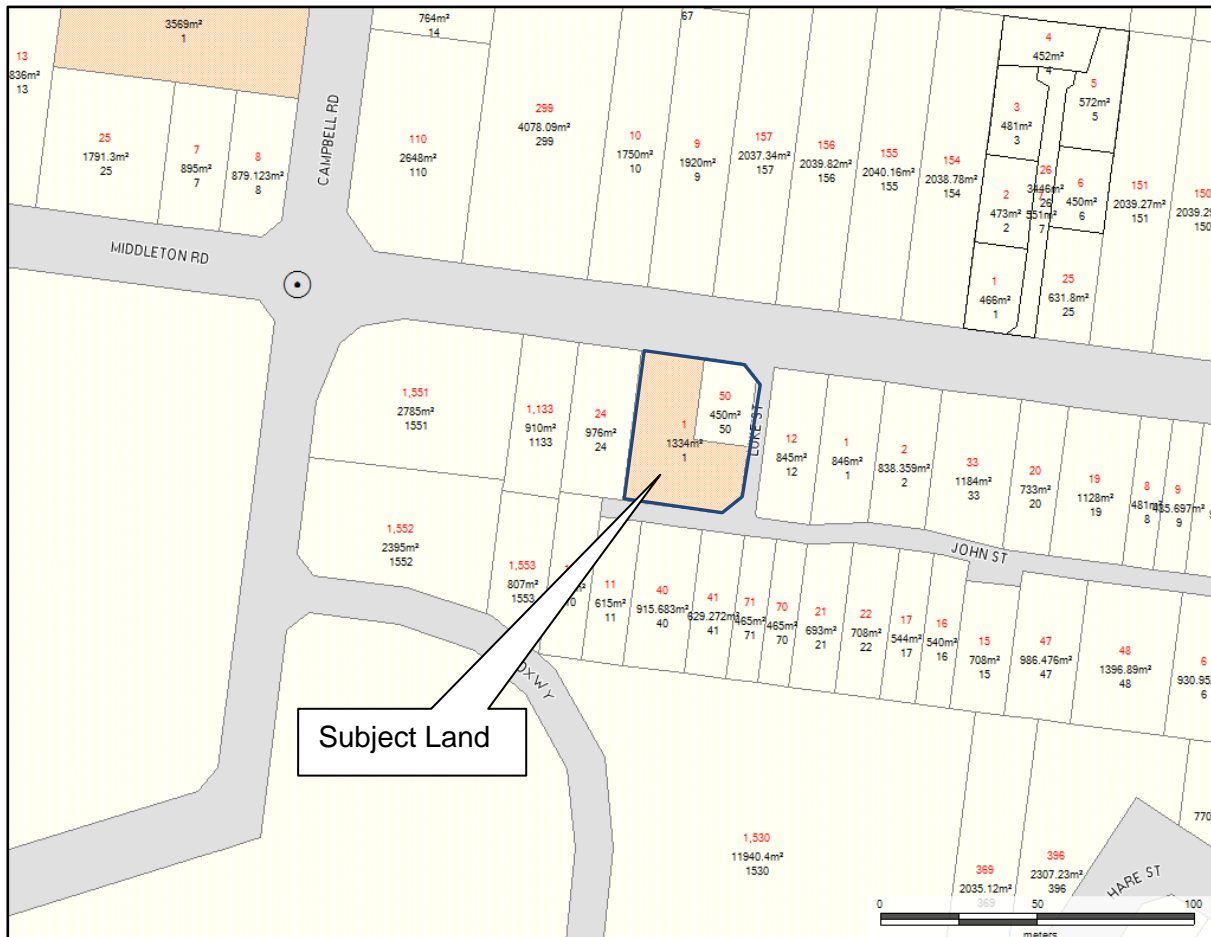


2.9: FINAL ADOPTION OF AMENDMENT – LOTS 50 & 51 MIDDLETON ROAD, MT CLARENCE

| | |
|-------------------------------|--|
| Land Description | : Lots 50 & 51 Middleton Road, Mt Clarence |
| Proponent | : Ayton Baesjou Planning |
| Owner/s | : Kendi Nominees Pty Ltd ATF And The Darcy Smith Family Trust, Trading as The Hillside Family Practice |
| Business Entity Name | : Kendi Nominees Pty Ltd |
| Directors | : Darcy Peter Smith |
| Councillor Workstation | : Amendment Document (AMD178) |
| Responsible Officer(s) | : Executive Director Planning and Development Services (D Putland) |

Maps and Diagrams:



IN BRIEF

- Final adoption is sought for the proposed scheme amendment to rezone Lots 50 & 51 Middleton Road, Mt Clarence as a 'Special Site' with the additional use 'Medical Clinic'.

