

ORDINARY MEETING OF COUNCIL

30 MAY 2016

**12.17 TELECOMMUNICATIONS TOWER BROOKSIDE RESERVE - VODAFONE****Author: Christine Denyer - Legal Services Manager****Presenter: Kel Tori - Chief Executive Officer****PURPOSE OF REPORT**

To report back to Council on a meeting between Council Officers and Vodafone pursuant to the Council resolution of 4 April 2016.

**RECOMMENDATION:**

That Council:

1. notes the contents of the Report
2. nominates the 3 locations set out in the Executive Summary to Vodafone for it to obtain independent testing of the emission levels
3. receives a report from Officers as to the results of the testing as soon as the results become available
4. advise Seamus Ryan, as representative of the 'Residents Against the Mobile Phone Tower at Brookside Recreation Reserve' group, of the detail of the meeting with Vodafone representatives, as contained in this report.

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**REPORT****1. Executive Summary**

Vodafone is not prepared to relocate to another site because the site at 72-80 Caroline Springs, Boulevard, Caroline Springs is far superior to any other site in the vicinity. Vodafone is however prepared to commission independent testing of emission levels at various locations nominated by Council in order to allay residents concerns.

It is suggested that the following 3 sites be tested:

1. synthetic soccer pitch – distance from monopole approximately 58m;
2. Brookside College – distance from monopole approximately 204m; and
3. Brookside Early Learning Centre – distance from monopole 224m.

A map showing the 3 locations is attached at **Appendix 1**.

**2. Background/Issues**

At the Ordinary Meeting of Council on 4 April 2016 Council resolved to enter into discussions with Vodafone regarding the possibility of a relocation of telecommunications infrastructure (a Monopole) at 72-80 Caroline Springs Boulevard, Caroline Springs and obtain a full report of those discussions including in relation to any other possible sites and any associated costs ('the April 4 resolution').

A copy of the report which informed the April 4 resolution and which provides a further and detailed background, is attached at **Appendix 2**.

The report was written in response to a petition containing approximately 1,400 signatures which was received at the Ordinary Meeting of Council on 7 March 2016. The report may be summarised as follows:

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- the petitioners seek a cancellation of the lease between Council and Vodafone for telecommunications infrastructure installed at 72-80 Caroline Springs Boulevard, Caroline Springs;
- Council has complied with all statutory obligations;
- Council cannot resolve to unilaterally end the lease;
- Council can however amend or vary the lease by mutual agreement; and
- the likelihood of that agreement is considered low, in particular given the likely costs that it is estimated that Vodafone would have incurred in installation of the infrastructure.

Following the April 4 resolution, Council wrote to Vodafone requesting a meeting between its representatives and Council Officers.

A meeting was subsequently held at Vodafone's Port Melbourne Offices on Friday, 13 May 2016 at 11am. Present at the meeting from Council were Mr Kelvin Tori - Chief Executive Officer, Ms Christine Denyer - Manager Legal Services, Mr Daniel Hogan – Customer Engagement Manager (and author of previous reports in relation to this matter) and Ms Laura-Jo Mellan – Manager City Design and Environment. Present at the meeting from Vodafone were Mr Ben Raymond - Site Acquisition Specialist, Mr Neil Beyers – Regional Manager and Mr Richard Webb – Project manager.

Vodafone representatives advised that Vodafone had no appetite to relocate. Vodafone had spent 18 months investigating possible sites in the Brookside area before arriving at the current site. It had chosen the current site, 72-80 Caroline Springs Boulevard, Caroline Springs (at the Brookside Recreation Reserve), because it was clearly and decisively the best option available. The assessment was on a number of criteria including, but not limited to, tenure (the ability to obtain a lease agreement or other agreement to occupy the site) and coverage. This site achieves 90% of Vodafone's desired coverage from a new tower in this vicinity.

Vodafone noted that a relocation would, at a minimum, take another 18 months depending upon difficulties in obtaining a permit at an alternate site.

Vodafone also noted, as an aside, that relocating might be seen to create a precedent given that there are hundreds of mobile phone towers located in similar settings. An agreement to relocate would potentially 'open the flood gates'.

Council Officers enquired specifically as to the potential of 402 Clarke Road, Rockbank which has been consistently raised by the group opposing the location of the tower at the Brookside site.

Vodafone's response to this was that there was no interest whatsoever from the landowner to provide tenure to Vodafone for location of a phone tower on that property. In fact, on an availability scoring matrix that Vodafone have developed, this site scored 0 out of 10. In respect of the RF Assessment, this site only scored 4 out of 10 which means an effective 40% coverage compared to the 90% coverage achieved at the Brookside site.

Accordingly, in Vodafone's assessment, 402 Clarke Road, Rockbank does not in fact constitute an alternate site and indeed all other sites that were investigated are considered significantly inferior to the current site.

On the question of costs, Vodafone representatives advised that establishment costs usually ranged from \$500K-600K depending upon the difficulty associated with obtaining permits and the terrain etc, but could be up to \$1m. These figures do not take into account the cost of decommissioning the existing monopole, an estimate for which they had not turned their minds, nor were they readily prepared to.

Vodafone advised that it had followed due process and complied with the law and the current science. The levels at the site were well below the maximum. So confident are they of this

that Vodafone officers advised that in order to allay resident's concerns Vodafone would be prepared to undertake, via an accredited independent testing agency, testing of emission levels at various specific locations nominated by Council. The sites could potentially be on the ovals and in the school etc. This offer was made unconditionally and would be a one-off testing process to clearly establish the levels at each of these locations adjacent to the mobile phone tower.

### **3. Council Plan Reference and Policy Reference**

The Melton City Council 2013-2017 Council Plan references:

2. A Well Governed and Leading Organisation: Operating with innovation, transparency, accountability and sustainability

*2.5 Advocate in the best interests of our community and region*

### **4. Financial Considerations**

A There are no immediate financial considerations.

### **5. Consultation/Public Submissions**

This Report is in response to public concerns received by way of a petition. The petition was received after the lease had commenced and after the public notice period had expired. No further public consultation has occurred.

### **6. Risk Analysis**

Council has issued a permit for the use and entered into a binding lease with Vodafone which has commenced. That lease does not contain a provision which allows Council to unilaterally terminate the lease. Accordingly, if Council does attempt to end the lease it would expose Council to significant financial risk.

### **7. Options**

1. Resolve to take up the offer for testing at the 3 suggested locations.
2. Resolve to take up the offer for testing at a different 3 locations.
3. Note the Report and take no further action.
4. Seek further legal advice

### **LIST OF APPENDICES**

1. Locality Map
2. Council Report 4 April - Telecommunications Infrastructure Lease - Petition Response