

**5.7 566-634 WELLINGTON ROAD, MULGRAVE
RESPONSE TO AN APPLICATION TO THE MINISTER FOR PLANNING TO AMEND A
PERMIT CONDITION TO ALLOW THE HIGH VOLTAGE POWERLINES TO REMAIN
OVERHEAD AT WAVERLEY PARK
(TP/57:BG:HM)**

Responsible Director: Sue Wilkinson

EXECUTIVE SUMMARY:

MIRVAC, the developer of Waverley Park, has applied to the Minister for Planning to amend a condition of the planning permit to remove the obligation to place the high voltage overhead powerline underground.

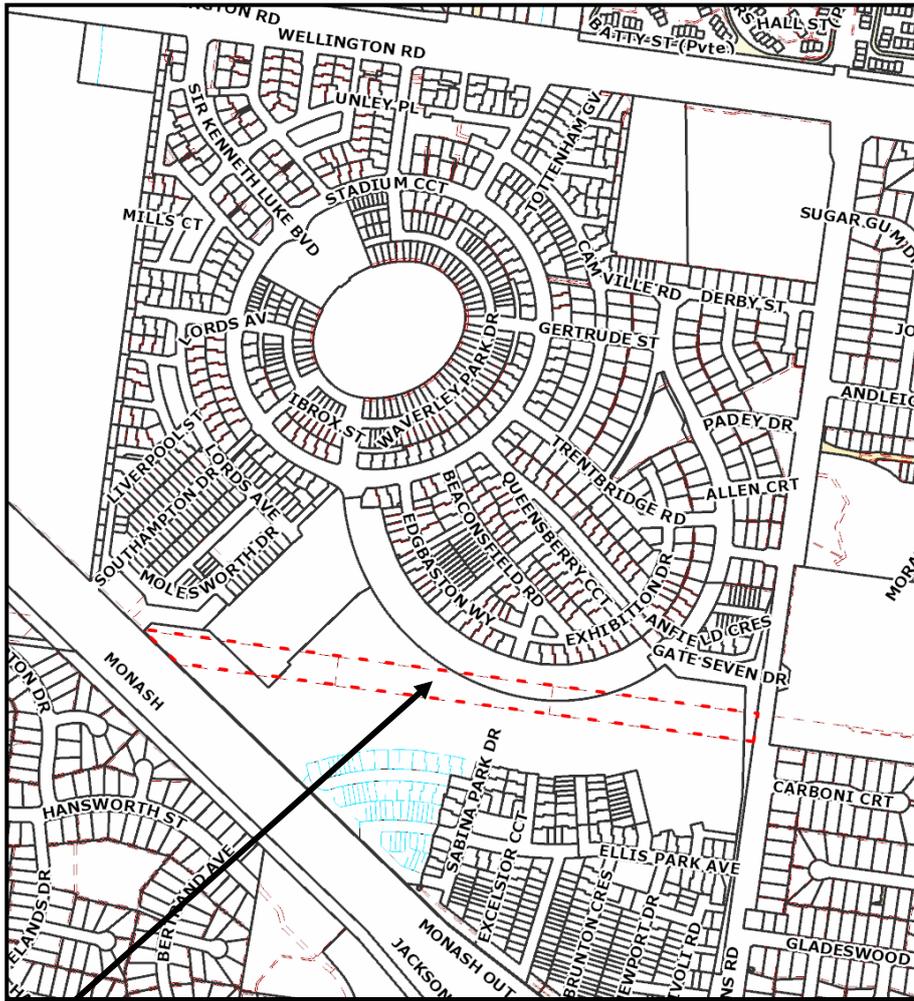
The Minister for Planning is the Responsible Authority for this application and a response must be submitted by 4 September 2013.

Council has a specific interest as a property owner in Waverley Park and the future owner of the land affected by the powerlines.

It is recommended that Council submit an objection to the application to amend the permit condition.