ITEM:2.9: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

In pursuance of section 75 of the *Planning and Development Act 2005* and *Regulation 17(2)* of the *Town Planning Regulations 1967* FINALLY ADOPTS WITH MODIFICATIONS Amendment No.178 to Town Planning Scheme No.1A for the purposes of:

- 1) Designating Lots 50 & 51 Middleton Road, Mt Clarence as a 'Special additional use Site' S47.
- 2) Amending Appendix II – 'Schedule of Special Sites' to include the following:

| | CODE NO. | PARTICULARS OF LAND | BASE ZONE | ADDITIONAL USE | CONDITIONS |
|-----|----------|-----------------------------|-------------|----------------|--|
| S47 | 47 | Lots 50 & 51 Middleton Road | Residential | Medical Clinic | <p>On site car parking to be Provided in accordance with Council's car parking requirements.</p> <p>Car park shall be designed in such a way that access is restricted to Middleton Road.</p> <p>All Development on the subject lots shall be compatible with height bulk and scale of surrounding uses and developments</p> |

- 3) Amending the Scheme Maps accordingly.

**ITEM 2.9: ALTERNATE MOTION BY COUNCILLOR ATTWELL
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR ATTWELL
SECONDED: COUNCILLOR HAMMOND**

THAT Council resolves to AMEND the proposed condition 2 in Appendix II-‘Schedule of Special Sites’ as follows:

In pursuance of section 75 of the *Planning and Development Act 2005* and *Regulation 17(2)* of the *Town Planning Regulations 1967* FINALLY ADOPTS WITH MODIFICATIONS Amendment No.178 to Town Planning Scheme No.1A for the purposes of:

- 1) Designating Lots 50 & 51 Middleton Road, Mt Clarence as a ‘Special additional use Site’ S47.
- 2) Amending Appendix II – ‘Schedule of Special Sites’ to include the following:

| | CODE NO. | PARTICULARS OF LAND | BASE ZONE | ADDITIONAL USE | CONDITIONS |
|-----|----------|-----------------------------|-------------|----------------|--|
| S47 | 47 | Lots 50 & 51 Middleton Road | Residential | Medical Clinic | On site car parking to be Provided in accordance with Council’s car parking requirements. “All car parking shall be designed in such a way that access is restricted to Middleton Road with the exception of the existing seven staff bays which have their access from Luke Lane”. All Development on the |

- 3) Amending the Scheme Maps accordingly.

CARRIED 9-0

Councillor’s Reason:

- The staff bays are separated from the public car bays on Lot 51 in order to avoid them being taken up by the public;
- The staff bays have been accessing Luke Lane for several years without problems or complaints;
- Compared to the public bays, the staff bays do not generate frequent movement to and from the site. A doctor may occasionally be called to the hospital, but otherwise there is minimal access to and from Luke Lane;

- The access from Luke Lane to the staff car park acts as a passing bay on Luke Lane which is only wide enough for one way traffic. If the staff car park was fenced off then there would be limited ability for two way access along Luke Lane;
- If the proposed modification to the condition is accepted there will be no more access permitted onto Luke Lane as a result of further expansion of the medical centre.

Officer's Comment (Executive Director Planning and Development Services):

- The restriction with the exception of the existing seven staff bays which have their access from Luke Street" will reduce the potential impact on the residential uses in the area.
- However it is difficult to police or to practically control the use of these bays to ensure that the traffic on Luke Street does not become a nuisance.
- As this is an application for Rezoning, the Officers recommendation is made in the context of the long-term future use of the property rather than the existing use.
- Given the potential for land use conflict, the preference is for access associated with future development to be restricted to Middleton Road only as this will limit the possible impact or increased traffic on nearby residents.

BACKGROUND

1. An application has been received from Ayton Baesjou Planning (planning consultants) seeking to amend Town Planning Scheme No. 1A by including a "Special Site" with the additional use of 'Medical Clinic' on Lots 50 & 51 Middleton Road, Mt Clarence.
2. The subject site is currently zoned "Residential" with an applicable R-code density of R20.
3. The surrounding land is zoned "Residential (R20)".
4. The subject site is located approximately 1.5 km from the Albany CBD via Middleton Road.
5. The subject site has been operating as The Hillside Family Practice for more than 15 years.
6. The current use was originally approved as 'consulting rooms' which only allows for a maximum of two medical practitioners.
7. The Hillside Family Practice would like to expand and provide a more comprehensive service; it therefore needs to rezone the subject land to enable an additional use of 'Medical Clinic' in order for the City to allow the practice to accommodate more than two medical practitioners.
8. Lot 51 is 1334m² in area and has been strata titled into two lots, Pt 1 being 389m² and used as a residence and Pt 2 being 945m² and used for 'Consulting Rooms'.
9. Lot 50 is 450m² in area and contains an existing residence. The property was acquired to facilitate expansion of the practice, particularly in relation to provision of car parking. The residence is currently used to house locums who work for the practice when doctors are on leave.
10. The proposed amendment was initiated at the Ordinary Council Meeting on 21 February 2012.

