



AGENDA

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: 1st Wednesday of the Month

(6) Meeting Location: Council Chambers

(7) Executive Officer: Executive Director Planning & Development

(8) Delegated Authority: None

PLANNING AND DEVELOPMENT COMMITTEE
AGENDA –04/05/2016

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1. DECLARATION OF OPENING

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

Planning Officer

C McMurtrie

Minutes

J Cobbold

Apologies:

Member

B Hollingworth (Deputy Chair)

PLANNING AND DEVELOPMENT COMMITTEE
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4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

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.

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

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: 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 2329m² 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 complaint 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>Organisational Operations and Reputation 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.

Consulted References	:	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>
File Number (Name of Ward)	:	A158499 (Frederickstown Ward)
Previous Reference	:	

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. <i>Middleton Beach Activity Centre Structure Plan</i> report 6. <i>Improvement Plan No. 40</i> 7. Additional artist's impressions and overshadowing diagrams
Supplementary Information & Councillor Workstation:	: Copy of submissions
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 RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. 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:
 - (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.
2. **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 40m² net lettable area, versus the usual one per 20m² 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 ² in other public areas.
Retail:	One bay per 40m ² 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>Organisational Operations and Reputation</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.

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*.

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

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
16. **REPORTS OF CITY OFFICERS**
17. **MEETING CLOSED TO PUBLIC**
18. **CLOSURE**