



**6.2** 10-18 JACKA BOULEVARD (SEA BATHS)

**LOCATION/ADDRESS:** 10-18 JACKA BOULEVARD

**EXECUTIVE MEMBER:** LILI ROSIC, ACTING GENERAL MANAGER PLACE STRATEGY AND DEVELOPMENT

**PREPARED BY:** PHILLIP BEARD, PRINCIPAL PLANNER

**1. PURPOSE**

1.1 To consider and determine an application for planning permit for buildings and works which comprises:

- Demolition/removal of two sections of roofs from the internal space of the Tenancy 10 (Captain Baxter) tenancy (beach side, south-west end) in the Seabaths Complex and replacement with motorised fabric retractable roof features;
- Demolition/alteration of some balcony balustrades, windows and doors.
- A new small entry canopy at ground level with three integrated signs reading "Captain Baxter".
- Replacing several windows and existing sliding doors with new windows and doors and new casement style windows.

**2. EXECUTIVE SUMMARY**

|   |  |
|---|--|
| <b>WARD:</b>  | Lake   |
| <b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>                    | Development within the Sea Baths complex             |
| <b>APPLICATION NO:</b>  | 39/2018  |
| <b>APPLICANT:</b>   | Urbis P/L  |
| <b>EXISTING USE:</b>  | Eating & drinking (licensed food and drink) premises |
| <b>ABUTTING USES:</b>   | Commercial   |
| <b>ZONING:</b>  | Special Use 1  |
| <b>OVERLAYS:</b>  | HO 168   |
| <b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b> | Expired.   |

2.1 The application does not propose any expansion or increase in use or activities, patron numbers or operating hours. Rather reductions in licensed areas and



patron numbers would result from deleting the currently approved licensed area from the first floor terrace area directly abutting tenancy 12 (function centre) from Captain Baxter's licence. As a consequence, the permitted external patron numbers for Captain Baxter would reduce from 195 to 156.

- 2.2 Captain Baxter no longer has a lease over the terrace area. The reduced licensed area would align with the new lease boundary between South Pacific P/L and Captain Baxter. At the time of writing, South Pacific P/L has not advised of plans for the subject terrace area but it is understood likely that South Pacific intend to add the unlicensed terrace area to the lease for Tenancy 12 (function centre).
- 2.3 The provisions of Clause 52.27 (Licensed Premises) and Clause 52.06 (car parking) of the Planning Scheme do not apply to a reduction of patron numbers and licensed areas.
- 2.4 The purpose of the replacement of roof with retractable fabric roofing is intended to create an area of the existing tenancy that would have an outdoor feel over the existing lounge area which is currently fully enclosed. The proposed buildings and works would partition off this part of the tenancy (closest to the foreshore) by installation of an internal glass dividing wall and sliding door. The area with retractable fabric roof panels installed above would measure approximately 6.5m x 13m. With the fabric roof open, this rear area of the tenancy would have an outdoor feel whilst maintaining weather protection when necessary.
- 2.5 The other buildings and works are designed to update and improve access and outlook from the tenancy.
- 2.6 The application was advertised and no objections were received.
- 2.7 It is considered that the proposal would have no or limited impact on the public realm and whilst partly visible from the beach side, would not adversely affect the heritage significance of the host building.
- 2.8 In support of the installation of the retractable fabric roof, an acoustic report has been provided. It is considered that noise control conditions can be applied to any permit granted as there is an adequate nexus between the proposed buildings and works to create the retractable roof and the potential escape of noise from the existing use through the fabric roof.
- 2.9 The proposed signage is considered very modest and well resolved as would be the new canopy to which it would be fixed.



### 3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received no objections, issue a Planning Permit.
- 3.2 That a Planning Permit be issued for partial demolition and the construction of buildings and the carrying out of works being replacement of fixed roofing with retractable roofing, replacement of balcony balustrades, replacement of external windows and doors, installation of an entry canopy, installation of signage and reduction in the licensed area with consequent reduction in external patron numbers from 195 to 156 at the Captain Baxter tenancy at 10-18 Jacka Boulevard, St. Kilda (Sea Baths complex).
- 3.3 That the decision be issued as follows:

#### 1. Amended Plans required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the submitted plans but modified to show:

- (a) The external dimensions of the three balconies allowed to be altered both in plan and elevation and both before and after the permitted alterations,
- (b) The area marked as 'proposed outdoor drinking area (smoking permitted' either deleted from the plans or clearly marked as 'not part of this approval',
- (c) A single plan depicting the modified (reduced) extent of the licensed red line area.

