

2.6: DEVELOPMENT APPLICATION – RESTAURANT ADDITIONS ALTERATIONS

Land Description : (Reserve 26149 Lot 651) No.2 Flinders Parade, Middleton Beach.
 Proponent : H & H Architects Acting on behalf of the lessee, Marwick Family Trust
 Owner : City of Albany
 Business Entity Name : N/A
 Attachments : Plans
 Responsible Officer(s) : E/Director Planning and Development Services (D Putland)

Maps and Diagrams:



IN BRIEF

- A development application has been received for an extension and alterations to an existing kiosk and restaurant (previously known as Calamari's) at No.2 Flinders Parade, Middleton Beach.

CEO:	RESPONSIBLE OFFICER:
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RECOMMENDATION

**ITEM 2.5: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council notes its previous resolutions made at the SCM of 1/05/2012 Item 6.2;and

THAT Council resolves;

1. to **ISSUE** a Notice of Planning Scheme consent for the change in use ,extensions and alterations subject to the following conditions:
 - a. The proposal shall comply with any details and/or amendments marked in red as shown on the approved plan.
 - b. Prior to commencement of development a schedule of materials and colours to be used on the development hereby approved shall be submitted for approval by the City of Albany.
 - c. Vehicular parking, manoeuvring and circulation areas indicated on the approved plan being constructed, properly drained and sealed to the satisfaction of Council. All parking spaces being marked out and maintained in good repair.
 - d. The dual use path/cycleway as shown on the approved plan shall be constructed by the applicant to the satisfaction of the City.
 - e. Stormwater disposal plans and details shall be submitted for approval and constructed to the satisfaction of the City of Albany.
 - f. The stormwater disposal system shall be maintained as per the approved stormwater details and plans to the satisfaction of the City of Albany.
 - g. The loading and unloading of goods to and from the premises shall be carried on entirely within the site at all times and shall be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
 - h. Any lighting device is to be so positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries.
 - i. No processes shall be conducted in the approved structure or machinery, installed, that may cause a detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
 - j. No signs shall be erected on the lot without City's approval, in accordance with the City Of Albany's Sign Bylaws.

BACKGROUND

1. This application is for change of use and extension of the alfresco area and alterations to an existing restaurant (formerly known as Calamari's) at No.2 Flinders Parade, Middleton Beach.
2. The subject land is a reserve for parks and recreation, owned by the crown and vested with the City of Albany with the power to lease.
3. The subject land is primarily used for public recreation and includes public walk ways, public toilet facilities, a children's play park, picnic facilities and restaurant & kiosk.
4. A long term lease of the existing restaurant and kiosk was recently agreed to.

5. The extension of the alfresco area is proposed for an area that currently forms part of the public walkway and recreation area and therefore will result in the realignment of the public walkway and a minor encroachment into the play park area.
6. The application for the extension of the alfresco area and associated earthworks and landscaping improvements requires Councils planning approval.

DISCUSSION

7. The refurbishment and “facelift” of the restaurant is considered an essential part of the restaurant’s marketing and commercial viability. It will also have a positive impact on the amenity and vibrancy of the Middleton Beach area.
8. The proposed work to the restaurant includes the internal alterations to the restaurant and kiosk area, an upgrade of the facade of the building and creating direct under cover access from the restaurant to the public toilets.
9. A change of use is also proposed for the existing restaurant area to include a Meeting room Gallery, Office and a Kiosk.
10. The proposed works also includes the development of a new alfresco area, earthworks and landscape improvements and associated upgrade of the stormwater drainage infrastructure.
11. The proposed change in use, alterations and extension to an established use is appropriate and in accordance with the intended use of the reserve.
12. The proposed development will not detrimentally affect the functioning of the Play park and or the public access way.
13. As this application is proposing substantial alterations to a City asset, it is considered appropriate that this application be referred to Council for determination.

GOVERNMENT CONSULTATION

14. No government consultation was required or undertaken

PUBLIC CONSULTATION / ENGAGEMENT

15. The application was advertised in the local paper. The advertising finished on 24 April 2012.

STATUTORY IMPLICATIONS

16. Town planning scheme 1A part II - reserved land includes the following clauses that is relevant to this application;

“Reservation of land and development thereof

- 2.1 Land set aside under this Scheme for the purposes of a reservation is deemed to be reserved for the purposes indicated on the Scheme Map.
- 2.2 Except as otherwise provided in this part a person shall not carry out any development on land reserved under this Scheme, other than the erection of a

boundary fence, without first applying for and obtaining the written approval of the Council.

- 2.3 In giving its approval to carry out development the Council shall have regard to the ultimate purpose intended for the reserve and shall in the case of land reserved for the purposes of a public authority confer with that authority before giving its approval.
- 2.4 Subject to Part V of the Scheme, no provision of this Part shall prevent the continued use of land for the use for which it was being lawfully used immediately prior to the Scheme having the force of law, or the repair and maintenance, for which the prior consent in writing of the Council has been obtained, of buildings or works lawfully existing on the land.”

STRATEGIC IMPLICATIONS

17. Strategic Implications

This item relates directly to the following elements of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Sustainability and Development

Community Priority

Tourism development

- Improve and expand tourism infrastructure and attractions.
- Encourage diversity in tourism product, including food and wine, indigenous tourism, heritage tourism, through partnerships with key tourism stakeholders

POLICY IMPLICATIONS

18. The subject site is in close proximity to but falls just outside of The City of Albany’s Middleton Beach Tourist precinct policy, there is therefore no policy implications directly related to this site.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
If Council refuse this application, the building will remain in its current poor condition.	Likely	Moderate	High	Council will need to allocate funding in future budgets for the upgrading and maintenance of the asset.

FINANCIAL IMPLICATIONS

20. The financial implications pertaining to this application have previously considered by Council at the Special Council Meeting held on 1 May 2012

LEGAL IMPLICATIONS

21. If Council refused the application, the proponent would then be entitled to seek a review of that decision with the State Administrative Tribunal.

ALTERNATE OPTIONS

22. Council has the option to refuse to grant Planning Scheme Consent for the proposed changes.

SUMMARY CONCLUSION

23. The proposed alterations and extension to an established use is in accordance with the intended use of the reserve and is unlikely to detrimentally affect the functioning of the Play park and or the public access way.
24. The proposed work to the restaurant that includes the upgrade of the facade of the building the development of a new alfresco area, landscape improvements will have a positive impact on the amenity and vibrancy of the Middleton Beach area.

Consulted References	:	Town Planning Scheme No.1A
File Number (Name of Ward)	:	A133837 (FREDERICKSTOWN WARD)
Previous Reference	:	Nil