

*Planning and Environment Act 1987*

**Panel Report**

**Greater Geelong Amendment C393**

**Greater Geelong Retail Strategy**

**31 January 2020**

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Greater Geelong Amendment C393

Greater Geelong Retail Strategy

31 January 2020



Kathy Mitchell, Chair



Rodger Eade, Member

# Contents

	Page
<b>1 Introduction.....</b>	<b>1</b>
1.1 The Amendment .....	1
1.2 Background .....	1
1.3 Procedural issues .....	3
1.4 Summary of issues raised in submissions.....	6
1.5 The Panel’s approach.....	6
<b>2 Planning context .....</b>	<b>8</b>
2.1 Planning policy framework .....	8
2.2 Other relevant planning strategies and policies.....	9
2.3 Planning scheme provisions.....	10
2.4 Ministerial Directions and Practice Notes .....	11
2.5 Discussion and conclusions.....	11
<b>3 Key strategic issues .....</b>	<b>12</b>
3.1 Overview of the Retail Strategy .....	12
3.2 Retail modelling .....	13
3.3 Maintaining a retail hierarchy .....	15
3.4 Application of floorspace caps.....	16
3.5 Assessment of retail proposals .....	19
3.6 Population forecasts .....	21
<b>4 Leopold sub-regional centre .....</b>	<b>24</b>
4.1 Background .....	24
4.2 The issues.....	24
4.3 Relevant policies, strategies and planning permits .....	25
4.4 Evidence and submissions .....	25
4.5 Discussion .....	29
4.6 Conclusions and recommendations .....	31
<b>5 Kingston Downs Neighbourhood Activity Centre .....</b>	<b>32</b>
5.1 Background .....	32
5.2 The issues.....	32
5.3 Relevant provisions, strategies, studies and permits .....	32
5.4 Evidence and submissions .....	35
5.5 Discussion .....	37
5.6 Conclusions and recommendations .....	39
<b>6 Waurn Ponds sub-regional centre .....</b>	<b>40</b>
6.1 Background .....	40
6.2 The issues.....	40
6.3 Submissions .....	41
6.4 Discussion .....	42

6.5	Conclusions .....	42
<b>7</b>	<b>Other issues .....</b>	<b>43</b>
7.1	Retail planning for the northern and western growth areas of Geelong.....	43
7.2	Bell Park Plaza .....	44
7.3	Timing of key planning decisions .....	45
7.4	Activity centre terminology used in the Retail Strategy.....	46
<b>8</b>	<b>Statutory issues .....</b>	<b>47</b>
8.1	Clause 21.19 Activity Centres .....	47
8.2	Clause 22.03 Assessment criteria for retail planning applications.....	49
8.3	Schedule to the Commercial 1 Zone at Clause 34.01 .....	50
8.4	Retail Strategy.....	50
8.5	Recommendations .....	52

## Appendices

<b>Appendix A</b>	<b>Submitters to the Amendment</b>
<b>Appendix B</b>	<b>Parties to the Panel Hearing</b>
<b>Appendix C</b>	<b>Document list</b>
<b>Appendix D</b>	<b>Panel preferred version of Clause 21.19 - Activity Centres</b>
<b>Appendix E</b>	<b>Panel preferred version of Clause 22.03 - Assessment Criteria Retail Planning Applications</b>
<b>Appendix F</b>	<b>Panel preferred version of the Schedule to Clause 34.01 Commercial 1 Zone</b>

## List of Tables

	Page
Table 1	Key Milestones in the preparation of Amendment C393 ..... 2
Table 2	Leopold sub-regional centre ..... 24
Table 3	Kingston Downs neighbourhood activity centre ..... 32
Table 4	Waurin Ponds sub-regional centre ..... 40

## List of Figures

	Page
Figure 1	Proposed Greater Geelong Retail Hierarchy ..... 2
Figure 2	Development options for the Leopold sub-regional centre ..... 26
Figure 3	Location of the Bunnings store ..... 28
Figure 4	Kingston Downs NAC Development Master Plan ..... 34

## Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
C393	Amendment C393 to the Greater Geelong Planning Scheme
C395	Amendment C395 to the Greater Geelong Planning Scheme
Council	City of Greater Geelong
DAL	Distinctive Areas and Landscapes
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
EIA	Economic Impact Assessment
LBDG	Lovely Banks Development Group
NAC	Neighbourhood Activity Centre
Planning Scheme	Greater Geelong Planning Scheme
PPF	Planning Policy Framework
PPV	Planning Panels Victoria

## Overview

Amendment summary	
<b>The Amendment</b>	Greater Geelong Amendment C393
<b>Common name</b>	Greater Geelong Retail Strategy 2016-2036
<b>Brief description</b>	The Amendment implements the Greater Geelong Retail Strategy by inserting a new Clause 21.19 <i>Activity Centres</i> and replacing Clause 22.03 <i>Assessment Criteria for Retail Planning Applications</i> and making other related changes to the Greater Geelong Planning Scheme
<b>Subject land</b>	The municipality of the City of Greater Geelong
<b>The Proponent</b>	Greater Geelong City Council
<b>Planning Authority</b>	Greater Geelong City Council
<b>Authorisation</b>	22 March 2019
<b>Exhibition</b>	10 April to 20 May 2019
<b>Submissions</b>	Number of Submissions: 14 (see Appendix A) Each submission requested changes to the exhibited Amendment Three submissions were withdrawn before the Hearing

Panel process	
<b>The Panel</b>	Kathy Mitchell, Chair and Rodger Eade
<b>Directions Hearing</b>	Planning Panels Victoria, 18 September 2019
<b>Panel Hearing</b>	Planning Panels Victoria, 28, 29, 30, 31 October and 7 November 2019, and 21 January 2020
<b>Site inspections</b>	Unaccompanied 11 October and 12 November 2019 and at Kingston Downs after the Hearing
<b>Citation</b>	Greater Geelong PSA C393 [2020] PPV
<b>Date of this Report</b>	31 January 2020

## Executive summary

Greater Geelong Amendment C393 seeks to implement the *City of Greater Geelong Retail Strategy 2016-2036* for the Greater Geelong municipality. Since the current Retail Strategy for Greater Geelong was prepared in 2006, the population of Greater Geelong has grown substantially. New areas such as the Armstrong Creek Growth Area have developed and there is significant infill development occurring in suburbs close to the city centre. Population is expected to continue to grow strongly over the coming decades with new growth areas proposed to the north and west of the existing urban area.

The 2006 Retail Strategy is now out of date and Council embarked on a new strategy in 2015. The analysis undertaken to underpin the new Retail Strategy forms a key part of Amendment C393 which proposes to increase retail floor space throughout the municipality. This includes a new policy at Clause 21.19, replacement policy at Clause 22.03, as well as changes to the Commercial 1 Zone at Clause 34.01. Exhibition of the Amendment resulted in 14 submissions, all of which were referred to a Panel.

The focus of the key contested submissions was in Leopold, Waurin Ponds and Kingston Downs. The main tensions arose as a result of Council's desire to manage its retail hierarchy through the use of caps on shop floor space and from submitters which wished to either remove caps or set them at higher levels than Council proposed. Further, some submitters have sought to include land within various Activity Centre boundaries.

Submitters and the Panel raised a number of concerns about the content of the exhibited Amendment and the suitability of an amended Retail Strategy for inclusion in the Greater Geelong Planning Scheme. The Hearing was adjourned to provide the opportunity for Council to undertake further review of the proposed Retail Strategy and for parties to respond to that review and proposed changes to the policy.

The Panel considers that more work needs to be undertaken by Council prior to submitting the Amendment for approval, but this work is mainly in the form of a detailed edit and review of the layout and form of the Retail Strategy, as well as reconciling what is in the Retail Strategy with policy. If these recommendations are upheld and progressed, the Amendment can be supported.

Based on the reasons set out in this Report, the Panel recommends that Greater Geelong Amendment C393 be adopted as exhibited subject to the following:

- 1. Amend the table to the Schedule to Clause 34.01 to provide for 11,000 square metres of shop floor space for the Kingston Downs Neighbourhood Activity Centre.**
- 2. Amend the boundary of the Kingston Downs Neighbourhood Activity Centre to include all of the Commercial 1 Zone land and part of the Commercial 2 Zone land (as far south as the northern boundaries of properties on the north side of Sinclair Street).**
- 3. Include the Part D version (*Greater Geelong Retail Strategy 2016-2036*) in the Greater Geelong Planning Scheme as a Reference Document, subject to the following changes:**

- a) Provide for five Activity Centres in the Northern Growth Area (one Sub-Regional and four Neighbourhood Activity Centres) and amend all text and plans accordingly in the Retail Strategy and in relevant policy.
  - b) Amend the second last paragraph in 'Indicative Retail Centres in the Northern and Western Geelong Growth Areas' (after Table 2) to read "*Each growth area will be planned ... and any potential impacts on the existing centre network and will consider applying floor space caps*".
  - c) Move the 'Definition of a Retail Centre' that is provided after Table 2 to be placed before Table 2.
  - d) Re-insert the third qualification as proposed in Document 11 to the text preceding Table 5 to read "*Floor space has not been attributed to individual indicative centres ... as part of the preparation of Precinct Structure Plans*".
  - e) Replace all figures for the Northern and Western Growth Area centres with 'zero' in Table 5 'Supportable Floor Space 2016 – 2036', as well as in Appendix 2 'Indicative Centres'.
  - f) Amend section 1.4 (Leopold) in Appendix 2 to include 'Bunnings' as a key characteristic.
  - g) Add street names (where appropriate) to the maps in Appendix 2.
  - h) Present all maps in Appendix 2 on a common, clearly identified scale to aid in interpretation where appropriate.
  - i) Place the nominated activity centres in alphabetical order in Appendix 2 by name under each centre category and include the list of centres in the Table of Contents.
4. Undertake a detailed edit and review by a professional editor of the Part D version of the *Greater Geelong Retail Strategy 2016-2036*, for readability, presentation and ordering of content before adoption.
  5. Retitle the *Greater Geelong Retail Strategy 2020-2036* and make consequential date changes to Clauses 21.19 and 22.03.
  6. Replace the exhibited versions of Clause 21.19, Clause 22.03 and the Schedule to the Commercial 1 Zone at Clause 31.04 with the versions at Appendices D, E and F of this report.

# 1 Introduction

## 1.1 The Amendment

Amendment C393 to the Greater Geelong Planning Scheme (the Amendment) seeks to implement the *City of Greater Geelong Retail Strategy 2016-2036*, (the Retail Strategy) for the Greater Geelong municipality. Specifically, the Amendment proposes to:

- delete the retail policy provisions at Clause 21.07 *Economic Development and Employment*
- insert a new Clause 21.19 *Activity Centres* that includes an updated Geelong Retail Centre Hierarchy, and which identifies the Retail Strategy as a Reference Document
- replace the existing Clause 22.03 *Assessment Criteria for Retail Planning Applications* with a new Clause of the same name
- amend the schedule to Clause 34.01, Commercial 1 Zone.

The Amendment applies to the whole of the Greater Geelong municipality.

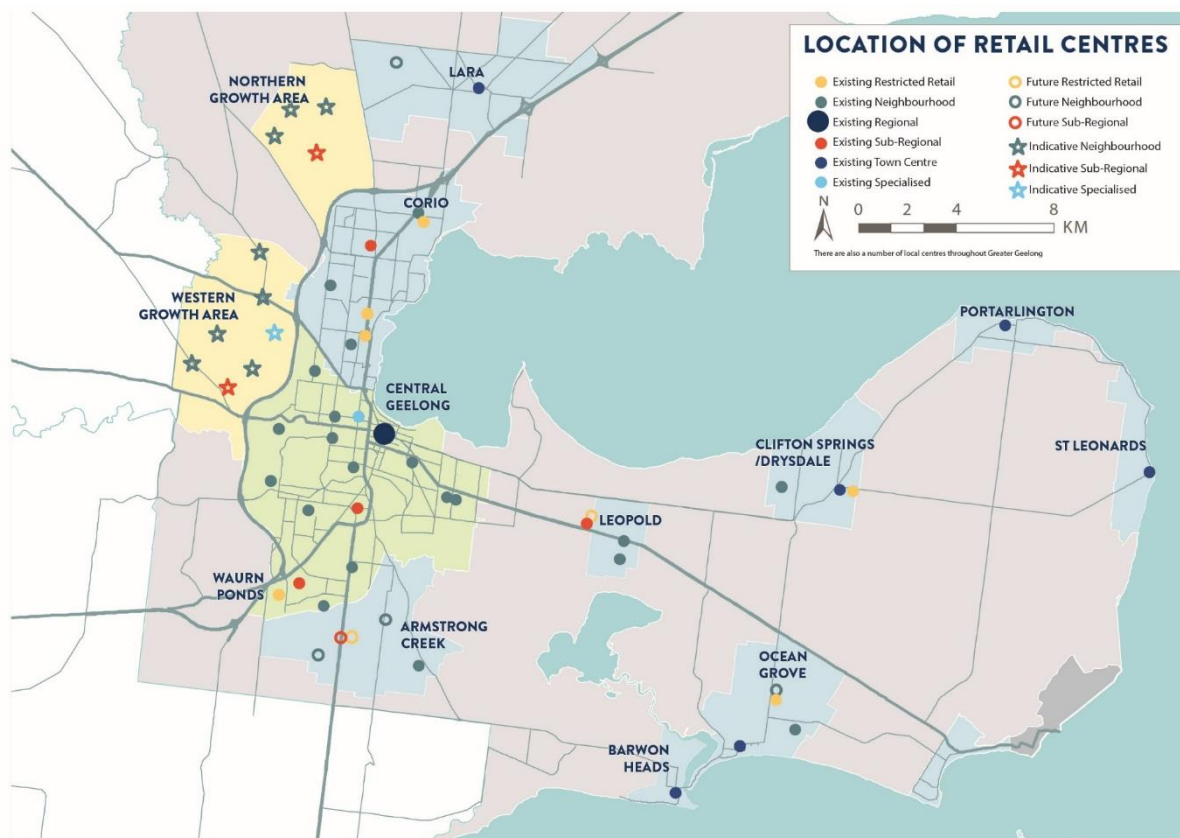
## 1.2 Background

The Retail Strategy replaces the 2006 Retail Strategy. The Retail Strategy addresses changes to the retail network, retail floorspace demand and policy context. The Retail Strategy was prepared in partnership with SGS Economics and Planning.

The population of Greater Geelong grew from 201,495 in June 2006 to 244,798 in June 2017, an increase of 21.5 per cent. The Strategy is based on a projected population of 351,500 by 2036 in the municipality. This population increase together with increased income, the changing nature of retailing and a current strategy which is some 14 years old, give rise to an urgent need for a new strategy which will inform decision making about future retail provision in Greater Geelong.

The proposed Greater Geelong retail hierarchy as proposed in the Retail Strategy is illustrated in Figure 1.

Figure 1 Proposed Greater Geelong Retail Hierarchy



Source: Retail Strategy 2016 - 2036

The key milestones in the development of Amendment C393 and the Retail Strategy are set out in Table 1:

Table 1 Key Milestones in the preparation of Amendment C393

Dates	Milestone
June 2014	SGS Economics and Planning engaged to undertake Retail Strategy
27 March to 28 April 2017	Draft Retail Strategy finalised and informal consultation undertaken
11 April 2017	Stakeholder information session on draft Retail Strategy
March 2018	Gravity model updated in response to submissions and feedback, overall strategy updated to reflect model findings
14 November 2018	Email letter sent to submitters and stakeholders advising that the Retail Strategy was going to Council for a decision
27 November 2018	Council resolved to adopt the <i>City of Greater Geelong Retail Strategy</i> and prepare and exhibit a planning scheme amendment

Dates	Milestone
8 March 2019	Council requested Ministerial authorisation
22 March 2019	Minister's delegate authorised amendment exhibition with conditions
10 April to 20 May 2019	Public Exhibition, 14 submissions received
Late June to August 2019	Engagement with submitters to resolve objections where possible
25 June 2019	Council requested an exemption from the need to comply with a requirement of Ministerial Direction No. 15 [Section 4(3)]
28 June 2019	Minister's delegate granted exemption request
22 August 2019	Council considered submissions and resolved to refer all submissions to a Panel
26 August 2019	Council wrote to Planning Panels Victoria (PPV) to request a Panel be appointed
18 September 2019	Panel Directions Hearing
19 September 2019	Panel issued timetable and directions
28, 29, 30, 31 October, 7 November, 10 December 2019, and 21 January 2020	Panel hearings

The Panel conducted unaccompanied site visits to Leopold, Kingston Downs, Ocean Grove and Waurm Ponds on 11 October 2019, with follow up inspections to Leopold on 12 November 2019 and Kingston Downs on 26 January 2020.

### 1.3 Procedural issues

#### (i) Panel membership

At the Directions Hearing, the Chair advised that both members of this Panel are Chair and Deputy Chair of the Kaufland Stores in Victoria (Kaufland) Advisory Committee, which was established to provide advice to the Minister for Planning on the establishment of Kaufland supermarkets in Victoria. A Kaufland store is proposed adjacent to the Waurm Ponds sub-regional centre. Neither member of this Panel was directly involved in the substantive Kaufland Waurm Ponds hearing.

No issues were raised about this declaration.

On 22 January 2020, the Panel was informed that Kaufland intended to exit the Australian market. No advice was received that Kaufland wished to withdraw its submission to this Panel, nor is it possible for them to do so at this late stage. Consequently, in this report the Panel has retained its analysis of the proposed Kaufland site but draws no conclusions and makes no recommendations with respect to it.

#### (ii) Withdrawn submissions

The delegate officer's report to Council dated 22 August 2019, indicated that the submissions from Aldi Stores (Submission 1, Document 45) and the Ramsey Property Group (Submission

10) had been withdrawn. At the Directions Hearing, Ms Morris for Council informed the Panel that the submission from the McCann Family (Submission 14, Document 2) had been withdrawn.

At the Directions Hearing, the Chair advised that the Council resolution referred all submissions to the Panel and that late withdrawal of a submission ran the risk that the Panel may not agree with any resolution reached between the Council and a submitter. Further, the Chair advised that there may be other submissions on the same issue as raised in withdrawn submissions prosecuted at the Hearing and may result in a conclusion or recommendation contrary to a resolution reached between Council and a withdrawn submission.

### **(iii) Interface between Amendments C393 and C395**

At the Directions Hearing, Mr Townshend for Lascorp raised the issue of the interface of Amendment C393 with Amendment C395 to the Greater Geelong Planning Scheme that deals with the Greater Geelong Settlement Strategy. He expressed concern about the compatibility of the two amendments in relation to the vision for his client's site at Leopold. He contended there was a direct overlap with a potential Structure Plan for the centre and how the sub-regional centre should be developed. He considered the Panel process for this current Amendment should be completed before the Hearing for Amendment C395 commenced so that the Panel recommendations from Amendment C393 can be known. Mr Townshend questioned whether there should be some commonality of Panel membership between the two amendments.

At the Directions Hearing, the Chair noted that Amendment C395 had not been referred to Planning Panels Victoria and was yet to go to Council for formal resolution. Council indicated the intention to provide an update on the Settlement Strategy to this Panel Hearing as part of its submissions. The Panel noted the issue and included reference to it in its Directions (Document 4).

