

# CITY OF ARMADALE

## SPECIAL MEETING OF ELECTORS THURSDAY, 23 MARCH 2000

### MINUTES

OF THE SPECIAL MEETING OF ELECTORS HELD IN THE KELMSCOTT HALL, RIVER ROAD, KELMSCOTT ON THURSDAY, 23 MARCH 2000 COMMENCING AT 7.30 PM

#### 1 INTRODUCTION

The Chief Executive Officer welcomed those in attendance at the special meeting. There was evidence leading up to the meeting that there was some confusion relating to the procedures for special meetings as opposed to those for general meetings. Hence, as an introduction at the Special Electors Meeting the Chief Executive Officer cited sections of the Local Government Act and Regulations to clarify that "general" or "other" business was not allowed at special meetings.

#### 2 DECLARATION OF OPENING

*The Mayor, Cr Stubbs , declared the meeting open at 7.40pm*

#### 3 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (previously approved)

##### PRESENT:

Mayor, Cr R C Stubbs JP  
presided over:

Roleystone Ward

Deputy Mayor, Cr J H Munn CMC JP  
Cr J Knezevich  
Cr F R Green  
Cr R R Fletcher  
Cr A L Cominelli JP  
Cr G M Hodges  
Cr H A Zelones JP  
Cr V L Clowes-Hollins  
Cr J A Stewart  
Cr H C Spaanderman  
Cr J D Cumming  
Cr D Hopper JP

West Armadale Ward  
West Armadale Ward  
Armadale Ward  
Armadale Ward  
Forrest Ward  
Forrest Ward  
Kelmescott Ward  
Kelmescott Ward  
Westfield Ward  
Seville Ward  
Seville Ward  
Roleystone Ward

**IN ATTENDANCE:**

Mr R S Tame	Chief Executive Officer
Mr A F Maxwell	Executive Director Community & Corporate Services
Mr JHA Adderley	Executive Director Development Services
Mr A Bruce	Executive Director Technical Services
Mr L Fouche	Planning Services Manager
Mrs S D'Souza	CEO's Personal Assistant

Public: 66 [registered as electors]  
Press: 2

**APOLOGIES:**

Apology received from Cr Reynolds

The Mayor advised that prior to proceeding with the agenda for the special meeting he would like to take the opportunity of introducing the Council.

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|-------------|--|
| Cr Munn     | - Deputy Mayor – Represents the West Armadale Ward   |
|             | - Represents Local Government in WA on the Swan River Trust, Chairs the Community Security Working Party and is involved with catchment management issues within the City.   |
| Cr Zelones  | - Represents Kelmscott Ward - Chairs Development Services Committee  |
|             | - President of the Chamber of Commerce, member on the Heritage FM Board and recently been chosen to represent Local Government in the metropolitan area on a State Government Committee set up to look at policy for heavy haulage within the State. |
| Cr Fletcher | - Represents Armadale Ward   |
|             | - Serves on the management committee of the Armadale Seniors Citizens Centre.  |
| Cr Green    | - Represents Armadale Ward   |
|             | Represented on the Bush Fire Advisory Committee and a number of sub-groups associated with that Committee, and serves on a number of community committees which manage bushland within the City.   |

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- Cr Clowes-Hollins     -     Represents Kelmscott Ward.  
                             -     Council's representative on the steering committee for the redevelopment of Armadale Hospital and is also involved in management of the Ark Roadwise facility in West Armadale.
- Cr Hodges             -     Represents Forrest Ward  
                             -     Besides being the administrator of Dale Cottages, Cr Hodges also chairs the management Committee of Lotteries House. Chairs the Seniors Advisory Committee and works with Council's Youth Advisory Committee.
- Cr Cominelli          -     Represents Forrest Ward  
                             -     Works with Mobile Meals, chairs the Local Drug Action Group in Armadale and represents Council on the Safer WA Committee, a community committee set up to improve community security within the City.
- Cr Knezevich          -     Represents West Armadale Ward  
                             -     Is involved with the various committees that have been set up to liaise between the Aboriginal community and the Council. Has recently been appointed to represent local government on a special committee set up by the Ministry for Housing to advise on housing matters.
- Cr Stewart            -     Represents Westfield Ward  
                             -     Cr Stewart chairs the committees that organise the famous Minnawarra Festival and Highland Gathering. Also works with the Cultural Advisory Committee.
- Cr Hopper             -     Represents Roleystone-Karragullen Ward  
                             -     Represents local government on the State Recycling Advisory Committee and the Keep Australia Beautiful Council and also represents the south east corridor on the Municipal Waste Advisory Committee. She also chairs the local drug action group in Roleystone.
- Cr Spaanderman       -     Represents Seville Ward  
                             -     Is involved with Community Policing issues and represents Council on the Heritage FM Board
- Cr Cumming            -     Represents Seville Ward  
                             -     Serves on the Seniors Advisory Committee and is President of the Armadale-Kelmscott Seniors Club. Also works with History House.

An introduction to the staff in attendance was also made:-

Ray Tame	-	Chief Executive Officer
John Adderley	-	Executive Director Development Services
Tony Maxwell	-	Executive Director Community & Corporate Services
Andrew Bruce	-	Executive Director Technical Services

#### 4 BUSINESS OF THE MEETING

##### 4.1 To discuss matters pertaining to the rezoning of Lot 60 Albany Highway, (Cnr Carawatha Avenue), Mt Nasura and the views submitted by a number of electors of the City opposed to the rezoning.

The Form-1 Request for a Special Meeting submitted the following points for discussion:-

*"(a) To question as to why 94% of form-4 submissions from residents opposing the rezone of Lot 60 Carawatha Avenue, were not recognised by Council."*

*"(b) What efforts will Council make to compensate residents for their loss of amenity and quality of life to be enjoyed, contrary to their expectations held, when purchasing properties so affected?"*

The following notation on the agenda explained the reasons for item (C) being ruled out for discussion.

As Presiding Officer, the Mayor has ruled that a further item on the Form-1 Request, i.e. *"Other business deemed appropriate and approved for discussion by majority vote"* cannot be included on the Agenda as this is a "Special" Meeting of Electors.

Advice received from the Department of Local Government is that *"it contravenes the Act for any matter to be discussed at a Special Meeting of Electors that is not specifically a subject, thing, affair or business.... Item (c) on the Request forwarded is non-specific."*

#### PRESENTATION

The procedure adopted for conduct of this special meeting was a 30 minute presentation to provide the public with a background on Council's consideration and determination on the rezoning of Lot 60 Albany Highway and this was to be followed by questions from the floor relating to this specific issue.

