

Proposed development of
49 Newcombe Street, Portarlington
VCAT Proceeding P415/2021

Portarlington Advisory Committee Report

Planning and Environment Act 1987

7 October 2021

Planning and Environment Act 1987

Portarlinton Advisory Committee Report pursuant to section 151 of the PE Act

Proposed development of 49 Newcombe Street, Portarlinton - VCAT Proceeding P415/2021

7 October 2021



Lisa Kendal, Chair



Annabel Paul, Member

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Glossary and abbreviations

the Applicant	49 Newcombe Street Pty Ltd
Bethany	Bethany Kindergarten Services
C1Z	Commercial 1 Zone
Committee	Portarlington Advisory Committee
Council	City of Greater Geelong
DDO	Design and Development Overlay
DDO1	Design and Development Overlay – Schedule 21
DELWP	Department of Environment, Land, Water and Planning
ESD	Environmentally Sustainable Development
HO1562	Heritage Overlay 1562
IHDA	Increased Housing Diversity Area
Kindergarten	Portarlington Kindergarten
LPS	Bellarine Peninsula Localised Planning Statement
MSS	Municipal Strategic Statement
PCA	Portarlington Community Association
PE Act	<i>Planning and Environment Act 1987</i>
Permit Application	Planning Permit Application PP-710-2019
Planning Scheme	Greater Geelong Planning Scheme
PPF	Planning Policy Framework
PPRZ	Public Park and Recreation Zone
Regional Growth Plan	G21 Regional Growth Plan
Settlement Strategy	City of Greater Geelong Settlement Strategy 2020
SPP	Bellarine Peninsula Statement of Planning Policy
UDF	Portarlington Town Centre Urban Design Framework, Urban Initiatives (July 2011)
VCAT	Victorian Civil and Administrative Tribunal

Overview

Application summary

Common name	Proposed development of 49 Newcombe Street, Portarlington
Permit Application	PP-710-2019
VCAT reference	P415/2021
Responsible authority	City of Greater Geelong
Applicant	49 Newcombe Street Pty Ltd
Brief description	Proposed mixed use, multi-level development (residential apartments and shops), reduction in car parking and subdivision
Subject site	49 Newcombe Street, Portarlington
Zone and overlays	Commercial 1 Zone adjoining a Road Zone Category 1, Design and Development Overlay – Schedule 21 and Heritage Overlay 1562 affecting a narrow strip along the western boundary
Objections and Statement of Grounds	124 objections and 21 Statement of Grounds (refer to Appendix B)

Committee process

The Committee	Lisa Kendal (Chair) and Annabel Paul
Terms of Reference	Refer to Appendix A
Directions Hearing	Videoconference, 11 August 2021
Committee Hearing	Videoconference, 30 and 31 August and 1 and 2 September 2021
Site inspections	Unaccompanied site inspection by the Chair, 20 August 2021
Parties to the Hearing	<p>Department of Environment, Land, Water and Planning, represented by Kim McGough</p> <p>49 Newcombe Street Pty Ltd, represented by Chris Taylor of Planning and Property Partners, calling the following expert evidence:</p> <ul style="list-style-type: none"> - Planning from Robert Milner of Kinetica - Heritage from Michelle Bashta of Lovell Chen - Urban Design from Craig Czarny of Hansen Partnership - Traffic from Charmaine Dunstan of Traffix Group <p>City of Greater Geelong, represented Sally Beers, Planning Officer calling the following expert evidence:</p> <ul style="list-style-type: none"> - Urban Design from Amanda Roberts of Lat Studios <p>Portarlington Community Association, represented by Kate Morris of Harwood Andrews</p>
Citation	Greater Geelong ACI P415/2021 [2021] PPV
Date of this report	7 October 2021

Executive summary

The Applicant (49 Newcombe Street Pty Ltd) proposes to redevelop the land at 49 Newcombe Street, Portarlington for a mixed use development consisting of eleven apartments over four storeys, onsite basement for 23 car parking spaces and two retail tenancies.

Portarlington is approximately 32 kilometres to the east of the regional city of Geelong and is located on the northern coastline of the Bellarine Peninsula with significant views across Corio Bay and Port Phillip Bay and to the You Yangs. The subject site is located within the town centre, with frontages to both the main street (south) and to the foreshore (north).

Planning Permit Application (PP-710-2019) was submitted to City of Greater Geelong in July 2019. In February 2021 the Applicant lodged an Application for Review to the Victorian Civil and Administrative Tribunal (VCAT), pursuant to section 79, based on the failure of the responsible authority to determine the permit application within the prescribed time. Council resolved it would have refused to grant a permit, and to advocate to VCAT against the grant of the permit.

The Applicant submitted an amended proposal in July 2021 to remove the top level of the building (fourth level as viewed from Newcombe Street and fifth level as viewed from the foreshore) and to reduce the number of apartments, together with some other design changes. The amended proposal includes eight three-bedroom apartments and three two-bedroom apartments, two ground floor shops, provision of 23 basement car parking spaces, subdivision, creation of access to a Road Zone Category 1 and a reduction in the parking requirement. The building would present as three storeys to Newcombe Street and four storeys to the foreshore given the fall of the land.

In July 2021 the Minister for Planning called-in VCAT Proceeding P415/2021 and appointed the Portarlington Advisory Committee to consider the matter. The Terms of Reference state that the purpose of the Committee is to:

provide all parties to the called-in VCAT proceeding with an opportunity to present submissions and evidence and provide advice to the Minister for Planning on the planning merits of the proposed development including whether a planning permit should be issued and if so what would be the appropriate conditions for the permit.

The Minister for Planning called-in the proceeding on the basis that it raised a major issue of policy and that determination of the proceeding may have a substantial effect on the achievement or development of planning objectives. This included the declaration of Portarlington, as part of the Bellarine Peninsula, as a 'Distinctive area and landscape' (Clause 11.03-5S) as well as matters of Urban design (Clause 15.01-1S) and Housing supply (Clause 16.01-1S).

Key issues raised in objections and submissions included:

- consistency with planning policy and provisions
- urban and building design, including views and amenity
- heritage
- traffic and car parking
- waste management
- environmentally sensitive design
- community and economic benefits.

The Committee considers the site is unique due to its sensitive location within the town centre, with frontages to both Newcombe Street and the foreshore reserve. There are many layers of relevant planning policies and provisions for the site. Portarlington is part of the Bellarine

Peninsula 'distinctive area and landscape', and the subject site is located within the Commercial 1 Zone, an increased Housing Diversity Area and is subject to the Design and Development Overlay – Schedule 21 (Portarlington Town Centre) (DDO21). These provisions support the retailing and additional diversity and density of housing on the site, however, make it very clear that development needs to respect and enhance the valued character of Portarlington, including protecting key views to and from Corio Bay and Port Phillip Bay.

To be acceptable, the proposal must provide a satisfactory urban design response including a positive contribution to the coastal character of the area, be reflective of local context and protect significant views.

The Committee considers the proposal fails to achieve this. The urban design response is unacceptable as it is not consistent with planning policies and provisions of the Geelong Planning Scheme relating to urban design, including the 'distinctive area and landscape', DDO21, Clause 21.14 (The Bellarine Peninsula) and the Portarlington Structure Plan.

The Committee accepts the urban design evidence on behalf of Council that the scale and massing of the building as viewed from the foreshore is not consistent with the character of the town and would not be visually unobtrusive in the landscape. Further the extent of glazing and landscaping was unfamiliar to Portarlington and that the height and mass would compete with the landmark status of the Grand Hotel.

The Committee concludes:

- The urban design response is unsatisfactory as it does not sufficiently protect and enhance the valued attributes of the area in line with the declaration of area as a DAL and other policy provisions relating to urban design and Portarlington's character.
- The proposal does not make a positive architectural and urban design contribution to its context when viewed from the foreshore.
- The proposal does not satisfy the requirements of the DDO21 and is not visually unobtrusive when viewed from the public foreshore.

Recommendations

Based on the reasons set out in this Report, the Committee recommends:

- 1. Planning Permit PP-710-2019 (VCAT call in P415/2021) for the 'development of a multi-level mixed use building containing two shops, use of eleven apartments and basement car park, subdivision, creation of access to a Road Zone Category 1 and partial reduction in car parking' not be issued.**

1 Introduction

1.1 The proposal

(i) Permit application

The Applicant (49 Newcombe Street Pty Ltd) proposes to redevelop the land at 49 Newcombe Street, Portarlington (subject site)¹ for a mixed use development including apartments, onsite basement car parking and two retail tenancies.

The Planning Permit Application PP-710-2019 (Permit Application) was submitted to the City of Greater Geelong (Council) in July 2019 and the Applicant subsequently made a number of changes to the proposal, as detailed in Chapter 1.1(iii).

The amended proposal being considered by the Portarlington Advisory Committee (Committee) includes a four storey building (with three levels visible from Newcombe Street and four levels from the foreshore) consisting of eight three-bedroom apartments and three two-bedroom apartments, two ground floor shops, provision of 23 basement car parking spaces, subdivision, creation of access to a Road Zone Category 1 and a reduction in the parking requirement.

Photomontage images of the proposed development are shown at Figure 1 and Figure 2.

Figure 1 Photomontage - view from south western side of Newcombe Street



Source: Expert Witness Statement – Stan Zaslavsky (Document 78)

¹ Comprising two titles - TP330940 and Lot 1 TP514439 (Document 90)

Figure 2 Photomontage - view from north in front of the pier

View 4: Proposed with proposed landscaping @ 25mm
 Source: Expert Witness Statement – Stan Zaslavsky (Document 78)

(ii) The subject site and context

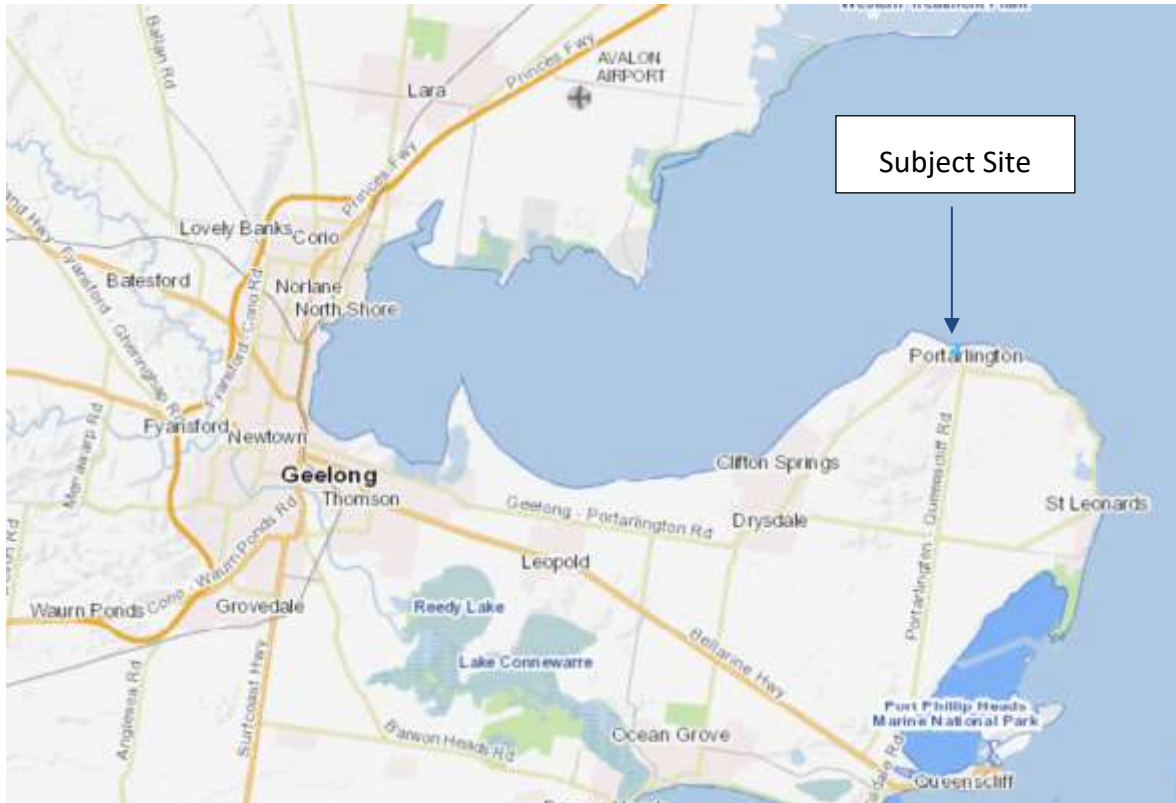
The subject site is located in Portarlinton which is approximately 32 kilometres to the east of Geelong. Portarlinton is located on the northern coastline of the Bellarine Peninsula with significant views across Corio Bay and Port Phillip Bay (the Bay) and to the You Yangs. Figure 3 and Figure 4 show the location of Portarlinton, and the subject site which is located on the north side of Newcombe Street in Portarlinton's town centre.

Newcombe Street runs east west with a range of commercial buildings along the south side, including the historic Grand Hotel and newly constructed apartments at 72 - 74 Newcombe Street. Abutting the subject site is the Portarlinton Kindergarten (Kindergarten) to the east and a dwelling within the former Post Office building at 1 Harding Street (which is of heritage significance) to the west. The Edina Waterfront Café at 1a Harding Street abuts the subject site to the west. The adjoining land to the north forms part of the Portarlinton coastal reserve and public open space.

The site is approximately 940.7 square metres and has a frontage of approximately 25 metres to Newcombe Street. It is rectangular in shape and has a slope of approximately 3 metres from the street level at Newcombe Street down to the northern rear boundary. The site has been used as a retail premise and tourist information centre and contains an existing single storey building.

Within the Portarlinton town centre, buildings are generally one to two storeys in height, with the exception of the Grand Hotel which is three storeys plus a central tower (equivalent to approximately four contemporary storeys), and the four storey apartment building at 72 – 74 Newcombe Street.

Figure 3 Location of Portarlington



Source: DELWP Submission (Document 72)

Figure 4 Location of the site in Portarlington



Source: Expert Witness Statement, Mr Milner (Document 76)

(iii) Background and chronology

The Applicant, Council and the Department of Environment, Land, Water and Planning (DELWP) submitted details of the background and chronology of events which the Committee has summarised in Table 1.