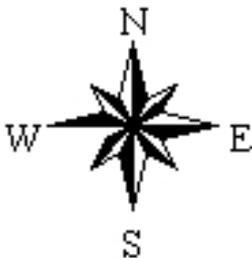
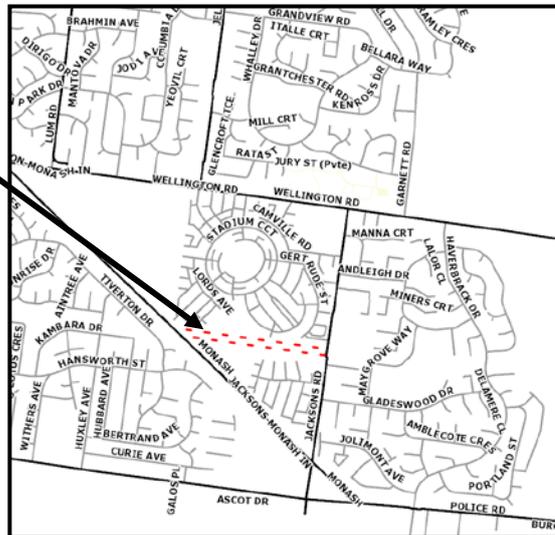
RESPONSIBLE DIRECTOR:	SUE WILKINSON
WARD:	MULGRAVE
PROPERTY ADDRESS:	566-634 WELLINGTON ROAD MULGRAVE
PRE-APPLICATION MEETING:	NO
NUMBER OF OBJECTIONS:	NOT APPLICABLE
ZONING:	R1Z – RESIDENTIAL 1
EXISTING LAND USE:	RESIDENTIAL DEVELOPMENT AND VACANT LAND
OVERLAY:	NCO1-NEIGHBOURHOOD CHARACTER OVERLAY Schedule 1
RELEVANT CLAUSES:	NOT APPLICABLE
STATUTORY PROCESSING DATE:	4 SEPTEMBER 2013
DEVELOPMENT COST:	\$22 million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION

That Council:

1. Advise the Minister for Planning that Council objects to the application to amend condition 50 of Planning Permit STA/2001/000714 to allow the retention of the powerlines overhead at Waverley Park for the following reasons:
 - Retention of the powerlines overhead will be detrimental to the visual character of the area, the aesthetics of the subdivision and development of Waverley Park.
 - Retention of the overhead powerlines will have a detrimental effect on the amenity of a significant number of residential properties located within Waverley Park having regard to matters such as visual detriment, bulk, views to sky and sense of enclosure.
 - The retention of the overhead powerlines will have a significant impact on the future use and development of the affected proposed public open space.
 - There is no planning argument to justify the amendment, and the amendment will lead to a less than optimum planning outcome.
 - The justification for the amendment is financial and not outcome driven.

2. Advise the Minister for Planning that Council considers that the planning application to amend condition 50 of the permit must only be considered on planning merit, and further advises that the community benefits package ought not go to the merit of the application.

This proposed package should only be relevant after the Minister for Planning (or any subsequent authority), on merit determine to approve the proposed amendment. The community benefits package should be viewed as a compensatory proposal and is only relevant should an approval be given.

There is nothing to currently suggest that there is support for the proposed amendment, and nothing to currently suggest that there is or will be support for the community benefits package.

3. Request the Minister for Planning amend condition 50, requiring that the undergrounding of the powerlines must occur prior to the expiry of the permit.
4. Advise that should the application to amend the permit be approved, the basis of any community benefits package as it may affect public land, either currently or proposed to be Council land, will require formal discussions and further resolutions of Council once the implications of this are known.

BACKGROUND:

The Site and Surrounds

Waverley Park is located between Wellington Road and the Monash Freeway, to the west of Jacksons Road. The overhead powerlines run from east to west across the southern portion of the site with a support pylon immediately east of Jacksons Road, two pylons on-site and a pylon further west on the west side of the freeway.

Waverley Park is substantially developed for residential purposes with the majority of the estate developed and houses constructed. The only land to be further developed is land impacted by the location of the powerlines equating to less than 200 house sites.

Land to the east of Jacksons Road is zoned R1Z – Residential 1 and is used for residential purposes. Land west of Waverley Park is zoned IN1Z – Industry 1 and is used for warehouse and industry purposes.

History

On 7 March 2002, the Minister for Planning gazetted Amendment C30 to the Monash Planning Scheme. That amendment made the Minister the Responsible Authority for the development of Waverley Park, the former AFL football ground.

Amendment C20 was approved and gazetted by the Minister for Planning on 14 August 2002. That amendment rezoned Waverley Park to R1Z – Residential 1 with a specific Neighbourhood Character Overlay to define residential development of the estate.

At that time, the Minister also issued Planning Permit STA/2001/00714 for the subdivision and development of Waverley Park.

On 30 September 2009, Council was advised that MIRVAC had made application to the Minister for Planning to amend the Planning Permit for the development of Waverley Park to modify condition 50 of that permit to allow the high voltage overhead powerlines to remain.

