

Councillor Briefing - [12 May 2009, Supermarket Development]

This briefing is prepared for the Director of Health, Building & Community Services' Report tabled at the Ordinary Meeting of Council on the 12th May 2009 regarding the Supermarket Development Application.

Information regarding Development Application

Mr Mayor, today we as Councillors have been asked a big task. To either approve or reject the development application for the supermarket and specialty shop development.

As Councillors, we have a difficult task imposed upon us by evaluating this application and that our decision complies with the various Acts, Regulations and Statutory Instruments. We also have the responsibility of honour our role as Elected Representatives.

When evaluating this application in accordance with Section 79c of the *Environmental Planning and Assessment Act 1979 No 203* there are three important Clauses to consider:

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and **social and economic** impacts in the locality,
- (c) the **suitability of the site for the development**,
- (e) **the public interest**.

Pursuant to Section 79C Clause b) social and economic impacts in the locality, I take this opportunity to draw attention to the spirit of the Commonwealth's *Trade Practices Act 1974* which does not apply to this determination, but I believe its elements should be considered.

Mr Mayor, I will explain competition:

“... Competition may be valued for many reasons as serving economic, social and political goals. But in identifying the existence of competition in particular industries or markets, we must focus upon its economic role as a device for controlling the disposition of society's resources.

Thus we think of competition as a mechanism for discovery of market information and for enforcement of business decisions in the light of this information.

[1] It is a mechanism, first, for firms discovering the kinds of goods and services the community wants and the manner in which these may be supplied in the cheapest possible way. Prices and profits are the signals which register the play of these forces of demand and supply.

[2] At the same time, competition is a mechanism of enforcement: firms disregard these signals at their peril, being fully aware that there are other firms, either currently in existence or as yet unborn, which would be only too willing to encroach upon their market share and ultimately supplant them. *I will make further reference to this paragraph later.*

Competition is a dynamic process; but that process is generated by market pressure from alternative sources of supply and the desire to keep ahead.

...effective competition requires both that prices should be flexible, reflecting the forces of demand and supply, and that there should be independent rivalry in all dimensions of the price-product-service packages offered to consumers and customers.

So why do I refer to all of this? Section 79C Clause e) refers to the public interest. In this context I use the public benefit test used by the Australian Competition & Consumer Commission and the Australian Competition Tribunal. Some of the outcomes in the test are:

- Expansion of employment and prevention of unemployment in efficient industries or employment growth in particular regions
- Promotion of competition in industry
- Promotion of equitable dealings in the market
- Economic development, through capital investment
- Assistance to small business, for example guidance on costing or pricing or marketing initiatives which promote competitiveness
- Improvement in the quality and safety of goods and services and expansion of consumer choice, and
- Better information to consumers and business to allow informed choices in their dealings.

Mr Mayor, I refer to a letter which I received on the 29th April 2009 from the Manager of the Tuckerbox IGA regarding the proposed development.

Mr Rodney Booby who has some forty seven years experience in the retail business section of Gundagai, of that, thirty six as the manager of the local IGA supermarket, in his correspondence, Mr Booby referred to a letter to the editor headlined ‘Who’s kidding who’ and that he believed the letter to be very true.

Mr Booby claims that if the proposed development is approved that there is a grey cloud hanging over the viability of many other businesses in town, which this very supermarket supports by way of using these business as their supplier.

Mr Booby also goes on to point out that the current supermarket employs thirty seven casual and full time staff and that if the proposed supermarket goes ahead that sales figures will decline dramatically, however fixed overheads cannot be reduced and the business would be forced to close.

Now if this is the case and the Tuckerbox IGA does close, our revolutionary competition has gone out the window. If this happens, we are faced with far dire consequences of our actions, with the main CBD shifting further to the lower end of town. This potentially has an affect on Section 79C Clause c) the suitability of the site for the development.

I refer to The Macquarie Dictionary’s definition of Suitable – ‘such as to suit; appropriate; fitting; becoming. Let’s substitute ‘suitability’ with ‘appropriateness’ in the clause which would now say ‘the appropriateness of the site for the development’. So the question now is, is it appropriate for such development of the site?

Mr Mayor, the Social and Economic Impact Report by Urbanesque Planning Pty Ltd makes the following claims:

“...there is evidence to support the fact that since 2006, the population has been increasing.”

“IGA has determined that there is feasibility in providing a second supermarket in Gundagai. Factors that affect feasibility include changing market demands, future growth potential, investment performance and regional brand placement. It should be understood that the development is at the financial risk of IGA and the developer.”

“The net benefit in this case is to the community as a whole and the creation of between 45 and 54 new jobs. The supermarket will provide 20 full time positions and 25 casual/part time positions. The three retail shops will each employ 2-3 persons depending on the activity.”

“It is important to emphasise that the competition in the main, would be directly between the existing supermarket and the proposed supermarket on like for like grocery lines and as such, should have no significant impact on the specialty retailers as except in a positive manner.”

My research has found that the claims of evidence to support the fact that since 2006, the population has been increasing, to be false. The Australian Bureau of Statistics has published the following statistics for the period ending 30 June.

2006	3,851
2007	3,813
2008	3,827

From 2006 to 2007 there was a decrease in population of 38 and 2007 to 2008 an increase of 12. Overall, that is a decrease in population for the period of 2006 to 2008 of 24.

Mr Mayor, the report also claims that the second supermarket is feasible according to IGA and points out that the development is at the financial risk of IGA and the developer. What we need to understand is the world of franchising and market power. While I appreciate the financial risk to IGA, you must understand that if IGA doesn't grant a License for the new development, the likes of Franklins or Foodworks would be more than happy to take IGA's place and therefore, being a much larger financial risk to IGA.