Table 1 Chronology of events

Date	Activity or stage of process
17 July 2019	The Applicant submitted a Permit Application to Council seeking a permit for buildings and works associated with a multi-level building comprising 16 apartments and three shops, subdivision, creation of access to a Road Zone Category 1, partial reduction in car parking and use as Accommodation
13 August 2019	The Applicant amended the Permit Application to identify proposed solar panels on the roof
3 September 2020	The Applicant amended the Permit Application to delete two apartments and revise setbacks and layouts accordingly
December 2020	Public notice of the Permit Application was given to surrounding owners and occupiers and notices onsite. 124 objections were received (see Appendix B)
22 February 2021	The Applicant lodged an Application for Review to Victorian Civil and Administrative Tribunal (VCAT), pursuant to section 79, of the failure of the responsible authority to determine the permit application within the prescribed time
27 May 2021	Council resolved that it would have refused to grant a permit, and to advocate to VCAT against the granting of a permit
23 June 2021	VCAT Proceeding P415/2021 – a compulsory conference was held which did not settle the matter. The matter was scheduled for a Major Cases hearing starting on 30 August 2021
30 June 2021	The Minister for Planning called-in VCAT Proceeding P415/2021 under Clause 58(2)(a) of Schedule 1 of the <i>Victorian Civil and Administrative Tribunal Act 1998</i>
8 July 2021	The Minister for Planning directed VCAT to refer the matter to the Governor in Council for determination
13 July 2021	VCAT notified all parties that the Minister has called-in the proceeding
13 July 2021	The Applicant filed amended plans and supporting material in VCAT Proceeding P415/2021, and served on persons as required in accordance with VCAT Practice Note PNPE9. Changes to the proposal included a reduction in building height from five storeys to four storeys, lowering of the floor-to-floor heights fronting Newcombe Street, and a reduction in the number of residential apartments from thirteen to eleven
26 July 2021	The Minister for Planning appointed the Portarlington Advisory Committee, under section 151 of the <i>Planning and Environment Act 1987</i> (PE Act)
28 and 29 July 2021	DELWP wrote to all landowners and occupiers notified of the original application, all submitters and notified referral authorities explaining the process for making further submissions regarding the amended plans

Date	Activity or stage of process
11 August 2021	Directions Hearing
30 August 2021	Main Hearing commenced

1.2 The Committee

The purpose of the Committee is to:

provide all parties to the called-in VCAT proceeding with an opportunity to present submissions and evidence and provide advice to the Minister for Planning on the planning merits of the proposed development including whether a planning permit should be issued and if so what would be the appropriate conditions for the permit.

The Committee is required to prepare a written report for the Minister for Planning which provides:

- an assessment of the planning merits of the proposal, and any amended applications submitted to the Committee
- an assessment of objections and submissions to the Committee
- a recommendation as to whether a planning permit should be granted or refused, the appropriate permit conditions and the reasons for any recommendation
- any other relevant matters raised in the course of the Committee Hearing
- a list of persons who made submissions considered by the Advisory Committee
- a list of persons consulted or heard.

This Report will inform the Minister for Planning's consideration of this matter and his recommendation to the Governor in Council who in turn will make the final formal determination on the matter by issuing the Order in Council.

The Committee's Terms of Reference are attached at Appendix A, and a summary of the Committee's response to Clauses 19 and 20 - is included in Chapter 7.

(i) Major issue of policy

The Minister for Planning considered the proceeding raised a major issue of policy, and that determination of the proceeding may have a substantial effect on the achievement of planning objectives.²

DELWP advised at the Directions Hearing that the matter raised major policy issues relating to the objectives and strategies of the Greater Geelong Planning Scheme (Planning Scheme), including:

- Clause 11.03-5S (Distinctive areas and landscapes)
- Clause 15.01-1S (Urban design)
- Clause 16.01-1S (Housing supply).³

The following objectives of the PE Act were considered relevant:

- to provide for the fair, orderly, economic, and sustainable use, and development of land (section 4 (1)(a))

² Portarlington Advisory Committee Terms of Reference, Item 9

³ Portarlington AC Directions Hearing Information (Document 58)

- to secure a pleasant, efficient, and safe working, living, and recreational environment for all Victorians and visitors to Victoria (section 4 (1)(c))
- to balance the present and future interests of all Victorians (section 4 (1)(g)).

1.3 Procedural issues

3D Montage Expert

At the Directions Hearing, the Applicant sought advice whether the Committee required Mr Zaslavsky of EagleVision to attend the Hearing and give evidence on the 3D Montages. The Committee advised that when Mr Zaslavsky's evidence had been received it would consider whether Mr Zaslavsky would be required to attend the Hearing. The Committee's Directions allowed for parties to indicate whether they intended to ask questions of Mr Zaslavsky.

No parties indicated they intended to ask questions, and the Committee had no questions, so Mr Zaslavsky was not required to attend the Hearing.

Site visit

At the Directions Hearing it was agreed the Committee would undertake an unaccompanied site inspection prior to the Hearing, subject to COVID restrictions. The Committee accepted the offer of Bethany Kindergarten Services (Bethany), who operate the Council owned Kindergarten to the immediate east of the subject site, to inspect the outdoor play area of the Kindergarten.

During the Hearing process, COVID restrictions were in place across Victoria which limited the Committee's ability to undertake site inspections. An unaccompanied site inspection was undertaken by the Chair on 20 August 2021.

On Day 1 of the Hearing, the Chair advised parties that the teacher who was at the Kindergarten during the site inspection was her son's teacher from 14 years ago. No concerns were raised by parties in relation to this declaration.

Corrected plans

During the Hearing, a number of inconsistencies on the plans was identified by the urban design expert for Council. The Applicant advised parties it had identified a number of errors on the amended plans. The Applicant made corrections and circulated copies of corrected plans with an explanation of changes to all parties to the Hearing.⁴ Council and Ms Morris on behalf of the Portarlington Community Association (PCA) objected and considered the extent of corrections warranted further public notification of the proposal to adjacent land owners/occupiers. The Committee advised parties it would take into account the extent and implications of the corrections in its assessment of the proposal.

⁴ Corrected set of plans (Document 88) and List of changes (Document 89)

1.4 Summary of issues

The following issues were raised in objections and Statement of Grounds:

- planning policy and controls – the proposal is not consistent with local policy, the Design and Development Overlay 21 - Portarlington Town Centre (DDO21) or the Portarlington Structure Plan, and further strategic work is required including consideration of the Bellarine Peninsula as a ‘distinctive area and landscape’ (DAL)
- building and urban design – the proposal represents overdevelopment of the site, including issues with height, bulk and setbacks, inappropriate modern design, interface with adjacent properties, incompatible with coastal heritage character of the town, impact on streetscape and gateway entrances and vehicle entry point design
- impact on views – from the foreshore to the town centre and Grant Hotel, and from the town centre/Newcombe Street to the water
- heritage – design and development is not sympathetic to surrounding heritage values including the adjacent former Post Office heritage building and heritage character of Newcombe Street
- adverse impact on amenity of the adjacent properties – loss of views, light, privacy and impacts during construction
- public realm and landscaping – treatment of Newcombe Street and the reserve
- traffic and car parking – inadequate car parking, traffic and car parking congestion, lack of adequate loading bay, concerns for pedestrian safety and lack of accessible parking
- negative impacts on the Kindergarten – loss of privacy/overlooking, over shadowing, car parking and associated safety issues
- waste management - plan is inadequate
- environmentally sensitive design – solar panels should be installed
- community and economic benefits – the site should be developed as a community space, proposal lacks social and cultural value, impact on local businesses and tourism industry.

(i) Limitations

A number of issues raised in objections are not addressed in this Report, including potential construction impacts, including damage to the adjoining former Post Office building and impact of construction vehicles, impact on rental income, request for alternative development and return to public use of the site such as for a public gardens or library.

1.5 The Committee’s approach

The Committee has considered all written objections and Statement of Grounds made in response to public notice of the Permit Application, observations from the site visit, and submissions, evidence and other material presented to it during the Hearing. All objections, submissions and other materials have been considered by the Committee in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Policy considerations
- Urban design and views
- Building design
- Other issues.

2 Planning context

2.1 Planning policy framework

The Committee has summarised the relevant parts of the Planning Policy Framework (PPF).

(i) Planning and Environment Act 1987

Victorian planning objectives

Relevant State planning policy objectives as set out in Section 4 of the PE Act, which include:

- providing for the orderly and sustainable use and development of the land
- securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- conserving and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- facilitating development in accordance with relevant objectives
- balancing the present and future interests of all Victorians.

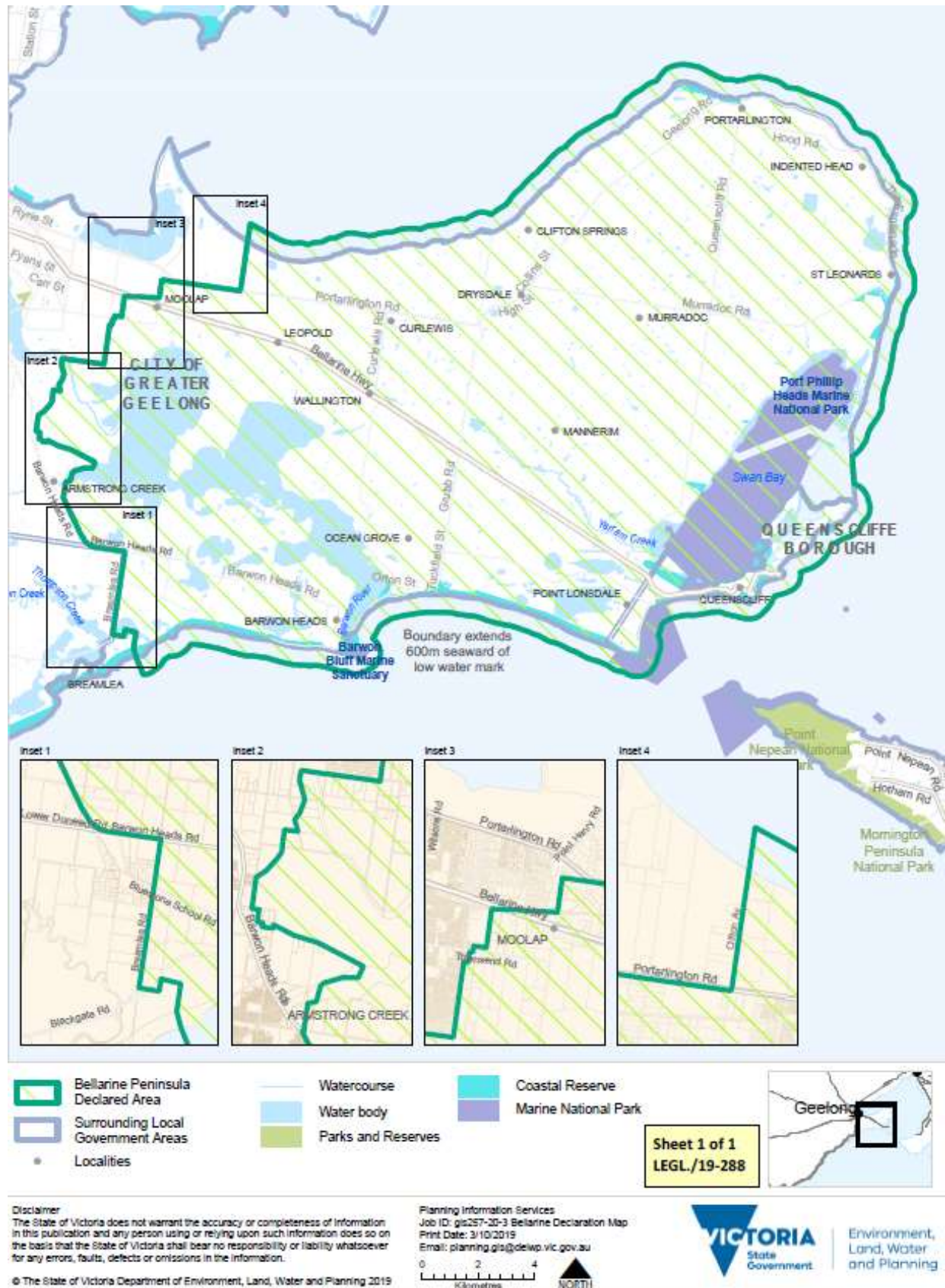
Distinctive Areas and Landscapes

The *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018* was introduced to recognise Victoria's most distinctive natural and cultural landscape values. A defined area of the Bellarine Peninsula (land and adjoining marine area) was declared as a DAL under Part 3AAB of the PE Act on 29 October 2019 (see Figure 5). The declaration triggers the requirement to prepare a Statement of Planning Policy (SPP).

The objectives of Part 3AAB of the PE Act include:

- recognising the importance of distinctive areas and landscapes to the people of Victoria and protecting and conserving the environmental, social and economic value of these areas
- enhancing conservation of the environment including unique habitats, ecosystems and biodiversity
- promoting cross-government coordination by enabling the integration of policy development, implementation and decision making
- recognising the connection and stewardship of Victoria's Traditional Owner communities.

Figure 5 Bellarine Peninsula Declared area



Source: DELWP submission (Document 72)

Draft Bellarine Peninsula Statement of Planning Policy

The draft Bellarine Peninsula SPP was prepared by DELWP in partnership with the Wadawurrung Traditional Owners, the Borough of Queenscliffe, Council and other government agencies and authorities. A third and final phase of public consultation was undertaken on the draft SPP from 25 June to 20 August 2021.

The draft SPP aims to build on existing strategic policy, including the LPS, to:

protect the declared area's outstanding landscapes and coastal landforms, unique natural environment, rich Wadawurrung living cultural heritage and historic heritage, and important infrastructure and natural resources.⁵

When finalised and approved, the SPP will form part of the Victoria Planning Provisions and come into effect immediately. Planning Scheme amendments will be progressed to implement it into relevant local planning schemes.⁶

The draft SPP was informed by a number of technical studies and background reports, including:

- *Bellarine Peninsula Settlement Background Paper*, DELWP (2021)
- *Wadawurrung Cultural Heritage Summary*
- *Township Character Assessment*, Ethos Urban (2020)
- *Landscape Assessment Review, Volumes 1 and 2*, Claire Scott Planning (2020)
- *Bellarine Peninsula Bushfire Landscape Analysis*, Kevin Hazell Bushfire Planning (2021).

The draft SPP was still in draft form at the time of the Hearing.

