



MELTON CITY COUNCIL

**Minutes of the Ordinary Meeting of the
Melton City Council**

30 May 2016

**THESE MINUTES CONTAIN REPORTS DEALT WITH AT A
CLOSED MEETING OF COUNCIL**

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MELTON CITY COUNCIL

MINUTES OF THE ORDINARY MEETING OF THE MELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBER, CIVIC CENTRE, 232 HIGH STREET, MELTON ON 30 MAY 2016 AT 7.00PM

Present: Cr K Majdlik (Mayor)
Cr R Cugliari (Deputy Mayor)
Cr M Bentley
Cr L Carli
Cr N Dunn
Cr S Ramsey
Cr B Turner

Mr K Tori, Chief Executive Officer
Mr L Shannon, General Manager Corporate Services
Mr M Heaney, General Manager Community Services
Mr P Bean, General Manager Planning and Development
Mr B Baggio, Manager Planning Services
Ms LJ Mellan, Manager City Design, Strategy and Environment
Mr V David, Acting Manager Engineering Services
Mr D Hogan, Manager Customer Engagement
Ms A Raijer, Communications Coordinator
Ms D Roberts, Governance Officer

1. OPENING PRAYER AND RECONCILIATION STATEMENT

The Mayor, Cr Majdlik read the opening prayer and reconciliation statement.

2. APOLOGIES AND LEAVE OF ABSENCE

Nil.

3. CHANGES TO THE ORDER OF BUSINESS

Nil.

4. DEPUTATIONS

Nil.

5. DECLARATION OF ANY PECUNIARY INTEREST, OTHER INTEREST OR CONFLICT OF INTEREST OF ANY COUNCILLOR

Having previously advised the CEO in writing, in accordance with s79(2)(ii) of the *Local Government Act* (the Act), Cr Majdlik declared an indirect conflict of interest in Item 12.17 of this Agenda referencing s78(E) of the Act concerning residential amenity.

Cr Turner declared an indirect Conflict of Interest under s78(B)(2) of the Act at Item 19.2 of this Agenda.

6. ADOPTION AND CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

RECOMMENDATION:

That the Minutes of the Ordinary Meeting of Council held on 2 May 2016 and Special Meeting of Council held on 23 May 2016 be confirmed as a true and correct record.

Crs Cugliari/Carli. That the recommendation be adopted.

CARRIED

7. RECORD OF ASSEMBLY OF COUNCILLORS**7.1 RECORD OF ASSEMBLY OF COUNCILLORS IN ACCORDANCE WITH SECTION 80A(1) OF THE LOCAL GOVERNMENT ACT 1989**

- 9 May 2016 Record of Assembly of Councillors
- 16 May 2016 Record of Assembly of Councillors
- 23 May 2016 Record of Assembly of Councillors

RECOMMENDATION:

That the Record of Assembly of Councillors dated 9 May, 16 May and 23 May 2016 attached to this Agenda be received and noted.

Crs Ramsey/Cugliari. That the recommendation be adopted.

CARRIED

LIST OF APPENDICES

1. 9 May 2016 Record of Assembly of Councillors
2. 16 May 2016 Record of Assembly of Councillors
3. 23 May 2016 Record of Assembly of Councillors

8. CORRESPONDENCE INWARD

8.1 PARLIAMENTARIAN AND DEPARTMENTAL LETTERS RECEIVED BY THE MAYOR

- Marlene Kairouz – State Member for Kororoit

RECOMMENDATION:

That the Parliamentarian and Departmental letters received by the Mayor be received and noted.

Crs Cugliari/Ramsey. That the recommendation be adopted.

CARRIED

LIST OF APPENDICES

1. Planning and Delivery of the duplication of the Melton Rail Line and other Budget Allocations and Announcements

9. PETITIONS AND JOINT LETTERS

Nil.

10. RESUMPTION OF DEBATE OR OTHER BUSINESS CARRIED OVER FROM A PREVIOUS MEETING

10.1 PETITION - RE-OPENING OF THRICE LANE, KURUNJANG TO THROUGH TRAFFIC

Author: Voltaire David - Acting Manager Engineering Services
Presenter: Voltaire David - Acting Manager Engineering Services

PURPOSE OF REPORT

To respond to a petition received requesting the re-opening of Thrice Lane, Kurunjang to through traffic.

Recommendation:

That Council retain the current arrangement and that Thrice Lane and Gloaming Ride remain closed to through traffic.

Motion

Crs Turner/Bentley

That Council:

1. retain the current arrangement and that Thrice Lane and Gloaming Ride remain closed to through traffic.
2. Council's Engineering department undertake detailed design work to ascertain costs for a report for Council.

CARRIED

REPORT

1. Executive Summary

Council has received a petition to reopen Gloaming Ride and Thrice Lane to through traffic. This report summaries the history surrounding this matter and provides options for Council to consider.

2. Background/Issues

At the 4 April 2016 Ordinary Meeting of Council, a petition was tabled signed by 435 residents, which stated the following:

'The re-opening of Thrice Lane will provide a second access point which is vital to ensure traffic can access the Kurunjang area, especially given concerns related to fire and safety. The area has around 1064 homes, three schools and shops and growing and ALL residents are currently dependent on ONLY one access road, Kurunjang Drive. This situation is totally unsatisfactory and potentially puts at risk many lives.'

Those who signed the petition have requested Melton City Council reopen Thrice Lane, providing a road connection to Gloaming Ride and a second vehicle access point to residents within the Kurunjang Drive area.

There have been previous discussions regarding Thrice Lane over a number of years.

At Council's Ordinary Meeting held on 17 November 1986 Council resolved the following:

- a. Council, pursuant to section 539C of the Local Government Act 1958, having duly considered written objections received and a report from the Road Traffic Authority hereby resolves to close to through traffic the east-west Government Road situated 0.8km north of Centenary Avenue, Melton through erection of barriers situated approximately in line with the 2029/2030 and 2031/2032, with the effective date of the said closure being Monday, March 16th, 1987, being after the estimated completion of construction for the northern section of Kurunjang Drive.
- b. That the Road Traffic Authority, adjoining owner, objectors to the road closure proposal and local Emergency Agencies be advised of Council's decision as in a) above
- c. That appropriate arrangements be made regarding special access (if desired) past the locked barriers with respect to bona-fide transport of agricultural machinery, also with respect to fire emergency access by the Melton Fire Brigade.

The resolution was consistent with Council's strategic planning for residential development and road functions in the Kurunjang part of the Melton Urban Area at that time.

The closure was enacted after the completion of the northern section of Kurunjang Drive and its connection with Thrice Lane and Outlook Ride.

In 2001 Council conducted a Local Area Traffic Management Study of the Kurunjang area. At Council's Ordinary Meeting held on 10 September 2001, Council resolved the following with respect to the study:

That Council note and receive the Local Area Traffic Management Study undertaken by Hyder Consulting for the Kurunjang area and in accordance with the study resolve:

1. That the internal access to any future development in the northern portion of the land bound by Coburns Road, Minns Road, Centenary Avenue and Gisborne-Melton Road be directly from the boundary roads and not into the existing road network within the Kurunjang area.
2. An additional \$90,000 in the 2001/2002 capital works program to design and construct the improvements to the roadway and parking facilities in the reserve (Palmerston Street North).
3. That \$273,000 be referred to the 2002/2003 capital works program to design and construct the works identified in Kurunjang Drive, the kerb outstands, indented parking, the roundabout with Outlook Ride and in Nimmo Crescent the indented parking and the roundabout with Kurunjang Drive.
4. That \$385,000 be referred to the 2003/2004 capital works program to remove the temporary crossover access at Euroa Walk, redesign of the intersections of Mowbray Crescent/Washington Crescent and Kurunjang Drive and the reopening of Gloaming Ride/Thrice Lane.
5. Negotiations be commenced immediately with the owners of the land north of Gunnawarra Road to obtain a road reserve from Gunnawarra Road to Kirkton Drive

Recommendation 5. never occurred and was subsequently built out.

At the Ordinary Meeting of Council held on 30 March 2009, Council considered an Officer's Report in relation to Gloaming Ride and Thrice Lane. The report resulted from a petition signed by 206 residents tabled at the previous Council meeting. The petition stated:

'The re-opening of Thrice Lane will provide a second access point which is vital to ensure traffic can access the Kurunjang area, especially given concerns relating to fire and safety. The area has around 1064 homes, 3 schools and shops and growing and all residents are dependent on only one access road, Kurunjang Drive. This situation is totally unsatisfactory and potentially puts at risk many lives.'

Following consideration of the officer's report that recommended Thrice Lane and Gloaming Ride remain closed to through traffic, Council resolved to:

- a. *Undertake a public consultation process pursuant to Section 223 of the Local Government Act 1989 in relation to the proposal to re-open Gloaming Ride and Thrice Lane and submissions received be heard by the Section 223 Committee of Council.*
- b. *Write to the resident who submitted the petition advising of Council's decision.*

The Section 223 committee received submissions on 26 May 2009 and again on 2 June 2009 and reconvened on 9 June 2009 to consider an officers report. The Officers report recommended Thrice Lane and Gloaming Ride remain closed. The Committee made the following recommendation to Council:

"That the Section 223 Committee recommend to Council that Thrice Lane and Gloaming Ride be opened to through traffic after the completion of duplication of Centenary Avenue (from Coburns Road to Palmerston Street)."

The Section 223 Committee report was received at the 22 June 2009 Council Meeting, the following motion carried

'That the minutes of the Section 223 Submissions Committee Meeting held to hear submissions in relation to Gloaming Ride / Thrice Lane be received and the recommendations contained therein be adopted by Council and that Council write to the 900 lots contained within the Kurunjang area informing them of this decision.'

The petition raised concerns regarding fire access and safety. In March 2016 comments were sought from the Emergency Services Agencies, in particular Country Fire Authority (CFA) and Ambulance Victoria to understand their position on this matter and whether it was the same as when the previous petition was made to reopen Thrice Lane in 2009. They provided the following responses:

CFA response

'It would appear this emergency access point was provided several years ago.

While at the time CFA often required such alternative access points into subdivisions, it is less mandatory today.

In saying this CFA would still like to retain such an emergency access easement with allocated keys to the local Melton Fire Brigade.'

Ambulance Victoria response

'We have no reason to request removal of the gate. We are able to access the properties in Thrice Lane from Kurunjang Drive, and the properties in Gloaming Ride from Coburns Road.'

The opening of Gloaming Ride and Thrice Lane will provide another vehicle access point into the Kurunjang area and improve access to destinations to the west such as the Woodgrove Shopping Precinct and the Western Freeway. It will also lessen congestion at the southern end of Kurunjang Drive especially in the proximity of the Kurunjang Primary and Secondary Schools.

Public Transport Victoria have stated they are unlikely to introduce a bus route through the Kurunjang area without a through connection onto the adjoining secondary arterial road network.

In 2009, Council carried the motion that Thrice Lane and Gloaming Ride be reopened to through traffic after the completion of duplication of Centenary Avenue (from Coburns Road to Palmerston Street). These works have since been completed.

Gloaming Ride and Thrice Lane are rural standard roads and as such have not been built to cater for a significant increase in traffic loading. Therefore any reopening must first involve an upgrade of both these roads.

Residents who purchased property in Gloaming Ride and Thrice Lane bought their land based on it being a low density development with little traffic movements and with the understanding that the subject roads were cul-de-sacs and not open to vehicle traffic. The directly affected residents could view the opening of this road to through traffic as having a detrimental effect on them.

Although the reopening of the Thrice Lane and Gloaming Ride connection will provide better access and allow for public transport to the Kurunjang area, it must be weighed against the expenditure associated with the upgrade of the existing roads and the loss of amenity for the residents living in those streets. Since the Emergency Services Agencies have indicated that the current access arrangement does not present a problem to them, it is recommended that the connection remain closed.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.1 *Strategically plan for a well designed and built City*

4. Financial Considerations

The opening of the connection between Gloaming Ride and Thrice Lane will result in the civil construction works having to be undertaken:

- Construction of footpath on the northern side of Gloaming Ride and Thrice Lane between Coburns Road and Kurunjang Drive
- Widening of the existing road pavement including construction of kerb and channel and drainage
- Rehabilitation and strengthening of the existing road pavement
- Upgrade of public lighting
- Construction of traffic calming treatments to regulate vehicle speeds along Gloaming Ride and Thrice Lane.

The works were estimated at \$1.5 million in 2009 and approximately \$2 million at today's rates.

Currently there is no allocation in Council's 2016/2017 budget for these works nor has it been identified in Council's ten year Capital Works program due to other priorities.

5. Consultation/Public Submissions

Council has received a petition from 435 signatories. Council has previously undergone a consultation process under s.223 of the Local Government Act 1989.

6. Risk Analysis

Given that the Emergency Services agencies have advised that they do not consider keeping the road closed detrimental to their function, there are no foreseen risks with maintaining the status quo.

7. Options

- a. That Thrice Lane and Gloaming Ride remain closed to through traffic.
- b. That Council commit to a date to upgrade Thrice Lane and Gloaming Ride and thereafter reopen it to through traffic.

LIST OF APPENDICES

1. Map of Thrice Lane

11. PUBLIC QUESTION TIME

Name	Question asked of Council
Susan Mangion	Not in attendance
David O'Connor	Not in attendance
David O'Connor	Not in attendance
Allen Fairweather	Finish of the road surface after repair worse than original.
Michelle Spiteri	Not in attendance

Procedural Motion

Crs Ramsey/Turner

That the recommendations as printed in items 12.1, 12.2, 12.3 and 12.5 be adopted in block.

CARRIED**12. PRESENTATION OF STAFF REPORTS****12.1 AUTHORISATION OF AFFIXING THE COMMON SEAL OF COUNCIL****Author: Dominique Roberts - Governance Officer****Presenter: Luke Shannon - General Manager Corporate Services****PURPOSE OF REPORT**

For Council to adopt the schedule of documents requiring the Common Seal of Council.

RECOMMENDATION:

That the Council Seal be affixed to the documentation as detailed in the schedule for Authorising of Affixing of the Common Seal of Melton City Council dated 30 May 2016.

Crs Ramsey/Turner. That the recommendation be adopted.

CARRIED

REPORT**1. Executive Summary**Documents requiring the Common Seal of Council to be affixed are detailed in **Appendix 1**.**2. Background/Issues**

Use of the Council Seal is required where Council as a body corporate is required to acquit a document or agreement for the purpose of performing its functions and exercising its powers.

The *Local Government Act 1989* prescribes that a Council must have a common seal, and that the common seal must –

- a) Bear the name of the Council (which name may refer to the inhabitants of the municipal district) and any other word, letter, sign or device the Council determines should be included; and
- b) Be kept at the Council office; and
- c) Be used in accordance with the local laws of the Council.

Council's Meeting Procedure Local Law (2013) prescribes the use of Council's Common Seal and the authorized officers who have the authority to sign every document to which the common seal is affixed.

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*
 - 2.6 *Ensure timely compliance with statutory and regulatory obligations.*

4. Financial Considerations

There are no financial considerations relating to the use of the Council Seal.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

Ensuring that the Council Seal is only affixed in accordance with a resolution of Council controls the potential risk of the Seal being incorrectly affixed to a document.

7. Options

Not applicable.

LIST OF APPENDICES

1. Authorisation of Affixing the Common Seal - 30 May 2016

12.2 ADVISORY COMMITTEES OF COUNCIL - AGGREGATED MEETING MINUTES

Author: Tracy Spiteri - Governance Coordinator
Presenter: Luke Shannon - General Manager Corporate Services

PURPOSE OF REPORT

To present the aggregated minutes of Advisory Committee meetings yet to be considered by Council.

