

**2.1: FINAL ADOPTION OF REVISED ALBANY WATERFRONT PROJECT
STRUCTURE AND PRECINCT PLANS**

Land Description	: Albany Waterfront Precinct
Proponent	: Western Australian Land Authority/Landcorp
Owner	: Crown Land
Business Entity Name	: N/A
Attachments	: Exert from Albany Waterfront Planning Framework Report 2 nd Edition (Plan showing changes and visual perspectives) Summary of Submissions
Appendices	: Nil
Councillor Workstation	: Albany Waterfront Planning Framework Report 2 nd Edition (in full) Copies of Submissions
Responsible Officer(s)	: E/ Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- The City has received 60 submissions commenting on the proposed revisions to the Structure and Precinct Plans for the Albany Waterfront (AWF) project.
- The planning scheme requires Council to now consider the submissions and determine whether to adopt, or not adopt, the revised plans.

CEO:	RESPONSIBLE OFFICER:
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RECOMMENDATION

ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

That Council:

- 1) Pursuant to the provisions of Town Planning Scheme No. 1A **ADOPT** the revised Structure and Precinct Plans for the Albany Waterfront Project (Albany Waterfront Planning Framework Report 2nd Edition) as final adopted plans (to replace the existing plans) subject to the following modifications:
 - i) The landscaping proposed on the decked car park should:
 - Be planted with local species including groundcovers, shrubs and trees,
 - Form part of the overall stormwater treatment system for the development, and
 - Include paths, seating, lights etc.
 - ii) An additional clause is included in the Precinct Plan at Part 24.0 'Short-Stay Residential' to ensure that all tourist use should be restricted to a maximum of 3-months in any 12-month period in accordance with the recommendations of WAPC Planning Bulletin 83.
- 2) Direct the CEO to **GIVE NOTICE** in the local media of the final adopted plans as required by the Town Planning Scheme No. 1A.
- 3) **RECEIVE** the submissions and direct the CEO to **ADVISE** all submitters in writing of the final adopted Structure and Precinct Plans.

BACKGROUND

1. The City at its 19 July 2011 meeting (OCM Item 2.2) resolved to adopt the revised Structure and Precinct Plans for the Albany Waterfront Project and seek public comment as follows:

That Council:

- 1) *Pursuant to the provisions of the Town Planning Scheme No. 1A **ADOPT** the modified Structure and Precinct Plan titled the 'Albany Waterfront Planning Framework' for the purposes of advertising for public comment for a period of 35-days subject to the images contained within the Attachments, and an overshadowing plan being prepared to identify the extent of overshadowing that is likely to result from the sixth storey of the short stay accommodation building, being inserted into the report; and*
 - 2) ***REQUIRE** the proponents (Landcorp) undertake a manned public display in the Albany Public Library during the advertising period to assist public awareness of the proposed modifications to the plans.*
2. The advertising period has been completed and a total of 60 submissions were received (see attached Summary of Submissions) for consideration.

DISCUSSION

3. As required in Council's July decision, a study showing the shadows expected to be cast during summer/winter from the hotel and short-stay apartment buildings was included in the Albany Waterfront Planning Framework Report 2nd Edition report along with other supporting

information prior to the document being placed on public advertising (the shadow study is attached to the rear of this report).

4. The proposal is to modify the existing Structure Plan and Precinct Plan adopted by the City in 2006. These plans provide the planning framework including land use and development controls and standards for the AWF project.
5. The Structure Plan provides the strategic background and long-term vision and objectives for the project whilst the Precinct Plan provides the details including requirements for the individual precincts, permitted land uses and planning and design guidelines for the buildings to control development within the project.
6. The proponents (Landcorp) seek the revisions due to the previous unsuccessful attempts to develop the hotel/motel and short-stay apartment component of the AWF project. As a result of the discussions between Landcorp and prospective developers during this process, they consider these modifications will improve the marketability and potential take-up of the development site and ultimately the construction of a hotel/motel and short-stay apartments within the Albany waterfront.
7. The modifications requested by Landcorp include increasing building heights, floor area allowances, car parking bays and changing some design criteria for the roofs of the buildings for some parts of the Commercial and Accommodation Precincts as set out in the following tables:

Accommodation Precinct	
This precinct covers the eastern side of Toll Place comprising the hotel/motel and short-stay apartments.	
Land Uses	Hotel Motel Residential Building (short-stay accommodation only) Reception Centre Shop Restaurant Office Other minor or incidental uses within the precinct may be permitted at the discretion of Council
Floor Area (m ² gross floor area)	10,500m ² for Hotel (<i>up from 7,500</i>) 6,800m ² for Short-stay apartments (<i>up from 4,600</i>)
Potential for Units (dependent on size)	120-145 Hotel rooms (<i>up from 125</i>) 80-90 Short-stay apartments (<i>up from 50</i>)
Building Height	Hotel/Motel 5-storeys (<i>use of roof volume removed</i>) Short-stay 6-storeys (<i>up from 4-storeys and use of roof</i>)

