

Council Meeting

Agenda

Tuesday, 26 September 2023

Council Chamber - Civic Centre
and via Videoconference

Information for Councillors and the community

ACKNOWLEDGEMENT OF COUNTRY

Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands. We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region. We proudly share custodianship to care for Country together.



COUNCIL VISION

Whether you live here or visit, you will see how much we care for country, how inclusive and connected our communities are, and how sustainable balanced growth makes this the best place in the world.

VALUE OF HISTORY

We acknowledge that history shapes our identities, engages us as citizens, creates inclusive communities, is part of our economic well-being, teaches us to think critically and creatively, inspires leaders and is the foundation of our future generations.

COUNCILLOR COMMITMENT

We'll be truthful, represent the community's needs, be positive and responsive and always strive to do better.

OUR COUNCILLORS

Billanook Ward: Tim Heenan
Chandler Ward: David Eastham
Chirnside Ward: Richard Higgins
Lyster Ward: Johanna Skelton
Melba Ward: Sophie Todorov

O'Shannassy Ward: Jim Child
Ryrie Ward: Fiona McAllister
Streeton Ward: Andrew Fullagar
Walling Ward: Len Cox

CHIEF EXECUTIVE OFFICER & DIRECTORS

Chief Executive Officer, Tammi Rose
Director Built Environment & Infrastructure, Hjalmar Philipp
Director Communities, Jane Price

Director Corporate Services, Andrew Hilson
Director Planning and Sustainable Futures, Kath McClusky

GOVERNANCE RULES

All Council and Delegated Committee meetings are to be conducted in accordance with Council's Governance Rules, which can be viewed at: <https://www.yarraranges.vic.gov.au/Council/Corporate-documents/Policies-strategies/Governance-rules>

PUBLIC PARTICIPATION IN MEETINGS

Members of the community can participate in Council meetings in any of the following ways:

- making a verbal submission for up to 5 minutes on matters not listed on the agenda.
- submitting a question.
- speaking for up to 5 minutes to a specific item on the agenda. For planning applications and policy issues, the Chair will invite one person to speak on behalf of any objectors and one person to speak on behalf of the applicant. For other matters on the agenda, only one person will be invited to address Council, unless there are opposing views. At the discretion of the Chair, additional speakers may be invited for items of large interest.
- speaking for up to 5 minutes to a petition to be presented at a meeting.

For further information about how to participate in a Council meeting, please visit: <https://www.yarraranges.vic.gov.au/Council/Council-meetings/Submissions-questions-petitions-to-Council>

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The Minutes produced after each Council Meeting form the official record of the decisions made by Yarra Ranges Council.

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In the case of an emergency during a meeting held at the Civic Centre, 15 Anderson Street, Lilydale, you should follow the directions given by staff and evacuate the building using the nearest available exit. You should congregate at the assembly point at Hardy Street car park.

CONTACT US

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YARRA RANGES COUNCIL

AGENDA FOR THE 590TH COUNCIL MEETING TO BE HELD ON TUESDAY 26 SEPTEMBER 2023 COMMENCING AT 7.00PM IN COUNCIL CHAMBER, CIVIC CENTRE, ANDERSON STREET, LILYDALE AND VIA VIDEOCONFERENCE

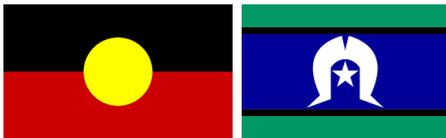
1. MEETING OPENED

2. ACKNOWLEDGEMENT OF COUNTRY

Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands.

We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region.

We proudly share custodianship to care for Country together.



3. INTRODUCTION OF MEMBERS PRESENT

OUR COUNCILLORS

Billanook Ward: Tim Heenan
Chandler Ward: David Eastham
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Director Built Environment & Infrastructure, Hjalmar Philipp
Director Communities, Jane Price
Director Corporate Services, Andrew Hilson
Director Planning & Sustainable Futures, Kath McClusky

4. APOLOGIES AND LEAVE OF ABSENCE

There were no apologies received prior to the commencement of this meeting.

5. MAYORAL ANNOUNCEMENTS

6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the Council Meeting held Tuesday 12 September 2023 as circulated, be confirmed.

7. CONFLICTS OF INTEREST

In accordance with Chapter 7, Rule 4, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

The Local Government Act 2020 defines two categories of conflict of interest:

- *a general conflict of interest, which is defined as "...a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty", and*
- *a material conflict of interest, which is defined as "...a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise or the loss incurred (a) directly or indirectly; or (b) in a pecuniary or non-pecuniary form."*

In accordance with section 130 of the Local Government Act 2020, a conflict of interest must be disclosed in the manner required by the Governance Rules and the relevant person must exclude themselves from the decision-making process.

No Conflicts of Interest have been received prior to the Agenda being printed.

8. QUESTIONS AND SUBMISSIONS FROM THE PUBLIC

In accordance with Chapter 3, Rules 57 and 59, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

A person may make a submission to Council on matters that are not listed on the Agenda. A submission may be on any matter except if it:

- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- (b) is substantially the same as a submission made to a Council meeting in the preceding 12 months;
- (c) relates to confidential information as defined under the Act;
- (d) relates to the personal hardship of any resident or ratepayer; or
- (e) relates to any other matter which the Council considers would prejudice the Council or any person.

There were no Questions to Council or Submissions from the Public received prior to the Agenda being printed.

9. PETITIONS

In accordance with Chapter 3, Rules 60, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

A person may submit a petition to Council on matters that are not listed on the Agenda. Every petition or joint letter submitted to Council must:

- a) identify a 'Lead Petitioner' who Council can correspond with;
- b) be legible and in permanent writing;
- c) be clear and state on each page the matter and action sought from Council. Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter;
- d) not be derogatory, defamatory or objectionable in language or nature;
- e) not relate to matters outside the powers of Council; and
- f) clearly state the names and addresses of at least seven (7) people who live, work, study or do business in the Municipal district.

There were no Petitions received prior to the Agenda being printed.

YR-2023/32 - 275 Edward Road, Chirnside Park – Planning Report**APPLICATION DETAILS**

Site Address	275 Edward Road, Chirnside Park
Application No.	YR-2023/32
Proposal	Use and development of a telecommunications facility, ancillary equipment, and construction of a fence
Existing Use	Mixed grazing/farming and dwelling with associated outbuildings
Applicant	Indara (formerly known as Axicom Pty Ltd)
Zone	Clause 35.04 Green Wedge Zone - Schedule 4
Overlays	<p>Clause 42.03- Significant Landscape Overlay - Schedule 2</p> <p>Clause 42.01- Environmental Significance Overlay - Schedule 1</p> <p>Clause 44.01- Erosion Management Overlay</p> <p>Clause 44.04- Land Subject to Inundation Overlay</p> <p>Clause 35.04- Use of land for a telecommunications facility</p> <p>Clause 35.04- Development of a telecommunications facility</p>
Permit trigger/s	<p>Clause 42.03- Buildings and works exceeding seven (7) metres in height</p> <p>Clause 42.03- Construction of a fence that is 1.8 metres in height</p> <p>Clause 52.19- Buildings and works for telecommunications facility</p>
Objections	Forty (40) objections (at the time of Agenda being published)
Encumbrances on Title (Covenants/Section 173 Agreements)	Yes – Section 173 Agreement (Reference: AU914974P)
Reason for Council Decision	More than ten objections received
Ward	Ryrie

SUMMARY

The application is for the use and development of a telecommunications facility, ancillary equipment, and the construction of a chain-link fence around the tower and ancillary equipment. No vegetation is proposed to be removed.

The property is a large rural block with an area of approximately 61.6 hectares and is mostly cleared of vegetation, except for a few scattered trees across the property. A dwelling and associated outbuildings are in the north-east portion of the site, with access from the north-east corner of the site along Edward Road. The site also includes a multiple dams used for agricultural purposes, with open paddocks for animal grazing and a stand of olive trees in the north-east corner of the site. No changes to use of the remainder of the property is proposed.

The application was advertised, and forty (40) objections were received. The objections raised concerns about public safety and health issues, environmental concerns relating to flora and fauna, noise, proximity to residential properties, visual amenity, devaluation of property, claims of 'assault' and insufficient and ineffective public notification/period.

The proposal has been assessed against the relevant provisions of the Yarra Ranges planning scheme and the *Yarra Ranges Council Telecommunications Facilities Policy (2012)*. It is consistent with the planning scheme and policy as they relate to the consideration of telecommunications infrastructure, visual amenity, and protection of native vegetation.

Accordingly, it is recommended that the application be approved and a Notice of Decision to Grant a Planning Permit, subject to conditions, be issued.

RECOMMENDATION

That Council resolve to approve Planning Application YR-2023/32 for Use and development of a telecommunications facility, ancillary equipment, and construction of a fence at 275 Edward Road, Chirnside Park and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 and Aboriginal Heritage Regulations 2007 (Vic) as to the need for a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the *Yarra Ranges Planning Scheme*), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

ENCUMBRANCES ON TITLE

The subject site is described as 275 Edward Road (Lot 1 on PS322790), Chirnside Park. There is one encumbrance registered on the Certificate of Title, being Section 173 Agreement AU914974P (Attachment 2).

The purpose of the Section 173 Agreement is to limit subdivision activities on the property by preventing the further subdivision of Lots 1 and 2 which were approved under Planning Permit YR-2015/1099.

The proposal does not breach the Section 173 Agreement on title.

SITE LOCATION AND DESCRIPTION

The subject site is located on the north-west side at the junction of Paynes Road, Edward Road and Yarra View Road.

Paynes Road is classified as a Transport Zone 3 road and is a 'Significant Municipal Road'. Edward Road and Yarra View Road are 'Municipal Roads' under the *Road Management Act 2004*. All three roads are sealed and managed by Council.

The property has an area of 61.6 hectares. The site is mostly cleared of vegetation, except for a few scattered trees across the property and the olive tree planting in the northeast corner.

A dwelling and associated outbuildings are in the north-east portion of the site. Access to the dwelling is in the north-east corner from Edward Road. The site supports an agriculture use.

High voltage power lines traverse the west side of the site and includes two high voltage towers located on the site. The Chirnside Park Drain runs parallel to the west boundary, running in a north-south direction.

The land has a fall of approximately 50 metres (across a distance of 970 metres) from the north-east corner of the site to the west of the site.

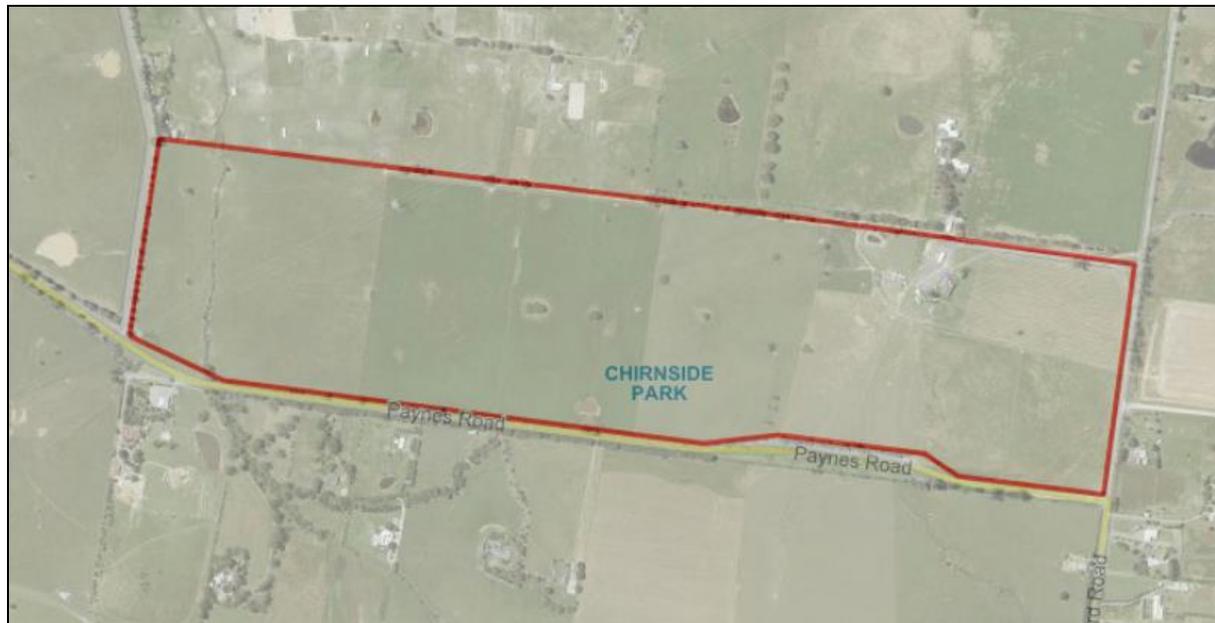


Figure 1 Aerial image of site (Source – Intramaps)

SURROUNDING AREA

The site is surrounded mostly by land zoned Green Wedge and a small area to the east across Edward Road zoned Green Wedge A. Land in the immediate area is used for productive agriculture land and rural residential lifestyles. The nearby land zoned residential is located over 800 metres to the south-east and over 1000 metres to the east directly from the site, please refer to Figure 2.



Figure 2 Surrounding area view (Source – Intramaps)

- North:
 - 285 Edward Road - comprises a rural residential lot of approximately 32.3 hectares in area. The site accommodates two dwellings and associated outbuildings. A telecommunications tower was approved under planning YR 2017/17 in the north-west corner of the site. The tower has not been constructed and the permit has now expired.
 - 4 Woorarra Court – is a rural residential property of 17.1 hectares. The site has a dwelling and dependant persons unit in the north-east area of the site and contains scattered outbuildings and two dams.
 - 6 Yarra View Road – is a rural residential property of 15.2 hectares. The site has a dwelling and scattered outbuildings in the south-west corner of the site.
- South
 - Paynes Road abuts the south of the site. Beyond Paynes Road there are several rural residential lots ranging in size from 4.0 hectares to 33.6 hectares.
- East
 - Edward Road abuts the east of the site. Further to the east are several rural residential lots ranging in size from 2.0 hectares to 36.6 hectares.
- West
 - Little Yarra Road abuts the west of the site. Further west is lot 6-8 Paynes Road which has a site area of 28.0 hectares. The site contains a dwelling, swimming pool and scattered outbuildings.
 -

PROPOSAL

This application seeks to use the land and construct a new telecommunications facility, ancillary equipment, and the construction of a fence on the land. The proposed facility will be owned by Axicom Pty Ltd (trading as Indara) and will host Vodafone and Optus telecommunications equipment, providing 3G, 4G and 5G services to Chirnside Park.

The proposed facility is located near the south boundary of the subject property, approximately 580 metres west of Edward Road and setback approximately 12 metres from Paynes Road. The monopole itself is setback 16 metres from Paynes Road. Figure 3 below shows the specific location of where the facility will be built on the site.



Figure 3 Image showing zoomed-in location of telecommunications facility (Source – Intramaps)

The details of the proposal are:

Tower

- One (1) new 35-metre-high monopole, finished in unpainted grey colour.
- Installation of a triangular headframe at the top of the new monopole.
- Vodafone and Optus telecommunications equipment on the pole and within the compound, including:
 - Three (3) 4G panel antennas, each up to 2.8 metres in length, mounted on a new headframe.

- Twelve (12) 5G panel antennas, each up to one (1) metre in length, mounted on the new headframe.
- The overall height of the facility (including antennas and equipment) of 38.8 metres above ground level.
- Minimal cut and fill required to enable the levelling of the site.

Ancillary Equipment

- Associated with the monopole will be an enclosed compound which will be setback 12 metres from Paynes Road.
- Compound will have a total size of 10 metres by 12 metres surrounded by a 2.4-metre-high galvanised chain wire fence; and
- One (1) outdoor equipment cabinet, finished in either beige or pale eucalypt green, located within the compound mounted at ground level.
- Ancillary equipment associated with operation and safety of the facility, including remote radio units, cabling, and safety equipment etc.

Fence

- A 2.4-metre-high tall chain-link security fence is proposed to enclose the compound area.

Access

- The property to be accessed via a new 13-metre-wide crossover and gate off Paynes Road.
- A new three (3) metre-wide gravel access track of approximately 12 metres in length is required from the crossover to the proposed compound.

Extracts from the plans can be seen in Figure 4 and Figure 5, a full set of plans are provided in Attachment 3. Attachment 4 contains the applicants report and Attachment 5 is the Environmental Electromagnetic Energy Report submitted by the applicant in support of the application.

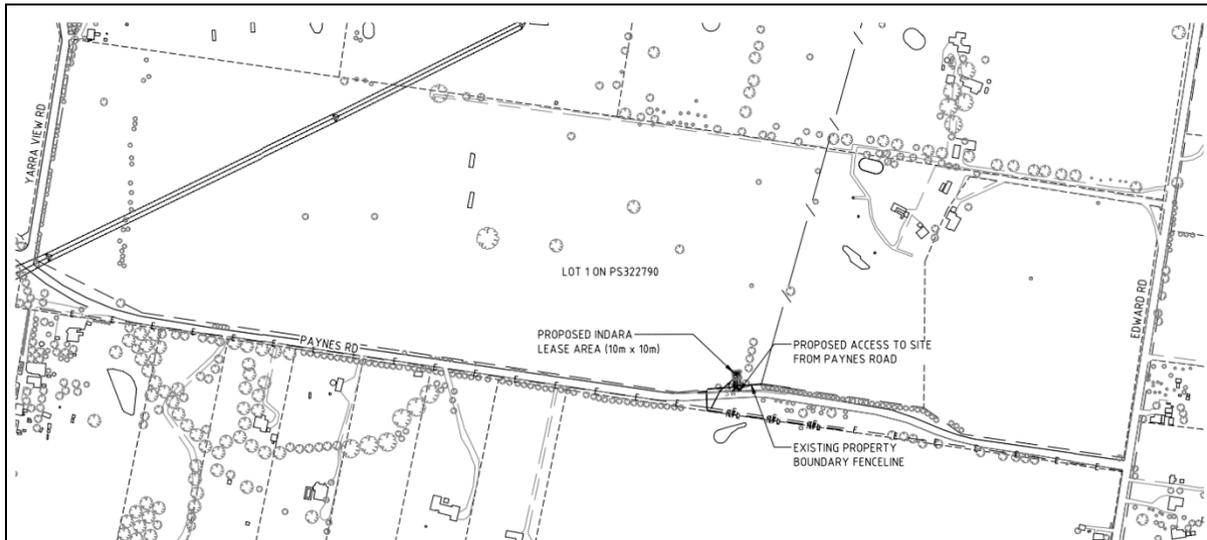


Figure 4 Site Plan

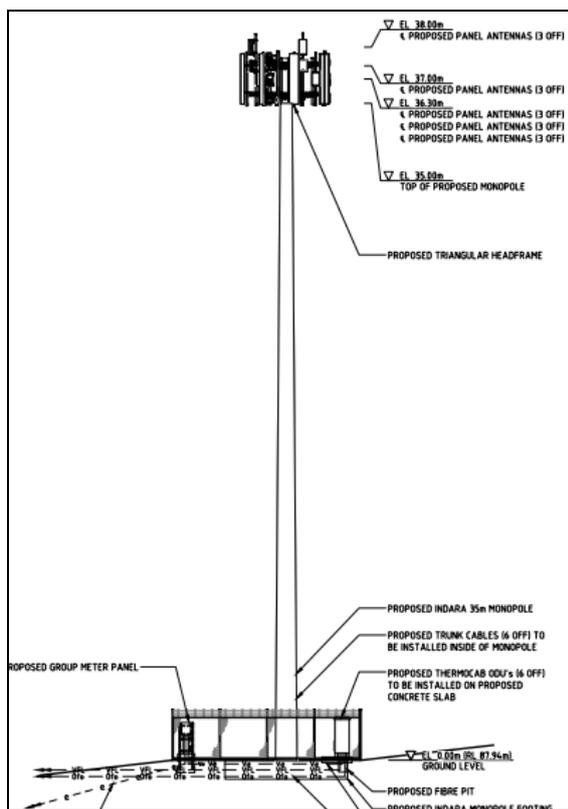


Figure 5 Elevation plan of monopole

HISTORY

Application Number and Decision Date	<ul style="list-style-type: none"> • YR-2014/341: Use and development of the land for a place of worship, caretaker's house, residential building, two (2) sheds, three (3) dams, earthworks, and vegetation removal – Refused on 9 December 2014. • YR-2015/1099: Two lot subdivision – Approved on 1 February 2016. • YR-2015/1099/A: Amended plans for two lot subdivision – Approved 6 April 2017. • YR-2015/1099/1: Secondary Consent for two lot subdivision – Approved 23 January 2020.
VCAT History	None
Other History	None

PLANNING CONTROLS

Zoning:	Clause 35.04 – Green Wedge Zone (Schedule 4)
Overlay:	Clause 42.01 – Environmental Significance Overlay (Schedule 1) Clause 42.03 – Significant Landscape Overlay (Schedule 2) Clause 44.01 – Erosion Management Overlay Clause 44.04 – Land Subject to Inundation Overlay
Planning Policy Framework:	Clause 12.05-2S – Landscapes Clause 12.05-2L – Rural Landscapes Clause 13.07-1S – Land Use Compatibility Clause 14.01-1S – Protection of Agricultural Land Clause 19.03-4S & Clause 19.03-4L Telecommunications
Clause 51.03:	Not Applicable
Schedule to Clause 51.03:	Not Applicable
Particular Provisions	Clause 52.19 – Telecommunications Facility
Other Requirements:	Clause 65 – Decision guidelines The Code of Practice for Telecommunications Facilities in Victoria (1999) – Attachment 6 The Shire of Yarra Ranges Telecommunication Facilities Policy (2012) – Attachment 7

For further information on the planning controls refer to Attachment 8.

PERMIT TRIGGERS

Zoning

Under the Green Wedge Zone, a permit is required for the use and development of a telecommunications facility.

Overlays

Under the Significant Landscape Overlay and Schedule 2 of the Significant Landscape Overlay, a permit is required for buildings and works exceeding seven (7) metres in height.

Particular Provisions

Under Clause 52.19 (Telecommunications Facility), a permit is required for the buildings and works associated with a telecommunications facility.

CONSULTATION

Internal Referrals

This application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Conditions required
Development Engineer (Traffic)	<p>Conditional consent is given subject to conditions.</p> <p>Traffic Engineers reviewed the access proposed onto Paynes Road. They have consented to new access point being created for the site to service the facility. The access will be required to be fully constructed.</p>	<p>Condition to be included on the permit as follows:</p> <p><i>Prior to the occupation of the permitted development a concrete vehicle crossing must be constructed in Paynes Road to serve the development to the satisfaction of the Responsible Authority.</i></p> <p>This condition ensures that a crossover is constructed along Paynes Road.</p>

External Referrals

There were no external referrals required by the planning scheme.

Public Notification and Consultation

Notification of the application was undertaken on 20 March 2023 by:

- Placing of five (5) signs on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days
- Placing a notice in a local newspaper

Number of Objections:

Forty (40) objections were received (at the time of the Agenda being published). Objections have been received from 12 objectors which are from the immediate area, while the remaining 29 objectors are from objectors which are located outside of the Chirnside Park area or are in excess of 2.7 kilometres away from the subject site. No objections were received from any property directly abutting the site or any property along Paynes Road. The closest objection is from a property along Edward Road, with the property boundary being about 500 metres from the monopole location. The reasons for objection can be summarised as follows:

- Public safety and health issues
- Environmental concerns relating to flora and fauna
- Noise
- Proximity to residential properties
- Visual Amenity
- Devaluation of property
- Claims of 'assault'
- Insufficient and ineffective Advertising Notification/Period
- Concerns with the advertising process

ASSESSMENT/ KEY ISSUES

The proposed telecommunications facility requires assessment against the provisions of the Planning Policy Framework, Green Wedge Zone, Significant Landscape Overlay Schedule 2, Clause 52.19, and the decision guidelines of Clause 65.

Matters to be taken into consideration include the visual impact of the structure, the suitability of the site and the relevant code of practice for telecommunications facilities.

Service provision and need

The Planning Scheme and relevant regulations, as part of any assessment of a telecommunications facility, require that the need for a facility be demonstrated. The challenge is to then balance any such need against the other requirements of the Planning Scheme.

The applicant is a licenced carrier for the purposes of the *Telecommunications Act 1997* and operates as an infrastructure provider or 'neutral host', whereby new facilities are sited, designed, acquired, built, and maintained by the applicant but utilised by carriers - such as mobile carriers – as part of their respective networks. The structures are purposely designed and constructed to allow for co-location of at least two or three carriers to occur.

The facility is proposed to cater for a projected need by the carriers in this area and forms part of a larger strategic program across the south-east region of Victoria. As such, the proposal represents strategic and practical forward planning based on need and service delivery gaps. The new facility is proposed to improve mobile services in Chirnside Park, with a specific emphasis on the rural residential interface located north of the main township area.

Growth is expected to occur in and around the Chirnside Park area given it is earmarked as a Major Activity Centre within Council's Strategic Framework Plan at Clause 02.04 of the Yarra Ranges Planning Scheme. With the projected population growth in this region, facilitating the need for new infrastructure, including telecommunications facilities becomes essential to adequately serve the requirements of existing and future residents.

Opportunities to Upgrade or Co-Locate using an existing telecommunication facility.

Opportunities to co-locate new infrastructure on existing telecommunication monopole in the area have been explored. The investigation has determined that the current telecommunication facilities in the vicinity are inadequate due to the existing towers being located at a distance, have suboptimal position or present other technical limitation, and therefore do not adequately cover the target area being north of Chirnside Park township. The two nearest existing telecommunication facility are tower two and tower four shown on figure 6 below. Tower two is located 750 metres to the north of the proposed site, while tower four is located 1.7 metres to the southeast.

Co-locating services is not a viable option to address existing service gaps and future service requirements.

Figure 6 below shows the location of existing facilities in the area around the proposed site. The applicant has confirmed that none of the existing sites in the area are suitable for co-location,



Figure 6 Existing Communications Facilities in Chirnside Park

Existing and Proposed Communications Facilities		
Number on Aerial Map	Site Address	Comments
1	275 Edward Road, Chirnside Park (subject site)	A new facility proposed.
2	285 Edward Road, Chirnside Park	Existing NBN facility located 750 metres to the target coverage area. Facility is a 50-metre lattice tower hosting NBN equipment, Due to the facility being north of the site the infrastructure cannot service the rural residential interface to the south. Located 750 metres to the north of the proposed location
3	130-132 Victoria Road, Lilydale	Existing Telstra facility located to the northeast of the target coverage area. The facility is a 35-metre monopole and does not service the area of Chirnside Park to the southwest. Located 2.3 kilometres to the northeast of the proposed location

4	Chirnside Park Country Club, Kingswood Drive, Chirnside Park	<p>Existing Telstra facility located to the southeast of the target coverage area. The facility is constructed on the rooftop installation on the Chirnside Park Country Club. A current Planning Permit application is with council to install a new 30 metre monopole. This application is to replace the existing rooftop facility. The facility's south-easterly position, results in not adequately servicing the area of Chirnside Park to the northwest.</p> <p>Located 1.7 kilometres to the southeast of the proposed location</p>
5	Chirnside Park Shopping Centre, 239-241 Maroondah Highway, Chirnside Park	<p>The facility is an 18-metre monopole hosting the Telstra equipment and located on the rooftop of the shopping centre. Due to the facilities southerly position, it cannot adequately service the area of Chirnside Park to the north.</p> <p>Located 2.4 kilometres to the south of the proposed.</p>

Additionally, the applicant undertook an investigation of potential alternative site locations. The alternative sites explored are shown in Figure 7. These alternative sites were not progressed as the sites did not provide the best location to service the identified coverage gap, environmental impacts due to construction impacts or unable to reach an agreement with private landowners.



Figure 7 Alternative sites explored but not progressed for a new telecommunications facility in Chirnside Park

The structure will be used for co-location by both Vodafone and Optus. This preference and preparation for co-location helps to minimise the number of such structures in the local area.

The proposed location of the monopole is well placed in a position where there will be interrupted views of the structure due to the undulating topography of the land in the area, and due to vegetation on private properties and along the roadside. It is also noted that the siting of the proposed structure does not impact on or require the removal of any vegetation. The facility is proposed on a cleared location on the land to allow for new and improved coverage and services to the area, which includes residential areas, as well as large lot rural properties and the numerous roadways surrounding the site.

State, Regional and Local Policies

Planning policies recognise the need to facilitate the development of telecommunication infrastructure. In considering proposals for telecommunication services, a balanced approach between the provision of important telecommunications services and the need to protect the environment from adverse impacts is required. Clause 71.02-3 of the planning scheme seeks to strike a balance between competing factors and 'endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.'

Clauses 12.05-2S and Clause 12.05-2L requires a development to respond to, and to protect landscapes that have aesthetic value. Views, landmarks, and vistas are required to be protected and enhanced. Clause 52.19 requires a proposed facility to have a minimal impact on the amenity of an area. It is considered that the proposed monopole with a maximum height of 35 metres would not be detrimental to the landscape significance of the site and the surrounding area. This is due to the monopole being in a cleared area of the land with scattered filtered views due to roadside vegetation along Paynes Road providing screening to vehicles travelling east and west, as well as providing a visual buffer to the rural residential lots to the south of Paynes Road. The roadside vegetation reduces sightlines to the structure and supporting infrastructure. The site itself is not elevated leading to the monopole not impacting on long views or vistas. There will be no substantial detrimental impact on the amenity of the area.

It is noted that while there is roadside vegetation, the screening is scattered to the western side of the proposed compound and monopole. Given the sparse nature of the roadside vegetation, a condition has been included requiring a Landscape Plan for the provision of dense landscaping for a length of 15 metres on the west side of the compound.

Further, there will be limited views of the proposed compound and monopole from the east side given the subject site slopes up sharply, with Paynes Road sitting below (in combination with roadside vegetation). This is considered ample in providing screening to the eastern side of the proposed compound and monopole. It is deemed that no additional screening is necessary to the east of the facility.

The monopole is noted in the submitted documents as being unfinished or pale grey. It is unclear in the submitted documents if the finish will be non-reflective and muted, which will be required to enable the structure to better sit within the landscape. A condition has been included to ensure the monopole is painted grey and to ensure that the finish will be muted and non-reflective. The painting of the structure in grey will ensure the tower blends and will not be highly reflective in the landscape.

There is strong planning policy support for community safety, when balancing community safety with environmental (including visual) impact and other considerations, for which the proposal provides a net community benefit.

In this instance, it is considered that the proposed telecommunications facility satisfactorily meets the above objective. It is considered an appropriate location which takes into consideration the visual impacts of telecommunications facilities as far as practicable. By nature, telecommunications facilities will have some level of visibility due to the need to cover a sufficient area to result in a viable project.

The objective of Clause 19.03-4S is to facilitate the orderly development, extension, and maintenance of telecommunication infrastructure. It is considered that the proposed telecommunications facility complies with the above objective and will aid in the growth and accessibility of mobile telephone coverage in the immediate area and will provide increased opportunities for better communication networks whilst appropriately addressing the environmental and landscape character of the area.

Green Wedge Zone

The proposal does not qualify for any of the exemptions at Clause 52.19-1, therefore a planning permit is required for both the use and development for a telecommunications facility in the Green Wedge Zone.

Accordingly, the proposal is required to be assessed against the purpose and decision guidelines of the Green Wedge Zone.

The monopole has been sited and setback from nearby dwellings and street frontages sufficiently given the rural nature of the area. It is noted that the closest dwellings to the proposed monopole are as follows:

- 5 Paynes Rd – 380 metres away to the south
- 7 Paynes Rd – 435 metres away to the south-west
- 285 Edward Rd – 535 metres away to the north-east
- 235 Edward Rd – 568 metres away to the south-east
- 11 Paynes Rd – 615 metres away to the south-west.

Views of the monopole will be disrupted from vehicles travelling along Paynes Road and from the dwellings on the rural residential lots on the south side of Paynes Road due to roadside vegetation along both sides of Paynes Road providing a visual buffer, including:

- unbroken dense vegetation which extends in excess of 840 metres along the south side of Paynes Road (refer to images in Figure 8 and 10 below),
- intermittent roadside vegetation on the road reserve in front of 235 Edward Road (along Paynes Road), and
- intermittent roadside vegetation along the frontage of the subject site along the length of Paynes Road.

It is noted that vehicles travelling west along Paynes Road will not have a complete view of the monopole, ground level ancillary equipment and compound fencing, due to the elevated land in the road reserve and the subject site, refer to the image at Figure 8 and 9 below. Figure 10 includes an aerial which shows the location along Paynes Road where the image is taken from as seen in Figure 8 and 9.



Figure 8 North side of Paynes Road with vegetation screen and landscape feature approaching monopole location.



Figure 9 South side of Paynes Roadside screening

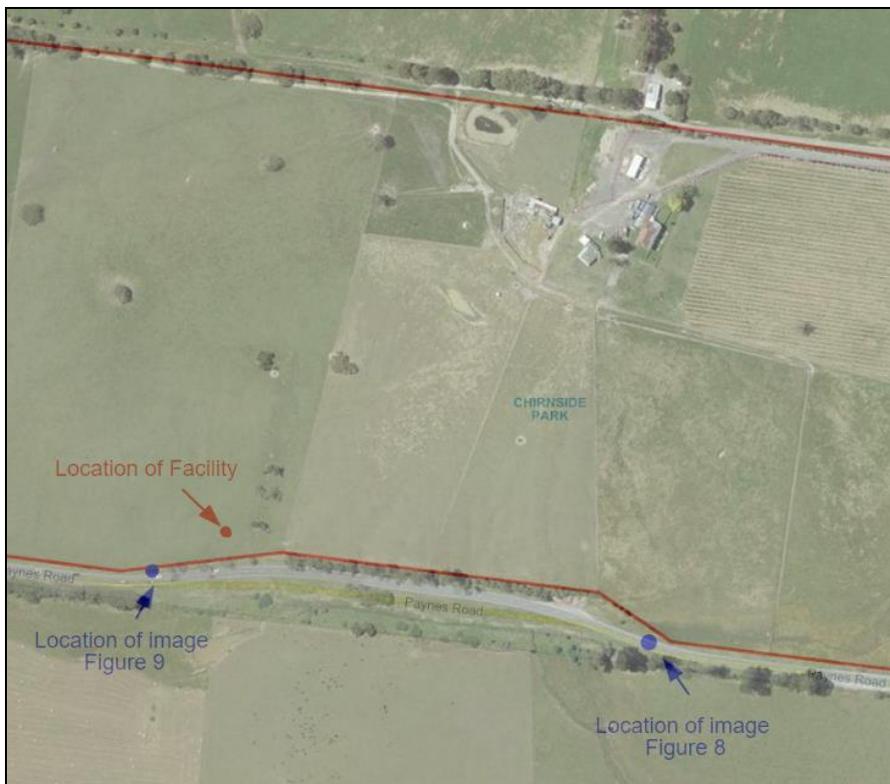


Figure 10 Map showing location of where image in Figures 8 and 9 were taken from

The fence around the compound is proposed for security purposes. The construction from heavy duty galvanised chain wire will achieve security while being visually transparent and not a dominant visual form. The additional planting required by permit conditions will also assist in providing a visual break from views of the compound. This is considered to be an acceptable outcome in this context.

Equipment within the compound will be housed in one equipment cabinet. The cabinet will be mounted at ground level at the base of the pole and will be finished in either beige or pale eucalypt green and will not be visually intrusive and are acceptable.

The proposal shows access to the compound by a new 13-metre-wide crossover (including splays) from Paynes Road, which leads to a new three metre wide (12 metres in length) gravel access track and gate. Whilst it is acknowledged that a wide crossover is required during construction to allow for large vehicles, trucks and cranes, the proposed 13-metre-wide crossover is considered excessive and unnecessary. A condition has been included for the crossover to be reduced to eight metres in width at the road and 5.5 metres in width at the property boundary. Discussions with council engineers confirms that the reduced crossover width this would be in accordance with access arrangements of nearby rural properties, whilst also being wide enough to accommodate larger vehicles during the construction period. It is also noted that a condition has been included for a Construction Management Plan which will manage the access requirements during the construction period.