RECOMMENDATION:

That Council:

1. note the minutes of Advisory Committee meetings at **Appendix 1, 2, 3 and 4**
2. adopt the recommendations arising within the minutes.

Crs Ramsey/Turner. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

In accordance with section 3(1) of the *Local Government Act* 1989 (the Act), Council may establish a) Advisory Committees for the purpose of providing advice, or b) Special Committees which are delegated powers, duties or functions of Council. The establishment of an Audit Committee, considered an Advisory Committee of Council, is dealt with under section 139 of the Act.

A Council appointed Advisory Committee meeting where at least one Councillor attends and which considers matters that are intended or likely to be the subject to a decision of Council, is considered an assembly of Councillors. In accordance with section 80A of the Act, a written record of an assembly of Councillors must, as soon as practicable, be reported at an ordinary meeting of the Council. The minutes of the Advisory Committees attached to this report forms the written record of the assembly detailing matters considered and any Councillor conflicts disclosed.

2. Background/Issues

Advisory Committees are established by a resolution of Council. The role of an Advisory Committee, including the limits of power, are clearly defined in the Terms of Reference adopted by Council.

The membership of Committees will vary depending upon its specific role. Committee membership will generally comprise a Councillor/s, council staff and community representatives and may include key stakeholders, subject matter experts and/or community service providers and organisations.

Councillor representation on Advisory Committees is generally for one year and is reviewed annually at the Statutory Meeting of Council. Councillor representation on current Council Committees and to other organisations for 2016 were adopted by Council at the Ordinary Meeting held 10 November 2015.

Advisory Committees meet regularly during the year and minutes of all meetings are scheduled to be presented at the next Ordinary Meeting of Council.

Advisory Committee Meetings minutes attached to this report for Council acknowledgement and endorsement:

Meeting Date	Advisory Committee	Attached
14 April 2016	Community Safety Advisory Committee	Appendix 1
21 April 2016	Early Years Partnership Committee	Appendix 2
28 April 2016	Community Learning Board	Appendix 3
10 May 2016	Arts & Culture Advisory Committee	Appendix 4

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

2.3 Facilitate community engagement in planning and decision making

4. Financial Considerations

Advisory Committee are not responsible for operational expenditure and cannot direct Council officers to act without the consent of Council. Operational expenses and administrative actions arising from an Advisory Committee meeting are accommodated within Council's recurrent budgets, unless otherwise requested within the minutes of the meeting and detailed in a recommendation to Council for consideration.

5. Consultation/Public Submissions

Advisory Committees are one method of Council consulting and communicating with the community. Such a Committee may be established to provide strategic level input into a broad area of Council operations, such as community safety or arts and culture. An Advisory Committee may also be established for a specific time-limited project, such as a review of a Local Law.

6. Risk Analysis

With a mandatory responsibility to report to Council and restricted to making recommendations for Council consideration, risks attached to Advisory Committee actions are substantially mitigated.

It is prudent for Council to carefully consider any and all recommendations arising from Advisory Committee minutes, as Advisory Committees may canvass significant issues and significant expenditure in their deliberations.

7. Options

Advisory Committees are a Committee of Council, therefore Council has the discretion to accept, reject, amend or seek further information on any of the Committee minutes and/or recommendations.

LIST OF APPENDICES

1. Community Safety Advisory Committee Minutes - 14 April 2016
2. Early Years Partnership Committee Minutes - 21 April 2016
3. Community Learning Board Minutes - 28 April 2016
4. Arts & Culture Advisory Committee Minutes - 10 May 2016

12.3 MUNICIPAL AUDIT COMMITTEE MINUTES - 27 APRIL 2016

Author: Cheryl Santoro - Senior Administration Officer
Presenter: Kel Tori - Chief Executive Officer

PURPOSE OF REPORT

To present to Council the minutes of the Municipal Audit Committee meeting held on Wednesday, 27 April 2016.

RECOMMENDATION:

That Council:

1. note the minutes of the Municipal Audit Committee meeting held on Wednesday, 27 April 2016
2. adopt the recommendations arising within the minutes.

Crs Ramsey/Turner. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

The minutes of the Audit Committee meeting held on 27 April 2016, are appended to this report as **Appendix 1**. The Committee considered various issues in relation to risk, financial management and governance and the minutes contain recommendations for the consideration of Council.

2. Background/Issues

It is a requirement within the Terms of Reference of the Municipal Audit Committee to meet and report its decision and recommendations to the Council for consideration.

Issues discussed and recommendations made by the Committee are noted in the minutes for action by both individuals and Council.

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

2.6 Ensure timely compliance with statutory and regulatory obligations

4. Financial Considerations

A provision has been provided in this year's budget for the remuneration on a fee per meeting basis for independent members of the Committee, with an additional amount paid to the Chairperson.

5. Consultation/Public Submissions

The Municipal Audit Committee consists of Councillors Carli and Bentley and three independent external audit members Mr Alan Hall as Chairperson, Mr Adam Roberts and Mr Stan Naylor.

6. Risk Analysis

N/A

7. Options

The Audit Committee is an advisory committee of Council, and Council therefore has the discretion to accept, reject or amend its recommendations.

LIST OF APPENDICES

1. Audit Committee Minutes - 27 April 2016
2. Quarterly Finance report for period ended 31 March 2016

12.4 DIGITAL BUSINESS STRATEGY 2016-2019

Author: Tennille Bradley - Coordinator Economic Development and Tourism

Presenter: Peter Bean - General Manager Planning & Development

PURPOSE OF REPORT

To seek endorsement of the Digital Business Strategy 2016-2019 and present the Background Report.

RECOMMENDATION:

That Council:

1. note the Background Report
2. endorse the Digital Business Strategy 2016-2019.

Crs Ramsey/Cugliari. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

The Digital Business Strategy is a four year plan which seeks to build the digital capacity of local businesses through the provision of information, resources, training initiatives and infrastructure.

The Strategy has been informed by a digital census with local businesses, desktop research, as well as case studies with local businesses who are currently utilising digital technology.

Officers are seeking Council endorsement of the Digital Business Strategy 2016-2019 attached as **Appendix 1**.

2. Background/Issues

The Digital Business Strategy is one of the key deliverables of the Economic Development and Tourism Plan 2014-2030.

The Digital Business Strategy 2016-2019 provides the overarching framework, strategic direction and guiding principles for building the capacity of the local business community to take advantage of digital technologies to further develop their business.

With the rollout of the National Broadband Network (NBN) currently taking place across the municipality, the timing is ripe to support and facilitate business growth through adoption and utilisation of new technologies.

Strategy Development Process

The development of the Strategy was undertaken through a series of steps:

- Development of background report, attached as **Appendix 2**.
- Consultation consisting of a digital census (197 responses, meeting the required sample size), secondary data research and face-to-face consultation with local businesses.
- Identification of strategic areas and vision.

- Four year action plan which has been incorporated into the strategy.
Two key themes emerged through the development of the strategy:
- A lack of efficient broadband and internet access across the municipality that has a major impact on effective business operations.
- Lack of knowledge and expertise relating to digital technologies both in how the technology can assist business growth and how it can be introduced and operated.

Whilst Council does not play a direct role in the provision of digital infrastructure, Council can support business in the provision of information and resources as well as advocate to other levels of Government regarding digital infrastructure. Council also plays a key role in liaising with NBN Co in regards to the rollout of the National Broadband Network and in supporting the community in understanding how they can take advantage of high speed broadband technology in developing and growing their business.

With this in mind, the Digital Business Strategy details actions under four strategic themes:

1. Infrastructure and Technology.
2. Online Content and Social Media.
3. Digital Capacity and Confidence.
4. Digital Innovation.

Monitoring and Evaluation

An annual review will be conducted of the Strategy and its actions to ensure ongoing relevance and that it is reflective of technological advance and the local economic climate.

Measurement indicators include:

- Number of businesses participating in digital programs and initiatives.
- Increase in awareness of NBN and how it will support business activity and growth.
- Increase in number of businesses using digital technologies.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.3 *Generate an innovative local economy that stimulates opportunities for investment, business and training*

4. Financial Considerations

The Strategy will be implemented through existing operational budgets where provisions allow. Where provisions do not allow, external funding will be sought for specific projects and initiatives.

5. Consultation/Public Submissions

The plan has been developed with input of over 197 local businesses via a Digital Census, desktop research as well as face to face consultation with local businesses currently operating in the digital space.

The draft Strategy was put out for public comment through public notice, media release, Council website, libraries, social media and the Venture Melton E-Newsletter from 1 February to 26 February 2016. Two submissions were received on the draft Strategy with minor amendments made to the final document.

6. Risk Analysis

Council has a responsibility under the Local Government Act (1989) to promote the social, economic and environmental viability and sustainability of the municipal district. There are potential risks associated with not proceeding with the Digital Business Strategy as detailed below:

- There is a risk that businesses in the City of Melton are not able to access the information, resources and tools that they need to benefit from advancements in digital technologies.
- There is a risk that the provision of digital infrastructure will lag due to not having an adopted strategic direction and advocacy platform.

7. Options

Council can choose to endorse the Digital Business Strategy 2016-2019 or delay endorsement of the Strategy pending further refinement.

LIST OF APPENDICES

1. Digital Business Strategy 2016 - 2019
2. Digital Business Strategy Background Report

12.5 MUNICIPAL LOAN 177

Author: Andrew Brae - Coordinator Accounting Services
Presenter: Luke Shannon - General Manager Corporate Services

PURPOSE OF REPORT

For Council to consider taking up loan number 177 (\$7.85M), for the purpose of funding capital works 2015/2016.

RECOMMENDATION:

That:

1. Council takes up loan number 177 for \$7,850,000 from National Australia Bank at a rate of 3.74% interest.
2. The new borrowings to be fixed for 10 years, with principal and interest repayments paid half yearly over term of the loan.
3. The draw down date of the loan will be 27 June 2016.
4. The mortgage documents prepared by National Australia Bank be signed and sealed by Council.
5. Council authorise the CEO and General Manager Corporate Services to sign the loan documentation on behalf of Council.

Crs Ramsey/Turner. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

Tenders were invited for the provision of \$7,850,000 to be borrowed for the purpose of funding capital works included in the 2015/2016 budget. Three responses were received, with National Australia Bank's offer of 3.74% fixed for ten years, principal and interest repayments over a 10 year term being the preferred option.

2. Background/Issues

In its 2015/2016 budget Council made provision to borrow \$7.85 million primarily to fund major infrastructure projects being carried out in the current financial year.

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
 - 2.1 *Build community trust through socially responsible governance for long term sustainability*

4. Financial Considerations

Council officers advertised for firm tenders for loan number 177, for the amount of \$7,850,000.

The following response was received:

Institution	Loan Option 1	Loan Option 2	Loan Option 3
Australia and New Zealand Bank	3.88%	3.56%	3.84%
Commonwealth Bank of Australia	4.12%	4.01%	4.04%
National Australia Bank	3.74%	4.25%	4.03%

The terms of each loan option are as follows:

Loan Option 1:

Term: Fixed interest rate for 10 years
 Repayments: Principal and Interest amortising over 10 years
 Options: None
 Take up date: 27 June 2016

Loan Option 2:

Term: Variable Interest rate for 10 years
 Repayments: Principal and Interest
 Options: None
 Take up date: 27 June 2016

Loan Option 3:

Term: Fixed Interest rate for 7 years
 Repayments: Interest only
 Options: None
 Take up date: 27 June 2016

Under this proposal Council will incur \$948,307.83 per annum for the term of the loan in servicing the loan. Council will incur a total of \$1.633million in interest payment over the term of this loan.

5. Consultation/Public Submissions

Consultation occurred through the 2015/2016 Budget process.

6. Risk Analysis

The borrowing proposed against Council's financial position, are within prudential limits set by the Department of Planning and Development.

7. Options

Council has the option of not borrowing in this instant and use any available funds, or to consider other options including option 2, variable interest rate. With interest rates at historic lows, Option 1 with 3.74% still is the most attractive rate available. There is no certainty that interest rates will remain at these low levels and a Variable rate option will also not give fixed servicing costs if Council proceeds with option 2.

LIST OF APPENDICES

Nil

12.6 POSITIVE CHARGE PROGRAM

Author: Andrea Fernandez Chicuazuqu - Energy Efficiency Project Officer
Presenter: Laura-Jo Mellan - Manager City Design, Strategy & Environment

PURPOSE OF REPORT

For Council to consider subscribing to the Positive Charge Program.

RECOMMENDATION:

That Council approves Subscription Option 2 to the Positive Charge program for the sum of \$20,750 (excluding GST) and allocate the funds in 2016 –17 budget with a review after 12 months.

Crs Ramsey/Turner. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

The Western Alliance for Greenhouse Action (WAGA), which comprises the western sub-region group of Councils, has identified that residential development contributes 18% of the Western region's total emissions, a figure that is expected to rise by 20% to 2020 due to rapid population growth in the Cities of Melton and Wyndham. More broadly, Melton City Council's Green House Action Plan identified the need to reduce Council's impact on the environment as the municipality grows and develops.

Positive Charge is an energy expert not-for-profit enterprise that works on behalf of Councils to deliver engagement and advisory services to their communities regarding energy efficiency. It is a unique program established by the Moreland Energy Foundation in 2013 and is currently subscribed to by 17 Victorian Councils including Hobsons Bay and Wyndham City Council.

The Positive Charge program has different services available depending of Council's goals and actions in the areas of environmental impact and climate change adaptation. The program is based on a 12-month subscription with costs dependent on the services that are subscribed to. The program delivers the following services:

Core service: this service includes phone and email based advice for community, monthly e-newsletter for residents who sign up, articles for Council publications, communications planning and advice for program promotion and a workshop with internal staff.

Additional to the Core Service the following services are offered to target different needs in the community:

Home Energy Assessment Service: this service provides individualised home energy assessments through analysing energy bills, inspecting building features and appliances. It also includes an interview with the householder and a final report with findings and recommendations. An additional service to this module is the follow-up evaluation to find out if the recommendations provided to the householders have been successfully implemented.

Solar Bulk Buy Intensive Service: Positive Charge conducts a procurement process to choose a supplier and negotiate a discount price that will provide residents with the best quality product at the best price. It provides residents the opportunity to get a quotation for installation of solar PV panels from a reliable supplier and get further support and advice from Positive Charge.

The Positive Charge program presents opportunity for Council to provide the community with access to cost effective sustainability services that can help residents better manage rising energy costs and also help reduce emissions.

2. Background/Issues

The Western Alliance for Greenhouse Action (WAGA), which comprises the western sub-region groups of Councils, has identified that residential development contributes 18% of the Western region's total emissions, a figure that is expected to rise by 20% to 2020 due to rapid population growth in the Cities of Melton and Wyndham. More broadly, Melton City Council's Green House Action Plan identified the need to reduce Council's impact on the environment as the municipality grows and develops. One way to achieve this outcome and contribute to a reduction in emissions is for Council to take a leadership role in the community by supporting residents to make informed decisions in respect of energy saving and renewable energy opportunities.

The award winning LEADS (Lead, Educate, Demonstrate, Sustainability) Community Engagement Program has been successful in improving the community's knowledge and understanding on energy efficiency and presents a great opportunity to leverage from this success to extend the services that Council provides to the residents to start moving on taking the right actions to improve the energy usage.