#### 2. No Alterations

The development allowed by this permit and as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

#### 3. No change to external finishes

All external materials, finishes and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

#### 4. Signs not Altered

The location of the sign(s) (including the size, nature, panels, position and construction) shown on the endorsed plan must not be altered without the prior written consent of the Responsible Authority.

#### 5. No Lighting Other Than Approved

The sign(s) must not contain any flashing, intermittent or changing colour light and must not be externally illuminated.



**6. SEPP N-1 and SEPP N-2**

Noise levels must not exceed the permissible noise levels stipulated in the State and Environment Protection Policy N-1 (Control of Noise from Industry, Commerce and Trade), State and Environment Protection Policy N-2 (Control of Music Noise from Public Premises) and the noise levels identified in the applicant's submitted/advertised acoustic report at any time to the satisfaction of the responsible authority.

**7. Noise Limiter**

Before any music which is audible outside the subject premises is played, a Noise Monitor and Limiter ("the Device") must be installed and maintained. The Device is to be set at a level by a qualified acoustic engineer, to ensure the music does not exceed the requirements of SEPP N-2 to the satisfaction of the responsible authority.

**8. Noise assessment confirming Noise Limiter Function and SEPP-N2 Compliance**

Before any music is played when the approved retractable roof panels are open, a written assessment prepared by a suitably qualified acoustic consultant must be submitted to and be to the satisfaction of the responsible authority confirming that the music noise limiter as recommended by the submitted/advertised acoustic report (The Device) has been installed and appropriately calibrated such that all of the following requirements are complied with:

- a) That the Device limits internal and external noise levels from amplified music so as to ensure compliance with music noise limits according to State and Environment Protection Policy N-2 (Control of Music Noise from Public Premises) and ensures that no music noise exceeds the identified limits in the application submitted/advertised acoustic report;
- b) That the Device is a limiter suitable for interfacing with a Permanently Installed Sound System which includes any amplification equipment and loudspeakers and no other amplification or loudspeaker equipment is installed that does not interface with the Device;
- c) That the Device is a frequency discriminating sound analyser that includes a microphone incorporated in its own tamper-proof enclosure (beyond the normal reach of a person);
- d) That the Device controls are in a locked case that is not accessible by another person other than a qualified acoustic consultant or technician nominated by the permit polder and notified to the responsible authority;
- e) That the Device is installed to control all amplification equipment and associated loudspeakers both internal and external on the subject land;
- f) That the Device is able to continue operating on battery or backup power when mains power is disconnected from the Device;
- g) That the Device is able to automatically store records of logged noise levels in 15-minute intervals;



- h) That the stored results can be provided to Council on request;
- i) That the Device is re-calibrated as necessary to maintain SEPP N-2 compliance and/or ensuring that no amplified music noise exceeds the identified limits in the application submitted/advertised acoustic report at all times, or when any changes are made to the Device sensor position or the venue changes operating conditions, building works, sound system configurations or anything else that may necessitate re-calibration of the Device;
- j) That the following detail are identified and documented:
  - the exact location of the Device microphone sensor
  - the noise limits, in Octave Bands, which the Device has been set
  - measured Octave Band levels at another reference position, 1.5m above floor level, inside and outside the venue and nearby to the Device sensor microphone which corresponds with the noise limits set on the Device
  - measured Octave Band levels at relevant noise sensitive premises which correspond with the venue's internal and external noise levels
  - the ambient background noise levels (including date and time) and appropriate SEPP N-2 noise limits
  - the location of the permanently installed sound system loudspeakers, both internal and external of any buildings on the Subject Land
  - the operating configuration in which the Device has been calibrated including whether access doors, windows and the like are required to be closed or can be open

Once to the satisfaction of the responsible authority, the document is to be submitted for approval and once endorsed, will form part of this Permit.

The device must comply with all the above requirements of this condition at any and all times that music is being played.

The conclusions made by this report must be reviewed by an acoustic expert at the permit holder's expense not more than 12 months from the date of the report required by this condition. Any non-compliances with any of the requirements of this condition identified by the review must be undertaken to the satisfaction of the responsible authority.

#### **9. Amplified Music through Sound System**

Amplified and live music must only be played through the Device and only after the Device has been installed and operates to ensure compliance with State Environment Protection Policy N-2 (Control of Music Noise from Public Premises) and in compliance with the conditions of this permit.