	<i>volume removed)</i>
Parking Bays within AWF	792 (<i>increase from 700 bays</i>)

Commercial Precinct	
This precinct covers the east section of the AWF comprising maritime focussed mixed commercial/retail uses with capacity for short-stay apartments on the third floor.	
Land Uses	Shop Restaurant Office Museum Residential Building (short-stay accommodation only) (<i>added</i>) Other minor or incidental uses within the precinct may be permitted at the discretion of Council
Floor Area (m ² GFA)	6,750 Mixed use commercial/retail/short-stay apartments (<i>short-stay apartment added and floor area up from 4,000</i>)
Building Height	Mixed use commercial/retail/short-stay apartments 3-storeys (<i>up from 2-storeys and use of roof volume removed</i>)
Parking Bays within AWF	792 (<i>increase from 700 bays</i>)

8. The submissions have been received from residents, visitors, business operators/organisations and Government agencies. The submissions received generally favour the overall AWF project, although the views on the revised plans were mixed. A total of 60 submissions were received and the outcomes can be generally summarised as:

Submission	Number of Submissions	%
Opposing Revised Plans	26	43
Supporting Revised Plans	27	45
Neutral	7	12
Totals	60	100

9. As required by Council, the revised plans have been circulated for comment within the area around the AWF.
10. The May 2006 Structure Plan received some 22 submissions and the September 2006 Precinct Plan received 148 submissions, petitions.

11. As part of this round of advertising the City advised 660 landowners within the local area directly by mail and this yielded some 20 submissions. Of those submissions, the opposition/support to the proposal was evenly split at 10 submissions each.
12. The submissions contain a wide range of views, some of which still express their overall opposition to the AWF project, and others that although agreeing with the existing plans feel that Landcorp as the proponents should provide better justification and project details before the City agrees to the modifications. Some of the submissions point to the present economic climate and question the overall viability of the project.
13. The submissions that oppose the revised plans and that comment directly on the revised plans do not support any increase in building heights stating it will further restrict views to the harbour from areas within town and adversely affect the heritage values along Stirling Terrace. Some submissions commented on the bland nature of the buildings illustrated within the photomontages and some questioned the purpose of the photomontage, stating they don't represent a true indication of what views will be restricted.
14. The submissions supporting the revised plans generally point to the overall economic benefits to be derived from the project and the opportunities for local contractors/suppliers and employment gains. Some submissions believe that modifications are inevitable given the changing requirements of the tourism industry and the need to ensure that the project is viable to enable it to be developed.
15. Some of the submissions raised matters that are beyond the scope of the revised plans or seek to revisit previous decisions, including perceived traffic difficulties and land use conflict with the operations of the Port.
16. Those submissions received from Government agencies were largely neutral on the revised plans. Some reiterated previous concerns (such as Co-operative Bulk Handling Ltd on traffic matters) and some provided advice on servicing and process matters.
17. The revised plans were referred to the Heritage Council of WA for assessment given the proximity of the development to both Stirling Terrace and Town Jetty which are included on the State Register of Heritage Places (highest status for heritage places in WA). The Heritage Council of Western Australia has assessed the revised plans in the context of these places and have advised that whilst they will have a minor impact, the Council does not object to the revised proposal proceeding.
18. The increased building heights and footprints will restrict some views from areas around the development. These changes have been presented in the photomontages provided by Landcorp. It is accepted that the photomontages can only show, in a general sense, the likely affects/changes and these are restricted to existing developments only. It is clear that some people will have their views affected more than others.
19. The proponent advises the changes are necessary to progress the AWF project. The overall long-term benefits to the City and region from the tourism investment dollars associated with the construction of the accommodation areas within the AWF project (with their economic multiplier effects) are considered to outweigh the negative impacts.

