

REPORT OF THE CHIEF EXECUTIVE OFFICER

CJ120 - 06/05 SPECIAL MEETING OF ELECTORS HELD ON 2 MAY 2005 - [85558] [75029] [38221]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Chief Executive Officer

PURPOSE

For the Council to give consideration to the resolutions passed at the Special meeting of electors held on 2 May 2005.

EXECUTIVE SUMMARY

As requested by the electors of the City of Joondalup, a special meeting of electors was held on 2 May 2005 to discuss issues relating to the CSIRO site at Lot 61 Leach Street, Marmion.

The Minutes of the Special meeting of electors were submitted to Council at its meeting on 17 May 2005. Given the number and complexity of the resolutions carried at the Special Electors' Meeting it was not practicable to provide detailed responses to that meeting and Council resolved that a report to be submitted to the meeting of Council to be held on 7 June 2005 giving consideration to the resolutions carried at the Special Meeting of Electors held on 2 May 2005.

This report now provides the responses and proposed recommendations to resolutions carried at the Special Meeting of Electors.

BACKGROUND

A Special Meeting of Electors was convened following receipt of a 129-signature petition from electors of the City of Joondalup.

The purpose of the meeting was to discuss the following:

- 1 Lot 61 Leach Street, Marmion – The CSIRO Site – Zoning Application:
 - The inadequacy of public open space (POS) in the suburb of Marmion and the City's inconsistency in its understanding of the 10% POS allocation for Marmion.
 - How the best interests of the Marmion community are served by the City approving the CSIRO site for a commercial benefit.
 - Why the City and the applicant have not sought dialogue with the Marmion community on the future of the CSIRO site.

- Approval of zoning will result in the destruction of the last remnant coastal vegetation in Marmion contrary to the City's policy on biodiversity protection.
- The precedent set by the community in protecting the POS in two previously failed rezoning attempts.
- The use of the CSIRO site and its facilities for an Indian Ocean Tsunami warning centre.

2 Community Facilities in Marmion

- The lack of community facilities in Marmion.
- The future provision of community facilities in Marmion.
- The degradation of the coastal foreshore reserve by fishermen during the abalone season.

3 Any other business arising from the floor

A report was submitted to the Council meeting held on 17 May 2005, presenting the minutes of the Special meeting of Electors. At that Council meeting, it was resolved to:

- 1 NOTE the minutes of the Special Meeting of Electors held on 2 May 2005, forming Attachment 1 to Report CJ099-05/05;
- 2 REQUEST a report to be submitted to the meeting of Council to be held on 7 June 2005 giving consideration to the resolutions carried at the Special Meeting of Electors held on 2 May 2005;
- 3 NOTES that the WA Planning Commission has been advised of the general tone and tenor of the Special Meeting of Electors meeting.

Suburb/Location: Lot 61 (14) Leach Street, Marmion
Applicant: Chappell and Lambert Pty Ltd
Owner: Marmion Estate Pty Ltd
Zoning: **DPS:** Local Reserves "Parks and Recreation"
MRS: Urban

DETAILS

In accordance with the provisions of the Local Government Act 1995, a Special Meeting of Electors was held on 2 May 2005 to the CSIRO site at Lot 61 Leach Street, Marmion.

Consideration has been given to the resolutions carried at that Special meeting of electors and a response to each motion is provided below.

Electors' Resolution No 1

MOVED Stephen Kobelke, 1 Hawkins Avenue, Sorrento SECONDED Terry Thorp, 75 High Street, Sorrento that Commissioners hold an urgent special full Council meeting and RESCIND the motion to rezone Lot 61 Leach Street, Marmion (the CSIRO site) and following that meeting instruct the Chief Executive Officer of the City of Joondalup to contact the Minister for Local Government advising the rezoning decision has been reversed and request the Minister to appoint an eminent person to investigate all matters relating the sale and rezoning process of Lot 61 Leach Street, Marmion (the CSIRO site).

