

Planning Application YR-2022/125 - 215 Liverpool Road, Kilsyth – Planning Report

APPLICATION DETAILS

Site Address	215 Liverpool Road (Lot 21 PS318763), Kilsyth
Application No.	YR-2022/125
Proposal	Use and development of a telecommunications tower, ancillary equipment, and construction of fence
Existing Use	Landscape supplies, earthmoving equipment storage and horse grazing
Applicant	Stilmark Telecommunications
Zone	Clause 35.05 Green Wedge A Zone - Schedule 1
Overlays	None
Permit trigger/s	Clause 35.05 Use of land for a telecommunications facility Clause 52.19 Buildings and works for a telecommunications facility Clause 51.03 Construction of a fence in the Green Wedge A Zone and construction of a building more than 7 metres high in the Green Wedge A Zone
Objections	Five, including one multi-signatory objection with twenty signatures
Encumbrances on Title (Covenants/Section 173 Agreements)	Yes – Section 173 Agreement S254915M
Reason for Council Decision	More than ten objections
Ward	Streeton

SUMMARY

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

The northern of the subject site is used for landscape supplies and the storage of earthmoving equipment. The remainder the site is open paddocks and includes horse grazing. No changes to use of the remainder of the property is proposed.

Five objections, including one with 20 signatures, were received. The objections raised concern with visual impact, the proximity to residential and other sensitive land uses, radiation and impact to wildlife. No consultation meeting was undertaken, and the application was not amended in response to the objections.

The proposal has been assessed against the relevant provisions of the Planning Scheme and the *Yarra Ranges Council Telecommunications Facilities Policy (2012)*. It is consistent with the 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-2022/125 for Use and development of a telecommunications tower, ancillary equipment, and construction of fence at 215 Liverpool Road, Kilsyth 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 site is located within 500 metres of land on which a work authority has been granted under the *Mineral Resources (Sustainable Development) Act 1990*. However, the proposal does not propose accommodation and so no referral was required to Secretary to the Department administering 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 particularly described as 215 Liverpool Road (Lot 21 PS318763), Kilsyth (Attachment 3).

There is one encumbrance registered on the Certificate of Title, being Section 173 Agreement S254915M (Attachment 2).

The agreement was required as a condition of a subdivision that created the subject lot, which:

- protects vegetation along Glasgow Road,
- establishes maintenance for common driveways created under the subdivision,
- limits the number of crossovers to Liverpool Road, and
- requires the cessation of Lot 21 for farm produce sales upon the issue of Statement of Compliance for the subdivision.

The subject site (Lot 21) is no longer used for farm produce sales. None of the other restrictions detailed in the Agreement relate to the subject lot

The proposal is in accordance with the Section 173 Agreement on title.

SITE LOCATION AND DESCRIPTION

The site has an area of 1.994 hectares and a frontage to Liverpool Road of 131.29 metres. The topography of the site is largely level, and no easements affect the site.

The north-west corner of the site is developed with a large shed and a row of small sheds parallel to Liverpool Road. The area around the sheds is sealed and used for access and for storage of various materials.

A crossover is located midway along the Liverpool Road frontage and is accessed via a turning lane in Liverpool Road. A driveway splits to serve the northern part of the site and also traverses to the south through a group of trees.



Figure 1 - Aerial image of site (Source - Intramaps)

SURROUNDING AREA

The site is located at the northern end of Green Wedge A Zone land with rural lifestyle properties to the south and east. To the north and northeast are industrial properties. The west side of Liverpool Road is in the City of Maroondah and is zoned residential (Figure 2).



Figure 2 - Surrounding area view

- North
 - 209 Liverpool Road is zoned industrial and contains a row of twelve small factories and warehouses with the buildings forming a continuous wall along the common boundary with the subject site. These factories and warehouses are access from a central driveway off Liverpool Road.
- South
 - 1 Jeannette Maree Court is zoned Green Wedge A Zone and contains a dwelling and outbuilding located towards the south end of the site. The dwelling is setback 150 metres from the common boundary with the subject site, and 155 metres from the proposed installation. A row of trees is located along the common boundary with the subject site.
 - 3 Jeanette Maree Court is zoned Green Wedge A Zone contains a dwelling and outbuilding located towards the south end of the site. The dwelling is setback 145 metres from the common boundary with the subject site and 150 metres from the proposed installation. A row of trees is located along the common boundary with the subject site.
- West
 - Land to the west is zoned residential and consists of an established residential neighbourhood within Maroondah Council government boundaries. The properties generally contain single detached dwellings setback between six metres and fourteen metres from the Liverpool Road service lane. A dense row of trees stands in the nature strip between the service lane and the main section of Liverpool Road.
- East
 - 5 Jeanette Maree Court is zoned Green Wedge A Zone and contains a dwelling and various outbuildings. It also contains a horse arena. The rear yard of this property abuts the eastern boundary of the subject site. The dwelling is setback 230 metres from the installation. There are outbuildings located to the west and north-west of the dwelling which will screen views towards the proposal.