20. It is clear that the size of the hotel and service apartment buildings is critical to the ability for Landcorp to market the site to potential developers and secure its purchase and development. These developments provide the necessary support to the other mixed use/retail activities and vice versa.
21. Council needs to determine whether the modifications sought to the Structure and Precinct Plans continue to reflect the direction and developments it wishes to promote for the AWF project. Clearly it is in the interests of the City to ensure that the buildings achieve the high standards promoted in the plans.
22. The need to remain flexible about changes over time is reflected in the status of the project as a Local Strategic Tourist Site under the Tourist Accommodation Planning Strategy (Pracsys/City of Albany, July 2010) and its identification of a substantial shortfall in 4+ star accommodations with potential demand for 4-5 star motel/hotel style accommodation. The report suggests that this demand may equate to between 240-400 rooms and this proposal will go a long way to satisfying that unmet need.
23. There are some minor modifications recommended to the revised plans as a result of the submissions as follows:
 1. The landscaping proposed on the decked car park should:
 - Be planted with local species including groundcovers, shrubs and trees,
 - Form part of the overall stormwater treatment system for the development, and
 - Be made available for use by the patrons and visitors to the hotel/apartment buildings by including paths, seating, lights etc
 2. An additional clause be included in the Precinct Plan at Part 24.0 'Short-Stay Residential' to ensure that all tourist use should be restricted to a maximum of 3-months in any 12-month period in accordance with the recommendations of PB83.
24. The revised plans do not affect the overall outcomes of the Traffic Assessment report prepared for the original Structure/Precinct Plans and the traffic system is able to meet the increased vehicles and demand without additional interruption to port activities. The Port of Albany and Department of Transport did not provide a submission or raise any concerns regarding the revised plans and its impacts on roads or their operations.
25. The additional hotel rooms and serviced apartments will generate the need for an additional 55-65 car parking bays. The revised plans include an additional 92 bays (up from 700 to 792) which adequately caters for the increased parking needs.

GOVERNMENT CONSULTATION

26. The revised plans were referred directly to relevant state departments and agencies for comment including the Fire and Emergency Services Authority of WA, Environmental Protection Authority, WA Police Service, WA Land Authority, WA Museum (Albany), Main Roads WA, Albany Port Authority, Alinta Gas, Telstra, Water Corporation, Western Power, Westnet Rail, Department of Water, Department of Transport, Heritage Council of WA, Department of Indigenous Affairs, Department for Planning (Albany Regional Office, Perth Tourism Branch and Coastal Branch) and Department of Housing.

27. A total of nine submissions were received from Government agencies including Main Roads WA, Telstra, Water Corporation, Western Power, Department of Water, Heritage Council of WA and the Department for Planning (Albany Regional Office, Perth (Tourism Branch and Coastal Branch)).

PUBLIC CONSULTATION / ENGAGEMENT

28. In accordance with Council's decision, the revised plans were:

- Advertised in the local newspaper (28 July and 4 August 2011);
- Directly referred to nearby landowners (with 660 letters sent);
- Displayed on photoboards and information notice displays (including information sheets, comment forms and submission box) at Albany Public Library by Landcorp (28 July – 1 September 2011);
- Displayed personally at the Albany Public Library by a Landcorp representative (12 August 2011); and
- Discussed at a public information session (including information sheets and comment forms) at the Albany Entertainment Centre by Landcorp representatives (13 August 2011).

29. A total of 51 submissions were received from the public or non-government agencies.

STATUTORY IMPLICATIONS

30. The subject land is contained in the Foreshore Development Zone under Town Planning Scheme No. 1A.
31. The Scheme contains the following requirements for any land in the Foreshore Development Zone:

STRUCTURE PLAN

- 4.40 *For the purposes of guiding the development of land within the Foreshore Development Zone, the Council has adopted a Structure Plan for the whole of the area contained within the zone.*
- 4.41 *The Structure Plan shows the intended general distribution of land uses, open spaces and major reserves within the Foreshore Development Zone, but does not precisely locate or dimension and land use or land parcel, nor does it reserve, or purport to reserve, land for any purpose.*
- 4.42 *The Structure Plan may be elaborated, amended or another plan substituted for it in the same manner as prescribed for modifications to the Central Area Policy Plan in Clause 4.29 of the Scheme Text.*
- 4.43 *The Foreshore Development Zone is divided into Precincts and the location and boundaries of the Precincts are also shown on the Structure Plan.*

PRECINCT PLANS

- 4.44 *No person shall carry out any development within the Foreshore Development Zone unless such development is in accordance with a Precinct Plan which has first been adopted by the Council.*
- 4.45 *A Precinct Plan may be prepared by the Council, or by any other person who may then submit the Precinct Plan to the Council for its approval and adoption.*

