

**2.8: LOCAL PLANNING POLICY – LOT 14 SPENCER STREET, ALBANY**

<b>Land Description</b>	: Lot 14 Spencer Street, Albany
<b>Proponent</b>	: Harley Global
<b>Owner</b>	: Activ Foundation Inc
<b>Business Entity Name</b>	: Activ Foundation Inc
<b>Director/s</b>	: 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;
<b>Attachments</b>	: Local Planning Policy – Lot 14 Spencer Street, Albany
<b>Responsible Officer(s)</b>	: Acting Executive Director Planning & Development Services (S Lenton)

**Maps and Diagrams:**



**IN BRIEF**

- Consideration of the draft Local Planning Scheme Policy for Lot 14 Spencer Street, Albany for final adoption.

**10.16pm Councillor Hortin left the Chamber after declaring an interest in this item.**

**ITEM 2.8: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DUFTY  
SECONDED: COUNCILLOR GREGSON**

**THAT Council adopt the Draft Local Planning Policy for Lot 14 Spencer Street, Albany subject to the following modification to clause A2.10:**

- 1. At the time of subdivision and or development the City of Albany will require the use of construction methods sympathetic to the structural integrity of Cheyne Cottage.***

**CARRIED 11-0**

**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 (TPS) 1A and is zoned "Special Site 44" 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. 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.
5. 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.
6. The Development Guide Plan was advertised and referred to adjoining owners for comment.
7. The consultation phase has concluded and Council is now required to consider the development guide plan for final adoption.

**DISCUSSION**

8. The Design Policy addresses all the requirements set out in the special conditions and includes a Development Guide Plan.
9. 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.
10. 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.
11. The proposed Policy satisfactorily deals with all the required matters and it is 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 TPS 1A.
12. Seven public submissions were received. All the submissions generally support the proposed policy and development guide plan, some of the submissions have however raised the following relevant matters for further consideration;
- a. The building height of the buildings fronting Frederick street is supported some concern is however expressed over the Building height for the rest of the site (that is not shown in the streetscape perspective ) and potential for overlooking, overshadowing and obscuring views;
  - b. Stormwater management and the impact on the adjoining properties including Cheyne cottage;
  - c. Proposed modification of the existing right of Carriageway to Cheyne Cottage;
  - d. Protecting the structural integrity of Cheyne cottage during the redevelopment of the site;
  - e. Noise /Land use conflict generated by some of the commercial land uses in the area.
13. The matters raised in the submissions are addressed by the following;

Building Height

For lots C1- C4 the building heights shall be in accordance with category A of Table 3 (maximum building height to the top of a pitched roof is 6m) of the Residential Design Codes with natural ground level being the Upper finished floor level as shown on the plan. This will result in a building being build to a maximum height of 15m RL ,5m higher than the Frederick Street level.

For lots B2,B3,B4,D1,D2 and D3 the building heights shall be in accordance with category B of Table 3 (maximum building height to the top of a pitched roof is 12m) of the Residential Design Codes with natural ground level being the finished floor level of the lower floor as shown on the plan. This will result in the tallest building on lot D3 being potentially build to a maximum height of 17.5 m RL, 7.5m higher than the Street level and 2.5m higher than the units fronting Frederick street, the unit on Lot B4 can potentially be build 2m Higher and B2, B3, D1 and D2 being potentially build 1 m higher than the units fronting Frederick street.

Setbacks, overlooking and overshadowing

According to the draft policy all new dwellings on proposed lots B2, B3, B4 D1 and D2 the first floor will be setback a minimum of 4 m from the southern boundary. The second storey element of these dwelling will be setback at least 7.5 m thus meeting the acceptable development criteria of the R-codes and also reducing the impact of any potential overlooking and also overshadowing.

Stormwater management

A Stormwater drainage design will have to be prepared as part of the subdivision and development of the site. The management of the stormwater on the site shall also be in accordance with the City of Albany subdivision and development guidelines. The Stormwater management system on the site will be improved as part of this development thus reducing the impact on adjoining properties.

Modification to the existing right of Carriageway to Cheyne Cottage.

A realignment of the Right of Carriage way to Cheyne Cottage is proposed. The owners of Norman House and Cheyne Cottage (in principle supportive to this proposal) will also have to formally agree to these modifications been made on the title of the subject site at the time of subdivision.

Protecting the structural integrity of Cheyne Cottage during the redevelopment of the site.

The structural integrity of Cheyne cottage is considered very important and It is recommended that a clause be added to clause A 2.10 Servicing, stating that the City of Albany will as a condition of subdivision and development require the use of Construction methods sympathetic to the structural integrity of Cheyne Cottage.