(ii) Planning Policy Framework

State Planning Policy Framework

The following State policies are relevant to the Permit Application:

- Clause 11 Settlement
 - Clause 11.01-1S (Settlement) promotes the sustainable growth and development of Victoria and to deliver choice and opportunity for all Victorians through a network of settlements. Policy documents include Geelong G21 Regional Growth Plan (Regional Growth Plan).
 - Clause 11.03-4S (Coastal settlement) plans for sustainable coastal development.
 - Clause 11.03-5S (Distinctive areas and landscapes) recognises the importance of distinctive areas and landscapes to the people of Victoria and protects and enhances the valued attributes of identified or declared distinctive areas and landscapes. This Clause references the policy document *Bellarine Peninsula Localised Planning Statement* (2015) (LPS) (see Chapter 2.2(ii)).
 - Clause 11.03-6S (Regional and local places) facilitates integrated place-based planning.
- Clause 12 Environmental and landscape values.
 - Clause 12.02-1S (Protection of coastal areas) recognises the value of coastal areas to the community, conserve and enhance coastal areas and ensure sustainable use of natural coastal resources.

⁵ Bellarine Peninsula Draft Statement of Planning Policy, page 11

⁶ Bellarine Peninsula Draft Statement of Planning Policy, page 15

- Clause 12.02-2S (Coastal Crown land) aims to achieve coastal crown land development that provides an environmental, social and economic balance. Strategies include to ensuring that use and development on or adjacent to coastal foreshore Crown land improves public benefit.
- Clause 12.05-2S (Landscapes) protects and enhances significant landscapes and open spaces that contribute to character, identity and sustainable environments.
- Clause 15 Built environment and heritage
 - Clause 15.02-1S (Urban design) creates urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
 - Clause 15.01-2S (Building design) achieves building design outcomes that contribute positively to the local context and enhance the public realm.
 - Clause 15.01-5S (Neighbourhood character) recognises, supports and protects neighbourhood character, cultural identity, and sense of place.
 - Clause 15.02-1S (Energy and resource efficiency) encourages land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.
 - Clause 15.03-1S (Heritage conservation) ensures the conservation of places of heritage significance.
 - Clause 15.03-2S (Aboriginal cultural heritage) ensures the protection and conservation of places of Aboriginal cultural heritage significance.
- Clause 16 Housing
 - Clause 16.01-1S (Housing supply) facilitates well-located, integrated and diverse housing that meets community needs.
- Clause 17 Economic development
 - Clause 17.01-1S (Diversified economy) strengthens and diversifies the economy.
 - Clause 17.02-1S (Business) encourages development that meets the community's needs for retail, entertainment, office and other commercial services.
- Clause 18 Transport
 - Clause 18.02-4S (Car parking) ensures an adequate supply of car parking that is appropriately designed and located.

Local Planning Policy Framework

Table 2 provides an overview of the key relevant clauses in the Municipal Strategic Statement (MSS) and local planning policies.

Table 2 Local Planning Policy Framework – relevant clauses

Clause	MSS and local planning policies
MSS	
Clause 21.05-4	Coastal environments <ul style="list-style-type: none"> - To protect, maintain and enhance the coast, estuaries and marine environment. - To respect and manage coastal processes. Strategies will be implemented by ensuring urban development on the Bellarine Peninsula complies with structure plan maps as detailed in Clause 21.14.

Clause	MSS and local planning policies
Clause 21.06-3	<p>Urban consolidation</p> <ul style="list-style-type: none"> - To provide for the consolidation of existing urban areas in a managed way. - To encourage an appropriate range of development densities. - To improve accessibility to urban services. <p>Strategies include maximising opportunities for housing within Increased Housing Diversity Areas (IHDA) (Clause 22.63).</p>
Clause 21.06-5	<p>Heritage and identify</p> <ul style="list-style-type: none"> - To ensure that urban development enhances Geelong's sense of place and identity. - To conserve and enhance individual places and areas of pre and post contact cultural heritage significance.
Clause 21.06-6	<p>Neighbourhood character</p> <ul style="list-style-type: none"> - To manage the impact of urban change on existing neighbourhoods. - To ensure that new development responds to the existing neighbourhood character. - To protect areas with a significant garden character. - To protect areas with identified views to significant landscape features. <p>Strategies include:</p> <ul style="list-style-type: none"> - Acknowledging that neighbourhood character in the IHDA will adapt and evolve over time, particularly within and on the edges of activity centres, where land use and development will intensify.
Clause 21.14	<p>The Bellarine Peninsula</p> <ul style="list-style-type: none"> - To protect and enhance the rural and coastal environment and landscapes on the Bellarine Peninsula and maintain non-urban breaks between settlements. - To support the different roles and functions of townships on the Bellarine Peninsula. - To provide attractive and sustainable industrial, commercial, retail, agricultural and tourism development in designated locations, to service the wider Bellarine community. - To preserve the individual character, identity and role of each Bellarine township. <p>Strategies relevant to Portarlington include:</p> <ul style="list-style-type: none"> - Encourage development which respects the coastal landscape setting of Portarlington by: <ul style="list-style-type: none"> ○ Providing reasonable sharing of views of the coast and foreshore, where a view has been identified in an overlay. ○ Promoting contemporary design that reflects the existing scale, setbacks, spacing, forms and materials of the buildings in the locality. ○ Ensuring that development allows for the protection of significant vegetation and/or planting around buildings and has minimal impact on roadside vegetation. - Support the integration of the Portarlington town centre and pier-foreshore area. <p>Includes the Portarlington Structure Plan at Clause 21.14-6 (see Figure 6 and Chapter 2.2(v)).</p>

Clause	MSS and local planning policies
Clause 21.21	<p>Activity centres</p> <ul style="list-style-type: none"> - To consolidate and strengthen the established Geelong Retail Centre Hierarchy, and to ensure that new retail development is consistent with the Geelong Retail Centre Hierarchy included at Clause 21.21-5. - To facilitate the development of vibrant and viable retail centres. - To support continued diversification of retail centres over time. - To demonstrate net community benefit. <p>Portarlington is classified as a 'Town Centre' activity centre, with:</p> <ul style="list-style-type: none"> - its role and function to provide a 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. - an indicative retail floor space ranging 2000 to 20000 square metres.
Local planning policies	
Clause 22.09	<p>Cultural Heritage</p> <ul style="list-style-type: none"> - To encourage the retention of culturally significant and contributory heritage places within Heritage Overlay (HO) areas. - To encourage development to be undertaken in accordance with the accepted conservation standards of the ICOMOS Burra Charter. - To conserve and enhance the natural or cultural features of an area or site and to ensure that any alterations or development complement their form and appearance. - To ensure that new development and external alterations of existing buildings make a positive contribution to the built form and amenity of the area.
Clause 22.63	<p>Increased Housing Diversity Area</p> <ul style="list-style-type: none"> - To evolve the character of these areas through more intensive development. - To ensure that the density, mass and scale of residential development is appropriate to the location, role and character of the specific IHDA. - To ensure development makes a positive architectural and urban design contribution to the IHDA. - To promote a diversity of housing types to cater to a variety of lifestyle needs. - To promote walking trips and pedestrian safety within the IHDA. - To ensure that streetscape character in heritage areas is maintained. - To encourage new development to provide a high level of onsite amenity for future residents. <p>Design objectives relate to built form, building height, landscaping and vegetation, subdivision and consolidation, car parking, heritage and coastal design.</p>
Clause 22.71	<p>Environmentally Sustainable Development</p> <ul style="list-style-type: none"> - The overarching objective is that development should achieve best practice in ESD from the design stage through to construction and operation.

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne 2017-2050

Plan Melbourne sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Policy 4.5.2 of Plan Melbourne identifies the need to protect Melbourne's peri-urban areas; areas with landscapes that have significant geographic and physical features and are increasingly experiencing pressures that could undermine the long-term natural or non-urban uses of land in these areas and which must be carefully managed.

(ii) Bellarine Peninsula Localised Planning Statement

Localised planning statements are State policies for protecting and enhancing distinctive areas with State significant geographic and physical features, biodiversity, natural resources, cultural and tourism values, productive rural land and regional and national infrastructure assets.

The purpose of the LPS is to identify the key valued attributes of specific areas within the Bellarine Peninsula, including Portarlington, and to put in place objectives and strategies to ensure that they are preserved and enhanced for ongoing use by present and future generations.

Portarlington is described in the LPS as:

... a smaller settlement with both a residential and tourism role. It is not a designated growth location. Portarlington is the northern most point on the Bellarine Peninsula and is an older settlement with strong links to its history as a fishing town and holiday resort.

DELWP and Council submitted a summary of the policy objectives and strategies of the LPS relevant to the consideration of this proposal (Table 3).

Table 3 Bellarine Peninsula LPS – relevant objectives and strategies

Policy Objective	Strategies
To protect, preserve and enhance built heritage, cultural and urban character values and preserve the individual identity and role of townships.	Ensure that development responds to the identity and character of the individual township in which it is located.
	Protect the character of local conservation precincts, places, objects and sites and heritage areas on the Bellarine Peninsula.
	Encourage development which respects the setting of coastal settlements by providing reasonable sharing of views of the coast and foreshore and uses contemporary design that reflects existing built form.
To facilitate the planned residential growth of Drysdale/Clifton Springs, Leopold and Ocean Grove, consistent with adopted Structure Plans and as service hubs for the Bellarine Peninsula.	Ensure land use and development proceeds generally in accordance with the relevant Structure Plan maps.
	Provide for a range of retail, commercial, community uses in town centres to provide services for the community and local employment opportunities in accordance with Structure Plans.

Policy Objective	Strategies
In all other townships, provide retail, commercial and community uses and facilities that serve the daily needs of the community and encourage street based activity and local employment.	Direct the bulk of residential growth and retail development to the designated growth locations of Drysdale/Clifton Springs, Leopold and Ocean Grove consistent with the relevant Structure Plan maps.

Source: DELWP Submission (Document 72)

(iii) G21 Regional Growth Plan 2013

The Regional Growth Plan provides broad direction for land use and development across five G21 member Councils in the Geelong region. It recognises the region's population is growing and that there is a need to proactively plan and manage growth while protecting areas of environmental significance, biodiversity assets, unique landscapes, coastal areas and heritage assets.

The Regional Growth Plan identifies Portarlington for limited growth and identifies the Portarlington Safe Harbour as a priority project.

(iv) City of Greater Geelong Settlement Strategy 2020

The City of Greater Geelong Settlement Strategy 2020 (Settlement Strategy) was introduced to the Planning Scheme as a reference document in May 2021 through Amendment C395.

The Settlement Strategy provides:

- an overview of Geelong's current settlement and housing policies
- an analysis of population and housing trends
- background information about issues and community aspirations
- recommendations to guide housing provision for a growing population, while protecting Geelong's unique lifestyle and environmental values.

Recommendations include:

- preserving significant landscapes and environments from urban encroachment
- containing urban development within settlement boundaries
- encouraging urban consolidation, to increase the contribution it makes to the overall housing supply
- managing future growth to deliver more sustainable, well-serviced communities.

The Settlement Strategy identifies Portarlington as a 'major rural living node' which provides lifestyle and housing choice, noting Portarlington is inefficient to service and residential development will be limited.

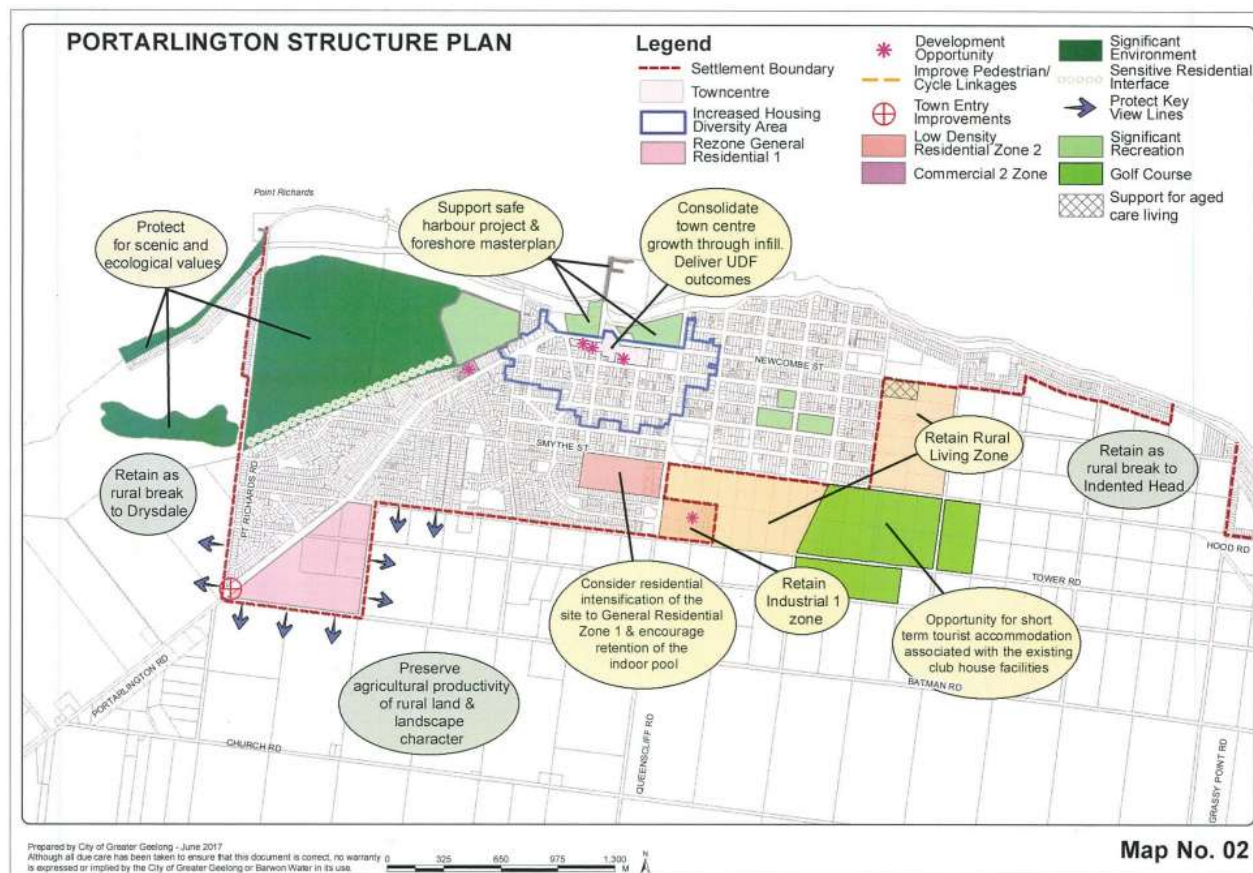
(v) Portarlington Structure Plan 2016 (amended July 2017)

The Portarlington Structure Plan, referenced in Clause 21.14-6 (The Bellarine Peninsula) (Figure 6), provides a strategic framework for the future planning and development of the township, with the purpose to:

- identify the key strategic planning issues facing the township, including community aspirations and needs
- articulate the preferred future planning directions for the township, including the location of the Settlement Boundary

- identify appropriate planning controls which will protect and enhance the distinctive elements of the township, biodiversity and landscape features.

