

1 TELECOMMUNICATIONS FACILITY AT 946 MCDONALDS DRAIN ROAD, PAKENHAM

FILE REFERENCE INT2014442

RESPONSIBLE GENERAL MANAGER Peter Benazic

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RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T190588 be issued for the Use and development of the land for a Telecommunications Facility at 946 McDonalds Drain Road, Pakenham VIC 3810 subject to the conditions attached to this report.

Attachments

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| 1 | Development Plans | 4 Pages |
| 2 | Copy of Objections - Circulated to Councillors only | 6 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T190588
APPLICANT:	Mr Matt Wood
LAND:	946 McDonalds Drain Road, Pakenham VIC 3810
PROPOSAL:	Use and development of the land for a Telecommunications Facility
PLANNING CONTROLS:	Green Wedge Zone Schedule 1 Land Subject to Inundation Overlay Clause 52.19 Telecommunications Facility
NOTIFICATION & OBJECTIONS:	<p>The application has been advertised by sending notices to the owners and occupiers of adjoining land, placing a sign on site and notice in the Pakenham Gazette</p> <p>Six (6) objections were received to date.</p>
KEY PLANNING CONSIDERATIONS:	Telecommunication facilities, visual impact, rural and landscape character, site location, proximity to dwellings.
RECOMMENDATION:	Approval

BACKGROUND:

Planning permit T140155 was issued for the development of the land for an outbuilding in May 2014.

SUBJECT SITE



The site is located on the east side of McDonalds Drain Road.

A crossover is located toward the southern boundary and there are several easements located on the land. E1, E2, E3 and E4 are power line easements and E5 and E6 are State Rivers and Water Supply commission easements (now Southern Rural Water).

The site currently contains a dwelling and outbuilding.

The topography of the land is flat

The main characteristics of the surrounding area are:

- North: Primarily cleared rural land containing single dwellings
- South: Cleared agricultural land containing a single dwelling and shedding
- East: Cleared agricultural land
- West: Across McDonalds Drain Road are cleared agricultural lots containing single dwellings and shedding

PROPOSAL

The application is for the use and development of a Telecommunications Facility to provide improved mobile and data service coverage for Pakenham South and the surrounding area. The applicant states that after investigating a number of sites, the proposed property was the preferred site in order to meet their needs in regards to coverage and availability, as there are no viable co-location opportunities.

The facility will be located centrally within the site with a setback of 250 metres from the frontage of the site from McDonalds Drain Road, approximately 55 metres from the northern boundary, 77 metres from the southern boundary and 430 metres to the rear of the site.

The infrastructure will be located in a compound area of 8 metres by 10 metres.

The specific components of the proposed installation are described below:

- The installation of a 35m monopole with a triangular headframe;
- The installation of nine (9) panel antennas mounted on the aforementioned triangular headframe at a centreline elevation of 35.7m;
- The installation of nine (9) Tower Mounted Amplifiers (TMAs) mounted on the aforementioned triangular headframe at an elevation of 35.7m;

- The installation of six (6) Radio Remote Units (RRUs) mounted on the aforementioned triangular headframe at a centreline elevation of 34.5m and 35.7m;
- The installation of a 3m (L) x 2.38m (W) x 3m (H) equipment shelter on elevated platform
 - (300mm) within the proposed lease area (10m x 8m);
- The installation of a 2.4m high security fence surrounding the proposed lease area (10m x 8m) with 3m wide double access gates;
- The excavation for underground power (p50 conduit) to nearby existing power pole and new fibre connection (p63 conduit) to existing street network;
- The installation of associated ancillary equipment including transceivers, amplifiers, antenna mounts, cable trays, feeders, cabling, combiners, diplexers, splitters, couplers, jumpers, filters, electrical equipment, signage, bollards and other associated equipment; and;
- Colour-matching the proposed telecommunication equipment to match surrounding background and façade, being Eucalypt green.

PLANNING SCHEME PROVISIONS

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
 - Clause 11.01-1R Green Wedges – Metropolitan Melbourne
- Clause 19.03-4S Telecommunications
 - Clause 19.03-4R Telecommunications – Metropolitan Melbourne

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-2 Landscape
- Clause 21.05-1 Infrastructure provision.

