

# CITY OF JOONDALUP

## MINUTES OF SPECIAL MEETING OF ELECTORS HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON FRIDAY 4 JULY 2008

### DECLARATION OF OPENING

The Mayor declared the meeting open at 1926 hrs.

### ATTENDANCES

#### Mayor:

TROY PICKARD

#### Councillors:

Cr KERRY HOLLYWOOD	North Ward
Cr TOM McLEAN	North Ward
Cr ALBERT JACOB	North-Central Ward
Cr TRONA YOUNG	North-Central Ward
Cr MARIE MACDONALD	Central Ward
Cr GEOFF AMPHLETT	Central Ward
Cr MICHELE JOHN	South-West Ward
Cr MIKE NORMAN	South-West Ward
Cr SUE HART	South-East Ward
Cr BRIAN CORR	South-East Ward
Cr RUSS FISHWICK – <i>Deputy Mayor</i>	South Ward

#### Officers:

MR GARRY HUNT	Chief Executive Officer
MR CLAYTON HIGHAM	Director, Planning & Community Development
MS GLENDA BLAKE	Acting Director, Governance & Strategy
MR MIKE SMITH	Manager, Governance & Marketing
MR CHRIS TERELINCK	Manager, Approvals, Planning & Environmental Services
MR MARK McCRORY	Media Advisor
MRS JANET FOSTER	Administrative Services Coordinator

In attendance were 396 electors and ratepayers registered to vote during the meeting and one member of the press.

Mayor Pickard welcomed all persons present and called upon the Chief Executive Officer to read the following Clauses of the City of Joondalup Standing Orders Local Law 2005:

- Clause 33 – Members not to interrupt;
- Clause 36 – Presiding Person to be heard without interruption;
- Clause 37 – No adverse reflection;
- Clause 40 – Presiding person to draw attention of meeting to unbecoming behaviour;
- Clause 45 – Preservation of Order – Members of the Public.

## **APOLOGIES**

Cr Fiona Diaz  
Mr Malcolm Spies and Mrs Sarah Spies  
Dr Vincent Cusack

## **PURPOSE OF THE MEETING**

This meeting has been called in accordance with the provisions of Section 5.28 of the Local Government Act 1995. Mayor Pickard outlined the requirements of the Local Government Act 1995 in relation to the convening of special electors meetings.

The meeting was advertised in the:

- Community Newspaper on 26 June 2008 and 3 July 2008, and
- West Australian on 18 June 2008,

and the notice of the meeting was also placed on the City's website and public notice boards.

Mayor Pickard advised that at the ordinary meeting of the Council held on 13 May 2008, he declared an interest that may affect impartiality, as his father-in-law is an employee of the Sacred Heart College. Mayor Pickard stated that declaring an interest that may affect impartiality does not preclude an elected member from voting on the matter. The Local Government Act 1995 states that every member present at a Council meeting who does not have a financial interest must vote when required to do so.

Mayor Pickard outlined the requirements for speaking and voting at this special meeting of electors.

The matters to be discussed at the special meeting are:

- 1 Council's approval of item CJ081-05/08 Sacred Heart College, Sorrento - Auditorium and Classroom Additions including Canteen: Lot 16 (15) Hocking Parade, Sorrento.
- 2 Policy 3.4 Height and Scale of Buildings within the Coastal Area – Non Residential Zones.
- 3 Amendment No. 32 to DPS-2.

- 4 Notice to raise motion other than that recommended by the City Officers and processes followed in the preparation of the alternative Motion of Approval.
- 5 Setting of Precedents for other coastal developments within the City of Joondalup.
- 6 Legal and other options.
- 7 Alternative design options to bring the proposed development into compliance.
- 8 Mayor Pickard's reported comments as published in the Joondalup Times dated 27 May 2008 and the Joondalup Weekender dated 5 June 2008 in relation to the Sacred Heart College development.
- 9 Mayor Pickard's declaration of Interest Affecting Impartiality.

### **Presentation**

A presentation was made in relation to the development application for Sacred Heart College, Sorrento - Auditorium and Classroom Additions including Canteen: Lot 16 (15) Hocking Parade, Sorrento – Appendix 1 refers.