- 4.46 *The Council shall neither approve nor adopt a Precinct Plan unless it complies with, or is substantially in accordance with, the Structure Plan.*
- 4.47 *The Council shall neither approve nor adopt a Precinct Plan unless the Precinct Plan shows or otherwise clearly describes the following:*
- (a) *The proposed use of all land within the Precinct, including both public and privately owned land;*
 - (b) *The location and dimensions of any roads, pedestrian and cycle paths, car parking areas, public open spaces and other reserves;*
 - (c) *The number of cars which any car parking areas are designed to accommodate;*
 - (d) *The boundaries and approximate dimensions of any lots to be created through the subdivision of land within the Precinct; and*
 - (e) *The planned disposition of buildings in terms of height and setbacks from lot or reserve boundaries.*
- 4.48 *The Council may also require that a Precinct Plan show or otherwise described the following:*
- (a) *The type and colour of the paving materials which are proposed to be used in the construction of roads, paths and public open spaces;*
 - (b) *Indicative designs of any buildings to be constructed;*
 - (c) *The location and form of outdoor furniture or any other artefact proposed to be placed within any public space;*
 - (d) *The location, quantities and species of any plants which are to be used for landscaping the Precinct; and*
 - (e) *Any other detail which the Council, at its discretion, considers necessary or desirable for the Precinct Plan to show or describe.*
- 4.49 *The Council shall not adopt a Precinct Plan until after the following procedures have been completed:*
- (a) *The Council, having first approved the Precinct Plan, shall publish a notification once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the Precinct Plan may be inspected, and in what form and during what period submissions may be made.*
 - (b) *The Council shall review the Precinct Plan in the light of any submissions received and shall then resolve either to formally adopt the Precinct Plan with or without modification, or not to adopt the Precinct Plan.*
 - (c) *Following final adoption of a Precinct Plan, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.*
- 4.50 *A Precinct Plan may be amended or another plan substituted for it in the same manner as provided for the approval and adoption of a Precinct Plan in Clause 4.48 and the provisions of that clause shall apply with the necessary changes to an amendment or substitution.*
- 4.51 *Where, in the opinion of the Council, an amendment to a Precinct Plan is minor and of little coincidence, the Council may approve the amendment without first carrying out the requirements of Clause 4.49.*
32. The proposed modifications affect components of both the existing Structure Plan and Precinct Plan for the Albany Waterfront project and the revised plans have been advertised in accordance with scheme requirements.

STRATEGIC IMPLICATIONS

33. The recently adopted City of Albany Strategic Plan (2011-2021) states under the Key Focus Area of *‘Sustainability and Development’* the following community priorities in relation to this item:

“A diversified industrial base

Facilitate the sustainability of the Port, by protecting the freight routes from urban encroachment.”

“Tourism Development

Improve and expand tourism infrastructure and attractions.

Encourage investment in quality hotel accommodation (e.g. the Former Esplanade site at Middleton Beach and the Waterfront site).”

34. The AWF project is located on Princess Royal Drive which also serves as the main vehicle access route to the Port of Albany. From the project’s inception, the City has required the proponents (Landcorp) to complete and implement a Traffic Management Plan to address the impacts and ensure that port activities including transport are not adversely affected.
35. The Traffic Management Plan is now being implemented in conjunction with Main Roads WA/City and Landcorp with Toll Place and Princess Royal Drive etc being upgraded to accommodate the changes.
36. The development of the hotel/motel and serviced-apartments components of the AWF project would significantly assist the City’s and community’s goal to increase tourism development within the City and region.
37. The AWF project is included within the WA Planning Commission’s Lower Great Southern Strategy and Albany Local Planning Strategy as a strategic project for Albany.

POLICY IMPLICATIONS

38. In its submission, the Department of Planning (Albany Office) advised *“...As far as SPP2.6 goes, the Council needs to have due regard to the SPP when amending its planning scheme, which in this instance would include the Structure Plan I expect, under S77 of the Act.”*
39. The requirements of the WA Planning Commission State Planning Policy 2.6 ‘State Coastal Planning Policy’ (SPP2.6) impact on the revised plans where at Part 5.3 it states:

5.3 Building Height Limits

The provisions of this part of this policy apply to all urban development, including residential, hotel, short-stay accommodation, car-parking, retail and office development, or any combination of those uses, but does not apply to industrial or resource development, transport, telecommunications and engineering infrastructure, and Port Works and Facilities (as defined by the Port Authorities Act 1999) within 300 metres of the horizontal setback datum. A varied distance from the horizontal setback datum may be approved as part of controls set out in a local planning scheme, on the basis of appropriate analysis with reference to built form, amenity, landscape and topography and having regard to cadastral boundaries.

The height of buildings should be limited to a maximum of five storeys (and not exceeding 21 metres) in height. Local planning schemes may specify lower maximum height limits in particular localities in order to achieve outcomes which respond to the desired character, built form and amenity of the locality.