The Mayor advised the meeting that the proceedings were being recorded for the purposes of minutes and may be made available to the media.

The presentation focused on the following key issues and was delivered by the Mayor, Chair of Development Services Committee and the Executive Director Development Services which formed a comprehensive response to the two questions put to Council on this particular rezoning matter:-

- 1) Brief History of Lot 60 Carawatha Ave;
- 2) Assessment of future use of Lot 60;
- 3) Provision of Parks in Carawatha Avenue area;
- 4) The rezoning process - Scheme Amendment 163;
- 5) Consideration of submissions;
- 6) Council deliberations;
- 7) Conclusion and questions

A copy of Council's presentation is at **Attachment "A-1" to these Minutes.**

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## **5 QUESTIONS FROM THE FLOOR**

### **a. Mr Ian Blackburn – Freeman of the City of Armadale**

- 1) In regard to the percentage of POS for Mt Nasura, this block has never been part of Mt Nasura and has always been a separate entity and hence should not be included in the POS calculation. It is the only block of land owned by Council in fee simple.
- 2) Why was the comment made that no one has requested for this lot to be developed as parkland when three years ago a petition was submitted for this lot to be developed as parkland?
- 3) If residential development is approved what happens to the drainage easement that runs through the block?

*The Mayor responded as follows:*

*If Lot 118 is not considered part of Mt Nasura then, if Lot 118 is considered separately and Lot 60 is taken out 23% of Lot 118 remains as POS, which is far in excess of the standard that is provided within residential precincts. A significant part of the City, approximately 40%, represents either parks or recreation reserves.*

*With regard to the petition submitted for the lot to be developed into parkland, Council acknowledged the earlier petition but there had been some doubt as to the context under which people had signed the petition.*

*In terms of the drainage easement running diagonally across the block this will not be a major impediment to future development as it can easily be relocated or accommodated within any proposed development.*

**5.2 Mrs Noble – 62 Carawatha Avenue, Mt Nasura**

What development would be envisaged for this land taking into account the difficulties that will be experienced with access to and from Carawatha Avenue? The example of a doctor's surgery was cited.

*The range of uses that might be allowed on this site were advertised as part of the amendment. Any consideration of a development application for a proposed use under this particular zoning will be contingent on a traffic study which will consider issues such as traffic access and appropriate engineering solutions.*

**5.3 Mr John Hickey – 7 Rushton Terrace, Armadale**

Asked the question of the Mayor that as the elected member for Roleystone whether he would voice his constituents concerns or would he fall in line with the "Board's" decision.

*Though a councillor is elected to represent the views of his/her constituents, under current legislation a councillor is also required to assess submissions on its merit and to make an informed decision. The Golf course rezoning in Roleystone was cited as an example where as the elected member for Roleystone at the time he had joined Council in voting in favour of the rezoning. It was a unanimous decision of Council after a thorough and exhaustive assessment of that rezoning proposal*

**5.4 Cr R Fletcher – 117 Carawatha Avenue, Mt Nasura**

Cr Fletcher referred to the background leading to his purchase of his property (Lot 61) which is adjacent to Lot 60.

With regard to the brief history provided by Council he said that there was no mention that in 1996 the Carawatha Working Group submitted a plan for a native fauna and flora park for this lot and this was later followed by a petition. Cr Fletcher stated that both the Technical and Development Services Committee recommended at the time that this lot remain zoned for a park. Why were these details not included when the matter was put before Council in January this year for a decision?

There is keen community interest to maintain a link with the past and to preserve the heritage of the site so why is it that Council does not consider it important to recognise the people who have been associated with that block of land by developing it into a pioneer park as suggested in the plan forwarded by the community.

*Council in reaching its determination to not develop Lot 60 as a park considered a number of issues. One of the factors that influenced this decision was that this location was not suitable for a park because of its proximity to the highway and the problems of anti-social behaviour that are currently being experienced from similarly located parks, i.e. Lions Park in Armadale. Council does recognise the concerns of*

*residents in the area and is confident that appropriate development controls will ensure that any proposed development on this lot will be harmonious with the residential precinct.*

*With regard to recognition of Armadale's pioneers, it was felt that the historic precinct of history house, the church and the school do honour and acknowledge the past.*

**5.5 Mr A Salter – 14 Challis Road, Armadale**

In view of the impending 3 trailer road trains along Albany Highway how will Council address the issues of pedestrian and vehicle access to any proposed medical centre on this site?

*The Mayor reiterated that an application for any proposed development on the site will require a traffic study and the issues such as pedestrian and vehicle access will be addressed in this study. Though it is not really the scope of this meeting to address the issue of road trains this Council does have a very clearly demonstrated record of expressing the community's concerns on this very important matter.*

**5.6 Ian McKellar – Property developer**

Mentioned that he had been approached by Cr Fletcher for advice from a developer's perspective and has since become interested in this dispute over the use of Lot 60.

Has Council had legal opinion on its legal relationship between the owners of the land, being Lot 61 to 68, and itself as a vendor of those lots and its legal obligations as owners of Lot 60 holding out that land as a park at the time Council vended the land to the public?

Certain sections of the Trade Practices Act were cited and a letter that was written on Cr Fletcher's behalf to the State Planning Commission was quoted in support of the argument that Council had no discretion for the rezoning of Lot 60.

*With regard to rezoning issues, Council is not the determining authority and acts only under delegated authority. Though Council initiates amendments to its scheme it is the WA Planning Commission that determines approval of the rezoning. The procedures that have been followed by Council in this matter have been well-tried throughout local government and the State Planning Agencies. Under the provisions of the Town Planning legislation Council is not unilaterally able to determine the zoning requirements on the land.*

*The Mayor thanked Mr McKellar for his advice on Council's legal obligations and assured him that the issues raised will be investigated if and when Council does intend to dispose of this lot. It is a requirement under the Local Government Act that for transactions of a substantial nature Council is required to have a business plan advertised for the disposal of any asset.*

**5.7 Alannah MacTiernan – Member for Armadale**

Apologised for her late arrival and as a result missing Council's presentation on the matter. However as it is the strong view of the community that there was an undertaking made at the time these lots were sold by Council to retain Lot 60 as a park there needs to be some honouring of that undertaking. As a compromise, it was suggested that the block be divided diagonally with that part of the block from Albany Highway being set aside for development and the rest of the area towards the residential precinct being developed as a park. It was further suggested that some of the proceeds from the sale of the land be put towards development of a park as suggested by the community. This was considered to be a workable proposition as the park would be well shielded from the Highway and would provide a decent area of parkland for the residents while the development would provide some financial resources for the Council.

