Delegate's Report

Application No: **2017/246**

Application Type: Development Only

Received: 25 August 2017

The Applicant:
Name: Catalyst One Pty Ltd (Catalyst)
Address: George Bazeley
PO BOX 361, SOUTH MELBOURNE VIC 3205
Level 3, 11 Coventry Street
Southbank VIC 3006

The Proposal:
Proposal: Use and development of Telecommunications Facility (40m high monopole, antenna array, ground level equipment shelter) and ancillary works and alteration of access to a Road Zone Category 1

The Land:
Land Address: 2735 Meeniyan-Mirboo North Road Mirboo North 3871

Land Description: L2 LP123578 Parish of Mardan

Assessment:
By: Tanya Cooper

Planning Scheme and/or Planning and Environment Act Definition
Land Use
Telecommunications facility

Development
Construct a building or construct or carry out works (telecommunications facility, ancillary works)
Alteration of access to a Road Zone

Zone and Overlays:
Zone: Farming

Overlays:

- Environmental Significance Overlay - Schedule 2 – Special Water Supply Catchment Areas
- Environmental Significance Overlay - Schedule 5 – Areas Susceptible to Erosion

Why is a Permit Required?

Zone

Use

Clause 35.07-1 – A permit is required for the use of the land for a Telecommunications Facility as it is not exempt under Clause 62.01.

Development

Clause 35.07-4 – A permit is required to buildings and works associated with a use in Section 2 and to construct a building within 100m of a Road Zone Category 1.

Overlays

Clause 42.01-2 – A permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.

The Schedule 5 to this overlay does not contain a relevant exemption for buildings and works for a telecommunications facility.

- A permit is not required under Schedule 2 to this overlay as it contains an exemption for buildings and works more than 100m from a waterway and more than 300m from a water supply reservoir and for telecommunications facilities that do not require on-site wastewater effluent disposal.

Particular provisions

Clause 52.19 – A permit is required to construct a Telecommunications Facility unless it is exempted by the clause. The proposed telecommunications facility is not exempted by the clause.

Clause 52.29 – A permit is required to alter access to a Road Zone Category 1 (Meeniyan-Mirboo North Road)

Particular provisions that are relevant but do not trigger a permit

Clause 62.01 – The use of the land for a Telecommunications Facility if the associated buildings and works meet the requirements of Clause 52.19. The buildings and works do not meet this exemption.

Clause 62.02-1 – Buildings and works associated with a Telecommunications facility if the requirements of Clause 52.19 are met.

Size of the Land (Square meters or hectares):
The lot is approximately 7.76 ha

Is there a registered restrictive covenant or a Section 173 Agreement on the title? If so, does the proposal comply with the restriction or Section 173 Agreement?
No. There are no restrictive covenants or section 173 agreements noted on the copy of title submitted with the application dated 15 August 2017.

Does the land abut a Road Zone Category 1 or a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road?
Yes. The land abuts a Road Zone Category 1 (Meeniyan-Mirboo North Road). The application requires referral to VicRoads under Clause 52.29 and 66.03 of the Planning Scheme as the proposal alters the use of the existing driveway.

Is there a designated waterway on the land?
Yes. There is a designated waterway running through the property. It is located approximately 135m to the west of the proposed telecommunications facility and runs in a southerly direction.

Is the land within a Special Water Supply Catchment Area listed in Schedule 5 of the Catchment and Land Protection Act 1994?
Yes. The land is within the Tarwin River (Meeniyan) Water Supply Catchment (ID no: 118) as proclaimed by the Victoria Government Gazette (No. G17 2 May 1990).

Does the application require car parking / bicycle facilities?
No car parking or bicycle facilities are required by Clauses 52.06 or 52.34 of the Planning Scheme.

Is an Aboriginal Cultural Heritage Management Plan required?
No, a CHMP is not required because the proposed use and development is not in an area of cultural heritage sensitivity.

