

Confidential - X Convenience Service Station Development Application

Originating Officer	Manager Development and Regulatory Services - Warwick Deller-Coombs
Corporate Manager	Manager Development and Regulatory Services - Warwick Deller-Coombs
General Manager	General Manager City Development - Ilia Houridis
Report Reference	GC210309F01

Confidential



Confidential Motion

That pursuant to Section 90(2) and (3)(h) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, General Manager City Development, General Manager Corporate Services, General Manager City Services, Manager Corporate Governance, Manager Development & Regulatory Services, Unit Manager Communications, Acting Unit Manager Governance and Council Support, Governance Administration Officer, Peter Psaltis (Norman Waterhouse) be excluded from the meeting as the Council receives and considers information relating to the X Convenience Service Station Development Application is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to legal advice.

REPORT OBJECTIVE

To update Council on the X Convenience Appeal and to provide a draft response to the Minister for Planning in response to the request from Andrash Pty Ltd to intervene in the development application appeal process.

EXECUTIVE SUMMARY

- Andrash P/L requested for the Minister for Planning to intervene in the X Convenience development application appeal process by requesting that the State Commission Assessment Panel be the relevant authority for a future application of the X Convenience proposal.
- City of Marion received a copy of the submissions made by Andrash P/L and has been given until 10 March 2021 to provide a response to the Minister for Planning.
- A draft response to the issues raised has been prepared by Council's lawyers Norman Waterhouse (Attachment 1).
- Copies of the submissions by Andrash P/L are provided in Attachments 2 and 3.

RECOMMENDATION

That Council:

1. Instruct Council's lawyers to send a response to the Minister for Planning in terms of the draft letter in Attachment 1 to this report, with such grammatical or other alterations or additions as are considered appropriate.

2. In accordance with Section 91(7) and (9) of the Local Government Act 1999, orders that this report, the attachments, and any minutes arising from this report having been considered in confidence under Section 90 (2) and (3)(a) and (h) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2021.

DISCUSSION

- On 2 September 2020, Council's independent Council Assessment Panel refused an application by Andrash P/L to develop an X Convenience petrol station complex at 373 Diagonal Road, Sturt.
 - On 22 September 2020, Council resolved to vigorously defend any appeal and that no compromise be granted by staff without approval of Council.
 - On 4 November 2020, CoM received notification from the ERD Court that an appeal was lodged by Andrash P/L (on Friday 30 October 2020).
 - On 15 February 2021, CoM was advised that Andrash P/L had submitted a request to the Minister for Planning to intervene in the matter and nominate the State Commission Assessment Panel (SCAP) the relevant authority.
 - Andrash P/L made the initial request to the Minister for Planning on 8 December 2020 and submitted a further submission to the Minister on 2 February 2021.
 - CoM requested copies of these submissions and received these on 23 February 2021 (Attachments 2 and 3).
- [REDACTED]
- CoM worked with Norman Waterhouse to provide the attached draft correspondence back to the Minister for Planning (Attachment 1).
 - The Minister has given CoM until 10 March 2021 to respond.
 - Mr Peter Psaltis from Norman Waterhouse will be present at the meeting to assist with any questions arising from the discussion.

Attachment

#	Attachment	Type
1	Attachment 1 - Draft Correspondence to the Minister for Planning	PDF File
2	Attachment 2 - Letter to Minister for Planning 8.12.2020 with attachment	PDF File
3	Attachment 3 - Letter to Minister - further submissions - 2.2.2021	PDF File