



MELTON CITY COUNCIL

Notice is hereby given that the Special Meeting of the Melton City Council will be held in the Council Chamber, Civic Centre, 232 High Street, Melton on 11 July 2016 at 7pm.

SPECIAL MEETING

**Kelvin Tori
CHIEF EXECUTIVE**

Visitors to the Gallery please note:

Proceedings at Council meetings are controlled by the Chairperson. The Chairperson is empowered to enforce the provision of Council's Local Law, which includes the following aspects:

- **Silence** must be maintained by members of the public in the gallery at all times. A visitor to the gallery must not interject or take part in the debate that occurs in the Chamber.
- Members of the public in the gallery must not operate **recording equipment** at a Council or Special Committee Meeting without the prior written consent of Council.
- **Question time** is available at every Ordinary Meeting to enable members of the public to address questions to Council. All questions must be received by the Chief Executive Officer or other person nominated for this purpose no later than:
 - i) 5 pm on the day of the Ordinary Meeting if questions are submitted into the receptacle designated for public questions outside the Council Chamber
 - ii) 5pm on the day of the Ordinary Meeting if questions are submitted by electronic medium as per Council website directions.

A person must not submit more than two (2) individual questions at a meeting, inclusive of all parts and variants as interpreted by the Chairperson or other person authorised for this purpose by the Chairperson. The person directing the question must be present in the gallery at the time the question is to be dealt with for it to be valid.

- It is an offence for any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chairperson to do so.
Penalty: 20 Penalty Units
- It is an offence for any person to fail to obey a direction of the Chairperson relating to the conduct of the meeting and the maintenance of order.
Penalty: 20 Penalty Units

A penalty unit for a Local Law made under Part 5 of the *Local Government Act 1989* is \$100 in accordance with s110(2) of the *Sentencing Act 1991*.

TABLE OF CONTENTS

1.	APOLOGIES AND LEAVE OF ABSENCE	2
2.	DECLARATION OF ANY PECUNIARY INTEREST, OTHER INTEREST OR CONFLICT OF INTEREST OF ANY COUNCILLOR	2
3.	PRESENTATION OF STAFF REPORTS	3
3.1	PLANNING APPLICATION PA 2016/5118 - EXTENSION OF THE MELBOURNE REGIONAL LANDFILL AT 408-546 HOPKINS ROAD, TRUGANINA	3
	To consider the planning application for the extension of the Melbourne Regional Landfill at 408-546 Hopkins Road, Truganina.	
3.2	APPLICATION S173/2016/5 AND S173/2016/8 - ENDING OF TWO SECTION 173 AGREEMENTS AT 135 CITY VISTA COURT, PLUMPTON	38
	To consider and determine applications for the ending of two section 173 agreements relating to 135 City Vista Court, Plumpton.	
4.	CLOSE OF BUSINESS	69

1. APOLOGIES AND LEAVE OF ABSENCE

The Mayor will call for any apologies received from any Councillors who are unable to attend this meeting.

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

Pursuant to Section 77A, 77B, 78 and 79 of the Local Government Act 1989, any Councillor must declare any direct or indirect interest, and any conflict of interest, in any items contained within the Notice Paper.

3. PRESENTATION OF STAFF REPORTS

3.1 PLANNING APPLICATION PA 2016/5118 - EXTENSION OF THE MELBOURNE REGIONAL LANDFILL AT 408-546 HOPKINS ROAD, TRUGANINA

Author: Sian Smith - Major Developments Coordinator

Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider the planning application for the extension of the Melbourne Regional Landfill at 408-546 Hopkins Road, Truganina.

RECOMMENDATION:

That Council endorse the attached submission and submit to Planning Panels Victoria.