### **MEETING OPEN TO THE FLOOR - PUBLIC QUESTION TIME/MOTIONS**

**MOVED Ms Susan Hayes, 1 Hawkins Avenue, Sorrento SECONDED Mr Terry Thorpe, 75 High Street, Sorrento that Council requests the City of Joondalup's Director of Planning to seek to work with Sacred Heart College to redesign the development such that it better meets the intent of Policy 3-4, with Council providing quick approval of the redesign so as not to unnecessarily delay the development.**

The following persons spoke to the Motion:

Ms Kim Endersby, 20 Grasslands Loop, Kingsley;  
 Mr Stuart Hawkins, 14B Raleigh Road, Sorrento;  
 Mr Michael Caiacob, 7 Rowan Place, Mullaloo;  
 Mr Clayton Lawrence, 38 Angler Way, Sorrento;  
 Mr Stephen Kobelke, 1 Hawkins Avenue, Sorrento;  
 Mr Trevor Chapman, 5 Sottogrande View, Connolly.

### **The Motion was Put and**

**LOST**

**Votes in favour of the Motion:**

9

**Votes against the Motion:**

The majority of persons present voted against the Motion. In view of the large number in attendance, no formal count was conducted.

**MOVED Mr Stuart Hawkins, 14B Raleigh Road, Sorrento SECONDED Mr Terry Thorpe, 75 High Street, Sorrento that Council declares publicly that it will adhere to Interim Policy 3-4 and pending Amendment No 32 to District Planning Scheme No 2 regarding Height and Scale of Buildings within the Coastal Area, for all future planning matters.**

The following persons spoke to the Motion:

Mr Stuart Hawkins, 14B Raleigh Road, Sorrento;  
Mr Stephen Kobelke, 1 Hawkins Avenue, Sorrento.

**The Motion was Put and**

**LOST**

**Votes in favour of the Motion:**

11

**Votes against the Motion:**

The majority of persons present voted against the Motion. In view of the large number in attendance, no formal count was conducted.

**MOVED Mr Michael Caiacob, 7 Rowan Place, Mullaloo, SECONDED Ms Susan Hayes, 1 Hawkins Avenue, Sorrento that Council writes to the Minister for Planning and Infrastructure requesting that she immediately adopts Amendment 32 to District Planning Scheme No 2 regarding Height and Scale of Buildings within the Coastal Area.**

The following persons spoke to the Motion:

Mr Michael Caiacob, 7 Rowan Place, Mullaloo;  
Mr Stephen Kobelke, 1 Hawkins Avenue, Sorrento.

**The Motion was Put and**

**LOST**

**Votes in favour of the Motion:**

21

**Votes against the Motion:**

The majority of persons present voted against the Motion. In view of the large number in attendance, no formal count was conducted.

**MOVED Mr Stephen Wren, 95/1 Padbury Circle, Sorrento SECONDED Mr Clayton Lawrence, 38 Angler Way, Sorrento that:**

- 1 Council affirms its decision to support motion CJ081-05/08 Sacred Heart College that approves additional buildings for the school;**
- 2 the meeting affirms that this decision for approval is consistent with the Council's duty to improve amenity for the City and its constituency for both now and the future; and**
- 3 the meeting also records a motion of confidence in Crs John, Amphlett, Diaz, Hart, Hollywood, Jacob Young, and Mayor Pickard.**

The following persons spoke to the Motion:

Mr Stephen Wren, 95/1 Padbury Circle, Sorrento;  
Mr Stuart Hawkins, 14B Raleigh Road, Sorrento;  
Mr Stephen Kobelke, 1 Hawkins Avenue, Sorrento.

**The Motion was Put and****CARRIED****Votes in favour of the Motion:**

The majority of persons present voted in favour of the Motion. In view of the large number in attendance, no formal count was conducted.

