

Northbridge Plaza and the Council car park

The background and the issues for Council and the community

1. Early development

In 1960, a development company associated with Mr Sidney Londish acquired the site of the current Northbridge Plaza and car park. (The car park land was vacant as it had previously been a market garden.) Mr Londish proposed to Council the development on the site of a new shopping centre, to be named Northbridge Plaza, and a large car park.

As part of Council's approval of the development, in 1961 the development company transferred to Council ownership of a sealed car park and a new Baby Health Centre, free of rent. In accepting the transfer of the car park land, Council agreed to a *restrictive covenant* over the land. The covenant states

"..that no portion of the said land shall be at any time thereafter be used for any purpose other than as Public Car Parking and a Baby Health Centre."

Subsequently, Northbridge Progress Association (NPA) was able to demonstrate that, by virtue of Council's ownership of the land and its obligations to the public, a *Statutory Trust* existed over the car park in favour of the public.

2. Expansion of the shopping centre

By the mid 1980s, ownership of the shopping centre had passed to Jaydesh, a company controlled by the Hayson family. In 1989, the Haysons obtained approval from Council for a major redevelopment of the shopping centre, and they built the very successful centre on the site today. The major tenant of the expanded Northbridge Plaza was Woolworths whose lease lasts until about 2030.

Council still owned and managed the public car park, which remained unchanged.

3. A new Local Government Act

In 1993, a new Local Government Act was passed whereby the Council car park land was classified as Community Land. As a result, the Council

"has no power to sell, exchange or otherwise dispose of it".

The maximum allowable period of any lease over the car park land is 21 years and any lease longer than five years requires Ministerial approval.

4. Proposal for a major expansion

In 2002/03, the Hayson family proposed to Council an approximately 30% expansion of the shopping centre's retail space and the development of a double-deck car park. NPA and the community objected strenuously to the proposal.

In 2003, the Council commissioned an Independent Assessor, Mr Neil Ingham, to hold an enquiry into the proposal. Despite strong NPA and resident representations, he reported that if Council wanted to approve the proposal, processes were available to change the classification of the car park land from Community to Operational. Also, with the Minister's approval, Council should also be able to extinguish the covenant and Statutory Trust over the land. If these were accomplished, a very long term lease (up to 99 years was contemplated) could be agreed and redevelopment of the car park by the Haysons could proceed.

However, before the proposal was approved, the Haysons sold Northbridge Plaza to a Middle Eastern owner, who appointed AMP Capital to manage it. The expansion proposal did not proceed.

5. AMP Capital's expansion proposal

In April 2007, on behalf of the Middle Eastern owner, AMP Capital produced conceptual plans for almost doubling the shopping centre's retail space and car park capacity. In July 2007, a meeting called by NPA attended by more than 150 residents passed a resolution objecting to these proposals.

In response to the community's reaction, Council passed a motion limiting permitted retail space expansion of Northbridge Plaza to "approximately 10%". Council also commenced a Masterplan for the shopping centre and car park site. A Technical Committee and Reference Committee were established, with NPA and community representation. NPA raised \$30,000 from Northbridge residents for a consultant Town Planner to advise it.

In August 2008, Council solicitors Mallesons advised that;

"there is a Statutory Trust which limits use of the land to the public purpose for which it was obtained by Council, namely that of parking and a Baby Health Centre"

and that

"the beneficiaries of the Trust being those members of the public who park there."

The advice defined members of the public not only as the customers of Northbridge Plaza but they also included those associated with local schools; residents and visitors within walking distance; and those who commute to the city. Mallesons concluded that:

"The Council might therefore be perceived by the public as custodians for it of the car park. Its obligation is to act in the interests of the public".

Nevertheless, Mallesons agreed with the 2003 Ingham report that processes were available to Council to extinguish the covenant and Statutory Trust and to proceed with a long term lease over the car park.

In December 2008, Council released AMP Capital's sketch plans of a possible redevelopment of Northbridge Plaza and the car park. The plans included expansion of the shopping centre, a double deck car park and four storey residential units over part of the centre and the car park. A meeting called by NPA in February 2009 was attended by

more than 100 residents who opposed the entire proposal and re-affirmed the July 2007 resolution.

In 2009, AMP Capital withdrew its expansion proposal as uneconomic (but more likely because of the impact of the 2008 Global Financial Crisis on its owner). Council shelved the work on the Masterplan.

6. Reactivating the car park's redevelopment

In early 2012, some Willoughby City councilors became concerned about the safety of the sloping car park site; its uneven surface; the exposure of pedestrians to vehicles; and the potential for litigation. Moreover, Council's cost of maintaining the car park mainly for the benefit of Northbridge Plaza was an issue.

In April, Council passed a motion asking Council officers to generate options to improve the car park's safety and to contact AMP Capital to ascertain whether they would be prepared to contribute to the cost of upgrading the car park. AMP Capital was also to be asked for their long term options for Northbridge Plaza including the possible provision of Seniors living units and incorporating the Early Childhood Centre.

During 2012, Council officers generated several options for improving the car park. They reported in April 2013 that costs would vary from \$1.3 million for surface works (but with no change to the gradient) up to several million dollars to construct a two-level horizontal car park. Options which included several storeys of Seniors living units on the site were still not economic for Council to proceed.

Council's discussions with AMP Capital showed they were keen to develop plans to expand the shopping centre. On August 26th 2013, Council passed a motion which authorised Council officers to continue discussions with AMP Capital but with the aim of limiting Northbridge Plaza's retail expansion to "about 10 to 15%".

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