

GREATER GEELONG PLANNING SCHEME

AMENDMENT C336

RESOLUTION TO CONSIDER SUBMISSIONS

UNDER DELEGATION FROM COUNCIL IT IS HEREBY RESOLVED:

That Council having considered all submissions to Amendment C336 resolves to:

- 1) Request the Minister for Planning to appoint an Independent Panel under Part 5 of the Planning and Environment Act 1987 to consider submissions relating to the amendment.
- 2) Refer all submissions to the Panel; and
- 3) Submit to the Panel its response to the submissions as outlined in this report.

SIGNED: 

DATE: 21/1/16

**PETER SMITH
COORDINATOR STRATEGIC IMPLEMENTATION**

Planning and Environment Act 1987
GREATER GEELONG PLANNING SCHEME
DELEGATED AUTHORITY REPORT
AMENDMENT C336 – CONSIDERATION OF SUBMISSIONS

To: Peter Smith – Coordinator Strategic Implementation
From: Ian McCartney – Strategic Planner
Subject: C336 BUPA Subdivision – 402-404 Bellarine Highway, Moolap
Project: Amendment C366 Reports Council & Other
Subject: Delegate Report 2016
File number: C336

Purpose

The purpose of this report is to consider submissions as a result of exhibition of Amendment C336 which will permit a 2 lot subdivision at 402-404 Bellarine Highway, Moolap.

Summary

- Amendment C336 resulted from an application made by Currie and Brown, planning consultants on behalf of BUPA Care Services, to amend Clauses 52.03 and 81.01 of the Planning Scheme to permit a 2 lot subdivision at 402-404 Bellarine Highway, Moolap.
- The Council had previously issued Planning Permit 10/2006 for a retirement village (with a 9 hole golf course) and aged care facility on the 49.8ha site. The retirement village component of the development is currently under construction.
- It is intended that BUPA develop and operate the aged care facility as a separate entity and to simplify management and operational arrangements it is seeking the creation of a separate title (rather than a long term lease), which the 2 lot subdivision is intended to achieve. The proposed subdivision is prohibited by the Farming zone thus generating the need for a Planning Scheme amendment.
- The amendment was exhibited in the normal manner between 3 December 2015 and 11 January 2016.
- Exhibition of Amendment C336 resulted in the receipt of four submissions as detailed in this report.
- One of the submissions is from the owners of the adjoining flower farm business which objects to the Amendment on planning grounds, questions the necessity of the subdivision and raises concerns about the impact on their right over the carriageway easement.
- The issues raised in the objecting submission are not considered sufficiently serious to warrant the amendment being abandoned. As the issues are unable to be resolved it will be necessary to refer the submissions to an Independent Panel appointed by the Minister for Planning.

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Recommendation

That Council having considered all submissions to Amendment C336 resolves to:

- 1) Request the Minister for Planning to appoint an Independent Panel under Part 5 of the Planning and Environment Act 1987 to consider submissions relating to the amendment;
- 2) Refer all submissions to the panel; and
- 3) Submit to the Panel its response to the submissions as outlined in this report.

Background

Amendment C336 resulted from an application made by Currie and Brown, planning consultants on behalf of BUPA Care Services, to amend Clauses 52.03 and 81.0 of the Planning Scheme to permit a 2 lot subdivision at 402-404 Bellarine Highway, Moolap.

The subject land has an area of 49.8ha and falls within the Farming zone and is subject to both a Floodway Overlay and Land Subject to Inundation Overlay as shown on Appendices 1 and 2.

The Council has previously issued planning permit 10/2006 for a retirement village with a 9 hole golf course and a residential aged care facility on the subject land. Construction of the retirement village component is well advanced and much of the golf course exists having previously been part of an 18 hole course.

Access to the Bellarine Highway to the subject land is provided by way of a relatively narrow 20 metres wide road which forms part of the title. On both sides of this access road with highway frontage are a retail flower sales/nursery (to the west) and a place of worship (to the east). The flower sales/nursery currently has two constructed driveways onto this access road and the place of worship has one. These properties have carriageway easement rights over this accessway which provides and simplifies access to the 4 lane divided Bellarine Highway.

Appendix 3 is an aerial photo of the subject land and surrounding area.

This application was made to enable BUPA to develop and operate the aged care facility component of the overall development as a separate entity. Creation of a separate title for the aged care facility is intended to simplify management and operational arrangements which may not be achievable using a long-term lease. Access to the Bellarine Highway to the newly created lot will be provided by use of carriageway easements.

The proposed subdivision is prohibited by the Farming zone and thus generating a need for a Planning Scheme amendment to enable it to proceed.

Discussion

Amendment C336 was exhibited between 3 December 2015 and 11 January 2016. Notices appeared in the Geelong Independent and Geelong Advertiser newspapers on 27 and 28 November 2015 respectively and the two adjoining property owners fronting Bellarine Highway were individually notified.

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As a result of exhibition of the amendment a total of 4 submissions were received, as follows.

Name	Submission
Vic Roads	Does not object
Anthony Singleton (for Bellarine Lakes P/L)	Generally support. Seek confirmation that satisfactory arrangements are in place with BUPA re drainage responsibilities and service connections.
Rigby Cooke Lawyers (acting for Messrs G Butteriss, F & G Lawrence, Geelong Flower Farm)	Object to the amendment and proposed subdivision for the following reasons: <ul style="list-style-type: none"> • Contrary to proper and orderly planning • Subdivision is unnecessary – other arrangements e.g. leasing available • No strategic justification • Impact on efficient use of carriageway • Land-locked lot will be created which is problematic
Currie and Brown for BUPA Aged Care	Supports exhibited amendment. Consistent with State and Council planning policies. Will enable high quality aged care facility to be run by a recognised operator providing additional employment. No change to the physical characteristics of the site will result.

