



**GREATER GEELONG PLANNING SCHEME
AMENDMENT C321 & PLANNING PERMIT 1234/2014**

**REZONING TO THE MUZ & ACCOMMODATION/
RETAIL COMPLEX 30-42 GEELONG ROAD,
PORTARLINGTON**

PART B Submission to the Independent Panel

Panel: David Merrett (Chair), Peter Edwards

Date: Wednesday 15 June 2016

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on behalf of the City of Greater Geelong

TABLE OF CONTENTS

1	INTRODUCTION	3
1.1	PART A SUBMISSION.....	3
1.2	IMPLEMENTATION OF THE 2016 ADOPTED PORTARLINGTON STRUCTURE PLAN.....	3
1.3	POTENTIALLY CONTAMINATED LAND UPDATE	3
1.4	SUMMARY OF THE PRESENTATION	4
2	ISSUES RAISED IN SUBMISSIONS.....	5
2.1	SUBMISSIONS RECEIVED	5
2.2	KEY ISSUES ARISING FROM SUBMISSIONS.....	5
3	THE DRAFT RETAIL STRATEGY	6
4	SUMMARY OF ISSUES AND RESPONSE TO SUBMISSIONS.....	8
4.1	REZONING THE PRECINCT TO THE MIXED USE ZONE	8
4.2	BENEFITS TO THE LOCAL TOURIST INDUSTRY AND BUSINESS COMMUNITY	10
4.3	THE BUILDING HEIGHT AND BULK IS OUT OF CHARACTER FOR PORTARLINGTON	12
4.4	THE BUILDING WILL HAVE AN ADVERSE IMPACT ON VIEWS	16
4.5	TRAFFIC AND CAR PARKING CONCERNS.....	18
4.6	GENERAL AMENITY CONCERNS AND BENEFITS	19
4.7	NEGATIVE IMPACT ON PROPERTY VALUES	21
5	RESPONSE TO EVIDENCE TABLED	22
6	COUNCIL'S FINAL POSITION ON THE AMENDMENT AND PERMIT.....	27
7	CONCLUSION.....	28

1 Introduction

This submission has been prepared by the Planning Authority, the City of Greater Geelong, and seeks the Panel's support for Amendment C321 and concurrent Planning Permit No. 1234/2014.

1.1 Part A Submission

Council's Part A Submission was circulated to the Panel and other parties on Tuesday 7 June 2016. The Submission is taken as having been read by all parties.

1.2 Implementation of the 2016 Adopted Portarlington Structure Plan

The Panel is advised that Council is finalising Amendment C352 documentation and expects formal exhibition to commence in early August 2016.

Amendment C352 will seek to apply a Planning Policy (i.e. changes to Clause 21.14) reflecting the directions and principles of Part A of the Portarlington Structure Plan, and incorporation the Structure Plan as a reference document in the Greater Geelong Planning Scheme.

1.3 Potentially contaminated land update

Council notes the preparation of a Preliminary Site Investigation Report prepared by Douglas Partners, dated 6 June 2016, for 30-32 Geelong Road, Portarlington. The investigation did not include any sampling or testing, however Douglas Partners "*considers the site to have a medium potential for contamination*".

The Report concludes (p. 8):

Based on a medium potential for contamination, a detailed site investigation (DSI) would be required to assess the contamination status of the site. The DSI should include a thorough assessment of the quality of filling at the site with reference to Australian Standard 4482.1-2005. It should also seek to classify the soil for off-site disposal which will be required prior to excavation for the basement construction commencing on the proposed development. Although the site is not currently covered by an Environmental Audit Overlay (EAO), the relevant planning authority may at any time, require an Audit as part of the rezoning.

This conclusion is consistent with the assessment in Council's Part A Submission at Section 3.2.

On the basis that a Detailed Site Assessment has not been undertaken, and the Report does not advise that an audit is not required, the application of the Environmental Audit Overlay and Permit 1234/2014 conditions are appropriate.

1.4 Summary of the presentation

The structure of the presentation will be to address the issues raised in Panel Direction no. 12, being;

- A summary of the key issues raised in submission.
- Response to the submissions and evidence tabled.
- Its final position on the Amendment and Permit.
- The draft Retail Strategy referred to in the Portarlington Structure Plan May 2016 identifies that there is a retail floor area shortage for Portarlington of 2000 sq m to 2031. Council must advise the Panel whether the draft Retail Strategy addresses uses appropriate to the Commercial 2 Zone that currently applies to the site, such as restricted retail uses.

We will be submitting that the Amendment and Permit are well founded, have resulted from a thorough strategic planning process and should be supported by the Panel.

We have prepared a '*Panel Hearing Version 1*' Permit no. 1234/2014 in track changes form (i.e. changes to the exhibited version) for discussion at the Hearing.