PROPOSAL

This application seeks to use the land and construct a new telecommunications tower ancillary equipment, and construction of fence on the land. The applicants written submission is provided in Attachment 5.

The details of the proposal are:

Tower

- Construction of a 35 metre high steel monopole with panel antennas on top;

- The monopole will be setback 98.5 metres from Liverpool Road and 4.8 metres from the south side boundary within the compound; and
- The monopole will be constructed of steel and will have a brushed finish to reduce the reflectivity of the structure.

Ancillary equipment

- Associated with the monopole will be an enclosed compound which will be setback 92 metres from Liverpool Road and is proposed to be constructed directly adjacent to the southern boundary;
- Compound will have a total size of 10 metres by 12 metres surrounded by a 2.4 metre high galvanised chain wire fence; and
- Within the enclosed compound two metal equipment cabinets are proposed:
 - Cabinet One will be 3.15 metres long by 2.38 metres wide by 2.981 metres high and finished in Light Green (Pale Eucalyptus) for the walls and roof.
 - Cabinet Two will be 3.03 metres long by 0.908 metres wide by 2.325 metres high, finished in a steel grey colour.

Fence

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

Access from Liverpool Road will be via an existing driveway. No vegetation is removal proposed.

Extracts from the plans can be seen in Figure 3, Figure 4 and Figure 5 below (and full plans are provided in Attachment 4):

