff bicycle spaces at

the upper basement level and 12 dedicated resident bicycle

spaces at the lower basement level. The plans also indicate

that the residential storage lockers and cages can be used for

bicycle storage.

The development provides for a shower and change room

facility on the basement level.

Should a permit be granted a condition will require 3

additional dedicated bicycle parking to ensure 41 dedicated

space are provided in the development.

2.13. State Planning Policy requires a building of this scale (5 or more storeys) to be

considered using *Design Guidelines for Higher Density Residential*

*Development* (Department of Sustainability and Environment, 2004) pursuant

to policy at Clause 15 of the Manningham Planning Scheme.

**3. MANNINGHAM PLANNING SCHEME**

3.1. The following details the relevant sections of the State Planning Policy

Framework and Local Planning Policy Framework, including the Municipal

Strategic Statement are relevant to the consideration of the proposal.

**State Planning Policy Framework**

*Clause 11 – Settlement*

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3.2. Planning is to anticipate and respond to the needs of existing and future

communities through the provision of zoned land for amongst other uses,

housing, employment and commercial facilities.

3.3. The amendment is generally consistent with Clause 11.01 Activity Centres

which aims, to build up activity centres as a focus for high-quality

development, activity and living for the whole community by developing a

network of activity centres and encourage a range of activities which are

highly accessible for the community*.* The proposed rezoning of the site to a

MUZ will take advantage of the site’s proximity to the existing neighbourhood

Activity Centre and will ensure that the supermarket/retail component of the

development application benefits from good access to public transport and

makes full advantage of existing service and infrastructure.

3.4. Clause 11.02 Urban growth seeks to ensure that a sufficient supply of land is

available for a mix of land use activities and located urban growth close to

transport corridors and services. The site is well located within a

Neighbourhood Activity Centre and the development application proposes to

provide a diversity of housing opportunities in addition to a supermarket and

restaurant/reception centre contributing to the range of services and facilities

offered in the local area.

3.5. Clause 11.04-2 explains the hierarchy of activity centres and broadly defines

the role and function of activity centres. Neighbourhood Activity Centres

should seek to provide a mix of uses that meet local convenience needs and

are accessible to a viable user population by walking and cycling. The

proposed rezoning will enable the provision of a supermarket which will

contribute to the mix of uses in the Jackson Court centre, will provide a

community focal point and is accessible by local users walking, cycling and by

public transport.

3.6. One matter that is important to focus on, relates to the distinction in regard to

the provision of residential development in the hierarchy of activity centres. A

Principal / Major Activity Centre have the potential to grow and support

intensive housing developments without conflicting with surrounding land

uses. Higher density housing is encouraged in and around neighbourhood

Activity Centres that is designed to fit the context and enhance the character

of the area while providing for a variety of housing options.

3.7. The degree of change is anticipated to be significant in principal and major

activity centres as intensive residential development is encouraged without

limitation. Whereas a Neighbourhood Activity Centre encourages higher

density housing with a limitation that it ‘fit the context’ and ‘enhance the

character’ of the area. In this regard consideration should be given to the

physical attributes of the site and surrounds and a more strategic context in

terms of the activity centre hierarchy at a municipal level. It is considered, that

whilst the architectural presentation and internal amenity provided though the

design is generally acceptable, that the scale and intensity of development

and specifically building height, does not ‘fit the context’ or ‘enhance the

character’ of the area. These specific requirements in the SPPF are therefore

not achieved.

*Clause 13 – Environmental Risks*

3.8. Clause 13.04 Noise and air aims to assist the control of noise effects on

sensitive land uses. The applicant has submitted an acoustic assessment to

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support their application, which incorporated a restaurant/reception centre on

the top level of the buildings. Planning permit conditions could be applied to

minimise amenity impacts associated with noise from the development.

*Clause 14 – Natural Resource Management*

3.9. Clause 14.02 Water aims to assist with the protection of catchments,

waterways and ground water. Planning permit conditions could be applied to

minimise sediment discharges as part of the construction management plan.

*Clause 15 – Built Environment and Heritage*

3.10. Clause 15.01 Urban environment aims to create urban environments that are

safe, functional and provide good quality environments with a sense of place

and cultural identity. The proposed rezoning will enable a higher and better

use on the site that will form the western bookend to the Jackson Court

Neighbourhood Activity Centre. The rezoning will enable a mixed use

development that will generate good opportunity for passive surveillance over

the shopping centre and local street network as well as providing opportunity

to enhance the treatment of the public realm via new street paving and

landscaping.

3.11. Clause 15.02 Sustainable development aims to encourage land use and

development that is consistent with the efficient use of energy and the

minimisation of greenhouse gas emissions. The aims to provide 65 new

apartments within an established urban area promoting state objectives of

urban consolidation. A Sustainable Management Plan has been developed

for the application which aims to reduce energy and water use and encourage

walking and cycling through the provision of bicycle hooks for residents and a

number of vertical bike spaces for other bicycle users.