The Motion was Put and

CARRIED

Electors' Resolution No 2

MOVED Noal Gannon, 79 Clontarf Street, Sorrento SECONDED Jim McNamara, 39 Seacrest Drive, Sorrento that Commissioners should be aware that the present City policy is allowing the creation of residential in-fill blocks in Marmion, which will put extra pressure on the current inadequate public open space. Rezoning of Lot 61 Leach Street, Marmion will only aggravate this problem and should not proceed.

The Motion was Put and

CARRIED

Electors' Resolution No 3

MOVED Eve Cohen, 12A Troy Avenue, Marmion SECONDED Veronica McKinnon, 2 Malloway Court, Sorrento that the decision to rezone Lot 61 Leach Street, Marmion be RESCINDED in favour of Mr K A Adam's very definite disapproval of rezoning.

The Motion was Put and

CARRIED

Electors' Resolution No 4

MOVED William Cohen, 12A Troy Avenue, Marmion SECONDED Jim McNamara, 39 Seacrest Drive, Sorrento that the Commissioners RESCIND their decision and DEFER the consideration of Lot 61 Leach Street, Marmion until an elected Council can deal with it.

The Motion was Put and

CARRIED

Electors' Resolution No 5

MOVED Terry Thorp, 75 High Street, Sorrento SECONDED Noal Gannon, 79 Clontarf Street, Sorrento that we, the electors REQUEST the Commissioners to note that the community perception is that the submissions were not read by the decision-makers. The report advises that it only deals with the planning issues, but the submissions contained other relevant factors. Therefore we, the electors of the City of Joondalup request the Commissioners to RESCIND their decision of the rezoning of Lot 61 Leach Street, Marmion until such time as all submissions and issues raised have been taken into account as expressed at this evening's meeting.

The Motion was Put and

CARRIED

Electors' Resolution No 8

MOVED Michelle John, 36 West Coast Drive, Sorrento SECONDED Terry Thorp, 75 High Street, Sorrento that:

- 1 Commissioners REVOKE their earlier decision to allow the rezoning of the site, Lot 61 Leach Street, Marmion from Parks and Recreation to Urban Development;*
- 2 the records of this meeting are forwarded to the Planning Authorities advising them of the outcomes of this meeting.*

The Motion was Put and

CARRIED

Officer's Comment in relation to Electors' Resolutions 1, 2, 3, 4, 5 and 8

Request for rescission or deferral

Various resolutions were passed by electors, calling for rescission or deferral of the amendment proposal.

The rezoning process is established within the Town Planning Regulations 1967 (as amended). The process is administered and overseen by the Western Australian Planning Commission (WAPC) with that authority advising the Minister for Planning and Infrastructure. The Minister has the determining power in regard to amendments.

The Council's consideration of the amendment and issues arising has been documented and reported in accordance with the Town Planning Regulations.

The Council's evaluation of the rezoning application forms part of a process that is regulated by the WAPC. Advice of the Council's resolution passed on 5 April (to support the rezoning) was passed to the WAPC by letter dated 18 April 2005.

Final determination of the amendment rests with the Minister after taking consideration of the advice of the WAPC and the recommendation of Council incorporating the community's comments.

Legal advice has been sought concerning this issue, and in particular on the question of whether the Council could consider the adoption of a motion to revoke its support for the District Planning Scheme (DPS) amendment and resolve that it did not wish to proceed with the amendment.

The advice is that the Council has complied with its requirements under the Town Planning Regulations. Further, there is a risk of challenge to the Council if it was to purport to revoke its decision on the basis that it has already made a decision and completed its functions under the Town Planning Regulations.

In summary, the City's solicitor advised that it would be inappropriate and imprudent if the Council were to revoke its earlier resolution and purport to revisit its earlier decision under Regulation 17 (Town Planning Regulations 1967).

In giving this advice, the solicitors were cognisant of the extent of community involvement and number of representations that the Council had received, all of which intimate a high degree of awareness of the issues surrounding the proposal to amend the DPS.

In dealing with the rezoning application for Lot 61 Leach Street, Marmion, the Council has to date received and answered over 180 questions from the public.

