

**IN PLANNING PANELS VICTORIA****IN THE MATTER OF AMENDMENT C393 TO THE GREATER GEELONG PLANNING SCHEME****PART B SUBMISSION  
ON BEHALF OF  
GREATER GEELONG CITY COUNCIL****INTRODUCTION**

1. This Part B submission is made on behalf of Greater Geelong City Council (**Council**), the proponent for Amendment C393 (**Amendment**) and Planning Authority for the Greater Geelong Planning Scheme (**Scheme**).
2. It follows Council's Part A Submission dated 14 October 2019 which set out:
  - 2.1. The background to the Amendment including a chronology of events.
  - 2.2. The strategic context for and assessment of the Amendment.
  - 2.3. The key issues raised in and Council's response to the public submissions received by Council in response to public exhibition of the Amendment and referred to this independent Planning Panel (**Panel**) for consideration
  - 2.4. The changes proposed to the Amendment by Council following further consideration of and discussions with submitters following referral of all public submissions to the Panel.
3. In response to the Panel's Direction 14 made on 19 September 2019, this Part B submission sets out:
  - 3.1. The key "unresolved" issues raised in the public submissions and Council's response to the same having regard to the expert evidence circulated by the parties on 14 and 18 October from:
    - a. Julian Szafraniec of SGS in economic matters;
    - b. Anthony Dimasi of Dimasi & Co in economic matters;
    - c. Bernard McNamara or BMDA Development Advisory in strategic planning;
    - d. Robert Milner of David Lock & Associates in strategic planning;
    - e. Justin Ganly of Deep End in economic matters;
    - f. Marc Noyce of Biofilta in drainage matters (Direction 14a and b).
  - 3.2. A response to the conditions on which the delegate for the Minister for Planning authorised Council to prepare the Amendment (Direction 14c).
  - 3.3. The status of the Settlement Strategy and its process going forward (Direction 14e).

- 3.4. If, how and when the population growth assumptions underpinning the Retail Strategy are proposed to be aligned with those to be adopted in the Settlement Strategy (Direction 14f).
- 3.5. How current retail trends (eg on-line retailing) impact on projections of floor space demand (Direction 14g).
- 3.6. Clarification regarding the population growth expected in existing areas as shown in Figure 2 on page 13 of the Strategy and what this comprises in numerical and percentage terms (Direction 14h).
- 3.7. Information on how the expected growth in existing areas, particular in areas within two to three kilometres of the CBD, aligns with infill development occurring recently or the subject current approved developments (Direction 14i).
- 3.8. Information on how the planned growth represented in Figure 14 of the Retail Strategy has been determined (Direction 14j).
- 3.9. Commentary on why identification of each centre in the hierarchy has not adopted Plan Melbourne type terms – i.e. current terminology currently used (Direction 14k).
4. Council relies on the economic evidence of Julian Szafraniec in relation to the retail analysis on which the Retail Strategy is based and also, in relation to the strategic justification for imposing “soft” floor space caps on the use of land for a “shop” in various activity centres and also in regard to the quantum of those caps.
5. Council’s final position on the Amendment will be detailed in its Part C submission to the Panel on 7 November 2019 (Direction 14d).

#### **UNRESOLVED KEY ISSUES**

6. The key issues raised in submissions that remain unresolved relate to:
  - 6.1. Treatment of future activity centres in growth areas (i.e. Lovely Banks);
  - 6.2. Whether the proposed planning policy (clause 22.03) should:
    - a. More clearly identify the circumstances where out-of-centre development would be acceptable;
    - b. Be revised to be more flexible and adaptive to land use change to ensure complementary new retail formats can be considered and are not precluded;
    - c. Be more flexible in relation to activity centre boundaries;
    - d. Avoid limitations on retail floor space; and
    - e. Avoid predetermining the role of the Waurm Ponds Activity Centre (Kaufland).
  - 6.3. Whether the “soft” floor space caps proposed for Kingston Downs NAC and Leopold Sub-Regional Activity Centre are the right numbers.
  - 6.4. Whether the retail strategy should continue to direct the expansion of the Leopold Sub-Regional Centre northward along Melaluka Road as supported by the Perez’ or whether there should be flexibility to expand to the west (on Lascorp’s land) subject to further strategic work being undertaken.

- 6.5. The classification of the Bell Park Plaza as a dispersed centre rather than a neighbourhood activity centre in the retail strategy (Merost Pty Ltd).

## FUTURE ACTIVITY CENTRES IN GROWTH AREAS

7. Lovely Banks (Submitter 8) lodged a submission raising concerns in relation to the Amendment and Retail Strategy and more particularly, the way the material proposes to deal with the Northern and Western Growth Areas.
8. From correspondence with Lovely Banks' lawyers, Maddocks, Council understands that the majority of Lovely Banks' concerns raised in its submission to the Amendment have been resolved.<sup>1</sup> This is on the basis that Council's submissions to the Panel remain consistent with:
- 8.1. The officer response to submissions in the Delegated Authority Report dated 22 August 2019' and
- 8.2. The Day 1 Amendment documents circulated by Council on 26 September 2019 including the list of proposed changes to the Retail Strategy.
9. Lovely Banks has notified Council of two outstanding issues relating to:
- 9.1. *Figure 14<sup>2</sup>: Supply Demand Floor Space Alignment – Geelong Sub-Regions of the Retail Strategy* (page 43) which nominates floor space expenditure demand to 2036 in the Northern and Western Growth Areas. - Lovely Banks considers it premature to do so in the context of the future Precinct Structure Planning processes for both Areas.
- 9.2. *Clause 22.03 – Assessment Criteria for Retail Planning Applications*. Assuming the assessment requirements for retail planning applications would apply to any retail proposals in the Northern Growth Area which exceeds any future PSP floorspace cap, Lovely Banks contends the assessment requirements are onerous and unreasonable having regard to:
- a. The requirement for an economic impact assessment for both 'low' and 'high' impact proposals, as well as a net community benefit assessment for 'high' impact proposals;
- b. The extensive list of matters which an economic impact assessment must address.
10. Lovely Banks says the relationship between clause 22.03 and clause 21.19 is unclear with respect to future centres in the Northern Growth Area.

