

AMENDED MOTION BY COUNCILLOR BROUGH

ITEM NUMBER: DIS333

ITEM TITLE: ADOPTION OF DRAFT LOCAL PLANNING SCHEME NO. 2

DATE & TIME RECEIVED: Wednesday 15 February 2023 at 2.11pm

DIS333: AMENDMENT NO.2 BY COUNCILLOR BROUGH

1) Include the following modifications to the schedule of submissions and update the schedule of modifications accordingly;

a) In the Table 3, Zoning Table, change:

‘Tree Farm’ from ‘D’ to ‘P’ use in the Rural zone.

And

2) Pursuant to Regulation 25(3) of the Regulations, advise the Western Australian Planning Commission (WAPC) that it supports the draft scheme with proposed modifications to address issues raised during the advertising process.

Councillor Reason:

1. Tree farming in general agricultural/rural land is currently a permitted use (P).
2. City of Albany planning officers have justified the land use change from (P) to (D) on the basis of fear that someone will lodge a tree farm DA on rural land that planning officers deem inappropriate.
3. City of Albany planning officers have reported that there has never been an instance of a general agriculture/rural tree farm DA being lodged in an area deemed inappropriate by planning by officers.
4. (P) means that the use is permitted if it complies with any relevant development standards and requirements of a Scheme.
5. To establish a tree farm in any location in the state, a farmer must comply with 62 pieces of separate legislation - 17 federal government Acts, and 45 WA state government Acts.
6. Examples of the legislation include:
 - o Land Drainage Act 1925 (WA) governing land drainage
 - o Bushfires Act 1954 (WA) explicitly limiting plantation establishment within town site influence zones
 - o Country Areas Water Supply 1947 (WA) ensuring protection of water catchments
 - o Civil Aviation Regulations (AUS) limiting tree farm establishment around airstrips
7. With 62 separate pieces of legislation already governing the establishment of tree farms, the addition of an extra layer of local government red tape is unwelcome and, as suggested by the absence of precedence of problems, unnecessary.
8. A consequence of making tree farming in rural land (D) rather than (P) is that local government will have greater powers to limit freedom of land use in agriculture areas.
9. A possible unintended consequence of this change of use may be price inflation of existing tree farms due to additional red tape for establishment.

Officer Comment:

If a use of land is identified in a zone as being a class 'P' use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.

Works, in relation to land, includes, *the carrying out on the land of any excavation or other works*.

Under LPS1, the works associated with a tree farm are not exempt under the regulations and Development Approval is already required. No additional requirements (aka red tape) are being introduced, only the permissibility is being changed.

Tree farming may have a detrimental impact on the visual landscape, adjacent watercourses, adjacent sensitive uses and the bushfire regime of an area.

A 'D' use allows the local government to carefully consider the potential impacts associated with a tree farm.

The level of assessment is also similar to the majority of other Local Governments in lower part of Western Australia.

| Shire/LGA | Land use | Priority Ag | Rural/General Ag |
|---------------------------------|-----------------------------|-----------------|---------------------------------------|
| Shire of Denmark | Plantation | | AA (similar to D) |
| Shire of Augusta-Margaret River | Plantation | Priority – D | Gen Ag - D |
| Shire of Manjimup | Plantation | Priority Ag – A | Gen Ag – A. |
| Shire of Boyup Brook | Tree Farm | | |
| Shire of Esperance | Tree Farm | No Priority Ag. | Rural – D |
| Shire of Harvey | Forestry | No Priority Ag | Gen Farming – AA Forestry zone - P |
| Shire of Cranbrook | Plantation/ agroforestry | No Priority Ag | Rural – D |
| Shire of Nannup | Tree farm | D | Rural – D |
| Shire of Kojonup | Plantation/Agroforestry | No priority Ag | Special rural & rural - IP |
| Shire of Plantagenet | Tree Farm | | P |

This modification could be made without resulting in readvertising.