In addition, the Council received over 740 submissions on the amendment, copies of which were available to the Council. The submissions were also summarised in the report that the Council considered when it resolved to finalise the amendment.

Independent review of the process

As stated above, the rezoning process is administered and overseen by the WAPC with that authority advising the Minister for Planning and Infrastructure. The Minister has the determining power with regard to amendments.

As part of its consideration and before passing its recommendations to the Minister, the WAPC is required to satisfy itself that due process has been followed.

Adequacy of public open space in the area

Open space within the locality does not display evidence of overuse, and it is not considered that is overused.

There are a number of facilities and spaces within or very close to Marmion that attract usage due to the quality of the spaces available. The coastal dual use path and surrounding beaches provide a beach related recreational experience, inland parks provide for active and passive recreation, and in the near vicinity Star Swamp bushland reserve also provide a substantial native passive recreation area for walking and enjoyment of the bushland.

Density of proposed development

The suburb of Marmion has been zoned at a residential density that is equivalent to the R20 coding since 1972. The intended density and possible lot sizes for houses within the suburb has not changed. With the impending installation of deep sewerage reticulation, the suburb has the opportunity where appropriate to meet the permissible density requirements.

The proposed amendment incorporates a density of development that is consistent with that of the surrounding area, and the likely form of subdivision will also reflect a close relationship with the existing urban form on surrounding streets.

A vast majority of the City's suburbs are zoned at the same R20 residential density as Marmion.

Alternate rezoning proposal

The application and the indicative subdivision considered by the Council reflected a strong correlation with the prevailing surrounding zoning and the existing built form.

The scenario presented by Mr Adam is notional only, and its focus is on a critique of the proposal put by the landowner. The scenario was included as an attachment to a submission put by a group of residents from the area.

If the scenario for a more dense development on part of the land were developed into a more detailed planning submission, then it would be able to be given detailed assessment by the Council. In summary it is noted that the scenario may well have presented new and contentious issues, such as:

- (a) The consistency of an alternate proposal with the scale of development of the surrounding land
- (b) The most appropriate residential density for the site
- (c) The value of the vegetation that could be retained
- (d) The requirements for private open space for new residents in a cluster style development
- (e) Impact on vegetation to be retained, and
- (f) The height of the notional development.

Consideration of special electors meeting outcomes

Under the District Planning Scheme, the Council is obliged to consider proper planning reasons when it makes decisions. Recent case law and legal advice has recommended that the Council does not make decisions for other than proper town planning reasons.

Due consideration should be given to the planning related concerns being expressed by the community, balanced with the wider planning objectives of the City as expressed through its District Planning Scheme.

Recommended Response

That Council NOTES that:

- 1 legal advice received recommends that the Council consider applications based on planning grounds;**
- 2 legal advice received recommends that Council does not depart from due process established by legislation;**
- 3 the minutes of the Special Electors meeting have already been provided to the Western Australian Planning Commission (WAPC) for its information and consideration;**
- 4 scheme amendment proposals are independently reviewed by the WAPC as part of its evaluation and recommendations (to the Hon Minister for Planning and Infrastructure) leading to final determination;**

- 5 it is cognisant that the process is administered by the WAPC and can be advanced given that the Council has fulfilled its statutory role;
- 6 Marmion carries the same residential density coding for residential development as the vast majority of the City's residential zoned land, and further that the density has remained largely unchanged since 1972;
- 7 there are open spaces located within and conveniently close to Marmion;
- 8 any application lodged for alternate development of the land may result in new issues arising that would require considerable careful deliberation, including:
 - (a) The consistency of an alternate proposal with the scale of development of the surrounding land;
 - (b) The most appropriate density of the site;
 - (c) The value of the vegetation that could be retained;
 - (d) The requirements for private open space for new residents and impact on vegetation to be retained;
 - (e) The height of the notional development.

