

## YR-2023/32 - 275 Edward Road, Chirnside Park – Planning Report

### APPLICATION DETAILS

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

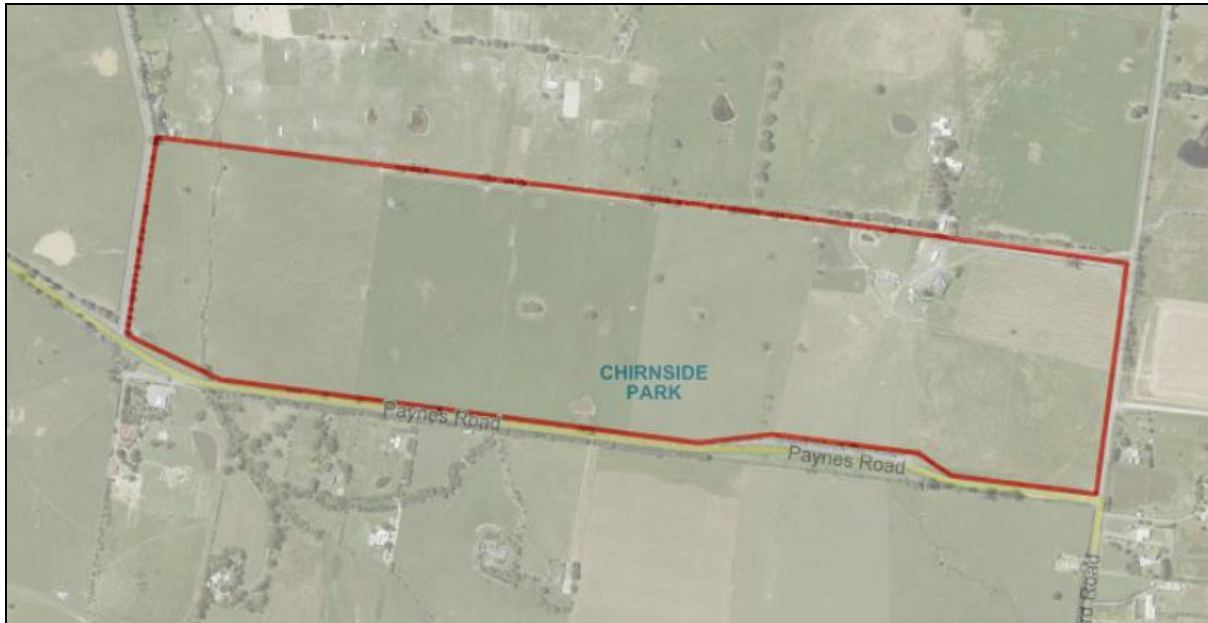
Paynes Road is classified as a Transport Zone 3 road and is a 'Significant Municipal Road'. Edward Road and Yarra View Road are 'Municipal Roads' under the *Road Management Act 2004*. All three roads are sealed and managed by Council.

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.
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## 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.