The submitted plans note the proposed below-ground electricity cable route will traverse from an existing power pole along Paynes Road to a new proposed power pit, continuing in a north-east direction for approximately 27 metres to the development location. There is also a new fibre pit proposed to the north-west of the proposed compound, with the proposed fibre route running in a north-south direction which links to the existing Telstra fibre link running along the front of the site along Paynes Road. The plans have not indicated if the laying of cables will be through boring or by a cut and fill trenching construction method. Cables can be sited to avoid tree impacts, which may include laying them outside the tree protection zones or boring underneath trees. Given the roadside vegetation and screening vegetation and the need to protect these assets, a condition of the permit will require cabling to the tower and compound to be constructed by the boring of cable and associated infrastructure.

On balance, it is considered that the proposal complies with the purpose and decision guidelines of the Green Wedge Zone for the following reasons:

- Only 100 square metres of the property will be used for the proposal, which will be 0.01% of the site's total area;
- The application does not propose the removal of any vegetation;
- Minimal site works are proposed;

- The facility retains a large portion of the land for agricultural use; the primary purpose of the land continues to be for agriculture;
- The monopole is adequately removed from the rural residential dwellings in the area, with the topography of the land and vegetation providing reduced views of the structure and thereby reducing amenity impacts to the area.

The applicant has considered several ways in reducing visual, including:

- Monopoles are considered to be a sympathetic inclusion to the environment when compared to other structure types, such as lattice towers, because of their slimmer profile.
- To minimize visual bulk, antennas will be mounted on a single headframe, reducing visual impact compared with separate headframes at different heights.
- Locating the proposed facility on a large rural lot, north of the main township area, which will minimise amenity impacts from surrounding perspectives as far as practical, with the nearest residence located approximately 380 metres from the proposed facility location. At this distance, the proposed facility will not be considered a focal point and will be of a similar scale to other utility infrastructure within the landscape.
- The facility will be finished in a pale grey, which is considered a sympathetic finish with regards to blending into the natural landscape. It will also match other existing vertical elements in the area, such as the existing high voltage towers, light and utility poles which are present across the rural landscape.

While the top of the monopole and headframe will protrude above the landscape and will be visible from vantage points within the locality, it is highlighted that this is a technical requirement for telecommunications facilities to be tall enough to function. Nevertheless, the amenity impact of the proposal is appropriate in its context.

Further, the skylines of rural landscapes in this area are interspersed with tall vertical elements, such as high voltage towers, light poles, and telecommunications facilities. The image below in Figure 11 shows the high voltage powerlines and towers which traverse the subject site and the surrounding area. These high voltage towers are approximately 50-55 metres in height, in comparison to the total height of the proposed monopole, which will be 38.8 metres in height.



Figure 11 High voltage towers and power lines at the corner of Yarra View Road and Paynes Road

These high voltage towers are highly visible at the corner of Paynes Road and Yarra View Road are located within the site and are approximately one kilometre to the west of the proposed telecommunications tower. As such, it is not anticipated that the proposed monopole will be out of scale, context, or character for the local area.

Significant Landscape Overlay Schedule 2

The permit triggers under Schedule 2 to Clause 42.03 deals with the visual impact relating to the height of the monopole and the height of the fence.

The location of the proposed telecommunications facility is appropriate when assessed against the provisions of Schedule 2 to the Significant Landscape Overlay. The compound and the monopole have been strategically located on the site to ensure that it will receive visual relief from surrounding vegetation whilst also being closer to other established urban infrastructure. It is noted that the decision guidelines of Schedule 2 to the Significant Landscape Overlay encourage siting that avoids “*visually prominent sites such as exposed hilltops or ridgelines*” and designs which “*break the skyline or ridgeline behind the building*”. Placing the facility in any other location on this site would result in greater prominence, as it would be situated on a more exposed hillside or hilltop with reduced vegetation for screening or backdrop.

The 2.4-metre-high galvanised chain wire fence is an open style that allows views through but is still high enough and strong enough to provide the necessary security to the compound. The fence will only enclose the minimum area necessary to contain the monopole and associated equipment. It is considered that the fence is appropriate.

The 35-metre-high monopole is also considered appropriate within this location given:

- its separation from the nearest residences (which range from 380 metres to 615 metres away from the proposed location of the monopole)
- the visual buffer achieved by surrounding vegetation, including roadside vegetation along both sides of Paynes Road.
- the interrupted views of the monopole by the topography of the land in the immediate and surrounding area.

With regard to the proximity of the facility to the site's southern boundary (Paynes Road), it is considered that this is the most appropriate location for the facility for the following reasons:

- The site slopes up the deeper (north) into the property, therefore if the facility was to be sited anywhere on the land it would sit higher on the landform and would be more visible and appear more dominant in the landscape.
- Increasing the setback from Paynes Road would also require a longer access track.
- The site slopes down into a valley in the west portion of the property, however, this part of the site is highly constrained with high voltage towers and powerlines as well as the Chirside Park drain and the Land Subject to Inundation Overlay affecting this part of the site. Additionally, the facility would be much closer to dwellings located on Little Yarra Road.
- The east portion of the property slopes up therefore would be more visible and appear more dominant in the landscape.
- Siting the monopole and compound to the south is optimal in terms of providing the necessary coverage.
- Results in the least amount of excavation and avoids vegetation removal.
- The site is close to a supply of electricity, meaning that a power connection can be achieved without requiring unsightly above-ground power poles.

The condition seeks to introduce landscape screening planting using dense indigenous shrub plants, capable of reaching a mature growth height of at least three metres. A condition will require the planting to be a minimum height of one metre at the time of planting to ensure screening planting reaches the mature height quickly to provide the necessary filtered views.

Clause 52.19 - Telecommunications

Pursuant to Clause 52.19-2, a permit is required to construct a building or construct or carry out works for a Telecommunications facility. This does not apply to buildings and works associated with a low-impact facility as described in the *Telecommunications (Low-impact) Facilities Determination 1997*. A low impact facility are minor works to dishes and antennas to existing towers, or the erection of a temporary tower for less than 30 days. The facility cannot be classified as a low

impact facility as the proposal is seeking to develop a permanent new tower, and therefore requires a permit under this provision.

In considering the proposal against the provisions of this clause, regard must be given to the *Code of Practice for Telecommunications Facilities in Victoria, July 2004*, and the effect of the proposal on adjacent land. An assessment of the Code of Practice is provided below:

Code of Practice for Telecommunication Facilities

The principles contained within the publication *A Code of Practice for Telecommunications Facilities in Victoria*, which is an incorporated document in the Planning Scheme, specifically relate to the issues of design, siting, construction and operation of telecommunications facilities, a copy of the Code of Practice can be found on Attachment 6. These principles are the basis for any design response, as specified with Clause 52.19-5 of the Planning Scheme and should be used in the assessment of applications for telecommunication facilities:

- *Principle 1- A Telecommunications Facility should be sited to minimise visual impact.*

The monopole is a solid steel pole that will have non-intrusive steel grey paint colouring. The monopole is of a height required to provide radio access to the site. It is on a flat site which is partially screened by existing trees surrounding it and as it is distant from any dwelling. It is considered that it would be relatively inconspicuous in the landscape.

The distances from adjoining sites will also assist in limiting the visual impact of the proposal from the surrounding sites. There is adequate screening within the local area and the facility does not expect to dominate the visual environment.

Facilities of this nature are inherently visible as they need to be of sufficient height (and consequently visible) to serve their purpose of providing the required telecommunications service. As previously discussed, due to the site context, the visual impact from the nearest road and from the surrounding sites is expected to be minimal.

- *Principle 2- Telecommunications facilities should be co-located wherever practical.*

There are no existing buildings or structures in the area that would permit co-location to occur and the technical and network requirements to be met.

The long-term network objectives of a site in this area cannot be achieved by using existing facilities in the area, and a standalone facility ensures future network capacity and the ability to provide upgraded and co-location of services for the surrounding community.

This proposal offers the appropriate height and a structural suitability for co-location by multiple carriers.

- *Principle 3- Health standards for exposure to radio emissions will be met.*

The proposed monopole will be designed to meet statutory requirements and standards relating to radio emissions. The facility is required to operate in compliance with the mandatory standard for human exposure to electromagnetic energy (EME) currently the Radio Communications (Electromagnetic Radiation Human Exposure) Standard 2003.

- *Principle 4- Disturbance and risk relating to siting and construction should be minimised. Construction activity and site location should comply with State environmental protection policies and best practice environmental management guidelines.*

The site comprises a modified environment with the general area of the proposed monopole being cleared for a new access point from Paynes Road. Trees and shrubs located around the proposed monopole and compound are setback sufficiently and will not be impacted. Conditions to protect existing vegetation are included on the permit.

Construction of the facility will have minimal disturbance to the activities on the site. A condition has been included for the provision of a Traffic/Construction Management Plan to ensure that the installation of the proposed facility can be undertaken without affecting the use of the surrounding area and road network.

Yarra Ranges Telecommunication Facilities Policy

The *Yarra Ranges Telecommunication Facilities Policy* was adopted by Council in December 2012 (Attachment 7). It provides additional guidance and requirements for telecommunication facilities to reflect the special characteristics of Yarra Ranges. Policy objectives including:

- *To reduce the visual impact of telecommunication facilities and ensure the type, scale, design, and siting of the telecommunication facility is not detrimental to the landscape;*
- *To minimise disturbance to vegetation and natural features of the land;*
- *To ensure fire risk to the facility is considered as part of the proposal for the use and development of a proposed telecommunication facility;*
- *To minimise the number of telecommunication facilities by encouraging the co-location of facilities or upgrade to existing facilities; and*
- *To recognise the public benefits of telecommunication infrastructure.*

An assessment of the proposal against the requirements of this policy is as follows:

Policy Requirement	Response
Telecommunication facilities demonstrate that there is a need for the facility at that location	The applicant has determined that a new facility is needed to service the area to the north of the existing township of Chirnside Park to support increasing demand on the network in what is an increasingly more populated area and to provide critical network relief to: <ul style="list-style-type: none"> • Ensure that the increased demands for mobile network traffic on existing facilities

Policy Requirement	Response
	<p>do not critically compromise customers' ability to connect to a network;</p> <ul style="list-style-type: none"> • Ensure that optimal data speeds are maintained at all times during the day; • Improve mobile phone coverage to local businesses.
Telecommunication facilities are encouraged to co-locate	No suitable co-location options were identified. See above discussion in this report.
Telecommunications facilities should not be located on sites of natural, historical, or cultural significance	<p>The site is not located within the Heritage Overlay, or an area of Aboriginal cultural heritage significance.</p> <p>Landscape impacts have been minimised, with no vegetation removal proposed and existing trees softening the visual impact of the monopole.</p>
Telecommunications facilities must be sited and designed to avoid tree or vegetation removal	No trees or other vegetation are proposed to be removed for the monopole or associated structure or access.
Telecommunications facilities should be sited and designed to use any existing trees for visual screening	See above.
Telecommunications facilities must not be located on land subject to landslip unless an appropriate geotechnical report is provided.	The land is not subject to landslip.
Telecommunication facilities must not be located on visually prominent sites such as ridgelines and skylines.	The proposed monopole is not located on a ridgeline. The facility would not be obvious in distant view lines due to the undulating topography of the surrounding area.
The design and height of telecommunication facilities must be compatible with the surrounding built form and natural features and avoid structures which will be visually intrusive.	The monopole will have a maximum height of 38.8 metres. While this will be taller than the surrounding trees, it is considered reasonable. The site is not located within a residential area or township area where the pole would be highly visible. It is in a rural area and is well setback from neighbouring buildings and the road, and well setback from dwellings on the opposite side of the road.
Telecommunication facilities should be located within	The site is located within a Green Wedge Zone, on a site used for farming and grazing purposes. It is

Policy Requirement	Response
industrial, business, or non-residential areas wherever possible.	not located within a residential area and is well separated from the rural residential properties located on the opposite side of Paynes Road and the east side of Edward Road.
The installation of cables should be underground and co-located with other facilities where possible	The cables would be located underground and thereby reduce the visual impact of the facility. A condition will require that cables be located outside the Tree Protection Zone of trees being retained, or bored to avoid impacts to those trees.
Telecommunications facilities should only be located on Council land or reserves where the facilities will not conflict with the use of the land by the community, or for the purpose for which the land is reserved.	The subject site is not located on Council land or reserve land.
Applications for telecommunications facilities on land owned and / or managed by a public authority must include written consent from the agency responsible for the management of the land.	The site is privately owned.

Response to Submitters concerns

The following objection concerns are discussed in detail below:

Objector Concerns	Response
Public safety and health issues	<p>The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) sets the Australian Standard to which all mobile stations in Australia must comply with. The Australian Standard is named <i>Standard for Limiting Exposure to Radiofrequency Fields – 100 KHz to 300 GHz</i> (RPS S-1). The Australian Government specifies that mobile base stations are safe when they are operating within this Standard.</p> <p>Electromagnetic Energy emissions are not a valid matter to refuse a development application and is not a matter which can be considered by a planning permit assessment. All telecommunication facilities are required to demonstrate that the facility complies with the</p>

Objector Concerns	Response
	<p>Australian standard, other legislation will ensure that the facility is complying. This has been confirmed through numerous VCAT appeals, notably <i>Mason v Greater Geelong CC (Red Dot) [2013] VCAT 2057</i>. A copy of this VCAT decision is included at Attachment 9 of this report.</p>
<p>Environmental concerns relating to flora and fauna</p>	<p>The application is not requiring any vegetation removal or impacts to enable the tower to be constructed.</p> <p>The proposal will be required to comply with legislative guidelines to the environmental effects of Electromagnetic Energy (EME). Studies have demonstrated that limited exposure on flora and fauna will have minor impacts and be within the standard of providing protection to the environment.</p> <p>See Attachment 10 for a copy of this source from the Australian Government.</p>
<p>Noise</p>	<p>The only part of the facility that generates noise is the cooling fans on the equipment cabinet. Cooling equipment will only operate when required and will not operate continuously. Cooling equipment will operate at levels generally comparable to those of a domestic air conditioner. The proposal is not expected to represent a noise nuisance, noting the site is located approximately 380 metres from the nearest residences. A condition on the permit requiring noise levels to be in accordance with EPA requirements will be included.</p>
<p>Proximity to residential properties</p>	<p>The monopole has been sited and setback from nearby dwellings and street frontages. The monopole will be setback from nearby dwellings as follows:</p> <ul style="list-style-type: none"> • 5 Paynes Rd – 380 metres away to the south • 7 Paynes Rd – 435 metres away to the south-west • 285 Edward Rd – 535 metres away to the north-east • 235 Edward Rd – 568 metres away to the south-east • 11 Paynes Rd – 615 metres away to the south-west. <p>The setbacks are ample to ensure that amenity impacts are reduced.</p>

Objector Concerns	Response
Visual Amenity	As discussed in the above assessment, the views of the monopole and compound will be filtered by existing screening. A landscape plan will also require additional planting to provide further screening to Paynes Road.
Devaluation of property	The above matters are not considerations under the <i>Yarra Ranges Planning Scheme</i> as the matters are highly subjective. Furthermore, the matters are subject to market influence.
Insufficient and ineffective Advertising Notification/Period	<p>Pursuant to Section 52 of the <i>Planning and Environment Act 1987</i>, the application was advertised to the owners and occupiers of allotments adjoining the subject site. The act requires 14 days of public notice; however, the application was provided 19 days for public notification.</p> <p>Letters were sent to 45 properties surrounding the subject site on which the tower is proposed. Additionally, five signs were erected along the three frontages of the subject site; one sign along Yarra View Road and Edward Road and three along Paynes Road.</p> <p>Notice occurred from 20/03/2023 to 7/04/2023. Concerns were raised with the fact that the application was advertised during/in the lead up to the Easter break. It is noted that the public Easter holidays commenced on 7/04/2023 (Good Friday) and finished 10/04/2023 (Easter Monday), therefore the notification period finished before the Easter break. Nevertheless, advertising of applications is not put on hold over public holidays (except for the Christmas/New Year period); the <i>Planning and Environment Act 1988</i> does not allow for this.</p>

CONCLUSION

The application has demonstrated that it meets the requirements of Clause 52.19 and that there was no viable co-location or other alternative siting options to provide the additional service upgrade for the Chirnside Park area. The telecommunications facility has been located to meet operational requirements while minimising visual and environmental impacts.

The use and development application has been assessed in accordance with Section 60(1) of 'The Act' and all relevant instruments and policies. The proposal is considered to be consistent with the objectives of State planning policies, local planning policies and the relevant zone and overlay provisions of the *Yarra Ranges Planning Scheme*. It is also considered to meet the assessment criteria of Council's Telecommunications Policy.

As such, approval of the application (Notice of Decision to grant a planning permit) is recommended.

ATTACHMENTS

- 1 Conditions
- 2 Section 173 Agreement # AU 914974P
- 3 Development Plans
- 4 Applicant's Town Planning Report
- 5 Environmental Electromagnetic Energy (EME) Report
- 6 Code of Practice for Telecommunication Facilities in Victoria
- 7 Yarra Ranges Telecommunication Policy
- 8 Planning Scheme Policies
- 9 VCAT Decision: Mason v Greater Geelong (Red Dot) 2013
- 10 Australian Government Website - Radiofrequency Electromagnetic Energy

CONDITIONS	
Application	YR-2023/32
Address of the land	275 Edward Road, Chirnside Park
Proposal	Use and development of a telecommunications facility, ancillary equipment, and construction of a fence

1. Amended Plans

Before the use and development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and a digital copy must be provided. The plans must be generally in accordance with the plans submitted with the application (prepared by Indara Digital Infrastructure, dated 17/01/2023, Revision A), but amended to showing the following:

- a. The proposed crossover to be reduced to 8 metres wide at the road and 5.5 metres wide at the property boundary.
- b. A Landscape Plan in accordance with Condition 3 of this permit.
- c. A Construction Management Plan in accordance with Condition 4 of this permit.

All of the above must be to the satisfaction of the Responsible Authority.

2. The use(s) and development as shown on the endorsed plans must not be altered or modified (unless the Yarra Ranges Planning Scheme specifies a permit is not required) without the prior written consent of the responsible authority.

3. Landscape Plan

Prior to the commencement of any buildings or works a landscape plan prepared in accordance with Council’s Landscape Guidelines must be submitted to and approved by the Responsible Authority. The landscape plan must show:

- a. Landscaping for a length of 15 metres on the west side of the compound.
- b. The Plant Schedule of the Landscape Plan to incorporate Lilly Pilly trees or Middle Storey Shrubs chosen from Council’s Vegetation Community 30 list, that will reach a mature height of at least 2.5 metres and have dense foliage.
- c. The plants are to be planted at a density to provide dense screening of the compound.
- d. Standard landscape notes included on the Landscape Plan in relation to soil preparation, irrigation of planting beds, replacement of dead plants and planting technique for trees and shrubs.
- e. Adequate instruction on the Landscape Plan for the protection of existing vegetation to be retained during construction and tree protection requirements outlined in condition 14.
- f. The geographical location of all plant species proposed in the Plant Schedule on the Landscape Plan.
- g. The botanical name, common name, quantity, average size at maturity and intended pot size for each plant species in the Plant Schedule of the Landscape Plan.
- h. The type of irrigation listed on the Landscape Plan to be drippers or aqua hose.
- i. A note on the Landscape Plan specifying that all planted areas will to be mulched to a minimum 75 mm thickness using an appropriate timber species such as Pine or local common Eucalyptus species avoiding rare timber species such as Red Gum or Jarrah.

- j. A 24 month maintenance plan with notes on appropriate weed control, irrigation, mulch replenishment, dead plant replacement and pruning is included on the Landscape Plan to ensure the successful establishment, and on-going health, of new planting.
 - k. New lawn areas on the Landscape Plan being established with seed from a non-invasive grass species. Appropriate grass species include Queensland Blue-grass (*Dicantheum sericeum*), Red-leg Grass (*Bothriochloa macra*), Weeping Grass (*Microlaena stipoides*), Creeping Bent Grass (*Agrostis stolonifera*), Clustered Wallaby Grass (*Danthonia racemosa*), Kentucky Blue-grass (*Poa pratensis*), Tall Fescue (*Festuca arundinacea*).
 - l. Timber edging around lawn areas or garden beds that does not utilise Jarrah, Red Gum or Native (White) Cypress Pine (*Callitris columellaris*) unless it can be demonstrated that they are a recycled product. Acceptable products include treated pine, recycled plastic, moulded concrete, plantation grown Sugar Gum, brick edging or local stone.
4. Before the development is occupied and/or before the use starts or by such later date with the prior written consent of the responsible authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
5. The landscaping shown on the endorsed plans must be maintained in accordance with the endorsed plans to the satisfaction of the responsible authority. Areas shown on the endorsed plan as landscaped must not be used for any other purpose and any dead, diseased or damaged plants are to be replaced after becoming aware of the dead, diseased or damaged plants. The responsible authority may amend the endorsed Landscape Plan from time to time.

6. **Construction Management Plan**

Before the development starts, a Construction Management Plan (CMP) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The CMP must specify how the environmental and construction issues associated with the development will be managed and must address the following as applicable:

- a. A detailed schedule of works including a full project timing.
- b. A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
- c. The location for the parking of all construction vehicles and construction worker vehicles during construction.
- d. Construction times, noise and vibration controls.
- e. Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
- f. Proposed traffic management signage indicating any inconvenience generated by construction.
- g. Fully detailed plan indicating where construction hoardings would be located.
- h. A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
- i. Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
- j. Site security.

- k. Public safety measures.
- l. Restoration of any Council assets removed and/or damaged during construction.
- m. Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).
- n. Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
- o. An emergency contact that is available for 24 hours per day for residents and the responsible authority in the event of relevant queries or problems experience.
- p. Traffic management measures to comply with the relevant Australia Standard.
- q. All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.
- r. Details of crane activities, if any.
- s. Discharge of any polluted water.
- t. Erosion control measures.
- u. Sediment control measures.

The development must be carried out and implemented in accordance with the endorsed Construction Management Plan at all times to the satisfaction of the responsible authority. The responsible authority may amend the endorsed Construction Management Plan from time to time.

- 7. The monopole must be painted grey and the external finish of the permitted development must remain muted and non-reflective to the satisfaction of the responsible authority.

8. General Amenity

The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:

- a. transport of materials, goods or commodities to or from the land
- b. appearance of any building, works or materials
- c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
- d. presence of vermin
- e. others as appropriate.

- 9. Once development is complete, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the responsible authority.

- 10. Once the development starts, the development must be carried out and completed to the satisfaction of the responsible authority.

- 11. All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.

12. Tree Protection Conditions

All underground service pipes including storm water and sewerage must be diverted around any Tree Protection Zones of trees to be retained, or bored underneath with a minimum cover of 800mm to top of conduit from natural surface level. If the trees have not been assessed the TPZ is calculated by 12x the trunk diameter measured at 1.4m above ground level.

13. The existing street trees must not be removed or damaged to the satisfaction on the Responsible Authority.
14. Before the development starts, a tree protection barrier/fence must be installed around the street tree(s) located on Paynes Road and remain in place until all works on site are carried out and completed (including the construction of any new crossover). The following tree protection measures must be followed to the satisfaction of the responsible authority:
 - The fencing is to be a 1.8-metre-high temporary fence constructed using steel or timber posts fixed to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting.
 - The fencing is to encompass the entire nature strip area (between any footpath and kerb and channel) and must extend to the identified tree protection radial distance.
 - The fencing can be moved to the edge of any existing crossover(s) for site access.
 - The fencing may only be moved to construct any approved crossover.
15. **Construction of Vehicle Crossing**

Prior to the occupation of the permitted development a concrete vehicle crossing must be constructed in Paynes Road in accordance with the endorsed plans to serve the development to the satisfaction of the Responsible Authority.
16. **Permit Expiry**

This permit will expire if:

 - a. The development is not started within two years of the date of this permit; or
 - b. The development is not completed within four years of the date of this permit; or
 - c. The use does not start within one (or two) year(s) of the completion of the development; or
 - d. The use is discontinued for a period of two years.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of expiry of permit of the commencement date. An extension of time to complete the development or a stage of the development may be requested if:

- The request for an extension of time is made within 12 months after the permit expires; and
- The development or stage started lawfully before the permit expired.

NOTES:

- (i) The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority, under this or any other Act, Regulation or Local Law.
- (ii) The owner and/or developer must ensure all relevant permits have been obtained before the use and or development starts.
- (iii) Building works approved under this planning permit must not be commenced until a building permit has also been obtained under the Building Act 1993 and the Building Regulations 2006.
- (iv) Before any earthworks are undertaken, contact Dial Before You Dig.

- (v) For further information with regard to the Telecommunications Conditions above, please refer to Advisory Note 49 – Telecommunications Services & Facilities in Subdivisions available from the Victorian State Government.



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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Produced 03/08/2023 05:56:02 PM

Status	Registered	Dealing Number	AU914974P
Date and Time Lodged	14/10/2021 09:26:46 PM		

Lodger Details

Lodger Code	17829T
Name	RUSSELL KENNEDY
Address	
Lodger Box	
Phone	
Email	
Reference	115599-03910

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
--------------	----------

Privacy Collection Statement

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Estate and/or Interest

FEE SIMPLE

Land Title Reference

10110/780

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	YARRA RANGES SHIRE COUNCIL
Address	
Street Number	15
Street Name	ANDERSON
Street Type	STREET
Locality	LILYDALE
State	VIC
Postcode	3140

Additional Details



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	YARRA RANGES SHIRE COUNCIL
Signer Name	SUZANNE MANSON
Signer Organisation	PARTNERS OF RUSSELL KENNEDY
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	14 OCTOBER 2021

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

Imaged Document Cover Sheet

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Document Type	Instrument
Document Identification	AU914974P
Number of Pages (excluding this cover sheet)	10
Document Assembled	

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YARRA RANGES SHIRE COUNCIL

and



**AGREEMENT MADE PURSUANT TO
SECTION 173 OF THE PLANNING AND
ENVIRONMENT ACT 1987**

Land: 275 Edward Road, Chirnside Park Victoria
3116.

Russell Kennedy Pty Ltd ACN 126 792 470 ABN 14 940 129 185
Level 12, 469 La Trobe Street, Melbourne VIC 3000 PO Box 5146, Melbourne VIC 3001 DX 494 Melbourne
T +61 3 9609 1555 F +61 3 9609 1600 info@rk.com.au russellkennedy.com.au

An international member of

AillyLaw

Liability limited by a scheme approved under Professional Standards Legislation.

Ref CYW 115599-03910

© Russell Kennedy Pty Ltd

THIS AGREEMENT IS DATED

12 October 2021

PARTIES

1 **YARRA RANGES SHIRE COUNCIL**
of 15 Anderson Street, Lilydale, Victoria 3140
(Council)

2 
(Owner)

RECITALS

- A The Council is the responsible authority under the Act for the Scheme.
- B The Owner is registered or is entitled to be registered as proprietor of the Land.
- C Condition 13 of the Permit provides as follows:
- “13. *Prior to a Statement of Compliance being issued an agreement under Section 173 of the Planning and Environment Act 1987 must be entered into between the owner of the site and the Responsible Authority requiring:*
- a. *That the land comprising both Lots 1 and 2 not be further subdivided.*
- This Agreement is to be prepared at the owner's expense and will be recorded on the folio of the register relating to the site. The owners agree to pay on demand all costs and expenses of, and incidental to, the execution and recording of this Agreement.”*
- D The Land is encumbered by mortgage number AU285049E in which Regional Investment Corporation is named as mortgagee. The Mortgagee has consented to the Owner entering into this Agreement.
- E This Agreement has been entered into in order to:
- (i) comply with condition 13 of the Permit;
 - (ii) prohibit, restrict or regulate the use or development of the Land; and
 - (iii) achieve and advance the objectives of planning in Victoria or the objectives of the Scheme in relation to the Land.
- F This Agreement is made under Division 2 of Part 9 of the Act.

OPERATIVE PROVISIONS

1 DEFINITIONS

In this Agreement:

- (a) **Act** means the *Planning and Environment Act 1987*.

- (b) **Agreement** means this Agreement, including the recitals and any annexures to this Agreement.
- (c) **Business Day** means Monday to Friday excluding public holidays in Victoria.
- (d) **Land** means the land known as 275 Edward Road, Chirnside Park Victoria 3116 being the whole of the land more particularly described in certificate of title volume 10110 folio 780.
- (e) **Mortgagee** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Land or any part of it.
- (f) **Owner** means the person or persons who are registered or are entitled to be registered as proprietor of an estate in the Land or any part thereof, and includes a mortgagee in possession.
- (g) **Permit** means planning permit YR-2015/1099 issued in respect of the Land by Council on 10 February 2016 and amended on 28 April 2017 allowing for a two lot subdivision.
- (h) **Scheme** means the Yarra Ranges Planning Scheme or any other planning scheme which applies to the Land from time to time.

2 COMMENCEMENT

This Agreement comes into force on the date it was made as set out above.

3 ENDING OR AMENDING AGREEMENT

3.1 Ending or amending

This Agreement ends or may be amended in accordance with the Act.

3.2 Cancellation or alteration of recording

As soon as reasonably practicable after this Agreement has ended or has been amended, the Council must, at the request and at the cost of the Owner, apply to the Registrar of Titles under the Act to cancel or alter the recording of this Agreement on the folio of the Register to the Land.

4 OWNER'S COVENANTS

4.1 Owner's covenants regarding the Land

The Owner covenants and agrees that the lots created by the subdivision authorised by the Permit must not be further subdivided.

4.2 Successors in title

Until this Agreement is recorded on the folio of the Register which relates to the Land pursuant to section 181 of the Act, the Owner must ensure that the Owner's successors in title give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement including requiring the successors in title to execute a deed agreeing to be bound by the terms of this Agreement. Until that deed is executed, the Owner, being a party to this Agreement, remains liable to perform all of the Owner's obligations contained in this Agreement.

4.3 Further assurance

The Owner must do all things necessary (including signing any further agreement, acknowledgment or document) to enable the Council to record this Agreement on the folio of the Register which relates to the Land.

4.4 Payment of Council's costs

The Owner agrees to pay on demand to the Council the Council's costs and expenses (including any legal fees incurred on a solicitor-client basis) of and incidental to the preparation, execution, recording, removal, amendment and enforcement of this Agreement.

4.5 Mortgagee to be bound

The Owner covenants to obtain the consent of any Mortgagee to be bound by the covenants in this Agreement if the Mortgagee becomes mortgagee in possession of the Land.

4.6 Indemnity

The Owner covenants to indemnify and keep the Council, its officers, employees, agents, workmen and contractors indemnified from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought by any person arising from or referable to this Agreement or any non-compliance with this Agreement.

4.7 Non-compliance

If the Owner has not complied with this Agreement within 14 days after the date of service on the Owner by the Council of a notice which specifies the Owner's failure to comply with any provision of this Agreement, the Owner covenants:

- 4.7.1 to allow the Council its officers, employees, agents, workmen and contractors to enter the Land and rectify the non-compliance;
- 4.7.2 to pay to the Council on demand, the Council's reasonable costs and expenses (**Costs**) incurred as a result of the Owner's non-compliance;
- 4.7.3 to pay interest at the rate of 2% above the rate prescribed under section 2 of the *Penalty Interest Rates Act 1983* on all moneys which are due and payable but remain owing under this Agreement until they are paid in full;
- 4.7.4 if requested to do so by the Council, to promptly execute in favour of the Council a mortgage to secure the Owner's obligations under this Agreement,

and the Owner agrees:

- 4.7.5 to accept a certificate signed by the Chief Executive Officer of the Council (or any nominee of the Chief Executive Officer) as prima facie proof of the Costs incurred by the Council in rectifying the Owner's non-compliance with this Agreement;
- 4.7.6 that any payments made for the purposes of this Agreement shall be appropriated first in payment of any interest and any unpaid Costs of the Council and then applied in repayment of the principal sum;
- 4.7.7 that all Costs or other monies which are due and payable under this Agreement but which remain owing shall be a charge on the Land until they are paid in full; and

4.7.8 if the Owner executes a mortgage as required by clause 4.7.4, any breach of this Agreement is deemed to be a default under that mortgage.

4.8 Council access

The Owner covenants to allow the Council and its officers, employees, agents, workmen and contractors or any of them, to enter the Land (at any reasonable time) to assess compliance with this Agreement.

4.9 Covenants run with the Land

The Owner's obligations in this Agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and every part of it, and bind the Owner and its successors, assignees and transferees, the registered proprietor or proprietors for the time being of the Land and every part of the Land.

4.10 Owner's warranty

The Owner warrants and covenants that:

- 4.10.1 the Owner is the registered proprietor (or is entitled to become the registered proprietor) of the Land and is also the beneficial owner of the Land;
- 4.10.2 the execution of this Agreement by the Owner complies with the Registrar's Requirements for Paper Conveyancing Transactions made under section 106A of the *Transfer of Land Act 1958*;
- 4.10.3 there are no mortgages, liens, charges or other encumbrances or leases or any rights inherent in any person other than the Owner affecting the Land which have not been disclosed by the usual searches of the folio of the Register for the Land or notified to the Council;
- 4.10.4 no part of the Land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to in section 42 of the *Transfer of Land Act 1958*; and
- 4.10.5 until this Agreement is recorded on the folio of the Register which relates to the Land, the Owner will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of the Land without first disclosing to any intended purchaser, transferee, assignee or mortgagee the existence and nature of this Agreement.

5 GENERAL

5.1 No fettering of Council's powers

This Agreement does not fetter or restrict the Council's power or discretion in respect of any of the Council's decision making powers including but not limited to an ability to make decisions under the *Local Government Act 1989*, and the Act or to make or impose requirements or conditions in connection with any use or development of the Land or the granting of any planning permit, the approval or certification of any plans of subdivision or consolidation relating to the Land or the issue of a Statement of Compliance in connection with any such plans.

5.2 Time of the essence

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

5.3 Counterparts

- 5.3.1 This Agreement may be executed in any number of counterparts and all the counterparts together constitute one and the same instrument; and
- 5.3.2 A copy of an original executed counterpart received by email:
- (a) must be treated as an original counterpart;
 - (b) is sufficient evidence of the execution of the original; and
 - (c) may be produced in evidence for all purposes in place of the original.

5.4 Governing law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts and tribunals of Victoria and waives any right to object to proceedings being brought in those courts or tribunals.

5.5 Enforcement and severability

- 5.5.1 This Agreement shall operate as a contract between the parties and be enforceable as such in a Court of competent jurisdiction regardless of whether, for any reason, this Agreement were held to be unenforceable as an agreement pursuant to Division 2 of Part 9 of the Act.
- 5.5.2 If a Court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void, then it shall be severed and the other provisions of this Agreement shall remain operative.

6 NOTICES

6.1 Service of notice

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

- 6.1.1 personally on the person;
- 6.1.2 by leaving it at the person's address set out in this Agreement;
- 6.1.3 by posting it by prepaid post addressed to that person at the person's current address for service;
- 6.1.4 by email to the person's current email address notified to the other party; or
- 6.1.5 by facsimile to the person's current number notified to the other party.

6.2 Time of service

A notice or other communication is deemed served:

- 6.2.1 if served personally or left at the person's address, upon service;
- 6.2.2 if posted within Australia to an Australian address by express post, two Business Days; by standard post, six Business Days after posting;

- 6.2.3 if sent by email, subject to the clause 6.2.5, at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*;
- 6.2.4 if served by facsimile, subject to the clause 6.2.5, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; and
- 6.2.5 if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

6.3 Proof of receipt of notice by email

In proving that a notice given by email has been received by the recipient, it is sufficient to produce an acknowledgement or receipt that the email has reached the recipient's email address.