The Positive Charge program presents opportunity for Council to provide the community with access to cost effective sustainability services that can help residents better manage rising energy costs and also help reduce emissions

Positive Charge is an energy expert not-for-profit enterprise that works on behalf of Councils to deliver engagement and advisory services to their communities regarding energy efficiency. It is a unique program established by the Moreland Energy Foundation in 2013 and is currently subscribed to by 17 Victorian Councils including Hobsons Bay and Wyndham City Council. To date Hobsons Bay Solar Bulk Buy program has been the most successful bulk buy program:

- Residents have directly invested \$698,991 in renewable energy by installing 409kW of solar in their community.
- 689 residents contacted Positive Charge and managed installation of 144 solar PV systems.

The program has different services available depending of Council's goals and actions in the areas of environmental impact and climate change adaptation. The program is based on a 12-month subscription with costs dependent on the services that are subscribed to.

The basic subscription is for the Core Service and provides impartial energy efficiency advice and one-on-one support to residents and includes:

- Council branded webpage and web-based information and resources
- phone-based expert technical advice on energy efficiency, including phone based energy or solar feasibility assessments
- monthly e-newsletters to community members who sign up
- communications planning and advice to promote Council's Positive Charge service
- workshop with community or council staff on sustainability
- quarterly performance report including trends in community energy consumption and performance on customized programs
- networking and knowledge sharing with other subscriber Councils.

In conjunction with the Core Service, there are additional complementary services available. There are two which are worth considering:

Home Energy Assessments: This can be purchased on a per household basis of \$250 per household or Council can choose to bulk by discounted 'packs' of 20, 50 or 100 households. Households are subject individualised energy assessments which:

- Analyse energy bills, the building and appliances and interviewing the householder
- generate a report to the resident, highlighting the issues observed, recommendations (including cost/benefit), written advice and references to support implementation.

Following the completion of these assessments Council would receive a report.

Solar Bulk Buy Intensive Service: this service aims to encourage residents to uptake renewable systems by making it easier and cheaper for them to install solar systems in their houses (refer to **Appendix 2**). Positive Charge have developed a rigorous and transparent procurement process to identify the best supplier and will negotiate the discount price with the supplier ensuring Council, through the program, offers residents the highest quality product at the best price (refer to **Appendix 3**). Residents will need only to sign up to the program to arrange a free, no-obligation quote from the supplier. If the resident accepts the quotation they will need to book the installation. In addition to negotiating discounted prices with suppliers, Positive Charge will manage all customer information, support services and issues resolution on Council's behalf as part of the Solar Bulk Buy service.

The Positive Charge program presents a good opportunity for Council to provide a valuable service to residents with minimal investment. Positive Charge would assist Council with the promotion of the service and all marketing material would be Council branded.

There are two options for Council to consider in respect of the subscription to the Positive Charge program which it is considered will contribute to a reduction in emissions from residential development and provide residents with access to the technical support to make informed decisions in respect of energy saving and renewable energy opportunities. These are:

1. The Core Service in conjunction with the Home Energy Assessments (HEAs) and the Solar Bulk Buy services. It is recommended that initially Council only purchase 25 HEAs and review the effectiveness of continuing with this service after 12 months
2. The Core Service along with the Home Energy Assessment (25 Houses), the Solar Bulk Buy services and a follow up evaluation for the Home Energy Assessments to know the effectiveness of the recommendations (recommend 10 houses).

From an officer perspective, Option 2 is the preferred option as it provides an evaluation of the Home Energy Assessments. The inclusion of this evaluation in the initial 12 month subscription will provide Council with the relevant information to review the benefit and effectiveness of the HEA service.

The table below outlines the services, the cost of each service and the timeframe (where applicable); along with a total cost the total 12-month subscription costs for each option.

Services	Cost	Typical project timeframe
A. Core	\$7,500	12 months
B. Home Energy Assessments (HEA)	\$250 per assessment (25 HEAs) = \$6,250	25 HEAs: 3 months (inclusive of follow up evaluation option)
C. Solar Bulk buy	\$5,000	12 months (active promotions for 6 months)
D. Follow up and evaluation of HEA project	\$100 per household (10 houses) = \$1,000	
E. Promotion	\$1,000	

Services	Cost	Typical project timeframe
Total	Option 1 (A+B+C+E) = \$ 19,750 Option 2 (A+B+C+D+E) = \$ 20,750	

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.4 Value and protect the natural environment for future generations

4. Financial Considerations

This subscription does not have funds allocated in the 2016-17 draft budget. If approved, the subscription fee of \$20,750 (Option 2) would need to be allocated in the 2016-17 budget.

5. Consultation/Public Submissions

There is no consultation required for the program. However, Council will work with Positive Charge to promote the program to the community.

6. Risk Analysis

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Council reputation – Solar Bulk Buy Intensive Service	Solar contractor damage a fail to deliver the service. Noting that the final agreement will be between the supplier and resident.	Low	Check and approve the Positive Charge's procurement process to ensure the provider meet the requirements and standards prior to subscribing to the program (Appendix 3)

7. Options

Council can choose to:

- a. subscribe to Positive Charge Program - Option 2
- b. subscribe to Positive Charge Program - Option 1
- c. not subscribe to the Positive Charge Program.

LIST OF APPENDICES

1. MEF and Positive Charge prospectus
2. Solar Bulk Buy facts
3. Solar Bulk Buy supplier selection

12.7 RESPONSE TO NOTICE OF MOTION 425 - STRATEGIC TELECOMMUNICATIONS MOBILE TOWER PLACEMENT

Author: Kelly Archibald - City Strategy Coordinator
Presenter: Laura-Jo Mellan - Manager City Design, Strategy & Environment

PURPOSE OF REPORT

To respond to Notice of Motion 425 from the Ordinary Meeting of Council 2 May 2016 regarding the development of a Strategic Telecommunications Infrastructure Policy for the City of Melton.

RECOMMENDATION:

That Council:

1. note the information provided in the report
2. approve the preparation of the policy and allocate funds to prepare a 'Strategic Telecommunications Infrastructure Policy' in the 2016-17 budget.

Crs Majdlik/Cugliari. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

At the Ordinary Meeting of Council held on the 2 May 2016 a Notice of Motion was carried requesting Council Officers to prepare a report to outlining the requirements and costs associated in developing a 'Strategic Telecommunications Mobile Tower Placement Document' and whether this document would strengthen Councils position at VCAT and assist Council to be more proactive with respect to the location of telecommunications infrastructure.

This report provides a response to the questions raised in the motion. Notwithstanding complexities detailed within the body of the report, it is considered that the development of such a document would assist Council to work more proactively with carriers and would provide a policy basis to support Councils position with relevant bodies such as VCAT.

2. Background/Issues

At the Ordinary Meeting of Council held on the 2 May 2016 a Notice of Motion was carried requesting Council Officers to:

1. Prepare a report to Council, outlining the requirements and costs associated in developing a Strategic Telecommunications Mobile Tower Placement Document for our municipality.
2. Include whether this document would help assist Council in becoming more proactive in strengthening Council's position by working together with Mobile Phone companies in where our community would prefer all future Telecommunication/Mobile towers to be located.
3. Include whether this document would assist Council in strengthening any future planning applications with relevant governing bodies such as VCAT.

A copy of the draft consultant brief to undertake the project has been provided in **Appendix 1**.

Council Officers provide the following response to questions posed in Notice of Motion 425:

1. Requirements and costs of developing a Strategic Telecommunications Mobile Tower Placement Document

Council Officers have prepared a draft consultants brief (**Appendix 1**) outlining the requirements and costs associated with developing a policy for the future placement of telecommunications infrastructure. It is considered that to provide the required policy direction and guidance that it is important to develop a policy that covers telecommunications infrastructure more broadly rather than restrict it to towers. In this context, it is proposed that Council prepare a '*Strategic Telecommunications Infrastructure Policy*'. **Appendix 1** outlines the scope of works required to prepare the policy which can be summarised as follows:

- **Stage 1: Project Plan and Background Analysis** - this stage involves the preparation of the project management plan, and background analysis. The background analysis will include a desktop study to understand the Legislative context of Communications Infrastructure, site selection and decision making processes for telecommunications facilities and a review and analysis of work already undertaken by Council.
- **Stage 2: Draft Policy and Internal Consultation** - this stage involves the preparation of a draft policy that will assist in guiding the location of new facilities within the Melton context as well as providing a tool for council officers to assess new applications for communications infrastructure which requires planning approval, such as telecommunications and NBN facilities.
- **Stage 3: External Consultation** – this stage will involve the testing of the draft policy with external stakeholders. It is proposed this will involve consultation with telecommunications carriers – this will ensure the policy is workable with the carriers that will need to use it, in addition to testing the draft policy with the community.
- **Stage 4: Final Policy** - this stage is proposed to finalise the policy, taking into account the changes recommended at the Draft Policy stage, and as a result of community and stakeholder consultation.

It is anticipated that a budget of \$50,000 (exclusive of GST) would be required to prepare the policy document including the relevant consultation. Funds have not been allocated in Council's Budget, this will need to be allocated before the project can commence.

It must be noted that the '*Strategic Telecommunications Infrastructure Policy*' would only apply to telecommunications infrastructure that would trigger a planning permit application.

2. Role of proposed document in strengthening Council's position in working with Telecommunications companies

The proposed Policy is intended to provide guidance for the siting and design of new communications facilities within the City of Melton. It is envisaged that the policy will provide clear direction for Communications Carriers when they are determining appropriate locations for new facilities within the City of Melton and outlines Council's expectations in respect of the design and siting of these facilities.

Although the Policy will generally relate to infrastructure that triggers a planning permit, it is considered that by working with carriers to develop the policy it can be used more broadly for all telecommunications infrastructure.

Furthermore, it is anticipated that working in consultation with the carriers in the preparation of the document will encourage an open dialogue to ensure Council has a better understanding of future rollout plans and co-location opportunities.

3. Role of document in strengthening any future planning applications with relevant governing bodies such as VCAT

The document will be used as an assessment tool to determine whether proposed buildings and works for a communications infrastructure facility will meet specific site selection requirements from a Council perspective. This may include guidance on where Council believe facilities should be located, but must have regard to the fact that communications infrastructure is an essential service and there are limits to how Council can specify the design and location of facilities.

It is anticipated that the document will strengthen Council's ability to manage the siting of new facilities and will be used alongside existing State and Federal Legislation to enable Council to determine the appropriateness of a new facility.

Once the document has been adopted by Council, it is proposed that it will inform the preparation of a Local Planning Policy to be implemented into the Planning Scheme. The implementation of a local policy relating to telecommunications infrastructure into the Melton Planning Scheme would provide a stronger policy position for Council to defend decisions relating to the location of communications infrastructure that do not accord with the policy, at VCAT.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.1 *Strategically plan for a well designed and built City*

4. Financial Considerations

It is anticipated that a budget of \$50,000.00 will be required to prepare a *Strategic Telecommunications Infrastructure Policy*. Should Council resolve to commence this project, funds will need to be incorporated into the 2016/17 budget.

5. Consultation/Public Submissions

Should this project be undertaken, it is proposed that consultation with both Telecommunications Carriers and the community will be undertaken. A detailed consultation approach is a requirement of the brief at **Appendix 1**.

6. Risk Analysis

Should this document not be prepared there will not be clear guidance on Council's position for the appropriate location of Telecommunications Infrastructure in the future. Council will not be in a strong position to determine appropriate and inappropriate locations for facilities in the future.

This process may raise community expectation for the ability to prevent the location of towers, where this may be determined by other legislation outside of Council's jurisdiction. Any information provided to the community needs to be clear on what elements can be considered in the development of any policy.

7. Options

1. Council approve the preparation of the policy and allocate funds to prepare a '*Strategic Telecommunications Infrastructure Policy*' in the 2016-17 budget.
2. Council note the report but do not proceed with the preparation of a policy.

LIST OF APPENDICES

1. Draft Brief Strategic Telecommunications Infrastructure Policy

Cr Ramsey left the Chamber at 7:39pm.

12.8 PLANNING APPLICATION PA 2014/4649 - CONSTRUCTION OF THREE DWELLINGS AT 13 WORDON COURT, KURUNJANG

Author: Bob Baggio - Manager Planning Services
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To advise Council of the recent VCAT decision on a planning application for the construction of three dwellings at 13 Wordon Court, Kurunjang.

RECOMMENDATION:

That Council note the VCAT decision.

Crs Cugliari/Carli. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

Applicant:	T & S Kibar
Proposal:	Construction of three dwellings
Zone:	General Residential Zone
Overlays:	None
Council Decision:	Refuse the application
Date of VCAT Order:	30 March 2016
VCAT Decision:	Affirm Council decision to refuse and no permit is to issue

2. Background

The subject site has an area of 672m² and is located on the corner of Wordon Court and Christina Crescent in Kurunjang.

Refer to **Appendix 1** for a locality plan.

On 25 May 2015, Council refused a planning application to construct three dwellings on the land because there is a lack of policy support for medium density housing in this location; the design is not respectful of the neighbourhood character; and the design will necessitate the removal of a street tree in Wordon Court.

The applicants subsequently sought a review of Council's refusal which was heard by VCAT on 15 February 2016. On 30 March 2016, VCAT directed that the decision of Council is affirmed and no permit is to issue.

Refer to **Appendix 2** for a full copy of the VCAT decision.

In its decision, the Tribunal considered that the two key issues were the guidance in the planning policy framework for new medium density housing development; and whether this design is respectful of the neighbourhood character.

The following is a summary of the Tribunal's decision:

What is the guidance in the planning policy framework for new medium density housing development in this neighbourhood?

The Tribunal indicated that:

'The Housing Diversity Strategy (HDS) explains on page 12 that the development outcome expected in a General Residential Zone (GRZ) is incremental change. In other words, it envisages some change in housing density and housing type. The HDS emphasises that neighbourhood character is not static and will change and evolve over time, so the HDS provides guidance to appropriately manage the evolution of neighbourhood character. The expected housing type in the GRZ is "a mixture of single dwellings, dual occupancies with some villa units and in limited circumstances townhouses, where appropriate". The type of housing proposed in this case is consistent with the expected housing type. So, the GRZ is not a pristine area where there will be limited or no housing growth. Rather, the HDS clearly identifies it as an area where some change, including change of the nature proposed in this case, is expected. I agree with the Council that the site is some distance from the nearest activity centre and has limited public transport. If the Council considers this area is not suitable for incremental housing growth, then it needs to consider changing the GRZ. At present this area is in the GRZ where some change in housing density and type is expected. The planning policy framework and the HDS guidance about housing density and housing type are not reasons to refuse this proposal.'

Is the design respectful of the neighbourhood character?

In this regard, the Tribunal agreed with Council that:

- The proposal was not respectful of the existing streetscape primarily as unit 2 has ground and first floor blank wall expanses, which is not acceptable on a corner in a neighbourhood setting that has open front gardens with houses oriented to have an outlook over these garden areas.
- The proposed removal of an existing street tree to accommodate a proposed crossover is not a good design outcome, and the design should be modified to enable the retention of the tree.
- The setback of unit 3's garage from the Christina Crescent frontage is insufficient for someone to park a car in front of the garage, without obstructing the adjoining footpath.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth.

1.1 Strategically plan for a well designed and built City.

4. Financial Considerations

Nil.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

Not applicable.

7. Options

VCAT's decision is final unless Council considers that there has been an error in law, in which case an application for review can be made to the Supreme Court. This however is not considered to be the case here.

