



## **PLP 2020/332 : SUBMISSION OF OBJECTION**

### **INTRODUCTION**

The Buninyong and District Community Association (BDCA) is a membership-based organisation whose charter is, inter alia, to

- provide representation for the Buninyong community
- provide a forum for the Buninyong community to discuss and address matters of local interest
- develop and present submissions on issues of local importance

Following considerable community concern about the impact of the proposed development in an area of historical and environmental significance, the BDCA lodges its objection to Planning Application PLP 2020/332 on the basis of it being an inappropriate development for the proposed site and being deficient/non-compliant in a number of key areas.

Planning application PLP2020/332:

- i. is non-compliant with the provisions or intention of the City's Rural Living Zone (RLZ)
- ii. fails to adequately address key planning and amenity items such as heritage, environment, and neighbourhood character, and site issues such as land degradation, fire management and access for emergency and other services, waste disposal, and surface water run-off
- iii. contains repeated, selective and incomplete references to/quotations from City of Ballarat planning reports

### **1 ZONING:**

The land in question is zoned as RLZ and no application to change this is has been made. The *Ballarat Rural Land Use Strategy (BRLU) (2010)* is clear that *"the RLZ is designed to provide for **residential** development in a rural setting."* Its purpose is *"to provide for **residential** use in a rural environment (p.15)."*

Clearly this proposed development is one of **business/commercial** intention and usage.

Further, another purpose of an RLZ in Ballarat is to *"protect and enhance the natural resources, biodiversity and landscape and heritage values of the area (BRLU, p 16)."*

While the application repeatedly points out that no foliage will be disturbed, it is submitted that it will seriously disturb the biodiversity, landscape and heritage values with the size and structure, and the substantial earthworks associated with the proposed six unit development.

The *Canadian Valley Outline Development Plan (CVODP)* notes *"there is some land zoned Rural Living in the Valley. The zoning identifies that this land is set aside for rural **residential use** and development."*

A recent decision of Council (PLP 2020/033) reaffirms that the RLZ is intended for *residential* use stating that *“The final point to be made is that the subject site is in the Rural Living Zone where residential development is permitted. It is considered that a single dwelling is a good outcome for the site ensuring that the land is maintained and any degradation issues such as weeds and pests can be addressed via appropriate land management (p 3).”* The proposed intensive six building, non-residential development clearly fails to meet such purposes of the RLZ.

## 2 REFERENCES TO PLANNING DOCUMENTS

To attempt to relate Council’s general support for tourism and thus to the proposed project, the planning application 2020/332 repeatedly quotes edited selections from City of Ballarat planning documents.

For example:

### 2.1 ***The Canadian Valley Outline Development Plan [CVODP](2005)***

At p 11 of the Applicant’s *Planning Report* it is suggested that an objective of the CVODP is to *“develop and promote tourism, particularly in the Buninyong area”*. This statement is included in the document as one of the areas to be explored in putting together the plan rather than a statement of purpose.

There are a number of references in the CVODP to Buninyong and tourism but in the context of Buninyong and the Valley’s unique characteristics rather than promoting commercial development eg *The **protection and enhancement of Buninyong’s unique qualities and character** will be critical to its success in both providing a lifestyle option and tourism development.* (p55)

In the CVODP other references are made to Buninyong’s attractiveness to visitors, being in part, related to *“the fact that the township remains generally responsive to the landscape, in that **important ridges and hills surrounding the town have remained intact.** (pp 18-19).”*

Mt Buninyong and its surrounds are areas of important historical and environmental significance. These are the factors that will attract tourism to our area, rather than the proposed project which will impact on *“important ridges and hills”* likely to result from this project and detract from the area’s natural beauty.

In the section dealing with ‘open space’, the CVODP states that *“Mt Buninyong and Mt Innes, while outside of the town boundaries, are also essential components of the open space resources of Buninyong (p 14).”*

### 2.2 ***The Ballarat Strategy: Our Vision for 2040 (2015).***

At p15 of the Applicant’s *Planning Report* references are made to this document, stating, *inter alia*, that the 2040 Strategy document *“acknowledges Ballarat as a key tourism location,”* and that the City *“needs to continue to improve its tourism experience, and clearly states that Council will support the growth in ancillary businesses such as accommodation.”*

This latter reference is another example of an incomplete selection from the 2040 report where the complete statement, seen to be a Strategic Direction (not a statement of Council commitment), is as follows:

*“Improve the visitor experience to Ballarat by improving the public realm, better connecting key sites and the CBD, and supporting the growth in ancillary businesses such as accommodation, **retail, food and entertainment in locations visible and highly accessible to tourists** (p 63).”*

It would be a massive stretch of the truth to suggest that the proposed development site high up on the slopes of Mt Buninyong, off the Midland Highway at Scotsburn, along the Yendon No 2 Road, up the unmade Lapilli Lane, and across a paddock is one that is a location that is *“highly visible and accessible to tourists.”*

Other references to tourism in the 2040 Council document are at p59 where reference is made to upgrading key access corridors, to better interpreting tourism assets, to improving travel between key tourist sites, and to improving the precinct surrounding Sovereign Hill.

In the summary pages of the 2040 Strategy report there is a final reference to Tourism (at p274) as one section of the City’s proposed *Implementation Plans*. Here reference is made to three items

- a plan for key tourist routes between entrances, the CBD and Sovereign Hill
- opportunities to improve transport connections between key tourism destinations, and
- continued implementation of the Ballarat Entrances Strategy 2006.

There is no question that the City of Ballarat supports tourism. But nowhere in the above is there direct or indirect endorsement for a project of this kind and location. The suggestion that the 2040 Strategy document strongly supports the present Application is misleading.

### **2.3 Ballarat Rural Land Use Strategy 2010 (BRLU)**

The Application cites extracts from this BRLU report. There are three direct references to Tourism in the report

- Clause 21.02 (p 13) which restates the importance of tourism to the local economy, and stresses the need to *“protect existing tourism assets.”* There is no reference to any need for further development.
- Section 4.1.3 (p 13) again notes the importance of tourism to the local economy
- Section 8.2.2 (pp 54-55) refers to the contribution made by rural areas to the ‘Ballarat tourism package’.

The Application material cited, however, omits a key section which states that already there are *“numerous tourism businesses associated with farms and the natural resources of the area, including wineries, trout farms, and bed and breakfasts (P 54).”*

There is no suggestion here that more rural -based developments are needed.

Again, the following caveat at p 55 from the BRLU Strategy is central to this objection .... ***“enhancing tourism opportunities in Ballarat is dependent on protecting the rural amenity and natural resources.”***

### 3 SITE ISSUES

*The Canadian Valley area has significant native vegetation, biodiversity and landscape values. Fragmented and degraded habitat areas are leading to reduction in native flora and fauna, including koalas. Existing habitat areas and corridors should be protected from further clearing, fragmentation and degradation and priority areas need to be identified that require rehabilitation and revegetation. (CVODP, p53)*

Under one of its key principles of Native Vegetation, Habitat and Landscape Management, the CVODP has the following aim [to] *Protect and enhance landscape values including ridgelines, non urban breaks areas, vegetated backdrops and 'rural vistas'* (p58)

The location of the proposed project on this site, being on a ridge overlooking a steep slope, renders it vulnerable to fire, slippage, soil erosion and access problems.

#### 3.1 **Bushfire Management.**

This district is prone to regular outbreaks of bushfires. The general vicinity of Mount Buninyong is particularly regarded as a danger zone. The Application is seriously deficient in addressing this matter.

At p 8 of the applicant's *Planning Report* there is a one line reference – *13.02 – To assist to strengthen community resilience to bushfire*. At p 13 there is the brief statement that *"bushfire protection measures will be considered as part of the building code."* And, on one, sketch plan it is noted that deck timbers are *'fire resistant'*. This is a woefully inadequate analysis of a critical planning element.

While, of course, the CFA is far better placed to comment, it appears that questions such as access by fire vehicles to the site (up a narrow, steep unmade lane, and then across a very narrow gravelled track on a precipitous slope), fire refuge provision for persons in the proposed development, on site water access, and fire-fighting provisions and the like are inadequate.

The access matter also applies to other forms of emergency and /or service vehicles.

#### 3.2 **Water and Liquid Waste Disposal.**

Considerable detail is provided in the Application concerning this. But in the various assessments there remain indications of uncertainty about the suitability of the mountain-side soils to cope with effluent and other liquid waste.

Disposal of hard waste has not been addressed.

Disposal of within- and exterior-stormwater from the buildings, potential problems associated with run-off down the significant slope, and/or soil erosion down the steep slope in the direction of the Yendon No 2 Road and residential dwellings at the lower level, do not receive detailed consideration or analysis in the Application.

