

**IN THE MATTER OF THE  
PORTARLINGTON ADVISORY COMMITTEE,  
THE CALL-IN OF VCAT PROCEEDING P415/2021 &  
49 NEWCOMBE STREET, PORTARLINGTON**

**SUBMISSIONS ON BEHALF OF THE  
PORTARLINGTON COMMUNITY ASSOCIATION INC**

**INTRODUCTION**

1. These submissions are made on behalf of the Portarlington Community Association Inc. (**PCA**) in respect of a proposed development at 49 Newcombe Street, Portarlington (**Site**) subject of VCAT proceeding P415/2021 called-in by the Minister for Planning.
2. The PCA is a not for profit association which has advocated and championed local issues on behalf of its members and community for over 40 years.
3. The purposes of the PCA are to help people in the local community to:
  - Share visions, concerns and issues for Portarlington and the surrounding district;
  - Champion local issues, needs and visions to Federal, State and Local Governments and key service providers;
  - Work towards developing and improving facilities, services, community connectedness and a sustainable community; and
  - Be involved in advocacy and action around issues affecting the Portarlington community.
4. The PCA currently has just over 100 members. Members must either be a resident or stakeholder in the 3223 postcode which includes Portarlington, Indented Head and St Leonards.
5. Historically, the PCA has regularly engaged with the City of Greater Geelong and DELWP in relation to strategic planning matters affecting the local community. For example, the PCA made a submission the City of Greater Geelong Settlement Strategy (PSA C395Gee) and intends on making a submission on the draft Statement of Planning Policy for the Bellarine.
6. In contrast, the PCA does not regularly engage the statutory planning process. In fact, this is the first time the PCA has resolved to lodge an objection at least since the creation of the City of Greater Geelong.
7. Outside of planning, the PCA has made numerous contributions to the local community, having:

- 7.1. Initiated the first Positive Ageing Expo (now a Staying in Port event) (2008);
- 7.2. Initiated a Bulk Energy Saving project – over 300 households take it up to reduce electricity and gas bills (2011);
- 7.3. Promoted the Rotunda as an information centre. Successfully applying for a grant from the City of Greater Geelong for a Community Information Centre at Portarlington's Rotunda and to print brochures to help visitors know how to walk or ride to the Portarlington Mussel Festival (2015);
- 7.4. Successfully applied for a grant to the State Government Health & Wellbeing Fund to undertake a communications connectivity project (2017);
- 7.5. The PCA was a strong advocate for the establishment of a Melbourne to Bellarine ferry service establishing at Portarlington.
- 7.6. More recently, the PCA completed its first laneway mural project, 'Weedy Sea Dragons'. The mural, by Bellarine based artist Sai Neoh ('Bonsai'), is located in the lane between the 'Hive' building and the Bendigo Bank off Newcombe Street. The project was funded by the City of Greater Geelong, a Federal Government 'Stronger Communities' grant applied for by the PCA and additional fundraising and donation through the PCA.



8. The PCA's next laneway mural project is already underway having secured funding from VicHealth, in their 'Reimagining Health' round and obtaining the asset owners' permission. A brief to artists is currently being prepared.

