

SPECIAL COUNCIL
24 JULY 2003

CONFIDENTIAL

1	ESPLANADE HOTEL
ADDRESS:	ESPLANADE, ST KILDA
PROPOSAL:	CONSIDERATION OF COUNCILS POSITION AT THE UPCOMING VCAT APPEAL FOR THE ESPLANADE HOTEL SITE.
RESPONSIBLE DIRECTOR:	GEOFF OULTON- DIRECTOR CITY DEVELOPMENT
AUTHOR:	SUE WILKINSON - TEAM LEADER – URBAN PLANNING

1. DISCUSSION

- 1.1. In February 2003, Council considered a planning application lodged by Becton proposing the demolition of buildings (excluding the main Esplanade Hotel building) and construction of a residential apartment building of up to 10-storeys. The application was advertised and a total of 31 objections were received.
- 1.2. Council resolved to refuse the application.
- 1.3. Council's refusal was based on a range of issues however, three key themes have emerged during preparation for the upcoming VCAT hearing and in discussions with both Councillors and the applicant. These three themes are best summarized as architectural quality, heritage significance particularly of the Baymor building and the ongoing cultural significance of the hotel operation as a live comedy and music venue.
- 1.4. In addition, Council resolved in a motion arising ;
"That the minutes note Council's willingness to continue working with the applicant prior to any VCAT hearing".
- 1.5. Negotiations with the developers have occurred over the last 6- 8 weeks, with an aim to resolve as many issues of debate as possible prior to the VCAT hearing. Councillors have been briefed on a weekly basis on the outcomes of these discussions.
- 1.6. At the briefing on Monday 14th July, a framework was agreed for officers to progress negotiations with Becton. Essentially the offer was as follows:
- 1.7. **Offered by Council:**
 - Not to oppose demolition of Baymor
 - Not to argue for increased car parking for new development

1.8. **Asked of Becton:**

- Agree to address outstanding elements of architectural design (4 matters)
- Agree to include acoustic treatment of new apartments
- Provide an expanded area for loading, unloading and back of house at the rear of Esplanade Hotel within the new development, (beyond the lease area and in excess of the originally offered area)
- Preparation of a plan to show how the existing uses contained within the Esplanade Hotel would be accommodated within the revised building envelope, including 3 stages and a kitchen.
- Agreement to construct the necessary works within the Esplanade Hotel in conjunction with the development of the apartment building.

1.9. As indicated to Councillors by email, further discussions with the applicants and representatives of the hotel operators have taken place today.

1.10. **The position offered by Becton for Council's consideration is as follows:**

- The area to be made available to the hotel be extended at ground floor to accommodate all but a small portion of the car parking area shown at ground level accessed off Pollington Street (refer attached plan).
- Advice that Becton and the hotel operators will execute an agreement (refer attached);
 - which sees the purchase of the additional floor area as per the attached plan by the hotel operators.
 - which facilitates the relocation of connections and services (currently outside the lease boundaries) into the new hotel boundary by Becton in consultation with the Hotel operators
 - An extension of availability of the Bottle shop area and kitchen for a minimum 6 month period

This agreement will be executed contingent on receiving a permit for the development.

- In addition Becton have agreed to the following;
 - Conditions on any permit issued which require the acoustic treatment of the apartments exceeding the normal design criteria and assuming a noise level well above SEPP N-2.

- Conditions on any permit issued which would require photographic record of the historic elements of the site to be demolished as appropriate
 - Conditions on any permit issued requiring preparation of a Construction Management Plan to the satisfaction of the Responsible Authority
 - Conditions on any permit issued which prevent the commencement of any demolition works on site until such time as formal construction contracts have been executed (to avoid moonscaping of the site and to extend the availability of current kitchen facilities until such time as works have commenced on site)
 - A commitment to continue working towards resolution of the items of concern regarding the architectural quality of the building with a view to trying to resolve as much as possible before the appeal. In the event that following the discussions there remains outstanding issues these would be debated in the VCAT forum.
- In addition, the hotel operators have indicated the following;
 - Their acceptance of the additional floor area to be made available at the rear of the hotel.
 - Their intention to participate in any VCAT appeal with Becton advising that the amended area and the agreement that arrangements outlined above are satisfactory to their requirements for on going operations including the preparation of food.
 - Their preparedness to enter into a S173 with Council which would require them to provide kitchen facilities within 6 months of the removal of the existing facilities
 - Their preparedness to do necessary works to ensure acoustic compliance to the requirements of SEPP-N2.

2. CONCLUSION

- 2.1. The outcomes outlined above are considered by both Officers and Council's legal advisor to be generally in accordance with the offer made to Becton following the 14 July Councillor briefing.
- 2.2. In Officers view, it would appear that under the current terms that acceptance of the offer will provide the best opportunity for the hotel to continue to operate as a viable live music and comedy venue. The negotiations have secured matters that extend well beyond statutory planning parameters. This is particularly true in regard to the securing loading and unloading on the site, acoustic treatments and the reconstruction of the kitchen which is considered important to the hotels future.

- 2.3. The major negative impact of acceptance of the offer is the loss of the heritage assets on the subject site. If the offer were to be rejected by Council, heritage matters would be the subject of considerable debate at any VCAT hearing, the outcome of which is not assured. If Baymor Court were not permitted to be demolished the proposal could not proceed.

3. RECOMMENDATION

- 3.1. Council's direction is sought in relation to the offer from Becton in the context of the upcoming VCAT appeal.