Figure 6 Portarlington Structure Plan (Clause 21.14-6)



Source: Greater Geelong Planning Scheme

The Portarlington Structure Plan provides guidance on urban growth, infrastructure, settlement and housing, natural environment, town centre and economy and rural area. It identifies the role of Portarlington has “traditionally been as a seaside holiday village on the Bellarine Peninsula serving a small permanent population”. Its direction for the subject site is to consolidate town centre growth through infill and to deliver the *Portarlington Town Centre Urban Design Framework*, Urban Initiatives (July 2011) (UDF). The UDF is not included as a reference document in the Planning Scheme.

(vi) Other reference documents

Council submitted a number of reference documents were relevant to assessment of the Permit Application, including:

- *Bellarine Peninsula Strategic Plan*, City of Greater Geelong, 2006
- *City of Greater Geelong Housing Diversity Strategy*, alphaPlan, David Lock Associates and the City of Greater Geelong, 2007
- *City of Greater Geelong Housing Strategy Background and Issues Report*, Swinburne University, 2005
- *City of Greater Geelong Residential Character Study* 2001.

2.3 Planning scheme provisions

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

(i) Zones

The land is in the Commercial 1 Zone (C1Z) (Figure 7). The purposes of the C1Z are:

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

To provide for residential uses at densities complementary to the role and scale of the commercial centre.

The site is surrounded by land zoned for:

- C1Z to the south, east and west
- Public Park and Recreation Zone (PPRZ) to the north
- Road Zone Category 1 to the south.

Figure 7 Zone map



Source: DELWP Submission (Document 72)

(ii) Overlays

The land is subject to DDO21, Portarlington Town Centre.

The purpose of the parent clause of the DDO is:

To identify areas which are affected by specific requirements relating to the design and built form of new development.

The purposes of DDO21 are:

To protect the existing views and vistas from the Town Centre and reinforce the Town Centre's proximity to the bay.

To enhance the established coastal character of the Town Centre.

To provide an attractive, safe and accessible environment within the Town Centre.

To encourage development within the Town Centre to provide an appropriate interface to protect the amenity of surrounding residential areas.

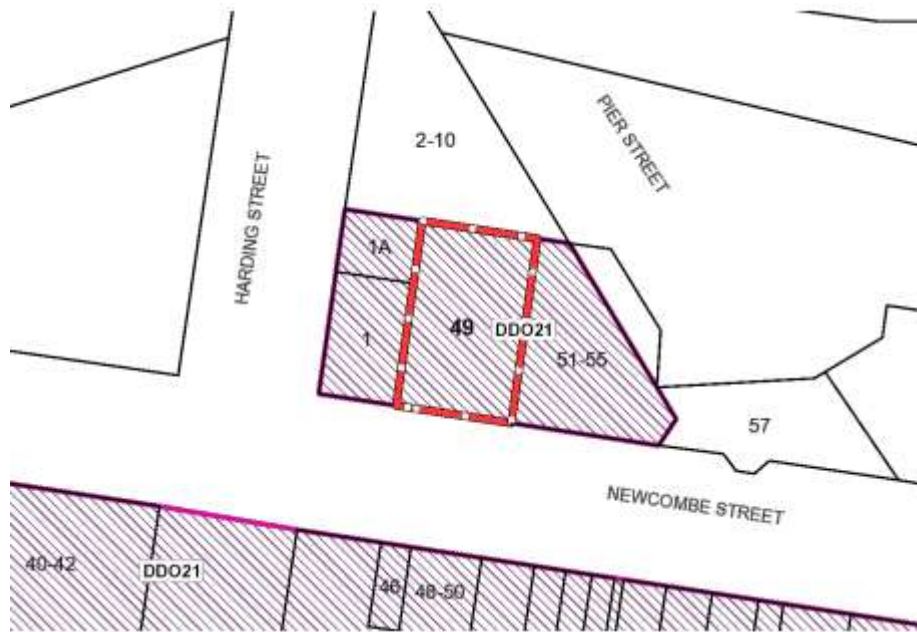
To encourage the creation of active frontages adjacent to existing roads and laneways.

To encourage the redevelopment of land within the Town Centre to maximise development potential where high quality urban design can be demonstrated.

The C1Z land is subject to the DDO21.

The Heritage Overlay 1562 (HO1562) relates to the property next door at 1 Harding Street and affects a narrow section of the site along the western side lot boundary (Figures 8 and 9).

Figure 8 Design and Development Overlay map - DDO21



Source: DELWP Submission (Document 72)

Figure 9 Heritage Overlay map - HO1562



Source: DELWP Submission (Document 72)

(iii) Particular provisions

Relevant particular provisions include:

- Clause 52.06 (Car parking)
- Clause 52.29 (Land adjacent to a Road Zone Category 1)
- Clause 52.34 (Bicycle Facilities)
- Clause 53.01 (Public open space contribution)
- Clause 53.18 (Stormwater management in urban development)
- Clause 58 (Apartments).

(iv) General and operational provisions

Clause 65.01 (Approval of an application or plan) includes Decision Guidelines for approval of a permit application. Relevant matters for consideration include:

- the matters set out in section 60 of the PE Act
- the MSS and the PPF
- the purpose of the zone, overlay or other provision
- any matter required to be considered in the zone, overlay or other provision
- the orderly planning of the area
- the effect on the environment, human health and amenity of the area
- proximity of the land to any public land
- the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Clause 65.02 (Subdivision) outlines the decision guidelines to be considered by the responsible authority when making decisions on an application to subdivide land.

Clause 66 (Referral and Notice Provisions) details relevant referral authorities for permit applications.

Clause 71.02-3 (Integrated Decision Making) identifies that society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure, and that planning aims to meet these needs and expectations.

Responsible authorities are required to:

endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

2.4 Planning Practice Notes

Relevant Planning Practice Notes (PPNs) include:

- PPN01 – Applying the Heritage Overlay
- PPN22 - Using the Car Parking Provisions
- PPN43 – Understanding Neighbourhood Character
- PPN45 – Aboriginal Heritage Act 2006 and the Planning Permit Process
- PPN53 – Managing Coastal Hazards and the Coastal Impacts of Climate Change.

3 Planning considerations

3.1 The issue

The issue is:

- whether the proposal is acceptable with regard to the PPF and the requirements of relevant Planning Scheme provisions.

3.2 Submissions and evidence

DELWP submitted the relevant planning considerations to be balanced and assessed included:

- declaration of the Bellarine Peninsula as a DAL and the draft SPP
- need for additional and a diversity of housing supply to meet the future needs of Portarlinton
- purposes of C1Z, specifically to provide for residential uses at densities complementary to the role and scale of the commercial centre
- design objectives and design response criteria in DDO21
- and other relevant policies and provisions of the Planning Scheme.

The Applicant relied on the evidence of Mr Milner in relation to planning policy. His opinion was the proposal is consistent with the core principles and features of settlement planning policy, with higher density mixed use development directed to the town centre as encouraged by the hierarchy of integrated strategy, structure and urban design framework plans.

Mr Milner considered the fundamentals and major features of the proposal were closely aligned with the expectations of the Planning Scheme, specifically the proposal:

- was an appropriate mixed use development in a main street location and close to public transport
- provided higher density and diverse housing consistent with policy
- delivered high quality urban design and contemporary architecture
- offered an improved pedestrian environment and public surveillance of the foreshore
- provided appropriate parking
- would offer genuinely liveable spaces and an exceptional amenity for future residents
- views of key landmarks and important vistas would not be compromised and the prominence of the Grand Hotel would not be threatened
- the design provided appropriate separation and space to protect the adjoining heritage asset and amenity of the Kindergarten.

Mr Milner considered the declaration of the Bellarine Peninsula as a DAL had elevated the importance of protecting the significant values that make the area distinctive. He concluded that planning policy requires a balance between maximising development of town centre sites while respecting coastal character. His evidence was that coastal character was not defined but was strongly influenced by the broader context of landscape elements and key views. Mr Milner concluded the proposal would not offend those attributes.

In relation to the application of planning principles, Mr Milner's evidence was that the challenges presented by the proposal were *"confined to the merits of the third level and the appropriate interpretation of what is coastal character"*.⁷

Council accepted the proposal met many core planning principles relating to retailing and provision of a higher density and diversity of housing in and around the town centre. Council submitted the PPF strongly encouraged development to be sensitively sited and designed to respect the character of the coastal settlement, and considered the proposal had failed to achieve this.

Council considered the unique features and special characteristics of Portarlington had been identified in the Portarlington Structure Plan, UDF and more recently the draft SPP and supporting document 'Bellarine Township Character Assessment'. It stated in its Part A submission:

The Portarlington Structure Plan notes the importance of protecting the unique character of Portarlington as a small coastal village located within a sensitive environment and significant landscape setting. It notes that a consistent element within the township *'is the low-scale form of buildings, with the focal point of the centre being the Portarlington Grand Hotel'*.

Council emphasised Portarlington was not identified for growth, and considered the scale of development needed to respond to the 'low-scale' form of the township. Council considered the bulk and scale of the proposal, with additional residential storeys above the two and three storeys encouraged by the DDO21 and the IHDA policy respectively, would compromise the key attributes of the township.

Council considered the proposal did not adequately address the role and function of Portarlington as a tourist town, which included protecting the appearance of the town as a low-scale seaside village. It considered the Applicant had not demonstrated the proposal delivered a net community benefit.

The PCA objected to the proposal on the basis that it was not consistent with the planning principles and directions for the town centre contained in the Portarlington Structure Plan and provisions of the DDO21. The PCA highlighted a *"key tenet of planning policy in Victoria is that any new development should respond positively to its context"*, with reference to Clause 15.01-1S (Urban Design) and Clause 15.01-2S (Building design). It considered the proposed development resulted in an unacceptable response to the site's physical and strategic context.

The PCA referenced the policy considerations at Clause 21.14 (The Bellarine Peninsula) which *"encourages development which respects the coastal landscape setting of Portarlington"*. It highlighted that planning policy does not identify the subject site as a 'development opportunity site', unlike other sites within the township, including support for a focal building at 22-34 Newcombe Street and redevelopment of the rear of 40-42 Newcombe Street.

The PCA submitted the Committee should give *"some weight"* to the draft SPP. It stated that while the final form of the SPP is unknown, it is being *"entertained"* by the Minister for Planning. The PCA considered the declaration as a DAL made clear the Minister for Planning considered Portarlington to have distinct features and special characteristics which ought to be protected and conserved. The PCA did not consider the proposal responded appropriately to the expectations for development within the Portarlington town centre in line with the draft SPP.

⁷ Third level as viewed from the south and fourth level as viewed from the north

In relation to planning policy and provisions relevant to township character, objectors submitted:

- the proposal was totally inappropriate in a designated DAL
- the draft SPP and subsequent update of planning policy documents for Portarlington was not yet complete
- the proposal was a significant change to local character and should not be considered before the DAL process is finalised
- the proposal does not meet the strategic objectives of Clause 21.14 (The Bellarine Peninsula) or the principles of the Portarlington Structure Plan
- there is no net community benefit to the village of Portarlington as the design is bulky and intrusive into the coastal area, fails to provide adequate parking, and would have a negative impact on the village and its coastal amenity.

In relation to planning policy and provisions relevant to housing supply, objectors were concerned:

- about overdevelopment and oversupply of apartments and town houses
- there is already adequate vacant residential land supply in and around Portarlington, including planning for a new residential estate
- the proposed large residential development in the main shopping centre is out of character for Portarlington and would set an undesirable precedent.

3.3 Discussion

While some objectors were concerned the proposal did not adequately respond to the draft SPP, and submitted that its consideration should be delayed until the SPP is approved and endorsed, it is the Committee's view that it is appropriate to assess the proposed development against the policy of the day. The existing declaration of the area as a DAL and associated LPS provides direction and intent to protect and enhance township character, and there is substantial policy direction for Portarlington in the Planning Scheme. There is no statutory basis for delaying consideration of the proposal until the SPP is finalised, and it is not appropriate to provide weight to the draft SPP as there is no guarantee it will be introduced into the Planning Scheme in its current form.

While not a 'development opportunity site' the subject site clearly has opportunities for urban consolidation, additional retailing and diversity of housing given the commercial zoning and State and local policies relating to settlement and activity centres. This was generally acknowledged by parties to the Hearing. Inclusion of the subject site in the IHDA area encourages residential growth and increased housing diversity, and the Committee is satisfied the proposal satisfies these policies.

The site is unique in its sensitive location in the town centre, with frontages to both Newcombe Street and the foreshore reserve, and is subject to layers of detailed policy and planning considerations relating to the DAL, urban design and heritage, the DDO21 and the Structure Plan. Combined, these inform the development opportunity of the site and require a design response which reflects local context, protects views, and enhances the established coastal character.

The Committee considers a higher density and diverse residential use as envisaged by the IHDA and activity centre policy can be accommodated with a design that provides a positive contribution to the area and is reflective of local context. There should not be a trade-off between these policy imperatives. Attributes of the design identified by Mr Milner relating to a mix of uses,

improved pedestrian connectivity, passive surveillance of public open space and liveable housing should be achieved.

With regard to Mr Milner's evidence, the Committee considers building height cannot be separated from an assessment of the overall design of the building and its position in the landscape. A holistic urban design assessment needs to be undertaken to understand whether the height is acceptable, or detracts from its setting.

The Committee accepts the premise of Mr Milner's evidence that coastal character is ill defined in the Planning Scheme, and relevant policies do not describe or analyse what specifically distinguishes coastal character for Portarlington. The PPF does however, define what must be taken into consideration, namely promoting contemporary design that reflects the existing scale, setbacks, spacing, forms and materiality of the buildings in the locality and protecting key views. Planning policy and provisions identify key views to be protected, including to the Grand Hotel from the foreshore and from the town centre to the foreshore and the Bay, and ensuring any development is not visually obtrusive from the foreshore.