We will provide a video design and view analysis of the proposed Accommodation and Retail Complex imposed on the site. We will show a view impact analysis from Submitter no. 3's rear balcony vantage-point. We will present a series of photographs of the subject land and surrounding land.

The presentation will also refer to sections of Council's Part A Submission, as well as relevant strategic plans and planning policies.

2 Issues raised in submissions

2.1 Submissions received

As a consequence of exhibition, a total of 35 submissions were received.

A breakdown of the submissions shows that:

- 27 objecting submissions plus a petition with 231 signatures, mainly from local residents.
- Supporting submissions from the Portarlington Business Development Association (PBDA); Committee of Bellarine; the Director of Rack Rabbit Vineyard, Leura Park, Flying Brick Cider and the Curlewis Golf Club; a volunteer of the Celtic & Mussel Festivals; and a local resident.
- A supporting submission from the proponent (Evolve Town Planning on behalf of Batman Management Group Pty Ltd).
- Submissions from VicRoads and Barwon Water offering no objection.

It is noted that of the 27 opposing submissions and 231 signature petition, only two Portarlington residents and one investment property owner (28 Geelong Road) have requested to be heard at this Panel.

2.2 Key issues arising from submissions

Key issues arising from the submissions include:

1. Rezoning the precinct to the Mixed Use Zone is not supported;
2. Benefits to the local tourist industry and business community;
3. The building height and bulk is out of character for Portarlington;
4. The building will have an adverse impact on views;
5. Traffic and car parking concerns;
6. General amenity concerns and benefits; and
7. Negative impact on property values.

For a full account of all the issues raised in submissions and Council Officer Response, refer to the Delegated Authority Report, dated 20 April 2016.

3 The draft Retail Strategy

The Panel has directed that Council address the following issue:

The draft Retail Strategy referred to in the Portarlington Structure Plan May 2016 identifies that there is a retail floor area shortage for Portarlington of 2000 sq m to 2031. Council must advise the Panel whether the draft Retail Strategy addresses uses appropriate to the Commercial 2 Zone that currently applies to the site, such as restricted retail uses.

Response

The current status of the draft Retail Strategy is that a land-use audit has been prepared and Council planning officers and consultants are working through the policy implications of this data.

Planning Strategy has provided the following comments:

Smaller local centres were not considered under the Retail Strategy – only an audit was undertaken (i.e. the C2Z site has counted towards the overall amount of restricted retail in the municipality). Therefore the 2,000m² for Portarlington relates to the main 'Town Centre' only and not the C2Z land. Restricted retail was considered in the context of larger centres, where appropriate.

Across Greater Geelong there are significant amounts of C2Z land. From a policy perspective, the hierarchy of retail centres designates Drysdale as where we would expect people to go for bulky goods /restricted retail type shopping. There is more than enough Commercial 2 land in Drysdale through to 2031 for restricted retail to accommodate any anticipated growth. Council does not expect smaller centres on the Bellarine to have a full range of service beyond a supermarket.

These comments are consistent with the analysis in the same paragraph further to the reference to the 2,000 sq m shortage (on page 85 of the Adopted 2016 Portarlington Structure Plan):

"Further work is needed in terms of the role of the centre [i.e. Portarlington Town Centre] as the strategy is finalised, however, it is reasonable to assume that there will be strong association with Drysdale, providing the majority of service needs due to its growth area status and population base. Leopold and Central Geelong will provide the higher end, once a month type shopping experience."

Overall the Adopted 2016 Portarlington Structure Plan reinforces the existing hierarchy set out in Clause 21.14 *The Bellarine Peninsula*:

Clause 21.14-2 Objectives:

- To facilitate the development of Ocean Grove, Drysdale/Clifton Springs and Leopold as hubs of development and service provision on the Bellarine Peninsula. In all other townships on the Bellarine Peninsula provide retail, commercial and community uses and facilities that serve the daily needs of the community and encourage street based activity.

Clause 21.14-2 Strategies:

- To Direct the bulk of residential growth and retail development to Ocean Grove, Drysdale/Clifton Springs and Leopold consistent with the relevant Structure Plan maps included in this clause.
- Direct bulky goods retailing and industrial development to existing and future areas as identified in Structure Plan maps included in this clause.

Irrespective of the outcomes of the Retail Strategy review, the Mixed Use Zone affords similar commercial opportunities to the Commercial 2 Zone.

4 Summary of issues and response to submissions

The following response to submissions is largely based on the Delegated Authority Report of 20 April 2016. It explains the Council's response to the key issues or "themes" of the submissions.