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: core planning provisions
- Clause 52.19 Telecommunications Facility;
- Clause 65 Decision Guidelines
- Clause 66 Referral and Notice Provisions
- Clause 71.02-3 Integrated Decision Making
- Cardinia Shire's Liveability Plan 2017-2029.

Zone

The land is subject to the Green Wedge Zone Schedule 1.

Overlays

The land is subject to the following overlays:

Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

The proposal requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04-1 of the Green Wedge Zone (GWZ) a permit is required to use the land for a Telecommunications Facility.
- Pursuant to Clause 35.04-5 of the Green Wedge Zone (GWZ) a permit is required construct a building or carry out works associated with a Section 2 use (Telecommunications Facility).
- Pursuant to Clause 44.04-2, a permit is required to construct a building or carry out works
- Pursuant to Clause 52.19 Telecommunications Facility a planning permit is required.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land;
- Placing one (1) sign on site facing High Street
- Publishing a notice in the Pakenham Gazette

Council have received six (6) objections to date.

The key issues that were raised in the objections are:

- Loss of property value
- Potential alternative locations with less amenity impact.
- Visual impact
- Health risks

REFERRALS

The application was referred to Melbourne Water who raised no objection to the proposal subject to conditions

DISCUSSION

The proposal is generally consistent with the relevant Planning Policy Framework including Local Planning Policy Framework, the **Green Wedge Zone Schedule 1, Land Subject to Inundation Overlay** and Clause 65.

Planning Policy Framework

A number of state and local policies are relevant to this application, including clauses 12.05-2S (Landscape) and 21.02-2 (Landscape), which aim to protect landscapes and significant open spaces that contribute to the character, identity and sustainable environments and ensure the sensitive siting of buildings and other structures having regard to the protection of prominent ridgelines, significant views and areas of remnant vegetation.

Clause 11.01-1R (Green wedges) aims to protect the green wedges of metropolitan Melbourne from inappropriate development, with specific strategies including the protection of areas of environmental, landscape and scenic value and support for development that provides for environmental, economic and social benefits.

Clause 19.03-4S (Telecommunications) aims to facilitate the orderly development, extension and maintenance of telecommunication infrastructure. The clause aims encourage the continued deployment of broadband telecommunications services and ensure that modern telecommunications facilities are widely accessible to business, industry and the community.

The provision of infrastructure to meet the needs of the existing and future community is also highlighted as a key issue in Clause 21.01, and reinforced by Clause 21.05-1 (Infrastructure provision), which encourages the provision of high capacity telecommunications infrastructure.

Although the proposal will be visible within a generally rural landscape, this infrastructure is not uncommon within the wider site context. The simple design of the facility together with a requirement for screen planting will minimise the impact on the rural landscape and provides an appropriate balance between the policy directions of the provision of appropriate telecommunications for the immediate and wider area and the impacts on the surrounding landscape.

Green Wedge Zone Schedule 1

A planning permit is required under the Green Wedge Zone for the use and development of a Telecommunications Facility

- **General issues**

The land is 17 Ha in area and the is able accommodate the proposal, as it only utilises 80 square metres of the site

- **Rural Issues:** The proposal will have no impact on full-scale rural activities, as the proposed development has a small site coverage.
- **Environmental Issues:** The proposed development requires minor earthworks. Any negative environmental impacts of the earthworks will be controlled by permit conditions.
- **Design and Siting Issues:** The proposed Telecommunications Facility complies with the minimum setbacks of 20 metres from the front boundary, five metres from the side boundaries and more than 100 metres of a dwelling not in the same ownership. There are no environmental issues and it is considered that the proposal satisfies the objectives of the Zone. It is not possible to locate the facility such that it is not visible to the surrounding landscape as the height of the structure is required to meet transmission requirements.

As highlighted in the VCAT case P1101/2013, the simple visibility of the tower from surrounding land does not mean that there is an unacceptable planning or visual impact. VCAT also states that minimising an adverse impact on visual amenity does not mean that the telecommunication pole must be sited so that most or many people cannot see it. Visibility cannot be equated to adverse visual impact. It is the extent to which a development is compatible with the particular location and how policies seek to guide change that is most relevant.

The site's location within a rural area means it is separated from any large concentration of residential dwellings and generally limits the level of visual impact to users of the road and scattered dwellings to the north. The requirement of improved telecommunications services as a result of the facility is considered to against any general loss of visual amenity.