REPORT

1. Background

Executive Summary

Applicant:	Landfill Operations C/- Tract Consultants
Proposal:	Use of the land for refuse disposal, buildings and works and native vegetation removal.
Existing Land Use:	Quarry and landfill
Zone:	Special Use Zone – Schedule 1 Urban Floodway Zone
Overlays:	Environmental Significance Overlay – Schedules 2 and 5 Land Subject to Inundation Overlay – Schedule 1
Number of Objections:	N/A
Key Planning Issues:	<ul style="list-style-type: none">- Off site amenity impacts- Landfill gas migration- Impact on transport and roads
Recommendation:	That Council ratify the attached submission for lodgement with Planning Panels Victoria

The Cleanaway site occupies a significant area in the south-eastern part of the municipality. Planning permits have previously been issued for extraction of rock across most of the site and a landfill in the south-east of the site. Both of these uses have been operating for a number of years.

At its Ordinary Meeting of 27 May 2014, Council resolved to refuse an application for the expansion of the landfill.

A more recent application has been made to extend the existing landfill but within the approved area of the quarry.

This application was called in by the Minister for Planning on 5 April 2016 as he considers the application raises a major issue of policy and that the determination of the application may have a substantial effect on the achievement or development of planning objectives.

The responsible authority for making a decision on the application is now the Minister for Planning, not Council.

Council is, however, still an active participant in the process by preparing a submission to the application to be submitted to Planning Panels Victoria.

Notification of the application commenced on 14 June 2016 and is due to end on 16 July 2016. At its Ordinary Meeting of 27 June 2016, Council resolved to convene a Special Meeting of Council on 11 July 2016 to consider Council's submission to the application. Department of Environment, Land, Water and Planning (DELWP) officers have advised that all submissions received will be referred directly to the Planning Panel for consideration. A Directions Hearing has been scheduled for 5 August 2016 and it appears likely that the Panel Hearing will occur in late September, potentially running for up to three weeks.

The proposal has been assessed against the relevant requirements of the Council's Planning Scheme, and it has been concluded that although the site is identified as a State significant location for landfill, there are a number of concerns with the current application that must be appropriately addressed before any decision is made on any expansion to landfill operations on the site. It is therefore recommended that the Planning Panel be advised of Council's views on the proposal as outlined in the attached submission. **(Appendix 1 – Submission to Planning Panels)**

The Proposal

An application has been made to extend the existing landfill operation within the approved area of the quarry. The proposed extension would be completely contained within the future quarry area.

The proposed extension under this application is different from the application that was refused by Council on 27 May 2014 in the following way:

- The footprint of the proposed extension has been reduced from 617ha to 311ha.
- A 1km buffer is provided to potential future residential communities proposed in the proposed Mt Atkinson PSP.
- Buffers to the surrounding communities of Burnside, Deer Park and Ravenhall have been increased.
- This application has been lodged to run concurrently with an EPA Works approval to provide a greater level of technical information.

Further details regarding the proposal can be found in the Submission.

Planning Controls

An assessment against the following has been undertaken and detailed with the Submission:

- State Planning Policy Framework (SPPF)
- West Growth Corridor Plan
- Zoning and Overlay controls
- Clause 52.10 – Uses with adverse amenity potential
- Clause 52.17 – Removal of native vegetation
- State-wide Waste and Resource Recovery Infrastructure Plan (SWRRIP)
- Metropolitan Waste and Resource Recovery Strategic Plan (MWRRSP)
- Waste Management Policy (Sitting, Design and Management of Landfills)

The proposal demonstrates a broad compliance with the above.

“It Starts with Zero” Waste Management Strategy

Council has in place the 2011-2016 Melton Shire “It Starts with Zero” Waste Management Strategy. The strategy seeks to provide sustainable solutions for the collection, disposal and resource recovery from waste generated within the City of Melton community. The strategy is intended to compliment, rather than being at odds with State Government strategy regarding management of waste at a Melbourne Metropolitan and state wide level generally. The strategy guides Council in dealing with waste management issues at a local level, including significant focus on re-use, recycling and community education. A detailed action plan is included as part of the strategy. Some of the more recent initiatives established by Council under the strategy include: an annual hard waste collection, expansion of the resale centre at the Melton Recycling Facility (MRF), continued community education particularly through schools and expansion of the network of recycling bins in public areas such as shopping strips.

