

1.4 BATESFORD RESERVE – PROPOSED LEASE TO AUSTRALIAN TOWER NETWORK PTY LIMITED

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

1. *Negotiate a lease with the Australian Tower Network Pty Limited for the purpose of constructing, maintaining and operating a telecommunications network at Batesford Reserve, 94 Batesford Road Chadstone.*
2. *Incorporating the following terms and conditions:*
Rent: \$22,000 per annum + GST
Rent Reviews: Increased by 2% annually
Term: 20 years
(‘the Proposal’)
3. *Give public notice of the Proposal in accordance with the Monash Community Engagement Policy as required by Section 115 (4) of the Local Government Act (2020) (the Act), in a daily newspaper and on Council’s website from 1 August 2022 and invite submissions on the Proposal.*
4. *Authorises Council’s Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to carry out its functions in accordance with the Community Engagement Policy in respect of the Proposal. (‘Appointed Officer’).*
5. *Appoint a Committee of Council comprising of the Mayor and Mount Waverley Ward Councillors to meet to consider the outcome of the public notice referred to in point 3 above, and to hear and consider any submitters requesting to be heard in accordance with the Community Engagement Policy at 6.30pm on 13 September 2022 at the Monash City Council Civic Centre, 293 Springvale Road Glen Waverley.*
6. *Notes that following the meeting referred to in point 5 above, and consideration of any submissions, that the Committee of Council provide a report to Council on its considerations including a summary of any submissions and make a recommendation to Council on whether or not to proceed with the Proposal.*

INTRODUCTION

The purpose of this report is to recommend that Council commence the statutory process in accordance with the Monash Community Engagement Policy as required by Section 115 (4) of the Local Government Act 2020 (the Act) to advertise its proposal to grant a lease to the Australian Tower Network Pty Limited (ATN) to occupy part of the Batesford Reserve, 94 Batesford Road, Chadstone, for the purpose of installing a mobile phone tower and cabinet to improve mobile phone reception in the area.

Please refer to Attachment 2 for the Key terms and Conditions associated with the proposed Lease.

BACKGROUND

The ATN own the infrastructure from which Optus deliver their mobile network across the country.

ATN approached Council in May 2021 requesting consent to enter into a lease to occupy part of Council's land located at Batesford Reserve, 94 Batesford Road, Chadstone (Land) for the purpose of installing telecommunications infrastructure which includes a mobile phone tower (monopole) and a cabinet near the eastern carpark as shown on Attachment 1.

A 35m monopole is proposed to replace the existing 30m sports lighting pole. It is proposed that the cabinet will be located close the monopole. ATN will install replacement lighting to Council's specification upon the proposed monopole. Council will also have the option for an additional cross arm for future lighting installation should this become a requirement at any time during the lease term.

There are no other telecommunications infrastructure or associated Leases by any telecommunications companies over any part of Batesford Reserve.

The proposed location of the tower and cabinet is designed to accommodate Council's requirements and minimise the impact upon the amenity of the local community, the ground and the Reserve users.

DISCUSSION

Negotiations on the proposed terms and conditions of a lease and the location of the monopole and cabinet in Batesford Reserve have taken place between Council Officers and ATN representatives.

As part of the negotiations, ATN have agreed:

- Not to use Council's existing power supply and will apply for their own supply.
- To make good any damage to the Reserve as a result of any works undertaken by this proposal, to a standard approved by Council.

- That maintenance access to the proposed monopole will specifically exclude access to the sports oval.

A Planning Permit will be required for this installation.

The authority to deliver a mobile network derives from the Telecommunications Act 1997 (Cth).

HUMAN RIGHTS CONSIDERATIONS

There are no Human Rights Considerations associated with this report.

GENDER EQUITY ASSESSMENT

A Gender Impact Assessment has not been undertaken for this proposal.

CONSULTATION

Prior to offering a new lease agreement, Council is required to comply with the requirements of Sections 115 (3) and (4) of the Local Government Act 2020.

Section 115 (3) of the Act requires a Council to include any proposal to lease land in a financial year in the budget where the lease is:

- (a) for one year or more; and
 - i) the rent for any period of the lease is \$100,000 or more a year; or
 - ii) the current market rental value of the land is \$100,000 or more a year; or
- (b) for 10 years or more;

Section 115 (4) of the Act requires Council to undertake a community engagement process in accordance with Council's community engagement policy in respect of the proposal before entering into the lease if the proposal was not included in the budget.

Part 6 of the Monash Community Engagement Policy, states that:

'On matters where the only form of community participation is an invitation to make submissions, and engagement on the matter was formerly governed by section 223 of the Local Government Act 1989, Council will continue to proceed in a manner modelled on section 223 of the Local Government Act 1989.'

