

ALTERNATE MOTION BY COUNCILLOR THOMSON

ITEM NUMBER: DIS308

ITEM TITLE: RECREATION-PRIVATE (TREEHOUSE)

DATE & TIME RECEIVED: THURSDAY 14 JULY 2022 AT 4.30PM

**DIS308: ALTERNATE MOTION BY COUNCILLOR THOMSON
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to:

- A) ISSUE a notice of determination for REFUSAL for Recreation – Private (Treehouse) at Lot 201, 6 Bridges Street, Albany, for the following reason:**
- **The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely:**
 - a) The aims and provisions of the City of Albany Local Planning Scheme No. 1, specifically the following objectives of the Residential Zone, outlined under clause 3.2.1;**
 - b) Maintain the character and amenity of established residential areas and ensure that new development is sympathetic with the character and amenity of those areas;**
 - c) the compatibility of the development with its setting, including:**
 - **the compatibility of the development with the desired future character of its setting; and**
 - d) the amenity of the locality including the following:**
 - **the character of the locality;**
 - **social impacts of the development.**
- B) THAT the Unapproved Development (Treehouse) be REMOVED from site within 90 days.**
- C) REQUEST the CEO to:**
- **Commence discussions with the proponents on the possibility of relocating the existing treehouse to a mutually agreeable tree at a City reserve or land where the proponents could pay a peppercorn rent, and reinstate operation of the treehouse by them on a commercial basis; and**
 - **provide a report no later than the December 2022 OCM on any feasible relocation options that might exist for the treehouse, based upon discussions mentioned in the dot point immediately above and any other relevant considerations.**

Councillor Reason:

This Alternate Motion responds to officer and community concern over the development proposal's non-satisfaction of the Development and Planning Regulations, as outlined in the dot point at Part A, above.

Point 134 of the officer report explains that if preliminary advice had been obtained prior to the unauthorised construction and use of the treehouse, the project "would have needed to demonstrate [...] how impacts [...] would be adequately mitigated. Where it is unable to be suitably demonstrated that a development proposal can adequately address issues either through redesign or mitigation measures, it would most likely be unable to be supported and recommended that a more suitable site be identified that can cater for the use".

With regard to the officer report, I propose that Part A of the original recommendation be excised, because officers have explained the intention of that Part, that the treehouse not be used for commercial purposes, would nonetheless permit use of the treehouse by occupiers of short-stay accommodation proposed for the site.

There is therefore a clear commercial nexus between the commercial use of the planned short-stay accommodation and likely marketing, and proposed exclusive use, of the treehouse to and by paying occupiers. Hence, use of the treehouse under such circumstances would constitute commercial use incompatible with the wording of Point 3 of Part A of the officer recommendation. If this argument is accepted, the use proposed at Part A would be an unreasonable intensification of the site for commercial purposes.

Relocating the treehouse to a City reserve or City land agreeable to the proponents and the City would facilitate reinstatement of commercial operations at a location that satisfies the Planning and Development Regulations.

The proposed peppercorn rent is in recognition of the significant potential benefits for Albany's community, and for the city's ability to attract and retain tourists, of the treehouse operating at an appropriate site.

Officer Comment (A/ED Infrastructure Development and Environment & A/ED Corporate and Commercial Services):

Staff generally support Part A and Part B of the Alternate Motion as it is considered to be in accordance with the local planning scheme and is based on sound planning principles.

Staff are prepared to commence discussions with the proponent to determine an appropriate location, and will also consider what formal arrangements will be required for use of the land.

It is recommended that suitable sites be considered on City freehold land, as it is unlikely that the Department of Planning, Lands and Heritage would support a commercial operation on a Crown Reserve.

Any proposed location may be subject to the provisions of the City of Albany Property Management (Leases and Licences) Policy, including calling for expressions of interest and public comment.

Staff note that the proposed peppercorn rental for a commercial lease would be a departure from normal City Policy.