

# TOWN OF COTTESLOE



## DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
6.00 PM, MONDAY, 18 NOVEMBER 2013

**CARL ASKEW**  
Chief Executive Officer

21 November 2013

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# DEVELOPMENT SERVICES COMMITTEE

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**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS**

The Presiding Member announced the meeting opened at 6:03 PM.

**2 DISCLAIMER**

The Presiding Member drew attention to the Town's disclaimer.

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4.2 PUBLIC QUESTIONS**

Ms Katie Pinnick, resident of 9 Congdon Street, re item 10.1.1 No. 1 Congdon Street

Ms Pinnick asked the following questions regarding the proposed Telstra towers:

Q1: Has anything changed with height restrictions?

Q2: Can I have exact date Council was advised of appeal?

Manager Development Services advised that the height of the proposal remained the same and that the appeal was lodged on 31 July 2013.

**5 PUBLIC STATEMENT TIME**

Nil

**6 ATTENDANCE****Present**

Cr Peter Jeanes	Presiding Member
Mayor Jo Dawkins	
Cr Philip Angers	
Cr Jay Birnbrauer	
Cr Helen Burke	
Cr Jack Walsh	
Cr Katrina Downes	

**Officers Present**

Mr Carl Askew	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mr Ed Drewett	Senior Planning Officer
Mrs Liz Yates	Development Services Administration Officer

**6.1 APOLOGIES**

Nil.

**Officer Apologies**

Mr Ronald Boswell

Planning Officer

**6.2 APPROVED LEAVE OF ABSENCE**

Nil.

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**7 DECLARATION OF INTERESTS**

*In relation to item 10.1.1 the following Councillors declared impartiality interests. Cr Jeanes stated that, through his self-managed Superannuation Fund, he has Telstra shares. Mayor Dawkins also stated she has Telstra shares though her Superannuation Fund. Cr Burke stated she has Telstra shares, not connected with a Superannuation Fund. Cr Walsh stated he has some Telstra shares. However, all considered that the extent of their interests and the number/value of the shares was insignificant, whereby they would consider the matter on its merits and vote accordingly.*

**8 CONFIRMATION OF MINUTES**

**Moved Cr Walsh, seconded Cr Downes**

[Minutes October 28 2013 Development Services Committee.docx](#)

**The Minutes of the Ordinary meeting of the Development Services Committee, held on 28 October 2013 be confirmed.**

**Carried 7/0**

**9 PRESENTATIONS****9.1 PETITIONS**

Nil.

**9.2 PRESENTATIONS**

Nil.

**9.3 DEPUTATIONS**

Nil.

*In relation to item 10.1.1 the following Councillors declared impartiality interests. Cr Jeanes stated that, through his self-managed Superannuation Fund, he has Telstra shares. Mayor Dawkins also stated she has Telstra shares through her Superannuation Fund. Cr Burke stated she has Telstra shares, not connected with a Superannuation Fund. Cr Walsh stated he has some Telstra shares. However, all considered that the extent of their interests and the number/value of the shares was insignificant, whereby they would consider the matter on its merits and vote accordingly.*

*Mr Ian Hocking, the Town's heritage consultant, attended the meeting to provide clarification on heritage matters associated with item 10.1.1.*

## **10 REPORTS**

### **10.1 PLANNING**

#### **10.1.1 NO.1 (LOT 4) CONGDON STREET - SIX TELSTRA PANEL ANTENNAS ON TWO MOUNTING POLES ON THE EXISTING TELEPHONE EXCHANGE BUILDING – REQUEST FOR RECONSIDERATION BY THE STATE ADMINISTRATIVE TRIBUNAL (SAT)**

**File Ref:** 2667  
**Attachments:** [Aerial](#)  
[Amended Plans](#)  
[Alternative Sites](#)  
[Original Refused Plans](#)  
[Heritage Advice](#)

**Responsible Officer:** Carl Askew  
Chief Executive Officer

**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 18 November 2013

**Author Disclosure of Interest:** Nil

**Property Owner:** Australian Telecommunications Commission

**Applicant:** Planning Solutions (Aust) Pty Ltd

**Date of Application:** 7 May 2013

**Reserve:** Part *Local Scheme Reserve – Public Purposes – Commonwealth Government*

**Use:** Permitted

**Lot Area:** 890.9m<sup>2</sup>

**M.R.S. Reservation:** Part *Primary Road Reservation*

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## **BACKGROUND**

An initial application for six Telstra panel antennas on mounting poles contained within two faux brick chimneys on the existing telephone exchange building was refused by Council on 24 June 2013 for the following reasons:

- (1) *The proposal would have a significant detrimental visual impact on the appearance of the Telephone Exchange building, which is listed in the Town's*

*Municipal Inventory, and on the surrounding heritage-listed and non-heritage listed buildings and the streetscapes in the locality.*

- (2) *The proposal does not adequately satisfy the Guiding Principles for Location, Siting and Design of Telecommunications Infrastructure as referred to in the Statement of Planning Policy No. 5.2 (SPP 5.2) and associated Guidelines.*
- (3) *The proposal does not satisfy the requirements of Town Planning Scheme No. 2 in respect to general building heights and appearance of buildings.*
- (4) *The proposal would add to visual clutter of infrastructure in the locality to the detriment of the character and amenity of the area.*
- (5) *Significant objections have been lodged by surrounding property owners and residents concerning the visual, amenity, streetscape, heritage and health impacts that the proposal would have on the character and wellbeing of the locality and its inhabitants.*
- (6) *That Council invite the applicants and other phone carriers to discuss options for local coverage with Council staff and report back to Council if needed*

The applicant has since sought a review by the State Administrative Tribunal (SAT) and that matter is presently in mediation.