*Clause 16 – Housing*

3.12. Clause 16.01 Residential development seeks to provide for housing diversity

and housing affordability and ensure new housing is located in or close to

activity centres, public transport and jobs and services. The proposed

rezoning will enable the achievement of a mixed use development on the site

that includes the provision of a mix of one and two dwellings. The dwelling

mix will contribute to a diversity of housing types in the local area and support

commercial activities the Jackson Court shopping centre. These dwellings will

also be located proximate to public transport services that operate along

Doncaster Road and connect to local employment centres.

*Clause 17 – Economic Development*

3.13. Clause 17.01 Commercial, seeks to encourage development which meets the

communities’ needs and manages out of centre development. The

amendment supports the re-establishment of a supermarket at the edge of the

Jackson Court Neighbourhood Activity Centre that will service the day to day

convenience needs of local residents and support the economic viability of the

centre.

*Clause 18 – Transport*

3.14. Clause 18.01-1 Land use and transport planning and Clause 18.02-1

Sustainable personal transport, promote a safe and sustainable transport

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system by integrating land use and transport and sustainable personal

transport. The proposed rezoning and reinstatement of a convenience

supermarket on the subject site will achieve the objectives of Clause 18 by

providing a local retail service adjacent to the existing commercial centre, that

satisfies the needs of local residential neighbourhood and can be accessed on

foot, bicycle or public transport.

**Local Planning Policy Framework**

*Clause 21.03 Key Influences*

3.15. This Clause outlines Manningham’s commitment to sustainability and the key

issues that are likely to challenge Manningham’s future growth and

sustainable development.

3.16. The provision of residential housing needs to have regard to our ageing

population coupled with the trend towards smaller household size, whilst being

located in proximity to activity centres, major roads and transport routes.

Council’s growth strategy seeks to balance the integration of current and

future housing needs, neighbourhood character, protection of significant

landscapes and environmentally sensitive area. Increasing pressure for infill

development, land consolidation, and higher density housing needs to occur in

a manner that respects residential character and the amenity values by

existing residents. It also discusses Council’s intention to consolidate

development within existing retail centres to reinforce the existing activity

centre hierarchy.

*Clause 21.05 Residential*

3.17. Clause 21.05 of the MSS relates to residential development including land in

the Mixed Use Zone (MUZ). Managing change and growth of these areas by

encouraging infill residential development that consolidates the role of

established urban areas and reducing development pressure in areas with

environmental and landscape values is encouraged.

3.18. The subject site and adjoining land to the south and west is identified in

Clause 21.05 as being in Residential Character Precinct 2 – Residential areas

surrounding activity centres and along main roads. Land within Precinct 2 has

been included in a Design and Development Overlay Schedule 8 (DDO8).

3.19. Precinct 2 can be broken down further into two sub-precincts; Sub-precinct A

and Sub-precinct B. The subject land is located in Sub-precinct A, which

encourages three storey, contemporary development on consolidated sites

with a minimum area of 1800sqm.

3.20. The amendment proposes to remove the DDO8 from the land, in turn

removing it from Precinct 2 – Residential Areas Surrounding Activity Centres

and Main Roads in this Clause. The planning controls currently applying to

the land (DDO8) which include an 11m height limit and the preference for 60%

site coverage under Sub-Precinct A will cease to apply to site.

3.21. Clause 21.05 will, however continue to apply to the site. Relevant objectives at

21.05 include:

Potential impact of new development on the surrounding area.

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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 encourage residential development that enhances the existing or

preferred character of the residential character precincts as shown on

Map 1 to this Clause.

To ensure that business activities do not compromise the residential

amenity and character of the neighbourhood.

To ensure that the range of uses within mixed use developments are

compatible.

To discourage the rezoning of land for commercial uses outside activity

centres.

*Clause 21.09 Activity Centres and Commercial Areas*

3.22. Clause 21.09 applies to all activity centres and commercial areas and also

includes land in a Mixed Use Zone. It sets outs Manningham’s hierarchy of

activity centres and recognises that activity centres are integral to the local

economy and are an important focal point for community life and interaction.

Key challenges for Council’s network of activity centres are to ensure

commercial development is contained within the existing activity centres and

to ensure that centres remain vibrant, viable and sustainable into the future.

3.23. The following objectives of Clause 21.09-4 Neighbourhood Activity Centre are

relevant to this proposal including:

To maintain the role of NACs to meet local convenience needs.

To achieve active street frontages in NACs.

To discourage the location of new commercial and retail development

outside NACs.

To minimise the negative impact of NACs on the amenity of adjoining

residential areas.

To achieve high quality urban design which promotes a sense of place,

community identity, social interaction and a safe environment.

*Clause 21.10 Ecologically Sustainable Development*

3.24. Manningham is committed to Ecologically Sustainable Development (ESD)

and supports and encourages land use planning and development, design,

construction using ESD principles. The proponent has submitted a SMP

which seeks to reduce overall water and energy use.