## SUMMARY GROUNDS OF OBJECTION

9. In accordance with a motion passed at a public meeting convened by the PCA on 20 January 2021, the PCA lodged an objection to the planning application on the following grounds:
- 9.1. The proposed complex is inconsistent with a range of policy principles contained in the most recent *City of Greater Geelong Portarlington Structure Plan (2016)*.
- 9.2. The proposed development on that site has a number of deficiencies, specifically in relation to Design and Development Overlays DDO 14, DDO 19 and DDO 21, which relate to the height of the proposed structure, sharing of views, dominance of the foreshore reserve, and characteristics of the Portarlington Town Centre.
- 9.3. The proposed development on that sensitive location on the north side of Newcombe Street is inappropriate.
10. Subsequently, when the permit applicant lodged a VCAT appeal against Council's failure to decide the application within the prescribed time, the PCA lodged a Statement of Grounds as follows:
- The proposed development is an unacceptable response to the site's physical and strategic context particularly considering:*
- a. Key planning principles (objectives) and directions (strategies) for the Portarlington Town Centre contained in the City of Greater Geelong Portarlington Structure Plan (2016).*
- b. The design objectives, design responses and decision guidelines in Design and Development Overlay Schedule 21.*
- c. The existing and preferred future built-form and landscape character of the Portarlington Town Centre.*
- d. The site's topography, its location on the Port Phillip Bay/north side of the Newcombe Street and its visibility from the foreshore and port area.*
11. The PCA did not object to substitution of the amended plans circulated in July 2021 on the basis that the PCA continues to oppose the grant of a planning permit on the same grounds outlined above.
12. In essence, the PCA's case against the proposed development is that it is an unacceptable response the Site's physical and planning context. It will be common ground that a key tenet of planning policy in Victoria is that any new development should respond positively to its context.<sup>1</sup> The issue in contest will be whether the proposed development does so positively.

## PHYSICAL CONTEXT

13. Portarlington is one of a series of small coastal villages on the Bellarine, each with its own distinct values and attributes. In the PCA's submission, key values and attributes of the Portarlington township relevant to the subject planning application are:
- 13.1. The siting of the town centre/main street atop a sweeping escarpment, parallel to the foreshore and bay;
- 13.2. The contrast between the traditional clustering of generally fine grain shopfronts on the south side of the street with zero street setbacks compared with the relatively

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<sup>1</sup> See clauses 15.01-1S "Urban Design" and 15.01-2S "Building design" in the Planning Policy Framework.

sparse built form on the north side of the street, generally setback from the street and set in an open and relatively informal landscape;

- 13.3. The expansive views to the bay and pier from the south side of the street through breaks between and over built form on the north side of the street;
  - 13.4. The 'equally striking' views towards the township from the Portarlington pier and foreshore up a sweeping hill to the low scale predominantly 1-2 storey village and the landmark of the historic Grand Hotel.
14. These attributes are valued not just by the many visitors to the town but also by the local community.
  15. The Site itself is in a particularly sensitive location within the Portarlington township, being:
    - 15.1. On the sparsely developed north side of the main street through which views are enjoyed to the bay;
    - 15.2. Adjacent to an individually significant heritage building, being the former Post Office building at 1 Harding Street on the corner of Newcombe and Harding Street<sup>2</sup>;
    - 15.3. Highly visible in the panoramic view to the village from the pier environs and in the field of view to the rotunda and Grand Hotel south up Pier Street. It is highly exposed due to the steep topography of the Site and escarpment on which it is located and the lack of mature canopy trees directly below the site.
  16. In the PCA's submission, the proposed development responds poorly to these sensitivities and represents a significant threat to the key values and attributes of Portarlington.

## RESPONSE TO PLANNING POLICY & CONTROLS

### The Bellarine draft Statement of Planning Policy

17. In the PCA's submission, the draft Bellarine Statement of Planning Policy (**draft SPP**) and associated technical background reports ought to be given some weight by the Committee in making its recommendations to the Minister. Whilst some changes might ultimately be made to the draft SPP before it is endorsed and then approved by the Governor in Council, the release of the draft SPP for public consultation suggests that the draft SPP is being entertained by the Minister for Planning.
18. The context in which the draft SPP has been published for public consultation is very different to that of exhibition of a draft Planning Scheme Amendment by a planning authority such as a local council. As observed in the DELWP Submission, Portarlington is part of a defined area of the Bellarine Peninsula which has been declared a 'distinctive area and landscape' under Part 3AAB of the *Planning and Environment Act 1987 (Act)*. Once such a declaration has been made there is a statutory requirement under section 46A1 of the Act for the Minister to prepare and implement a Statement of Planning Policy. The practical implication of this is that it is not a question of whether the draft SPP will ultimately be adopted but in what form.
19. The declaration of the area as a distinctive area and landscape by the Minister for Planning makes clear he considers Portarlington (along with other parts of the Bellarine) to be a distinctive area and landscape with unique features and special

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<sup>2</sup> Heritage Overlay 1562.

characteristics that ought to be protected and conserved. That is not something that can be contested.