Higher structures up to a maximum of eight storeys (and not exceeding 32 metres) in height may be permitted where:—

- (a) There is broad community support for the higher buildings following a process of full consultation;*
- (b) The proposed development(s) is suitable for the location taking into account the built form, topography and landscape character of the surrounding area;*
- (c) The location is part of a major tourist or activity node;*
- (d) The amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and*
- (e) There is visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.*

40. The main purpose of SPP2.6 is to inform and guide the WA Planning Commission in the undertaking of its planning responsibilities, and in integrating and co-ordinating the activities of State agencies that influence the use and development of land on the coast. The SPP is also to guide Local Governments, other agencies, SAT etc. of those aspects of SPP2.6 concerning the protection of the coast that should be taken into account in planning decision making.
41. The implementation of any SPP is primarily through the preparation of regional/local strategic plans, local planning schemes and other relevant plans (such as management plans), as well as through the decision-making on subdivision and/or development applications etc. Any new or amended planning scheme should be consistent with the objectives, policy and guidelines content of any relevant SPP and Local Governments and State agencies should take account of SPP's to ensure integrated decision-making.
42. The revised plans:
- Maintain the existing maximum building height of the hotel/motel to 5-storeys (maximum building height of 19m) and removed the ability to use roof volume.
 - Increase the maximum building height of the short-stay apartments to 6-storeys (maximum building height of 22m) and removed the ability to use roof volume.
43. In regards to building heights, the Precinct Plan at Part 11.6 'Levels and Height Management' requires:
- 11.5 Ground floor ceiling heights throughout the development should generally be higher than minimum to reflect the ceiling heights associated with historical buildings in Albany. Minimum ceiling heights in the order of 3.0 to 3.5m are suggested. The AEC will have a ground level ceiling height commensurate with its public function.*
- 11.6 Floor to floor levels, excluding the ground floor, in the Hotel and short-stay serviced apartment buildings should be limited to 3.0m.*
44. Overall, whilst the revised plans include a 6th storey on the short-stay apartment building, the proposed building heights are well within the maximum building heights (5-storeys and not exceeding 21m and buildings up to 8-storeys and not exceeding 32m) as set out in Part 5.3 of SPP2.6 requirements.

45. The Department of Planning/Western Australian Planning Commission have not provided any advice on what constitutes ‘*broad community support for the higher buildings*’ and it is unclear if this is required to be shown in the submissions or some other way. The submissions where commenting directly on the proposed increased building heights and land use changes, generally support the revised plans. The decision of the Council, whether to adopt the revised Structure and Precinct Plans represents a decision on behalf of the broader community as set out in SPP2.6(a). All other criteria have been resolved through the development of the Concept, Structure and Precinct Plans.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Modified Structure and Precinct Plans not adopted by Council and the proponent is unable to “market” the site for economically viable enterprise, it is unlikely that a tourism development will be constructed on the site.</i>	<i>Likely</i>	<i>Significant</i>	<i>Medium</i>	<i>Mitigation entirely dependent on Council.</i>

FINANCIAL IMPLICATIONS

47. The AWF project is being developed by the State Government which included the construction of the Albany Entertainment Centre.
48. The assessment of the proposal has been conducted by staff within existing budget lines and resources.

LEGAL IMPLICATIONS

49. Given the introduction of Development Assessment Panels (DAPs) from 1 July 2011 and the likelihood that any development of a hotel/motel and/or service apartments etc within the AWF project would have a development cost exceeding \$7m, such a proposal will be required to be sent to the Great Southern Joint DAP for a decision. As stated before, this requires that the City ensure the AWF Structure/Precinct Plans reflects the direction it wishes to promote for the Albany Waterfront.

ALTERNATE OPTIONS

50. Council has the following options in relation to this application:

Option A

To accept the revised plans (in part or whole).

Option B

To not accept the revised plans (in part or whole) and continue with the existing adopted 2006 plans.

Option C

Defer consideration of the proposal, should Council believe more information is required.

SUMMARY CONCLUSION

51. The revised AWF Structure/Precinct Plans is submitted to Council to provide the best opportunity for development of a significant tourist accommodation development within the Albany Waterfront.

Consulted References	Town Planning Scheme No. 1A Albany Waterfront Planning Framework Report (including Structure Plan Report & Precinct Plan Report) Albany Waterfront Memorandum of Agreement (September 2007)
File Number (Name of Ward)	ED.PJT.4 (Frederickstown Ward)
Previous Reference	OCM 19/09/06 - Item 11.1.2 OCM 20/06/06 - Item 11.1.1 OCM 16/05/06 - Item 11.3.1 OCM 21/03/06 - Item 11.3.2 OCM 19/07/11 – Item 2.2