

1.1: ADOPTION OF DRAFT LOCAL PLANNING POLICY MANUAL

Proponent	: City of Albany
Attachments	: Schedule of Submissions
Councillor Workstation	: Final Draft Local Planning Policy Manual (April 2011) – electronic copy available on request (hard copy at North Road Administration Building and Library)
Responsible Officer	: E/Director Planning & Development Services (G Bride)

IN BRIEF

- Consider the adoption of the draft local planning policy manual, which seeks to consolidate and modernise Council's town planning policy framework.

ITEM 1.1: RECOMMENDATION 3 - ALTERNATE MOTION BY COUNCILLOR PAVER

MOVED: COUNCILLOR PAVER

SECONDED: COUNCILLOR SUTTON

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP2(G) Significant Tourist Accommodation Sites within the Local Planning Policy Manual (April 2011) as per the amendments identified within the attached schedule of submissions, except that the Policy Statement for Site 1 (Esplanade Hotel Site) is to be retained as per the recommendation of the Tourist Accommodation Planning Strategy as follows:

“Site 1: Policy Statement

Area where permanent residential development is permitted as of right is identified in blue above (ie. 65% tourist accommodation and 35% permanent residential).”

CARRIED 11-1

Record of Vote

Against the Motion: Councillor Wolfe

Councillor Reason:

The percentages above are consistent with the recently adopted Tourist Accommodation Planning Strategy which provides a good balance between allowing some residential at the rear of the site, whilst reinforcing that the site is primarily a tourist development site of significance. Any reduction in the percentages of tourist development across this strategic site should be discouraged.

OFFICERS REPORT (G Bride)

STATUTORY IMPLICATIONS

1. No change.

POLICY IMPLICATIONS

2. No change.

FINANCIAL IMPLICATIONS

3. No change.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

4. As stated within the report (at Paragraph 16) the Tourist Accommodation Planning Strategy has identified a ratio of 65% for tourist development and 35% for permanent residential development and recommends that the proposed future zoning solution in Council's draft Local Planning Scheme No. 1 recognise this ratio (ie. 35% of the site is zoned 'Tourist Residential' and 65% of the site is zoned 'Hotel/Motel').
5. This ratio was not based on any specific site analysis but was consistent with the planning consent that was issued for the hotel and multiple dwellings in 2007.
6. It is important to note that the proposed local planning policy would apply to the current zoning of the site, being "Tourist Residential" and provides a statutory mechanism to ensure the entire site is not lost to residential development in the interim period pending the introduction of the new Planning Scheme, which is likely to take 12 to 18 months before implementation (gazettal).
7. The Policy is consistent with the Strategy to the extent that it has applied the strategy position as an 'accepted' or default position without further analysis. The detailed policy statement, through the provision of performance criteria accepts that a range of different development options could be possible on the site which could achieve the overall objectives of the Strategy and reinforce its strategic importance. The policy statement requires the landowner to demonstrate the suitability of such options and ensures the tourist development is constructed first and foremost.
8. Council can review its Tourist Accommodation Planning Strategy at any time. In this case, unless sufficient justification for a revised ratio in accordance with the specified performance criteria has been provided and Council has granted planning scheme consent under the existing zoning and proposed policy framework (inclusive of meeting the performance criteria) the strategy position for the future Scheme could remain in situ as below:

"Strategic Action: Site is a "Local Strategic" tourist site. Rezone site by applying a dual zoning of Hotel/Motel zone and Tourist Residential zone in the City's Community Planning Scheme, consistent with the site evaluation map above. The portion zoned Hotel/Motel zone will be protected from indiscriminate subdivision or from any non-tourism development, whilst that portion zoned Tourist Residential could accommodate permanent residential development."

9. The draft Scheme would be subject to Council consideration and public consultation and amendments to the ultimate zoning solution for the site could be considered at that stage.

10. On the gazettal of the new Scheme existing policies will need to reviewed and re-adopted under the new Scheme. The policy position could not contradict whatever zoning was applied to the site on gazettal of the new Scheme.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. Council has another option which is to not include Policy 2G within the policy manual at this stage (ie. defer final adoption of this particular policy) to allow for an additional briefing or workshop to consider an alternative policy position or review the policy position proposed for the site. This will still mean the rest of the policies can be adopted within the manual, and the final adoption of Policy 2G is considered at a future Council meeting. If Councillors would like more information on this item, a workshop can be accommodated by Staff.

COMMENT:

12. It is important to note that staff's recommendation does not guarantee an increase above the 65% tourist development designation which remains the default position (as identified in the Tourist Accommodation Planning Strategy). Given the lack of development opportunities proposed for the site (and its blighted appearance) some flexibility is recommended to encourage development which delivers a substantial tourist accommodation development, which subject to appropriate justification, could be delivered over a smaller site area. This would need to be on the basis of any proposed development complying with building height and parking parameters of the Town Planning Scheme and the Middleton Beach Tourist Precinct, in addition to achieving the various other performance criteria listed in the officer recommendation. Council will ultimately need to consider whether a variation to the 'acceptable criteria' (default position) is appropriate. The proposal would also be advertised to the local community.
13. Should the alternate motion by Councillor Paver be supported (ie. 35% permanent residential and 65% tourist accommodation), a future developer could still apply to Council to seek a variation of this ratio through the lodgement of a planning scheme consent application, whilst the current zone remains in place (ie. Tourist Residential). This zone is likely to be in place for another 12 to 18 months prior to the gazettal of the new Scheme.