Was Further Information Requested under Section 54?
Further information was required regarding the following:

- Amend application to include use and creation of access to a road zone
- Additional fee
- Amend application report and plans (inconsistencies)
- Contours

The required further information was submitted on 14 November 2017

Inspections:

Date Inspected	Observations
10 January 2018	The site has frontage to Meeniyan-Mirboo North Road of approximately 185m. Vehicular access is from an existing gravel crossover to Meeniyan-Mirboo North Road. Meeniyan-Mirboo North Road is a sealed VicRoads road. The land undulates although the site of the proposed telecommunications facility is gently sloping. There is a waterway running to the west of the telecommunications facility, approximately 135m away from the proposed tower site. There is some tall native and non-native vegetation located in the road reserve, however the site of the telecommunications facility has been previously cleared of native vegetation and developed as grazing pasture. The land is currently vacant and is used as grazing pasture as part of a larger farming tenement (880 Berrys Creek Road). The site appears to have access to reticulated power, telecommunications, but not water or sewer.

Was notice of the application given under Section 52(1), 52(1AA), 52(3) or 57B?
The proposed telecommunications facility is **not** an application for a Telecommunications Facility that is funded or partly funded by the Victorian or Commonwealth governments through the Mobile Black Spot Programme and is therefore not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the reviewing rights of section 82(1) of the Act.

The application was therefore notified to adjoining/adjacent owners and occupiers and to landowners and occupiers within a 500m radius of the proposed Telecommunications Facility. The application was also notified by placing a sign on the land and/or by publishing a notice in newspapers generally circulating in the area.

Were there any objections received?

There were 7 submissions received. The issues raised are summarised below:

- Impact on health of schools students and residents of the town from 'radioactive' tower emissions as the tower is too close to the school
- Loss of rural views from the houses overlooking the site in Farmers Road and Meeniyan-Mirboo North Road
- Loss of property values resulting from loss of views from the dwellings
- Tower location at the entrance to the town will impact visitor experience of the town
- The road is narrow and busy with a dangerous bend which will be an issue during construction of the tower
- Proposed tower will be unsightly and will spoil the view of the surrounding countryside

Was the application referred under Section 55 or 57C?

Authority	**Which Clause? Determining or Recommending?**	**Date received and response**
South Gippsland Water	66.02-5 Special water supply catchment – Determining	18/12/17 – Unconditional consent
VicRoads	66.03 and 52.29 An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or an arterial road under the Road Management Act 2004 - Determining	22/12/17 – No objection and no conditions

Were there any non-statutory or internal referrals?

Planning Scheme Requirements and policies:

SPPF

The following SPPF clauses are considered relevant to the assessment of this application:

11 SETTLEMENT

- 11.01 Victoria
  - 11.01-1 Settlement networks
  - 11.01-2 Victoria Settlement Framework

- 11.07 REGIONAL VICTORIA
  - 11.07-1 Regional planning

- 11.10 GIPPSLAND
    - 11.10-1 A diversified economy
    - 11.10-2 Planning for growth
    - 11.10-3 Sustainable communities
    - 11.10-4 Infrastructure
    - 11.10-5 Gippsland Regional Growth Plan

12 ENVIRONMENTAL AND LANDSCAPE VALUES

- 12.04 Significant environments and landscapes
    - 12.04-1 Environmentally sensitive areas

13 ENVIRONMENTAL RISKS

- 13.03 Soil Degradation
    - 13.03-2 Erosion and landslip

14 NATURAL RESOURCE MANAGEMENT

- 14.01 Agriculture
    - 14.01-1 Protection of agricultural land
    - 14.01-2 Sustainable agricultural land use
- 14.02 Water
    - 14.02-1 Catchment planning and management

17 ECONOMIC DEVELOPMENT

- 17.01 Commercial
    - 17.01-1 Business
- 17.03 Tourism
    - 17.03-1 Facilitating tourism

18 TRANSPORT

- 18.02 Movement networks
    - 18.02-4 Management of the road system

19 INFRASTRUCTURE

- 19.02 Community infrastructure
    - 19.02-1 Health facilities
    - 19.02-2 Education facilities
    - 19.02-3 Cultural facilities
    - 19.02-4 Distribution of social and cultural infrastructure
- 19.03 Development infrastructure
    - 19.03-4 Telecommunications

LPPF

The following LPPF clauses are considered relevant to the assessment of this application:

21.02 MUNICIPAL PROFILE

- 21.02-1 Location
- 21.02-2 History
- 21.02-3 People and settlement
- 21.02-4 Environment
- 21.02-5 Natural resource management
- 21.02-6 Built environment and heritage
- 21.02-7 Economic development
- 21.02-8 Transport
- 21.02-9 Infrastructure
- 21.02-10 Community services