7 INTERPRETATION

In this Agreement, unless the contrary intention appears:

- 7.1 the singular includes the plural and vice versa;
- 7.2 a reference to a document or instrument, including this Agreement, includes a reference to that document or instrument as novated, altered or replaced from time to time;
- 7.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 7.4 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 7.5 words importing one gender include other genders;
- 7.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 7.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
 - 7.7.1 two or more parties; or
 - 7.7.2 a party comprised of two or more persons;is made or given and binds those parties or persons jointly and severally;
- 7.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 7.9 a recital, schedule, annexure or description of the parties forms part of this Agreement;
- 7.10 if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- 7.11 if an act required to be done under this Agreement on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- 7.12 a reference to an authority, institution, association or body (original entity) that has ceased to exist or been reconstituted, renamed or replaced or whose powers or functions have been

SIGNED SEALED AND DELIVERED by
[REDACTED] in accordance
with section 127(1) of the *Corporations Act*
2001 (Cth) by being signed by authorised
persons:

)
)
)
)
)

[REDACTED]

[REDACTED]

Director

*Director/company secretary

Full Name

Full Name

Usual Address

Usual Address

VIC

Date: 9/6/21

AU914974

MORTGAGEE'S CONSENT

REGIONAL INVESTMENT CORPORATION as Mortgagee under Mortgage No. AU285049E which encumbers the Land consents to the Owner entering into this Agreement and agrees to be bound by the terms of and conditions of this Agreement if the Mortgagee becomes mortgagee in possession of the Land.

DATED:



Executed for and on behalf of
REGIONAL INVESTMENT CORPORATION

Scott Holmes
Authorised Officer
30/08/2021

AU914974P

DATE OF ISSUE

17.01.23

DRAWING PACKAGE VERSION

1

GENERAL DRAWINGS

G1 | SITE AND LOCALITY PLANS

A

G2 | SITE SETOUT PLAN

A

G3 | SITE ELEVATION

A

RADHAZ / EXCLUSION ZONE DRAWING

STRUCTURAL DRAWINGS

ELECTRICAL DRAWINGS

FITOUT ROOM DRAWINGS

LEASE DRAWINGS

L1 | LEASE PLAN

A

REFERENCE DRAWINGS

DISTRIBUTION LIST

INDARA | INDARA REGIONAL PM

1



ADVERTISED

INDARA SITE NO: 3400892

JOINT VENTURE NO JM5050

SITE NUMBER 340568

CHIRNSIDE NORTH

275A EDWARD ROAD

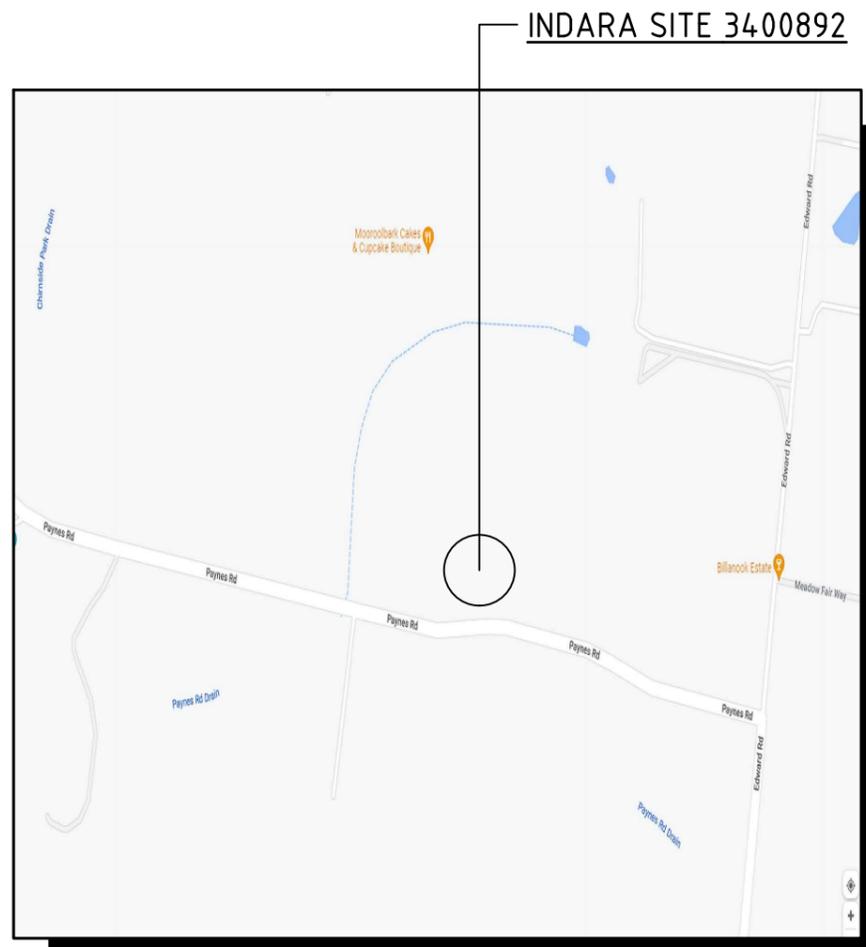
CHIRNSIDE PARK

VIC 3116

GREENFIELD eJV - AXICOM

PRELIMINARY

DRAWING NO. 340568-00



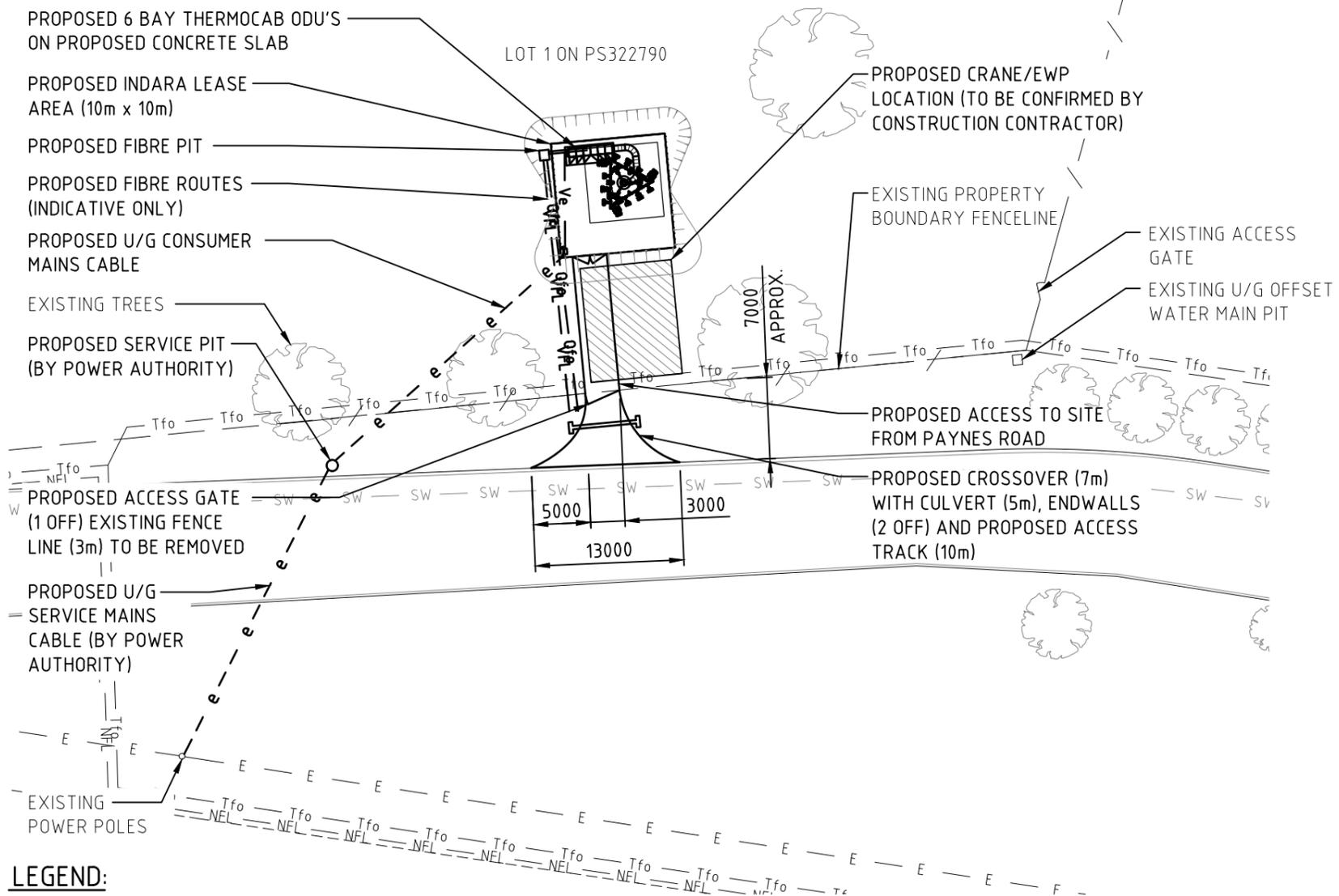
COPYRIGHT © GOOGLE MAPS

SITE LOCALITY PLAN

NOT TO SCALE

RFNSA NUMBER:

CARRIER	SITE NAME	SITE ID



LEGEND:

- — — — — EXISTING PROPERTY BOUNDARY
- e — e — — UNDERGROUND ELECTRICAL
- Ve — Ve — — UNDERGROUND ELECTRICAL
- VFL — VFL — — FIBRE LINK
- Of0 — Of0 — — FIBRE LINK
- E — E — — OVERHEAD ELECTRICAL
- SW — SW — — STORMWATER
- NFL — NFL — — NBN FIBRE LINK
- Tfo — Tfo — — TELSTRA FIBRE LINK

SITE ACCESS

SCALE 1:500

JOINT VENTURE NO: JM5050

TITLE SITE AND LOCALITY PLANS

REV	DATE	REVISION DESCRIPTION	VENDOR	DRAWN	DESIGNED	APPRD
A	17.01.23	PRELIMINARY (GREENFIELD EJV - AXICOM)	INDARA	SRB	-	PM



SITE NUMBER 340568
CHIRNSIDE NORTH
275A EDWARD ROAD
CHIRNSIDE PARK, VIC 3116

GREENFIELD eJV - AXICOM

DRAWING STATUS	DRAWING No.	REV
PRELIMINARY	340568 - G1	A



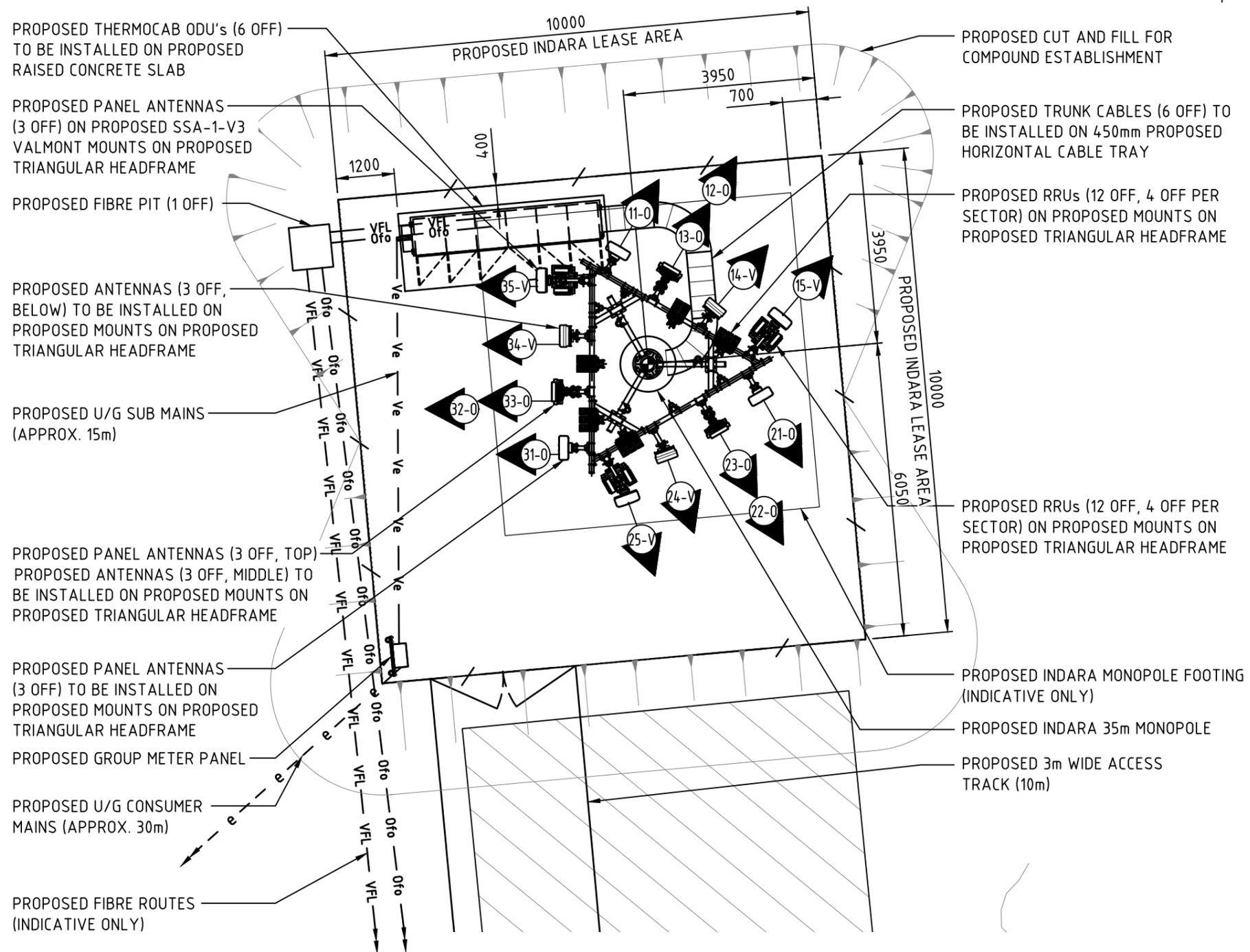
LEGEND:

- e --- e --- UNDERGROUND ELECTRICAL
- Ve — Ve — UNDERGROUND ELECTRICAL
- VFL — VFL — FIBRE LINK
- Of0 — Of0 — FIBRE LINK

LEGEND:

- ⬆ ID ⬆ PROPOSED, REPLACE, ETC
- ⬆ ID ⬆

DATUM POINT	GDA94 CO-ORDINATES		ZONE	GROUND LEVEL
●	EASTING	351 417	55	A.H.D RL. 84.00m EL 0.0m
	NORTHING	5 822 209		
	LATITUDE	-37.73535°		
	LONGITUDE	145.31376°		



SITE SETOUT PLAN

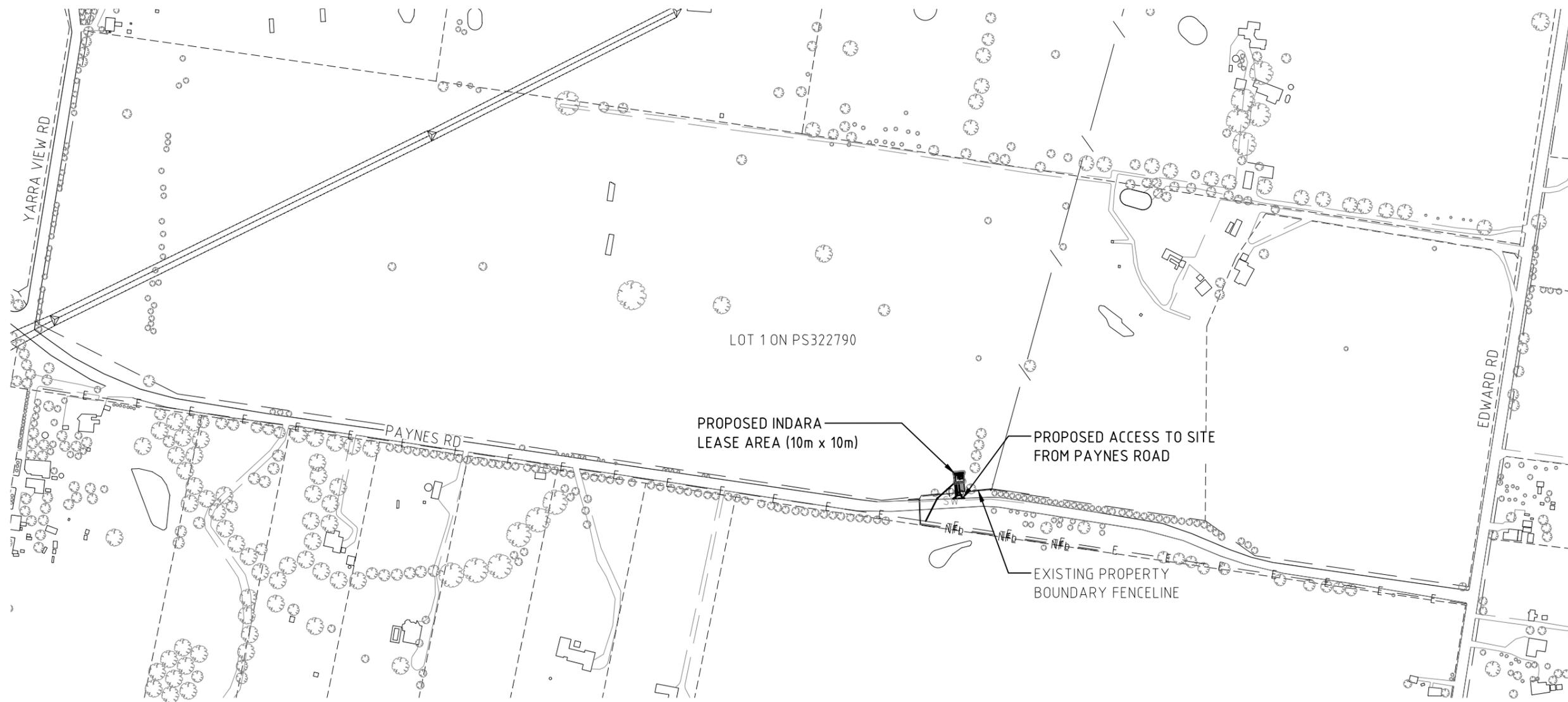
SCALE 1:100

Page 66

JOINT VENTURE NO:		JM5050	
TITLE SITE SETOUT PLAN			
DRAWING STATUS	DRAWING No.	REV	
PRELIMINARY	340568 - G2	A	

A	17.01.23	PRELIMINARY (GREENFIELD EJV - AXICOM)	INDARA	SRB	-	PM
REV	DATE	REVISION DESCRIPTION	VENDOR	DRAWN	DESIGNED	APPRD

	SITE NUMBER 340568 CHIRNSIDE NORTH 275A EDWARD ROAD CHIRNSIDE PARK, VIC 3116	GREENFIELD eJV - AXICOM
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LEASE PLAN

SCALE 1:5000

REV	DATE	REVISION DESCRIPTION	VENDOR	DRAWN	DESIGNED	APPRD
A	17.01.23	PRELIMINARY (GREENFIELD EJ - AXICOM)	INDARA	SRB	-	PM



SITE NUMBER 340568
 CHIRNSIDE NORTH
 275A EDWARD ROAD
 CHIRNSIDE PARK, VIC 3116

GREENFIELD eJV - AXICOM

JOINT VENTURE NO:		JM5050
TITLE LEASE PLAN		
DRAWING STATUS	DRAWING No.	REV
PRELIMINARY	340568 - L1	A

Development Application for Planning Consent

*Proposed New Telecommunications Facility
275 Edward Road
Chirnside Park VIC 3116
Lot 1 PS322790V*

Town Planning Report

Project Reference: 340568 Chirnside North
RFNSA Reference: 3116009

January 2023

ADVERTISED

Document Control

Site Reference: 340568 Chirnside North				
Document Revision	Date	Revision Details	Document Author	Document Reviewer
1	17/01/2023	Final Report	Daniel Prior	Matthew Johnson

Document Prepared by
Axicom Pty Ltd Daniel Prior Level 1, 110 Pacific Highway St Leonards NSW 2065 Phone: Email: daniel.prior@indara.com

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Executive Summary

Site Information	<p>Lot description: Lot 1 PS322790V Physical address: 275 Edward Road Chirnside Park VIC 3116 Coordinates: -37.73535, 145.31376</p>
Proposal	<p>Axicom are seeking a development permit for Use and Development of a new Telecommunications Facility at 275 Edward Road Chirnside Park VIC 3116 (Lot 1 PS322790V).</p> <p>The proposed facility will be owned by Axicom Pty Ltd (trading as Indara) and host Vodafone and Optus telecommunications equipment, providing 3G, 4G and 5G services to Chirnside Park.</p> <p>The proposal involves:</p> <ul style="list-style-type: none"> • One (1) 35m Indara monopole • One (1) new antenna headframe supporting the following equipment: • Fifteen (15) new panel antennas; • One (1) outdoor equipment cabinet at ground level; • Cut and fill to establish the proposed compound; • Installation of a new crossover, culvert and access track; • Ancillary equipment associated with operation and safety of the facility, including remote radio units, elevated cable tray, cabling and antenna mounts, group meter panel, security fencing with 3m wide double access gate etc. <p>The facility will be located within a fenced compound. The monopole and associated equipment will be finished in a pale grey, while the equipment cabinet will be a pale eucalypt or beige colour.</p>
Purpose	<p>Axicom Pty Ltd (trading as Indara), with Vodafone and Optus, are proposing a new telecommunications facility at Chirnside Park. The new facility will provide improved mobile and data services to Vodafone and Optus customers in the surrounding area.</p> <p>The facility has been designed as a neutral host facility, capable of supporting co-location by other carriers, government entities and wireless service providers.</p>
Planning Considerations	<p>LGA: Yarra Ranges Council Zoning: GWZ4 - Green Wedge Zone (Schedule 4) Overlays: Significant Landscape Overlay (Schedule 6 and Schedule 2) Environmental Significance Overlay (Schedule 1) Land Subject to Inundation Overlay Erosion Management Overlay</p>
Applicant	<p>Axicom Pty Ltd Level 1, 110 Pacific Highway St Leonards NSW 2065</p> <p>Contact Person: Daniel Prior Email: Daniel.prior@indara.com Our Reference: 340568 Chirnside North</p>

1. Introduction

Axicom Pty Ltd (trading as Indara) are seeking development consent for a new telecommunications facility at 275 Edward Road Chirnside Park VIC 3116 (Lot 1 PS322790V).

The new facility will be comprised of a 35m monopole supporting Vodafone and Optus telecommunications antennas and equipment. The purpose of the project is to significantly improve Vodafone and Optus mobile telecommunications services, including coverage and network capacity, in the Chirnside Park area.

This Town Planning Report provides an assessment of the project against relevant planning controls.

2. Background

2.1 Indara, Vodafone and Optus

This development application has been prepared and submitted by Indara. Indara are Australia's leading independent owner and provider of shared wireless telecommunications infrastructure, with a portfolio of over 4300 telecommunications sites across Australia.

Indara operate as a neutral host. Indara's facilities are specifically designed to accommodate co-location by Australia's mobile carriers, government agencies and other wireless services providers.

Vodafone are currently undertaking a significant expansion of their national mobile network across Australia, both to improve existing 4G services and establish 5G services. Indara are working with Vodafone to deploy new infrastructure across Australia.

This proposed facility is being deployed as part of Vodafone and Optus' Extended Joint Venture program, meaning it will provide both Vodafone and Optus services. The proposed facility is comprised of a new monopole and associated passive infrastructure, which will be owned and managed by Indara, and active infrastructure (antennas and telecommunications equipment) which will be owned and managed by Vodafone and Optus respectively.

Note that Indara were formerly known as Axicom. For legal purposes, the applicant for this development application is Axicom Pty Ltd (Axicom).

2.2 Demand for Network Services

Access to high quality telecommunications services is vitally important to the community. Mobile usage continues to trend upward.

- 99% of Australians use a mobile phone; 76% of Australians do not have a landline phone and rely exclusively on a mobile phone¹.
- Mobile data usage continues to significantly increase as the network is used in different ways. Between 2020 and 2021, the amount of data downloaded by phone increased by over 29%². In the first quarter of 2022, global mobile data usage grew by 40%³. Streaming and video calling are major drivers of this increased demand.
- Covid-19 significantly changed the way that Australians live and work – 61% of employed Australians worked online from home in 2021⁴. With many Australians continuing to adopt flexible or hybrid work arrangements, additional demand has been placed on the mobile network.
- Public safety is a significant driver behind improvements to mobile coverage. In 2021, around 78% of emergency calls were made from a mobile handset⁵.

More than ever, mobile telecommunications are an essential service. By extension, mobile base stations are essential infrastructure – it is important that mobile infrastructure keeps pace with this increasing demand.

¹ <https://www.acma.gov.au/publications/2021-12/report/communications-and-media-australia-how-we-communicate>

² <https://www.acma.gov.au/publications/2021-12/report/communications-and-media-australia-how-we-use-internet>

³ <https://www.ericsson.com/en/reports-and-papers/mobility-report/dataforecasts/mobile-traffic-update>

⁴ <https://www.acma.gov.au/publications/2021-12/report/communications-and-media-australia-trends-and-developments-telecommunications-2020-21>

⁵ <https://www.triplezero.gov.au/triple-zero/How-to-Call-000/advanced-mobile-location>

If new base stations are not deployed, users may have difficulty connecting to the mobile network or experience call dropouts, especially indoors. Users may also experience slow data speeds, longer download times and poor network performance at peak times.

Coverage Objectives

The new facility is proposed specifically to improve mobile services in Chirnside Park.

As with many locations in outer Melbourne, the Yarra Ranges LGA is seeing unprecedented residential growth and development. Chirnside Park, in particular, is expected to see its population grow from 30,140 to 36992 by 2031, an increase of approximately 23%.

The Yarra Ranges Precinct D: Chirnside Park and Mooroolbark Precinct Strategy identifies Chirnside Park as one of the area's best suited to accommodate this future residential growth, primarily from an influx of people leaving Melbourne, as well as the formation of new households from within the existing community.

A particular focus for this new facility is to service the rural residential interface, north of the main township area, by providing improved mobile services to residents and businesses within this area catering for both current demand, and future demand as the area develops further.

While there are existing base stations in area surrounding Chirnside Park, these are generally too far away, poorly positioned or otherwise limited from a technical perspective; they are unable to provide the required network quality and capacity needed to accommodate existing and future residents and businesses in the area. With the population and development density of the Chirnside Park area expanding quickly, there is a significant social, economic and safety impetus to improve mobile coverage and network capacity in this location.

3. Candidate Selection

3.1 Site Selection

Before proposing a new base station, mobile carriers will attempt to resolve service issues by reconfiguring or upgrading existing base stations. If upgrades do not resolve service issues, the carrier will consider any opportunities to co-locate on an existing mobile facility, building or other structure.

If there are no feasible co-location opportunities, the carrier will proceed to deploy a new 'greenfield' base station.

This facility is proposed in partnership with Vodafone and Optus, who have confirmed a new telecommunications facility will be needed in Chirnside Park and are working with Indara to deploy the new facility.

3.2 Upgrade and Co-Location Opportunities

Existing telecommunications facilities in the area have been assessed to confirm if they are feasible for co-location.

Figure 1 shows the location of existing facilities in the area around this proposed site, based on information from the Radio Frequency National Site Archive database (www.rfnsa.com.au). None of the existing sites in the area are suitable for co-location.



Figure 1: Existing Communications Facilities in Chirnside Park (Nearmap).

Existing and Proposed Communications Facilities		
RFNSA Details	Site Address	Comments
3116006 NBN Co	285 Edward Road Chirnside Park VIC 3116	<p>Closest existing NBN facility to the target coverage area. Facility is a 50m lattice tower hosting NBN equipment, approximately 750m north of the proposed Indara facility.</p> <p>Because of this facility's northerly position, it cannot adequately service the rural residential interface to the south. As such, Vodafone and Optus have identified that an additional base station is needed specifically servicing the Chirnside Park area to the south.</p>
3140011 Telstra	130-132 Victoria Road Lilydale VIC 3140	<p>Existing Telstra facility located to the northeast of the target coverage area. The facility at this location consists of a 35m monopole.</p> <p>Because of this facility's north-easterly position, it cannot adequately service the area of Chirnside Park to the southwest. Vodafone and Optus have identified that an additional base station is needed specifically servicing the Chirnside Park area to the southwest of this location.</p>

<p>3116001 Telstra</p>	<p>Chirnside Park Country Club Kingswood Drive Chirnside Park VIC 3116</p>	<p>Existing Telstra facility located to the southeast of the target coverage area. The facility at this location consists of a rooftop installation on the Chirnside Park Country Club. Indara is of the understanding that Council is currently assessing a Planning Permit application by Visionstream on behalf of Amplitel for the installation of a new 30m monopole due to a requirement to relocate the existing rooftop facility.</p> <p>Because of this facility's south-easterly position, it cannot adequately service the area of Chirnside Park to the northwest. Vodafone and Optus have identified that an additional base station is needed specifically servicing the Chirnside Park area to the northwest of this location.</p>
<p>3116002 Telstra Vodafone Optus</p>	<p>Chirnside Park Shopping Centre 239-241 Maroondah Highway Chirnside Park VIC 3116</p>	<p>Closest existing Vodafone and Optus facility to the target coverage area. The facilities at this location consist of a 18m monopole hosting the Telstra equipment, whilst the Vodafone and Optus equipment are located on the rooftop of the shopping centre.</p> <p>Because of this facility's southerly position, it cannot adequately service the area of Chirnside Park to the north. Additionally, this facility is also servicing its own large catchment of users. Vodafone and Optus have identified that an additional base station is needed specifically servicing the Chirnside Park area to the north of this location.</p>

3.3 Alternate Candidates

Per section 3.2, there are no suitable options for co-location. A new base station is required. A robust investigation of potential candidates has been undertaken.

In identifying a candidate, we have sought to maximise separation from residences and sensitive uses where possible, whilst also endeavouring to minimise impacts on the environment and scenic amenity as far as practicable.

A precautionary approach has been taken to site selection in accordance with sections 4.1 and 4.2 of the *C564:2020 Mobile Base Station Deployment Code*.



Figure 2: Potential candidates (Nearmap).

Prospective Candidates		
Candidate	Site Address	Comments
A	New Monopole 13 Paynes Road Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.

B	New Monopole 235 Edward Road Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.
C	New Monopole 165 Edward Road Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.
D	New Monopole 95 Stanley Street Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.
E	New Monopole 17 Paynes Road Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.
F	New Monopole Chirnside Park CFA Fire Station 79 Edward Road Chirnside Park VIC 3116	New monopole on the boundary of the rural-residential interface, retaining Green Wedge zoning. Given the availability of options in the rural area to the north, that had a similar service outcome but a much greater setback to residential land uses, this option was not pursued.
G	New Monopole 19 Stanley Street Chirnside Park VIC 3116	New monopole near the boundary of the rural-residential interface, retaining Green Wedge zoning. Given the availability of options in the rural area to the north, that had a similar service outcome but a much greater setback to residential land uses, this option was not pursued.
H	New Monopole 9 Paynes Road Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.
I	New Monopole 110 Anthony Drive Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not

		progressed further.
J	New Monopole 20 Sunset Drive Chirnside Park VIC 3116	Contact with the landowner was not able to be established in order to enter into a lease agreement for the proposed facility, as such, this candidate was not progressed further.
K	New Monopole 45 Stanley Street Chirnside Park VIC 3116	New monopole near the boundary of the rural-residential interface, retaining Green Wedge zoning. Given the availability of options in the rural area to the north, that had a similar service outcome but a much greater setback to residential land uses, this option was not pursued.
L	New monopole 80 Anthony Drive Chirnside Park VIC 3116	New monopole closer to the more developed residential areas of Chirnside Park, retaining Green Wedge zoning. Given the availability of options in the rural area to the north, that had a similar service outcome but a much greater setback to residential land uses, this option was not pursued.
M	New Monopole 275 Edward Road Chirnside Park VIC 3116	New monopole on rural paddock located north of Chirnside Park, retaining a Green Wedge zoning. The candidate was considered favourable from a service perspective, as well as having good separation from surrounding land uses. Additionally, the proposal is considered to have a minor environmental impact, as the proposal does not involve the removal of any vegetation, except for some of the grass in the paddock to establish the proposed compound and access track. Accordingly, this candidate was chosen as Indara's prime candidate and is the subject of this application.

4. Site Context

The proposal involves establishment of a new telecommunications facility at 275 Edward Road Chirnside Park VIC 3116.

The proposed facility will host both Vodafone and Optus equipment and will provide telecommunications services to residential and commercial customers located in the rural-residential interface of Chirnside Park, north of the main township area, for both carriers.

The site is located on a large lot retaining GWZ4 Green Wedge Zone - Schedule 4 under the Yarra Ranges Planning Scheme. The property is a rural paddock, that has been historically cleared of native vegetation, except for a few scattered trees across the property.

The proposed facility is located near the southern boundary of the subject property, approximately 580m west of Edward Road and setback approximately 10m from Paynes Road.

The surrounding locality consists predominantly of large lot rural properties in all directions around the proposed site location. The closest residences are located approximately 380m to the northeast and southwest, at 275 Edward Rd and 5 Paynes Rd respectively.

Figures 3 to 5 show the proposed site.

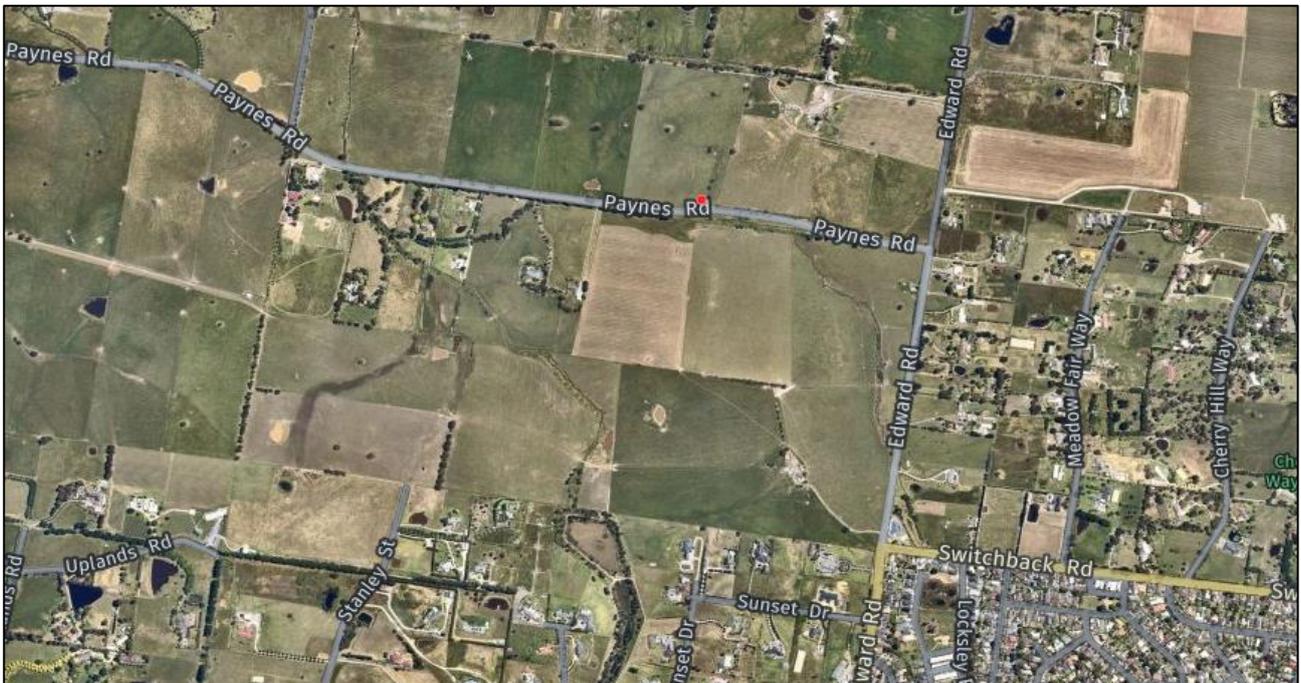


Figure 3: Site context. The proposed facility is located within a rural paddock, as outlined in red, within a wider rural area. The facility has been deliberately sited in this area in preference to sites closer to the established housing further to the south (Nearmap).