Clause 52.19 Telecommunications Facility

Pursuant to Clause 52.19, an application for a telecommunications facility must be assessed against the Telecommunications Code of Practice.

Principle 1: A telecommunications facility should be sited to minimise visual impact

The facility is generally well setback from the site frontage, common boundaries and neighbouring dwellings, with a minimum of 55 metres from common boundary, and approximately 150 metres from the nearest

dwelling. Whilst it is acknowledged that the facility will be visible from adjoining land given the overall 35 metre height, the visual impact is not unreasonable in this rural context given its slimline design and appropriate setbacks and siting. Expansive views will still be maintained from adjoining and opposite land. Established vegetation along McDonalds Drain Road and conditions requiring proposed screen planting on the subject site will also help to minimise the impact of the facility.

The site is not located within the vicinity of a Heritage Place nor will it be mounted on an existing building. Equipment associated with the facility will generally be screened at ground level subject to landscaping requirements and associated feeder cables will be located underground.

The applicant has stated that the proposed monopole is the smallest structure capable of meeting coverage and operational objectives. Having regard to the above, it is considered that the siting of the facility is appropriate.

The rural characteristics of the site will not be compromised given the total area allocated for the facility relative to the land size. While the use and development does not directly relate to the rural land use of the area, it supports the surrounding community through the provision of improved telecommunications infrastructure.

As previously stated and highlighted in the VCAT case P1101/2013, the simple visibility of the tower from surrounding land does not mean that there is an unacceptable planning or visual impact. VCAT also states that minimising an adverse impact on visual amenity does not mean that the telecommunication pole must be sited so that it cannot be seen by most or many people. Visibility cannot be equated to adverse visual impact. It is the extent to which a development is compatible with the particular location and how policies seek to guide change that is most relevant.

The site's location within a rural area means it is separated from any large concentration of residential dwellings and generally limits the level of visual impact to users of the road and scattered dwellings. The advantages of improved telecommunications services as a result of the facility is considered to outweigh any general loss of visual amenity.

Principle 2: Telecommunications facilities should be co-located wherever practical

To minimise the distribution of such facilities, this site has been selected as there is no existing infrastructure within the immediate area and co-location opportunities are limited as shown by the applicant.

Principle 3: Health standards for exposure to radio emissions will be met

In support of the proposal, the applicant has submitted an Environmental Electromagnetic Energy Report. The report concludes that the maximum EME level calculated for the proposed system is 9.32 V/m; equivalent to 230.42 mW/m² or 2.48 % of the public exposure limit, which is considerably lower than the Australian Standard.

Principle 4: Disturbance and risk relating to siting and construction should be minimised

In addition to the EPA requirements, the facility must comply with necessary erosion and sediment control measures. The operation of the facility will not produce waste, which would require collection or disposal.

A condition of approval will require that all earthworks be undertaken in a manner to prevent soil erosion and that all works must be appropriately stabilised.

Noise and vibration emissions associated with the proposed facility are expected to be limited to the initial construction phase. Noise generated during the construction phase is anticipated to be of short duration and accord with the standards outlined in the relevant EPA guidelines. The applicant has advised that on-going noise emanating from the equipment is comparable with a domestic air conditioning unit, which is not unreasonable in this rural setting.

Response to Objections

Six objections, have been received to date. A response to the key issues and concerns is provided below:

Loss of property value

Three of the objector's submissions raised issues surrounding loss of property value, with one objection relying solely on this ground. Loss of property value is not a valid ground of objection and cannot be considered by Council.

Potential alternative locations with less amenity impact

A couple of objections raised the possibility of other more suitable sites as they would have less amenity impact. The Pakenham South Community Hall and the Canopy Growth site (30 Bourke Road) have been suggested as alternative sites with less amenity impacts. Council have investigated both alternate locations and the applicant has advised that neither site meets the coverage objectives and are not suitable.

Visual Impact

Several objectors consider that the proposal will have negative visual impacts to the landscape and rural character of the area. Whilst it is acknowledged that the facility will be visible from adjoining land, it is not considered to have an unreasonable adverse impact given the setbacks from title boundaries and nature of the surrounding rural allotments. The facility will be setback approximately 168 metres from the nearest dwelling to the south and all other dwellings are a minimum of 200 metres away. As previously stated, the findings of VCAT case P1101/2013, determined that the simple visibility of the tower from surrounding land does not mean that there is an unacceptable planning or visual impact

A condition can be placed on any permit issued requiring screen planting around the proposed development to obscure the lower form of the development. The simple form of the structure combined with partial screening by existing vegetation and a condition requiring landscaping of the compound will help to minimise impact on the immediate and wider site context.