4.1 Rezoning the precinct to the Mixed Use Zone

The directly affected landowner of 36-38 Geelong Road says allowing multi level accommodation in close proximity to commercial business will create conflicts. Other submitters are concerned that the current businesses will have to relocate and question why the whole precinct is to be rezoned and not just 30-32 Geelong Road.

A resident opposite prefers that the light commercial be retained over accommodation uses. The neighbouring landowner at 28 Geelong Road and others say the rezoning is inconsistent with Clause 21.14 and the Portarlington Structure Plan and the proposed Mixed Use Zone is isolated outside the town centre.

Response

Council's Part A Submission emphasises that the subject land is considered to be an urban renewal site. This has been reinforced in the Adopted 2016 Portarlington Structure Plan by designating it as a 'Development Opportunity'.

The Amendment includes a change to the Portarlington Structure Plan map at Clause 21.14-5 of the Greater Geelong Planning Scheme to reflect the removal of the Commercial 2 Zone.

The Mixed Use Zone will allow existing businesses to continue while also encouraging renewal and development of alternative forms of accommodation and businesses, such as that proposed at 30-32 Geelong Road. The proposed Mixed Use Zone is not 'isolated' – it is located well within the settlement boundary, 600 metres from the Town Centre, surrounded by conventional and medium density housing, close to recreational and foreshore activities, and on the primary arterial road into Portarlington.

Concerns from the business owner at 36-38 Geelong Road are understandable however there are already 14 double storey townhouses on the property's north-

west boundary. These dwellings are closer than the Accommodation Complex proposed at 30-32 Geelong Road. None of the other landowners (or tenants) in the precinct have objected and rezoning the whole precinct is consistent with the principles of orderly planning.

The selection of the Mixed Use Zone accords with the DELWP Planning Practice Note 78: *Applying the Residential Zones June 2015*. The Practice Note (p. 7) states that the MUZ may be appropriate for:

- Brownfield or urban renewal sites
- Planned for apartment style development.

The purpose of the Mixed Use Zone (Clause 32.04) is:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.

To provide for housing at higher densities.

To encourage development that responds to the existing or preferred neighbourhood character of the area.

To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

The Mixed Use Zone will provide greater flexibility to meet state and local policies; primarily policies to increase housing choice and density, grow and sustain local economies, provide for tourism opportunities and stimulate investment and renewal.

4.2 Benefits to the local tourist industry and business community

The PBDA, Committee for Bellarine and the Director of a number of signature tourist facilities on the Bellarine support the proposal, highlighting the critical shortage of short term accommodation in the immediate region. The PBDA sees flow-on benefits to its members as visitors will have greater opportunity to remain longer and spend more in Portarlington.

Similar feedback from an active volunteer of local festivals was received, saying:

“It is actually really embarrassing to be part of 2 world-class festivals that are totally let down by the fact that people simply don't have the option to stay longer on The Bellarine, particularly Portarlington. It must be costing the area millions in lost tourism dollars, not to mention reduced employment opportunities.

.....

I don't believe that we should be gung ho about development at any cost; it is also essential that we protect the rural nature of Portarlington and surrounds.

However, this development doesn't challenge our all-important green wedges, and does in fact offer the opportunity to transform what is actually quite an ugly entrance to Portarlington into a stunning, architecturally inspired building.”

[Submission No. 15]

Response

These submissions demonstrate the substantial economic and social benefits of the proposal. The proponent's application states that the 55 (now 43) apartments will be made available for either short-term accommodation (through a serviced model) or for longer term occupancy by owners.

Net community benefit and sustainable towns are key pillars of the planning framework and regional strategies such as the G21 Regional Growth Plan. Council supports investment and renewal of coastal communities to provide and sustain local employment and businesses. The release of the January 2016 *Greater Geelong & The Bellarine Tourism Development Plan* confirms a need on the northern Bellarine for the type of self-contained accommodation facility proposed.

The following strategic plans and policy documents provide direct support for the proposal:

- Greater Geelong & The Bellarine Tourism Development Plan, January 2016
- Victorian Coastal Strategy, 2014
- Bellarine Peninsula Localised Planning Statement, September 2015
- G21 Regional Growth Plan, April 2013
- Adopted Portarlington Structure Plan, May 2016

4.3 The building height and bulk is out of character for Portarlington

The majority of submissions say the proposed 4 storey building is not in keeping with the preferred character of Portarlington, some making reference to policies in the Planning Scheme. Furthermore, that there has been no attempt to design a structure that would fit in with its surrounding environment – the building will look completely out of place and dominate the landscape.