On 4 October 2013, following initial mediation between the applicant and the Town on 24 September 2013, the SAT made the following order:

- (1) *Pursuant to s31 (1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision at its meeting on 25 November 2013.*
- (2) *The matter is adjourned to a further mediation to commence at 10am on Friday 29 November 2013 for a duration of two hours.*

A potential option for the telecommunications infrastructure to be located on the adjacent Auto Masters site at 443 Stirling Highway to avoid altering a building listed on the Town's Municipal Inventory has been considered by the applicant and a new application pursuant to this option was submitted on 17 October 2013. However, this application was subsequently withdrawn as the owner's consent could not be obtained.

Amended plans were subsequently submitted by the applicant on 6 November 2013 showing the proposed telecommunications infrastructure without the two faux brick chimneys on the telephone exchange building which Council is requested to consider as an alternative to the original submission.

#### **PREVIOUS REPORT TO COUNCIL**

The Officer's report detailing the applicant's original submission, planning considerations and nearby neighbours' comments for this proposal that was considered by Council at its meeting on 24 June 2013 is reproduced below:

**SUMMARY**

*This proposal has been submitted by the applicant, Planning Solutions, on behalf of Telstra, to provide additional telecommunications infrastructure to facilitate its highspeed NextG mobile telephone network and wireless broadband.*

*It has been assessed by the applicant under the provisions of the Telecommunications (Low-impact Facilities) Determination 1997, as amended, to not be 'low-impact' for the purposes of determination and therefore it is not exempt from requiring planning approval.*

*The applicant advises that the proposed location of the masts on the Telephone Exchange building is the most appropriate solution to facilitate Telstra's mobile telephone network in this locality, with minimum impact on the amenity of the area.*

*The lot is predominantly reserved under the MRS for 'Primary Regional Road' and therefore it has been referred to Main Roads WA for comment, although in view of the proposed reduction of widening along Stirling Highway it is not anticipated that Main Roads WA will have an objection to the proposal.*

*Under the Planning and Development Act 2005, Instrument of Delegation (DEL 2011/02) local governments have been given delegation from the WAPC to determine applications for development on land reserved under the MRS for the purpose of a regional road, following referral to Main Roads WA.*

*Given the assessment that has been undertaken, the recommendation is to refuse the application.*

**PROPOSAL**

*This application is for six panel antennas on mounting poles (3 on each pole) contained within two faux brick chimneys on the roof of the Telstra Telephone Exchange building, together with cabling and associated ancillary equipment between the antenna devices and a proposed equipment room to be located within the building.*

*The antennas will be 5m apart and have the following dimensions:*

*Height - 2.494m*

*Width – 0.353m*

*Depth – 0.209m*

*The proposed two faux brick chimneys will be custom-built to shroud the proposed antennas and be 7.5m (approx) in height above the existing ridgeline of the Exchange building and 16m (approx) above Clive Road as measured directly below the proposed structures.*

*The location of the proposed faux chimneys on the roof will be 28m and 33m (approx) from the frontage of the Exchange building and 18m and 23m (approx) from its rear, on the southern side of its existing ridgeline. They will also be 13m (approx) from the adjoining lot boundary with the residence at No. 3 Congdon Street and between 23m and 28m (approx) from the adjoining lot boundary with the residence at No. 8 Clive Road which is located on the opposite side of Pennefather Lane.*

**BACKGROUND**

*Telstra has been requested by the registered proprietor of the Sundowner Hostel (aged care) at 1 Airlie Street, Claremont, to remove its existing telecommunications infrastructure from its building due to the proposed closure of the Hostel. A letter from the General Manager of Amana Living confirms this advice.*

*The applicant advises that the removal of this infrastructure from the Sundowner Hostel will severely impact on the mobile telephone coverage in the immediate and surrounding area and that it is necessary for Telstra to provide replacement telecommunication facilities to maintain mobile telephone coverage and wireless broadband access within the area. The applicant also advises that detailed analysis of the locality revealed there is no other opportunity to co-locate telecommunications infrastructure which would satisfy coverage objectives for the facility and that the site selection process has been influenced by the objective of avoiding community-sensitive locations.*

*The Town's Officers have had discussions with the applicant prior to and after the submission of the application and also have had a preliminary meeting with the applicant to express serious concerns regarding the proposed design, its impact on a heritage building and its unsympathetic appearance in the residential area, and it was suggested that an alternative location should be sought. However, the applicant confirmed that it was Telstra's intention to proceed with the application on the Exchange building as this was the most viable option that provided the best outcome for achieving its coverage objectives whilst minimising the impact of visual amenity.*

*Consideration of locating the proposed antennae on the adjoining Sea View Garage site was discussed with the applicant but advice from Telstra was that this would require either:*

- A substantial monopole structure at the rear of the property, together with an equipment shelter at ground level and fenced compound; or*
- Due to structural constraints, two guyed masts of equivalent height as that proposed on the Exchange building, or one mast of greater height (to accommodate two sets of antennas).*

**STATUTORY ENVIRONMENT**

- Town Planning Scheme No. 2 (TPS 2)*
- Metropolitan Region Scheme (MRS)*
- Telecommunications (Low Impact Facilities) Determination 1997*
- WAPC's Statement of Planning Policy No. 5.2 (SPP 5.2 – Telecommunications Infrastructure)*
- WAPC's Guidelines for the Location, Siting and Design of Telecommunications Infrastructure*

**PROPOSED LOCAL PLANNING SCHEME NO 3**

*It is proposed to re-classify a portion of the lot from Local Scheme Reserve – Commonwealth Government to Local Reserve – Telecommunication. The remainder of the lot will remain MRS Reserve – Primary Regional Road unless otherwise changed by an MRS Amendment. This would still allow the proposed use.*