### *Floor space expenditure demand in Northern and Western Growth Areas*

11. It is true that the predicted floor space expenditure demand in the Northern and Western Growth Areas to 2036 will be considered and tested through the future Precinct Structure Planning (PSP) processes for those areas. For this reason, Council does not seek to impose floor space caps on the shop floor space on these areas as part of this Amendment.
12. This is not to say Council will not seek to introduce floor space caps through the PSP process for each Area. Indeed, Council's new Clause 19.19 supports the use of maximum leasable floor areas in the Schedule to Commercial 1 Zone in greenfield locations.<sup>3</sup> Additionally, Council officers consider shop floor space caps can play an important role in the strategic planning of

<sup>1</sup> Appendix 1: Email letter from Terry Montebello of Maddocks to Kate Morris of Maddocks, 22 October 2019.

<sup>2</sup> Council has assumed that reference to Figure 13 in Appendix 1 was an error and it was intended to refer to Figure 14.

<sup>3</sup> See [Day 1 version Council proposed changes to Clause 21.19](#), "Retail Design", page 4.

growth areas including to support the creation of a sustainable network of vibrant “mixed” use activity centres that are highly accessible for future residents and complement the existing Greater Geelong retail hierarchy in terms of the size and function of the centres.<sup>4</sup> However, the appropriate time to ventilate those arguments and decide that issue is in the future during the PSP process for the Northern and Western Growth areas.

13. So why then should the predicted floor space expenditure demand for these Areas to 2036 remain in Figure 14 of the Retail Strategy? Put simply, it is necessary for the predicted expenditure demand for these two growth areas to be considered at a broad strategic level and transparently identified in the Retail Strategy. This is because development of these growth areas will significantly impact the overall floor space supply and demand for the Greater Geelong municipality to 2036 and the distribution of floor space expenditure demand to centres throughout the municipality.
14. It is not intended that these predictions for the two growth areas be construed as recommending floor space allocations or caps or to determine the timing for delivery of future activity centres within the for the two growth areas. Those matters will be properly considered and determined during the future PSP process for the areas and ultimately, by the market.
15. Council is comfortable this will be clear enough in “Future Retail Centres in the Northern and Western Growth Areas” at page 28 of the Retail Strategy, particularly with the further amendments proposed to the penultimate paragraph of that section.<sup>5</sup>
16. The only further amendment Council proposes to the Retail Strategy in relation to the Northern and Western Growth Areas is to update the text in the second paragraph on page 22 to make clear that a framework plan for these Growth Areas was adopted by Council on 26 March 2019.

*Relationship between Clauses 21.19 and 22.03 - future centres in Northern and Western Growth Areas*

17. It is intended that Clause.19 “Activity Centres” be considered in the precinct structure planning processes for both the Northern and Western Growth Areas. In addition to the broad objectives of and general strategies described in the policy, the strategies relating to “Planned Centres” and “Preferred Location” of centres will be relevant to the PSP process for the areas.
18. The new Clause 22.03 “Assessment Criteria for Retail Planning Applications” is intended to be considered both where a planning permit application is required to use land for ‘shop’ floor space and in the context of a planning scheme amendment to facilitate a shop or retail use, such as to incorporate a PSP into the Planning Scheme. This is nothing new. The existing Clause 22.03 is currently drafted to achieve the same end.
19. Further, Council would expect a planning scheme amendment of that nature to be supported by an economic impact assessment and net community benefit analysis addressing the matters set out in Clause 22.03. It is worth observing that a net community benefit assessment would be expected to be provided in any case as part of the strategic assessment prepared to support a PSP planning scheme amendment. [Planning Practice Note 56: Strategic Assessment Guidelines](#) recognises that the normal way of considering the social, environmental and economic effects of an amendment as required by Sections 12(2)(b) and (c) of the *Planning and environment Act 1987* is to consider whether the amendment results in a net community benefit.
20. Officers would welcome a recommendation from the Panel about whether further changes to new Clause 22.03 would be beneficial in this regard, noting Council will in any case retain discretion regarding whether to seek a net community benefit assessment and if so, what

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<sup>4</sup> See [Clause 11.03-2S Growth Areas](#), Strategies.