**Votes against the Motion:****5**

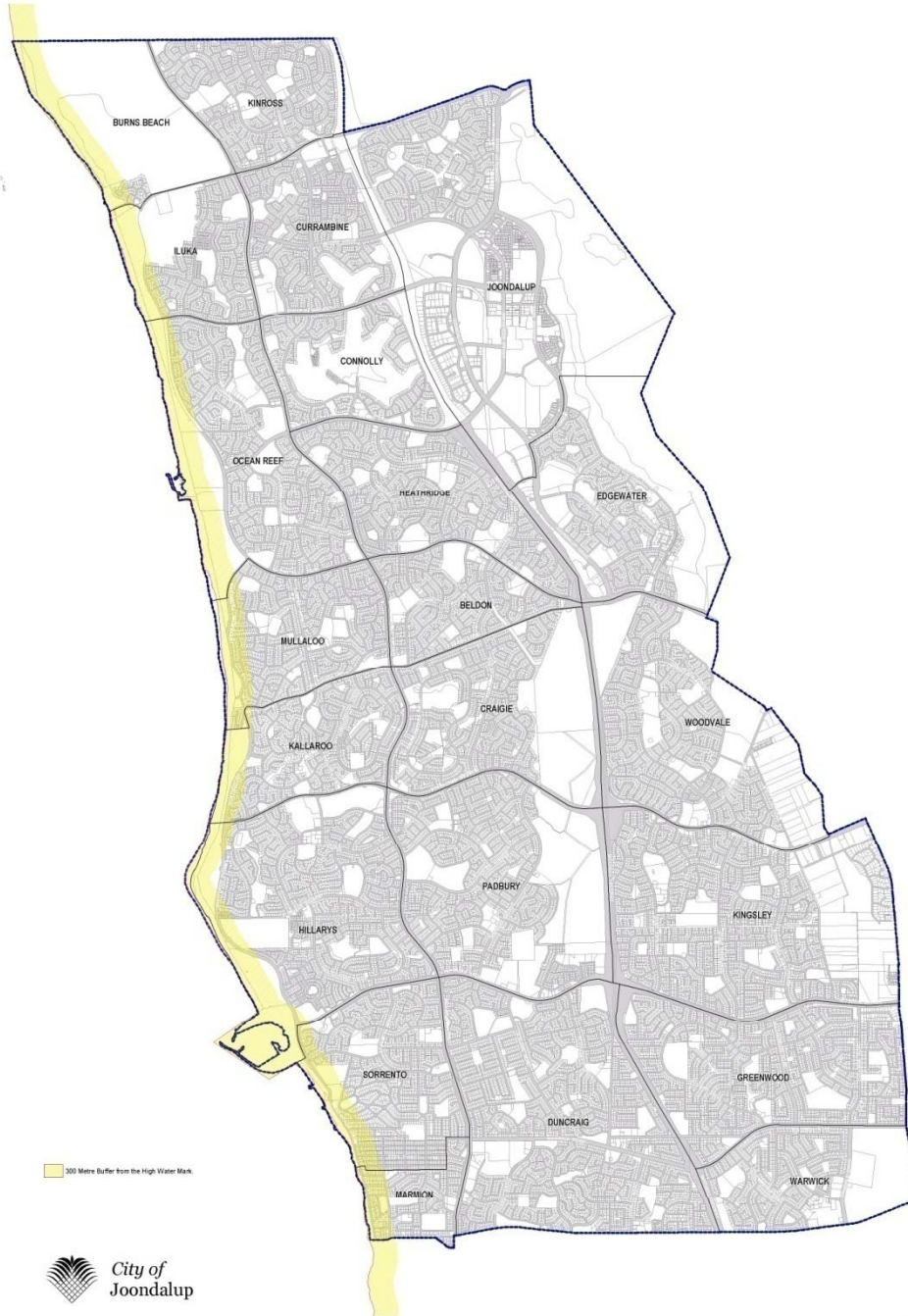
**MOVED Mr Stephen Wren, 95/1 Padbury Circle, Sorrento SECONDED Mr Clayton Lawrence, 38 Angler Way, Sorrento that the meeting records its thanks and appreciation in recognition of the City's administration, staff and Councillors for their efforts and expense in conducting this meeting tonight.**

**The Motion was Put and****CARRIED UNANIMOUSLY****CLOSE OF BUSINESS**

Mayor Pickard congratulated all persons present for the courteous and professional manner in which the meeting had been conducted, and thanked them for the overwhelming support shown for the Council's decision in relation to the Sacred Heart College application. Mayor Pickard stated he looked forward to the construction of what will be a wonderful facility not only for Sacred Heart College but for the wider community.

There being no further business, the Mayor declared the Meeting closed at 2053 hrs.