20. Relevantly to the planning application before the Committee, the draft SPP and background technical documents recognise:
  - 20.1. The importance of the scenic views from Portarlington to the bay and surrounding landscapes;
  - 20.2. The significance of the pier as a point of arrival to the town and views to the coastal village atop of the hill from this point of arrival;
  - 20.3. The role and function of Portarlington as a seaside holiday village with a small population, which integrates with its rural and natural surrounds;
  - 20.4. The value of Portarlington and other seaside villages for their 'quiet, relaxed atmospheres and compact urban form';
  - 20.5. The expectation that there will only be "moderate" infill development within the increased housing diversity area and that such development will be designed to respect the historic built form character of the area, for example, by ensuring a sensitive response to the prominence and heritage character of the Grand Hotel.
21. Also significant, is the expectation in the draft SPP that:
  - 21.1. Growth in villages such as Portarlington is to be limited and contained within a settlement boundary;
  - 21.2. Development within the town and activity centres is to achieve 'outstanding urban design outcomes' and be at a scale in keeping with the settlement's role, function, hierarchy designation and settlement and landscape character.
22. In essence, the PCA does not consider the proposed development responds appropriately to the expectations for development within the Portarlington town centre.

### **The Commercial 1 Zoning**

23. In the PCA's submission, the height and scale of the proposed development cannot be rationalised by simply pointing to the Commercial 1 Zoning of the Site.
24. Firstly, it is implicit in the purposes of the Commercial 1 Zone is an acknowledgement that not all commercial centres are equal. They have varying roles and come in various scales. The role and scale of a centre is determined not just by the zoning of the land but by the relevant planning policy.
25. Secondly, the decision guidelines for buildings and works in the Commercial 1 Zone still require matters such as 'the streetscape', including conservation of buildings, the design of verandahs, the treatment of fronts and backs of buildings to be considered in decision the acceptability of buildings and works in a Commercial 1 Zone.
26. The Commercial 1 Zone also requires consideration to be given to the Municipal Planning Statement (**MPS**) and Planning Policy Framework (**PPF**) in deciding an application for buildings and works.

### **Clause 21.14 – The Bellarine Peninsula**

27. Relevantly to considering the type of development that might be appropriate on this Site, the Bellarine Peninsula local policy seeks to:
  - 27.1. Protect and enhance the rural and coastal environment and landscapes on the Bellarine Peninsula;
  - 27.2. Support the different roles and functions of townships on the Bellarine Peninsula; and
  - 27.3. Preserve the individual character, identity and role of each Bellarine township including by ensuring that development responds to the identity and preferred character of the individual township in which it is located.
28. Regarding role and function of the Portarlington township, it is not identified as a “service hub” for the Bellarine (unlike Drysdale for example), rather it is to provide retail, commercial and community uses and facilities that serve the daily needs of the community.
29. The policy encourages development which respects the coastal landscape setting of Portarlington by:
  - 29.1. Providing reasonable sharing of views of the coast and foreshore, where a view has been identified in an overlay (as is the case here in DDO21);
  - 29.2. Promoting contemporary design that reflects the existing scale, setbacks, spacing, forms and materials of the buildings in the locality.
  - 29.3. Ensuring that development allows for the protection of significant vegetation and/or planting around buildings and has minimal impact on roadside vegetation.
30. Whilst the policy identifies three “development opportunity sites” within Portarlington township and provides a level of guidance for the re/development of those sites, the subject Site is not identified as a development opportunity site.
31. The *Portarlington Structure Plan, City of Greater Geelong, September 2016 (amended July 2017)* is listed as a reference document.