Noise /Land use conflict generated by some of the commercial land uses in the area.

A notification can be placed on the titles of the residential properties advising that lot is in close proximity to the Central Business District Area and the amenity of the lot could at times be affected by non residential activities associated with the use of this area.

**GOVERNMENT CONSULTATION**

14. Government and agency consultation was not required on the design guidelines, further comments will be required by the Western Australian Planning Commission (WAPC) as part of the Subdivision process.

**PUBLIC CONSULTATION / ENGAGEMENT**

15. The Policy was advertised from 27 October 2011 to 18 November 2011 by direct referral to a number of adjoining landowners, and advertisement in the local newspaper.
16. Seven public submissions were received.
17. All the submissions generally support the proposed policy and development guide plan, however some of the submissions have raised relevant matters that after consideration is already addressed within the policy or could be dealt with through a minor modification to the Policy.
18. Seven public submissions were received. All the submissions generally support the proposed policy and development guide plan, some of the submissions have however raised the following relevant matters for further consideration;
  - a. The building height of the buildings fronting Frederick street is supported some concern is however expressed over the Building height for the rest of the site (that is not shown in the streetscape perspective ) and potential for overlooking, overshadowing and obscuring views;
  - b. Stormwater management and the impact on the adjoining properties including Cheyne cottage;
  - c. Proposed modification of the existing right of Carriageway to Cheyne Cottage;
  - d. Protecting the structural integrity of Cheyne cottage during the redevelopment of the site;
  - e. Noise /Land use conflict generated by some of the commercial land uses in the area.
19. The matters raised in the submissions are addressed by the following;

Building Height

For lots C1- C4 the building heights shall be in accordance with category A of Table 3 (maximum building height to the top of a pitched roof is 6m) of the Residential Design Codes with natural ground level being the Upper finished floor level as shown on the plan. This will result in a building being build to a maximum height of 15m RL ,5m higher than the Frederick Street level.

For lots B2,B3,B4,D1,D2 and D3 the building heights shall be in accordance with category B of Table 3 (maximum building height to the top of a pitched roof is 12m) of the Residential Design Codes with natural ground level being the finished floor level of the lower floor as shown on the plan. This will result in the tallest building on lot D3 being potentially build to a maximum height of 17.5 m RL, 7.5m higher than the Street level and 2.5m higher than the units fronting Frederick street, the unit on Lot B4 can potentially be build 2m Higher and B2, B3, D1 and D2 being potentially build 1 m higher than the units fronting Frederick street.

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A Stormwater drainage design will have to be prepared as part of the subdivision and development of the site. The management of the stormwater on the site shall also be in accordance with the City of Albany subdivision and development guidelines. The Stormwater management system on the site will be improved as part of this development thus reducing the impact on adjoining properties.

Modification to the existing right of Carriageway to Cheyne Cottage.

A realignment of the Right of Carriage way to Cheyne Cottage is proposed. The owners of Norman House and Cheyne Cottage (in principle supportive to this proposal) will also have to formally agree to these modifications been made on the title of the subject site at the time of subdivision.

Protecting the structural integrity of Cheyne Cottage during the redevelopment of the site.

The structural integrity of Cheyne Cottage is considered very important and It is recommended that a clause be added to clause A 2.10 Servicing, stating that the City of Albany will as a condition of subdivision and development require the use of Construction methods sympathetic to the structural integrity of Cheyne Cottage.

Noise /Land use conflict generated by some of the commercial land uses in the area.

A notification can be placed on the titles of the residential properties advising that lot is in close proximity to the Central Business District Area and the amenity of the lot could at times be affected by non residential activities associated with the use of this area.

**STATUTORY IMPLICATIONS**

20. 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.”*

21. The Subject site is zoned “Special Site” number 44 as contained in the Schedule of Special Sites in Appendix II of TPS.
22. 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**

23. 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**

24. 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 Cheyne 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’.*
25. 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.*
26. 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.
27. Any Development on the subject lot shall also be in accordance with the Albany Historic Town Design Policy.

**RISK IDENTIFICATION & MITIGATION**

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

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

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

**ALTERNATE OPTIONS**

30. Council has the following options:
- Adopt the draft Local Planning Policy without modification.
  - Adopt the draft Local Planning policy subject to modification.
  - Not adopt the draft Local Planning Policy.

**SUMMARY CONCLUSION**

31. 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.

<b>Consulted References</b>	Town Planning Scheme 1A
<b>File Number (Name of Ward)</b>	A150786 (Frederickstown Ward)

**10.17PM Councillor Hortin returned to the Chamber.**