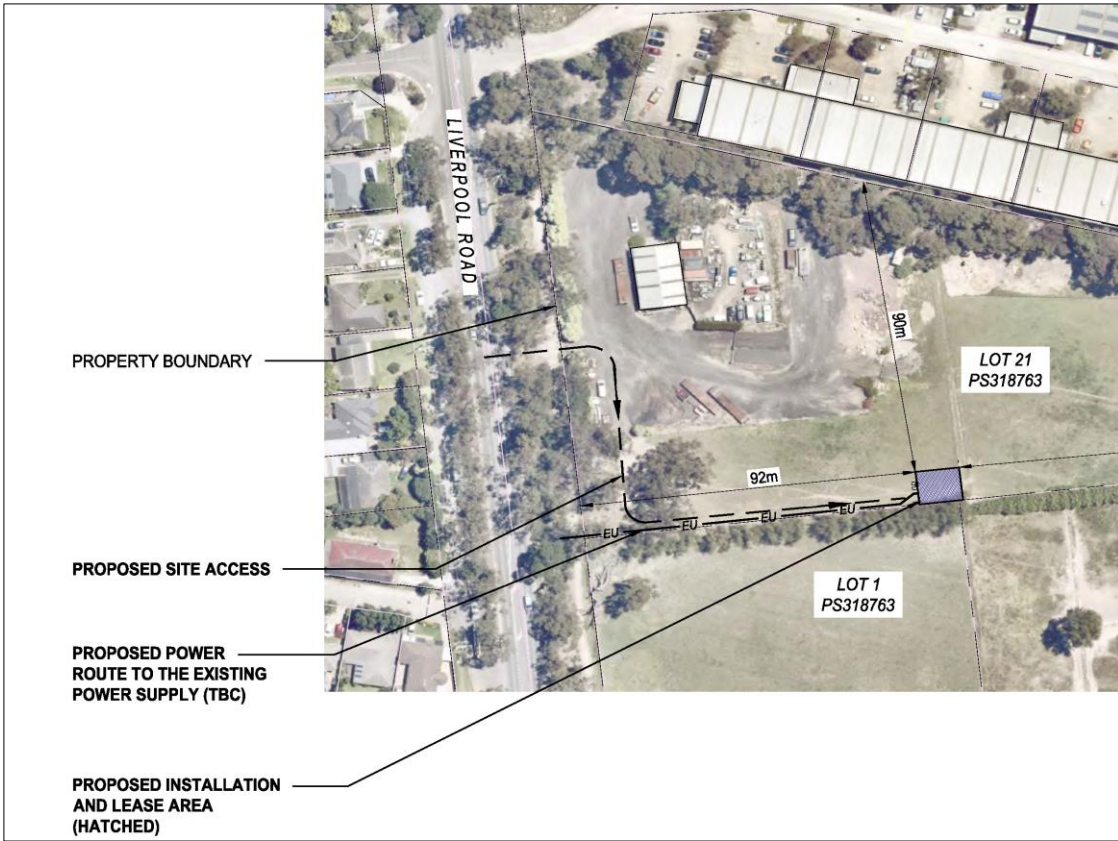


Figure 3 - Site Plan

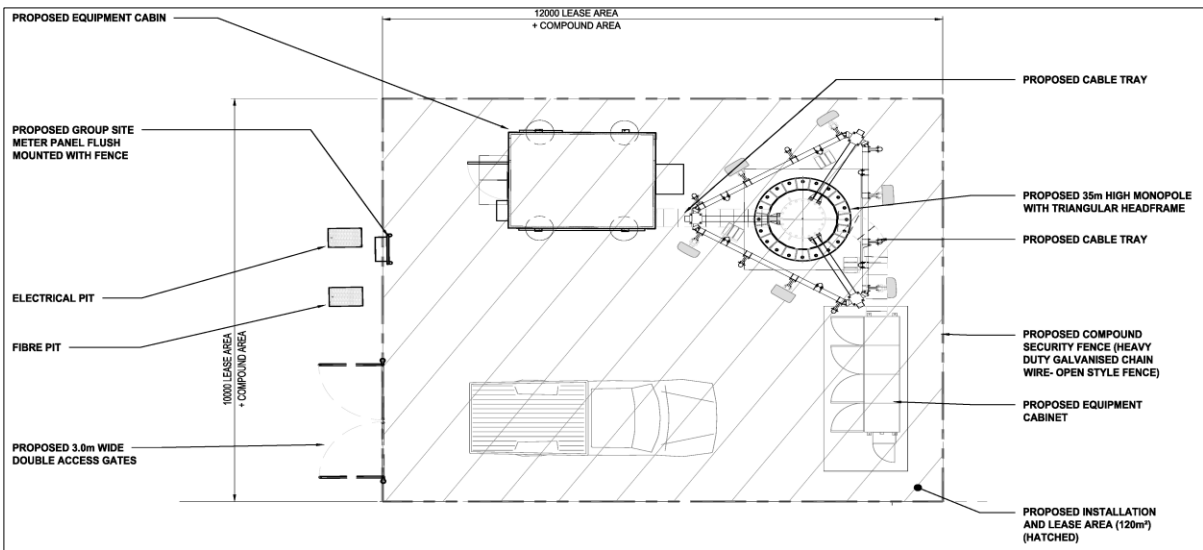


Figure 4 - Layout of proposed compound

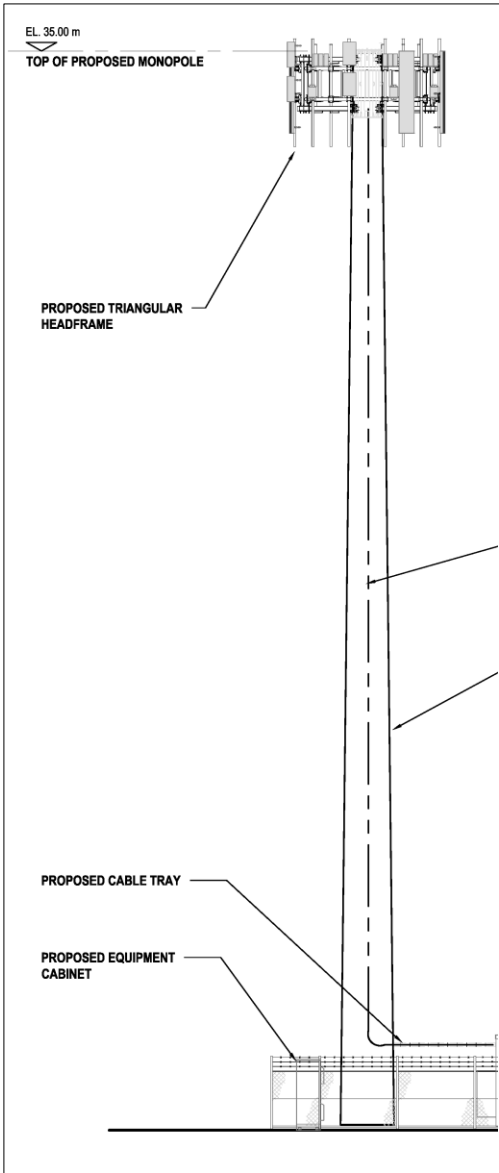


Figure 5 - Elevation plan of the monopole

HISTORY

<p>Application Number and Decision Date</p>	<p>Planning permit PE1991/686 was issued on 13 March 1992 allowing a 21 lot subdivision in two stages, at Crown Allotment 39 corner of Liverpool Road and Glasgow Road. That subdivision created the subject lot. This same planning application required Section 173 Agreement S254915M included in Attachment 2</p>
<p>VCAT History</p>	<p>None</p>
<p>Other History</p>	<p>None</p>

PLANNING CONTROLS

Zoning:	Clause 35.05 - Green Wedge A Zone
Overlay:	Not Applicable
Start Planning Policy:	Clause 14 - Natural Resource Management Clause 15 – Built Environment and Heritage Clause 19 – Infrastructure
Local Planning Policy:	Clause 21.04 - Land Use Clause 21.07 – Landscapes
Clause 51.03:	A permit is required by the schedule
Schedule to Clause 51.03:	Applicable
Particular Provisions	Clause 52.19 - Telecommunications Facility
Other Requirements:	Clause 65 – Decision guidelines A Code of Practice for Telecommunications Facilities in Victoria (Attachment 9) Yarra Ranges Council Telecommunication Facilities Policy 2012 (Attachment 10)

For further information on the planning controls refer to Attachment 6.

PERMIT TRIGGERS

Zoning

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

Clause 51.03 – Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan

Under the Schedule to Clause 51.03, a permit is required to construct a building more than seven metres high in the Green Wedge A Zone.

A permit is also required to construct a fence that is not open weave wire less than 1.8 metres high.

Clause 52.19

Under Clause 52.19 a permit is required to construct buildings and works for a telecommunications facility.

CONSULTATION

Internal Referrals

There were no internal referrals required by the planning scheme.

External Referrals

There were no external referrals required by the planning scheme.

Public Notification and Consultation

Notification of the application was undertaken on 2 May 2022 by:

- Placing of one sign 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

As residents to the west side of Liverpool Road are outside the council boundary and are within Maroondah City Council, notice we also provided to these residents as well as Maroondah City Council itself.