ITEM 1.1: ALTERNATE MOTION FROM COUNCILLOR PAVER

MOVED: COUNCILLOR PAVER
SECONDED: COUNCILLOR D BOSTOCK

THAT Responsible Officer Recommendation 2 Lay on the Table, and Point 7N of Responsible Officer Recommendation 1 be DELETED.

TIED 6-6
MAYOR EXERCISED CASTING VOTE
CARRIED 7-6

Councillor Reason:

There are some matters that have not been thoroughly considered with regard to holiday homes.

ITEM 1.1: RESOLUTION

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR SUTTON

THAT the following Recommendations be ADOPTED en bloc:

- **Amended Responsible Officer Recommendation 1**
- **Responsible Officer Recommendation 4**
- **Responsible Officer Recommendation 5**
- **Responsible Officer Recommendation 6**
- **Responsible Officer Recommendation 7**
- **Responsible Officer Recommendation 8**
- **Responsible Officer Recommendation 9**
- **Responsible Officer Recommendation 10**
- **Responsible Officer Recommendation 11**
- **Responsible Officer Recommendation 12**
- **Responsible Officer Recommendation 13**

CARRIED 11-1

Record of Vote

Against the Motion: Councillor Leavesley

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 2

- Masts, Aerials and Flagpoles (Not required, refers to old technology – to be reviewed in future);
- Extractive Industry Guidelines (incorporated into manual);
- Down Road Noise and Hazard Policy (incorporated into manual);
- Albany Historic Town Design Policy (split into two policies and incorporated into manual);
- RAAFA Aged Persons Village Design Guidelines (Not required – project developed);
- Albany Airport (ANEF) Noise Buffer Policy (incorporated into manual);
- Development Guide Plan for Lot 1274 Albany Highway (Not required – project developed);
- Lake Seppings Drive, Loftie Street and Wright Street (incorporated into manual);
- Special Rural Area 1C – Special Provisions (incorporated into manual);
- Gull Rock Road (Alternative Subdivision Guide Plan) (incorporated into manual);
- Lot 5 Rufus Street, Milpara (Not required – original Guide Plan within Scheme to be

used);

- Masonic Hall Design Guidelines (incorporated into manual);
- La Perouse Court (Alternative Subdivision Guide Plan) (incorporated into manual);
- Reflective Building Materials in Goode Beach (incorporated into manual);
- Richard Street Industrial Policy (incorporated into manual);
- Seppings Street Design Guidelines Policy (Not required – development complete);
- Speedway Noise Buffer Policy Area (incorporated into manual);
- Albany Design Guidelines (Not required - provisions inserted into Albany Historic Town Design Policy and aspects relating to restoration of heritage buildings placed in new information sheet);
- The Outlook (incorporated into manual);
- Thomas Street (Old Surrey Guidelines) (incorporated into manual);
- Barker Road Industrial Policy (incorporated into manual);
- Melville Drive View Policy (incorporated into manual);
- Woodrise Estate Design Guidelines (incorporated into manual);
- Lot 201 and 202 Pony Club Road (Alternative Subdivision Guide Plan) (incorporated into manual);
- Lots 104 and 105 Willyung Road (Alternative Subdivision Guide Plan) (incorporated into manual); and
- Subdivision and Development – Frenchman Bay Road (incorporated into manual).

ITEM 1.1: AMENDED RESPONSIBLE OFFICER RECOMMENDATION 3

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP2(G) Significant Tourist Accommodation Sites within the Local Planning Policy Manual (April 2011) as per the amendments identified within the attached schedule of submissions, except that the Policy Statement for Site 1 (Esplanade Hotel Site) is amended to the following:

“Site 1: Policy Statement

Area where permanent residential development is permitted as of right is identified in blue above. Council may however consider an increase in the area designated for permanent residential up to a maximum of 65% where the following criteria is met:

- a) *The tourist development is to occupy no less than 35% of the physical site area and shall be located wholly within the eastern (beach) side of the subject land and be segregated from the permanent residential development.*
- b) *A public restaurant and/or tavern being incorporated into the development with direct frontage and access to Flinders Parade.*
- c) *Incidental tourist orientated shops/cafes etc being incorporated into the development and located at ground level to create an active and vibrant edge to Flinders Parade.*
- d) *Tourist Accommodation (being a Hotel or serviced apartments) is incorporated into the development fronting Flinders Parade and a feasibility study is provided to ensure that the room/unit yield is economically sustainable on a reduced building footprint, within the development parameters set down by the Scheme and/or Middleton Beach*

Tourist Precinct (Policy 7M).