Electors' Resolution No 6

That we, the electors of the City of Joondalup, REQUEST that:

- 1 *future developments/rezoning that affect the well-being of the local community be advertised in the local newspapers and signage at the said site to allow 30 days' community input before any prior decision by Council to proceed with the request by the applicant for consideration of their proposal;*
- 2 *an explanation of the rezoning/recoding proposed be provided in plain English that ratepayers can understand, not only in planning terms.*

The Motion was Put and

CARRIED

Officer's Comment

The Council is only in a position to advertise proposals in relation to development applications and planning scheme amendments as such proposals are lodged with the Council. It is not always readily possible to foresee what proposals may affect the community until those proposals are lodged and assessed.

In terms of the number of proposals advertised, the Council invites comment from several thousands of residents each year by way of letter, and more broadly increases awareness and invites comment by the use of signage on proposed development sites where the interested community extends beyond the realm of immediately adjoining neighbours.

In the case of rezoning proposals, a period of 42 days is allowed for comment under normal circumstances. In the case of development applications, periods of 14 to 28 days are typically allowed, depending on the nature and significance of the application.

In response to recent requests, the Council has introduced an administrative process where amendment proposal signage will be increased in size, with plain English being used wherever possible to explain the proposal under assessment.

Recommended Response

That Council:

- 1 NOTES that proposals to rezone or develop land are subject to advertising with the following underlying principles in mind:**
 - (a) Council meets statutory requirements as a minimum standard;**
 - (b) Proposals are advertised to a degree, which commonly exceeds statutory requirements, often including extending advertising periods, and detail reporting to decisions makers on the number of submissions received;**
- 2 COMMITS to examine optimum ways in which advertisements can be enhanced to provide clear information about the nature of proposals in Plain English, the number and location of on-site signage, the size of on-site signage and the opportunities to view plans and obtain further information.**

Electors' Resolution No 7

Mr Noel Gannon, 79 Clontarf Street, Sorrento:

- At the Briefing session held on 8 March 2005 the Council was informed, on page 45 of the draft agenda, that the West Australian Planning Commission had granted an extension until 11 May 2005 for Council to consider submissions on Lot 61 Leach Street, Marmion and a decision taken must be forwarded to the Minister for Planning and Infrastructure within 28 days of that decision. This allowed 91 days for a decision to be made.*
- The Council took the decision on 5 April 2005 to rezone the site, being 63 days before the expiry of the extension which had been requested by the Council. What happened to cause the urgency of this decision, particularly after Council had requested the extension which expired on 7 June 2005 and full public consultation had not taken place?*

MOVED NOAL Gannon, 79 Clontarf Street, Sorrento SECONDED Michelle John 36 West Coast Drive, Sorrento that the above information be included in the minutes of this meeting and an answer be forthcoming at the next ordinary Council meeting.

The Motion was Put and

CARRIED

Officer's Comment

In accordance with the Town Planning Regulations, the Council has a 42-day period in which it must determine the outcome of the public advertising period. With this proposal being deferred, the Council liaised with the Department of Planning and Infrastructure in an effort to gain an extension of the statutory time limit. The response by the WAPC was to grant an extension of time that was sufficient to allow the proposal to be reconsidered twice by the Council in the event that this might be needed.

Recommended Response

That Council NOTES the comments made by Mr N Gannon at the Special Meeting of Electors, and advised him that:

- 1 his comments were duly recorded in the minutes of the Special Meeting of Electors held on 2 May 2005;**
- 2 the Western Australian Planning Commission granted an extension of time that was sufficient to allow the Council to consider the matter at a second meeting, should it be deferred at the first meeting.**

Electors' Resolution No 9

MOVED Michelle John, 36 West Coast Drive, Sorrento SECONDED Veronica McKinnon, 2 Mulloway Court, Sorrento that given the bias by the City's Planning officers in the Briefing reports to the Commissioners regarding the rezoning of Lot 61 Leach Street, Marmion a vote of no confidence be put in the Planning officers involved with this rezoning application and REQUEST that an investigation be made through the current McIntyre Inquiry or alternatively through the office of the Minister for Local Government in regard to all matters relating to the rezoning application of Lot 61 Leach Street, Marmion.

The Motion was Put and

CARRIED

Officer's Comment

The issue is outside the terms of reference of the McIntyre Inquiry, and the matters do not fall within the ambit of the Department of Local Government and Regional Development.