*Clause 22.01 Design and Development Policy*

3.25. This policy applies to land in a Commercial 1 and Mixed Use Zone (MUZ).

The policy directs that the scale, form and appearance of development must

respond to site opportunities and constraints and must make a positive

contribution to the City’s sense of place. The policy comprises seven design

elements relating to context (building from, colours and materials, height,

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massing, setbacks, roof form and window and door proportions), landscape

design, the public realm, landmarks, views and vistas, residential interface, car

park and driveway construction and subdivision.

3.26. The two elements that are of particular importance to consideration of this

proposal relate to context and residential interface.

*Clause 22.06 Eating and Entertainment Premises Policy*

3.27. This policy directs that eating and entertainment premises should be located

within existing activity centres and commercial areas. The relevant objectives

of this policy are:

To ensure that eating and entertainment premises are appropriately

located having regard to:

o Intensity (no. of seats/patrons) and hours of operation of the

proposed activity;

o Location of access points;

o Adequate provision of car parking; and

o Traffic generated being appropriate to the street locality and not

adversely affecting traffic flow or road safety.

To ensure the design, scale and appearance of development is consistent

with the residential character and streetscape of the area.

To ensure that residential amenity is not detrimentally affected by the

operation of eating and entertainment premises including the effects of

loss of privacy, noise, car parking and traffic, light spillage, odour and

waste.

*Clause 22.07 Outdoor Advertising Signs Policy*

3.28. If the development were to proceed, it should be noted that any future

application for signage would need to have regard to this local planning policy.

*Clause 22.08 Safety through Urban Design Policy*

3.29. Appropriate design can improve safety and reduce the level of crime and antisocial

behaviour.

**4. CONSIDERATION OF AMENDMENT**

**Floor Area of the Supermarket**

4.1. In October 2008, Council engaged Tim Nott, Economic Analyst, to undertake a

review of the demand for a supermarket in Jackson Court, following the

announcement of the closure of the Woolworths supermarket and its

replacement with a Dan Murphy liquor shop. At the time many of the retailers

were concerned that the loss of the only supermarket in the centre would

result in a significant loss of trade to the centre and a reduction in the service

available to the local community.

4.2. That report suggested that the replacement of the supermarket with a liquor

store would result in the reduction of overall sales in Jackson Court and that

there could be the potential to support a small supermarket, in addition to the

liquor store.

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4.3. The assessment noted that, *‘If a supermarket of between 1.300 sq m and*

*2,300 sq m were to operate from Jackson Court as well as the proposed Dan*

*Murphy store, the total food and grocery sales in the trade area would be $2m*

*to $10m higher than at present*.’ It was noted however that the larger

supermarket scenario could have some adverse impacts on the food and

grocery offering at Doncaster East/Devon Plaza. The assessment determined

that, ‘*in order to prevent any significant adverse impact on surrounding*

*centres, the supermarket at Jackson Court should be between 1,300 sq m and*

*1,800 sq m*...’

4.4. Council subsequently undertook an EOI process, to determine interest in

locating a small supermarket on Council-owned land within Jackson Court. In

July 2012, Council decided not to defend Supreme Court action against

Woolworths in relation to removal of access reservation, in order to enable a

supermarket to be developed on a portion of the Council owned car park to

the east of the existing Dan Murphy site.

4.5. It would appear that the current proposal has in part been prepared in

response to Council’s inability to resolve the issues relating to the provision of

a supermarket on its own land within the Jackson Court Activity Centre. The

current application is seeking the development of a supermarket with a total

area of 2,378sqm. This appears to include a small retail space in the northeast

corner, which could potentially be used for an associated retail activity

e.g. liquor store, bakery etc. This area does not appear to have direct

pedestrian access from Mitchell Street.

*4.6.* Whilst officers requested further economic analysis from the proponent to

support the proposal and to address any potential impact on other centres, the

proponent in their response noted that, given the convenience nature of the

supermarket and its relatively small size further economic analysis was not

considered necessary. In this regard they provided the following response:

*‘It is submitted that the proposed supermarket will not adversely impact the*

*surrounding centres because:*

*The proposed supermarket, even at 2300sqm is not a full line supermarket*

*and will not compete with the major Woolworths or Coles supermarkets*

*at Tunstall Square or Devon Plaza. The proposed supermarket will*

*fulfil local convenience needs and is not expected to replace primary*

*shopping trips to larger supermarkets.*

*The proposed supermarket’s size sits at the upper limit of the range*

*anticipated in the demand analysis prepared by Tim Nott.*

*It is unrealistic to expect that surrounding supermarkets will not be*

*impacted at all by the proposed development. These centres benefited*

*from increased trade when the former supermarket closed in 2008. It*

*is realistic to expect some loss in market share when a supermarket is*

*re-established in the centre, equating to the restoration of the previous*

*equilibrium of demand.*

*Sustainable land use and development principles encourage reduced use*

*of private motor vehicles. The reinstatement of a supermarket will*

*encourage local residents to walk to their local shops rather than travel*

*by car to more distant shopping centres to meet every day needs*.’