An objection to that application was lodged by Council in October 2009.
[Item 5.3 - Council meeting - 27 October 2009]

The grounds of objection submitted in response to that application were:-

- Retention of the powerline overhead will be detrimental to the visual character of the area and the aesthetics of the subdivision and development of Waverley Park. Placing the powerline underground, even with the proposed transition enclosures, would significantly improve the aesthetic and visual character of Waverley Park.
- Retention of the overhead powerline will have a detrimental effect on the amenity of a significant number of residential properties located within Waverley Park.
- The retention of the overhead powerline will have a significant impact on the future use and development of the affected public open space. It is noted that the information provided with the application provides no detail about the impact on recreation use or safety issues associated with the overhead

powerline. No information has been supplied, other than comments relating to landscaping and plant sizes. In particular:-

- What issues apply to the use and development of a recreation lake facility under the powerlines?
- Is there any potential impact on users of the lake for swimming, boating and/or other activities?
- Is there any potential impact on other recreation facilities such as playground equipment etc?
- The proposed conditions do not adequately respond to the justification given for the variation to condition 50. That is, while an additional 20,000 square metres of open space has been identified as being provided within the powerline easement, no condition has been proposed to clearly specify that a minimum of 8.5ha of usable public open space must be provided that does not include the area of the oval or land encumbered by the powerline easement.
- The details submitted with the application fail to provide sufficient information to identify the distribution and provision of public open space within the balance of the subdivision of Waverley Park.
- There is no reason why the requirement of condition 50, to relocate the powerline underground, cannot be achieved. Condition 50 was specifically worded to ensure that MIRVAC could not frustrate the requirement to place the powerline underground just because it did not like the terms required to achieve this outcome. Both MIRVAC and SPAusNet identify the significant issues are cost and a preference to retain the powerlines overhead. It appears to be just too hard to do. These are not valid reasons to justify the amendment of the permit condition.
- While “loss of property value” is generally excluded from consideration of planning applications, in this instance it is considered that this is a real factor in the impact of granting approval to retain the powerline overhead.
- Residents of Waverley Park have expressed concerns that while there appears to be no direct evidence in relation to public safety issues from overhead powerlines, there is also no direct evidence that problems do not exist. Resident concerns about potential health issues would be significantly minimised if the powerlines were located underground, with all required design measures in place to manage site safety.

On 12 March 2010, MIRVAC formally withdrew the application to amend the permit.

CURRENT PROPOSAL:

Council was formally advised on 16 August 2013 that MIRVAC had made another application to the Minister for Planning to amend the Planning Permit for the development of Waverley Park to modify condition 50 of that permit to allow the high voltage overhead powerlines to remain.

A response to the application to amend the Planning Permit is required to be submitted to the Department of Transport Planning and Local Infrastructure (DTPLI) no later than 4 September 2013.

Condition 50 of that Planning Permit states:-

"The existing powerline easement through the land must be removed and the high voltage electricity transmission line must be placed underground in a location and via a route which is to the satisfaction of SPI PowerNet Pty Ltd or the relevant electricity authority."

The reasons given by MIRVAC for this amendment to the Planning Permit as summarised in their letter of application to the Minister for Planning are:-

- Retaining the powerlines above ground will provide an improved aesthetic outcome for the subject site and adjacent neighbourhoods and a better response to the Waverley Park Concept Plan. An increase of around 20,000 square metres of usable public open space will result from retention of the powerlines above ground and, importantly, this additional amenity can be delivered much sooner (up to 18 months) than if the powerlines are to be placed below ground.
- SP AusNet do not support the undergrounding of the powerlines on the basis that it will introduce "unacceptable safety hazards" for the general public outside the transition enclosures that SP AusNet is "not willing to accept". In addition, undergrounding the powerlines will also create increased and "unnecessary" operational and maintenance obligations for SP AusNet when compared to overhead powerlines.
- Costs associated with undergrounding the powerlines have risen from around \$12,000,000 (as presented to the Waverley Park Panel Hearing in 2002) to in the order of \$35,000,000, possibly more. In addition to the significant cost increase, commercial terms have not been able to be reached between Mirvac and SP AusNet. Mirvac propose to spend in the order of \$15,000,000 on the above ground powerlines option with redistribution of some funds otherwise allocated to the undergrounding of the powerlines into superior public open space and associated amenity in Waverley Park.

MIRVAC has proposed a community benefits package. The community benefits package intends to redistribute the funds originally allocated to underground the powerline into a Community Benefit Package consisting of ex-gratia payment to Waverley Park home owners and to improve and upgrade open space used by residents.