21.03 KEY ISSUES

- 21.03-3 Environmental risks
- 21.03-4 Natural resource management
- 21.03-5 Built environment and heritage
- 21.03-7 Economic development
- 21.03-8 Transport
- 21.03-9 Infrastructure
- 21.03-10 Community Services

21.04 VISION

- 21.04-1 South Gippsland Shire Council – Council Plan 2010 – 2014
- 21.04-2 Vision

21.07 ENVIRONMENTAL RISKS

- 21.07-2 Land and catchment management

21.08 NATURAL RESOURCE MANAGEMENT

- 21.08-1 Agriculture

21.09 BUILT ENVIRONMENT AND HERITAGE

- 21.09-3 Signage and infrastructure

21.11 ECONOMIC DEVELOPMENT

- 21.11-2 Technology and service industry
- 21.11-4 Tourism

21.12 TRANSPORT
- 21.12-1 Transport

21.13 INFRASTRUCTURE
- 21.13-1 Waste management and stormwater drainage

21.14 COMMUNITY SERVICES
- 21.14-1 Community wellbeing
- 21.14-2 Recreation, education and health services

21.15 LOCAL AREAS
- 21.15-3 Mirboo North

Clause 22 policies

There are no Clause 22 policies considered relevant to the assessment of this application.

General Assessment:

State Planning Policy Framework

The proposal is consistent with the relevant objectives and strategies of the SPPF clauses listed above.

Local Planning Policy Framework and Local policies

The proposal is consistent with the relevant objectives and strategies of the LPPF clauses and Local policies listed above.

Clause 35.07 Farming Zone Decision Guidelines

General issues	Response
The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.	The proposed telecommunications facility is consistent with the State and Local Planning policy framework which seek to protect valuable farm land from inappropriate development and provide appropriate service infrastructure to support business and community service provision.
Any Regional Catchment Strategy and associated plan applying to the land.	NA
The capability of the land to accommodate the proposed use or development, including the disposal of effluent.	The land is considered capable of accommodating the proposed use and development. The facility will be sited wholly within the subject land and will not impact any adjoining property. The land has access to a public road and is able to be connected to the

	existing electricity supply system. No on-site effluent disposal system is required and the location of the facility will not affect any existing effluent disposal system for nearby dwellings, being approximately 155m from the nearest dwelling.
How the use or development relates to sustainable land management.	The proposed use and development of the land for a telecommunications facility occupies only a small part of the subject lot and will not significantly limit the continued use of the balance of the lot for agriculture.
Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.	The site is suitable for the proposed use, being close enough to the town of Mirboo North to provide the required telecommunications services. The land is physically suitable for the development, with access to a public road and existing electricity services. The proposed use and development is considered compatible with nearby farms and rural lifestyle properties as it will not impact on the use and enjoyment of any adjoining land. The facility does not generate significant noise, dust or traffic and has limited visual impact on nearby dwellings.
How the use and development makes use of existing infrastructure and services.	The proposed telecommunications facility will be able to be connected to the existing electricity network in the local area and will utilise an existing farm access point to Meeniyan-Mirboo North Road. No other services or infrastructure are required.
Agricultural issues and the impacts from non-agricultural uses	
Whether the use or development will support and enhance agricultural production.	NA - the application is not proposed in support of agricultural production.
Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	The proposed telecommunications facility will permanently remove a small area of the subject lot (approximately 100m^2) from agricultural production. The subject lot has a total area of 18.21ha and the removal of 100m^2 of land from agriculture production is not considered to have a significant impact on the viability of the lot for farming. The site will retain sufficient area to continue to be used for grazing.

The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.	The telecommunications facility is wholly within the subject site and will not have any direct physical impact on adjoining and nearby farming uses. The facility will be setback from neighbouring properties and will not limit agricultural activity or expansion of farming on neighbouring land.
The capacity of the site to sustain the agricultural use.	The subject lot will retain sufficient area for continued use for cattle grazing.
The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.	NA
Any integrated land management plan prepared for the site.	NA
Environmental issues	
The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.	The proposed telecommunications facility is not expected to impact on any natural physical features of the site. No native vegetation needs to be removed. The land has been previously cleared of native vegetation and developed for grazing pasture. No extensive cut and fill is required to construct the tower. There are no waterways within 100m of the proposed telecommunications facility.
The impact of the use or development on the flora and fauna on the site and its surrounds.	The land is not known to provide significant flora or fauna habitats, having been previously cleared and used as grazing pasture.
The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.	The proposal will not impact the biodiversity of the area.
The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.	NA – no on-site effluent system is proposed or required.

