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# MINUTES

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## PLANNING AND DEVELOPMENT COMMITTEE

**04 May 2016**

6.00pm

City of Albany Council Chambers

**CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

**VISION**

Western Australia's most sought after and unique regional city to live, work and visit.

**VALUES**

All Councillors, Staff and Volunteers at the City of Albany will be...

**Focused: on community outcomes**

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

**United: by working and learning together**

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

**Accountable: for our actions**

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

**Proud: of our people and our community**

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

## TERMS OF REFERENCE

**(1) Function:**

The Planning and Development Committee will be responsible for the delivery of the following Liveable Environmental Objectives contained in the City of Albany Strategic Plan:

- (a) To advocate, plan and build connected, liveable communities;
- (b) To create a community that supports people of all ages and backgrounds;
- (c) To create vibrant neighbourhoods which are safe yet retain our local character and heritage.

**(2) It will achieve this by:**

- (a) Developing policies and strategies;
- (b) Establishing ways to measure progress;
- (c) Receiving progress reports;
- (d) Considering officer advice;
- (e) Debating topical issues;
- (f) Providing advice on effective ways to engage and report progress to the Community ; and
- (g) Making recommendations to Council.

**(3) Chairperson:** Councillor N Mulcahy

**(4) Membership:** Open to all elected members, who wish to be members

**(5) Meeting Schedule:** 1<sup>st</sup> Wednesday of the Month

**(6) Meeting Location:** Council Chambers

**(7) Executive Officer:** Executive Director Planning & Development

**(8) Delegated Authority:** None

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**1. DECLARATION OF OPENING [6:00:04 PM](#)**

**2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

*“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”*

*“We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land.*

*We would also like to pay respect to Elders both past and present”.*

**3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE**

**Mayor** Mayor D Wellington

**Councillors:**

Member	N Mulcahy (Chair)
Member	A Goode JP
Member	G Stocks
Member	R Hammond
Member	J Shanhun
Member	R Sutton

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Development Services	D Putland
Manager Planning	J van der Mescht
Senior Planning Officer	A Bott
Planning Officer	C McMurtrie
Minutes	J Cobbold

Councillor	S Smith
Councillor	P Terry

**Apologies:**

Member	B Hollingworth (Deputy Chair)
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**4. DISCLOSURES OF INTEREST**

NIL

**5. REPORTS OF MEMBERS**

NIL

**6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

NIL

**7. PUBLIC QUESTION TIME**

- [6:01:30 PM](#) Barbara Madden – item PD125 speaking against – 12 story's
- [6:05:20 PM](#) Chris Gumby - Garden St – item PD125. – speaking for- Tabled  
(Appendix A)
- [6:09:02 PM](#) John Watson - PD125 speaking against
- [6:13:41 PM](#) Lynne Farrow - 19 Wylie Cres - PD125 speaking against
- [6:15:16 PM](#) John Barley - PD125 speaking for
- [6:16:49 PM](#) Pam Dolley - 19 Innes Street - PD125 Speaking on parking and cycle  
ways
- [6:21:24 PM](#) Malcolm Summers Hames Sharley - PD125 Speaking for
- [6:25:12 PM](#) Tony Waters – Mt Melville - PD125 Speaking for
- [6:26:24 PM](#) Tony Harrison – Little Grove - PD125 Speaking for with amendments
- [6:29:04 PM](#) Don Duffy – Luna Rise - PD125 Speaking for
- [6:32:56 PM](#) Lutz Pamberger – Little Grove - PD125 Speaking against
- [6:35:17 PM](#) Peter Adams – Manton Way - PD124 Speaking for
- [6:38:58 PM](#) Karen Marwick – Bayonet Head - CEO - PD124 Speaking for – Tabled  
(Appendix A)
- [6:42:23 PM](#) Tom Stevens - H&H Architects - PD124 Speaking for – Tabled  
(Appendix A)
- [6:46:55 PM](#) Jennifer O'Neil - UWA - PD124 Speaking for
- [6:51:42 PM](#) Greg Spaanderman - PD125 Speaking for
- [6:53:28 PM](#) Sally Pamberger - PD125 Speaking for with amendments

Kay Geldard – PD125 – Tabled (Appendix A)  
Landcorp – PD125 – Tabled (Appendix A)

8. APPLICATIONS FOR LEAVE OF ABSENCE  
NIL

9. PETITIONS AND DEPUTATIONS  
NIL

10. CONFIRMATION OF MINUTES

**DRAFT MOTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR SHANHUN**

**THAT the minutes of the Planning and Development Committee Meeting held on 06 April 2016, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED: 7:0**

11. PRESENTATIONS

Malcolm Robb Water Science Manager – Department of Water  
*Regional Estuaries Initiative - Department of Waters program to improve water quality of King and Kalgan Rivers.*

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS  
NIL

**PD124: RESIDENTIAL BUILDINGS (STUDENT HOUSING) – 28-30 STIRLING TERRACE, ALBANY**

**Land Description** : 28-30 Stirling Terrace, Albany  
**Proponent** : Great Southern Community Housing Association  
**Owner** : Great Southern Community Housing Association  
**Business Entity Name** : Great Southern Community Housing Association  
**Directors** :  
**Attachments** : 1. Context Plan  
2. Plans  
3. Management Plan  
4. Schedule of Submissions

**Supplementary Information & Councillor Workstation:** : Copies of Submissions  
**Report Prepared by** : Senior Planning Officer (A Bott)  
**Responsible Officer** : Executive Director Planning & Development Services (D Putland)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

**Maps and Diagrams:**



**In Brief:**

- Council is asked to consider an application for three Residential Buildings (student housing) at 28-30 Stirling Terrace, Albany.
- The application was advertised for public comment and referred to surrounding residents.
- Three letters of objection have been received from nearby residents. The objections primarily relate to concerns over parking, amenity and design.
- Staff recommend that Council approve the proposed development, subject to conditions.

**RECOMMENDATION**

**PD124: COMMITTEE RECOMMENDATION**

**MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR SUTTON**

**THAT the Officer Recommendation is ADOPTED**

**CARRIED: 7-0**

**PD124: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council resolves to ISSUE a notice of determination granting development approval with conditions for three Residential Buildings (Student Housing) at 28-30 Stirling Terrace, Albany

Conditions:

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur in accordance with the stamped, approved plans dated (*\*insert date of approval\**).
2. The use hereby approved shall operate in accordance with the approved management plan at all times.
3. A landscaping plan detailing the size, species and location of trees/shrubs shall be submitted for approval in writing and implemented to the satisfaction of the City of Albany
4. The new crossovers shall be constructed to the City of Albany's specifications, levels and satisfaction.

Advice:

*A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer City of Albany Subdivision and Development Guidelines).*

5. Suitable arrangements shall be made with, and to the satisfaction of the City of Albany, for payment of a cash-in-lieu contribution or joint use of another parking facility to compensate for the shortfall of 17 car parking bays.
6. A vehicular parking and access plan shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

Advice:

*Car parking and access is to be designed in accordance with the Australian Standard 2890.*

*The plan (and subsequent construction when approved) shall clearly indicate the intended use of all parking bays (e.g. disabled bay, loading bay, etc.), access areas, line marking, kerbing and sealing.*

7. All parking spaces shall be marked out and maintained in good repair, to the satisfaction of the City of Albany.
8. Details of bicycle parking shall be submitted and approved to the satisfaction of the City of Albany.
9. Stormwater disposal plans, details and calculations shall be submitted for approval and constructed to the satisfaction of the City of Albany.

Advice:

*Stormwater disposal is to be designed in accordance with the 'City of Albany's Subdivision and Development Guidelines'; and*

*The stormwater disposal system is to be designed and certified by a practicing Civil Engineer to the satisfaction of the City of Albany.*

10. A Tree Protection Plan shall be submitted for approval and implemented to the satisfaction of the City of Albany, before any of the substantive development is commenced, and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within the areas fenced, nothing shall be stored or placed, and the ground levels shall not be altered.

Advice:

*The Plan shall detail what measures will be undertaken to ensure the protection of the trees and shall include, but not be limited to:*

- a) *The erection of protective fencing around the trees to be retained;*
  - b) *The laying of geotextile membranes and boarding to protect tree root zones within protective fencing;*
  - c) *The technique for construction of (foundations, built form, roads, car parks, footpaths and other surfaces, etc., as necessary);*
  - d) *The locations for (site compounds, office, car parking, equipment, material storage, machinery, access and servicing of development);*
  - e) *An Arboricultural Management Strategy including details of pruning works, the timing and phasing of all Arboricultural works and tree protection measures.*
11. A plan indicating the location and type of refuse storage shall be submitted for approval by, and implemented to the satisfaction of, the City of Albany.

Advice:

*The refuse storage areas shall be capable of accommodating all waste produced by the development and shall be screened from public view.*

12. A construction management plan shall be submitted for approval by, and implemented to the satisfaction of, the City of Albany.

13. A heritage management plan shall be submitted for approval by, and implemented to the satisfaction of, the City of Albany.

Advice:

*The plan shall detail the ongoing use and protection of the heritage buildings on the property.*

14. Exact details of the privacy screen for the balcony areas shall be submitted for approval in writing, and implemented to the satisfaction of the City of Albany.

Advice:

Please note that the screening shall be permanent, solid, vertical screening. The City of Albany will not consider louvers, lattice, etc acceptable in this instance.

15. Prior to commencement of development a schedule of materials and colours to be used on the buildings/structures hereby approved shall be submitted for approval by the City of Albany.

## **BACKGROUND**

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. An increase in student numbers within the Albany region has resulted in a demand for student housing in close proximity to the central area.
6. The subject lot lies within the Albany CBD, at the eastern end of Stirling Terrace. The lot has an area of approximately 2329m<sup>2</sup> and is zoned 'Residential' R30 under City of Albany Local Planning Scheme No. 1.
7. Land zoned 'Regional Centre' lies to the south-west. Land to the north and east is zoned 'Residential'.
8. The application was advertised for public comment for a period of 21 days. Nearby landowners were directly notified by letter. A total of three submissions were received, all of which raise concerns around the proposal.
9. Council is now requested to consider whether to grant development approval.