<sup>5</sup> [Day 1 version - Proposed changes to the City of Greater Geelong Retail Strategy 2016-36 Adopted November 2018](#).

matters it should address. This is because Clause 22.03 is a policy rather than a requirement the Planning Scheme.<sup>6</sup>

*Assessment requirements for 'low' impact proposals in Clause 22.03*

21. A number of submitters and experts contends the assessment requirements in new Clause 22.03 are onerous and unreasonable including having regard to the extensive list of matters an economic impact assessment must address regardless of how 'low' impact it might be.
22. Perhaps the most significant concern appears to be that all planning permit applications for a low impact proposal would be required to submit an economic impact assessment (**EIA**) to Council regardless of how "low" impact the proposal might be.
23. Of course, the 'use' related policy provisions in Clause 22.03 including the EIA requirement will only apply where a planning permit is required to use land for a "Shop" because the total leasable floor area for all "Shops" (other than Restricted retail premises) within an activity centre has or would exceed the maximum leasable floor area for "shop" specified in the Schedule to the Commercial 1 Zone.
24. This is noting a "Shop" includes:
  - 24.1. Beauty salon;
  - 24.2. Bottle shop;
  - 24.3. Convenience shop
  - 24.4. Dry cleaning agent;
  - 24.5. Department Store;
  - 24.6. Hairdresser;
  - 24.7. Laundromat;
  - 24.8. Restricted retail premises;
  - 24.9. Supermarket.<sup>7</sup>
25. The use related policy provisions in Clause 22.03 and EIA requirement will not apply to other types of "Retail premises" which are as-of-right in the Commercial 1 Zone including:
  - 25.1. Food and drink premises including a bar, convenience restaurant, hotel, restaurant and take away food premises;
  - 25.2. Landscape gardening supplies;
  - 25.3. Manufacturing sales;
  - 25.4. Market;
  - 25.5. Motor vehicle, boat or caravan sales;
  - 25.6. Postal agency;

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<sup>6</sup> Also note this is made clear in the final paragraph of "Economic Impact Assessment" in new Clause 22.03.

<sup>7</sup> [Clause 73.03](#) "Land Use Terms" and [Clause 73.04](#) "Nesting diagrams".

- 25.7. Primary produce sales.<sup>8</sup>
26. Of course, granting a permit to use land for certain types of “Shop” uses such as “Hairdresser”, “Laundromat”, “Convenience shop” and “Dry cleaning agent” will have no impact on the role and function of a centre identified in the retail hierarchy regardless of whether the maximum leasable floor area is exceeded for the activity centre. In other words, these will be considered “no” impact proposals rather than “low” impact proposals.
27. Council does not intend to require an EIA to be submitted with a permit application for such “Shop” uses that will have no impact on the retail hierarchy. Acknowledging it retains a discretion not to require an EIA, Council seeks a recommendation from the Panel to amend the policy to clarify that an EIA will not be required for no impact proposals.
28. Absent this clarification, a proposal for any one of these “Shop” uses might be considered to fall within the meaning of a “low impact proposal” as set out in the “Policy Basis” for Clause 22.03 which provides:
- A proposal which increases the floor area of an existing centre and remains consistent with the role and function of a centre identified in the Geelong retail centre hierarchy is considered a low impact proposal.*
29. One way of addressing the issue would be to include a new paragraph immediately following this as follows:
- A proposal to use land in an existing activity centre for a Beauty Salon, Convenience shop, Dry cleaning agent, Hairdresser or Laundromat is deemed to be a no impact proposal.*
30. Additionally, the first paragraph immediately under the heading “Use applications”, could be amended to read as follows:
- It is policy that an application to use land for a shop (other than for a no impact proposal) demonstrate if the proposal is low or high impact, based on:...*
31. However, it is proper that all applications other than those deemed to be “no impact” proposals are required to submit an EIA with their permit application. The EIA, in conjunction with an understanding of the location of the proposal (as either in centre, edge-of-centre or out-of-centre), is required to determine whether the proposal conforms with or will change the role and function of the identified in the Geelong Retail Hierarchy and hence whether it is a low or high impact proposal.

### **DRAFTING CRITICISMS OF PROPOSED CLAUSES 21.19 & CLAUSES 22.03**

32. Submitters made numerous criticisms of the drafting of Council’s proposed new local planning policy. These criticisms and Council’s response to the same were comprehensively set out in Council’s Part A Submission.<sup>9</sup> They are also addressed to some extent in the expert witness report of Mr Szafraniec.<sup>10</sup>

### **PROPOSED FLOOR SPACE CAPS FOR KINGSTON DOWNS & LEOPOLD**

33. In regard to the quantum of the proposed soft floor space caps for these centres, Council relies on the evidence of Julian Szafraniec.
34. Mr Szafraniec does not recommend any revision to the floor space cap for Kingston Downs. However, he does support Council’s proposal (as set out in the Delegated Authority Report of

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<sup>8</sup> Clause 73.03 “Land Use Terms” and Clause 73.04 “Nesting diagrams”.

<sup>9</sup> See [154] to [168], pages 36 to 38.

<sup>10</sup> See [81] to [96], pages 32 to 34.

22 August 2019) to increase the proposed floor space cap for Leopold Sub-regional centre from the exhibited 23,000sqm to 30,000sqm.

### LEOPOLD SUB-REGIONAL CENTRE BOUNDARY & DIRECTION FOR FUTURE EXPANSION

35. An issue of contention between two submitters, Lascorp (Submitter 7) and the Perez family (Submitter 13) is whether the retail strategy should continue to direct the expansion of the Leopold Sub-Regional Centre northward along Melaluka Road onto the Perez' land or whether there should be flexibility to expand to the west onto Lascorp's land subject to further strategic work being undertaken.
36. The Lascorp land comprises 6.3 hectares of Farming Zone land at 601 Bellarine Highway (corner of Bellarine Highway and Clifton Avenue), Moolap, directly opposite the established Leopold Sub-regional Centre known as "Gateway Plaza Leopold". The Perez land comprises approximately 6.6 hectares of Farming Zone land at 92-100 Melaluka Road, Leopold, directly adjoining the Gateway Plaza Leopold to the north. The Perez land is also subject to [Development Plan Overlay Schedule 30](#) "Leopold Sub Regional Activity Centre" (**DPO30**). The two parcels are depicted in Figure 1 below.