Some say that with the inclusion of the roof top terrace and lift shaft, the building is more like 5 storeys. Overwhelmingly objectors believe the building is too high and bulky, and that 2 or even 3 levels would be more appropriate. Evolve Town Planning on behalf of the proponent point to the high standard of design, acceptable transition of built form, a height essentially 3 metres higher than dwellings opposite and the absence of height controls. Two local supporting submissions see the development as an opportunity to transform an ugly entrance to Portarlington into a stunning, architecturally inspired building.

Response

The preferred character of Portarlington is an important consideration in assessing the merits of the development, as is the preferred character for the commercial precinct in which it will be built. The Planning Scheme at Clause 21.14 *The Bellarine Peninsula* includes objectives and strategies to preserve township character and promote contemporary design that reflects the existing scale, setbacks, form and materials of buildings in the locality.

A review of the objections would suggest most residents consider 2 storeys (whether dwellings or other buildings in general) to be an acceptable height to meet character requirements. Much of the dwelling stock is single or 2 storey, rectangular and face-brick, with flat or pitched tiled roofing set in landscaped gardens.

Council's Part A Submission at pages 57-59 says:

The building has been designed to maximise views to the bay and rural landscape. By virtue of its height and scale, the building will become a recognised feature in Portarlington. It is submitted that this does not mean the coastal landscape setting of Portarlington is disrespected or compromised.

The 2016 Portarlington Structure Plan provides a sound platform from which to understand the character values of the town. The Coastal Residential Growth Zone 3 (also the IHDA) has a height limit of 10.5 metres. The General Residential Zone 2

(Incremental Change Areas) has a dwelling height limit of 9 metres, rising to 10 metres on sloping land. These height limits would support dwellings up to 3 stories.

Then there are Overlay controls. Design and Development Overlay 19 provides objectives to protect the existing character of residential coastal frontages. Design and Development Overlay 14 triggers the requirement for a planning permit to construct a dwelling above 7.5 metres in height. Design and Development Overlay 21 provides design objectives for the Portarlington Town Centre. Heritage overlays apply to places and buildings of significance. Design and Development Overlay Schedule 20 provides design objectives for the industrial zone on Tower Road. And Significant Landscape Overlays 13 and 14 apply to valued open farmed landscapes on the edge of the town.

Separate controls, plans and guidelines apply to public land.

Clearly, the current presentation of commercial buildings at 30 to 42 Geelong Road is not in keeping with the preferred character. The precinct appears tired and does not present a vibrant, attractive entrance to Portarlington. It is ripe for renewal. There are no design or height controls applying to the precinct however future development must still deliver acceptable built form outcomes. The precinct is not located along the coastal edge or in close visual proximity to the Town Centre.

It is considered that the structure – while representative of a new built form feature for Portarlington – is of high architectural quality, visually appealing and complementary to its coastal setting and prominent town entry location. The building is a self-contained apartment and retail complex designed to attract customers, and take advantage of views to the bay and the range of tourist facilities on the Bellarine.

It will naturally be different in appearance to a dwelling of even a multi-storey townhouse or warehouse development. The intention is that the building will be noticed. It will offer a new accommodation experience for Portarlington visitors and residents.

The architectural massing of the building offers articulation and interest with a mix of timber, glass, masonry and textured concrete finishes. At 4 levels, the building height and scale as presented along and to the frontage of Geelong Road will be higher than the surrounding built form, but not overbearing. This is due to the gradual slope of the land down to the north. The recessed ground level, basement car park and side landscaping further integrate the development. The building will

be clearly in view from the recreation reserve adding to the town's appeal, character and sense of place.

In summary, the policy framework talks about encouraging development that respects the coastal landscape setting of Portarlington and preserving the town's identity and role. The proposed building is located well within the settlement boundary, strengthens Portarlington's role as a holiday and lifestyle destination, does not impact on any views of state or regional significance, nor will it detract from the design and heritage significance of the Town Centre and foreshore reserves.

The following visual representations, strategic documents and policies provide direct support for the proposal:

- Design and view analysis video
- Photographs of the subject land and surrounding land
- Adopted Portarlington Structure Plan, May 2016
- Bellarine Peninsula Localised Planning Statement, September 2015
- State Planning Policy Framework, Clause 15 Built Environment and Heritage
- Local Planning Policy Framework, Clause 21.14 The Bellarine Peninsula
- Victorian Coastal Strategy, 2014

The Panel's attention is drawn to a 2011 VCAT decision of Member Fong in relation to a 4 storey building for 13 apartments at 1 Newcombe Street, Portarlington. The property was zoned Residential 1 and is now zoned Residential Growth Zone Schedule 3.

Member Fong concluded (p. 11):

- 40 There has been a lot of thinking gone into the design of the development for a steep site close to the Portarlington town centre.
- 41 Without an in-depth design analysis, I am not prepared to accept that the height, scale and massing of the proposed four storey building as befitting its context of Portarlington.
- 42 Council's decision to refuse the application is upheld and a permit not granted.