# SACRED HEART AUDITORIUM

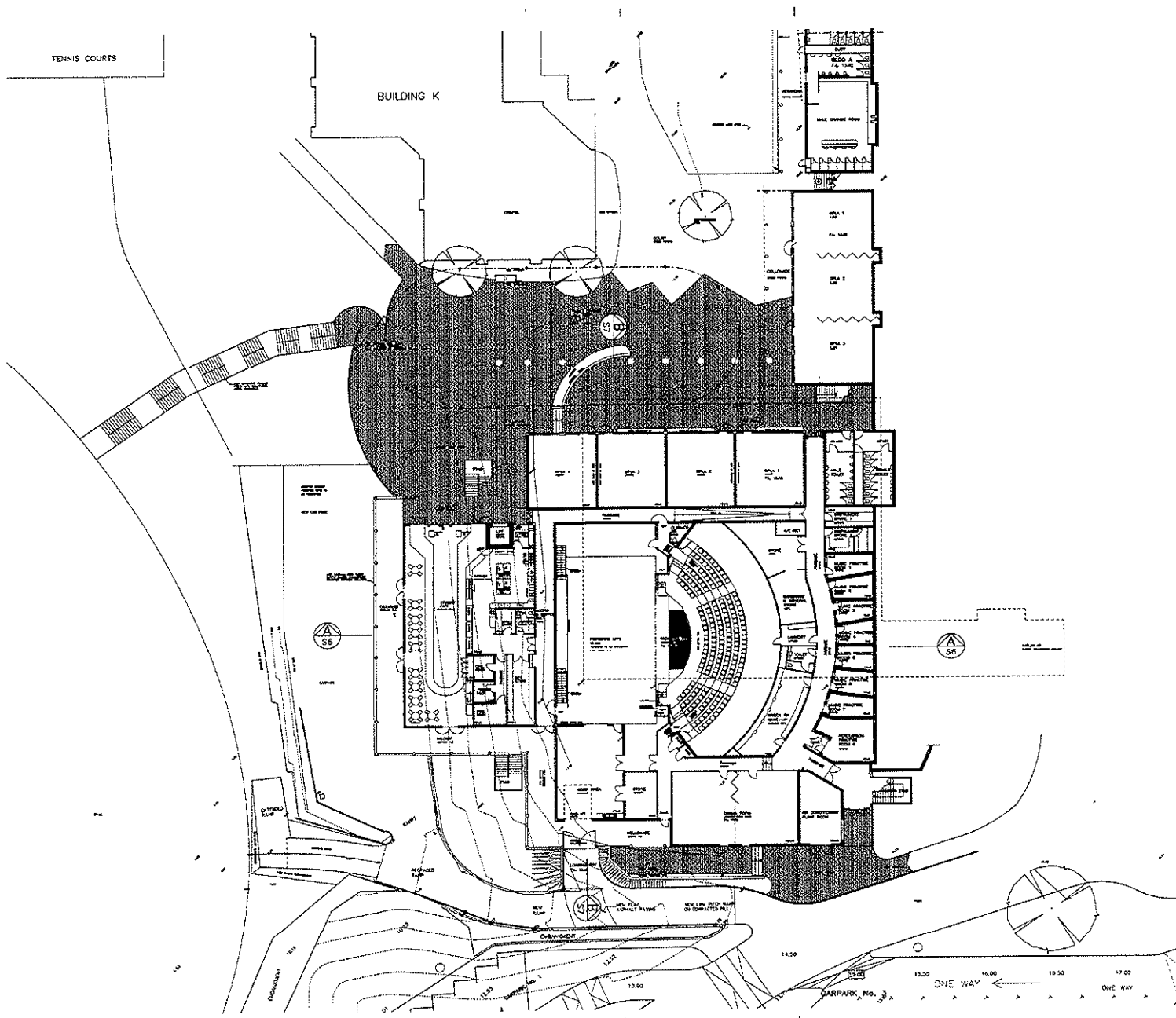


# LOCATION PLAN

Application  
 lodged 10  
 December 2007

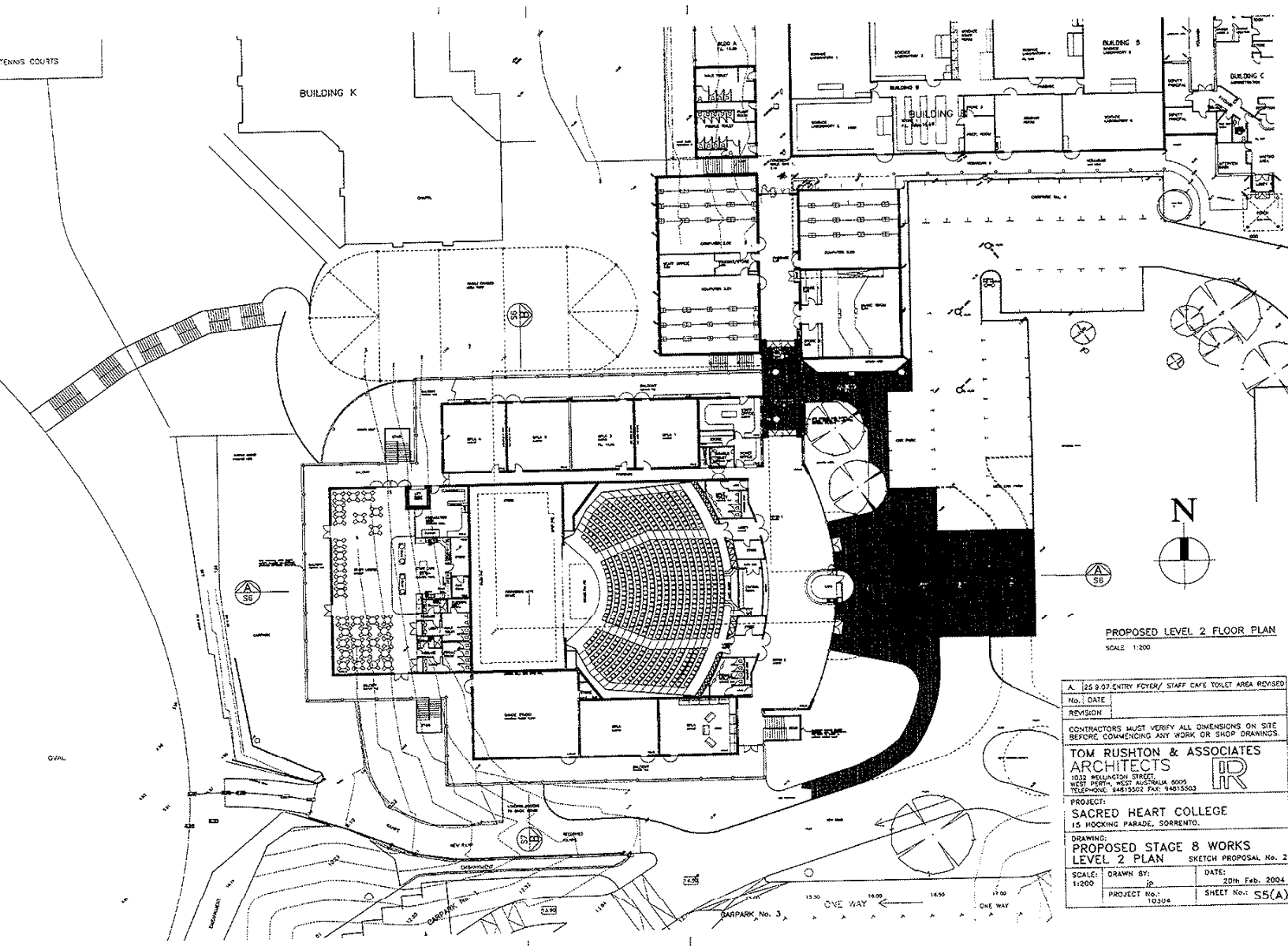






PROPOSED LEVEL 1 FLOOR PLAN  
SCALE 1:200

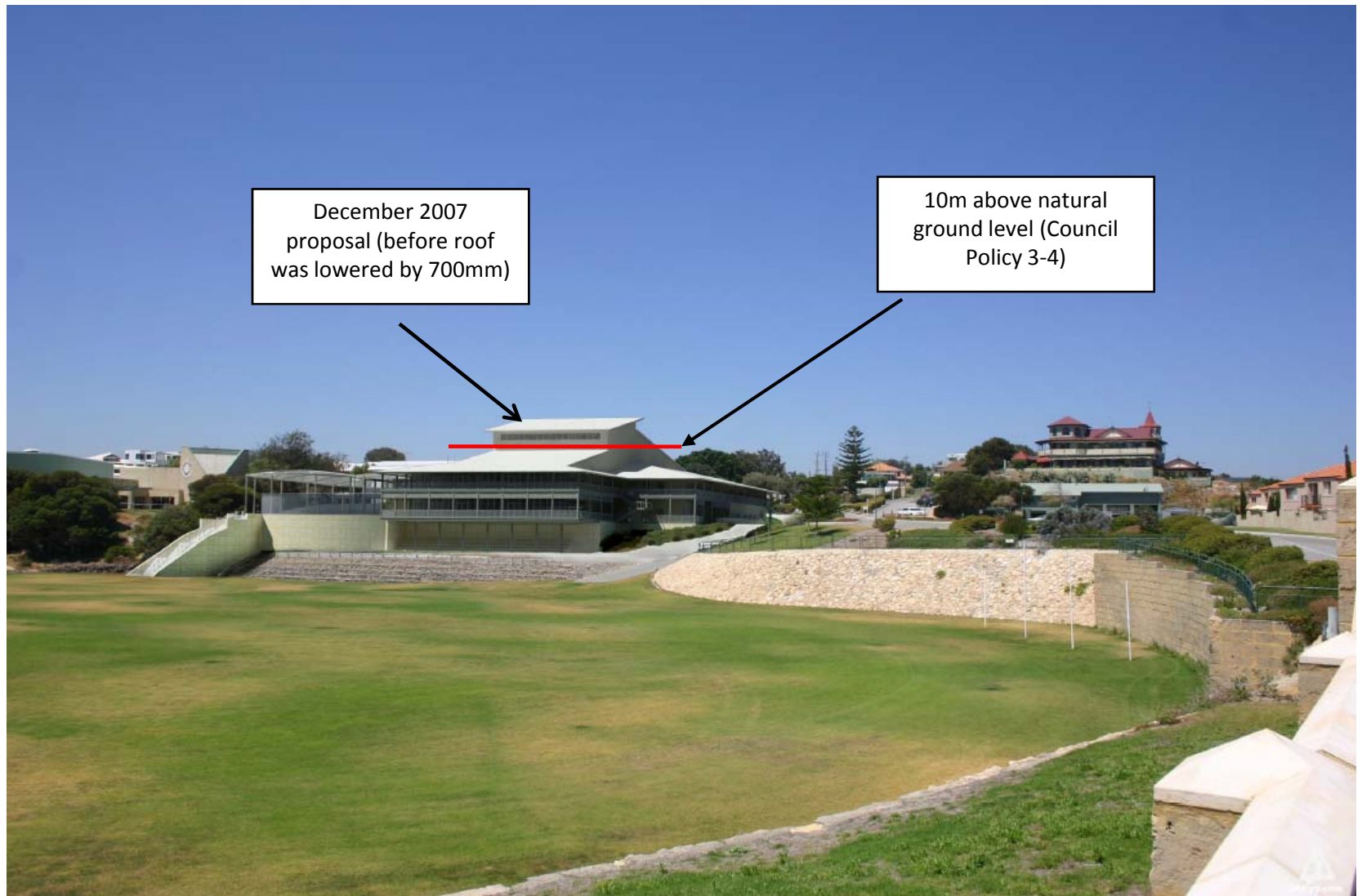
A. 26.9.07 CAFE INCREASED SOUTH/GREEN ROOM ALT.	
No.	DATE
REVISION	
CONTRACTORS MUST VERIFY ALL DIMENSIONS ON BEFORE COMMENCING ANY WORK OR SHOP DRAW	
<b>TOM RUSHTON &amp; ASSOCIATES</b> <b>ARCHITECTS</b> 1032 WELINGTON STREET, WEST PERTH, WEST AUSTRALIA 6005 TELEPHONE: 94815502 FAX: 94815503	
PROJECT: <b>SACRED HEART COLLEGE</b> 15 HOCKING PARADE, SORRENTO.	
DRAWING: <b>PROPOSED STAGE 8 WORKS</b> <b>LEVEL 1 PLAN</b>	
SCALE: 1:200	DRAWN BY: jp DATE: 20th March PROJECT No.: 10207
	SHEET No.: S