*The Mayor agreed to put the proposition before Council for its consideration.*

**5.8 Mrs Noble – 62 Carawatha Avenue, Mt Nasura**

Why has it been commented that residents have not done anything to look after this land when previously residents have been told that if anything was done on a volunteer basis then those residents would be charged with trespassing?

*The Mayor said that no such comments had been made with regard to trespassing.*

**5.9 Mr Jim Campbell**

What benefit to the citizens of Armadale are you claiming will flow from this rezoning decision? How much do you expect to raise from the sale of the block and what do you anticipate the money will be spent on?

*To a comment regarding a fast food outlet being sited on the lot, the Mayor clarified that the special use zone being recommended for this lot does not include such a development.*

*One of the initiatives in Council's Strategic Plan is to achieve a debt free status by 2002 and to set aside capital to provide better facilities for the residents. To achieve this Council has been looking at its resources and just recently sold one of its blocks on Clifton Street for an aged persons development. In its quest for better financial management Council will not disadvantage residents of the City. In this instance Council has made an informed decision that in terms of land for local recreation and public open space this residential precinct is well served compared to other areas in the City.*

*With regard to the value of the land, this will depend on the eventual zoning and proposals for land use. Different developments will generate different values and Council will make sure that it negotiates the best outcome for the residents of the City.*



### 5.10 Mr Grimwood – 7 Sapphire Court, Armadale

Congratulated Council on its excellent and thorough presentation which he said was intended to persuade those present that the actions and decisions taken by Council have been based on a very analytical and rational nature in the best interests of the community.

- (1) With regard to recent comments made that this issue could have been adequately dealt with at the recently held general meeting of electors and that the additional financial resources for this special meeting could have been avoided, Mr Grimwood sought confirmation on the difference between general meeting of electors and special meeting of electors. He understood that at a general meeting of electors there is no provision for a member of the public to address or speak to Council other than to ask a question and that Council's Standing Orders would prevent the public from generating any general business from the floor.

*The assumption that an elector cannot speak or address Council at a general meeting of electors is quite incorrect and there are a number of councillors and council officers who could have given Mr Grimwood this advice had the request been made. The Act dictates what the business of the meeting should be and includes general business but provides that the Mayor or presiding officer determines the procedure for the meeting. There are provisions in the Act which allow the public to speak at a general meeting just as they speak at the special meeting.*

- (2) It has been fairly difficult to extract information from Council on this rezoning issue as recently a number of Mr Davis' questions relating to this matter were not responded to as they were found to be offensive in nature.

*In terms of Mr Davis' questions being ruled out of order, Council's Standing Orders provide that the public do not make adverse reflection on the motives of any member and direct their questions to the relevant issues. There was a very clear inference in these particular questions that councillors had not done their job and had made up their minds before any evidence was presented to them. Councillors work very hard and are constantly in touch with their community. Questions that insinuate that councillors do not take their duties seriously will not be entertained.*

- (3) At the Council meeting when the amendment was put to the vote Crs Fletcher and Green made a comprehensive and strong case for the matter to be deferred. However, Council voted in favour of the amendment going ahead. For the benefit of those present I believe that at this same Council meeting when the amendment was put to the vote one councillor voted on an emotive rather than on rational basis because certain comments from the public were found to be offensive.

*In terms of why Council rejected the motion to have the matter deferred, Cr Green did make an eloquent appeal as he was representing the view of his constituency. However Council felt that it had thoroughly considered all of the issues with regard to*

*this amendment and were in a position to make a decision after a lengthy process. The decision of Council to proceed with the amendment was unanimous and the concern that one vote was made on an emotive basis is not considered an issue. One opposing vote would have made no difference to the outcome.*

- (4) The process that led up to the decision by Council to sell the land in the first place has never been explained despite many attempts by the public to find out that information.

*Council did focus its attention on Lot 60 when Main Roads WA signalled that its piece of land (Lot 100) was surplus to their requirements. During strategic discussions Council looked at its various assets with the intent of raising funds. Though Lot 60 was zoned for a park Council felt that there were problems associated with a park being located on that land. The possibility of achieving some development alternatives for Lot 60 was considered an attractive proposal, especially as the parkland provision within that particular precinct was known to be well over the standard 10%.*

**5.11 Jeff Grey – Opal Way, Armadale**

With regard to the comment made that if Lot 60 went ahead as a park it would attract a lot of undesirables – clarification was sought in regard to the term “undesirables” and whether Council had considered information from its various drug committees.

*The Mayor clarified that the comment was made in the context of developing a park in an exposed location. The typical sort of complaints that are constantly being received about parks in exposed locations from people in the surrounding residential neighbourhoods is drunken behaviour, misuse of motor vehicles, illicit drug use, violence etc.*

**5.12 Ian Blackburn – Freeman of the City of Armadale**

The comparison being drawn between Lions Park and Lot 60 Carawatha Avenue is not considered appropriate. Lions Park is the most secluded park in the district as it is not very well lit, is located on low topography and has public toilets on site. On the other hand Carawatha Avenue is the most open ground for a park as it slopes up the hill and is flanked by two busy traffic light intersections.

**5.13 Mrs Noble – Carawatha Avenue, Mt Nasura**

Commented that she spends a lot of time walking around the area and has not experienced any antisocial behaviour.

**5.14 Jeff Green – 47 Sixth Road, Armadale**

Why did Council consider it a problem for volunteers to take care of the park being

proposed for this land? Council has always had a good relationship with its citizens and it was always considered customary that volunteers assist in a lot of the work.

*The acknowledgement that councillors do work very hard was appreciated. With regard to volunteers, one of the issues that is increasing in the community is people's ability to make a time commitment to do volunteer work.*

*The example of Buckingham Cottage was cited which is a project which relies heavily on volunteer work. At the time a dedicated commitment was made to restoring the cottage and the reason this project has been going on since 1994 is because there are not many people who can make the time or a permanent commitment to having this project completed. There have also been a few parks with the City that were initially developed by volunteers but have since fallen into disrepair. As a result of this Council is faced with the dilemma of finding that balance between people volunteering their services in the community and ensuring that they don't take on too many projects that eventually prove to be beyond their capacity.*

#### **5.15 Kim Fletcher – 10 William Street, Armadale**

Thanked the Mayor for acknowledging History House as a very important aspect of Council's heritage.

He is aware that Council is to receive Centenary of Federation funding for the development of parks in the City and requested Council to consider the Pioneer Park, as proposed in the plan forwarded by the residents, as one of the projects to receive such funding. History House was established in 1976 and since then Council has not added anything significant to its heritage history. The Pioneer Park would represent 25 year segment in the history of Armadale and would be dedicated to the City's pioneers. There could also be a corner dedicated to Jull who has not been sufficiently recognised in the district. Lot 60 because of its heritage history is the ideal site for the establishment of a Pioneer Park and would also create an historical entry statement to the City.