All applications must be considered on their merits. While the findings in this VCAT case provide the Panel with a balanced understanding of prior decisions, Council

contends that the proposed Accommodation and Retail Complex can be differentiated on a number of grounds:

- The presentation of an in-depth design analysis consisting of a video, photographs and Clause 55 assessment.
- The building will naturally be different to a townhouse development given the proposal includes a retail component and self-contained serviced apartments available for short-term accommodation;
- The building has been designed to maximise views to the bay and rural landscape;
- It is intended that the building become a recognised feature in Portarlington.
- The built form is of high architectural quality as outlined in Council's submissions.
- The development site is located a sufficient distance from the Town Centre to offset any perceived visual impacts.
- The building height and scale as presented along Geelong Road will be higher than the surrounding built form, but no overbearing.
- The development will provide direct access to the reserve and improve surveillance and activation of the reserve.
- The subject land is currently in the Commercial 2 Zone.
- The development application is concurrent with an amendment to rezone the land to the Mixed Use Zone.
- The subject land presents significant urban renewal opportunities.
- The Mixed Use Zone encourages housing at higher densities.
- The coastal landscape setting of Portarlington will not be disrespected or compromised as outlined in Council's Part A Submission response to Clause 21.14.

It is noted that the permit has never been acted upon and the site remains derelict.

4.4 The building will have an adverse impact on views

Objections about loss of bay views were received from residents opposite the proposed 30-32 Geelong Road development. These are owners of properties on Geelong Road and further up the hill in Linda Court, Peels Court, Sherwood Crescent, Robin Avenue and Lincoln Drive. The submission from the abutting owner of 28 Geelong Road says the proposed development will not result in the reasonable sharing of views of the coast and refers to the Design and Development Overlay Schedule 14 (DDO14).

Response

Both the proposed rezoning and development are not considered to unreasonably impact on existing views. The development site sits low in comparison to objector properties and while there may be obstruction to an element of a view in some instances, expansive views across the bay to the You Yangs and out as far as the Melbourne city skyline are not compromised.

Of assistance to the consideration of loss of views is *Healy v Surf Coast SC [2005] VCAT 990 (26 May 2005)*. At point 21 of the determination Senior Member Marsden refines the consideration criterion for view sharing, these being:

- (a) there is no legal right to a view;
- (b) views form part of the existing amenity of a property and their loss is a relevant consideration to take into account;
- (c) the availability of views must be considered in the light of what constitutes a reasonable sharing of those views;
- (d) in addressing the concept of “reasonableness”, it is relevant to consider
 - (i) the importance of the view to be lost within the overall panorama available; and
 - (ii) whether those objecting have taken all appropriate steps to optimise development of their own properties.
- (e) added emphasis will be placed on principles (b) and (c) above if the issue of views is specifically addressed in the planning scheme.

None of the objecting landowners opposite will have their views unreasonably impacted. The DDO14 triggers the requirement for a planning permit to construct a dwelling above 7.5 metres in height. The overlay is not a height control as such and applies to the surrounding residential land. The DDO14 does not apply to the Commercial 2 Zone precinct.

Council has demonstrated by use of a view impact analysis from Submitter no. 3's rear balcony vantage-point, that their loss of views is not unreasonable.

While assessment is concentrated on the proposed development at 30-32 Geelong Road, it is recognised that large commercial buildings such as warehouses, can be constructed in the current Commercial 2 Zone with little regard to impact on views.

4.5 Traffic and car parking concerns

Residents say the increased traffic volumes and congestion, the road safety hazard at the intersection of Geelong Road/ Lincoln Street, the poor condition of Geelong Road and visibility constraints will be unacceptable.

Likewise there is concern about the lack of on-site visitor and retail parking which will result in an overreliance on street parking to the detriment of nearby residents. Objectors also note that most visitors to Portarlington carry boats, jet skis, kayaks, etc which cannot be accommodated in the basement car park.

Response

The concerns of local residents are understandable however it is considered that the proposed development satisfactorily addresses traffic and car parking matters, particularly with the conditions included on the draft permit.

The Traffic Impact Assessment prepared by Civil & Traffic Consulting P/L finds that traffic generation from the new development will have minimal impact on the performance and safety of the road network. VicRoads, as the Responsible Authority for Geelong Road, does not object to the rezoning or development subject to permit conditions. This includes requirements for the developer to undertake road widening and access/ egress line marking.

Council's traffic engineer has further imposed conditions to increase the number of basement car spaces and to provide a line-marked parking lane on Geelong Road (Portarlington-bound carriageway) between Hereford Street and Sproat Street. Concerns about parking of water craft are considered to be unfounded and misunderstand the intended market for the accommodation complex.