Submission to Planning Panels (Appendix 1)

The attached Submission provides a site context and assessment against the relevant provisions of the Melton Planning Scheme.

As a part of the assessment, further investigation is recommended to be undertaken prior to a decision being made on the application. These areas are:

1. Environmental sustainability
2. Timing of the planning permit compared with the EPA Works Approval
3. Rehabilitation of the landfill and landscaping of the site
4. Buffers within the site boundaries
5. Landfill gas migration
6. Native Flora and Fauna
7. Amenity Impacts
8. Traffic and Transport

Is the land affected by a Restrictive Covenant?

The land is not affected by a Restrictive Covenant.

Is the land of Cultural Heritage Sensitivity?

The land is considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*; and an approved cultural heritage management plan has been submitted to the Department of Environment, Land, Water and Planning, as the responsible authority.

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

There will be a financial impact for Council with regards to getting legal assistance and advice.

A Directions Hearing has been scheduled for 5 August 2016, with a Panel Hearing process proposed to start late September and potentially run for 3 weeks.

There are many complex issues relating to landfills, including the impacts of the use on the community. Assistance and advice from legal practitioners will ensure that there is clarity and directions provided to ensure Council's views are appropriately represented.

4. Consultation/Public Submissions

Public notification of the application

The application was advertised by the Department of Environment, Land Water and Planning (DELWP) as the representatives for the Minister for Planning and the EPA for the Works approval.

Notice involved sending direct notification to all land owners/occupiers within a 2km radius of the subject site, public notice in The Age and the local newspapers of Melton, Wyndham and Brimbank and sending notices to a number of state agencies, utility service providers and known community groups.

An information session was also held on 19 and 20 June 2016 in Caroline Springs. This information session was a joint effort between the EPA and the DELWP. Approximately 120 people attended the session over the two days.

The notification period commenced on 14 June 2016, and the closing date for submissions is 16 July 2016. Submissions to the application are required to be submitted directly through to Planning Panels so Council is unaware of the volume or nature of topics raised in any submissions received.

Referral of the application

The statutory referral of this application was the responsibility of DELWP and as such Council did not prepare any statutory referrals nor did we receive any responses.

The application was referred internally for comment to the following departments:

Engineering Services	Engineering Services requires additional clarification to be provided on access arrangements. They note that the development seeks to use the existing access on Riding Boundary Road however the current arrangement will need some modification to accommodate the two land uses (quarry activities and land fill activities) in a safe manner. No plan had been provided in the assessment of the traffic engineers report therefore Engineering cannot make a full determination if the existing access will function accordingly. Conditions have been provided to seek clarification on this. Any modification will be within an existing road reserve.
Environmental Health	Environmental Health notes that the facility will be regulated by the EPA, who will have responsibility for all monitoring and complaint investigation. Therefore, Melton's Environmental Health will have minimal involvement in the operation of this refuse disposal facility and has no objections to the issuing of this permit in that context.
City Strategy	City Strategy have identified a number of issues that require further consideration. Broadly these issues are: <ul style="list-style-type: none"> - The buffer as it relates to the draft Mt Atkinson and Tarneit Plains PSP - The impact on traffic and the road network - Offsite amenity impacts such as mud, litter, noise and

	<p>pollution</p> <ul style="list-style-type: none"> - The impact on stormwater and drainage - The visual impact of the mounds and their future use - Relationship with the approved quarry - Consideration of additional landfill sites should be investigated by the State Government now given the reliance on only a select few to cater for Melbourne growth <p>The detailed comments provided from City Strategy are incorporated within the Submission.</p>
Environment Services	<p>No objection is offered to the proposal, however there are some concerns regarding the data that has been used to assess whether the Striped Legless Lizard is found on site. It is agreed that the flora is predominately exotic and the vegetation quality poor, however past surveys of the land have revealed that the Striped Legless Lizard was widely and abundantly found on the site during survey work between 2004-2007.</p> <p>The contention that areas outside the current EPBC approval are insignificant for flora or fauna has not been adequately addressed.</p>

5. Issues

There are a number of issues that have been identified through the assessment of the proposal and through the internal referral process. A full detailed assessment of the proposal can be found in the attached submission.