- e) *Whilst a planning application identifying all uses over the site is encouraged, the creation of new titles through the subdivision process or the construction of the permanent residential component will not be entertained until such time as the tourist accommodation and uses mentioned in part b) and c) are constructed to at least 'plate height' of the ground floor with such arrangement being identified as a condition of planning scheme consent or subdivision.*
- f) *The tourist accommodation and associated tourist uses shall be designed and constructed to a high standard, representing the iconic/landmark building within the Middleton Beach precinct."*

ITEM 1.1: RECOMMENDATION 3 - ALTERNATE MOTION BY COUNCILLOR PAVER

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP2(G) Significant Tourist Accommodation Sites within the Local Planning Policy Manual (April 2011) as per the amendments identified within the attached schedule of submissions, except that the Policy Statement for Site 1 (Esplanade Hotel Site) is to be retained as per the recommendation of the Tourist Accommodation Planning Strategy as follows:

"Site 1: Policy Statement

Area where permanent residential development is permitted as of right is identified in blue above (ie. 65% tourist accommodation and 35% permanent residential)."

ITEM 1.1: RESOLUTION (Alternate Motion by Councillor Paver-Recommendation3)

**MOVED: COUNCILLOR PAVER
SECONDED: COUNCILLOR SUTTON**

THAT the Alternate Motion by Councillor Paver for Recommendation 3 be ADOPTED.

CARRIED 11-1

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 4

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP5(D) Extractive Industries and Mining within the Local Planning Policy Manual (April 2011) as per the amendments identified within the attached schedule of submissions.

CARRIED EN BLOC

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 5

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP6(C) Detailed Area Plans within the Local Planning Policy Manual (April 2011) as per the amendments identified within Paragraph 31 of the officer's report.

CARRIED EN BLOC

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 6

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP6(K) Lot 100 Grey Street East within the Local Planning Policy Manual (April 2011) as per the amendments identified within the attached schedule of submissions.

CARRIED EN BLOC

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 7

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP6(O) Modifications to Subdivision Guide Plans within the Local Planning Policy Manual (April 2011) as per Paragraph 47 and 48 of the officer's report.

CARRIED EN BLOC

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 8

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP7(M) Middleton Beach Tourist Precinct within the Local Planning Policy Manual (April 2011) subject to the following modification:

“M2.2 Building Heights

Maximum building heights within the Precinct are set out in Figure 2. In relation to the Middleton Beach Caravan Park site, the following height criteria applies:

- 1. No development shall be approved which results in overlooking of the beach and bathing area (100 metres seaward of high water mark), by an occupant within the development.***
- 2. Development should harmonise with the landscape elements in siting and design, particularly in regards to colours, scale, height and materials.***
- 3. No development shall exceed 7.5 metres in height. Where development at the prescribed height may result in overlooking of the beach and bathing area the provisions of clause 1 shall prevail.***
- 4. Alterations to natural landforms (eg. Cutting, filling, grading, excavating) shall be minimised during development and the site restored to it's former appearance or as near as practical.***
- 5. This policy may preclude the construction of a building to the maximum height otherwise allowed under the operative Town Planning Scheme or another policy of Council.”***

CARRIED EN BLOC

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 9

THAT Council RESCINDS the following policies pursuant to Clause 7.21 of Town Planning Scheme No. 1A and 6.9 of Town Planning Scheme No. 3:

- Detailed Area Plans Policy (incorporated into manual);
- Outbuildings Policy (incorporated into manual);
- Public Open Space Contribution Policy (incorporated into manual);
- Residential Density Code Policy (split into different policies and incorporated into manual);
- Sea Containers/Relocatable Storage Units (incorporated into manual);
- Signs, Hoardings & Bill Posting (incorporated into manual);
- Sloping Land Policy (incorporated into manual);
- Development Guidelines – Scheme 1A (incorporated into manual);
- Development Guidelines – Scheme 3 (incorporated into manual);
- Coastal Lot Privacy Policy (Not required R-Codes have introduced privacy criteria);
- Off-Site Verge Cash-in-Lieu Parking Policy (incorporated into manual under Albany Town Centre Policy);
- Masts, Aerials and Flagpoles (Not required, refers to old technology – to be reviewed in future);
- Extractive Industry Guidelines (incorporated into manual);
- Down Road Noise and Hazard Policy (incorporated into manual);
- Albany Historic Town Design Policy (split into two policies and incorporated into manual);
- RAAFA Aged Persons Village Design Guidelines (Not required – project developed);
- Albany Airport (ANEF) Noise Buffer Policy (incorporated into manual);
- Development Guide Plan for Lot 1274 Albany Highway (Not required – project developed);
- Lake Seppings Drive, Loftie Street and Wright Street (incorporated into manual);
- Special Rural Area 1C – Special Provisions (incorporated into manual);
- Gull Rock Road (Alternative Subdivision Guide Plan) (incorporated into manual);
- Lot 5 Rufus Street, Milpara (Not required – original Guide Plan within Scheme to be used);
- Masonic Hall Design Guidelines (incorporated into manual);
- La Perouse Court (Alternative Subdivision Guide Plan) (incorporated into manual);
- Reflective Building Materials in Goode Beach (incorporated into manual);
- Richard Street Industrial Policy (incorporated into manual);
- Seppings Street Design Guidelines Policy (Not required – development complete);
- Speedway Noise Buffer Policy Area (incorporated into manual);
- Albany Design Guidelines (Not required - provisions inserted into Albany Historic Town Design Policy and aspects relating to restoration of heritage buildings placed in new information sheet);
- The Outlook (incorporated into manual);
- Thomas Street (Old Surrey Guidelines) (incorporated into manual);
- Barker Road Industrial Policy (incorporated into manual);
- Melville Drive View Policy (incorporated into manual);
- Woodrise Estate Design Guidelines (incorporated into manual);
- Lot 201 and 202 Pony Club Road (Alternative Subdivision Guide Plan) (incorporated into manual);
- Lots 104 and 105 Willyung Road (Alternative Subdivision Guide Plan) (incorporated into manual); and
- Subdivision and Development – Frenchman Bay Road (incorporated into manual).