## **DISCUSSION**

10. The proposal consists of three residential buildings, providing a total of 20 beds.
11. Norman House is also currently utilised as student accommodation, providing a total of six beds. It is proposed to continue to use Norman House in this manner in conjunction with the proposed new buildings.
12. The subject lot currently contains two buildings of local heritage significance – Norman House, which is recorded on the Municipal Heritage Inventory and Cheyne's Cottage, which is both recorded on the Municipal Heritage Inventory and on the Local Planning Scheme Heritage List. Both buildings will remain unaltered under the current development proposal.
13. The application is generally consistent with the provisions of the *Albany Historic Town Design Policy* and the *State Planning Policy 3.1 – Residential Design Codes*.

14. A total of three submissions were received from members of the public during the advertising period, all of which raised concerns regarding the proposal.
15. The main concerns raised and the proposed mitigation measures can be addressed under the following headings:

#### Parking

16. A number of submissions have raised concerns regarding potential parking issues resulting from the proposal.
17. The applicants have proposed 15 car parking bays on-site. *Local Planning Scheme No.1* requires a total of 33 bays for the proposed number of beds, inclusive of visitor parking. Therefore, the proposal has a shortfall of 18 car parking bays.
18. The proposed tenancy agreement only allows occupants to park their vehicles at the premises if the occupant is granted a separate licence by the Great Southern Community Housing Association. Therefore, the proposal differs from a standard residential development whereby there is no control over the use of car parking bays.
19. Clause 5.8.5.4 of *Local Planning Scheme No.1* provides the City the ability to discount the requirement of one car parking bay on the basis that on-site bicycle parking will be provided. The applicant has stated that bicycle parking will be provided, reducing the car parking shortfall to 17 bays. The provision of bicycle parking will be secured via a condition of development approval.
20. In addition to the above, *Local Planning Scheme No.1* provides the City with the ability to vary the parking standard and accept a cash-in-lieu payment for car parking or address the shortfall via a joint parking arrangement.
21. Cash-in-lieu allows the City to accept money for a shortfall in order to provide and/or upgrade car parking bays in a nearby existing or proposed parking facility, including on-street parking where possible and appropriate.
22. Joint parking arrangements allow two or more owners or users of land to share parking facilities on one or more lots. However, the proponent will have to provide evidence that the peak hours of operation of the buildings or uses are different and do not substantially overlap (i.e. parking used for an office during the day and a restaurant at night). The joint parking arrangement would have to be in the form of a legal agreement, and placed on the relevant certificate(s) of title(s).
23. It is proposed that a planning condition is applied to the development approval that will provide the option of making a cash-in-lieu contribution or reaching a joint parking arrangement to cover the shortfall of 17 car parking bays.

#### Amenity

24. Impact on amenity is a concern consistently raised in the submissions. Concerns primarily relate to noise generated from the proposed development.
25. The proponents have submitted a detailed Management Plan for the use of the premises. The Plan contains a number of provisions to control noise impacts, including;
  - A full-time caretaker living on site;
  - All tenants signing a tenancy agreement;
  - House Rules which all tenants are required to abide by, this includes behaviour standards and visitor exclusion hours;

- Tenants being evicted within 24 hours in the event of illegal activity and 48 hours in the event of anti-social behaviour;
  - A commitment to respond to noise control instructions issued by the City of Albany.
26. It is recommended that the implementation of, and ongoing compliance with the Management Plan is applied as a condition of development approval.
27. City staff consider that the implementation of the plan will create a controlled environment with the necessary measures in place to deal with issues promptly. The provision of an on-site caretaker is highly beneficial, as it ensures a presence to monitor potential noise nuisance and provides a point of contact for adjoining landowners, should an issue arise.

#### Heritage Impact

28. The subject lot contains two locally listed heritage buildings and trees;
- Norman House and Oak tree – Category B under the Municipal Heritage Inventory; and
  - Cheyne's Cottage and Magnolia Tree – Category B under the Municipal Heritage Inventory and entered on the Local Heritage List under *Local Planning Scheme No. 1*.
29. The application proposes to maintain both buildings and trees unaltered. It is also proposed that Norman House continue to be utilised as student accommodation, providing a total of six beds.
30. Given the proximity of the development to the nearby *Stirling Terrace Precinct*, the application was referred to the State Heritage Office for comment. It was advised that the proposal would not impact the heritage precinct.
31. The period of greatest risk for the two trees is during construction. Therefore, it is proposed that a Tree Protection Plan be prepared for the two trees to ensure that they are not damaged during construction. Such a condition is common in such circumstances and will mitigate the risk of root damage or canopy removal.
32. As an ongoing condition, any work to be undertaken on the trees will require an arborists report to be submitted and associated works approved by the City of Albany. Once again, such a condition is common practice for the conservation of heritage listed trees.
33. While Cheyne's Cottage will remain unutilised under the current proposals, it is recommended a planning condition be applied to ensure that the heritage significance of the place is protected into the future, until such a time it can be appropriately reused.

#### Design and Building Requirements

34. Concerns were raised regarding the compliance of the proposed building and car parking with various Building Code and Department of Fire and Emergency Services standards.
35. The planning application for the City is only assessed under the scope of the *Planning and Development Act 2005* and associated polices. The building permit process provides the legal requirement and assessment of the proposal against the *Building Code of Australia* and associated legislative requirement pertaining to disability access and fire.
36. As part of the building permit process, the applicant will be required to have the plans certified by a private building surveyor. The certification of the plans ensures that all obligations under the *Building Code of Australia* and subsidiary legislation are met and complied with. It is common for minor changes to be made to the plans between the planning approval and building permit being lodged, in order to comply with the requirements of the Building Code and other legislation. The building permit application will be reviewed by City planning staff prior to a determination being issued.

37. The application has also been assessed against the provisions of *State Planning Policy 3.1 – Residential Design Codes* and is broadly compliant. However, the issue of overshadowing from the proposed development was raised during consultation.
38. The *Residential Design Codes* allow for 35% of an adjoining property's site area to be overshadowed.
39. An overshadowing diagram has been prepared for the proposal, as per the R-Codes. The diagram shows that the proposal will overshadow 22.3% of the adjoining property. The proposal is therefore compliant with the deemed-to-comply provisions of the R-Codes applicable to solar access for adjoining sites.
40. The application proposes a height variation to the R-Code deemed-to-comply provisions of 0.5 metres for the ridge of building one. It is of note that the proposed ridge line remains below that of the adjoining Norman House and is considered compliant with the design principles of the R-Codes.
41. It is proposed to install privacy screening on balconies as per the R-Codes. Details of the screening will be required as a condition of development approval.

### **GOVERNMENT & PUBLIC CONSULTATION**

42. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. Surrounding landowners were directly notified in writing.
43. A total three submissions were received during the advertising period. All three submissions raised concerns in relation to the proposal. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in paragraphs 14-41 above.
44. Given the proximity of the proposal to the State Registered *Stirling Terrace Precinct*, the application was referred to the State Heritage Office for comment. The following advice was received:
  - *The proposed new buildings are adequately separated from the Registered Precinct and will not have an impact on the heritage values of the place.*
  - *28-30 Stirling Terrace contains two separate buildings, Norman House and Cheyne's Cottage which are not included in the State Register of Heritage Places but are included in the Register of the National Estate and the City of Albany's Municipal Heritage Inventory and are protected under your Town Planning Scheme.*
45. On the basis of the State Heritage Office advice the proposal is considered to have no impact on the nearby *Stirling Terrace Precinct*. The assessment of the heritage impact and management of the two heritage building on the property are discussed above.

### **STATUTORY IMPLICATIONS**

46. Residential Building is classified as an 'A' use within the 'Residential' zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.
47. Voting requirement is a **Simple Majority**.

### **POLICY IMPLICATIONS**

48. The application is subject to *Albany Historic Town Design Policy* and the *State Planning Policy 3.1 – Residential Design Codes*.

## RISK IDENTIFICATION & MITIGATION

49. The risk identification and categorisation relies on the City's Enterprise Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b> The proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</p>	Possible	Moderate	Medium	Mitigation of impacts to be achieved through adoption and enforcement of appropriate planning conditions.

## FINANCIAL IMPLICATIONS

50. All costs associated with the development will be borne by the proponent.
51. However, should the proponents be aggrieved by Council's decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

## LEGAL IMPLICATIONS

52. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the *Planning and Development Act 2005*.
53. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

## ENVIRONMENTAL CONSIDERATIONS

54. The subject lot is largely developed; however, there is existing vegetation which will be cleared to accommodate the proposed development. The subject lot also contains two trees of heritage significance – Cheyne's Cottage Oak tree and Norman House Magnolia tree. It is proposed to maintain the two trees in perpetuity. The conservation and protection of these trees through the construction process and into the future will be secured via an appropriate planning condition.
55. It is also proposed that a landscaping plan be required as a condition of development approval.

## ALTERNATE OPTIONS

56. Council may consider alternate options in relation to this item, such as:
- To determine that the proposed development is unacceptable and to resolve to refuse the application; or
  - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

## SUMMARY CONCLUSION

57. The proposal is considered to be consistent with the objectives of the zone and the requirements of *Local Planning Scheme No.1*. On this basis, it is considered the proposal can be appropriately managed through ongoing planning conditions.
58. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. Western Australian Planning Commission <i>State Planning Policy 3.1 – Residential Design Codes</i> 4. <i>Albany Historic Town Design Policy</i>
<b>File Number (Name of Ward)</b>	:	A158499 (Frederickstown Ward)
<b>Previous Reference</b>	:	

## AMENDED MOTION BY COUNCILLOR STOCKS

ITEM NUMBER: PD125  
ITEM TITLE: CONSIDERATION OF SCHEME AMENDMENT AND ACTIVITY CENTRE  
STRUCTURE PLAN – LOT 8888 FLINDERS PARADE AND LOTS 660  
AND 661 MARINE TERRACE, MIDDLETON BEACH

DATE & TIME RECEIVED: WEDNESDAY 04 MAY 2016

PD125: AMENDED MOTION BY COUNCILLOR STOCKS  
VOTING REQUIREMENT: SIMPLE MAJORITY  
MOVED STOCKS  
SECONDED MAYOR

THAT Council:

1. **RESOLVES** to amend the attached Schedule of Modifications by including the following modifications:

- **Modification No. 2:**

Insertion of an additional bullet point after 'Building Height' under Condition 11, Hotel/Mixed Use Precinct, to read as follows:

'1-3 storey height limit along Primary Active Frontages abutting Public Open Space, with additional height located towards Mount Adelaide.'

