

2.4: LOCAL PLANNING POLICY – LOT 14 SPENCER STREET, ALBANY

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| Land Description | : Lot 14 Spencer Street, Albany |
| Proponent | : Harley Global |
| Owner | : Activ Foundation Inc |
| Business Entity Name | : Activ Foundation Inc |
| Director/s | : Anton Jan Frederik Vis; Matthew Arthur Battrick; Peter William Knowles; Martin Nicholas Alciaturi; Leonie Patricia Walker; Alice Philomena Breheny; Tina Rose Thomas; Hugh Andrew Jon Edwards; Stephanie Jane Black; |
| Attachments | : Local Planning Policy – Lot 14 Spencer Street, Albany |
| Responsible Officer(s) | : E/Director Planning & Development Services (G Bride) |

Maps and Diagrams:



IN BRIEF

- Council is required to consider the adoption of the draft Local Planning Scheme Policy for Lot 14 Spencer Street, Albany.

ITEM 2.4: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Draft Local Planning Policy for Lot 14 Spencer Street, Albany be ADOPTED for the purposes of advertising in accordance with Clause 7.21 of Town Planning Scheme No. 1A

ITEM 2.4: RESOLUTION (Responsible Officer Recommendation)

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR HAMMOND**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-4

Record of Vote

Against the Motion: Councillors Paver, D Bostock, J Bostock and Leavesley.

BACKGROUND

1. A Local Planning Scheme Policy has been prepared by a planning consultant on behalf of Activ Foundation Inc for Lot 14 Spencer Street, Albany.
2. Lot 14 Spencer Street is within Town Planning Scheme 1A and is zoned "Special Site (S44)" with a base zone of Residential R60 and the additional uses of Shop and Office.
3. The preparation of a Development Guide Plan is a prerequisite to any new development and or subdivision of the subject land as per the special conditions within Special Site No. 44 contained within Appendix II of TPS 1A.
4. As stated in the TPS, the Development Guide Plan shall ensure that:
 - *When determining building height the 'natural ground level' shall be the finished floor level of the existing buildings;*
 - *Buildings fronting Frederick Street are to have a residential character and scale;*
 - *The provision of a view corridor from Frederick Street to the Penny Post building and existing oak tree on Lot 1 Stirling Terrace immediately to the south;*
 - *Service vehicles entry and exit to the site be limited to the access point onto Spencer Street;*
 - *Access through to Cheynes Cottage is retained; and*
 - *A staging programme that allows the subject site to be subdivided into a limited number of 'super lots' that may be developed independently but in a coordinated fashion. Any further subdivision of the 'super lots' is subject to the individual super lot being developed to 'plate height'.*

5. The special conditions identify the following matters that should be addressed by a Development Guide Plan:
 - *Number and type of commercial tenancies;*
 - *Location and number of dwelling units;*
 - *Location and number of car parking bays and driveways;*
 - *Details of landscaping, bin storage and utility areas;*
 - *Building scale, form, materials, roof pitches and detailing; and*
 - *Height of buildings and location of balconies.*

6. The special conditions also requires that:
 - The original facade (circa 1948) at the corner of Spencer Street and Frederick Street is to be retained to the satisfaction of Council;
 - A number of architectural elements of the former site office fronting Spencer Street to be retained in order to represent the historic land use as far as is practical:
 - Vehicular access to be limited to one access point per street.
 - Development is to conform with the Albany Historic Town Design Policy or subsequent Policy.

7. The Draft Policy that includes the Development Guide Plan is to be adopted as a Local Planning Scheme Policy and will then be included into the recently adopted City of Albany Planning Policy Manual.

8. City staff investigated whether photomontage images of the future development concepts could be available for Council consideration. The policy sets the framework for future development, and until detailed plans are submitted at the development stage, it is difficult to visually represent a hypothetical development. Notwithstanding this, the proponent has indicated that they may be able to prepare an artist's impression of the view of the future development from Frederick Street. If received, such drawings will be forwarded to Council before the OCM.

DISCUSSION

9. The Design Policy addresses all the requirements set out in the special conditions and includes a Development Guide Plan.