**MUNICIPAL INVENTORY***Category 3*

*Significance: A fine example of early modern architectural design being applied to an industrial building – c. late 1920s.*

*Extract from Cottesloe – A Town of Distinction (Ruth Marchant James):*

*In 1929, to provide the required telephone facilities and the extra accommodation needed by staff, a new telephone exchange was completed for the sum of 5000 pounds. A further 35,000 pounds was expended to cover the cost of the equipment needed to upgrade the automatic exchange. Mr E. Kemp, representing the Automatic Telephone Manufacturing Company of Liverpool, England, oversaw the installation of strong reinforced concrete floors, inlaid with bitumen, that were used to support the heavy apparatus. The completed building, situated close to the Perth-Fremantle Road on the corner of Condon and Glyde Streets (now Clive Road), was officially opened in January 1930.*

**ADVERTISING OF PROPOSAL**

*The applicant requested that the application not be advertised on the basis that it complies with the Guiding Principles set out in the WAPC's Statement of Planning Policy No. 5.2 (SPP5.2) and was therefore not necessary. However, the application was advertised in accordance with TPS 2 and this consisted of a letter to 7 adjoining property owners. 10 submissions have been received.*

*The main comments raised are summarised as follows:*

*Anthony Cribb, 3 Congdon Street*

- Objects to the proposal;*
- Sets a dangerous precedent for similar height structures to be allowed in residential areas;*
- Masts of such height are not usually located amongst single and two-storey dwellings. Such structures are generally located in non-residential areas such as on shopping centres and high rise buildings;*
- Health and safety issues may arise;*
- The Industry Code for mobile phone base-station deployment should be applied;*
- Two masts suggests that Telstra intends to install twice as many antenna than normally installed;*
- Alterations to the building may result in a health risk due to asbestos in the building;*

- *Cumulative radiofrequency electromagnetic energy levels should be assessed showing data before the masts are installed and after, to show that there will be no adverse health and safety issues; and*
- *The two masts appear to have little apparent support and may pose a safety risk if they collapse.*

*Adrian and Kate Moore, 8 Clive Road*

- *Objects to the proposal;*
- *The masts need a proper risk assessment to ensure that they will be able to withstand very strong winds;*
- *It will appear extremely ugly, ridiculously high and in no way matching the existing Exchange building;*
- *It will result in a loss of value to our property;*
- *Not convinced that the emissions from the antennae are not dangerous;*
- *There are many more suitable locations in non-residential areas;*
- *It will far exceed Council height restrictions;*
- *Disagree that the Telstra exchange is the most suitable and practical location;*
- *Other neighbours should have been notified of proposal and will likely object;*
- *Concerned that it is implied that the masts are viewed as a fait accompli, regardless of any objections neighbouring residents may have; and*
- *We are bringing the proposal to the attention of the Telecommunications Ombudsman.*

*Katie Pinnick and Nicholas Bath, 9 Congdon Street*

- *Strongly objects; and*
- *Reasons are same as that expressed by Anthony Cribb.*

*G Lazdins, 443 Stirling Highway (Sea View Garage)*

- *Fake 'chimneys' will appear more visually obtrusive than white covers used elsewhere or bare grey poles;*
- *Concerned with continuous radiation from antennae on adjoining properties;*
- *Could site be found that is 'less residential' and at higher level?; and*
- *Will more towers follow on the exchange building and give a higher cumulative RF EME Level?*

*Cameron Cooper (on behalf of Gary Johnson, 441 Stirling Highway - old fire station)*

- *Strongly objects;*
- *Greatly concerned for the unsightly and imposing effect that the proposal will have on the landscape and our heritage-listed building;*
- *Decrease value of property; and*
- *Supports submission from Mr Cribb and the grounds for objection.*

*JA and CT Smith, 6 Clive Road*

- *Objects to proposal;*
- *Masts will be an eyesore;*
- *Heights are out of proportion to existing building;*

- *Proposed cladding of the antennas with faux bricks is laughable; and*
- *How about Telstra dividing the height into 4 or 6 smaller masts to reduce visibility or locating in some 'public' space and not amongst residential homes?*

*Susan Fleming and Peter Kohlen, 5 Pennefather Lane*

- *We were not notified by Council;*
- *Not convinced that emissions are not dangerous particularly to children;*
- *Decrease value of property;*
- *Could towers collapse in strong winds?*
- *Does the roof which the towers are to be attached have asbestos in it?*
- *It will look ugly and industrial; and*
- *It should be located in a non-residential area.*

*Danielle Newman, 11 Congdon Street*

- *Appalled that such an application would be considered in a residential area;*
- *My house, along with others in Congdon Street, is heritage-listed and these towers would ruin the streetscape and appear out of keeping with the heritage look of the area;*
- *Will be exposed to unacceptable levels of electromagnetic radiation;*
- *Asbestos is present in the building – Telstra has a bad track record dealing with asbestos; and*
- *Only responsible thing to do is propose alternative sites where there are no heritage issues.*

*Lorraine Young, 117 Grant Street*

- *Objects to proposal;*
- *Will create a visual eyesore in the neighbourhood;*
- *Telstra should be subject to same height rules as everyone else; and*
- *Expresses health concerns with proposed masts in residential area.*

*Elizabeth Scott, 30 McNamara Way*

- *Proposed installation should not be within close proximity to residents;*
- *Residents have not been given notification of proposal;*
- *Poses health risk;*
- *Height of masts are ugly and poses risk to an old building exposed to strong winds;*
- *If this could be approved following amalgamation of councils there will be a huge community backlash; and*
- *Appropriate options should be considered.*