11. Council is now required to consider the submissions received from the consultation period and determine whether to grant final approval to the proposed scheme amendment.

DISCUSSION

12. The use 'Medical Clinic' would allow for more than two medical practitioners to operate from the site.
13. The proposed rezoning will facilitate the development and use of the entire building on lot 51 to include space for six consulting rooms, reception, administration, nurses' room, allied health, pathology collection, common room/staff room and waiting room.
14. Access to the subject lot is currently from Middleton Road and Luke Street and is considered adequate for the proposed zoning and future use as proposed.
15. The subject lot is currently connected to all the necessary services and it is not anticipated that any major upgrades would be required.
16. Parking requirements for the subject lot and proposed special site use would have to be in accordance with section 13.2.1 of the City of Albany adopted Policy Manual – LPP7.
17. According to the policy for a medical clinic, six bays per consultant are required for the first two consultants plus two bays for each additional consultant.
18. A total of 28 car bays are currently provided with 18 plus a disabled car bay on Lot 51 and 9 on Lot 50. The car parking on Lot 50 is reserved for staff parking with public parking confined to Lot 51. The parking provided is considered sufficient to cater for six medical practitioners.
19. The Albany Local Planning Strategy earmarks the area for existing urban use.
20. The Strategy also recommends that smaller offices and consulting rooms be located as incremental extensions on the periphery of the CBD to reduce strip development along Middleton Road; and encourage thorough precinct and structure plans in the LPS1 development of smaller offices and consulting rooms within neighbourhood centres.
21. While the proposed amendment not in line with the strategic direction included in Albany Local Planning Strategy. The proposed special site zoning and use 'Medical Clinic' to allow for the limited expansion of the established use is however considered appropriate for the locality and as it is not likely to have an unmanageable impact on the area and adjoining land uses.
22. Luke Street and John Street are under width roads appropriate for residential use only. The proposed intensification of the land use could create a negative traffic impact on Luke street and John street. A condition could be added to address this requiring the Car park to be designed in such a way that access to the subject lot is limited to Middleton Road.

GOVERNMENT CONSULTATION

23. The amendment was referred to WA Gas Networks, Telstra, Water Corporation, Western Power. Responses were received from Telstra, Water Corporation, Western Power, these submissions are summarised, discussed and accompanied by appropriate recommendations in the attached Schedule of Submissions.
24. No objections have been received.

PUBLIC CONSULTATION / ENGAGEMENT

25. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 26 April 2012 to 17 June 2012 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners and advertisement in a local newspaper.
26. The main objection and concern raised at the conclusion of the advertising is the potential for this type of land use and zone to set in motion a spread of commercial activities in the area and the negative impact this will have on the existing residential use. A restriction on Height and restricting access via Luke Street and John Street is also requested.
27. With reference to concerns about height it is considered appropriate that the conditions be modified to include provisions relevant to ensure that development is compatible with height bulk and scale of surrounding developments
28. One submission was received from landowner that resides in the area. The Landowner objects to the proposal and raised concerns that relates to the potential for this type of land use and zoning to set in motion a spread of commercial activities in the area and the negative impact this will have on the existing residential use. A restriction on Height and to reduce the potential traffic conflict a request is also made to restrict non residential access from using Luke Street and John Street.
29. This submission is summarised, discussed and accompanied by appropriate recommendations in the attached Schedule of Submissions.

STATUTORY IMPLICATIONS

30. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. Council's decision on the final approval of the amendment requires endorsement by the Western Australian Planning Commission and the approval of the Minister for Planning.

STRATEGIC IMPLICATIONS

31. Council's decision on the Scheme Amendment should be consistent with the objectives of the Albany Local Planning Strategy as the principal land use planning strategy for the City.
32. Section 8.5 Economic Strategy ,sub Section 8.5.2 – **Commerce** sets the following Strategic Objective:

“Promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern.” ; and

“Retain existing and develop new staged neighbourhood and local centres incorporating retailing as a primary focus.”

