



UNCHAIN INC

Submission on the Port Melbourne Waterfront UDF March 2012

Who is unChain Inc

unChain Inc (originally unChain St Kilda) is an incorporated body with membership of Port Phillip residents and traders. (For further information see www.unchainstkilda.org). Originally we were brought together by concerns about the proposed development on the St Kilda Triangle. Now we are interested in an array of matters arising in Port Phillip, especially the appropriate development of our inner city.

We have members from all political parties but we do not have any political allegiance. We have an e-mail membership of over 2500 people. In the 2008 Port Phillip Council elections, two unChain councillors were elected and we supported the candidature of all but one of the other elected councillors. In Port Melbourne, the unChain candidate, Richard Roberts, was narrowly defeated by the ALP candidate, Janet Bolitho. We can therefore claim to speak on behalf of a significant number of residents and traders in Port Melbourne and the broader Port Phillip community.

The Metropolitan Environment

Melbourne consistently rates as one of the world's most liveable cities. We now have 4 million people. The Australian Bureau of Statistics predicts that this will rise to 7.5 million by 2051 if current migration and fertility trends continue and Melbourne will then be Australia's largest city.

We Melbournians are rightly concerned for our famed liveability, as more and more people squeeze into our neighbourhoods and onto to our roads and into our schools and hospitals. Our population growth cannot be accommodated by endless suburban expansion. We should defend the green wedge policy of the Hamer and Bracks governments. And it is not possible simply to declare that Melbourne is full.

The Victorian government and the Port Phillip Council must manage growth, not try to stop it. We need a fair, sustainable and prosperous future for inner-city Melbourne. So the fundamental task for the Victorian government is to ensure a people-friendly medium density growth. The Port Phillip Council will play a particularly important part in this.

The Vision for the Future of Port Melbourne

unChain agrees with the vision for Port Melbourne in the draft UDF. This is:

The Port of Melbourne Waterfront will be a significant and celebrated part of greater Melbourne; a place that is valued by locals, is active and welcoming for visitors, and is a gateway providing comfortable safe and reliable entry to Melbourne.

unChain also agrees with the nine principles guiding the concept plans and objectives. In particular Principles 1 and 8 are as follows:

- *Strengthen Port Melbourne's role as a metropolitan and regional waterfront destination by developing an appropriate scale of attractions*
- *New development on the Waterfront must reinforce and be responsive to the existing urban structure and facilitate desired and positive change.*

However these principles beg the questions:

- What is an 'appropriate scale of attractions'?
- What does it mean to 'be responsive to the existing urban structure'?
- What is 'desired and positive change'?

The most problematic aspect of the draft UDF is the proposal remove the existing 3 storey limits at Waterfront Place and allow a 10-storey and a 12-storey tower to be built there. This submission focuses on that proposal.

The Port Melbourne Height Controls

In Port Melbourne, a decade ago, we developed a set of height controls that balanced the interests of developers and the community. When launching these height controls in 1999 the then Minister for Planning John Thwaites said:

We are committed to delivering more certainty and consistency in planning decisions. We will put a greater emphasis on planning for sustainable environments. And we want to give more responsibility for planning decisions to local government and the community ... inappropriate development of the Bay diminishes public access, it can destroy the character, and it infringes tourism potential for many of these areas. None of us want to repeat a Gold Coast, a Surfers Paradise on our foreshore. People want to go to the beach and enjoy that environment without being overshadowed and without being overlooked ... In the City of Port Phillip, absolute rules have been introduced to protect the area of Port Melbourne, which previously the previous

government had refused to put height controls on ... As from today, councils on the foreshore will have their foreshores protected from inappropriate high rise development.

The question now is whether these controls (including the specific controls on Beacon Cove) are still appropriate.

Background to the Proposed UDF: The Sheik's Tower

In 2010 a billionaire Kuwaiti prince tried to persuade Planning Minister Madden to remove these height controls. He proposed a 28-storey tower opposite Station Pier. This consisted of a hotel, apartments and a retail precinct (for the site see www.actiongroupaustralia.com.au). It exceeded the existing height controls by more than twenty stories.