**APPLICANT'S JUSTIFICATION**

*The applicant has submitted a detailed submission in support of the proposal, a Heritage Assessment prepared by Laura Gray, Heritage and Conservation Consultant, and has addressed comments received from objectors (see attached).*

*In summary, the applicant has provided the following justification for the proposal:*

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- *The proposed development is consistent with Scheme provisions of the MRS;*
- *The proposed development is consistent with the Scheme provisions of TPS 2;*
- *The proposal is consistent with the WAPC's SPP 5.2 and Guidelines which encourage siting to minimise potential adverse visual impact on the character and amenity of the local environment;*
- *The infrastructure associated with the telecommunications facility will be contained within the existing site, and will not impact on the heritage significance of the existing building; and*
- *Works associated with the development are minor and not anticipated to detrimentally affect the amenity of the area.*

*A summary of the applicant's Heritage Consultant's comments are as follows:*

- *This proposal not only seeks to continue an appropriate use for the Telephone Exchange, but it thereby promotes the continued conservation of the heritage place;*
- *The proposed antenna installation will have minimal impact on the physical fabric of the Telephone Exchange;*
- *The Telephone Exchange is in an elevated position in the area required for the services provided by the proposed antennae that will further the telecommunications function of the Exchange;*
- *The only aspect of the proposal that will have any impact on the Telephone Exchange is the physical impact of the installation within the roof space and onto the roof. That is considered to be a minimal impact;*
- *The proposed antennae will be visible in both directions along Stirling Highway. However, the visual impact is negligible when compared to the visual impact of the adjacent corner building and its existing signage;*
- *The visual impact of the antennae has been considered in the context of the adjacent residences in Congdon Street. The immediate neighbour at No. 3 and continuous to No. 15 Congdon Street are all recognised for their heritage value in the Town's Municipal Inventory, all with high levels of significance, except No. 7, that has a low level of significance. All residences (1908-1915) predate the Telephone Exchange (1920);*
- *The dominant height of the Telephone Exchange compared to the residences, and the proposed antennae installation located at the west end (rear) of the roof, negates any visual impact on the residences or their relevant street frontages; and*
- *As Clive Road slopes down to the west and the telephone exchange reveals a lower storey along that side, with the double-storey height along the Pennefather Lane boundary, there is no view of the roof or the antennae installation from that proximity.*

## **PLANNING CONSIDERATIONS**

*There are various statutory (and non-statutory) provisions relevant to this application as summarised below:*

### **MRS and TPS 2**

*The existing Telstra Exchange building is predominantly on land reserved under the MRS for 'Primary Regional Road' and therefore this portion of the lot is not reserved under TPS 2 and the provisions of the MRS shall apply to the proposed development. However,*

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*the north-west part of the lot is a Local Scheme Reserve (Public Purposes - Commonwealth Government) and is subject to TPS 2 provisions, albeit that the location of the proposed masts do not appear to be within this part of the site.*

**Telecommunications (Low-impact Facilities) Determination 1997 (as amended)**

*This legislation is used to determine whether a mobile phone facility may be considered as 'low-impact' and if so, it authorises a carrier to enter on land and install a facility under the Telecommunications Act 1997.*

*Under the Act the following cannot be 'low-impact' facilities:*

- Designated overhead lines;*
- A tower that is not attached to a building;*
- A tower attached to a building and more than 5m high;*
- An extension to a tower that has previously been extended;*
- An extension to a tower, if the extension is more than 5m high.*

*As the proposed application is for two towers that exceed 5m in height (in a predominantly residential area and on a heritage building) it is not deemed to be 'low impact' and therefore requires Council approval.*

**SPP 5.2**

*This State Planning Policy provides a framework for the preparation, assessment and determination of applications for telecommunications infrastructure within Western Australia.*

*It recognises that modern telecommunications are an essential and beneficial element in the life of communities and is rapidly advancing and being developed to meet the growing demand for better communications. However, it also acknowledges that the expansion and installation of telecommunication networks usually involves alterations to the appearance of buildings which may have impacts on the character and amenity of local environments. It therefore advises that it is important that planning policies ensure that facilities are designed and installed in a manner that protects the visual character and amenity of local areas as well being desirable to provide for the effective and efficient roll-out of networks.*

*The Policy also advises that in areas of high mobile phone use, where there are many small "cells" to meet demand, antennas do not need to be very high and can be installed on building roofs or small poles. In low-usage areas the cells are larger and the antennas are mounted on taller masts and towers.*

*In respect to possible health issues associated with exposure to electromagnetic emissions the Policy advises that all carriers are required to comply with the Australian Communications Authority's Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard (2003). This incorporates substantial safety margins to address concerns for potentially sensitive groups in the community such as children, pregnant women, the infirm and aged. Furthermore, the Policy advises that research undertaken by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has reported that environment radiofrequency levels near base stations for digital mobile phone networks are extremely low and it is unlikely that it would cause any adverse health effects, based on current medical research.*

*Other advice in the Policy includes that where developments are proposed on a road reserve the application should be countersigned by the Department of Planning on behalf of the owner, although this has not been done on this application.*

*The objectives of SPP 5.2 are to:*

- facilitate the provision of telecommunications infrastructure in an efficient, cost effective and environmentally responsible manner to meet community needs;*
- facilitate the development of an effective statewide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Western Australia as set out in the Town Planning and Development Act 1928 and the State Planning Strategy;*
- assist community understanding of the issues involved in the design and installation of telecommunications infrastructure and provide opportunities for community input to decision-making;*
- promote a consistent approach in the preparation, assessment and determination of applications for planning approval of telecommunications infrastructure;*
- minimise disturbance to the environment and loss of amenity in the provision of telecommunications infrastructure; and*
- ensure compliance with all relevant health and safety standards in the provision of telecommunications infrastructure.*