CARRIED EN BLOC

BACKGROUND

1. Since the gazettal of the City of Albany Town Planning Scheme's 1A and 3 in the early 1980's, there has been over 150 documents adopted by Council as policies under the provisions of the relevant Schemes.
2. Over the past five years staff have continually reviewed these policy documents and have rescinded many of these policies as they have become updated or contemporary planning practice has necessitated the need for a new policy direction.
3. In recent times many Council's across Australia have sought to combine their planning policies into a consolidated manual in order to deliver a clear and concise planning document. Such manuals typically include several broad policy areas, with more specific policies contained within each grouping.
4. A draft Local Planning Policy Manual was prepared for Council's consideration at its meeting dated 14 December 2010, whereby Council resolved:

"1. The draft Local Planning Policy Manual (Second Draft - November 2010) be ADOPTED for the purposes of advertising in accordance with Clause 6.9 of Town Planning Scheme No. 3 and Clause 7.21 of Town Planning Scheme No. 1A, subject to the following modifications:

A. Policy 2K (Domestic Wind Turbines) be amended to identify the maximum acceptable height for pole or tower mounted domestic wind turbines at 6 metres for residential and tourist residential zoned areas, and that roof mounted turbines are no higher than 2 metres above the apex of the roof on which it is mounted.

B. Policy 2F (Holiday Homes) be amended to include the localities of Little Grove and Goode Beach into Figure A – Preferred Areas for Holiday Homes.

2. The policy manual be ADVERTISED for public comment for an extended period of 42 days (in lieu of 21 days) to allow additional consultation during the upcoming Christmas and New Year period."

5. The format (contents) of the draft Local Planning Policy (LPP) Manual is as follows (note that those policies in red are new or have been substantially modified):

LPP No. 1 – Conceptual District Structure Plan

LPP No. 2 – General Development Policy

- A. Outbuildings
- B. Signs
- C. Sea Containers
- D. Ancillary Accommodation
- E. Bed and Breakfast
- F. Holiday Homes
- G. Significant Tourist Accommodation Sites (draft considered by Council in August 2010)
- H. Temporary Accommodation
- I. Heritage Protection

- J. Public Open Space
- K. Domestic Wind Turbines

LPP No. 3 – Residential Development Policy

- A. Variations to Residential Design Codes
- B. Relocated Dwellings
- C. Consulting Rooms, Public Worship and Childcare

LPP No. 4 – Commercial and Industrial Development Policy

- A. Alfresco Dining
- B. Public Art
- C. Restricted Premises
- D. Building Facades in Industrial Zones

LPP No. 5 – Rural and Environment Policy

- A. Grouped Dwellings on Rural Land
- B. Chalets
- C. Workers Accommodation
- D. Extractive Industries and Mining
- E. Development in Flood Prone Areas
- F. Agricultural Protection and Subdivision

LPP No. 6 – Special Development Control Areas (Residential)

- A. Residential Development on Steep Sites
- B. Albany Historic Town Design Policy
- C. Detailed Area Plans
- D. Sloping Land
- E. Reflective Roofs in Goode Beach
- F. The Outlook Estate
- G. Masonic Hall Design Guidelines
- H. Thomas Street Design Guidelines
- I. Melville Drive View Corridor
- J. Woodrise Estate
- K. Lot 100 Grey Street East
- L. Pines Estate Setbacks
- M. Frenchman Bay Road Residential Development Area
- N. Lake Seppings Drive/Wright and Loftie Street
- O. Modifications to Subdivision Guide Plans
- P. South Lockyer Structure Plan
- Q. Little Grove Structure Plan

LPP No. 7 – Special Development Control Areas (Non-Residential)