PROPOSED LEVEL 2 FLOOR PLAN  
SCALE 1:200

A. 25.9.97 ENTRY FOYER/ STAFF CAFE TOILET AREA REVISED	
NO.	DATE
REVISION	
CONTRACTORS MUST VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING ANY WORK OR SHOP DRAWINGS.	
<b>TOM RUSHTON &amp; ASSOCIATES</b> <b>ARCHITECTS</b> 1032 WELLINGTON STREET WEST PERTH, WEST AUSTRALIA 6005 TELEPHONE: 94815502 FAX: 94815503	
PROJECT: <b>SACRED HEART COLLEGE</b> 15 HOCKING PARADE, SORRENTO.	
DRAWING: <b>PROPOSED STAGE 8 WORKS</b> <b>LEVEL 2 PLAN</b> SKETCH PROPOSAL No. 2	
SCALE: 1:200	DRAWN BY: JR
PROJECT No.: 10304	DATE: 20th Feb. 2004
	SHEET No.: S5(A)

**Modified Montage of the Proposed Development before the 700mm lowering**





# **Assessment of Proposal**

## **Key Issues identified**

- Increase in school capacity
- Potential parking and traffic issues
- Size of new building
- Public consultation
- Council height policy and proposed DPS amendment
- Amenity

# Invitation to make public submissions from 7 February to 28 February 2008



RESPONSE RECEIVED: 20 non objections, 85 objections and 8 letters of support

## **Height of Non-Residential Development Along the Coastline**

### **2004**

The Minister for Planning and Infrastructure recommends that the Council consider the introduction of Commercial height controls for land along the coastal strip.

### **18 October 2005**

Policy Committee recommends to Council that a new policy be prepared on building height and scale that includes areas within 300 metres of the coastline.

### **1 November 2005**

Council resolves to adopt the Policy Committee recommendation.

### **29 November 2005**

Policy Committee recommends to Council that the draft Policy, and Amendment No 32 to DPS2, be advertised for public comment (advertising of DPS2 amendment not to commence until the New Year). The report noted that 8 non residential sites were identified. The identified sites are:

1. West Coast Drive/The Plaza, Sorrento. Commercial area
2. West Coast Drive/ The Plaza, Sorrento. Sorrento Beach Resort
3. Oceanside Promenade, Mullaloo. Commercial site
4. Sacred heart College
5. Northshore Country Club, Kallaroo
6. West Coast Drive/ Hepburn Ave harbour Rise. Commercial Area
7. Iluka Structure Plan – commercial area
8. Burns beach shop precinct

### **13 December 2005**

Council adopts the draft Local Planning Policy and Amendment 32 for the purposes of advertising.

## **Height of Non-Residential Development Along the Coastline – cont.**

### **21 February 2006**

Council considers submissions and adopts the Local Planning Policy. The policy was intended to be a guiding regulation until the DPS amendment was finalised (through its longer statutory process).

### **4 April 2006**

Council adopts Amendment 32 to DPS2, and forwards to WAPC.

### **31 May 2007**

Minister for Planning and Infrastructure, via WAPC, advises of concerns in regard to the proposed amendment, and requests that the amendment be reconsidered.

### **May-Dec 2007**

Further research undertaken, plans watching brief on WAPC response to coastal height in Cottesloe as indicator of state government objectives.

### **5 February 2008**

Canvassed Elected Members

### **18 April 2008**

Letter to Minister with background report and requesting comments.

## POLICY 3-4 HEIGHT OF BUILDINGS WITHIN THE COASTAL AREA (NON-RESIDENTIAL ZONES)

**STATUS:** **Council Policy** - A strategic policy that sets governing principles and guides the direction of the organisation to align with community values and aspirations.

Council policies are developed by the Policy Committee for approval by Council.

**RESPONSIBLE DIRECTORATE:** Planning and Community Development

**OBJECTIVE:** To ensure that the height of all development within the coastal area (non-residential zones) is sympathetic to the protection and enhancement of the amenity and streetscape character of the surrounding area.