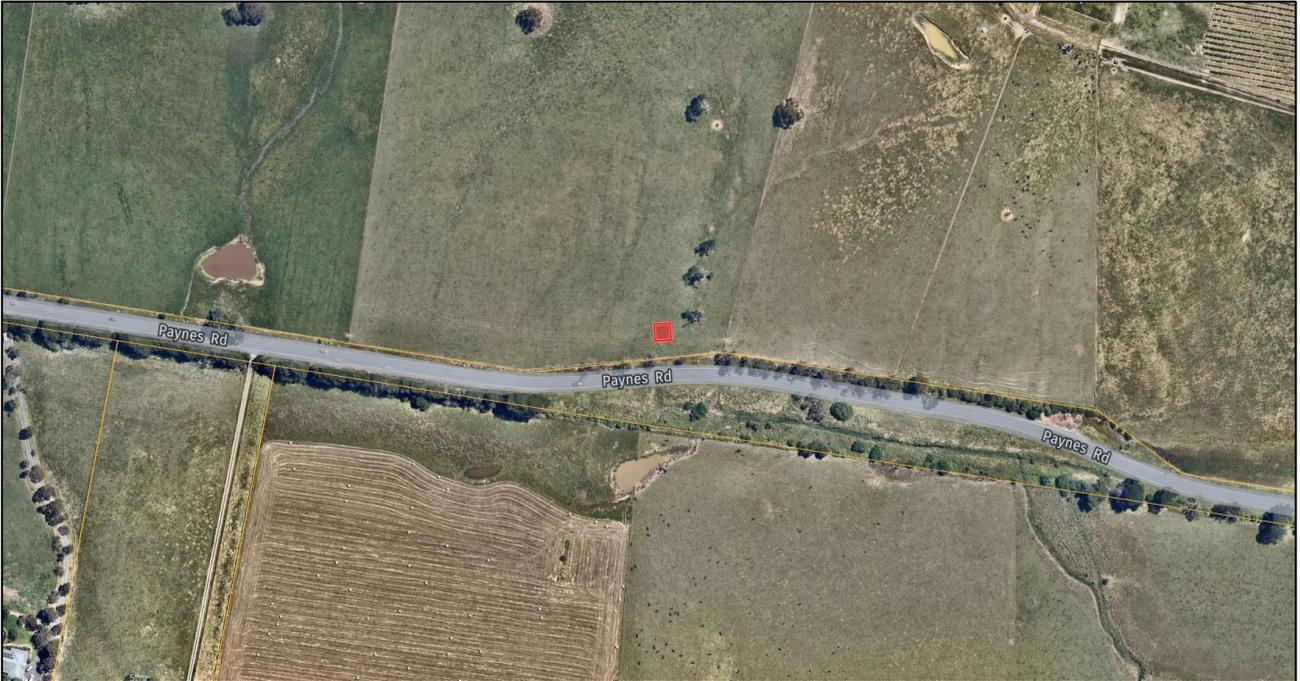


Figure 4: Site context. The proposed facility is located, as outlined in red, near the southern boundary of the subject property, approximately 580m west of Edward Road and setback approximately 10m from Paynes Road, as shown in red (Nearmap).



Figure 5: View of the approximate compound location, as shown in red, when viewed from Paynes Road (Field Investigation, 20 August 2022).

5. Proposed Works

5.1 Equipment to be Installed

The proposed works involve installation of:

- One (1) new 35m Indara monopole, finished in unpainted grey colour.
- Installation of a triangular headframe at the top of the new monopole.
- Vodafone and Optus telecommunications equipment on the pole and within the compound, including:
 - Three (3) 4G panel antennas, each up to 2.8m in length, mounted on a new headframe.
 - Twelve (12) 5G panel antennas, each up to 1m in length, mounted on the new headframe.
 - One (1) outdoor equipment cabinet, finished in either beige or pale eucalypt green, mounted at ground level at the base of the pole.
 - Ancillary equipment associated with operation and safety of the facility, including remote radio units, cabling and safety equipment etc.
 - Installation of a new gravel 3m wide access track and gate, 7m wide crossover and 5m wide culvert and end walls to access the facility from Paynes Road.
 - Cut and fill will be required to level the site and establish the proposed compound.

The overall height of the facility, including antennas and equipment, will not exceed 38.8m above ground level. The facility will be located within a fenced 10m x 10m compound, enclosed by a 2.4m tall chain-link security fence.

Refer **Appendix 2** for proposal plans.

5.2 Site Access and Parking

The property can be accessed via a new crossover and gate off Paynes Road. The new crossover and culvert are proposed to be installed in accordance with local Council design guidelines. A new gravel access track of approximately 10m is required to the proposed compound.

Once constructed, the facility will operate on an unmanned basis aside from periodic routine maintenance visits (generally 2-4 times annually). The facility will not generate significant vehicle traffic through its ongoing operation.

5.3 Noise

The facility will not be a significant generator of noise. The only part of the facility that generates noise is the cooling fans on the equipment cabinet.

Cooling equipment will only operate when required and will not operate continuously. Cooling equipment will operate at levels generally comparable to those of a domestic air conditioner. The project is not expected to represent a noise nuisance, noting the site is located approximately 380m from the nearest residences.

5.4 Power and Utilities

The proposal will include installation of underground power and fibre infrastructure, via trench. No works associated with stormwater drainage, or connections to reticulated water and sewerage, are proposed or required.

5.5 Emissions

Operation of the facility will not result in emission of dust, heat, smoke, gaseous plumes or particulates, nor result in the generation of any waste once the facility is operational.

To provide mobile coverage, the facility will produce electromagnetic EME emissions. These will be within the levels prescribed by ARPANSA and regulated by ACMA. An ARPANSA EME Report, demonstrating compliance with Australian safety standards, is attached. Refer Section 8 of this report.

5.6 Environmental Considerations

The subject site is located inside an established rural paddock, which has been historically cleared of native vegetation, except for a few scattered trees across the property. The proposed site has been positioned to the southeast, in a cleared area of the lot, as shown in **Figures 4 and 5**.

The proposed works are located outside the drip line of all the surrounding trees and does not require the pruning or removal of any vegetation remaining on the site, except for the exotic grasses to establish the proposed compound. As such, the proposal is considered to have a minor environmental impact.

5.7 Heritage

The subject lot is not heritage listed and searches indicate no record of European nor aboriginal artefacts or sensitivity. Should any artefacts be identified during build, works will cease, and the appropriate investigations undertaken.

5.8 Aviation

The proposed facility is not expected to have any impact on aviation safety. The facility is not within 30km of an airport or aerodrome and does not penetrate any Obstacle Limitation Surfaces. No specific aviation safety measures, such as lighting or obstacle paintwork, are proposed.

6. Legislative Context

6.1 Commonwealth Legislation

6.1.1 Telecommunications Act 1997 and Telecommunications (Low-Impact Facilities) Determination 2018

The *Telecommunications Act 1997* allows mobile carriers to perform certain maintenance and installation works without needing development consent. The *Telecommunications (Low-Impact Facilities) Determination 2018* also allows for certain kinds of 'Low Impact' equipment to be installed without development consent.

New towers do not fall within these federal planning exemptions. Accordingly, this proposal will require Council approval.

6.1.2 Telecommunications Code of Practice 2018

The *Telecommunications Code of Practice 2018* emphasizes “best practice” for the installation of facilities, compliance with industry standards and minimisation of adverse impacts on the environment.

This proposal has been designed with consideration for the Code of Practice. All steps will be taken to do as little damage as practicable; the facility will be constructed and operated in accordance with industry standards and good engineering practice; and the design of the facility will be in accordance with industry best practice.

6.1.3 C564:2020 Mobile Phone Base Station Deployment Code

The Communications Alliance Limited *C564:2020 Mobile Phone Base Station Deployment Code* (the Deployment Code) is an industry code of practice registered by the Australian Communications and Media Authority.

The Code applies to all licenced telecommunications carriers, and sets guidelines for site selection, community consultation, design, installation and operation of telecommunications facilities.

Sections 4.1 and 4.2 of the Code are relevant to this proposal, and require a precautionary approach to site selection, infrastructure design and site operation. The proposed facility has been sited and designed in accordance with Sections 4.1 and 4.2. Checklists demonstrating compliance can be provided on request.

The Code also requires an ARPANSA EME report be prepared for all new mobile base stations, to demonstrate compliance with relevant safety standards. The report is enclosed in **Appendix 3**.

6.2 Yarra Ranges Planning Scheme

6.2.1 Clause 19.03 Development Infrastructure

The Victoria Planning Provisions (VPPs) are a comprehensive set of planning provisions that apply across the state of Victoria and are incorporated into all planning schemes. The VPPs recognise the importance of telecommunications networks to Victoria, while also identifying that deployment of telecommunications infrastructure must be balanced against adverse environmental impacts.

Clause 19.03-4S provides guidelines for Councils to consider in relation to deployment of telecommunications facilities. The proposal is generally compliant.

Compliance with 19.03-4S Telecommunications	
Objective	Comments
To facilitate the orderly development, extension and maintenance of telecommunications infrastructure.	Complies. This proposal is for the orderly development of a new telecommunications facility and will provide additional capacity for Vodafone and Optus mobile and data services to residential and commercial customers in Chirnside Park.
Strategies	Comments
Facilitate the upgrading and maintenance of telecommunications facilities.	Not applicable. The proposal is for a new telecommunications facility.
Ensure that modern telecommunications facilities are widely accessible and that the telecommunications needs of business, domestic, entertainment and community services are met.	Complies. The proposal will provide improved Vodafone and Optus 4G and establish 5G mobile and data services to residential and commercial customers in Chirnside Park.

6.2.2 Zone Provisions

The site is zoned GWZ4 Green Wedge Zone - Schedule 4 and is generally compliant with the purposes of the zone.

Compliance with 35.04 Green Wedge Zone	
Purpose	Comments
To implement the Municipal Planning Strategy and the Planning Policy Framework.	Not applicable. This purpose relates more to Council decision making, rather than the proposal.
To provide for the use of land for agriculture.	Complies. Given the small scale of the proposed development, it is not anticipated to adversely impact the use of land for agricultural purposes, however, it will provide essential supporting mobile and data services for agribusinesses that are operating in the surrounding area.

<p>To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.</p>	<p>Complies. Indara have sought to minimise environmental impacts as far as practical, by locating the proposed facility within a cleared area of the subject lot, which does not require the removal of any vegetation.</p> <p>Given the small scale of the proposed development, it is not anticipated that the proposal will adversely impact the zone's objectives to protect and conserve green wedge land for agricultural, tourism or recreational opportunities. However, it will provide essential supporting mobile and data services to these businesses operating in the surrounding area.</p> <p>As noted in Section 5.7, the subject lot is not identified as holding any Aboriginal or European historical or heritage significance. Neither will the proposal impact on any mineral or stone resources.</p> <p>Regarding landscape opportunities, the facility has been located to minimise amenity impacts as far as practical. The facility is located approximately 380m from the nearest residences. As such, the facility is not considered to be a visual focal point.</p> <p>The top of the monopole and headframe will protrude above the landscape and will be visible from vantage points within the locality. We note this is a technical requirement, as telecommunications facilities, by their nature, must be tall enough in order to function - however, the amenity impact of the proposal is considered to be appropriate in context.</p>
<p>To encourage use and development that is consistent with sustainable land management practices.</p>	<p>Not applicable to this proposal.</p>
<p>To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.</p>	<p>Not applicable to this proposal.</p>
<p>To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.</p>	<p>Complies as far as practical. As noted in Section 5.7, the subject lot is not identified as holding any Aboriginal or European historical or heritage significance.</p> <p>Regarding the character of open rural and scenic non-urban landscapes, the proposal is not considered to adversely impact the character of these landscapes, given the small scale of the proposed development.</p>

	<p>The proposed facility has been positioned to provide as much separation from the surrounding residential land uses as practical, whilst still being able to meet the target coverage objectives of Vodafone and Optus</p> <p>The skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in Figure 6, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the area.</p> <p>As noted previously, the facility is located approximately 380m from the nearest residences and is not considered to be a visual focal point. While the top of the monopole and headframe will protrude above the landscape and will be visible from vantage points within the locality, we note this is a technical requirement, as telecommunications facilities, by their nature, must be tall enough in order to function - however, the amenity impact of the proposal is considered to be appropriate in context.</p>
To protect and enhance the biodiversity of the area.	Complies. The proposal is considered to have a minor impact on biodiversity, noting the land has been historically cleared of native vegetation. The proposal does not involve the removal of any vegetation, except for some of the grass in the paddock to establish the proposed compound and access track.
Schedule 4	Comments
Earthworks which change the rate of flow or the discharge point of water across a property boundary.	Complies. Given the small scale of the development, the proposal is not considered to have an adverse impact on the rate of flow or the discharge point of water across a property boundary, nor increase the discharge of saline groundwater.
Earthworks which increase the discharge of saline groundwater.	

6.2.3 Clause 52.19 Telecommunications Facility

This application seeks approval for the Use and Development of a Telecommunications Facility. Clause 52.19 provides specific requirements for new telecommunications facilities and provides that certain kinds of telecommunications infrastructure do not require development consent.

Clause 52.19 Telecommunications Facility	
Objective	Comments
To ensure that telecommunications infrastructure is provided in an efficient and cost-effective manner to meet community needs.	Complies. The proposal will provide improved Vodafone and Optus 4G and establish 5G mobile and data services to residential and commercial customers in Chirnside Park.
To facilitate an effective statewide telecommunications network consistent with orderly and proper planning.	
To support the provision of telecommunications facilities with minimal impact on the amenity of the area.	<p>Complies as far as practical. The proposed facility has been positioned to provide as much separation from the surrounding residential land uses as practical, whilst still being able to meet the target coverage objectives of Vodafone and Optus.</p> <p>The proposed facility has been positioned to provide as much separation from the surrounding residential land uses as practical, whilst still being able to meet the target coverage objectives of Vodafone and Optus</p> <p>The skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in Figure 6, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the area.</p> <p>As noted previously, the facility is located approximately 380m from the nearest residences and is not considered to be a visual focal point. While the top of the monopole and headframe will protrude above the landscape and will be visible from vantage points within the locality, we note this is a technical requirement, as telecommunications facilities, by their nature, must be tall enough in order to function - however, the amenity impact of the proposal is considered to be appropriate in context.</p> <p>Notwithstanding, certain measures have been taken to ensure that visual impact is mitigated as much as practicable. Refer to Section 7 for further information on visual impact.</p>

6.2.4 Overlays

Significant Landscape Overlay

42.03 Significant Landscape Overlay	
Purpose	Comments
To implement the Municipal Planning Strategy and the Planning Policy Framework.	Not applicable. This purpose relates more to Council decision making, rather than the proposal.
To identify significant landscapes.	Not applicable. This purpose relates more to Council decision making, rather than the proposal.
To conserve and enhance the character of significant landscapes.	<p>Complies as far as practical. The proposed facility has been positioned to provide as much separation from the surrounding residential land uses as practical, whilst still being able to meet the target coverage objectives of Vodafone and Optus</p> <p>The skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in Figure 6, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the area.</p> <p>As noted previously, the facility is located approximately 380m from the nearest residences and is not considered to be a visual focal point. While the top of the monopole and headframe will protrude above the landscape and will be visible from vantage points within the locality, we note this is a technical requirement, as telecommunications facilities, by their nature, must be tall enough in order to function - however, the amenity impact of the proposal is considered to be appropriate in its context.</p> <p>We note that all the potential candidates identified in Section 3.3 of this Town Planning Report are located within land subject to the Significant Landscape Overlay. As such, regardless of which location was chosen, it would not have been possible to completely avoid impacting on areas that Council considers to be</p>

	<p>significant landscapes.</p> <p>Of the 13 potential candidates, a facility at 275 Edward Road Chirnside Park, was best positioned to satisfy Vodafone and Optus' coverage objectives for residential and commercial customers in Chirnside Park, whilst any amenity impacts of the proposal were considered appropriate in context. This location represents a considerably superior option to siting the facility closer to the residential areas to the south.</p> <p>Notwithstanding, certain measures have been taken to ensure that visual impact is mitigated as much as practicable. Refer to Section 7 for further information on visual impact.</p>
Schedule 2	Comments
To maintain a broad open rural landscape in which buildings are inconspicuous elements.	Not applicable. The proposal is not a building.
To allow middle and long distance views from the valley to the surrounding ranges.	<p>Complies. Due to the small scale of the development, the proposal is not considered to have an adverse impact on middle and long distance views from the valley to the surrounding ranges.</p> <p>The skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in Figure 6, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the local area.</p>
To ensure that the siting and design of new buildings complements their setting and reinforces the open rural landscape character of the area.	Not applicable. The proposal is not a building.
To retain the pattern of development with occasional clusters of building and infrastructure located well away from roads.	Complies as far as practical. The facility has been positioned near the southern boundary of the lot, in a location that does not impact the landowner's future objectives for the property. Additionally, this is also an area that was easily accessible for ongoing maintenance.

<p>To retain established trees and patches of indigenous vegetation as an important element of the rural landscape.</p>	<p>Complies. The proposal does not involve the removal of any vegetation, except for some of the grass in the paddock to establish the proposed compound and access track.</p>
<p>Schedule 6</p>	<p>Comments</p>
<p>To maintain a comparatively open rural landscape of farmland and bushland patches in which houses, farm buildings and tourist facilities are generally inconspicuous.</p>	<p>Complies. Due to the small scale of the development, the proposal is not considered to result in the intensification of development within the landscape.</p> <p>As noted previously, the skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in Figure 6, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the local area.</p>
<p>To ensure that the siting and design of new buildings complements their setting and reinforces the rural landscape character of the area.</p>	<p>Not applicable. The proposal is not a building.</p>
<p>To retain established trees and patches of indigenous vegetation as an important element of the rural landscape and habitat for wildlife.</p>	<p>Complies. The proposal does not involve the removal of any vegetation, except for some of the grass in the paddock to establish the proposed compound and access track.</p>
<p>To allow middle and long distance views from the valley to the surrounding ranges.</p>	<p>Complies. Due to the small scale of the development, the proposal is not considered to have an adverse impact on middle and long distance views from the valley to the surrounding ranges.</p>
<p>To maintain the appearance of an uninterrupted forested backdrop to views.</p>	<p>Complies. The proposal will not interrupt the forested backdrop to views.</p> <p>As noted previously, the skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in Figure 6, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed</p>

	monopole will be out of scale, context or character for the local area.
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Environmental Significance Overlay

While parts of the lot are identified as having an Environmental Significance Overlay, the subject site location does not, as such, the provisions of this overlay have not been covered in this report.

Land Subject to Inundation Overlay

While parts of the lot are identified as having a Land Subject to Inundation Overlay, the subject site location does not, as such, the provisions of this overlay have not been covered in this report.

Erosion Management Overlay

While parts of the lot are identified as having an Erosion Management Overlay, the subject site location does not, as such, the provisions of this overlay have not been covered in this report.

7. Visual Impact

Telecommunications facilities, by their nature, must be tall enough to protrude above the surrounding environment to function. Indara acknowledge the proposed facility will be visible from a number of perspectives within the area – however, the visual impact of this proposal is considered appropriate in this context.

The skylines of rural landscapes across Australia are often interspersed with tall vertical elements, such as high voltage towers, light poles and telecommunications facilities. As shown in **Figure 6**, there are existing high voltage towers, which are already an established feature within the landscape. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the area.

Additionally, certain measures have been taken to ensure that visual impact is mitigated as much as practicable, these include:

- Use of a monopole is proposed. Monopoles are considered to be a sympathetic inclusion to the environment when compared to other structure types, such as lattice towers, because of their slimmer profile.
- To minimize visual bulk, Vodafone and Optus antennas will be mounted on a single headframe, reducing visual impact compared with separate headframes at different heights.
- Indara has sought to minimise amenity impacts as far as possible by locating the proposed facility on large rural lot, north of the main township area, which will minimise amenity impacts from surrounding perspectives as far as practical - the nearest residences are located approximately 380m from the proposed facility location. At this distance, the proposed facility is not considered to be a focal point and will be of a similar scale to other utility infrastructure within the landscape.
- The facility will be finished in a pale grey, which is considered to be the most sympathetic finish with regards to blending into the natural landscape in all weathers. It will also match other existing vertical elements in the area, such as the existing high voltage towers, light and utility poles, as shown in **Figure 6**, which are present across many rural landscapes. However, Indara will consider an alternate colour scheme if requested by Council.

At this location, a 35m monopole is required, we note this is a technical requirement to meet the targeted coverage objectives for both Vodafone and Optus. Indara note that this proposal

represents a suitable planning outcome because it avoids proliferation of telecommunications infrastructure in this area. Indara, as a neutral host, design and construct telecommunications facilities with the ability to facilitate co-location. The proposed facility will support two carriers initially and has been designed to accommodate additional mobile carriers, government agencies and other wireless services providers, as required, at a future time.

Overall, the proposed facility is not considered to have an adverse visual impact.



Figure 6: Existing high voltage towers in surrounding landscape (Field Investigation, 20 August 2022).

Views from the North

The land to the north of the proposed site location consists predominantly of agricultural land, with rural properties interspersed throughout the landscape.

Due to the undulating terrain and geographic separation from these properties, the proposed facility is not considered to be a focal point in the landscape from this aspect, nor is the facility expected to impact the use and enjoyment of resident's backyards or recreation areas.

Furthermore, the high voltage towers traversing across the landscape are an established feature of the landscape in this area. As such, it is not anticipated that the proposed monopole will be out of scale, context or character for the locality. Refer **Figures 7 and 8**.



Figure 7: View towards the proposed facility location from near the corner of Edward Road and the driveway to 345 Edward Road (Google Earth).



Figure 8: View towards the proposed facility location from near the corner of Edward Road and the adjacent high voltage tower adjacent to the road (Google Earth).

Views from the East

As with views from the north, the proposal is not anticipated to have an adverse impact on amenity from the east, due to the undulating terrain and geographic separation from these properties, the proposed facility is not considered to be a focal point in the landscape from this aspect, nor is the facility expected to impact the use and enjoyment of resident's backyards or recreation areas.

The existing street plantings, as well as the existing utility infrastructure such as light poles will aid in blending the facility into the landscape.

Refer **Figure 9**.



Figure 9: View towards the proposed facility location from near the corner of Edward Road and Paynes Road (Google Earth).

Views from the South

Views from the south look directly across the valley towards the surrounding ranges, which consist of the Kangaroo Ground South Bushland Reserve, Warrandyte – Kinglake Nature Reserve and Yering Gorge Bushland Reserve. Views from this aspect are considered to be indicative of those

viewed by the majority of residents of the acreage properties. As noted in **Figure 10**, the high voltage towers are a prominent feature in the skyline from this aspect.

Given the significant geographic separation from these residents, distant views of the proposed facility from this aspect are not considered to be intrusive.



Figure 10: View towards the proposed facility location from the end of Stanley Street (Google Earth).

Views from the West

Views from the west along Paynes Road are representative of those experienced by some of the closest neighbouring properties to the proposed facility. As noted in **Figure 11**, the roadside plantings as well as the hedging along the property boundary will aid in breaking up the profile of the tower from these views.

As such, the proposal is not considered to have an adverse amenity impact from this aspect, nor is it expected to impact the use and enjoyment of resident's backyards or recreation areas.



Figure 11: View towards the proposed facility from the West along Paynes Road (Google Earth).

8. Radiofrequency Emissions and Safety

It is the position of the Australian government, and peak health bodies like the World Health Organization (WHO), that mobile base stations are safe.

Statement from Australia's Chief Medical Officer

I'd like to reassure the community that 5G technology is safe. There is no evidence that telecommunication technologies, such as 5G, cause adverse health impacts. This position is supported by health authorities in Australia – such as the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) – and around the world, such as the World Health Organization.

Mobile phone networks and other wireless telecommunications emit low-powered radio waves also known as radiofrequency (RF) electromagnetic energy (EME). This is different to ionising radiation associated with nuclear energy or use in medicine. The radio waves to which the general public is exposed from telecommunications are not hazardous to human health.

<https://www.health.gov.au/news/safety-of-5g-technology>

Australian Government Advice

What do we know about EME? Answer: extensive scientific research confirms that mobile technology has no long or short term health effects; and the Australian Government is focused on capturing the benefits of advanced telecommunications while ensuring strict protections and safety standards are met.

The EME standard set by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) defines the maximum exposure limit for all wireless equipment and is strictly enforced by the Australian Communications and Media Authority (ACMA). Measurements undertaken by carriers and ACMA show that mobile telecommunication sites emit a tiny fraction of maximum EME exposure limits. The exposure limits are themselves very conservative. As such, sites which operate at 100% of the limit are still considered safe.

This standard is informed by decades of quality studies undertaken by expert Australian and international scientists which show the low levels of EME produced by telecommunications equipment have no adverse effects. This includes previous generations of mobile technology, like 3G and 4G, and the higher, more efficient, radio waves used for 5G.

<https://www.infrastructure.gov.au/media-centre/5g-and-electromagnetic-energy>

EME is one of the most heavily studied types of energy in the world. Decades of research shows there is no verifiable evidence that EME from telecommunications facilities pose a negative health risk, especially when emission levels are below the maximum exposure limits set out in the Standard for Limiting Exposure to Radiofrequency Fields – 100 kHz to 300 GHz (the Standard).

<https://www.infrastructure.gov.au/media-technology-communications/spectrum/5g-eme>

All mobile base stations in Australia must comply with a strict safety standard called the *Standard for Limiting Exposure to Radiofrequency Fields – 100 KHz to 300 GHz (RPS S-1)*. The standard has been prepared by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), based on the recommendations of ICNIRP (International Commission for Non-Ionising Radiation Protection).

The Australian Communications and Media Authority (ACMA) regulates compliance with the standard. The safety standard applies to all mobile frequencies currently used in Australia, including 3G, 4G and 5G.

The Standard operates by placing a limit on the strength of the signal (or RF EME) that mobile carriers can transmit to and from any network base station. The environmental standard restricts the signal strength to a level low enough to protect all people at all times. It has a significant safety margin, or precautionary approach, built into it.

An ARPANSA EME report has been prepared to demonstrate compliance with the Australian standard. This report demonstrates the maximum signal strength that a proposed telecommunications facility is capable of producing, assuming it is operating at maximum capacity.

This facility will operate at maximum EME levels representing **1.98%** of the Australian standard. Refer **Appendix 3**.

Note that mobile base stations are designed to operate at minimum, not maximum, power levels at all times. The facility will only operate at a level necessary to accommodate the number of customers using the facility at any one time. Actual EME levels emitted by the facility will generally be much lower than those shown in the ARPANSA EME Report.

9. Conclusion

Indara (Australia Tower Network Pty Ltd), is seeking development consent to install a new telecommunications facility at 275 Edward Road Chirnside Park VIC 3116. The new facility is proposed to improve mobile services in the Chirnside Park area.

The facility has been sited to minimise impact on surrounding land uses as far as practicable, generally accords with planning requirements for the site, and has as small as possible a visual impact.

Given the significant public benefit afforded by the proposal, it is requested that consent be granted to undertake the project.

Appendix 1: Certificate of Title

Appendix 2: Proposal Plans

Appendix 3: ARPANSA EME Report

Environmental EME Report

Location	275A Edward Road, CHIRNSIDE PARK VIC 3116		
Date	13/01/2023	RFNSA No.	3116009

How does this report work?

This report provides a summary of levels of radiofrequency (RF) electromagnetic energy (EME) around the wireless base station at 275A Edward Road, CHIRNSIDE PARK VIC 3116. These levels have been calculated by Indara using methodology developed by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

A document describing how to interpret this report is available at ARPANSA's website:

[A Guide to the Environmental Report.](#)

A snapshot of calculated EME levels at this site

ADVERTISED

There are currently no existing radio systems for this site.

The maximum EME level calculated for the **proposed** changes at this site is

1.98%

out of 100% of the public exposure limit, 223 m from the location.



EME levels with the proposed changes	
Distance from the site	Percentage of the public exposure limit
0-50 m	1.15%
50-100 m	1.41%
100-200 m	1.87%
200-300 m	1.98%
300-400 m	1.58%
400-500 m	0.92%

For additional information please refer to the EME ARPANSA Report annexure for this site which can be found at <http://www.rfnsa.com.au/3116009>.

Radio systems at the site

This base station currently has equipment for transmitting the services listed under the existing configuration. The proposal would modify the base station to include all the services listed under the proposed configuration.

Carrier	Existing		Proposed	
	Systems	Configuration	Systems	Configuration
Vodafone			5G	NR/LTE700 (proposed), NR/LTE850 (proposed), NR/LTE1800 (proposed), NR/LTE2100 (proposed), NR3500 (proposed)
Optus			4G, 5G	LTE700 (proposed), LTE900 (proposed), LTE1800 (proposed),

NR/LTE2100 (proposed),
NR/LTE2600 (proposed), LTE2300
(proposed), NR2300 (proposed),
NR3500 (proposed)

An in-depth look at calculated EME levels at this site

This table provides calculations of RF EME at different distances from the base station for emissions from existing equipment alone and for emissions from existing equipment and proposed equipment combined. All EME levels are relative to 1.5 m above ground and all distances from the site are in 360° circular bands.

Distance from the site	Existing configuration			Proposed configuration		
	Electric field (V/m)	Power density (mW/m ²)	Percentage of the public exposure limit	Electric field (V/m)	Power density (mW/m ²)	Percentage of the public exposure limit
0-50m				5.68	85.56	1.15%
50-100m				6.99	129.46	1.41%
100-200m				7.56	151.63	1.87%
200-300m				7.26	139.99	1.98%
300-400m				6.49	111.62	1.58%
400-500m				4.97	65.61	0.92%

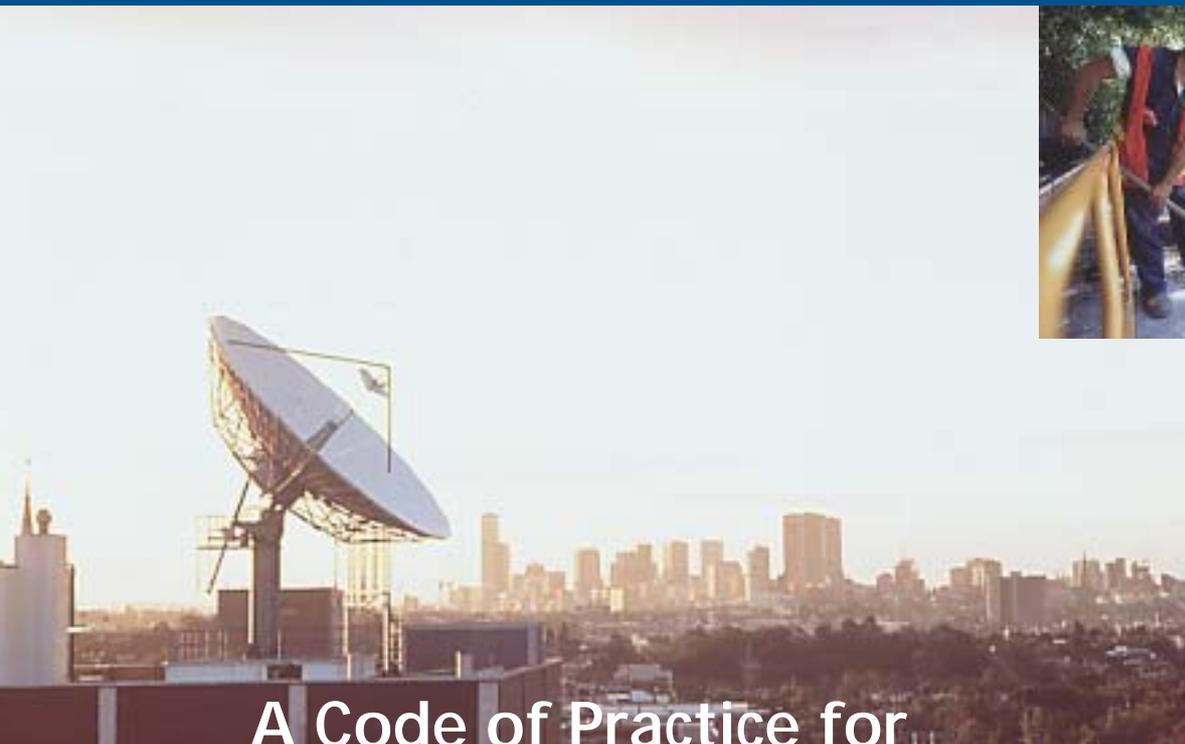
Calculated EME levels at other areas of interest

This table contains calculations of the maximum EME levels at selected areas of interest, identified through consultation requirements of the [Communications Alliance Ltd Deployment Code C564:2020](#) or other means. Calculations are performed over the indicated height range and include all existing and any proposed radio systems for this site.

Maximum cumulative EME level for the proposed configuration

Location	Height range	Electric field (V/m)	Power density (mW/m ²)	Percentage of the public exposure limit
No locations identified				

telecommunications facilities



A Code of Practice for Telecommunications Facilities in Victoria

July 2004

A Code of Practice for
telecommunications
facilities
in Victoria

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Telecommunications facilities

1 The purpose of this code

A *Code of Practice for Telecommunications Facilities in Victoria* is an incorporated document in all planning schemes in Victoria.

The purpose of this code is to:

- Set out the circumstances and requirements under which land may be developed for a telecommunications facility without the need for a planning permit.
- Set out principles for the design, siting, construction and operation of a telecommunications facility which a responsible authority must consider when deciding on an application for a planning permit.

It aims to:

- Ensure that telecommunications infrastructure and services are provided in an efficient and cost effective manner to meet community needs.
- Ensure the application of consistent provisions for telecommunications facilities.
- Encourage an effective statewide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Victoria as set out in section 4 of the *Planning and Environment Act 1987*.
- Encourage the provision of telecommunications facilities with minimal impact on the amenity of the area.

What is a telecommunications facility?

A telecommunications facility is defined in planning schemes as:

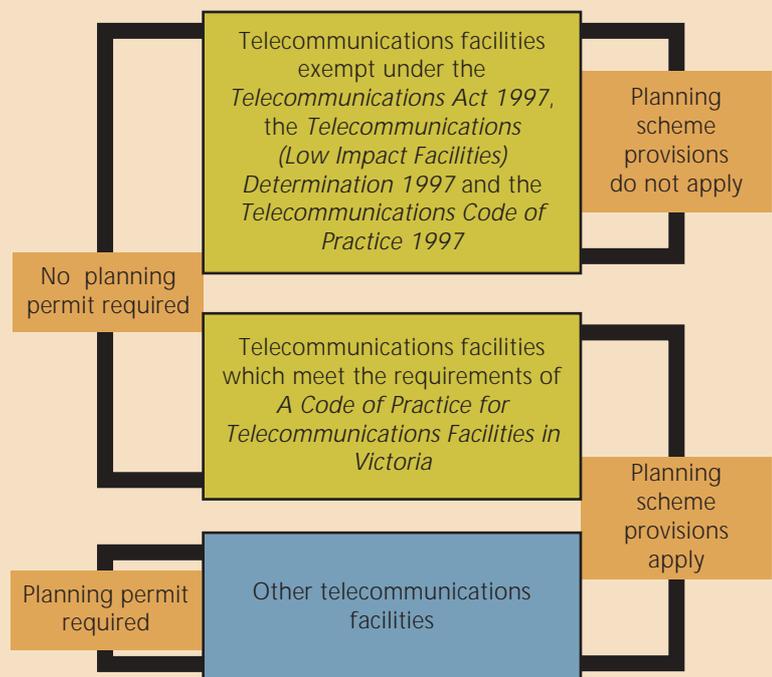
Any part of the infrastructure of a telecommunications network; or any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or for use, in or in connection with a telecommunications network.

2 The relationship between this code, Commonwealth legislation and planning schemes

The Commonwealth *Telecommunications Act 1997*, exempts certain telecommunications facilities from most requirements under State legislation. These facilities are described in the *Telecommunications Act 1997*, the *Telecommunications (Low-impact Facilities) Determination 1997*, and the *Telecommunications Code of Practice 1997*.

Planning schemes also specify a range of telecommunications facilities that do not require a planning permit if the requirements of this code are met. These requirements do not apply to any telecommunications facility already exempt under the Act or the Determination. A telecommunications facility that is not exempt under the Act or the Determination and which does not meet the requirements of this code, requires a planning permit.

Where there is any inconsistency, the Commonwealth legislation prevails.



Notice to landowners

Where a telecommunications facility is exempt from state legislation under the *Telecommunications Act 1997*, that Act requires carriers to give notice to the owner of the land before a facility is constructed.