*The Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure in SPP 5.2 are as follows:*

- There should be a co-ordinated approach to the planning and development of telecommunications infrastructure, although changes in the location and demand for services require a flexible approach;*
- Telecommunications infrastructure should be strategically planned and coordinated, similar to planning for other essential infrastructure such as transport networks and energy supplies;*
- Telecommunication facilities should be located and designed to meet the communication needs of the community;*
- Telecommunication facilities should be designed and sited to minimise any potential adverse visual impact on the character and amenity of the local environment, in particular, impacts on prominent landscape features, general views in the locality, and individual significant views;*
- Telecommunication facilities should be designed and sited to minimise adverse impacts on areas of natural conservation value and places of heritage significance or where declared rare flora are located;*
- Telecommunication facilities should be designed and sited with specific consideration of water catchment protection requirements and the need to minimise land degradation;*
- Telecommunication facilities should be designed and sited to minimise adverse impacts on the visual character and amenity of residential areas;*
- Telecommunication cables should be placed underground, unless it is impractical to do so and there would be no significant effect on visual amenity or, in the case of regional areas, it can be demonstrated that there are long term benefits to the community that outweigh the visual impact;*
- Telecommunication cables that are installed overhead with other infrastructure such as electricity cables should be removed and placed underground where it*

*can be demonstrated and agreed by the carrier that it is technically feasible and practical to do so;*

- *Unless it is impractical to do so telecommunications towers should be located within commercial, business, industrial and rural areas and areas outside conservation areas;*
- *The design and siting of telecommunication towers and ancillary facilities should be integrated with existing buildings and structures, unless it is impractical to do so, in which case they should be sited and designed so as to minimise any adverse impact on the amenity of the surrounding area;*
- *Co-location of telecommunication facilities should generally be sought unless such an arrangement would detract from local amenities or where operation of the facilities would be significantly compromised as a result;*
- *Measures such as surface mounting, concealment, colour co-ordination, camouflage and landscaping to screen at least the base of the towers and ancillary structures, and to draw attention away from the tower, should be used, where appropriate, to minimise the visual impact of telecommunication facilities;*
- *Design and operation of a telecommunication facility should accord with the licensing requirements of the Australian Communications Authority, with physical isolation and control of public access to emission hazard zones and use of minimum power levels consistent with quality services; and*
- *Construction of a telecommunications facility (including access to a facility) should be undertaken so as to minimise adverse effects on the natural environment and the amenity of users or occupiers of adjacent property, and ensure compliance with relevant health and safety standards.*

#### *Matters to be Considered when Determining Planning Applications (from SPP 5.2)*

*Before determining an application for telecommunications infrastructure Council should consider and have regard to the:*

- *extent to which the proposal contributes to the social and economic benefits of affordable and convenient access to modern telecommunications services for people and businesses throughout the State;*
- *need to ensure continuity of supply of telecommunications services to people and businesses in the local area or region;*
- *effect of the proposal on the environment and natural landscape and the extent to which the proposal affords protection of these elements;*
- *effect of the proposal on any place of cultural heritage significance on or near the land;*
- *extent to which the proposal enhances or maintains visual amenity including streetscape and minimises adverse visual impacts;*
- *degree to which the proposal is co-ordinated with other services;*
- *extent to which the proposal fulfils the requirements of Section 5.3 of this Policy; and*
- *extent to which the proposal adheres to the Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure set out in Section 5.1 of this Policy.*

#### *WAPC Guidelines for the Location, Siting and Design of Telecommunications Infrastructure*

*These guidelines are to be considered in conjunction with SPP 5.2 and assist in the assessment of planning applications involving telecommunications facilities.*

*In brief, the main comments in the guidelines that appear particularly relevant to this application are summarised as follows:*

- Telecommunications facilities that have the potential to be visually intrusive should, where possible, be located in industrial, commercial, business or rural areas, or otherwise integrated into the design of existing or proposed building development;*
- Where there are existing structures such as water towers or base stations, additional facilities can often be accommodated without significantly contributing to the visual impact of the structure. This includes co-location with an existing telecommunications facility and integration with any other structure;*
- Visually intrusive facilities should generally not be situated within residential areas; and*
- Cultural and heritage sites should be treated with sensitivity, and avoided altogether where a proposed facility is likely to detract from the characteristics for which the site has been identified.*

### **PLANNING COMMENT**

*This application has been assessed having regard to the legislation for telecommunications facilities, comments from the applicant and their heritage consultant, the submissions received from neighbours following advertising, and Council's planning framework.*

*The need to relocate the existing telecommunications facilities from the Sundowner Hostel in the Town of Claremont to an alternative location to facilitate Telstra's mobile phone and broadband network is not disputed following the submissions from Telstra and the General Manager of Amana Living regarding the future of the existing Hostel. It is also acknowledged that there is a need to ensure continuity of supply of telecommunication services to people and businesses in the local area.*

*However, the effect of the proposal on the appearance of the existing Telephone Exchange building that is listed in the Town's Municipal Inventory (Category 3) and on the surrounding heritage-listed dwellings in Congdon Street and also at 441 Stirling Highway (Old Claremont Fire Station), which is a Category 1 building in the Town's Municipal Inventory, as well as on other properties in the locality, is considered to be of high importance. Also, the extent to which the proposal does not appear to enhance or maintain visual amenity, including streetscape, or minimise its adverse visual impact in the locality are significant planning considerations.*

