

Amendment C393 – Retail Strategy

City of Greater Geelong Planning Scheme

Panel Hearing

**Supplementary submissions for Lovely Banks
Rezoning Pty Ltd responding to revised documents**

17 January 2020

**Supplementary Submission of Lovely Banks Development Group
Amendment C393**

1. The Lovely Banks Development Group (**LBDG**) made submissions to the Panel in respect of Amendment C393. Those submissions were of limited ambit noting that many of the matters which were the subject of the formal submission by LBDG to Amendment C393 were largely resolved by Council in its response to submissions.

2. The Panel will recall that LBDG comprises a consortium of large and highly experienced landowner/developers who between them control approximately 67% of the land in the Northern Geelong Growth Area (**NGGA**). The actual percentage of land controlled is much higher if one excludes fragmented low density residential land and land that may be developed for employment purposes in the decades ahead.

3. LBDG lodged a detailed submission to Amendment C393. Mr Lee of Deep End, a retail economics consultancy provided a review of Amendment C393, particularly the Retail Strategy and that review provided a basis for some of the LBDG submissions and considered other aspects including the underlying data and methodology used in the Retail Strategy. Mr Lee also made comment on the proposed ordinance including the content and wording of clauses such as those that introduce what we submit are quite onerous assessment requirements for proposals that trigger use permits.

4. The Council delegate report (22 August 2019) which considered the submissions to Amendment C393 and the 'Day 1 documents' (circulated by the Council on 26 September 2019)¹ proposed the following changes (among others) to the Retail Strategy and associated scheme controls:
 - 4.1 Amend the Retail Strategy to resolve the inconsistent treatment of centres within the NGGA (and the WGGA) and to enable more detailed recommendations to be prepared through approval of the Settlement Strategy and NWGGA Framework Plan and completion of future PSPs. The proposed amendments included:
 - a. A revised Figure 6 to reflect the location of centres as per the NWGGA Framework Plan
 - b. Edits to the description of how future centres within the NWGGA are treated, on p28
 - c. Removal of projected retail floorspace supply and demand from Table 5 for NGGA and WGGA centres²

¹ The panel will recall that the 'Day 1 documents' were circulated specifically in response to Direction 13a and b of the Panel's Directions dated 19 September 2019. Direction 13b in particular sought: *Notes on updates to the Retail Strategy as a result of Council's consideration of submissions.*

² Described at page 2 of the document entitled 'Day 1 version CoGG response to Panel Direction 13.b. - Proposed changes to the *City of Greater Geelong Retail Strategy 2016-36* Adopted November 2018' and in Appendix 2 of that same document.

- d. Comment above Table 5 to emphasise that floorspace assessments for NGGA and WGGGA centre would be undertaken during preparation of PSPs
 - e. Removal of page placeholders from the Appendix 1 of the Strategy.
- 4.2 New text was to be inserted above Table 5 (p.57 of the Retail Strategy) to provide additional guidance on how supportable floorspace projections are to be interpreted. This text emphasised that the figures are not to be used as the basis for limiting growth, and additional development may be warranted over and above the modelled figures where nearby centres are constrained or in the event that population growth is greater than the 2% per annum rate assumed for the Strategy.
- 4.3 Minor drafting changes to Clause 21.19-3 to respond to LBDG's submission in relation to supporting local events.
5. LBDG's submission to this panel focussed, therefore, on only a couple of matters which were outstanding – more in the nature of tidy ups and on the drafting of the policy at clause 22 and specifically the net community benefit test.
6. Concurrently with the submissions that LBDG made to this panel, LBDG made very detailed submissions to the panel for Amendment C395. Those submissions involved a variety of issues one of which was directly related to activity centre planning in the context of a precinct structure planned approach to the development of the growth area. In summary, LBDG had and presented concerns, about the activity centre network. LBDG submitted that there should be four Neighbourhood level centres not three and the marker identifying the location of the sub regional centre should be relocated slightly to the north east to provide for a much better location having regard to urban design considerations.
7. As part of those submissions, LBDG presented evidence from Mr Matthew Lee of Deep End a retail economics consultancy.
8. The C395 panel was held in the context of objections by certain parties to Amendment C393 and C395 being dealt with separately and at different times. At the time, LBDG did not support the concerns expressed by Mr Townshend on behalf of Lascorp. We were persuaded by (and supported) Council's submissions that it was not essential for the two amendments to be dealt with contemporaneously. Accordingly, the two panels were conducted separately.
9. Returning now to Amendment C393. Following the presentation of our submissions to the C393 panel the C393 panel issued directions to the Council which required the Council to rethink certain aspects of C393. Following those directions, the Council responded by revising the amendment documentation. From the perspective of LBDG, the key documents revised were the clause 22 policy and the Retail Strategy. The Retail Strategy is predicated upon an