The CBP is funded by:

- \$12 million in 2002 equates to a value of \$22 million in 2013 terms.
- Less the cost to relocate powerline of \$7 million
- Results in \$15 million allocated to the CBP

The CBP is to provide:

- \$8.5 million to be distributed by an ex-gratia payment to property owners based on (among other things):
 - the purchase price of the property;
 - the date of purchase;
 - the type/size of house, inclusions, land size, distance and orientation to the powerline;
 - the proximity of the house to other site features that may impact on value (including parks and major roads);
 - independent studies of the impact of powerlines and electrical infrastructure on property values.
- \$6.5 million to fund additional open space enhancements, within and outside Waverley Park.
 - Funds to provide, improve and upgrade the quality, amenity, access, walking paths and sporting facilities.

This is detailed in the Revised Town Planning Report prepared by Collie Pty Ltd and submitted to the Minister for Planning with the application to amend the permit.

Further information is contained in a Town Planning Report submitted in support of the application. This report was previously provided to Councillors.

ATTACHMENT 1 shows a plan of the underground powerline option.

ATTACHMENT 2 shows a plan of the overhead powerline option.

CONSULTATION:

Public Notice

The Minister for Planning is the Responsible Authority for determination of this proposal. The DPTLI has directed MIRVAC to send a notice of the application to all property owners and occupiers in Waverley Park.

Council's role in this application is:-

1. as an interested owner of property within the Waverley Park Estate,
2. the potential future owner of the land beneath the overhead powerlines, and its maintenance,
3. the potential Responsible Authority partly liable for any incidents that occur from activity being undertaken beneath the overhead powerlines.
4. to represent the interests of part of its community and their response to the application.

Council may lodge an objection, stating its reasons why approval to amend the permit should not be granted. The Minister for Planning must consider all objections prior to making a determination. If approval is granted then Council will have a right to appeal that decision to VCAT. This process is the same for all other interested parties, including residents of the Waverley Park Estate.

DISCUSSION:

The application for amendment has been made under Section 72 of the Planning and Environment Act. The application is made up of two parts:

1. The intention to amend Condition 50 of the Planning Permit to reflect the retention of the powerlines aboveground.
2. The addition of a condition to give effect to the proposed community benefits package.

Proposed Aesthetic Outcome

MIRVAC has argued that retaining the powerlines above ground will improve aesthetic outcomes, increase open space by 20,000 square metres and this additional amenity can be delivered up to 18 months sooner than undergrounding the powerlines.

Underground powerlines require the construction of two transition enclosures with associated electrical infrastructure on the frontages of Jacksons Road and the Monash Freeway. These consist of a number of tall poles with electrical cables and other infrastructure.

MIRVAC considers that these enclosures will be unsightly and their removal will greatly improve the appearance of these areas and the amenity of existing and future residents and commuters along Jacksons Road and the Monash Freeway.

[ATTACHMENT 3 – Artists Impressions of the Transition Enclosure]

This needs to be compared to the amenity across the site, particularly the impact on the proposed open space area, created by the removal of the overhead powerline and its supporting pylon.

The existing overhead powerline and pylon are highly visible from within the site and from surrounding areas. It will dominate the aesthetics of the proposed open space. It is considered that the provision of the two transition enclosures will isolate any impact to the edges of the estate providing an improved vista and outlook across the wetlands and landscaped open space areas.

SP AusNet

MIRVAC has advised that SP AusNet, the power supply company, do not support the underground powerlines on the basis "unacceptable safety hazards". Also it will create increased and "unnecessary" operational and maintenance obligations when compared to overhead powerlines.

Correspondence between SP AusNet and MIRVAC identifies that Company's concerns and issues about undergrounding the powerline. That letter states in part:

AECOM's report issued on 15 Dec 2008 analysed potential safety hazards including Earth Potential Rise (EPR), as part of the detailed design for the two transition stations that will be built to facilitate the undergrounding of the line. The report

identified that the associated voltage contours due to earth fault occurring in a transition station went far beyond the transition station boundaries.

SP AusNet advised Mirvac that the undergrounding of the line was not desirable due to SP AusNet's obligations concerning community safety and the ongoing and extensive mitigation measures that would need to be put in place to manage the issue, in its letter dated 3 July 2009.