I now move on to the claim that the net benefit to the community will be the creation of between 45-54 new jobs, yet in the environmental impacts report by Lennon Salvestro Planning, commissioned by the developer, it is claimed that the development will create 26 new jobs.

What is the importance of this? What it boils down to is the credibility of the reports. There has been a deficiency in the statistical representation and now anomalies between two reports that are basically on the same side, and therefore creates doubt in my mind about the case that is being put forward.

Furthermore, the report by Urbanesque Planning claims that the competition would be directly between the existing supermarket and the proposed supermarket on like for like grocery lines. I would tend to challenge that claim on the basis that a business usually has a standardised pricing methodology for the business system. A Supa IGA and a normal IGA source the products from a company called Metcash. Both supermarkets will essentially be sourcing the bulk of their goods from the same warehouse at the same price.

Take a Licensed Post Office for example. Purchase a printer cartridge from the Gundagai Post Office, Coolamon Post Office or Randwick Post Office. You will find that the product will more than likely be the same price. Why? Because the business system says you generally mark that particular product up by X percentage. Now those cartridges are coming out of the same warehouse at the same price.

Mr Mayor, here are two specials catalogues. One is IGA and the other is Supa IGA. What is the difference? The size of the pictures – not the bloody price.

Now you must keep in mind that in this instance, it is the developer that will more than likely be the Supa IGA franchisee. The developer has a \$2.4 million development to make a return on and therefore, will he be that flexible with his pricing? It is a valid question?

This brings me to the three specialty shops. What are they going to be? Who is going to fill them? What happens to the main retail strip of Gundagai, if the Post Office, Pharmacy and

Newsagency decide to relocate? Who fills the gaps in the main street if other businesses decide to move?

This is my greatest fear. The potential damage this development could create to aesthetic of the current retail precinct. It is not a matter of competition. If the development was for over at South Gundagai – fine go for it, or, if the supermarket was proposed within the bounds of the current precinct – again, go for it. However, I do believe that there originally was the underlying intention to have part of the main retail precinct relocate to the new development. You may be wondering how I came up with that?

Go through the original paper trail and you will find that the original development application was for five specialty shops but that would have meant that the Services Club would have had issues with regards to its poker machines and thus potentially affect the earning capacity of the Club. Remember that Club has a large support base so when push comes to shove, the community would throw its support behind the Club over the development which has been seen recently with the objection to the proposed motel development.

Now Mr Mayor, if we take a look out at the Dog on the Tuckerbox. Is all development good development? The main trade area has moved a few hundred metres up the road. Not only that, take a look at the road system and car park out there. We have numerous potholes the size Blowering and Burrinjuck dams.

I take this opportunity to refer to a claim in the letter of objection by GHD Pty Ltd.

“The existing IGA supermarket employ 11 full time staff and 24 casual staff who work almost a full week. The IGA is the biggest customer of a local bakery, butcher and milk vendor. These businesses and their staff are at risk should the new development proceed. There is no guarantee that the new supermarket will use local suppliers.”

I am concerned either way. The economic detriment to the local businesses, but also the possibility of price fixing, exclusive dealing and resale price maintenance and therefore lessening competition.

I now refer to the closing statement contained in the Nott Report:

“Overall, the report by Urbanesque Planning fails to adequately answer the questions that decision-makers might have about the proposed development. The report does not present sufficient evidence; it does not provide a retail supply and demand assessment; and it does not examined the net impacts of the proposal. Instead the conclusions about the proposal are based on the premise that any development is good development.”

Mr Mayor, this now brings me to my questions to the Chamber – Is this proposed development appropriate for the proposed site, taking into consideration: aesthetic heritage of the street, the potential changes to the retail landscape of the middle and top end of the main street? Will this development have a positive long term, and I stress LONG TERM, impact on the social and economic profile of the town by means of creating long term sustainable jobs, competition and an improved, well structured retail shopping experience? And therefore taking all of this into careful consideration, will this development be in the long term public interest?

The Local Government Act requires me to represent the views of my constituents and facilitate communication between the community and Council, which I put my hand on heart and say I have honestly done with my case for the need for competition. I do point out though, that I am of the belief that this is a big anti Butcher Campaign so to say. I’ve been listening to my constituents for a long time and the main reason they want this development to go ahead is because in instances Mr Butcher has come in and competed with other local businesses and that

wasn't ok, but now the tables have turned. Well all as I can say to the community is that you can't have it both ways. It's either competition or no competition regardless of who it is.

Mr Mayor, I believe that the proposed development will do some good for the community in the short term such as the creation of jobs with the construction and increased employment when the retail outlets are opened, but will it be sustainable in the longer term?

I have an obligation as a member of this governing body under Council's Charter to have regard to the long term and cumulative effects of its decisions.

Sadly, I believe that the information that has been provided to me as a decision-maker is inadequate for the nature of the proposed development. Many of the claims by both parties have been made on assumptions or incorrect data and therefore the recommendations are a matter of personal pecuniary opinion rather than evidence based.

This therefore has limited my ability to exercise sound judgement as the require information has not been there. Mr Mayor, I take this opportunity to make the Chamber aware that before the 2008 elections I was for this development, however, I feel that I have no choice but to back flip and vote against this development, erring on the safe side because the information to support my initial gut feelings has not been produced.

Mr Mayor, in voting against this development, I would like to take this opportunity to put the business community on notice and repeat my comments regarding competition - *Competition is a mechanism of enforcement: firms disregard these signals at their peril, being fully aware that there are other firms, either currently in existence or as yet unborn, which would be only too willing to encroach upon their market share and ultimately supplant them.*