- **Modification No. 3:**

The precinct plan is modified to incorporate Primary Active Frontage on the eastern edge of the Hotel/Mixed Use Precinct where it abuts the Public Open Space.

2. Pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modification as per the attached amended Schedule of Modifications, Amendment No. 1 to amend *City of Albany Local Planning Scheme No. 1* by:

(1) Rezoning:

- Lot 8888 Flinders Parade, Middleton Beach from the 'Hotel/Motel' and 'Tourist Residential' zones;
- Lots 660 and 661 Marine Terrace, Middleton Beach from the 'Tourist Residential' zone; and
- Portions of Adelaide Crescent, Marine Terrace, Barnett Street, Flinders Parade and Marine Drive from 'Priority Road' and Local Road Reserves

to 'Special Use Zone SU25'.

(2) Amending 'Schedule 4 – Special Use Zones' to incorporate provisions relating to Middleton Beach Activity Centre;

(3) Introducing the following land use definition to the City of Albany Local Planning Scheme No. 1:

*'single attached dwelling means one of a group of two or more attached dwellings, each being separated by a common wall and may include a row house, terrace house or town house, not located above or below another dwelling';*

and

(4) Amending the Scheme Maps accordingly.

3. RESOLVES to recommend to the Western Australian Planning Commission that it approve the *Middleton Beach Activity Centre Structure Plan*, subject to the following modifications:

(1) Incorporating Primary Active Frontage on the eastern edge of the Hotel/Mixed Use Precinct where it abuts the Public Open Space; and

(2) Incorporating a visual identifier behind the Primary Active Frontage on the Hotel/Mixed Use Precinct to indicate the staging of building height from 1-3 storeys to 5-12 storeys.

7-0

**Councillor's Reason:**

This amendment is intended to activate the Middleton Beach frontage and will ensure the hotel building frontage, facing Middleton Beach is between 1 and 3 stories and that the main bulk of the building is stepped back from the beach.

**Officer's Comment (ED Planning & Development Services):**

Amendment is supported as it will provide for more activity along the beachfront.

**PD125: CONSIDERATION OF SCHEME AMENDMENT AND ACTIVITY CENTRE STRUCTURE PLAN – LOT 8888 FLINDERS PARADE AND LOTS 660 AND 661 MARINE TERRACE, MIDDLETON BEACH**

**Land Description** : Lot 8888 Flinders Parade and Lots 660 and 661 Marine Terrace, Middleton beach

**Proponent** : Hames Sharley on behalf of LandCorp

**Owner** : Western Australian Land Authority, F J MacDougall, N P Wallis

**Business Entity Name** : LandCorp

**Attachments** : 1. Key Issues Table  
2. Schedule of Submissions  
3. Schedule of Modifications  
4. Local Planning Scheme Amendment No. 1 report  
5. *Middleton Beach Activity Centre Structure Plan* report  
6. *Improvement Plan No. 40*  
7. Additional artist’s impressions and overshadowing diagrams

**Supplementary Information &** : Copy of submissions

**Councillor Workstation:**

**Report Prepared by** : Planning Officer (C McMurtrie)

**Responsible Officer** : Executive Director Planning and Development (D Putland)

**Responsible Officer’s Signature:**

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.

**Maps and Diagrams**



## In Brief:

- City of Albany planning staff have previously recommended that a local planning scheme amendment and an Activity Centre Structure Plan were the preferred mechanisms for the statutory planning of the Middleton Beach Activity Centre.
- A request has been submitted for Council to adopt a local planning scheme amendment to:
  - Rezone Lot 8888 Flinders Parade, Middleton Beach from the 'Hotel/Motel' and 'Tourist Residential' zones, Lots 660 and 661 Marine Terrace, Middleton Beach from the 'Tourist Residential' zone and of portions of Adelaide Crescent, Marine Terrace, Barnett Street, Flinders Parade and Marine Drive from 'Priority Road' and Local Road Reserves to 'Special Use Zone SU25';
  - Amend 'Schedule 4 – Special Use Zones' to incorporate provisions relating to Middleton Beach Activity Centre;
  - Introduce a land use definition for 'single attached dwelling'; and
  - Amend of the Scheme Maps accordingly.
- The *Middleton Beach Activity Centre Structure Plan* has been prepared to guide and facilitate the subdivision and development of the subject land.
- The local planning scheme amendment and *Middleton Beach Activity Centre Structure Plan* were advertised for public comment from 3 March 2016 to 14 April 2016.
- A small number of submissions highlighted that the Special Uses and Condition 11 of the Special Use zone proposed by the local planning scheme amendment do not preclude the development of the hotel/mixed use site for short-stay holiday accommodation or multiple dwellings, without a hotel.
- It is therefore recommended that the proposed amendment to Schedule 4 – Special Use Zones is modified as follows:
  - Replacement of "P" (Permitted) with 'D' (Discretionary) against "Multiple Dwelling (up to 5 storeys (21.5 metres)" in the "Special Use" column under "Hotel / Mixed Use Precinct";
  - Insertion of a new notation "(2)" against "Multiple Dwelling (up to 5 storeys (21.5 metres)" and "Multiple Dwelling (above 5 storeys (21.5 metres)" to read as follows:
    - '(2) Means that the permissibility of the use shall be contingent upon prior or concurrent construction of a hotel.'; and
  - Renumbering existing notation "(2)" as notation '3'.
- City planning Staff support the local planning scheme amendment, subject to the above modification, and the *Middleton Beach Activity Centre Structure Plan* as they are consistent with the strategic direction set in the *Albany Local Planning Strategy*.
- The proposals will put in place the statutory planning framework for the redevelopment of the Middleton Beach Activity Centre and allow the objectives of Western Australian Planning Commission's *Improvement Plan No. 40* to be fulfilled.
- Council is requested to consider the submissions received following public advertising and referral and determine whether to support the local planning scheme amendment and activity centre structure plan.

## RECOMMENDATION

### PD125: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR STOCKS  
SECONDED: MAYOR WELLINGTON**

**THAT the AMENDED motion by Councillor Stocks be ADOPTED**

**CARRIED: 7-0**

### PD125: AMENDED MOTION BY COUNCILLOR STOCKS

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED: COUNCILLOR STOCKS  
SECONDED: MAYOR WELLINGTON**

THAT Council:

1. RESOLVES to amend the attached Schedule of Modifications by including the following modifications:

- Modification No. 2:

Insertion of an additional bullet point after 'Building Height' under Condition 11, Hotel/Mixed Use Precinct, to read as follows:

'1-3 storey height limit along Primary Active Frontages abutting Public Open Space, with additional height located towards Mount Adelaide.'

- Modification No. 3:

The precinct plan is modified to incorporate Primary Active Frontage on the eastern edge of the Hotel/Mixed Use Precinct where it abuts the Public Open Space.

2. Pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modification as per the attached amended Schedule of Modifications, Amendment No. 1 to amend *City of Albany Local Planning Scheme No. 1* by:

(1) Rezoning:

- Lot 8888 Flinders Parade, Middleton Beach from the 'Hotel/Motel' and 'Tourist Residential' zones;
- Lots 660 and 661 Marine Terrace, Middleton Beach from the 'Tourist Residential' zone; and
- Portions of Adelaide Crescent, Marine Terrace, Barnett Street, Flinders Parade and Marine Drive from 'Priority Road' and Local Road Reserves

to 'Special Use Zone SU25'.

(2) Amending 'Schedule 4 – Special Use Zones' to incorporate provisions relating to Middleton Beach Activity Centre;

(3) Introducing the following land use definition to the *City of Albany Local Planning Scheme No. 1*:

*'single attached dwelling means one of a group of two or more attached dwellings, each being separated by a common wall and may include a row house, terrace house or town house, not located above or below another dwelling';*  
and

(4) Amending the Scheme Maps accordingly.

3. RESOLVES to recommend to the Western Australian Planning Commission that it approve the *Middleton Beach Activity Centre Structure Plan*, subject to the following modifications:

(1) Incorporating Primary Active Frontage on the eastern edge of the Hotel/Mixed Use Precinct where it abuts the Public Open Space; and

(2) Incorporating a visual identifier behind the Primary Active Frontage on the Hotel/Mixed Use Precinct to indicate the staging of building height from 1-3 storeys to 5-12 storeys.

CARRIED: 7-0

#### PD125 RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

4. Pursuant to section 75 of the *Planning and Development Act 2005*, resolves to support, with modification as per the attached Schedule of Modifications, Amendment No. 1 to amend *City of Albany Local Planning Scheme No. 1* by:

(5) Rezoning:

- Lot 8888 Flinders Parade, Middleton Beach from the 'Hotel/Motel' and 'Tourist Residential' zones;
- Lots 660 and 661 Marine Terrace, Middleton Beach from the 'Tourist Residential' zone; and
- Portions of Adelaide Crescent, Marine Terrace, Barnett Street, Flinders Parade and Marine Drive from 'Priority Road' and Local Road Reserves

to 'Special Use Zone SU25'.

(6) Amending 'Schedule 4 – Special Use Zones' to incorporate provisions relating to Middleton Beach Activity Centre;

(7) Introducing the following land use definition to the *City of Albany Local Planning Scheme No. 1*:

*'single attached dwelling means one of a group of two or more attached dwellings, each being separated by a common wall and may include a row house, terrace house or town house, not located above or below another dwelling';*

and

(8) Amending the Scheme Maps accordingly.

5. RESOLVES to recommend to the Western Australian Planning Commission that it approve the *Middleton Beach Activity Centre Structure Plan*.