### Definitions

1 "Natural Ground Level" :

- (i) means the ground level as formed by nature; or
- (ii) where a level exists other than the ground level as formed by nature, and that level is the subject of all approvals required by law to authorise that level, means that level.

"Height": when used in relation to:

- (i) a building used exclusively for residential purposes, has the same meaning given to it in the Codes; or
- (ii) a building used other than exclusively for residential purposes, means the vertical distance measured at any point from the natural ground level to the uppermost part of the building above that point excluding any chimney or vent pipe.

### STATEMENT

1. This Policy applies to all land, including local reserves, subject to the provisions of District Planning Scheme No 2, other than land within the Residential Zone. The Policy does not apply to land Reserved under the Metropolitan Region Scheme.
2. On land within 300 metres of the horizontal set back datum of a coast, as defined in the Western Australian Planning Commission's Statement of Planning Policy 2.6, buildings shall not exceed 10 metres in height.

## SUSTAINABILITY

This Policy promotes Council's sustainability objectives by:

- Allowing the development of small community activity hubs near the coast that provide facilities for the local and wider community to enjoy, and that add to the social wellbeing of the community,
- Allowing small, low-rise activity nodes that will not lead to the over-development of the coastal area, and that will assist in maintaining the unique coastal setting,
- Limiting the potential overshadowing of adjoining areas, including beach areas, and limiting the visual impact of development on the coastal strip,
- Attracting small businesses and additional employment opportunities to the area,
- Attracting visitors to the City of Joondalup

Amendments: CJ026-02/06

Related Documentation: District Planning Scheme No 2  
Delegated Authority Manual  
Council Sustainability Policy 2-1

Issued: February 2006

## **Proposed DPS Amendment**

### **District Planning Scheme No 2 – Amendment No 32**

1 A new clause 4.17 is added as follows:

4.17 BUILDING HEIGHT

- 4.17.1 This clause applies to all land other than land within the residential Zone.
- 4.17.2 On land within 300 metres of the horizontal set back datum of a coast, as defined in the Western Australian Planning Commission's Statement of Planning Policy 2.6, buildings shall not exceed 10 metres in height.
- 4.17.3 Notwithstanding any other provision of the Scheme including clause 4.5, and notwithstanding any provision of an Agreed Structure Plan, the Council shall not approve an application for planning approval of a proposed development which does not comply with clause 4.17.2

2 Schedule 1 is amended as follows:

(i) the definition "height" is deleted and the following definition is substituted:

"height: when used in relation to:

- (a) a building used exclusively for residential purposes, has the same meaning given to it in the codes; or
- (b) a building used other than exclusively for residential purposes, means the vertical distance measured at any point from the natural ground level to the uppermost part of the building above that point excluding any chimney or vent pipe."

(ii) by adding the following new definition:

"natural ground level:

- (a) means the ground level as formed by nature; or
- (b) where a level exists other than the ground level as formed by nature, and that level is the subject of all approvals required by law to authorise that level, means that level.

## **Additional Information**

Applicants provided information to respond to issues as follows:

### **Parking/Traffic**

Sacred Heart provided information about the use of the auditorium and methods of proposed parking control for out of hours school events.

### **Size/Bulk**

Sacred Heart provided amended plans which included lowering the proposed roof by 700mm.

## **Council Briefing Session – 6 May 2008**

- Report provided to Councillors at the Briefing Session of 6 May 2008
- Sacred Heart College made a presentation to the Briefing Session
- Report provided which recommended refusal
- Elected members sought assistance in drafting an alternate recommendation

## **Council Meeting 13 May 2008**

- Council considered motion to approve the development with conditions.
- Proposed conditions of approval included:
  - a) Traffic management plan to be prepared
  - b) Controls over location of plant and equipment
  - c) Controls over use of auditorium
  - d) Control over use of reflective roofing/materials
  - e) Other normal and standard conditions

## **Alternate Recommendations**

- Elected members not fettered solely by administrative recommendations
- Can and do request recommendations to assist with debate at Council meeting
- Role of the City is to support that process and decision making by Council

## **Precedent**

- Each application to be considered on its own merits
- Legal advice and State Administrative Tribunal experience – precedent does not automatically apply
- Precedent might apply if development proposals, site conditions and planning considerations were exactly the same in the case of an application that was identical (in regard to characteristics) as one previously determined.