Where a telecommunications facility is not exempt from state legislation under the *Telecommunications Act 1997* but meets the requirements of this code, carriers will consult and negotiate directly with landowners.

Where a planning permit is required, the relevant provisions of section 52 of the *Planning and Environment Act 1987* apply.

Telecommunications facilities

3 How to use this code

This code must be read in conjunction with the planning scheme which applies to the land on which the telecommunications facility is located.

Clause 52.19 of the planning scheme sets out the requirements which apply to a telecommunications facility. (Appendix). Clause 52.19-2 provides that a permit is required for a telecommunications facility, including any facility described in this code if the requirements of the code are not met.

To determine whether a proposed telecommunications facility may be constructed without the need for a planning permit:

- determine if the type of telecommunications facility proposed corresponds with a description in section 5
- determine whether the listed requirements are met.

If the facility corresponds with a description in section 5 and the relevant requirements are met, no planning permit is required. If the requirements of the code are not met, a permit is required.

Where a permit is not required, carriers should notify the relevant local government authority of any proposed buildings and works associated with telecommunications facilities.

4 Principles for the design, siting, construction and operation of telecommunications facilities

The following four principles must be applied where relevant to the design, siting, construction and operation of any telecommunications facility which is not exempt under Commonwealth legislation.

4.1 Principle 1

A Telecommunications facility should be sited to minimise visual impact.

Application of principle

- 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.
- A telecommunications facility mounted on a building should be integrated with the design and appearance of the building.
- Equipment associated with the telecommunications facility should be screened or housed to reduce its visibility.
- The relevant officer of the responsible authority should be consulted before any street tree is pruned, lopped, destroyed or removed.
- 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.

4.2 Principle 2

Telecommunications facilities should be co-located wherever practical.

Application of principle

- Wherever practical, telecommunications lines should be located within an existing underground conduit or duct.
- Overhead lines and antennae should be attached to existing utility poles, towers or other radiocommunications equipment to minimise unnecessary clutter.

4.3 Principle 3

Health standards for exposure to radio emissions will be met.

Application of principle

- 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*, Arpana, May 2002.

4.4 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.

Application of principle

- 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.
- Construction should be carried out in a safe and effective manner in accordance with relevant requirements of the *Occupational Health and Safety Act 1985*.
- Obstruction or danger to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction should be minimised.
- Where practical, construction should be carried out during times that cause minimum disruption to adjoining properties and public access.
- 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*.
- Open trenching should be guarded in accordance with *Australian Standard Section 93.080 – Road Engineering AS 1165 – 1982 – Traffic hazard warning lamps*.
- 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.
- 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.

Telecommunications facilities

5 Telecommunications facilities which may be developed without the need for a planning permit

A telecommunications facility listed in this section may be constructed without the need for a planning permit provided the specified requirements of this section are met.

If the specified requirements are not met, a planning permit is required.

In considering an application for a telecommunications facility where the requirements are not met, the responsible authority will consider the principles and requirements of this code in addition to any other requirements of the planning scheme.

If a telecommunications facility falls into more than one type described in this section, for example a microcell (section 5.1) that is located on a roof (section 5.10), the facility complies with the code if it meets the requirements of at least one type.



Requirements for specific telecommunications facilities

5.1 A microcell

A microcell is an antenna and associated box which supplements the mobile network in heavy usage areas.

A microcell may minimise the need for a larger facility.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The microcell must not be attached to a building or structure listed in the schedule to the Heritage Overlay in the planning scheme.
- 3 The combined volume of the cabinet or cabinets for the microcell must not exceed the following dimensions when mounted in an elevated position on an existing utility pole or when mounted on the wall of a building:
(Height) 800mm x (Width) 550mm x (Depth) 300mm.
Cabinet housings located elsewhere must conform with the provisions for an above ground housing in section 5.2.
- 4 The antenna must be either:
 - An omni whip antenna no longer than 1000mm and outriggered not more than 500mm from the support structure.
 - A panel antenna not more than 1200mm x 350mm x 150mm flush mounted and colour matched to the support structure.
- 5 There must be no aerial cabling. All other cabling or cabling trays must be either located internally in the support structure or colour matched to the support structure.

5.2 An above ground housing

An above ground housing is an above ground equipment shelter housing telecommunication infrastructure. An above ground housing includes:

- a pillar
- a cabinet
- a pedestal
- an elevated joint
- minor street furnishings
- marker posts
- a remote integrated multiplexer

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 A remote integrated multiplexer must not be located on a heritage place listed in the schedule to the Heritage Overlay in the planning scheme.



5.3 A temporary facility

A temporary facility is a telecommunications facility that does not exist on the land for more than a total of 4 months in any 12 month period.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The temporary facility must be for one or more of the following purposes:
 - Providing service coverage during either routine or emergency maintenance of an existing facility.
 - Providing service coverage during the construction or installation of a new facility.
 - Providing additional service coverage at events such as sporting carnivals or cultural festivals.
- 3 The establishment of a temporary facility must not permanently alter any building or site so that upon removal, the building or site is in a substantially different condition than it was prior to the establishment of the facility.
- 4 The height must not exceed 25m above its base or the height of the existing facility, whichever is the greater.

Telecommunications facilities

5.4 Underground cable or duct

An underground cable or duct is placed into the ground by trenching or direct burial. Once in the ground, the ground is reinstated and the cable cannot be seen.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The underground cable or duct must not be located in a Road Zone – Category 1.
- 3 If an underground cable or duct is located on public land managed by the Department of Sustainability and Environment or another government agency or manager, a consent, lease or licence must be obtained if required by the relevant legislation.
- 4 The underground cable or duct must not be located on private land within 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.
- 5 The underground cable or duct must not be located on land if a permit is required for the removal of native vegetation under Clause 52.17 of the planning scheme.
- 6 A trench in which a cable or duct is to be installed must not exceed a nominal width of 450mm, or if it is to be immediately used by more than one carrier, must not exceed a nominal width of 650mm.
- 7 Access to the frontage of a premises in a business zone must not be restricted.
- 8 If the land is located in or adjacent to a residential zone, not more than 100m of excavation may be left open at any time.
- 9 A resident must not lose vehicle access to their property for more than 12 hours at a time.
- 10 The land in which the cable or duct is laid must be reinstated in accordance with a reinstatement plan agreed, prior to construction, with the owner or if on public land, the public land manager. The reinstatement plan must include (as appropriate):
 - Management and protection measures, and remedial works for significant vegetation.
 - Relaying of the existing road or pavement.
 - Replanting of grass, trees and foliage.
 - Replacement or removal of material removed.
 - Reinstatement of existing contours.

5.5 Boring cable

Boring cable is a process whereby new cable is run through ducts which already exist or is bored predominantly underground from one end point to the other.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The boring must take place at a minimum depth of 600mm or 1200mm where the cable is located in a Road Zone – Category 1.
- 3 If an underground cable or duct is located on public land managed by the Department of Sustainability and Environment or another government agency or manager, a consent, lease or licence must be obtained if required by the relevant legislation.
- 4 The underground cable or duct must not be located on private land within an Environmental Significance Overlay, a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, or an Erosion Management Overlay.



5.6 A radio communications dish

A radio communications dish is a circular dish antenna used to send and receive radio frequency communications.

A radio communications dish includes a dish for satellite TV reception.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The radio communications dish must not be attached to a building or structure listed in the schedule to the Heritage Overlay in the planning scheme.
- 3 A radio communications dish in a residential zone must not be greater than 1.2m in diameter unless the facility is not visible from an adjoining property and the maximum diameter of the dish does not exceed 2.4m.

4 A radio communications dish in a business zone:

- may be greater than 1.2m, but not greater than 1.8m in diameter if:
 - the dish is located on an existing roof or structure.
 - the highest point of the dish does not exceed 4m above the roof to which its base is attached.
 - any dish on the street facade is flush mounted.
 - if the dish is not flush mounted and the highest part of the dish is more than 3m above the roof, then the dish must be set back at least 2m from the outermost wall of the building.
- may be greater than 1.8m, but not greater than 2.4m in diameter if the facility is not visible from outside the property.

Note: *It is desirable (but not a requirement) that:*

- *A radio communications dish should not be installed on a pitched roof.*
- *A dish 1.8m or greater in diameter should not be installed where the scale of the dish is disproportionate to the scale of the building on which it is proposed to be mounted.*
- *A dish 1.8m or greater in diameter should be flush mounted to a rooftop plant room below the overall height, where possible.*



Telecommunications facilities

5.7 Replacement of a tower or a facility associated with a tower to enable co-location

For the purposes of this provision, a tower includes any similar structure supporting antennas.

This provision also applies to any shelter housing a base station transceiver and associated transmission equipment and to cable connections between the base station equipment and the tower.

Basis for this provision

Carriers are encouraged to co-locate facilities wherever practical, including on structures associated with radio communications networks operated by non-carriers, such as two way radio operators and community radio stations.

This provision encourages co-location where a new structure is required to support the combined equipment of more than one carrier or the combined equipment of a carrier(s) and an operator of a radio communications network because the existing structure does not have the structural capacity to cope with the combined equipment.

The replacement process requires a second structure to be built and the equipment transferred to the new structure. After installation activities are complete, the original structure is removed.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The replacement facility must be for the purpose of co-locating a carrier.
- 3 The facility being replaced must not be located in a residential zone.
- 4 The replacement structure must be similar in appearance to the structure being replaced, except that a lattice tower can be replaced by a monopole tower.
- 5 The replacement structure must not be more than 5m higher than the structure being replaced.
- 6 The tower must not have previously been extended under this provision.
- 7 The replacement structure must be located within 20m of the structure being replaced and must not be on land within an Environment Significant Overlay, a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, or an Erosion Management Overlay.

- 8 The structure being replaced must be decommissioned and removed within eight weeks of the equipment on the new structure being commissioned. The location of the structure which has been removed must be made good and landscaped as appropriate.

5.8 Co-location of a facility on an existing tower

For the purposes of this provision, a tower includes any similar structure supporting antennas.

This provision also applies to any shelter housing a base station transceiver and associated transmission equipment and to cable connections between the base station equipment and the tower.

Basis for this provision

Carriers are encouraged to co-locate facilities wherever practical. This provision encourages co-location where an existing structure has the capacity to cope with the additional requirements and combined equipment of more than one carrier or the combined equipment of a carrier(s) and the operator of a radio communications network, such as two way radio operators and community radio stations.



Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The facility must be for the purpose of co-locating a carrier.
- 3 The facility must not be located in a residential zone.
- 4 New equipment must not protrude from the face of the tower more than the existing facility.
- 5 The new structure must not be more than 5m higher than the existing tower.
- 6 The tower must not have been previously extended under this provision.

5.9 A telecommunications facility located inside a building, structure or tunnel

A telecommunications facility located inside a building, structure or tunnel is a facility located so that it is not visible from outside the building, structure or tunnel or which is included in or integrated with the building, structure or tunnel in such a way as to have the appearance of being part of the building, structure or tunnel.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The facility must be located wholly within the building, structure or tunnel or must be integrated with the building, structure or tunnel in such a way as to have the appearance of being part of the structure.



Note: New buildings or works or alterations to existing buildings or works may require a planning permit under other provisions of the planning scheme.

5.10 A telecommunications facility located on a roof

This provision applies to a tower, antenna, ancillary equipment or housing located on a roof of a building or on a similar structure (such as a water tank).

Basis for this provision

The utilisation of roof tops of appropriate height avoids the need for a tower or similar structure to be built. A facility on the roof of a building is generally less intrusive than a new tower and is therefore encouraged as a design solution to minimise visual impact.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The telecommunications facility must not be attached to a building or structure listed in the schedule to the Heritage Overlay in the planning scheme.
- 3 An antenna support structure on a roof must not exceed 5m above the building height. Associated equipment must be screened or housed in an appropriate structure to minimise visual impact.
- 4 The telecommunications facility must not be located in a residential zone.
- 5 A radio communications dish must comply with the requirement No. 4 in section 5.6 – A radio communications dish.



Telecommunications facilities

5.11 A repeater installation

A repeater installation is used in situations where signal is required to be improved within a small area inside a building. Repeaters may be used inside retail outlets, shopping centres or commercial buildings to improve coverage to those buildings. A repeater installation consists of an external antenna, a small internal antenna and a small equipment box.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The repeater installation must consist only of an external yagi antenna no longer than 1.8m, located on the roof of the building with ancillary equipment located inside the building or structure. Any ancillary equipment located on the roof of the building or structure, must not be more than 450mm x 550mm x 250mm.

5.12 A telecommunications facility attached to infrastructure within a Road Zone – Category 1

Basis for this provision

Carriers are encouraged to use existing or proposed infrastructure along major highways, arterial roads and freeways to support telecommunications facilities providing coverage along these roads to avoid the need for additional structures.

The Road Zone – Category 1 applies to all roads declared under the *Transport Act 1983*.

Requirements

- 1 The design, location, installation and operation must be in accordance with the principles set out in section 4 of this code.
- 2 The telecommunications facility must not be attached to a building or structure listed in the schedule to the Heritage Overlay in the planning scheme.
- 3 The telecommunications facility must be located within a Road Zone – Category 1.
- 4 An antenna mounted on a road overpass must not exceed 2.8m in length.

- 5 A panel antenna incorporated into or mounted on an advertising sign, street lighting pole, directional sign or similar structure must not exceed 2.8m in length and must be coloured to minimise visual impact.
- 6 An omni-directional antenna incorporated into or mounted on an advertising sign, street lighting pole, directional sign or similar structure must not exceed 4.5m in length.
- 7 A transmission dish must not exceed 1.2m in diameter and must be coloured to match the background.
- 8 An internal or external equipment shelter must be appropriately sited out of trafficked areas and coloured to match the background.

5.13 An optical fibre ground wire on high voltage transmission towers

An optical fibre ground wire (OPGW) on high voltage transmission towers is an electricity ground wire with an optical fibre core located in the ground wire position of high voltage electricity towers.

Requirements

- 1 The OPGW cable must replace an existing electricity ground wire.
- 2 The OPGW cable must be located on a tower supporting power lines designed to operate at 220,000 volts or greater.

Ground wire



6 Some common questions

1. *Where are the requirements for a telecommunications facility found in planning schemes?*

The following provisions in planning schemes apply to telecommunications facilities:

The State planning policy for telecommunications facilities is set out in Clause 18-13. The provisions which apply to a telecommunications facility are set out in Clause 52.19.

As well as other matters, Clause 52.19 provides that no planning permit is required if a telecommunications facility is described in the Code and the specified requirements are met. Clause 52.19 also sets out decision guidelines which apply when a permit is required.

Clause 62.02 provides that no permit is required for buildings and works associated with a telecommunications facility which meets the requirements of the Code.

2. *Is a planning permit required for new aerial telecommunications cables in a street?*

Yes. Since 1 July 1997 planning requirements have generally applied to most telecommunications facilities. The *Telecommunications Act 1997* (Part 1 of Schedule 3) outlines exceptions to this rule, but does not exempt new aerial telecommunications cables unless they are a subscriber connection (see below).

3. *Is a permit required to connect a dwelling or other buildings to the telecommunication lines in the street (a subscriber connection)?*

No. The connection of a building, structure, caravan or mobile home to a telecommunications line forming part of a telecommunications network does not require a permit.

4. *Where can I find the Telecommunications Act 1997, the Telecommunications (Low-impact Facilities) Determination 1997 and the Telecommunications Code of Practice 1997?*

At the Australian Department of Communications, Information Technology and the Arts internet site at: <http://www.dcita.gov.au>.

5. *Can a Council include a local policy in a planning scheme which provides more stringent requirements than those set out in this Code?*

No. Clause 52.19 of planning schemes and this Code, provide consistent provisions for telecommunications facilities in Victoria.

6. *How is the issue of electromagnetic energy dealt with by planning schemes?*

The *Radiation Protection Standard – Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz*, Arpansa, May 2002 provides restrictions for public exposure to radiofrequencies consistent with current world standards.

Before deciding an application for a telecommunications facility, Clause 52.19 of planning schemes requires the responsible authority to consider the principles and requirements set out in *A Code of Practice for Telecommunications Facilities in Victoria*. Principle 3 of this Code requires telecommunications facilities to be consistent with this standard.

7. *What is a 'site analysis and design response' required by the planning scheme?*

The planning scheme requires an application for permit to be accompanied by a site analysis and design response explaining how the proposed facility addresses the principles for the design, siting, construction and operation of telecommunications facilities and the requirements in *A Code of Practice for Telecommunications Facilities in Victoria*.

The site analysis should include a site context plan, drawn to scale and identify and explain the design constraints and opportunities presented by the site and how the proposed facility will relate to the site and to the surrounding area. The site analysis should influence the siting and design of the facility consistent with the purpose and aims of the code.

The design response to the site analysis should explain how the proposed siting and design derives from the site analysis, how it relates to other buildings and works on the site and on surrounding land and how it achieves the aims and principles of the code.

Appendix

Clause 52.19 of all planning schemes in Victoria

52.19 Telecommunications facility

Purpose

To ensure that telecommunications infrastructure and services are provided in an efficient and cost effective manner to meet community needs.

To ensure the application of consistent provisions for telecommunications facilities.

To encourage an effective statewide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Victoria as set out in section 4 of the *Planning and Environment Act 1987*.

To encourage the provision of telecommunications facilities with minimal impact on the amenity of the area.

52.19-1 Application

These provisions apply to the construction of a building or the construction or carrying out of works associated with the use of land for a Telecommunications facility. They apply to the extent permitted under the *Telecommunications Act 1997* (Cwth) and determinations made under that Act by the Commonwealth Minister for Communications and the Arts, including the *Telecommunications (Low-impact Facilities) Determination 1997*.

52.19-2 Permit requirement

A permit is required to construct a building or construct or carry out works for a Telecommunications facility.

This does not apply to:

- Buildings and works associated with:
 - A low-impact facility as described in the *Telecommunications (Low-impact) Facilities Determination 1997*.
 - The inspection and maintenance of a Telecommunications facility as defined in the *Telecommunications Act 1997* (Cwth).
 - A facility authorised by a Facilities Installation Permit issued under the *Telecommunications Act 1997* (Cwth).
 - A temporary defence facility.
 - The connection of a building, structure, caravan or mobile home to a Telecommunications line forming part of a Telecommunications network.
 - Any Telecommunications facility described in *A Code of Practice for Telecommunications Facilities in Victoria* which complies with the requirements of the Code.
- Buildings and works associated with activities which are:
 - Authorised under Clause 6(2) of Division 3 of Schedule 3 of the *Telecommunications Act 1997* (Cwth).
 - Carried out by bodies listed in sections 46 to 51 (inclusive) of the *Telecommunications Act 1997* (Cwth) pursuant to legislation applying to those bodies.

52.19-3 Land in public ownership

An application for a permit on land in a public land zone by a person other than the relevant public land manager, must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:

- To the application for permit being made.
- To the application for permit being made and to the proposed use or development.

52.19-4 Exemption from notice and appeal

An application for a permit is 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 review rights of section 82(1) of the Act unless:

- The Telecommunications facility is:
 - A radio communications dish greater than 1.2 metres in diameter or
 - A Telecommunications tower (other than a low-impact facility described in the *Telecommunications (Low-impact Facilities) Determination 1997*).
- The land 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 land is public land not in a public land zone and the responsible authority is not the public land manager.

52.19-5 Application requirements

An application for permit must be accompanied by the following information as appropriate to the proposal and the location:

- A site analysis and design response explaining how the proposed facility addresses the principles for the design, siting, construction and operation of telecommunications facilities and the requirements in *A Code of Practice for Telecommunications Facilities in Victoria*.
- Site boundaries and dimensions.
- The purpose and location of all buildings and works required in the construction of the facility.
- The location of all existing buildings and works to be retained and demolished.
- The location of all proposed buildings and works including dimensions, elevations, materials, colours and finishes.

- The location and use of all buildings on adjoining properties.
- The location of all adjoining streets and access ways.
- Australian Height Datum levels.
- Natural drainage lines, watercourses, coastal dunes, beach systems and wetlands.
- Proposals for the rehabilitation of the land on which development is to occur.
- Roads and parking areas.
- Materials, landscaping, external lighting, colour and reflectivity.

52.19-6 Decision guidelines

Before deciding on an application, in addition to the decision guidelines of Clause 65, the responsible authority must consider, as appropriate:

- The principles for the design, siting, construction and operation of a Telecommunications facility set out in *A Code of Practice for Telecommunications Facilities in Victoria*.
- The effect of the proposal on adjacent land.
- 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.

Telecommunications facilities

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1992/04/04



Yarra Ranges Council Telecommunication Facilities

Dec
2012



This policy applies to proposals for telecommunication facilities.



Policy

Telecommunications is an important service for recreation, business and emergency management. The infrastructure required to support this service can have an adverse impact on the landscape due to its height and incompatibility with the surrounding natural and built environment. Careful consideration must therefore be given to the siting and design of telecommunication facilities.

The policy provides guidance and specific requirements to ensure telecommunication facilities are appropriately sited and designed to protect the unique landscape of Yarra Ranges.

The Telecommunication Facilities Policy has been adopted by Council for purposes of Section 60(1A) (g) of the Planning and Environment Act 1987 and facilitates consistency between the Yarra Ranges Planning Scheme and Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan in relation to telecommunication towers.

Policy objectives

- To reduce the visual impact of telecommunication facilities and ensure the type, scale, design and siting of the telecommunication facility is not detrimental to the landscape
- To minimise disturbance to vegetation and natural features of the land
- To ensure fire risk to the facility is considered as part of the proposal for the use and development of a proposed telecommunication facility
- To minimise the number of telecommunication facilities by encouraging the co-location of facilities or upgrade to existing facilities.
- To recognise the public benefits of telecommunication infrastructure.

Policy

It is policy that when considering proposals for telecommunication facilities Council give preference to proposals which:

- Demonstrate a need for the facility
- Comprise the upgrading of existing facilities
- Comprise the co-location of new facilities with existing facilities
- Propose a facility that will be used by more than one telecommunication provider
- Demonstrate consistency with the design objectives of any Significant Landscape Overlay and Design and Development Overlay that applies to the site
- Minimise the visual impact on the landscape by
 - o Siting facilities away from visually exposed sites, hilltops, ridgelines, identified significant landscapes and or areas of environmental value
 - o Disguising and designing facilities into the surrounding built form landscape.
- Avoid the need for native vegetation and habitat removal to construct the facility
- Avoid sites where vegetation removal will be required to protect the facility from bushfire risk

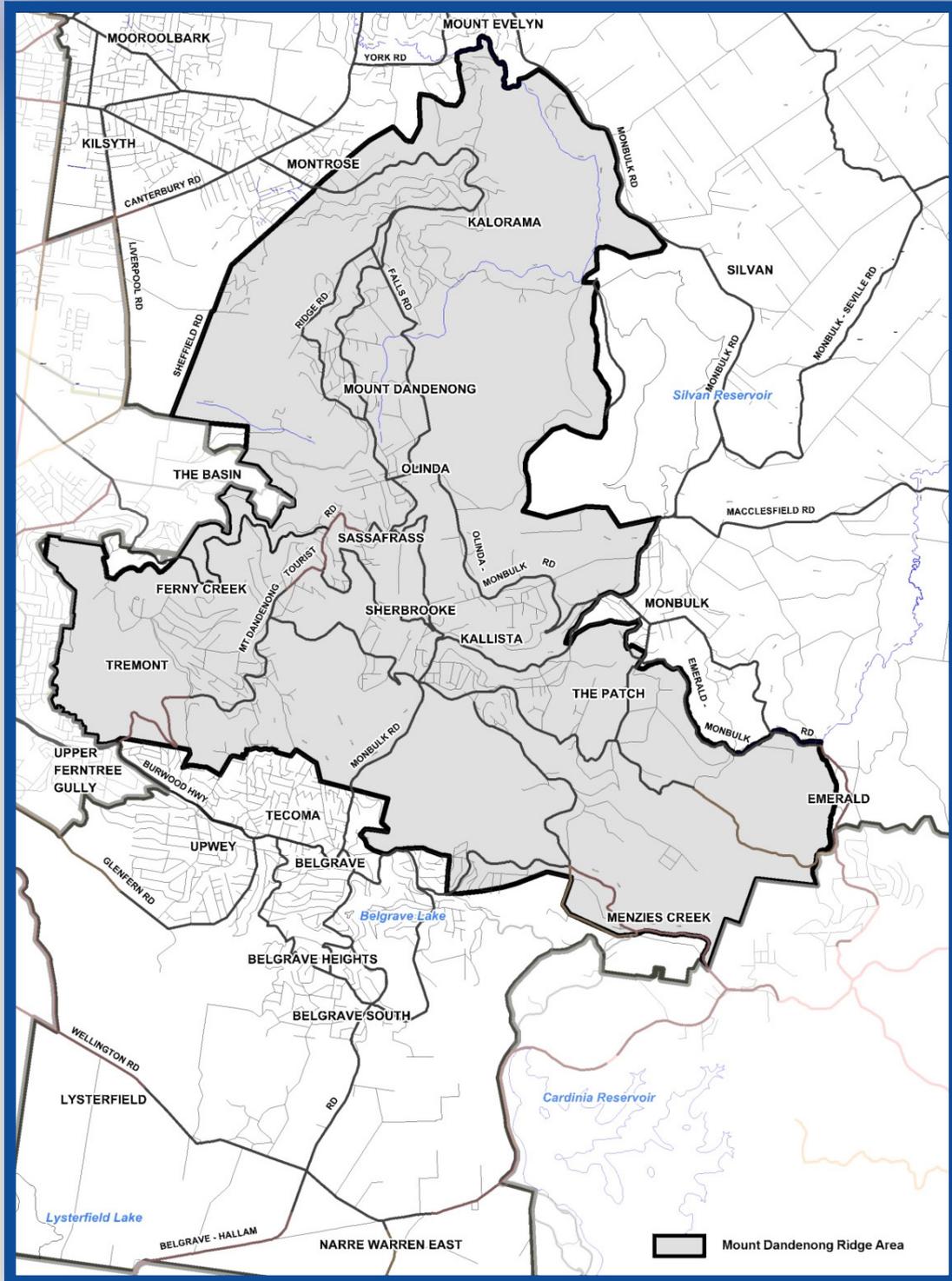
In accordance with the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan and consideration of Section 60 (1A)(g) of the Planning and Environment Act no additional towers or masts should be constructed within the Mount Dandenong Ridge Area (as shown on the attached map) unless the proposal replaces an existing tower or mast.

Proposal requirements

Proposals for a telecommunication facility are to be accompanied by the following information:

- Written explanation of why the facility is required, including an identification of the area that the facility will serve and a demand analysis
- How the facility will reduce areas that have no emergency service coverage from any provider
- Steps already taken to improve existing facilities and consideration of options for co-location
- A written assessment of at least three other feasible alternative sites on different properties for the establishment of the facility and the rationale for the preferred site
- Indicative photomontage illustrations, 3D modeling of long range and short range views of the proposed facility from key vantage points
- An analysis of the site and surrounding area including:
 - o Location of the proposed development and associated buildings or structures, and any existing buildings and features on the site
 - o Topography of the land, including contours and identification of any features including ridgelines, hilltops and vegetation
 - o Location of vehicular access
 - o Identification of gateways and main roads
 - o Identification of any other telecommunication facilities in the area.
- Details of any vegetation that requires removal, including that required to mitigate fire risk and an explanation of how vegetation removal will be minimised
- A written explanation of how the facility has been designed in order to minimise the visual impact
- A written description of how new and existing landscaping will assist in screening the facility from short and long range views.

Mount Dandenong Ridge Area





12.05-2S Landscapes

31/07/2018
VC148

Objective

To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.

Strategies

Ensure significant landscape areas such as forests, the bays and coastlines are protected.

Ensure development does not detract from the natural qualities of significant landscape areas.

Improve the landscape qualities, open space linkages and environmental performance in significant landscapes and open spaces, including green wedges, conservation areas and non-urban areas.

Recognise the natural landscape for its aesthetic value and as a fully functioning system.

Ensure important natural features are protected and enhanced.

12.05-2L Rural landscapes

02/12/2022
C195yran

Strategies

Design and site development sensitively having regard to the natural physical features of the land including slope, existing vegetation and view lines.

Discourage non-farm related commercial buildings that adversely impact on valued rural landscapes.

13.07-1S Land use compatibility

03/03/2023
VC215

Objective

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Strategies

- Ensure that use or development of land is compatible with adjoining and nearby land uses
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

Policy documents

Consider as relevant:

- *Recommended separation distances for industrial residual air emissions* (Publication 1518, Environment Protection Authority, March 2013).

14.01-1S Protection of agricultural land20/03/2023
VC229**Objective**

To protect the state's agricultural base by preserving productive farmland.

Strategies

Identify areas of productive agricultural land, including land for primary production and intensive agriculture.

Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.

Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.

Protect productive farmland that is of strategic significance in the local or regional context.

Protect productive agricultural land from unplanned loss due to permanent changes in land use.

Prevent inappropriately dispersed urban activities in rural areas.

Protect strategically important agricultural and primary production land from incompatible uses.

Limit new housing development in rural areas by:

- Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.

Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- Desirability and impacts of removing the land from primary production, given its agricultural productivity.
- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- Compatibility between the proposed or likely development and the existing use of the surrounding land.
- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.

Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.

Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

19.03-4S Telecommunications

04/11/2022
VC226

Objective

To facilitate the orderly development, extension and maintenance of telecommunications infrastructure.

Strategies

Facilitate the upgrading and maintenance of telecommunications facilities.

Ensure that modern telecommunications facilities are widely accessible and that the telecommunications needs of business, domestic, entertainment and community services are met.

Encourage the continued deployment of telecommunications facilities that are easily accessible by:

- Increasing and improving access for all sectors of the community to the telecommunications network.
- Supporting access to transport and other public corridors for the deployment of telecommunications networks in order to encourage infrastructure investment and reduce investor risk.

Ensure a balance between the provision of telecommunications facilities and the need to protect the environment from adverse impacts arising from telecommunications infrastructure.

Co-locate telecommunications facilities wherever practical.

Planning should have regard to national implications of a telecommunications network and the need for consistency in infrastructure design and placement.

19.03-4L Telecommunications

02/12/2022
C195yran

Strategies

Site and design telecommunications facilities to minimise:

- The impact on the landscape due to height and appearance.
- Disturbance to vegetation and natural features.
- Fire risk to telecommunications facilities.
- The number of telecommunication facilities by co-locating facilities or upgrading existing facilities.

Locate telecommunications facilities to support improved coverage in areas that are subject to bushfire risk.

35.04
31/07/2018
VC148

GREEN WEDGE ZONE

Shown on the planning scheme map as **GWZ** with a number (if shown).

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To provide for the use of land for agriculture.

To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.

To encourage use and development that is consistent with sustainable land management practices.

To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.

To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.

To protect and enhance the biodiversity of the area.

35.04-1
14/11/2022
VC227

Table of uses

Section 1 - Permit not required

Use	Condition
Agriculture (other than Animal production, Apiculture, Domestic animal husbandry, Racing dog husbandry, Rice growing and Timber production)	
Automated collection point	<p>Must meet the requirements of Clause 52.13-3 and 52.13-5.</p> <p>The gross floor area of all buildings must not exceed 50 square metres.</p>
Bed and breakfast	<p>No more than 10 persons may be accommodated away from their normal place of residence.</p> <p>At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.</p> <p>Must be located more than 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p>
Domestic animal husbandry (other than Domestic animal boarding)	<p>Must be no more than 5 animals.</p>
Grazing animal production	
Home based business	
Informal outdoor recreation	

Use	Condition
Poultry farm	<p>Must be no more than 100 poultry (not including emus or ostriches).</p> <p>Must be no more than 10 emus and ostriches.</p>
Primary produce sales	<p>Must not be within 100 metres of a dwelling in separate ownership.</p> <p>The area used for the display and sale of primary produce must not exceed 50 square metres.</p>
Racing dog husbandry	Must be no more than 5 animals.
Railway	
Rural store	<p>Must be used in conjunction with Agriculture.</p> <p>Must be in a building, not a dwelling and have a gross floor area of less than 100 square metres.</p> <p>Must be the only Rural store on the lot.</p>
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.
Section 2 - Permit required	
Use	Condition
Animal production (other than Cattle feedlot, Grazing animal production and Poultry farm)	
Broiler farm - if the Section 1 condition to Poultry farm is not met	Must meet the requirements of Clause 53.09.
Camping and caravan park	
Car park	Must be used in conjunction with another use in Section 1 or 2.
Cattle feedlot	<p>Must meet the requirements of Clause 53.08.</p> <p>The site must be located outside a catchment area listed in Appendix 2 of the Victorian Code for Cattle Feedlots – August 1995.</p>

Use	Condition
Dependent person's unit	<p>Must be the only dependent person's unit on the lot.</p> <p>Must meet the requirements of Clause 35.04-2.</p>
Domestic animal boarding	
Dwelling (other than Bed and breakfast)	<p>Must be the only dwelling on the lot. This does not apply to the replacement of an existing dwelling if the existing dwelling is removed or altered (so it can no longer be used as a dwelling) within one month of the occupation of the replacement dwelling.</p> <p>Must meet the requirements of Clause 35.04-2.</p>
Exhibition centre	
Freezing and cool storage	<p>The goods stored must be agricultural produce, or products used in agriculture.</p>
Function centre	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.</p> <p>The number of patrons present at any time must not exceed the number specified in a schedule to the zone or 150 patrons, whichever is the lesser.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
Group accommodation	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry, or Winery.</p> <p>The number of dwellings must not exceed the number specified in a schedule to the zone or 40 dwellings, whichever is the lesser.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
Hall Host farm	
Indoor recreation facility	<p>Must be for equestrian based leisure, recreation or sport.</p>

Use	Condition
Leisure and recreation (other than Indoor recreation facility, Informal outdoor recreation, Major sports and recreation facility and Motor racing track)	
Major sports and recreation facility	Must be for outdoor leisure, recreation or sport.
Manufacturing sales	Must be an incidental part of Rural industry.
Market	
Materials recycling	<p>Must be used in conjunction with Refuse disposal or Transfer station.</p> <p>Must not include the collecting, dismantling, storing, recycling or selling of used or scrap construction and demolition materials.</p>
Milk depot	
Place of assembly (other than Carnival, Cinema based entertainment facility, Circus, Exhibition centre, Function centre, Hall, Nightclub and Place of worship)	Must not be used for more than 10 days in a calendar year.
Place of worship Plant nursery Primary school	
Racing dog husbandry – if the Section 1 condition is not met	Must meet the requirements of Clause 53.12.
Refuse disposal	
Research and development centre Research centre	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
Residential building (other than Residential hotel)	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.</p> <p>Must be used to provide accommodation for persons</p>

Use	Condition
	<p>away from their normal place of residence.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
<p>Residential hotel</p>	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.</p> <p>The number of bedrooms must not exceed the number specified in a schedule to the zone or 80 bedrooms, whichever is the lesser.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
<p>Restaurant</p>	<p>Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.</p> <p>The number of patrons present must not exceed the number specified in a schedule to the zone or 150 patrons, whichever is the lesser.</p> <p>If used in conjunction with Function centre, the total number of patrons present at any time must not exceed the number specified in a schedule to the zone or 150 patrons, whichever is the lesser.</p> <p>The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.</p>
<p>Restricted place of assembly</p>	<p>Must not be used for more than 30 days in a calendar year.</p>
<p>Rice growing Rural industry Secondary school Solid fuel depot</p>	
<p>Timber production</p>	<p>Must meet the requirements of Clause 53.11.</p>
<p>Transfer station (other than Automated collection point)</p>	<p>Must not include the collecting, storing or processing of used or scrap construction and demolition materials.</p>
<p>Utility installation (other than Minor utility)</p>	

Use	Condition
<p>installation and Telecommunications facility)</p> <p>Vehicle store</p> <p>Any other use not in Section 1 or 3</p>	

Section 3 - Prohibited

Use
<p>Accommodation (other than Camping and caravan park, Dependent person's unit, Dwelling, Group accommodation, Host farm and Residential building)</p> <p>Brothel</p> <p>Cinema based entertainment facility</p> <p>Display home centre</p> <p>Education centre (other than Primary school and Secondary school)</p> <p>Freeway service centre</p> <p>Funeral parlour</p> <p>Hospital</p> <p>Industry (other than Materials recycling, Refuse disposal, Transfer station, Research and development centre and Rural industry)</p> <p>Motor racing track</p> <p>Office</p> <p>Nightclub</p> <p>Retail premises (other than Manufacturing sales, Market, Plant nursery, Primary produce sales and Restaurant)</p> <p>Service station</p> <p>Warehouse (other than Freezing and cool storage, Milk depot, Rural store, Solid fuel depot and Vehicle store)</p>

35.04-2 Use of land for a dwelling

01/07/2021
VC203

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

These requirements also apply to a dependent person's unit.