- A. Airport Buffer
- B. Speedway Buffer
- C. Timewell Road Waste Water Treatment Buffer
- D. Albany Port Buffer
- E. Barker Road Industrial Area
- F. Richard Street Light Industrial Area
- G. Down Road Timber Processing Precinct

- H. Marbellup Brook Water Resource Protection Area
- I. [Albany Town Centre](#)
- J. Albany Waterfront
- K. Centennial Park Redevelopment Area
- L. Neighbourhood Centres
- M. Middleton Beach Tourist Precinct
- N. Frenchman Bay Tourist Site
- O. Woolstores Redevelopment Site
- P. Emu Point and Big Grove Village Centres

DISCUSSION

6. The draft Local Planning Policy Manual was advertised between 24 December 2010 and 4 February 2011 (for a period of 42 days). In addition to placing an advertisement twice in the local newspaper over two consecutive weeks, staff requested specific comment from:
 - Those landowners that had lodged objections to the wind turbine applications in Randall Crescent, Warrenup in relation to new Policy 2K (Domestic Wind Turbines); and
 - Those landowners that were in the immediate vicinity of Lot 100 Grey Street East in relation to new Policy 6K (Lot 100 Grey Street East).
7. At the close of the advertising period a total of 24 submissions were received which involved substantive comment on the following policies:
 - Policy 2F (Holiday Homes);
 - Policy 2G (Significant Tourist Accommodation sites);
 - Policy 2J (Public Open Space);
 - Policy 5D (Extractive Industries and Mining);
 - Policy 6A (Residential Development on Steep Sites);
 - Policy 6B (Albany Historic Town Design Policy);
 - Policy 6C (Detailed Area Plans);
 - Policy 6K (Lot 100 Grey Street East);
 - Policy 7M (Middleton Beach Tourist Precinct); and
 - Policy 7N (Frenchman Bay Tourist Site).
8. It should be noted that Policy 2G (Significant Tourist Accommodation Sites) and Policy 6C (Detailed Area Plans), specifically the Verdi Street and Silver/Costigan Street DAP's, were advertised previously and therefore the comments received have been discussed within the report. Eight submissions were received in relation to the Verdi Street Detailed Area Plan; these submissions can be viewed in the Councillor Workstation, however as per Paragraph 31 of the officer's report it is recommended that this Policy be removed from the Policy Manual and reconsidered separately at an upcoming Council meeting.
9. Except for the eight submissions received on the Verdi Street DAP, all other submissions have been summarised in the attached schedule of submissions. Full copies of the submissions received are available in the Councillor's Workstation.

10. In relation to the policies subject to public comment, staff advise the following:

Policy 2F (Holiday Homes)

11. The policy as advertised is consistent with WAPC Planning Bulletin 99 and is similar to policies recently prepared by other local governments on Holiday Homes.
12. Two submissions were received suggesting minor amendments to the Policy. The main issue raised is that whilst the Policy includes a statement that holiday homes should not become the predominant use in residential areas, this is not further quantified or measured. A similar policy provision has consistently been applied by other local governments in relation to holiday homes, and the imposition of an arbitrary target or ratio is not considered helpful in quantifying this statement. This provision is considered acceptable in its current form; the term 'predominant' implies that holiday homes should not outnumber permanent residences as a guide.
13. Some additional comments relating to landlord accessibility in handling complaints and the advertising of proposals seeking planning consent renewal after the 12 month approval period has expired have been supported.

Policy 2G (Significant Tourist Accommodation Sites)

14. Six submissions have been received, with five of these specifically relating to the former Esplanade Hotel site. The other submission was received in relation to Lot 150 Barry Court.
15. The Middleton Beach Group and Esplanade Hotel Site Group have lodged a submission requesting Council's support to reverse the ratio of permanent residential from 30% to 70%, subject to appropriate guarantees being put in place to ensure that permanent residential development does not proceed without the tourist component, and that the tourist component would occupy the highest value land (ie. Flinders Parade frontage).
16. Council's Tourist Accommodation Planning Strategy identifies that only the rear third of the land (approximately 35%) should be developed for permanent residential purposes with the balance of the land, fronting Flinders Parade, being retained for tourist uses (ie. hotel/tavern/shops/restaurant etc). This ratio reflected the existing planning approval that Council had issued over the site in 2007 and 2008 for a Hotel and Multiple Dwellings. It was believed at the time that this ratio would allow a hotel of a suitable size and room yield to be developed, whilst accommodating limited residential development.
17. The submission has stated that the current ratio applied to the site does not reflect market reality and states that throughout the state of Western Australia, despite there being a shortage of 1,100 beds, no new hotels are currently being developed.
18. Staff recommend that the current ratio be retained as an 'as of right' (acceptable criteria), with an increase in the permanent residential component, up to a maximum of 65%, only being considered where all of the following performance criteria is achieved to the satisfaction of Council:

****REFER DISCLAIMER****

- g) The tourist development is to occupy no less than 35% of the physical site area and shall be located wholly within the eastern (beach) side of the subject land and be segregated from the permanent residential development.
 - h) A public restaurant and/or tavern being incorporated into the development with direct frontage and access to Flinders Parade.
 - i) Incidental tourist orientated shops/cafes etc being incorporated into the development and located at ground level to create an active and vibrant edge to Flinders Parade.
 - j) Tourist Accommodation (being a Hotel or serviced apartments) is incorporated into the development fronting Flinders Parade and a feasibility study is provided to ensure that the room/unit yield is economically sustainable on a reduced building footprint, within the development parameters set down by the Scheme and/or Middleton Beach Tourist Precinct (Policy 7M).
 - k) No subdivision of the site or the consideration of any permanent residential development will be entertained by Council until such time as the tourist accommodation and uses mentioned in part b) and c) above have been constructed and are operating.
 - l) The tourist accommodation and associated tourist uses shall be designed and constructed to a high standard, representing the iconic/landmark building within the Middleton Beach precinct.
19. Staff believe that there are sufficient provisions within the performance criteria to promote a substantial tourist development consistent with the objectives of the Tourist Accommodation Planning Strategy. Any future developer can either develop the site in accordance with the acceptable criteria (ie 35% residential and 65% tourist uses), or put a case to Council to develop the land under the performance criteria. Most importantly the submission of a feasibility study will need to prove that a sustainable tourist accommodation development can occur on a reduced physical site area.
20. A submission has been received requesting Council does not modify the ratio, as should economic conditions become more favourable in the future the development envisaged by the draft Policy would become more feasible.
21. A submission has also been received which acknowledges that in relation to Lot 150 Barry Court, the policy is consistent with a previous State Administrative Tribunal (SAT) ruling to allow six strata lots to be developed for permanent residential purposes. The submission has requested further clarity and consistency throughout the document in relation to this landholding which has been supported.
22. A submission in relation to the Frenchman Bay Tourist site was also lodged expressing support that no permanent accommodation be approved on the site.

Policy 2J (Public Open Space)

23. This Policy has been in place for a number of years and focuses specifically on ensuring subdividers pay cash contributions in lieu of providing public open space for small (3 to 5 lot) subdivision proposals.

24. A submission has been received which more broadly addresses the issue of POS, namely that more than 10% public open space should be given up where remnant vegetation exists on the site. It should be noted that whilst the minimum statutory provision of POS is 10%, where there is a need to protect important remnant vegetation a higher ratio of POS may be required (this is the case with many structure plans currently being considered by Council).
25. The submission is outside the scope and purpose of the policy, and therefore no change is recommended.

Policy 5D (Extractive Industries and Mining)

26. A submission has been received requesting a modification to an existing provision which requires that no more than 20% of the extractive area shall consist of remnant vegetation. The submission recommends that no vegetation should be allowed to be removed.
27. All applications that involve the clearing of any remnant vegetation are referred to the Department of Environment and Conservation for comment. There could be instances where an application could meet the maximum 20% clearing limit specified, yet affect important vegetation species. It is therefore recommended that policy statement D2.2(5) be replaced with the following:

“5) The clearing of remnant vegetation to access basic raw materials is discouraged, however where such vegetation is affected as part of the proposal Council will consider the advice from the Department of Environment and Conservation.”

Policy 6A (Residential Development on Steep Sites) and Policy 6B (Albany Historic Town Design Policy)

28. A submission has been received recommending that the two policies identified above should be combined for all housing within the City, so that the height and bulk criteria within the Albany Historic Town Design Policy is applied to all residential areas of Albany.
29. It's important to distinguish the reason for the separation of the two policies. Policy 6A applies to selected sites outside of the inner residential areas where the building of larger contemporary dwellings on steep sites is suitable and blends in with the existing housing stock (ie. slopes of Mt Clarence, the steeper areas of Mira Mar and the northern slopes of Mt Melville between Albany Highway and Serpentine Road). Policy 6B applies to the inner residential areas of Albany which contain a wide selection of heritage listed dwellings or dwellings that contribute to the defined character of the streetscape, where additional controls on height and bulk are appropriate.
30. No change to the two policies are recommended as the provisions contained within currently reflect the context and existing character of the areas involved.

Policy 6C (Detailed Area Plans)

Detailed Area Plan No. 6 – Verdi Street Right of Way

31. This policy was advertised prior to the draft Local Planning Policy Manual and a total of eight submissions were received on this one Detailed Area Plan. There is a mixed view on the right of ways strategy proposed, which seeks to capitalise on the opportunity for further subdivision for those properties adjacent to the Right of Way (ROW). Whilst staff are committed to creating more opportunities for landholdings adjacent to ROWs, given this plan is the first of its kind for the City and given the divergence of views from the affected landowners it is recommended that this DAP is removed from the policy manual at this stage and is dealt with in isolation at a future Council meeting after additional consultation has taken place.