### **Design and Development Overlay Schedule 21**

32. Clause 2 in the Design and Development Overlay Schedule 21 (**DDO21**) states that buildings and works should comply with design objectives and responses specified in Table 1 to the Schedule.
33. In the PCA’s submission, the proposed development scores poorly when assessed against the design objectives, design responses and decision guidelines in Table 1, to the Schedule.
34. Except in relation to ‘Building Siting’ and “Vehicle Access and Car Parking”, the PCA generally supports Council’s assessment of the proposal against the design objectives and design responses in DDO21 as set out from page 44 of its Part A Submission. Additionally to the Council’s assessment, the PCA says:
  - 34.1. In regards to the “Bay setting”, the proposed development will “inhibit” views to the bay from the south side of Newcombe Street and adopts side setbacks such that the burden of preserving the remaining views from the south side of the street in the town centre is inequitably borne by the properties adjoining the subject site.
  - 34.2. In regards to “Building siting”, since the buildings on the adjoining sites both adopt setbacks from the street in the order of 3m and the setback of one of those adjoining

buildings is subject to a Heritage Overlay, any proposed development of the subject site should adopt a similar setback to those buildings to establish a consistent street wall effect.

- 34.3. In regard to “Building form” and the design response which generally restricts buildings to a maximum height of two storeys, higher elements are required to demonstrate that development is:

*...sympathetic to buildings of heritage significance...;*

*... visually unobtrusive when viewed from the public foreshore;*

*...of high quality design.”*

The PCA does not consider scale of the proposed development is appropriately sympathetic to either the former Post Office or the landmark status of the Grand Hotel.

The ordinary meaning of “obtrusive” is:

*adjective* 1. *having or showing a disposition to obtrude: a military presence that is not obtrusive.*

2. *(of a thing) obtruding itself: an obtrusive piece of furniture.*

3. *projecting: \*the windows overlooking the city come together in a corner with no obtrusive bars to interrupt the view. –SUNDAY TASMANIAN, 1989.*

4. *showy; undesirably obvious: obtrusive behaviour.*<sup>3</sup>

In the PCA’s submission, the proposed development will most certainly appear to project or stand out within the foreground of the panoramic view to the town from the foreshore and so could not be said to be visually unobtrusive.

- 34.4. Also in regards to “Building form” and the design response to “*On larger sites articulate facades to emulate the fine grain (narrow frontage) of the town centre*”, the design of the building incorporates a particularly strong horizontal emphasis which conflicts with this.
- 34.5. In regards to “Vehicle Access and Car Parking” and the design objective to “*Provide safe environment for pedestrians, and to minimise the visual impact of car parking areas*”, the PCA submits that a more thoughtful design could minimise the visual impact of the basement entry point within the building.
35. The decision guidelines in the DDO21 also require that the objectives and strategies of the *Portarlinton Urban Design Framework 2011 (UDF)* be considered in deciding an application for a permit.
36. Importantly, the UDF seeks to protect the ‘small coastal village’ character of Portarlinton.<sup>4</sup> In the PCA’s submission, the small coastal village character is appreciated in multiple locations including from the pier and foreshore which is a place for recreational fishing but also a place of arrival for the Bellarine to Docklands ferry.
37. Whilst the UDF encourages consolidation of commercial activity and development within the town centre and contemporary development, this needs to be read in the

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<sup>3</sup> Online Macquarie Dictionary, 2021.

<sup>4</sup> See “Urban Growth”, Principle 1, pg. 2.

context of direction 4 under the heading “Economic Development” such contemporary built form is required to complement the coastal setting and “maintain” the linear nature and existing scale of the buildings in the town.<sup>5</sup> In the PCA’s submission, the proposed development will not maintain the existing predominant scale of buildings in the town but will present as something of a larger scale.

38. Notably, the UDF does support the development of a focal building on the south side of Newcombe Street at 22-34 Newcome Street, Portarlington to contain retail uses, tourist accommodation and tourism related uses. However, there is no such direction or encouragement for the development of a focal building on the subject site.

### **Conclusion**

39. For the reasons set out above, the PCA respectfully asks the Committee to recommend against the grant of a planning permit for redevelopment of the land as proposed.
40. The PCA thanks the Committee for the opportunity to participate in the hearing and wishes the Committee well in its deliberations.

2 September 2021

**HARWOOD ANDREWS**  
on behalf of  
Portarlington Community Association

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<sup>5</sup> See “Economic Development”, Principle 4, pg. 2.