#### 10. Patron Noise

At any time the western terrace is operating with its permitted retractable roof open, patron noise is not to exceed background noise ( $L_{90}$ ) plus 10dB between opening of the premises and 10pm and must not exceed background noise ( $L_{90}$  plus 5dB) between 10pm and close of the premises, both measured at the nearest dwellings to the subject premises.

#### 11. Live Music

Without the written consent of the responsible authority, no live music is to be played in the area beneath the retractable roof panels at the Captain Baxter tenancy after 10pm at any time the retractable roof panels are open.

#### 12. Time for Starting and Completion

This permit will expire if one of the following circumstances applies:

- (a) The development is not started within two years of the date of this permit.
- (b) The development is not completed within one year of the date of commencement of works.
- (c) 15 years from the date of this permit with respect to the signage.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- (i) before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and
- (ii) within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

## 4. PROPOSAL

The proposal comprises external buildings and works to the Captain Baxter tenancy. They are summarised as follows and all would be at first floor level, aside from the new entry canopy and signage:

- Removal of the balustrades from the existing balconies forming part of the Captain Baxter tenancy on the south-eastern and south-western facades of the Seabaths building to be replaced with new glazed balustrades on steel columns, finished to match those existing on the south-west facade.
- Removal of part of the south-western end of the existing roof of the Captain Baxter tenancy and installation of motorised retractable fabric roofing as a replacement.
- Installation of a new window and sliding door on the south-west face, finished to match existing.
- Installation of a glazed door and casement windows on the northern western elevation, finished to match existing.





- Replace masonry balustrades of three existing balconies with new glass balustrades.
- Removal of the existing outdoor bar at the mezzanine level.
- Construction of a new portico at the entrance to the tenancy at ground level.
- Installation of internally illuminated business identification signage, comprising 'Captain Baxter' wording and logo (approx. 400mm x 200mm), integrated into the three sides of the new entrance canopy measuring 2.2m x 300mm.

## 5. BACKGROUND

- 5.1 There have been many consents and planning permit approvals at the Seabaths complex over many years. As relevant to this particular proposal, the most recent approval was Planning Permit 891/2014 which allowed the sale and consumption of liquor on the external first floor terraces as part of the Captain Baxter tenancy. The planning permit and Liquor licence 32265355 allow patron numbers for the Captain Baxter tenancy of a total of 229 internally and 195 externally.
- 5.2 There are no other relevant permits or approvals relating to buildings and works in the areas in or near the Captain Baxter tenancy that would inform assessment of this proposal aside from a recent application for two bars external to Captain Baxter and Republica tenancies. The final approval under that application allowed only one of the bars (ground level) and required the mezzanine level bar to be removed. This current application proposes to remove that bar in any case.
- 5.3 The St Kilda Seabaths is governed by a site specific Incorporated Document in the Port Phillip Planning Scheme.

## 6. SUBJECT SITE AND SURROUNDS

- 6.1 The Seabaths complex is located on the foreshore adjacent to Jacka Boulevard, St. Kilda. The building is setback approximately 35 metres from the Jacka Boulevard frontage and has a width of just over 100m. The Captain Baxter tenancy occupies much of the complex's first floor level on the south-east end of the complex. The tenancy currently also occupies two outdoor terraces, one at right-angles to and immediately adjacent to the tenancy (generally parallel to the foreshore) at mezzanine level and the other at first floor level directly opposite the tenancy (across the courtyard airspace). They have areas of approximately 100m<sup>2</sup> and 85m<sup>2</sup> respectively.
- 6.2 The adjacent mezzanine level external terrace currently comprises a relatively simple arrangement of tables and chairs, sometimes with umbrella coverage together with the deck bar which is proposed to be removed. The opposite first floor terrace sometimes has a similar arrangement, but is often not used.
- 6.3 Access to Captain Baxter is currently from a doorway, with heavy wooden doors, accessing the ground level walkway on the south-east side of the courtyard located approximately 35m from the foreshore end of the building.