Another basic deficiency in the Application is that while two tanks are sketched into the site plan, nowhere is there any indication of the source of **permanent** fresh water, or any water, whether it be for drinking, cleansing or possible firefighting is to be sourced. Long term local experience is that the restricted run off from the barrel-shaped buildings certainly cannot be relied upon. Also any run-off

from the lower group of barrels would need to be moved **uphill over a lift height of some fifteen metres.**

### 3.3 Land Disturbance

Associated with issues referred to in 3.2 there is the matter of the likely significant amount of land disturbance and degradation with associated problems in this proposed development.

Such land disturbance will result from the provision of the access roadway (including a passing lane), car parking, pathways, footings for six structures with major excavation required for the proposed 'stilt' building, landscaping, and water/waste disposal.

It should also be noted that in Figure 1 below there is no provision shown for other necessary structural items such as equipment/garden sheds or on site storage. Such items will doubtless be constructed and will involve even greater land disturbance.

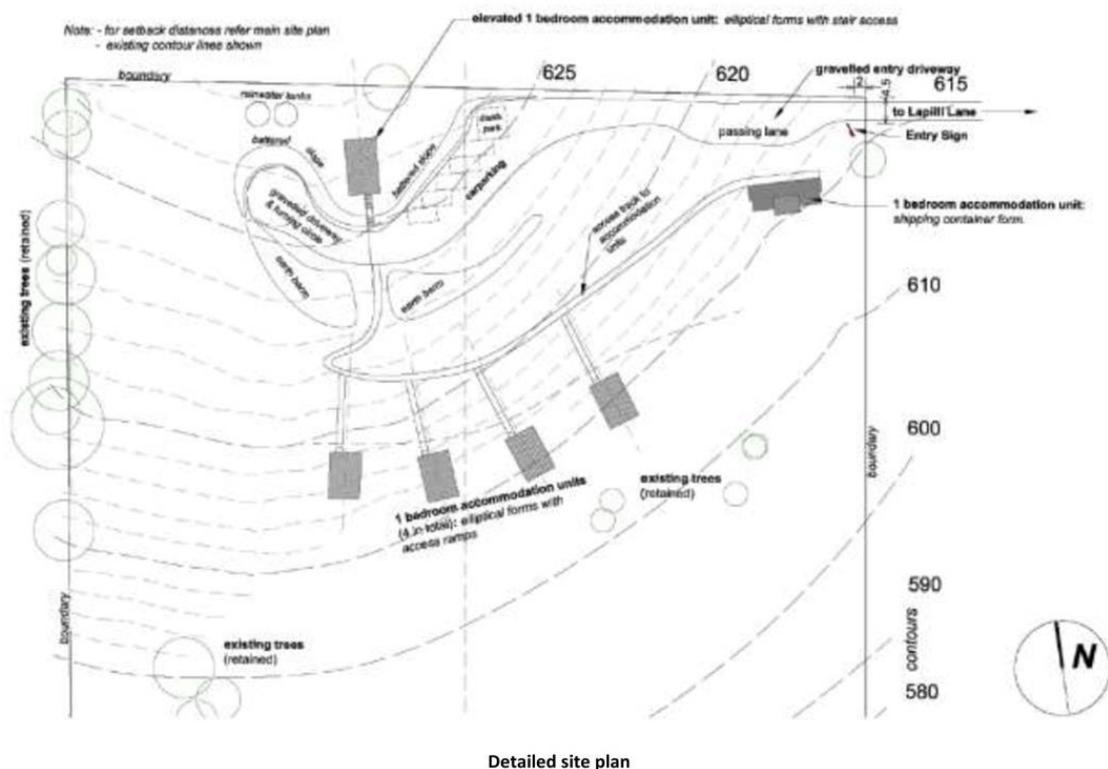


Figure 1: Site plan showing some areas where land disturbance will occur.

3.3.1 *Access Roadway.* Not yet agreed to by an adjoining landholder, the 8m wide, gravelled roadway, with a section widened to permit passing, will require substantial land disturbance and will result in water run-off. Further, the entrance road shown in illustrations in the Application is of crude construction and certainly would not facilitate easy access or egress.

3.3.2 *Car Parking.* At page 12 of the *Planning Report* it is stated that "six car parking spaces are to be provided on site." This appears to be quite insufficient to cope with any friends or visitors of house guests, and the claimed large number of employees ("up to ten") who will be working on site

after completion. The soil disturbance associated with the construction of this car-parking area will be considerable.