At the Hearing, and subsequent to the Directions Hearing for Amendment C395, Mr Townshend indicated that it was his intention to prosecute Lascorp's full case at the Amendment C393 proceedings. He advised that Lascorp's issues with respect to Amendment C395 would not be heard by that Panel until the Amendment C393 report was available and he would proceed appropriately in relation to Amendment C395 on the basis of the outcomes of the Amendment C393 report. He noted that this was not ideal from his client's point of view but noted he was aware of the constraints under which Planning Panels Victoria's scheduling of these two matters had progressed.

### **(iv) Unresolved issues and response**

On Day 4 of the Hearing, the Panel indicated that there were a number of issues which it directed Council address in its Part C submission scheduled for Day 5 on Thursday 7 November 2019. These were confirmed as Directions dated 1 November 2019 (Document 75):

- explain why it undertook a Retail Strategy rather than a broad-based Activity Centre Strategy.
- explain the further changes to the Retail Strategy it believes are necessary to make it suitable to be included in the Scheme as a reference document.

- review the proposed shop floorspace caps and provide a statement of benefits that might accrue to the retail centre, investors, communities and Council in having such caps.
- review Clause 21.19 to address the submitted anomalies raised about the requirement for an EIA in various scenarios involving permits for 'use' and for 'buildings and works'
- review Clauses 21.19 and 22.03 in light of the issues raised in submissions and evidence. In particular, the issues raised about preparation of an EIA for low impact proposals and an EIS and NCB analyses for high impact proposals.
- indicate how it intends to address the issue of 'no impact' proposals.
- provide commentary on proposed changes to the Retail Strategy and how these might be reconciled through this Amendment process. This includes commentary and any updates to the population forecasts, particularly for the Ocean Grove 'sub-region', the submitted anomalies in the transition from Tables 18 to 19, a revised Figure 14 and how it will address the submitted anomaly between this figure and the text immediately preceding it.
- in light of submissions and evidence, any recommended changes to the boundaries of the Leopold and Waurin Ponds sub-regional centres.
- whether the Retail Strategy and associated Planning controls should be peer reviewed.
- review the VCAT *Danahar v Whittlesea City Council* [2019] decision and advise if it has any implications for progression of this Amendment.

In response, at the Hearing on 7 November 2019, Council requested four weeks of extra time to get advice on and properly consider its response to the Panel Direction. The Panel scheduled a further half day Hearing for 10 December 2019. It directed that if further notice was deemed to be required as a result of the further information provided, parties would have until 17 January 2020 to provide any additional submissions and evidence. If further hearings were required, the days of 21, 22, and 23 January 2020 were set aside.

Mr Townshend noted his concern about the parallel Panel and Planning Scheme Amendment processes for Amendments C393 and C395 where he had consistently maintained the importance to his client of having an outcome of Amendment C393 before he provides his submission and evidence to the Amendment C395 Panel in early February 2020. He expressed concern about delays in reporting on this Amendment and while not objecting to Council's preferred process, he asked the Panel to consider providing an interim report.

The Panel advised that outstanding contentious issues could not be addressed in an interim report and for this reason it was not inclined to issue an interim report. However, the Panel advised that if the hearings extended into late January 2020, it committed to provide its final report 10 business days from its final hearing date, thus enabling the Amendment C395 hearing to proceed broadly in line with its proposed timetable.

#### **(v) Further hearing on 10 December 2019**

At the Hearing on 10 December, Council tabled tracked change versions of the policies and Commercial 1 Zone Schedule (Documents 83, 84, 85), a revised version of the Retail Strategy (Document 86) and a memorandum from Mr Szafraniec (Document 87). The Panel confirmed further Directions on 11 December 2019 directing that Council provide a tracked change version of the revised Retail Strategy and that parties should provide any further submissions

on these revised documents by 17 January 2020. Tuesday 21 January 2020 was set aside for parties to speak to those further submissions should they wish.

#### **(vi) Further hearing on 21 January 2020**

Council, Shell Road Developments Pty Ltd (Shell Road), Lovely Banks Development Group (LBDG) and E and M Perez (Perez) made further submissions. Lascorp Development Group (Australia) Pty Ltd (Lascorp), and Kaufland advised they would rely on their earlier submissions. Council, Perez and LBDG were heard on 21 January 2020.

Discussion of issues raised are included in relevant sections of this report. The Hearing closed on 21 January 2020.

### **1.4 Summary of issues raised in submissions**

The following issues were raised in submissions:

- whether the Retail Strategy is in an appropriate form to include in the Planning Scheme as a Reference Document
- appropriateness of the gravity model to underpin the Retail Strategy
- whether the application of floorspace limits for 'shop' was strategically justified
- the use of 'low impact' and 'high impact' triggers for further assessment of a proposal and the detail of that assessment
- appropriateness of the proposed Clauses 21.19 and 22.03
- how and at what level of detail, the future provision for retailing in the Northern and Western Growth Areas in Geelong should be represented in the Retail Strategy
- alignment between population forecasts in the Retail Strategy and the Council endorsed Settlement Strategy
- whether the floorspace caps proposed for the Leopold, Waurin Ponds and Kingston Downs centres are appropriate
- direction of future development of the Leopold sub-regional centre
- boundary of the Waurin Ponds sub-regional centre
- provision for a potential Kaufland supermarket adjacent to the Waurin Ponds centre
- timing of key planning decisions with respect to the Kingston Downs and Ocean Grove centres.

### **1.5 The Panel's approach**

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions and recommendations.

This Report deals with the key issues for resolution under the following headings:

- Planning context
- Key strategic issues

- Leopold sub-regional centre
- Kingston Downs Neighbourhood Activity Centre
- Waurin Ponds sub-regional centre
- Other issues
- Statutory issues.

The Panel notes there were a number of version of the planning controls provided at the Hearing. While it is obliged to consider the exhibited Amendment, it has used the Council final versions of the various controls in Appendices D, E and F and the Part D version of the Retail Strategy as the basis of its recommendations for changes to each.

## 2 Planning context

### 2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework (PPF), which the Panel has summarised below.

#### Victorian policy objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the *Planning and Environment Act 1987* (the Act) by providing for the fair, orderly, economic and sustainable use and development of land within Greater Geelong.

#### Clause 11 (Settlement)

The Amendment supports:

- **Clause 11.01-1S Settlement and Clause 11.01-1R Settlement (Geelong G21)** by outlining strategies to promote regional development, including the development of compact urban areas based around existing or planned activity centres to maximise accessibility to facilities and services. Furthermore, strategies should ensure retail, office-based employment, community facilities and services are concentrated in central locations. The important role of Central Geelong is highlighted.
- **Clause 11.03-1S Activity centres** which seeks to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

These Clauses include a number of strategies, which Council submitted, the Amendment implements.

Other State clauses supported by the Amendment include **Clauses 17.01-1S, 17.01-1R Diversified economy - Geelong G21** and **17.02-2S Out-of-centre development**. These Clauses seek to:

- protect and strengthen existing and planned employment areas and plan for new employment areas.
- facilitate growth in a range of employment sectors including retail, based on existing and emerging factors – such as the rate of population growth.
- discourage proposals for expansion of single use retail and commercial facilities outside activity centres.
- give preference to locations in or on the border of an activity centre for expansion of single use retail and commercial facilities.

#### Clause 21 (the Municipal Strategic Statement)

The Amendment supports the Municipal Strategic Statement through:

- **Clause 21.06 Settlement and Housing** that provides for environmental, economic and social imperatives to reduce urban sprawl and improve accessibility to urban services, principally by consolidating urban development around places of activity and public transport infrastructure.

- **Clause 21.06-32 Urban Consolidation** that seeks to maximise housing opportunities in and close to activity centres, consistent with their primary commercial and retail role.
- **Clause 21.07 Economic Development and Employment** by upholding the well-established hierarchy of retail centres in Greater Geelong.

These Clauses will be supplemented by introducing a new **Clause 21.19 Activity Centres**.

### **Clause 22 (local planning policies)**

The Amendment will replace local policy, Clause 22.03 *Assessment criteria for retail planning applications* with an updated policy.

## **2.2 Other relevant planning strategies and policies**

The key policies and strategies that underpin the Retail Strategy are outlined. Later chapters detail policies and strategies directly relevant to particular activity centres.

### **(i) City of Greater Geelong Retail Strategy 2006**

This is the predecessor Retail Strategy which is effectively obsolete through the effluxion of time. The 2006 Retail Strategy was developed to analyse the retail development potential for the municipality to 2021 and identify the location and format of future retail development.

### **(ii) Housing Diversity Strategy 2007**

Council adopted the *Housing Diversity Strategy* in 2007 which forms the basis for urban consolidation policies at Clause 21.06 and development application guidance to promote housing diversity at Clause 22.63. The strategy is a Reference Document in the Planning Scheme.

Areas to promote increased density were defined around regional, sub-regional, neighbourhood and town level activity centres as defined in the *City of Greater Geelong Retail Strategy 2006*. The areas are generally zoned Residential Growth where a mix of high, medium and conventional density housing is encouraged.

### **(iii) G21 Regional Growth Plan, 2013**

The *G21 Regional Growth Plan 2013* is a policy document at Clause 11.01-1S. The region consists of five municipalities: Greater Geelong, Queenscliffe, Colac Otway, Surf Coast and Golden Plains.

Council submitted that the Amendment supports the *G21 Regional Growth Plan 2013*, because:

- it identifies the retail sector as one of the key drivers of economic growth in Geelong over the last 10 years.
- infrastructure and services within the G21 region are to be optimised and consolidated, particularly those near central retail and transport nodes.

**(iv) Greater Geelong Settlement Strategy, 2018**

The *Greater Geelong Settlement Strategy* is the City's new planning framework to meet the housing needs of Greater Geelong to 2036.

Council submitted that the Amendment supports the *Greater Geelong Settlement Strategy* because it provides for retail development to support a growing population.

**(v) Northern and Western Geelong Growth Areas Framework Plan, 2019**

The Northern and Western Geelong Growth Areas are the largest greenfield urban development project in regional Victoria with the capacity to accommodate around 110,000 residents. The *Northern and Western Geelong Growth Areas Framework Plan* provides the basis to guide this urban expansion.

The growth areas will be planned and developed in an orderly and sustainable sequence of nine short, medium and long term precincts. The 'Economy' section of the Plan identifies a number of Neighbourhood Activity Centres and Sub-Regional Activity Centres. The Plan is being implemented through Amendment C395.

**(vi) Distinctive Area and Landscape - Bellarine Peninsula**

The Act enables an area within Victoria to be declared a 'Distinctive Area and Landscape' (DAL). In 2018, the State Government made an election commitment to protect the Bass Coast, Bellarine Peninsula and the Surf Coast from overdevelopment by declaring these areas under the Act and preparing a Statement of Planning Policy that includes strengthened settlement boundaries and height controls. On 29 November 2019, Council notified the Panel that it had received notification from DELWP that on 22 October 2019, the Bellarine Peninsula had been declared under the Act and that DELWP was obligated to prepare a Statement of Planning Policy for the area within 12 months. This would result in the declaration of protected settlement boundaries for nominated townships.

## **2.3 Planning scheme provisions**

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the PPF.

**Commercial 1 Zone** provides for planning schemes outside of metropolitan Melbourne to specify maximum leasable floor areas for Shop in a schedule. The Amendment will continue to use floor space caps to restrict the size of individual centres. Proposals to expand a centre beyond the size of a cap will require a planning permit for use.

**Commercial 2 Zone** has among its purposes "*To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services*". Supermarkets up to 1,800 square metres of leasable floor areas are an 'as of right use'.

## 2.4 Ministerial Directions and Practice Notes

### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments), Ministerial Direction 15 (the Planning Scheme Amendment Process) and the requirement under Section 7(5) of the Act on the form and content of planning scheme amendments.

### Planning Practice Notes

Planning Practice Note 7 *Writing a Local Planning Policy* sets out guidelines on how a local policy must be written, amongst other matters. It notes that directly below the title, it must be stated clearly where or to what the policy applies.

Planning Practice Note 46 (May 2017) *Strategic Assessment Guidelines for preparing and evaluation planning scheme amendments*, describes what should be considered as part of Ministerial Direction 11.

## 2.5 Discussion and conclusions

While there were some submissions and evidence about the Amendment, the State and local planning policy matters were not really contested.

For the reasons set out in the following chapters, the Panel concludes that the Amendment is generally supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Planning Practice Notes. The Amendment is sufficiently founded and strategically justified. It implements the relevant sections of the State and local sections of the PPF and subject to the changes recommended in this report adequately provides for the retail needs of a growing population over the next ten to 15 years.

On this basis, the Panel concludes that Amendment C393 to the Greater Geelong Planning Scheme should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

## 3 Key strategic issues

Submissions raised key strategic issues which the Panel believes should be addressed before considering issues associated with particular activity centres. These relate to:

- overview of the Retail Strategy
- retail modelling
- maintaining a retail hierarchy
- application of floorspace caps
- assessment of retail proposals
- population forecasts.

### 3.1 Overview of the Retail Strategy

#### (i) Background

The Geelong Retail Strategy 2006, which guides decision making about retail proposals was prepared and implemented 15 years ago and is clearly obsolete. The process to develop a new Retail Strategy commenced in 2014. The Panel notes that this is a long gestation period for any Strategy. Key milestones are set out in Table 1.

Three versions of the Retail Strategy have been made available to the Panel as follows:

- exhibited version.
- Day 1 version which proposed a number of changes resulting from the submissions made to the exhibited version (Document 11).
- Part D version which proposed further significant changes resulting from submissions made at the Hearing. A summary of the changes proposed was tabled as Document 91 and a track change version subsequently made available at the direction of the Panel (Document 94).

#### (ii) Discussion

The changes proposed to the Retail Strategy as part of the Day 1 version (Document 11) are an usual part of the Panel process whereby the proponent proposes changes to Amendment documentation in response to submissions. However, as noted in the Panel's Direction of 1 November 2019, the issues raised during the Hearing were significant and the Panel had to assure itself that the changes proposed to Amendment documentation could not be interpreted as transformation of the Amendment. To assure itself that all parties potentially impacted by the revised Retail Strategy had the opportunity to comment on it, a process as outlined in Chapter 1.3 was followed to allow impacted parties to comment further.

The Panel is concerned and disappointed at the number of changes that had to be made to the Retail Strategy during the course of the Hearing. While it endorses the majority of changes, it notes that making such significant changes without the opportunity for careful reflection or review, is not good practice and may not result in an optimum outcome. Later iterations of the Retail Strategy include more and complex tables. The Panel understands the rationale for including these is an attempt to justify the key outcomes proposed. However, the Panel is of the opinion that any review of the Retail Strategy should consider what

supporting information should be retained in the body of the document and what detail could be more usefully relegated to appendices.

Discussion and the Panel's conclusions on the preferred form of the Retail Strategy are in Chapter 8.4.

## **3.2 Retail modelling**

### **(i) The issues**

The key issues to be resolved are:

- whether the 'gravity' model used by Council's consultants, SGS Economics and Planning, is an appropriate methodology to underpin and guide development of the Retail Strategy over a large and diverse area such as Greater Geelong
- whether the floorspace caps informed by the outputs of the gravity model are appropriately justified.

### **(ii) Submissions and evidence**

In supporting the use of the gravity model to underpin the Retail Strategy, Council relied on the expert evidence of Mr Szafraniec. He spoke to the rationale for the use of the gravity model approach as follows:

A gravity modelling approach is well suited to a largely self-contained and complex system such as Greater Geelong because:

- all spending across the retail system is accounted for once, and only once
- it avoids having to define individual centre catchments which may double count and/or exclude areas when considered at a system wide level
- catchments are dynamic, based on changing demand, supply transport and retail segments.<sup>1</sup>

Evidence from other retail economists were critical of the gravity modelling. Mr Dimasi stated that he disagreed with the statements by Mr Szafraniec and noted without naming 'them' that "*many others*" over the years have disagreed with the approach taken by SGS Economics and Planning.

Mr Dimasi questioned the conceptual basis of gravity modelling, citing two critiques of it, albeit from the 1970s. He criticised its lack of transparency; he claimed that there was a degree of circularity in its methodology in that it in part, proves what are inputs to the model; and he criticised its inability to properly include factors influencing the attractiveness of a centre including what he called "*hedonistic factors*". Further, Mr Dimasi claimed that the model's use to inform 'soft' floorspace caps was not consistent with Mr Szafraniec's claim that the model was being used at the strategic level.

Mr Ganly summarised his objections to the use of the gravity model as follows:

The retail gravity model presented by SGS as the key input for the Retail Strategy is heavily flawed, with key inputs such as existing retail floorspace, centre RTDs

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<sup>1</sup> Expert evidence of Mr Szafraniec, para 33

population forecasts, tourism spending contributions and catchment area definitions demonstrating, in many cases, significant departures from reality<sup>2</sup>.

He supported this summary in his evidence and at the Hearing by a detailed analysis giving a number of examples of where the model generated flawed outcomes, specifically with respect to Ocean Grove, where his client's interests are located.

In response to these criticisms, Mr Szafraniec cited a number of examples where the gravity modelling approach has been used and other consultants who have used gravity modelling.

Under cross examination by Mr O'Farrell for Lascorp, Mr Szafraniec denied that the model is opaque and not able for example, to allocate the significant amount of tourism expenditure between centres. He responded that more data outputs from the model could be provided. When the Panel asked Mr Dimasi whether access to more output data would allay some of his concerns, he responded that analysis of intermediate data outputs could take days or weeks.

Mr Szafraniec stated that the use of gravity models is generally accepted as best practice. Mr Ganly strongly disagreed.

Shell Road, supported by the evidence of Mr Ganly, was highly critical of the supportable floorspace figures for the Ocean Grove sub-region. Table 18 of Mr Szafraniec's evidence showed an excess of demand over supply for Ocean Grove for 2036 of 50,371 square metres. In Table 19, part of this excess was allocated to Central Geelong leaving the Ocean Grove excess as 5,989 square metres. The lack of a transparent reason for this change underpins the criticism of the methodology.

Each of the retail economic experts acknowledged that the modelling approaches they preferred could only go so far and that professional judgments were required in making recommendations with respect to matters such as floorspace caps.

### **(iii) Discussion**

The Panel notes the disagreements amongst retail economists about the virtues of various modelling approaches. Each method has strengths and shortcomings.

In drawing a conclusion on the usefulness of the gravity modelling or indeed any other modelling approach, the Panel considers the following criteria as relevant:

- whether the model is conceptually sound
- whether it is able to accommodate assessment of the range of relevant factors
- whether data is available on the relevant input variables
- whether the outputs generated appear to be a logical reflection of reality
- whether the use of the methodology is transparent.

It is not the Panel's role to provide a detailed critique of the gravity modelling approach. At the end of the day, the Panel needs to be assured that the proposed Planning Scheme controls have been the subject of appropriately rigorous analysis.

In the matters of dispute in this case, this is in effect the floorspace allocated to each centre and from this, the floorspace caps for shop use. The Panel is of the view that no evidence has

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<sup>2</sup> Expert evidence of Mr Ganly para 180

been presented that fatally undermines the conceptual base of the gravity model. It accepts the evidence of Mr Dimasi about the complex and changing nature of the shopping experience and has some concerns about the gravity model's ability to accommodate this type of complexity.