- 6.4 The remainder of the Seabaths complex features a variety of uses including recreational, retail, 'eating and drinking' establishments and a function centre.
- 6.5 The front of the site, generally facing Jacka Boulevard, contains car parking and landscape areas whilst the building as facing the foreshore generally contains a public promenade with food and drink tenancies adjacent to the beach. Several of these have associated outdoor seating areas. The nearest dwellings, measured from the closest point of the ground level courtyard, are approximately 120m away to the north-east from the front of the building (on the north-west side of Alfred Square).
- 6.6 The surrounding area generally comprises a mixture of uses including commercial, recreational, entertainment and residential uses with the commercial uses mostly confined to the beach side of Jacka Boulevard and the residential uses confined to the opposite side.

## 7. PERMIT TRIGGERS

The following zone and overlay controls apply to the site, with planning permission required as described.

| Zone or Overlay                    | Why is a permit required?   |
|------------------------------------|---|
| Clause 37.01-4<br>Special Use Zone | Under the schedule to this clause, a permit is required for buildings and works that are not in accordance with the development plan as approved under the Sea Baths Incorporated Document. |
| Clause 43.01<br>Heritage Overlay   | A permit is required for demolition and buildings and works.  |
| Clause 52.05<br>Advertising Signs  | A permit is required for Business Identification signage and Internally Illuminated signage.  |

## 8. PLANNING SCHEME PROVISIONS

### State Planning Policy Framework:

Clause 12.02 Coastal Areas

Clause 17.01-1 - Business

### Local Planning Policy Framework:

Relevant sections of the Local Planning Framework are as follows:

Clause 21.04-5, Public Open Space and Foreshore.

Clause 21.05-1 Heritage.

Clause 22.04 Heritage Policy.

Clause 22.09 St. Kilda Foreshore Area Policy.





## 8.1 Relevant Planning Scheme Controls

### Incorporated Document:

The site has been developed in accordance with the Seabaths Incorporated Document under the Special Use Zone 1 – St Kilda Sea Baths. The Incorporated Document acts as a Planning Permit but sits in the Planning Scheme. The Incorporated Document is relevant to land uses, but as previously noted, the proposal does not involve any change in use.

By way of information, the Incorporated Document allows the following uses:

*“..health and fitness centre incorporating heated sea baths as a primary activity: a 25 metre (minimum length) swimming pool, saunas, steam baths, gymnasiums, health and beauty therapy centre, sports medicine centre, multi-purpose activity room which includes the sale and disposal of liquor for consumption in that area, drinking and/or eating areas (including liquor), take-away food facilities, entertainment, tourist, beach and health related retailing, administrative and maintenance facilities, other special events, a car park and landscaping”.*

Many of the existing liquor licences operating at the Seabaths were obtained without the need for a Planning Permit first, relying on the Incorporated Document’s allowance for “sale and disposal of liquor for consumption in that area” and the words “(including liquor)”.

More recently Council Officers have taken the view that the Incorporated Document cannot overrule the requirement for a planning permit for a new liquor licence under Clause 52.27 of the Planning Scheme.

### **Special Use Zone**

The Special Use Zone specifies permit triggers. It states that a permit is required to construct a building or carry out works unless the schedule to the zone specifies otherwise. Relevantly, Section 2 of the schedule to the zone states that a permit is not required to construct a building or carry out works that are in accordance with the Incorporated Document (which incorporates in turn an approved Development Plan).

Given that the proposed demolition, buildings and works including the retractable roof sections and signs are not shown on the approved Development Plan forming part of the Incorporated Document, they are not considered ‘in accordance’ with the Incorporated Document, and a permit is required under the relevant zone and overlay controls.

### **Heritage Overlay**

A permit is required for all buildings and works, signs and all demolition under this overlay. Relevant decision guidelines under that overlay are as follows:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance, heritage study and any applicable conservation policy.*



- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*

*Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

## 9. REFERRALS

### 9.1 Internal referrals

Heritage Advisor:

*While this building is included in the HO, this is an historical legacy of the HO that applied to the original Seabaths building on this site, that was fully demolished and replaced with the current building.*

*As far I know, the only surviving original fabric is the metal cupolas atop the towers. The reconstructed towers themselves are relatively consistent with the design of the historic towers, however, the rest of the building bears little or no relationship to the design of the original seabaths – and this includes features such as the balconies that are the subject of this application. The original seabaths did not have any balconies resembling these.*

*So, in short, the current seabaths has no real heritage value. It follows that the changes proposed to the building will not have any impact upon the heritage values of the place or even an appreciation of what the original building may have looked like as the balconies are not a faithful representation of the details of that building.*

*The only issue here is whether the changes compromise the original design 'intent' of the building. However, this building was so poorly designed and went through so many design changes that I don't believe you could argue there is any integral or valued 'design' that should necessarily be preserved.*

### 9.2 External referrals

DELWP: Coastal Management Consent:

Use and development on the Port Phillip coastal area requires a Coastal Management Act consent. The Department of Environment, Land, Water and Planning issued Coastal Management Act consent 1205279 for the buildings and works on 5 March 2018. The Department of Environment, Land, Water and Planning representative has confirmed that the consent relates to all matters shown on the plans submitted with the application for planning permit.