On the basis that three separate traffic engineering assessments support the rezoning and development, traffic management and safety issues on Geelong Road have been properly addressed and appropriate conditions included in the Permit.

Car parking provision is considered acceptable and the reduction in the number of apartments from 55 to 43 in the most recent plans will further mitigate parking pressures.

Overall, traffic and car parking generated from the development is manageable and will have minimal amenity impact on nearby residents.

4.6 General amenity concerns and benefits

In combination, the 27 objections raised numerous general amenity concerns which are individually addressed in Council's Delegated Authority Report dated 20 April 2016. The key amenity concerns are considered to be construction noise and traffic, late night roof-top noise and unsavoury behaviour, and loss of privacy.

Evolve Town Planning on behalf of the proponent highlight that a design feature of the building will be the provision of a pedestrian connection between the recreation reserve and residential land to the south of Geelong Road.

Response

Should the Accommodation and Retail Complex ultimately go ahead, the permit includes conditions to appropriately manage the construction phase. This includes the preparation of a site construction management plan that addresses staging, dust, location of parking facilities for construction vehicles, access and site cleanliness.

Submissions that raise concerns about privacy, noise and anti-social behaviour from the complex are not sufficient reasons to disallow the development. The roof-top terrace is a good use of space and will add to the appeal and experience for occupants. Anti-social or unsavoury behaviour is beyond the scope of any planning assessment in this instance and controlled by the police.

The building will be designed to ensure overlooking standards to the neighbouring residential property at 28 Geelong Road are in accordance with ResCode provisions. Condition 15 of the permit requires the preparation of a screening plan. However those objecting from properties on the opposite side of Geelong Road and up Lincoln Drive and connecting streets are well beyond distance limits to impact on privacy.

Overall the rezoning of the precinct to the Mixed Use Zone – a zone which sits within the residential suite of zones in the Victoria Planning Provisions – is considered to provide for more compatible uses than the current commercial zone. This means that existing or potential adverse amenity impacts to nearby residents will likely improve over time.

The provision of a public connection between the Portarlington Recreation Reserve and Geelong Road will significantly improve access for local residents and visitors. The ground level building design has allocated retail/ commercial space and a café to activate this passageway.

At present there is no formal public access to/from the reserve to Geelong Road. The access point is conveniently located opposite Lincoln Drive. The building will also improve the interface with the reserve, providing surveillance and interest.

These design outcomes accord with the Adopted Portarlington Structure Plan 2016 directions for the site.

To cement the provision of a public connection, Permit No. 1234/2014 includes the following condition:

Section 173 Agreement – Public Access to Reserve

14. Prior to the occupation of the development, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:
 - a) That public access through the site from Geelong Road to the Portarlington Recreation Reserve will be available at all times, in the form of the pedestrian path shown on the endorsed plans.
 - b) That the path will be maintained in a safe and traversable state, including the installation of signage indicating access through to the Recreation Reserve and provision of lighting.

The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987.

The Portarlington Recreation Reserve Masterplan was prepared in 2011 and obviously access from the subject land was not contemplated. It would be expected that this new access point will feature in the next review of the Masterplan or in the consideration of other improvements to the reserve.

4.7 Negative impact on property values

There were 7 submissions that suggested property values would be diminished as a result of the rezoning and proposed development.

Submission no. 8 (the owner of 28 Geelong Road), further contends that the development will have a significant impact on rental occupancy and future development.

Response

Property values are generally not considered to be a relevant planning consideration. Planning Panels has consistently stated this to be the case.

No submitter has produced any evidence to validate the claim of devaluation of property values. However it is reasonable to assume that reinvestment, renewal and redevelopment of the precinct may actually provide a positive stimulus to the local housing market and general attraction of Portarlington.

5 Response to evidence tabled

This section provides a response to Andrew Clarke's Statement of Evidence, Chapter 7 *Planning Considerations*, dated June 2016.

The Development Application

Section 7.2 of Mr Clarke's evidence provides consideration of the development application against various parts of Clause 55. In particular, Mr Clarke highlights several parts of Clause 55 where standards are not met.

Mr Clarke notes that Clause 32.04-9 of the Mixed Use Zone states that buildings and works constructed on a lot that abut land which is in a General Residential Zone must meet the requirements of Clauses 55.04-1, 55.04-2, 55.04-3, 55.04-5 and 55.04-6 along the boundary. This means that a development:

- Must meet all of the objectives of Clause 55.
- Should meet all of the standards of Clause 55.

As discussed in Appendix 1 of Council's Part A Submission, whilst the development does not meet all Clause 55 standards, in Council's opinion the development does meet all Clause 55 objectives. Appendix 1 includes a detailed assessment against Clause 55.