Any modelling faces challenges about the availability of appropriate data to represent these complex and changing realities. Gravity modelling is no exception. The Panel has serious concerns about the transparency of the gravity modelling approach and accepts the 'black box' criticism made of it. This concern is heightened when the amount of floorspace allocated to a centre changed significantly between the various iterations of the Retail Strategy, without a clear and transparent rationale. Mr Szafraniec gave reasons why this occurred as part of the modelling but with the data presented, there is no ability to interrogate this step change.

The Panel is somewhat surprised that neither Council nor Mr Szafraniec foresaw this as an issue and had data on hand to allow closer understanding and interrogation of this step change. Because of this, the Panel can have little confidence in the output of the modelling, at least in so far as it informs the floorspace caps proposed. However, from the Panel's viewpoint, this is not a fatal concern because the professional judgment of various experts, together with the analysis of the Panel of a range of other determining factors in drawing together its conclusions.

#### **(iv) Conclusions**

The Panel concludes that:

- professional judgment informed by the modelling undertaken provides a satisfactory basis to underpin the Retail Strategy.

### **3.3 Maintaining a retail hierarchy**

#### **(i) The issue**

The key issue to be resolved is:

- the importance of maintaining a retail hierarchy across Greater Geelong.

#### **(ii) Submissions**

While the need for a distinct retail hierarchy was not seriously challenged at the Hearing, some submissions could be interpreted as challenging aspects of a retail hierarchy.

No submitter opposed the idea of creating and maintaining a retail hierarchy. Each of the expert witnesses were asked whether they supported the notion of a retail hierarchy and each agreed that it was an appropriate objective of planning for retail facilities.

The Geelong retail hierarchy is given effect through Clause 21.19-5.

#### **(iii) Discussion**

Ordinarily an issue such as this, on which there is little or no difference of opinion would not be reported. It is reported here and endorsed by the Panel as an important context for the discussion about the appropriateness and role of imposing caps on shop floorspace.

It is not suggested that the Panel believes that floorspace caps are the only mechanism for managing a retail hierarchy. The Panel agrees with Kaufland and others that appropriately worded policy and consideration of the role and function of a centre are useful tools in managing the growth in retail activity in the context of the relevant market forces. This is particularly the case with out of centre proposals, which is discussed further.

#### **(iv) Conclusions**

The Panel concludes that:

- it is appropriate for a hierarchy of activity centres to be maintained in Greater Geelong.

### **3.4 Application of floorspace caps**

#### **(i) The issues**

The key issues are:

- whether the use of floorspace caps is strategically justified
- whether the use of floorspace caps as proposed is appropriate.

#### **(ii) Submissions and evidence**

The strategic issue of floorspace caps for shop use proposed for particular centres is raised here, while issues relating to particular centres are addressed in later chapters of this report. The generic issue of the use of floorspace caps to manage the growth of centres and to maintain the retail hierarchy is important to step through.

Council submitted, and the Panel accepts, that floorspace caps for shop use are permitted in non-metropolitan areas under the provisions of the Commercial 1 Zone.

The Retail Strategy states the following benefits of floorspace caps:

- all permit applicants must submit an economic impact statement and in the case of high impact proposals a net community benefit test to determine the trade impact on nearby centres (greater than 10%) and determine whether the proposal will determine a genuine benefit to the community
- they ensure that new development is consistent with the established retail hierarchy
- they ensure that centres grow in line with population
- provide an opportunity to review whether a centre will come on-line too early, resulting in possible delays of planned centres or significant trade impacts on nearby centres<sup>3</sup>

Submissions and evidence were put that argued that other approaches are more appropriate to manage the growth of centres to ensure the retail hierarchy is maintained.

Mr Szafraniec gave detailed explanations and justification of the calculation of floorspace caps proposed to be applied to the various centres. Under cross examination by Mr Bisset on the strategic justification for the use of floorspace caps, Mr Szafraniec responded that this was included in the 2016 draft of the Retail Strategy.

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<sup>3</sup> Retail Strategy p68

On the issue of whether the use of floorspace caps is appropriate in Geelong, Mr Szafraniec explained that Amendment VC100<sup>4</sup> removed the ability to apply floorspace caps in Commercial 1 zoned land in metropolitan Melbourne. He considered that just because floorspace caps were permitted outside metropolitan Melbourne, doesn't mean they should be used. He added that a purpose of the changes made through Amendment VC100 was to promote retail competition.

Shell Road submitted that no shop floorspace cap should be applied to the Kingston Downs Neighbourhood Activity Centre (NAC) and in particular, no cap should be applied which is below already approved floorspace. Mr Szafraniec stated that floorspace caps are appropriate in cases like the Kingston Downs NAC because it is in a developing area and it could:

- grow to a level beyond the supportable floor space in the area
- have a detrimental impact on competing centres
- grow to a size beyond that indicated for a NAC.

Mr Dimasi opposed the use of floorspace caps, particularly in higher order centres. He stated that if floorspace caps are used, they should be at a level that allows a centre to freely respond to all the challenges of operating in a growing area. He stated that if Kaufland was to locate at Leopold for example, it would immediately take up some 60 per cent of the proposed shop floorspace cap.

Mr Ganly stated that in many respects, Geelong is similar to metropolitan Melbourne and for this reason, the use of floorspace caps is questionable.

Mr Gobbo for Kaufland submitted that a further supermarket at Waurm Ponds would be entirely consistent with the role and function of that centre and would not threaten its role in the retail hierarchy. He outlined a number of scenarios for development in, adjoining, or near the Waurm Ponds sub-regional centre where a permit would, or in other circumstances would not, be required. In referring to the Kaufland proposal proposed to be located on land zoned Residential Growth, Mr Gobbo submitted:

... the fact that additional floorspace might be proposed on adjoining land not zoned Commercial 1 without being constrained by the floorspace cap suggests it is a clumsy tool which might not achieve its intended purpose.<sup>5</sup>

As result of submissions and evidence questioning the use and justification for floorspace caps, Council amended the floorspace caps section of the Part D version of the Retail Strategy (Document 94). It added a section from the Victoria Planning Provisions to justify their use, supplemented the section on their benefits and provided greater detail on how they would be used.

### **(iii) Discussion**

The Panel notes that the Planning Scheme enables the application of floorspace caps in the Commercial 1 Zone in Greater Geelong. There can be some debate about whether the use of floorspace caps for shop use has been strategically justified in the Amendment as presented. The Panel notes that the additions to the Part D version of the Retail Strategy clarify the role

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<sup>4</sup> Gazetted 15 July 2013

<sup>5</sup> Submission for Kaufland, para 18

that floorspace caps are intended to perform and provide greater comfort for the Panel that their use is strategically justified in this instance.

With respect to the appropriateness of proposed floorspace caps, the Panel is cognisant of the broad approach to the role of planning for retail areas implicit in the changes implemented through Amendment VC100. There has been a distinct move away from attempting to micro-manage retail floorspace towards a more market driven approach, but in the context of a hierarchy of retail centres. The implementation challenges and anomalies Council is facing with its proposed tight management of floorspace caps, highlighted by Kaufland, goes to the heart of the reasons that there generally has been a move away from this approach. The Panel does not repeat the detailed arguments behind the approach underpinning Amendment VC100.

Whether a proposal is consistent with the role and function of a centre will in most instances be a more appropriate approach than attempting to manage the retail hierarchy through tight control of floorspace caps. The Panel accepts the argument that judging whether a proposal is consistent with the role and function of a centre at the appropriate level in the retail hierarchy may in some instances be more challenging than determining whether a proposal exceeds a predetermined floorspace cap. The Panel accepts the submission of Shell Road that determining whether a proposal exceeds a cap is not in administrative terms always straight forward as it would seem, as keeping a register of shop floorspace uses can be a difficult exercise.

Having said this, the Panel accepts that floorspace caps can play a useful role in managing the growth of centres so that the integrity of the retail hierarchy is maintained in developing areas such as the Bellarine Peninsula. The Panel notes that the Urban Growth Zones enables the application of floorspace caps. Allowing an emerging NAC to expand too far because competitor centres have not yet developed, may not be in the medium-term interests of future residents.

The Panel is of the view that in these instances, floorspace caps more aligned with the role and function of the centre in its place in the retail hierarchy are more appropriate than tightly set caps which require justification for each step change, or indeed minor increases in shop floorspace. It needs to be kept in mind that retailers, particularly major retailers, will only locate in an area where they believe they can viably operate. This is usually supported by detailed analysis.

Later chapters of this report discuss floorspace caps proposed for particular centres, but by way of summary, the Panel recommends that floorspace caps for shop are only appropriate for the NACs and sub-regional centres serving developing areas, including Armstrong Creek, Waurin Ponds and the Bellarine Peninsula including the Leopold and Kingston Downs centres. The Panel accepts the observation in the Retail Strategy that most centres in the existing areas of Geelong are constrained in their growth by surrounding development. Managing the growth of those centres will most likely occur through the rezoning process coupled with the specified supportable floorspace set out in the Retail Strategy.

This conclusion is relevant to the sub-regional centres and NACs in the early stages of development in the northern and western growth areas of Greater Geelong.

#### **(iv) Conclusions**

The Panel concludes:

- The use of floorspace caps in growth areas of Greater Geelong is strategically justified.
- Floorspace caps can play a role in managing the retail hierarchy.
- Floorspace caps should not be used to micro-manage minor change or growth in activity centres.

### **3.5 Assessment of retail proposals**

#### **(i) The issue**

The key issues to be resolved are:

- whether the definitions of high and low impact proposals are appropriate
- whether the further assessment required in each instance is appropriate.

#### **(ii) Submissions and evidence**

Clause 22.03 defines 'low impact' and 'high impact' retail proposals and sets out requirements to be met in each of these circumstances. It defines low and high impact proposals as follows:

A proposal which increases the floor area of an existing centres and remains consistent with the role and function of a centre identified in the Geelong retail centre hierarchy is considered a low impact proposal

Out of centre development or development which alters the role and function of a centre identified in the Geelong retail centre hierarchy is considered to be a high impact proposal

Further as exhibited, Clause 22.03 indicated that a low impact proposal required the preparation of an EIA and a high impact proposal must demonstrate net community benefit, in addition to an EIA.

At the Hearing, Council submitted it recognised that in some circumstances where a centre was at or very close to its floorspace cap, a change of use from non-shop to shop could trigger the requirement for EIA. Council advised that this was not intended. Council submitted that the introduction of a 'no impact' category could overcome this. Council did not define 'no impact' and sought advice from other submitters, experts and the Panel to develop an appropriate definition.

Shell Road submitted that the assessments proposed in Clause 22.03 should not be applicable to a proposal which is consistent with the role and function of a centre. Mr Bisset contended:

This proposition was supported by Mr Szafraniec in cross examination, who conceded that the assessment parameters set by Clause 22.03 should only apply where there is in effect a "threshold change" as to the role and function of a centre.<sup>6</sup>

Mr Szafraniec disagreed with Shell Road that a proposal which is over the cap but consistent with the role and function of a centre should be regarded as low impact. He conceded

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<sup>6</sup> Submission by Shell road Developments para 50, Document 72

however, that the Clause 22.03 definition of 'low impact' should apply only where the floorspace cap is exceeded.

Shell Road submitted that Clause 22.03 is ineffective because any proposal which would not require a permit for 'use' would not be subject to any assessment. Kaufland made the same point.

Shell Road submitted that Clause 22.03 needs to be re-written so that assessment of a proposal is only required if the proposed development is either out of centre, or not consistent with the role and function for that type of centre. Both Kaufland and Shell Road submitted that the base case scenario against which Clause 22.03 required high impact proposals to be assessed, was poorly defined and had no clear meaning.

Kaufland submitted that requiring an EIA for low impact proposals is entirely unnecessary and that the clauses dealing with high and low impact proposals have no proper strategic basis. Mr Gobbo accepted that an out-of-centre retail proposal is not as-of-right, and therefore will require a rezoning and/or permit and could be regarded as a high impact proposal.

With respect to appropriateness of the requirements in Clause 22.03 for an EIA and net community benefit assessment, Kaufland submitted:

The Supreme Court has made it clear that in deciding planning applications the decision maker must have regard to whether the proposal is sustainable and whether it provides a net community benefit. It is therefore a necessary consideration in the planning process. There is simply no strategic rationale for making the only difference between high and low impact applications the need for a net community benefit assessment<sup>7</sup>

Mr Ganly described the requirements of Clause 22.03 as "*onerous and unnecessarily restrictive*". He stated that as drafted, Clause 22.03 required an EIA for what could be, an insignificant increase in floorspace.

The LBDG supported Kaufland's contention that the requirements are onerous. Through Mr Montebello, it submitted that the matters comprising an EIA are well known in the industry and there is no need to list these. He further submitted that the net community benefit requirements are akin to those required for major state projects, and argued:

Using the words that the economic retail assessment must be to the satisfaction of the responsible authority will ensure that a further information request can be made or if the economic impact assessment is still not to the satisfaction of the responsible authority, the application can be refused.<sup>8</sup>

In response to submissions and evidence, Council proposed a number of changes in its Part D version of Clause 22.03 (Document 85), summarised as follows:

- the 'Policy Basis' was deleted
- in the policy on use applications, reference to high and low impact uses was deleted but retained a requirement for an EIA to accompany use applications
- in 'Application requirements', under the heading of 'Economic Impact Assessment', requirements relating to high impact proposals were deleted.

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<sup>7</sup> Submission by Kaufland paras 25-29 Document 53

<sup>8</sup> Submission for the Lovel Banks Development Group, Document 77, p6.

In its final written submission, Shell Road (Document 104) acknowledged the changes proposed by Council but maintained that the Clause was still fundamentally unworkable. Council rejected this and proposed no further changes.

### **(iii) Discussion**

The Panel supports the changes proposed by Council, in particular the deletion of any reference to low and high impact proposals. The Panel agrees with submitters that this adds unnecessary confusion and is likely to encounter significant implementation difficulties. The Panel accepts LBDG's submission that the components of an EIA are well known within the industry.

Rather than delete this list, the Panel prefers to retain it but revise the preamble so that the list becomes a checklist to guide EIA requirements tailored to the characteristics of a particular proposal, at the discretion of the Responsible Authority.

Further, the Planning Practice Note on Local Planning Policy provides that each policy has a 'policy basis', so the Panel has re-instated this.

Specific wording changes to this and other policies are addressed in Chapter 8.

### **(iv) Conclusion**

The Panel concludes:

- With the exception of the re-instatement of the 'policy basis' and a change to the wording of the preamble sentence under the heading of 'Economic Impact Assessment, the Council Part D version of Clause 22.03 (Document 85) is generally acceptable.

## **3.6 Population forecasts**

### **(i) The issue**

The key issue to be resolved is:

- whether the population forecasts in the Retail Strategy are appropriate.

### **(ii) Submissions and evidence**

The Panel raised the issue of alignment between population forecasts in Settlement Strategy and the Retail Strategy, each of which are currently going through broadly concurrent Panel processes. In addition, Mr Ganly presented evidence that the population forecasts for Ocean Grove provided in the Retail Strategy were inappropriate based on recent data.

In its original submission that was subsequently withdrawn, the McCann family questioned the lack of alignment between the population forecasts underpinning each of the Retail Strategy and the Settlement Strategy. Consequently, the Panel directed Council to address this issue. In response, Council informed that Panel that it does not intend to adopt the report of this Panel until it receives the report of the Panel considering the Settlement Strategy as part of Amendment C395. It intends to put both Panel reports and its recommendations to the same Council meeting.

The Retail Strategy did not present population growth forecast numerical data for the subregions of Greater Geelong, rather it presented this in a difficult to interpret graphic. This shortcoming was subsequently rectified in the evidence of Mr Szafraniec.

For Ocean Grove, Mr Szafraniec forecast a growth rate of only 1.3 per cent per annum over the period to 2036. In his evidence, Mr Ganly stated that since 2015, the population of Ocean Grove/Barwon Heads had been growing at 5.1 per cent per annum. He cited ABS data as his source. On this basis, Mr Ganly questioned the forecast supportable floorspace for this sub-region in the Retail Strategy.

As part of its Part D response, Council tabled a memorandum from Mr Schembri of Council (Document 88) which reported on and analysed the underpinning population forecasts for the area from a number of sources. Council concluded that based on this information, it saw no reason to change the population forecasts that underpin the Retail Strategy.

### **(iii) Discussion**

The Panel notes that a population growth rate of 2.0 per cent per annum underpins the Retail Strategy and that the Settlement Strategy explores a number of population growth scenarios ranging from 1.3 to 2.9 per cent. Exploring a range of scenarios is a typical approach in such studies. Mr Szafraniec noted that the *Victoria In Future 2019* forecast for Greater Geelong was 2.1 per cent per annum.

Clearly, population forecasts are an important input into the forecasts of supportable retail floorspace. The Panel notes that population forecasting for an area such as Geelong which is clearly in the orbit of metropolitan Melbourne is difficult, because in addition to the usual factors impacting population growth, it will be impacted by policy attempting to manage Melbourne's growth.

The outcomes of the Settlement Strategy and in particular, nominating new growth areas for parts of Greater Geelong, will impact population growth as a whole and in particular parts of the municipality. Inevitably, there will be a need to monitor population growth as it impacts the sub-regions of Geelong and for Council to respond accordingly to proposals to grow available retail floorspace.

There was no evidence presented to the Panel to convince it that an overall population growth rate of two per cent to underpin the Retail Strategy is inappropriate. The Panel notes Council intends to finalise the Retail Strategy and the Settlement Strategy amendments at the same meeting. For this reason, it should ensure that there is some consistency in key assumptions such as population growth between the two strategies, albeit the range of forecasts in the Settlement Strategy appears not unreasonable in the circumstances. It would be useful if each strategy acknowledged the population forecasts in the other and that the Settlement Strategy clearly explains why a range of population forecasts are presented, rather than a single forecast as in the Retail Strategy.

With respect to population growth on the Bellarine Peninsula, the Panel is a little surprised at the forecast 1.3 per cent per annum for Ocean Grove. This is particularly so given the observed residential development in the Kingston Downs area and the availability of further land for development in the north east growth area, even before the Settlement Strategy is finalised. Although no data was presented by Mr Ganly to support his claim of 5.1 per cent per annum

growth since 2015, the Panel has no basis to dispute that figure. Similarly, the Panel has no basis on which to question the efficacy of the assessment of population forecasts prepared by Mr Schembri. Therefore, the Panel has no firm basis on which to base a conclusion that the population forecasts which underpin the Retail Strategy are inappropriate.

For these reasons, the Panel is of the opinion that the uncertainty around future population growth in Ocean Grove is reason enough to err on the generous side when considering the likely supportable floorspace and particularly floorspace caps in the developing Kingston Downs NAC.

**(iv) Conclusions**

The Panel concludes:

- The population forecasts underpinning the Retail Strategy are broadly appropriate.
- No firm conclusions can be drawn on likely future population growth in Ocean Grove but residential development in the area is reason enough to err on the generous side in setting floorspace caps for the Kingston Downs NAC.

## 4 Leopold sub-regional centre

### 4.1 Background

The 2006 Retail Strategy did not reference a significant activity centre in Leopold. The new Retail Strategy designates it as a sub-regional centre and proposes further growth to serve the growing population on the Bellarine Peninsula.