Matters relating to the processes for applications for rezoning are governed by the WAPC.

Recommended Response

That Council NOTES the vote of no-confidence in the planning officers involved in the rezoning application of Lot 61 Leach Street, Marmion and takes no further action.

Electors' Resolution No 10

MOVED Michelle John, 36 West Coast Drive, Sorrento SECONDED Reg Went, 7 Leach Street, Marmion, that Council significantly overhauls its Public Participation Policy, particularly in regard to contentious rezoning applications and includes more formal and rigorous assessment of the local community and ratepayers' interests, which includes more than an advertisement in the local newspaper or an erected sign on the site.

The Motion was Put and

CARRIED

Officer's Comment

The Council is bound to follow procedure outlined by legislation where that is established. For matters relating to Town Planning Scheme Amendment proposals, the Town Planning Regulations specify the manner in which:

- 1 proposals are advertised
- 2 requirements to collate submissions
- 3 requirements to respond to issues raised, and
- 4 provide Council recommendations to the WAPC

The Council is currently undertaking a major review of all its policies, which includes its Public Participation Policy. The Town Planning legislation may place restrictions on the application of this policy.

Recommended Response

That Council NOTES that it is required to follow due statutory process in the advertising of various planning proposals according to the laws and applicable regulations.

Electors' Resolution No 11

MOVED Veronica McKinnon, 2 Malloway Court, Marmion SECONDED William Cohen, 12A Troy Avenue, Marmion REQUEST that Commissioners provide a report outlining their planning justification for approving the rezoning of Lot 61 Leach Street, Marmion known as the CSIRO site.

The Motion was Put and

CARRIED

Officer's Comment

The reports on the various stages of the amendment proposals are available on the Council's website and are public documents. The reports constitute the information that was provided to facilitate the consideration of the proposal and the adoption of the amendment.

Recommended Response

That Council NOTES that:

- 1 the reports and resolutions of the Council are on the public record and readily available on the City's website, at its Libraries or Customer Service Centres;**
- 2 it made its decision on the basis of those reports, the submissions received and comments from the community, and its knowledge of the location.**

Electors' Resolution No 12

MOVED Ralph Prestage, Lot 34 Northshore Drive, Mullaloo SECONDED Terry Thorp, 75 High Street, Sorrento that Commissioners act solely on the directions and motions agreed to at this meeting.

The Motion was Put and

CARRIED

Officer's Comment

In evaluating proposals and issues, the Council does take into account relevant professional advice. Relevant professional advice is required to be provided under legislation, and decisions of the Council should be within the ambit as allowed by legislation.

The Council is governed in its functions and abilities by the limits prescribed by legislation. The powers of the Council are directed by that provided by legislation.

Legal advice received over a number of issues has provided case law and interpretation where it is suggested that members of the Council should limit consideration of planning issues to proper planning matters.

Recommended Response

That Council NOTES that it may consider issues it believes relevant in making resolutions, regardless of the origin of information that comes before it, and in doing so, the Council's obligations to follow statutory procedures and consider relevant information are also noted.

Electors' Resolution No 13

MOVED Michelle John, 36 West Coast Drive, Marmion SECONDED William Cohen, 12A Troy Avenue, Marmion that Commissioners:

- 1 *inform the community when and where the Council intends to provide community facilities in the Marmion area, given the expected population explosion that is likely to occur as a result of the current housing sewerage in-fill programme, bring approximately 200 extra families, with no bush and little public open space;*
- 2 *ADVISE what is provided in the forthcoming budget.*

The Motion was Put and

CARRIED

Officer's Comment

The suburb of Marmion is serviced by a number and wide variety of community facilities. The following table details existing facilities located from the centre of Marmion:

Name	Address	Distance from Marmion	Facilities
Percy Doyle Reserve	Cnr Marmion Avenue and Warwick Road	2 km	17 ha of public open space incorporating Leisure Centre, Library, Senior Citizen's Club, Community Hall, Child Care Centre, Bowling Greens, Tennis Courts, Croquet Greens, Netball Courts, 4 x clubroom facilities
Sorrento Hall	Geneff Park	2.5 km	There is \$80,000 in the 2004/05 budget to upgrade this facility. Council officers recently met with architects to discuss the project.
Sorrento Surf Life Saving Club	West Coast Highway	3 km	Community Hall, meeting rooms.
Robin Reserve	Parnell Avenue	1 km	Public Open Space, toilets, changerooms.
Marri Reserve	Marri Road	3 km	Public Open Space, toilets, changerooms.