To address the requirements of the Act and the Community Engagement policy, Council must, at least 4 weeks before the lease is made, publish a

public notice of the proposed lease. A person has a right to make a submission on the proposed lease.

As the proposed term is greater than 10 years, Council must publish a public notice of intention to enter into a lease and invite submissions. It is proposed to publish a public notice in a daily newspaper and on Council's website from 1 August 2022.

FINANCIAL IMPLICATIONS

A market rental valuation was sourced and the rental is reflective of the current market value for an installation of this type.

ATN have agreed to pay Council's legal costs capped to \$2,000.00 plus GST.

ATN will install at their expense new sports lights to the proposed monopole.

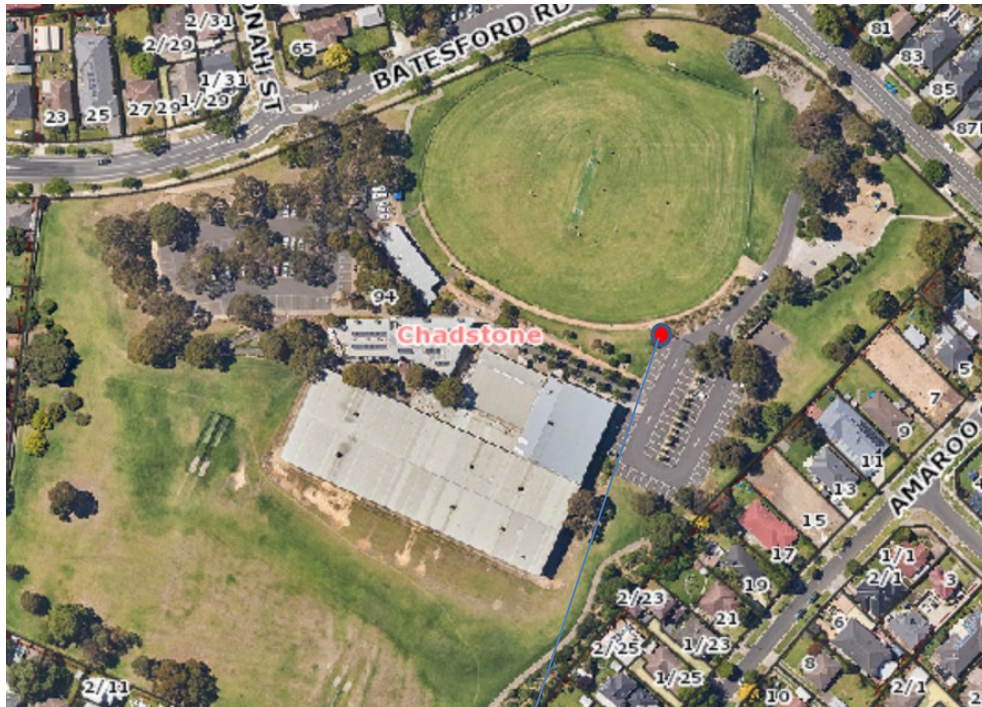
CONCLUSION

ATN are seeking to construct a mobile phone tower and cabinet to improve mobile phone reception in the area, on terms and conditions that are favourable to Council.

Council is required to undertake public notification of its intention to grant a Lease in accordance with Section 115 of the Local Government Act (2020) and consider any submissions before determining to enter or not enter into a Lease arrangement.

Upon conclusion of the public notification process, Council will consider the proposal to enter into a lease with the Australian Tower Network Pty Limited for part of the land at Batesford Reserve, Chadstone subject to the issue of a Planning Permit.

ATTACHMENT 1



Proposed location of
Mobile Phone Tower and
Cabinet

ATTACHMENT 2**Key Terms and Conditions associated with the proposed Lease**

Commencement Date	The date after which Council resolves to enter into a lease or the date of issue of a Planning Permit, whichever is the later.
Permitted Use	For the purpose of constructing, maintaining and operating a telecommunications network and telecommunications service including but not limited to installing, storing, operating, repairing, maintaining, altering and replacing Telecommunications equipment consistent with the evolving nature of telecommunications services.
Term	20 years
Further Term	nil
Rental	\$22,000.00 per annum (plus GST)
Annual Rental Reviews	Adjusted annually by 2%
Maintenance	Responsibility of the Lessee.
Outgoings	Responsibility of the Lessee.
Special Conditions	The Lessee will at their cost, install new sports lights upon the monopole. The Lessee agrees to not use Council's existing power supply and will apply for their own supply.