On this basis, the Committee considers for a proposal to be acceptable on the subject site, with regard to the PPF and other relevant Planning Scheme provisions, it must:

- present a positive urban design response to its context, and enhance the established coastal character of the town
- protect significant views.

Detailed urban design assessments were undertaken by Mr Czarny for the Applicant and Ms Roberts for Council as discussed in Chapter 4. For the reasons outlined in Chapter 4, the Committee is persuaded by the evidence of Ms Roberts and concludes the design does not positively respond to the town and coastal character of Portarlington. In particular, the building would be a discordant element, would not be visually unobstructive when viewed from the foreshore and would compete with the landmark status of the Grand Hotel.

3.4 Conclusions and recommendation

The Committee concludes:

- The proposal is generally supported by planning policy relating to settlement and activity centres with the provision of retailing and additional density and diversity of housing on commercially zoned land within the Portarlington town centre and within the IHDA area.
- An acceptable proposal must provide a satisfactory urban design response on the subject site including a positive contribution to the coastal character of the area, be reflective of local context and protect significant views.
- The urban design response is unacceptable as it is not consistent with policies relating to urban design, the nomination within a DAL, the DDO21, Clause 21.14 and the Portarlington Structure Plan, as discussed in Chapter 4 of this report.

The Committee recommends:

1. **That Planning Permit PP-710-2019 (VCAT call in P415/2021) for the 'development of a multi-level mixed use building containing two shops, use of eleven apartments and basement car park, subdivision, creation of access to a Road Zone Category 1 and partial reduction in car parking' not be issued.**

4 Urban design and views

(i) The issues

The issues are whether the:

- urban design response appropriately protects and enhances the valued attributes of the area in line with the declaration of area as a DAL
- proposal makes a positive architectural and urban design contribution to its context
- proposal meets the design objectives and design response requirements as outlined in the DDO21, including:
 - protecting the existing views and vistas from the town centre and reinforce the town centre's proximity to the bay
 - enhancing the established coastal character of the town centre
 - encouraging redevelopment of land within the town centre to maximise development potential where high quality urban design can be demonstrated
 - generally restricting buildings to a maximum height of two storeys, noting higher elements must demonstrate that development is visually unobtrusive when viewed from the public foreshore.

(ii) Evidence and submissions

Mr Czarny gave expert urban design evidence for the Applicant. He considered the proposal was carefully designed in response to the pertinent DDO21 design objectives and was an appropriate response as both an infill form to Newcombe Street and an address to the open broad coastal reserve. He considered the proposal a respectful and elegant design response.

Mr Czarny noted the C1Z of the site and location within an area designated as an IHDA, which in his view enabled a more intensive mixed use development of the site. However, he acknowledged the land had unique sensitivities, particularly given its position on sloping land at the threshold between Newcombe Street and Portarlington foreshore, implicating and influencing open panoramic views to and from Bay and the broader aspect across the Portarlington townscape.

In relation to views from the foreshore, Mr Czarny considered the planning policy context did not seek to conceal buildings in the coastal view, but rather ensure a respectful design response. He considered the stepping back of the third and fourth levels would result in the building being visually unobtrusive and therefore meeting the DDO21 design objectives and design response provisions. He did however, acknowledge in cross examination, there were wide and open views to the site from the foreshore, the building would protrude above the canopy vegetation (at RL25.7 with the close dominant vegetation at RL 25.12) and landscaping (including proposed landscaping) would not diminish these views.

Mr Czarny considered the height and configuration of the building would not affect the primacy of the Grand Hotel as a landmark building within Portarlington, given the separation between the buildings of approximately 90 metres, and the overall lower height of the proposal. In cross examination, Mr Czarny stated the proposed building may compete with views to the Hotel, however considered it would not overwhelm or dominate views to this landmark building.

In response to questions about the impact of the proposal on views from the township looking north towards the Bay, Mr Czarny noted any redevelopment of the site would impact on views, given the current "*underdevelopment of the site*". He considered the upper level setbacks would

provide for “gap views”, and given the topography of the township, with higher land on the opposite (south) side of Newcombe Street, some glimpses to the water may be possible. He did not undertake a detailed analysis to be certain of this.

Following an assessment of the policy and site context influences, Mr Milner concluded:

A balance is required to be struck between maximising the development of Town Centre sites, delivering contemporary architectural expression, while respecting coastal character. Coastal character is not defined but is strongly influenced by the broader context of landscape elements and key views. The proposal will not offend those attributes.

Ms Roberts gave expert urban design evidence on behalf of Council. She considered the large block massing of the building as it would present to the foreshore was an unfamiliar typology within Portarlington, and the mass would be extremely visible. This in combination with the smaller upper level setbacks, poor/minimal landscaping and in her view excessive use of glazing, would further emphasise the visibility and alienness of the proposed built form in the Portarlington township.

Ms Roberts’ evidence was that it was essential to break up the mass of the building to reduce its visual prominence. She recommended the building be redesigned to incorporate much greater setbacks from the foreshore interface in a stepped manner, and to break up of the mass of the upper levels to read as two objects to disperse views. Her evidence was a fourth storey as viewed from the foreshore wasn’t necessarily problematic, however this would need to be reviewed as part of an overall design.

Ms Roberts considered the extent of glazing proposed was out of character with the township and needed to be considerably reduced to provide a more sensitive response. She stated it would be almost impossible to have the extent of proposed glazing and the building to not have a high level of reflectivity, even with glazing treatments.

In relation to the site’s presentation to Newcombe Street, she was comfortable with the zero ground level setback however agreed with the PCA a small setback of in the order of three metres to match the adjoining former Post Office and existing Kindergarten would be appropriate.

In response to questions from the PCA, Ms Roberts considered the development would “*pretty much obscure*” all views to the water from Newcombe Street, with the overhanging slabs and landscaping obscuring views along the eastern and western boundaries.

The PCA submitted the proposed development scored poorly when assessed against the design objectives and design responses in the DDO21. It considered the proposal would inhibit views to the bay from the south side of Newcombe Street, and would “*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*”.

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

Other objectors submitted:

- the proposal was out of character with Portarlington and would impact adversely on the coastal character of the area
- the development would impact on the towns unique character, and quaintness of the streetscape and town centre in Portarlington, valued by residents and tourists alike

- the development would dominate the landscape when viewed from the beach, and from the town centre.

(iii) Discussion

Planning Policy and Site Context

The planning policy and site context provide an expectation and opportunity for some growth and diversity of housing, being under-developed commercial land within the established township. This is tempered by DDO21 and planning policy which has a strong emphasis on “*protecting and preserving*” built heritage, cultural and urban character values and the individual identity and role of townships⁸. This focus on protecting character and significant views is different to other commercial areas or designated areas for growth where greater change and a new character is encouraged.

The Committee agrees that while Portarlington is not nominated as a growth area, over time it is likely there will be further development within the township, and the predominately 1-2 storey scale may change. This is evident in the development adjacent to the Grand Hotel with policy at Clause 22.63 (Increased Housing Diversity Areas) encouraging two and three storey development that is responsive to local context.

While recognising this policy context, both expert urban design witnesses acknowledged the uniqueness of the site and the sensitive coastal interface. It was common ground the site had a responsibility to sensitively manage its northern interface to the foreshore, as well as interfaces to the heritage building and Kindergarten.

Views from the foreshore

DDO21 provides guidance in assessing built form that generally restricts buildings to a maximum height of two storeys within the town centre, with higher elements required to be sympathetic to buildings of heritage significance and residential interfaces, be visually unobtrusive when viewed from the foreshore and be of high quality design.

A key distinguishing character of Portarlington is the open coastal reserve, with the rising topography up to the main street sited along the escarpment. The main street runs parallel to the coastline, and with the exception of the subject site and its immediate neighbours, has a one-sided main street overlooking the Bay.

While most sites within the main street back onto car parking or buildings fronting Fenwick Street to the south (within either the C1Z or Residential Growth Zone – Schedule 3), the subject site effectively has two frontages; one to Newcombe Street and the other to the coastal reserve in the PPRZ. It is this northern interface to the coastal reserve that differentiates it from most sites within the town centre. In the Committee’s view, it adds a layer of sensitivity to the site and any future redevelopment. While this northern aspect provides a significant opportunity in terms of views and access to sunlight, it is highly visible from a range of points along the foreshore, including from the Pier which is almost directly in line with the subject site (approximately 140 metres to the north) as well as from the beach areas, foreshore carparking, and other grassed areas of the coastal reserve.

⁸ Bellarine Peninsula Localised Planning Statement, September 2015

While views to the building would change as a person moved in and around the foreshore, the site's location on an immediate axis to the arrival point of the Pier, with open views and lack of established landscaping, makes the site particularly visible.

While visibility of a building of two-three storeys is contemplated by policy for the site, the key consideration relates to the acceptability of the building height above this scale, and the design of a building having regard to the townships character. A design response requirement in the DDO21 is whether a building is visually unobtrusive from the foreshore.

The Committee agrees with Ms Roberts that the northern presentation of the building (as it presents to the foreshore) is out of character with the township, and would present as an unacceptable mass in this sensitive coastal landscape. DDO21 encourages building design to express the fine grain pattern of the town centre and on larger sites for facades to be articulated to emulate the fine grain. The proposed building has not adopted this design response.

The Committee further agrees with Ms Roberts that rather than the height of the building per se being the key problem, that it is a combination of the height, together with the width of the building, with no breaks in the built form, materiality and minimal landscaping, that results in the building being unacceptable.

As evident in the 3D montages prepared by Eagle Vision on behalf of the Applicant (views 3 and 4 looking south from Pier Street and the Pier threshold respectively – Figure 10 and Figure 3 of this Report), the building appears significantly larger than other buildings within the township, protruding above the dominant canopy of trees within the immediate area. Established trees around the intersection of Pier and Newcombe Streets, around the RSL memorial and the Rotunda obscure parts of the Grand Hotel, although the tower element is visible in the skyline and the white finish also contributes to its prominence.

Figure 10 Photomontage – looking south from Pier Street



Source: Expert Witness Statement – Stan Zaslavsky (Document 78)

The Applicant and its witnesses made comparisons with the three and four storey mixed use development recently built at 72-74 Newcombe Street adjoining the Grand Hotel. While of similar height to the proposed building (with setbacks to the fourth level), the subject site is approximately 10 metres wider (24.5 metres compared to 14.6 metres) and the visibility of this site from the foreshore is vastly different. The Committee agrees with Council and Mr Czarny, that the constructed mixed use development has been successfully integrated with its setting, and while sited directed abutting the Grand Hotel, does not compete or dominate this landmark building. In the 3D montage views, this development is barely visible from the foreshore, and reads as a subservient element to the Grand Hotel.

This is in contrast with the proposed development of the subject site, which in the Committee's view would be a dominant element in the landscape, not in keeping with the character of the township and would compete and detract from the landmark status of the Grand Hotel. The height of the proposed building is some five metres below the parapet of the Grand Hotel (RL 25.7 compared to RL 30.8) and some 10 metres below the tower element (RL 35.5). However it is closer in the viewshed as seen from the foreshore, and having almost no landscaping to mitigate views in front or rising above behind, it reads as higher than the main hotel parapet and similar to the height of the hotel tower in the 3D views. Further the full width of the building is readily apparent, being slightly wider than the hotel building and significantly wider than the finer grain lots of the southern side of Newcombe Street.

The Committee shares Ms Roberts' concerns about the extent of glazing and lack of appropriate landscaping. While accepting that broad views to the Bay with a northern aspect will contribute to a high level of amenity to apartments, the extent of glazing over four levels is unfamiliar to the township and is likely to make the building more reflective and stand out. Equally, while accepting that dense vegetation along the site's northern boundary or within the foreshore area directly in front of the site would obscure views towards the Bay from the site may not be desirable, layered landscaping of more appropriate species to break up the built form would assist in integrating it within this sensitive landscape.

On this basis, the Committee's position is that the visual prominence of the historic landmark of the Grand Hotel would be compromised and the proposed building would not be unobtrusive when viewed from the foreshore.

Views from the town to the Bay

While views to the Bay are a key feature of the Portarlington town centre, primarily given the lack of development along most of the northern side of Newcombe Street, the Committee agrees with the Applicant that almost any redevelopment of the site will restrict the existing view corridor through the site, and it would be unreasonable to maintain such views.

In the Committee's opinion, upper level side setbacks, or gaps between built form will be necessary to reduce the visual bulk as viewed from the foreshore, and to provide for a sensitive interface to the former heritage Post Office and Kindergarten. However the Committee accepts DDO21 seeks to maximise development potential where high quality design can be demonstrated and lower level setbacks are not characteristic of commercial areas. On this basis, while the Committee considers maintaining glimpses to the Bay and beyond through the site would be desirable, either above lower scale elements of the building or through side setbacks, it notes the views would be transient only, and are not from a key viewing point. Accordingly, the Committee

accepts that the loss of the current clear view to the Bay is a reasonable expectation for redevelopment of this C1Z land within the town centre.

(iv) Conclusions

The Committee concludes:

- That the urban design response is unsatisfactory as it does not sufficiently protect and enhance the valued attributes of the area in line with the declaration of area as a DAL and other policy provisions relating to urban design and Portarlinton's character.
- That the proposal does not make a positive architectural and urban design contribution to its context, when viewed from the foreshore.
- That the proposal does not satisfy the requirements of DDO21 and it is not visually unobtrusive when viewed from the public foreshore.

5 Building design

5.1 Building and landscape design

(i) The issues

The issues are whether the:

- building presentation to Newcombe Street is acceptable
- proposed landscaping is acceptable.

(ii) Evidence and submissions

Mr Czarny described the interface to Newcombe Street as having a single storey profile at ground level set to the street, with a stepped upper form to two storeys aligned to the raking profile of the former Post Office as viewed from the south. He described the third level being setback as more than 12 metres to Newcombe Street so that it would be visually recessive in the street view, respecting the primacy of the heritage building at the corner.

Mr Czarny considered this presentation to Newcombe Street to be sympathetic in scale to the former Post Office and the rebated vehicle entry an effective spacer to the adjoining heritage form.