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4.7. Although it was hoped that an economic analysis would provide information on

the current retail sales of the shopping centre and further justify provision of

the larger sized supermarket and its potential impact on the other centres, it is

reasonable to expect some loss in market share from the other centres as a

result of the re-establishment of a supermarket at Jackson Court. What

remains unclear, however is the level of impact a larger sized supermarket will

have on other local centres.

4.8. The *Manningham Activity Centre Strategy 2005*, did not identify a shortage of

land for new development within the Centre. Furthermore the Strategy does

not support out of centre development and Clause 21.09-4 (Neighbourhood

Activity Centres) of the MSS specifically discourages the location of new

commercial and retail development outside Neighbourhood Activity Centres.

Given the centre is already quite large and extends to the east along

Doncaster Road and Jackson Court, further expansion of the centre needs to

be considered carefully.

4.9. It should be noted, however, that the reformed zones allow a broader range of

activities to be considered, particularly within the new suite of residential

zones, albeit, no formal decisions have yet been made on the application of

these new zones. While this may be appropriate in some instances, officers

are somewhat concerned that the new residential zones are contrary to

current planning policy.

**Management of the Supermarket**

4.10. Officers have previously advised the applicant that in-principle support for the

proposed rezoning would only be provided where the proposal incorporates

provision for the use and development of a supermarket on the subject land,

which would need to be tied to the site via a section 173 agreement or other

suitable mechanism. The proponent has generally consented to the

development of such an agreement and justification provided for the proposal,

it restricted to the use of this land for a supermarket.

4.11. It is noted, however that there may be difficulty in restricting the retail space to

a supermarket use in the long term and that the applicant could appeal such

mechanisms, such as provision of a section 173 Agreement, to Planning

Panels Victoria and/or VCAT.

4.12. Even so, it is considered that the unchecked use of this space for other retail

activities could have unintended implications for other retail uses within the

Jackson Court Shopping Centre and potentially other Neighbourhood Activity

Centres.

4.13. It would be preferable that the application include a commitment for the

supermarket in order to provide greater assurance that the supermarket will be

tenanted and will not remain vacant and unused. This would also provide a

greater level of certainty to Council and the broader community and would

ensure that the supermarket space is appropriately designed to meet their

needs.

4.14. If the development proceeds, it is recommended that Council enter into a

section 173 agreement with the landowner to require provision of a

supermarket on the subject land. The section 173 agreement should then be

placed on the title.

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**Height & Scale of Building**

4.15. The proposed development is for a five storey building with a maximum height

of approximately 19 metres (noting the ground floor incorporating the

supermarket is approximately 5 metres in height). In order to determine the

appropriateness of the height and scale of the proposed development, it is

important to consider the development, firstly in the context of its location

within a Neighbourhood Activity Centre and secondly in context to the activity

centre hierarchy within Manningham.

*Local Context*

4.16. The subject land is currently zoned R1Z in conjunction with a DDO8 (subprecinct

A). Land to the west and south of the site is also included in R1Z in

conjunction with a DDO8, whilst land immediately to the north and east of the

site is included in a B1Z.

4.17. Surrounding residential zoned land is developed with a mix of single detached

dwellings and single and double storey infill residential housing. A number of

larger apartment buildings of 3-4 storeys (which are generally in the vicinity of

11 metres in height) have been developed in the local area, although these

are largely restricted to Doncaster Road.

4.18. Pursuant to Table 1 to Schedule 8 of the Design and Development Overlay,

within sub-precinct A the maximum building height is 11 metres provided the

lot is 1,800sqm or greater. If the condition regarding lot size is not met, the

maximum building height is 9 metres. It is important to note, that the height

controls contained in the current DDO8 are discretionary in nature.

4.19. In May 2013, Council adopted Amendment C96 to the Planning Scheme to

effectively tighten the DDO8 provisions, including, among other things,

introducing limited mandatory maximum building height and minimum lot size

controls and introducing a new ‘Main Road’ sub-precinct where the preferred

height and minimum lot size would continue to remain discretionary.

4.20. The subject land and adjoining residential land to the south and west are

proposed to be retained within sub-precinct A of DDO8 as part of Amendment

C96. As part of Amendment C96 the provisions relating to sub-precinct A are

proposed to be amended to provide for a mandatory requirement for height

limits and minimum lot size as follows:

11 metres for development on lots of 1,800m2 or more; and

9 metres for development on lots less than 1,800m2 and 10 metres on a

sloping site.

4.21. Amendment C96 is awaiting approval by the Minister for Planning.

4.22. In considering the local context and the character of the area it is important to

acknowledge that a significant number of residential lots to the south and west

of the subject land have already been developed with a mix of single and

double storey townhouses. The opportunity to develop the remaining

patchwork of larger lots, some of which are isolated between multi-unit

development, will therefore limit opportunities for future apartment style

development. In effect, future development of these lots will largely be

restricted to town house developments of up to 9 metres in height.

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4.23. As noted above, land to the north and east of the site is included in a

Commercial 1 Zone (C1Z). The Jackson Court Shopping Centre located to

the east of Mitchell Street is identified as a Neighbourhood Activity Centre.

Development within the centre is of a low scale, being predominantly singlestorey

and double-storey in form.

