

10.6 LATE ITEM: NOTICE OF MOTION: Cr Joshua Topelberg – Request for a Further Review of the City of Vincent Town Planning Scheme No. 2

That Council REQUESTS the Chief Executive Officer to provide a report to Council in May 2016, identifying the impact on the City's Draft Town Planning Scheme No. 2 of changes to State legislation and policy that have come into effect since Council's final adoption of the Scheme on 18 November 2014, to enable Council to formally consider further modifications to the Scheme in response to those changes, in accordance with Regulation 30 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

REASON:

It is recommended that a report to be presented to Council in May 2016 to explain the impacts on Town Planning Scheme No. 2 (TPS 2) of the following factors, so that Council can formally consider whether to recommend further modifications to TPS 2 prior to the Minister's final decision on the Scheme:

1. Changes to the Residential Design Codes in October 2015 may have impacted proposed outcomes under draft TPS 2;
2. The introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015* may have impacted on draft TPS 2;
3. To review draft TPS 2 in light of the City's draft local planning framework; and
4. To review draft TPS 2 in line with previous Ministerial comments about what is able to be approved by the Development Assessment Panel and State Administrative Tribunal under Town Planning Scheme No. 1 (TPS 1) and the need for planning outcomes to be articulated in the Scheme rather than in policy.

ADMINISTRATION COMMENTS:

Administration has no objection to this Notice of Motion. The Agenda 3 May 2016 Council Meeting is currently being finalised however, a report can be prepared for the 31 May 2016 Council Meeting, taking into consideration the time needed to form a view on these matters.

Draft Town Planning Scheme No. 2 (TPS 2) was referred to the Western Australian Planning Commission (WAPC) in December 2014, following advertising and final adoption by Council on 18 November 2014.

Since this time three major policy or legislative changes have occurred that may impact draft TPS 2:

1. Changes to the Residential Design Codes

In October 2015 changes to the Residential Design Codes and the release of Planning Bulletin 113 meant that the use of plot ratio was no longer permitted for multiple dwelling developments in areas coded R35 and below, among other things.

2. Introduction of new *Planning and Development (Local Planning Schemes) Regulations 2015*

On 19 October 2015 new Regulations were introduced. In relation to local planning schemes, the Regulations set out:

- The process to make and amend a local planning scheme;
- New model provisions that local planning schemes should follow; and
- New deemed provisions which apply automatically as though they are part of a local planning scheme.

There is limited ability for the City to request significant modifications to the requirements of the model provisions and no legal ability to modify the deemed provisions. Where the City has unique provisions, such as variations to the R Codes and land use permissibility (such as the existing ban on multiple dwellings) these are still permitted in the appropriate parts of the model provisions.

As TPS 2 is already with the WAPC for final consideration, Administration has been unable to report back to Council on any specific changes to TPS 2 as a result of these new Regulations. Officer level discussions with the Department of Planning (DoP) have indicated that it is likely the City will be required to make modifications to TPS 2 to incorporate both the model provisions and deemed provisions. The City has not yet been provided with the details of this information as it is subject to determination by the Minister. Administration intends to provide this information to Council when it becomes available.

3. *Draft Planning Reform Policies*

In mid-2015 the City advertised a suite of six new draft planning policies, including five new precinct policies and a new policy to guide development standards and building design.

The new planning framework is scheduled to be reconsidered by Council in the coming months and has been prepared in light of its current relationship with TPS 1 and future relationship with TPS 2. The revised format of the draft Policy means that it is likely to have a very limited impact on TPS 2, if any at all. The exact extent of any impact will only be known once these Policies have been formally adopted by Council.

In addition to the above three bodies of work, several decisions have been made by the Development Assessment Panel and State Administrative Tribunal under TPS 1 and the City's existing local planning policies. In some cases these decisions have differed from the decision that Council has made. Administration agrees that there is merit in reviewing both TPS 2 and the City's local planning policies in light of these decisions to ensure they provide adequate guidance to enable Council to determine development applications.

Under Regulation 30, Council can request specific modifications to the draft TPS 2 that was advertised. The Minister or an authorised person can then direct the City to advertise these modifications where they are considered significant.

If Council did proceed with this Notice of Motion the specific details of any modification would need to be prepared and adopted by Council prior to consideration by the WAPC and Minister. Depending on the nature of modifications this may delay the introduction of TPS 2.