The Leopold sub-regional centre is located at the north west corner of the intersection of the Bellarine Highway and Melaluka Road on the western edge of the Leopold urban area.

It has a Coles, Aldi, K Mart and Bunnings and a number of specialty stores.

Table 2 sets out key details of this sub-regional centre.

**Table 2 Leopold sub-regional centre**

<b>Current zoned land</b>	<b>Square metres</b>
Commercial 1 Zone	89,450
Mixed Use Zone	29,130
<b>Current use categories</b>	<b>Square metres</b>
Supermarket	4,959
Department Store	5,293
Restricted retail	638
Specialty food	957
Other specialty	6,805
Hospitality	1,952
Total Retail	20,604
Other employment	660
<b>Growth opportunities</b>	<b>Square metres</b>
Increase supportable floorspace 2036	15,800
Growth within current zoned land	No
<b>Floorspace caps</b>	<b>Square metres</b>
Current floorspace cap	30,000
Proposed floorspace cap	30,000

Source: Appendix 2, Retail Strategy

### 4.2 The issues

The key issues to be resolved are:

- the location for future development of the centre, to the north along Melaluka Road or west along the Bellarine Highway frontage - or in both directions

- an appropriate floorspace cap for the Leopold sub-regional centre.

### **4.3 Relevant policies, strategies and planning permits**

There are a number of policy and strategy documents which contain details specific to the development of the Leopold sub-regional centre.

#### **Leopold Structure Plan 2011**

This Structure Plan included the retail centre expanding to be a sub-regional centre with expansion of the then existing NAC to the north but only as far as Clifton Avenue to the west. It is complemented by the *Leopold Sub-regional Activity Centre Urban Design Framework 2011*.

#### **Leopold Sub-regional Activity Centre Urban Design Framework, 2011**

This Urban Design Framework was prepared by Beca for Council and analysed two future development concepts.

Concept 1 involved further retail development to the west of the then existing centre but only as far west as Clifton Avenue and retail and non-retail development to the north along Melaluka Road. Concept 2 involved limited development to the north and but development west of Clifton Avenue on the Bellarine Highway frontage.

The Panel for Amendment C254 considered both the Structure Plan and the Urban Design Framework and recommended the Council preferred option of Concept 1, that is development of the centre to the north.

#### **Planning Permit 1469/2014**

This permit provided for development within the southern section of the site, including a restricted recreation facility and a liquor licence associated with a supermarket.

Amended site plans under this permit provided for the development of the Bunnings store on the western part of the site, east of Clifton Avenue. These were approved and subsequently built.

#### **Leopold Sub-regional Development Plan 2015**

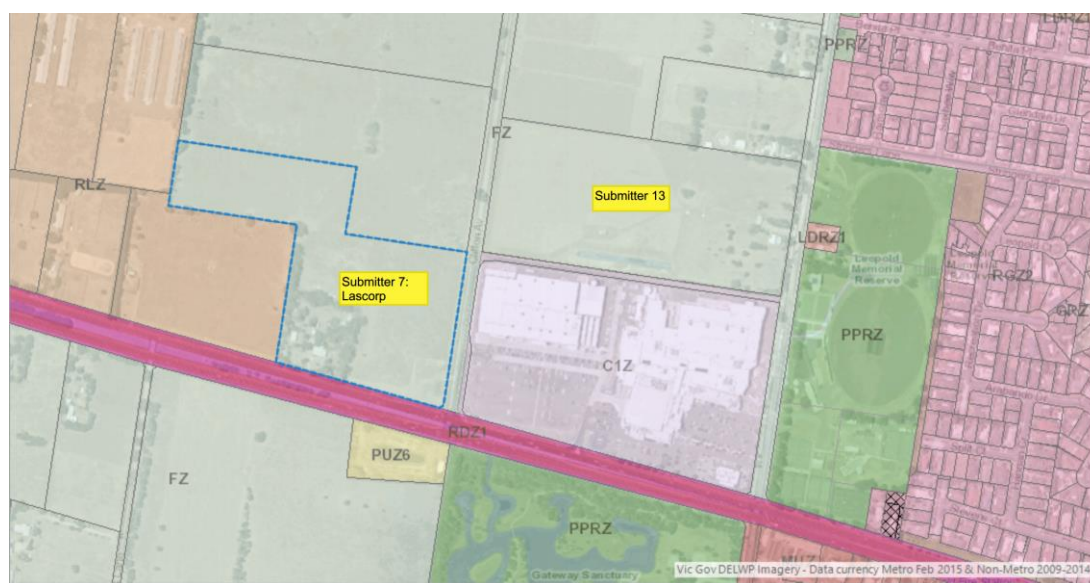
This was prepared by Urbis and provided a development plan for the 'southern expansion site', including further retail, food and drink development broadly in the area of the current location of Bunnings and retail, bulky goods and tavern/accommodation development to the north along Melaluka Road. Despite this, no development has occurred on the Perez land. This was based on the concept plan for the expansion of the centre included in Development Plan Overlay Schedule 30 (DPO30) which was included in the Greater Geelong Planning Scheme as an outcome of Amendment C277.

### **4.4 Evidence and submissions**

Lascorp contended that future retail development of the centre should be to the west, while Council and Perez contended it should be to the north. Lascorp considered the northern site could be developed, but for a range of non-retail uses, such as residential.

Council submitted that the Perez land (Submitter 13) (See Figure 2) was within the settlement boundary of Leopold and the Lascorp land was not. It argued that expansion to the north would help maintain the 'urban island' nature of Leopold. Council submitted that Council policy has for a number of years supported development to the north onto the Perez land and that this was supported by policy documents and upheld by relevant Panel recommendations. Council indicated that DPO30 provides for no more than 5,000 square metres of shop floorspace on the Perez land and that other complementary uses could be located there. An unchanged floorspace cap of 30,000 square metres of shop floorspace is proposed for the existing site.

**Figure 2** Development options for the Leopold sub-regional centre



Source: Council Part B submission, Figure 1

Council submitted that Lascorp's wish to facilitate the westerly expansion of the centre finds no support in policy. It quoted a section from the Amendment C254 Panel Report which stated that at that time there was common ground between the centre's owner and Council for a 'main street' focus along Melaluka Road.

Council sought advice from the Panel on whether the boundary of the Leopold sub-regional centre should be amended to make it consistent with existing planning policy with respect to DPO30. DPO30 does not show a boundary of the centre, but rather indicates the extent of future expansion to the north.

With respect to the floorspace caps, Council proposed to retain the current floorspace cap for shop of 30,000 square metres, against a current total retail floorspace of 20,604 square metres and an increase in supportable floorspace to 2036 of 15,800 square metres.

Mr Townshend supported the retention of the 30,000 square metre floorspace cap in the event that the Panel concluded that a cap should be retained. Mr Dimasi gave evidence and recommended that no floor space cap should be imposed on the Leopold sub-regional centre.

The evidence of Mr Szafraniec did not specifically address the recent development of Bunnings nor its impact on the potential for further development to the north. Under cross examination from Mr O'Farrell, he acknowledged that the decision to locate Bunnings where it is, appears

to be contrary to current policy. Mr Szafraniec believed there is still potential for an anchor to locate on the Perez land to the north. Questioned on whether the changed circumstances resulting from the Bunnings location warranted a review of current policy, he responded “*potentially, yes*”.

Lascorp argued there should be a review of the Leopold Structure Plan. It submitted that Council had misrepresented its case and that Lascorp is in favour of expansion of the Leopold Centre to both the north and the west. Mr Townshend said his client had been trying to buy the land to the north of the existing centre for development that complements the potential for the next retail anchor. Lascorp discussed the possibility of some form of residential development on land to the north to improve the walkability of the centre. It submitted that very little existing residential development in Leopold is within a walkable distance from the centre.

In support of its submission, Lascorp outlined the potential for accommodation and residential options both to the north and north west of the existing centre. He tabled a letter from Lifestyle Communities (Document 69), expressing interest in developing a lifestyle residential village near the Leopold sub-regional centre.

As the desired outcome, Lascorp submitted that the Retail Strategy include amended text at page 70 to read in part:

A review of planning controls and land availability to the immediate north and west of the existing centre should be undertaken to ensure that the centre achieves its role while achieving optimum community benefits having regard to the full range of planning considerations including retail offer, mixed uses including accommodation, walkability, transport and drainage.<sup>9</sup>

On its site inspections, the Panel observed there is relatively little residential development within 400 metres of the centre. The existing centre is an ‘island’ site effectively remote from residential Leopold.

Lascorp’s submission was supported by the evidence of Mr McNamara who stated that in evidence he gave before the Amendment C254 Panel, a large format hardware store would seek a main road location. Council’s preferred position was that such a use would locate on the Perez land to the north. His evidence to that Panel was that a main road location would be a determining factor for such a business. With respect to the subsequent Planning Permit 1469/2014 and subsequently amended plans which resulted in the development of Bunnings:

This outcome was not in accordance with the Council’s planning intent but reflected commercial reality in regard to major store location criteria.<sup>10</sup>

The site Bunnings now occupies see Figure 3 was proposed for ‘retail, food and drink’ on the approved Development Plan.

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<sup>9</sup> Submission for Lascorp p2, Document 62

<sup>10</sup> Evidence of Mr McNamara p25.

Figure 3 Location of the Bunnings store



Source: Evidence of Mr McNamara, page 34

Mr McNamara explained that this decision has led to the unintended outcome that no development has yet occurred on the northern land. He further stated:

The combination of the long building forms of Kmart, Aldi, Bunnings and sundry loading arrangements along the northern side of the buildings has created a significant break to any possible physical extension (to the north).<sup>11</sup>

In evidence for Lascorp, Mr Dimasi stated:

A major retailer such as Kaufland or for that matter Woolworths were it to be the next anchor addition at the centre, will not occupy what is deemed to be a second rate location within such a centre, ie a location with poor visibility and which is tucked behind major competitors ...<sup>12</sup>

Mr McNamara stated that he was disappointed that recent expansions of the centre have failed to achieve any relationship with Melaluka Road and that this results from a lack of shared vision and commitment between the shopping centre owners and Council.

Lascorp submitted that it could see little evidence that Council had followed through its intention to create a main street approach in the actions it had taken with respect to Council facilities located on the eastern side of Melaluka Road.

Council described Mr McNamara's recommendations as opportunistic, *"ill-founded and beyond the scope of this Amendment"*. Council further submitted:

<sup>11</sup> Evidence of Mr McNamara p26.

<sup>12</sup> Evidence of Mr Dimasi para 3.16

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 a Panel in respect of Amendment C254 ...<sup>13</sup>

Lascorp called evidence from Mr Noyce who addressed acknowledged drainage issues for land to the west of Clifton Avenue. Mr Noyce's evidence appeared to present a solution to this problem. His evidence was not contested by Council.

In its submission in response to the Council's revised Retail Strategy (Document 105) at the reconvened Hearing on 21 January 2020, Perez submitted that the floorspace cap for shop for Leopold should be increased from 30,000 to 35,000 square metres. Further, it argued that the centre should be renamed and mapping relating to the centre should be consistent between the Retail Strategy and Schedules. Council rejected the first two of these submissions and pointed out to the submitter that the mapping was in fact consistent.

#### 4.5 Discussion

In considering the future development of the Leopold sub-regional centre, the Panel is cognisant of the comment of Mr Dimasi that "*the market decides things that planning thinks it does*". The Panel's preferred characterisation is that planning creates a framework within which the market operates. However, in developing that framework, planners must be cognisant of relevant market realities. This informs the Panel's analysis.

The Panel considers the key issue is whether it is appropriate for current policy with respect to the direction of future development of the Leopold sub-regional centre be reviewed. Potential complementary development such as accommodation/residential is not directly relevant to the current Amendment<sup>14</sup>.

The Panel accepts recommendations made by previous Panels which underpin the current policy position. While it is not the role of this Panel to review the work of previous Panels, it accepts that recommendations made were appropriate to the circumstances at the time.

Notwithstanding, the Panel concludes that an acceptable case has been made for a review of policy which supports the future direction of development of the centre. The reasons are as follows:

- circumstances have changed
- Bunnings has been approved and has been developed in a location within the existing site which is not consistent with Council policy
- in current policy, such development was planned to be immediately north of its actual location.

It is not surprising that this is Bunnings' desired location. It is consistent with the wish of such retailers to achieve highway visibility and characteristic of their consistent store 'branding'. It might be argued that they could have located further north on the Perez land and still maintained highway visibility but that would only have been temporary as inevitably another retailer, possibly a second full line supermarket would have eventually located where

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<sup>13</sup> Submission for Council p 9, Document 46.

<sup>14</sup> The Panel notes that it did query Council on why this is a Retail Strategy and not a broader ranging Activity Centre strategy. It suggested that Council be broader in its thinking in this regard.

Bunnings is now. While the Panel can understand that Council may have been put in a difficult position regarding the amendment of plans to accommodate Bunnings, the reality is that the approved plans are contrary to its own policy.

The Panel was provided with two letters from key retailers, Woolworths and Kaufland, (Documents 67 and 68) that indicated a desire to locate in Leopold, but at the western edge.

The Panel notes that Mr Szafraniec stated under cross examination that there is still potential to attract an anchor tenant to the north on the Perez land. His position was contradicted by the evidence of both Mr McNamara and Mr Dimasi. While the Panel accepts that a second full line supermarket may wish to have a highway frontage and visibility from it, it notes that the existing Coles supermarket is not fully visible from the highway as it is sleeved by other retailers. However, its presence is identified by extensive signage throughout the centre and visible from the highway. The same could apply to a further supermarket located to the north, either as stand-alone or as an extension of the mall to the north.

The Panel notes the long form of the existing buildings which back onto the service road on the northern edge of the existing centre. This is used for loading. The barrier created is exacerbated by the need for truck movements along this service road to be one way and would inevitably be blocked by any building which extends the mall to the north onto the Perez land or pedestrian access between the existing land and any new development to the north. There may be a solution to this, but it is not the role of this Panel to explore this. The Panel notes the loading facilities for the existing Coles supermarket are in the middle of the site and presumably already result in undesirable truck movements through some part of the site.

The Panel understands Council's stated desire for a main street treatment for Melaluka Road. Main street treatments are however normally typified by retail development on both sides of the road. It is not immediately obvious to the Panel what a main street treatment might mean when there are recreation facilities set back from the east street frontage. Council did not attempt to spell this out. The existing recreation facilities are of relatively low density and intermittent use and are unlikely to generate significant trips to the centre. The existing recreation pavilions understandably turn their backs on Melaluka Road and are enclosed behind high fences. This is not conducive to any main street treatment. There is no obvious evidence that the Council has developed facilities or undertaken other works within the recreation area with a main street focus in mind.

The Panel notes that one part of the centre with a frontage to Melaluka Road, though separated by a small car park, could be regarded as the genesis of a main street treatment. There are a number of commercial frontages to Melaluka Road, though all currently non-retail. Opportunities to link the shopping centre with recreation facilities on the east side of Melaluka Road still exist, but no significant steps in this direction are evident.

The Panel accepts that retail development on the Perez land is sub-optimal, but not in any sense does it appear to be an impossible retail location. The Panel is not in a position to say with any confidence that a major anchor will or will not locate on the Perez land at some time in the future.

The Panel does not accept that development to the north on the Perez land and making the centre more walkable is a convincing reason for development to the north rather than the west of the existing centre. While no evidence was presented about the percentage of centre patrons who walk to the centre now, it is likely to be very low. The reality of the location of the centre on the edge of Leopold is and will continue to be accessed by car by most users. Development to the north rather than the west is unlikely to have any significant impact on this.

The Panel is of the opinion that enough has changed since the Council decision to develop land to the north to warrant a review of existing policy. There is no evidence that there has been any interest in developing the Perez land.

The Panel is cognisant that any development to the west of Clifton Avenue is impinging on the inter-urban break between Leopold and Moolap that the C254 Panel was concerned about. The Panel notes that the non-urban break between Clifton Avenue and Moolap is significant, albeit already small pockets of development either side of the Bellarine Highway is becoming evident.

The Panel supports the plan in the Retail Strategy being amended to show the future expansion of the centre onto the Perez land as included within the centre boundary.

The Panel has been presented with no evidence that convinces it that the 30,000 square metre cap for shop floorspace for the existing site is inappropriate. At this level, there is still significant capacity for shop and other retail and non-retail development. If the Perez land to the north and/or the Lascorp land to the west was rezoned to allow for further retail development, this cap would no doubt be increased.

## **4.6 Conclusions and recommendations**

The Panel concludes:

- The location of Bunnings is not consistent with the planning policy outcomes for the Leopold centre.
- No clear evidence exists that there have been any significant steps towards developing Melaluka Road as a 'main street' and significant constraints exist.
- Locating future development to the north of the existing centre, to make the centre more walkable is not reason enough to preclude further investigation of development west of Clifton Avenue.
- An acceptable case has been made for a review of policy which supports the future direction of development of the centre.

## 5 Kingston Downs Neighbourhood Activity Centre

### 5.1 Background

The emerging Kingston Downs NAC is located at the corner of Grubb Road and Coastal Boulevard, Ocean Grove in the developing Kingston Downs estate, which forms part of the Ocean Grove North East Growth Area.

Planning Permit 233/2018 was issued for the first stage of retail development which includes Woolworths, Aldi and Dan Murphy, office and specialty retail. Stage 1 provides for approximately 12,012 square metres of floorspace, of which approximately 10,500 is retail floorspace.

Table 3 sets out details of the Kingston Downs NAC.

**Table 3** Kingston Downs neighbourhood activity centre

Current zoned land	Square metres
Commercial 1 Zone	89,450
Commercial 2 Zone	29,130
Current use categories	Square metres
Supermarket	5,300
Other specialty	5,200
Total Retail	20,604
Growth opportunities	Square metres
Planned total floorspace	10,935
Planned shop floorspace	8,707
Floorspace caps	
Current floorspace cap	None
Exhibited floorspace cap	7,650 square metres

Source: Appendix 2, Retail Strategy

### 5.2 The issues

The key issues to be resolved are:

- the floorspace cap that should be applied to the Kingston Downs NAC
- the boundary of the NAC.

### 5.3 Relevant provisions, strategies, studies and permits

The following are directly relevant to the development of the Kingston Downs NAC:

### **Ocean Grove Structure Plan 2007**

This Structure Plan identified the site occupied by the Kingston Downs NAC as an activity centre. The activity centre was proposed to be sleeved to the east and south by medium density residential development. Land further to the south was designated for restricted retail and industrial uses. The NAC is located at the western edge of a significant residential growth area.

### **Schedule 22 to the Development Plan Overlay 2010**

DPO22 was introduced into the Greater Geelong Planning Scheme through Amendment C60. At Clause 4, the Ocean Grove Growth Area Masterplan shows an activity centre on Grubb Road to the north of what is now Ocean Boulevard, with restricted retail to its south. To the south and south east is industrial land.

### **Ocean Grove Economic Analysis, 2015**

This report was prepared for Council by SGS Economics and Planning. It projected demand for a small supermarket at Kingston Downs by 2021 and a full line supermarket by 2031. It concluded that a sub-regional centre could be appropriate at this location and would not significantly harm trading levels in any other centre in the retail network. It estimated final floorspace demand in the Commercial 1 Zone at Kingston Downs at 22,000 square metres, but not for some decades. This includes both shop and other uses.

