

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

1. This Part E submission is made on behalf of Greater Geelong City Council (**Council**), the proponent for Amendment C393 (**Amendment**) and Planning Authority for the Greater Geelong Planning Scheme (**Scheme**).
2. The purpose of this Part E submission is to respond to the Panel's further Direction issued on 11 December 2019 allowing Council to provide any further response to any additional written submissions filed by parties on 17 January 2020 in response to Council's Part C Submission, Part D proposed changes to documents and revised Retail Strategy.

LOVELY BANKS DEVELOPMENT GROUP – SUBMITTER 8

3. The Lovely Banks Development Group (**Lovely Banks**) further submission of 17 January 2020 (Document 102) does not take issue with any of Council's Part D proposed changes either to the Schedule to the Commercial 1 Zone or to the Planning Policy Framework (Clauses 21.19 and 22.03). Rather, it takes issue with Council's Part D proposed changes to the *City of Greater Geelong Retail Strategy 2016-36* (**Part D Retail Strategy**) set out in Document 94 which is proposed to be identified as a reference document in the Scheme.
4. The specific concerns raised by Lovely Banks in its further submission, as Council understands them, and Council's response to these issues follows.

Number of centres in Northern Growth Area

5. Lovely Banks takes issue with the number and location of centres depicted in the Northern Growth Area in Figure 6 'Location of Retail Centre' on page 28 of the tracked-changes version of the Part D Retail Strategy. In relation to Figure 6, Lovely Banks has previously submitted that:
 - 5.1. The location of the sub regional centre in should be relocated slightly to the north-east for urban design reasons; and also
 - 5.2. There should be four neighbourhood level centres rather than three.

6. The Lovely Banks further submission observes that Council's Delegated Authority Report of 22 August 2019 which considered the submissions to the Amendment and also the Day 1 documents circulated by Council on 26 September 2019 proposed to:
 - 6.1. Revise Figure 6 to reflect the location of centres in the Northern and Western Growth Areas as per the Northern and Western Geelong Growth Area Framework Plan (**NWGA Framework Plan**);
 - 6.2. Edit the description of how future centres within the Northern and Western Growth Areas are treated within the section of the Strategy 'Future Retail Centres in the Northern and Western Growth Areas' (at paginated page 28 of the adopted Retail Strategy);
 - 6.3. Remove page placeholders from Appendix 1 of the Retail Strategy.
7. Lovely Banks asserts that Council has "rolled back" its position on the latter two (and other) matters in the Part D Retail Strategy.
8. Council regrets that the additional textual changes to the 'Future Retail Centres in the Northern and Western Geelong Growth Areas' previously set out in Document 11 was accidentally omitted from the relevant section 'Indicative Retail Centres in the Northern and Western Growth Areas' in the Part D changes to the Retail Strategy (Document 94). Council proposes that this be corrected by making the following amendments to that text:
 - 8.1. Amend last sentence in second paragraph as follows:

The project has considered the ultimate population of each growth area and proposes that additional retail centres are required: four in the north and ~~six~~sixseven in the west,
 - 8.2. Amend second-last paragraph as follows:

Each growth area will be planned sequentially via multiple Precinct Structure Plans (PSPs). The PSP's will consider the timing location and scale of the proposed retail centres, particularly the sub regional centres, and any potential impacts on the existing centre network and will consider applying floor space caps,
9. This course of action would also be consistent with both Council's Delegate Report and also Council's Day 1 documents.
10. It has never been Council's position in Amendment C393 that there should be four rather than three neighbourhood level centres within the Northern Growth Area. However, at the hearing for Amendment C393 Council confirmed it would consider the Panel Reports for Amendments C393 and C395 (Settlement Strategy) concurrently to ensure consistency between the Amendments. This includes in relation to the number and location of activity centres in the Northern and Western Growth Areas.

Supportable floorspace demand for Northern and Western Geelong Growth Areas

11. Another matter in respect of which Lovely Banks asserts Council has gone backwards is Council's approach to the supportable floor space demand for the Northern and Western Growth Areas. In essence, Lovely Banks complains that Council's Day 1 documents, specifically Document 11 and Appendix 2 to the same, proposed to

remove all figures relating to the Northern and Western Growth Areas from Table 5 'Supportable Floor Space 2021-2036' and Council's Part D documents now reverse this by including figures for the Growth Areas from Table 20 in Section 2.6 of Mr Szafraniec's expert witness statement.