Number of Objections:

Five individual objections were received. One of those objections contained a multi-signatory objection signed by twenty people.

The issues raised in the objections are summarised as follows:

- Visual impact of the tower and fence in Green Wedge area;
- Visual impact of tower – interrupting views of the Dandenong Ranges;

- Located too close to residential areas, parks, schools and sporting facilities;
- 5G microwave radiation emitted 24 x 7 – impacts human health;
- Concerns about operation of the 5G network in general, including launching of satellites impacting on the ozone layer; and
- Impact on bird and bee health from radiation

ASSESSMENT/ KEY ISSUES

The proposed telecommunications facility requires assessment against the provisions of the Planning Policy Framework, local planning policies, Green Wedge A Zone, Clause 51.03, 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 projected future need an approach which, for this type of infrastructure planning has generally not occurred in the past.

The applicant has advised that there is also a current need to develop facilities to support the surrounding area for improved mobile telecommunications services, although the area has not been included in the Commonwealth Black Spot Program.

It is critical to note that the applicant is an infrastructure owner and provider and will build the structure when they are ready to expand services into this area. Council has been advised that there will be a demand in time for the proposed structure and seeks an approval on that basis.

The applicant has identified the need to expand the existing telecommunications facilities within Yarra Ranges to satisfy network capacity demands and depth of coverage objectives. The applicant has advised that the overall coverage in the area is generally poor and there are no mobile phone base stations within 1.3 kilometres to the south and west of the proposed location, and even further distanced to other directions. It is not possible to service the area adequately and efficiently around the

proposed location from existing facilities. Data services, in particular, are unreliable and speeds are slow. Due to the numerous residential properties within the surrounding area, as well as the rural and industrial properties that run local businesses, it is necessary that a new telecommunications facility be installed to service the demand in mobile telecommunications services into the future.