LIST OF APPENDICES

1. Locality Plan
2. VCAT Decision

Cr Ramsey returned to the Chamber at 7.44pm.

12.9 PLANNING APPLICATION PA 2015/4746 - TWO LOT SUBDIVISION AT 942-996 BEATTYS ROAD, ROCKBANK

Author: Bob Baggio - Manager Planning Services
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To advise Council of the recent VCAT decision on a planning application for the two lot subdivision at 942-996 Beattys Road, Rockbank.

RECOMMENDATION:

That Council note the VCAT decision.

Crs Cugliari/Ramsey. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

Applicant:	A & C Touvana
Proposal:	Two lot subdivision
Zone:	Urban Growth Zone and Urban Floodway Zone
Overlays:	None
Council Decision:	Refuse the application
Date of VCAT Order:	28 April 2016
VCAT Decision:	Affirm Council decision to refuse and no permit is to issue

2. Background

The subject site has an area of 12.38ha and is located on the corner of Beattys Road and Leakes Road in Rockbank.

Refer to **Appendix 1** for a locality plan.

On 14 July 2015, Council refused a planning application to subdivide the land into two lots on the following grounds:

1. The proposal is contrary to the purpose and decision guidelines of the Urban Growth Zone – Clause 37.07 of the Melton Planning Scheme.
2. The proposal creates a small fragmented lot of two hectares, which has the potential to prejudice the preparation of an implementation of a future Precinct Structure Plan.
3. The proposal has the potential to prejudice the logical, efficient and orderly future urban development of the land once a Precinct Structure Plan has been approved.

The applicants subsequently sought a review of Council's refusal which was heard by VCAT on 31 March 2016. On 28 April 2016, VCAT directed that the decision of Council is affirmed and no permit is to issue.

Refer to **Appendix 2** for a full copy of the VCAT decision.

A significant part of VCAT's decision deals with procedural matters raised by the applicants at the start of the hearing. These matters are addressed in the decision under the following headings:

- Strike out application under Section 78 and request for an order and costs under Section 78(2) of the VCAT Act
- Application of Sections 7(4) and 16 of the *Planning and Environment Act 1998*
- De novo hearing
- Rights and human rights
- Existing rights.

It is not proposed to deal with these matters in any detail in the report and they were not supported by VCAT and therefore have no further implications for Council. It is proposed instead to focus on the planning issues for the remainder of the report.

In its decision on the merits, the Tribunal considered that the key issues were:

- Applicable State and Local Policies
- The acceptability of the proposed subdivision
- Relevance of other applications
- Relevance of the subdivision being excluded from the Growth Areas Infrastructure Contribution
- Public use
- Net community benefit.

The following is a summary of the Tribunal's decision:

Applicable State and Local Policies

The parties agreed that the subject land is earmarked for future urban development, to be guided by a Precinct Structure Plan for Melton East. The Tribunal acknowledged that State policies relevant to Council's decision were to "*Restrict low-density rural residential development that would compromise future development at high densities*". Another is to encourage "*average overall residential densities in the growth areas of a minimum of 15 dwellings per net developable hectare*".

The Tribunal also found that the fact that the referral authorities have not objected does not mean that there is an inconsistency in the State and local provisions, rather, the water authority has no concerns with respect to the Urban Floodway Zone and the MPA does not object, even though it considers the proposal will fragment the subject land. It is open to the responsible authority taking a different position to the MPA and this is not the first time that this has occurred.

The acceptability of the proposed subdivision

The Tribunal found that:

"State and Local policies are cautious about rural residential or low density subdivision involving residential use in an area such as this awaiting urban development. This is because of the difficulties that arise from fragmented land ownership in planning and then achieving the purpose this land has been earmarked for..."

Fragmented ownership patterns can make it difficult to assemble land into large enough blocks for sustainable urban development. The Melton Planning Scheme seeks to minimise such potential that adds to costs and delays in the delivery of a new suburb. These difficulties are not simply speculation. The responsible authority does not have an onus to prove they will happen but the example used in the Council's submission is demonstrative of what can happen. I therefore accept that the subdivision is unlikely to prevent a Precinct Structure Plan from being adopted and implemented per se. But the aim is to achieve urban development in an efficient and orderly way and the presence of the proposed 2 hectare dwelling lot and a separate balance lot in this location will add to the potential to prejudice the logical, efficient and orderly future urban development of the land."

Relevance of other applications

The applicants contended that the Council's decision in this case and other cases were inconsistent and erroneous, however the Tribunal found that each case is decided on its own facts and circumstances.

Relevance of the subdivision being excluded from the Growth Areas Infrastructure Contribution

The applicants contended that this type of subdivision was contemplated within the area as it is excluded from GAIC; however the Tribunal did not accept the argument having regard to the matters which it was required to consider under the planning legislation and controls.

Public Use

The Tribunal found that "*Questions of compensation are not before me in this proceeding. There is no Precinct Structure Plan yet in place to conclude that the subject land is expressly required for a public purpose, such as a road or reserve or school.*"

Net community benefit

The Tribunal found that "*the proposal has some neutral outcomes (because it does not seek another dwelling and there is an existing dwelling on proposed Lot 1). However, I consider that it has the potential to prejudice future urban development by fragmenting the land. I have not been presented with grounds that persuade me that the negative or neutral outcomes are outweighed by other or positive outcomes that warrant the grant of a permit.*"

Comments

This is considered to be an important decision by VCAT because it reinforces Council's consistent position of not supporting further land subdivision with the growth areas until a Precinct Structure Plan has been prepared and approved.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth.

1.1 *Strategically plan for a well designed and built City.*

4. Financial Considerations

Nil.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

Not applicable.

7. Options

VCAT's decision is final unless Council considers that there has been an error in law, in which case an application for review can be made to the Supreme Court. This however is not considered to be the case here.

LIST OF APPENDICES

1. Locality Plan
2. VCAT decision

Cr Dunn left the Chamber at 7.46pm.

Cr Dunn returned to the Chamber at 7.47pm.

12.10 PLANNING APPLICATION PA 2015/4886 - CONSTRUCTION OF A SECOND DWELLING AT 13 FRASER STREET, MELTON SOUTH

Author: Bob Baggio - Manager Planning Services
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To advise Council of the recent VCAT decision on a planning application for the construction of a second dwelling at the rear of an existing dwelling at 13 Fraser Street, Melton South.

RECOMMENDATION:

That Council note the VCAT decision.

Crs Ramsey/Cugliari. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

Applicant:	Khuan Ming Kon
Proposal:	Construction of a second dwelling
Zone:	General Residential Zone
Overlays:	None
Council Decision:	Refusal of application
Date of VCAT Order:	22 April 2016
VCAT Decision:	Affirm Council decision to refuse and no permit is to issue

2. Background

The subject site has an area of 580m² and is located on the north side of Fraser Street in Melton South.

Refer to **Appendix 1** for a locality plan.

On 7 October 2015, Council refused a planning application to construct a second dwelling behind an existing dwelling on the site on the grounds that it was inconsistent with the Council's Housing Diversity Policy, not respectful of neighbourhood character, non compliant with a number of ResCode standards, and an overdevelopment of the site.

The applicants subsequently sought a review of Council's refusal which was heard by VCAT on 21 April 2016. On 22 April 2016, VCAT directed that the decision of Council is affirmed and no permit is to issue.

Refer to **Appendix 2** for a full copy of the VCAT decision.

In its decision delivered orally at the conclusion of the hearing, the Tribunal considered that:

'...In essence, I was concerned that the proposal sought to achieve too much for the rear of the site within a restricted space, contrary to neighbourhood character which is quite consistent. I noted that single detached dwellings on large blocks with substantial setbacks and open rear yards are extremely prevalent in the immediate surrounds.

While there are numerous attributes of the site that make it a potential candidate for some increase in density in line with planning policy, I considered that retention of the existing dwelling would require a more careful and sensitive approach to the siting and layout of any dwelling in the rear of the block.

Features such as minimal rear setbacks at both levels, construction to the rear boundary, sparse opportunities for genuine landscaping and direct shadowing impacts on a key area of secluded private open space to the east were particularly problematic for this particular proposal, which involved a double storey four bedroom dwelling. The proposal also failed to resolve issues of on-site parking and manoeuvrability for both units in a convenient way.'

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth.

1.1 *Strategically plan for a well designed and built City.*

4. Financial Considerations

Nil.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

Not applicable.

7. Options

VCAT's decision is final unless Council considers that there has been an error in law, in which case an application for review can be made to the Supreme Court. This however is not considered to be the case here.

LIST OF APPENDICES

1. Locality plan
2. VCAT decision

12.11 PLANNING APPLICATION PA 2014/4588 - CONSTRUCTION OF A RETAIL AND COMMERCIAL DEVELOPMENT AT 2 RIDING BOUNDARY ROAD AND 231B ROBINSONS ROAD, RAVENHALL

Author: Bob Baggio - Manager Planning Services
 Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To advise Council of the recent VCAT decision on a planning application for the construction of six retail premises, supermarket, medical centre and shop at 2 Riding Boundary Road and 231B Robinsons Road, Ravenhall.

RECOMMENDATION:

That Council note the VCAT decision.

Crs Dunn/Carli. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

Applicant:	Pelmin Properties Pty Ltd
Proposal:	Development of six retail premises, supermarket, medical centre and shop with associated car parking, landscaping and business identification signs
Zone:	Commercial 2 Zone
Overlays:	Development Plan Overlay, Schedule 13 (Ravenhall Freeway Business Park)
Council Decision:	Refusal of application
Date of VCAT Order:	5 May 2016
VCAT Decision:	Affirm Council decision to refuse and no permit is to issue

2. Background

The subject site has an area of 3.81ha and is located on the western side of Robinsons Road extending from Orbis Drive to Riding Boundary Road in Ravenhall.

Refer to **Appendix 1** for a locality plan.

On 29 June 2015, Council refused a planning application to develop the site with six retail premises, supermarket, medical centre and shop with associated car parking, landscaping and business identification signs on the following grounds:

1. Council is obliged to refuse the application under Section 61(2) of the Planning and Environment Act 1987 as a relevant referral authority (VicRoads) has objected to the application on the grounds that part of the subject land (Lot ZZ on Plan of Subdivision PS630147E) is located within an area that forms part of the future duplication of Robinsons Road.

2. The proposal fails to satisfy the requirements under Clause 52.06-6 of the Melton Planning Scheme in relation to the provision of car parking on an alternate site. Council is not satisfied about the long term provision and availability of car parking on land designated as part of the future duplication of Robinsons Road on the basis that Vic Roads has objected to the application.
3. The proposal is inconsistent with the decision guidelines of the Commercial 2 Zone.
4. The proposed use and development is inconsistent with the objectives and principles of Council's adopted Retail Activity Centres Strategy and the activity centre hierarchy outlined under this strategy.
5. The design of the proposed development fails to adequately respond to the prominent location of the subject site on Robinsons Road as provides an insufficient level of articulation to break up the built form and visual bulk of the proposed building.
6. The number of pylon signs to be displayed is excessive and contrary to the objectives and standards of Council's Outdoor Advertising Guidelines.

The applicants subsequently sought a review of Council's refusal which was heard by VCAT on 21 and 22 March 2016. On 5 May 2016, VCAT directed that the decision of Council is affirmed and no permit is to issue.

Refer to **Appendix 2** for a full copy of the VCAT decision.

In its decision, the Tribunal considered that the key issue was whether the proposal was generally consistent with the approved Development Plan for this area.

The following is an extract from the Tribunal's decision in relation to that issue:

'...I find that it is clear that the intent and aspiration of the Development Plan is to provide for the possible road widening of Robinsons Road and in particular to this case, in the location of Lot ZZ. It is clear that the document outlines the aspiration and direction to set aside land at the Robinsons Road frontage for road widening. What is not clear are the exact dimensions of the widening or timing of the road widening but that is not the issue in this case. The issue is if the proposed development is 'generally in accordance' with the Development Plan. The approved Development Plan sets the vision for the area, which is to provide for the 'possible' widening of Robinsons Road.

I find the narrative of the Development Plan document when read in conjunction with the plans provides a reasonably strong level of guidance as to the intent for development under this plan and the future of this area including the widening of Robinsons Road. It is noteworthy that whilst the language is 'possible' and 'any', these words combined with the diagrams detailing the location of this 'possible' road widening provide a clear intent of the direction of the Development Plan.'

In conclusion, the Tribunal found that the proposed development is not 'generally in accordance' with the development plan due to the location of the car parking on Lot ZZ and as such a permit cannot be granted.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth.

1.1 Strategically plan for a well designed and built City.

4. Financial Considerations

Nil.

5. Consultation/Public Submissions

Not applicable.

6. Risk Analysis

Not applicable.

7. Options

VCAT's decision is final unless Council considers that there has been an error in law, in which case an application for review can be made to the Supreme Court. This however is not considered to be the case here.

LIST OF APPENDICES

1. Locality plan
2. VCAT decision

12.12 PLANNING APPLICATION PA 2003/504 - EXTENSION OF TIME FOR A SEVEN LOT SUBDIVISION PERMIT AT 570 PARWAN-EXFORD RD, PARWAN

Author: Steve Finlay - Coordinator Statutory Planning

Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider and determine a request for an extension of time for a seven lot subdivision permit at 570 Parwan-Exford Rd, Parwan.

RECOMMENDATION:

That Council refuse to extend planning permit PA2003/504 subject to the grounds outlined in **Appendix 5** of this report.

Motion

Crs Dunn/Ramsey

That Council:

1. Having considered the extension of time request, resolves to extend the time for planning permit PA2003/504 for a further two year, such that the permit will expire if the subdivision is not completed by 14 July 2018.
2. Advises the permit holder that this will be the final extension of time granted and that any future extension of time request for this permit will not be supported by Council.

CARRIED

REPORT

1. Background

Executive Summary

Applicant:	Mr Bill Earle C/- Linked Development Solutions Pty Ltd
Proposal:	Request for an extension of time to a seven lot subdivision permit.
Existing Land Use:	Agricultural
Zone:	Green Wedge Zone
Overlays:	Environmental Significance Overlay (Schedule 4 – Grasslands within the Werribee Plains Hinterland)
Number of Objections:	Nil
Key Planning Issues:	Rural land fragmentation Length of time since permit initially issued Infrastructure provision
Recommendation:	Refusal to extend time on the permit

The Land and Surrounding Area

The subject site has an area of 154.4 ha, known as 'Willaston Farm' and is located at 570 Parwan-Exford Road, Parwan. Other features of the site are as follows:

- The land is used for agricultural purposes and has been used as a standardised harness racing facility, horse stud, training and agistment farm. The land contains an existing dwelling and a trotting track, as well as harbours areas of native vegetation.
- Planning permit number PA2003/504 was issued on 4 August 2004 and allows for the subdivision of the land into seven lots, consisting of one primary lot of approximately 124ha and six secondary lots of 5ha each.

The surrounding area can be characterised as being used for agricultural purposes, predominantly cropping and grazing.

Refer to **Appendix 1** for a locality plan

The Application

The application proposes the consideration of a request to extend time on planning permit number PA2003/504, which is due to expire on 14 July 2016.