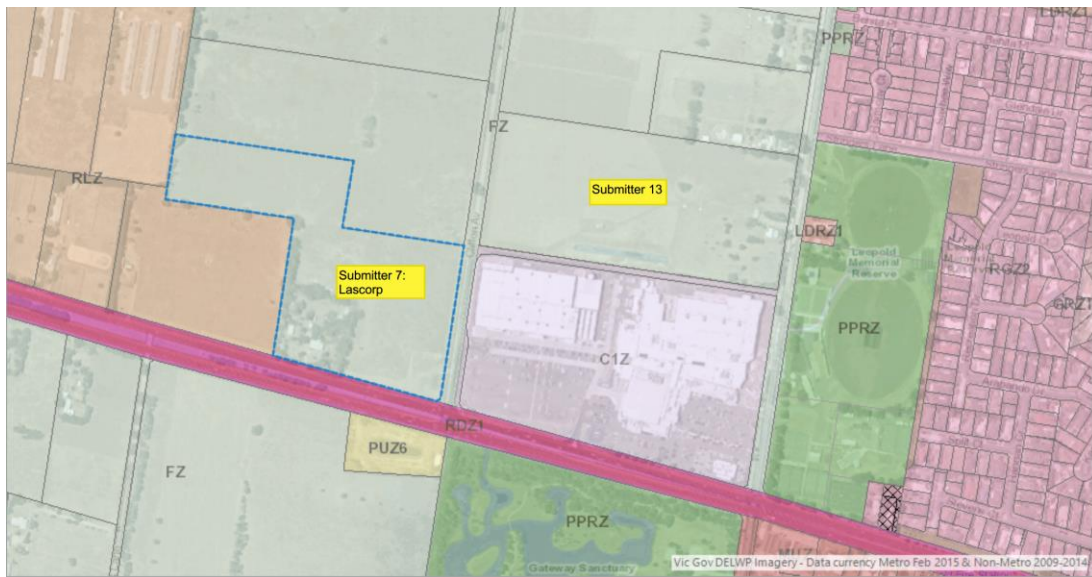


Figure 1: Aerial and zoning map of Leopold

37. As it stands, Council's local planning policy objectives relating to Retail contained in [Clause 21.07-3](#) seek to, most relevantly:
- 37.1. Facilitate the development of vibrant and viable retail activity centres in accordance with the Geelong Retail Activity Centre Hierarchy included at [Clause 21.07-8](#).
  - 37.2. Ensure all major retail developments, and out of centre developments, provide a clear net community benefit.
38. Relevant strategies seek to:
- 38.1. Ensure that new retail development is directed to activity centres and is consistent with the role and function described in the Retail Activity Centre Hierarchy included at [Clause 21.07-8](#).
  - 38.2. Ensure Central Geelong remains the primary retail activity centre in the G21 Region and the focus of retail activity in the G21 Region.

- 38.3. Direct restricted retail (bulky goods) use and development to Central Geelong, the nominated homemaker precinct at Waurm Ponds, the Corio homemaker precinct subject to appropriate re-zoning and other homemaker precincts and activity centres as detailed in [Clause 21.07-8](#).
- 38.4. Discourage restricted retail (bulky goods) development in industrial areas.
- 38.5. Require that applications for new centres establish the retail need for such use and development and demonstrate that there are no adverse impacts on the operation of the retail activity centres hierarchy.
39. Additionally, Council's local planning policy relating to the Bellarine Peninsula (where Leopold is located) in [Clause 21.14-3](#) in the Planning Scheme currently expressly:
  - 39.1. Seeks to ensure Leopold is retained as an urban island – supporting urban growth contained to the settlement boundary and preserving the rural hinterland;<sup>11</sup>
  - 39.2. Encourages the northern expansion of the Sub Regional Activity Centre;<sup>12</sup> and
  - 39.3. Encourages the creation of an additional local mixed use centre on the south eastern corner of Bellarine Highway and Melaluka Road.<sup>13</sup>
40. Further, the policy proposes that these strategies be implemented by:
  - 40.1. Applying the General Residential Zone Schedule 1 and the Development Plan Overlay to land designated for future residential growth shown on the Leopold Structure Plan map included in [Clause 21.14](#).
  - 40.2. Applying a combination of commercial zones, a Design and Development Overlay and a Development Plan Overlay to facilitate the expansion of the Leopold Sub Regional Retail Activity Centre.
41. On the Leopold Structure Plan map in [Clause 21.14](#) the Lascorp land is outside settlement boundary whereas the Perez land is inside the settlement boundary. Additionally, the map supports rezoning of the Perez land to facilitate the sub-regional centre and depicts the future expansion of the sub-regional centre from the existing centre land on the south-east corner of Melaluka Road and Bellarine Highway, to the north including the Perez land.
42. Additionally, the [DPO30](#) which applies to the Perez land specifically identifies the Perez land as “the northern expansion site”. The self-described aim of the schedule is to ensure development occurs generally in accordance with the objectives of the *Leopold Sub Regional Activity Centre Urban Design Framework 2011*, and to coordinate the expansion of the centres across the three properties identified in the schedule, being the Perez land and the existing shopping centre land at 641-659 Bellarine Highway, Leopold (referred to as the existing shopping centre in [DPO30](#)) and 621-639 Bellarine Highway, Leopold (referred to as the “southern expansion site”) in [DPO30](#).
43. Relevantly, [DPO30](#) provides that a development plan must include, amongst other things, an overall Urban Design Masterplan which includes the total amount of “shop” leasable floor space (other than restricted retail premises) limited to a total of 35,000 square metres within the area covered by this overlay including: no more than 30,000 square metres of shop on the existing and southern expansion sites; and no more than 5,000 square metres of shop on the northern expansion site.<sup>14</sup>

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<sup>11</sup> “Leopold” 2<sup>nd</sup> bullet point, page 197.