*Though Council has received a Centenary of Federation grant for the development of parks in the City, Council is not convinced that Lot 60 is the best location either for an entry statement or a pioneer's park. However, the suggestion will be considered further by Council.*

#### **5.16 Bill Davis – 35 Bodicoat Drive**

- (1) How many special meetings have we had in recent times along these lines?

*The Mayor recalled only one during his tenure of service on Council i.e. the one relating to the golf course rezoning in Roleystone.*

- (2) With regard to the question put forward to Council as to why 94% of Form-4 submissions were not recognised. It has been advised that reasonable objections by residents have been dismissed on technicalities. This is not considered appropriate and it is incumbent on Council to undertake more meaningful consultation with its citizens. In this regard it is suggested that Council consider reviewing its public comment process to include an extra step in the process where residents are contacted for their opinion before rezoning is even recommended.

*The rezoning process under the provisions of the Town Planning & Development Act is designed and very well tested to provide comprehensive community consultation. However, there are two obligations in the process, one is upon the elected representatives to take certain actions and the other is upon the citizens to engage in the process. When a particular matter is in the informative stage it is quite hard to generate keen public interest as was experienced during the initial stages of preparing Town Planning Scheme No.3. Nonetheless, the suggestion of including an extra step in the consultation process will be considered further by Council.*

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#### **MOTION-1**

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##### **MOVED Bill Davis**

Council should immediately take all the necessary steps to effectively consult with and fully reflect the wishes of ratepayers and residents on the issue of rezoning of any public open space, parks, reserves, recreation or similar in the City of Armadale before recommending rezoning.

These actions are to include:-

- 1) When public opinions, submissions or objections are called for they will be accepted in the usual literal sense. It is sufficient objection for a ratepayer to say "I want to keep a park" or similar as their opinion or objection is clearly stated.
- 2) In the event that objections/submissions received are two to one or more in favour of maintaining the present zoning the Council will automatically respect the wishes of its residents and ratepayers and discontinue any action to change that zoning for at least 7 years.
- 3) Notices calling for comment on possible rezoning to be given in everyday English with the intended final use of the rezoned area clearly stated.

##### **MOTION CARRIED**

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## **MOTION-2**

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### **MOVED Ian Blackburn**

Council rescind its motion dated 17 January 2000 and work with the community to establish Lot 60 as a Pioneer Park Concept for the district.

OPPOSED (1)  
Seconded Mr Jeff Green

### **MOTION CARRIED**

#### **5.17 Mrs Grey – 34 Opal Way, Armadale**

Expressed disappointment that Council in its determination on another rezoning matter did not take into account the views of the elected representative who was associated with the issue under consideration. As a result residents needed to resort to addressing the Minister who (then) did not support residents' views as Council's advice was the important factor in any final decision.

*The assumption is incorrect, the Minister does not always take Council's advice.*

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## **MOTION-3**

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### **MOVED Dennis Grimwood**

That the Council commence proceedings in a court of law to determine whether or not the Chair (the Mayor) has committed offences against Local Law No. 73 in relation to the processes of this particular rezoning, i.e. Lot 60 Carawatha Avenue.

*In speaking to the motion, Mr Grimwood cited comments made by the Mayor during Council's meeting of 7<sup>th</sup> March which he believed adversely attacked and deliberately imputed the character of Crs Cumming & Fletcher. These statements were repeated in the Comment News Edition of 14<sup>th</sup> and 20<sup>th</sup> March. Mr Grimwood stated that Crs Cumming and Fletcher are highly regarded in the community.*

**The Mayor ruled the motion out of order** as it does not relate to the two purposes for which the meeting was convened.

The Mayor however advised that it is open to any member of Council to move that motion on Mr Grimwood's behalf on the floor of Council.

**The Mayor invited Mr Adderley to address the meeting on the question of compensation.**

Mr Adderley advised as follows:-

*Lot 60 in its current state is not an improved site and is not a site which physically enhances the amenity and quality of life of the area. Hence in the opinion of Council the assertion of loss of amenity would be difficult to substantiate..*

*The provisions of the Town Planning & Development Act generally exclude situations of compensation in the making of town planning schemes and amending such schemes.*

*Under the proposed zoning for Lot 60 a range of uses has been incorporated which include public recreation and hence if the situation arose then that particular use can be retained.*

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**5.18 Ian McKellar – Property Developer in Armadale**

- (1) Is there a section in the Act (possibly Section 11) for compensation for injurious affection in relation to amending the scheme?

*Mr Adderley affirmed there are sections of the Act dealing with compensation and its minimal application (Sections 11 & 12)..*

- (2) Has Council valued the land and arrived at what it is likely to sell for?

*An official valuation has not been conducted but Council does have an indication of what the land is worth as the rezoning would be a futile exercise if the income that is to be generated for Council is minimal. If Council embarks on a major commercial enterprise, there are provisions in the Local Government Act which require preparation of a Business Plan for public comment and this ensures that there is an open, accountable and transparent process.*

- (3) With regard to the costs of shifting the drain and remedial action on the site which has previously been filled with unsuitable materials, will this be done by Council before or after sale?

*These are issues which will be subject of any development proposal and are definitely separate from the rezoning process. Council acknowledges that there is an obligation for a vendor to exercise disclosure and that decision will be made if and when the site is offered for sale.*

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- (4) Has Council looked at arriving at a commercial resolution of this dispute with a sector of its electors, i.e. selling the land in question to that sector of the electors?

*Council is open to offers and would not reject that as an outcome.*

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**MOTION-4**

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**MOVED Bill Davis**

Thanks to all councillors for their attendance and for listening to the views of the ratepayers.

OPPOSED Jeff Gray

SECONDED Ian Blackburn

**MOTION CARRIED**

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**MOTION-5**

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**MOVED Bill Davis**

Commend and thank Cr Fletcher for his determined effort to represent the views of ratepayers on the issue of Lot 60.

**MOTION CARRIED**

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**6 CLOSURE**

The Mayor thanked those the public for their attendance and for the decorum observed during the proceedings and declared the meeting closed at 10.10pm

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# **SPECIAL MEETING OF ELECTORS**

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**23 March 2000**

**LOT 60 ALBANY HIGHWAY, CNR  
CARAWATHA AVENUE, MT NASURA**




## SPECIAL MEETING OF ELECTORS

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**23 March 2000**

**LOT 60 ALBANY HIGHWAY, CNR  
CARAWATHA AVENUE, MT NASURA**



### SPECIAL ELECTORS MEETING


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*Section 5.28 Local Government Act 1995*

- 1) A special meeting of electors is to be held if requested by:
  - a) Not less than 100 electors or 5% of electors;
  - b) 1/3 of number of Council members.