Response to Submissions

It is acknowledged that the use of Clauses 52.03 and 81.01 to permit either a development or subdivision in a zone where they would otherwise be prohibited is an unusual circumstance and an action not lightly taken.

However, in this instance, a planning permit had already been issued to enable the construction of a retirement village and residential aged care and the amendment to enable a 2 lot subdivision will not result in any additional development or any visible change on the ground.

This subdivision has been sought to enable BUPA to own and operate the residential aged care facility as a separate entity. Approval of the subdivision will not in itself result in the creation of any additional traffic onto Bellarine Highway and the existing easement of carriageway rights of the two properties adjoining the existing access road appear to be maintained.

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The issues raised by Rigby Cooke acting on behalf of Geelong Flower Farm are not considered sufficiently serious to warrant the amendment to be abandoned. Whilst the use of clauses 52.03 and 81.01 is not common practice, it is considered that the amendment is unlikely to have any impact on proper and orderly planning because no additional building development is being permitted. Similarly it is difficult to identify any real impact on existing planning strategy.

Whilst it is acknowledged that BUPA could be offered a long term lease to occupy the site to construct their aged care facility, it is not their preferred form of land tenure for a variety of operational reasons. Rigby Cooke has not demonstrated why a leasing arrangement would be advantageous to their client, how their carriageway easement rights would be impacted by the proposed subdivision or what would be 'problematic' about creating the proposed lot with access to the Bellarine Highway using the existing access road with accompanying carriageway easement rights.

The issues raised on behalf of the existing owner of the land appear capable of resolution by further discussion between Bellarine Lakes P/L and BUPA, potentially with some modified conditions applying to the subdivision as contained in the exhibited Incorporated Document. It is intended that the parties be encouraged to resolve these outstanding matters prior to the panel hearing (which will be required to address the Rigby Cooke submission on behalf of Geelong Flower Farm).

Environmental Implications

The amendment will have no environmental implications.

Financial Implications

The proposal has no financial implication for Council.

Policy/Legal/Statutory Implications

The amendment is considered to be consistent with a range of State and Council planning policies particularly insofar as housing policies support the provision of housing diversity. In this case, the amendment will facilitate the provision of accommodation for older persons requiring a higher level of support than independent living. The Bellarine Peninsula is a popular retirement destination with a likely future strong demand for such facilities.

Alignment to City Plan

The amendment supports the overall thrust of Growing our Economy and Sustainable Built and Natural Environment strategic directions in that it facilitates a development already approved by Council.

Officer Direct or Indirect Interest

No Council officers have a direct or indirect interest, in accordance with Section 80 (c) of the Local Government Act, to which this amendment relates.

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Risk Assessment

There are no risks to Council associated with permitting a 2 lot subdivision as proposed by this amendment.

Social Considerations

The facilitation of development of an aged care facility on the subject land provides a positive social outcome.

Human Rights Charter

The amendment will not impact on basic human rights, freedoms and responsibilities as set out in the Charter.

Consultation and Communication

The amendment has been exhibited in the normal manner which enables any submitter to appear before an Independent Panel appointed by the Minister for Planning.

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Appendix 1 - Existing Zoning



GREATER GEELONG PLANNING SCHEME - ZONES

LEGEND			
NEIGHBOURHOOD RESIDENTIAL ZONE	COMMERCIAL 1 ZONE	COMPREHENSIVE DEVELOPMENT ZONE	PUBLIC PARK & RECREATION ZONE
GENERAL RESIDENTIAL ZONE	COMMERCIAL 2 ZONE	ACTIVITY CENTRE ZONE	PUBLIC CONSERVATION & RESOURCE ZONE
RESIDENTIAL GROWTH ZONE	INDUSTRIAL 1 ZONE	PORT ZONE	ROAD ZONE CATEGORY 1
LOW DENSITY RESIDENTIAL ZONE	INDUSTRIAL 2 ZONE	PUBLIC USE ZONE - Service & Utility	ROAD ZONE CATEGORY 2
MIXED USE ZONE	INDUSTRIAL 3 ZONE	PUBLIC USE ZONE - Education	
TOWNSHIP ZONE	SPECIAL USE ZONE	PUBLIC USE ZONE - Health & Community	
RURAL LIVING ZONE	PRIORITY DEVELOPMENT ZONE	PUBLIC USE ZONE - Transport	
FARMING ZONE	URBAN GROWTH ZONE	PUBLIC USE ZONE - Cemetary/Crematorium	
RURAL CONSERVATION ZONE	COMMONWEALTH LAND	PUBLIC USE ZONE - Local Government	
URBAN FLOODWAY ZONE		PUBLIC USE ZONE - Other Public Use	

Prepared by City of Greater Geelong - 3 August 2015
 Although all due care has been taken to ensure that this document is correct, no warranty is expressed or implied by the City of Greater Geelong or Barwon Water in its use.
 This map contains all Amendments to the G.G.P.S. gazetted prior to the date shown above, however, for certainty, a Planning Certificate should be obtained.
 This map should be read in conjunction with additional Planning Overlay maps (if applicable).

SUBJECT LAND



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Appendix 2 - Existing Overlays



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Appendix 3 - Aerial Photo



 SUBJECT LAND

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