## BACKGROUND

4. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. Amendment No. 1 and the draft *Middleton Beach Activity Centre Structure Plan* have been prepared on behalf of LandCorp, following the purchase of Lot 8888 Flinders Parade by the Western Australian Land Authority and its subsequent designation as *Improvement Plan No. 40* by the Western Australian Planning Commission.
6. Amendment No. 1 has been prepared to seek:
  - The rezoning of Lot 8888 Flinders Parade, Middleton Beach from the 'Hotel/Motel' and 'Tourist Residential' zones, Lots 660 and 661 Marine Terrace, Middleton Beach from the 'Tourist Residential' zone and of portions of Adelaide Crescent, Marine Terrace, Barnett Street, Flinders Parade and Marine Drive from 'Priority Road' and Local Road Reserves to 'Special Use Zone SU25';
  - The amendment of 'Schedule 4 – Special Use Zones' to incorporate provisions relating to Middleton Beach Activity Centre;
  - Introduction of a land use definition for 'single attached dwelling'; and
  - Amendment of the Scheme Maps accordingly.
7. The draft *Middleton Beach Activity Centre Structure Plan* has been prepared to guide the subdivision and development of the subject land, in line with the objectives of *Improvement Plan No. 40*.
8. The subject land is located approximately 2.9 kilometres east-south-east of Albany town centre and has an area of approximately 3.3 hectares. It is relatively flat, with a shallow slope at its eastern extent, toward the beachfront, and a change in level of approximately one to two metres along the northern edges of Lot 8888, where it meets Lots 660 and 661 and the Barnett Street road reserve. Lot 8888 is cleared, having previously been occupied by the former Esplanade Hotel, while Lots 660 and 661 are each occupied by a detached single-storey house set in garden ground. The surrounding road reserves are developed with local roads, verge landscaping and public parking bays. An area of lawn interspersed with mature Norfolk Island pine trees occupies the south-eastern extent of the Flinders Parade road reserve.
9. The Mount Adelaide reserve lies to the south of the subject land is covered by the 'Parks and Recreation' local scheme reserve. Similarly, the Middleton Beach foreshore area, which includes the Albany Surf Lifesaving Club, public open space, public amenities, a playground and a restaurant and bar, lies to the east of the subject land and is covered by the 'Parks and Recreation' local scheme reserve. The land to the north and west is largely developed with a mixture of residential and short-stay holiday units and is covered by the 'Tourist Residential' zone, with the exception of Lot 201 Adelaide Crescent, which is zoned 'Local Centre' and occupied by a café and bar.
10. The amendment document states that:

*"The State Government has recognised redevelopment of the site as important to future growth of Albany and is committed to the delivery of a redeveloped Middleton Beach Activity Centre. As such, LandCorp wish to facilitate the appropriate redevelopment of the Middleton Beach Activity Centre site ('the site'). As a result, the purpose of this*

*proposed amendment is to establish a framework to guide the future development of the site.*

*This will be achieved by rezoning the site to the 'Special Use' zone under the Local Scheme, with associated conditions and specific provisions for the planning and development of the land. It will also acknowledge the significance of the site by providing for the preparation of an Activity Centre Structure Plan. This will allow for the flexibility to achieve a high quality built form and public place design and facilitate the development of a safe, vibrant mixed use local centre adjacent to the attractive beach front."*

## **DISCUSSION**

11. The City's planning Staff support the proposed local planning scheme amendment, as it provides the statutory framework for achieving the objectives of *Improvement Plan No. 40*.
12. The proposed local planning scheme amendment is consistent with the current strategic direction set by the *Albany Local Planning Strategy*, which identifies the site as part of the 'Existing Urban' area and sets a strategic objective to support urban infill development, based on compatibility of land uses and infrastructure capacity.
13. The proposed local planning scheme amendment and Activity Centre Structure Plan are supported by the following studies and management plans:
  - Flora, Vegetation and Fauna Review;
  - Preliminary Servicing Report;
  - Geotechnical Investigation, Preliminary Acid Sulfate Soils Investigation and Dewatering Investigation;
  - Bushfire Management Plan;
  - Coastal Hazard Risk Management and Adaptation Plan;
  - Transport Assessment;
  - Landscape Master Plan;
  - Stormwater Management Plan; and
  - Local Water Management Plan.
14. The site is currently included within the City of Albany *Significant Tourist Accommodation Sites* local planning policy. The policy identifies the site as a "*Local Strategic Site*" and states that development of a hotel is recommended. It also indicates a portion of Lot 8888 Flinders Parade where permanent residential development is permitted as of right and elaborates on this by stating that the lot may be developed with "*65% tourist accommodation and 35% permanent residential*".
15. The existing *Significant Tourist Accommodation Sites* local planning policy is currently inconsistent with Western Australian Planning Commission's *Planning Bulletin 83 – Planning for Tourism*. *Planning Bulletin 83* replaces the 'strategic' and 'non-strategic' approach previously taken towards tourism sites. On this basis the proposed local planning scheme amendment and Activity Centre Structure Plan do not provide percentage cap controls between residential and tourist land uses.
16. The local planning scheme amendment and Activity Centre Structure Plan have been prepared in accordance with the *Planning Bulletin 83 – Planning for Tourism* to propose a variety of appropriate land uses (including a mixture of residential and non-residential

uses) to provide for a diverse tourism industry and to meet the objectives of *Improvement Plan No. 40*.

17. Planning staff propose to amend the Significant Tourist Accommodation Sites Local Planning policy later in 2016 to accord with State Policy. This will be reported to Council at a later date.
18. The Activity Centre Structure Plan proposes to realign Flinders Parade and its intersection with Marine Drive and Adelaide Crescent. The realignment will improve the existing level of connectivity. A roundabout will be employed at the intersection of Flinders Parade, Marine Drive and Adelaide Crescent. The realignment of Flinders Parade will allow for a greater area of public open space on the beachfront, which will assist in activating the foreshore as a recreation space. Public utilities will also be reconfigured as a component of the Flinders Parade realignment.
19. It is proposed to develop car parking bays along all existing roads within the Activity Centre area, including Flinders Parade, Barnett Street, Marine Terrace and Adelaide Crescent. On-street car parking is also proposed on the new internal street that runs across the subject land on a north-south axis. On-street car parking will serve as a traffic calming measure, which will help to give priority to pedestrians within the Activity Centre.
20. The provisions contained within Special Use zone SU25 require that private residential parking is provided at a basement level underneath any new buildings and accessed from a laneway or secondary street where available. These provisions also exempt any requirement for additional visitor parking to be provided for residential developments due to the availability of extensive public car parking facilities.
21. The provisions contained within Special Use zone SU25 reduce the car parking requirement for retail land uses by 50% from those specified in Local Planning Scheme No. 1; specifically, one bay must be provided for 40m<sup>2</sup> net lettable area, versus the usual one per 20m<sup>2</sup> net lettable area. Similarly, the provisions reduce the employee car parking requirement for a hotel by 50%; one bay will be required for every two employees, rather than the usual one per employee.
22. The Activity Centre Structure Plan proposes to step back building heights from the beach and residential development adjacent to the Activity Centre area. Additional height is provided for closer to Mount Adelaide, in order to preserve key views and vistas while also mitigating potential overshadowing impacts.
23. The Activity Centre Structure Plan proposes the following heights over the various development areas:

Precinct	Max Height	Storeys
Hotel/Mixed Use	11m – 21.5m	2 - 5
	11m - 46m	2 - 12
Mixed Use	11m - 21.5m	2 – 5
Residential	10 – 13.5m	2 – 3

24. As per the table above, the Activity Centre area will include a general height limit of three to five storeys, while providing scope for the potential development of up to 12 storeys for the Hotel/Mixed Use Precinct adjacent to Mount Adelaide. Twelve storey development may be considered against the design guidance provided for within the Activity Centre Structure Plan.

25. The Activity Centre Structure Plan proposes that the infrastructure and site works be undertaken in the following three stages:

Stage 1

Changes to the road network – realignment of Flinders Parade and reconstruction of Adelaide Crescent; bulk earthworks and civil works including the Hotel site.

Stage 2

Landscaping of the public realm on Flinders Parade, Adelaide Crescent and foreshore areas.

Stage 3

Bulk earthworks and civil works for the development areas (residential and mixed use sites) as well as Public Access Way and Internal Road; landscaping of the Public Access Way and other public realm.

26. Submissions received from public authorities during the advertising and referral process did not raise any objection to the proposal.
27. Two-hundred and thirty-seven submissions were received from members of the public during the advertising process. Of these, 72 were in clear support of the proposals, 47 offered conditional support, subject to modifications, while 108 raised significant concerns or objected to the proposals. The remaining submissions were general in nature and did not provide any indication of either strong support or opposition. Additionally, two petitions were received in opposition to the proposed 12-storey building height on the hotel/mixed use site; one containing 138 signatures and the other containing 265 signatures.
28. The number of correspondents quoted does not match that listed in the attached Schedule of Submissions. Submissions were numbered as they were received; however, some submissions were lodged both electronically and in hard copy, leading to a degree of duplication. The duplicate submissions have not been removed from the Schedule of Submissions to facilitate cross-referencing.
29. The submissions received cover a broad range of matters, which are addressed in the attached Schedule of Submissions. However, a number of key issues emerged, which are discussed in detail below:

**Building height**

30. The majority of submissions received from members of the public concern the proposed building height limits for the Activity Centre area, particularly that of the nominated hotel/mixed use site. While there is some support for the proposed height limits and a small number of submissions have called for additional height on the site, the majority of submissions object to the proposal to allow 12 storey development.
31. Many members of the public have stated that they consider the proposed building height limit over the hotel/mixed use site to be overdevelopment and strongly at odds with the character of the wider area. Concerns have also been expressed with regard to the visual impact of the development of a tall building on this site.
32. Opinion on the potential building height limit for this site covers a broad spectrum, with some members of the public objecting to any development in excess of three storeys, while others suggest that a limit of eight or ten storeys may be more appropriate.
33. LandCorp had undertaken community consultation in February 2015 to inform the draft concept design for the proposed Activity Centre, prior to preparing the local planning scheme amendment and Activity Centre Structure Plan currently under consideration.

While there was concern expressed by community members over any development in excess of five storeys at that time, LandCorp assigned a building height limit of '5+' storeys on the southern portion of the hotel/mixed use site in the draft concept plan. This was intended to reflect the capacity of the site to accept a taller building and also to allow a degree of flexibility, should an exceptional development proposal be brought forward.

