

WANGARATTA RURAL CITY COUNCIL



MINUTES OF THE SPECIAL MEETING
OF THE WANGARATTA RURAL CITY COUNCIL, HELD
IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES,
62-68 OVENS STREET, WANGARATTA
ON **FRIDAY, 8 FEBRUARY 2013** COMMENCING AT 4.00PM

Doug Sharp
CHIEF EXECUTIVE OFFICER

As at 13/02/13 11:02 AM

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1. **ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

2. **OPENING PRAYER**

3. **PRESENT**

Chairperson: Councillor R Parisotto, Mayor
Councillor N Amery; Councillor T Atkins; Councillor J Fidge; Councillor D Joyce;
Councillor L McInerney; Councillor P O'Brien.

Officers Present:

Mr Doug Sharp, (Chief Executive Officer); Mr Ray Park, (Director Sustainability);
Mr Andrew Close (Director Infrastructure Services); and Ms Ruth Tai (Director
Community Wellbeing)

4. **ABSENT**

Nil

5. **ACCEPTANCE OF APOLOGIES & GRANTING OF LEAVE OF ABSENCE**

Nil

ORDER OF BUSINESS

6. **CONFLICT OF INTEREST DISCLOSURE**

Nil

7. **BUSINESS**

(Moved: Councillor P O'Brien/Councillor N Amery)

That:

- 1. the Order of Business be changed to first deal with Confidential Item 8;
and***
- 2. the meeting be closed to members of the public to discuss contractual
arrangements and a matter which the Council considers would
prejudice the Council or any person.***

Carried

The meeting adjourned to the Councillor's Meeting Room at 4:15pm.

The meeting returned to the Council Chambers at 4:50pm.

(Moved: Councillor P O'Brien/Councillor L McInerney

That the public be readmitted to the meeting.

Carried

7.1.1.1 MULTI-DECK CAR PARK PROPOSAL: WANGARATTA CBD

Parking Areas

83.130.002

Introduction

Negotiations and arrangements with the developers of the Target Shopping Centre to partner in the associated car parking, have reached a stage where a decision is required from Council to proceed with the development.

Background

A number of decisions and reports have influenced the negotiations now being finalised:

1. 2030 Community Vision

The 2030 Community Vision identified a "Multi-Deck Car Park, strategically located, caters for the vast bulk of vehicles coming into the CBD each day". "The CBD is bustling and active...compact and lively regional centre".

2. Wangaratta Retail Audit and Development Plan Review / Ovens Riverside Precinct Study

The Retail Audit identified that Wangaratta's compact CBD was a strength and point of difference that should be maintained. The Audit recommended reinforcing the existing town centre structure through intensification of particular precincts, including key retail developments, such as new, major anchor tenants.

3. GTA Consultants Car Parking Solution Wangaratta CBD Report

This report identified the need for 300 car parking spaces to meet future needs and growth by 2030; 140 untimed and 160 timed for retail purposes. Untimed should be in satellite car parks in close proximity to the CBD; timed in a centralised location within the CBD. The report concluded that a multi-storey car park was justified, but was only feasible if Council constructed it in partnership with a future, large-scale commercial development.

4. Wangaratta Car Parking Strategy adopted by Council in May 2011

This was based on the GTA Consultant findings with a resolution that:
'short-term parking spaces are to be provided in a future multi-storey car park within the CBD area and long-term car parking provided in satellite car parks adjacent to the CBD area'.

5. Council Plan

“Implement the Wangaratta Central Activities Area Car Parking Strategy”.

Proposal

Pursuant to fulfilling the above, negotiations occurred with Prudential Commercial Investments Pty Ltd, (PCI) which is the owner of the shopping centre known as the Co-Store on the corner of Reid and Ovens Streets, Wangaratta.

PCI are redeveloping the Co-Store with the majority of the site (approximately 10,000 m²) becoming retail space along with a multi-level car park above the retail area on the ground floor.

PCI have themselves been in negotiations with Target to anchor the redevelopment. The proposal being finalised is for:

- Major retailer to occupy 2,843m² of retail space and approximately 580m² of back of house and office.
- A further 328m² will be provided for other retail.
- 610m² for a medical centre.

Car parking requirements for the total redeveloped site are 219 car parking spaces.

Council's negotiations have been to partner with PCI to build a third deck to provide an additional 145 car spaces, making 364 in total over three decks.

Two independent pieces of advice were sought on this proposal; from Deloitte and Fosters Infrastructure (who specialise in assessing joint venture car parks). In addition, specialist legal advice was received to ensure statutory requirements and other issues were addressed, including those of Local Government Victoria.

Memorandum of Understanding

At a Special Council meeting on 31 May 2012 Council resolved to adopt a Memorandum of Understanding (MOU) that had been developed with PCI. The MOU noted that PCI would design and construct a three storey car park and that Council would enter into a Licence with PCI that gave Council the right to occupy part of the car park.

The key elements of the MOU are:

1. Council to licence 145 spaces (not lease or have equity share). This was recommended by Council's solicitors (see 2.).
2. Public access is available to all 364 spaces on any floor (which is not possible under the leasing option, where individual car park spaces for exclusive use by Council would have to be identified).
3. Council's licence is protected by a Section 173 agreement which is legally binding regardless of future owner.

