



THE CHARLES PRATT PICTURE FROM 1929 OF 10 HILL STREET, BENDIGO.

A talk and discussion as a part of the Bendigo Branch of the Victorian National Trust bi-monthly meeting on the 26th of August 2019 by Joseph Daily and Marie Bonne with Sharon Daily and Philippe Bonne, all objectors to the 10 Hill St, Bendigo development proposal which was finally rejected by VCAT.

Read by Joseph:

It is a delight to be asked to talk at a meeting of the Bendigo National Trust and we thank Peter Cox and Trust members for the opportunity to do so. It was on the 25th of February of this year when Kylie Howe, Greater Bendigo's Heritage Advisor and Emma Bryant, Greater Bendigo's Heritage Planning Officer, were speaking here at a Trust meeting, about their heritage roles, that we quizzed them about a development proposal at 10 Hill Street that neither of them were directly involved in. From our recollection Emma thought it would be something of a test case, at its upcoming VCAT hearing. Now we have the findings in on those proceedings, which we will tell you about, our hope is there will be a general shift in approach on heritage place decision making by Council Officers.

Peter asked us to talk on "your experiences on miners cottages and the VCAT process". We might go a little bit further than these two specific areas he has asked us to consider and reflect also on the overall Council process, leading up to the 10 Hill Street VCAT hearing we became involved in, because it has given us cause to be concerned, while also some reason to be encouraged, in the heritage protection of Bendigo miners' cottages.

The quote from our submission to the VCAT tribunal, that Peter posted on the Bendigo Trust website, is a good place to start by way of explaining why we were objectors to that particular development proposal and some other proposed developments, in our area, over the last ten years

Read by Marie:

*"We were all **invited to care** about Bendigo mining heritage as far back as 2011 by council. We live in, what is referred to by the Bendigo City Council as the 'Bannerman Street Heritage Precinct', which was one of four precincts declared under the Ironbark Heritage Planning Scheme Amendment C120 in May 2011 and adopted by Council. Before this happened there was a very long period of consultation with community input that we were involved in."*

Read by Joseph:

Unlike some, who likely saw this scheme, which was actually consulted on widely well before 2011, as what might turn out to be Council interference in the things they might do with their home, our inclination was to embrace the Heritage Precincts idea. It seemed to more likely enable the protection of the history of the area, that was most important to us, and part of the reason we chose to live there in the first place.

Perhaps it was also that we were inclined to the view that we are simply the guardians of the historic cottages we live in and lucky enough to be dwelling somewhere where others had done the bulk of the groundwork of making a home, of character and interest, and our task was just to look after it and restore it, with a reasonable degree of modern comfort incorporated, of course, while we were passing through for some decades. So that is why we sent letters of support to Council for Amendment C120.

When Sharon and I came to Bendigo in 1997, to find somewhere new to live with our then very young son, Eugene, we were attracted to a miners cottage rental home available in Quick Street. The place was built on an angle to the street with two bedrooms, a living room and a separated kitchen that was beyond the enclosed verandah with a walkway down steps to an outside toilet and laundry. It was cosy, sat beautifully on the block, and we loved it. Unfortunately after many years of living there the place was sold to a developer and we were sent packing. The new owner arrived there one day, before we moved out, and expressed sympathy for our plight of having lived there. The sad thing is, what happened next, to what was undoubtedly one of Ironbarks earliest homes, though we are not sure of the exact details of its demise.

The block was subdivided we know and the house basically pulled down under the guise of too busted to fix, it is our understanding. The promise was made to

restore it, we gather, that was reneged on once works were begun. Council, upon realising what had been done, required it to be rebuilt, on some of its original footprint, but the only authentic part of what is left of 4 Quick Street today is the wooden decoration that was along the front verandah. What remains gives no insight into it once being a miners cottage on a spacious miners residency area, before the road was officially laid out, with room for vegetables, perhaps chickens, a goat, etc. It was a heartbreaking loss for us and we believe for Bendigo.