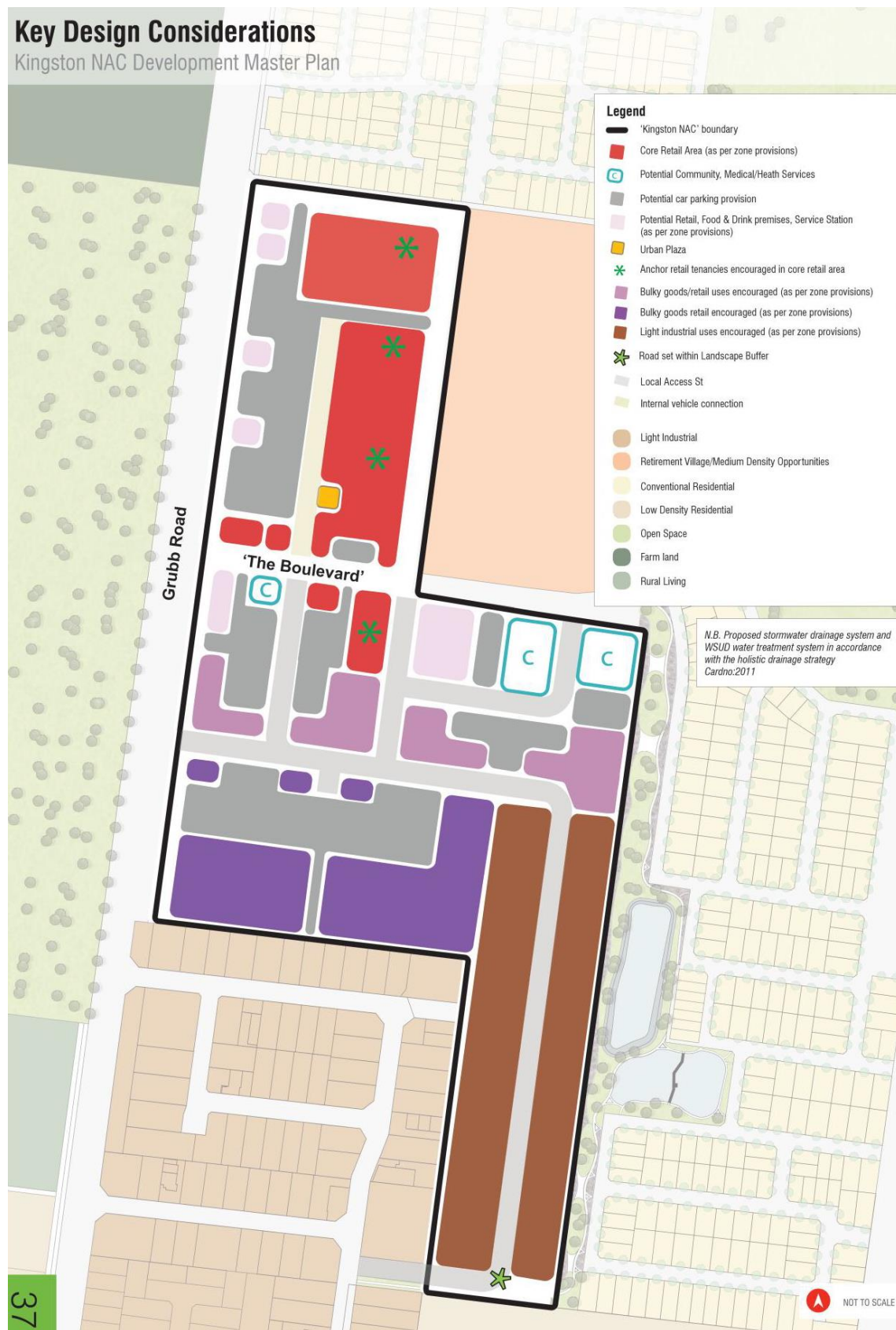
### **Ocean Grove Structure Plan 2015 (amended 2016)**

This Structure Plan (see Figure 4), was provided as part of a detailed development master plan for the NAC prepared for Council by Spiire in May 2016. It includes a description of the core retail area north of Ocean Boulevard and extending south of Ocean Boulevard into Commercial 2 Zone land, which is partially sleeved by land for bulky goods retailing.

### **Kingston Neighbourhood Activity Centre and Industrial Estate 2016**

This presents the same master plan as set out in Figure 4 and included in the amended Ocean Grove Structure Plan.

Figure 4 Kingston Downs NAC Development Master Plan



Source: Ocean Grove Structure Plan 2015 (revised 2016)

Shell Road noted that the following planning permits have been issued for the NAC:

### **Planning Permit PP-233-2016**

The Permit allows buildings and works associated with Stage 1 of the Kingston Downs NAC:

- north of Coastal Boulevard (Commercial 1 Zone land)
  - 3,895 square metre Woolworths
  - 1,376 square metre Dan Murphy
  - 3,202 square metres of specialty retail tenancies
  - 714 square metres of non-retail tenancies
- south of Coastal Boulevard (Commercial 2 Zone land)
  - 1,969 square metres of retail floor including an Aldi
  - 856 square metres of non-retail floorspace.

The endorsed plans associated with this permit and tabled by Council show a total floor area of 12,022 square metres.<sup>15</sup>

### **Planning permit PP-1324- 2106**

- for the use and development of a convenience restaurant of 545 square metres.

### **Planning permit PP-657-2017**

- for the use and development of a service station of 215 square metres.

### **Planning Permit PP-9-2018**

- for the development and construction of a child-care centre.

## **5.4 Evidence and submissions**

In the Retail Strategy, Council proposed a shop floor limit of 7,650 square metres and relied on the evidence of Mr Szafraniec in support of this cap. It is understood that this was based on Council's estimate of the likely amount of shop floorspace that will exist in the Kingston Downs NAC at completion of Stage 1. A point of contention at the Hearing was the likely amount of shop floorspace in Stage 1 of the NAC. In effect, this turns on the amount of the specialty retail space which is occupied by shop as opposed to other retail uses.

Mr Ganly presented four tenancy scenarios where shop floorspace exceeds the shop floorspace cap initially sought to be applied by Council. These are summarised as:<sup>16</sup>

- Scenario 1 – all specialty floorspace is occupied by shop tenancies (resulting in 8,688 square metres of shop floorspace)
- Scenario 2 – 100 square metres occupied by food and drink and the remainder being shop (resulting in 8,588 square metres of shop)
- Scenario 3 – 50 per cent of speciality shops occupied by non-shop uses (resulting in 7,087 square metres of shop uses)
- Scenario 4 – 4,750 square metres of speciality shops occupied by non-shop tenancies (resulting in 8,038 square metres of shop).

<sup>15</sup> Document 24.

<sup>16</sup> Evidence of Mr Ganly p59. Mr Ganly presented detailed calculations to support the numbers summarised here.

Mr Ganly pointed out that under the exhibited floorspace cap, an application to change a tenancy of even a small premise from a non-shop to shop use would trigger significant EIA obligation under the exhibited Clause 22.03. His evidence was supported by the evidence of Mr Milner who concluded that the proposed floorspace cap for shop is less than that which will exist at when Stage 1 opens in December 2019<sup>17</sup>.

At the Hearing, Mr Szafraniec stated that he had read the evidence of Mr Ganly, and he noted the section from which the four scenarios were drawn. He stated that his intention was not to propose a floorspace cap for shop below that which is likely to exist as part of the Stage 1 development. He advised that he now proposed a cap of 8,700 square metres, slightly above Mr Ganly's highest shop use calculation. Council accepted this recommendation.

In presenting his scenarios, Mr Ganly advised he was not proposing a floorspace cap. He did not believe it is appropriate to place any shop floorspace cap on the Kingston Downs NAC.

Mr Bisset submitted that a shop floorspace cap should not be applied, but if one was to be applied it should be set at 15,000 square metres. Shell Road's position on the floorspace cap was reiterated in its response to the Council's revised Amendment documentation (Document 104), though its primary submission was the Amendment should be abandoned. Shell Road's position was supported by the evidence of Mr Milner. He argued such a cap for shop use would be broadly consistent with a potential total floorspace of 20,000 square metres originally submitted by Shell Road as the centre's potential for retail growth. Mr Ganly gave evidence that he calculated the total available land in the NAC as in excess of 32 hectares, which is adequate for the development of floorspace well in excess of currently proposed.

Despite this potential, Mr Milner gave evidence that Kingston Downs is appropriately classified as a NAC.

The other factor which informs the likely future supportable floorspace of the Kingston Downs NAC is future population growth in the Ocean Grove sub-region, an issue addressed in Chapter 3.6, and in particular future residential growth in the area near the Kingston Downs NAC.

Shell Road took the Panel to the *Ocean Grove Structure Plan 2007* which kept open the possibility of future residential development to the west of Grubb Road.

This issue was examined in more detail by Mr Strates for Morgan and Griffen, who submitted the plan specifically indicated a long term boundary beyond 2020, which included the possibility of significant residential development west of Grubb Road. Mr Strates acknowledged this designation was not included in the 2015 version of that Structure Plan and submitted that:

The Ocean Grove Structure Plan review is due to be completed by 2021 and has significant implications for both our client's land and the future urban growth of Ocean Grove as it will provide clarification of the long-term settlement boundary, future growth nodes and an ultimate population.<sup>18</sup>

Mr Strates noted the final recommended version of the Settlement Strategy may result in the identification of further growth investigation areas. Mr Strates cited this growth potential to

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<sup>17</sup> It is noted that at the time of this evidence, Stage 1 of the NAC had not opened, but it subsequently opened on 4 December 2019. The Panel re-visited the centre in January 2020.

<sup>18</sup> Submission for Morgan and Griffen para 3.2.3.

support his client's position that placing any cap on the expansion of the Kingston Downs NAC would be pre-emptive.

In responding to submissions that sought a larger Kingston Downs centre, Mr Szafraniec stated that a centre of the size initially envisaged by Shell Road would be larger than the size range for a NAC set out in Clause 21.19 (2,000 - 15,000 square metres) and higher than the estimated supportable floorspace.

The exhibited Retail Strategy included no map of the NAC and hence no defined boundary. The *Ocean Grove Structure Plan 2016* includes a map with a NAC boundary. This includes at least part of the Sinclair Street restricted retail centre, albeit that is designated as a separate centre in the Retail Strategy. The Council Part D version of the Retail Strategy includes a map of the NAC and a boundary. What the Panel understands is the NAC boundary is marked on the map, but not identified in the legend. The boundary is more restrictive than that represented in Figure 3, which includes land in the Sinclair Street restricted retail precinct.

In its response to revised Amendment documentation in its supplementary submission (Document 104), Shell Road expressed its concern about the restricted definition of the NAC which excludes the restricted retail land to the south.

## 5.5 Discussion

In Chapter 3.4, the Panel concluded that it is appropriate to apply a floorspace cap for shop in centres such the Kingston Downs NAC as it is serving a growing area.

It is clear to the Panel that the Kingston Downs NAC is far from a typical NAC, not the least because it is part of a larger precinct that will include both restricted retail and industrial uses. Industrial uses in such a location might be considered aspirational if it were not for the fact that the NAC abuts a long standing industrial estate with a wide range of small industrial uses.

Further, the NAC is atypical in that it has the potential to be larger than it is currently envisaged by Council. The Panel notes that SGS Economics and Planning's work for the Council as recently as 2015 refers to its potential as a future sub-regional centre. Mr Ganly's estimate of total available land is consistent with that. However, that is not a matter for consideration by this Panel. Neither is the matter of retail provision for residential growth fronts which may develop as a result of the concurrent Amendment C395 process.

If as appears likely there is further significant population growth and if the growth in the Kingston Downs NAC was unconstrained, it could expand to serve that growth before any new NACs proposed in future plans could be established. This would not necessarily be a desirable outcome. The Panel understands that this is one reason that floorspace caps have been retained in the Urban Growth Zone and are provided for in the Commercial 1 Zone outside metropolitan Melbourne.

The question then arises of what the cap should be. The Panel rejects the cap of 15,000 square metres of shop floorspace suggested by Shell Road. If the Panel accepts Mr Ganly's assumptions that the 12,000 square metre Stage 1 of the Kingston Downs NAC will include in the order of 8,000 to 8,700 square metres of shop floorspace, then it can be estimated that a shop floorspace of 15,000 square metres could result in a total floorspace in the NAC in the range of 20,500 to 22,500 square metres if scaled up proportionately. This is outside the

indicative floorspace range for a NAC proposed in Clause 21.19. It would also be larger than most other NACs in Greater Geelong and clearly in the range of a small sub-regional centre. The Panel notes that within Greater Geelong, the Corio sub-regional centre is only a little over 27,000 square metres of retail floorspace.

The Panel believes that the Kingston Downs NAC should be able to expand, consistent with the role and function of a NAC before further expansion subject to the type of analysis that will be triggered by Clause 22.03.

The Panel is of the view that if the approximate shop to total retail floorspace ratios that is the likely outcome of the Stage 1 development, a shop floorspace cap in the range of 10,000 to 10,900 square metres is justified. This would result in a total floorspace of the order of 15,000 square metres, the upper end of the range for a NAC, as set out in Clause 21.19.

To err around the upper end of this range, the Panel supports a floorspace cap for shop in the Kingston Downs NAC of 11,000 square metres. The Panel concedes that this may impede the development of a new NAC in the existing growth area, but any impact is highly likely to be temporary.

The Panel acknowledges that a boundary for the NAC has now been included in the Retail Strategy. The proposed boundary includes Commercial 1 Zone land north of Ocean Boulevard and some Commercial 2 Zone land south of Ocean Boulevard, including the location of the recently opened Aldi. The proposed southern boundary of the NAC makes little sense to the Panel and is not consistent with the boundary in the approved development masterplan.

Further, the southern boundary splits the Commercial 2 zoned land. Given the flexibility for uses in Commercial 2 Zone, the proposed boundary is likely to make even less sense in the future as the Commercial 2 zoned land south of the existing Stage 1 is developed. As that land develops, the activity centre will be 'read' by most people to encompass both the Commercial 1 and most of the Commercial 2 zoned land.

Given the Kingston Downs Development Master Plan 2016 and the Retail Strategy at times conflict with each other, the Panel is of the view that all the Commercial 1 and Commercial 2 zoned land as far south as the northern boundaries of properties on the north side of Sinclair Street should be included within the Retail Strategy NAC boundary. While this does not resolve the conflict, there may be a case for further review as part of the forthcoming review of the Ocean Grove Structure Plan.

In drawing this conclusion, the Panel is cognisant that this may result in a centre which is larger than most NACs and as such foreshadows possible future designation as a sub-regional centre. This appears to be a potential future outcome of some strategies and studies listed earlier in this Chapter. The Panel is cognisant that redrawing the boundary in this way has implications for the 'definition' of other centres which have an adjoining restricted retail precinct.

As indicated in Chapter 1.2, the Panel revisited the Kingston Downs NAC on 26 January 2020 specifically to examine the likely impact of the recommended boundary on the ground.

## 5.6 Conclusions and recommendations

The Panel concludes:

- Kingston Downs is appropriately classified as a NAC which in Clause 21.19-5 is defined as accommodating up to 15,000 square metres of floor space.
- The shop floor space cap for the Kingston Downs NAC should be set at 11,000 square metres.
- The boundary of the NAC should include all of the Commercial 1 Zone land and part of the Commercial 2 Zone land (as far south as the northern boundaries of properties on the north side of Sinclair Street).

The Panel recommends:

1. **Amend the table to the Schedule to Clause 34.01 to provide for 11,000 square metres of shop floor space for the Kingston Downs Neighbourhood Activity Centre.**
2. **Amend the boundary of the Kingston Downs Neighbourhood Activity Centre to include all of the Commercial 1 Zone land and part of the Commercial 2 Zone land (as far south as the northern boundaries of properties on the north side of Sinclair Street).**

## 6 Waurn Ponds sub-regional centre

### 6.1 Background

The 2006 Retail Strategy identified Waurn Ponds as a sub-regional centre and at that time, it comprised 14,700 square metres floorspace. It has almost doubled in size in the intervening period.

Table 4 sets out details of this centre.

**Table 4** Waurn Ponds sub-regional centre

Current zoned land	Square metres
Commercial 1 Zone	147,330
Other	14,080
Current use categories	Square metres
Supermarket	12,480
Department Store	11,640
Speciality food	2,437
Specialty other	11,294
Hospitality	3,492
Other employment	2,330
Growth opportunities	Square metres
Increase in supportable floorspace	22,700
Floorspace caps	Square metres
Existing	35,000
Exhibited	38,300

Source: Appendix 2, Retail Strategy

The Retail Strategy indicates that the growth in the floorspace proposed can be accommodated within the current zoned land, but with some constraints.

### 6.2 The issues

The key issues to be resolved are:

- the appropriate boundaries for the Waurn Ponds sub-regional centre
- how and when the Retail Strategy could make provision for a potential Kaufland store.

### 6.3 Submissions

In the exhibited Amendment, Council proposed to change the boundaries of the Waurm Ponds sub-regional centre to accommodate development which has occurred on the western and northern corners of the intersection of Colac and South Valley Roads.

Kaufland is a German-owned supermarket chain which is new to the Australian market. It is seeking approval for a supermarket and other uses at Waurm Ponds through an Advisory Committee process. The Waurm Ponds proposal was before that Committee as part of Tranche 3 in December 2019, with further hearings scheduled for the Highton site at Waurm Ponds in late March 2020.<sup>19</sup>

Kaufland pointed out to the Panel that within some of the reported modelling for the Retail Strategy, the Waurm Ponds centre is included in the sub-region 'Central Geelong' which is forecast to support a significant increase in supportable floorspace in this sub-region by 2036.

Council submitted there is an increase in supportable floorspace in Waurm Ponds of 22,700 by 2036 and that such an increase can be accommodated within the current zoned land "*but with constraints*". The constraint is that land which is currently utilised for car parking would probably need to be built on.

Council initially proposed to set a soft floorspace cap for shop of 38,300 square metres, which is the space occupied by shop uses in 2016. Kaufland submitted this made no sense in the light of an increase in supportable floorspace in the centre. What it meant in effect was that any increase in shop floorspace would be subject to a permit and involve appropriate analysis to justify.

In recognising the role that Waurm Ponds plays with respect to this growing part of Geelong, Council proposed in the Part D version of the Retail Strategy and the Schedule to the Commercial 1 Zone that the shop floorspace cap for Waurm Ponds be increased to 47,000 square metres.

Kaufland submitted that because its proposal would not be on Commercial 1 zoned land, any floorspace cap set would have no impact on it. In Chapter 3.4, the Panel supported the application of floorspace caps to sub-regional centres serving growth areas. Waurm Ponds fits into this category.

Kaufland submitted that the activity centre boundary be further extended on the western corner of the intersection of Colac Road and South Valley Road to include a proposed Kaufland store at 140-156 Colac Road Highton. The land is mainly in the Residential Growth Zone where supermarket is a section 2 use, requiring a permit. Kaufland submitted:

There appears to be no rationale for excluding the Kaufland land. There has been no independent assessment of Kaufland's submission seeking expansion of the activity centre boundary. Council and SGS have simply maintained the party line<sup>20</sup>.