35.04-3 Subdivision31/07/2018
VC148

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Subdivide land to realign the common boundary between 2 lots where: <ul style="list-style-type: none"> ▪ Each new lot is at least the area specified for the land in the zone or the schedule to the zone. ▪ The area of either lot is reduced by less than 15 percent. ▪ The general direction of the common boundary does not change. 	Clause 59.01
Subdivide land into 2 lots where each new lot is at least the area specified for the land in the zone or the schedule to the zone.	Clause 59.12

35.04-4 Long term lease or licence for accommodation05/09/2013
VC103

A permit is required to lease or license a portion of a lot for a period of more than 10 years if the portion is to be leased or licensed for the purpose of Accommodation.

Each portion of a lot leased or licensed for the purpose of Accommodation must be at least the minimum subdivision area specified for the land in a schedule to this zone. If no area is specified, each portion of a lot leased or licensed for the purpose of Accommodation must be at least 40 hectares.

35.04-5 Buildings and works22/03/2022
VC219

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2 of Clause 35.04-1. This does not apply to:
 - An alteration or extension to an existing dwelling with a floor area of no more than the area specified in a schedule to this zone or, if no area is specified, 50 square metres.
 - An alteration or extension to an existing building used for agriculture with a floor area of no more than the area specified in a schedule to this zone or, if no area is specified, 100 square metres. The building must not be used to keep, board, breed or train animals.
 - A rainwater tank.
- Earthworks specified in a schedule to this zone, if on land specified in a schedule.

- A building which is within any of the following setbacks:
 - 100 metres from a Transport Zone 2 or land in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority and the purpose of the acquisition is for a road.
 - 40 metres from a Transport Zone 3 or land in a Public Acquisition Overlay for a road if the Head, Transport for Victoria is not the acquiring authority.
 - 20 metres from any other road.
 - 5 metres from any other boundary.
 - 100 metres from a dwelling not in the same ownership.
 - 100 metres from a waterway, wetlands or designated flood plain.
- Permanent or fixed feeding infrastructure for season or supplementary feeding for grazing animal production constructed within 100 metres of:
 - A waterway, wetland or designated flood plain.
 - A dwelling not in the same ownership.
 - A residential or urban growth zone.
- A building or works associated with accommodation located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990* .

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Construct a building or construct or carry out works with an estimated cost of up to \$250,000 where: <ul style="list-style-type: none"> ▪ The land is not used for Domestic animal husbandry, Intensive animal production, Pig farm, Poultry farm, Poultry hatchery, Racing dog husbandry or Rural industry. ▪ The land is not within 30 metres of land (not a road) which is in a residential zone. ▪ The building or works are not associated with accommodation located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i> . Any works must not be earthworks specified in the schedule to the zone.	Clause 59.13

35.04-6
22/03/2022
VC219

Decision guidelines

Before deciding on an application to use or subdivide land, lease or license a portion of a lot for a period of more than 10 years if the portion is to be leased or licensed for the purpose of Accommodation, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development.
- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation or tourism.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.
- Whether the use or development is essential to the health, safety or well-being of the State or area but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development.
- The need to minimise adverse impacts on the character and appearance of the area or features of architectural, scientific or cultural heritage significance, or of natural scenic beauty.
- The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

Rural issues

- The maintenance of agricultural production and the impact on the rural economy.
- The environmental capacity of the site to sustain the rural enterprise.
- The need to prepare an integrated land management plan.
- The impact on the existing and proposed rural infrastructure.
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses.
- The protection and retention of land for future sustainable agricultural activities.

Environmental issues

- The impact of the use or development on the flora and fauna on the site and its surrounds.
- 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.
- How the use or development relates to sustainable land management and the need to prepare an integrated land management plan.
- The location of on site effluent disposal areas to minimise impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.
- The location and design of existing and proposed infrastructure services which minimises the visual impact on the landscape.
- The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.
- The need to locate and design buildings used for accommodation to avoid or reduce the impact from vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted

under the *Mineral Resources (Sustainable Development) Act 1990* .

Primary school or secondary school issues

- Access being provided via an all-weather road with dimensions adequate to accommodate emergency vehicles and not rely on local residential streets for access.
- Access by public transport, or if public transport is not available or adequate, transport may be provided by the school. Where transport is provided by the school the parking of buses should be accommodated on site.
- Connection to reticulated sewerage if available or if not available, the wastewater must be treated and retained on-site in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
- In the absence of reticulated sewerage, a Land Capability Assessment on the risks to human health and the environment of an on-site wastewater management system constructed, installed or altered on the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* .
- Connection to a reticulated potable water supply or an alternative potable water supply with adequate storage for school use as well as for fire fighting purposes.
- Connection to a reticulated electricity supply or an alternative energy source.

35.04-7 Signs

31/07/2018
VC148

Sign requirements are at Clause 52.05. This zone is in Category 3.

22/11/2018
C180yran**SCHEDULE 4 TO CLAUSE 35.04 GREEN WEDGE ZONE**Shown on the planning scheme map as **GWZ4** .**1.0**
08/07/2021
C189yran**Subdivision and other requirements**

	Land	Area/Dimensions/Number
Minimum subdivision area (hectares)	All land	Except as provided for in the schedule to Clause 51.03, a minimum lot size of 18 hectares with an average lot yield not exceeding 1 lot to each 25 hectares of site area and a maximum lot size of 44 hectares
Function centre (number of patrons)	None specified	None specified
Group accommodation (number of dwellings)	None specified	None specified
Residential hotel (number of bedrooms)	None specified	None specified
Restaurant (number of patrons)	None specified	None specified
Minimum area for which no permit is required to alter or extend an existing dwelling (square metres)	None specified	None specified
Minimum area for which no permit is required to alter or extend an existing building used for agriculture (square metres)	None specified	None specified

Permit requirement for earthworks	Land
Earthworks which change the rate of flow or the discharge point of water across a property boundary.	All land if the earthworks exceed 1 metre in height or depth
Earthworks which increase the discharge of saline groundwater.	All land if the earthworks exceed 1 metre in height or depth

42.03
31/07/2018
VC148

SIGNIFICANT LANDSCAPE OVERLAY

Shown on the planning scheme map as **SLO** with a number.

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify significant landscapes.

To conserve and enhance the character of significant landscapes.

42.03-1
31/07/2018
VC148

Landscape character and objectives

A schedule to this overlay must contain:

- A statement of the nature and key elements of the landscape.
- The landscape character objectives to be achieved.

42.03-2
28/10/2022
VC224

Permit requirement

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.
 - To the conduct of agricultural activities including ploughing and fencing (but not the construction of dams) unless a specific requirement for that activity is specified in a schedule to this overlay.
- Construct a fence if specified in the schedule to this overlay.
- Remove, destroy or lop any vegetation specified in a schedule to this overlay. This does not apply:
 - If the table to Clause 42.03-3 specifically states that a permit is not required.
 - To the removal, destruction or lopping of native vegetation in accordance with a native vegetation precinct plan specified in the schedule to Clause 52.16.

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Construct a fence.	Clause 59.05
Remove, destroy or lop one tree provided: <ul style="list-style-type: none"> ▪ A permit has not been granted for a VicSmart application to remove, destroy or lop a tree on the same land within the last 12 months. ▪ There is no other current VicSmart application to remove, destroy or lop a tree on the same land. 	Clause 59.06
Construct a building or construct or carry out works for:	Clause 59.05

Class of application

Information requirements and decision guidelines

- A carport, garage, pergola, verandah, deck, shed or similar structure.
- A rainwater tank.

The buildings and works must be associated with a dwelling.

42.03-3
17/02/2022
VC200

Table of exemptions

The requirement to obtain a permit does not apply to:

Emergency works	<p>Vegetation that is to be removed, destroyed or lopped:</p> <ul style="list-style-type: none"> ▪ in an emergency by, or on behalf of, a public authority or municipal council to create an emergency access or to enable emergency works; or ▪ where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.
Extractive industry	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of extractive industry in accordance with a work plan approved under the <i>Mineral Resources (Sustainable Development) Act 1990</i> and authorised by a work authority granted under that Act.</p>
Fire protection	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of any of the following fire protection activities:</p> <ul style="list-style-type: none"> ▪ fire fighting; ▪ planned burning; ▪ making or maintaining of a fuelbreak or fire fighting access track (or any combination thereof) that does not exceed a combined width of 6 metres; ▪ making of strategic fuelbreak up to 40 metres wide by, or on behalf of, a public authority in accordance with a strategic fuelbreak plan approved by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>); ▪ is ground fuel within 30 metres of a building and is vegetation other than native vegetation; ▪ in accordance with a fire prevention notice issued under either: <ul style="list-style-type: none"> ▪ Section 65 of the <i>Forests Act 1958</i> ; or ▪ Section 41 of the <i>Country Fire Authority Act 1958</i> . ▪ keeping vegetation clear of, or minimising the risk of bushfire ignition from, an electric line in accordance with a code of practice prepared under Part 8 of the <i>Electricity Safety Act 1998</i> ; ▪ minimising the risk to life and property from bushfire of a roadside of a public road managed by the relevant responsible road authority, and carried out by or

The requirement to obtain a permit does not apply to:

	<p>on behalf of that authority, in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>). In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the <i>Road Management Act 2004</i>.</p> <p><i>Note: Additional permit exemptions for bushfire protection are provided at Clause 52.12.</i></p>
Geothermal energy exploration and extraction	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with operation plan approved under the <i>Geothermal Energy Resources Act 2005</i> .
Greenhouse gas sequestration and exploration	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the <i>Greenhouse Gas Geological Sequestration Act 2008</i> .
Land management or directions notice	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land management notice or directions notice served under the <i>Catchment and Land Protection Act 1994</i> .
Land use conditions	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the <i>Catchment and Land Protection Act 1994</i> .
Mineral exploration and extraction	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, prospecting, or retention licence issued under the <i>Mineral Resources (Sustainable Development) Act 1990</i> :</p> <ul style="list-style-type: none"> ▪ that is low impact exploration within the meaning of Schedule 4A of the <i>Mineral Resources (Sustainable Development) Act 1990</i> ; or ▪ in accordance with a work plan approved under Part 3 of the <i>Mineral Resources (Sustainable Development) Act 1990</i>. <p><i>Note: Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990 specifies limits on the extent of native vegetation that may be removed as part of low impact exploration.</i></p>
Noxious weeds	Vegetation that is a noxious weed subject of a declaration under section 58 or section 58A of the <i>Catchment and Land Protection Act 1994</i> . This exemption does not apply to Australian Dodder (<i>Cuscuta australis</i>).
Pest animal burrows	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows.</p> <p>In the case of native vegetation the written agreement of an officer of the department responsible for administering the <i>Flora and Fauna Guarantee Act 1988</i> is required before the vegetation can be removed, destroyed or lopped.</p>

The requirement to obtain a permit does not apply to:

Planted vegetation	Vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding for Crop raising or Grazing animal production.
Railways	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to maintain the safe and efficient function of an existing railway, or railway access road, in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>).
Regrowth	<p>Vegetation that is to be removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established vegetation, and is</p> <ul style="list-style-type: none"> • bracken (<i>Pteridium esculentum</i>); or • within the boundary of a timber production plantation, as indicated on a Plantation Development Notice or other documented record, and has established after the plantation. <p>This exemption does not apply to land on which vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.</p>
Road safety	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by and on behalf of a public authority or municipal council to maintain the safe and efficient function of an existing public road in accordance with written agreement of the Secretary of the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>).
Stone exploration	<p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of Stone exploration.</p> <p>The maximum extent of vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:</p> <ul style="list-style-type: none"> • 1 hectare of vegetation which does not include a tree. • 15 trees with a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level. • 5 trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level. <p>This exemption does not apply to costeaning and bulk sampling activities.</p>
Surveying	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by, or on behalf of, a licenced surveyor (within the meaning of section 3 of the <i>Surveying Act 2004</i>) using hand-held tools to establish a sightline for the measurement of land.
Traditional owners	Vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with:

The requirement to obtain a permit does not apply to:

	<ul style="list-style-type: none"> ▪ a natural resources agreement under Part 6 of the <i>Traditional Owners Settlement Act 2010</i> ; or ▪ an authorisation order made under sections 82 or 84 of the <i>Traditional Owner Settlement Act 2010</i> as those sections were in force immediately before the commencement of section 24 of the <i>Traditional owners Settlement Amendment Act</i> in 2016 (1 May 2017).
Tram stops	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria to construct a tram stop, including a tram stop shelter.
Transport land	Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria on land in a Transport Zone, or in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority, to construct or maintain transport system infrastructure.

42.03-4 Application requirements

31/07/2018
VC148

An application must be accompanied by any information specified in a schedule to this overlay.

42.03-5 Decision guidelines

31/07/2018
VC148

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The statement of the nature and key elements of the landscape and the landscape character objective contained in a schedule to this overlay.
- The conservation and enhancement of the landscape values of the area.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- The impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance or the need to remove vegetation.
- The extent to which the buildings and works are designed to enhance or promote the landscape character objectives of the area.
- The impact of buildings and works on significant views.
- Any other matters specified in a schedule to this overlay.

01/12/2022
C148yran**SCHEDULE 2 TO CLAUSE 42.03 SIGNIFICANT LANDSCAPE OVERLAY**

Shown on the planning scheme map as SLO2 .

OPEN VALLEY LANDSCAPE**1.0**01/12/2022
C148yran**Statement of nature and key elements of landscape**

The Yarra River floodplain and its environs comprise a landscape of mostly open pastoral plains with distant views to the surrounding ranges. The expanses of pasture are divided by roads and shelterbelts in a very broad grid pattern. Shelter belts often contain exotic conifer species with planted native species in some areas. Some roadsides and drainage lines contain bushland remnants and more recent plantings of native species. Occasional free standing remnant trees are scattered through some areas. A depleted strip of degraded riparian vegetation lines the Yarra River while its network of billabongs has largely been denuded.

There is a low density of subdivision with lot sizes generally between 20 and 60 hectares. Farm houses are widely dispersed, mostly located well back from roads and often partially screened by planted trees. Some of the larger farms include sheds and other outbuildings that are clustered with the house. Older homesteads are mostly located on the valley floor while many newer and typically larger houses have been built on higher slopes to take advantage of views. The architectural styles of these houses are varied although there are a number of long and low ranch style dwellings. Recent developments have included some large tourist oriented developments associated with vineyards and golf courses, although these remain generally inconspicuous in the broader landscape.

The major tourist routes of the Maroondah and Melba Highways pass through this landscape. There are few readily accessible elevated viewpoints offering vistas of this landscape.

2.001/12/2022
C148yran**Landscape character objectives to be achieved**

- To maintain a broad open rural landscape in which buildings are inconspicuous elements.
- To allow middle and long distance views from the valley to the surrounding ranges.
- To ensure that the siting and design of new buildings complements their setting and reinforces the open rural landscape character of the area.
- To retain the pattern of development with occasional clusters of building and infrastructure located well away from roads.
- To retain established trees and patches of indigenous vegetation as an important element of the rural landscape.

3.009/03/2023
C215yran**Permit requirement****Fences**

A permit is required to construct a fence.

This does not apply if the fence is both:

- a rural type fence - post and large space open weave wire; and
- less than 1.8 metres high.

Vegetation

A permit is required to remove, destroy or lop:

- Native vegetation that occurs naturally in the Shire of Yarra Ranges
- A substantial tree with a trunk circumference greater than 1.1 metres (0.35 metre diameter) at a height of 1.3 metres above the ground

This does not apply to any of the following:

- The pruning of any vegetation that is undertaken to assist its health or structural soundness. No more than one third of the foliage may be removed from any individual plant
- The removal of vegetation that is dead
- The pruning of branches directly overhanging a lawfully existing building so that they are not overhanging or within 4 metres of the building
- The removal of vegetation where the base of the plant to be removed is within 4 metres of a lawfully existing building (other than a fence)
- The removal of planted windrows, woodlots or landscaping consistent with the implementation of a property management plan prepared to the satisfaction of the responsible authority
- The removal of vegetation that is one of the species listed in the *Yarra Ranges Council - List of Environmental Weeds 2019*
- The removal of regrowth which has naturally established or regenerated on land lawfully cleared of naturally established native vegetation and is less than 10 years old. This exemption does not apply to land on which native vegetation has been cleared or otherwise destroyed or damaged as a result of flood, fire or other natural disaster.

Buildings and Works

A permit is not required to construct a building or carry out works except for:

- A new building or extensions to an existing building where the floor area of the construction is more than 100 square metres
- Buildings or works with a height of more than 7 metres
- Buildings or works that would be within 4 metres from the trunk of a tree that has a circumference greater than 1.1 metres (0.35 metre diameter) measured at a height of 1.3 metres above the ground.

Crop protection structures

The permit requirements of this clause do not apply to the construction of plastic covered igloos.

4.0

01/12/2022
C148yran

Application requirements

None specified.

5.0

01/12/2022
C148yran

Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 42.03, in addition to those specified in Clause 42.03 and elsewhere in the Scheme which must be considered as appropriate by the responsible authority. The guidelines are derived from *Vision 2020 by Design – A Built Environment Framework for Yarra Ranges* (Shire of Yarra Ranges May 2008).

Building siting

- The visual impact on views from adjoining roads and other publicly accessible viewing points.
- Whether buildings and associated works are sited to avoid visually prominent sites such as exposed hilltops or ridgelines.
- How the front setbacks of buildings affect the visual impact of new development on the landscape.
- Whether farm buildings and related structures are clustered with existing buildings on the same land.

Building appearance

- Whether the profile of buildings breaks the skyline or ridgeline behind the building as seen from nearby roads or other publicly accessible viewpoints.

- Setbacks of groups of buildings from the road.
- How the height of buildings relates to the heights of any surrounding tree canopy and nearby development.
- Whether external finishes of buildings use muted tones and non reflective surfaces, and incorporate natural elements in the design.
- Whether farm buildings such as storage sheds, water tanks, wine storage tanks and related infrastructure are a visual intrusion in the rural setting and whether they are finished in muted colours, screened by planting or otherwise merged into the landscape.
- Whether the design and materials of large buildings such as storage and equipment sheds reflects the rural environment and the traditions of farm buildings.
- The extent and location of large paved surfaces, including hard stand yards for vehicles and equipment, and whether they are clustered around buildings to reduce their visual impacts.
- The building mass and form of larger buildings used for visitor accommodation or other tourist related activities and whether buildings are designed to reflect the topography of the site and minimise the extent of earthworks.

Dwellings and outbuildings

- The height of dwellings and whether it responds to the topography of the site.
- How the design of dwellings addresses factors such as views and outlook and protection from sun, rain and wind.

Vegetation

- The retention of established trees including shelterbelts and patches of indigenous vegetation.
- The extent of vegetation removal and proposed land management improvements such as replacement vegetation.
- The use of indigenous species and including canopy trees in landscaping and screening of new buildings.
- The integration of landscaping with the design of the development and whether it complements the vegetation on any adjoining public land.

Fence and boundary treatments

- The appearance of entrance gates and adjacent walls or fences and how they relate to the character of the remainder of the property boundary fence and the landscape.
- Whether front fence and boundary treatments avoid formal landscape design (such as geometrically aligned/spaced tree avenues or garden beds) and hard surfaces and hard edges in landscaping.
- Whether fences and gateways are small and constructed of light or transparent materials.

Other buildings and works

- Whether earthworks will remove the option of future use of the soil resource for productive agriculture.
- Whether the proposal includes urban style road infrastructure such as concrete kerbing, paved footpaths and roundabouts.

52.19
04/11/2022
VC226

TELECOMMUNICATIONS FACILITY

Purpose

To ensure that telecommunications infrastructure is provided in an efficient and cost-effective manner to meet community needs.

To facilitate an effective state-wide telecommunications network consistent with proper and orderly planning.

To support the provision of telecommunications facilities with minimal impact on the amenity of the area.

52.19-1
04/11/2022
VC226

Permit requirement

A permit is required to construct a building or construct or carry out works for a telecommunications facility. This does not apply to the construction of a building or the construction or carrying out of works for any of the following:

- A low-impact facility specified in the *Telecommunications (Low-impact Facilities) Determination 2018* (Cth).
- The inspection and maintenance of a facility as defined in the *Telecommunications Act 1997* (Cth).
- A facility authorised by a facility installation permit issued under the *Telecommunications Act 1997* (Cth).
- An activity authorised under clause 6(2) of Division 3 of Schedule 3 of the *Telecommunications Act 1997* (Cth).
- An activity carried out by a body listed in sections 46 to 51 (inclusive) of the *Telecommunications Act 1997* (Cth) pursuant to legislation applying to that body.
- A temporary defence facility.
- A telecommunications facility equipment shelter.
- A telecommunications line forming part of a telecommunications network connected to a building, caravan or mobile home.
- An optical fibre ground wire that replaces an electricity ground wire on a high-voltage transmission tower that supports powerlines designed to operate at 222,000 volts or greater.
- A telecommunications facility located underground if any ground disturbed in constructing or installing the facility is reinstated.
- A telecommunications dish with a diameter of 1.2 metres or less.
- A telecommunications dish with a diameter of more than 1.2 metres and less than or equal to 2.4 metres if the following requirements are met:
 - If the dish is in a Heritage Overlay, it must not be visible from a street (other than a lane) or public park.
 - If the dish is in a residential zone, it must:
 - Be set back from the side or rear boundary 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.
 - Be set back at least 3 metres from a boundary opposite an existing habitable room window.
 - Not be visible from the street (other than a lane) or a public park.
- A telecommunications tower that replaces an existing light pole on public land if the following requirements are met:
 - The public land manager must be a municipal council.
 - The tower must not be more than 8 metres higher than the light pole.
- A telecommunications tower that replaces an existing telecommunications tower on the same land if the following requirements are met:
 - The tower must not be in a residential zone, or a Significant Landscape Overlay, Heritage Overlay or Neighbourhood Character Overlay.
 - The tower must not be more than 8 metres higher than the existing tower.
 - The tower must not be a lattice tower.

- The tower must be located within 20 metres of the existing tower.
- The existing tower must be removed within 60 days of the new tower commencing operation.
- The extension of an existing telecommunications tower if the following requirements are met:
 - The tower must not be in a residential zone.
 - The height of the extension must not exceed 8 metres.
 - The tower must not have been previously extended without a permit.
 - The tower must have been constructed for 12 months before the extension.
- A telecommunications facility on a building if the following requirements are met:
 - If the building is in a residential zone, the height of the facility must not be more than 1 metre higher than the building height of the building.
 - If the building is in a zone other than a residential zone, the height of the facility must not be more than 8 metres higher than the building height of the building.
- A telecommunications facility that provides service coverage during routine or emergency maintenance of an existing facility, construction or installation of a new facility, or additional service coverage for an event, if the following requirements are met:
 - The height of the facility must not exceed 25 metres above its base or the height of the existing facility, whichever is the greater.
 - The facility must not be located on the land for more than a total of 4 months in any 12 month period.

52.19-2 Land in public ownership

04/11/2022
VC226

An application affecting land in a public land zone must be accompanied by written confirmation from the public land manager that the public land manager consents generally or conditionally:

- To the application being made; or
- To the application being made and to the proposed development.

This requirement does not apply if the applicant is the public land manager.

52.19-3 Exemptions from notice and review

04/11/2022
VC226

An application under any provision of this planning scheme to construct a building or construct or carry out works for a telecommunications facility is 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 review rights of section 82(1) of the Act. This exemption does not apply to:

- An application under a Significant Landscape Overlay, a Heritage Overlay, or Neighbourhood Character Overlay.
- An application under a public land zone if the responsible authority is not the public land manager.
- An application for any of the following:
 - A telecommunications dish.
 - A telecommunications facility on a building within 100 metres of a residential zone.
 - A telecommunications facility on a building within 100 metres of a dwelling not on the same land or land in contiguous ownership.
 - A telecommunications tower in a residential zone.
 - A telecommunications tower within 100 metres of a residential zone.
 - A telecommunications tower within 100 metres of a dwelling not on the same land or land in contiguous

ownership.

An application under any provision of this planning scheme to use or develop land for a telecommunications facility is 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 review rights of section 82(1) of the Act if the telecommunications facility is funded, or partly funded, by the Commonwealth through the Mobile Black Spot Program or the State of Victoria.

52.19-4 Application requirements

04/11/2022
VC226

An application must be accompanied by the following information as appropriate:

- A site analysis and design response explaining the design, siting, construction and operation of the telecommunications facility.
- Site boundaries and dimensions.
- The purpose and location of all buildings and works required in the construction of the facility.
- The location of all existing buildings and works to be retained and demolished.
- The location of all proposed buildings and works including dimensions, elevations, materials, colours and finishes.
- The location and use of all buildings on adjoining properties.
- The location of all adjoining streets and access ways.
- Australian Height Datum levels.
- Natural drainage lines, watercourses, coastal dunes, beach systems and wetlands.
- Proposals for the rehabilitation of the land on which development is to occur.
- Roads and parking areas.
- Materials, landscaping, external lighting, colour and reflectivity.

52.19-5 Decision guidelines

04/11/2022
VC226

Before deciding on an application, in addition to the decision guidelines of clause 65, the responsible authority must consider, as appropriate:

- The design, siting, construction and operation of the telecommunications facility.
- The effect of the telecommunications facility on adjacent land.

65.01
09/12/2021
VC204

APPROVAL OF AN APPLICATION OR PLAN

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

This clause does not apply to a VicSmart application.

RED DOT DECISION SUMMARY

The practice of VCAT is to designate cases of interest as 'Red Dot Decisions'. A summary is published and the reasons why the decision is of interest or significance are identified. The full text of the decision follows. This Red Dot Summary does not form part of the decision or reasons for decision.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL ADMINISTRATIVE DIVISION

VCAT REFERENCE NO. P2159/2013

PLANNING AND ENVIRONMENT LIST

IN THE MATTER OF Mason & Ors v Greater Geelong City Council
(includes Summary) (Red Dot) [2013] VCAT 2057

BEFORE Mark Dwyer, Deputy President

DATE OF DECISION 16 December 2013

NATURE OF CASE	Telecommunications facility –electromagnetic radiation issues
POTENTIAL GUIDELINE DECISION	Yes
REASONS WHY DECISION IS OF INTEREST OR SIGNIFICANCE	
PRACTICE OR PROCEDURE – consideration of individual instance or systemic issues	VCAT is unable to consider emissions of electromagnetic radiation as a relevant or determinative issue where the relevant Commonwealth ARPANSA standard will be met

SUMMARY

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.

Allowing objectors to continue to air their concerns about electromagnetic radiation at a VCAT hearing creates false expectations about the role of VCAT and the ambit of its discretion, and the extent to which it can realistically deal with such issues.

It follows that objectors should not raise the issue of electromagnetic radiation in VCAT proceedings about telecommunications facilities where the ARPANSA standard will be met. If they attempt to do so in their statements of grounds in the future, they can anticipate that the issue will be summarily dismissed without debate.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2159/2013
PERMIT APPLICATION NO. 514/2013

APPLICANTS FOR REVIEW	Yvonne Mason & others
RESPONSIBLE AUTHORITY	Greater Geelong City Council
PERMIT APPLICANT	Aurecon Australia Pty Ltd
RESPONDENT	Telstra Corporation
SUBJECT LAND	34-66 Calvert Street HAMLYN HEIGHTS 3215
WHERE HELD	Melbourne
BEFORE	Mark Dwyer, Deputy President
HEARING TYPE	Practice Day Hearing
DATE OF HEARING	15 November 2013
DATE OF ORDER	16 December 2013
CITATION	Mason & Ors v Greater Geelong City Council and Telstra Corporation (includes Summary) (Red Dot) [2013] VCAT 2057

ORDER

- 1 The proceeding is listed for hearing at **10.00 am on 17 March 2014** for one day before a town planner member.
- 2 In relation to the statement of grounds lodged by the objectors (the joint applicants for review), the following grounds are struck out and may not be relied upon at the hearing:
 - (a) the ground relating to concerns over the impacts of electromagnetic radiation from the proposed telecommunications facility;
 - (b) the grounds relating to concerns about the impacts on public health and/or to the users of nearby land, insofar as they relate to radiofrequency fields or electromagnetic radiation from the proposed telecommunications facility.

Mark Dwyer
Deputy President

APPEARANCES:

For Yvonne Mason & Ors (Applicants for Review)	Mr Dennis Foster and Mr Steve Mason, in person
For Responsible Authority	Mr Hugh Griffiths, town planner
For Telstra Corporation	Ms Katherine Lake, solicitor

REASONS

What was the practice day hearing about?

- 1 A group of objectors has lodged a joint application to review a decision by the responsible authority to grant a permit for a telecommunications facility and associated equipment (essentially a mobile phone tower) on land at Hamlyn Heights, Geelong. The land is in a public park and recreation zone.
- 2 A practice day hearing was convened, amongst other things, to consider 'which of the statements of grounds in the application are relevant planning grounds that may be considered at a hearing and which should be struck out'.
- 3 A number of the objectors' grounds raise legitimate planning issues, such as the visual impact of the proposed telecommunications facility, and the location of the development of the facility in and adjacent to a public park. Without expressing any view on the ultimate merits of these grounds, those grounds are deserving of a hearing in due course.
- 4 However, a number of the objectors' grounds in this proceeding also raise issues about electromagnetic radiation and/or related public health concerns stemming from the operation of the proposed facility.
- 5 This is not uncommon in matters concerning telecommunications facilities. However, whilst these grounds may reflect genuinely held beliefs or fears, they are not substantiated with any direct evidence. The grounds are simply expressed as 'community concerns' or 'significant anxiety from local residents' or a 'groundswell of objections nationally to such installations'. Allowing these grounds to proceed to a hearing and/or allowing objectors at a hearing to air these concerns, creates false expectations about the role of VCAT and the ambit of its discretion, and the extent to which it can deal with such issues.
- 6 This decision, stemming from the practice day hearing, is intended:
 - to explain why VCAT cannot deal with the issue of electromagnetic radiation in an individual case about a telecommunications facility

where the relevant regulatory standard set by the Commonwealth (the ARPANSA standard) will be met; and

- to provide guidance for this and future matters to the extent that objectors should not raise the issue of electromagnetic radiation in VCAT proceedings about telecommunications facilities where the ARPANSA standard will be met and, if they attempt to do so in their statements of grounds, they can anticipate that the issue will be summarily dismissed without debate.

The Commonwealth 'ARPANSA standard' and its application within the planning framework

- 7 Clause 52.19 of all Victorian planning schemes contains a particular provision dealing with telecommunications facilities. As clause 52.19-1 indicates, the provision applies within the limits of what is otherwise an area regulated by the Commonwealth under the *Telecommunications Act 1997* (Commonwealth) and the determinations and codes of practice made under that Act.
- 8 Under s 376 of the *Telecommunications Act 1997* (Commonwealth), the Australian Communications and Media Authority (ACMA) is given power to make technical standards regarding certain matters. These technical standards include standards necessary or convenient to protect the health or safety of those who operate, work on, use the services of, or are otherwise reasonably likely to be affected by the operation of a telecommunications network or facility. A similar power arises under s 162 of the *Radiocommunications Act 1992* (Commonwealth) in relation to radio-communications transmitters and receivers.
- 9 For these purposes, the ACMA has adopted a mandatory standard through the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003* (as amended in 2007). The standard makes mandatory the exposure limits in the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz* determined by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The standard is thus often referred to as the ARPANSA standard.
- 10 The relevant ACMA fact sheet indicates that this ARPANSA standard represents world's best practice, is consistent with World Health Organisation guidelines, adopts a precautionary approach, and sets exposure limits many times below levels known to have potential adverse health effects.
- 11 Clause 52.19 of the planning scheme also requires an applicant for a planning permit for a telecommunications facility to explain how the siting and operation of the facility will meet the principles and requirements of '*A Code of Practice for Telecommunications Facilities in Victoria*'. The

current version of that Code of Practice is also an incorporated document under clause 81 of all Victorian planning schemes.

- 12 Principle 3 of the Code of Practice requires that health standards for exposure to radio emissions will be met. In particular, a telecommunications facility must be designed and installed so that the maximum human exposure levels to radio frequency emissions complies with the ARPANSA standard. Compliance with the ARPANSA standard is thus effectively incorporated within the Victorian planning framework.
- 13 As part of its application in the present case, Telstra has complied with clause 52.19 and provided a report to the responsible authority (the Greater Geelong Council) summarising the estimated radiofrequency electromagnetic radiation emissions for the proposed Hamlyn Heights site. The emissions are calculated in accordance with the ARPANSA standard, and apply the ARPANSA methodology and procedures. The methodology requires a maximum cumulative level to be stated for all carriers at a site, as a percentage of the ARPANSA public exposure limits.
- 14 The report indicates that the maximum electromagnetic radiation emissions at the Hamlyn Heights site will be 1.14% of the ARPANSA exposure limit at 109.25 metres from the antennas. The emissions will be less when closer (e.g. a maximum 0.045% in the area 0-50 metres), and less when further away (e.g. a maximum 0.43% in the area 200-300 metres). That is, the estimated emissions will comprise a very small percentage of what is already a conservative standard.
- 15 Neither the responsible authority nor VCAT has the expertise to second-guess the ARPANSA standard, nor to impose a different standard. The most the responsible authority can do is to ensure the permit applicant has provided the relevant information as part of its planning application and, if a permit is granted (and although perhaps a little superfluous), impose a permit condition mandating compliance with the ARPANSA standard. That has occurred here.

Role of Tribunal

- 16 The Tribunal has previously indicated¹ that town planning is not a panacea for all perceived social ills, nor is the hearing of a planning matter at VCAT a forum for addressing all issues of social or community concern. It has also acknowledged² that objectors often mistakenly view VCAT as a forum to express their *general* opposition to a proposal, and express frustration when the tribunal does not seem to have regard to issues that they consider important. However, VCAT is limited by its statutory jurisdiction. It can only decide a matter based on the actual application before it, and for the limited purpose for which a planning permit is required, and having regard to the relevant provisions and decision guidelines in the *Planning and*

¹ *Hunt Club Commercial Pty Ltd v Casey CC* (Red Dot) [2013] VCAT 725 at [15]-[16] per Dwyer DP

² *Woolworths Ltd v Yarra Ranges SC* [2008] VCAT 789 at [8]-[9] per Dwyer DP & Harty M

Environment Act 1987 and in the planning scheme that relate to that permit requirement. Those are the planning controls approved by the Minister for Planning and local government, and which are intended to balance competing interests in favour of net community benefit and sustainable development.

- 17 The views of the community or the local council are important, but within the confines of what are the relevant and determinative planning issues in a particular case. It is not simply a matter of what certain individuals like or don't like, or what they want or don't want. Indeed, VCAT itself doesn't decide the matter according to the individual likes or dislikes of the presiding members. VCAT must objectively apply the law and the provisions of the planning scheme, as it exists, to the application before it. In doing so, VCAT relies upon relevant probative material, legal authority and logical reasoning in considering the grounds of a party in a proceeding. VCAT is not an investigative body, and cannot give great weight to unsupported assertions – particularly in relation to matters outside its own expertise or beyond the ambit of its statutory role or discretion.