Design and siting issues	
The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.	The proposed telecommunications facility is not expected to impact on the natural environment or water features. The facility will be visible in the landscape due to its height. However it is considered the slim line design of the facility will ensure its impact on views and vistas from existing dwellings will be minimal. Meeniyan-Mirboo North Road is a major road and the tower will be visible from some locations along Meeniyan Mirboo North Road and nearby Grand Ridge Road, a significant tourist route, however, due to the distance and undulating topography, its impact on views and vistas is not expected to detract from the tourist significance of the Grand Ridge Road or Meeniyan-Mirboo North Road.
The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.	There are no features of architectural, historic or scientific significance associated with the land. The proposed telecommunications facility will not detract from the character and appearance of the area, which includes dwellings, sheds and associated service infrastructure such as signs and power poles. The scenic beauty of the area is associated with the rolling topography and open farmed landscape. The proposed telecommunications facility will not detract from the scenic qualities of the land. The facility is setback from the township of Mirboo North approximately 280m and will not be significantly visible in the local area due to the distance and undulating topography.
The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.	The telecommunications facility will be connected to existing electrical infrastructure via a new underground cable and will be subject to compliance with requirements of Ausnet Services. The telecommunications facility will require a new internal driveway from the existing crossover to Meeniyan-Mirboo North Road. VicRoads has raised no objection to the alteration to the use of the existing crossover. VicRoads has not required the inclusion of any conditions on a planning permit. No other infrastructure is required.

Whether the use and development will require traffic management measures.	The proposed telecommunications facility will not generate significant traffic except for a limited time during construction of the facility. The proposal will not require any permanent traffic measures.

Clause 52.19 Telecommunication Facilities Decision Guidelines

Decision Guidelines	**Response**
Principle 1 *A Telecommunications facility should be sited to minimise visual impact.*	
• On, or in the vicinity of a heritage place, a telecommunications facility should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage place. A heritage place is a heritage place listed in the schedule to the Heritage Overlay in the planning scheme.	The subject land is not a heritage place. There are no heritage places within the immediate surrounds of the proposed telecommunications facility.
• A telecommunications facility mounted on a building should be integrated with the design and appearance of the building.	The proposed telecommunications facility is free standing and will not be mounted on a building.
• Equipment associated with the telecommunications facility should be screened or housed to reduce its visibility.	Equipment associated with the telecommunications facility will be housed in outdoor cabinets at ground level to reduce their visibility. The cabinets will be finished in Colourbond steel (Pale Eucalypt) with a matt finish and this is considered suitable and consistent with existing farm sheds in the area. It is recommended it be a condition of any planning permit that the facility be maintained in muted and low reflective colours and tones. The equipment will be substantially screened from view of roads and nearby dwellings by established vegetation within the road reserve and within adjoining properties.
• The relevant officer of the responsible authority should be consulted before any street tree is pruned, lopped, destroyed or removed.	The site is in a rural area with no street tree planting. There is no vegetation that needs to be removed to construct the facility.

