



KEEP THE



SEABATHS



ROOFTOP



PUBLIC

COMMUNITY ALLIANCE OF PORT PHILLIP (CAPP) OBJECTION TO PLANNING PERMIT APPLICATION NO. 829/2016
ST KILDA SEA BATHS – 10-18 JACKA BOULEVARDE, ST KILDA

CAPP objects to the granting of a planning permit to:

- build a pavilion above the existing roof terrace
- partially demolish the existing kiosk and expand its width by 3.66 metres
- approve an on-premises liquor licence
- use the new building for a food and drink premises to operate between 8am and 1am for 7 days a week.

This Application is objected to on the following grounds:

1. The Application will reduce the area for genuinely free public use from around 645 square metres to 190 square metres (the extent of the proposed unlicensed area).
2. The Application is contrary to a number of decisions of Council in the negotiations over the lease of the Sea Baths.

In April 1999 Council determined:

“that the lessee be formally advised that as the Roof Terrace is to become an area accessible to the general public this Terrace may not be used for the sale or service of alcohol and that it be accessible to the public at no charge during normal daylight opening hours of the complex as a minimum”. Council Meeting 21 April 1999.

In February 2000, Council was asked to consider the installation of a Servery on the Rooftop Terrace. On 28 February 2000, Council determined:

“...that this Rooftop area is required by council to stay as a public accessible space where people can gather and view the scenery or enjoy the space without any requirement or “perception” that it is a requirement to buy food or drinks. A Servery was acceptable but not a kitchen...”.

In the period between 1998 and 2001, the lessee continued to acknowledge that the Rooftop Terrace would be available as a viewing platform and relaxation area for the public. Public access to, and use of, the Rooftop Terrace was a key issue in the negotiations over the design and tender arrangements for the Sea Baths.

In March 1999 South Pacific St Kilda Pty Ltd put out a media release promoting that: “the rooftop terrace, which has one of the best views in Melbourne, will be open to the public.”

There is no evidence that suggests that Council or the owner, the State Government through DELWP, has moved from this longstanding position.

The Applicant’s submission refers to Council approval on 10 July 2015 that allows for the use of the existing kiosk as a food and drinks premises and part use of the Rooftop Terrace for private functions up to 104 days a year. We have requested evidence of such Council approval, but at the time of submission have not yet received a copy of this. It is unknown if there has been any approval from DELWP. The so-called existing kiosk is more in the style of a servery which currently appears to be in disrepair.

3. A substantial portion of public open space is being converted to permanent commercial use. The proposed structure is permanent and there is no evidence that it can be used by the public free of charge or without the need to purchase food and/or drinks.
4. The permanent structure will block the current uninterrupted views north and south along the foreshore for the general public who will be confined to a limited area.
5. The Consent Notice, an incorporated document in the Port Phillip Planning Scheme, makes it clear that the primary purpose of the St Kilda Sea Baths is a health and fitness centre. The consent notice provides for clear views of the beach from the centre. The proposed pavilion will inhibit views from the terrace for the public and the proposed bar and restaurant for up to 300 people is not consistent with the primary intent of the facility.

The Consent notice refers to the courtyard as being the open area where entertainment, drinks and eating can occur and does not envisage this occurring on the Rooftop Terrace. There are already several licensed venues in the Sea Baths complex and 45 such venues within 500 metres of the Sea Baths. There is no demonstrated

need to add a further privately operated licensed venue on the rooftop terrace, particularly given the purpose of the Sea Baths is to promote health and recreation.

6. Public amenity will be seriously diminished by the presence of up to 300 patrons drinking alcohol and the noise generated by such a large number of people in one place. Members of the public seeking to enjoy the scenery will be faced with a very different environment to the one that they can currently experience. Clause 52.27 of the Port Phillip Planning Scheme "Licenced Premises" requires that the impact of a licenced premise on the amenity of the surrounding area must be considered in granting a Liquor Licence.
7. There are no benefits to the public from the proposed development. The Applicant refers to "new public amenities" to be provided in the proposed development. The only thing identified is new toilets but there are already male, female and disabled toilets on the Rooftop Terrace all of which are in good order.
8. The Applicant claims that the Sea Baths Terrace is currently underutilised and that is due to the lack of amenity. There is no signage at any of the three access points that indicates that the Terrace exists and that it is open for use by the public. In fact many residents who have lived in the area of St Kilda for 20 or more years have said that they were unaware of its existence until the current application was lodged. It is the responsibility of the current operator to make sure that this public space is known to the public. The Consent Notice (Incorporated Document) clearly states this requirement. They have failed to do this.

We are very concerned that the current proposal will discourage use of the roof terrace by the community, for relaxation and enjoyment of the space and the views without the requirement to spend money.

The "so called amenity" that the Applicant alleges it will provide to the public by building a pavilion on the Rooftop Terrace will not be available to the public unless they are customers of the bar and restaurant. The commercialisation of almost two thirds of the Terrace effectively privatises most of the Terrace. This is a loss of public open space. The current operator should be providing "amenity" such as seating and shading for the (non-paying) public if it is to meet its long standing responsibility of managing this part of the building.

9. The St Kilda Foreshore Area Policy emphasises the need to create an equitable balance between the needs of the local community and the regional tourism role of the area. The balance between those two elements has, over time, continued to tilt in favour of tourism at the expense of public open space and accessibility. The almost continual closure of the Catani Gardens and the grassed area in front of the beach for private events is an example of the ongoing public loss for private gain. The conversion of most of the Rooftop Terrace into a private facility will add to this loss and further destabilise any sense of balance between local needs and tourism.

Yours Sincerely,

Dr Rhonda Small

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