34. In acknowledging the community feedback, LandCorp has set an 'as of right' five storey/21.5 metre building height limit for future development in the local planning scheme amendment. However, they have advised that the optional 12 storey/46 metre height limit has been introduced in response to industry feedback suggesting that a greater building height limit may improve the viability of developing the site. Twelve storeys or 46 metres has been determined as an absolute limit to provide a degree of certainty to both developers and the community, rather than the nebulous '5+' originally indicated on the draft concept plan. Any development proposal in excess of 21.5 metres or five storeys would have to demonstrate exceptional design and be consistent with the objectives set out in condition 13 of the Special Use zone proposed by the local planning scheme amendment.
35. Currently there are no buildings in Middleton Beach in excess of three storeys in height and the character of the area is generally 'low-rise'. However, Middleton Beach is a suburb in transition, with more two and three storey units being constructed. There is also a local planning policy already in place over tourist precinct that would potentially permit four and five storey developments.
36. In terms of the proposed building height limits contained within the local planning scheme amendment, the two to three storey limit for the residential and mixed use sites fronting Barnett Street is considered appropriate in the context of the area. It is reflective of the existing development to the north and west of the proposed Activity Centre area, which include the two to three storey Castlereagh apartments to the north and a mix of single and double storey development to the west.
37. The proposed two to five storey building height limit over the mixed use sites in the southern half of the Activity Centre area is also considered appropriate in its context. A maximum height of five storeys fits well between three storey development to the north and the slope at the base of Mount Adelaide. As noted above, there is a local planning policy in place over the Middleton Beach tourist precinct that sets a maximum height limit of five storeys over much of the Activity Centre area. It also denotes a height limit of three storeys over the portion of the site immediately adjacent to Marine Terrace and this would provide an appropriate transition between the existing single storey development to the west and any new five storey buildings. The proposal under consideration is intended to provide a planning framework for the area and such matters can be considered in more detail at the development planning stage.
38. Numerous submissions regarding the proposed 12 storey building height limit over the hotel/mixed use site have made reference to Observation City in Scarborough, Western Australia as an indicator of the impact that a 12 storey development would have on Middleton Beach. It is considered that Observation City is not a valid comparison, as it reaches a height of 19 storeys and is located on a stretch of relatively flat, open coastline, predominately developed with single and double storey buildings. The visual impact of Observation City on the landscape is therefore more significant than the proposed hotel/mixed use site at Middleton Beach which is located in a very different environment that will lessen its visual impact.
39. There is already significant residential development on the slopes of Mount Adelaide that can be clearly seen when viewed from Middleton Beach and from further vantage points such as Mira Mar or Emu Point. Similarly, Mount Adelaide acts as a backdrop to any tall building constructed on the hotel/mixed use site. The location of this site has been carefully selected to ensure a minimal visual impact from closer vantage points, such as the area around Hare Street and Wylie Crescent. Although any future

development may be visible from homes in this area, the site will be on the periphery of their outlook, due to their orientation toward Lake Seppings and Middleton Beach to the north and north-east.

40. The most significant visual impact will be seen from the streets immediately around the development. However, the context is likely to change with the redevelopment of the remainder of the Activity Centre. It can be assumed that three to five storey development is most likely immediately adjacent to the hotel/mixed use site, which would soften the presence of a taller building. The visual impact is also dependent on looking up at the building, which is typically beyond the field of view at street level, although this varies dependent on one's distance from the subject. The proposals seek to achieve a 'podium' style of development on the site, with a single storey element to the northern side, rising to perhaps three to five storeys and then potentially a taller element on the southern side. This achieves a more 'human' scale from the pedestrian areas to the northern side of the site, while the taller building element is confined to the southern side of the site, which is dominated by motor vehicle traffic.
41. The presence of the Norfolk Island pine trees lessens the visual impact of a new building from certain vantage points. LandCorp has provided details of the heights of the trees, which grow in two rows along the foreshore reserve. From the Surf Lifesaving Club, moving in a southerly direction, the row of trees closest to the beach ranges from 24.4 metres (six storeys) to 34.3 metres (nine storeys) in height. The row of trees closest to Flinders Parade, again moving in a southerly direction from the Surf Lifesaving Club, ranges from 17.2 metres (four storeys) to 32 metres (eight storeys) in height. The tree located in the middle of the roundabout at the intersection of Flinders Parade and Adelaide Crescent is 24.6 metres (6 storeys) tall.
42. Other submissions have expressed concern that allowing one tall building in Middleton Beach will open the door to further development akin to that of the Gold Coast in Queensland. While the area could potentially be redeveloped in future, the local planning policy in place restricts new development to a maximum height of three to four storeys, in view of the potential for development along the beachfront to have a greater visual impact from surrounding vantage points.
43. Condition 13 of the proposed Special Use zone, the concept plans contained within the activity centre structure plan and the forthcoming design guidelines require a 'podium' style development with the height of the building increased in stages, stepping back from the open space to the north of the site, which would reduce the footprint of any taller element of a building reducing its bulk.

### **Overshadowing**

44. Several submissions expressed concern that the proposed development would overshadow the beach and foreshore reserve in afternoons and evenings during summer, and block views of the sunset from Ellen Cove.
45. The original Activity Centre Structure Plan document contains overshadowing plans illustrating the extent of shadows cast by buildings, including both five and 12 storey hotel buildings, at 9:00am, 12:00pm and 3:00pm on 21 June. In all cases, shadows are cast predominately over internal streets and the Mount Adelaide reserve. Only at 3:00pm does the shadow cast by the hotel building fall across the Three Anchors restaurant and a small portion of the foreshore reserve. However, by this time of day, the Norfolk Island pines within the foreshore reserve are also casting significant shadow.
46. Notwithstanding the above information, LandCorp has provided additional plans in response to the submissions, showing both five and 12 storey hotel buildings and the extent of the overshadowing that they would create at both 5:00pm and 6:00pm on 21 December. These plans illustrate that a five storey hotel would overshadow a small portion of the foreshore reserve at 5:00pm, extending to the beachhead by 6:00pm. This

effect would be exaggerated by a 12 storey hotel building, extending across the beach by 6:00pm. However, the Norfolk Island pines also cast a significant shadow across the foreshore reserve and beach by this time of evening.

47. The shadow from any future hotel building would fall across a relatively narrow band of foreshore reserve and beach by virtue of its orientation and is considered to have minimal detrimental impact. The overshadowing from a hotel building would not impact Ellen Cove or the amphitheatre area in the early evening, due to the location and orientation of the hotel/mixed use site; in fact, it is likely that these areas will already be in the Shadow of Mount Clarence by this time of day.

**Parking**

48. A significant number of submissions have expressed concerns or dissatisfaction with the number and location of proposed car parking bays within the activity centre area. Many submissions highlight a perceived lack of parking and object to the removal of the 90° angle parking bays along the eastern edge of Flinders Parade, to the south of the Surf Lifesaving Club. The content of several submissions also indicates that some members of the public are not aware of the car parking requirements that would be imposed as conditions of the proposed Special Use zone.
49. The proposals seek to rearrange the existing public car parking bays within the activity centre area, including the provision of 29 additional bays. The public car parking bays currently provided at Middleton Beach are considered to be adequate in number and will be supported by the additional bays. There are currently 26 car parking bays provided along the eastern edge of Flinders Parade, to the south of the Surf Lifesaving Club. Under the proposals, these would be replaced by 15 angled bays along the eastern edge of the realigned Flinders Parade, immediately south of the intersection with Barnett Street, and a further seven parallel bays adjacent to the hotel/mixed use site. This will result in a total of 22 public car parking bays immediately adjacent to the foreshore area.
50. The car parking requirements will be incorporated into the local planning scheme to govern the location and number of car parking bays provided for residents and staff on each of the development sites. Firstly, there is a generic requirement that basement car parking shall be integrated into the built form and screened from view, such that the car parking areas are not directly visible from the street or other public spaces. Access to these car parking areas would only be permitted from a laneway or secondary street where available. A second generic requirement states that parking shall be provided in accordance with the provisions of the Local Planning Scheme unless otherwise stated in Condition 11 of the proposed Special Use zone.
51. In terms of the number of car parking bays to be provided on each development site, the requirements are set by Condition 11, according to the land use(s) present. These can be summarised as follows:

Hotel:	One bay per two employees + one per bedroom + one per 4m <sup>2</sup> in other public areas.
Retail:	One bay per 40m <sup>2</sup> net lettable area.
Residential/short stay tourist accommodation:	As per <i>Local Planning Scheme No. 1</i> , with no visitor car parking requirement for permanent residential components.
Other uses:	As per <i>Local Planning Scheme No. 1</i> .

52. There is also a strong emphasis on bicycle use within the local planning scheme amendment, with a requirement for one bicycle parking space to be provided per residential dwelling and one bicycle parking space per ten dwellings for residential

visitors. This is in addition to the bicycle parking requirements prescribed within *Local Planning Scheme No. 1* for commercial uses and is consistent with the City of Albany's aim of becoming a cycle friendly city.

### **Coastal Planning**

53. In accordance with *State Planning Policy 2.6 – State Coastal Planning*, a Coastal Hazard Risk Management and Adaptation Plan has been prepared for the Activity Centre and Scheme Amendment area. The Coastal Hazard Risk Management and Adaptation Plan establishes the context of the site and the required Risk management and adaptation responses.
54. The proposal was referred to the Department of Planning's coastal planning specialists for comment. They have advised that they will provide comment on the proposal's coastal planning implications directly to the local office of the Department of Planning. The Department of Planning will consider the coastal planning advice along with all other information when making its recommendations to the Western Australian Planning Commission.
55. While the Coastal Hazard Risk Management and Adaptation Plan has identified the coastal risk and provided management options, the final method for coastal risk mitigation will be determined at a later stage in the development process. Additional studies are required in order to determine the most effective long term measure.

### **Heritage**

56. The City of Albany referred the proposals to the State heritage Office for comment. Middleton beach (Place Number 17520) is identified as a place warranting assessment for potential inclusion in the State Register of Heritage Places. The State heritage Office has advised that the proposals do not negatively impact on the identified heritage place and has no objection to the proposals being progressed.

### **Wind**

57. A number of submissions have expressed concern that the east-west orientation of the public access way will create a 'wind tunnel' effect due to easterly winds. While it is acknowledged that the public access way will be affected by easterly winds, this is largely unavoidable, as the objective of the public access way is to create a pedestrianised space running back from the beachfront, which faces east. Orienting the pedestrian access way on an east-west access also helps to ensure solar access for any future development on the proposed mixed use sites between the access way and Adelaide Crescent. The effect of easterly winds can also be minimised by placing street furniture and planting within the pedestrian access way to act as windbreaks.

### **Public access way**

58. A number of submissions object to the interface between the public access way and Flinders Parade, as there appears to have been a misunderstanding that Flinders Parade would be interrupted by the public access way and motor vehicles would not be able to travel across it. However, the public access way is shown on the plan as extending across Flinders Parade to indicate that pedestrians would have priority in this area, though motor vehicles may still cross.