<sup>12</sup> “Leopold” 4<sup>th</sup> bullet point, page 197.

<sup>13</sup> “Leopold” 8<sup>th</sup> bullet point, page 197.

<sup>14</sup> DPO30, page 2.

44. It is fair to say that if Lascorp proposed a planning scheme amendment to facilitate the westerly expansion of the Leopold Sub Regional Centre onto its land as the Planning Scheme stands today, it would find no strategic planning support for this in the Local Planning Policy Framework. Additionally, a strategic assessment of such a proposal for the purpose of [Ministerial Direction No. 11](#)<sup>15</sup> and [Planning Practice Note 46](#)<sup>16</sup>, would require a net community benefit assessment including having regard to an economic impact assessment and the matters specified in the existing [Clause 22.03 "Assessment Criteria for Retail Planning Applications"](#).

45. Things will be no different for Lascorp's Moolap site if Amendment C393 is approved. The Retail Strategy seeks to retain the existing strategic direction for the Leopold Sub-Regional Centre. In relation to "Future role and opportunities" for the Centre, the Retail Strategy provides:

*Existing planning policy (DPO30) supports the future expansion of the centre in a northerly direction along Melaluka Road.<sup>17</sup>*

46. In relation to "Growth opportunities" and "Potential for zoning to align with centre boundary", the Retail Strategy provides:

*Yes – already planned.*

47. On further reflection, Council officers seek advice from the Panel about whether the activity centre boundary should be amended in line with [Appendix 3](#) to this Part B Submission to make sense of this last provision and consistent with the description of the centre in DPO30.

48. Lascorp's strategic planning expert, Bernard McNamara, makes a number of recommendations regarding the Amendment at paragraph 93 of his expert witness report. Council Officers do not support any of Mr McNamara's recommendations. With the exception of his second recommendation which seeks to remove the "Future Restricted Retail" designation from the Perez land, Mr McNamara's recommendations all seek to facilitate the expansion of the Leopold Sub-Regional Centre onto the Lascorp land west of Clifton Avenue. They are also opportunistic, ill-founded and beyond the scope of this Amendment.

49. The Lascorp submission and evidence has essentially seized this Amendment C393 as an opportunity to re-ventilate an issue which was considered and put to bed by the Panel in respect of [Amendment C254 \(Leopold Structure Plan and Leopold Urban Design Framework\)](#) being whether the Centre should expand to the west beyond Clifton Avenue.

50. In Amendment C254 the Panel identified the competing issue arising from submissions there as being about whether the primary direction of expansion of the Sub-Regional Centre should be north along Melaluka Road (UDF Concept 1 and Council and Perez preferred option) or west along the Bellarine Highway (UDF Concept 2 and Lascorp preferred option).<sup>18</sup> In regard to the two options, the Panel stated:

*It was common ground that both UDF concepts, as well as Lascorp's own plans, include expansion in both directions. The difference is the extent of the expansion. The Concept 1 proposal doesn't allow development beyond Clifton Avenue and the Lascorp proposal includes a bulky goods / hardware store on its land west of Clifton Avenue.*

*The 'Concept 1' option extends the activity centre in a northerly (and westerly) direction to consume all of the existing 'Lascorp' land up to Clifton Avenue and to consume all of the Perez land to the north. This is Council's 'preferred' option and it anticipates that a significant amount of retail, bulky goods and employment floorspace will eventually be developed in this consolidated area bounded by Bellarine Highway, Melaluka Road and Clifton Avenue.*

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<sup>15</sup> 18 October 2013.

<sup>16</sup> May 2017.

<sup>17</sup> Page 88, Retail Strategy.

<sup>18</sup> Section 2, para [2], page 24.

*The 'Concept 2' option is to extend the centre west over Clifton Avenue. Lascorp made it very clear to the Panel that it wishes to pursue a major retail extension to the existing centre (more or less consistent with its Amendment C277 request) and to develop a stand-alone bulky goods outlet on its land west of Clifton Avenue. It has secured a heads of agreement with the 'Masters' chain of stores to develop this land. Lascorp submitted that this site was the only option for the location of a Masters store. In the event that this option was not supported, it was its submission that Masters would not develop anywhere in the centre which would be to the loss of both Leopold and the Bellarine Peninsula.*

*While this is not Council's 'preferred' option, its resolution of July 2012 makes it very clear that it sees merit in this option remaining as worthy of consideration by this Panel.<sup>19</sup>*

51. The Panel made clear recommendations that:
  - 51.1. The UDF Concept 1 which does not extend west beyond Clifton Avenue but includes all of the Perez land to the north of the Centre be included (in the Amendment) as the future direction for the growth of the Leopold Sub-regional Activity Centre.
  - 51.2. The land north of the Activity Centre be included in the next review and investigated for its potential for community facilities for Leopold.<sup>20</sup>
52. The context for the recommendations and reasons for the same were set out in the Panel Report as follows:

