

XIV. MOTIONS WITH NOTICE

XV. MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

ITEM 15.1: NOTICE OF MOTION BY COUNCILLOR BOSTOCK

15.1: NOTICE OF MOTION FROM COUNCILLOR BOSTOCK

THAT when the final draft of TPS 1 is endorsed by Council, it shall not include any rezoning of freehold land into a category less advantageous to the owner than already exists in the current TPS1(a) or TPS3, without prior specific written agreement from the owner. Examples include the rezoning of land from the “Rural” to “Conservation” classification, or to “Parks and Recreation from any other category.

Councillor’s Reason:

Approximately 92% of the land in WA is vested in the Crown, with only 8% of land alienated.

Private individuals have bought this 8% in good faith, with funds upon which they have already paid tax and the government of the day accepted and spent those funds. The current owners, therefore, have a legitimate expectation that the present government will respect their right to retain the land with the same uses as when it was purchased and any attempt to diminish that use represents a serious breach of contract.

There may be an argument for compulsory purchase of land if an urgent and immediate public benefit can be demonstrated, but even then it should be used only in exceptional circumstances and following fair compensation.

The changing of an existing zone on alienated land to one which restricts its use to a greater extent than the existing category represents a form of compulsory purchase which is underhand, unfair and against natural justice and should not be allowed to proceed in any state which prides itself on the freedom of its citizens.

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

The planning of urban and rural lands in Western Australia has a long and distinguished history both within the Perth metropolitan area and within the State generally. The primary purpose of planning has always been to ensure improvement of the quality of life of residents through improvements to the urban fabric of the community.

Planning, and in particular Planning Schemes, are prepared to coordinate land use and development and balance the often competing aims of economic, social and environment issues. They produce a plan for the physical pattern of development proposed for the area that maximises the opportunities and minimises any potential negative impacts. The imposition of planning controls through the scheme is necessary to provide for the orderly and proper planning of the community and to meet the different needs and aspirations of people living/working together in the modern world.

Whilst individuals have purchased their land, this land is invariably covered by an existing planning scheme which already contains controls on how they may use and enjoy their land. The process of preparing and reviewing these schemes is open to comment and determined through the Local Government (representing their community interests) and the State Minister for Planning (representing the State).

Whilst the comments attached to the Councillor Bostock's Notice of Motion focus on the perceived negative impacts from a new scheme, it should also be remembered that a large number of properties have seen increases in the density code applying to their land (meaning additional dwellings entitlements), changes to commercial zones (enabling previously prohibited uses/development from proceeding) and improved discretionary powers (meaning that the City can now consider uses and development that previously could not be considered).

There is no power in the draft Scheme that purports or attempts to remove any right for a landowner to continue to use their land for the purpose for which it was approved for use or development prior to the coming into operation of the new scheme. This process, of allowing continuation of existing rights of use, has served the State well over its years of service (since the original *Town Planning and Development Act 1928*).

In addition, the purpose of advertising the draft Scheme for public comment is to allow landowners to request Council to consider Staff have already met with a number of landowners and received over 50 submissions to date from landowners requesting a change to the proposals continued in the draft Scheme.

It is accepted that where a Planning Scheme imposes an undue burden (in the opinion of the landowner), they may seek a review through the SAT or compensation from the Responsible Authority for injurious affection or by virtue of reservation under the Scheme. These powers are enshrined in the *Planning and Development Act 2005*.

In conclusion, the Notice of Motion is unlikely to result in a workable solution to addressing landowner concerns regarding the scheme. To require all changes to be subject to the written consent of the landowner will not improve the planning system and is more likely to produce ad-hoc land use and development in an uncoordinated manner that will add to the overall cost of the development and may create land use conflict with surrounding existing uses. Whilst planning will take an overall long-term view of a properties potential to contribute to the growth of a community over time, a landowner tends to take a much shorter term view which generally only reflects their aspirations for the property's potential at that time, rather than its potential to the community.

XVI. URGENT BUSINESS TO BE APPROVED BY DECISION OF THE MEETING

XVII. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.

XVIII. ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING.

XIX. ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC

XX. NEXT ORDINARY MEETING DATE

Tuesday 18 September 2012.

XXI. CLOSURE OF MEETING

ITEM 21.0: MOTION

THAT Standing Order 3.1 be RESUMED to stop recording of proceedings.

**STATUS REPORT ON DEFERRED ITEMS
FROM PREVIOUS MEETINGS**

Meeting Date	Item Number	Details/Status
16/11/2010	2.6	Surrender Lease over Hangar Site 2 at Albany Airport. REQUIRES FURTHER CONSIDERATION BY COUNCIL PENDING THE COMPLETION OF THE AIRPORT MASTERPLAN/BUSINESS PLAN.
19/04/2011	4.7	Audit Committee Recommendations. That Council request the Chief Executive Officer to further review the investment of Surplus Funds Policy through the Finance Strategy Committee, prior to recommendation to Council. PENDING - AWAITING DEVELOPMENT OF FIVE YEAR (FINANCE) PLAN.
17/07/2012	1.4	Annual Review of Delegations LAI D ON THE TABLE TO ALLOW MORE TIME FOR CONSIDERATION BY COUNCIL.
17/07/2012	2.5	Development Application-Demolition (Single House Listed on Municipal Heritage Inventory)-Lot 49 (45) Seymour Street, Mira Mar LAI D ON THE TABLE