Council has briefly reviewed the amended plans presented for the Hearing and considers the changes improve the amenity to no. 28 Geelong Road, Portarlington. This matter can be further addressed at the Hearing.

Lack of Strategic Justification

Council strongly disagrees with the claim that the proposal is not supported by a robust strategic planning approach. The very fact that the merits of the Amendment and Permit are being scrutinized by this Independent Panel is testimony to that.

Council's Part A Submission clearly lays out the strategic case. This Part B Submission further reinforces to the Panel the overwhelming strategic planning justification for the proposal.

The Evidence Statement asserts that Amendment C321 is driving the new direction for the site in the Adopted Portarlington Structure Plan 2016, rather than the review

[of the Structure Plan] driving the selection of zones. The Statement claims this 'highlights why ad hoc decision-making on zone changes should be avoided'.

With all due respect, this assertion is misguided. The Amendment C321 request was lodged in September 2014. This followed pre-application discussions that commenced in late 2013. It was always intended that the merits of the rezoning would need to stand on its 'own two feet'.

It was never intended that the Amendment would seek to rely on the review of the 2007 Portarlington Structure Plan.

Unfortunately it took the proponent an extended amount of time to produce the information Council Officers required in order to be comfortable to seek a Council resolution, Ministerial Authorisation, and exhibit the Amendment.

City of Greater Geelong strategic planning department staff regularly communicate – as they should. Obviously the Planning Strategy Unit (responsible for reviewing the Structure Plan) were aware of Amendment C321. When the full Council at its Ordinary Meeting on 17 November 2015 resolved to prepare and exhibit Amendment C321 and concurrent permit, this became the position of Council.

This position was reaffirmed when the Council adopted the Portarlington Structure Plan on 10 May 2016.

Rezoning the site to Mixed Use is not a confusing approach. The purpose of the Mixed Use Zone gives clear indication of the types of uses encouraged. These include:

- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
- To provide for housing at higher densities.

The selection of the MUZ accords with Planning Practice Note 78: *Applying the Residential Zones June 2015*.

The proposed Accommodation and Retail Complex by its very nature is a mixed use development. The other commercial businesses in the precinct can continue, however it is recognised that the dynamics and role of Portarlington have changed since the subject land was first zoned Service Business in 1975. Encouraging accommodation uses on the site is logical and supported by a range of planning

policies, particularly to consolidate urban uses within existing coastal settlement boundaries.

Concerns about potentially creating conflict between existing businesses is unfounded. The MUZ requires that a planning permit be obtained for most commercial uses – particularly those that might have off-site amenity impacts. This provides an opportunity for residential interface and amenity issues to be considered and addressed. There are 14 double-storey townhouses abutting the subject land at 44-46 Geelong Road that have co-existed with the Commercial 2 precinct for over 10 years.

The Evidence Statement goes on to link the existing automotive marine repairer and small art gallery as directly supporting the tourist trade. These uses can continue in the MUZ. What is surprising is that the evidence places greater importance of these uses over a significant investment and urban renewal project that will deliver precisely the type of use (being a large self-contained accommodation facility) identified for the Northern Bellarine – and specifically within Portarlington.

However even more surprising is that the Evidence Statement seeks to actively prohibit such a facility. This flies in the face of overwhelming policy support, but not least the supporting submissions received from prominent local organisations such as the Portarlington Business Development Association, the Committee for Bellarine, and Lyndsay Sharp, Director of Jack Rabbit Vineyard, Leura Park Estate, Flying Brick Cider Co. and the Curlewis Golf Club.

Lyndsay Sharp makes the following comments:

“As a local hospitality and activity operator, the critical need for accommodation for our patrons visiting The Bellarine is horrendously apparent. The lack of accommodation in this immediate region is a constant source of disappointment to patrons and businesses alike.

We believe this proposed development will enhance and increase visitation, length of stay and tourism spend within the region across all sectors. It will unquestionably be an asset for the region”.

The Portarlington Business Development Association make the following comments:

“Tourism is a vital contributor to the economy of The Bellarine and we have many stunning tourist outlets, including two of the most beautiful wineries in Jack Rabbit

and Terindah Estate. A key market segment for them is weddings with most functions exceeding 100 guests.

This also highlights a weakness and therefore an opportunity for Portarlington. We do not have any accommodation facilities that can cater for large groups, and what currently occurs is that guests either return home in their own vehicles or are bused into their Geelong accommodation.

The Bella project will enable Portarlington to retain this business, and have those hundreds of consumers remain in Portarlington, enjoying breakfast, shopping, playing golf and visiting the many tourist opportunities that exist on the Bellarine.”