19. Nevertheless, so far as C393 is concerned, the changes which Council has proposed in its delegate report, assuming they come to fruition, address most of the substantive issues raised by LBDG in its submission.
16. For the Council to effectively renege on its position as set out in the delegate's report puts submitters, and particularly LBDG at an enormous disadvantage. The Council's Part B submission (at paragraph 88) did not indicate that the Council was renegeing on its adopted position in respect of the northern and western growth area activity centres. Further, if it were, we submit that the Council should have raised this when the LBDG submissions were made on 7 November 2019.
17. It is very difficult and we say not really possible, at this late stage, for LBDG even though it is well resourced, to put the case that it would have wanted to put to the panel had the Council's position at the outset, been the position that it is now adopting. We wish to make it clear to the panel that LBDG's complaint is that the position now adopted by Council puts LBDG in a position in which it is being denied natural justice in that by our reasonable reliance on Council's specified position as expressed in the delegate's report and the Day 1 documents, and then having changed its position, we find ourselves caught unprepared.
18. Because of what is at stake for LBDG, the stakes are high.
19. By way of review, the submission of LBDG to the panel on the key issue of concern noted the following (at page 4 of the submission):

Issue 1 - Consistency of treatment of Norther Growth Area floor space identification.

14. Council has responded to the request for separate treatment of Northern Growth Area centres to reflect the future additional work during PSPs by removing these from the Table 5. (page 57 & 58) introducing text to clarify their position, and deleting certain pages from the Appendix. The table was too detailed and made assumptions in relation to staging that are likely unsupportable.
15. However, references to centres in the northern and western growth areas are retained in Figure 14³ (p43) which provides charts summarising the retail floorspace supply demand balance in identified sub-regions. The charts pertaining to the Northern Growth Area (and perhaps the Western Growth Area) are premature given the future PSP work and should be deleted. In any event, given the chart is aligned with and informed by Table 5, the reference to the charts for the growth areas (north and western) ought be deleted.
16. There is also a plan at Figure 6 on page 25 of the Retail Strategy showing the locations for the centres in the Northern Growth Area which LBDG opposes (based on its submissions to

³ The Geelong Part B submission is correct at its footnote 2.

C395). That plan should align with the outcome of C395 in relation to the Northern Growth Area.

20. Consistent with our submissions to the C393 panel, we also seek that Figure 6 be modified having regard to the outcome of the panel's recommendations and Council's final position arising from Amendment C395. So far as the clause 22 local policy is concerned, LBDG is satisfied with the changes proposed to that policy and therefore makes no further submissions in relation to that.
21. In the report of Mr Lee as attached, Part 4 explains concisely where things have ended up and the areas where things have gone backwards.
22. LBDG submits that the panel should adopt a position such that what the Council agreed to do in its Delegate's report and Day 1 documents (as explained in Part 4 of Mr Lee's report), should be recommended. Accordingly, we call upon Council to adopt the position that it resolved as per its delegate's report as far as the LBDG submissions are concerned.
23. This specifically would include Table 5 having zero entries for the north and western growth area activity centres in recognition of the fact that the growth area framework plan and the PSP process will ultimately deal with those centres. Furthermore, text should be inserted prior to Table 5 which provides explanatory material as detailed in Mr Lee's report.
24. Failing the above, LBDG reserves its position on issues of process which have led to where we find ourselves today.

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