The proposal can be summarised as follows:

- Planning permit number PA2003/504 allows for the seven lot subdivision of the land, comprising of one primary lot of approximately 124ha and six secondary lots of 5ha each.
- The permit has been amended previously on two occasions, including one of those amendments altering the expiry date of the permit. A third request to amend the permit has previously been refused and a fourth request to amend the permit has been placed on hold. The latter two requests related to, in part, the requirement to provide a reticulated water supply to the subdivision.
- In addition to one of the amendments to the permit extending the expiry date of the permit, there has also been two previous time extensions granted to the permit. This is the third extension of time request under consideration.
- Previous extension of time requests have related to roadworks provision and reticulated water supply, and in particular, the need for these requirements and the cost of providing such services, which take time to resolve.
- The owners have now requested a third extension of time to the permit, which has been received within the relevant statutory timeframe. The applicants have advised that they are now requesting a final two year extension to the permit, and have been unable to complete the subdivision owing to other commitments over the last 2-3 years, and that they now have a clear plan and renewed focus to complete the subdivision.

Refer to **Appendix 2** for the current permit associated with the proposal

Planning Controls

Zone	(Clause 35.04 – Green Wedge Zone)	Permit required for subdivision of land, and the current permit expires on 14 July 2016
Overlays	(Clause 42.01 – Environmental Significance Overlay (Schedule 4))	Permit required for subdivision, and the current permit expires on 14 July 2016. The current permit has a requirement for an Environmental Management Plan to be prepared and approved, and compliance reinforced via a Section 173 Agreement.

<p style="text-align: center;"><i>Planning and Environment Act 1987</i></p>	<p style="text-align: center;">Section 69</p>	<p>Before the permit expires, or within six months afterwards, the owner or occupier of land may ask the Responsible Authority to extend the permit. Given that the permit is due to expire on 14 July 2016, the request has been submitted within the relevant statutory timeframe.</p>
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A full assessment of the proposal against the relevant State and Local planning policies is included in **Appendix 3**.

Is the land affected by a Restrictive Covenant?

The land is not affected by a Restrictive Covenant, however is affected by the Section 173 Agreement that was a requirement of this subdivision permit.

Is the land of Cultural Heritage Sensitivity?

The land is not considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*.

2. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth.

1.1 Strategically plan for a well designed and built City.

3. Financial Considerations

No Council related financial considerations are involved with the application.

4. Consultation/Public Submissions

Public notification of the application

The application was not subject to notification given that the proposal is for the extension of a pre-existing permit

Referral of the application

The extension of time was referred to the Department of Environment, Land, Water and Planning (DELWP) for consideration. This is not a mandatory requirement for extensions of time, however, it was deemed appropriate to do so, on the basis that since the permit was first issued, the Environmental Significance Overlay control affects the land, and DELWP are identified as a determining referral authority for planning permit applications. DELWP has advised that they have no objection to the permit being extended, and will require an Environmental Management Plan submitted in accordance with the permit requirement to be forwarded to DELWP for review. The DELWP response is included in **Appendix 4**.

5. Issues

Planning Assessment

Town Planning permit number PA2003/504 was issued on 4 August 2004 and allows for a seven lot subdivision of the land. By virtue of the permit having been amended, and two previous extensions of time having been granted, the permit is due to expire on 14 July 2016. The owners have undertaken a number of requirements of the planning permit, including obtaining endorsed plans, and preparing and lodging a Section 173 Agreement with Land Registry, however, physical works on the ground have yet to occur. The lack of

physical works has stemmed due to a number of factors, including the cost to undertake works, protracted negotiations with Western Water and other personal commitments.

Section 69 of the *Planning and Environment Act 1987* enables the owner or occupier of land to which a planning permit applies to apply for an extension of time prior to the permit expiring or within six months afterwards. By way of correspondence dated 4 March 2016, Linked Development Solutions, acting on behalf of the owners has requested a final two year extension to the permit. The request to extend the permit has been received within the relevant statutory timeframe, since it was received before the permit expiry date of 14 July 2016.

Information submitted in support of the permit extension indicates that this will be the final request for an extension of time. The inability to complete the subdivision to date has been put down to a number of personal commitments, which has taken the focus away from completing the subdivision. There have also been protracted discussions with Western Water around the provision for water supply, which is a requirement of the permit.

The applicants are now ready to focus on completing the subdivision and have a clear direction as to what they need to do in order to complete the subdivision.

The *Planning and Environment Act 1987* generally envisages a time limit be imposed on planning permits. The time limit condition that was originally imposed on the subject permit is consistent with most planning permits related to subdivisions. The reason for imposing a time limit on planning permits is to ensure that permit holders do not 'warehouse' planning permits. The time limit enables Responsible Authorities to reconsider planning permits, where they have not been acted upon, taking into account any new policy or control that may have been introduced in the intervening period.

In considering the request for the time extension to the permit, it is necessary for Council to act reasonably and to base its decision on any relevant matters.

Since the original date of the permit being issued, there have been some changes in planning circumstances surrounding the subject land. These changes include:

- Updates to the State and Local Planning Policy Frameworks of the Melton Planning Scheme.
- Updates to the Green Wedge Zone provisions in the Melton Planning Scheme.
- Inclusion of the land in the Environmental Significance Overlay (Schedule 4 – Grasslands within the Werribee Plains Hinterland)

The subdivision is still one that can be contemplated by the subdivision provisions in the schedule to the Green Wedge Zone in the Melton Planning Scheme, as well as the Environmental Significance Overlay provisions. Further, existing planning permit conditions, which specifically require an Environmental Management Plan for the land, inclusive of native vegetation protection is also required by the planning permit and reinforced for protection via a Section 173 Agreement that has already been registered in Title. These facts alone do not necessarily mean that the extension of time should be granted.

The Supreme Court decision in *Kantor vs Murrundindi Shire* is the most comprehensive statement of matters to be taken into account as to whether or not to allow a request for an extension of time. The principles of this case law in respect to the treatment of an extension of time request are that the Responsible Authority:

- Should treat the applicant as being obliged to advance some reason or material in support of the grant of an extension.
- May rightly consider as a factor in favour of an exercise of discretion, that there has been no change in planning policy (including the planning scheme legislation) – but it does not follow that, absent a change in planning policy, an extension should normally be granted.
- Consideration as a factor tending against the grant of an extension, any material

suggesting that an owner of land is intending to “warehouse” a permit – ie obtain a windfall by selling the land together with the benefit of an unused permit.

- Consideration of any intervening circumstances, such as if in seeking an extension of time, whether steps have already been taken to develop the land in accordance with the permit, this will count in favour;
- Consideration of the total amount of time which has elapsed when a request to extend is being considered. If a permit has been long held and not acted upon, this will tend against an application for an extension of time, particularly where other possible developments nearby are being stultified. The philosophy of the *Planning and Environment Act 1987* that a permit should not be unlimited as to time must also be borne in mind here.
- Consideration as to whether the time limit originally imposed was adequate in all the circumstances.
- Consideration as to whether the permit casts a considerable economic burden on the owner of the land, making it necessary for him or her to proceed slowly, whilst always intending to proceed with the development; and
- Consideration as to the probability that if a request to extend time were refused and a fresh application lodged, it would be granted. This factor would be particularly relevant where planning policy has remained unchanged and it is improbable that potential objectors to a fresh proposal will be able to raise any new considerations.

So far as the factors identified in *Kantor vs Murrumbidgee Shire* and other factors are concerned in relation to this extension of time:

- The initial time period specified in permits for commencement is normally adequate, as has previously been observed by VCAT.
- Given the length of time that has elapsed and the absence of physical works since the permit was issued, it could be argued that the permit has, and will continue to be “warehoused” if a further extension is granted.
- The owner has taken only minor steps to develop the land, to the extent that only some plans required by the permit have been endorsed and a Section 173 Agreement has been entered into and lodged on Title. No physical works have occurred on the site associated with the permit. Advice from the applicant indicates that there has been protracted negotiation with Western Water about the provision of water supply, which has contributed to lengthy delays in undertaking any physical works. Further, other personal circumstances have prevented the subdivision from being completed, and there is now a clear plan for this to occur.
- The permit was initially issued in 2004. Nearly twelve years have elapsed since the permit was issued, which is considered an ample amount of time in which to have completed the subdivision.
- There have been changes to State and Local Planning Policies, as well as planning controls (by virtue of the inclusion of the land within an Environmental Significance Overlay). Notwithstanding, the proposal is not prohibited by the Planning Scheme, but is arguably inconsistent with the objectives of the Green Wedge Zone and relevant State and Local Planning Policies owing to rural land fragmentation.

In considering the request for the extension of time, Council needs to take into account the above factors and also act reasonably and fairly. On balance, it is not considered unreasonable for Council to refuse to extend time on the permit on the basis that:

- There has been a significant amount of time since the permit was initially issued.
- The time limits imposed in the permit as well as numerous amendments and previous extensions of time have been more than adequate to enable the subdivision to proceed.

- The reasons given justifying a delay in completing the subdivision are insufficient to justify non-completion of the subdivision.
- Given that there has been a number of changes in State and Local Planning Policies and other planning controls affecting the land, a fresh application should be lodged so that it can be appropriately assessed against the current day planning regime.

Should Council be of a mind to grant an extension to the permit, it has the discretion as to how long the permit should be extended for. The permit holder has requested a final further two year extension to the permit, which if approved would mean that the subdivision would need to be completed by 14 July 2018.

6. Options

Council can either support the application by extending the permit for any length of time considered appropriate and reasonable, or it can refuse to extend the planning permit.

7. Conclusion

The application has been assessed against the provisions of the *Planning and Environment Act 1987*, relevant Case Law, State Planning Policy Framework, Local Planning Policy Framework, Zone/Overlay provisions and Clause 65 of the Melton Planning Scheme.

It is considered that the proposal generally does not comply with the relevant requirements of the Planning Scheme and relevant case Law.

Therefore, it is recommended that the application be refused as outlined in **Appendix 5**.

LIST OF APPENDICES

1. Appendix 1 - Locality Plan
2. Appendix 2 - Current permit and plans
3. Appendix 3 - Policy assessment
4. Appendix 4 - DELWP response
5. Appendix 5 - Grounds of Refusal

12.13 PLANNING APPLICATION PA 2015/4999 - CONSTRUCT AND CARRY OUT WORKS TO DEVELOP A 40 METRE TELECOMMUNICATIONS (NBN) TOWER AT 43-67 FERRIS ROAD, MELTON SOUTH

Author: Sian Smith - Major Developments Coordinator
 Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider and determine the planning application to construct and carry out works to develop a 40 metre telecommunications (nbn) tower at 43-67 Ferris Road, Melton South.

RECOMMENDATION:

That Council issue a Permit subject to the conditions outlined in **Appendix 5** of this report.

Crs Ramsey/Turner. That the recommendation be adopted.

CARRIED

REPORT

1. Background

Executive Summary

Applicant:	Visionstream Pty Ltd
Proposal:	40m telecommunications tower for the NBN
Existing Land Use:	Factory
Zone:	Urban Growth Zone – Schedule 3
Overlays:	Development Contributions Plan Overlay
Number of Objections:	None
Key Planning Issues:	<ul style="list-style-type: none"> - Impact on amenity - Appropriate infrastructure provision for residents
Recommendation:	The proposal is considered to comply with the relevant sections of the Melton Planning Scheme and does not adversely affect the amenity of the area, as such support for the proposal is considered appropriate.

Previous permits for the site

Planning permit PA2004/355 was issued on 29 December 2004 for the use and development of the land for a factory with associated car parking and landscaping. The site has been developed with a large green colourbond building in accordance with the planning permit. The site is accessed via Ferris Road.

The area subject to this permit applies to the use and development of the northern portion of the site. The southern section remains vacant.

Planning Permit PA2012/3460 was issued on 14 March 2012 for earthworks involving the placement of clean fill on the land. The application sought to bring in clean fill to the lowest

portion of the site, particularly along the southern boundary, to provide a more consistent level across the site.

The Land and Surrounding Area

The subject land is located on the eastern side of Ferris Road, Melton South. The land is rectangular in shape with the exception of the northern boundary as it curves slightly adjacent to Treeleaf Lane. The total site area is 7.2ha and is accessed from Ferris Road.

Treeleaf Lane provides access to Melton Recycling Facility and Melton Bin Hire, which is located east of the subject site.

The site is developed and used in accordance with PA2004/355 with the balance of the land remaining vacant with minimal vegetation. There is a significant tree located near the north east corner of the existing factory. The proposed tower and associated compound does not impact on this tree.

The adjoining land parcels to the north, east and south contain warehouses used for industrial purposes. The land immediately north of the site contains a large quarry hole. A permit has been granted to use this land for materials recycling, consistent with adjoining land uses. Refer to **Appendix 1** for a locality plan.

The surrounding land is used for a range of commercial and industrial uses. There are also a number of vacant land parcels in the surrounding area. The entrance to Tabcorp Park is located approximately 220m north of the subject site.

The subject site is screened from Ferris Road by large landscape mounds along the entire frontage. These mounds extend for approximately 770m from the north-west corner of 17-31 Ferris Road to Shogaki Drive to the south. The landscape mounds extend for 760m along the northern boundary of 17-31 Ferris Road, further screening the subject site.

The Application

Approval is sought for the use and development of a telecommunications facility, comprising a 40m high monopole and ancillary components including two outdoor units enclosed within a secure compound which measures approximately 80sqm.

The telecommunications tower will be used to provide NBN services across the Melton South region, including some areas outside of the municipality. The tower will form part of an existing network of telecommunication infrastructure.

Photo montages have been provided by the applicant to demonstrate what the monopole will look like on the site when viewed from the surrounding area. The photo montages have been attached as **Appendix 2**.

The compound will be situated approximately 30m north-east of the existing factory, abutting the northern boundary. The compound will be located approximately 180m along Treeleaf Lane from Ferris Road.

A copy of the site plan is shown in **Appendix 3**.

Planning Controls

Zone	Clause 37.07 – Urban Growth Zone – schedule 3	The applied zone for this site is the Commercial 2 Zone. Under this zone a planning permit is required for a telecommunications facility.
Overlays	Clause 45.06 – Development Contributions Plan Overlay	The proposed telecommunications tower does not attract any requirement to pay developer contributions.
Particular Provisions	Clause 52.19 – Telecommunications Facilities	A permit is required to construct a building or construct or carry out works for a Telecommunications facility.

A full assessment of the proposal against the relevant State and Local planning policies is included in **Appendix 4**.

Is the land affected by a Restrictive Covenant?

The land is not affected by a Restrictive Covenant.

A Certificate of Title has been provided for the subject site. A Section 173 Agreement is registered on the title which prevents the subject site from being used for the purpose of carrying out any extractive industry or for the zoning being changed to a zone such that it would facilitate the use/development of the property for extractive industry.

The proposed tower does not contravene the requirements of this agreement.

Is the land of Cultural Heritage Sensitivity?

The land is not considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*.

2. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth.

1.1 Strategically plan for a well designed and built City.

3. Financial Considerations

No Council related financial considerations are involved with the application.

4. Consultation/Public Submissions

Public notification of the application

This application is exempt from notice under the Urban Growth Zone, however it was considered appropriate to notify adjoining and surrounding land owners of the proposal.

Individual non-statutory advertising letters were sent to adjoining land owners and occupiers within the area. No comments or objections to the proposal have been received to date.

Referral of the application

There are no statutory referrals required for the telecommunications tower.

This application was referred internally to the City Strategy area. The original referral response raised concerns with:

- The type of technology being proposed (ie tower as opposed to fibre optics)
- The impact on developers who are required to deliver fibre optics as part of their subdivision
- The limitations of the chosen technology
- The visual impact of this facility and any future facilities
- The change in the rollout plans from what was previously communicated to Council.