### **Road alignment**

59. The content of a number of submissions indicates that there is uncertainty over the proposed realignment of Flinders Parade and how this would influence the development of the Activity Centre area. The Activity Centre Structure Plan indicates that Flinders Parade would be realigned between Barnett Street and Adelaide Crescent. The road will be realigned to run in a southerly direction straight through the western extent of the

existing car park to the south-east of Barnett Street. Shortly after it extends into the former hotel site, it will dogleg to the south-west, meeting Adelaide Crescent at the entrance to the former Esplanade Hotel and the entrance to the car park to the south. The land to the west of the realigned Flinders Parade, from the dogleg 'elbow' north to the Surf Lifesaving Club, will be landscaped and transferred into the foreshore reserve, while the land to the west of the road and south of the 'elbow' will form the hotel/mixed use site.

### **Location of hotel within the development area**

60. Several submissions have indicated an objection to the location of the proposed hotel/mixed use site, on 'public land', rather than the previous hotel site, and the subsequent loss of parkland on the foreshore. Other submissions object to the location of the proposed hotel/mixed use site due to it having direct frontage to the foreshore reserve. The objectors believe that this will lead to a loss of public access to the foreshore reserve, as it will become an outdoor area for the hotel by default.
61. The content of the submissions regarding the location of the proposed hotel/mixed use site on 'public land' suggest that there has been a misunderstanding of the proposed plans. A comparison of the proposed plans with historic aerial photography, overlaid with the property cadastre, shows that the hotel/mixed use site would be located over approximately 40% of the footprint of the previous hotel building, its entry way and the adjacent road reserve between the former hotel site and the foreshore reserve. The hotel/mixed use site would not encroach on the existing foreshore reserve and the proposed realignment of Flinders Parade to the west of the hotel/mixed use site will offset the loss of the existing road reserve.
62. With regard to the proposed hotel/mixed use site having direct frontage to the foreshore reserve, any future development on the site cannot exercise exclusive rights to utilise this space, meaning that it will remain accessible by the public. The conditions of the proposed Special Use zone also place an emphasis on any future development in this location incorporating an active frontage that will function as an interface between the public reserve and private spaces within the development site. It is intended that this would take the form of a deck area that would provide alfresco seating for a hotel restaurant, bar or café.

### **Hotel/mixed use site land use**

63. A small number of submissions have also highlighted that the Special Uses and Condition 11 of the Special Use zone proposed by the local planning scheme amendment do not preclude the development of the hotel/mixed use site for short-stay holiday accommodation or multiple dwellings, without a hotel. While there are local planning policy measures in place that would require the development of a hotel on the site, a local planning policy may be varied by Council and there is a risk that a hotel may not be provided.
64. It is therefore recommended that the proposed amendment to Schedule 4 – Special Use Zones is modified as follows:
  - Replacement of "P" (Permitted) with 'D' (Discretionary) against "Multiple Dwelling (up to 5 storeys (21.5 metres))" in the "Special Use" column under "Hotel / Mixed Use Precinct";
  - Insertion of a new notation "(2)" against "Multiple Dwelling (up to 5 storeys (21.5 metres))" and "Multiple Dwelling (above 5 storeys (21.5 metres))" to read as follows:
  - *'(2) Means that the permissibility of the use shall be contingent upon prior or concurrent construction of a hotel.'*; and
  - Renumbering existing notation "(2)" as notation '3'.

65. Overall, it is considered that the proposed amendment and Activity Centre Structure Plan provides a suitable statutory framework for the site while also providing the necessary flexibility for a variety of developers to fulfil the objectives of *Improvement Plan No. 40*.

## **GOVERNMENT & PUBLIC CONSULTATION**

66. LandCorp has undertaken initial consultation with the community, beginning in March 2015, in order to inform the design process that lead to the development of the draft *Middleton Beach Activity Centre Structure Plan*.
67. The local planning scheme amendment was adopted by resolution of Council on 23 February 2016 and advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* from 3 March 2016 to 14 April 2016 by direct referral to affected and adjoining/nearby landowners and public authorities, placement of a notice on-site and advertisement in local newspapers.
68. Although the *Planning and Development (Local Planning Schemes) Regulations 2015* only require an activity centre plan to be advertised for a maximum of 28 days; however, the draft Activity Centre Structure Plan was advertised concurrently with the amendment for the same 42 day period.
69. A public information session was also held on 19 March 2016 at the Albany Surf Lifesaving Club. This gave members of the public an opportunity to view the proposals and ask questions directly of representatives from LandCorp and the City of Albany.
70. Two-hundred and forty-three submissions were received from public authorities and members of the public and are summarised in the attached Schedule of Submissions. Staff comments and recommendations are also provided in the schedule and the submissions are discussed in paragraphs 30-64 above.

## **STATUTORY IMPLICATIONS**

71. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.
72. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.
73. Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows Council to support a standard amendment, with or without modification.
74. Activity centre plans undergo a statutory process in accordance with Schedule 2, Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
75. Schedule 2, Part 5, clause 35(1) requires the local government to consider the submissions made within the period specified in the notice advertising the structure plan.
76. Schedule 2, Part 5, clause 36 requires the local government to prepare a report to the Western Australian Planning Commission, including a recommendation on whether the proposed structure plan should be approved by the Commission.
77. Voting requirement for these items is **SIMPLE MAJORITY**.

## **POLICY IMPLICATIONS**

78. The local planning scheme amendment and Activity Centre Structure Plan propose to introduce a mix of residential and commercial land uses within the Activity Centre area. The Western Australian Planning Commission's *Planning Bulletin 83 – Planning for Tourism* and the draft *Middleton Beach Activity Centre Structure Plan* provide for a

dynamic approach to the application of mixed land uses. As discussed in paragraphs 14 and 15 above, the City's *Significant Tourist Accommodation Sites* local planning policy is inconsistent with *Planning Bulletin 83*, as it prescribes specific caps for residential and tourism-related land uses. In instances where a Local Planning Policy is inconsistent with a Western Australian Planning Commission policy, the Western Australian Planning Commission policy prevails.

As noted earlier, the City's Planning staff propose to amend the Local Planning Policy later in 2016.

79. The location of the subject land also requires that the provisions of *State Planning Policy 2.6 – State Coastal Planning* are addressed. *State Planning Policy 2.6* is designed to ensure that development within the coastal area is appropriately planned for and any risk managed. In accordance with *State Planning Policy 2.6*, a Coastal Hazard Risk Management and Adaptation Plan has been prepared for the Activity Centre area.
80. The Coastal Hazard Risk Management and Adaptation Plan addresses and establishes the following information:
  - Establishment of the context;
  - Coastal hazard assessment;
  - Risk analysis and evaluation;
  - Risk management and adaptation planning; and
  - Monitoring and review.
81. The Coastal Hazard Risk Management and Adaptation Plan identifies that the Activity Centre area will be subject to coastal risks, which will require management into the future.
82. Two potential options have been identified for managing coastal risk to the site. The first of these is to restore the level of the beach to the naturally occurring higher level, while the second is to develop a seawall along the length of the foreshore. Alternately, a seawall could be developed solely around the proposed hotel site.
83. While the Coastal Hazard Risk Management and Adaptation Plan has identified the coastal risk and provided management options, the final method for coastal risk mitigation will be determined later in the development process. Before a final decision is made on the preferred management option, additional studies will be required in order to determine the most effective long term measure.

## RISK IDENTIFICATION & MITIGATION

84. The risk identification and categorisation relies on the City's Enterprise Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Organisational Operations and Reputation</b></p> <p>The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Possible	Minor	Medium	If not supported by the WAPC or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.

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## FINANCIAL IMPLICATIONS

85. There are no financial implications directly relating to this item.

## LEGAL IMPLICATIONS

86. There are no legal implications directly relating to this item.

## ENVIRONMENTAL CONSIDERATIONS

87. The location of the Activity Centre Area requires the consideration of the potential impact on coastal processes, to ensure that development within the coastal area is appropriately planned for and any risk managed. The results of the Coastal Hazard Risk Management and Adaptation Plan are discussed in paragraphs 38 to 40 above.
88. A Flora, Vegetation and Fauna Review (inclusive of an assessment of matters of National environmental significance), was undertaken for the Activity Centre area. The results conclude that the environmental factors on the site are unlikely to present constraints on future development of the Activity Centre area for residential and commercial purposes.
89. A Geotechnical Investigation, Preliminary Acid Sulfate Soils Investigation and Dewatering Investigation was also undertaken for the subject land. The report states that geotechnical conditions are suitable for development and comprise medium dense to dense sands, overlying weathered granite depth.
90. The presence of Acid Sulfate Soils has been identified across the site, from about 1.5 metres below the current ground water surface. Where the disturbance of Acid Sulfate Soils cannot be avoided, further sampling may be necessary and an Acid Sulfate Soils Management Plan required.
91. The report also advises that groundwater is present at around RL (relative level) one metre AHD (Australian Height Datum), and was not observed to be significantly influenced by tidal action. Where development requires dewatering, the preparation of a Dewatering Management Plan will be necessary. A Dewatering Management Plan will prescribe the management and monitoring requirements for the dewatering process.

## ALTERNATE OPTIONS

92. Council may consider alternate options in relation to these items, such as:
- To resolve to support the scheme amendment without modification;
  - To resolve not to support the scheme amendment and advise the Western Australian Planning Commission, in writing, of the reasons for doing so; or
  - Recommending to the Western Australian Planning Commission that it does not approve the proposed *Middleton Beach Activity Centre Structure Plan*.