Strategic Justification for Higher density Housing

The Evidence Statement is partly correct in saying that by choosing the Mixed Use Zone, there is implicit support that this location is suitable for higher density residential development. Council goes further and considers the location is also suitable for quality short-term tourist accommodation opportunities.

The subject land has excellent access from Geelong Road, commands attractive views to the foreshore and bay, is in easy walking distance to the recreation reserve and beach, and is in close proximity to the Town Centre and pier. Most importantly the subject land is an obvious urban renewal site located inside the Portarlington Settlement Boundary.

The location gains direct support from the Victorian Coastal Strategy 2014, Section 2.2 *Coastal Settlements and Communities*, where policy for decision-making includes:

Coastal settlements and growth are appropriately planned and managed by:

- directing residential and other urban development to areas within boundaries of existing settlements.
- encouraging urban renewal and redevelopment opportunities within existing settlements.

These strategies then provide guidance to the State Planning Policy Framework as demonstrated by the consistency of Clause 11.05-5 *Coastal settlement*.

The Evidence Statement then goes on to critique the various nearby residential zones and concludes: “If a residential zone over the amendment area can be justified, the Mixed Use Zone is the incorrect zone to apply”. Unfortunately, this finding fails to acknowledge that the Accommodation Complex includes a retail

component. The proposed ground floor retail outlets (excluding the café) are prohibited in these residential zones.

Of course this begs the question: if the Accommodation use is prohibited in the Commercial 2 Zone, and the Retail component is prohibited in the General Residential Zone and the Residential Growth Zone, then what zone is available to allow the development at 30-32 Geelong Road?

6 Council's final position on the Amendment and Permit

Council continues to seek the support of the Panel to:

1. Rezone the land at 30, 32, 34, 36-38, 40 and 42 Geelong Road, Portarlinton to the Mixed Use Zone.
2. Change the map at Clause 21.14-5 to reflect the removal of the Commercial 2 Zone.
3. Apply the Environmental Audit Overlay to all the land being rezoned.
4. Finalise draft Planning Permit No. 1234/2014 for the land at 30 and 32 Geelong Road, Portarlinton with conditions detailed in '*Panel Hearing Version 1*' submitted at this Hearing.

7 Conclusion

In summary, the proposed Amendment and Permit are considered to be consistent with the State and Local Planning Policy Frameworks and with Council's adopted strategic documents for Portarlington and the Bellarine Peninsula.

Council considers that the proposed Mixed Use Zone and Accommodation/ Retail Complex will deliver a clear net community benefit by:

1. Supporting investment and renewal of an unattractive and underutilised commercial precinct that has a prominent town entry location, access opportunities to the reserve, and natural advantages of views and proximity to the bay and all that the Bellarine has to offer.
2. Supporting new jobs during the construction period, jobs associated with the future retail outlets and serviced apartments, and flow-on jobs and economic growth for other businesses in the locality;
3. Fulfilling a significant gap in the tourist accommodation market for the Northern Bellarine as identified in the GG&B Tourism Development Plan;
4. Recognising the existing businesses in the precinct and ensuring the primary retail role of the Portarlington Town Centre is maintained;
5. Offering a new accommodation product and retail spaces for those who seek to reside and/or work in Portarlington;
6. Delivering a high quality, architecturally designed building that will attract visitors and residents, and set a benchmark for new development in Portarlington;
7. Respecting the recognised urban character values of Portarlington and enhancing the town's role and identity;
8. Ensuring potentially contaminated land and amenity impacts are addressed;
9. Delivering a zone and development that is more compatible with surround residential and recreation uses; and
10. Ensuring that opportunities for new development – particularly development associated with tourism – can be provided for within existing township settlement boundaries, thereby reducing pressure for urban development on the Bellarine's valued open rural landscapes.

Council considers that the objections are overstated and a new, revitalised mixed use precinct should not be feared – it should be encouraged. A 4-storey building should not be feared – it should aspire to design excellence and respect its coastal context.

Planning Schemes are not static documents and must be constantly reviewed. Coastal towns must consolidate, diversify and play to their competitive strengths.

This proposal will be a very good outcome for the Portarlington community, it will be a very good outcome for the local tourism industry and local businesses, and it will be a very good outcome for the Geelong region.

There can be no doubt that the proposed rezoning and redevelopment opportunities created by the Amendment and Permit will help deliver fundamental objectives set out in the *Planning and Environment Act*, being:

- To provide for the fair, orderly, economic and sustainable use and development of land;
- To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and
- To balance the present and future interests of all Victorians.

It is therefore Council's view that, as demonstrated by this presentation, the proposed Amendment and Permit are strategically justified and addresses the key planning issues.

Council respectfully seeks the support of the Panel.