A further report issued by Safearth Consulting on 12 Dec 2010 confirmed SP AusNet's original concerns. The report states that 1000 volt EPR spread beyond the transition station boundaries. IEEE80 Guide for Safety in AC Substation Grounding, the standard accepted for station earthing system design, advises that high EPR may under certain circumstances result in a transferred potential to the general public outside the station, leading to unacceptable safety hazards.

SP AusNet is not willing to accept such a hazard. In contrast, an earth fault occurring on the overhead line towers will also raise the EPR. However, given the footprint of a tower is smaller than a transition station, the EPR will extend a shorter localised distance and remain within the easement, which makes keeping the lines overhead inherently safer.

Another area of concern for SP AusNet is that introducing an 800 meter segment of underground cable will require the training of specialist contractors to respond to operation, maintenance and fault responses. The engagement of specialist contractors introduces unnecessary risks, delays and costs to SP AusNet with regard to the operation and maintenance compared to the otherwise day to day operations and maintenance tasks on the existing overhead line.

The SP AusNet letter continues:

In view of the above issues and the enduring nature of the residual risk, although the underground solution is technically possible SP AusNet does not consider it to be a satisfactory solution. It therefore does not believe that it is appropriate to underground the line.

Public safety is paramount. SP AusNet, the power supply company, has advised MIRVAC that there will be an increased risk to conductive services within the estate, particularly near the transition enclosures.

However, nothing in the documentation submitted indicates that this is a problem that cannot be managed. Information submitted with both the previous application and this application indicates that mitigation measures would be extensive and potentially onerous; therefore, would be most likely to be very expensive. SP AusNet documentation indicates that the powerlines can technically be located underground, but that it would be expensive and it is not.

SP AusNet has not stated that the powerline should remain overhead. They consider this to be a satisfactory option and their preferred option.

Cost of undergrounding the powerline

The costs are not considered to be relevant to a consideration of the planning merits of an underground versus overhead powerline.

Community Benefits Package (CBP)

The proposed upgrades identified are located on land already owned or will be owned by Council, no discussions have been held with Council about any need for change.

The CBP raises a number of issues that require a consideration.

1. The open space area to be provided around and within the powerline easement has always been identified as a significant component of the open space for the Waverley Park residential development.

Irrespective of whether the powerline is above or below ground, the need for open spaces, its standard and its quality should not be different.

The only change is the size of the space to be set aside.

An additional 20,500m² is provided in the above ground proposal.

2. Similarly the provision of other facilities is a function of community need, not a function of the location of the powerline above or below ground.

If there is a need for additional seating, BBQs, shelters, increased junior or senior playgrounds, basketball and netball court facilities, skating and BMX facilities, fitness trails etc, then they should be part of the open space areas. Not an "addition" just because the powerlines are to remain overhead.

3. An additional 20,500 square metres of open space is to be provided with the overhead powerline proposal. However, no information has been provided which identifies how much of this increase is within the powerline easement area. The area encumbered by the easement should not be considered as "usable" public open space. Use of this area will be restricted, for safety reasons and no information has been supplied with the application about any restriction on uses under the powerlines. Activities associated with the recreation lake, swimming, boating etc, may also be curtailed by the presence of the 220,000 volt powerlines immediately overhead.

4. The long term maintenance of the open space areas imposes a cost on Council. This is a normal and expected cost and will be built into Council budgets through increased rate income from the new residential properties created in the development.

However, the cost of maintenance is normally the cost associated with Council standards for maintenance of open space areas which is consistent across the whole municipality.

MIRVAC generally maintains the open space areas at a higher standard, as part of its ongoing property sales objectives.

The retention of the powerlines overhead should not include any enhancements or upgrades to the open space areas as part of the CBP which may have an ongoing impact and disproportionately increase Councils future maintenance costs.

5. No information or detail has been provided on a holistic assessment of profit/costs relating to the development of the Waverley Park Estate. Financial detail included with the application only provides basic details of estimated cost but does not identify in detail calculations of CPI increase or the basis of the significant cost increases for the works.

No justification of the figures has been provided or analysis to confirm that the compensation package actually matches the impact of the proposed application to amend the permit.

The detail of the CBP need to be fully understood including its longer term implications. Unfortunately, no discussions have been held with MIRVAC on this detail. Also, the broader issue of community need should reviewed and included in the assessment.

Discussions should be held with MIRVAC and DTPLI and a further report, with full detail and assessment, should be made to Council on this matter.

CONCLUSION:

It is recommended that Council should submit to the Minister for Planning an objection to the on the application to amend condition 50 of the Planning Permit for the development of Waverley Park on the grounds as stated in the recommendation above.