• A telecommunications facility should be located so as to minimise any interruption to a significant view of a heritage place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.	The proposed telecommunications facility will not interrupt any significant views of a heritage place, a landmark or streetscape, vista or panorama from public land. The proposed tower will be visible from a number of private residential properties in Farmers Road Mirboo North, Meeniyan-Mirboo North Road and from some positions along Grand Ridge Road. The extent of the tower visible in the landscape will be reduced by the screening effect of existing vegetation between the tower and existing dwellings. The vegetation will effectively screen views of the lower half of the tower, with only the top half of the tower visible above the trees. It is considered the visual impact of the tower in the landscape will not be significant, due to the narrow design of the tower and the distance of the tower from dwellings.
Principle 2 *Telecommunications facilities should be collocated wherever practical.*	
• Wherever practical, telecommunications lines should be located within an existing underground conduit or duct.	It is proposed that underground electrical cables will be installed within the site to service the telecommunications facility from the existing power supply in Meeniyan-Mirboo North Road.
• Overhead lines and antennae should be attached to existing utility poles, towers or other radio communications equipment to minimise unnecessary clutter.	No overhead power lines are proposed. The applicant has advised there are no existing utility poles, towers or other radio communications equipment in the local area suitable for attaching the proposed antennas.
Principle 3 *Health standards for exposure to radio emissions will be met.*	
• A telecommunications facility must be designed and installed so that the maximum human exposure levels to radio frequency emissions comply with *Radiation Protection Standard – Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz,* ARPANSA, May 2002.	The applicant has submitted information demonstrating that the telecommunications facility will generate less than 1 per cent of the Australian public exposure limit recommended by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). It is recommended it be a condition of any planning permit to ensure the facility operates within the ARPANSA standard at all times.

Principle 4 *Disturbance and risk relating to siting and construction should be minimised. Construction activity and site location should comply with State environment protection policies and best practice environmental management guidelines.*	
• Soil erosion during construction and soil instability during operation should be minimised in accordance with any relevant policy or guideline issued by the Environment Protection Authority.	No significant cut or fill will be required to install the tower or equipment, which is on a gently sloping part of the land. Vehicular access will be from an existing access point. No significant cut or fill is proposed, however minor earthworks may be required to facilitate drainage. The applicant has advised earthworks will be undertaken in accordance with State environment protection policies and best practice environmental management guidelines and it is recommended it be a condition of any planning permit to ensure earthworks are undertaken in accordance with appropriate standards. No vegetation needs to be removed to construct the telecommunications facility or access to the tower.
• Construction should be carried out in a safe and effective manner in accordance with relevant requirements of the *Occupational Health and Safety Act 1985.*	The applicant has advised all construction will be carried out in accordance with the relevant Occupational Health and Safety Guidelines.
• Obstruction or danger to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction should be minimised.	The location and construction of the facility is not expected to obstruct or endanger pedestrians or vehicles. The site is on private land developed for farming purposes and is set back from the road.
• Where practical, construction should be carried out during times that cause minimum disruption to adjoining properties and public access.	The applicant has advised that construction will be undertaken at times that are least likely to cause disturbance to the public.

• Traffic control measures should be taken during construction in accordance with *Australian Standard AS1742.3 – 2002 Manual of uniform traffic control devices – Traffic control devices on roads.*	Traffic control measures are a requirement of the Telecommunications Code of Practice and it is recommended that compliance with the Code of Practice is a condition on any planning permit.
• Open trenching should be guarded in accordance with *Australian Standard Section 93.080 – Road Engineering AS 1165 – 1982 – Traffic hazard warning lamps*.	It is recommended it be a condition of any planning permit that all construction works are undertaken in accordance with the standards referred to in the Telecommunications Code of Practice.
• Disturbance to flora and fauna should be minimised during construction and vegetation replaced to the satisfaction of the land owner or responsible authority at the conclusion of work.	No native flora or fauna will be affected by construction of the proposed Telecommunications Facility.
• Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunication carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.	The subject land is in a rural area and there is no street furniture, paving or other facilities likely to be removed or damaged during construction. The site of the telecommunications facility is wholly within the subject land. It is a condition of the Code of Practice for Telecommunications Facilities for reinstatement of infrastructure and it is recommended it is a condition of any planning permit for the applicant to comply with the Code of Practice.
The effect of the proposal on adjacent land.	The proposed telecommunications facility is wholly within the subject site and will not directly affect any adjoining land. The proposed telecommunications facility is not expected to generate significant levels of noise. The outdoor cabinets generate similar levels of noise as a domestic air conditioner and their distance (155m) from the nearest dwelling is not expected to result in any material detriment. The Environmental Electromagnetic Energy Report submitted with the application demonstrates the levels of electromagnetic radiation generated by the facility are well within the accepted safe levels required by the Australian Radiation Protection and