In addition, there are a number of Community Facilities and Public Open Spaces located within the City of Stirling at Carine Open Space, Star Swamp, Flora Terrace and Charles Riley reserve (all within 5 km).

The facilities within the City referred to above are generally not fully utilised and would be able to cope with the increase in population referred to in the resolution.

As part of the 2004/05 financial year, the following capital works have taken place in Marmion:

- Parnell Avenue – Marmion Avenue to High Street – local road traffic management works - \$80,000
- Syree Court – new path construction - \$5,000

- St Patrick's Road – road resurfacing works
- Hasper Place – road resurfacing works
- Parnell Avenue – road resurfacing works.

The following capital works are listed for consideration in Marmion for 2005/06:

- Beach Road, Marmion – local road traffic management works - \$200,000
- Marmion Pre-school, High Street – school parking project - \$40,000
- Subject to funds available in the 2005/06 budget, the high priority roads earmarked for resurfacing include:
 - Cann Place
 - Jagoe Court
 - Greig Close
 - Arkwell Way
 - Lane Four (laneway south of Marine Terrace, between Ford Street and Parnell Avenue)

It is also noted that in the surrounding areas of Sorrento and Duncraig a number of other capital projects have also been undertaken in 2004/05 as well as proposed projects being considered as part of the 2005/06 budget considerations. This includes the redevelopment of the Sorrento Beach foreshore at an estimated cost of \$4 million.

Recommended Response

That Council:

- 1 NOTES the comments raised regarding community facilities in the Marmion area;**
- 2 REFERS the matter of funding of community facilities within the Marmion locality to the Strategic Financial Management Committee for consideration.**

Electors' Resolution No 14

MOVED Michael Walters, 38 Cliff Street, Marmion SECONDED Michael Caiacob, 7 Rowan Place, Mullaloo that Council obtains a report either through a consultant or the resources of the City, looking at alternative uses for the site.

The Motion was Put and

CARRIED

Officer's Comment

The land is held in private ownership, and under normal circumstances, private landholders put proposals for the use or redevelopment of land.

In this case, the proposal brought forward was for the use of the land for residential purposes

Recommended Response

That Council NOTES that it has resolved that the use of the land for residential purposes at an equivalent density to that allowable on surrounding land, is appropriate for the site.

Electors' Resolution No 15

MOVED Michael Caiacob, 7 Rowan Place, Mullaloo SECONDED Terry Thorp, 75 High Street, Sorrento that the City:

- 1 makes representation and deputation to the relevant authorities with a view to permanently protecting the Marmion marine park and the coastal foreshore reserves by abolishing public abalone season within the City of Joondalup or restricting it to definitive zones;*
- 2 advises that this abolition of the public abalone fishing or restriction to limited zones does not extend to the current controlled commercial abalone fishermen operating within the area.*

The Motion was Put and

CARRIED

Officer's Comment

Based on past experiences, the unrestricted access to the foreshore during the public abalone fishing season has created some issues in relation to the management of the natural foreshore and associated infrastructure. Restricted zones may assist in managing these issues. Such change to the regulations is a State issue and in view of this, it will be referred to the responsible state agency for determination.

Recommended Response

That Council REFERS the matter of abalone fishing as resolved at the Special Meeting of Electors held on 2 May 2005 to the Department of Fisheries.

Electors' Resolution No 16

MOVED Trevor Prestage, Lot 32 Northshore Drive, Mullaloo SECONDED Michael Walters, 38 Cliff Street, Marmion that the Council approaches the Heritage Council with a view to the buildings being classified as heritage listed in their present condition.