3.3.3 *Pathways/Walkways.* Again, it is evident from Figure 1 that considerable soil disturbance will be required to construct the walkways as illustrated.

3.3.4 *Foundations/Footings.* Substantial drill holes will be required for the 16m tall structure, plus many more for the associated ramp/stairway. The other buildings will require more modest excavation for footings. Doubtless there will also be other associated structures in the vicinity including storage, garden and equipment sheds, water tanks and the like. All will involve land disturbance.

3.3.5 *Septic Tank Runs.* As referred to in 3.2 considerable lengths of piping and other infrastructure will be required to ensure efficient treatment of effluent.

3.3.6 Finally, the Application notes (p 14) that “*earthen [sic] and landscaped berms and battered slope*” are to be provided in some areas where required. These berms or barriers (of compacted soil) are used to prevent erosion of or collapse of excavated areas, suggesting even more land disturbance is envisaged.

## 4. HERITAGE ISSUES

Mount Buninyong has historical significance. On the Heritage Council Victoria website, it states that *Mount Buninyong is an extinct volcanic mountain 745 metres above sea level standing out from the vast Western Plains next to its sister Mt Warrenheip. From its summit in 1837 a party of seven men were the first white people to view the country to the west and north-west. Mt Buninyong Reserve, an area of 90 hectares (217 acres) was set aside as a Public Park in 1866.*

Mount Buninyong was last an active volcano 10,000 years ago as witnessed by the Watharrung people, the Indigenous people of the area. It features strongly in local Aboriginal stories, and in wider Ballarat’s. *This extinct volcanic mountain 745 m above sea level stands out from the vast Western Plains next to its sister Mt Warrenheip*<sup>1</sup>. Both mounts are important cultural and visual landmarks. Alongside our forested ridges they frame and identify the City of Ballarat.

### 4.1 The City of Ballarat’s heritage objectives

The City’s own objectives concerning heritage (italicised following) must be applied to reject this application so the unique values of Mount Buninyong are preserved.

The Mt Buninyong precinct is *highly valued heritage* which brings all Ballarat and Buninyong citizens an *appealing, cultural vibrancy* that is both ecologically and socially *sustainable*. Since *heritage is recognised as a key point of difference for Ballarat*, Mount Buninyong’s distinctiveness should be the *priority in planning and decision-making ... [as] promoted through values-driven planning*.

Ballarat’s heritage objectives are specific in seeking to *avoid the types of gentrification ...that treat heritage merely as a product to be bought and sold*. The proposed luxury apartments will certainly lead to *devitalisation* of this area. If this Application is not rejected outright the precedent created will result in inestimable future damage.

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<sup>1</sup> <https://vhd.heritagecouncil.vic.gov.au/places/120219#timeline-title>

The City's heritage objectives place *local citizens at the centre of planning for change* and encourage *robust, participatory and localised decision-making*.

The Community Association feels strongly about the inappropriate development within this significant historical precinct.

#### 4.2 Cultural heritage management

Given the instances of land disturbance referred to in 3.3, it is difficult to see how the requirements of the *Cultural Heritage Management Conditions* (CHMC) relating to the location of Aboriginal cultural heritage on the site, as detailed in the following extracts, are able to be met.

In the Executive Summary of the CHMC (p v) it is stated that *"The results of the Complex Assessment were consistent with the Site Prediction Model shown in section 7.1.9 which considered that there was a low to moderate potential for Aboriginal cultural heritage to be located within the Activity Area and that the most likely type would be an LDAD or low density artefact scatter."*

At page 1 of that document, Management Condition 2 requires *"all potentially artefact bearing soils- defined as all soils (loams, clay loam and silts) other than archaeologically sterile basal clays – must be retained in the Activity Area. The area to which to which the requirement to retain potentially artefact-bearing soils relates is shown in Map 1."* (Figure 2, see over)

It appears from the shaded area in Figure 2 (at p 2 of the CHMC), that the entire project allotment is designated as an Activity Area, and as such, is covered by that condition.



Map 1: Management Conditions

Figure 2: Project site showing designated Activity Area (shaded) relating to cultural heritage management.

### 4.3 Impact on Visual Amenity

Widespread negative reaction from many residents in the Buninyong area relates to the incongruity of having six large unusual structures on the side of a natural icon such as this extinct volcano and its impact on a section of a valued natural asset.