<sup>19</sup> It is noted in Chapter 1.3(i), that both members of this Panel are members of the Kaufland Advisory Committee. Ms Mitchell is the Chair of both. Declarations were made at the Directions Hearing for this Amendment and no issue was raised.

<sup>20</sup> Submission for Kaufland para 11, Document 53.

Kaufland submitted that it made good sense to expand the boundaries of the activity centre to include the Kaufland land.

Council opposed this position.

## **6.4 Discussion**

The Panel accepts that there has been no assessment of the Kaufland proposal by Council as part of this Amendment. This is understandable given that the Kaufland application was proposed to be considered as part of another process (now not proceeding).

Before commenting on the inclusion of the Kaufland land within the activity centre boundary, it is appropriate to comment briefly on the capacity of the Waurm Ponds centre to accommodate a further 22,700 square metres of shop floorspace within the existing activity centre boundary. Most of that increase would appear to the Panel to involve existing land used for parking on the main Waurm Ponds sub-regional centre if the centre boundary was not amended.

It is not the role of this Panel to comment on the feasibility of this, other than to comment that it would be a relatively expensive form of development. The other alternative would be multistorey redevelopment of existing retail uses. It seems to the Panel that at least some expansion of the activity centre boundary may need to be considered in the medium term and the site proposed by Kaufland could be a logical extension of the centre.

The Panel notes that the Kaufland site is located in Schedule 2 to the Residential Growth Zone, and that supermarket is a section 2 use in that zone. Subject to the normal assessment of factors influencing the potential development of the site, this would allow at least some of the potential growth to accommodate some of the extra 8,700 square metres of shop floor space proposed in Table 7 of the Council Part D version of the Retail Strategy (Document 94).

The Panel understands Council's reluctance to include the Kaufland land as part of this process and in the absence of more detailed assessment of how and where any activity centre expansion may occur.

As noted in Chapter 1.3(i) indicating Kaufland's withdrawal from Australia, the Panel comments no further on the Kaufland submission.

With respect to a floor space cap for Waurm Ponds, the Panel can understand an argument that this sub-regional centre is serving a growing area of Geelong and deserves to be treated consistently with centres such as Leopold with respect to application of a floorspace cap. For this reason, the Panel endorses Council's proposal to apply a shop floorspace cap of 47,000 square metres on the Waurm Ponds centre.

## **6.5 Conclusions**

The Panel concludes:

- The activity centre boundary proposed by Council for Waurm Ponds is endorsed.
- A floorspace cap of 47,000 square metres for Waurm Ponds is supported.
- A review of the Activity Centre boundary may need to occur in the short to medium term.

## 7 Other issues

### 7.1 Retail planning for the northern and western growth areas of Geelong

#### (i) The issue

The key issue to be resolved is:

- the appropriate treatment of future retail centres in Greater Geelong's northern and western growth areas in the Retail Strategy.

#### (ii) Submissions

In its initial submission, the LBDG requested that a number of changes be made to the Retail Strategy to reflect the stage that planning for the northern growth area was at. In response, changes were made to Table 5 and a number of pages in the appendix that represented a number of potential retail centres in the two proposed major growth areas. Not all requested changes were made by Council and at the Hearing, LBDG submitted that the Retail Strategy should be changed to:

- delete the diagrams representing the supply and demand for retail floorspace in the northern growth area because it is premature to include them
- delete the symbols in Figure 6, which represent a future sub-regional centre and three potential NACs
- delete the symbols in the relevant graph in Figure 14.

LBDG submitted that four NACs would be justified in the northern growth area. Council did not initially accede to this submission. However, at the reconvened Hearing on 21 January 2020, the LBDG tabled a supplementary submission from Council to the Amendment C395 Hearing (Document 102). That submission indicated Council would accept a recommendation from that Panel to relocate the sub-regional centre and split the north-eastern most proposed NAC into two NACs, creating a total of four NACs and one sub-regional centre.

Further, LBDG submitted that Council had omitted from its Part D version of the Retail Strategy, a number of changes which Council had previously agreed, including removing supportable floorspace for the northern and western growth areas from Table 5. Council acknowledged that some agreed changes had been inadvertently deleted from the Part D version of the Retail Strategy and that this would be rectified. Council further submitted that LBDG should not be troubled by the supportable floorspace in Table 5 but agreed that the figures could be deleted.

#### (iii) Discussion

Symbols on plans at this stage of the planning process for the northern and western growth areas are indicative only of the location of future retail centres. The Panel is aware that developers and landowners will closely examine these symbols and may argue about the appropriateness of their placement. The Panel notes the acknowledgment by Council at the Amendment C395 Hearing about the relocation of the sub-regional centre in the northern growth area and splitting the north east NAC into two NACs, thus having four NACs in total. This Panel endorses this.

The Panel is aware that more work is required on the amount of developable land, density of development and type of residential development to be accommodated before a final number of NACs can be determined. This is best done at the Precinct Structure Plan stage or earlier if agreement is reached. There now appears to be agreement or at least no opposition to amending Figure 6 in the Retail Strategy in line with the submission of LBDG. The Panel accepts Council's intention to retain Figures 22 and 23 in the Part D version of the Retail Strategy which represent supply and demand for floorspace in each of the northern and western growth areas at a broad strategic level. More detailed floor space projections in the growth area at this stage is at best tentative and will only be firmed up as part of the Precinct Structure Plan process. The Panel agrees with the LBDG that the relevant data in Table 5 should be replaced with zeros.

Mr Montebello's submission focussed on his client's land in the northern growth area. For consistency, the Panel is of the view that the same changes be made to Table 5 with respect to the western growth area.

#### **(iv) Conclusions and recommendations**

The Panel concludes:

- Figure 6 of the Retail Strategy and the map Clause 21.19-5 should be revised to relocate the sub-regional centre and include four NACs as proposed by LBDG.
- Floorspace figures for the northern and western growth areas included in Table 5 of the Retail Strategy should be replaced with zeros.
- The omissions from Part D version of the Retail Strategy submitted by LBDG and acknowledged by Council should be reinstated.

### **7.2 Bell Park Plaza**

The key issue to be resolved is:

- whether the Bell Park Plaza Shopping Centre should be included in the Retail Strategy as a NAC.

Merost Pty Ltd submitted that the Bell Park Plaza Shopping Centre located at 222 Anakie Road should be included in Retail Strategy because much of what it sells is sourced locally and fills a gap in the market. It is currently classified as a dispersed centre.

Council responded that dispersed centres comprise one or more shops with no more than 500 square metres of floorspace. It acknowledged that Bell Park Plaza exceeds the nominated floorspace guide, but it opposed its classification as a NAC at this stage. It submitted that it could be designated as a NAC in the future if it can be demonstrated that it does not impact on the viability of nearby centres.

Merost did not appear at the Hearing and no evidence was provided to support the submission about the impact of the centre.

Consequently, the Panel supports the Council's position and no change is required.

### **7.3 Timing of key planning decisions**

#### **(i) The issue**

The key issue to be resolved is:

- whether any planning decision regarding the future development of the Kingston Downs NAC should be postponed until the outcomes of the Greater Geelong Settlement Strategy are known and after a review of the Ocean Grove Structure Plan, due by 2021, is completed.

#### **(ii) Submissions**

Council spoke to a process to ensure that the outcomes of both the Retail Strategy and the Settlement Strategy are as well aligned as possible.

Mr Strates for Dominion Property Group submitted that there are four strategic planning exercises underway, the outcomes of which will impact the demand for retail floorspace in the Ocean Grove sub-region. These are:

- Council's Settlement Strategy, as proposed in Amendment C395
- Council's logical inclusions process, to follow Amendment C395
- Ocean Grove Structure Plan review due for completion no later than 2021 (through Clause 21.14-4)
- DELWP's Distinctive Areas and Landscapes project for the Bellarine Peninsula<sup>21</sup>.

As noted, the Panel was advised that the declaration of the Bellarine Peninsula under the DAL program had occurred on 22 October 2019 and a Statement of Planning Policy will be prepared by DELWP within 12 months. This will lead to the finalisation of long-term settlement boundaries on the Bellarine Peninsula.

#### **(iii) Discussion**

The Panel can understand the argument put by Mr Strates, as there is often a further piece of work that if the results were available at a point in time, would add valuable input into an outcome under consideration.

However, the Panel does not accept Mr Strates' position because to do so could logically lead to decisions repeatedly being delayed because there would always be further relevant work planned for some time in the future. Strategic planning is an iterative process. It is incumbent on Council and planning decision makers to make decisions on the basis of the best information available at the time, with an eye to possible future context.

#### **(iv) Conclusions**

The Panel concludes that there is no basis for postponing consideration of Amendment C393.

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<sup>21</sup> Submission by the Dominion Property Group, Document 50, p2

## **7.4 Activity centre terminology used in the Retail Strategy**

### **(i) The issue**

The key issue to be resolved is:

- whether the Retail Strategy should use terminology consistent with Plan Melbourne.

### **(ii) Submissions**

The Panel requested that Council explain why it has adopted the terminology it has used in the Retail Strategy in describing centres within the retail hierarchy rather than Plan Melbourne terminology.

Council responded that the Retail Strategy nomenclature is consistent with its local policy planning framework. Council acknowledged that previous Panels for Amendments C138 and C129 had recommended Council adopt the Plan Melbourne terminology, noting that this terminology had varied slightly over time.

In support of its position, Council quoted Clause 11.03-1S of the Planning Scheme which supports a hierarchy of activity centres but does not suggest particular terminology.

Council argued that there is no real imperative to adopt the terminology of metropolitan Melbourne which is not directed towards regional Victoria.

### **(iii) Conclusion**

The Panel concludes:

- While this is a missed opportunity, it accepts the rationale for the terminology used in describing the retail hierarchy by Council.

## 8 Statutory issues

The key documents comprising the statutory implementation components of Amendment C393 are:

- Greater Geelong Retail Strategy 2016-2036 as a document to be referenced in the Planning Scheme
- Clause 21.19 *Activity Centres*
- Clause 22.03 *Assessment Criteria for Retail Planning Applications*
- Schedule to the Commercial 1 Zone.

A number of versions of each of these have been made available to the Panel as follows:

- exhibited version
- Day 1 version – which included a number of changes made by Council as a result of submissions made and included as Appendices to its Part A Submission (Documents 8 to 11)
- Day 2 version – tabled at the Hearing with minor changes made to the Day 1 version (attachments to Document 46)
- Part D versions – Further changes made by Council as a result of the Panel requesting Council to address a number of issues raised at the Hearing (Documents 83 to 86).

Chapter 3.1 provides an overview of the Retail Strategy and its development, but further changes to it are discussed in this Chapter. Other chapters have discussed changes to Clauses 21.19 and 22.03 in the context of the relevant issues. This chapter brings those and other changes together as a basis for Panel recommended versions of Clauses 21.19 and 22.03 and the Schedule to the Commercial 1 Zone at Clause 34.01. Recommended versions are in Appendices D, E and F respectively.

Because of the significant number of changes proposed sequentially through the various versions, the Part D clean versions (Documents 83, 84 and 85) are used as a base for the Panel recommended [additions](#) and [deletions](#) in Appendices D, E and F. Not all changes are noted in this chapter as some are basic editing and typographical errors.

### 8.1 Clause 21.19 Activity Centres

#### (i) The issues

The issue is the appropriate form of Clause 21.19, including nomenclature and appropriate statutory drafting.

#### (ii) Submissions

Kaufland submitted that the text in Clauses 21.19 and 22.03 dealing with ‘high impact’ and ‘low impact’ proposals has no proper strategic basis. Kaufland further submitted that there was confusion about words used to describe ‘in-centre,’ ‘edge of centre’ and ‘out of centre’ development.

Shell Road submitted that there ought be greater clarity about what words mean in this Clause. It further submitted that Table 2 in the Clause should be amended to include the words 'role and function' in the header to the second column.

Council responded by deleting reference to high impact and low impact proposals in the Part D version of both Clauses 21.19 and 22.03 and adding the suggested words to Table 2.

### **(iii) Discussion**

The Panel agrees with the Council's responses to submissions listed above. The Panel further agrees with Shell Road that the use of some words is inappropriate and unless changed will lead to confusion and possibly, disputation. An example is the use of the term 'identified homemaker precincts', a term which to the Panel's understanding is not used in the Retail Strategy.

The Panel agrees with the confusion in terminology surrounding 'in centre', 'edge of centre' and 'out of centre' development. In the Panel's view, a proposed development is either 'in-centre' or 'out of centre'. Increased flexibility for application requirements suggested in the Panel recommended version of Clause 22.03 will allow the Council to require specific EIA components appropriate to a proposal near an existing centre if it so chooses. This in the Panel's opinion is a better approach than trying to grapple with the meaning of words such as 'abutting', 'adjoining' 'contiguous with' and 'over the road from'.

The Panel has identified and tracked a number of other changes in its recommended version of Clause 21.19, attached at Appendix D. These minor changes are not discussed in detail but broadly fall within one of the following categories:

- unclear wording
- undefined terms or the use of different terms to describe the same or very similar thing in different parts of the Clause
- the attempt to introduce a 'second' type of cap on floorspace in some centres by reference to total floorspace not exceeding shop floorspace cap in the Schedule to Commercial 1 Zone
- the use of strategies which are not really strategies but in some cases are better defined as objectives
- other minor inconsistencies between the Retail Strategy and the policy, for example the definition of 'walkable distance'
- the use of a negative as the operative word in describing a strategy.

In addition, the use of the terms 'fast', 'slow' and 'cultural' are deleted as these are not commonly used terms in retail planning, nor do they have any statutory meaning that justifies their use in a statutory control. The Panel does not consider that their inclusion in the policy would usefully inform decision making and indeed is more likely to add to confusion and disputation.

The Panel considers the policy would further benefit from a careful review and edit prior to adoption.

**(iv) Conclusions**

The Panel concludes that:

- Changes to Clause 21.19 in its recommended version at Appendix D should be adopted.
- Clause 21.19 should be subject to a careful review and edit prior to adoption.

**8.2 Clause 22.03 Assessment criteria for retail planning applications****(i) The issues**

The issue is the appropriate form of Clause 22.03.

**(ii) Submissions**

The most significant issue raised with respect to this Clause was the complexity associated with classifying development proposals into 'low impact' and 'high impact'. This was exacerbated at the Hearing by Council introducing the term 'no impact' proposals where a minor use change in a retail centre could result in a small increase in shop floor space which then exceeded the nominated shop floorspace cap, thereby triggering onerous requirements. This issue was addressed in Chapter 3.5.

In its Part D version of Clause 22.03 (Document 85), Council moved away from the classification of proposals as low and high impact and as indicated in Chapter 8.1, removed them from both Clause 21.19 and 22.03.

Further, for reasons unknown, Council removed the 'area to which the policy applies', which contravenes Planning Practice Note 7.

**(iii) Discussion**

The Panel agrees that the delineation of proposals as 'low impact' or 'high impact' was not helpful and as indicated in Chapter 3.5, endorses the proposal to delete this from both Clauses 21.19 and 22.03. The Panel endorses the proposal to reword the preamble to the EIA requirements to ensure that there is flexibility in what is required for a particular proposal. The Panel's preferred wording is at Appendix E.

In the Panel's preferred version of Clause 22.03, the dot points under the requirement for an assessment of trading impacts are deleted as unnecessary, given the flexibility for Council to specify requirements tailored to a particular proposal. The Panel found the deleted wording confusing. Reference to edge of centre is deleted to make the policy consistent with a change to Clause 21.19.

The Panel further considers that the area to which the policy applies must be included. In this regard and taking into account the issues raised in relation to various interpretations of the policy, the Panel has recommended a slightly different policy application to that which Council removed in its Document 85.

#### **(iv) Conclusions**

The Panel concludes:

- changes to Clause 22.03 in the recommended version at Appendix E should be adopted.

### **8.3 Schedule to the Commercial 1 Zone at Clause 34.01**

The Panel accepts the revisions proposed by Council to the Schedule to the Commercial 1 Zone in its part D version (Document 83), with the exception of the floorspace cap for shop use at Kingston Downs which as indicated in Chapter 5.6, it recommends be 11,000 square metres.

The Panel concludes that changes to Schedule to the Commercial 1 Zone at Clause 34.01 in its recommended version at Appendix F should be adopted.

### **8.4 Retail Strategy**

#### **(i) Issue**

The key issues are:

- whether the Retail Strategy in its current form is appropriate for inclusion in the Planning Scheme as a background document
- whether the significant number of changes made to the Retail Strategy subsequent to exhibition constitute a transformation of the Amendment
- whether further changes should be made to the Retail Strategy before the Amendment is approved.

#### **(ii) Submissions**

In the officer delegate report to Council dated 22 August 2019, submitters including Algo Properties, APD Projects Pty Ltd, Lascorp and the LBDG raised a number of issues with respect to the Retail Strategy. These included:

- the amount of supportable floorspace in particular centres
- the current floor areas in particular centres
- current floorspace caps
- lack of consistency both within the Retail Strategy and between the Retail Strategy and other relevant documentation
- missing or misplaced centres in Figures included in the Retail Strategy.

A number of revisions were made in the Day 1 version (Document 11) which resulted in a number of these submitters not pursuing issues at the Hearing.

In addition, a number of other issues relating to the Retail Strategy, which are more significant in nature, were identified during the course the Hearing. A number of these relate to proposed floorspace caps and have been addressed in relevant sections of this report.

On Day 4 of the Hearing on 31 October 2019, the Panel raised concerns about the number of changes which had been made and were still required to be made to the Retail Strategy to ensure that it is in an appropriate form to be referenced in the Planning Scheme. These are

summarised in Chapter 1.3(iv). The Panel expressed its concern about a possible transformation of the exhibited Amendment.

Following this and as outlined in Chapter 1.3, there were further Hearings on 10 December 2019 and 21 January 2020. Consequently, further changes were proposed to be made to the Retail Strategy. At the Hearing on 21 January 2020, the Panel noted further desirable refinements to the Retail Strategy, including:

- adding street names to the figures in Appendix 2 to allow for easier interpretation of the extent of activity centres and the location of boundaries
- presenting all figures in Appendix 2 on a common, clearly identified scale to aid in interpretation
- in Appendix 2, the reordering of activity centres by alphabetical order of name under each centre category, and inclusion of the list of centres in the Table of Contents.

As noted in Chapter 7.1, Council acknowledged that a number of changes to the Retail Strategy impacting the LBDG had been inadvertently made to the Part D version of the Retail Strategy and that these changes would be reversed. As a result of the further submissions made in response to the Panel's Directions of 11 December 2019, the Panel requested Council provide a list of proposed changes to the Part D version of the Retail Strategy. These were subsequently provided (Document 110). Mr Montebello subsequently provided a correction to this list, which the Panel accepts (Document 111).

### **(iii) Discussion**

The Panel notes that the majority of changes made to the Retail Strategy in both the Day 1 version and the Part D version respond fairly and appropriately to issues raised in written submissions and at the Hearing. Having said this, the Panel notes, for example, that a significant increase in the floorspace cap proposed for the Corio and Waurin Ponds sub-regional centres is a response to the more general issue of providing for greater flexibility in market response to changing demand.

The Panel does not believe that the changes made to the Retail Strategy, constitute a transformation of the Amendment and considers that submitters potentially impacted by these changes have been given an appropriate opportunity to comment.