*Special Electors Meeting – 23 March 2000*

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### SPECIAL ELECTORS MEETING

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*Section 5.28*

- 2) The request is to specify the matters to be discussed and form of the request is to be in accordance with the regulations.

Regulation 16 requires the request to be on Form-1.

*Special Electors Meeting – 23 March 2000*

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### SPECIAL ELECTORS MEETING


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*Section 5.28 Local Government Act 1995*

- 3) The request is to be sent to the Mayor or President.
- 4) A special meeting is to be held on a day selected by the Mayor or President but not more than 35 days after the day on which he or she received the request.

*Special Electors Meeting – 23 March 2000*

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### SPECIAL ELECTORS MEETING

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*Section 5.29 Local Government Act 1995*

*Convening Electors Meetings*

1. The Chief Executive Officer is to convene, giving:-
  - a) At least 14 days public notice;
  - b) 14 days notice to Councillors of date, time, place and purpose.

*Special Electors Meeting – 23 March 2000*

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### SPECIAL ELECTORS MEETING

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*Section 5.30*

The Mayor or President presides ...

*Section 5.31*

The procedure is to be in accordance with regulations.


*Section 5.32 & 5.33*

Minutes kept, made public and referred to next Council meeting.

Any decisions to be considered by Council.

*Special Electors Meeting – 23 March 2000*

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## SPECIAL ELECTORS MEETING

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**Local Government Department Advice –**

- ◆ Business to be conducted at a Special Meeting of Electors cannot extend beyond advertised business of meeting.
- ◆ Advertised business cannot include “general” or “other” business.
- ◆ This gives all electors the right to attend and participate.

*Special Electors Meeting – 23 March 2000* 7



## SPECIAL ELECTORS MEETING

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**“SPECIAL” Vs. “ANNUAL GENERAL”**

**Regulation 15**

The matters to be discussed at a general electors meeting are:-

- ◆ The contents of the annual report for the previous financial year; and then
- ◆ Any other general business.

*Special Electors Meeting – 23 March 2000* 8



## SPECIAL ELECTORS MEETING

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**PROCEDURE**  
**Regulation 18**


- ◆ The procedure to be following at a general or special meeting of electors is to be determined by the person presiding at the meeting.

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## SPECIAL MEETING OF ELECTORS

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### SUMMARY OF PROGRAMME




## PROGRAMME

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- ◆ Brief History of Lot 60 Carawatha Ave;
- ◆ Assessment of future use of Lot 60;
- ◆ Provision of Parks in Carawatha Avenue area;
- ◆ The rezoning process - Scheme Amendment 163;
- ◆ Consideration of submissions;
- ◆ Council deliberations;
- ◆ Conclusion and questions

*The proceedings are being recorded and may be made available to the media.*

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## MATTERS SUBMITTED ON FORM-1 REQUEST

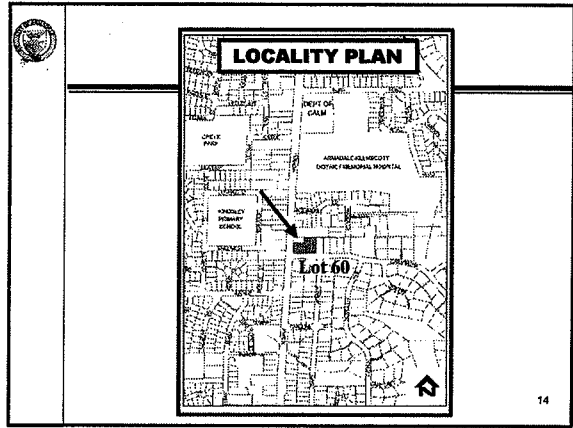
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- a) To question as to why 94% of Form 4 submissions from residents from residents opposing the rezoning of lot 60 Carawatha Ave., were not recognised by Council.
- b) What efforts will Council make to compensate residents for their loss of amenity and quality of life to be enjoyed, contrary to their expectations held, when purchasing properties so affected?

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# SPECIAL MEETING OF ELECTORS

## BRIEF HISTORY OF LOT 60 ALBANY HWY



- ### BRIEF HISTORY
- Lot 60 Albany Highway was part of a 4ha lot (Pt. Lot 118) which was originally acquired for the extraction of gravel in 1909.
  - City of Armadale's TPS (No.1), in 1973 provided for land uses including a hotel, service station, shops, Civic uses, residential and a reserve for local recreation.
  - In 1978 the zoning was modified to provide for commercial development, residential development, civic uses and extra local recreation. Rezoning occurred in conjunction with subdivision of adjoining Mt Nasura Estate. (First reference to a reserve for local recreation at the western end of the Lot).

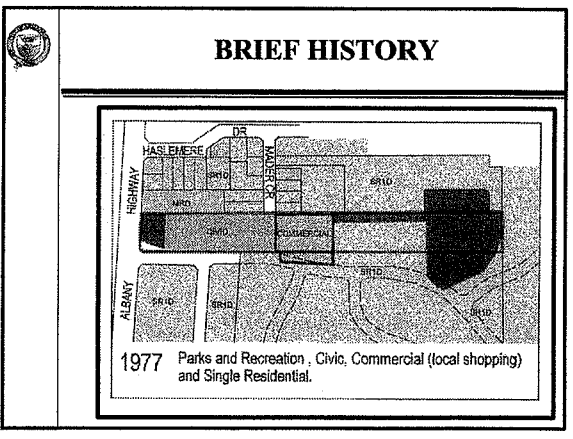
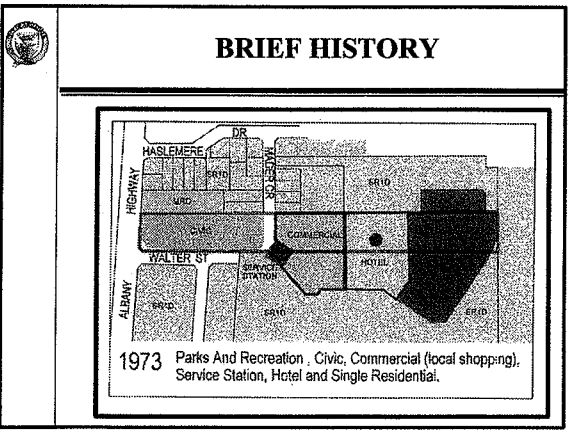
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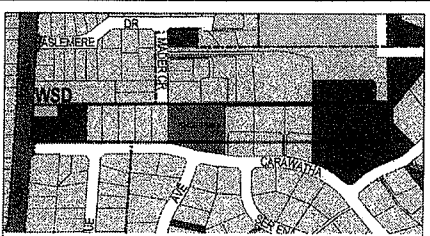
- ### BRIEF HISTORY
- In 1985, the new Town Planning Scheme (No.2), zoned Lot 118 to land uses including shopping (neighbourhood centre), residential use and reserves for local recreation.
  - In 1987 the shopping sector was rezoned to "Residential".
  - Between 1978 and 1986, Lot 118 was subdivided, creating a church site, 11 residential lots and a public open space (POS) area of 9255m<sup>2</sup>.
  - The remainder of the land (Lot 60) totalling 5,037m<sup>2</sup> is held in "fee simple" by the City of Armadale.