4.24. Whilst it is acknowledged that no height limits are specified in the C1Z (nor the

former B1Z) and that there are no overlay controls that provide any specific

guidance about form or height of buildings within this centre, the SPPF guides

development and effectively puts a cap on height and scale by requiring that

development must ‘fit the context’ and ‘enhance the character’.

4.25. In this regard an independent urban design analysis has been undertaken of

the proposed development to assist with consideration of the application. In

particular the relationship/impact of the proposal with the residential interface

and public realm areas. Preliminary recommendations have been provided to

Council by the consultant in the form of preferred maximum building height

and setbacks. The preliminary assessment recommends a maximum overall

height of 14.5 metres (4 storeys), with a maximum street wall height of 11

metres (3 storeys). It also recommends a maximum height of 7.2 metres (2

storeys) on a boundary adjoining a residential property.

4.26. Having regard to the local context, and putting aside the issue of zoning, it is

considered that the proposed height of approximately 19 metres is excessive

and is out of context with the local area, particularly given the interface to

residential properties to the south and west of the site, which pursuant to

Amendment C96 are proposed to have a maximum mandatory height of up to

11m. In this regard it is clear that a more appropriate transition in height

between the adjacent DDO8 areas and subject land is required.

*Activity Centre Hierarchy*

4.27. Manningham’s network of activity centres currently comprises one Principal

Activities Area (Doncaster Hill), one Major Activity Centre (The Pines, East

Doncaster) and ten neighbourhood Activity Centres (Donburn, Tunstall

Square, Jackson Court, Templestowe Village, Macedon Square, Bulleen

Plaza, Doncaster East / Devon Plaza, Park Orchards, Warrandyte Township

and Warrandyte Goldfields). There are also a number of local activity centres

and commercial areas throughout the municipality.

4.28. Clause 21.09 Activity Centres and Commercial Areas of the Planning Scheme

notes that, ‘*The Principal, Major and identified Neighbourhood Activity Centres*

*will be the focus of increased residential development and growth*.’ In

considering the appropriateness of the scale and height of the development, it

is also important to examine the broader municipal context and whether the

proposal will set a precedent for development within and adjacent to other

Neighbourhood Activity Centres.

4.29. Although Doncaster Hill is included in the Activity Centre Zone, The Major,

Neighbourhood and some local activity centres are all included within the

Commercial 1 Zone. It is important to acknowledge that this zone applies

equally to these activity centres within the municipality. Therefore the intensity

of development within these centres for the most part will be influenced by the

hierarchy of activity centres and the extent of change proposed within these

centres as part of planning policy developed for these centres (e.g. through

Structure Plans).

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4.30. The Doncaster Hill Principal Activity Centre has been identified as a focus for

high density residential development. Doncaster Hill is included within an

Activity Centre Zone (ACZ1), which sets out the design and built form

objectives to be achieved. The heights for Doncaster Hill are mandatory and

range in height from 11 metres up to 40 metres. Whilst the building heights

vary throughout the Activity Centre, a mandatory maximum height of 14.5

metres generally applies where the land interfaces with residential land,

although this varies between each sub-precinct (with some interfaces e.g.

Precinct 6 – 11m and Precinct 3 – 12.5m being lower than this).

4.31. Although located on the urban fringe of the Melbourne metropolitan area,

mixed use development, higher density housing and community, cultural and

entertainment facilities are encouraged within The Pines Major Activity Centre.

A Structure Plan for the Pines Activity Centre was endorsed by Council in

2011. Schedule 9 to the Design and Development Overlay (DDO9) –

Residential areas within The Pines Activity Centre, implements key aspects of

the Structure Plan and sets out the design and built form objectives to be

achieved. The preferred maximum building heights within the DDO9 vary from

11 metres to 16 metres, with all land directly abutting a Residential 1 Zone of

11 metres.

4.32. Whilst identified Neighbourhood Activity Centres are also a focus for increased

residential densities, the MSS states that, ‘*Development in the activity centres*

*should improve functionality, accessibility, safety, social interaction, promote*

*sustainability, and address scale and identity through site responsive design*.’

4.33. As noted above, the built form of the Jackson Court Neighbourhood Activity

Centre and surrounding residential area is of a low scale, generally ranging

from one to two storeys. Mandatory controls are proposed for the surrounding

residential areas as part of Amendment C96, in order to provide greater policy

direction on the desired planning outcomes for residential development in

these areas, largely in response to concerns raised by the local community.

4.34. It is however, recognised that there may be further opportunities beyond

Doncaster Hill and The Pines Activity Centres to consider increased heights.

Action 1.4 of the Manningham Residential Strategy is to identify areas where

building heights could be increased from 3 to 4 storeys as part of Structure

Planning. The criteria used to assess suitability for increasing heights was

endorsed by Council at its July 2012 meeting and includes the site

characteristics, prominent intersections, surrounding land use, zoning and

overlays, community benefit and relationship to the Activity Centre.