The first objections we placed with Council that lead to all our involvement with a VCAT hearing was when Marie and Philippe came under fire with a proposed massive overdevelopment next door to their house, and over the road to us, in Bannerman Street. As Amendment C120 was not yet in force objections had to be based on neighbourhood character concerns and any Rescode breaches we could find, though we came to understand that the heritage issue might be at least persuasive. Originally the plan by the developer was 4 double storey brick townhouses and included the demolition of an attractive Californian Bungalow home at the front of the block and a marvellous corrugated iron workshop beside it. Fortunately at least the weatherboard home was saved, and by agreement with the developer at the first VCAT hearing our group attended, more appropriate weatherboard cladding was substituted on the two, single storey houses, constructed behind the original home.

That experience sharpened our understanding of miners' cottages and their tenuous situation because the homes on one side of the proposed development to Marie and Philippe were cited as being contributory mining in the Ironbark Heritage Report. How these humble buildings would fare visually alongside the initial demanding building proposal was a concern that council officers seemed to recognise. Hence part of the reason for the big changes from the original plans that were negotiated over what turned out to be years.

Some people just don't get the asset that miners' cottages are to Bendigo. Fortunately there were enough understanding Councillors, in the case of 10 Hill Street, to save it from a similar fate to the heritage place in Quick Street we lived

in. Those who voted for the plan to go ahead probably believed they were doing the right thing, in terms of preservation because that was part of the pitch being made, but we believe they may have been misguided by the limited information they were given and not clearly told of the full implications.

A point we had to make over and over, as it seemed to be lost, was that the majority of the house at 10 Hill Street was actually planned to be demolished. So caught up in the wave of admiration for a developer prepared to maintain and preserve the tiny masonry section of the house, for which there were actually no initial restoration plans, many were quite happy to overlook the sad fact that only 32 squares of the existing 97 square metre cottage was to remain. That's just one third left. The masonry section of the house was placed up the scale of importance, over the ***to be demolished*** more fragile weatherboard part, but then that in turn lost, in a vast visual sea, of new two storey constructions all around it.

One of the visual documents that helped our case substantially at VCAT, that the senior member referred to in his order, was not even mentioned by the Council Officers in their report, that was handed to Councillors before 10 Hill Street was considered at the Council meeting. We had given it to them, they thanked us for it, commented on it beforehand in emails, but it was completely left out in their written considerations. We thought it was something that the people who were supposed to be making an informed decision, about the cottage, should have been told about.

We have a copy of that picture here we used to call into question the notion, shared by both the developer and heritage advisor, that there was an original house made of masonry and another section of weatherboard, that had been added quite recently. In the original heritage report the verandah and wooden section were said to have been likely added in the 1950's. Hardly likely we felt, and the aerial photograph from 1929 verified our view.

The interesting thing that came from the VCAT hearing, in regard to this picture, is what the adjudicator, Senior VCAT Member J A Bennett, made of it, which was beyond what we had considered and is actually a different view to our own about the time of construction of the verandah and back section of the cottage though he admits he was unable to be completely certain about their provenance. Mr Bennett concluded...

Read by Marie:

*“To the extent possible to observe without removing internal and external cladding, my inspection confirmed that the second hipped roof section of the dwelling behind the masonry section part is not original, and nor is the front verandah. **However, they appear to largely replicate the form and location of structures that existed in 1929, and the base of the demolished chimney is visible near the stumps under the rear section.** Whilst neighbours suggested that the timber rear section may have been built before the front masonry section, I consider that a speculative suggestion and would not be consistent with the description contained in the statement of significance set out in paragraph 29. That would suggest that the masonry section was built first with the other sections added later.”*

Read by Joseph:

We felt on the evidence we had accumulated that the notion of an original house which was said to be the masonry section and the rear quite recent, and thus of little heritage value, was essentially an expedient one that provided good cover to demolish the back section of the house and also the verandah. It is interesting to hear the view of VCAT on the problems with the layout of the proposal.

Read by Marie:

“.....shortcomings arise because of the desire to construct two dwellings in the rear yard. As a result, the proposed extension has had to be pushed forward towards the front boundary so that extends well past the nearest adjoining dwelling.

Put simply, the layout indicates that too much built form is being sought for this site. I therefore agree with Council and neighbours that the proposal is not acceptable in neighbourhood character terms.

We concede it is quite likely corrugated iron and weatherboards have been replaced. That's what happens with these places over time, but we still think the actual structure is original. Incidentally, it was Charles Fahey who suggested to us that the weatherboard section might have been built first, so if we were "speculating", it was on the advice of a very knowledgeable neighbour.