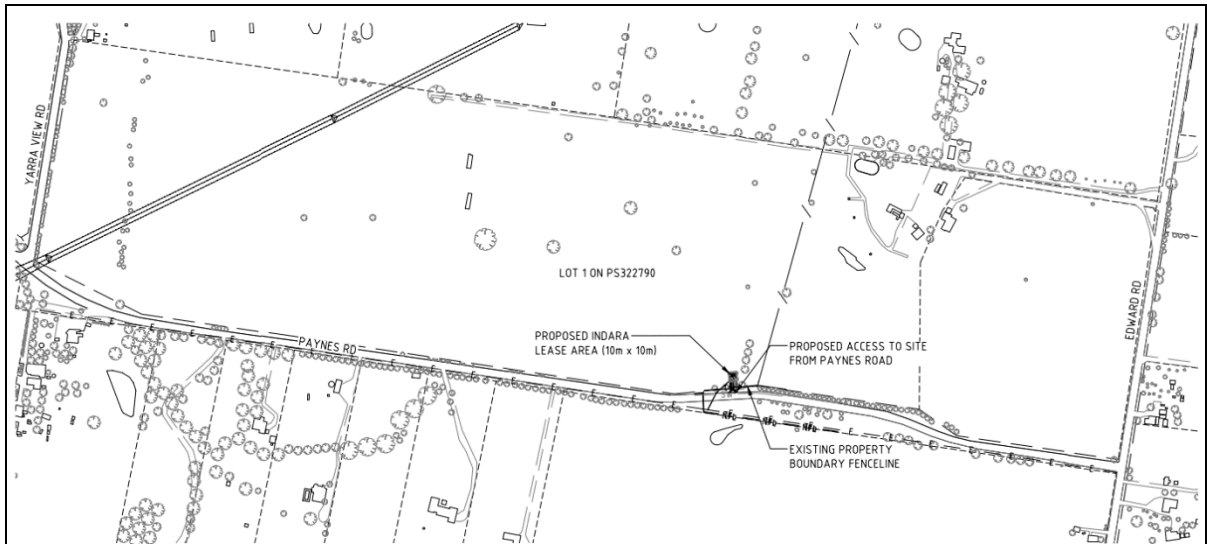
### **Fence**

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

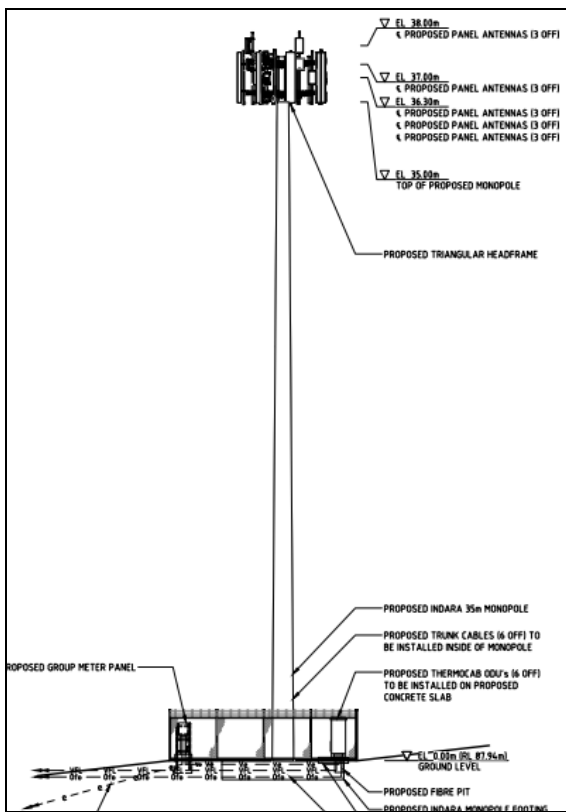
### **Access**

- 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

<b>Application Number and Decision Date</b>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• YR-2015/1099: Two lot subdivision – Approved on 1 February 2016.</li> <li>• YR-2015/1099/A: Amended plans for two lot subdivision – Approved 6 April 2017.</li> <li>• YR-2015/1099/1: Secondary Consent for two lot subdivision – Approved 23 January 2020.</li> </ul>
<b>VCAT History</b>	None
<b>Other History</b>	None

## PLANNING CONTROLS

<b>Zoning:</b>	Clause 35.04 – Green Wedge Zone (Schedule 4)
<b>Overlay:</b>	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
<b>Planning Policy Framework:</b>	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
<b>Clause 51.03:</b>	Not Applicable
<b>Schedule to Clause 51.03:</b>	Not Applicable
<b>Particular Provisions</b>	Clause 52.19 – Telecommunications Facility
<b>Other Requirements:</b>	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:

<b>Department</b>	<b>Summary of Response</b>	<b>Conditions required</b>
<b>Development Engineer (Traffic)</b>	<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

<b>Existing and Proposed Communications Facilities</b>		
<b>Number on Aerial Map</b>	<b>Site Address</b>	<b>Comments</b>
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.

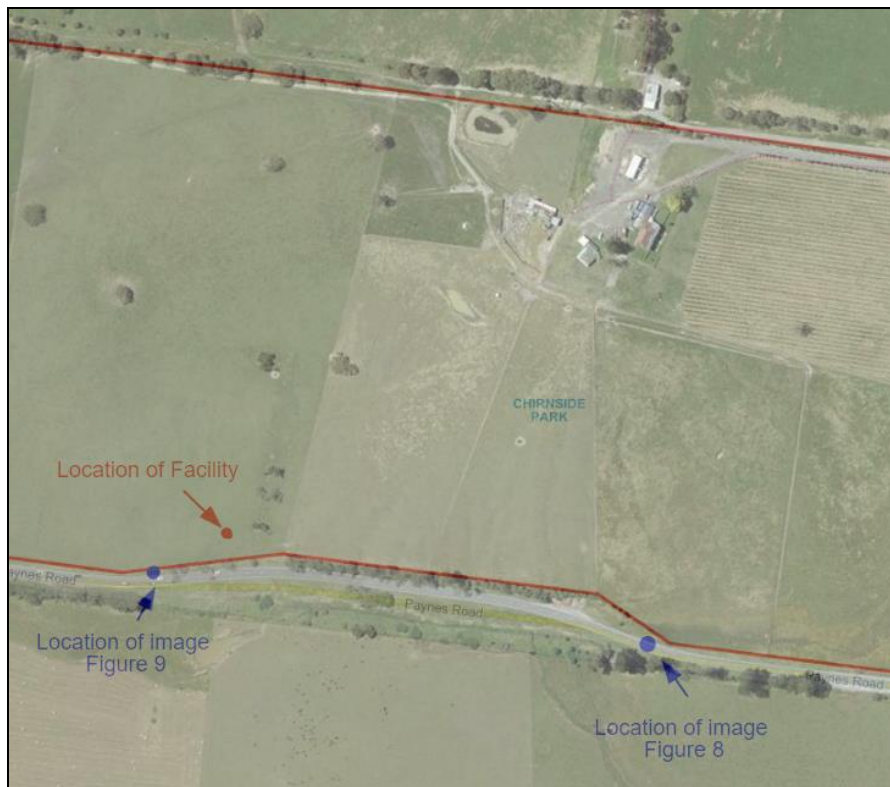
It is noted that vehicles travelling west along Paynes Road will not have a complete view of the monopole, ground level ancillary equipment and compound fencing, due to the elevated land in the road reserve and the subject site, refer to the image at Figure 8 and 9 below. Figure 10 includes an aerial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

<b>Policy Requirement</b>	<b>Response</b>
Telecommunication facilities demonstrate that there is a need for the facility at that location	<p>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:</p> <ul style="list-style-type: none"> <li>• Ensure that the increased demands for mobile network traffic on existing facilities</li> </ul>

Policy Requirement	Response
	<p>do not critically compromise customers' ability to connect to a network;</p> <ul style="list-style-type: none"> <li>• Ensure that optimal data speeds are maintained at all times during the day;</li> <li>• Improve mobile phone coverage to local businesses.</li> </ul>
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

<b>Policy Requirement</b>	<b>Response</b>
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:

<b>Objector Concerns</b>	<b>Response</b>
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"> <li>• 5 Paynes Rd – 380 metres away to the south</li> <li>• 7 Paynes Rd – 435 metres away to the south-west</li> <li>• 285 Edward Rd – 535 metres away to the north-east</li> <li>• 235 Edward Rd – 568 metres away to the south-east</li> <li>• 11 Paynes Rd – 615 metres away to the south-west.</li> </ul> <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