The structure will be suitable and available for co-location by a second (and potentially third) carrier. This preference and preparation for co-location will also help to minimise the number of such structures in the local area and give Council an improved basis on which to drive co-location when new facilities (by others) are proposed.

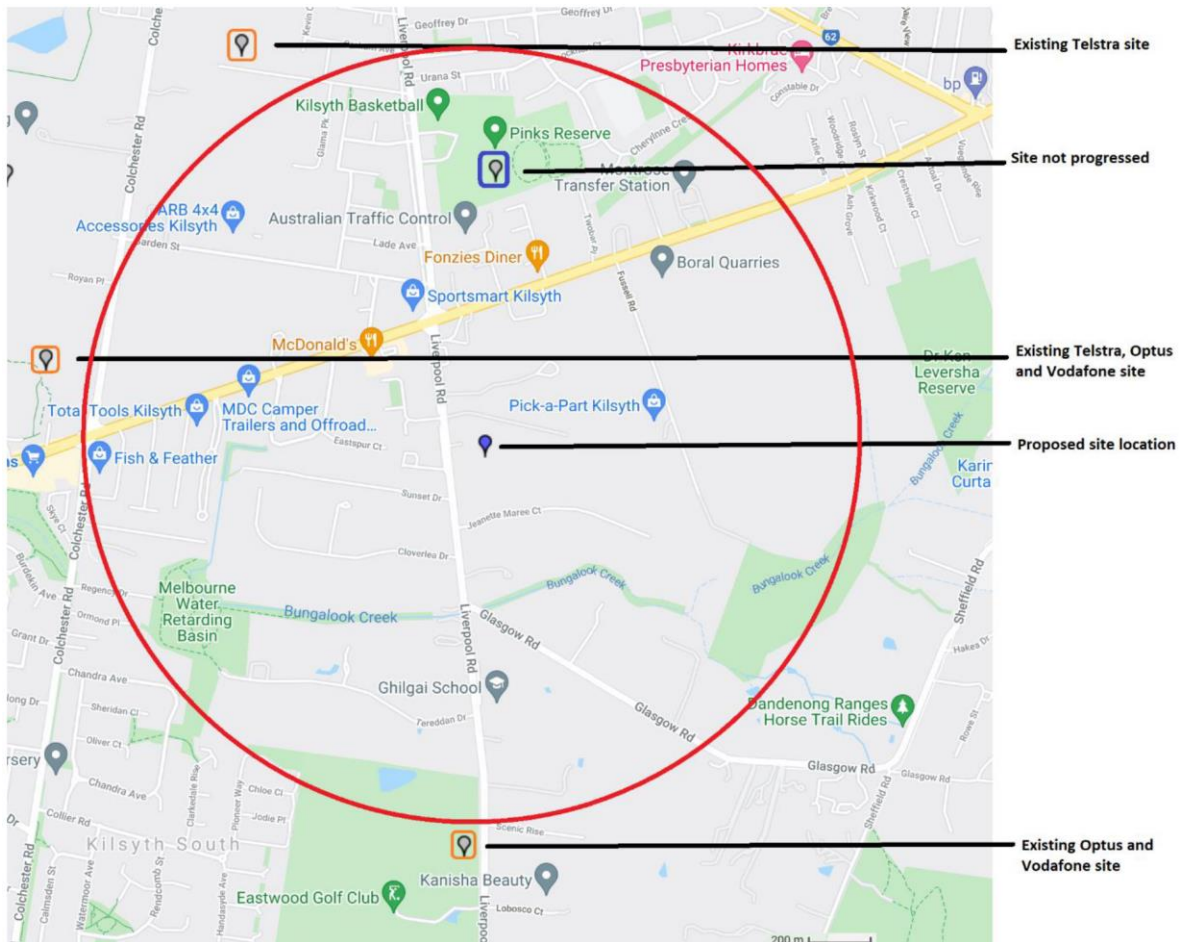


Figure 6 - Existing telecommunications sites nearby

Figure 6 highlights the local mobile communications network, comprising multiple telecommunications network base stations (“facilities”) covering the local geographic area. The figure shows that there are no current telecommunication facility within 1.3 kilometres of the subject site, but there are three towers location outside this distance all to west of Liverpool Road.

The map does indicate one tower proposed at Pinks Reserve (115-123 Liverpool Road). The site is shown on the map as ‘site not in progress’. The site currently does not have a tower however Council has a current planning application seeking ‘Installation of a telecommunication facility and floodlighting’. That application is under assessment and at the time this report was prepared no decision has been made on

that application. That facility is proposed for only one carrier (Optus), which would not address the coverage issues on other networks.