A number of meetings have since been held with NBN Co and Council officers to get a greater understanding of their requirements and rationale behind the use of tower technology in some instances.

Greater clarity has since been provided and as a result a revised referral response was provided noting:

- The tower technology is being used to provide NBN services to rural areas within the City of Melton and Shire of Moorabool.
- The location of the tower is such that it can project the services into the rural outskirts but can connect into the existing NBN network
- The proposal is at the entrance to the gateway of the Toolern Major Activity Centre and as such should be located such that it achieves the least visual impact from Ferris Road.
- Landscaping around the facility and compound should be required to ensure the visual impact of the facility is further reduced.

The location of the tower is already reduced due to the existing high landscaped bunds along Ferris Road and the northern part of 17-31 Ferris Road, the setback from Ferris Road and the existing factory on the site. Photo montages of the site also demonstrates how the proposed tower will fit into the existing streetscape and it is considered that the tower fits appropriately within the existing industrial context and will not detract from the urban design objectives and significance of the MAC as identified within the PSP.

5. Issues

Planning Assessment

A recommendation to support the proposal is based on an assessment against the requirements of the Melton Planning Scheme including the Toolern PSP. It is considered that the proposed telecommunications facility is appropriately located away from Ferris Road and sited so as to have minimal visual impact from surrounding properties.

Access to the site will be provided from an existing vehicle crossover on Ferris Road. A condition on the permit will require construction vehicles use this access.

Landscape plans will be requested to further reduce any visual impact of the facility.

6. Options

Council can either support the application by issuing a Permit or not support the proposal by issuing a Refusal.

7. Conclusion

The application has been assessed against the State Planning Policy Framework, Local Planning Policy Framework, Zone/Overlay provisions, the Toolern PSP and Clause 65 of the Melton Planning Scheme.

It is considered that the proposal complies with the relevant requirements of the Planning Scheme.

Therefore, it is recommended that the application be approved as outlined in **Appendix 5**.

LIST OF APPENDICES

1. Appendix 1 - Locality Plan
2. Appendix 2 - Photo montages
3. Appendix 3 - Site plan and elevation
4. Appendix 4 - Assessment against the Melton Planning Scheme
5. Appendix 5 - Conditions for the Planning Permit

12.14 RESPONSE TO NOTICE OF MOTION 424 - NOTIFICATION OF PLANNING PROPOSALS

Author: Laura-Jo Mellan - Manager City Design, Strategy & Environment

Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To report back to Council on Notice of Motion 424 on reviewing processes for notification of planning proposals.

RECOMMENDATION:

That Council support the proposed changes to the notification, consultation and engagement processes as outlined in the report.

Crs Majdlik/Cugliari. That the recommendation be adopted.

CARRIED

REPORT

1. Executive Summary

At the Council meeting of 2 May 2016, Council resolved as follows:

'That at the next Ordinary Meeting of Council, Council officers prepare a detailed report to Council as to the current procedure in notifying relevant parties that live in the urban and rural areas of the municipality, including commercial business, when a planning application or any major development or a major strategic document is to occur or be implemented. And that Council considers and reviews how this methodology can be strengthened to ensure all relevant parties are made aware of and notified of any future and major planning applications or major developments or major strategic document implementation to affected stakeholders.'

This report responds to the Notice of Motion by providing an overview of current notification processes and procedures as they relate to major planning applications or major developments or major strategic document. It provides details of the current methodologies and statutory requirements for notifying stakeholders and makes recommendations on improvements that could be made to current practices.

2. Background/Issues

At the Council meeting of 2 May 2016, Council resolved as follows:

'That at the next Ordinary Meeting of Council, Council officers prepare a detailed report to Council as to the current procedure in notifying relevant parties that live in the urban and rural areas of the municipality, including commercial business, when a planning application or any major development or a major strategic document is to occur or be implemented. And that Council considers and reviews how this methodology can be strengthened to ensure all relevant parties are made aware of and notified of any future and major planning applications or major developments or major strategic document implementation to affected stakeholders.'

The notice of motion covers several planning functions and as such the report has been split into three sections:

A. Planning Permit Application

- B. Preparation of Strategic documents
- C. Planning Scheme Amendments

A. Planning Permit Applications

Legislative Context

The requirements for giving notice of an application are set out in Section 52(1) of the *Planning and Environment Act 1987*. The Council's planning scheme also specifies particular requirements for giving notice, and exempts certain types of applications from the requirements for giving notice.

Giving notice is a critical step in the processing of an application; however it poses significant risk for Council if it is not carried out correctly. These risks can include possible cancellation of a permit, so it is imperative that the notice requirements are considered carefully and that appropriate measures are in place to ensure proper oversight of the process.

Under Council's planning scheme, applications which are generally exempt from notification include:

- VicSmart applications.
- Any application where an approved Precinct Structure Plan (PSP) applies and the proposal is considered to be generally in accordance with the PSP.
- Any application on land covered by the Development Plan Overlay or within the Comprehensive Development Zone and the proposal is generally consistent with an approved Development or Precinct Plan.

It is important to note that under Clause 67 of the planning scheme, notice must be given of an application on land managed, occupied or owned by Council. Therefore, notwithstanding the above exemptions, notice of an application in this case would still need to be given in the normal manner; however previous legal advice obtained by Council indicates that while any objections would need to be considered, the objectors would have no third party review rights to VCAT in the event that Council issues a planning permit.

Current Process

Aside from the exemptions mentioned above and a number of others outlined in the planning scheme, the majority of applications will require Council to form an opinion on whether material detriment may be caused, and if so, then formal notification is required. Generally, Council's default position is that all applications require notification, unless there are compelling reasons why under the circumstances notification is not required. An example of such an application is the subdivision of existing dwellings which have been previously approved by Council.

In relation to notification exemptions applying to the Development Plan Overlay and the Comprehensive Development Zone, Council has decided that in some cases it is still appropriate for 'informal' notification to be carried out to determine the views of surrounding residents. Typically this would relate to an application for medium density housing in an area which is largely developed and established. In this case, affected residents are advised that while a submission can be made and will be considered by Council in determining the application, there are no third party review rights to VCAT in the event that Council issues a planning permit.

For most applications, notice is given to land owners and occupiers in the immediate area of the site generally adjoining / abutting properties. An on-site notice is also required to be erected along the frontage of the site. The letters and notices are prepared by Council and sent in the regular post, and the on-site notice while prepared by Council is the responsibility of the applicant to install and maintain for the notification period. At its completion, the applicant must provide Council with a Statutory Declaration indicating the Council's directions have been complied with.

For some applications, where residents in a wider area may be potentially affected, then direct notification will be extended beyond adjoining / abutting properties, and a notice will be placed in the local newspaper.

The current costs to applicants of the notification process are:

- \$65.00 for the first 10 letters
- \$5.00 per letter thereafter
- \$10.00 per on-site notice.

Some of the issues which have been encountered with the current process include:

- Regular mail can sometimes be unreliable, including letters returned to Council after considerable periods of time with no explanation
- Regular mail can take 2-6 days to deliver, which potentially reduces the time for a person to prepare and lodge a submission.
- Council's GIS system does not for example recognise an existing school as other than an occupier and does not always provide a postal address other than the subject land
- The on-site notice while of a standard size, can become difficult to distinguish on properties with large frontages
- Applicants can take a significant period of time to return the Statutory Declaration, which can affect statutory timeframes.

Proposed Process

1. Regular mail should be retained. Whilst the advantages of registered mail are that it provides proof of receipt, with a signature required on delivery, the cost of registered mail is \$4.80 per letter compared to \$1 for regular mail and in many instances can be cumbersome for people to collect.
2. The preparation, installation and removal of the on-site notices should be contracted to an external provider. For example, one such company contacted indicates that its costs are as follows:

- | | |
|---|-------|
| • Print, laminate, install and remove A1 notice | \$165 |
| • Additional notices installed on a site | \$30 |
| • Large notices (1.2m by 1.5m) | \$265 |

(Note these costs are not inclusive of GST)

The advantages of this are that applicant involvement is not required in the process, Council can be confident that the notification is carried out correctly and delays are minimised, and that the larger notices are available when required.

3. The application and accompanying documentation will be uploaded onto Council's website, both during the notification period and also between the end of the notification period and determination of the application. This will enable affected residents to view the application without having to visit the Council office.
4. At the registration stage, the Council officers will identify those new applications which are considered to be significant or potentially contentious. These applications will then have a consultation plan developed to ensure that any potentially affected sensitive uses are personally notified and given appropriate opportunity to discuss the proposal with other interested parties. This consultation plan may involve discussion with Council's Communications team and meetings with affected parties.

5. Where objections are received, Council officers will determine whether there is merit in organising a consultation meeting between the applicant, objectors, Council officers and Ward Councillors to discuss the proposal. The meeting will be conducted after hours to enable affected residents to attend.

B. Preparation of Strategic Planning Documents

Council prepares plans, policies and strategies which guide land use development across the municipality. These documents vary in scale and complexity and can in some instances, such as the Housing Diversity Strategy, impact the majority of properties in the municipality.

Legislative Context

There is no prescribed legislative process for developing plans, policies and strategies. However, the development of these documents is underpinned by internal and external stakeholder engagement.

Current Process

The scope and approach to the preparation of new policies, plans and strategies is developed on a project by project basis but generally includes the components below.

Community Consultation or Engagement Plan

When developing a new plan / policy / strategy Council officers prepare a community engagement plan. The Community Engagement or Community Consultation Plan covers the following information:

- A scope of the project and identification of its objectives
- Identification of internal and external stakeholders
- A breakdown of the stages in the development of the document
- A breakdown of who will be consulted during each stage, and how they will be consulted
- Identification on how feedback will be provided to stakeholders during the completion of each stage
- Identification of how the engagement activities will be resourced
- Identification of the main risks to the engagement strategy and how these have been mitigated

The scale and complexity of the project will govern the detail covered in the Community Consultation or Engagement Plan.

Identification of Stakeholders

When a project is commenced Council officers prepare a scoping document which outlines the aim of the project, details its stages of development, and its objectives. The aims of the project and its objectives are used to identify interested parties. These are typically stakeholders who are affected directly and indirectly by the project, for example:

- In the development of the Dry Stone Wall Study all landowners who have a dry stone wall on their property have an interest in the study. Other parties that have an interest in the study were the National Trust, Heritage Victoria, the Dry Stone Wall Association of Victoria, the Melton Historical Society, developers who may want to build new housing estates in an area with dry stone walls, utility servicing authorities who may need to install utilities through the wall (e.g. gas, water, telecommunication, and electricity authorities), and VicRoads who may have an interest in widening a road with a dry stone wall alongside it.
- In the development of Council's Integrated Transport Strategy the whole community is affected as all people who live, work or visit the City of Melton are affected by the

transport system. So all households and businesses were identified as stakeholders. Other critical stakeholders included VicRoads, Public Transport Victoria, the MPA, Bus Operators, Schools, Shopping Centre owners, Members of Parliament, and adjoining Councils.

Council officers prepare a list of the stakeholders internal and external to Council who need to be consulted during the preparation of the project. The lists of internal and external stakeholders are reviewed and approved by the Coordinator City Strategy, the Manager City Design, Strategy and Environment, and the PCG for the project (where one is appointed). Throughout the project and prior to going out on public consultation, officers brief Council on the project and the information that will be made available for comment and how the community will be consulted.

Background Phase

Stakeholders are typically contacted during this phase and are asked to provide information which can be used to prepare the background report. Typically a web page for the project is created on Council's website which will be the primary portal for information during the life of the project. The web page will typically have information about the project, and will have copies of documents created during the project.

For some large projects a dedicated website may be created for the project such as the Integrated Transport Strategy www.movingmelton.com.au

Where the project is small (such as the development of an Electronic Gaming Machine local policy) and has a small number of stakeholders letters are typically sent to all identified stakeholders and they are invited to provide comments. The way that background information is collected is tailored to the project.

Where the project is large, such as Moving Melton, notices were placed in the Leader and Star Weekly newspapers, notices were placed in school newsletters / bulletins, Council used the Moving Ahead publication and its website, media releases were used, and direct contact was made with key bodies and individuals inviting them to provide their comments on the existing transport system and their ideas for its improvement.

The background stage may use all or some of the following consultation techniques:

- Information / drop-in sessions
- Online surveys
- Mapping concerns or opportunities for improvement
- Response to specific questions
- Field surveys or site inspections

Typically at the end of this process a summary of the comments received are included in the background report and this is made available to all stakeholders.

Information / Drop-in Sessions

In circumstances where information / drop-in sessions are held Council officers will try to schedule sessions in the area affected by the project.

For many large projects (such as Moving Melton) sessions are typically held in the five largest geographical areas – Melton, Caroline Springs, Diggers Rest, Eynesbury and Rockbank at the start of the project. Later stages of consultation are typically held in Melton and Caroline Springs.

In the development of the Western Plains North Green Wedge Management Plan the initial stages of consultation were held at the Toolern Vale Hall, and then in Melton Township at the end of the project.

Draft Document Stage

Council officers will typically prepare a draft of the final output and put this out for stakeholder comment. A copy of the draft document is usually placed on Council's website, a hard copy made available at Melton Civic Centre for viewing (a copy is often made available at Caroline Springs library too), and hard copies sent to key external stakeholders. Comments received are considered by Council officers and are reported to Council prior to the finalisation of the document and its adoption by Council.

Recommendations for changes to Consultation Process

Strategic projects vary in scale and complexity depending on the project and it is therefore difficult to recommend a process would fit all projects.

It is therefore recommended that each strategic project is supported by the Community Consultation or Engagement Strategy which considers the following aspects in addition to the requirements outlined above:

1. Council sign off of community engagement plan for strategies of significant scale and complexity.
2. Considers other ways to notify stakeholders during the consultation stages of policy development. This could include a notice board in Council outposts with a notice of policies / strategies that are currently being prepared, a dedicated section in Council's Moving Ahead publication, or more promotion of policy development through Council's social media and website.
3. Consideration of opportunities, where appropriate to integrate consultation with the community with other Council projects to avoid over consultation.
4. Consideration of opportunities, depending on project timeframe, to attend Council events more to engage with the community (such as the Djerrivarrh Festival or the My City My Say sessions).

C. Planning Scheme Amendments

Generally any change to land use policy, including the implementation of strategic planning documents, is required to go through a formal Planning Scheme Amendment process to implement these changes into the Melton Planning Scheme.

Legislative Context

The requirements for giving notice for a Planning Scheme Amendment are outlined in Section 19 of the Planning and Environment Act 1987. Exemptions from giving notice are outlined in Section 20 of the Planning and Environment Act 1987. Council may be exempt from giving notice, or can apply to the Minister for Planning for exemptions from serving particular forms of notice.

The information below relates to amendments which Council prepares and therefore all associated costs would be borne by Council. In some circumstances the Minister for Planning, the Metropolitan Planning Authority, or State Government Agencies (such as Melbourne Water, Western Water, Public Transport Victoria, VicRoads) may prepare and exhibit amendments in consultation with Council.

Current Process

Identification of affected and interested parties

When the amendment is prepared Council officers consider who will be affected by the amendment.

- **Affected Parties** - Council officers determine those parties which are directly affected by the amendment, for example the properties subject to a rezoning, properties affected by the insertion of a new control (such a new heritage overlay), or properties affected by the removal of a control.

- **Interested Parties** - Council officers determine those parties who may have an interest in the amendment. This may include properties that directly abut properties subject to a change of zone or control.
- **Other Parties** - there are Ministers which are required to be notified (Prescribed Ministers), servicing authorities, Government departments and authorities, and adjoining Councils which may need to be notified when a Planning Scheme Amendment is placed on exhibition.