*As a result of submissions, Council officers consulted with the shopping centre owner (Lascorp) and the neighbouring landowner (Perez) with a view to resolving issues to do with the design of Activity Centre. Common ground was reached on the need for a "main street" focus for the Activity Centre on Melaluka Road.*

*However, the main area of disagreement (and the main focus of submissions and evidence at the Panel hearing) focussed on a westerly expansion of the centre so as to provide for a future 'Masters' Store (bulky goods/hardware) on land to the west of Clifton Avenue.*

*In the view of the Panel there is no basis for extending the activity centre west of Clifton Avenue. For a smallish settlement, Leopold already extends for a considerable distance and the shopping centre is at the western end of the township and is already 'off centre'. Proper planning over recent years has anticipated the orderly expansion of the centre along Melaluka Road to help entrench the 'main road' characteristic complemented by community facilities to the east. Not only would a westerly extension undermine the compactness of the town centre and further elongate an already long township, it would begin the erosion of the non-urban 'green' break to Moolap which, once breached, would inevitably lead to the merging of these areas to the detriment of both. A semi-commercial Bellarine Highway would be the result and the Panel does not accept that this is an appropriate outcome.*

*While the Panel has little doubt that a 'Masters' store west of Clifton Avenue would work and be successful, it thinks that this would be at the loss of a contained settlement and a more integrated centre.*

*References were made during submissions to the 'net community benefit' that would flow from developing a Masters store in Leopold. The Panel notes that all Planning Schemes (at Clause 10.04) ask for the planning authority to balance any competing objectives in the scheme in favour of two things; sustainable development and net community benefit.*

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<sup>19</sup> Section 2, para [3] to [6], page 24.

<sup>20</sup> Section 12.2, page 55.

*In the view of the Panel, the most 'sustainable' outcome for Leopold will be for a compact activity centre contained within defendable town boundaries. Walkability, connectivity and a sharing of space is fundamental to that sustainable outcome.*

*As for net community benefit, Panels and Tribunals have repeatedly addressed this concept. The Panel can well understand when an asset that is much sought after or needed in the community (such as a new hospital, or an important piece of transport infrastructure) might tip the balance in its favour over more localised considerations such as (say) heritage, urban design or amenity. However, in this instance, the Panel is not persuaded that these tangible community benefits can be compared to the benefits that might flow from the development of a hardware store especially as that same store, based on all the evidence, could be developed elsewhere within the same centre.<sup>21</sup>*

53. [Amendment C277 \(Expansion of Leopold Sub Regional Centre\)](#) followed. That Amendment was purposefully delayed to take account of the outcomes of C254 and consequently reflected the adopted policy direction. The Amendment facilitated the expansion of the Leopold Gateway Plaza shopping centre to a sub-regional activity centre and provision of a new drainage. The expansion involved rezoning land east of Clifton Avenue at 621-639 Bellarine Highway, Leopold from Farming Zone to Commercial 1 Zone and applying a DPO30 to the expanded site and also to the Perez land to the north.

#### **CLASSIFICATION OF BELL PARK PLAZA**

54. Merost Pty Ltd (submitter no. 5), the owner of Bell Park Plaza at 222 Anakie Road contends that the Plaza should be classified as a Neighbourhood Activity Centre within the retail hierarchy.
55. The Retail Strategy currently identifies Bell Park Plaza as a 'Dispersed Centre' and with respect to the retail hierarchy, describes its status as 'Dispersed retail'.<sup>22</sup> 'Dispersed retail' centres comprise one or more shops with more than 500sqm of shop floor space that have established out-of-centre without the need for a planning permit such that their appropriate role within and impact on the retail hierarchy has not been considered. They do not necessarily support a mix of uses including community facilities and services.
56. "Dispersed retail" centres including Bell Park Plaza are not identified in the retail hierarchy in new Clause 21.19-5. Council considers it would inappropriate to do so noting the objectives of new Clause 21.19 "Activity Centres" and Clause 22.03 respectively include:
- To consolidate and strengthen the established Geelong Retail Centre Hierarchy; and
  - To support the viability of centres identified in the retail hierarchy.
57. As described in the Retail Strategy, Bell Park Plaza is a supermarket (Aldi) based centre 800m south of the Bell Post Hill Shopping Centre, which is identified as a Neighbourhood Centre in the retail hierarchy. In addition to a supermarket, Bell Park Plaza includes a Cheap as Chips, a deli, real estate agent, liquor store and fish and chip shop.
58. The Plaza comprises 9,500 sqm of Commercial 2 Zoned land and 1,725 sqm of Commercial 1 Zoned land. It currently supports 3,909 retail floor space. By way of background, the existing supermarket, an Aldi, established without the need for a planning permit to use the land for a Supermarket following gazettal of Amendment VC100. The centre previously supported a Mitre 10 which was considered to form part of the Geelong North Homemaker precinct in Council's previous retail strategy.<sup>23</sup>

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<sup>21</sup> Section 12, pages 54-55.

<sup>22</sup> Page 170.

<sup>23</sup> *City of Greater Geelong Retail Strategy* (2006), Essential Economics, Page 115.

59. The Retail Strategy concludes that the Plaza may be included as a neighbourhood centre in the retail hierarchy in the future if it can be demonstrated that it does not impact on the viability of nearby centres.<sup>24</sup> The submitter has produced no evidence in this regard. In particular, Council would be concerned to understand the potential impact on the Bell Post Shopping Centre which the Retail Strategy observes as appearing to have low customer activity.<sup>25</sup>
60. In the circumstances, Council does not support identifying Bell Park Plaza as a neighbourhood centre at this time.