The proposed location of the monopole is well placed in a central and cleared location to allow for new and improved coverage and services to the area, which includes the industrial and residential areas, as well as large lot rural properties and the numerous roadways surrounding the site. The ability to co-locate new infrastructure on an existing telecommunications monopole has been considered as a first preference for Council. However, given the lack of existing telecommunication facilities within the area or other tall structures in the appropriate locations to allow for the co-location of services has been found as not an option for addressing existing gaps in service and service requirements into the future.

The proposal is anticipated to have positive economic and social impacts because of enhanced communication capability for individuals, households and businesses. The new infrastructure is also seen as improving communication for emergency services and in extreme weather events. While there are a number of conflicting policies relevant in the consideration of this application, it is considered that the proposal should be assessed against the State-wide policies under *Clause 71.02-3 – Integrated decision making*. This policy aims to balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

The proposed monopole is considered appropriate considering the relevant legislative, environmental, technical, radio coverage and public safety requirements and is considered acceptable in social, economic, and environmental terms.

The proposal is not likely to have any significant environmental impacts and it satisfactorily meets the requirements of the relevant state and local planning instruments and policies.

Policy State, Regional and Local

State 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.'*

Clause 15.01 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 located in an open paddock abutting an industrial site with screening to the west and south by vegetation, reducing 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.

The monopole will be constructed of steel and painted steel grey. This will ensure the tower blends into the surrounding landscape and will not be highly reflective in the landscape.

There is strong State 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 to be 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 A Zone

A permit is required for both the use and development in the Green Wedge A Zone. Whilst there is an exemption from a permit requirement for use and development if the proposal complies with the requirements of Clause 52.19 at Clause 62.01, as a permit is required pursuant to Clause 52.19, the exemption at Clause 62.02 cannot be applied. A number of VCAT cases have confirmed this (see *Pfarr v Campaspe SC* [2014] VCAT 872 (18 July 2014) (Attachment 7) and *Rand v Casey CC* [2018] VCAT 970 (27 June 2018) (Attachment 8).

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

The monopole has been sited and setback from nearby dwellings and street frontages as much as practicable given the rural nature of the area. The proposed facility is located behind mature vegetation which has an approximate height of ten metres and will screen the compound and ancillary equipment when viewed from Liverpool Road and immediately from outside of the site. The proposed infrastructure will have a minimised visual impact to the surrounding area due to siting within the site and the large setback from public thoroughfares such as roads, as well as screening from tall roadside vegetation.

A row of non-native trees is located on the adjoining property to the south, along the common boundary with the subject site. As the foliage is sparse, it provides limited screening to the proposed compound location (including the fence and ancillary equipment). As such, additional planting to establish a visual vegetation buffer will be required to ensure sufficient screening is achieved, discussed in detail below.

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 fenced compound will be located behind an area of trees, and the fence itself will not be visible from Liverpool Road. It is considered acceptable in this context.

Equipment within the compound will be housed in two equipment cabinets. The cabinets are small in size with a maximum height of 2.325 metres. With one of the cabinets to be finished pale eucalypt colour the other metal with both benefiting from vegetation screening from existing site trees, the cabinets will not be visually intrusive and are acceptable.

The compound will be accessed via an existing informal track through the trees at the front of the site. The track is not proposed to be upgraded, widened or otherwise changed as a result of this proposal, and so there will be no impact to the trees from accessing the compound.

The submitted plans note the proposed below-ground cable route will traverse from Liverpool Road along the south boundary to the development location. The plans have not indicated if the laying of cables will be through boring or by a cut and fill trenching construction method. The applicant has advised that electrical and other services can be bored underground, although that is not their preference. 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.

Third party trees planted on the northern boundary of 1 Jeanette Maree Court, in proximity to the location of the compound will not be impacted. No works are proposed within the tree protection zones of those trees, except for post holes for the security fence. A condition requires fence post holes to be dug by hand and repositioned if woody roots are encountered.

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

- Only 100 square metres of the property will be used for the proposal;
- The application does not propose the removal of any vegetation;
- Minimal site works are proposed;
- The monopole is to be setback 98.6 metres from the front boundary, five metres from the south side boundary and 155 metres from dwellings to the south; and
- The facility will not remove land from agricultural use given the limited capability of the site and surrounding area.