6. Options

Council can either support the application or not support the proposal by outlining reasons within a submission.

7. Conclusion

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

Whilst it is acknowledged that this site is of State significance and is critical in terms of providing waste services there are aspects of the proposal that require further work and must be addressed prior to any decision being made to expand landfill operations on the site. These issues relate broadly to the environment, offsite amenity impacts, the scale of the proposal and timing, as outlined in the attached submission to Planning Panels.

LIST OF APPENDICES

1. Appendix 1 - Submission to Planning Panels

3.2 APPLICATION S173/2016/5 AND S173/2016/8 - ENDING OF TWO SECTION 173 AGREEMENTS AT 135 CITY VISTA COURT, PLUMPTON

Author: Isen Goga - Major Developments Planner
Presenter: Bob Baggio - Manager Planning Services

PURPOSE OF REPORT

To consider and determine applications for the ending of two section 173 agreements relating to 135 City Vista Court, Plumpton.

RECOMMENDATION:

That Council pursuant to Section 178A(3) of the *Planning and Environment Act 1987*, notify the owners that it agrees in principle to the ending of the two Section 173 Agreements relating to 135 City Vista Court, Plumpton as outlined in the report.

REPORT

1. Background

Executive Summary

Applicant:	Phenominal Properties Pty. Ltd.
Proposal:	Ending of two Section 173 Agreements
Existing Land Use:	Vacant
Zone:	Urban Growth Zone – Schedule 1
Overlays:	Development Contributions Plan Overlay – Schedule 1
Number of Objections:	Nil
Key Planning Issues:	Content of Section 173 Agreements Taylors Hill West Precinct Structure Plan Land Acquisition Planning Legislation
Recommendation:	Agree in principle to the ending of both Section 173 Agreements

The Land and Surrounding Area

The subject site has an area of 6.12 hectares and is located on the eastern side of City Vista Court, Plumpton. Other features of the site are as follows:

- The land is located within the Taylors Hill West Precinct Structure Plan area;
- The site has a western frontage to City Vista Court of 120 metres and a northern frontage to Enterprise Circuit of 435 metres.
- The Taylors Hill West Precinct Structure Plan identifies the site as Property 8, with the 6.12 hectares broken down in the Precinct Structure Plan designating that 2.19 hectares of the site is to be used for a Government School and 2.75 hectares of the site to be used

for a Non-Government Education Facility, with the balance to be used for waterway, drainage and conservation areas.

- The site is now proposed to be acquired by the Department of Education and Training for the purpose of a State Secondary School (7-12), excluding the portion of land required for drainage purposes.

The surrounding area can be characterised as an emerging residential growth front, in one of the fastest growing areas of the City of Melton.

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

The Application

The application proposes the ending of two Section 173 Agreements encumbering the land, since the Department of Education and Training will only acquire the site when it is unencumbered by the two Agreements.

In summary, the two Section 173 Agreements were put in place to:

- Implement the Development Infrastructure Levy requirement in accordance with the Taylors Hill West Precinct Structure Plan and associated Development Contributions Plan (Section 173 Agreement – AL177353H). The implementation of the Development Infrastructure Levy is based on the western section of the site being developed for a Non-Government Educational Facility in accordance with the Precinct Structure Plan.
- Secure the provision of land and contributions for drainage purposes (Section 173 Agreement – AL377156U).