The strategy further states;

5.2.2 Other Business Activity

Planning Objective:

“Provide appropriate locations for establishing and growing business activity.

There is a significant amount of what is termed “other business activity” within the City in the form of bulky-goods outlets, office developments, consulting rooms and home-based businesses....

The Activity Centres Planning Strategy expects most future office development to be in the City centre, mainly in the York Street precinct, to be accompanied by a mix of shopping, commercial and residential development. There has been a trend in recent years of small offices and consulting rooms replacing residential use in homes on the fringe of the City centre, notably on Aberdeen Street, Albany Highway and Middleton Road. This has created issues over the impact of street parking and access and compatibility with adjoining uses. Although this trend is concentrated in the CBD, it is spreading out on both sides of Middleton Road past the cemetery...

ALPS proposes the following relevant actions

“Locate smaller offices and consulting rooms as incremental extensions on the periphery of the CBD to reduce strip developments along Middleton Road (CoA).

6.4.5 Health

Planning Objective:

“To provide and promote health care facilities to cater for community needs and be located within or near major centres and connected to a major public transport system.”

Action - Undertake structure/precinct planning and develop policies to promote the dispersal of general medical facilities into suburban locations to be co-located with other community services (CoA, WAPC, HDWA).

Encourage through precinct and structure plans in the LPS1 development of smaller offices and consulting rooms within neighbourhood centres (CoA)."

33. The proposed amendment is generally not in accordance with the strategic direction included in Albany Local Planning Strategy, it is however an existing use and it is unlikely that the limited expansion as proposed will detrimentally affect the strategic direction included in Albany Local Planning Strategy.

POLICY IMPLICATIONS

34. Council is required to have regard to any Western Australian Planning Commission Statements of Planning Policy (SPP) that apply to the scheme amendment. Any amendment to the Town Planning Scheme will be assessed by the Western Australian Planning Commission to ensure consistency with the following State and Regional Policies.

SPP 3 – Urban Growth and Settlement

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

The policy objectives in SPP 3 that are relevant to this proposal are as follows:

- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.*

It is considered that the proposal will achieve the above objectives.

RISK IDENTIFICATION & MITIGATION

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|---|-------------------|--------------------|----------------------|--|
| <i>Possible complaints arising from adverse impacts experienced by neighbouring residential properties.</i> | <i>Unlikely</i> | <i>Minor</i> | <i>Low</i> | <i>By following the formal statutory scheme amendment process which includes consultation with public and government agencies. And responding to valid concerns with appropriate conditions to limit any negative impacts on existing residential uses</i> |
| <i>An increase in traffic as a result of the intensification of the use.</i> | <i>likely</i> | <i>Minor</i> | <i>Low</i> | <i>Ensure that sufficient parking spaces are provided and traffic access to the site is safe.</i> |

FINANCIAL IMPLICATIONS

35. The appropriate planning fee has been paid by the proponent. The proposal has been assessed by staff using in-house resources.

LEGAL IMPLICATIONS

36. Section 75 of the *Planning Development Act 2005* allows Council to amend its Town Planning Scheme.

37. Regulation 17(2)(a) of the *Town Planning Regulations 1967* allows Council to adopt the Scheme with or without modification.

ALTERNATE OPTIONS

38. Council has the following options in relation to this item, which are:

- To adopt the Scheme Amendment without modifications;
- To adopt the Scheme Amendment with modifications; or
- To resolve not to adopt the Scheme Amendment and advise the WAPC of the reasons for not doing so.

39. Should Council determine not to finally adopt the proposed Scheme amendment it is recommended that the following recommendation be included after the refusal recommendation:

THAT Council NOTES that the Chief Executive Officer, who is delegated by Council to issue planning enforcement notices, will issue such a Notice under the Planning and Development Act 2005 to the proponent to cease the existing unlawful use of having more than two practitioners operating from the subject lot at any one point in time within a period of 30 days from the date of the notice.

SUMMARY CONCLUSION

40. Although the proposed amendment is not in line with the strategic direction included in ALPS, the zoning and resultant limited intensification of the current use is not likely to have an adverse impact on the area and adjoining land uses it and can be supported with the following changes ;

- that a condition be added to the special conditions requiring the Car park to be designed in such a way that access to the subject lot is limited to Middleton Road ; and
- All Development on the subject lots shall be compatible with height bulk and scale of surrounding uses and developments

| | |
|-----------------------------------|--|
| Consulted References | WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3 |
| File Number (Name of Ward) | AMD178 (Frederickstown Ward) |
| Previous References | Item 2.10 OCM 21/02/12 |