Clause 51.03 Upper Yarra and Dandenong Ranges Regional Strategy Plan

The permit trigger under Clause 51.03 deals with visual impact relating to the height of the monopole and the height of the fence. 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.

With regard to the location alongside the southern boundary of the land, the applicant has advised that the siting of the installation has been chosen as there are existing uses towards the northern boundary of the property which would make it difficult to site a telecommunications facility in this area. The landowner is accommodating of the facility in the location proposed, whereas there would be a number of operational issues elsewhere on the property. Siting the monopole and compound to the south is optimal in terms of providing the necessary coverage.

Siting of the monopole on the south side of the property achieves adequate setback in excess of 150 metres to dwellings in Jeanette Maree Court and Liverpool Road. This location also results in the least amount of excavation and avoids vegetation removal. As noted above, existing street trees and site trees located to the west screen the lower and compound to approximately 10 metres. The height of the monopole means that whilst it will be visible above the surrounding treeline, the slim-line design monopole is considered to be less visually bulky than an open-framed tower. The muted grey finish of the monopole will also be suitable within the rural residential landscape.

However, additional screening vegetation is required to achieve a visual screen of the southern side of the compound from the rural residential properties to the south. To accommodate the plantings between the fence and the southern boundary, conditions on the permit require the fence around the compound to be setback a minimum of two metres from the southern boundary, and a landscape plan to outline the screening planting provision.

The setback will enable landscape screening planting using dense indigenous shrub plants, capable of reaching a mature growth height of at least three metres (such as Lilly Pilly or a locally indigenous middle storey shrub chosen from Council's Vegetation Community 22). A condition requires the plants to be a minimum height of 1 metre at the time of planting to ensure screening planting reaches the mature height quickly to provide the necessary filtered views to the south abutting properties.

This setback and screening outcome will ensure that both cabinets and the fence will be fully screened from the south boundary, thus will provide an adequate buffer to the dwellings in Jeanette Maree Court. Screening will soften the appearance of the proposal from the adjoining rural residential properties and ensure it is more in keeping with the landscape character of the area.

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*. The facility cannot be classified as a low impact facility and therefore requires a permit pursuant to the particular 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* and the effect of the proposal on adjacent land.

An assessment of the compliance of the proposed telecommunications facility in accordance with the principles of Section 4.0 of the *Code of Practice for Telecommunications Facilities in Victoria*, July 2004 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 9. 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 the street and the 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.

It must be appreciated that facilities of this nature are necessarily visible as they need to be tall enough (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 utilising 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 future co-location by additional 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 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 with an existing access to the area. 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. The installation of the proposed facility can be undertaken at any time without affecting the use of the surrounding area due to the existing accessibility of the subject property.

Construction of the facility will be carried out in accordance with relevant Occupational Health and Safety Guidelines. Construction of the facility is unlikely to cause any disruption to adjoining properties or public access areas.

Yarra Ranges Telecommunication Facilities Policy

The *Yarra Ranges Telecommunication Facilities Policy* was adopted by Council in December 2012 (Attachment 10). 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	<p>The applicant has determined that a new facility is needed within the Kilsyth area 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"> • Ensure that the increased demands for mobile network traffic on existing facilities do not critically compromise customers' ability to connect to a network • 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 site is relatively flat. The facility would not be obvious in distant view lines.
The design and height of telecommunication facilities must be compatible with the	The monopole will have a maximum height of 35 metres. While this will be taller than the surrounding trees, it is considered reasonable.

surrounding built form and natural features, and avoid structures which will be visually intrusive.	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, adjacent to an industrial 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 industrial, business or non-residential areas wherever possible.	The site is located within a Green Wedge A Zone, on a site used for storage and grazing purposes. The site is adjacent to an industrial area. It is not located within a residential area and is well separated from the residential area on the opposite side of Liverpool 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.

Planning Scheme Amendment C148 (Seriously Entertained)

Council considered the recommendations made by an independent planning panel at its meeting on 26 March 2019 and resolved to adopt the amendment. In summary, the amendment:

- Introduces a new Municipal Strategic Statement that provides clearer strategic direction and decision-making guidance on a wide range of land use and development issues;
- Introduces new local planning policies for: Dwellings in Green Wedge Areas, Major Retail Developments and Environmentally Sustainable Development;

- Revises vegetation and building controls for rural areas – New Significant Landscape Overlays;
- Modifies environmental controls to identify important biodiversity habitats and provide targeted controls to protect these areas. New Environmental Significance Overlay;
- Introduces a five per cent Public Open Space Contribution with development through the Schedule to Clause 53.01; and
- The Amendment will require associated changes to the *Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan* (Amendment 122).