The Motion was Put and

CARRIED

Officer's Comment

Heritage and Conservation Professionals undertook a heritage assessment of the site on behalf of the CSIRO in March 2003. The report states that the former marine research facility is a representative example of a Commonwealth government facility developed in the 1970's, but it is not rare.

The report concluded that while the former marine research facility is considered to be of some scientific significance for its role in the field of marine science, the assessment did not find any other grounds for assessing the place to be of cultural heritage significance.

Recommended Response

That Council NOTES that a heritage assessment for the land has already been undertaken, and that the assessment concluded that the buildings were not rare in their character, nor were there cultural or heritage reasons why the development should be listed as having cultural heritage significance.

Electors' Resolution No 17

MOVED Terry Thorp, 75 High Street, Sorrento SECONDED Michelle John, 36 West Coast Drive, Sorrento that we the electors of the City of Joondalup want the opportunity to instigate an elector-initiated referendum and make it a policy of the City. If there is 100 signatures from each of the wards of electors on a particular issue, the electors can then vote by referendum on the matter and the result is binding on our elected Council.

The Motion was Put and

CARRIED

Officer's Comment

It is understood that community/ratepayers/electors/citizen initiated referendums are not recognised at Federal, State or Local level and are therefore not binding on any tiers of government. The coordinating of such referendums would be at considerable cost to the City, but the exact amount would vary based on the number of persons involved.

The Council is currently required by various pieces of legislation to consult the community to ascertain their views on various matters. Such legislation includes the Town Planning and Development Act, District Planning Scheme and Local Government Act. One option legislated within the Local Government Act is where there is a concern, is for the public (a minimum of 100 electors) or 1/3 of the members of the Council to request that a special electors meeting be convened. Once the request is received, the Mayor (Chairman) is required to hold the meeting within 35 days of the request being received. Such meetings allow the electors to express to the Council their views on the matter(s) of concern and carry resolutions for consideration by the Council.

The Council is also expending considerable effort in reviewing its public participation policy, which will detail the level of participation by the public on various matters. It is hoped that this policy will engage the community on various matters to seek the community's input during the decision making process.

Recommended Response

That Council, as a result of the existing legislated requirements for the Council to consult with the community and the pending review of the Council's public participation policy, DOES NOT implement elector initiated referendums.

Issues and options considered:

The various issues and options available have been canvassed within the comment section addressing each individual resolution carried at the Special meeting of Electors.

Link to Strategic Plan

- Outcome The City of Joondalup is an interactive community.
- Objective 4.3 To ensure the City responds to and communicates with the community.
- Strategy 4.3.3 Provide fair and transparent decision-making processes.

Legislation – Statutory Provisions:

Decisions made by electors at an Electors’ Meeting are the recommendations of those electors present, on the matters discussed and considered at the meeting. As with recommendations made at Council committee meetings, they are not binding on the Council. However, the Council must consider them.

Section 5.33 of the Local Government Act 1995 detailed below covers this matter:

Decisions made at Electors’ Meetings

- 5.33 (1) All decisions made at an Electors’ Meeting are to be considered by the Council at the next ordinary council meeting or, if this is not practicable –
- (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose,
- whichever happens first.
- (2) If at a meeting of the Council a local government makes a decision in response to a decision made at an Electors’ Meeting, the reasons for the decision are to be recorded in the minutes of the Council Meeting.

Risk Management considerations:

There is a risk of a legal challenge if the Council revoked its decision of 5 April 2005.

Financial/Budget Implications:

Not applicable

Policy implications:

Not applicable

Sustainability implications:

Not applicable

Consultation:

The Special Meeting of Electors was held in accordance with the Local Government Act 1995. Local public notice was provided of the meeting, which notified the electors of the City and afforded them the opportunity to attend.