The Windsor hotel fiasco taught us much about the practices of the former Labor government and Planning Minister Madden in this type of development. Minister Madden would have informal meetings with developers and lobbyists where the real decisions were taken. He could require changes to be made at this stage. Subsequently formal planning applications would be lodged, which could then be 'rubber-stamped'. Planning Minister Madden had a track-record of using his powers to over-ride existing height controls. For example in April 2010 the Minister approved a 72-storey tower on City Road, which was more than double the height limits for Southbank.

An approval like this was the likely prospect for the Sheik's tower. The developer's lawyers, Rigby Cooke Lawyers, submitted detailed plans for 1-11 Waterfront Place to the Ministry in September 2009. These were not just preliminary concept plans. They were detailed floor-by-floor architect plans that required substantial time and resources to prepare. These plans were returned for minor amendments. The developer was Action Hotels, a Kuwaiti firm chaired by Sheikh Mubarak Abdulla Al-Mubarak Al-Sabah. This firm owned nine hotels in the Middle East and Australia. The architect for the Sheik's tower was Fender Katsalidis, well known for high-rise towers such as the Eureka Tower.



The Age newspaper reported that ‘a senior government source said that the sheik’s development company had received a *‘nod and a wink’ that approval would be granted by the Department of Planning. (18 October 2010).*

How could this be? What input would the council and the local community have? None!

The Minister had absolute authority over this site because it was part of the Beacon Cove precinct. Under these special provisions, Minister Madden could over-ride the 3-storey height limits without any input from the Council or the community. There was no need for Planning Minister Madden to use his usual powers to ‘call in ‘ an application. All that was required was for the Labor government to be re-elected. Then Planning Minister Madden could have approved the Sheik’s 28 storey tower.

Restoration of Council’s power

It is counterproductive for governments to override carefully constructed planning controls at the beck and call of powerful private developers. This just produces community mistrust of all development. For the good of both the development industry and the community, we need to develop proper plans for the growth of our inner city and then to stick to them.

The Liberal state government was elected in 2010. It has now returned authority over the site to the Port Phillip Council. It is now appropriate for the Council to review the decade-old height controls for the Port Melbourne foreshore.

This will involve a proper consideration of the impacts on the whole area with contributions from all interested parties, particularly local residents. It will not be on the basis of secret deals in the Planning Minister’s office.

What are the appropriate criteria for the Assessment of Height Controls?

What is the appropriate test for assessing the adequacy of the existing height controls and the appropriateness of alternative ones? It is suggested that there are two quite different criteria: These are:

- (a) Were the existing controls misconceived or have conditions have significantly changed? or
- (b) Are there significant net public benefits in amending the controls?

(a) Were the existing controls misconceived or have conditions significantly changed

The height controls along the foreshore from Port Melbourne to St Kilda were adopted after significant public participation, consultants' reports and expert consideration. We do not think that there can be any argument that the existing controls were based on inadequate consultation or inadequate information at the time.

Nor do we think that there can be an argument that conditions have significantly changed. From the late 1980s height controls along the foreshore from Port Melbourne to past St Kilda have been a hot topic. The community, the local Council(s) and successive state governments have agreed that we do not want a wall of high-rise buildings along the foreshore. The analogy, oft repeated as in Minister Thwaites' statement above, is that we do not want a Surfers' Paradise future. This remains true today. So we do not think that there can be any argument that the existing controls should be changed because there has been some fundamental change in the existing conditions.

The local community has a legitimate expectation that any development on the Waterfront Place site will comply with the existing height controls that were put in place after much consideration and discussion. Equally the owner of the Waterfront Place site has a legitimate expectation that it will be able to build to the existing height controls. It does not have a legitimate expectation that it will be able to exceed them.

Therefore the existing height controls should only be changed if there is a demonstrable net public benefit in lowering or raising them. Is there a demonstrable net public benefit in allowing the existing 3 storey limits to be removed and allow a 10-storey and a 12-storey tower at Waterfront Place?

State Government Policy

A significant consideration is whether abandoning the height controls for the Port Melbourne to Elwood foreshore (or any part of this strip) is in accord with the state government's vision for the growth of Melbourne. It is not.