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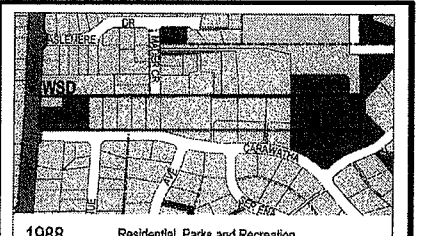


### BRIEF HISTORY



1985      Gazettal of Town Planning Scheme No. 2.  
Shopping, Parks and Recreation

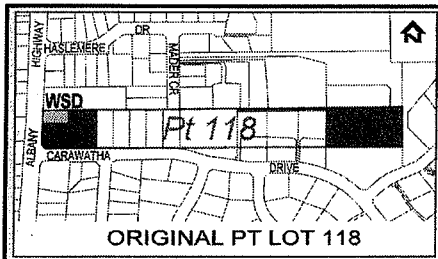
### BRIEF HISTORY



1988      Residential, Parks and Recreation

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### BRIEF HISTORY



ORIGINAL PT LOT 118

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### POST 1997 HISTORY

- In July 1997 Council resolved to investigate potential land uses for the site.
- Investigations included an assessment of a proposed Entry Statement/Pioneer Park.
- Research continued for two years.
- An analysis was also undertaken.

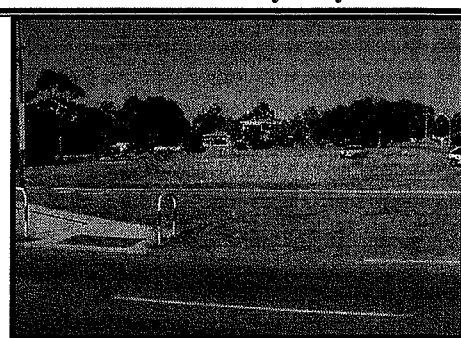
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### Why Lot 60 is not a good location for a Park.

- Lot 60 is not well positioned for a park. Existing parks are better located.
- A “park playground” close to a busy highway is dangerous for children and poses a safety risk.
- There are many parks within easy walking distance.
- Other parks are easily accessible by car (Rushton Park, Minawarra Park, Creyk Park, Settlers Common, Bungendore Park, Churchmans Brook Reserves etc.)
- There is generous provision of parks in the area.

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### Photograph of Lot 60 Albany Hwy

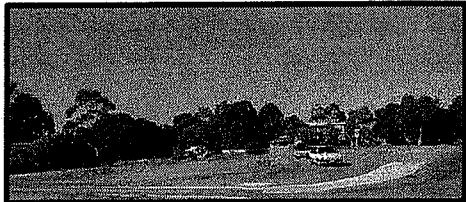


**Why Lot 60 is not a good location for a Park.**

- The POS provided in the locality is well in excess of the 10% benchmark set by the WA Planning Commission.
- The City through its original land holding (Lot 118) has already contributed generously to the POS provision in Mt Nasura.
- Until recently no community moves have been made to develop Lot 60 as a park.
- It has been used as a dump site and for private car sales.

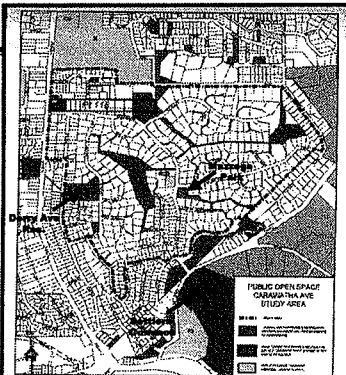
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**Photograph of Lot 60 Albany Hwy**



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**PROVISION OF POS IN THE STUDY AREA**



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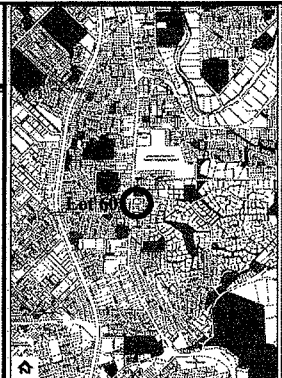
**DISTRIBUTION OF PUBLIC OPEN SPACE [POS] IN MT NASURA**

- Results of statistical assessment :
 

(a) Total Study Area (approx. estate area)	129.5ha	100%
(b) Crown Land for Park & Recreation ["20A" reserves]	15ha	11.6%
<i>*Note – figure excludes Lot 60, cnr. Carawatha Ave.</i>		
(c) Area of Lot 60 Carawatha Avenue	0.5ha	0.4%
(d) Area of Crown 20A reserves and area of Lot 60	15.5ha	12%
- POS provision in the study area exceeds WAPC Policy of 10% gross area of land to be provided for POS in residential subdivisions.

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**Recreation areas in a broader view.**




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**POS PROVISION FROM ORIGINAL ALLOTMENT**

- Lot 60 was part of original property - Lot Pt 118, corner of Albany Highway and Carawatha Avenue (previously Walter Street).
- Original area of Lot Pt 118 was approximately 4ha.
- WAPC policy requires 10% POS contribution [4000m<sup>2</sup> of land in this instance].
- Subdivision of Lot Pt 118 for residential purposes, provided 23% of the total land area for POS. This has been locked away for a Crown Reserve.
- Residential land in Lot Pt 118 currently represents only 18000m<sup>2</sup> divided into 10 lots.
- Council retained Lot 60 in fee simple and zoned the property as a reserve for local recreation. Lot 60 measured 5037m<sup>2</sup> or 12.6% of Lot Pt 118.
- Without Lot 60, the owners of the 10 lots will still have 23% POS.