	Nuclear Safety Agency (ARPANSA).
If the Telecommunications facility is located in an Environmental Significance Overlay, a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, a Design and Development Overlay or an Erosion Management Overlay, the decision guidelines in those overlays and the schedules to those overlays.	The land is not affected by a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, a Design and Development Overlay or an Erosion Management Overlay. <u>Environmental Significance Overlay Schedule 2 – Special Water Supply Catchment Areas.</u> A planning permit is not triggered for the proposed use and development as the proposal as there is an exemption for telecommunications facilities where no effluent disposal system is proposed. Provided construction works are undertaken in accordance with appropriate standards to minimise erosion and run-off, the proposal is considered to comply with the relevant provisions of the *Ministers Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas*. Guidelines 1, 2, 3 and 5 do not apply to the proposed development. The proposal exceeds the setback requirements of Guideline 4. <u>Environmental Significance Overlay Schedule 5 – Areas Susceptible to Erosion</u> No earthworks are required for construction of the Telecommunications Facility, which is on a gently sloping part of the site. The extent of earthworks is not expected to increase the risk of erosion or landslip on the land provided the works are undertaken in accordance with appropriate construction standards. The application was not referred to the Department of Environment, Land, Water and Planning for advise in relation to erosion, as the application is not a subdivision, does not adjoin crown land and will not, in Council's opinion, cause erosion or instability on either the subject land or on adjoining land.

<u>Public Submissions</u>

Submission: Concern about the impact on the health of schools students and residents of the town from 'radioactive' tower emissions as the tower is too close to the school

Response: The Environmental Electromagnetic Energy Report submitted with the application demonstrates the levels of electromagnetic radiation generated by the

facility are well below the accepted safe levels required by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The towers are not 'radioactive'.

The maximum electromagnetic radiation level calculated for the proposed telecommunications facility is equivalent to 0.26% of the public exposure limit.

The Environmental Electromagnetic Energy Report submitted with the application uses a standard methodology determined by ARPANSA to analyse the maximum potential impact of any new telecommunications facility. The report therefore demonstrates the maximum signal strength of a proposed facility, assuming that it is handling the maximum number of users, 24 hours a day.

However, mobile phone base stations are designed to operate at the lowest possible power level to accommodate only the number of customers using the facility at any one time. This is called "adaptive power control" and ensure that the base station operates at the minimum, not maximum, power levels at all times.

It is therefore likely that for a significant proportion of the time, the electromagnetic radiation emitted from the facility will be less than that demonstrated in the prediction model.

The Victorian Civil and Administrative Tribunal (VCAT) in its decision Mason & Ors v Greater Geelong City Council [2013] VCAT 2057, has determined that it is unable to consider emissions of electromagnetic radiation as a relevant or determinative issue where the relevant Commonwealth ARPANSA standard will be met.

> *Public health concerns about electromagnetic radiation are often raised in planning cases about a telecommunications facility. However, it is not the role of VCAT to second-guess the expert authorities that regulate the area.*
>
> *The Australian Communications and Media Authority has set a clear regulatory standard – the ARPANSA standard - under Commonwealth law, to protect the health or safety of those who may be affected by the operation of a telecommunications network or facility from the potential impacts of electromagnetic radiation. Compliance with that standard has been effectively incorporated into the Victorian planning framework through clause 52.19 of all Victorian planning schemes and the requirements of 'A Code of Practice for Telecommunications Facilities in Victoria'. VCAT cannot look behind the ARPANSA standard where it will be met, nor does it have the expertise to do so.*

The amount of electromagnetic radiation emitted by a telecommunications facility may well be a legitimate issue of public concern. However, VCAT is not a forum for addressing all issues of social or community concern, nor is it an investigative body. It cannot give great weight to unsupported assertions about public health concerns in the context of an individual planning application, particularly in relation to matters outside its own expertise or beyond the limited ambit of its statutory role or discretion in relation to that application. Accordingly, VCAT is not the appropriate forum where generalised opposition to telecommunications facilities based on public health concerns can or should be raised. It is a waste of the parties' and the Tribunal's resources as, ultimately, VCAT is essentially bound to apply the ARPANSA standard.

Submission: Loss of rural views from the houses overlooking the site in Farmers Road and Meeniyan-Mirboo North Road

Response: The proposed tower will be visible from properties in the surrounding area including from a number of houses in Farmer Street and Meeniyan-Mirboo North Road. These properties are in an elevated position relative to the adjoining land to the south and enjoy views to the south of their properties, over the adjacent farmland and towards the proposed telecommunications facility and tower. The closest of these properties is 300m from the proposed telecommunications facility.