Documentation Prepared for Exhibition

When an amendment is prepared there are documents which need to be sent with the amendment. These include:

- A letter which outlines what the amendment is, how to view the amendment, who to contact in Council to discuss the amendment, and when submissions are due.
- An explanatory report.
- Copies of the changes to Planning Scheme maps.
- Copies of the proposed content to be inserted into the Planning Scheme – this may include content such as a new local policy, a new overlay schedule, or a copy of a proposed incorporated document.

Where the amendment is complicated Council will often prepare a fact sheet which explains what the amendment is. For example, for the Dry Stone Wall Amendment (C100) Council sent a fact sheet, a brochure on 'How to Keep Your Dry Stone Wall in Good Repair', and maps which showed the location of dry stone walls and their reference numbers.

Exhibition

Council will typically use the following methods of communication when placing an Amendment on exhibition:

- A public notice will be placed in the Melton Leader
- A notice will be placed in the Government Gazette
- Information about the Planning Scheme Amendment will be placed on Council's website

In most instances letters will be sent to affected and interested parties advising them about the amendment. Usually letters are sent by ordinary mail. Council has sent notice of the amendment by registered mail in some circumstances.

Registered mail does result in increase costs and in some instances the mail is not collected and is returned to Council (which is a risk to Council as some land owners / occupiers may not receive notice of the amendment). The cost of registered mail is \$4.80 per letter compared to \$1 for regular mail. If registered mail was to be used it has a 2-6 day delivery time, which would result in the standard notice period being increased from one month, to one month and one week, extending notification periods for Amendments requires agreement from the Department of Land, Environment, Water & Planning as part of the authorisation process.

In some circumstances the amendment may be too large to send letters to all affected parties, for example a new local policy for Advertising Signage which can potentially impact all properties in the municipality. In these circumstances the Minister for Planning may provide Council with an exemption from sending a letter to all potentially affected parties and allow notice to be dealt with through the local newspaper, Government Gazette, and Council's website. However, in most cases Council does send letters to all properties but this results in an increase in cost for the amendments process which is generally borne by Council.

Exhibition Duration

Most planning scheme amendments are placed on exhibition for a minimum four weeks, which is the statutory requirement. For large or complex amendments Council will typically extend this period to allow additional time for affected parties to discuss the amendment with Council officers. For example, the Dry Stone Wall amendment (C100) was placed on exhibition for three months to allow owners of dry stone walls time to consider the amendment, and time for Council officers to make meeting times with owners and conduct site inspections (where requested) to address concerns.

Viewing Planning Scheme Amendment Documentation

- **On Line** - electronic copies of the amendment information can be viewed on the Department of Environment, Land, Water and Planning's website, and on Council's website during the exhibition period. Council also makes any supporting information available on its website to assist landowners.
- **Hard Copies** - a hard copy of every Planning Scheme Amendment is made available at the planning counter at the Melton Civic Centre for viewing by the public. Where land is affected by an amendment in the Eastern Corridor or the eastern half of the municipality (Diggers Rest and Rockbank) a copy of the Planning Scheme Amendment is made available at the Caroline Springs Library.

Opportunities to be Heard

When an Amendment is particularly hard or contentious Council has offered an opportunity for affected or interested parties to meet with Council Officers to discuss the amendment. For example, landowners were encouraged to call Council officers during the Dry Stone Wall amendment to discuss their wall(s) and site inspections were organised. Three hours a week were reserved in the Heritage Advisor's calendar during exhibition where affected landowners could meet with a Council officer and the Heritage Advisor.

Recommendations for changes to Consultation Process

Planning Scheme Amendments vary in scale and complexity depending on the project and it is therefore difficult to recommend a process beyond the statutory requirements which would fit all amendments.

It is therefore recommended that each Planning Scheme Amendment is supported by a Communication Plan which considers the following aspects in addition to the statutory requirements:

1. the creation of a fact sheet which explains the amendment in plain English.
2. regular and registered mail has a 2-6 day delivery time, the standard notice period should be increased from 14 days to 21 days. During the Christmas/New Year period, the notice period should be extended to a minimum of five weeks.
3. identification of the appropriate tools and technique to notify the community of amendments. This could include a notice board in Council outposts with a notice of amendments currently on exhibition, a dedicated section in Council's Moving Ahead publication, or more promotion of amendments through Council's social media and website.
4. explore replacing regular mail with registered mail. This would provide a proof of receipt, with a signature required on delivery. The cost of registered mail is \$4.80 per letter compared to \$1 for regular mail. As registered mail has a 2-6 day delivery time, the standard notice period would need to be extended from one month to one month and one week.
5. whether hard copies of Planning Scheme Amendments should be provided at additional locations. This may include the Melton Library, or investigating a place to exhibit in Eynesbury/Diggers Rest/Rockbank.

6. additional opportunities for affected or interested parties to discuss amendments with affected Council.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.1 *Strategically plan for a well designed and built City*

4. Financial Considerations

The proposed changes have the potential to increase the cost to the applicant of advertising a planning application. This is principally due to the cost of the on-site notice. Notwithstanding this, it is considered that this increased cost is warranted given the improved service to applicants and the efficiencies which would be gained.

For the preparation of major strategic projects, the costs for the consultation component of the project would be determined in the scoping for the strategy and included in the proposed budget. Strategic projects are generally considered as New Initiatives and considered as part of Councils annual business and budget planning process.

In respect of Planning Scheme Amendments there will be a potentially be an increase to the costs for advertising the amendment and notifying affected parties of the planning scheme amendment depending on the process that is determined appropriate for each individual amendment.

5. Consultation/Public Submissions

Council will notify all of our main developers and applicants of the proposed changes to the planning permit application process prior to their introduction.

For Planning Scheme Amendments and Strategic projects, either a Communications Plan or Community Consultation or Engagement Plan will be developed as part of each individual projects. This plan will consider the best way to communicate the project to affected parties and the broader community. Strategic projects would also include a consultation strategy that will outline how the community can get involved and have their say.

6. Risk Analysis

It is considered that the proposed changes to the notification and consultation processes will help to minimise risks to Council of potentially affected land owners and occupiers not being notified of a planning application, planning scheme amendment or the preparation of a strategic planning document.

7. Options

Council can choose to:

1. support the proposed changes to the notification, consultation and engagement processes as outlined in the report; or
2. note the report and take no further action.

LIST OF APPENDICES

Nil

Cr Carli left the Chamber at 8.14pm

Cr Carli returned to the Chamber at 8.19pm.

12.15 RESPONSE TO NOTICE OF MOTION 426 - STREET WIDTHS AND PARKING MANAGEMENT IN RESIDENTIAL AREAS

Author: Voltaire David - Acting Manager Engineering Services
Presenter: Voltaire David - Acting Manager Engineering Services

PURPOSE OF REPORT

To respond to the Notice of Motion 426 outlining the requirements of road widths and vehicle parking within road reserves in residential areas and options for parking provisions within narrow (5 to 5.5 metre wide) streets.

RECOMMENDATION:

That:

1. Council Officers undertake a parking review of the 5 to 5.5 metre wide road network in the City of Melton. Streets not providing one on-street parking space per allotment be allocated to a Capital Works Program for future works funding.
2. A brochure be developed and distributed to residents within the municipality outlining street parking regulations.
3. Council Officers investigate options to increase the building setback of houses in new residential developments to provide for increased driveway parking.

Motion

Crs Turner/Bentley

That:

1. Council Officers undertake a parking review of the 5 to 5.5 metre wide road network in the City of Melton. Streets not providing one on-street parking space per allotment be allocated to a Capital Works Program for future works funding.
2. A brochure be developed and distributed to residents within the municipality outlining street parking regulations.
3. Council Officers investigate options to increase the building setback of houses and or garages in new residential developments to provide for increased driveway parking.

CARRIED

REPORT

1. Executive Summary

The street widths in residential areas are governed by the Melton Planning Scheme, an incorporated document under the *Planning and Environment Act 1987*. The vehicle parking requirements on streets are stipulated in the Road Safety Road Rules 2009, which are enforced by Victoria Police and Council. The report also provides options related to vehicle parking for Council to consider.

2. Background/Issues

At the Ordinary Meeting of Council held 2 May 2016, a Notice of Motion was tabled that sought requirements in relation to the width of streets in existing and future residential areas. It also sought requirements regarding parking on nature strips, in particular where the narrow width of the road made it impractical to park on the carriageway, and to provide options for consideration to ensure residents have reasonable and practical opportunities for parking.

The road widths and parking provisions on residential Access Streets (defined as a street providing local residential access to lots and where traffic is subservient, speed and volume are low and pedestrian and bicycle movements are facilitated) are stipulated in the Melton Planning Scheme, which is an incorporated document under the *Planning and Environment Act 1987*.

The Melton Planning Scheme prior to 2006 allowed for Access Streets with a road width of 5 to 5.5 metres or 7 to 7.5 metres with vehicle parking provided on the roadway.

In 2006, an amendment was made to the Melton Planning Scheme that separated the Access Street road classification into two levels. The Access Street – Level 2 remained fundamentally the same with a 7 to 7.5 metre wide roadway and parking allowance on both sides of the road. However the Access Street – Level 1 changed regarding the minimum roadway width and parking provision. The requirements became a 5.5 metre wide roadway with one on-street parking space per allotment, which was not guaranteed under the previous standard.

The Road Safety Road Rules 2009 specifies the requirements for vehicle parking within a street. It falls under the *Road Safety Act 1986*. The road rules have statutory weight and can therefore be enforced by Victoria Police and Council through its Local Laws department.

The relevant Road Rules pertaining to street parking are:

Road Rule 197 - Stopping on a path, dividing strip or nature strip

- (1) A driver must not stop on a bicycle path, footpath, shared path or dividing strip, or a nature strip adjacent to a length of road in a built up area, unless-
 - (a) the driver stops at a place on a length of road, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Rules; or
 - (b) the driver's vehicle is a motor cycle and the driver stops in a place where the motor cycle does not inconvenience, obstruct, hinder or prevent the free passage of any pedestrian or other vehicle; or
 - (c) the driver is using a vehicle for the purpose of the operation of a detection device prescribed for the purposes of section 66 of the Road Safety Act (1986).

So with the exception of clauses (a), (b) and (c) above, parking on the nature strip, whether fully or straddling between the nature strip and roadway, contravenes Road Rule 197.

Road Rule 198 - Obstructing access to and from a footpath, driveway etc.

- (1) A driver must not stop on a road in a position that obstructs access by vehicles or pedestrians to or from a footpath ramp or a similar way of access to a footpath, or a bicycle path or passageway unless-
 - (a) the driver is driving a public bus that is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under these Rules.
- (2) A driver must not stop on or across a driveway or other way of access for vehicles travelling to or from adjacent land unless-

- (a) the driver-
 - (i) is dropping off, picking up, passengers; and
 - (ii) does not leave the vehicle unattended; and
 - (iii) completes the dropping off, or picking up, of the passengers, and drives on, as soon as possible and, in any case, within 2 minutes after stopping; or
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under these Rules.

Hence, excluding the abovementioned exceptions to Road Rule 198, a driver cannot park their vehicle, fully or in part, across a footpath or a vehicle crossing.

Road Rule 208 – Parallel parking on a road (except in a median strip parking area)

- (7) If the road does not have a continuous dividing line or a dividing strip, the driver must position the vehicle so there is at least 3 metres of the road alongside the vehicle that is clear for other vehicles to pass, unless otherwise indicated by information on or with a parking control sign.

Therefore on a 5.5 metre wide residential street, two vehicles cannot be parked opposite each other because it would obstruct traffic.

The most recent Australian Bureau of Statistics (ABS) census data was considered to understand vehicle ownership within the City of Melton. The 2011 statistics showed the average number of vehicles per dwelling was 1.9. Furthermore, the census data showed that 4% of households had no vehicles, 27.9% had one vehicle, 42.8% had two vehicles and 19.3% had three or more vehicles (6.1% of the households reviewed did not state how many vehicles they owned). These figures had not changed significantly from the 2006 census.

Data regarding the location of parking fines within the City of Melton was collected. The information highlighted that during the last three years much of the parking infringements occurred around schools and on 7 to 7.5 metre wide roads where opportunity for parking on both sides was available. There were however some 5.5 metre wide roads where multiple parking fines were issued. So a parking review was conducted on a small number of narrow roads to inform whether adequate on-street and off-street (i.e. garage and driveway) parking spaces were provided.

The results of the small parking review showed that the sampled streets had sufficient parking spaces to accord with the Australian Bureau of Statistic's average and distributed spread of vehicle ownership in the municipality of Melton. However a few of these streets did not meet the on-street parking provision requirements stated in the current Melton Planning Scheme, that is, one on-street parking space per allotment. So it presented an inequity depending on what street the driver resided in.

The small parking review also highlighted that there is no need to provide indented parking bays on all narrow roads which, if it were done, would result in significant costs in the order of \$13 million.

The number of parking fines issued in residential streets in the last three years points to a culture of drivers parking their vehicles incorrectly on the street. This is further evidenced by Council Officers' observations and internet based street maps such as Google Maps, which revealed a number of cars parked incorrectly not only on the narrow roads but also on the 7 to 7.5 metre roadways. So there seems to be a lack of understanding of the relevant road parking rules. Therefore educating drivers is important in assisting them in being aware of and grasp the meaning of the relevant regulations in order to comply with the rules.

Council Officers currently undertake reactive patrols to educate and enforce the provisions of the Road Safety Road Rules with respect to parking on the nature strip or footpath.

Current building and planning provisions allow houses to be constructed a minimum distance of 4 metres from the property boundary. This minimises the space to park vehicles on the

property without obstructing the footpath. Most houses are constructed with double garages but observations during proactive patrols indicate that most residents utilize some of this space for storage thus increasing demand for on-street parking. Council could consider increasing the setback requirements, which may provide more driveway parking and minimize the need for additional on-street car parking.

Designated parking lanes on narrow roads was considered but dismissed as an option on the basis that if the parking lanes were line-marked then vehicles could not travel through it and would leave only three metres for two traffic lanes. This is inadequate and would result in one way streets, which would frustrate drivers and encourage illegal manoeuvres.

The use of 'No Standing' and 'No Parking' signs on one side of the street was investigated but whilst it allowed a clear passage for vehicles to travel along the roadway it did not resolve the issue of street parking where inadequate space for parking is provided.

It is recommended that a full parking review is undertaken for the 200 kilometre network of 5 to 5.5 metre wide roads and where any street is found to be deficient in the number of on-street parking spaces needed, as per the current Melton Planning Scheme, that it be included into the Capital Works Program for future works funding. It is also recommended that a brochure is developed and provided to residents to inform and assist them in understanding the road parking regulations. Finally it is recommended that Council Officers investigate options to increase the building setback of houses in new residential developments to provide for increased driveway parking.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.1 *Strategically plan for a well designed and built City*

4. Financial Considerations

The indented parking bays cost approximately \$2000 each to construct.

Funding in the order of \$13 million will be required to retrofit all 5 to 5.5m roads within the City of Melton with indented parking bays on one side of the street.

'No Standing' and 'No Parking' signs require a maximum spacing of 75 metres and installing them on the narrow road network (about 200 kilometres long) would cost about \$800,000.

5. Consultation/Public Submissions

Not applicable since requirements for road widths and parking are governed by established statutory documents.