12. Likewise, Lovely Banks says that Council has gone backwards from Document 11 by excluding additional text previously proposed to precede Table 5 from the Part D documents. Specifically, Lovely Banks observed that Council in its Day 1 documents (Document 11) had proposed to include additional paragraphs in the Strategy immediately before Table 5. The first two additional paragraphs included some important qualifications regarding the supportable floorspace demand projections as follows:

The calculations provided here are not intended to limit the growth of a centre beyond what has been indicated in this table. Indeed, some centres may never achieve the supportable floor space identified for a range of reasons, such as land constraints. This demand may then be taken up by a nearby centre or new centre. Planning policy contained in the Greater Geelong Planning Scheme should be used to determine whether growth of a centre should occur.

The time scale in this table is not intended to prevent centres expanding earlier than identified in the table. If population growth rates were to increase above the projected 2% average annual growth rate, then it is likely that planning policy would support more retail floor space sooner.

Floor space has not been attributed to indicative centres in the Northern and Western Geelong Growth Areas. Detailed floor space assessments will be undertaken as part of the preparation of Precinct Structure Plans.

13. While the first two paragraphs were retained in Council's Part D documents, the third paragraph has been omitted.
14. This did not come out of the blue. It is responsive to the expert evidence of Mr Julian Szafraniec Julian circulated on 14 October 2019 (Document 47) which included recommendations at paragraph 97 that Council, amongst other things:
- Amend Figure 2, page 13 of the adopted Retail Strategy to include the assumed population growth to 2036 in both the Northern and Western Growth Areas.
 - Update Figures 12 and 14 on pages 41-43 of the adopted Retail Strategy with data from Table 20, Section 2.6 of Mr Szafraniec's expert witness statement.
 - Update Table 5, page 57 of the adopted Retail Strategy with Table 20 in Section 2.6 of Mr Szafraniec's expert witness statement.
15. Table 20 in Section 2.6 of Mr Szafraniec's expert witness statement included floor space projections for the proposed Northern and Western Growth Area centres.
16. In Council's Part B submission dated 28 Oct 2019, Council stated at paragraph 4 that it relied on the economic evidence of Mr Szafraniec in relation to the retail analysis on which the Retail Strategy is based and also, in relation to the strategic justification for imposing "soft" floor space caps on the use of land for a "shop" in various activity centres and also in regard to the quantum of those caps. At paragraph 5, Council stated that its final position on the Amendment would be detailed in its Part C Submission to the Panel on 7 November 2019.

17. At paragraphs 11 to 16 of its Part B Submission, Council made clear that it proposed to retain floor space projections for the Northern and Western Growth areas in Figure 14 'Supply Demand Floor Space Alignment – Geelong Sub-Regions of the Retail Strategy' of the Strategy and set out the rationale for this. However, it said acknowledges it said nothing about reintroducing figures for the Growth areas into the Table 5.
18. At paragraph 20 of Council's Part C Submission of 7 November 2019, Council stated that a list of all changes to considered necessary to make to the Retail Strategy were included as Appendix 1 to its submission. Most relevantly, the list of changes included:
 - 18.1. Replace Figure 12 in the Retail Strategy with Table 19 of the expert witness report of Mr Julian Szafraniec;
 - 18.2. Update Figure 14 in the Retail Strategy with data from Table 19 in the expert witness report of Mr Julian Szafraniec;
 - 18.3. Replace Table 5 on page 57 of the Retail Strategy with Table 20 in expert witness report of Julian Szafraniec.
19. Unfortunately, Council presented its Part C Submission after Mr Montebello presented his closing submission for Lovely Banks and left the hearing room. While it can be said that Mr Montebello was on notice from Council's Part B Submission of Council's position about retaining floor space projections for the Northern and Western Growth Area in Figure 14 of the Retail Strategy, Council is not unsympathetic to Lovely Banks position in relation to the reintroduction of figures for the Northern and Western Growth Areas in Table 5 of the Retail Strategy.
20. Notwithstanding Lovely Banks submissions about process, Council considers that Lovely Banks should not be so troubled by inclusion of the figures for the Growth Areas in Table 5 given the relevant qualifications in the Retail Strategy set out at paragraph 14 above. Nevertheless, Council is content to replace the Figures for the Growth Areas in Table 5 of the Retail Strategy with 'zeros' and also to re-insert the third qualification to the text preceding Table 5, but with the following marked-up amendment:

Floor space has not been attributed to individual indicative centres in the Northern and Western Geelong Growth Areas recognizing that detailed floor space assessments will be undertaken as part of the preparation of Precinct Structure Plans.
21. Council does however still propose to retain Figures 22 and 23 as shown in the Part D Retail Strategy at page 38 noting that these two bar graphs depict the projected floor space demand at 2036 for the Northern and Western Geelong Growth Areas respectively albeit at a broad (sub-regional) strategic level. These Figures, together with Figures 14 to 23 in the Part D Retail Strategy, replace Figure 14 in the adopted Retail Strategy. In Council's submission, it is appropriate for the Retail Strategy to include projected floor space demand for the two Growth Areas at a broad strategic or "high" level recognizing that detailed floor space assessments will be undertaken in preparing the PSPs for Growth Areas.

PEREZ SUBMISSION - SUBMITTER 13

22. Submitter 13, the owners of the land at 92-100 Melaluka Road, Leopold, made a further submission dated 17 January 2020 (Document 105) requesting further amendments to Council's Part D documents relating to the Leopold Sub-regional Centre. The

changes relate to the Schedule to the Commercial 1 Zone and the Part D Retail Strategy.

23. The specific changes and Council's response to the same follow.

Schedule to the Commercial 1 Zone

24. Council's Part D Amendment documents continued to propose a maximum leasable floor space cap for shop of 30,000 sqm for the for Leopold Sub-Regional Activity Centre. Submitter 13 now requests the shop floor space cap for the centre be increased to 35,000 sqm leasable floor space (excluding restricted retail).
25. The submitter seeks this higher cap on the basis it will provide clarity, certainty and consistency with DPO30 and will encourage future investment, particularly as the description in the "Land" column of the Schedule now refers to "Leopold Sub-Regional Activity Centre".
26. Council does not support this requested change. It acknowledges that the projected demand for shop floor space in Leopold is likely to reach 35,000 sqm at some point beyond 2036. However, 30,000 sqm is substantially above the shop floor space demand projected for the centre in 2026 and just below the 31,454 sqm of shop floor space demand projected for 2036. In Council's submission, a floor space cap of 30,000 sqm is just right for the centre given the intended life of the Strategy (i.e. to 2036) the Amendment is intended to implement. Additionally, part of the Centre (i.e. the submitters land) is in the Farming Zone. The future rezoning of the land will provide an appropriate opportunity to consider any proposed revision to the floor space cap having regard to the relevant Economic Impact Assessment provided by the proponent at the time of the rezoning request.

Amendments to the Retail Strategy

27. The Perez also request that Figure 6: 'Location of Retail Centre' on page 25 of the Part D Retail Strategy be amended to make clear that the red and yellow dots indicating the location of the Leopold Sub-regional Centre and Restricted Retail respectively, relate both to the land along the Bellarine Highway and to Submitter 13's land on Melaluka Road, north of the Bellarine Highway.
28. The submitter notes this would be consistent the description of the Centre on page 105 of the Part D Retail Strategy which also includes Submitter 13's land, also known as the northern expansion site for the purpose of the Development Plan Overlay Schedule 30. Council agrees that Submitter 13's land is part of the Leopold Sub-Regional Centre but does not consider it necessary to amendment Figure 6 in this regard.
29. The submitter also requests that wording be included within the Retail Strategy to clarify exactly what is intended for the Leopold Sub-regional Centre to improve clarity, certainty, reduce grounds for dispute and guide future investment. Specifically, the submitter proposes it make clear that any additional retail should be on the land along Melaluka Road, north of the Bellarine Highway. Council does not consider this necessary noting the "Future Role and opportunities" on page 104 of the Part D Retail Strategy already states:

Existing planning policy (DPO30) supports the future expansion of the centre in a northerly direction along Melaluka Road.