## 10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by having the applicant place four public notice boards at the perimeter of the site for a 14 day period.
- 10.2 No objections were received.

## 11. OFFICER'S ASSESSMENT

### 11.1 State Planning Policy Framework Assessment

The Seabaths complex is a commercial complex with numerous food and drink tenancies, many of which involve the sale and consumption of liquor. The subject tenancy is one of those.

The proposed works and the signage would be associated with existing the Captain Baxter licensed premises. The proposal would not extend or expand the uses or activities within the complex. The application in part puts into effect a reduction to the operation's intensity by way of a reduction in the licensed area no longer within their lease.

Clause 12.02-2 seeks to ensure development on coastal is sensitively sited and designed, and does not adversely affect coastal environments.

Clause 17.01-1 seeks to encourage development which *meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.*

It is considered that the proposal would achieve these outcomes in that the modifications are within an existing development and would consolidate an existing use. It would assist in enhancing the existing built environment by improving the provision of existing services at an existing and well-established licensed premises.

### 11.2 Local Planning Policy Assessment

#### Public Open Space and Foreshore.

Clause 21.04-5 is considered partly relevant in that it refers to the foreshore and outcomes to be achieved. However, its references to 'public open space' are not directly relevant as the site is in a Special Use Zone and comprises an existing commercial tenancy. None of the works would adversely impact on the function of public open space on the foreshore, or the public's ability to circulate through the Seabaths complex.

A relevant objective is to:

*Ensure new use and development on the foreshore:*

- *maintains and contributes to the continuity of public access to the foreshore,*



- *supports active year round use of the foreshore,*
- *is located in an existing building or in a new building that replaces an existing building,*
- *is sympathetic to the surrounding coastal landscape and built environment and does not disrupt important views and vistas,*
- *does not reduce the net volume of public open space available to the general public on the foreshore,*
- *compliments and enhances the prevailing land uses in the area and does not disadvantage existing foreshore users,*
- *does not increase traffic congestion, parking, pedestrian or cyclist circulation problems,*

These objectives would be achieved. The works would not increase the physical footprint of the existing tenancy.

The new fabric roofing would generally not be visible from the public realm in that it would not alter the roof's shape or increase its height. The new windows and doors would be visible, but would not result in any appreciable change to the building's character.

The new entrance canopy would be at ground level within the courtyard at the stairs to the Captain Baxter tenancy. The entrance canopy would be a simple metal structure with a wood slat underside and similar supporting columns and the signage would comprise small illuminated wording to three sides of the canopy's main element. They would all integrate very well into the character of this section of the complex.

The associated signage would not generally be visible from outside the Seabaths building and are considered modest and well resolved elements.

The proposal would not increase patrons and thus would not increase parking or traffic.

#### Heritage:

Objectives relevant to this proposal:

- *To retain and conserve all significant and contributory heritage places.*
- *To discourage the demolition of significant and contributory heritage places.*
- *To ensure all new development and redevelopment of significant and contributory places is respectfully and harmoniously integrated with the surrounding character.*

The cultural heritage and significance of the Seabaths complex would not be affected by the proposal as the complex is 'non-graded' in Council's Heritage Study. The areas of the complex to be modified do not have any heritage significance.

*To promote design excellence (in terms of building siting, scale, massing, articulation and materials) which clearly and positively supports the heritage significance of all Heritage Overlay areas.*



- *To ensure that new development and any publicly visible additions and/or alterations in or to a heritage place maintains the significance of the heritage place and employs a contextual design approach.*

Visibility from the public realm:

The various new windows and doors would occupy existing openings. Where such openings are to be modified and some demolition is to occur, it would only be in order to allow for a new window to be installed of the same size as existing. That is, the masonry surrounding the windows would be made good with the final result resulting in no change in window proportion. The only external changes would be that a new set of sliding doors replacing existing sliding doors, whilst some existing sliding doors facing the internal courtyard would be replaced with fixed windows and a small 180 degree swing door.