In terms of the building massing, Mr Czarny acknowledged there was no apparent fine grain to the building particularly as viewed from the north, however he did not consider the building needed to create a false grain. He was comfortable with the materials, including the aluminium cladding timber look material he considered was appropriate in a coastal context. In response to concerns about the extent of reflectivity of the glazing, he suggested a tint could be applied or a condition of permit requiring 25% non-reflectivity glass.

Ms Roberts was generally comfortable with the scale and setbacks of the building as it presented to Newcombe Street, with the provision of two separate retail tenancies and a central apartment entry to articulate the façade to emulate the fine grain pattern of the town centre. However she had concerns with design details, including the extent of floor to ceiling glazing being inconsistent with the prevailing character of retail tenancies generally within the town centre, as well as the six metre wide car park entrance and three metre wide air conditioning units abutting the footpath.

The Applicant responded to these concerns agreeing the plans could include the provision of a solid plinth to the retail tenancies as was evident in many of the shopfronts on the south side of the main street, and could relocate the air conditioning units to be screened from public view.

Ms Roberts was critical of the landscaping and the lack of integration between the architecture and proposed landscaping treatment. She did not consider the landscape elements should be used to disguise the building and she considered the proposed Cabbage and Chinese Windmill palm tree species to be “*grossly out of character*” in Portarlington. She recommended an increased landscape strip along the northern boundary to accommodate planting.

In response to the identification of inconsistencies between the architectural and landscape plans, Mr Taylor for the Applicant tabled corrected plans (Document 88). He clarified the landscaping included three Cabbage Palm trees along the northern boundary and three Chinese Windmill Palm trees along the eastern boundary, roof and balcony planters along the retail frontage and at the

upper levels along all sides of the building. There was potential for a narrow strip of landscaping along the car park ramp adjacent to the former Post Office.

Mr Czarny, in response to questions about whether the landscape plan could successfully be constructed, was comfortable with the design to accommodate planting including the depth of soil in the balcony and rooftop planters. He considered the landscape concept to be a competent design.

(iii) Discussion and conclusions

The Committee considers the Newcombe Street elevation is generally an acceptable response to DDO21 provisions and the streetscape character. The Committee considers either a zero or a small street setback would be an appropriate design response to Newcombe Street; with a zero frontage as proposed being an efficient use of the land and typical of retail in strip centres, or alternatively a small setback of in the order of three metres would match the small setbacks of the former Post Office and Kindergarten.

The retail uses at ground level would provide a positive infill land use contribution to the town centre and the clearly identifiable separate apartment entry is supported. The single storey presentation to the street is primarily in response to heritage considerations and the upper level setbacks are generous which, in the Committee's view, allow the building to sit comfortably within the streetscape. The improvements in relation to removing the air conditioning units and addition of a plinth to the retail premises is supported.

The Committee does not agree with Council that the building as viewed in an easterly direction along Newcombe Street would overwhelm the former Post Office building. Rather it considers it would provide a positive infill to the retail strip as shown in View 1 of the 3D montages.⁹

The Committee considers a more comprehensive and considered landscape response is required. While the proposed landscaping could provide for some softening of the building, particularly at the upper levels, it does not appear to be integrated with the building design nor is it responsive to the character of Portarlington.

The Committee agrees with Ms Roberts that the extent of glazing as viewed from the north is uncharacteristic of the town's character and would likely to contribute to its prominence and dominance in the landscape.

The Committee concludes:

- That the presentation of the building to Newcombe Street is acceptable.
- That a more comprehensive and considered landscape response is required to be responsive to the character of Portarlington.

5.2 Heritage

(i) The issues

The issues are whether the proposed development:

- has responded appropriately to the former Post Office at 1 Harding Street contained within HO1562

⁹ Document 78

- would unreasonably impact on the historic setting and significance of the Grand Hotel as a landmark feature within the township.

(ii) Evidence and submissions

Ms Bashta provided expert heritage evidence on behalf of the Applicant.

HO1562 applies to the land at 1 Harding Street, Portarlington, relating to the former Portarlington Post Office, immediately adjacent to the site to the west. The overlay extends across a small section of the western boundary of the subject site (largely aligned with the existing driveway) (Figure 11).

Figure 11 Coverage of HO1562



Source: Ms Bashta's Expert Witness Statement, page 2

Ms Bashta provided background to the application of this overlay, noting the subject site was originally part of the crown reserve for the adjacent Post Office. HO1562 was applied to the full title boundaries of the Post Office, then in 1988 the land was subdivided, removing the western extent of the site from the Post Office title. The extent of the Heritage Overlay however was not changed to reflect the new title boundary, resulting in a strip of the HO1562 affecting the subject site. Ms Bashta considered the remaining Heritage Overlay on the subject site was simply a remnant rather than reflecting a desire to provide a curtilage or setting to the former Post Office building.

Council's heritage advisor considered HO1562 on the site was an anomaly for the reasons above and therefore no assessment under the Heritage Overlay was relevant. No other party contested this, and therefore it was common ground that the primary heritage considerations were the relationship of the proposal to the former Post Office, and whether it would adversely impact on its significance and the impact of the proposal having regard to the prominence of historic Grand Hotel.

The Statement of Significance relating to the former Post Office as outlined in the Bellarine Heritage Study (Huddle, Howe, Lewis & Francis, 1996), which is a reference document in Clause 22.09 (Cultural Heritage):

The former Portarlington Post Office was opened in 1888 and was designed in Victorian Tudor style by G B H Austin, assistant Public Works Department architect for the Western District. The building has been altered and its integrity is fair.

It is of aesthetic, social and historic significance to the local Portarlington community.

The former Portarlington Post Office is of significance in its contribution to the commercial main street of Portarlington and to the township and surrounding area as a centre of communication. It was important in linking Portarlington to the wider world by post and telegraph and later was also the site of the telephone exchange. It is one of the few elaborate architectural works constructed on the Bellarine Peninsula in the nineteenth century.

It is of LOCAL cultural significance.

The building is identified as being of C grade significance in the Bellarine Heritage Study.

Ms Bashta's evidence was the former Post Office was one of a few heritage buildings within the Portarlington town centre, and Newcombe Street does not have a particularly strong or cohesive heritage character. No Heritage Overlay precinct applies to the commercial area.

She considered there would be no impact of the proposal on the historical and social significance of the former use of the building as a Post Office and a centre for the community, as a new building not impacting on these historical facts. Similarly, she considered there would be no impact on the social value of the place as a public building and key place of communication, given it had already been converted to a private dwelling.

On this basis, the impacts of the new development would be confined to the design and built form of the new building and its potential to impact on the adjacent heritage place.

Ms Bashta outlined a number of changes to the former Post Office building that have occurred over time, including removal of the original verandah and main entry from Newcombe Street, as well as a weatherboard addition at the rear. She noted the addition at the rear together with the Cafe building at 1A Harding Street largely obscured the former Post Office from the foreshore, and therefore she considered the primary heritage considerations related to the impacts from Newcombe Street.

Ms Bashta supported the contemporary design of the proposal and did not consider the design detail would detract or compete with the decorative elements of the former Post Office.

She supported the siting of the new building to the street frontage, noting the open driveway element and chamfer to the western wall of Shop 2 would ensure the existing view lines to the Post Office would be largely retained. She noted the original enclosed verandah extended to the street.

Ms Bashta highlighted the amended plans had responded to the first two of three key Council heritage comments (dated 13 February 2020), being:

- Further setting back of the first floor of the new work to beyond the traversing roof ridgeline of the front gables wing of the post office.
- Setting back the front first [floor] balcony to at least be in line with the main front wall plane or ideally recessive of the front wall plane of the post office.
- Limiting the development to a two storey appearance from Newcombe Street (with by the removal of the second floor and rooftop deck above the second floor).

She supported these changes and considered they would ensure the main building line of the first floor would align with the rear of the decorative parapet return of the east façade of the Post Office, being a key element of the building's architectural significance.

In contrast to Council's recommendations, she supported retaining the upper storey. She considered while it would be a higher element in the streetscape immediately adjacent to the former Post Office, being setback 12.05 metres from the south boundary and 3.65 metres from

the western boundary was acceptable as it would place this level in alignment with the rear ridge of the hipped roofs of the Post Office. Given this, Ms Bashta was comfortable that the upper level would not impact on the heritage significance of the former Post Office.

Ms Bashta did not consider view lines from the foreshore was a heritage consideration, however she accepted the prominence of the historic Grand Hotel as a landmark was relevant. On the basis that the proposed building would not obscure views to the Grand Hotel and given the generous physical separation between the buildings, Ms Bashta did not consider there would be a heritage impact.

(iii) Discussion and conclusion

Ms Bashta's evidence was largely undisputed at the Hearing. No other heritage evidence was called, and Ms Bashta outlined how the amended plans had responded to recommendations of the Heritage Officer at Council.

Council was concerned about the visual impact of the building diminishing the significance of the Post Office, as viewed in an easterly direction along Newcombe Street. The Committee however, was not persuaded this would have an unreasonable impact on the heritage significance of the former Post Office, noting the decorative elements of the former Post Office would remain visible as the corner building, addressing both Newcombe and Harding Streets. As discussed in Chapter 5, the presence of the higher built form, well setback from the site's frontage is a comfortable fit within this streetscape and is a reasonable expectation within the commercial town centre.

The Committee accepts that views from the foreshore are not a heritage consideration, however the prominence of the Grand Hotel in the township given its historic significance is relevant with the requirement of DDO21 to ensure the design of any higher built form elements must demonstrate the development is sympathetic to buildings of heritage significance. While the Committee considers the massing, bulk and overall appearance of the proposal unacceptable from the foreshore, this is primarily for urban design reasons rather than heritage considerations.

The Committee concludes:

- The proposed development provides an acceptable response to heritage values.

5.3 Amenity

(i) The issues

The issues are whether the development would:

- unreasonably impact on the amenity of the adjoining residential and Kindergarten uses
- result in an acceptable level of internal amenity.

(ii) Evidence and submissions

Bethany objected to the proposal and provided a Statement of Grounds raising concerns with impacts on amenity relating to the Kindergarten, including:

- loss of privacy to the educators and children attending the facility
- afternoon overshadowing and loss of natural light into the Kindergarten
- the building being highly visible from public vantage points, out of character with the scale of Portarlington, an overdevelopment and conflicts with DDO21.

A number of objectors raised concerns relating to impacts on the Kindergarten, primarily in relation to overlooking of the playground, and associated privacy and safety of the children and educators.

The owners of 1 Harding Street (former Post Office), the neighbouring property to the west, lodged an objection and Statement of Grounds raising amenity concerns with:

- the height and size of the development towering over their property
- loss of views to the Bay.

Mr Milner provided an assessment of the on and off-site amenity impacts of the proposal, including to the adjoining dwelling and Kindergarten.

As a starting point, Mr Milner noted it was widely accepted that the residential amenity to be enjoyed on land zoned C1Z is different to expectations within residential zones, given the cumulative impacts of the siting and scale of buildings, nature of uses including hours of operation and traffic and pedestrian activity.

In relation to the Kindergarten, Mr Milner considered the impact of the proposed building in reducing solar access to the west facing windows and playground area was acceptable on the basis that:

- there are no restrictions within the Planning Scheme on the shadowing of Kindergarten windows
- overshadowing of a window from 2pm onwards would not be considered unreasonable, even if Clause 55 (ResCode) applied
- the decision guidelines within the C1Z only relate to considerations on land in a residential zone or to rooftop solar energy systems on a dwelling
- the outdoor play area is already in constant shadow given the trees and other shading devices.

Mr Milner did not consider the visual bulk of the proposed building was a valid concern given the primary aspect from the Kindergarten is to the north (towards the foreshore). He considered the proposed *“height and setback relationship is not unreasonable in a Commercial 1 Zone particularly as the plans provide for landscaping within the setbacks”*.

In relation to impacts on the dwelling at 1 Harding Street, his evidence was that the main consideration was to ensure the privacy to habitable room windows. He considered this was satisfactorily addressed by screening blades which redirected and obscured views from the proposed apartments. Shadow impacts would be confined to east facing windows and would cease by approximately 10.30am, and to the narrow setback area along the common boundary which Mr Milner considered to be *“not unreasonable”*.

In terms of internal amenity, while not undertaking a detailed Clause 58 assessment, Mr Milner concluded the apartments would meet the expectations of the Planning Scheme. He noted the proposal would be a desirable place to live, particularly the apartments with a northern balcony and outlook to the Bay. While there was a variation to the standard at Clause 58.07-2 (Internal Amenity) for apartments 7 and 8 (in relation to room depths to allow for adequate daylight into single aspect habitable rooms), given the area of non-compliance related to circulation space between the front door, kitchen and bedrooms, he considered it was acceptable. Alternatively he considered a condition of permit could be used to address this matter.

Council generally accepted the design response to the residential neighbour, noting the proposed setbacks would provide adequate daylight into existing windows and the potential for overlooking was addressed by the inclusion of external screens on windows (of no more than 25 per cent transparency) with an outlook towards the shared boundary or highlight windows 1.7 metres above finished floor level. Council noted a condition of permit could be included to prevent overlooking from the top floor and from balconies within a horizontal distance of nine metres to prevent overlooking into habitable room windows and secluded private open space.

In relation to impacts to the Kindergarten, Council considered amenity issues, such as overlooking, overshadowing and orderly planning are relevant considerations despite the site being located in the C1Z. Council referred to the requirement of Clause 65 (Decision Guidelines) to consider *"the effect on the amenity of the area"* and *"orderly planning of an area"* and planning policy at Clause 15.01 (Urban design) with the objective *"to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity"*.

In Council's grounds of refusal, two reasons related to the impact on the Kindergarten:

- it was not adequately demonstrated that the building was designed to provide an appropriate level of solar access into the east facing windows of the neighbouring Kindergarten
- the proposal is contrary to the requirements outlined in Clause 65 of the Planning Scheme as it will impact on the amenity of the Kindergarten, particularly in regard to solar access into the Kindergarten building and visual bulk.

Council referred to VCAT decision *Golden Seven Star Pty Ltd v Port Phillip CC [2014] VCAT 30 (14 January 2014) 61* which concluded a limited level of surveillance of the child care centre playground would be acceptable provided it:

- enables the viewer to also be observed
- enables only fleeting views rather than prolonged observation
- includes some physical distance and separation between the children and the viewers.

