

Welcome Address for Town Planning conference
Justice John Chaney
President
State Administrative Tribunal
16 November 2009

Thank you your Excellency. We are extremely grateful to you for your support for this event, both for making this wonderful venue available for the conference and for the interest you have shown by attending this morning and doing us the honour of opening the day's proceedings.

Last year, again with very great support from His Excellency, the State Administrative Tribunal conducted a series of public lectures in this venue, called the Vista Lectures. The Vista Lectures dealt with a wide range of topics related to public administration in this State. The presentation of those lectures by the Tribunal was a reflection of the important role that the Tribunal now plays in the landscape of public administration in this state. Since commencement of its operations in January 2005, the Tribunal has sought to ensure that the public of WA is aware of its existence and functions, so that access to its services is enhanced by that public awareness. The very successful Vista series was directed to that end.

This conference continues the Tribunal's desire to maintain and heighten that public awareness. When I was appointed President of the Tribunal in February this year, I took the view that such an ambitious program of eight lectures may not be sustainable on an annual basis, and that the Tribunal would struggle to provide the substantial resources required for a program over that length of time.

I was delighted, however, when early in the year, our senior member in the Development and Resources Stream of SAT, David Parry came to me with the suggestion that we hold this conference to mark the eightieth anniversary of the first

comprehensive planning legislation in Australia. I was even more delighted when His Excellency, who had previously told me he was happy to support a repeat of the Vista series, indicated that he would be supportive of this venture.

His Excellency's enthusiasm to see this facility, and the grounds of Government House, used and enjoyed by the people of Western Australia is well known, and I thank him sincerely for letting us benefit from that enthusiasm.

When I extended an invitation to speakers, I was a little about the way I explained the occasion to our speaker from South Australia, the Hon Judge Christine Trenorden, Senior Judge of the Environment, Resources and Development Court of South Australia. I thought that she may take issue with the claim I proposed to make that the Town Planning and Development Act 1928 was the first comprehensive planning legislation in Australia. That is because South Australia passed its Town Planning and Development Act in 1920. However that legislation did not provide for planning schemes in the modern sense, because no planning powers were given over private lands, only Crown lands. I thought therefore that we could make the claim without fear of being misleading.

So while I maintain our claim, I do not want to embark on an unnecessary debate on the point. It is enough that we are here to mark an anniversary of the first comprehensive planning law at least in this State, and what happened elsewhere is not of much relevance.

The Town planning and Development Act was some long time in the gestation. The Bill was originally drafted by Mr William Earnest Bold after the City Council had sent him on a tour round the world to study town planning.

He produced a report in 1914 and a draft Bill in 1915. Subsequently, an organisation known as the Town Planning Association was formed in 1916, partly as a consequence of the Bold report, partly as a public reaction to a series of public addresses given in Perth by one Charles Reade, and partly as a means to securing legislation.

The Association's Committee comprised the Mayor of Perth, Mr F R Rea as President, Mr W B Hardwick, Vice President, Mr J D Sanders, Hon Treasurer, Mr Harold Boas, Mr G T Poole, Mr F S Brockman, Mr W E Bold, and Mr W A Saw. By the time the Bill was finally before Parliament, Mrs Edith Cowan had become the vice Chairman.

It is clear that those promoting legislation to regulate land use and development were passionate about the matter. On 19 November 1918, Mr W A Saw, who by then had become the Vice President of the Town Planning Association delivered a paper to the Royal Society of WA entitled "Some Aspects of Town Planning" in which he said:

We see in Australia, this "glorious land of open spaces," our large cities congested with physically crushed and mentally warped men and women. We note the squalid environment, breeding crime and disease. We watch death stalking through the slums, and marking down the defenceless child, passing it out without even a fighting chance. In this "land of magnificent distances" Sydney has an infant death rate of 11.7 per cent. We in Australia are so crushing our houses together that the death rate of our children is greater than that of London, where 9 per cent go out in their first year. Yet with proper city planning as at Port Sunlight, England, the death rate can be lowered to 3 per cent.

We must do better than we have done in conserving our baby life by taking greater care of the mothers of the nation. We can augment our man power best by improving the workmen's homes, by beautifying them individually, and in the mass, by preserving the sanctity of the home and keeping the flag "one family, one house" flying by abolishing overcrowding; by getting the factories and the workers out into the environs of the city; by rapid communication services to zones where land is cheaper, where air is pure, and where the children, in their garden

villages, will grow up taller, stronger, deeper in the chest, freer from physical defects, happier, more likely to be stalwart effectives in the wealth-creating forces of the State, and less likely to be a burden on the community. We wish to look ahead, and plan for the future as well as the present, to save piling up an unnecessary burden on the next generation, which, in many cases, we can now prevent without cost to ourselves.

I had not realised quite how noble the application of planning law is!

It was no doubt sentiment of that nature that prompted the Town Clerk of Fremantle, when giving evidence to the Select Committee of the Legislative Assembly on the Bill in October 1928, to suggest that there should be three members of the Town Planning Board, one of whom should be a medical man. The others, he said, should be a businessman and an engineer.

Eventually after six redrafts and thirteen years of effort, the Town Planning and Development Act 1928 was passed. The Act created the position of Town Planning Commissioner and a Town Planning Board.

The Act was an important but basic step that paved the way for the sophisticated planning regulation which now shapes the cities, towns and countryside in which we live and work.

Today we will be having a look at some aspects of how Town Planning law has developed since that time.

We have gathered together a number of speakers who have played significant roles in the administration and development of planning law in Western Australia. We will have a glimpse of the future of planning for Perth from Professor Richard Weller, and we will gain some perspective from another jurisdiction when we hear from Judge Christine Trenorden on the controversial question of third party appeals.

I am delighted to introduce our first speaker this morning, the honourable the chief justice of Western Australia, Justice Wayne Martin.