30. However, Council agrees with the submitter that it would be useful to acknowledge the Bunnings (Restricted Retail) in the summary of "Current Role" in the description of the Centre in Appendix 2, page 104 of the Part D Retail Strategy.
31. The submitter also says that reference to "Leopold Gateway Plaza" in Table 5 on page 55 of the Retail Strategy should be changed to just "Leopold" to avoid any uncertainty about whether it also includes the northern parcel of land (i.e. the submitters' land). Council does not consider this to be necessary given the boundary of the Centre as delineated in Appendix 2, page 105 of the Part D Retail Strategy clearly extends to the submitters land.

SHELL ROAD DEVELOPMENTS – SUBMITTER 11

32. Submitter 11, Shell Road Developments made a further submission dated 17 January 2020 (Document 104). The specific issues raised and Council's response to the same follow.

Tracked-change version of Part D Retail Strategy

33. The submitter contends that Council has failed to respond to the Panel's 11 December Direction to provide a fully tracked version of the Part D Retail Strategy. With the resources and time available, Council made best efforts to provide a tracked version of the Part D Retail Strategy. Providing a tracked version of a document was not an easy task because the document was not in a 'Word' format or any other format that lends itself easily to tracking changes.

Kingston Downs NAC boundary

34. The submitter complains that Council's Part D Retail Strategy reduces the boundary or size of the Kingston Downs NAC. This is true as explained in our previous correspondence to the Minters dated 14 January. Council is unclear how this prejudices Shell Road. Additionally, Council notes that a sizeable restricted retail centre 'Sinclair Street, Ocean Grove' is also identified at page 172 of the Part D Retail Strategy, directly south of the Kingston Downs NAC.

Schedule to Commercial 1 Zone

35. Council notes Shell Road's dissatisfaction with Council's position regarding the maximum leasable floor space proposed to be included in the Schedule to the Commercial 1 Zone for Kingston Downs NAC. Council maintains the same position as in the Panel hearing and does not propose any change to the Schedule in this regard. It does not consider a higher cap to be appropriate for a NAC supporting an establishing growth area with potential to adversely impact on the role and function of the nearby higher order Ocean Grove Town Centre.

Revised Clause 21.19

36. Shell Road submits that the policy position put in Council's Part D Clause 21.19-3 relating to "out of centre" development is inconsistent with Council's Part D Clause 22.03. Council disagrees. Clause 21.19 does not suggest that out of centre retail development will only be supported where it is on the "border" of an activity centre (and consistent with the role and function of the centre as described in the retail hierarchy). The policy also suggests out of centre retail development may be supported where 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
 - Where a net community benefit can be achieved.
37. This is not inconsistent with the Council's Part D Clause 22.03 in so far as Clause 22.03 allows an applicant to produce information as to why their development cannot be accommodated on the border of an activity centre.

Revised Clause 22.03

38. Council notes Shell Road remains dissatisfied with Council's proposed Part D amendments to Clause 22.03. However, Council does not accept Shell Road's submission that Council's proposed changes have not gone far and that the Part D version of the policy is fundamentally unworkable.
39. Council considers the guidance on the potential components of an 'Economic Impact Assessment' section under Application Requirements should be retained on the basis they are not expressed as mandatory requirements but should provide useful guidance to applicants and planning officers seeking to apply the Policy.

Population materials

40. Council notes but does not accept the submissions made by Shell Road in relation to the population material for Ocean Grove contained in Panel Document 88 prepared by Mr Schembri for Council.

Next steps

41. Council does not support any of the next steps proposed by Shell Road at paragraph 6.2(a)(iv) of its further submission. In the event the Panel accepted Shell Road's recommendation that the Retail Strategy not be included as a reference document in the Planning Scheme, there would be no certainty about the delineation of the various activity centres including some of those subject to the proposed floor space caps in Schedule 1 to the Commercial 1 Zone. In Council's submission, this would be highly undesirable and create unnecessary opportunities for disputes between landowners.

21 January 2020

Kate Morris
HARWOOD ANDREWS
on behalf of
Greater Geelong City Council