*Furthermore, the proposal is not co-ordinated with any other telecommunication services and does not appear to fulfil many of the requirements of the Guiding Principles for the Location, Siting and Design of Telecommunications Infrastructure set out in SPP 5.2. In particular, the following comments are made:*

- (1) The proposed telecommunications facility, whilst proposed to be hidden in two 7.5m high faux brick chimneys, does not appear to have been designed and sited so as to minimise any potential adverse visual impact on the character and amenity of the local environment and, in particular, its impact on general views in the locality and individual significant views. It would be very obvious and awkward*

*(looking out of place) from both directions along the highway, as well as from the surrounding properties and local roads.*

- (2) The proposal does not appear to be designed and sited to minimise adverse impacts on places of heritage significance, especially the Telephone Exchange itself and residential properties in Congdon Street, comprising a character neighbourhood. The applicant's Heritage Consultant's comments in this regard are also queried as she advises that, although the proposal will be visible from both directions along Stirling Highway, its visual impact will be negligible when compared to the visual impact of Sea View Garage and its advertising signage. However, the photomontages provided by the applicant (sheet 1 of 2 & sheet 2 of 2) clearly show that the proposed faux chimneys will be very visible along Stirling Highway and are significantly higher than the Sea View Garage and existing signage. She also states that the dominant height of the Telephone Exchange compared to the residences, and the proposed antennae installation at the west end (rear) of the roof, negates any visual impact from the residences or their relevant street frontages and that there will be no views of the antennae installation from along Clive Road. This again is disputed as the proposed chimneys are not at the rear of the roof, but rather 18m and 23m (approx) from its western end, and the photomontages provided by the applicant showing views from Congdon Street, Grant Street, and Clive Road clearly show that the proposed faux chimneys will be very visible from the surrounding residential area. The twin chimneys would be out of proportion with the building, anomalous, and visually dominant.*
- (3) The proposal does not appear to have been designed and sited to minimise adverse impacts on the visual character and amenity of residential areas as discussed in (2) above.*
- (4) The proposal should be located within commercial, business or industrial areas, unless impractical to do so. In this regard, although the applicant has advised that the adjoining Sea View Garage is not a suitable alternative location and that this is the best position for the facility, it is still unclear why, in what is presumably an area of high phone mobile use, smaller "cells" could not be used to meet demand so that antennas do not need to be so high. Also, why if tall masts are required cannot these be located on an existing building or structure say in the Claremont, Cottesloe or Peppermint Grove Town Centres that may have less visual impact and be less likely to raise health concerns.*
- (5) The design and siting of the proposed antennae should be integrated with existing buildings and structures, unless it is impractical to do so, in which case they should be sited and designed so as to minimise any adverse impact on the amenity of the surrounding area. In this regard, it is not considered that the proposed two 7.5m high faux chimneys will integrate with the existing building as they will be over double the height of the Telephone Exchange building, above its existing ground floor level.*

*Although the majority of the lot is on land reserved under the MRS a small portion of the lot is reserved under TPS 2 and therefore regard can be had to the Scheme. TPS 2 states that Council's general policy for development within the district favours low rise development of no more than two storeys to maintain privacy, views and general amenity, notwithstanding that Council may consider the circumstances and merits of each case in terms of amenity and development control provisions of the Scheme. In this*

*respect, the proposal does not conform with the general policy and would appear significantly higher than the existing residential dwellings in the area compared with TPS 2's two-storey height standard.*

*TPS 2 also addresses the appearance of buildings stating that no building shall be so designed or constructed that its external appearance would disfigure the locality, lack harmony with the exterior design of neighbouring buildings or tend to depreciate the value of surrounding properties. In this case, for the reasons already discussed, it is considered that the proposed development would not satisfy this Scheme provision. Furthermore, although the applicant has suggested the proposal constitutes 'infrastructure' rather than a 'building' and therefore need only be considered on its merits, the definition of 'building' referred to in TPS 2 includes any structure whether fixed or moveable, temporary or permanent, placed or erected on land, excluding boundary fencing, pergolas and swimming pools.*

## **CONCLUSION**

*The proposed two telecommunications masts in faux brick chimneys on the roof of the existing Telephone Exchange building would significantly impact on the visual character and amenity of the surrounding residential area and on the Telephone Exchange building itself which is listed in the Town's Municipal Inventory. The design and siting chosen for the proposed structures also does not appear to integrate with the existing building and would add visual clutter to the streetscape and skyline.*

*The existence and availability of the Telstra building should not be taken as an opportunity to be exploited, and although this may be the most suitable location for Telstra's mobile phone network following the necessary removal of its antennae from its existing facility, the design and siting of this proposal cannot disregard relevant Statutory legislation, planning considerations and the widespread concerns and objections expressed by both residential and non-residential owners in the area.*

## **VOTING**

*Simple Majority*

## **COMMITTEE COMMENT**

*Committee discussed the proposal at some length including seeking clarification from the applicant and representatives regarding the required coverage and technical aspects, the current location becoming redundant, possible alternative sites, and the scale and appearance of antennae. Committee found the officer report very comprehensive and noted the WAPC planning guidance for such proposals, as well as the community consultation and concerns. In response to a question from Committee the Manager Development Services advised that the officers' understanding of the applicable planning controls as verified by the Department of Planning is that the Town is able to determine a refusal on behalf of the WAPC. Committee supported this course of action and informed the attendees that the recommendation would proceed to Council next Monday for a decision on the application.*