4.35. To date, Council has not supported increasing heights for any sites on the

periphery of activity centres beyond 13.5 metres (Doncaster East Village and

Templestowe Village Structure Plans). Furthermore, the Templestowe Village

Structure Plan also recommended a review of heights in the Business 1 Zone

to ensure that the neighbourhood scale / village feel was respected. Whilst

the applicant has sought to motivate for consideration of a height well in

excess of 13.5 metres, there are a two areas where the assessment does not

fully comply with the criteria being prominent intersections and, surrounding

land use, zoning and overlays.

4.36. Prominent intersections include those located at the junction of major arterial

roads or which form an entry into a particular area such as activity centre.

These sites tend to be visually prominent and/or provide opportunity to

undertake ‘gateway’ treatments to signalise entry into any area.

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4.37. The subject land is clearly not located at the junction of a major arterial road,

nor would the site be considered to form a visually prominent site as an

entrance to the activity centre. Whilst the site may be seeking to form the

western boundary of the centre, its recessed location from Doncaster Road

does not form an entry point, albeit there is opportunity to improve the Mitchell

Street streetscape and provide some integration with the Activity Centre. It

will, however remain separated from the eastern part of the centre by a local

road.

4.38. With regard to the criteria relating to surrounding land use, zoning and

overlays, sites that have an interface to commercial areas and/or which are

located adjacent to non-residential uses may be suitable for further increase in

density by allowing increased heights beyond 11 metres.

4.39. Further, whilst there may be opportunity to support additional height within this

and other Neighbourhood Activity Centre, it is questionable whether a site

which has an immediate interface to residential zoned land is the most

appropriate site for such a degree of change. Those sites that might be more

suitable for consideration of increased heights include those located within the

centre of a Neighbourhood Activity Centre, adjacent to parkland, those which

are separated from nearby residentially zoned land by a roadway, laneway or

which have a sufficient depth to step the building to provide a suitable

transition to adjacent residential properties. The height of any development

within a Neighbourhood Activity Centre, however, still needs to have regard to

its context and enhance neighbourhood character.

4.40. It is acknowledged that there is an opportunity to reinvigorate the centre by

increasing the local population and encouraging more sustainable transport

use within the centre. However, it is reiterated, that mandatory heights of 11m

apply to land to the south and west of the site and that a more appropriate

transition in height is required.

4.41. The proposed building in its current form has a maximum height of almost 19

metres, which is significantly higher than those previously considered by

Council and does not provide a suitable transition to adjoining residential

areas. This is hampered by having an insufficient site depth and/or a

roadway/laneway to provide adequate separation to the adjoining residential

properties. It is also excessive when considered in the context of the heights

supported for Doncaster Hill and The Pines as part of the activity centre

hierarchy.

4.42. The concept of hierarchy of activity centres is included in the State Planning

Policy Framework which makes the following distinction in regard to residential

development in activity centres:

A principal/major activity centre encourages intensive residential

development.

A Neighbourhood Activity Centre encourages higher density housing that

fits the context and enhances the character of an area.

4.43. This suggests that the scale of development should be less in a lower order

centre where the scale and intensity of development would be more moderate

than that envisaged for the Major and Principal Activity Centres.

4.44. Whilst it is acknowledged that the supermarket could have a significant

community benefit and stimulate activity and prosperity in the centre, the issue

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is the form of development that should take place and more specifically the

height of such development.

4.45. Regardless of the zoning applying to the site, be it commercial, mixed use or

residential, the height of any building proposed for this site is required to have

regard to its context and enhance neighbourhood character. It is considered

that an appropriate height for the site would be 13.5 metres, having regard to

the local and municipal context and character of the local area. This height is

also consistent with the approach taken for other residential sites on the

periphery of a Neighbourhood Activity Centre.

4.46. Should the applicant choose to revise the proposal it is suggested that a new

schedule to the MUZ be introduced to introduce a height that is more

appropriate for the site.

4.47. Alternatively, as part of the implementation of the new residential zones,

consideration could be given to the rezoning the site to a Residential Growth

Zone which allows consideration of some commercial activities including a

shop and has a default height of 13.5 metres. As this height is discretionary,

some limited increase in height could be considered to allow for site context

opportunities.

**5. CONSIDERATION OF PLANNING PERMIT**

5.1. To provide context for the application to proceed with the amendment, officers

have undertaken a preliminary assessment of the proposed development

against the statutory planning controls.

5.2. Subject to permit conditions, the uses proposed in the building appear

reasonable. The conditions will primarily relate to managing the loading

operations of the supermarket and the outdoor areas of the restaurant on the

top level.

5.3. The height and length of the supermarket walls at ground level along the

residential interface to the side and rear will have ongoing amenity impacts

that are concerning. Such impacts include the visual bulk of the walls (some

over 6m in height) that feature no articulation or design interest and at a

minimal setback. The walls also cause overshadowing impacts greater than

permitted under the assessment code. The area of the supermarket and its

loading area appear to be too large and should be pulled back slightly from the

residential interface.