10. The proposed Development Guide Plan adequately addresses the special conditions and requirements including the following:
 - Access is only provided via one access point from Spencer Street;
 - The most historically significant and characteristic parts of the building on the Corner of Spencer and Frederick Street and the former site office ('Thrift Shop') are to be retained;
 - The number of commercial buildings and dwellings;
 - The location of all vehicular parking bays;
 - The building scale, height and location of balconies and courtyards;

- The location of landscaping areas;
 - The provision of a view corridor from Frederick Street to the Penny Post building and existing oak tree;
 - The development setbacks and access to Cheynes Cottage; and
 - A subdivision staging plan.
11. Council's Regional Heritage Advisor has been involved in the review of the Policy and associated Development Guide Plan and is supportive of the Draft Policy.
12. The proposed Policy satisfactorily deals with all the required matters and it is therefore recommended that Council adopt the draft Local Planning Scheme Policy for Lot 14 Spencer Street for advertising purposes in accordance with Clause 7.21 of Town Planning Scheme No. 1A.

GOVERNMENT CONSULTATION

13. Relevant government agencies will be invited to make comment on the Policy should Council adopt the Policy for the purposes of advertising.

PUBLIC CONSULTATION / ENGAGEMENT

14. The policy will be advertised in accordance with section 7.21 of TPS and directly referred to all affected and surrounding landowners for comment.

STATUTORY IMPLICATIONS

15. Clause 7.21 of TPS sets out the processes to adopt and modify town planning scheme policies and also provides direction on what function the policies have in the decision-making process.

"7.21 POWER TO MAKE POLICIES

7.21.1 In order to achieve the objectives of the Scheme, the Council may make Town Planning Scheme policies relating to parts or all of the Scheme area and relating to one or more of the aspects of the control of development.

7.21.2 A Town Planning Scheme policy shall become operative only after the following procedures have been completed:

- (a) *The Council having prepared and having resolved to adopt a draft Town Planning Scheme Policy, shall advertise a summary of the draft policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the draft policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.*
- (b) *The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the draft policy with or without amendment, or not proceed with the draft policy.*

- (c) *Following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the scheme documents for inspection during normal office hours.*

7.21.3 A Town Planning Scheme policy may only be altered or rescinded by:

- (a) *Preparation and final adoption of a new policy pursuant to this clause, specifically worded to supersede an existing policy.*
- (b) *Publication of a formal notice of rescission by the Council twice in a newspaper circulating in the area.*

7.21.4 A Town Planning Scheme policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision.”

16. The Subject site is zoned “Special Site” number 44 as contained in the Schedule of Special Sites in Appendix II of TPS.
17. Condition 2 as contained the schedule states:

“Development or subdivision of the site will be supported by the Council only where an overall Development Guide Plan has been approved by the Council. “

STRATEGIC IMPLICATIONS

18. The Policy supports the strategic principles in the Albany Local Planning Strategy in relation to issues such as housing diversity and the settlement hierarchy.

POLICY IMPLICATIONS

19. A Local Planning Policy will not bind the Council in respect of any application for planning consent but the Council would have to take into account the provisions of the Policy and objectives which the policy was designed to achieve before making its decision.
20. Any Development on the subject lot shall also be in accordance with the Albany Historic Town Design Policy.

RISK IDENTIFICATION & MITIGATION

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|---|-------------------|--------------------|----------------------|---|
| Not adopting the plan will result in development being restricted to existing structures and uses which may lead to further degradation of existing historically important buildings on the site. | Possible | Moderate | Medium | Mitigation entirely dependent on Council. |

FINANCIAL IMPLICATIONS

21. The assessment of the local planning policy has been undertaken by staff within existing budget lines.

LEGAL IMPLICATIONS

22. There are no legal implications in relation to this item.

ALTERNATE OPTIONS

23. Council has the following options:

- Adopt the draft Local Planning Policy without modification for the purposes of advertising;
- Adopt the draft Local Planning policy subject to modification prior to advertising; or
- Not adopt the draft Local Planning Policy.

SUMMARY CONCLUSION

24. The proposed Policy seeks to protect the existing historically significant buildings on the site, whilst accommodating future development options which promote a mix of commercial and residential uses on the periphery of the Central Business District.

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| Consulted References | Town Planning Scheme 1A |
| File Number (Name of Ward) | A150786 (Frederickstown Ward) |