6. Risk Analysis

The combination of completing a parking review to ensure one on-street parking space is provided to each allotment on streets with narrow roads as well as educating residents of the road parking rules will reduce risk to Council's reputation, which in recent years has received negative publicity regarding the number of parking infringements issued and the perceived lack of street parking being provided.

It will also reduce public safety risks in that educating residents about where they can park within the road reserve will minimise the likelihood of physical and visual obstruction making it safer for road users, including pedestrians, to travel along the road and footpath.

7. Options

- a. That there is no change to the existing parking provisions in residential streets.
- b. That a full parking review is completed for all 5 to 5.5 metre wide roads within the City of Melton, and where current Melton Planning Scheme requirement is not met (one on-street parking space per allotment) that the street be included in a Capital Works Program for future funding.
- c. That a brochure be developed and distributed to residents within the municipality outlining street parking regulations.
- d. That indented parking is provided to all 5 to 5.5 metre wide roads within the municipality of Melton at a cost of approximately \$13 million.
- e. That 'No Standing' or 'No Parking' signs are installed on one side of all the 5 to 5.5 metre wide roads at a cost of approximately \$800,000.

LIST OF APPENDICES

1. Small Parking Review
2. Australian Bureau of Statistics Census Data

Cr Turner left the Chamber at 8.23pm.

Cr Turner returned to the Chamber at 8.25pm.

12.16 AMENDMENT TO AN EXISTING APPROVED PRECINCT PLAN TO ALLOW FOR THE CONSTRUCTION OF THREE DOUBLE STOREY DWELLINGS ON THE SUBJECT LAND AT 5 LORIMER STREET, CAROLINE SPRINGS

Author: Simon Temple - Principal Planner
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider and determine the planning application for the amendment to an existing approved precinct plan to allow for the construction of three double storey dwellings on the subject land at 5 Lorimer Street, Caroline Springs.

RECOMMENDATION:

That Council approve the application to Amend an Approved Precinct Plan subject to the conditions outlined in **Appendix 6** of this report.

Motion

Crs Majdlik/Dunn

That Council refuse the application to Amend an Approved Precinct Plan on the following grounds:

1. The density of the proposed development is excessive and fails to respect or complement the neighbourhood character of the area.
2. The proposal does not satisfactorily address the objectives and standards of ResCode pursuant to Clause 55 of the Melton Planning Scheme, with respect to neighbourhood character and secluded private open space.
3. The proposal fails to respond to the constraints of the subject land. In particular, the proposal in its current form will result in the removal of an existing street tree and an indented car parking space on Lorimer Street.
4. The proposal is considered to be an overdevelopment of the site. In particular, the combination of the double-storey building elements, attached building construction and narrow frontages presented by the dwellings creates the impression that the proposed dwellings are being squeezed onto the subject land.

CARRIED

REPORT

1. Background/Issues

Executive Summary

Applicant:	ARG Planning Pty Ltd
Proposal:	Construction of three double storey dwellings
Existing Land Use:	Vacant
Zone:	Comprehensive Development Zone (Schedule 1)

Overlays:	Nil
Number of Objections:	One
Key Planning Issues:	Density (Number and scale of dwellings) Adequacy of car parking for residents and visitors Removal of existing street tree
Recommendation:	Approve application

The Land and Surrounding Area

The subject site has an area of 573m² and is located on the south-west corner of Lorimer Street in Caroline Springs. Other features of the site are as follows:

- The site is irregular in shape, relatively flat and vacant.
- The site is located in the eastern portion of the Caroline Springs Town Centre.
- The site does not contain any easements.

The surrounding area can be characterised as modern style double storey attached and detached brick and cement rendered dwellings with a mixture of pitched and flat roof forms and incorporation of different materials (e.g. colourbond cladding) at upper floor level. There are no triple storey dwellings in the immediate area.

Front setbacks range from 3 metres to 4.5 metres for dwellings to the north and east of the subject site. However, the properties to the south and west contain single and double garages at the rear of dwellings fronting Bursuria Drive and The Esplanade respectively and setback 0.5 metres to 1 metre from the frontage to Lorimer Street. A medium density development comprising 11 double storey attached dwellings is located directly south-west of the subject land.

Refer to **Appendix 1** for a locality plan

The Application

The application proposes the development of three double storey dwellings.

The proposed development is summarised as follows:

- All dwellings will have direct frontage to Lorimer Street.
- Each dwelling will be two storeys, consist of three bedrooms and have a front setback of 4-5 metres to Lorimer Street.
- The proposed dwellings will have a maximum wall height of 6.2 metres and a maximum overall height of 7.5 metres.
- External materials colours and finishes include face brickwork with rendered paint finish, timber cladding, aluminium framed windows and colourbond clad roofing.
- Two car parking spaces are provided on site for each dwelling in the form of a single garage (carport for Dwelling 1) with a single car parking space (tandem arrangement).
- A new vehicle crossover for be provided for Dwellings 1 and 2 and the existing vehicle crossover retained for Dwelling 3.
- Each dwelling is provided with a minimum of 40 square metres secluded private open space.

Refer to **Appendix 2** for plans of the proposal

Planning Controls

Zone	(Clause 37.02 – Comprehensive Development Zone)	A planning permit is not required to use land for the purposes of a dwelling provided that the site has been identified for the use in a Precinct Plan approved by the Responsible Authority. Council approved Precinct Plan CDZ2008/45 was approved on 5 November 2009, which identifies the land as being suitable for residential purposes (patio housing product of 2-3 storeys).
Overlays	Nil.	Not applicable.
Particular Provisions	(Clause 52.06 – Car Parking)	Two car spaces are required for each dwelling. A total of six paces are required and provided).

A full assessment of the proposal against the relevant State and Local planning policies is included in **Appendix 3**.

Clause 55 - ResCode

Under the requirements of the zone, the development of two or more dwellings on a lot must meet the requirements of Clause 55 of the Planning Scheme. Clause 55 requires that a development:

- must meet all of the objectives
- should meet all the standards.

If the Council however is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.

House Rules - Housing Character Assessment & Design Guidelines

The *Housing Character Assessment & Design Guidelines* was adopted at the Ordinary Meeting of Council on 13 October 2015. The site is located within the Urban Transitional Character Area. The essential components of the (UT) which need to be maintained into the future are:

- Consistency of siting and massing.
- Habitable rooms overlooking the street.
- Minimised interruption of the footpath by driveways.

The preferred character statement requires that where these characteristics are absent, opportunities will be sought to establish them in redevelopment and remodelling schemes by:

- Retaining the majority of any front setback as permeable garden landscape.
- Making space available for avenue street tree planting where practicable.
- Encouraging the provision of vertical or roof gardens.

Developments or redevelopments of dwellings will occur in accordance with the following guidelines:

- Where front setbacks exist, the area of paving and other hard surfaces, including driveways, should be minimised.

- Front setback should generally be the average setback of the adjoining two dwellings
- Car parking structures should not occupy the full length of the dwelling frontage
- One vehicle crossover per frontage
- Replace any street tree removed with another tree that provides for regular spacing of street trees in the street
- Building elements and details (e.g. windows) should be used to break up the mass of larger wall surfaces.
- Open/Transparent front fences with a maximum height of 1.2 metres.
- Materials and colours that are a common feature of the area (e.g. render of grey, white or beige with bright contemporary colouring).

Is the land affected by a Restrictive Covenant?

The land is affected by two Restrictive Covenants; however the proposal does not breach any conditions of the Covenants.

The first covenant appears on Plan of Subdivision 637636J and burdens the subject land insofar as that any development on the land must be in accordance with a memorandum of common provisions (MCP) in dealing number AA1273.

The MCP identifies the housing product for the subject site as a Patio Housing Product. The building envelope shows a front setback of 3 metres (5 metres for the garage), a zero setback along the eastern (side) boundary, a 2 metre setback from the western (side street frontage) boundary and a 2 metre setback from the northern boundary. The proposal fully complies with the requirements of the MCP.

The second covenant requires developer (Delfin) approval for any development on the lot and is to be consistent with the Delfin approved design guidelines. As part of the submission presented to Council for this application, the applicant has submitted Delfin approved plans for the development. However, this covenant expired on 30 June 2015. Therefore, the requirements of the covenant no longer apply or affect the subject land.

Is the land of Cultural Heritage Sensitivity?

The land is not considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*.

2. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.1 *Strategically plan for a well designed and built City*

3. Financial Considerations

No Council related financial considerations are involved with the application.

4. Consultation/Public Submissions

Public notification of the application

The application was subject to informal notification. The informal notification was satisfactorily completed and one objection was received.

The grounds of objection may be summarised as follows:

- The density of the proposal is too high
- Limited car parking available in Lorimer Street for residents and visitors.
- The proposal will result in the loss of one indented car parking bay.
- The garage for Dwelling 1 is setback only 2.25 metres and should be setback a minimum of 5 metres.

A response to the objections is provided in **Appendix 4**.

Referral of the application

The application was referred to Council's Engineering Department, Council's Operations (Parks) Department and Council's Urban Designer. There are no objections to the proposal subject to conditions being included as part of the amended precinct plan approval. A complete list of responses is included in **Appendix 5**.

5. Issues

Planning Assessment

The proposal provides the opportunity to increase residential densities (including higher densities) on land located in proximity to a designated major activity centre (Caroline Springs Town Centre). The subject land is also well located in relation to public open space, public transport, shops (Caroline Springs Town Square Shopping Centre and Town Centre) and other community facilities.

The proposed development will be contained within the approved building envelope plan for the subject land as outlined under the memorandum of common provisions (MCP) registered on the Certificate of Title for the land.

The proposal generally satisfies the objectives and standards of Res Code under Clause 55 of the Melton Planning Scheme. The proposed development will respect and complement the neighbourhood and streetscape character of the area, will not cause any overlooking or overshadowing to adjoining properties and will make a positive presentation to the streetscape. The proposal is consistent with the built form and scale of development in the surrounding area which is characterized by double storey detached and attached dwellings including medium density housing on the eastern side of the Caroline Springs Town Centre.

It is acknowledged that the proposal will necessitate the removal of an existing indented on-street car parking space and street tree. Although this is unfortunate, the permit requires that the applicant pay Council for a replacement street tree and the loss of one car space is reasonable given that adequate on-site parking is being provided.

Adequate car parking is provided on site for residents in accordance with the requirements under Clause 52.06 of the Melton Planning Scheme. As the proposal involves the development of less than five dwellings the provision of additional visitor car parking is not required.

Accordingly, it is recommended that the application to amend the precinct plan be approved.

6. Options

Council can either support the application by issuing a Notice of Decision to Grant a Permit or not support the proposal by issuing a Notice of Refusal.

7. Conclusion

The application has been assessed against the State Planning Policy Framework, Local Planning Policy Framework, Zone provisions and Clause 65 of the Melton Planning Scheme.

It is considered that the proposal generally complies with the relevant requirements of the Planning Scheme.

Therefore, it is recommended that the application be approved as outlined in **Appendix 6**.

LIST OF APPENDICES

1. Appendix 1- Locality Plan for CDZ2008-45-4 -5 Lorimer Street Caroline Springs.
2. Appendix 2 - Development Plans
3. Appendix 3 - Assessment against Planning Scheme - CDZ2008.45.4 (5 Lorimer Street Caroline Springs).
4. Appendix 4 - Response to Objections (Informal) - CDZ2008.45.4 (5 Lorimer Street Caroline Springs).
5. Appendix 5 - Referral Comments - CDZ2008.45.4 (5 Lorimer Street Caroline Springs).
6. Appendix 6 - Approval Conditions (Amended Precinct Plan) - CDZ2008.45.4 (5 Lorimer Street Caroline Springs).

12.17 TELECOMMUNICATIONS TOWER BROOKSIDE RESERVE - VODAFONE

Author: Christine Denyer - Legal Services Manager

Presenter: Kel Tori - Chief Executive Officer

Having previously declared an interest in Item 5 of this Agenda, Cr Majdlik vacated the Chair and left the Chamber prior to any discussion taking place.

Cr Cugliari assumed the Chair.

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.

Motion

Crs Dunn/Ramsey

That the matter lay on the table until the next Ordinary Meeting of Council.

CARRIED

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:

- 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

Cr Majdlik returned to the Chamber and resumed the Chair. Cr Cugliari vacated the Chair and resumed her seat in the Chamber.

13. REPORTS FROM DELEGATES APPOINTED TO OTHER BODIES

Verbal reports were received from Crs Carli, Ramsey, Turner, Majdlik, Cugliari and Dunn.

14. COUNCILLOR REPRESENTATIONS AND ACKNOWLEDGEMENTS

Crs Turner addressed the Chamber in respect to a variety of matters of significance.

Motion

Crs Turner/Ramsey

That letters of acknowledgement, under seal of Council, be forwarded to Martin Cooper, Josh Munro and Nathan Pretty in appreciation for their actions on Saturday, 8 May that may well have saved a young girls life.

CARRIED

Crs Carli, Ramsey, Cugliari, Dunn and Bentley addressed the Chamber in respect to a variety of matters of significance.

Cr Majdlik addressed the Chamber in respect to a variety of matters of significance.

The Mayor, Cr Majdlik, presented Cr Ramsey with the Mayor Emeritus award from the Municipal Association of Victoria, recognising the achievement of three Mayoral terms by a Councillor.

15. NOTICES OF MOTION

15.1 NOTICE OF MOTION 427 (CR DUNN)

Councillor: Nola Dunn - Councillor

MOTION:

That a report be provided to Council regarding the options available to Council in seeking to promote the municipality as a plastic bag free area.

Crs Dunn/Bentley. That the recommendation be adopted.

CARRIED UNANIMOUSLY

15.2 NOTICE OF MOTION 428 (CR TURNER)

Councillor: Bob Turner - Councillor

MOTION:

That Council write to the Federal Minister for Infrastructure and Transport, State Minister for Road Safety and Vic Roads impressing the urgency to have the Western Highway upgraded from Christies Road Caroline Springs/Ravenhall to Bulmans Road Melton including a full diamond interchange at Bulmans Road.

Crs Turner/Ramsey. That the recommendation be adopted.

CARRIED UNANIMOUSLY

16. COUNCILLOR'S QUESTIONS WITHOUT NOTICE

Cr Ramsey

Planning Scheme provisions, Planning Controls or Policies that allow Council to have control over nonsecular developments throughout the Municipality.

17. MOTIONS WITHOUT NOTICE

Nil.

18. URGENT BUSINESS

Nil.

19. CONFIDENTIAL BUSINESS

Procedural Motion

Crs Cugliari/Ramsey

That pursuant to Section 89(2) of the Local Government Act (1989) the meeting be closed to the public to consider the following reports, that are considered confidential for the reasons indicated:

19.1 Municipal Audit Committee Meeting Minutes 27 April 2016 - Confidential Report

This report is confidential in accordance with s89(2)(d) as it relates to contractual matters.

19.2 Minutes of Annual Grants Assessment Panel Meeting

This report is confidential in accordance with s89(2)(h) as it relates to any other matter which the Council or special committee considers would prejudice the Council or any person.

19.3 Melton Waves Leisure Centre 2016/17 Service Delivery Plan

This report is confidential in accordance with s89(2)(d) as it relates to contractual matters.

CARRIED

Cr Turner returned to the Chamber.

Procedural Motion

Crs Ramsey/Cugliari

That the meeting be opened to the public.

CARRIED

20. CLOSE OF BUSINESS

The meeting closed at 9.33pm.

Confirmed

Dated this

.....CHAIRPERSON