The current owners of the land have made application under Section 178A of the *Planning and Environment Act 1987* to end both Agreements. In summary, the owners consider that the Agreements should no longer burden the land because:

- The Department of Education and Training proposes to purchase the site and develop it for the purpose of a secondary school (7-12). The Department will not acquire the land with an encumbrance on Title and therefore requires the Agreement to be ended prior to acquisition.
- The lot created for the school will not include land for drainage, a lot for which has been created on a separate subdivision plan. The Transfer of Land for drainage purposes has already been approved under delegated authority by the Chief Executive. As with the Section 173 Agreement related to development contributions, the Department of Education and Training requires the Agreement to be ended prior to acquisition.

Refer to **Appendix 2 and 3** each of the Section 173 Agreements.

Planning Controls

Zone	Clause 37.07 – Urban Growth Zone (Schedule 1)	The Minister for Education is exempt from Planning Scheme requirements.
Overlays	Clause 45.06 – Development Contributions Plan Overlay (Schedule 1)	The Minister for Education is exempt from Planning Scheme requirements.
<i>Planning and Environment Act 1987</i>	Section 178A	Owner has sought removal of the Agreements in accordance with relevant legislation to facilitate acquisition of land by Department of Education.

Is the land affected by a Restrictive Covenant?

The land is not affected by a Restrictive Covenant, but is encumbered by the two Section 173 Agreements being sought to be ended.

Is the land of Cultural Heritage Sensitivity?

A small portion of the land is considered to be of cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*; however as it has been subject to significant ground disturbance the proposal does not require a cultural heritage management plan.

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**

The ending of one of the Section 173 Agreements (AL177353H) will result in the Development Infrastructure Levy for this lot not being collected by Council for the purpose of a Non-Government School. Given that the site is proposed to be developed for a State Secondary School by the Department of Education and Training, development contributions are not applicable. The Minister for Education is exempt from Planning Scheme requirements.

4. Consultation/Public Submissions**Public notification of the application**

The application will be advertised to all parties of the agreements and others who may be materially affected if Council agreed in principle to the ending of the agreements.

5. Issues**Planning Assessment**

Under the provisions of the *Planning and Environment Act 1987*, the first step in the process to end an agreement is for Council to determine whether it agrees in principle to the proposal. If it elects not to agree in principle, then the process ends without any rights to review. If however, it agrees, then the applications will be advertised to all other parties to the agreement – which in this case is Melbourne Water, and surrounding properties who may be materially affected. Thereafter, Council would consider the proposal and any objections or submissions received.

At this stage, it is considered that that the main issues for Council to consider are whether anyone would be disadvantaged by the ending of the agreements. Given that one of the Agreements is between Melbourne Water, Melton City Council and the owner, and is for development and/or drainage contributions only, it is considered that no other parties will be materially affected by ending of the agreements. Therefore, upon Melbourne Water providing their formal consent to ending of the agreements, it is not considered that this process will disadvantage any other party.

In order to secure Melbourne Water's interests in relation to drainage a separate Memorandum of Common Provisions will be drafted by Melbourne Water in readiness to be placed on the Title of the drainage reserve which will be excised from the school site.

The loss of the Non-Government School from the land is arguably inconsistent with the approved Taylors Hill West Precinct Structure Plan, however, the Minister for Education is exempt from Planning Scheme requirements.

6. Options

Council can either agree in principle to the proposal, which will enable it to be assessed further, or not agree in principle to the proposal in which case it will not proceed any further.

7. Conclusion

Ending of the Agreements will pave the way for the land to become unencumbered and will result in the acquisition of the land by the Department of Education and Training for the purpose of a State Secondary School in this fast growing area of the City of Melton. Support for the proposal is warranted.

LIST OF APPENDICES

1. Appendix 1 - Locality Plan
2. Appendix 2 - Section 173 Agreement (AL177353H)
3. Appendix 3 - Section 173 Agreement (AL377156U)

4. CLOSE OF BUSINESS