5.4. The transition from the surrounding residential land to the maximum building

height is also concerning. There are no roads or laneway that separate this

site from the adjacent land. The surrounding residential area (which is in Subprecinct

A of DDO8) includes a mix of modest single-storey units and

detached dwellings. Pursuant to Amendment C96, the area is only ever likely

to accommodate new two-storey town house development.

5.5. The current planning controls accommodate height differences between

single-storey and three-storey 11m high development. A transition between

single storey and a 19m high development is considered excessive. As such,

the proposed building height does not ‘fit the context’ or ‘enhances the

character of the area’ as required by planning policy.

5.6. The transition form the surrounding commercial land to the maximum building

height is also concerning given the predominately single-storey shop fronts in

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Jackson Court. The building’s podium is more than twice as high any other

building fronting Jackson Court. The minimal setback of 4m to the two upper

levels will not diminish the bulk associated with the upper levels either. The

height and scale of the building is excessive in the context of what is a

‘neighbourhood activity centre’ and will overwhelm the activity centre.

5.7. The amenity provided to future residents and the architectural quality of the

building, other than in relation to its scale, height and context, are high quality.

5.8. The proposal seeks a significant reduction in the statutory car parking

requirement (a maximum reduction of 166 car spaces between 6pm and 10pm

when both the supermarket and restaurant are in operation). The applicant’s

Traffic and Car Parking Assessment has generated a demand assessment

based on comparable development and undertaken surveys of parking in

Jackson Court. The surveys indicate the parking in Jackson Court can

accommodate the overflow from the expected demand of the proposal. It is

noted the existing uses on site (the Restaurant, Function Centre and Place of

Worship) already operates with a significant reduction to the statutory parking

requirement (132 car spaces between 12noon and 7pm Sunday and 96 space

between 6pm and 9pm Monday to Saturday)

5.9. Whilst the proposed height and scale of the development is considered

excessive and is of major concern, the proposal with modifications generally

meets the requirements of the Planning Scheme in terms of the development

approval application.

5.10. If Council proceeds with the request for an amendment and planning permit

application, a full detail assessment including development of relevant

amendment documentation and a draft planning permit will be presented to

Council at a future meeting.

**6. PRIORITY/TIMING**

6.1. Whilst this report is recommending refusal of the request for amendment,

should Council resolve to seek authorisation to prepare and exhibit a planning

scheme amendment, the Amendment would need to be submitted to the

Minister for Planning by and authorised September/October to enable public

consultation to be undertaken prior to Christmas.

**7. POLICY/PRECEDENT IMPLICATIONS**

**Manningham Activity Centre Strategy**

7.1. The Manningham Activity Centres Strategy (2005) aims to provide for the

future planning needs for nine of the municipality's identified Neighbourhood

Activity Centres, including Jackson Court.

7.2. The Centre is identified as integrating shopping, recreation, commercial and

community services to provide an accessible meeting place for the

neighbourhood. A key strength of the centre is the range of its retail mix and

depth of independent retailers and accessibility. The central car park gives

shoppers the perception of easy access to all parts of the centre.

7.3. The previous Woolworths supermarket, located in the current footprint of the

Dan Murphy Liquor Store, was considered a key attractor for the centre albeit

did not provide a full range of services. A survey of residents found that 70%

of users visit the centre once a week or more with supermarket/groceries and

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local services being the key reasons. The strategy estimated that the Jackson

Court shopping centre accounted for 42% of spending by neighbourhood

catchment area.

7.4. The strategy identified several opportunities for the centre including:

an urban design strategy to improve the public realm:

extend pedestrian access including between the centrally located public

car park and Mitchell Street;

enhanced lighting (e.g. from covered walkway to Monte Carlo/Casavini

reception centre/restaurant, spot/bud lighting on the oak tree);

Reinvestment in shop fronts, a centre marketing strategy, landscaping and

signage;

Expansion of the supermarket and/or improving the fresh food offering.

**Precedent**

7.5. There is the potential that supporting a development of almost 19 metres in

height would set a precedent for development both within and on the periphery

of other Neighbourhood Activity Centres in this instance with the opportunity to

motivate for increased heights along Doncaster Road.

**8. CUSTOMER/COMMUNITY IMPACT**

8.1. Whilst the development is likely to have a community benefit (including the

provision of additional housing opportunities, the re-establishment of a

supermarket into the local area and retention of the restaurant and reception

centre facilities), the built form of the development, particularly the height and

scale may have a detrimental impact on the adjacent residents.

**9. FINANCIAL RESOURCE IMPLICATIONS**

9.1. Planning scheme amendments are prepared and administered by the

Economic and Environmental Planning Unit. The applicant has provided an

initial statutory fee for Council to assess and consider the application. The

applicant would be required to pay the fees associated with the amendment

request as stipulated in the *Planning and Environment Act 1987* and *Planning*

*and Environment (Fees) Interim Regulations 2012*. The applicant would also

be required to cover fees associated with giving notice of the Amendment and

any fees associated with a panel hearing.

**10. SUSTAINABILITY**

10.1. In-principle the mixed-use development is expected to have positive

environmental, social and economic benefits.