Council stated in its Part A submission that it was generally satisfied the proposed development would not unreasonably overlook the Kindergarten noting:

- vegetation within the playground, shade sails and proposed new plantings would limit views into the playground
- habitable room windows, other than the top floor, would be screened, and existing vegetation would only allow fleeting views
- views from the top floor are limited, given this level would be above the height of the trees within the Kindergarten playground
- the balcony areas oriented to the north would not be screened from view, but rather be visible from the public foreshore.

Council recommended additional screening, including on the upper ground floor and second floor balconies.

Council noted its objection to the corrections to the plans lodged on 31 August 2021 in its Part B submission (Document 88), which included changes to windows and screening to ensure plans and elevations matched. In Council's view these changes would result in additional overlooking of the Kindergarten outdoor play area from windows/balconies. It did not consider this would meet the tests outlined by VCAT, allowing for greater than fleeting views to the outdoor area and providing for limited separation.

While acknowledging Clause 55 did not apply, Council considered the side setback requirements under Clause 55 should be applied to the proposal given its location abutting sensitive uses, which would result in increased setbacks given the overall height of the building. Council maintained its concern that the amended proposal would not provide reasonable level of solar access into the habitable rooms of the Kindergarten.

(iii) Discussion

As the Committee does not support the proposed building due to character and interface issues, it has not undertaken a detailed assessment of the building and overlooking from each window. The following discussion provides a high level response to issues raised in objections and submissions.

The Committee accepts the tests established in *Golden Seven Star P/L v Port Phillip CC* are reasonable and provide an appropriate balance between privacy and some overlooking. The Kindergarten open space area is located to the north of the building, with open fencing to Pier Street and the coastal reserve. There are large north facing windows that provide an outlook to the playground and beyond. Accordingly, the outdoor area, and to some degree the inside area, are currently visible from the public realm.

Within the outdoor play area, there are canopy trees in the north/west corner of the property, predominately along the common boundary, and some shade sails over the remainder of the playground. The trees are a mixture of evergreen and deciduous species, with an evergreen tree of approximately eight metres located close to the north/west corner. Combined, the trees and shade sails result in much of the playground being shaded, with pockets of the playground, in particular near the northern boundary, allowing for areas of sun.

Given this context, and on the basis of the shadow plans provided, the Committee accepts the extent of afternoon overshadowing (only after 1pm) from the proposed building is acceptable and will largely fall within already shaded areas of the playground. The two west facing windows will be overshadowed in the afternoon, however as ground floor windows sited close to the common boundary, some overshadowing of these windows is a reasonable outcome in a C1Z context and would result with almost any redevelopment of the site.

In terms of overlooking, the existing Kindergarten playground is not private and a degree of casual observation by passers-by or casual users of the recreation reserve is already available to and from Pier Street and the foreshore reserve. However, the Committee considers that direct views from apartments may be more intrusive.

On this basis, the Committee considers some screening should be provided to windows or balcony areas where there would be direct views into the Kindergarten and this may include additional screening beyond that shown on the amended plans. The primary aspect from the proposed development is to the north towards the Bay, and some easterly views could be maintained from the development while preventing direct downward views into the Kindergarten playground.

Overshadowing to 1 Harding Street would be limited to early morning and is acceptable.

6 Other issues

6.1 Traffic and carparking

(i) The issues

The issues are whether:

- the requested car parking reduction is appropriate
- car parking and accessway design is acceptable
- traffic impacts and loading bay requirements are acceptable.

(ii) Evidence and submissions

The Applicant submitted key traffic and car parking changes in the amended plans (compared with the plans assessed by Council) included:

- a change to the basement plan that included removing car stackers and providing all car parking as standard car spaces
- a decrease in dwelling numbers from 13 to 11 and a decrease in car parking numbers from 26 to 23 spaces
- the accessway widened to 6.1 metres at Newcombe Street
- relocation of bicycle parking from the basement to ground level.

The Applicant relied on the evidence of Ms Dunstan, who stated:

- all resident car parking spaces were being provided, with a surplus of 2 spaces (21 provided and 19 required)
- no resident visitor car parking spaces were provided onsite resulting in a statutory shortfall of two spaces
- two car parking spaces were to be provided for the retail uses, being a statutory shortfall of six spaces.

Ms Dunstan supported the proposed reduction in car parking on the basis that:

- there was ample on and off street car parking within the surrounding area
- there is an existing car parking deficiency associated with the historical use of the site
- the site is located within a strip shopping centre which supported a centre based approach to car parking.

Ms Dunstan confirmed the accessway width, ramp and headroom complied with Clause 52.06-9 (Design standards for car parking) and car parking dimensions and the accessways complied with the relevant standards.

In relation to loading and traffic, Ms Dunstan gave evidence that:

- the loading arrangement for the site is acceptable from a traffic engineering perspective, and the provision of an on-site loading bay is not necessary
- the level of traffic generated as a result of this proposal is low, predominantly residential in nature, spread throughout the day and will not have a detrimental impact on the operation and safety of Newcombe Street and the surrounding road network.

Overall, Ms Dunstan concluded there were no traffic engineering reasons why the proposal should not be supported and any requirements could be managed with appropriate permit conditions.

Council accepted the Applicant's expert traffic evidence in relation to car parking, traffic and loading.

Several objectors raised the following issues:

- lack of car parking in the area
- concern that the car parking reduction was unreasonable and demonstrated an overdevelopment of the site
- Clause 21.14-3 required that development meet all parking and access requirements
- concern that the request for a loading bay will reduce on street car parking
- increased traffic will increase hazards for pedestrians and traffic congestion at peak times
- concerns that the traffic assessment did not take into consideration that it is a divided road.

Bethany raised issues relating to traffic generated by the proposal, and considered the Applicant had understated the impact the proposal would have on surrounding businesses and services including the Kindergarten. It was concerned about safety hazards for families and children attending the centre.

Bethany expressed concern that granting a car parking reduction would result in additional pressure on street parking and omission of a loading bay would result in deliveries being placed on the footpath, both of which would impact negatively on families attending the centre. It considered it *"unrealistic to expect commercial tenants or delivery drivers to use the nearest formal loading zone at the Grand Hotel which is 100m from the complex"*.

(iii) Discussion

The Committee accepts the evidence of Ms Dunstan that the car parking, traffic and loading arrangements for the proposal are satisfactorily dealt with. The reduction in car parking relates to visitor uses only, and not to resident car parking and some provision is made for staff of the retail tenancies. While car parking demand and availability within the surrounding area varies considerably depending on holiday and peak periods, there is a general supply of public car parking available in close proximity of the site and the Committee considers it reasonable for residential visitors or customers of the retail uses to rely on these spaces.

In relation to loading, the Committee accepts the infrequency of deliveries and notes on street loading is often required in strip shopping centres. While it may result in a loss of some on street car parking, a satisfactory arrangement could be made if a loading bay was created outside the site (for at least a specified period), or alternatively, while not as convenient, the existing loading bay outside the Grand Hotel could be relied on.

The Committee notes Council accepted the evidence of Ms Dunstan, and considered loading and traffic management impacts could be managed through planning permit conditions.

6.2 Waste and recycling

(i) The issue

The issue is:

- whether the proposed waste collection for the development is appropriate.

(ii) Evidence and submissions

Ms Dunstan's evidence was that small waste collection vehicles used by private waste contractors for on-site collection within basement car parks does not service the Geelong regional area, and therefore on street collection would be required. She considered the arrangement whereby the building manager would transfer the bins to kerbside for collection and return the bins following collection was consistent with the nature of waste collection for other uses in the strip shopping centre and was appropriate. She was satisfied that waste collection could be appropriately managed through a Waste Management Plan to Council's satisfaction.

Council accepted the Applicant's advice that there are currently no commercial waste companies offering small truck service to low entry sites, as would be required for onsite collection. Council submitted the Waste Management Plan should be revised require onsite collection when this service is available and to:

- require the development to use the services of a contractor that uses larger bins (660 litre or 1100 litre) as 240 litre bins are not supported
- avoid positioning the bins on Newcombe Street, and instead put them on the footpath.

Issues raised in objections relating to waste collection included:

- on street waste collection creating a hazard
- onsite collection requiring access by heavy vehicles which would result in congestion and cause pedestrian safety issues.

Bethany was concerned commercial waste collection from Newcombe Street would result in obstructions and trip hazards and impact negatively on families walking to the Kindergarten.

(iii) Discussion

The Committee is satisfied waste management issues can be satisfactorily managed through permit conditions and an appropriate Waste Management Plan. Noting Ms Dunstan's evidence that waste collection can be restricted to off-peak times (such as early morning), the Committee considers this could be implemented to avoid conflict with drop off or pick up of children from the Kindergarten.

6.3 Environmentally sustainable design**(i) Submissions**

The Applicant submitted a memorandum on ESD matters¹⁰ which provided an overview of advice from Council's ESD Officer on various versions of the plan. The Applicant noted the report to Council of 27 May 2021 stated ESD requirements had been met aside from one that could be conditioned. The Applicant was confident any outstanding ESD requirements for the amended proposal could be conditioned.

Council submitted in its Part B submission:

In principle, we also agree that the apartments can be designed to offer genuinely liveable spaces and amenity for future residents, subject to conditions. It is however our opinion that additional work is needed to demonstrate that the revised plans can adequately meet ESD

¹⁰ Document 95

requirements to satisfy Clause 22.71 (Environmentally Sustainable Development) of the Greater Geelong Planning Scheme. The revised development needs to be run through the BESS model and the SMP needs updating to reflect recommended ESD initiatives.

Several objectors were concerned the proposal did not adequately respond to ESD requirements.

(ii) Discussion

The final comments from Council on compliance with ESD planning requirements was on the Revision D plans, and not the amended plans. The Committee agrees with Council that given there have been further changes to the plans, further work is required to ensure the amended proposal can still meet ESD requirements to satisfy the requirements of the Planning Scheme.

As the Committee does not support the proposal it provides no further comment on this issue, but notes Clause 22.71 requires early consideration of sustainability initiatives during the design phase to ensure efficiencies and benefits are achieved.

7 Response to Terms of Reference

The Committee's Terms of Reference require it to provide advice to the Minister for Planning on the planning merits of the proposed development, and if supported the appropriate planning permit conditions.

Clause 19 of the Terms of Reference specifies the Committee is required to produce a written report, and Clause 20 provides details of what is required to be considered. Table 4 provides a summary of where in this Report the Committee's has considered each item.

Table 4 Committee response to requirements of Terms of Reference

Terms of Reference Clause / Item	Relevant Report Chapter
Clause 19	
An assessment of the planning merits of VCAT proceeding P415/2021 and any amended application submitted to the Committee	Chapters 3, 4, 5 and 6
An assessment of objections and submissions to the Committee	Chapters 1, 3, 4, 5 and 6
A recommendation as to whether a planning permit should be granted or refused, the appropriate permit conditions, and the reasons for any recommendation	Chapter 3
Any other relevant matters raised in the course of the Committee Hearing	Chapters 1, 3, 4, 5 and 6
A list of persons who made submissions considered by the Committee	Appendix B and Overview (page iii of v)
A list of persons consulted or heard	Appendix B and Overview (page iii of v)
Clause 20	
The relevant provisions of the PE Act and the Planning Scheme	Chapter 2
All relevant material prepared by or for the Applicant	All chapters and Appendix C
All material filed in the VCAT proceeding including all submissions and objections	All chapters and Appendix C

Appendix A Terms of Reference



Advisory Committee appointed pursuant to Part 7, section 151 of the Planning and Environment Act 1987 to consider the application for a proposed development at 49 Newcombe Street, Portarlington (VCAT P415/2021).

Name

The Advisory Committee is to be known as the 'Portarlington Advisory Committee'.

1. The Advisory Committee is to have members with the following skills:
 - a. statutory and strategic planning
 - b. urban design / heritage

Purpose

2. The purpose of the Advisory Committee is to provide all parties to the called-in VCAT proceeding with an opportunity to present submissions and evidence and to provide advice to the Minister for Planning on the planning merits of the proposed development, including whether a planning permit should be issued and, if so, what would be the appropriate conditions for the permit.

Background

3. The site at 49 Newcombe Street, Portarlington is located in the Commercial 1 Zone, adjoins the Road Zone Category 1 and is subject to Design and Development Overlay Schedule 21 and partly by Heritage Overlay 1562.
4. On 24 July 2019, the City of Greater Geelong Council (council) received an application for a planning permit for the development of a 3-5 storey mixed commercial and residential apartment development, comprising 13 apartments, two shops, basement carparking, subdivision, creation of access to a Road Zone Category 1 and reduction in the carparking requirement. The Applicant is Planning & Property Partners Pty Ltd.
5. Notice of the proposal was given and 125 objections were received.
6. The council did not make a decision within the prescribed time and the Applicant lodged an appeal for review of the failure to determine the permit at the Victorian Civil and Administrative Tribunal (VCAT) on 22 February 2021.
7. On 27 May 2021, the council resolved to advocate against the granting of a permit.
8. A VCAT compulsory conference was held on 23 June 2021 and did not resolve the matter. The matter was scheduled for a Major Cases hearing on 30, 31 August and 1, 2, 3 September 2021 (online platform). There are nine parties to the VCAT proceeding, with four expert witnesses scheduled to be called by the Applicant (traffic, urban design, heritage and planning) and one expert witness for the council (urban design).
9. On 30 June 2021, the Minister subsequently decided under Clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998* to call in the proceeding on the basis that the proceeding raises a

Terms of Reference

major issue of policy and the determination of the proceeding may have a substantial effect on the achievement of planning objectives.

Method

10. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit before submitting its report.

Notice

11. The Advisory Committee will write to the parties to the VCAT proceeding inviting them to present their submissions to the Advisory Committee.
12. The Advisory Committee is not expected to carry out any additional public notification or referral, but may do so if it considers it to be appropriate.

Hearing

13. The Advisory Committee is expected to provide all parties to the VCAT proceeding with an opportunity to be heard.
14. The Advisory Committee is expected to carry out a Directions Hearing and Public Hearing. It may conduct workshops or other meetings as necessary and may convene its proceedings by video conference.
15. The Advisory Committee must consider all relevant objections and submissions.
16. The Advisory Committee may meet and invite others to meet with them when there is a quorum of at least two of its members.
17. The Advisory Committee may limit the time of parties appearing before it.
18. The Advisory Committee may prohibit or regulate cross-examination.