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### TOTAL POS PROVIDED FROM ORIGINAL LOT PT 118


	Area	% of original area
Crown Reserve for Recreation	9255m <sup>2</sup>	23.09%
Balance held in "Free Simple" (owned by the City)	5037m <sup>2</sup>	12.60%
Total	13292m <sup>2</sup>	35.60%

Carawatha Ave. was constructed as extension to original Walter St. Additional Crown Reserve [7243m<sup>2</sup>] was added to original Lot 118 [9255m<sup>2</sup>] resulting in current size of Crown Reserve in Carawatha Ave. [1.6498ha].

**SUMMARY**

Calculations indicate that the provision of POS in the Mt Nasura locality easily exceeds WAPC standards.


*Special Electors Meeting – 23 March 2000*



## SPECIAL MEETING OF ELECTORS

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### REZONING/AMENDMENT PROCESS



### REZONING OF LOT 60 BEGINS – JULY 1999 – AMENDMENT NO.163

- In July 1999, Council considered other land use options for Lot 60 that would still be compatible with the surrounding residential area.
- It was decided to rezone the land to allow limited kinds of land use that will be tightly controlled to ensure sensitivity with and have special regard to the character of the adjoining area.
- The proposed "Special Use" zone is tightly controlled.
- Intensive land uses (i.e. service stations, corner shop) have specifically been excluded from the zoning.


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### AMENDMENT NO.163

Prescribed Special Use	Requirements
<b>Permitted Use-</b> <ul style="list-style-type: none"><li>• Attached House</li><li>• Public Recreation</li><li>• Public Utility</li><li>• Single House</li></ul> <b>Discretionary Use</b> <ul style="list-style-type: none"><li>• Aged Persons Dwelling</li><li>• Consulting Room</li><li>• Grouped Dwelling (R40 Maximum)</li><li>• Home Occupation</li><li>• Medical Centre consisting of more than two (2) Consulting Rms</li><li>• Residential Building</li></ul>	<ol style="list-style-type: none"><li>1. Residential subdivision and development shall be in accordance with the Residential Planning Codes (R15).</li><li>2. In association with subdivision or development, a comprehensive site plan indicating a proposed landscaping and fencing of the site is to be prepared, submitted and consequently implemented to Council's satisfaction. The aspects to be covered include:<ol style="list-style-type: none"><li>a) Generous landscaping on road frontages with particular attention given to the Albany Highway from stage and the corner of Carawatha Avenue and Albany Highway.</li><li>b) High quality fencing integrated with landscaping.</li></ol></li><li>3. Unless otherwise determined by Council, provision shall be made for vehicle traffic access from Carawatha Avenue, to Lot 118, north of the lot, for development or subdivision of the lot.</li><li>4. Unless otherwise determined by Council, a traffic management study regarding intersection treatment to be provided by the applicant in consultation with Main Roads WA and Council.</li></ol>


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### AMENDMENT NO.163

Prescribed Special Use	Requirements
	<ol style="list-style-type: none"><li>5. No vehicle access shall be provided to Albany Highway.</li><li>6. A minimum of 16 metre buffer between the existing Water Corporation pump building located on adjoining Pt Lot 58 to any building.</li><li>7. All other discretionary uses shall meet the following requirements:<ol style="list-style-type: none"><li>a) A plot ratio limited to 0.3</li><li>b) Car parking spaces abutting any residential lot shall be screened by a masonry wall and landscaping strip to the specification of Council.</li><li>c) The overall development of the site should be of a high quality unified architectural design that reflects a level of integration and consistency with the surrounding built environment.</li></ol></li></ol>

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### AMENDMENT NO.163

AMENDMENT 163	RESIDENTIAL ZONE
Use Classes	Use Classes
<b>Permitted Uses:</b> <ul style="list-style-type: none"><li>• Attached House</li><li>• Public Recreation</li><li>• Public Utility</li><li>• Single House</li></ul>	<b>Permitted Uses:</b> <ul style="list-style-type: none"><li>• Attached House</li><li>• Public Recreation</li><li>• Public Utility</li><li>• Single House</li><li>• Civic Building</li></ul>

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AMENDMENT 163	RESIDENTIAL ZONE
Use Classes	Use Classes
<b>Discretionary Uses:</b> <ul style="list-style-type: none"> <li>Aged Persons Dwelling</li> <li>Consulting Room</li> <li>Grouped Dwelling (R40 Maximum)</li> <li>Home Occupation</li> <li>Medical Centre consisting of more than two (2) Consulting Rooms</li> <li>Residential Building</li> </ul>	<b>Discretionary Uses:</b> <ul style="list-style-type: none"> <li>Aged Persons Dwelling</li> <li>Consulting Room</li> <li>Grouped Dwelling (R40 Maximum)</li> <li>Home Occupation</li> <li>Residential Building</li> <li>Bed &amp; Breakfast Establishment</li> <li>Car Park</li> <li>Child Minding Centre</li> <li>Cemetery</li> <li>Club Premises</li> <li>Educational Establishment</li> <li>Public Recreation</li> <li>Public Worship</li> <li>Shop</li> </ul>
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ADVERTISING OF SCHEME AMENDMENT No.163
<ul style="list-style-type: none"> <li>All statutory requirements for advertising of the rezoning were followed in accordance with Town Planning Regulations 1967 (15) and (25). These procedures included: <ul style="list-style-type: none"> <li>➤ The rezoning Amendment being advertised in the West Australian;</li> <li>➤ The Amendment and supporting documentation being made available for inspection at Council Offices and Libraries during office hours;</li> <li>➤ Public authorities were notified; and</li> <li>➤ The Amendment being advertised for 42 days</li> </ul> </li> </ul>
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ADVERTISING OF SCHEME AMENDMENT No.163
<ul style="list-style-type: none"> <li>In addition to the requirements of the Town Planning Regulations 1967, Council also notified all residents within a 400m radius of the subject site, [in excess of 200 households].</li> <li>Letters to residents clearly detailed the proposed land uses and invited perusal of Amendment documents at the Council office as required.</li> <li>A sign was also placed on the site, on the corner of Carawatha Avenue and Albany Highway.</li> <li>The Ministry for Planning confirmed compliance with the Town Planning Regulations 1967 on 26 November 1999.</li> </ul>
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SPECIAL MEETING OF ELECTORS
<h2>CONSIDERATION OF SUBMISSIONS</h2>

CONSIDERATION OF SUBMISSIONS
<p>A total of 243 submissions were received. Of that, 229 objected to the proposal. In summary, the objections raised the following main issues:</p> <ol style="list-style-type: none"> <li>Existing traffic problems would be increased.</li> <li>Properties were bought in the area on the basis that Lot 60 was "Parks and Recreation".</li> <li>There would be a negative impact on property values.</li> <li>The site would be better suited for an "entry statement".</li> </ol>
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CONSIDERATION OF SUBMISSIONS
<ol style="list-style-type: none"> <li>Any development would be detrimental to the surrounding area.</li> <li>The site is not suitable for a Medical Centre.</li> <li>Shade trees and parks are more pleasing to people driving through Armadale.</li> <li>Armadale is short of parks. We need more parks in Armadale to make it a more enjoyable place to live.</li> </ol>
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 **1. Traffic Issues**

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**Council's Response**

- ◆ Carawatha Avenue is the main feeder road and has always been expected to carry a significant amount of traffic.
- ◆ A study will be required to address traffic management issues as part of any Development Application.
- ◆ Intersection treatment improvements at Albany Highway will be required.