A condition of approval will require that external materials must be non-reflective.

Health risks

Several objectors have raised concerns over health risks associated with radiation impacts on the occupants of dwellings located close to the proposed telecommunications facility;

The applicant has provided a an electromagnetic energy report (EME) which examines the requirements of the Australian Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz, ARPANSA, 2002.

The EME report confirms that the proposed tower complies with the required standard.

Land Subject to Inundation Overlay

The Land Subject to Inundation Overlay (LSIO) identifies areas where a 1 in 100 Year flood or floodplain area determined by a floodplain management authority warrants protection from flood hazards. These measures ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

As the entire site is covered by the LSIO it is not possible for the proposed building to be located on flood-free land or land with a lesser hazard outside this overlay. Pursuant to Section 55 the application was referred to Melbourne Water, who had no objection to the proposal, subject to conditions regarding the finished floor level being constructed at 600mm above the surrounding natural surface levels.

Given that Melbourne Water had no objection to the proposed development, it is considered that proposed building will not increase the potential risk to life, health or safety a 1 in 100 Year flood poses, and will not affect or obstruct floodwater, stormwater or drainage over the property, subject to their conditions being met. Via condition, the objectives of this provision are met.

Cardinia Shire's Liveability Plan 2017-2029

Cardinia Shire's Liveability Plan has been developed to provide a clear framework for public health planning within the Shire, and it has a number of goals and actions relating to policy domains that include active travel, education, employment and housing. The application is considered consistent with this Plan as the provision of improved telecommunications coverage supports increased safety, improved social cohesion and economic development.

Decision Guidelines

The proposal is consistent with the PPF and LPPF, the purpose of the zone and relevant provisions. The proposal does not undermine the orderly planning of the area and the siting, design and visual impact of the facility is considered appropriate when regard is given to the social and economic benefits provided by improved and enhanced telecommunications.

CONCLUSION

The proposed facility, comprising a 35 metre high monopole with attached antennas and equipment cabinets has been located in a site which meets visual amenity issues which meets the ability to ensure adequate coverage is achieved. The proposal satisfies the requirements of the Code of Practice for Telecommunications Facilities in Victoria, whilst also addressing coverage deficiencies within the local area.

The proposal is also consistent with the stated objectives of the Cardinia Planning Scheme and, in particular, Clause 52.19 relating to telecommunications facilities. It is not considered to be detrimental to the amenity of the surrounding area, although visible, has been sited and designed to provide an appropriate balance between visual impacts and the provision of improved services for the wider site context.

It is therefore recommended that a Notice of Decision for planning permit T190588 be issued for the **Use and development of the land for a Telecommunications Facility at 946 McDonalds Drain Road, Pakenham** subject to the following conditions:

CONDITIONS

1. Before the development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must provide a landscape buffer immediately surrounding the fenced **Telecommunications Facility**, and must be drawn to scale with dimensions. The plan must show:
 - a) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
4. The exterior colour and cladding of the telecommunication facility must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the equipment shelter, including the roof, must be of a non-reflective nature.

5. Electromagnetic energy emissions must comply with the Australia Radiation Protection and Nuclear Safer Agency (ARPANSA).
6. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

Melbourne Water conditions

7. The Equipment Shelter must be constructed with finished floor levels no lower than 600mm above the natural ground level which is 300 mm above the applicable flood level.
8. Any electrical installations/ appliances must be fixed at a level no lower than 900mm above natural ground level which is 600mm above the applicable flood level.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of the permit; or
- b) the development is not completed within **four (4) years** after the issue of the permit.
- c) the use has not been commenced within **four (4) years** after the issue of the permit.

In accordance with [Section 69](#) of the [Planning and Environment Act 1987](#), an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition

Permit notes:

Advice

The property is located within zone 1 of the Koo Wee Rup Flood Protection District and is subject to flooding. The applicable flood level for the property is approximately 300mm above the natural ground surface levels. For general development enquiries contact our Customer Service Centre on 131722.