The overall extent of visual change in relation to the new doors and windows would be minimal and would not have any impact on the character of the building.

As noted in section 2.4, the proposal also includes the installation of a new internal glass wall and sliding doors which would effectively partition the rearmost section of the tenancy from the remainder of the tenancy. This section would measure approximately 6.5m x 13m and would sit beneath the proposed retractable fabric roofing. This would create a form of outdoor area within the existing tenancy footprint.

Overall, it is considered that the amount of visual change that would take place when viewed from outside the building would be almost non-existent.

The change to the west section of roof adjacent to the foreshore through the removal of existing roofing and its replacement with retractable fabric panels, would be within the current profile of the roof and would not result in any discernible change by way of visibility from the nearby foreshore.

The most obvious external and publicly visible change would be the new balcony balustrades. Currently, the three in question are relatively heavy looking masonry which contain fairly narrow vertical slots. This treatment was presumably installed to match other cladding on the building when it was constructed approximately 20 years ago. However, it is not considered to be a fundamental part of the building's character.

Whilst the three balconies in question would visually change, it is considered that the new and simple clear glass treatment would achieve an appropriate design outcome and would not conflict with the host building's character.

#### St. Kilda Foreshore Area Policy

General Policies relevant to this particular proposal:

*Encourage new use and development that contributes to the diverse character and builds on the principal role of the St Kilda Foreshore area as a leisure and entertainment precinct.*

The works would enhance the leisure and entertainment role of the sea baths complex.

*Ensure new development improves the attractiveness and supports the viability of existing iconic buildings, spaces, landmarks and attractions, identified in the 'St*





*Kilda Foreshore Urban Design Framework, 2002' as contributing to the cultural heritage of St Kilda.*

The Seabaths complex is one of several buildings referred to in the above document, with one reference in particular being to maintain the simplicity of the foreshore and the relationships between the various larger buildings of which the Seabaths complex is one. The works would not impact on that outcome and the proposal would also support the viability of the Seabaths as one of the iconic buildings by supporting one key tenancy. No aspect of the proposal would affect any other foreshore spaces, landmarks or attractions.

#### *Built Form*

*It is policy to:*

- *Ensure new development retains the dominant built form typology of the Foreshore, characterised by buildings in space, as described in the 'St Kilda Foreshore Urban Design Framework, 2002'.*
- *Ensure that significant heritage and iconic buildings and places are conserved and that any new development around them respects the existing built form.*

Both these outcomes would be met. The proposal would not affect the special relationship between the complex and its surrounds and nor would any aspect of the proposal disrespect the built form of the host building or any nearby building.

- *Ensure future building heights and forms maintain and enhance the view structure defined in the 'St Kilda Foreshore Urban Design Framework, 2002' including; views from the Upper Esplanade to the horizon, Williamstown, Marine lighthouse, the Stokehouse and Catani Arch; and from South Beach to the entrance of Luna Park.*

No aspect of the proposal would affect views to or from any of these buildings nor views from the Upper Esplanade to the horizon.

- *Ensure future building heights and forms do not detract from the amenity of the public realm by overshadowing or causing wind tunnel effects on public space.*
- *Maintain the low-rise, 1 to 2 storey character of the Foreshore Reserve, excepting the potential for a limited increase in height at the Royal Melbourne Yacht Squadron to create a stronger termination point for the Fitzroy Street vista.*

Both these outcomes would be met. The public realm (the foreshore reserve and nearby footpaths and road reserves) would not be affected, nor would the predominant 1-2 storey scale of the nearby buildings facing the foreshore reserve.

- *Encourage high quality, innovative design of buildings and spaces that:*
  - *respect the cultural values and architectural themes of St Kilda, and*
  - *integrate with and enhance the public realm by incorporating useable community space, ground level activity and maximising solar access.*
  - *Protect the water quality of Port Phillip Bay from adverse environmental impacts of new development through application of the City of Port Phillip Stormwater Management Plan.*





As previously assessed in relation to design quality. Principally, the absence of any change in footprint or overall height would ensure that the proposal would not negatively affect the public realm. The new balcony balustrades would be visible from the foreshore and nearby, but are not considered to have any negative impacts on those spaces.

### 11.3 **Heritage Overlay:**

#### *Decision guidelines*

*Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate (and relevant to this particular proposal):*

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance, heritage study and any applicable conservation policy.*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

The proposed minor demolition would have no negative heritage impacts on the host building, which is not graded and apart from the front towers and domes, does not have any elements of heritage note.