Detailed Area Plan No. 9 – Silver Street and Costigan Street

32. One submission was received on Detailed Area Plan No. 9 (Silver and Costigan Street). The submission raises concerns about the subdivision already being constructed and that no consultation was undertaken through this process. The submission also raises technical issues about drainage design, the provision of public open space and the height of future dwellings.
33. It is important to note that the drainage issues and provision of public open space has previously been resolved through the Structure Plan which was adopted by Council and endorsed by the Western Australian Planning Commission on 16 June 2009. The subdivision process is regulated by the Western Australian Planning Commission and is not subject to public consultation. Detailed engineering plans have been approved by the City as part of the subdivision approval.
34. The purpose of the Detailed Area Plan for this area is to identify design guidelines for future dwellings on the approved lots.
35. The Detailed Area Plan does not amend the building height provisions within the R-Codes and therefore if a landowner wishes to construct a second storey dwelling this would be permissible. It is envisaged however that most, if not all, future dwellings will be single storey.
36. Based on the above no changes are recommended.

Policy 6K (Lot 100 Grey Street)

37. A number of submissions were received in support of this Policy which introduces specific design guidelines to the above property.

38. The only concern raised was the provision that allows for the consideration of a parapet wall between Lots B and C. It should be noted that a parapet wall is only permitted between Lots B and C where these properties are developed as one integrated development, however it is recommended that additional clarification be provided so that articulation of the building within the 2 metre zone between the two houses is required.

Policy 7M (Middleton Beach Tourist Precinct)

39. A submission has been received requesting that a one storey height limit be applied to the Middleton Beach Caravan Park. Concern has been expressed over the recent erection of two storey holiday accommodation units on the northern portion of the site.
40. A previous Council Policy entitled 'Coastal Building Heights Policy', which included the caravan park, was rescinded by Council in 2007 when the Residential Design Code Policy was adopted. This Policy allowed for a maximum height of 7.5 metres, where people within the development could not overlook the beach. The concerns raised in the submission appear to relate to the potential loss of views from existing residences or the impact on visual amenity when viewed from the beach.
41. It is recommended that the following clause be added under the 'Building Heights' section of the policy:
- "In relation to the Middleton Beach Caravan Park site, development shall generally be no higher than one storey, however Council may consider development up to a maximum of two storeys where a visual impact statement has been provided and such development in the opinion of Council does not detrimentally affect the views from existing residences and/or views from the beach. Council will refer applications for two storey development to surrounding landowners for comment."*
42. An additional submission also requested that Council plant Norfolk Island pines to screen the recently erected development at the Caravan Park. This is outside the scope of the policy and the planting of trees will need to be addressed separately within an endorsed Reserve Management Plan.
43. The submission also queried the building heights within the Precinct which were believed to be too high. These building heights were previously adopted by Council in 2007 after Patrick de Villiers (a renowned architect and town planner) was engaged to undertake a building height analysis for the Middleton Beach Precinct. Development such as the Hotel and apartments on the old Esplanade Hotel site, have already been guided by this policy.
44. The submission suggests that building height should decrease on the Garden Street and Flinders Parade frontages and be no more than three stories, and where additional height is proposed, this should be within the middle of this precinct.

45. The submission states that the existing four and five storey height limits applying to Flinders Parade are not appropriate for a holiday village and will overshadow the street and foreshore areas. The existing height limits identified in the Policy are supported by staff as they will encourage a more diverse range of permanent and tourist accommodation into the future and will assist in promoting a high quality and vibrant beachside tourist precinct. Given the orientation of Middleton Beach, the northern winter sun will not cast shadows over the foreshore reserve or Flinders Parade (as they lie to the east); therefore overshadowing at the height envisaged is likely to be minimal.
46. The four storey height limits adjacent to Eyre Park, along Garden Street, were also raised as an area of concern. Staff are supportive of the current height parameters relating to this area as the built form envisaged will promote an attractive residential edge to the park, increase housing diversity, passive surveillance and will encourage higher accessibility to a strategic area of district open space. The policy also requires the submission of streetscape drawings to indicate how new buildings will integrate into the street. All other elements that relate to the R-Codes, including privacy (overlooking), boundary setbacks and overshadowing will continue to apply ensuring the amenity of existing residents is accommodated.

60 Modifications to Subdivision Guide Plans

47. Policy 6O has been updated by correcting the location details for Subdivision Guide Plan O3 to reflect the correct lots being referenced (Lots 201 and 202 Pony Club Road). This modified subdivision guide plan has previously been adopted by Council in April 2009.
48. Subdivision Guide Plan O5 has also been added into this section which affects Lots 104 and 105 Willyung Road. Again this Policy was previously adopted by Council in December 2009 and was inadvertently omitted from the advertised version.

GOVERNMENT CONSULTATION

49. No submissions from government agencies were received.

PUBLIC CONSULTATION / ENGAGEMENT

50. A total of twenty four submissions were received from the general public on a wide range of policy issues. Such submissions are discussed in detail within the attached schedule of submissions.