COMMENT

Resolutions carried at the Special Meeting of Electors have been addressed individually and are submitted to the Council for consideration.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council, in regard to the resolutions carried at the Special Meeting of Electors held on 2 May 2005:

1 in relation to Resolutions 1, 2, 3, 4, 5 and 8, NOTES that:

- (a) legal advice received recommends that the Council consider applications based on planning grounds;**
- (b) legal advice received recommends that Council does not depart from due process established by legislation;**
- (c) the minutes of the Special Electors meeting have already been provided to the Western Australian Planning Commission (WAPC) for its information and consideration;**
- (d) scheme amendment proposals are independently reviewed by the WAPC as part of its evaluation and recommendations (to the Hon Minister for Planning and Infrastructure) leading to final determination;**
- (e) it is cognisant that the process is administered by the WAPC and can be advanced given that the Council has fulfilled its statutory role;**
- (f) Marmion carries the same residential density coding for residential development as the vast majority of the City's residential zoned land, and further that the density has remained largely unchanged since 1972;**
- (g) there are open spaces located within and conveniently close to Marmion;**

- (h) any application lodged for alternate development of the land may result in new issues arising that would require considerable careful deliberation, including:
 - (i) The consistency of an alternate proposal with the scale of development of the surrounding land;
 - (ii) The most appropriate density of the site;
 - (iii) The value of the vegetation that could be retained;
 - (iv) The requirements for private open space for new residents and impact on vegetation to be retained;
 - (v) The height of the notional development.

- 2 in relation to Resolution 6:
 - (a) NOTES that proposals to rezone or develop land are subject to advertising with the following underlying principles in mind:
 - (i) Council meets statutory requirements as a minimum standard;
 - (ii) Proposals are advertised to a degree, which commonly exceeds statutory requirements, often including extending advertising periods, and detail reporting to decisions makers on the number of submissions received;
 - (b) COMMITS to examine optimum ways in which advertisements can be enhanced to provide clear information about the nature of proposals in Plain English, the number and location of on-site signage, the size of on-site signage and the opportunities to view plans and obtain further information.

- 3 in relation to Resolution 7, NOTES the comments made by Mr N Gannon at the Special Meeting of Electors, and advised him that:
 - (a) his comments were duly recorded in the minutes of the Special Meeting of Electors held on 2 May 2005;
 - (b) the Western Australian Planning Commission granted an extension of time that was sufficient to allow the Council to consider the matter at a second meeting, should it be deferred at the first meeting.

- 4 in relation to Resolution 9, NOTES the vote of no-confidence in the planning officers involved in the rezoning application of Lot 61 Leach Street, Marmion and takes no further action;

- 5 in relation to Resolution 10, NOTES that it is required to follow due statutory process in the advertising of various planning proposals according to the laws and applicable regulations;

- 6 in relation to Resolution 11, NOTES that:

- (a) the reports and resolutions of the Council are on the public record and readily available on the City's website, at its Libraries or Customer Service Centres;
 - (b) it made its decision on the basis of those reports, the submissions received and comments from the community, and its knowledge of the location
- 7 in relation to Resolution 12, NOTES that it may consider issues it believes relevant in making resolutions, regardless of the origin of information that comes before it, and in doing so, the Council's obligations to follow statutory procedures and consider relevant information are also noted;
- 8 in relation to Resolution 13:
 - (a) NOTES the comments raised regarding community facilities in the Marmion area;
 - (b) REFERS the matter of community facilities within the Marmion locality to the Strategic Financial Management Committee for consideration;
- 9 in relation to Resolution 14, NOTES that it has resolved that the use of the land for residential purposes at an equivalent density to that allowable on surrounding land, is appropriate for the site;
- 10 in relation to Resolution 15, REFERS the matter of abalone fishing as resolved at the Special Meeting of Electors held on 2 May 2005 to the Department of Fisheries;
- 11 in relation to Resolution 16, NOTES that a heritage assessment for the land has already been undertaken, and that the assessment concluded that the buildings were not rare in their character, nor were there cultural or heritage reasons why the development should be listed as having cultural heritage significance;
- 12 in relation to Resolution 17, as a result of the existing legislated requirements for the Council to consult with the community and the pending review of the Council's public participation policy, DOES NOT implement elector initiated referendums.