The demolition of the existing mezzanine level bar would also have no negative impacts as the bar is a very recent structure of no heritage significance. By way of note, it is required to be removed in any case under the recent permit issued for the retrospective construction of the ground level courtyard bar

### 11.4 **Potential noise impacts as a result of the fabric roofs.**

Even though there would be no change in use or change to the use's intensity, the proposal does involve the creation of what would become for an outdoor eating and drinking area on the foreshore side of the Captain Baxter tenancy, within that tenancy's footprint. SEPP N1 and SEPP N2 relate to plant and music noise and both of the above State Environment Protection Policies are mandatory and uses such as the subject one are obliged to meet their outcomes at all times they are operating. .

There is considered to be a direct nexus between the proposed buildings and works for the retractable fabric roofing and the potential for the emission of noise from the existing use.



The new outdoor eating and drinking area would be located at the extreme south-west side of the subject tenancy being the area that is furthest removed from any nearby dwellings. The new roofing and re-arranged internal area beneath would be approximately 150m to the nearest dwellings being the block of flats at the south-west corner of Alfred Square and The Esplanade. The next nearest dwellings would be approximately 185m away being the dwellings in the tower behind the Esplanade Hotel.

Despite these distances, the applicants have submitted an acoustic report which concludes that proposed external music noise levels should not exceed certain levels at certain times of day commensurate with identified background noise levels and that music noise would at all times comply with SEPP N2 limits at the nearest dwellings if properly controlled

The report also concluded that external music noise could exceed SEPP N2 limits at night should live music be played and recommends the installation of a music noise limiter in order to ensure compliance with the identified SEPP N2 requirements.

Recommended conditions 6 to 11 inclusive all relate to protecting amenity from noise emissions primarily by installation of a noise limiter and compliance with SEPP N2.

Recommended condition 10 also specifically relates to a matter raised in the applicant's acoustic report being that of patron noise. Whilst there is no state control over patron noise, this recommended condition would require the standards as identified by the acoustic expert to be complied with at all times.

#### 11.5 **Signage:**

The above clause contains many decision guidelines under which new signage should be assessed and outlines a variety of matters that should be considered. In summary, they generally seek to ensure that new signage would not:

- Cause undue impact on the built form and heritage character of an area,
- Cause detriment to the character of the host building,
- Obscure any heritage elements of the host or nearby buildings and whether they would obscure vision of existing signage,
- Result in detriment to the area by way of clutter or excessive light impacts,
- Result in signage that would be out of proportion with the host building and,
- Result in inadequate ability to identify a particular premises.

It is considered that the three proposed small internally illuminated signs would not have any negative impacts. They would be well integrated into the proposed



new entry canopy, would be consistent with the style and proportions of other signage in the complex, would not obscure other signage and would not have any negative heritage or residential amenity impacts or negative impacts to the Seabaths complex as a whole or its current users.

**12. COVENANTS**

12.1 There is no restrictive covenant affecting the site.

**13. OFFICER DIRECT OR INDIRECT INTEREST**

13.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

**14. OPTIONS**

14.1 Approve as recommended

14.2 Approve with changed or additional conditions

14.3 Refuse - on key issues

**15. CONCLUSION**

15.1 The proposal is to allow limited demolition, installation of new doors and windows, installation of new retractable fabric roof panels, installation of new balcony balustrades and installation of a new entrance canopy with integrated signs at the Seabaths complex. The proposal does not involve any new use as the sale and consumption of liquor and the use of the tenancy as an eating and drinking premises are existing. The only change in that respect would be to reduce the extent of the red line licensed area. Given that, there would be no change in car parking provisions.

15.2 A concern is that the new canopy may allow the escape of noise. It is concluded that the acoustic aspects of the proposal can be adequately addressed. There are no dwellings within close proximity of the retractable roof panels (where noise would escape) but in any event, conditions are recommended which reinforce the requirement to meet relevant SEPP noise controls particularly through the required installation of a music noise limiter.

15.3 The buildings and works aspects of the proposal are considered non-intrusive and would be in keeping with the contemporary nature of the complex. They would have no negative heritage impacts on the host building (which is non-graded) and would not result in any detriment to the public or other users of the complex.

15.4 It is therefore recommended that a permit be granted.

**TRIM FILE NO:** P0039/2018  
**ATTACHMENTS** 1. Application - Plans