#### **MINISTER'S AUTHORISATION CONDITIONS – DIRECTION 14C**

61. Panel Direction 14c required a response from Council to the conditions on which the delegate for the Minister for Planning authorised Council to prepare the Amendment (Direction 14c). A copy of the authorization was included as Appendix 1 to Council's Part A Submission.
62. The authorisation included the following condition:
- Amend the references to the future retail centres in the Northern and Western Geelong Growth Areas in the map at Clause 21.19-5. These centres do not yet form part of the Geelong Retail Centre Hierarchy. The economic analysis in support of these centres has not been tested and they cannot be considered as equal in status to the Armstrong Creek sub-regional centre/neighbourhood centres which were approved via separate planning scheme amendments."*
63. Council accepts the centres do not yet form part of the Geelong Retail Centre hierarchy. Consistent with the authorization, they are not identified in the map in proposed Clause 21.19-5.

#### **POPULATION GROWTH IN EXISTING AREAS – DIRECTIONS 14H & I**

64. The Panel's Direction 14h required clarification from Council regarding the population growth expected in existing areas as shown in Figure 2 on page 13 of the Strategy and what this comprises in numerical and percentage terms.
65. Direction 14i requested Council provide information on how the expected growth in existing areas, particular in areas within two to three kilometres of the CBD, aligns with infill development occurring recently or the subject current approved developments. In response, Council has produced maps spatially depicted the location of new dwellings constructed in each of Central Geelong, North Geelong, South Geelong and the Bellarine Peninsula during the period 2012 to 2018. These are included in Appendix 2 to this Part B Submission.

#### **STATUS OF SETTLEMENT STRATEGY – DIRECTION 14E**

66. Panel Direction 14e required Council to advise the Panel on the status of the Settlement Strategy and its process going forward.
67. Council addressed this in its Part A Submission.<sup>26</sup>

#### **RECONCILIATION OF POPULATION GROWTH ASSUMPTIONS WITH SETTLEMENT STRATEGY – DIRECTION 14F**

68. Direction 14f requires Council to advise the Panel if, how and when the population growth assumptions underpinning the Retail Strategy are proposed to be aligned with those to be adopted in the Settlement Strategy.

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<sup>24</sup> Page 170.

<sup>25</sup> Page 110.

<sup>26</sup> At [62] to [83].

69. Council advises that it does not intend to adopt this Amendment until it has received and considered a report from the Panel appointed to consider submissions lodged in response to Amendment C395 (Settlement Strategy). Indeed, Council Officers proposes to put the respective Amendments up to the same Council meeting in 2020.
70. This will allow Council to calibrate the population growth assumptions in the Retail Strategy with the population growth assumptions in the Settlement Strategy if necessary and having regard to the findings and recommendations of the respective Panels.
71. Council's intentions in this regard were also conveyed to the Panel appointed to consider submissions in relation to C395 at the Directions Hearing for that matter.

#### **HOW THE PLANNED GROWTH IN FIGURE 14 HAS BEEN DETERMINED – DIRECTION 14J**

72. The Panel's Direction 14J required Council to provide information to the Panel on how the planned growth represented in Figure 14 of the Retail Strategy has been determined. Mr Szafraniec has addressed this in his expert witness report commencing at paragraph 73.<sup>27</sup>
73. Related to this, Mr Szafraniec has recommended updating Figures 12 and 14 on pages 41-43 of the Retail Strategy with data from Table 19 in Section 2.6 of his expert witness report.<sup>28</sup> He further recommends reframing this analysis as permit Table 20 in his expert witness report. Council accepts this recommendation.

#### **IMPACT OF CURRENT RETAIL TRENDS ON RETAIL ANALYSIS – DIRECTION 14G**

74. The Panel's Direction 14g required Council to identify how current retail trends (eg on-line retailing) impact on projections of floor space demand. Council relies on the expert of evidence of Mr Szafraniec in this regard. In essence, Mr Szafraniec says he has analysed resident, online, student, worker and tourist expenditure flows to account for flows in and out of the City of Greater Geelong, Queenscliff and parts of Surf Coast<sup>29</sup> and adjusted the model to seek to capture this impact.
75. Mr Szafraniec notes<sup>30</sup> that the effect of online retailing is presented in Figure 2 of his expert witness report<sup>31</sup> and its effect and role is also further discussed in Section 4.3 of the SGS Issues and Options Report.

#### **ACTIVITY CENTRE TERMINOLOGY – DIRECTION 14K**

76. The Panel requested commentary from why Council has not adopted Plan Melbourne activity centre terminology for the purpose of the Greater Geelong retail hierarchy.
77. The Greater Geelong retail hierarchy retains the same terminology used in Council's current local planning policy framework and its previous retail strategy<sup>32</sup> being:
  - 77.1. Regional centre;
  - 77.2. Sub-regional centre;
  - 77.3. Specialised centre;

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<sup>27</sup> Page 26.

<sup>28</sup> See Expert Witness report [97].

<sup>29</sup> See Expert Witness report Section 2.3, [28] and [29] and Section 2.5.

<sup>30</sup> At [56], Expert Witness Report.

<sup>31</sup> Page 17.

<sup>32</sup> *City of Greater Geelong Retail Strategy* (2006), Essential Economics.