10.2. The redevelopment will provide for the retention of the existing

restaurant/function centre in addition to providing for the new supermarket use

which will provide additional local employment opportunities and encourage

new investment in the Centre and contribute to the ongoing viability of the

centre and consolidate its capacity as a community hub which provides a

range of services and facilities and meets local convenience needs.

10.3. Reinstatement of a supermarket within the Activity Centre provides the

opportunity for local residents to shop more sustainably by walking to the

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centre thereby improving traffic conditions, congestion and pollution as

residents must now travel to other centres for weekly shopping needs.

10.4. The architecturally designed proposal incorporates expert consultant traffic,

waste, landscaping and acoustic advice. A Sustainability Management Plan

(SMP) has been prepared to assist the design, construction and operation of

the proposed development to meet sustainable development objectives. The

SMP discusses how various elements including the management of the

building, lighting, appliances, provision of garden areas and materials etc will

minimise energy and water consumption in the development and contribute to

the sustainable performance of the building.

10.5. Extensive use of glazing and east facing upper level terraces will provide

opportunity for passive surveillance of and perceived safety in the public

realm.

10.6. Whilst some vegetation will need to be removed to allow the development, it is

not considered significant and further landscaping is proposed along the south

and south west boundaries and within the proposed development.

10.7. As part of the development improvements to the existing infrastructure that

interfaces with the site are proposed, including public realm enhancements

and connectivity with the balance of the shopping centre.

**11. REGIONAL/STRATEGIC IMPLICATIONS**

**Precedent**

11.1. There is the potential that supporting a development of almost 19 metres in

height would set a precedent for development both within and on the periphery

of Council’s other Neighbourhood Activity Centres with the opportunity in this

instance to motivate for even greater heights along Doncaster Road.

**12. COMMUNICATIONS STRATEGY**

12.1. A communications strategy would be developed if Council were to determine

to request the Minister’s authorisation to prepare and exhibit the combined

amendment and planning permit.

12.2. Pursuant to section 19 of the Act, an amendment must be placed on exhibition

not less than one month after the date that notice is given in the Government

Gazette.

**13. CONCLUSION**

13.1. The proposal is for a five storey building with a maximum height of almost 19

metres. Whilst it is appropriate for the site to be developed and a rezoning is

supported in principle, it is considered that the proposal does not comply with

current State and local planning policy frameworks. In particular the height

and scale of the building is excessive having regard to the context of the local

area and Manningham’s Activity Centre hierarchy. The proposal may also set

a precedent for building heights sought in and on the periphery of other

Neighbourhood Activity Centres.

13.2. Putting aside the zoning, it is considered that the proposal is out of context

with the local area and does not provide a suitable transition to the adjacent

residentially zoned land, which pursuant to Amendment C96 are proposed to

have a maximum mandatory height of up to 11m.

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13.3. The local area, including the commercial centre is generally of a low scale,

with construction being predominantly single and double storey in nature.

Further, it is noted that a significant number of lots to the south and west of the

site have been developed with a mix of single and double storey townhouses

which will limit the opportunity for apartment style development on the

remaining patchwork of lots. The area surrounding the proposal development

will in effect largely be restricted to townhouse developments of up to 9 metres

resulting in a significant variation in built form.

13.4. The degree of change is anticipated to be more significant in Principal and

Major Activity Centres than that in Neighbourhood Activity Centres and this

should be reflected in the scale and intensity of development, including the

height of buildings. The level of development within Manningham’s

Neighbourhood Activity Centres therefore needs to have consideration to the

heights supported for Doncaster Hill and The Pines and be of a scale and

intensity more reflective of that for a neighbourhood centre.

13.5. Whilst Council has investigated opportunities beyond Doncaster Hill and The

Pines for increased heights, to date Council has not supported increasing the

heights for any sites on the periphery of Neighbourhood Activity Centres

beyond 13.5 metres.

13.6. In this regard the site has been assessed against the criteria approved by

Council to motivate for increased heights. There are two areas where the

assessment does not fully comply with the criteria. Firstly the site is not

located at the junction of a major intersection or form a visually prominent site.

Secondly, having regard to surrounding uses, zone and overlays, it is

questionable whether a site which has an immediate interface to residentially

zoned land, is the most appropriate site for such a significant degree of

change.

13.7. There is potential that supporting a height of 19 metres would set a precedent

both within and on the periphery of other neighbourhood centres with the

opportunity in this instance to motivate for even greater heights along

Doncaster Road.

13.8. The proposal is not an acceptable outcome for the site, therefore, this report

recommends that the amendment request and therefore the planning permit

application should not be supported.

**OFFICER’S RECOMMENDATION**

**That Council:**

**(A) Resolve to abandon Amendment C95 to the Manningham Planning Scheme to**

**rezone land at 3-11 Mitchell Street, Doncaster East, together with Planning**

**Permit PL11/021966.**

**(B) Notify the proponent of Council’s decision in relation to Amendment C95.**

**(C) Encourage the applicant to work with officers to find a resolution to address**

**the issues arising from this assessment.**

“Refer Attachments”

\* \* \* \* \*