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 **2. Investment near "Park"**

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**Council's Response**

- ◆ Lot 60 is not suitable or desirable as a park.
- ◆ Lot 60 is not classified as a Section 20A reserve.
- ◆ The lot has never been developed as a "park" and remains a "vacant lot".
- ◆ A park if development in this exposed location would suffer the sort of nuisance problems experienced at Lions Park.
- ◆ Most houses in the vicinity (Derry Ave, Albany Hwy) were built prior to 1978 ie. before Lot 60 was suggested as a park.

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 **3. Negative impact on property value**

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**Council's Response**

- ◆ There is no evidence to substantiate such a claim.
- ◆ Lot 60 has never been developed as a "park" or for any other purpose. No "loss" of value is evident.

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 **4. Entry statement to the City**

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**Council's Response**

- ◆ The site is not suitably located to be used as an entry statement to the City
- ◆ A more suitable location for an entry statement would be at the junction of Albany Highway and Armadale Road, adjacent to the City "proper".

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 **5. Impact of development on area**

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**Council's Response**

- ◆ Sensitively designed development can add to the amenity of the surrounding area compared to the current "vacant lot" appearance of Lot 60.
- ◆ An integrated high quality design is required as part of the Special Use provisions.

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 **6. Site not suited for Medical Centre**


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**Council's Response**

- ◆ The prime option for the site is residential development.
- ◆ A Medical Centre is one possible option and is at the discretion of Council.
- ◆ Given the proximity to Albany Highway and Armadale Hospital, a Medical Centre is a reasonable option.
- ◆ Market forces will determine the viability of locating such a facility on the site.

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### 7. Motorists prefer shade trees

- ◆ The beautification of the streets of Armadale with the planting of trees is an objective of Council.
- ◆ This objective can also be achieved through the development of other "Parks and Recreation" areas and planting of trees along streets.
- ◆ The City of Armadale currently plants about 18,000 trees per year.


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### 8. More Parks required in Armadale

- ◆ Council assessed the provision of Parks and Reserves in Armadale and particularly in the vicinity of Carawatha Avenue and determined that the area is well served with reserves.
- ◆ Armadale is arguably one of the best Councils in the metropolitan area in terms of the provision of public open space to residents.
- ◆ Armadale has more parks than most other Council's in the metropolitan area.


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### CONSIDERATION OF SUBMISSIONS

- ◆ Most objections were difficult to sustain on objective planning grounds or matters raised could be addressed at Development Application stage.
- ◆ Council did note however, that:
  - ◆ many of the submissions did not come from the immediate locality;
  - ◆ lot 60 is owned by the City in fee simple and is not a 20A Reserve;
  - ◆ there is generous provision of POS in the locality;
  - ◆ lot 60 is an asset owned by the whole of the community of the City of Armadale. The value of that asset will be preserved for the benefit of residents; and
  - ◆ the City already has many more parks than comparable municipalities in the metropolitan area.


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### CONSIDERATION OF SUBMISSIONS

- ◆ Council noted the significant numbers of submitters opposed to the rezoning.
- ◆ Determination of a rezoning is never made on the "weight" of numbers.
- ◆ Submissions with town planning merit and substantiated objections were taken into consideration and where appropriate, others, by Council.
- ◆ Council deliberated over the "Pioneer Park/Entry Statement" concept, but was not convinced that this site was suitable for that purpose.


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### CONSIDERATION OF SUBMISSIONS

- ◆ Council was required to make a difficult and complex decision regarding the future of Lot 60.
- ◆ At each stage, Council has followed the appropriate procedures, allowing for comprehensive and proper community consultation.
- ◆ It was Council's responsibility to weigh all the arguments put forward as part of the rezoning and consider each submission on objective planning grounds.


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### CONSIDERATION OF SUBMISSIONS

- ◆ There is no loss of amenity or quality of life by virtue of Amendment No.163.
- ◆ However, the Special Use Provision Table which will be incorporated into the Town Planning Scheme as part of the rezoning process will ensure that:-
  - ◆ a comprehensive landscaping and fencing plan is submitted;
  - ◆ vehicle access is restricted to Carawatha Avenue;
  - ◆ a traffic management study is submitted; and the overall design that reflects a level of integration and consistency with the surrounding built environment.


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**SOME TYPICAL SUBMISSIONS**

- Why take away more natural heritage and prize parkland only to replace it with a concrete monstrosity.


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**SOME TYPICAL SUBMISSIONS**

- I am concerned at the loss of yet another area zoned recreation.


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**SOME TYPICAL SUBMISSIONS**

- We have not got enough parks as it is.


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**SOME TYPICAL SUBMISSIONS**

- I don't want to see ribbon commercial development along Albany Highway.


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**SOME TYPICAL SUBMISSIONS**

- Oppose rezoning as the land has been set aside for POS since 1973. If the park is lost, I will no longer be able to enjoy walks with my dog.


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**SOME TYPICAL SUBMISSIONS**

- We need to leave some nature strips for everyone to enjoy, too many are being used for development.

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### SOME TYPICAL SUBMISSIONS

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- Object to rezoning. It is an important role of Council to provide district attractions and strategically placed POS for the use and enjoyment of all residences of the district, not just one developer.

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### SOME TYPICAL SUBMISSIONS

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- Object to rezoning. It is a slur on the Council that it has been undeveloped as a “Parks & Recreation” space for so long. We have been waiting patiently for this to happen but now we hear it is going to be a deli.

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### SOME TYPICAL SUBMISSIONS

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- Council must be crazy to destroy park lands on Highway for the sake of concrete ribbon development.

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### SOME TYPICAL SUBMISSIONS

---

- Object to rezoning. Council has to provide POS for the use and enjoyment of all residents of the district.

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### SOME TYPICAL SUBMISSIONS

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- Too many parks have been lost.

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### SOME TYPICAL SUBMISSIONS

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- Retain as is. Units would lead to an increase in traffic and crime.

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### SOME TYPICAL SUBMISSIONS

- Too many parks being lost to development.  
Don't destroy existing public amenity for  
the sake of one developer.

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