Outcomes

19. The Advisory Committee must produce a written report for the Minister for Planning providing the following:
 - a. An assessment of the planning merits of VCAT proceeding P415/2021 and any amended application submitted to the Advisory Committee.
 - b. An assessment of objections and submissions to the Advisory Committee.
 - c. A recommendation as to whether a planning permit should be granted or refused, the appropriate permit conditions, and the reasons for any recommendation
 - d. Any other relevant matters raised in the course of the Advisory Committee hearing.
 - e. A list of persons who made submissions considered by the Advisory Committee.
 - f. A list of persons consulted or heard.
20. The Advisory Committee may inform itself in anyway it sees fit, but must consider:
 - The relevant provisions of the *Planning and Environment Act 1987* and the Greater Geelong Planning Scheme.
 - All relevant material prepared by or for the Applicant.
 - All material filed in the VCAT proceeding, including all submissions and objections.

Terms of Reference

Submissions are public documents

21. The Advisory Committee must retain a library of any written objections and submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
22. Any written objections and submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain confidential.

Timing

23. The Advisory Committee must hold a hearing as soon as practicable after the date of its appointment.
24. The Advisory Committee is required to submit its report in writing as soon as practicable, but no later than 30 business days from the completion of its hearings.

Fees

25. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
26. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning.



HON RICHARD WYNNE MP
Minister for Planning

Date: 26 / 07 / 2021

Appendix B List of objectors

Note: names in **bold** submitted both an objection through the permit application notice process and Statement of Grounds through the VCAT process

No.	Submitter	No.	Submitter
1	Aaron Hunter	32	Gail Harrop-Wells
2	Alison Clarke (Griggs)	33	Gail Layh
3	Andrew Volard	34	Geoff McDonald
4	Anita Ekberg	35	Geoff Nicholson
5	Ann Cullen	36	Geoffrey Forbes
6	Ann Nichol	37	Graeme Baxter
7	Anne Jones	38	Grant and Michelle Mitchell
8	Anne Whisken	39	Hayden Whisken
9	Barbara S'Bire	40	Heather and Peter Williams
10	Beryl Stott	41	Helen Barr
11	Beth Hackett	42	Ian Morris
12	Bill Ogilvie	43	Ian Whitehead
13	Blaire Kenna	44	Irene Serpless
14	Bob Bell and Elizabeth Green	45	Iris Dillow
15	Brad Quayle	46	John Herbert
16	Caress Beattie	47	Jan Hall
17	Catherine Dunfield	48	Janette Jenkins
18	Catheryn Morris	49	Jennifer Gibbs
19	Cheryl Hilton	50	Jennifer Macaulay
20	Chris Loughheed	51	Jenny McKinnis
21	Claire Scerri	52	Jessica Barrios
22	Bethany Kindergarten Services	53	Jim Bartok
23	Dan Fitzgibbon	54	Jo Rayner
24	Danielle Hecker	55	Joan Graco
25	David and Cheryl Hilton	56	Joan Williams
26	Diane Kolomeitz	57	Joanna Stavrou
27	Donna Scerri	58	John French
28	Elizabeth Turner	59	Jon Bagge
29	Faye Philippe	60	Josie Canova
30	Fiona Gilks-Deaurogo	61	Joy Porter
31	Gabrielle Waller	62	Judith Haskett

No.	Submitter	No.	Submitter
63	Julie Brand	94	Office of Hon. Lisa Neville MP
64	Julie Lynch	95	Patricia Hayes
65	Julie Wintle	96	Peter Ellenby
66	Karen Kewish	97	Portarlington Community Association Inc
67	Kath Jackson	98	Rachel Cameron
68	Kathy Gagatsakis	99	Rene Sourey
69	Keith Gunnell	100	Robert Evans
70	Kirsten Spiteri	101	Robyn Hope
71	Lesley Gordon	102	Robyn Jenes
72	Leslie Cooper-Wares	103	Ruth Gledhill
73	Lindsay Ellis	104	Sally Neilsen
74	Liz McDonald	105	Sarah Williams
75	Lori Lightfoot	106	Sean Walton
76	Lorraine Stokes	107	Sharon Russel
77	Luke Edwards	108	Shirley O'Neill
78	Lyn Boyle	109	Stephanie Clements
79	Lyn O'Brien	110	Steve Pearce
80	Maggie Campbell	111	Susan Cook
81	Margaret Belfrage	112	Susan Wilding
82	Maria Eysbertsem	113	Suzette Hartwell
83	Marilyn Tremp	114	Tess Evans
84	Mark Watson	115	Tracey Girasole
85	Matt Helme	116	Trevor Jones
86	Michael Bell	117	Trisha Perry
87	Michael Jansen	118	Wendy Meyers
88	Michelle Cooper	119	Wendy Newton
89	Murray Buchanan	120	Wendy Quill
90	Ned Hoskin	121	Helen Freeman
91	Nick Norgard	122	Fern Smith
92	Nicole Lammenta	123	Geelong Environment Council
93	Nola Hodgson	124	Portarlington Sea-Changers

Appendix C Document list

No.	Date	Description	Presented by
1	26 July 21	Terms of Reference	Minister for Planning
VCAT File for Proceeding P415/2021			
2	16 July 21	Applicant - Cover Letter to VCAT - Application for Review	DELWP
3	"	Applicant - VCAT Application for Review Form	"
4	"	Applicant - Failure to Decide Calculation	"
5	"	Applicant - Section 50 Request to Amend Permit Application Form including attachments: <ul style="list-style-type: none"> a) Applicant - Section 50 Request to Amend Permit Application Cover Letter b) Applicant - Certificate of Title c) Applicant - Survey Plan d) Applicant - Revised Plans e) Applicant - Planning Report f) Applicant - Arboricultural Impact Assessment g) Applicant - Stormwater Report h) Applicant - Cultural Heritage Management Plan i) Applicant - Landscape Vision j) Applicant - Traffic & Parking Report k) Applicant - Updated Foreshore Views l) Applicant - Waste Management Plan m) Applicant - Sustainability Management Plan n) Applicant - Renders - Pt1 o) Applicant - Renders - Pt2 p) Applicant - Renders - Pt3 	"
6	"	VCAT – Initiating Order – 17 March 2021	"
7	"	Council - Practice Note	"
8	"	Council - List of Objectors	"
9	"	Council - Affected Properties	"
10	"	Council - List of Referral Authorities	"
11	"	Statement of Grounds - Bethany Kindergarten Services (Bethany)	"
12	"	Statement of Grounds - Portarlington Community Association Incorporated	"
13	"	Statement of Grounds - Peter Ellenby	"
14	"	Statement of Grounds - Geoffrey Forbes	"

No.	Date	Description	Presented by
15	“	Statement of Grounds - Ian Anthon Morris	“
16	“	Statement of Grounds - John Robert French	“
17	“	Statement of Grounds - Alison Clarke (Griggs)	“
18	“	Statement of Grounds - Grant and Michelle Mitchell	“
19	“	Statement of Grounds - Lesley Helene Gordon	“
20	“	Statement of Grounds - Margaret Belfrage	“
21	“	Statement of Grounds - Michelle Cooper	“
22	“	Council - Officers report and Planning Committee minutes	“
23	“	VCAT – Order – 23 June 2021	“
24	“	Letter to VCAT Advising Amended Plans (including link to enclosures)	“
25	“	Applicant - PNPE9 Form A – Notice of an Amendment of an Application	“
26	“	Applicant - Statement of Changes	“
27	“	Applicant - Amended architectural plans, prepared by SPL Architects Pty Ltd, dated July 2021, Revision E	“
28	“	Applicant - Amended landscape plans, prepared by Perry Mills & Associates, dated 9 July 2021, Revision D	“
29	“	Applicant - Traffix Statement	“
30	“	Applicant - PNPE9 Form B - Statement of Service	“
31	“	Applicant - PNPE9 Form B - to Barwon South West Planning Approvals and Bellarine Bayside	“
32	“	Applicant – Letter to parties advising of amended plans	“
33	“	Applicant – Letter to VCAT enclosing Clause 14 PNPE9 documentation	“
34	“	Minister for Planning – Letter to VCAT giving notice under Clause 58(2)(a) to call in proceeding	“
Documents tabled before the Hearing			
35	22 July 21	Letter to Program Manager, Planning Approvals State Government Office	DELWP
36	26 July 21	Letter to Bellarine Bayside Foreshore Committee of Management	“
37	28 July 21	Directions Hearing Notification Letter	Planning Panels Victoria (PPV)
38	29 July 21	Letter to VCAT regarding Statements of Ground	DELWP

No.	Date	Description	Presented by
39	“	Letter to parties regarding the making of a Statement of Ground	“
40	2 Aug 21	Amended Statement of Grounds - Lesley Helene Gordon	“
41	4 Aug 21	Statement of Grounds – Patricia Hayes	“
42	“	Statement of Grounds – Beryl Stott	“
43	5 Aug 21	Amended Statement of Grounds - Alison Clarke (Griggs)	“
44	“	Statement of Grounds – Robyn Jenes	“
45	6 Aug 21	Statement of Grounds –Murray Buchanan	“
46	9 Aug 21	Amended Statement of Grounds - Grant and Michelle Mitchell	“
47	“	Amended Statement of Grounds - Ian Anthon Morris	“
48	“	Statement of Grounds – Hayden Whisken	“
49	“	Statement of Grounds – Lorraine Stokes	“
50	“	Amended Statement of Grounds - Margaret Belfrage	“
51	“	Statement of Grounds – Jenny Macaulay	“
52	“	Statement of Grounds – Anne Whisken	“
53	“	Statement of Grounds – Jenny McKinnis	“
54	“	Statement of Grounds – Lyn O'Brien	“
55	“	Statement of Grounds – Iris Dillow	“
56	“	Objections to Planning Permit Application (totalling 123)	Council
57	“	Email to parties confirming details of Directions Hearing and process to submit Request to be Heard	PPV
58	11 Aug 21	Portarlinton AC Directions Hearing Information – PDF Version	DELWP
59	“	Portarlinton AC Directions Hearing Information – Word Version	“
60	13 Aug 21	Directions, Distribution List and Timetable (Version 1)	PPV
61	“	Amended Plans – Revision E	Mr Johan Moylan of Planning & Property Partners for the Applicant
62	“	Amended Traffix Statement	“
63	16 Aug 21	Email request for direction for Council to provide copies of plans, permits and delegate reports	“
64	“	Email seeking Council to provide response to request for copies of plans, permits and delegate reports	PPV

No.	Date	Description	Presented by
65	“	Email response from Council detailing process for request for copies of documentation	Council
66	17 Aug 21	Email to all parties advising of correction to Directions and additional directions requiring Council to provide copies of documentation. a) Directions, Distribution List and Timetable (Version 2)	PPV
67	“	Email from Council advising of additional objections a) Objection	Council
68	19 Aug 21	Email from Council with link to copies of planning permits, endorsed plans and reports and delegate reports for 1 Newcombe Street, Portarlington (PP-1338-2011) and 72-74 Newcombe Street, Portarlington (PP-1045-2015A) including attachments: a) Council Report - PP-1338-2011- 1 Newcombe Street, Portarlington b) Planning Permit - PP-1338-2011 - 1 Newcombe Street, Portarlington c) Endorsed Plan - PP-1338-2011 - 1 Newcombe Street, Portarlington d) Endorsed Plan - PP-1338-2011 - 1 Newcombe Street, Portarlington e) Endorsed Plan - Schedule of Materials - PP-1338-2011 - 1 Newcombe Street, Portarlington f) Delegate Report - PP-1045-2015 - 72-74 Newcombe Street, Portarlington g) Amended Delegate Report - PP-1045-2015 - 72-74 Newcombe Street, Portarlington h) Planning Permit - PP-1045-2015-A - 72-74 Newcombe Street, Portarlington i) Endorsed Secondary Consent Plans PP-1045-2015 A - 72-74 Newcombe Street, Portarlington j) Endorsed Site Logistics Plan - Rev 7 - PP-1045-2015 - 72-74 Newcombe Street, Portarlington k) Endorsed Construction Management Plan - PP-1045-2015 A - 72-74 Newcombe Street, Portarlington	“
69	23 Aug 21	Council Part A Submission including attachments	“
70	“	Objector Location Maps	“
71	“	Expert Witness Statement – Amanda Roberts – Urban Design	“
72	“	DELWP Submission	DELWP

No.	Date	Description	Presented by
73	“	Applicant Part A Submission	Applicant
74	“	Expert Witness Statement – Michelle Bashta - Heritage	“
75	“	Expert Witness Statement – Craig Czarny – Urban Design	“
76	“	Expert Witness Statement – Robert Milner – Planning	“
77	“	Expert Witness Statement – Stan Zaslavsky – Visual Amenity	“
78	“	Expert Witness Statement Attachment – Stan Zaslavsky – Visual Amenity	“
79	“	Expert Witness Statement – Charmain Dunstan - Traffic	“
80	26 Aug 21	Email containing background documents including attachments: <ul style="list-style-type: none"> a) Bellarine Settlement Background Paper b) Bellarine Peninsula Draft SPP c) Bellarine Peninsula Township Character Assessment d) Bellarine Peninsula Landscape Assessment Review Volume 1 e) Bellarine Peninsula Landscape Assessment Review Volume 2 - Statutory Implementation Package 	DELWP
81	“	Email to all parties with instructions for document sharing platform	PPV
82	“	Email to all parties with Zoom link and guide	“
83	27 Aug 21	Email to Committee requesting leave to supply Part B Submission	Applicant
84	“	Email to Applicant seeking reasons for request for leave to supply Part B Submission	PPV
85	“	Applicant Part B Submission	Applicant
86	“	Email to all parties including order of witnesses provided by Applicant	PPV
Documents tabled during the Hearing			
87	30 Aug 21	Plan of levels contained in Mr Milner’s expert report	Applicant
88	31 Aug 21	Corrected set of plans	“
89	“	List of Changes	“
90	1 Sept 21	Title and title plan	“
91	“	Draft conditions in Word format	Council
92	“	Applicant tracked changes draft conditions	Applicant
93	“	Council Part B Submission	Council

No.	Date	Description	Presented by
94	2 Sept 21	Submissions on behalf of Portarlinton Community Association Inc	Ms Kate Morris of Harwood Andrews for the Portarlinton Community Association Inc
95	"	Memo ESD matters	Applicant
96	"	Planning Permit PA 1900756, 1-3 Hays Place, Geelong	"
97	"	VCAT Decision - <i>Raffles Chatter Geringhap Pty Ltd v Greater Geelong CC (Corrected)</i> [2019] VCAT 426	"
98	"	Revision C Plans	"