A list of the changes to the Retail Strategy is provided in the recommendations.

In Chapter 8.1, the Panel recommends deleting the terms 'fast', 'slow' and 'cultural' retailing from Clause 21.19. These terms are explained in the Retail Strategy under the heading 'Retail Trends'. The Panel has no issue with section being retained in the Retail Strategy as one way of describing how retail is evolving. As indicated in Chapter 8.1, the Panel's concern is their usefulness in assisting in statutory decision making.

The Panel asked Council whether the Retail Strategy had been peer reviewed before exhibition and Council responded in its Part C submission that it had not been. Council acknowledged that while such reviews can be helpful, it did not regard it as necessary. A significant number of changes which have been to the Retail Strategy both during the Hearing and as a result of the Panel's recommendations. Consequently, the Panel considers that the Retail Strategy should be carefully reviewed for presentation, consistency of terminology, ordering of content and readability before it is approved. This review should not change the content of tables or

figures, nor key wording that relates directly to policy or the Schedule. As indicated in Chapter 3.1, the Panel is of the opinion that some complex tables could be relegated to an appendix to improve the readability of the Retail Strategy.

While not raised as a specific issue at the Hearing, the Panel notes that the drawn out process towards adopting the Retail Strategy has resulted in a start date implied in its title which by the time this Amendment is adopted, it will already be four years out of date. The Panel notes that the Retail Strategy includes data and other information which dates well beyond 2016 and for this reason, the Panel believes it should be re-titled *Greater Geelong Retail Strategy 2020-2036*. The Panel is aware that many strategy documents have a start date a year or so before the adoption date but rarely four years before. The Panel further notes that key decisions have been made and permits issued particularly with respect to the Kingston Downs NAC which postdate the start date in the title of the Retail Strategy. When viewed historically, at some stage in the future, this may give an inappropriate impression about the relevance of the current title of the Retail Strategy as a policy basis for those decisions.

#### **(iv) Conclusions**

The Panel concludes:

- Changes made to the Retail Strategy and policy either in response to submissions or recommendations from this report do not constitute a transformation of the Amendment.
- The Retail Strategy is appropriate to be included as a background document in the Planning Scheme subject to a number of changes.
- The Retail Strategy should be reviewed before adoption.
- The Retail Strategy should be retitled *Greater Geelong Retail Strategy 2020-2036*, and other relevant date changes be made in the strategy and in policy, to reflect the dates in this title.

### **8.5 Recommendations**

The Panel recommends:

- 3. Include the Part D version (*Greater Geelong Retail Strategy 2016-2036*) in the Greater Geelong Planning Scheme as a Reference Document, subject to the following changes:**
  - a) Provide for five Activity Centres in the Northern Growth Area (one Sub-Regional and four Neighbourhood Activity Centres) and amend all text and plans accordingly in the Retail Strategy and in relevant policy.
  - b) Amend the second last paragraph in 'Indicative Retail Centres in the Northern and Western Geelong Growth Areas' (after Table 2) to read "*Each growth area will be planned ... and any potential impacts on the existing centre network and will consider applying floor space caps*".
  - c) Move the 'Definition of a Retail Centre' that is provided after Table 2 to be placed before Table 2.
  - d) Re-insert the third qualification as proposed in Document 11 to the text preceding Table 5 to read "*Floor space has not been attributed to individual indicative centres ... as part of the preparation of Precinct Structure Plans*".

- e) **Replace all figures for the Northern and Western Growth Area centres with 'zero' in Table 5 'Supportable Floor Space 2016 – 2036', as well as in Appendix 2 'Indicative Centres'.**
  - f) **Amend section 1.4 (Leopold) in Appendix 2 to include 'Bunnings' as a key characteristic.**
  - g) **Add street names (where appropriate) to the maps in Appendix 2.**
  - h) **Present all maps in Appendix 2 on a common, clearly identified scale to aid in interpretation (where appropriate).**
  - i) **Place the nominated activity centres in alphabetical order in Appendix 2 by name under each centre category and include the list of centres in the Table of Contents.**
  - j) **Undertake a detailed edit and review by a professional editor of the Part D version of the finalised *Greater Geelong Retail Strategy 2016-2036*, for readability, presentation and ordering of content before adoption.**
  - k) **Retitle the *Greater Geelong Retail Strategy 2020-2036* and make that consequential date change to Clauses 21.19 and 22.03 and other relevant policy.**
4. **Replace the exhibited versions of Clause 21.19, Clause 22.03 and the Schedule to the Commercial 1 Zone at Clause 31.04 with the Panel recommended versions at Appendices D, E and F of this report.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Aldi Stores
2	Algo Properties
3	APD Projects Pty Ltd
4	Geelong Warehouse Traders
5	Merost Pty Ltd
6	Kaufland Australia Pty Ltd
7	Lascorp Development Group (Australia) Pty Ltd
8	Lovely Banks Development Group
9	Morgan and Griffen
10	Ramsey Property Group
11	Shell Road Developments Pty Ltd
12	Scentre Group Limited
13	E and M Perez
14	McCann Family

## Appendix B Parties to the Panel Hearing

Submitter	Represented by
Greater Geelong City Council	<p>Kate Morris of Harwood Andrews instructed by Peter Schembri (Senior Strategic Planner) and Jacinta Rivette (Strategic Planner) of Council, calling the following expert evidence:</p> <ul style="list-style-type: none"> <li>Julian Szafraniec of SGS Economics and Planning Pty Ltd on retail economics</li> </ul>
Morgan and Griffin	Richard Strates of Dominion Property Group
Kaufland Australia Pty Ltd	Jeremy Gobbo QC, instructed by Matthew Hughes of Planning & Property Partners
Lascorp Development Group (Australia) Pty Ltd	<p>Chris Townshend QC and Peter O'Farrell of Counsel, instructed by Amy Golvan of Lascorp, calling the following expert evidence:</p> <ul style="list-style-type: none"> <li>Bernard McNamara, BMDA Development Advisory on town planning</li> <li>Tony Dimasi, Dimasi &amp; Co on economics</li> <li>Marc Noyce of Biofilta on stormwater management</li> </ul>
Shell Road Developments Pty Ltd	<p>Phil Bisset and Stephanie Mann of Minter Ellison Lawyers, calling the following expert evidence:</p> <ul style="list-style-type: none"> <li>Justin Ganly of Deep End Services Pty Ltd on retail economics</li> <li>Rob Milner of David Lock Associates on town planning</li> </ul>
Elizabeth and Margarita Perez	Natalie Gray
Lovely Banks Development Group	Terry Montebello of Maddocks Lawyers

## Appendix C Document list

### Final Version

No.	Date	Description	Presented by
1	09/09/19	Folder – Volume 1: Amendment Exhibition Documents, Notices and Correspondence	Mr Schembri, Council
2	18/09/19	Correspondence – Withdrawal of McCann Family submission	Ms Morris, Harwood Andrews for Council
3	“	Aerial map of Kaufland Australia site at 140-156 Colac Road, Highton	Mr Hughes, Planning & Property Partners
4	19/09/19	Panel Directions and Timetable (Version 1)	Ms Mitchell, Panel Chair
5	23/09/19	Confirmation of Kaufland Australia expert witnesses	Mr Hughes, Planning & Property Partners
6	“	Confirmation of Shell Road Developments Pty Ltd expert witnesses	Ms Mann, Minter Ellison
7	26/09/19	Council letter in response to Directions	Ms Morris
8	“	Council Day 1 version of Commercial 1 Zone	“
9	“	Council Day 1 version of Clause 21.19	“
10	“	Council Day 1 version of Clause 22.03	“
11	“	Council Day 1 table of proposed changes to the City of Greater Geelong Retail Strategy in response to submissions	“
12	“	Ocean Grove Economic Analysis, SGS Economics and Planning, April 2015	“
13	“	Greater Geelong Retail Strategy, SGS Economics and Planning, June 2016	“
14	“	Greater Geelong Retail Strategy, Issues and Options Report, SGS Economics and Planning, September 2016	“
15	“	Draft Greater Geelong Gravity Model Update, SGS Economics and Planning, 24 May 2018	“
16	“	Draft Greater Geelong Retail Strategy, SGS Economics and Planning, 2017	“
17	“	Northern and Western Geelong Growth Areas Draft Framework Plan Future Urban Structure Plan, 28 March 2019	“
18	“	Western Geelong Growth Area Draft Framework Plan FUSP, March 2018	“
19	“	Lovely Banks Urban Form and Capacity Assessment, Essential Economics, July 2017	“

No.	Date	Description	Presented by
20	“	Non Technical Summary Activity Centres Northern Geelong Growth Area, Essential Economics, 30 August 20	“
21	“	Northern Geelong Growth Area Activity Centre Assessment by Essential Economics, August 2017	“
22	“	Western Geelong Growth Area – Retail and Activity Centre Technical Report, Urban Enterprises, July 2017	“
23	“	Leopold Sub-regional Activity Centre Urban Design Framework, June 2011	“
24	“	Leopold Sub-regional Activity Centre – Amended plans approved under PP- 1469-2014 on 21 July 2016	“
25	“	City of Greater Geelong Settlement Strategy adopted by Council in October 2018	“
26	“	Ocean Grove Structure Plan, December 2015 (amended September 2016)	“
27	“	Zoning map identifying land in Ocean Grove Growth Area	“
28	“	Zoning map identifying land subject of the Kingston Neighbourhood Activity Centre and Industrial Estate Development Plan	“
29	“	Kingston Neighbourhood Activity Centre and Industrial Estate Development Plan approved on 7 October 2016	“
30	“	Kingston Neighbourhood Activity Centre plans endorsed under Permit PP233-2016 on 16 May 2016	“
31	30/09/19	Addendum response to Direction 13, update to document link	“
32	08/10/19	Leopold Sub-regional Activity Centre Development Plan	“
33	14/10/19	Council Part A submission	“
34	“	Evidence statement of Julian Szafraniec on Economics	“
35	18/10/19	Letter filing evidence	Ms Golvan, Lascorp
36	“	Evidence statement of Bernard McNamara	“
37	“	Evidence Statement of Tony Dimasi	“
38	“	Evidence Statement of Marc Noyce	“
39	“	Evidence Statement of Rob Milner	Ms Mann
40	“	Evidence Statement of Justin Ganly	“
41	“	Correspondence advising that Kaufland Australia no longer intend to call evidence	Mr Hughes
42	23/10/19	Revised Hearing Timetable (v2)	Ms Harwood, PPV
43	“	Correspondence to Lascorp advising of error in listing of experts on Hearing Timetable	“
44	28/10/19	Agenda from PPV site visit to Geelong, 25 October	“

No.	Date	Description	Presented by
45	"	Correspondence from Aldi	Ms Morris
46	"	Council Part B submission	"
47	"	Economics evidence of Julian Szafraniec	Mr Szafraniec
48	"	Plan from Draft Retail Strategy, 2016	Mr Strates
49	29/10/19	Development Plan Assessment Report	Ms Morris
50	"	Submission by Morgan and Griffin	Mr Strates
51	"	Extract from Issues and Options Report	"
52	"	Revised photograph Morgan and Griffin land	"
53	"	Submission by Kaufland	Mr Gobbo
54	"	Maps to accompany Kaufland submission	"
55	"	Letter from DELWP, distinctive landscapes	Ms Morris
56	30/10/19	Planning Permit Assessment Report Leopold	"
57	"	Planning Permit PP1469 – 2014B	"
58	"	Endorsed Plans for Bunning retail site	"
59	"	Panel Report Greater Geelong C65 and C100	"
60	"	Submission for Elizabeth and Margarita Perez	Ms Gray
61	"	Extract from Ms McNamara Expert Witness Statement	"
62	"	Submission from Lascorp	Mr Townshend
63	"	Attachment 1 to Lascorp submission	"
64	"	Attachment 2 to Lascorp submission	"
65	"	Plan of Lascorp land	"
66	"	Clause 21.14 Greater Geelong Planning Scheme	"
67	"	Letter from Woolworths Group	"
68	"	Letter from Kaufland	"
69	"	Letter from Lifestyle Communities	"
70	"	Letter from Owner of Dendle land	"
71	"	Extract from Clause 17.02 – 25	"
72	31/10/19	Submission from Shell Road Development Pty Ltd	Mr Bisset
73	"	DPO22	"
74	"	Page 32 of Issues and Options	"
75	1/11/19	Further Directions for Council	Ms Mitchell

No.	Date	Description	Presented by
76	6/11/19	Correspondence regarding Council's response to Panel's Directions	Mr Hughes
77	7/11/19	Submission for the Lovely Banks Development Group	Mr Montebello
78	"	Part C Submission for Council	Ms Morris
79	"	Appendix to Council's Part C submission	"
80	"	Track change versions of Clauses 21.14 and 21.19	Mr O'Farrell
81	"	Further Directions for Council	Ms Mitchell
82	6/12/19	Letter from Council regarding further information requested	Ms Morris
83	"	Council Part D changes – Commercial 1 Zone	"
84	"	Council Part D changes – Clause 21.19	"
85	"	Council Part D changes – Clause 22.03	"
86	"	The City of Greater Geelong Retail Strategy 2016-36, amended 6 December 2019 including a new Appendix 1 (Retail Method)	"
87	"	Memo from Mr Szafraniec of SGS Economics and Planning 'Difference between exhibited and newly proposed alignment charts contained in Figures 12 and 14 of Retail Strategy'	"
88	"	Memo from Mr Schembri of Council – Ocean Grove Population Update November 2019	"
89	"	Confirmation of further Directions Hearing arrangements	Ms Mitchell
90	9/12/19	Further Directions for Council	"
91	10/12/19	Summary of changes to the Retail Strategy	Ms Morris
92	"	Further submission from Lascorp	Mr O'Farrell
93	11/12/19	Further Panel Directions	Ms Mitchell
94	17/12/19	Part D changes to Retail Strategy	Ms Morris
95	20/12/19	Response to Part D changes to Retail Strategy and Request for Panel Directions	Ms Mann
96	23/12/19	Further Panel Directions	Ms Mitchell
97	10/01/20	Correspondence advising of delay in response to Panel Directions	Ms Morris
98	14/01/20	Council response to Panel Directions of 23 December 2019	"
99	15/01/20	Kingston Neighbourhood Activity Centre and Industrial Estate Development Plan (7 October 2016)	"
100	17/01/20	Lascorp response to Panel Directions	Ms Golvan

No.	Date	Description	Presented by
101	“	LBDG email letter to Panel tabling further submission	Mr Montebello
102	“	Further submission from LBDG	“
103	“	Evidence statement of Matthew Lee	“
104	“	Further submission from Shell Road Developments	Ms Mann
105	“	Further submission from Elizabeth and Margarita Perez	Ms Perez
105b	“	Revised version including map	Ms Gray
106	20/01/20	Further Hearing Timetable for 21 January 2020	Ms Mitchell
107	21/01/20	Correspondence confirming that no further submission will be made in response to Panel direction	Mr Hughes
108	“	Council Part E submission with letter	Ms Morris
109	“	Supplementary response from Council	Mr Montebello
110	27/01/20	Council list of proposed changes to the Part D version of the Retail Strategy in response to the Panel’s 11 December 2019 Directions	Ms Morris
111	28/01/20	Email regarding incorrect interpretation of Council changes	Mr Montebello

## Appendix D Panel preferred version of Clause 21.19 - Activity Centres

Tracked Added

~~Tracked Deleted~~

## 21.19 Activity Centres

DD/MM/YYYY  
Proposed C393

### 21.19-1 Key Issues and Influences

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Proposed C393

The established City of Greater Geelong retail hierarchy is a key influence in activity centre planning for Greater Geelong.

Key issues in relation to activity centres include:

- Revitalising and protecting the primacy of Central Geelong.
- Protecting the role and function of existing centres in the Retail Centre Hierarchy.
- Ensuring retail and other services are easily accessible and conveniently located to reduce the need for, and length of car trips.
- Ensuring the transition of retail centres to activity centres with a diverse range of uses.
- Accommodating future demand for new and expanded retail services as a result of forecast population growth within existing and planned centres.
- Ensuring retail uses contribute to the vibrancy and attractiveness of suburbs and townships.
- The establishment of major retail uses in out of centre locations.
- Facilitating increased residential densities in increased housing diversity areas.
- Improving pedestrian and public transport accessibility.

~~Successful shopping centre networks typically feature strong representation from across the 4 retail systems. These systems include fast retail (supermarkets, bottle shops), slow retail (cafes, deli's), cultural retail (library's, galleries) and restricted retail (hardware, furniture).~~

The boundary of all retail centres included within the Geelong Retail Centre Hierarchy [at Clause 21.19-5](#) is as delineated in the *City of Greater Geelong Retail Strategy 2016-2036, November 2018* ([Appendix 2](#)).

Council has planned for the establishment of new activity centres within identified growth locations to meet the needs of future residents.

Greater Geelong exhibits a number of factors that contribute to an increased vulnerability to problem gambling which requires sensitive consideration of their location.

### 21.19-2 Objectives

DD/MM/YYYY  
Proposed C393

- To consolidate and strengthen the established Geelong Retail Centre Hierarchy.
- To facilitate the development of vibrant and viable retail centres.
- To ensure that Central Geelong remains the primary activity centre in the municipality.
- To ensure that new retail development [is consistent](#) ~~complies~~ with the Geelong Retail Centre Hierarchy included at Clause 21.19-5. ~~and failing this, provides a net community benefit.~~
- To encourage a competitive supply of goods and services.
- To encourage walkable access to retail and activity centres from residential areas.

- To ~~distribute~~ locate restricted retail activity across the retail hierarchy.
- To ensure there is a diversity of uses in all centres, particularly in Central Geelong, Town and Sub-regional Centres.
- To ~~encourage~~ support continued diversification of retail centres ~~to become activity centres~~ over time.
- To support the expansion of existing centres.
- To ensure new retail centres have direct access to a major road and good access to public transport.
- To limit retail uses in industrial zones.
- To provide forward land supply for retail and activity centre development to meet the current and anticipated demand in greenfield locations.
- To avoid the risk of exacerbating problem gambling.
- To demonstrate net community benefit.

### 21.19-3 Strategies

#### General

- Encourage a mix of retail, office, cafes, higher density housing, education and community facilities to locate within centres, but particularly Central Geelong, Sub-regional and Town Centres.
- Support accommodation uses above ground level floor space in retail and activity centres subject to appropriate provision of parking and access requirements.
- Direct entertainment and cultural activities to Central Geelong and support local events in other centres.

#### Gaming

- Direct the location of gaming machines to venues that makes gaming accessible but not convenient as detailed in Clause 22.57.

#### Retail Hierarchy

- Direct new retail development to existing centres, consistent with the role and function described in the Geelong Retail Centre Hierarchy included at Clause 21.19-5. ~~Only support out of centre retail development where:~~
  - ~~The development is on the border of an activity centre and would be consistent with the role and function of the centre as described in the Geelong Retail Centre Hierarchy; or failing that~~
  - ~~It can be demonstrated that;~~
    - ~~additional floor space cannot be delivered in the existing network of centres;~~
    - ~~there is demand for additional floor space;~~
    - ~~the economic impact on a nearby centre is less than 10 per cent; and~~
    - ~~a net community benefit can be achieved.~~
- Out of centre must meet the requirements of Clause 22.03
- Direct the location of discount department stores to Central Geelong and sub-regional centres.