4. Council's participation is conditional on a major retailer being the anchor tenant and the Additional Construction Cost of building the third deck being acceptable.
5. Licence term is 20 years with 2 x 10 year options at Council's absolute discretion.
6. Licence fee is based on capital cost less Council's share of income derived from the fees net of operating and maintenance costs.
7. Maximum net licence fee amount payable by Council is 9.85% of the Additional Construction Cost indexed per annum.
8. Additional Construction Cost to be subject to expert review of replacement cost every 5 years rather than just being indexed.
9. Car parking fees will apply, commencing at the rate of \$1.00 per hour.
10. Council bears no construction or operating risk and is indemnified against any third party claims for damages, injury, etc.
11. Operating hours: 6:00am to midnight.
12. PCI to be the operator of the car park.
13. Comprehensive reporting regime protecting Council's interest to be established.

Four pre-conditions that must be satisfied before the licence comes into effect are:

1. That the commercial arrangements between PCI and Target have been concluded;
2. Council is satisfied that there is no inconsistency between the Target arrangements and the terms of the Agreement including the Licence;
3. PCI has provided proposed standards for construction and operation of car park; and
4. Council and PCI have agreed on the Additional Construction Cost or the fixed lump sum cost of the car park.

Issues

The matters for Council consideration are:

1. Commercial arrangements between PCI and Target.
PCI have provided a copy of the lease with Target Australia.

2. Terms of MOU and Licence and Target arrangements.
A review can be completed by Council's solicitor to ensure that there are no inconsistencies between the Target agreement and the Licence.
3. Proposed standards of construction and maintenance.
PCI are proposing to provide satisfactory construction and operational standards within 30 days of executing the licence agreement.
4. Agreement on Additional Construction Costs or fixed lump sum cost of car park.
PCI have now provided a firm estimate that the Additional Construction Cost arising from the construction of the third level is \$3.8m. PCI have provided a high level breakdown of the construction and other costs related to the project.

Implications

The proposal developed provides for Council to share in the income generated by the multi-deck car park, less maintenance and operating costs, on a proportional basis of licenced car spaces to total car spaces. On this basis, the greater net income reflecting higher usage, the less net cost to Council in licence fees.

Finance

The additional construction cost of \$3.8m is within the acceptable range of costs that were established early in the life of this proposal.

The Council report in regard to the MOU contained an estimated annual net cost to Council of between \$175,000 and \$225,000 per annum for the provision of an additional 145 car parking spaces to the public carparking pool.

Financial modelling based on the confirmed Additional Capital Cost of \$3.8m puts the annual cost within that range at approximately \$224,000. (***Refer Confidential Attachment***).

Conclusion

The proposal, as provided for in the MOU, achieves Council's aim of securing a major retail tenant for Wangaratta's CBD in keeping with the vision of retaining a compact yet vibrant CBD. At the same time, it provides for Council's forecast short-stay car parking needs in the CBD up until 2030 in accordance with the adopted Car Parking Strategy.

The proposal minimises Council's risk exposure while not tying up equity funds that could be invested elsewhere for community purposes.

The proposal rested on there being an acceptable Additional Capital Cost for construction of the third deck of the multi-storey car park as the basis for Council's licence fee over 145 spaces in the 364 space capacity. This has now come in at \$3.8m, leading to a net annual cost to Council of approximately \$225,000 which is within the acceptable parameters established.

At the meeting Mr Doug Sharp, Chief Executive Officer, advised Council of a fifth recommendation:

That the license agreement will be subject to PCI providing satisfactory standards for the operation of the car park noted in clause 5 of the schedule of the MOU within 30 days of executing the license agreements.

(Moved: Councillor D Joyce/Councillor T Atkins)

Recommendation

That Council:

- 1. Acknowledge that the pre-conditions of the Memorandum of Understanding adopted by Council on 31 May 2012 (MOU) between the Rural City of Wangaratta and Prudential Commercial Investment Pty Ltd (PCI) have been, or will shortly be met, including an acceptable Additional Capital Cost of \$3.8m to build the third deck of the Multi-Deck Car Park.**
- 2. Enter into a licence agreement with PCI in accordance with the terms of the MOU under which PCI will operate and maintain the car park and Council will be entitled to occupy and use (on a non-exclusive basis) the car park for the term provided for in the MOU.**
- 3. Prepare a S173 agreement in accordance with the terms of the MOU which will incorporate the licence agreement, for lodgement on title by PCI.**
- 4. Refer the licence agreement to PCI for its endorsement prior to execution by Council.**
- 5. That the license agreement will be subject to PCI providing satisfactory standards for the operation of the car park noted in clause 5 of the schedule of the MOU within 30 days of executing the license agreements.**

(Moved: Councillor J Fidge/Councillor P O'Brien)

That this matter lay on the table until the Ordinary Council Meeting of 19 February 2013, to allow further analysis.

Councillor T Atkins raised a Point of Order that, as Councillor J Fidge had already spoken to the original motion; he could not move that the motion lay on the table.

Councillor R Parisotto, Mayor, ruled that the motion could not be accepted under *Local Law No.2 of 2009*.

The original motion was then put.

Carried

Councillor P O'Brien requested a division and the results were:

***For: Councillor R Parisotto, Mayor; Councillor T Atkins;
Councillor D Joyce and Councillor L McInerney.***

***Against: Councillor J Fidge; Councillor P O'Brien; and
Councillor N Amery;***

8. CONFIDENTIAL BUSINESS

Local Government Act 1989. - a matter under Section 4/ Division 4 (***refer confidential attachment***).

9. CLOSURE OF MEETING

The meeting closed at 5:20pm