Application of principle to objectors' grounds raising electromagnetic radiation

- 18 In adopting sentiments similar to those above, the Tribunal has also recently confirmed³ that it is not the role of VCAT to set standards in relation to public health, nor to second-guess the considered statements of expert authorities or bodies that regulate the area.
- 19 As indicated, VCAT is not an investigative body nor, despite its general expertise in planning and related matters, does it have any specific scientific expertise in matters of electromagnetic radiation.
- 20 This has been a long held position. In 1999, VCAT considered an argument that the Australian standard regulating radio frequency emissions from telecommunication facilities gave insufficient regard to the effect of such frequencies on human health. The Tribunal, constituted with its then President stated:

... The Tribunal is obliged to apply the relevant regulatory standards as it finds them, not to pioneer standards of its own. The creation of new standards is a matter for other authorities. ...⁴

- 21 There are many similar decisions. More recently, in the context of an NBN tower, VCAT has indicated:

With respect to health hazards of electro-magnetic radiation from mobile phone tower installations, the Tribunal has held that whilst the objectors beliefs were sincerely held, the Tribunal is obliged to apply the relevant regulatory standards as it finds them, not to pioneer

³ *Cherry Tree Wind Farm Pty Ltd v Mitchell SC* [2013] VCAT 1939 at [16]-[17] per Wright QC SM & Liston SM

⁴ *Hyett v Corangamite SC and Telstra* [1999] VCAT 794 at p7 per Justice Kellam P & Marsden M

standards of its own. The creation of new standards is a matter for other authorities. This principle has been followed in numerous other decisions wherein the Tribunal has found that a telecommunications facility is obliged to meet the relevant standards that apply but it is not a basis to reject an application for reasons relating to potential health impacts if the relevant standards are met.⁵

- 22 None of the above statements should be taken to mean that the electromagnetic radiation emitted by a telecommunications facility is, of itself, a totally irrelevant consideration from a town planning perspective. The spatial context of planning is to generally avoid siting incompatible uses or development together. If electromagnetic radiation was wholly unregulated, there may be an argument that a facility emitting such radiation should not be sited close to where people commonly live, work or congregate. However, emissions of electromagnetic radiation from telecommunications facilities *are* regulated. There is a clear regulatory standard – the ARPANSA standard - fixed by the appropriate Commonwealth authority, and recognised within the Victorian planning framework, that limits the amount of electromagnetic radiation from a telecommunications facility in order to protect and safeguard public health. If the ARPANSA standard is clearly met (as here, by an order of magnitude), VCAT cannot and should not second-guess it.
- 23 VCAT has rightly stated⁶ that, if there was compelling evidence that a regulatory standard was not appropriate in a particular case, or no longer appropriate generally, then that may be matter for argument in that particular proceeding. That is certainly not the case here, nor generally at this point of time in relation to the ARPANSA standard for electromagnetic radiation, particularly given its existence under Commonwealth law and its reference and incorporation into the Victorian planning framework. Indeed, it is difficult to conceive of any circumstance under the current regulatory framework where *compelling* evidence contrary to the ARPANSA standard could realistically exist or be considered in a determinative way by VCAT. At things stand, compliance with the ARPANSA standard is a sufficient response to the issue.
- 24 At most, the objectors in this case indicated that they may have called evidence from a local doctor about community health concerns. Realistically, it must be self-evident that VCAT could not give great weight to the opinion (albeit genuinely held) of a single medical practitioner in comparison to a Commonwealth standard developed over time by an expert multi-disciplinary agency, and referenced in the planning scheme.
- 25 Again, none of these statements should be taken to mean that electromagnetic radiation emitted by a telecommunications facility is not a legitimate issue of public concern. It is simply the situation that VCAT is

⁵ *McClelland v Golden Plains SC* [2013]VCAT 59 at [6]-[7] per Gibson DP

⁶ *Cherry Tree Wind Farm Pty Ltd v Mitchell SC* [2013] VCAT 1939 at [35] per Wright QC SM & Liston SM

essentially bound to apply the ARPANSA standard and, accordingly, VCAT is not the appropriate forum where general opposition to telecommunications facilities based on public health concerns can or should be raised.

- 26 It is thus a waste of the parties' and Tribunal resources to deal with the issue at a VCAT hearing in almost every case about a telecommunications facility. As I have said, it creates false expectations in the minds of objectors that it is a relevant determinative issue that VCAT can deal with.
- 27 In this case, based on the material before me and the matters discussed above, it is therefore appropriate to strike out the objectors' grounds in this proceeding that raise issues about electromagnetic radiation and/or related public health concerns stemming from the operation of the proposed facility. These grounds are not relevant to the planning assessment of a telecommunications facility where the ARPANSA standard will be met. Even if these grounds are at least arguably planning-related, they are misconceived and lacking in substance on the facts of this case given compliance with the ARPANSA standard.
- 28 The objectors may nonetheless raise at the future hearing their other legitimate planning issues, such as the visual impact of the proposed telecommunications facility, and the location of the development of the facility in and adjacent to a public park.
- 29 For the record, I note that the responsible authority here also sought to have struck out the objectors' ground relating to the 'probability of the proposed facility being expanded in the future'. I agree with the responsible authority's submission that VCAT is only dealing with the actual application before it. I did not however hear sufficient material to strike out this ground, and I do not know what evidence may exist here about the likely co-location of telecommunications facilities. If the objectors seek to proceed with this ground at the hearing, they will however need to provide material to demonstrate how this ground is relevant in this case. The objectors cannot simply make bare assertions, or deal hypothetically with what may (or may not) be the subject of some future application. VCAT will consider the planning merits of what is comprised in the application before it.

Mark Dwyer
Deputy President



Australian Government
**Australian Radiation Protection
and Nuclear Safety Agency**



Submission to the House of Representatives Standing Committee on Communications and the Arts Inquiry into 5G in Australia

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Introduction

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is the Australian Government's primary authority on radiation protection and nuclear safety. ARPANSA regulates Commonwealth entities using radiation with the objective of protecting people and the environment from the harmful effects of radiation. A key function of the CEO as described in the *Australian Radiation Protection and Nuclear Safety Act 1998* (ARPANS Act) is to undertake research in relation to radiation protection. ARPANSA also provides services and promotes national uniformity and the implementation of international best practice across all jurisdictions.

With the deployment of 5G technology, ARPANSA has observed an increase in public interest with regard to health impacts from the radio waves that are emitted from mobile telecommunications. With approximately 30,000 studies and reviews in the area of electromagnetic fields, including radio waves, it is a widely researched area.

This submission is aimed at providing information to the inquiry on health and environmental impacts of radio waves to assist with consideration around the deployment of 5G technologies including the planned shift to higher frequency radio waves, and to outline the role of ARPANSA.

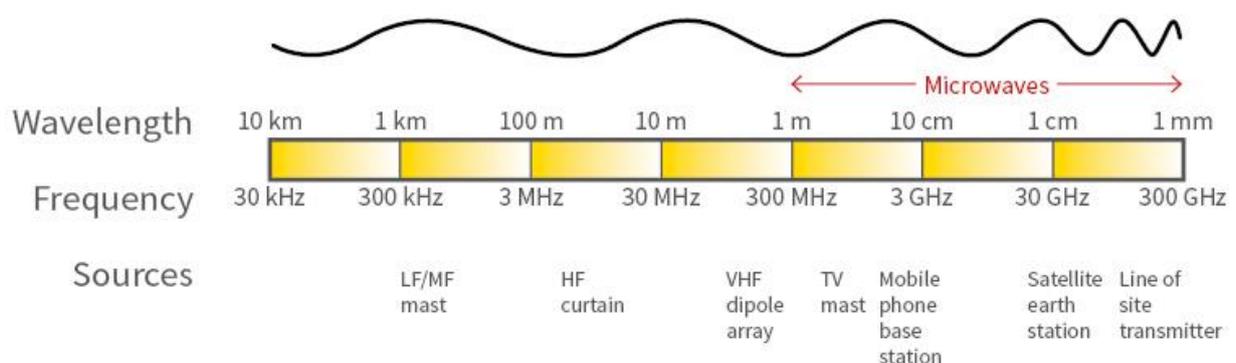
Impact of EME RF on Health and Environment

Wireless radiation and 5G

Mobile phone networks and other wireless telecommunications emit low-powered radio waves also known as radiofrequency (RF) electromagnetic energy (EME). These radio waves lie in the frequency range between 3 kilohertz (kHz) to 300 gigahertz (GHz). RF EME is different from ionising radiation, which is associated with nuclear energy or use in medicine.

Wireless telecommunications operate using radio waves at different frequencies. The 5G network will initially use similar frequencies as the current mobile phone networks (3G and 4G) which operate at lower microwave frequencies. In the future, 5G will use a higher microwave frequency band, sometimes called 'millimetre waves'. Higher frequencies do not mean higher exposure levels.

The radiofrequency radiation spectrum



What the science says about impact on humans

Very high levels of exposures to radio waves (more than 50 times above the limit in the ARPANSA RF standard) can heat biological tissue and cause tissue damage. For example, in applications such as industrial use of radio waves for welding, or close occupational exposure to AM radio towers that operate at a low frequency but high power to provide vast coverage. In these applications, appropriate safety measures are taken to manage risk to the public and workers.

The exposure to radio waves routinely encountered by the general public in the environment is too low to produce significant heating or increased body temperature. For the very low level of exposure from radio waves used in telecommunications, the evidence for production of harmful biological effects is ambiguous and unsubstantiated. Although there have been studies reporting biological effects ('bio-effects') at these levels, there has been no indication that such effects might constitute a human health hazard. Biological effects are physiological responses that can occur for a broad range of reasons, and are differentiated from 'health effects', which result in adverse conditions to the human body that may require medical treatment.

Health authorities around the world, including ARPANSA and the World Health Organization (WHO), have examined the scientific evidence for possible health effects from telecommunications sources. Current research indicates that there is no established evidence for health effects from radio waves used in mobile telecommunications. This includes the upcoming roll-out of the 5G network. ARPANSA's assessment is that 5G is safe.

The future use of millimetre waves by 5G

At the frequencies where current mobile phone technology operates (including 4G and 5G), some of the energy is absorbed into the body. However, it is too low to produce any significant heating of tissue. The millimetre waves that are planned to be used by 5G in the future do not penetrate past the skin. The power level will be low and no appreciable heating will occur in the skin. Millimetre wave frequencies, while higher than current frequencies used, are covered by the current *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz* (ARPANSA RF Standard).

Electromagnetic hypersensitivity

Some individuals have reported a wide range of non-specific health problems that they attribute to low-level radio waves and other electromagnetic sources. The symptoms most commonly reported include headaches, body pain, lethargy, tinnitus (ringing in the ear), nausea, burning sensation, heart arrhythmia and anxiety. This self-proclaimed sensitivity to electromagnetic fields is termed 'electromagnetic hypersensitivity' or EHS, which in medical literature is also known as idiopathic environmental intolerance attributed to electromagnetic fields (IEI-EMF). EHS is not a medically recognised syndrome.

While ARPANSA and the WHO recognise that the symptoms of EHS are real and can have a disabling effect for the affected individual, EHS has no clear diagnostic criteria and the science so far has not provided evidence that RF exposure is the cause. The majority of scientific studies published to date have found that under controlled laboratory conditions, EHS individuals cannot detect the presence of RF sources any more accurately than non-EHS individuals. Several studies have indicated a nocebo effect i.e. an adverse effect due to the belief that something is harmful.

Do radio waves cause cancer?

Radio waves are classified as non-ionising radiation, meaning that they have insufficient energy to break chemical bonds, and in doing so cause DNA damage that may lead to cancer. There is no established evidence that low-level exposure to radio waves causes cancer. However, the assessment of potential health risks of exposure to radio waves includes a level of uncertainty. Some epidemiological studies have shown an association between heavy mobile phone use and brain cancer; however, limitations of the methods of these studies prevent conclusions of causality being drawn from these observations. Based largely on this limited evidence, the International Agency for Research on Cancer (IARC) in 2011 classified RF EME as possibly carcinogenic to humans. This classification is not intended to cause alarm, but to encourage further research in this area. Other things that IARC classify at this level include pickled vegetables and aloe vera.

Even when taking the IARC decision into account, the overall evidence suggests that the radio waves from mobile phone handsets and other wireless devices are not harmful to the user. A recent study led by ARPANSA, published with the British Medical Journal Open, found that the wide use of mobile phones in Australia has not increased the rate of brain cancer.

How ARPANSA and other health authorities consider the science and provide advice

Expertise required

To study the biological effects of radio waves, various disciplines of expertise need to be utilised, including biology, epidemiology, medicine, physics, engineering and social sciences. All of these disciplines play important individual and collective roles in evaluating possible adverse effects on health, and provide information on the need for, and approaches to, protection. ARPANSA has expertise in many of these areas and collaborates with a number of key organisations including universities, other health authorities (WHO, the International Commission for Non-Ionizing Radiation Protection (ICNIRP)), and various national agencies, that collectively have expertise in all of the specialised disciplines relevant to health research.

To determine any health effects in human or other biological populations, a key area of expertise required is epidemiology. This is the scientific study and research of causes and distribution of disease across populations, including ways to reduce the impact of diseases on the health of communities. ARPANSA employs staff with epidemiological expertise to assess the state of the science on EME and population health.

Approach taken

No single scientific study, considered in isolation, will provide a meaningful answer to the question of whether or not radio waves can cause (or contribute to) adverse health effects in people, animals or the environment. The relevance of individual studies to health and environmental protection also varies. In order to draw an informed conclusion from research studies, it is critical to weigh-up the science in its totality.

Scientific evidence is deemed to be established when it is consistent and generally accepted by the broader scientific community. This usually follows an evaluation of the available data by expert scientific bodies, using a 'health risk assessment' approach. In a health risk assessment, all available studies with either positive or negative effects need to be evaluated and judged on their own merit, and then collectively using the weight-of-evidence approach. It is important to determine how much a single set of new evidence may change the probability that exposure to radio waves causes an effect that has not been shown across the

existing body of evidence. Generally, studies must be replicated, or be in agreement with similar studies to exclude the possibility that the results were random or caused by an external factor. The evidence for an effect is further strengthened if the results from different types of studies (epidemiology and laboratory) point to the same conclusion.

Health authorities like ARPANSA, or international organisations such as WHO and ICNIRP, assess scientific evidence and provide appropriate advice. Individual studies are usually published as peer-reviewed journal papers, however conclusions from these can often vary. Science continually evolves, and ARPANSA reviews new research into the potential health effects of radio waves on an ongoing basis, and consults relevant stakeholders in order to provide accurate up-to-date health advice.

Unsubstantiated views

Opinions on health risks, which are not peer-reviewed, are often provided in the media and on the internet. This includes the possible health effects of radio waves from some scientists that are contrary to the assessment of ARPANSA and the WHO.

For example, the 2007 Bioinitiative Report, including updated versions, is an online document reporting on the relationship between the electromagnetic fields associated with power lines and wireless devices and health. It has not been peer-reviewed and has been heavily criticised by governments and independent research groups for its lack of balance in formulating views, selective use of scientific data and claims that lack a scientific basis. ARPANSA supports the critical assessment of this Report.

The 5G Appeal was prepared in 2017 by some scientists and doctors around the world (including in Australia) who are calling for the European Union to 'halt the roll out of 5G due to serious potential health effects from this new technology'. The Appeal is selective in the use of the available literature and scientific data on radio waves and health. Neither the 5G Appeal nor the Bioinitiative report follow the weight of evidence approach described earlier.

Impact on the environment

A common theme ARPANSA has observed in arguments by anti-5G groups is the impact this network would have on flora and fauna. As an example, a common argument is that bee populations are being impacted by exposure to current mobile networks and this will be made worse under 5G.

The majority of studies investigating the effects of radio waves or electromagnetic fields in general are usually performed on standard laboratory animals used in toxicological studies, such as rats and mice. However, some studies have also included other species such as short-living flies for the investigation of genotoxic effects. There is limited research on the effects of electromagnetic fields on the diversity or abundance of insects or bees. The few ecological studies that do exist generally report little or no evidence of a significant environmental impact. The studies that do show an effect, such as the ones listed, suffer from poor scientific method and the reported effect of electromagnetic field exposure cannot be separated from other environmental factors.

Recommendations for further research

Although the body of science demonstrates there are no health effects from radio waves in mobile telecommunications, it is important to continue the research in radiation safety. ARPANSA has made recommendations for areas where the body of knowledge can be expanded. The research

recommendations include ongoing assessment of personal and environmental exposure to radio waves from new and emerging technologies.

The WHO's Radiation Programme has an ongoing project to assess potential health effects of exposure to radio waves in the general and working population. The WHO has identified areas of further research and will commission in 2020 systematic reviews to analyse and synthesise the evidence.

ARPANSA and our role in mobile telecommunications

Role in 5G

ARPANSA is not a proponent of technology and does not have a regulatory role for public mobile telecommunications. Our role as a radiation health authority is the development of the safety standard for exposure to radio waves from telecommunications sources like 5G. ARPANSA also provides information and advice on the safety of sources emitting radio waves. In order to provide the best advice on the protection of the Australian public from the effects of radio waves, ARPANSA undertakes its own research and reviews the relevant scientific research. ARPANSA's role is not to convince people of the science, rather to provide our assessment based on the body of the evidence and where possible, respond to questions or provide information to highlight this information.

The ARPANSA RF Standard

To address the health risks of radio waves, in 2002, ARPANSA published the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz* (ARPANSA RF Standard). The ARPANSA RF Standard is designed to protect people of all ages and health status against all known adverse health effects from exposure to radio waves. It is based on scientific research that shows the levels at which harmful effects occur and it sets safety limits, based on international guidelines that are considered best practice, well below these harmful levels. The ARPANSA RF Standard applies a precautionary approach in setting exposure limits. In order to compensate for uncertainties in the scientific knowledge, large safety factors are incorporated into the exposure limits i.e. the limits are set well below the level at which all known adverse health effects occur.

Using this standard, the Australian Communications and Media Authority (ACMA) establishes EME exposure limits under its *Radiocommunications (Electromagnetic Radiation-Human Exposure) Standard 2014* and *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015* under which all licence holders must operate. Radio wave exposure to the public from all wireless telecommunications sources including 5G have to comply with the limits set by the ARPANSA RF Standard and enforced via the ACMA regulatory instruments.

The ARPANSA RF Standard is closely aligned with international guidelines prepared by the International Commission for Non-Ionising Radiation Protection (ICNIRP) in 1998 and endorsed by the World Health Organization (WHO). The ICNIRP guidelines form the basis for regulations for the majority of countries. Some regions worldwide have, without any scientific justification, developed limits that are lower than the ICNIRP guidelines. Health authorities like ARPANSA, or international organisations such as WHO and ICNIRP, do not support such an approach, and the WHO has in response developed its Framework for Developing Health-Based EMF Standards.

Since 2000, research in the area of RF and health has grown rapidly and several major research programs and reviews have been undertaken internationally. Through the national EME Program, ARPANSA was able to undertake a review in 2014 of the current level of evidence which was published in the 'Review of Radiofrequency Health Effects Research – Scientific Literature 2000–2012'. The review concluded that, while the exposure limits of the ARPANSA RF Standard are still valid for protection against known adverse effects, under some circumstances the margin of safety between these limits and the threshold for harmful effects may be less than originally intended. This review provided a level of confidence to concerned members of the public that the Standard remained fit for purpose.

At the time, the ARPANSA RF Standard was prepared, it was recognised that new scientific research may indicate that changes may need to be made to the limits or the implementation of the Standard. Since then, the rationale for known health effects has remained the same. However, there have been advances in the measurement of radio wave absorption by the human body and ICNIRP is currently revising its guidelines. ARPANSA is planning to revise its RF Standard following the publication of the revised ICNIRP Guidelines. It should be pointed out that changes are expected to refine the maximum exposure limits and are not expected to impact exposure from telecommunications (including 5G) which tend to be much lower than the maximum exposure limits.

National EME program

Commencing in 1997, the Australian Government established the EME Program. This program provides \$1 million per annum to support research into, and provide information to the public, about health issues associated with telecommunications devices and equipment. The program is indirectly offset by a levy on radiocommunication licensees collected by the ACMA.

The program has three elements:

- an Australian research program managed by the National Health and Medical Research Council (NHMRC) to conduct research into EME issues of relevance to Australia and to complement overseas research activities,
- international engagement with Australian participation in the WHO Electromagnetic Fields Project through ARPANSA's role as a WHO Collaborating Centre for Radiation Protection, and
- a public information program (managed by ARPANSA) to provide information to the public on EME and health.

Of the total \$1m funding, \$700,000 is allocated to NHMRC for research, and \$300,000 allocated to ARPANSA for international engagement and public information programs. This set amount has not been changed since 1997. This funding allocation is part of ARPANSA's government appropriation.

The program however has evolved considerably from when it first started with ARPANSA taking on an expanded role in the NHMRC grant program and development of standards.

ARPANSA's communication activities on 5G and EME generally

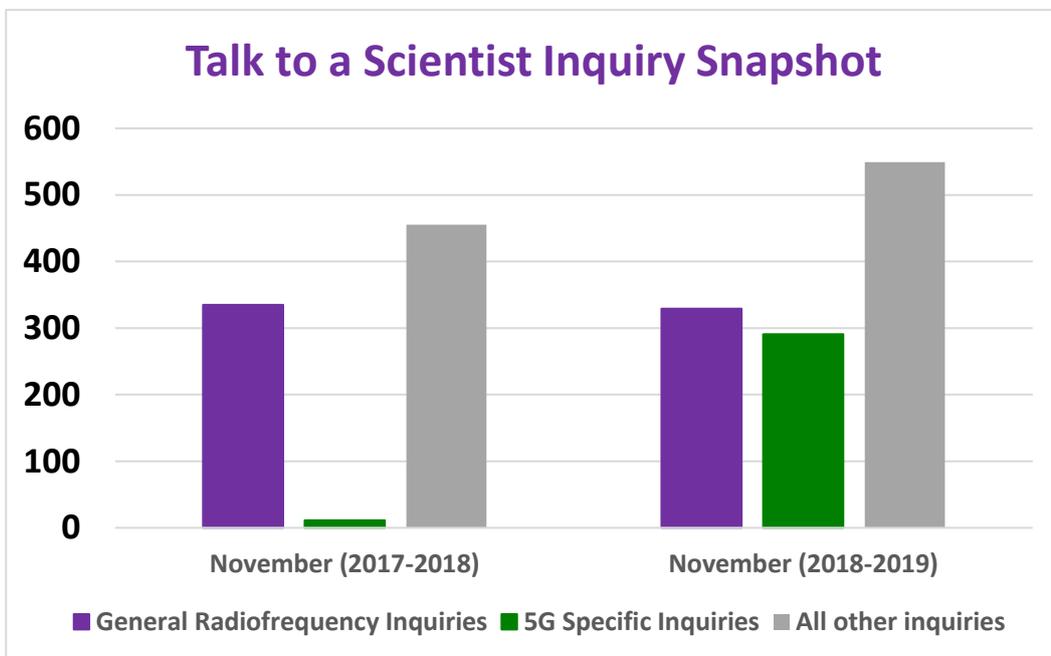
ARPANSA's communication activities on radio waves centres around four key focus areas: website content and fact sheets, direct public engagement, media engagement and advice to key stakeholders.

Website content and fact sheets

ARPANSA has developed a large range of information for its website and flyers covering the issue of radio waves. While 5G is currently being discussed, prior focus has been on other types of technologies using radio waves that has been topical including smart meters, NBN fixed wireless and mobile phone towers. With increasing discussion in the community around 5G, ARPANSA has also increased its use of social media and news articles on the ARPANSA website. This included a 3 June 2019 post on 'Misinformation about Australia's 5G network' that was reported widely in media.

Direct public engagement

ARPANSA provides a unique opportunity for the public and community to talk directly with our scientists on issues about radiation exposure and protection in Australia via its Talk-to-a-Scientist Program. This service offers members of the public the opportunity to find answers to science-related questions that they have been unable to find using other resources. While covering all issues to do with both ionising and non-ionising radiation, the service receives a high volume of calls and email enquiries around radio waves with a particular increase in those related to 5G.



Media engagement

With increased interest in 5G, ARPANSA have actively worked to ensure that the Australian media have access to accurate information. Since January 2019, ARPANSA has been interviewed by print, online, radio and television media on this topic on more than 40 occasions. More broadly ARPANSA advice (including our misinformation statement) or research has been referenced in 151 Australian news articles with a calculated average potential reach of 1.22 million readers, and 105 broadcasts on radio with a calculated national viewership of 1.74 million listeners/viewers. Internationally ARPANSA has been widely reported with 72 articles in the same period reaching a calculated average of 2.15 million readers.

Advice to key stakeholders

ARPANSA has prioritised the provision of information to key stakeholders as a cost-efficient way of reaching a broader audience. ARPANSA has played a key role in supporting broader Australian Government, through

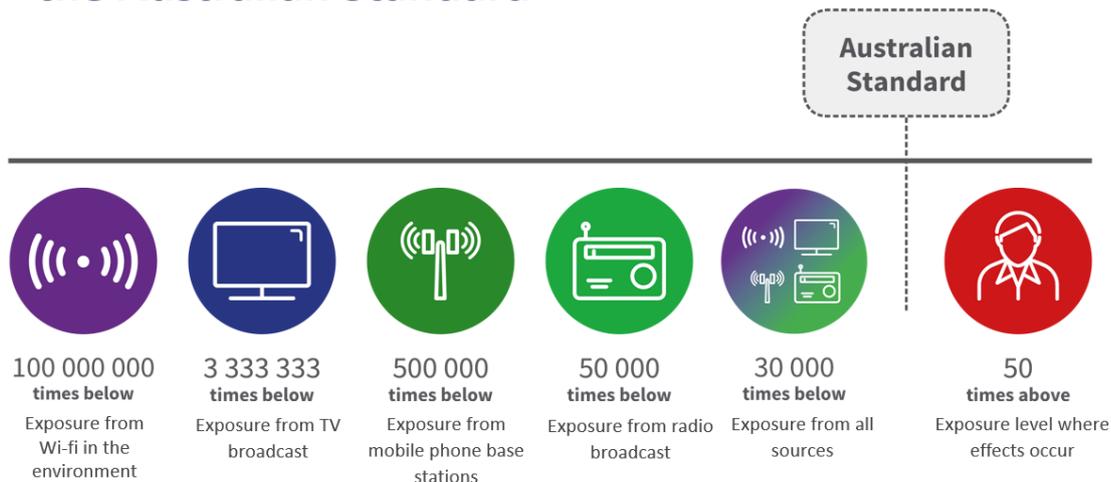
the provision of expert advice including supporting the development of content on the ACMA website, and the Department of Communications and the Arts video ‘Electromagnetic energy (EME) and you’¹. ARPANSA has also supported state and territory, and local government through the provision of information and technical briefings.

Key ARPANSA research

As mentioned previously, ARPANSA has recently completed a study (published in the British Medical Journal Open) comparing the incidence of brain cancer in Australia from 1982 to 2013 to mobile phone use during the same period. The study found that there was no increase in brain tumours that can be attributed to mobile phone use.

ARPANSA has also conducted its own measurements of environmental radio waves from various sources (radio, mobile phone towers, TV, Wi-Fi etc.) detectable in urban areas. All the measurements have shown radio wave exposure in the everyday environment is typically much lower than the safety limits prescribed in the ARPANSA RF Standard and international guidelines. As an example, the Wi-Fi in schools measurement study conducted in 2016 found that in a schoolyard, the dominant exposure continued to be from AM radio with the combined exposure of all sources including mobile networks still 30,000 times below these limits.

Typical public exposure to radio waves against the Australian Standard



¹ https://www.youtube.com/watch?v=XGI_LcqtDIQ

YARRA RANGES REGIONAL MUSEUM TRUST - RESIGNATIONS AND APPOINTMENTS

Report Author: Manager Creative and Connected Communities

Responsible Officer: Director Communities

Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

Following notice from The Chair of the Trust, Maria McCarthy, of the resignation of two Community Appointed Museum Trust members, Wanda McPherson and Paulette Bisley, the Trust Deed requires from Council a written nomination to replace retiring trustees.

The Chairperson has provided recommendations for Council to consider as follows; Dino Conte as Secretary and Angela Stainwall as Treasurer. Both nominees have confirmed their willingness to be nominated and appointed as Community Appointed trustees to the Yarra Ranges Regional Museum Trust.

In addition, a letter under seal will be presented to Wanda McPherson and Paulette Bisley acknowledging their contributions in providing expertise and advice for the Trust.

RECOMMENDATION

That Council endorse the nominees, Dino Conte and Angela Stainwall, as recommended by the Yarra Ranges Regional Museum Trust.

RELATED COUNCIL DECISIONS

There are no related Council decisions relevant to this item.

DISCUSSION

Purpose and Background

The Museum of Lillydale Trust was formed in 1989 by the (then) Shire of Lillydale. In 2014 after the opening of the Yarra Ranges Regional Museum, the deed was changed to reflect The Yarra Ranges Regional Museum Trust.

The purpose of the Trust has not changed since its inception, and this is laid out in the Trust Deed.

In accordance with the Trust Deed:

8.8.1 Where a Retiring Trustee is a Community Appointed Trustee, the Trustees must procure from Council a written nomination of a person to replace such Retiring Trustee in accordance with the following periods of time (as is applicable)

8.8.1.1 At least 30 days prior to the expiry of the Retiring Trustee's Term.

The current members of the Trust comprise:

- Two Council appointed members including Cr Tim Heenan and Cr Richard Higgins
- Five community appointed members including Ray Yates, Maria McCarthy, Guill de Pury and two recent vacancies.

Nominations

Dino Conte – Secretary

Dino runs his own business and has lived in Yarra Ranges all his life. He has been recommended as Secretary for his business management capacity as well as his interest in history. Dino is honoured to be recommended for the role of Secretary.

Angela Stainwall – Treasurer

Angela is an accountant who runs her own accountancy practice in Lilydale. She has been recommended as Treasurer for her financial management skills, as well as experience volunteering for numerous organisations. Angela is keen to be involved in the Trust as the Treasurer.

Options considered

No other nominations were received.

Recommended option and justification

That Councillors endorse the appointment of the two recommended nominations, Dino Conte and Angela Stainwall to the Trust.

Council sign Letters Under Seal for Wanda McPherson and Paulette Bisley at Council meeting on Tuesday 26th September.

FINANCIAL ANALYSIS

There are no financial implications in regard to this report.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan:

- Quality Infrastructure and Liveable Places
- Vibrant Economy, Agriculture and Tourism -
 - This connection strengthens our collective identity, our culture and heritage and creates a sense of belonging for our diverse community.

This report contributes to the Creative Communities Strategy:

- Connection to shared heritage experience -
 - The degree to which the activity creates a sense of connection or belonging to a shared past, present and future.

RELEVANT LAW

Not applicable.

SUSTAINABILITY IMPLICATIONS

Not applicable.

Economic Implications

Not applicable.

Social Implications

The Yarra Ranges Regional Museum Trust support heritage in the region.

Environmental Implications

Not applicable.

COMMUNITY ENGAGEMENT

Recommendations for the vacancies were discussed and endorsed by the Trust Members taking in to account the skill set required to fulfill these two vacancies.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought.

RISK ASSESSMENT

Risk	Mitigation
Two of five community appointed members seats vacant.	Appoint two new members for the vacant community appointed positions in line with the Trust Deed. This ensures good governance.
Members appointed are not suitably qualified to hold Secretary and Treasurer positions in the Trust.	Councillors ensure new members are suitably qualified to hold these positions. This ensures good governance.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

Nil

AUDIT AND RISK MANAGEMENT COMMITTEE - CHAIR APPOINTMENT

Report Author: Manager Procurement, Risk & Governance

Responsible Officer: Director Corporate Services

Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

This report recommends the appointment of Mr Steve Schinck as the Chair of Council's Audit and Risk Management Committee (the Committee) for a one-year period commencing 1 October 2023.

RECOMMENDATION

That Council

1. ***Endorse the appointment of Mr Steve Schinck as the Chair of the Yarra Ranges Council Audit and Risk Management Committee for a one-year term commencing 1 October 2023.***
2. ***Endorse the remuneration for Mr Steve Schinck as the Independent Member Chair be \$1726 per meeting (based on five meetings per year).***

RELATED COUNCIL DECISIONS

During its meeting of August 2020 Council approved the Audit and Risk Management Committee Charter (the Charter).

DISCUSSION

Purpose and Background

Section 53 of the *Local Government Act 2020* requires Council to establish an Audit and Risk Management Committee (the Committee) as an Advisory Committee to

Council. The terms of reference of the Committee are outlined in the Charter which has been approved by Council and published on Council's website.

The Charter requires that the composition of the Committee include:

- Up to five members
- Minimum of three Independent members
- Minimum of Two Councillor Representatives.

Council is required to appoint a Chairperson for the Committee, the Chairperson being one of the Independent Members.

Mr Steve Schinck is a current member of the Committee and an experienced executive consultant, he is highly suitable to Chair the Committee. Steve has 16 years' experience as a senior executive in the Department of Treasury and Finance (DTF) and has held executive management roles in corporate planning and governance, human resource strategy, asset management and operations, organisational risk management, internal audit and financial management and planning.

Steve is also the current Chair of the Audit and Risk Committees (ARC) for Energy Safe Victoria and Safe Transport Victoria, and an independent member of the ARC's for the Victorian Labour Hire Authority and Murrindindi Shire Council.

RECOMMENDED OPTION AND JUSTIFICATION

Mr Schinck was nominated by one of the current Independent Members of the Committee, and his nomination was unanimously supported.

It is recommended that Council endorse Mr Steve Schinck as the Audit Risk and Management Committee Chair for a one-year period commencing 1 October 2023.

FINANCIAL ANALYSIS

All financial implications associated with this recommendation are covered by existing operational budgets.

Section 12.5 of the Charter states that remuneration will be paid to each Independent Member and the Chair on a per meeting basis, with fees being indexed in alignment with the rate cap each 1 July. With the addition of a new independent member in June 2023, independent member fees were reviewed and standardised.

From 1 July 2023, the recommended Independent Member Chair remuneration is \$1726 per meeting (excluding GST and based on five meetings per year).

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan: The appointment of an Independent Chair to the Committee links to the Council's Key Strategic Objective – High Performing Organisation and meets Council's obligations under the *Local Government Act 2020*.

RELEVANT LAW

It is a legislated requirement that Council establish an Audit and Risk Management Committee, appoint Independent Members and a Chair, adopt and maintain a Charter and provide a bi-annual report to Council.

COMMUNITY ENGAGEMENT

No community engagement has been undertaken in preparing this recommendation.

RISK ASSESSMENT

The Committee provides independent assurance to Council in respect of Council's management of risk, and as such the recommended appointment of a new Chair will ensure the continuation of a high performing Committee, therefore reducing Council's overall risk exposure.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Mr Steve Schinck Biography

Steve Schinck Biography

Resource	Details
Executive Consultant Bachelor of Business Executive Fellows Program (ANZSOG) Victorian Government Gateway Reviewer Company Director (AICD)	<p>Steve has 16 years' experience as a senior executive in the Department of Treasury and Finance (DTF) and has held executive management roles corporate planning and governance, human resource strategy, asset management and operations, organisational risk management, internal audit and financial management and planning.</p> <p>Steve's whole-of-government policy and service delivery roles in include major financial management reforms, asset management, leading major outsourcing activities, advising the Victorian Government Purchasing Board (VGPB) on the reform of public sector procurement, setting new Government accommodation strategy and standards and the management of government property, banking services and the motor vehicle fleet.</p> <p>Steve implemented the innovative Greener Government Buildings program delivering substantial energy and water efficiency projects, winning the Premiers Sustainability Award in 2011.</p> <p>Steve is Chair of the Audit and Risk Committees (ARC) for Energy Safe Victoria and Safe Transport Victoria, and an independent member of the ARC's for the Victorian Labour Hire Authority, Yarra Ranges Shire Council and Murrindindi Shire Council.</p> <p>Steve has also served on the Old Treasury Building Committee of Management, as Treasurer of Eastern Domestic Violence Service and Chair of Manningham Community Health Services.</p> <p>Steve's consulting experience in governance, procurement, significant tenders and commercialisation includes clients such as the Department of Jobs Precincts and Regions, Museums Victoria, Goulburn-Murray Water, the NDIA, Victoria Police and the Workplace Injury Commission</p>

CT5628 - SUPPLY OF PLAYGROUND PRODUCTS, PRODUCTS, SERVICE AND WORKS - EXTENSION OF CONTRACT

Report Author: Manager Recreation Parks & Facilities
 Responsible Officer: Director Built Environment & Infrastructure
 Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

The purpose of this report is to seek approval for an extension Specification A & B of the Contract CT5628, Playground Products, Services and Works, currently held by numerous entities, until 11 December 2024.