- 77.4. Town Centre;
  - 77.5. Neighbourhood centre;
  - 77.6. Local centre;
  - 77.7. Restricted Retail (Homemaker) centre.
78. It is acknowledged that the Panels in both Amendment C138 (Armstrong Creek) and Amendment C129 (MSS and Local Policy Review) recommended the retail hierarchy for Geelong adopt the same terminology for retail centres in its local policy as in Melbourne 2030, being:
- 78.1. Principal Activity Centre;
  - 78.2. Major Activity Centre; and
  - 78.3. Neighbourhood Activity Centre.
79. However, as it transpired, both Amendments were adopted and approved without this occurring.
80. Today, our current Metropolitan strategy, *Plan Melbourne*<sup>33</sup> use slightly different terminology:
- 80.1. Central City;
  - 80.2. Metropolitan Activity Centre;
  - 80.3. Major Activity Centre; and
  - 80.4. Neighbourhood Activity Centre.
81. Relevantly, 'Activity Centres' policy at Clause 11.03-1S of the Victorian Planning Provisions (VPPs) in the Greater Geelong Planning Scheme continues to support the concept of a network of activity centres where the role and function of each centre is supported in the context of its classification, housing intensification policies and the development of the public transport network. However, the policy does not prescribe particular terminology for the different classes of activity centres.
82. In contrast, the Metropolitan Melbourne specific activity centre policy in the VPPs (see Clause 11.03-1R in the Boroondara Planning Scheme for example), refers specifically to:
- 82.1. Metropolitan Activity Centres;
  - 82.2. Major Activity Centres; and
  - 82.3. Neighbourhood Activity Centres.
83. To the extent that Greater Geelong is referred to in *Plan Melbourne*, it describes Geelong as a regional city.<sup>34</sup> This sits comfortably with the identification of the Geelong CBD as a "Regional Centre" in the Retail Strategy and retail hierarchy.

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<sup>33</sup> 2017-2050: Metropolitan Planning Strategy, Department of Environment, Land, Water and Planning, 2017.

<sup>34</sup> See Map 19, page 28 for example.

84. Additionally, the use of the terminology “sub-regional” in the Retail Strategy is consistent with the terminology used in *G21 Regional Growth Plan*,<sup>35</sup> being a relevant policy document for the purpose of settlement planning.<sup>36</sup>
85. In the circumstances, there is no real imperative for Council to adopt the same terminology as in *Plan Melbourne* given the *Plan* is mainly directed to metropolitan Melbourne and not regional Victoria. What is critical is that the Retail Strategy clearly identifies the role and function of the different types of centres in its hierarchy. It is critical in order for the Strategy to:
- 85.1. Support the role of Central Geelong as a major regional city and revitalizing and strengthening its role as Victoria’s second city, consistent with Victorian Planning Policy at Clause 11.01-1R;
- 85.2. Encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural development into activity centres that are highly accessible to the community, consistent with Victorian Planning Policy at Clause 11.03-1S and implement the various related strategies including to;
- a. Build up activity centres as a focus for high-quality development, activity and living by developing network of activity centres that:
    - i. Comprises a range of centres that differ in size and function.
    - ii. Is a focus for business, shopping, working, leisure and community facilities.
    - iii. Provides different types of housing, including forms of higher density housing.
    - iv. Is connected by transport.
    - v. Maximises choices in services, employment and social interaction.
  - b. Support the role and function of each activity centre in terms of its classification within the retail hierarchy, the policies for housing intensification and development of the public transport network;
  - c. Improve the social, economic and environmental performance and amenity of activity centres;
  - d. Give clear direction on preferred locations for investment.
  - e. Reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres.
  - f. Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.
  - g. Encourage economic activity and business synergies.
  - h. Improve the social, economic and environmental performance and amenity of activity centres.

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<sup>35</sup> Map 3, Geelong Context.

<sup>36</sup> See Clause 11.01-1S.

86. In Council's submission the Retail Strategy does clearly identify the role and function of the different types of centres in its hierarchy and supports the implementation of these important Victorian Planning policies.

#### **RESPONSE TO EXPERT EVIDENCE**

87. Council accepts all changes to the Retail Strategy and Amendment documents recommended by its expert Julian Szafraniec in his expert witness report dated 14 October 2019 except in relation to Figure 1 in the Retail Strategy. Mr Szafraniec observes that the labels in Figure 1 do not align with the actual subregion names used in the Retail Strategy analysis. Council accepts this, but considers it to be inconsequential noting Figure 1 is intended to simply depict the broad study area and provide some context for the Retail Strategy.
88. Council accepts Mr Szafraniec's other recommendations on the understanding that, consistent with his recent advice to Council that bullet point 7 on page 35, paragraph 97 of Mr Szafraniec's expert witness report is to be corrected so that it refers to Table 20 rather than Table 19. To be clear, Council support substituting Table 5 on page 57 of the Retail Strategy with Table 20 from Mr Szafraniec's expert witness report.
89. Mr Szafraniec's recommended changes are reflected in the Council's Day 2/Part B Amendment documents included in Appendix 4 to this Submission.
90. Council does not accept any changes recommended by other expert witnesses at this stage but intends to explore the various issues they have raised through the hearing.

#### **CONCLUSION**

91. Council looks forward to exploring the outstanding key issues with submitters, expert witnesses and the Panel throughout the hearing. It will table Part C submission addressing outstanding key issues and detailing its final position on the Amendment on 7 November 2019 after hearing all evidence and submissions. In the meantime, Council's Day 2/Part B proposed changes to the Amendment documents are included in Appendix 4 to this Submission.

28 October 2019

Kate Morris  
**HARWOOD ANDREWS**  
on behalf of  
Greater Geelong City Council