## **OFFICER & COMMITTEE RECOMMENDATION**

***Moved Cr Walsh, seconded Cr Hart***

*That Council REFUSE the application to commence development for the proposed six Telstra panel antennas on mounting poles contained within two faux brick chimneys on the Telephone Exchange building at No. 1 (Lot 4) Congdon Street, Cottesloe, as shown in the application and on the plans and photomontages received on 7 May and 5 & 12 June 2013, for the following reasons:*

- 1. The proposal would have a significant detrimental visual impact on the appearance of the Telephone Exchange building, which is listed in the Town's Municipal Inventory, and on the surrounding heritage-listed and non-heritage listed buildings and the streetscapes in the locality.*
- 2. The proposal does not adequately satisfy the Guiding Principles for Location, Siting and Design of Telecommunications Infrastructure as referred to in the Statement of Planning Policy No. 5.2 (SPP 5.2) and associated Guidelines.*
- 3. The proposal does not satisfy the requirements of Town Planning Scheme No. 2 in respect to general building heights and appearance of buildings.*
- 4. The proposal would add to visual clutter of infrastructure in the locality to the detriment of the character and amenity of the area;*
- 5. Significant objections have been lodged by surrounding property owners and residents concerning the visual, amenity, streetscape, heritage and health impacts that the proposal would have on the character and well-being of the locality and its inhabitants.*

#### **AMENDMENT**

*Moved Mayor Morgan, seconded Cr Downes*

*That a new item 6 be added to read: "That Council invite the applicants and other phone carriers to discuss options for local coverage with Council staff and report back to Council if needed".*

*Carried 7/0*

#### **COUNCIL RESOLUTION**

*That Council REFUSE the application to commence development for the proposed six Telstra panel antennas on mounting poles contained within two faux brick chimneys on the Telephone Exchange building at No. 1 (Lot 4) Congdon Street, Cottesloe, as shown in the application and on the plans and photomontages received on 7 May and 5 & 12 June 2013, for the following reasons:*

- 1. The proposal would have a significant detrimental visual impact on the appearance of the Telephone Exchange building, which is listed in the Town's Municipal Inventory, and on the surrounding heritage-listed and non-heritage listed buildings and the streetscapes in the locality.*
- 2. The proposal does not adequately satisfy the Guiding Principles for Location, Siting and Design of Telecommunications Infrastructure as referred to in the Statement of Planning Policy No. 5.2 (SPP 5.2) and associated Guidelines.*

3. *The proposal does not satisfy the requirements of Town Planning Scheme No. 2 in respect to general building heights and appearance of buildings.*
4. *The proposal would add to visual clutter of infrastructure in the locality to the detriment of the character and amenity of the area;*
5. *Significant objections have been lodged by surrounding property owners and residents concerning the visual, amenity, streetscape, heritage and health impacts that the proposal would have on the character and wellbeing of the locality and its inhabitants.*
6. *That Council invite the applicants and other phone carriers to discuss options for local coverage with Council staff and report back to Council if needed.*

*THE AMENDED SUBSTANTIVE MOTION WAS PUT*

*Carried 7/0*

### **PLANNING COMMENT IN RESPONSE TO SAT MEDIATION AND AMENDED PLANS**

The amended plans submitted on 6 November 2013 are identical to the plans originally considered by Council on 24 June 2013 with the exception of the two faux brick chimneys which have now been deleted.

Removal of the faux brick chimneys is favoured by the Town's Heritage Consultant, Ian Hocking, as they would increase the size and the detrimental visual impact of the proposed infrastructure. The Burra Charter (the Australian Charter for Places of Significance) also would not support the use of faux brick chimney-like structures, around the telecommunication towers, as they would detract from the heritage value of the existing telephone exchange.

Additional detailed comments have been provided by the Town's Heritage Consultant in response to the mediation process and revised plans and his conclusion is summarised below:

- *The use of the Telephone Exchange building for the panel antennas and poles is a contemporary extension of its historical function. According to the submissions provided Telstra have exhausted all alternative sites to the Telephone Exchange.*
- *SPP 5.2 requires the utility of telecommunications to be balanced against the retention of amenity. My comments have endeavoured to assess whether a satisfactory balance has been achieved.*
- *The values of the Congdon Street heritage properties would be lessened by the visual intrusiveness of the proposed panel antennas and poles. Similarly the streetscape value of this section of Congdon Street would be partly compromised by the proposal.*
- *The values of the Clive Road heritage properties would be compromised by the visual intrusiveness of the proposed panel antennas and poles. However,*

*the variable streetscape value of Clive Road mitigates the visual intrusion onto its streetscape.*

- *The visual impact of the proposed panel antennas and poles on Stirling Highway would not be inappropriate to the immediate visual context of Auto Masters garage, the Telephone Exchange and the former Fire Station.*
- *The visual impact of the proposed telecommunications antennas and posts is sufficiently removed from upper Grant Street to be considered incidental, rather than intrusive.*
- *The proposed telecommunications antennas and posts mounted on the roof of the Telephone Exchange would, on balance, cause some loss of amenity and heritage value in order to provide the utility of adequate Telstra telecommunications coverage in the vicinity. Given SPP 5.2, it is a moot point that the impact on amenity and heritage values would be sufficient to uphold a refusal of the Telstra proposal.*

Eleven alternative locations for the telecommunications infrastructure have been examined by the applicant and discussed with Council Officers both in Cottesloe and Claremont, but these have all been excluded by the applicant as either not being capable of providing adequate radio frequency coverage or consent of the owners has not been forthcoming, including on the existing Auto Masters site opposite.

Co-location with other telecommunication carriers has also been considered by the applicant and discussions have been held between Council Officers and Vodaphone to determine whether there may be an immediate need for co-location on the exchange building following its similar relocation from the Sundowner Hostel. However, Vodaphone has advised that it is not intending to locate on the exchange building and generally avoids heritage properties.