## SUMMARY CONCLUSION

93. It is recommended that Council adopt Local Planning Scheme Amendment No. 1, subject to modification, and the Middleton Beach Activity Centre Structure Plan, as the proposals are consistent with the current strategic direction set within the *Albany Local Planning Strategy* and will allow the establishment of a statutory framework to fulfil the objectives of *Improvement Plan No. 40*.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No. 1</i>
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		<ol style="list-style-type: none"> <li>2. <i>Albany Local Planning Strategy 2010</i></li> <li>3. <i>City of Albany Strategic Community Plan 2023</i></li> <li>4. <i>City of Albany Corporate Business Plan 2013-2017</i></li> <li>5. <i>City of Albany Significant Tourist Accommodation Sites local planning policy</i></li> <li>6. <i>Western Australian Planning Commission Improvement Plan No. 40 – Middleton Beach Activity Centre;</i></li> <li>7. <i>Western Australian Planning Commission State Planning Policy 1 – State Planning Framework Policy (Variation No. 2);</i></li> <li>8. <i>Western Australian Planning Commission State Planning Policy 2.6 – State Coastal Planning</i></li> <li>9. <i>Western Australian Planning Commission Planning Bulletin 83 – Planning for Tourism</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	LAMD1 (Frederickstown Ward) LSP3 (Frederickstown Ward)
<b>Previous Reference</b>	:	Nil

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**  
NIL
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**  
NIL
16. **REPORTS OF CITY OFFICERS**  
NIL
17. **MEETING CLOSED TO PUBLIC**
18. **CLOSURE [7:34:38 PM](#)**

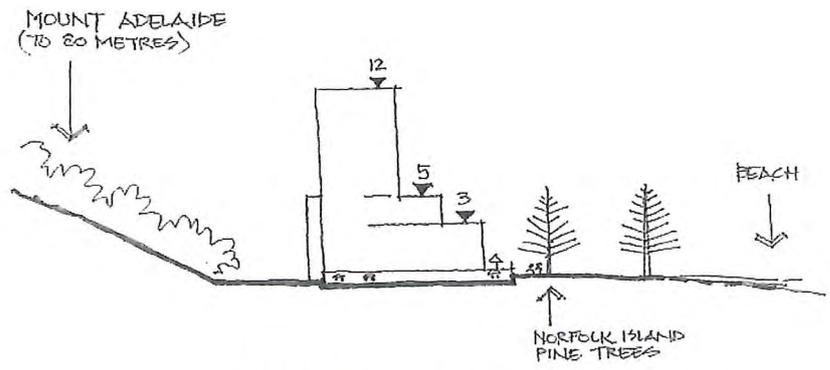
## TABLED DOCUMENTS

<b>NAME</b>	<b>REFERENCE</b>	<b>FILE</b>
Mr Chris Gumby	PD125	LP.MEE.1/AM1653762
Ms Kay Geldard	PD125	LP.MEE.1/AM1653762
Landcorp	PD125	LP.MEE.1/AM1653762
Great Southern Community Housing Association	PD124	LP.MEE.1/AM1653762
H&H Architects	PD124	LP.MEE.1/AM1653762

1

# Structure Plan

Foreshore /  
Hotel mixed use  
Interface



## BUILDING SCALE RESPONSE TO LANDSCAPE & LANDFORM

Figure 18: Indicative building height integration

Table 5: Building Heights

PRECINCT	MAX HEIGHT (M)	STOREYS	DESIGN GUIDANCE
HOTEL / MIXED USE	11m - 21.5m	2 - 5	<ul style="list-style-type: none"> <li>+ Building heights should respond to the adjacent public realm, Mount Adelaide and integrate with future development within the Hotel/Mixed Use precinct.</li> <li>+ <u>Development adjacent to the beach should step back above 3 storeys to limit overshadowing of the public realm while optimising access to sun, breeze, views and privacy.</u></li> <li>+ Development should limit obstruction of views for surrounding residential, and height concentrated towards the south of the hotel precinct.</li> <li>+ A minimum floor to floor of 4.5m should be is required at ground level to allow for adaptable building design and flexibility of use.</li> <li>+ Accommodation of 1.5m for any roof projections within maximum permitted height.</li> <li>+ Subterranean car parking structures not to exceed 1.5m above NGL</li> </ul>
	21.5m - 46m	5 - 12	<ul style="list-style-type: none"> <li>+ As above.</li> </ul>
MIXED USE	11m - 21.5m	2 - 5	<ul style="list-style-type: none"> <li>+ A minimum floor to floor of 4.5m should be is required at ground level to allow for adaptable building design and flexibility of use.</li> <li>+ Development should step back above 3 storeys to limit overshadowing of the public realm, while optimising access to sun, views and privacy, as shown in Figure 18.</li> <li>+ Increased heights are encouraged towards the southern boundary of MBAC, adjacent to Mt Adelaide to limit impact on the public realm and surrounding development.</li> <li>+ Accommodation of 1.5m for any roof projections within maximum permitted height.</li> <li>+ Subterranean car parking structures not to exceed 1.5m above NGL;</li> </ul>
RESIDENTIAL	10 - 13.5m	2 - 3	<ul style="list-style-type: none"> <li>+ Building height should respond to surrounding residential context.</li> <li>+ Accommodation of 1.5m for any roof projections within maximum permitted height.</li> <li>+ Subterranean car parking structures not to exceed 1.5m above NGL.</li> </ul>

\*  
|  
\*



LandCorp's previous prepared concept plan following early consultation

Middleton Beach Activity Centre - Preferred Concept Plan

2



- Community and Stakeholder Principles**
- a. Increased activation with food and beverage and/ or retail.
  - b. Connectivity with existing amenities. (3 Anchors)
  - c. 5 storey height limit.
  - d. Benefit of 5+ storeys located along Adelaide Crescent (Close to Mount Adelaide).
  - e. Step down height to three storeys along Barnett Street (north-west corner).
  - f. No single residential lots. (not shown on diagram)
  - g. High quality, sophisticated (e.g. 4+ star) short stay accommodation.
  - h. Maintain views to beach (don't "hide" the beach).
  - i. Realign road/s to provide enhanced connection to the foreshore.
  - j. Maintain existing public car parking quantum as a minimum.
  - k. Integrate public open space with the development.
  - l. Integrate coastal walk/ cycle path.
  - m. Pedestrian connection to Mount Adelaide.
  - n. Pedestrian connection to Eyre Park.
- Design Response**
- Develop a high street with activated edges.
  - Assist in greater connectivity of existing retail offerings. (Hybla Bar, Bay Merchants, 3 Anchors, Rats)
  - Stepped development heights throughout the centre.
  - Locate hotel on landmark corner.
  - Optimise development site area and connect with foreshore.
  - Landmark building to respond to Mount Adelaide.
  - Maintain a key vista along Adelaide Crescent to corner hotel.
  - Optimise development with direct foreshore access.
  - Retain (in part) Flinders Parade visual connection to the foreshore.
  - Realign Flinders Parade to improve foreshore activation.
  - Flinders Parade to be a slow and calmed parking street.
  - Pedestrian access through the site to the foreshore.

- Permanent residential
- Tourist accommodation and Permanent residential
- Existing activation
- MBAC boundary
- Contextual link to development site, to be considered during Structure Plan process.
- Primary edge activation and Potential edge activation
- Landscape/ shelters for seasonal activity
- Street design to suit events/markets
- Pedestrian access
- Calmed street
- Shared street
- Existing coastal walk/ cycle path

NOTE: Concept Plan is subject to completion of Technical Studies.  
NOTE: Storey heights - e.g. 3 storeys = ground plus 2

**Parking**

Option	No. of car bays (approx.)
Existing	124
Proposed	135

LANDCORP

Schematic Concept Plan  
MIDDLETON BEACH ACTIVITY CENTRE (MBAC)

Status: Preliminary  
**DRAFT**

Project Number: 43294  
Drawing Number: SK101  
Revision: 28/07/2015  
Date: 28/07/2015

North:

0 50m

© Hames Sharley

**Hames Sharley**



MIDDLETON BEACH ACTIVITY CENTRE PRECINCT PLAN



Precinct Plan

- no active frontage to coastal foreshore
- precinct approx 15m closer to beach
- boundary close to existing Norfolk Island Pine trees.



(f)



AECOM  
Figure 55: Landscape Master Plan (Source: AECOM)

MIDDLETON BEACH SK02-D LANDSCAPE MASTER PLAN

0 5 10 15 20 25  
M

152

Concept Plan + Norfolk Island Pine trees



## Jennifer Cobbold

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**From:** Dennis Wellington  
**Sent:** Wednesday, 4 May 2016 4:04 PM  
**To:** 'Kay Geldard'  
**Cc:** Jennifer Cobbold; Dale Putland  
**Subject:** EF16122893 - GO.CLS.10 - RE: Comment re Agenda item PD 125 Planning and Development Committee Meeting - Middleton Beach Scheme Amendment and Activity Structure Plan

**AttachingParameters:** EF16122893 EF16122893.msg C:\Users\rebeccas\AppData\Local\Temp\ITVOL  
EF16122893.msg \cofiles01\application data\images\live\2016\05 EF16122893  
\_image002.png  
**SSDeleteAfterSubmit:** False  
**SynergySoft:** EF16122893 - GO.CLS.10

Good Afternoon Kay,

Thank you for your email.

I can confirm that I have forwarded a copy to the Executive Director of Planning & Development, Mr Dale Putland for tonight Planning and Development Committee Meeting.

Kind regards,

---

Rebecca Stephens  
Personal Assistant to Mayor and Councillors

**Tel:** (08) 9841 9348  
**Fax:** (08) 9841 4099



PO Box 484 | Albany | WA | 6331 (102 North Road Yakamia) | [www.albany.wa.gov.au](http://www.albany.wa.gov.au)

Please consider the environment before printing this email.

**From:** Kay Geldard [mailto:kay@geldard.net.au]  
**Sent:** Wednesday, 4 May 2016 3:52 PM  
**To:** Dennis Wellington <dennisw@albany.wa.gov.au>  
**Subject:** FW: Comment re Agenda item PD 125 Planning and Development Committee Meeting - Middleton Beach Scheme Amendment and Activity Structure Plan  
**Importance:** High

To the Mayor and Councillors, Planning and Development Committee,

*I received a letter re tonight's Planning and Development Committee meeting indicating the opportunity to address the Committee (in 4 minutes) as I had made a submission.*

*Due to a previous commitment, I am unable to attend.*

*I ask instead that you might spend up to 4 minutes reading this email which highlights the points I would have made should I have been available.*

*Thank you for your time.*

**I am in favour of development at Middleton Beach** and am keen to see development after many years of 'the sand pit'.

However having considered the Structural plan, key issues raised through community submissions; modifications suggested and also in light of recent developments, I call on the Committee **to reject the recommendation** - and instead take the opportunity to pursue a more appropriate plan for the Middleton Beach Activity Centre.

I would highlight the following points:-

- Rejection of this amendment and modifications is a strong decision. It is not a total rejection of development.
  - A key criteria for innovation is to actively pursue a better solution – not accept a solution because we need ‘to do something’  
There are many good aspects of the structural plan which can be developed to provide a better solution whilst addressing the key concerns raised in the community submissions.
  - Rejection provides an opportunity to exercise control and leadership in the pursuit of excellence.