Planning Scheme Amendment C148 proposes to remove various permit triggers including seven metre building height in the Green Wedge A Zone and vegetation removal from the schedule to Clause 51.03. Amendment C48 also proposes to add a new Environmental Significance Overlay (ESO1) to the site.

Under the new Environmental Significance Overlay Schedule 1, a planning permit will be required to construct a building within four metres of a substantial tree, to construct a building within 30 metres of a waterway, to construct a fence that is not a post and open weave wire rural fence and less than 1.8 metres in height, and to carry out works more than 100 square metres in area. A planning permit will also be required for vegetation removal.

The proposal is considered to be in accordance with the provisions as proposed to be incorporated into the planning scheme under Amendment C148, and the proposal is in accordance with the provisions. The amendment does not have changing the recommended decision for this application.

RESPONSE TO SUBMITTERS CONCERNS

Ground of Objection	Response
Visual impact of the tower and fence in Green Wedge area	<p>The proposal is a 35 metres high slim-line monopole. This height is required to generate the best coverage within the identified area. This is a standard height for monopoles.</p> <p>Whilst it will be visible, this style of telecommunications tower is commonly used because it poses less visual impact than other styles such as open metal framework.</p> <p>This proposal, on balance, is considered to be an acceptable design, which will cause the least visual impact whilst addressing the need for a telecommunication tower in this area.</p> <p>To further reduce the visual impact, the monopole will be painted in a steel grey colour to reduce the visual impact within the surrounding landscape. The nearby trees will also soften the appearance of the monopole and compound. A fence is required</p>

Ground of Objection	Response
	around the compound to protect the assets. The fence will be 2.4 metre high wire mesh. This will allow views through the fence while providing the necessary security.
Visual impact of tower – interrupting views of the Dandenong Ranges	<p>Because the monopole is slimline and well setback from any dwellings or other buildings, it will have limited impacts on the views of the Dandenong Ranges from surrounding properties.</p> <p>The Yarra Ranges Planning Scheme requires a balancing of competing interests. Whilst it will be visible, it is considered that the need to provide improved telecommunications outweighs the minimal visual impact of the proposal.</p>
Located too close to residential areas, parks, schools and sporting facilities	The applicant has demonstrated that there is a lack of coverage in the local area. The monopole and associated compound are needed in this location to serve the telecommunications demands of local residents, businesses and visitors. Location of the monopole further away from residential areas would not provide the required coverage.
5G microwave radiation emitted 24 x 7 – impacts human health	This is not a planning matter and cannot be considered by Council in its assessment of the suitability of the proposal. Standards relating to the operation and safety of telecommunications networks are found in Commonwealth legislation.
Concerns about operation of the 5G network in general, including launching of satellites impacting on the ozone layer	This is not a planning matter and cannot be considered by Council in its assessment of the suitability of the proposal. Standards relating to the operation and safety of telecommunications networks are found in Commonwealth legislation.
Impact on bird and bee health from radiation	This is not a planning matter and cannot be considered by Council in its assessment of the suitability of the proposal. Standards relating to the operation and safety of telecommunications networks are found in Commonwealth legislation.

CONCLUSION

The use and development application has been assessed in accordance with Section 60(1) of the *Planning and Environment Act 1987* 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 Planning Scheme.

As such, it is recommended that a Notice of Decision to Grant a Planning Permit subject to conditions as outlined in Attachment 1 be issued

ATTACHMENTS

- 1 Attachment 1 - Conditions
- 2 Attachment 2 – Section 173 Agreement
3. Attachment 3 - Aerial Photo
- 4 Attachment 4 – Set of Plans
- 5 Attachment 5 - Planning Report
- 6 Attachment 6 – Planning Scheme Requirements
- 7 Attachment 7 – Pfarr v Campaspe SC [2014] VCAT 872 (18 July 2014)
- 8 Attachment 8 – Rand v Casey CC [2018] VCAT 970 (27 June 2018)
- 9 Attachment 9 – Code of Practice for Telecommunications Facilities in Victoria
- 10 Attachment 10 - Yarra Ranges Telecommunications Policy