Previous appeals to the SAT against decisions to refuse applications for telecommunication facilities have tended to be determined in favour of the applicants, on the basis that the benefits that would result from the telecommunications infrastructure to service an area outweighed other local considerations such as visual amenity (ie: Telstra vs City of Wanneroo 2011, Telstra vs Shire of Murray 2009). One notable exception to this was an appeal by Optus against a decision by the Town of Vincent to refuse an application for a telecommunications facility on the rooftop of the Alexander Buildings in Mount Lawley. The appeal was dismissed primarily because the Alexander Buildings has the highest heritage classification in the Town of Vincent and the proposed facility would have had a cumulative adverse effect with other existing telecommunications facilities on the building which would impact adversely on the aesthetics of the heritage building (Optus vs Town of Vincent 2006). This is not the situation in the current Cottesloe case as the existing Telstra exchange building is Category 3 on the Town's Municipal Inventory, which is not the highest category, and there would not be a cumulative adverse impact as no other carriers are proposing to co-locate on the building.

## CONCLUSION

Following Council's decision to refuse the application both the applicant and Council Officers have as part of the SAT mediation process examined possible alternative locations and designs.

Whilst no suitable alternative location has been forthcoming, the removal of the faux brick chimneys is considered preferable from a pure heritage perspective.

Health considerations associated with electromagnetic emissions from telecommunications infrastructure appear to have been satisfactorily addressed by the applicant as all carriers are required to comply with the Australian Communications Authority's Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003, which incorporates substantial safety margins to address concerns for potentially sensitive groups such as children, pregnant women, the infirm and aged. Council would therefore be unlikely to succeed in pursuing aspect.

The proposed location of the telecommunications infrastructure on the existing telephone exchange building, with or without the faux brick chimneys, is apparently the only feasible option for Telstra having examined alternative sites in the locality and in view of the State Government's Policy which facilitates the development of an effective statewide telecommunications network.

The heritage aspect of the proposal is possibly the most contentious issue that Council may wish to pursue on appeal. However, in light of the Town's Heritage Consultant's recent advice this may be difficult to sustain.

## SECTION 31 RECONSIDERATION

Council is required to treat SAT's invitation to reconsider its decision seriously and conscientiously. Council may:

- (i) Affirm its decision of 24 June 2013 to refuse the application, with or without the two faux brick chimneys;
- (ii) Vary the decision; or
- (iii) Set aside the decision and substitute a new decision.

If Council decides on option (i) then the matter will likely proceed to a full tribunal hearing for review of the decision and substantial legal costs may be involved.

Alternatively, if Council decides on options (ii) or (iii) then:

- If the applicant is happy with the varied or substituted decision, and withdraws the proceedings, the varied or substituted decision has legal effect; or
- If the applicant is not happy with the varied or substituted decision, the proceedings are deemed to be for the review of the decision as varied or the substituted decision. This may proceed back to mediation or to a hearing.

**COMMITTEE COMMENT**

Committee discussed the matter at length, including the interests of objecting residents, the changed officer recommendation, alternative sites, the SAT review process, heritage consultant's advice, and telecommunications needs and coverage.

Officers explained that examination of alternative sites and liaison with other carriers had been carried out pursuant to Council's request and the SAT mediation. This was addressed in information attached, including the technicalities of coverage. Officers also explained that the SAT process recognised the original objections as reflected in Council's refusal, sought Council's reconsideration in light of the additional site investigations and heritage input, and provided for a directions hearing shortly after the Council meeting. The SAT review may revert to further mediation but could proceed to a formal hearing, which would entail legal representation, witnesses and documentation with time and cost implications. Mr Hocking elaborated on his heritage assessment and advice. Officers also referred to the framework of planning policy and principles guiding a decision by Council and the SAT.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION****Moved Cr Jeanes, seconded Cr Downes**

That Council:

1. SET ASIDE its original decision of 24 June 2013 to refuse the application for six Telstra panel antennas on two mounting poles contained within two faux brick chimneys on the existing telephone exchange building at No. 1 (Lot 4) Congdon Street, Cottesloe; and
2. SUBSTITUTE the original decision by APPROVING the amended plans received on 6 November 2013 for six Telstra panels on two unenclosed mounting poles on the existing telephone exchange building, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
  - (b) The external profile of the development as shown on the approved plans, not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
  - (c) At Building Permit stage, at the applicant's cost, a fully-detailed and annotated photographic record of the telephone exchange building, internally and externally, shall be prepared and submitted to the Town, to the satisfaction of the Manager Development Services.
  - (d) At Building Permit stage, details of the proposed colour of the mounting poles and antennas, selected to cause the least visual and heritage impact, shall be submitted to the Town for approval, to the satisfaction of the Manager Development Services.

**Lost 0/7**

**NEW MOTION**

**Moved Cr Wash, seconded Cr Downes**

**THAT Council:**

**Affirm its decision of 24 June 2013 to refuse the application, with or without the two faux brick chimneys.**

**Carried 7/0**

**COMMITTEE RECOMMENDATION**

**That Council:**

**Affirm its decision of 24 June 2013 to refuse the application, with or without the two faux brick chimneys.**

**THE SUBSTANTIVE MOTION WAS PUT**

**Carried 7/0**

**11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**

**12.1 ELECTED MEMBERS**

Nil.

**12.2 OFFICERS**

Nil.

**13 MEETING CLOSED TO PUBLIC**

**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil.

**13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC**

Nil.

**14 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 6:53PM.

CONFIRMED MINUTES OF 18 NOVEMBER 2013 PAGES 1 – 25 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: ..... / ..... / .....