The report also determines that Category C of contract CT5628 will not be extended as part of this approval due to change in industry supply of Hardwood Softfall mulch.

Contract CT5628 is scheduled to conclude on 11 December 2023. This report outlines the current contract arrangements, financial and service delivery responsibilities and principles for the proposed new contract should the extension be approved.

The contractors (Category A&B) provide essential work and services on Council assets to ensure that the assets are maintained appropriately and continue to deliver an acceptable level of service to the community.

RECOMMENDATION

That Council

- In accordance with Council's Procurement Policy and the existing Terms and Conditions of Contract CT5628 approves and delegates to the Director Built Environment and Infrastructure authority to negotiate an extension to specification Category A & B for the contract to 11 December 2024 with the existing Contractors:***

***Specification Category A - Auditing & Testing of Rubber Undersurfaces*
*Hutchinson Parks Services Pty Ltd.***

Specification Category B - Programmed & Reactive Maintenance***Prim Services Pty Ltd***

2. ***In accordance with Council's Procurement Policy and the existing Terms and Conditions of Contract CT5628 determines not to extend specification category C and delegates to the Director Built Environment and Infrastructure authority to formally provide notice to the current supplier within 4 weeks of the end date of contract, 11 December 2023.***

Specification Category C - Supply of Organic Playspace Softfall***Crystal Dancer trading as Pine Mulch Hauler.*****RELATED COUNCIL DECISIONS**

There are no related Council decisions relevant to this item.

DISCUSSION***Purpose***

To extend the Contract CT5628, Playground Products, Services and Works, to 11 December 2024.

This report outlines the current contract arrangements, financial and service delivery responsibilities and principles for the proposed contract Specification A & B should the extension be approved.

Specification C contract arrangements will be ceased at the end of this contract term.

The contracts are scheduled to conclude on 11 December 2023.

Background

Council is responsible for auditing and maintaining a wide range of playground equipment and associated facilities and surrounds including:

- auditing and testing of rubber undersurfaces
- programmed and reactive maintenance
- supply of organic playspace softfall.

Delivery of the necessary auditing and testing services, maintenance and supply and installation of softfall material in a complex urban, semi-rural and rural environment requires many diverse maintenance activities to have these playground assets at an acceptable standard.

Council's assets are currently maintained by a mix of Council officers and three Contractors through the CT5628 Playground Products, Services and Works. Contract CT5628 commenced on 12 December 2018 for a 5-year period and expires on 11 December 2023.

During the past 5 years management of the Contract and delivery of the maintenance activities to the required standard has been challenging for Council and the Contractors. These challenges include, increasing community expectations, COVID 19, regulatory and Australian Standard changes, severe weather events, availability of materials, price of materials, unforeseen demand on Contractor resources and the overall demand for works on the playground assets.

Contract CT5628 has been a key component of enabling Council to meet its obligations outlined in the endorsed Asset Management Policy, Strategy and Plans. It is envisaged that the proposed Contract approval will facilitate Council's playground assets continuing to be maintained to a standard that has had stakeholder input and provides an acceptable level of service for the community

The current contractors under Specification A & B have performed at a high level and a proposed extension is supported by all officers who are engaged in the supervision and delivery of these services on behalf of the community.

The proposed extension will allow for the completion of the review of the existing services, confirmation/amendment of service standards and service delivery, procurement process, implementation and transition to the provision of all deliverables under the new contract specification for Playground Products, Services and Works. It is envisaged the draft specifications for the new contract will be finalised in the coming months.

Due to a change in industry supply of hardwood mulch products now not available in the market due to recent changes in the Victorian Government legislation on logging/harvesting native forests, hardwood Softfall product supply has dried up and the ongoing manufacture of this material has ceased as there are no hardwood by-product available for this product. Council will need to seek alternative materials for Softfall and run a separate procurement process. As a result, specification C, Organic Hardwood Softfall supply will not be extended as part of the contract extension.

Options considered

Council has an established and effective panel service delivery model that complements Councils existing in-house resources and service arrangements.

In accordance with Council's Procurement Policy, Council can extend this contract agreement for specification A&B and cease the contract arrangement with supplier for Specification C due to a change in supply capacity.

In accordance with Section 9.2 of Council's Procurement Policy, Officers could consider utilising other panel supply and delivery contracts via Government entity /approved third party arrangements such as Municipal Association of Victoria (MAV) or Procurement Australia, however, key disadvantage of this option is the potential extra cost and risk as historically the financial Schedule of Rates are not as competitive and service providers are limited and may not be locally based.

Recommended option and justification

Contract CT5628 Playground Products, Services and Works provides essential auditing, work and services on Council assets to ensure that the assets are

maintained appropriately and continue to deliver an acceptable level of service to the community.

Council officers recommend that Council, in accordance with its Procurement Policy 2021-2025, approve an extension of Specification A, with Hutchison Parks Services Pty Ltd. In addition Council approve an extension of Specification B with Prim Services Pty Ltd, Contract CT5628 Playground Products, Services and Works, both to 11 December 2024.

Council officers recommend that Council, in accordance with its Procurement Policy, don't extend Specification C with Crystal Dancer Trading as Pine Mulch Hauler Pty Ltd, Contract CT5628 Playground Products, Services and Works which will expire for this arrangement on 11 December 2023.

FINANCIAL ANALYSIS

Contract CT5628 is a Schedule of Rates contract. The existing Schedule of Rates require adjustment during the period of the Contract extension because of current direct cost pressures associated with labour availability, material supply costs and lease arrangements for plant and equipment. Council officers will, however, as far as practicable ensure the activities undertaken during the proposed extension of the Contract are within the Council's budget allocations.

Council expends up to \$100,000 annually on Category C - Supply of Organic Playspace Softfall. Maintaining the softfall has presented a challenge to Council because the specified hard wood chips are no longer available following the closure of the sole provider, Victorian Timber Mills. The hardwood chips have been replaced with a pinewood softfall which complies with Australian Standards (AS) 4422:20165 Playground Surfacing – Specifications, Requirements and Test Methods.

Council Officers will implement a separate formal procurement process which will focus on the new supply of "pinewood softfall product" to continue to meet Australian Standard specifications and supply needs.

APPLICABLE PLANS AND POLICIES

Contract CT5628 is a key component of enabling Council to meet its obligations outlined in the endorsed Asset Management Policy, Strategy and Plans. It is envisaged that the proposed Contracts will facilitate Council's assets continuing to be maintained to a standard that provides an acceptable level of service for the community.

RELEVANT LAW

The contract is based on a specification for the service together with contract terms and conditions that ensure the contract is enforceable and provides protocols for managing the contract.

Council's Procurement Policy 2021-2025, Section 9.2 Exemptions from Competitive Procurement Processes, allows Council to extend an existing contract where the

procurement process to replace the contract has commenced, and where the Tender Process or negotiations will take or are taking longer than expected.

This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.

SUSTAINABILITY IMPLICATIONS

Economic Implications

The economic ramifications of selecting the most appropriate contract models and service levels cannot be underestimated. The outlay for the Panel Contract Services is a significant component of Council's annual expenditure and decisions on how the Annual Supply contracts are awarded will have multiple-year budget impacts. The recommendations made in this report are designed to optimise the balance between financial cost and appropriate levels and quality of service, whilst minimising economic, reputational and other risks across the components of the services.

Social Implications

A key criteria for the recruitment of staff for the outsourced services will be policies that encourage local employment opportunity and traineeships. Whilst contractors indicate that they are dedicated to engaging the best person for the job, the intent is to raise awareness and continue to develop a partnership relationship with the Contractor to encourage social procurement opportunities.

Environmental Implications

The Panel Contractors must be provided safely and in accordance with the relevant environmental protection regulations, Council policies and industrial best practice.

Waste management plays a significant part of sustainable delivery of Council Services. Panel Contractors are required to operate with a Waste Management Plan (WMP) based on a hierarchy of avoid, reduce, reuse and recycle which is a critical part of its service delivery ethos. The sustainability outcomes are established to effectively manage natural and human resources by:

- Minimising waste generation
- Managing waste through procedures for recycling reuse and disposal
- Training and awareness building for staff / subcontractors and client staff
- Monitoring and measuring to drive continual improvements driven from the Waste Management Plan (WMP) and the Environmental Management Plan (EMP).

The Panel Contractor services must be provided safely and in accordance with the relevant environmental protection regulations, Council policies and industrial best practice.

- Softfall is a recycled Product.

COMMUNITY ENGAGEMENT

There was no community engagement undertaken in relation to this recommendation.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Innovation and continuous improvement attributes are inherent in many aspects of the qualitative evaluation criteria, especially in the areas of technical capability, capacity, provision of services, customer service, quality management system and sustainability. Contract Managers with the Service Providers also explore what innovation opportunities that they would bring to the services over the next 12 months.

All Council officers involved in managing Contract CT5628 are involved in the review of the existing Contract and preparation of the revised contract specification. Council officers will consult and negotiate with the Contractors to come to a mutually agreeable solution to both parties under the current Schedule of Rates contract and Council's budget to enable the effective extension of the Contract CT5628.

Council officers have effective working relationships with the existing Contractors that will continue during the period of the Contract extension and using the existing comprehensive auditing program, ensure that during the final transition period all works are completed to the standards required by the existing Contract.

The extension of the contract (specification A & B) to 11 December 2024 allows for suitable time to perform a comprehensive Tender Evaluation and Assessment process and provide for the successful Tenderers to transition into the service.

RISK ASSESSMENT

The Risk Plan prepared at the start of the Tender process for the proposed contract identified as a High Risk the need to review the service levels of Contract CT5628. An on-going business challenge for Council is to maintain current minimum acceptable service standards and meet stakeholder expectations, still within the constraints of the annual budget and the Long-Term Financial Plan (LTFP).

The current LTFP has a budget allocation that meets current contract expenditure with capacity to increase expenditure associated with maintenance services being limited. Council officers are reviewing the service levels and may propose adjustments to the delivery model to potentially improve service delivery and minimise costs.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

Nil

EOI7330 LANDSCAPE CONTRACTORS PANEL

Report Author: Manager Design and Delivery
Responsible Officer: Director Built Environment & Infrastructure
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

Confidential information is contained in Attachment 1. This information relates to contractual matters and contains commercially sensitive information including, but not limited to, the name of tendering parties, the evaluation panel members, the tendered prices, and the evaluation of the tenders received against the published evaluation criteria.

Any disclosure of the information included within the confidential attachment to this report could be prejudicial to the interests of the Council or other parties. If discussion of this information is required, the Council is recommended to resolve that the item be deferred to the confidential section of the agenda when the meeting is closed to members of the public in accordance with Section 3(1)(g)(i)(g)(ii) of the Local Government Act 2020.

This report seeks Council approval to award a contract that complies with the Section 108 of the Local Government Act 2020.

SUMMARY

This report summarises the evaluation process and seeks Council approval for the establishment of a panel of pre-qualified Landscape Construction Contractors. The selected Panel consisting of 16 contractors will be given the opportunity to bid for selected projects as Council considers appropriate over an initial contract period of 2 years with extension options for two additional periods of two years each.

This item has been included in the public agenda to facilitate openness and transparency in Council's decision making. Confidential attachments have been included with the report which contains commercially sensitive information that is not to be disclosed whilst the meeting is open to the public.

RECOMMENDATION***That***

1. ***Council resolves to appoint the following contractors to EO17330 Landscape Construction Contractor Panel for an initial period of 2 years subject to satisfactory completion and ongoing maintenance of mandatory OHS Management, Insurance, and Child Safety Standards requirements:***
 - (a) ***A & R Landscaping Pty Ltd [Abn 47 620 845 169]***
 - (b) ***The Trustee For The R & D Rayner Family Trust (Trading As Activity Playgrounds Pty Ltd) [Abn 60 896 165 125]***
 - (c) ***Bells Civil Excavations Pty Ltd [Abn 62 169 307 939]***
 - (d) ***Commercialsapes Pty Ltd [Abn 82 607 810 364]***
 - (e) ***Common Ground Trails Pty Ltd [Abn 51 162 352 776]***
 - (f) ***Fleming's Landscapes Pty. Ltd. [Abn 18 621 168 607]***
 - (g) ***Landstruct Landscape Construction Pty Ltd (Trading As Landstruct Landscape Construction) [Abn 92 094 104 337]***
 - (h) ***Prestige Paving Pty Ltd (Trading As Prestige Civil Group) [Abn 84 140 970 912]***
 - (i) ***R & J Kent & Co Pty Ltd (Trading As Kent Environmental & Vegetation Management) [Abn 30 006 592 490]***
 - (j) ***Regal Innovations Pty Ltd [Abn 79 002 411 814]***
 - (k) ***1831 Pty Ltd (Trading As Scratchin The Surface) [Abn 74 119 252 710]***
 - (l) ***Tdm Earthworks Pty Ltd [Abn 80 606 123 924]***
 - (m) ***Udl Group Pty Ltd [Abn 48 149 994 258]***
 - (n) ***Warrandale Industries Pty Ltd [Abn 45 132 425 361]***
 - (o) ***World Trail Pty Ltd Atf World Trail Unit Trust (Trading As World Trail) [Abn 93 794 484 623]***
 - (p) ***Yellowstone Landscaping Pty Ltd [Abn 96 094 921 294]***
2. ***The Director of Built Environment & Infrastructure be delegated the authority to sign contract documents.***
3. ***The Director of Built Environment & Infrastructure be delegated authority to extend the contract terms by two periods of two years each.***
4. ***The confidential attachment to this report remains confidential indefinitely as it relates to matters specified under Section 3(1) (g)(i), (g)(ii) of the Local Government Act 2020***

RELATED COUNCIL DECISIONS

There are no related Council decisions relevant to this item.

DISCUSSION

Purpose and Background

Yarra Ranges Council has many varied landscape and urban design projects on the annual capital works program. These projects frequently require the specialist expertise of Landscape Construction Contractors to assist with either the Design & Construction or Construction only of these projects.

The purpose of the Landscape Construction Contractor Panel is to service the delivery of these works that includes for renewal, upgrade and new works to recreation, community use, and public open space sites throughout the Yarra Ranges Shire.

The key advantages in establishing this panel are to provide high quality results, have a strong focus on the local economy, gain efficiencies in the procurement and contractor engagement process, and allow for best value cost effective solutions in the design, delivery, and procurement process.

Council intends to appoint Contractors with appropriate capability, capacity, quality and experience from a pre-approved contractor panel in a more efficient and effective way.

It is anticipated that the panel for Landscape Construction Contractors may be given the opportunity to quote on any applicable landscape, urban design or associated project between the value of \$50k and up to the value of \$2m.

A summary of the evaluation process has been included in confidential attachments to this report.

Options Considered

This expression of interest (EOI) process has been carried out in accordance with the requirements of Council's procurement policy.

The procurement method for this tender was a single stage open EOI Process. An advertisement calling for Expressions of Interest was placed in The Age newspaper on Sunday 09 July 2023. Expressions closed on 2 August 2023 and 23 submissions were received.

EOI's were assessed for conformity with the request documents and zero non-conformances were identified. The Evaluation Panel scored tenders against pre-established evaluation criteria. A summary of the mandatory requirements and evaluation criteria is as follows:

Mandatory Requirements:

- Is an acceptable legal entity.
- Has met the insurance requirements.
- Will be compliant with Rapid Global prior to Contract Award.

- Submission has been received in full prior to EOI closing time.
- Lodged in electronic form using Council's e-tendering portal.

NON-PRICE	Weighting
Demonstrated Experience	30%
Resourcing & Capacity	30%
Environmental Impacts	10%
Quality	10%
Local Content & Social Sustainability	20%
TOTAL	100%

Recommended option and justification

Following the evaluation process, the evaluation panel are unanimous in their decision to recommend the following contractors to be accepted on the EO17330 Landscape Construction Contractor Panel:

- A & R Landscaping Pty Ltd
- The Trustee For The R & D Rayner Family Trust (Trading As Activity Playgrounds Pty Ltd)
- Bells Civil Excavations Pty Ltd
- Commercialscapes Pty Ltd
- Common Ground Trails Pty Ltd
- Fleming's Landscapes Pty. Ltd
- Landstruct Landscape Construction Pty Ltd (Trading As Landstruct Landscape Construction)
- Prestige Paving Pty Ltd (Trading As Prestige Civil Group)
- R & J Kent & Co Pty Ltd (Trading As Kent Environmental & Vegetation Management)
- Regal Innovations Pty Ltd
- 1831 Pty Ltd (Trading As Scratchin The Surface)
- Tdm Earthworks Pty Ltd
- Udl Group Pty Ltd
- Warrandale Industries Pty Ltd
- World Trail Pty Ltd Atf World Trail Unit Trust (Trading As World Trail)
- Yellowstone Landscaping Pty Ltd.

A detailed breakdown of the evaluation process is provided within the Confidential Attachment to this report.

FINANCIAL ANALYSIS

The number of projects and budget allocation for EO17330 Landscape Construction Contractor Panel will vary between each financial year, as it will be dependent on the adopted works program and external funding for future projects.

Having a pre-approved panel established will provide best value to council, the panel is expected to gain efficiencies throughout the design, procurement, contract and delivery phases. The efficiencies are also expected to result in more cost-effective solutions, reducing preliminary costs, design costs, and reducing cost escalation that will translate into improved value for money outcomes.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan:

- High Performing Organisation
 - An innovative, responsive organisation that listens and delivers quality, value for money services to our community
- Quality Infrastructure and Liveable Places
 - Quality facilities and infrastructure meets current and future needs. Places are well planned and are hubs of activity that foster wellbeing, creativity and innovation

RELEVANT LAW

This report seeks Council approval to award a contract that complies with Section 108 of the Local Government Act 2020.

ECONOMIC IMPACTS

The establishment of this panel is anticipated to deliver improved outcomes for the local economy through local material supply and labour use, as well as local employment being part of the evaluation criteria.

The recommended contractors for this panel are made up of a majority of local smaller contractors which will help provide economic support to local businesses throughout Yarra Ranges Council.

SUSTAINABILITY IMPLICATIONS

Sustainability has been considered as part of the project specification and evaluation process. The tenderers have responded to sustainability implications satisfactorily. Sustainability aspects will also be considered as part of each project within project specifications and environmental management plans.

COMMUNITY ENGAGEMENT

Not Applicable

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

The panel establishment is also part of a continuous improvement exercise to streamline design and delivery processes. The process improvement will also make it easier for contractors to respond, thus resulting in a more engaged and competitive supplier market.

Benchmarking was undertaken with surrounding councils, however, there has been no collaboration with other Councils, Governments or statutory bodies due to the strong focus on local contractors/suppliers.

RISK ASSESSMENT

A risk assessment was developed for the project and this has been considered as a part of the project design, contract terms and conditions and evaluation process.

The use of the panel will ensure that contractors are fully compliant with legislation and Council's contractual requirements and that their ongoing compliance will be monitored throughout the operation of the panel. In doing so, this will ensure that Council meets its legislative and legal obligations and mitigates its risks relating to procurement and OHS compliance.

CONFLICTS OF INTEREST

An officer and/or delegates acting on behalf of the Council through the Instrument of Delegation declared a Conflicts of Interest which has been managed in accordance with Council's Governance Rules.

ATTACHMENTS TO THE REPORT

1. EO17330 Confidential Attachment for Council Report
2. Conflict of Interest Declaration

Confidential Item

Confidential Item

EOI7333 BUILDING CONTRACTORS PANEL

Report Author: Manager Design and Delivery
Responsible Officer: Director Built Environment & Infrastructure
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

Confidential information is contained in Attachment 1. This information relates to contractual matters and contains commercially sensitive information including, but not limited to, the name of tendering parties, the evaluation panel members, the tendered prices, and the evaluation of the tenders received against the published evaluation criteria.

Any disclosure of the information included within the confidential attachment to this report could be prejudicial to the interests of the Council or other parties. If discussion of this information is required, the Council is recommended to resolve that the item be deferred to the confidential section of the agenda when the meeting is closed to members of the public in accordance with Section 3(1)(g)(i)(g)(ii) of the Local Government Act 2020.

This report seeks Council approval to award a contract that complies with the Section 108 of the Local Government Act 2020.

SUMMARY

This report summarises the evaluation process and seeks Council approval for the establishment of a panel of pre-qualified Building Construction Contractors. The selected Panel consisting of eleven (11) contractors will be given the opportunity to bid for selected projects as Council considers appropriate over an initial contract period of 2 years with extension options for two additional periods of two years each.

This item has been included in the public agenda to facilitate openness and transparency in Council's decision making. Confidential attachments have been included with the report which contains commercially sensitive information that is not to be disclosed whilst the meeting is open to the public.

RECOMMENDATION***That***

1. ***Council resolves to accept the following eleven Contractors onto a panel for EO17333 Building Contractors Panel for an initial period of two (2) years:***
 - (a) ***A & C Patterson Family Trust (Trading As A & C's Total Building Maintenance P/L) [Abn 71 713 914 051]***
 - (b) ***Building Impressions Pty Ltd [ABN 79 862 472 790]***
 - (c) ***Circon Constructions Pty Ltd [ABN 44 113 265 044]***
 - (d) ***Corstocon Pty Ltd as trustee for the Corstocon Business Trust (trading as Cornerstone Constructions) [ABN 13 544 040 153]***
 - (e) ***Cumayne Constructions Pty Ltd [ABN 99 083 589 477]***
 - (f) ***Ducon Maintenance Pty Ltd (trading as Ducon Building Solutions) [ABN 79 150 941 174]***
 - (g) ***Eastwood Property Pty Ltd (trading as Versatile Property Maintenance) [ABN 61 130 092 703]***
 - (h) ***Kaylan Constructions P/L [ABN 61 102 962 363]***
 - (i) ***More Building Group Pty Ltd [ABN 44 614 992 933]***
 - (j) ***Rodine Australia Pty Ltd [ABN 81 122 927 397]***
 - (k) ***Stosius and Staff Constructions Pty Ltd [ABN 58 106 222 146]***
2. ***The Director of Built Environment & Infrastructure be delegated the authority to sign contract documents.***
3. ***The Director of Built Environment & Infrastructure be delegated authority to extend the contract terms by two periods of two years each.***
4. ***The confidential attachment to this report remains confidential indefinitely as it relates to matters specified under Section 3(1) (g)(i), (g)(ii) of the Local Government Act 2020***

RELATED COUNCIL DECISIONS

There are no related Council decisions relevant to this item.

DISCUSSION***Purpose and Background***

Yarra Ranges Council has many varied building projects on the annual capital works program. These projects frequently require the specialist expertise of Building Construction Contractors to assist with either the Design & Construction or Construction only of these projects.

The purpose of the Building Contractors Panel is to service the delivery of these works that includes for renewal, upgrade and new works to recreation, community use, and public open space sites throughout the Yarra Ranges Shire.

The key advantages in establishing this panel are to provide high quality results, have a strong focus on the local economy, gain efficiencies in the procurement and contractor engagement process, and allow for best value cost effective solutions in the design, delivery, and procurement process.

Council intends to appoint Contractors with appropriate capability, capacity, quality, and experience from a pre-approved contractor panel in a more efficient and effective way.

It is anticipated that the panel for Building Contractors may be given the opportunity to quote on any applicable building or associated projects between the value of \$50,000 and up to the value of \$2,000,000.

A summary of the evaluation process has been included in confidential attachments to this report.

Options considered

This EOI process has been carried out in accordance with the requirements of Council's procurement policy.

The procurement method for this tender was a single stage open Expression of Interest Process. An advertisement calling for Expressions of Interest was placed in The Age newspaper on Saturday 15 July 2023. Expressions closed on 09 August 2023 and 25 submissions were received.

EOI's were assessed for conformity with the request documents and four (4) submissions were eliminated from further evaluation due to non-conformances. The Evaluation Panel scored tenders against pre-established evaluation criteria. A summary of the mandatory requirements and evaluation criteria is as follows:

Mandatory Requirements:

- Is an acceptable legal entity.
- Has met the insurance requirements.
- Will be compliant with Rapid Global prior to Contract Award.
- Submission has been received in full prior to EOI closing time.
- Lodged in electronic form using Council's e-tendering portal.
- Commercial Builders License

The weighting criteria established prior to advertising and used for the assessment was as follows:

NON-PRICE	Weighting
Demonstrated Experience	30%
Resourcing & Capacity	30%
Environmental Impacts	10%
Quality	10%
Local Content & Social Sustainability	20%
TOTAL	100%

Recommended option and justification

Following the evaluation process, the evaluation panel are unanimous in their decision to recommend the following contractors to be accepted on the EO17333 Building Contractors Panel.

- A & C Patterson Family Trust (Trading As A & C's Total Building Maintenance P/L)
- Building Impressions Pty Ltd
- Circon Constructions Pty Ltd
- Corstocon Pty Ltd as trustee for the Corstocon Business Trust (trading as Cornerstone Constructions)
- Cumayne Constructions Pty Ltd
- Ducon Maintenance Pty Ltd (trading as Ducon Building Solutions)
- Eastwood Property Pty Ltd (trading as Vesatile Property Maintenance)
- Kaylan Constructions P/L
- More Building Group Pty Ltd
- Rodine Australia Pty Ltd
- Stosius and Staff Constructions Pty Ltd.

A detailed breakdown of the evaluation process is provided within the Confidential Attachment to this report.

FINANCIAL ANALYSIS

The number of projects and budget allocation for EO17333 Building Contractors Panel will vary between each financial year, as it will be dependent on the adopted works program and external funding for future projects.

Based on the current program it is estimated that the panel could potentially service approximately \$3-5m worth of projects split across fifteen (15) contracts each financial year.

Having a pre-approved panel established will provide best value to council, the panel is expected to gain efficiencies throughout the design, procurement, contract and delivery phases. The efficiencies are also expected to result in more cost-effective solutions, reducing preliminary costs, design costs, and reducing cost escalation that will translate into improved value for money outcomes.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan:

- High Performing Organisation
 - An innovative, responsive organisation that listens and delivers quality, value for money services to our community.
- Quality Infrastructure and Liveable Places
 - Quality facilities and infrastructure meets current and future needs. Places are well planned and are hubs of activity that foster wellbeing, creativity and innovation.

RELEVANT LAW

This report seeks Council approval to award a contract that complies with Section 108 of the Local Government Act 2020.

ECONOMIC IMPACTS

The establishment of this panel is anticipated to deliver improved outcomes for the local economy through local material supply and labour use, as well as local employment being part of the evaluation criteria.

The recommended contractors for this panel are made up of a majority of local smaller contractors which will help provide economic support to local businesses throughout Yarra Ranges Council.

SUSTAINABILITY IMPLICATIONS

Sustainability has been considered as part of the project specification and evaluation process. The tenderers have responded to sustainability implications satisfactorily. Sustainability aspects will also be considered as part of each project within project specifications and environmental management plans.

COMMUNITY ENGAGEMENT

Not Applicable

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

The panel establishment is part of a continuous improvement exercise to streamline design and delivery processes. The process improvement will also make it easier for contractors to respond, thus resulting in a more engaged and competitive supplier market.

Benchmarking was undertaken with surrounding councils, however, there has been no collaboration with other Councils, Governments, or statutory bodies due to the strong focus on local contractors/suppliers.

RISK ASSESSMENT

A risk assessment was developed for the project and this has been considered as a part of the project design, contract terms and conditions and evaluation process.

The use of the panel will ensure that contractors are fully compliant with legislation and Council's contractual requirements and that their ongoing compliance will be monitored throughout the operation of the panel. In doing so, this will ensure that Council meets its legislative and legal obligations and mitigates its risks relating to procurement and OHS compliance.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS

1. EO17333 Building Contractors Panel

Confidential Item

11. COUNCILLOR MOTIONS

In accordance with Chapter 3 Division 4 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

There were no Councillor motions received prior to the Agenda being printed.

12. ITEMS THROUGH THE CHAIR

13. REPORTS FROM DELEGATES

14. DOCUMENTS FOR SIGNING AND SEALING

Report Author: Governance Officer
Responsible Officer: Director Corporate Services
Ward(s) affected: (All Wards)

In accordance with Clause 87 of the Meeting Procedures and Use of Common Seal Local Law 2015, as prescribed by Section 14(2)(c) of the Local Government Act 2020.

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

It is requested that the following documents be signed and sealed:

Letter Under Seal - Paulette Bisley

Letter Under Seal - Wanda McPherson

Letters under seal have been prepared in recognition of Paulette Bisley and Wanda McPherson, who have resigned after more than 20 years of voluntary service with the Yarra Ranges Regional Museum Trust.

RECOMMENDATION

That the following listed documents be signed and sealed:

Letter Under Seal - Paulette Bisley

Letter Under Seal - Wanda McPherson

15. INFORMAL MEETINGS OF COUNCILLORS

Report Author: Governance Officer
Responsible Officer: Director Corporate Services
Ward(s) affected: All Wards

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public

SUMMARY

Chapter 8, Rule 1, of the Governance Rules requires that records of informal meetings of Councillors must be kept and that the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting tabled at the next convenient Council meeting and recorded in the Minutes of that Council meeting.

An 'informal meeting of Councillors' is defined in the Governance Rules as a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting.

The records for informal meetings of Councillors are attached to the report.

RECOMMENDATION

That the records of the Informal Meetings of Councillors, copies of which are attached to the report, be received and noted.

ATTACHMENTS TO THE REPORT

1. 5 September 2023 - Council Briefing
2. 5 September 2023 - Council Forum
3. 5 September 2023 - Review of Complex Planning Matters.

Informal Meeting of Councillors

Public Record



Meeting Name:	Council Briefing		
Date:	5 September 2023	Start Time: 5.54pm	Finish Time: 6.13pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via video conference		
Attendees:	Councillors:	Sophie Todorov (Deputy Mayor - Chairing on behalf of the Mayor) Andrew Fullagar, Richard Higgins (From 6.20pm), Johanna Skelton (From 5.42pm), Len Cox(From 5.40pm) and Tim Heenan	
	Via Zoom:	Jim Child, and David Eastham.	
	CEO/Directors:	Tammi Rose, Kath McClusky, Jane Price, Hjalmar Philipp and Andrew Hilson	
	Officers:	Gina Walter, Sarah Candeland, Andrew Edge, and Ben Waterhouse	
	Via Zoom:		
Apologies	Externals:	Nil	
		Fiona McAllister	
Disclosure of Conflicts of Interest:	<ul style="list-style-type: none"> For transparency the following officers noted their involvement in matters relating to: <ul style="list-style-type: none"> The Chief Executive officer declared a conflict of interest pertaining to Item 17.1 - CEO Employment Matters as it relates to her employment. 		
Matter/s Discussed:	This briefing covered the following items of business to be considered at the 22 August 2023 Council Meeting.		
	10.1	Kilsyth Recreation Reserve Master Plan for Adoption	
	10.2	Planning Scheme Amendment C217 Erosion Management Overlay - Consideration of Submissions and Referral to a Planning Panel	
	10.3	YR-2021/984 - 193 Victoria Road Coldstream	
	10.4	Delegation from Council to the Chief Executive Officer	
	10.5	Review of Delegations and Authorisations Made by Council to Council Staff	
	10.6	Appointment and Authorisation under the Environment Protection Act 2017 & the Planning and Environment Act 1987	
	10.7	CT7326 Provision of YRConnect Property & Rating Data Migration Services	

Assembly of Councillors

Public Record



Completed By:	10.8	CT7325 Provision of YRConnect Property & Rating Consulting Services
	17.1	CEO Employment Matters
	Gina Walter	

Informal Meeting of Councillors

Public Record



Meeting Name:	Council Forum	
Date:	5 September 2023	Start Time: 7.04pm Finish Time: 10.47pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via video conference	
Attendees:	Councillors:	Sophie Todorov (Deputy Mayor - Chairing on behalf of the Mayor) Andrew Fullagar, Johanna Skelton, Fiona McAllister(From 7.38pm), Len Cox, Richard Higgins and Tim Heenan (Exited the Chamber at 10.30pm)
	Via Zoom:	Jim Child and David Eastham
	CEO/Directors:	Tammi Rose, Kath McClusky, Jane Price, Hjalmar Philipp and Andrew Hilson
	Officers:	Gina Walter, Sarah Candeland, Ben Waterhouse, Graham Brew, Simone Marais, Blake Williams, Kim O'Connor, Claire Rock, Kelly Delaney, Corinne Bowen and Garry Detez
	Via Zoom:	Clint Hong, Jenny Davies, Jim Stewart, Monika Winston, Pete Tatterson, Damian Closs, Alanna Ford, Lisa Loulier, Abby McCarthy, Amanda Mayer, Glen Terry, Kat Nicholls, Lauren Poulton, Hayley Hickman, Phillipa Commins, Shelby Landman and Dani Gaitely
	Externals:	Nil
Apologies	Nil	
Disclosure of Conflicts of Interest:	Nil	
	2.1	Action and Agreement Record from 18 July 2023
	2.2	Councillor Discussion Time
	2.3	Cave Hill Road, Lilydale - Level Crossing Removal Program Proposal
	2.4	Healthy Ageing Service Options
	2.5	Briefing Report - Food Organics and Green Organics
	2.6	Yarra Ranges Council Civic Awards
	2.7	Australia Day
	3.0	For Noting
	3.1	Yarra Ranges Regional Museum Trust - Resignations and Appointees

Assembly of Councillors

Public Record



	3.2	Capital Works Program Quarterly Report end June 2023
	3.3	Indicative Forum & Council Meeting Schedule
	4	Mayor & CEO Update
	5	General Business
	6	Late Items and Urgent Business
Completed By:	Gina Walter	

Informal Meeting of Councillors

Public Record



Meeting Name:	Review of Complex Planning Matters	
Date:	5 September 2023	Start Time: 5.32pm Finish Time: 5:54pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via video conference	
Attendees:	Councillors:	Sophie Todorov (Deputy Mayor - Chairing on behalf of the Mayor) Andrew Fullagar, Johanna Skelton (From 5.42pm), Len Cox(From 5.40pm) and Tim Heenan
	Via Zoom:	Jim Child, and David Eastham
	CEO/Directors:	Tammi Rose, Kath McClusky, Jane Price, Hjalmar Philipp and Andrew Hilson
	Officers:	Gina Walter, Sarah Candeland, Andrew Edge, Ben Waterhouse, Lauren Richardson and Gavin Crawford
	Via Zoom:	
	Externals:	Nil
Apologies	Fiona McAllister and Richard Higgins	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	1.2	YR02021/984 – 193 Victoria Road, Coldstream
Completed By:	Gina Walter	

16. URGENT BUSINESS

In accordance with Chapter 3 Rule 24 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

17. CONFIDENTIAL ITEMS

In accordance with Chapter 3 Rule 24 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

There were no Confidential Items listed for this meeting.

18. DATE OF NEXT MEETING

The next meeting of Council is scheduled to be held on Tuesday 10 October 2023 commencing at 7.00pm, at Council Chamber, Civic Centre, Anderson Street, Lilydale and via videoconference.



In providing for the good governance of its community, Councillors are reminded of their obligation to abide by the provisions as set within the Local Government Act 2020 and the Code of Conduct for Councillors.

When attending a Council Meeting, Councillors should adhere to the procedures set out in the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

The following is a guide for all Councillors to ensure they act honestly, in good faith and in the best interests of Yarra Ranges as a whole.

1. Councillors will respect the personal views of other Councillors and the decisions of Council.
2. Councillors may publicly express their own opinions on Council matters but not so as to undermine the standing of Council in the community.
3. The Mayor is the official spokesperson for Council.
4. Councillors will incur expenditure in a responsible manner and in accordance with the Councillor Expenditure and Policy.
5. Councillors will avoid conflicts of interest and will always openly disclose any direct and indirect interests where they exist.
6. Councillors will act with integrity and respect when interacting with Council staff and members of the public.
7. Councillors will demonstrate fairness in all dealings and conduct and be open with and accountable to the community at all times.
8. Councillors will conduct themselves in a manner that does not cause detriment to Council or the Yarra Ranges community.