Planning Minister Matthew Guy released a 'Bold vision for expanded Melbourne CBD' on 17 February. The Minister said

'we want to hear Melburnians' views about where high density housing is best located ... (m)any people are concerned about high rise towers dominating quiet suburban streets, so we need to ask if high rise should be primarily concentrated in the inner city to take growth pressure off Melbourne's existing suburbs, while also capitalising on existing infrastructure'.

The vision is that high-density living would expand beyond the Hoddle Grid, Docklands and Southbank. Major opportunities would be made available in Fishermans Bend and E-Gate on its western edge, St Kilda Rd in the south, and towards Melbourne University on the northern side. The key concept is that all of the areas proposed are within walking distance of the Hoddle grid. The concept is that:

Concentrating high rise, high density growth takes development pressure off existing suburbs and can maintain liveability in existing residential areas while providing a large, vibrant heart to a growing central city area'.

Clearly it is not consistent with this vision to allow high-rise development at Waterfront Place. This would inevitably be used as a precedent for allowing high rise development in the immediate neighbourhood and ultimately all the way along the foreshore. This is exactly the type of high-rise sprawl that the Planning Minister's vision is trying to prevent.

There is no justification for abandoning the existing controls based on state government policy for the overall development of Melbourne. The justification, if any, must be found at the local level.

A high-rise development at Waterfront Place? The local considerations

Does a high-rise development at Waterfront Place satisfy the principles laid down in the UDF? The relevant considerations are:

- *developing an appropriate scale of attractions*
- *reinforce and be responsive to the existing urban structure and facilitate desired and positive change.*

What is an 'appropriate scale' for Waterfront Place? The draft UDF proposes two towers with set-backs. The UDF says 'The building heights match those of the adjacent Beacon Cove and are limited to the height of the tallest nearby building at 14 levels'. It is submitted that this is not the proper consideration for assessing the 'appropriate scale'.

For many years the community, the council and the state government have agreed that we do not want a wall of high-rise buildings along the foreshore. It is in fact desirable to have a low-rise gap between the bulky built forms at Beacon Cove to the north and the 8 and 9 storey buildings to the south. Furthermore, if Council permits high-rise on the Waterfront Place site, this will be used as a precedent for high-rise development all along the foreshore. This pressure will undoubtedly begin at the neighbouring London Hotel site.

Does a high-rise development at Waterfront Place 'facilitate desired change'? For example, the draft UDF acknowledges the aspiration for 'reducing the dominance of traffic on the waterfront'. Traffic is a major problem already. However the draft UDF does not adequately analyse the existing problems or explore future solutions. But it is clear that allowing an intensive high-rise development at Waterfront Place exacerbates rather than reduces this major problem. As such the high-rise proposal fails the UDF's own test of '*facilitating a desired and positive change*'.

The scale of the proposals for Waterfront Place is driven by a market analysis that is extremely dubious. The Market Analysis in the draft UDF says that

The commercial offering at Waterfront Place should include a mix of service retail and 'destination' offerings that cater to both the high seasonal demands of tourists and the consistent demands of local residents ... the 'destination' offerings should cater to the existing tourism type, namely cruise shipping and Tasmanian touring passengers.

However the problems of retail generally are well known: the soft economy, changing spending habits and competition from on-line stores. There is no evidence that there is any need for more service retail in Port Melbourne. The analysis of 'destination' offerings is even more dubious. The majority of cruise passengers will not want to spend a day browsing through the 'destination' offerings at a high-rise Waterfront Place. The vast majority have already booked visits to Phillip Island, the NGV and other tourist attractions, another cohort will want to spend time with friends and family, and the minority of tourists with no prior plans will probably want to spend their day tripping around the CBD. The idea that a significant number of tourists will want to spend time at a high-rise Waterfront Place is fatuous. The likely market is rather sightseers visiting Port Melbourne including those watching the cruise boats, it is not the cruise passengers.

It is therefore submitted that the draft UDF is fundamentally flawed in proposing two high-rise towers at the Waterfront Place site. The Council should not adopt the draft UDF. Council should instead return the document to the drafters for reconsideration of how the desirable aspects of the UDF can be attained with a low-rise development at Waterfront Place.

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