Middleton Beach deserves a world class solution.

- Given recent progress re hotel development on the Foreshore/marina area - what new analysis has been conducted re the viability of 2 x new hotels in Albany?
  - How will these hotels differ and/or complement each other? What will be the point of difference between these developments and the developer and clientele Albany aims to attract?
  - Landcorp have strongly supported 12 storey due to viability. However no figures or evidence has been provided.
    - The argument ‘if we don’t have 12 storey nothing will happen’ – or - ‘up to 12 storey doesn’t mean it will be 12 storey’ are both weak arguments and the former is tactical in nature i.e. using fear.

How does this recent change in the ‘competitive environment’ now impact on the type and scale of development at Middleton Beach – is a ‘modern style’ hotel development still appropriate?

- The current amendment and recommended modifications do not instill confidence that issues raised by the community have been ‘heard’ and will be resolved, including but not limited to:-
  - the impact on the amenity of the area and surrounds by allowing 50% reduction in parking requirements; particularly given that Albany does not have suitable public transport.
  - whilst the modification clarifies inclusion of a ‘hotel’, it does not address possible ramifications e.g. would permanent residents want to purchase a residence at a lower level with visitor accommodation above them?  
Would they later object to noise from lower level activities?  
Would a developer not aim to maximise return by selling higher levels; offering prime real estate to permanent residents?

Strong decisions require thorough research and before being endorsed should address the key question – ‘*in how many ways can this go wrong*’?

- Landcorp’s community consultation was weak and led to poor communication processes.
  - It is acknowledged in the agenda item PD125 that there is confusion in the community.
  - The process of consultation used, by design, is not one which facilitates effective communication and robust discussion.
  - An ‘Information session’ provides individuals the opportunity to talk with proponents, in this case Landcorp, however this process relies on the general community having knowledge of what are the appropriate questions to ask.
  - A public forum was not provided. This could have included an objective presentation of the Structure plan, allowing questions and issues to be discussed in an open format. Open forums promotes cross fertilisation of ideas and increased knowledge.
  - Little or no detail of the footprint or scale were provided in convenient formats to the general community e.g. on Adelaide Crescent- details of 5 storeys and setbacks, and requests for visuals showing impact from key focal points were only provided in the media on the last day of submissions.
- A core value of the City of Albany is ‘*Focused – on community outcomes....we will listen and pay attention to our community*’
  - The summary of key issues provides evidence that the majority of the submissions from the community have concerns and do not support this amendment.

I ask each individual Councillor to *actively* listen to the community views, i.e. take note of both the facts and feelings expressed, without bias or personal preference; to show leadership and make a strong decision as our elected representatives in Council to reject this amendment.

- Rejecting this amendment and modification, provides an opportunity for Council to conduct further analysis and research including examining other examples, both bad and good e.g. Noosa.

It would also allow examination of stronger community consultative processes e.g. Busselton and consultation with outside experts who can provide independent analysis of coastal development proposals.

- Your decision will impact on us all for many years to come – for visitors, who we hope will stay longer than the current ‘short stay’ period, and particularly on the permanent residents who live and work here all year round.

Thank you for your time.

Kind Regards  
Kay

**Kay Geldard**

9b, Wylie Crescent, Middleton Beach Albany 6330, Western Australia  
Also joint owner of Unit 4/10 Challenge Close Middleton Beach, Albany 6330

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P: (08) 9841 6204      M: 0418 944 818

E: [kay@geldard.net.au](mailto:kay@geldard.net.au)

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Our Ref: A1375620  
Enquiries: Michael Campi, 9482 7481



LANDCORP

Mr Andrew Sharpe  
Chief Executive Officer  
City of Albany  
PO Box 484  
ALBANY WA 6331

Dear Andrew

### LETTER OF UNDERTAKING – MIDDLETON BEACH HOTEL DEVELOPMENT

I refer to recent discussions between officers of LandCorp and the City of Albany regarding the proposed redevelopment of Middleton Beach and, in particular, the City's desire for a new hotel.

I would like to reiterate my understanding of these discussions, and offer LandCorp's commitment to the following outcomes for the redevelopment of the Middleton Beach site:

1. LandCorp and the City of Albany agree a hotel is the preferred primary use for the proposed *Waterfront Hotel/Mixed Use* lot at the Middleton Beach project, supporting complementary uses may also be considered.
2. LandCorp will continue to work with the City of Albany to facilitate the selection of a private developer to procure the construction of a hotel of an appropriate quality on the proposed *Waterfront Hotel/Mixed Use* lot as soon as practicable.
3. LandCorp invites a representative of the City of Albany to join LandCorp's assessment panel for development proposals for the proposed *Waterfront Hotel/Mixed Use* lot.
4. LandCorp will collaborate with the City to prepare Design Guidelines to control the quality of development on all sites at Middleton Beach to reflect the design expectations of the City.

If a hotel is not constructed on the proposed *Waterfront Hotel/Mixed Use* lot within three years of sales release, we should jointly review these commitments against the circumstances at that time to ensure optimum use is made for the site.

If this is agreeable to you could you please provide your nomination of the City's representative on our development proposal assessment panel.

I continue to appreciate and value the open and productive working relationship that exists between our organisations.

Yours sincerely

Frank Marra  
Chief Executive Officer

4 May 2016





*Great Southern*  
**COMMUNITY**  
Housing Association

1/87 Aberdeen Street, Albany WA 6330  
PO Box 5695, Albany WA 6332  
Telephone: 9845 9697  
Facsimile: 9842 8698  
Email: admin@gscha.com.au

3<sup>rd</sup> May 2016

City of Albany  
102 North Road  
ALBANY WA 6330

Dear Sir/Madam,

**Re: Management of Student Housing  
Application for Development at 28-30 Stirling Terrace, Albany**

The principle object of the Student Housing Project is to provide an affordable housing option in the Albany CBD for visiting and part/full-time university students, whilst facilitating growth in tertiary student numbers which in turn benefits the community.

Priority of access to student housing is given to enrolled students of Higher Education Institutions. Agreements are signed under a License to Occupy providing Great Southern Community Housing Association (GSCHA) with high level management control through the setting of rules and conditions of occupancy including:

- weekly inspections of an Occupants room
- authority to remove an occupant immediately for serious breaches
- authority to remove an occupant within 48 hours for other breaches
- Caretaker living on site

Although our expectation based on a needs analysis is to achieve high to full occupancy rates of students alone, it is not feasible to conclude that this will be the actuality. For that reason, it is critical for GSCHA to maintain the flexibility of allocation to non-students to ensure the continued provision of student housing is financially sustainable. There are rigid controls that ensures mixed use will not occur, and Sensitive and Sustainable Allocation principles strictly adhered to.

Management of Properties and Tenancies is and has always been GSCHA's core business. The controls GSCHA have in place ensures our continued success in this area. That which underpins it all is Sensitive and Sustainable Allocations - matching tenants with appropriate dwelling types, taking into consideration the tenants needs, location requirements, cultural and family structures and that allocation is sustainable for both the tenant and GSCHA.

We would be pleased to provide further information if required.

Yours faithfully,

Karen Marwick  
Acting CEO



**NORMAN HOUSE**  
**PROPOSED STUDENT HOUSING**  
**PLANNING COMMITTEE SUBMISSION**  
3 May 2016

**PROPOSED DEVELOPMENT**

- The project consists of 3 buildings containing a mix of 1 bed, 2 bed and 4 bedroom units constructed on the empty portion of site.
- Two storey housing constructed from brick and painted cladding with colorbond roofs.
- Access from the existing site crossovers
- No works proposed to Norman House or Cheynes Cottage.
- Works are as shown in the documents provided to council

**SITING AND SCALE**

- Project articulated and designed to break down bulk of the building to ensure development sits comfortably within the existing streetscape of Stirling Terrace which contains a number of large two storey buildings.
- The project will not compromise the visual significance of adjacent buildings.
- The roofs of the development pitched hip roofs complement Norman House, similar pitch to Norman House.
- Development is stepped up the site with most retaining contained within the building line, wherever possible retaining has been kept off the boundary.

**HERITAGE**

- The site is not within the Stirling Terrace Heritage Precinct.
- Norman House, Cheynes cottage and the magnolia and oak tree are listed on the City of Albany Municipal Heritage Inventory.
- The proposed Student Housing development does not impact directly on the existing buildings as it will be constructed on a vacant site adjacent to the existing buildings
- The proposed student Housing development is of a similar scale to Norman House and will infill a gap in the streetscape.
- The proposed development maintains the existing access and setting of Cheynes Cottage
- Materials for the development will be selected to be sympathetic to both Norman House and Cheynes Cottage

**PARKING**

- 15 Car bays are proposed as part of the development
- Shortfall of 18 bays
- How the additional parking will be provided will be finalised before construction starts preference is to provide parking on lower Stirling Terrace, either as:
  - part of reciprocal agreement with UWA;
  - Utilising visitor centres parking after it relocates to York Street
  - Or creating additional parking on lower Stirling Terrace

**R-CODES**

- The development meets the requirements of the R codes for setbacks and heights.
- Screening will be provided to prevent overlooking on eastern boundary

- Relaxation is required for Northern boundary where buildings face Activ site.

#### TREES

- Magnolia tree and Oak Tree will be protected during the works.
- Albert Adams, Arborist is currently preparing report and management strategies for protecting these important trees

#### SHADING OF ADJACENT SITES

- The proposed development will overshadow a portion of the eastern site during the winter.
- The R codes allows for 35% overshadowing of adjacent blocks.
- The proposed development will overshadow the block to the east by 22%
- There are very few windows on western elevation of the property to the east and these are currently overshadowed by vegetation photo below:



View looking east from Norman House site showing overgrown boundary shading windows and obscuring views.

#### VIEWS

- No legislation protecting rights to views in WA.
- The view from properties to the west of Norman House will not be affected by the project.
- The view from properties to the east is currently obscured by vegetation on the eastern boundary and southern boundary. The proposed building will not impact on any significant views from this property.
- The buildings will be visible in the views from Frederick Street and Burgoyne road. The roofs will be similar in height to Norman House and will be partially obscured by trees on the site.



View of the adjacent property to the east of Norman House showing the large hedge obscuring the view.



View of the site looking south west from Frederick Street.