Paragraph 38, of the VCAT findings on 10 Hill Street, is probably the most important one in relation to miners' cottages, generally, and we can only hope it sets the bar higher for considerations on future miners' cottage development proposals. Here the adjudicator shows he has a keen understanding of the way miners' cottages evolve, that seems to have escaped planners in Bendigo in this instance, and makes it a moot point at what time any part of a miners cottage was added, anyway. It's the original footprint that matters. J A Bennett says...

Read by Marie:

*"I consider that removal of the rear gable section and front verandah, even if not constructed of original materials, will be inconsistent with the design guidelines and objectives for Miners Cottages. Removal distorts and detracts from an interpretation and appreciation of the original form and scale of the Miners Cottage which in this instance incorporates both a double gable roof and an attached verandah. The fact that they are constructed of different materials and at different times to the original masonry section is consistent with how these cottages evolved. This evolution is explained on page 4 of the Design Guidelines for Miner's Cottages as, 'often with multiple additions and extensions'. **I do not agree that these additions are unimportant or should be removed. Instead they contribute to an understanding and appreciation of the original form and scale of the Miners Cottage.**"*

We have brought along some copies of a **Bendigo Advertiser** article titled “How much development is too much? Bendigo miner's cottage development plan fails to pass council”, regarding 10 Hill Street, which led to some misguided and unpleasant commentary on Facebook. The headline question... How much development is too much? was a pertinent one and it has been answered categorically by the follow up VCAT order confirming the Councillors decision to reject a plan that we believe would have set a very alarming precedent for miners cottages in Bendigo. VCAT Member Bennett said....

Read by Marie:

“I consider that too much weight has been given to policies encouraging an intensification of development on well located large sites and not enough weight to policies concerning heritage and neighbourhood character, and the added importance of these given the inclusion of the site in both a precinct wide and site specific Heritage Overlay and a precinct wide Neighbourhood Character Overlay.”

And later in his conclusion...

“I accept that the review site is of a large size and well located close to a wide range of urban facilities and services. In the absence of heritage fabric and without a Neighbourhood Character Overlay and two Heritage Overlays, there would be fewer constraints in permitting additional dwellings on the site. However, I consider that in proposing an extension to the existing Miners Cottage together with two new double storey dwellings, too much emphasis has been given to policies encouraging urban consolidation and an intensification of development.”

Contrast this with a few quotes we have from the original Heritage Advisor's report on 10 Hill Street. It was said....

Read by Marie:

“The project also provides a good model for the development of similar sites where a small historic building is inconveniently located in the centre of a large site with development potential.” - page 3

“It also provides a thoughtful model for other development on similar sites.”

- page 6

“In my opinion this proposal is a reasonable and innovative model for exploring how to use these sites.” - page 7

Read by Joseph:

This set off alarm bells ringing for us, because it appeared miners' cottages, set on a haphazard miners right, and there are not so many identifiable examples left, had become an inconvenience to development.

Heritage Advisors Reports are not readily available online for any potential objectors to see and have to be requested from a Council Officer, despite them being an important piece of information, in preparing objections. From the 10 Hill Street report we came to the conclusion that there was a plan to shore up land for development within the precinct. In our past dealings with the Council planning administration they had seemed sensitive to heritage issues, particularly miners cottages. There seemed to have been a dramatic shift with this development.

We are very thankful that Councillors knocked back this development because it would have been unlikely, we as objectors, would have had the time or the means to challenge it alone, even though we were fairly confident, on the basis of past VCAT decisions, that we would have succeeded. So many guidelines were breached.

It is interesting to note here, however, that even though Council's legal representative at the VCAT hearing we attended who was supposed to be

following the Councillors position, **in rejecting the proposal**, and one more likely to be in line with our own, these are actual quotes from Maddocks' submission on behalf of the responsible Authority...

Read by Marie:

*“Council acknowledges partially demolishing the existing cottage **is** acceptable, observing the rear of the building proposed to be demolished is **of limited heritage value** except for its profile.”*

“Similarly, the loss of the double gable profile is appropriately offset by fully restoring the front section and connection of the existing building to an extension providing a modern level of amenity and allowing the miners' cottage to continue as a dwelling into the future.”