Only the top half of the tower will be visible from the rear of these properties as the lower part of the facility and tower will be screened from view by existing vegetation. The proportion of the view affected by the tower will be minimised by the slim design of the tower. The tower will also be viewed at a distance of at least 300m.

Residents and landowners will retain expansive rural views, with a small part of the view including the top of the tower. The inclusion of the tower within the outlook from the dwellings is therefore not expected to result in a loss of amenity for residents.

Submission: The proposed tower will be unsightly and will spoil the view of the surrounding countryside

Response: The surrounding area is a modified landscape and is characterised by rolling hills, cleared farm paddocks, with patches of remnant and planted vegetation along roads and fence lines. The area also includes a variety of

existing buildings, including dwellings and sheds and other infrastructure such as signs, power poles and dams.

As previously discussed, the lower part of the tower and ground level infrastructure will be substantially screened by existing vegetation within the Meeniyan-Mirboo North road reserve and within adjoining properties. The top of the proposed tower will be visible in the landscape however it is not expected to detract from the open rural character of the surrounding countryside. The proposed tower is a slim line design, to minimise the visual impact of the tower against the skyline. Due to the undulating nature of the landscape, the tower will be visible from some locations however not visible from others.

VCAT in its decision Optus Mobile Pty Ltd v Ballarat CC [2010] VCAT 661 (9 June 2010) determined as follows:

> *"It has to be appreciated that facilities of this sort are necessarily visible. They need to be tall enough (and consequently visible) to serve their purpose of providing telecommunications….in the case of this proposal there is some screening and softening, but not sufficient to hide the works altogether. That will seldom, if ever, be attainable where these sort of facilities are provided."*

Similarly, in Murdoch v Greater Bendigo CC [2013] VCAT 1899 (11 November 2013), the Tribunal stated: *"Principle 1 in the Code does not require that telecommunications facilities be invisible, rather than they be sited to minimise visual impact."*

It is considered that although the tower will be visible in the landscape, the proposed location and design of the tower minimise the visual impact so that is not unsightly and will not spoil the appearance of the surrounding countryside.

Submission: Loss of property values resulting from loss of views from the dwellings

Response: Property values may increase or decrease over time, depending on a wide range of factors. Change to property values is not a relevant matter for consideration under the provisions of the Planning Scheme.

Submission: The location of the tower at the entrance to the town will detract from visitor's experience of the town

Response: Mirboo North township has a number of entry points. The tower is adjacent one of the entry points for people arriving on the Meeniyan-Mirboo North

Road. The proposed tower will also be visible from parts of Grand Ridge Road, another entry point for people arriving in Mirboo North.

The proposed telecommunications facility is setback from the road and the lower parts of the facility will be substantially screened from view of the both Meeniyan-Mirboo North Road and Grand Ridge Road by established vegetation within the road reserve.

Both roads are winding roads and visitors approaching Mirboo North from the either road will generally only see glimpses of the top of the tower when the road direction aligns with the tower.

Increasingly telecommunication towers are a common part of both urban and rural landscapes and it is not expected that visitors to Mirboo North will be deterred from visiting the town.

The township will retain its' attractive rural setting, with the proposed tower included as a small element of views into and out of the town.

Submission: The road is narrow and busy with a dangerous bend which will be an issue during construction of the tower

Response: Traffic control measures are a requirement of the Telecommunications Code of Practice and it is recommended that compliance with the Code of Practice is a condition on any planning permit. Compliance with traffic control measures is expected to ensure safety of road users during construction of the tower. After construction visitation to the site will be very low and not comparable to a private dwelling level of activity.

The application was referred to the responsible road authority (VicRoads) and no changes to the existing crossover have been required.

Conclusion and Recommendation:
Following assessment of the relevant matters under Section 60 of the Planning & Environment Act 1987, the proposed proposed use and development is considered appropriate and can be managed through appropriate conditions.

It is recommended that a report be written to Council supporting the use and development of Telecommunications Facility (40m high monopole, antenna array, ground level equipment shelter) and ancillary works and alteration to access to a Road Zone Category 1, in accordance with the endorsed plans.