While it is acknowledged that the colours and materials proposed to be used are not intrusive, the structures themselves clearly are not in sympathy with the form of residential housing in the vicinity. The visual bulk of the development is inappropriate for the neighbourhood.

The east side of the Midland Highway from Scotsburn to Yendon No 2 Road which at present screens (somewhat) this jarring and populist proposal is set to soon be stripped of half its trees due to VicRoads' widening and safety works.

With or without them the stunning view of Mount Buninyong that currently commands the landscape will be sabotaged if these structures are approved. Every visitor to Ballarat traveling by car from Geelong will look straight at them, because they will stand between them this iconic natural feature that characterises the entry to Ballarat from the east.

Much has been made in the Application concerning the fact that the development will not be seen from other areas of the Mount Buninyong Reserve. This is not correct.

Considerable work has been done by local volunteer groups, assisted by Council, in the construction of the *South Walk* around Mount Buninyong. The site and the proposed buildings can be seen from that walk, and will be an alien intrusion as will be the cars parked on site.

The considerable number of local and visiting walkers who use that *South Walk* are concerned about the loss of "cherished" views to the south from Mount Buninyong. See photograph shown as Figure 3.



Figure 3: View from the South Walk

Should all structures be sitting at or slightly above ground level, local concern would probably be reduced. But the sixteen metre high structure is so far out of character and unsympathetic to the local natural and built environment as to call for immediate rejection.

At page 13 of the Planning Report, after passing reference to local windfarms, the unsubstantiated claim is made that *“Tall, lean structures are acknowledged as an important element of the rural character.”* We would question by whom?

In the *Conclusion* to the *Visual Impact* documents which notionally indicate the sight lines of the development from various quarters, it is claimed that *“the proposed units are of similar height to traditional 2 storey houses”*, maybe so.

But the use of terms such ‘slope curves’ or it being located towards the rear of the property cannot disguise the fact that the so-called *Vertigo* building is sixteen metres high, most intrusive, and closer to the height of a four storey building.

It is interesting to note that in the introductory images included in the Applicant’s ‘Design’ paper (the first of twelve) provided to Council, the sixteen metre structure is cleverly edited so that it appears to be quite similar to the others. (Figure 4, below)



Figure 4: Architect’s sketches of the Sky Barrel Cabins as included in the Application

It is not until the ninth document – ‘Plans’ - in the set submitted to Council is reached that the detail of the elevated barrel can be seen.

The illustration recently provided by the developer to the media (Figure 5) provides the clearest indication of the dominant height and bulk of the building relative to the size of an automobile.



Figure 5: Artist's impression of the Vertigo barrel as provided to the media.

## CONCLUSION

It should be made clear that this objection/submission to the City of Ballarat is not made with any negative sentiment towards further development of tourism in this community.

Tourism needs to respect the unique characteristics and natural environment. As mentioned earlier in this document [CVODP (p55)], *The protection and enhancement of Buninyong's unique qualities and character will be critical to its success in both providing a lifestyle option and tourism development.*

But claims such as the proponent's suggestion that this development will contribute to the upgrading of the Midland Highway, Buninyong, Sovereign Hill and CBD corridor are fanciful. The corridor is already well indicated by tourism signage, brochures and satnav annotation.

It is the impact of this proposal on a major natural resource and particularly problems associated with its proposed location that has prompted strong objection. Sited in another location such a development might well be supported.

Of critical importance is the fact that this Application clearly does not meet many key planning criteria such as that of compliance with Council zoning, its environmental intrusion, its extensive disturbance of land on a steeply sloping site with likely resultant environmental impact, its failure to meet other site requirements such as fire safety, its impact on local amenity and on an iconic natural asset to this area and region, and the other issues referred to in this submission.

There is no indication of intent for planting of indigenous trees or shrubs either for purposes of screening from above or below or for environmental restoration or improvement. This is a coldly commercial project, seemingly indifferent to its location and immediate surrounds.

Finally it is submitted that references to the project's potential economic benefits or its possible positive impact on local business should be not given serious consideration both on the grounds of lack of evidence, and its not being a major factor in consideration of planning approval.

Construction of a four storey apartment block at the roundabout in Buninyong, or the reopening of the *Crown Mine* in Desoza Park, Buninyong, would also be likely to generate additional business income, but surely would not be given planning approval on grounds of heritage, environmental, amenity or impact on local natural assets.

This Application must be rejected.

G Adams  
President