### Planned Centres in Growth Areas

- ~~▪ Discourage planned centres in greenfield locations becoming larger than the maximum leasable floor area identified in the schedule to the Commercial 1 Zone, prior to all planned neighbourhood and sub-regional centres establishing, to ensure new communities have timely and convenient access to services.~~
- Ensure planned centres are consistent with the role, function, size and type of centre as set out in the Geelong Retail Hierarchy in Clause 21.09-5.
- Ensure that the use and development of any planned centre is consistent with an approved Development Plan or Precinct Structure Plan.

### Uses

- Encourage diversity and competition between ~~different sized~~ supermarkets in sub-regional centres and neighbourhood activity centres.
- Encourage development that supports a diversity of retail forms across the hierarchy.
- ~~▪ Encourage development that supports different forms of fast, slow, cultural and restricted retailing systems within all retail centres, but particularly in Central Geelong.~~

### Residential Growth Zone land

- Ensure that retail use and development on residential growth zoned land:
  - has a functional relationship with an existing activity centre; and
  - is designed and sited to operate without amenity impacts to neighbouring residents.

### Commercial and industrial land

- ~~Discourage~~ Encourage retail use and development in industrial areas ~~unless only if~~ associated with an industrial use occurring on the land or it can be demonstrated that it will meet the needs of people employed in the area.
- ~~Discourage~~ Encourage proposals that will ~~displace~~ provide for strategic employment land.
- ~~Where~~ Ensure that where a planning application for use is required for a new or expanded supermarket based centre within the ~~commercial 2 and industrial 3 zone~~ Commercial 2 Zone and Industrial 3 Zone ensure:
  - ~~that~~ the development does not have a significant economic impact on a nearby centre(s) identified within the Geelong Retail Centre Hierarchy and
  - ~~that~~ the centre provides a net community benefit.

### Restricted Retail Uses

- Direct restricted retail use and development to nominated restricted retail precincts as identified in the Geelong Retail Centre Hierarchy.
- Support the development of smaller scale, higher density restricted retail uses such as homewares within retail ~~and activity~~ centres. ~~in preference to identified homemaker precincts.~~

### Preferred Location

- ~~▪ Locate new retail centres on sites that have existing or potential future access to public transport.~~
- ~~▪ New retail centres should have direct access to a Category 1 or 2 zoned road.~~

- ~~▪ Locate new centres within an 800-metre walking distance to residential zoned land, reducing car usage and encouraging walking.~~

#### **Design and Layout**

- Encourage the redevelopment of car parking areas for commercial and residential uses where adequate car parking requirements for existing and future development can be achieved.
- Support increased intensity and vertical growth of centres to encourage expansion and to reduce the need to develop new centres.

#### **Retail Demand**

- ~~▪ Support the use of maximum leasable floor areas in the Schedule to the Commercial 1 Zone for sub-regional centres and in greenfield locations, and where;~~
  - ~~▪ the size of a centre needs to be restricted to protect the retail hierarchy, or~~
  - ~~▪ to encourage the timely delivery of a planned centre.~~

### **21.19-4 Implementation**

DD/MM/YYYY  
Proposed C393

These strategies will be implemented by:

#### **Using policy and the exercise of discretion**

Using the Assessment Criteria for Retail Planning Applications Policy at Clause 22.03.

Using the Gaming Policy at Clause 22.57.

#### **Further work**

- Prepare Structure Plans or Urban Design Frameworks for Belmont and Waurin Ponds Sub Regional Centres to guide the ongoing development of these centre.
- Prepare a Structure Plan for Pakington Street (Geelong West) and the Gordon Ave Homemaker Precinct. The plan should consider rezoning opportunities and review the role of the Gordon Ave Homemaker Precinct.
- Prepare a Structure Plan or Urban Design Framework for Separation Street Neighbourhood Centre to facilitate growth of the centre and streetscape improvements.

#### **References**

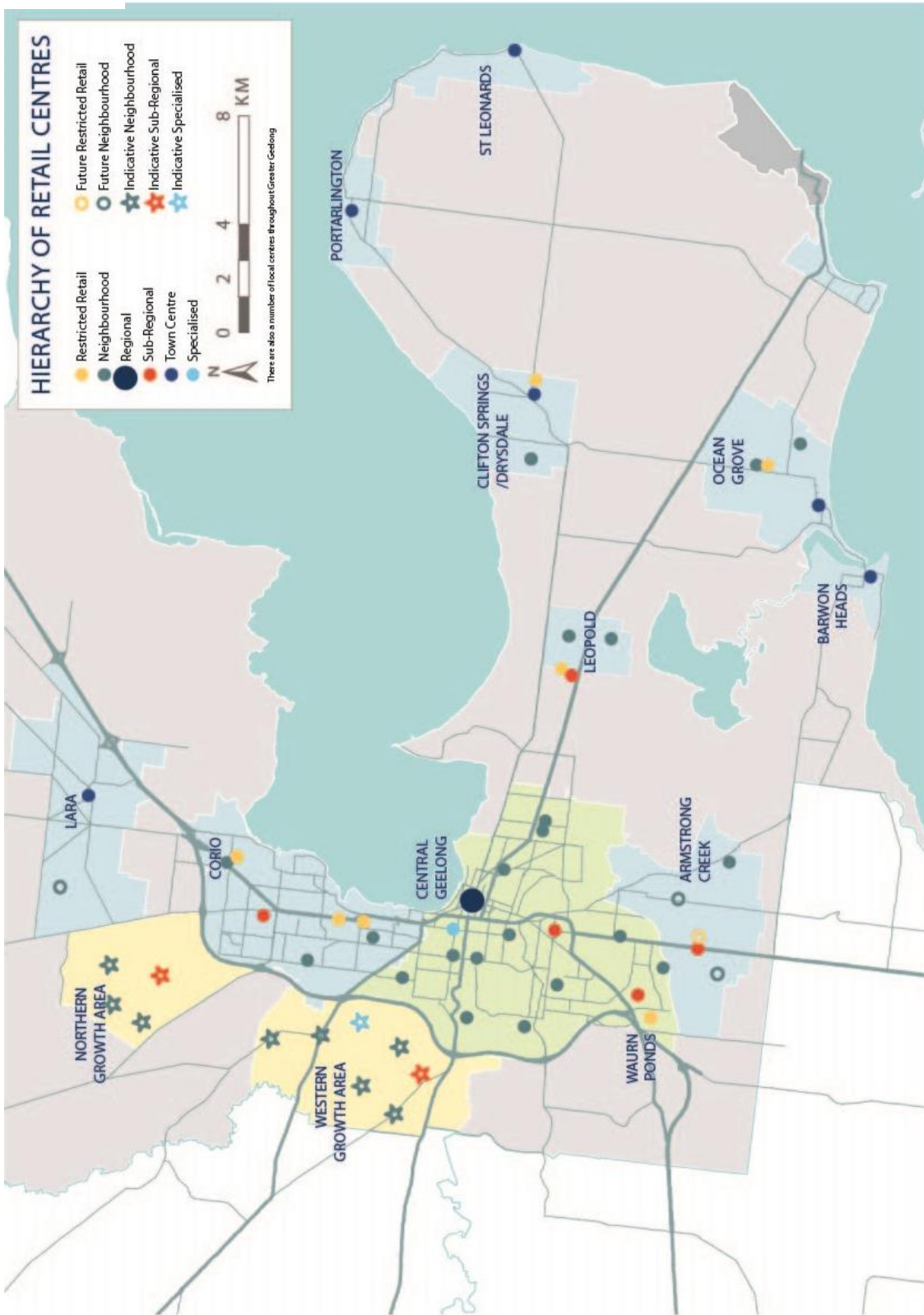
*Greater Geelong Gaming Policy Framework, City of Greater Geelong, 2007.*

*Armstrong Creek Town Centre, Precinct Structure Plan, March 2014.*

*City of Greater Geelong Retail Strategy 2016-2036, November 2018.*

### 21.19-5 Geelong Retail Centre Hierarchy

DD/MM/YYYY  
Proposed C393



Level in	Type of Centre (Role and Function)	Indicative retail floorspace range	Centres
Regional	<p>A major retail centre that serves a wide catchment and is anchored by one or more department stores, discount department store(s), supermarket(s), mini major(s) and speciality stores.</p> <p>Often associated with bulky goods adjacent to or near the core retail centre.</p> <p>Provides a full range of retail needs and more successful when associated with entertainment and leisure activities such as cinemas and restaurants or niche retail precincts.</p>	More than 100,000 sqm	Geelong CBD
Sub-Regional	<p>A major retail centre that serves a wide catchment (but smaller than a regional centre) and is anchored by one or more discount department stores, supermarket(s), mini major(s) and speciality stores.</p> <p>Because of their smaller size, they have less provision for higher-order activities including full-line department stores, and the range of specialty shopping is less extensive.</p>	15,000 to 60,000 sqm	Belmont, Waurm Ponds, Corio, Leopold, Armstrong Creek
Specialised	<p>More traditional major centres that have grown from strip shopping centres and which are typically located along main arterial routes and/or public transport nodes.</p> <p>Tend to capture niche trade from wider catchments in addition to</p>	15,000 to 60,000 sqm	Pakington Street (Geelong West)

<b>Level</b>	<b>in</b>	<b>Type of Centre (Role and Function)</b>	<b>Indicative retail floorspace range</b>	<b>Centres</b>
		having an important community role as the focus for retail, civic, and community uses.		
Town Centre		Major community shopping locations providing weekly grocery shopping for the local township in combination with specialty store shopping that also services visitors to the region.	2,000 to 20,000 sqm	Ocean Grove, Drysdale, Lara, Barwon Heads, Portarlington, St Leonards
Neighbourhood		A retail centre that serves a neighbourhood catchment and is anchored by one or more supermarkets plus speciality stores.	2,000 to 15,000 sqm	Shannon Ave (Geelong West), Separation St, Pakington St (Newtown), Highton, Newcomb Central, Geelong East, Bellarine Village, Bell Post SC, Barrabool Hills SC, Shannon Ave (Newtown), Ocean Grove (Marketplace), Vines Rd, Fyansford, Grovedale Central, Dorothy St, Ash Rd, Rosewall, Jetty Rd, Warralily, Lara West, Armstrong Creek West, Horseshoe Bend North East, Kingston Downs, Surf Coast Highway
Local		Small groups of shops serving a limited catchment, and typically providing for the daily convenience needs of residents in the surrounding area	Up to 5,000 sqm	Dispersed location across the municipality
Restricted Retail (Homemaker)		A collection of bulky goods stores, generally comprising furniture, white goods, electrical, floor and window coverings, lighting, hardware and related retail operations.	50,000+	Geelong Gateway, Geelong West, Waurn Ponds, Melbourne Rd (Norlane), Melbourne Rd (North Geelong), Sinclair St, Anakie Rd, Leopold Central, Armstrong Creek

Level in	Type of Centre (Role and Function)	Indicative retail floorspace range	Centres
	Can be adjacent to core retail centres or in stand-alone precincts		

Panel Note: there is a problem with the headings of this table which the Panel was unable to reconcile.

## **Appendix E Panel preferred version of Clause 22.03 - Assessment Criteria Retail Planning Applications**

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## 22.03 Assessment Criteria for Retail Planning Applications

DD/MM/YYYY  
Proposed C393

[This policy applies for use and development applications that exceed the floorspace cap in the Schedule to the Commercial 1 Zone and any other proposal identified as being 'out-of-centre'.](#)

### Policy Basis

The City of Greater Geelong is forecast to experience significant population growth increasing the demand for new and expanded retail services. It is critical to ensure our community has access to every day services within a 20 minute drive from home. Our retail centres should be encouraged to grow and transition over time to activity centres extending their offer to include uses other than retail.

The Geelong Retail Centre Hierarchy has been established to articulate the role and function fulfilled by centres of different sizes. The retail centre hierarchy can be found at Clause 21.19.

Expanding our existing centres is encouraged over developing new centres in out of centre locations.

The expansion of several existing centres in Greater Geelong are constrained particularly at the subregional and neighbourhood centre level. Expansion of these centres should consider opportunities to make better use of at grade car parking areas and expand in a vertical direction.

Retail centres should be within an 800 metre walking distance to residential zoned land to limit car usage, encourage urban consolidation and better utilise existing infrastructure.

New development should provide high quality built form outcomes which are sympathetic to the character of the surrounding area and minimises amenity impacts on nearby sensitive land uses.

### Objectives

- To ensure that applications for new and expanded centres establish a demand for such use and demonstrate that there are no adverse impacts on nearby centres or the operation of the retail centre hierarchy.
- To support the viability of centres identified in the retail hierarchy.
- To ensure proposals provide a net community benefit.
- To guide consideration of applications involving an increase in a maximum leasable floor area identified in the schedule to the Commercial 1 Zone.
- To ensure the design and layout of new or expanding centres minimise amenity impacts on surrounding uses and contribute positively to the streetscape and surrounding area.

### Policy

#### Use applications

It is policy that applications be accompanied by an Economic Impact Assessment to the satisfaction of the responsible authority.

### **Buildings and works applications**

It is policy to:

- Ensure blank walls and loading bays are not adjacent to sensitive land uses and key vehicle and pedestrian accessways to a centre.
- Ensure illuminated signage does not impact on sensitive land uses.
- Ensure new development provides visually interesting and active street frontages where buildings abut the street or a public space.
- Encourage car parking areas to be located to the side or rear of a centre.
- Ensure car parking areas do not visually dominate the front setback area of a centre by providing landscaping including canopy trees.
- Ensure there are safe and convenient pedestrian connections from car parking areas and the surrounding footpath network to the entrance(s) of a centre.

### **Application Requirements**

#### **Economic Impact Assessment**

~~The following issues and information should be addressed as part of an economic impact assessment:~~

Subject to the type of application and at the discretion of the Responsible Authority, the following information may be required as part of an economic impact assessment:

#### General

- Amount of overall retail floorspace.
- Number of retail tenancies and their floor area.
- All proposed land uses.
- The location and amount of floor space dedicated to shop uses within the development if the centre is listed in the schedule to the Commercial 1 Zone.
- Assessment of any likely impact on existing, planned or approved retail facilities.
- Description of anticipated benefits to the community (whether or not these can be monetised).
- Estimated net employment benefits (if any).

#### Retail Supply

- The existing supply of retail floor space serving the catchment, by type, size, role and function.
- Details of any other proposals for new or expanded retail development in the catchment or beyond, which could have an effect on the proposal, existing centres or planned development.
- Demonstrate how the proposed retail floorspace would fit into the Geelong retail centre hierarchy as detailed in Clause 21.19.
- Demonstrate whether the existing supply of retail floorspace is adequate to meet existing and foreseeable demand levels over a 15 year period.
- Whether there are any existing retail gaps in merchandise/services which the proposal will fill.

### Retail Demand

- The need or demand for new or expanded retail floorspace provision to serve the identified catchment, taking into consideration the objectives and strategies contained in Clause 21.19.
- The current catchment population, forecast population and retail spending growth rate for a 15 year period.
- The extent to which the proposal will draw trade from beyond the catchment, and from passing trade.
- Whether the proposed or expanded retail provision would mean an expansion in the size of the catchment of that centre.
- Impacts on the catchment of nearby centres and the effect this may have on centres within those catchments.

### Escape Spending

- Estimates of existing levels of escape spending from the catchment.
- Estimates on the share of this escape spending that could reasonably be retained by the proposal.

### Impact on Existing Retail Facilities

- Assessment of the expected trading effects on existing or planned retail facilities. ~~based on each of the following scenarios; where relevant:~~
  - ~~The proposal did not go ahead and existing centres in the catchment continue to trade.~~
  - ~~The proposal is located adjoining an existing nearby centre already identified in the retail hierarchy or~~
  - ~~Where an out of centre development is proposed, if the centre was approved.~~
- Demonstration of the extent to which the proposal is expected to lead to an overall improvement in the provision of retail facilities to the catchment population, including the potential for retaining spending that would otherwise escape to other centres.
- Demonstrate that the proposal will improve access to services by reducing travel times for residents.
- Demonstrate that a proposal which results in a development exceeding the maximum floor area specified in the schedule to the Commercial 1 Zone, does not impact on the timing, delivery and viability of other retail centres including planned centres.

The responsible authority may waive any of the above requirements relating to an economic impact assessment.

### Out of centre applications

In addition to providing an Economic Impact Assessment, an application for an out of centre development must demonstrate:

- Why the proposal cannot be accommodated within an existing centre identified in the retail hierarchy.
- ~~Why the proposal cannot be accommodated on the border of an existing centre identified in the retail hierarchy.~~

- That the proposal will not significantly impact on the character and amenity of the surrounding area.
- That the location of the centre will reduce travel times for the community when compared to nearby existing centres with a similar retail offer.
- That the centre has ~~excellent~~ good connectivity to the surrounding residential area(s).
- That the proposal will not result in traffic and safety conflicts between cars, trucks and pedestrians external to the site.
- That the proposal demonstrates net community benefit.

### References

City of Greater Geelong Retail Strategy 2016-36, November 2018

## Appendix F Panel preferred version of the Schedule to Clause 34.01 Commercial 1 Zone

Tracked Added

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## SCHEDULE TO CLAUSE 34.01 COMMERCIAL 1 ZONE

DD/MM/YYYY  
Proposed C393

Land	Maximum leasable floor area (m2) for office	Maximum leasable floor area (m2) for shop (other than restricted retail premises)
Certificate of Title Vol. 9960 Fol. 950 and Lot 2, Certificate of Title Vol 10982 Fol 810 located at the corner of Princes Highway and Pioneer Road, Grovedale, and 245-253 South Valley Road (Waurm Ponds Sub-Regional Activity Centre)	None specified	47,000
Corio Shopping Centre, corner Purnell and Bacchus Marsh Road, Corio	None specified	32,000
Bellarine Gateway Plaza, 621-639 and 641-659 Bellarine Highway, Leopold (Leopold Sub-Regional Activity Centre)	None specified	30,000
Hyland Street, Fyansford Neighbourhood Activity Centre	None specified	4,800
Lara West Neighbourhood Activity Centre	None specified	5,000
Kingston Downs Neighbourhood Activity Centre, Grubb Road, Ocean Grove	None specified	<del>8,700</del> <u>11,000</u>
Armstrong Creek East Precinct Neighbourhood Activity Centre (Warralily)	None specified	7,700
Armstrong Creek East Precinct Local Activity Centre	None specified	1,000
Jetty Road Neighbourhood Activity Centre, Drysdale	1,000	6,000
Armstrong Creek West Precinct Neighbourhood Activity Centre	None specified	3,000
Armstrong Creek West Precinct Whites Road Local Activity Centre	None specified	1,000
Armstrong Creek West Precinct Boundary Road Local Activity Centre	None specified	500
Armstrong Creek West Precinct Train Station Local Activity Centre	None specified	1,000
Armstrong Creek Town Centre Precinct 1 (Sub-Regional)	None specified	40,000
Armstrong Creek Horseshoe Bend Precinct North East Neighbourhood Activity Centre	None specified	7,000
Armstrong Creek Horseshoe Bend Precinct Southern Local Activity Centre	None specified	1,000
Armstrong Creek Horseshoe Bend Precinct Western Local Activity Centre	None specified	1,000