STATUTORY IMPLICATIONS

51. Clauses 6.9 of the City of Albany Town Planning Scheme No. 3 and 7.21 of Town Planning Scheme No. 1A set out the processes to adopt, modify and rescind town planning scheme policies.
52. In the responsible officer recommendation, staff have outlined whether each policy that is to be rescinded is to be incorporated into the proposal Manual.

STRATEGIC IMPLICATIONS

53. The draft policy manual is consistent with the City's Strategic Plan (Albany Insight) as:

"4. Governance.

The City of Albany will be an industry leader in good governance and service delivery."
54. The policy manual also supports the strategic principles in the ALPS in relation to issues such as land use conflict, tourism, housing diversity, protection of agricultural land, environmental management, transport, industry and the settlement hierarchy.
55. Should Council support the modifications identified for Policy 2G – Significant Tourist Accommodation Sites, Council's Tourist Accommodation Planning Strategy would need to be amended.

POLICY IMPLICATIONS

56. Should the draft policy manual be adopted by Council the Town Planning Scheme requires that existing policies that will be superseded be rescinded. The policies that will have to be rescinded are:
 - Masts, Aerials and Flagpoles (Not required, refers to old technology – to be reviewed in future);
 - Extractive Industry Guidelines (incorporated into manual);
 - Down Road Noise and Hazard Policy (incorporated into manual);
 - Albany Historic Town Design Policy (split into two policies and incorporated into manual);
 - RAAFA Aged Persons Village Design Guidelines (Not required – project developed);
 - Albany Airport (ANEF) Noise Buffer Policy (incorporated into manual);
 - Development Guide Plan for Lot 1274 Albany Highway (Not required – project developed);
 - Lake Seppings Drive, Loftie Street and Wright Street (incorporated into manual);
 - Special Rural Area 1C – Special Provisions (incorporated into manual);
 - Gull Rock Road (Alternative Subdivision Guide Plan) (incorporated into manual);
 - Lot 5 Rufus Street, Milpara (Not required – original Guide Plan within Scheme to be used);
 - Masonic Hall Design Guidelines (incorporated into manual);
 - La Perouse Court (Alternative Subdivision Guide Plan) (incorporated into manual);

- Reflective Building Materials in Goode Beach (incorporated into manual);
- Richard Street Industrial Policy (incorporated into manual);
- Seppings Street Design Guidelines Policy (Not required – development complete);
- Speedway Noise Buffer Policy Area (incorporated into manual);
- Albany Design Guidelines (Not required - provisions inserted into Albany Historic Town Design Policy and aspects relating to restoration of heritage buildings placed in new information sheet);
- The Outlook (incorporated into manual);
- Thomas Street (Old Surrey Guidelines) (incorporated into manual);
- Barker Road Industrial Policy (incorporated into manual);
- Melville Drive View Policy (incorporated into manual);
- Woodrise Estate Design Guidelines (incorporated into manual);
- Lot 201 and 202 Pony Club Road (Alternative Subdivision Guide Plan) (incorporated into manual);
- Lots 104 and 105 Willyung Road (Alternative Subdivision Guide Plan) (incorporated into manual); and
- Subdivision and Development – Frenchman Bay Road (incorporated into manual).

57. In addition to the Local Planning Policy Manual, the following policies will be retained in their own right due to their size:

- Stirling Terrace Conservation Plan;
- The Station, Western and Mount Lockyer Precinct Guidelines (which provides specific guidance on development between Stirling Terrace and the foreshore area);
- Catalina Central Planning Framework; and
- Albany Waterfront Precinct Plan and Structure Plans.

RISK IDENTIFICATION & MITIGATION

The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Risk Analysis	Mitigation
<i>Local Planning Policy Manual not adopted by Council. From the 1 July 2011 development applications over \$3 million (and mandatory over \$7 million) will be considered by a Development Assessment Panel, rather than Council. It is therefore important to establish an up to date policy manual to clearly articulate Council's position on various development issues.</i>	<i>Moderate</i>	<i>Mitigation entirely dependent on Council.</i>

FINANCIAL IMPLICATIONS

58. The Local Planning Policy Manual has been prepared internally by staff within existing budget lines.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

59. Council has the option of not adopting the draft local planning policy manual, which would leave in place the existing planning policy framework. This would mean Council would continue to have no detailed policy position on Holiday Homes, Significant Tourist Development Sites and Domestic Wind Turbines.
60. Council could also amend or delete any of the policies contained within the manual or defer consideration of the policy manual to another meeting.

SUMMARY CONCLUSION

61. It is important that Council adopts the Local Planning Policy Manual and rescinds the existing policies in place to ensure the City has an up to date contemporary policy framework to assist Council with its decision making process.

Land Description	N/A
Owner	N/A
Business Entity Name	N/A
Consulted References	Town Planning Scheme No. 1A and 3
File Number (Name of Ward)	STR 047 (All Wards)
Previous Reference	OCM 16/03/10 – Item 13.5.1 OCM 14/12/10 – Item 1.6