Read by Joseph:

While we acknowledge that the rest of the Maddocks' submission, on behalf of Council, represents the position of Councillors more closely, in rejecting the development proposal, these two paragraphs in it, most certainly do not. They seem to continue to reflect the developer and heritage advisors view. An answer to a question, we would like to know is, who is it that briefs the Council representative for VCAT? It should not be acceptable that the view of a majority of Councillors is undermined in any way.

Generally speaking, there is a built in power imbalance between developers and objectors, we believe. Firstly, when a sign goes up to notify that a development is being proposed, it is likely consultations between the developer and Council Officers have been in train for quite some time. Letters are sent out by the developer to those considered immediately effected. We, other than one house belonging to two of our objector group, were not directly informed about this development plan at 10 Hill Street even though the main issues here are

neighbourhood character and heritage overlays, which effects us all, not just those who live next door.

Coupled with this is the short period of 14 days that any objectors are given to prepare a response, considering they might only have noticed a sign go up outside the proposed development site anywhere along the allotted time. We understand now that objectors can actually put in an objection up until a Council Officer makes their decision, but how many members of the general public know about such intricacies? Most think, from our experience, that there is not much they can do or that an objector needs to rush something forward and it appears daunting, as an objection seems to need much research and understanding. The main thing is to get an objection in, we have come to understand, pretty or not, because once involved there is time to look at things in more detail. Also it is not generally known that for a proposal to be put before Councillors, at a scheduled meeting, rather than it just be examined by Council Officers, at least four objections are required. A joint objection signed by many or a letter as a family is counted as one objection and not by the number of signatories. So send off individual objections, is our advice.

We would also like to express our feelings about the questionable value of consultation sessions held by Council between a developer and residents if a decision has already been made, as it seemed to be in the 10 Hill Street case, based on the opinion of the Heritage Advisor, that no amount of discussion or new evidence was going to change. We were called in to talk after we provided objections to the project but felt every concern we raised, which included many of the matters regarding neighbourhood and heritage guideline breaches which were subsequently vindicated as being critical, were dismissed lightly or ignored. VCAT, fortunately, gave good time to examine the important issues at stake. It was there that we felt our input was valued and our concerns taken seriously. We were impressed by the guidance and courteous manner in which we were treated.

In the order handed down by JA Bennett at VCAT he said the following early on...

Read by Marie:

*“At the outset, I acknowledge that the Applicant has sensibly sought advice from Council officers as what type of redevelopment may be possible given the existing Miners Cottage and planning controls affecting the site. **In large measure the Applicant has been guided by that advice and gained the support of officers in the report submitted to Council.** Councillors did not agree with the recommendation to approve the proposal but instead decided to refuse it.”*

Read by Joseph:

This is concerning commentary from the independent adjudicator in our opinion. The applicant developer had done the right thing by going to Council Officers, apparently, but was given advice that was not likely to provide “a net community benefit” which is how the senior VCAT member eventually summarised his reason for refusal.

There seem to be very few safeguards for heritage places at the early planning stage if the bureaucratic arm of Council chooses to value development over heritage. None of us would say that putting our hand up has been easy which appears to be currently the only antidote available for when this happens. It is actually time consuming and can be very emotionally draining with some involved, we have found, not prepared to accept the umpires decision gracefully.

The point is, though, it should not be up to people like us to remind Council Officers that they have guidelines to follow. It was **not** appropriate, as was the case for 10 Hill Street, according to our count from the VCAT hearing decision, 5 neighbourhood character guidelines, 3 heritage and one miners’ cottage guideline, were summarily just dismissed. We would love to know what others here think about this, and suggestions as to how this situation might be fixed,

because we believe **this is another identifiable and immediate gap in the protection of Bendigo's heritage.**

Finally, we just wish to say, there is something very special about miners' cottages that anyone who has lived in them, or been around them, knows. It is their simplicity and the sense of history that surrounds cottages, the insight they provide into the lives of the people who once inhabited the place, that makes them an attractive place to live in. To protect miners' cottages is to respect the humble working people who lived here, well before us, and **we encourage those who see cottages in danger to do their bit to save them.** We are happy to share some tips on doing this, we have gleaned from our own experience, remembering there is also support and encouragement from the likes of the Bendigo branch of the National Trust and elsewhere, at the Bendigo Historical Society, where we have also been graciously given a chance to have our unfettered say on these matters.

