

# Telecommunication Facilities Policy

<b>Date adopted</b>	26 August 2024
<b>Adopted by</b>	Council
<b>Review due</b>	26 August 2028
<b>Responsible officer</b>	Senior Lawyer and/or Property Coordinator
<b>Records reference</b>	10528215

## 1. Purpose

The purpose of the Telecommunication Facility Policy is to provide a consistent and transparent framework for the management of requests from telecommunication providers or their agents, to install telecommunication facilities on land owned by Council or on land where Council is appointed Committee of Management.

## 2. Application And Scope

Responsibility for the management of Council's properties is centralised to Property Team in consultation with the Tenant Liaison Officer where applicable.

The objective of this policy is to:

- Evaluate the appropriateness of locations for telecommunication facilities as to not adversely impact surrounding land use.
- Provide clear guidelines to applications surrounding design, construction, and operations of telecommunications facilities.
- Where required, minimise the visual impact of telecommunication infrastructure associated with the provision of telecommunication services.
- Provide consistency with the objectives of the Council and Wellbeing Plan and other Council policies, plans and strategies.

## 3. General Provisions

This Policy is based on requests to Council for lease and license arrangement to Council as public land manager. Requests to Council as the responsible authority must be made through a planning permit application, pursuant to the *Planning and Environment Act 1987 (Vic)*.

This policy aims to recognise the community benefit of telecommunication infrastructure in consideration of the growing needs of modern communication within the City of Melton.

This policy encourages the co-location or upgrade of existing facilities, where appropriate in considering applications for telecommunication facilities, Council will:

- Comply with all relevant legislation, Council policy and procedure.
- Consider location preference and balance this with benefit to the community.

- Ensure designs minimise visual impacts.
- Ensure required community consultation is undertaken, either by Council or by the provider in accordance with the *Local Government Act 2020* (The Act) and Council's Community Engagement Policy or where it is determined that the site may be of particularly community interest.

### 3.1. Legislation

Council may require the carrier to provide evidence of its compliance with relevant legislation, such as evidence of community consultation where required. Council will always verify the accuracy and compliance with the *Code of Practice for Telecommunications Facilities in Victoria, July 2004*.

The Code of Practice will:

- Set out the circumstances under which land may be developed for a telecommunication facility without a planning permit, and the required steps where a planning permit will be required;
- Set out the principles for design, siting, constructing and operations of a telecommunication facility, which a responsible authority must consider when deciding on a planning permit application.

#### 3.1.1. Responsible Authority

As the Responsible Authority, Council must administer the Melton Planning Scheme. Clause 52.19 of the Melton Planning Scheme (Telecommunications Facility) outlines where a facility will require a planning permit.

#### 3.1.2. Public Land Manager

Council is the public land manager of land where it is the owner, or the appointed Committee of Management. In its capacity as public land manager, Council has a duty to responsibly manage land and protect assets.

Council must provide a letter of consent to any application for a planning permit for a telecommunication facility on public land. Council must be notified in writing for any low-impact facility activity to be carried out on its land.

Council prefers a formal lease or license arrangement with all providers which consider access, maintenance and tenure, even where this may not be required by law. For high impact facilities, telecommunications companies must enter into a lease or a license with the landowner.

#### 3.1.3. Local Government Body

Council must represent, and act in the best interest of the local community. Council will fulfill this obligation by contemplating visual and practical impact to Council amenities, when considering a request for a telecommunication facility to be installed.

### 3.2. Avoiding Informal Arrangement

Council will avoid occupancy arrangements without a lease or license agreement where possible. Council prefers and will encourage a formal lease or licence agreement, even where it is not required by law, as determined by the Property Officer and/or Senior Lawyer.

The lease or licence may be subject to three separate review processes: internal investigations, Council approval as landowner and Council as Responsible Authority including relevant statutory permits where applicable and Council's statutory obligation under relevant legislation.

The internal referral investigations process will provide relevant departments within Council an opportunity to review and provide information relating to the proposed Lease or Licence and any impact on the Council Property.

## 4. Council Assessment Considerations

The provider may be required to provide the following information:

- Reasons and evidence of a need for the proposed installation.
- Evidence that the applicant has exhausted alternative locations and solutions if requested by Council.
- The impact of the facility on the primary use of the land.
- The potential impact on the community, including evidence of community consultation where required.

Council may consider the following, when considering an application for the installation of a facility:

- Any proposed use of Council assets and services.
- The proposed commercial terms of the lease or license.
- The impact of the facility on the primary use of the land, any conflicts with primary purpose use of the land and the impact of the facility on the community.
- Impacts on Council reserves such as power and cabling services.
- Whether the proposed installation is inconsistent with any Council strategies, plans or other relevant use.

## 5. Determining rent and other costs

Council, as the owner of the subject site, is committed to ensuring that the best commercial terms are obtained for lease/licensing proposals. This includes the possibility of charging rental fees that may exceed the current market value, in order to benefit the community.

To determine appropriate rental fees, Council will seek a current market rental valuation for the proposed lease/licensed site from an independent valuer with experience in telecommunications facilities installations. Lease and license arrangements will include a CPI or fixed annual rental increase applied.

All costs which are as a direct result of the telecommunication facility will be the responsibility of the provider. This includes installation and maintenance of the facility and any associated infrastructure, restoration of Council infrastructure (if applicable). The provider will also be solely

responsible for all outgoings, including Land Tax, and Council's reasonable costs incurred in preparing or reviewing the lease or license arrangement.

## 6. Application Fee

All applications are subject to an administrative fee of \$250 (inclusive of GST). This fee contributes towards the administrative costs associated with considering an application.

## 7. Community Consultation

Should a decision be made to enter into a lease or license with a telecommunications provider, under The Act, Council is required to undertake a community engagement process in accordance with Council's community engagement policy in respect to the lease of land. Council must include any proposal to lease land in a financial year budget where the lease is:

- for a term of one year or more and the rent or current market rent is \$100,000 or more per year; or
- for a term of 10 years or more.

All agreements will be advertised informing the community of the proposed telecommunications lease or licence agreement in accordance with Council's Community Engagement Policy and treated in the same way as acquiring or selling land.

## 8. Responsibilities

Tenant Liaison	<ul style="list-style-type: none"> <li>• Liaise with the Lessee and/or Licensee</li> <li>• Bring to the attention of the relevant member of Executive the existence of groups or entities requiring a tenancy and/or a space or tenancy to be filled</li> <li>• Provide information and instructions to the Legal Officer and Property Officer in respect of any lease and/or licence as required.</li> </ul>
Senior Lawyer and/or Property Coordinator	<ul style="list-style-type: none"> <li>• Consider all requests for use on Council land or Council facilities. All requests will be considered on a consistent basis with due consideration given to:             <ul style="list-style-type: none"> <li>a. Community benefit;</li> <li>b. Financial impact;</li> <li>c. Appropriate land use; and</li> <li>d. Neighbourhood amenity.</li> </ul> </li> <li>• Council Officers will progress all applications in a timely manner and provide regular status updates to the applicant.</li> </ul>

## 9. Definitions

Term	Definition
The Act	means the <i>Local Government Act 2020</i>
Co-located facilities	One or more facilities installed on or within an original facility or a public utility structure.  This does not include a facility which is installed near, but not either on or within an original facility or public facility structure, will not be a co-located facility.
Low Impact Facilities	Small radio communications antennae and dishes erected on an existing tower or building that are designed to be unobtrusive. This may also include underground cables, public telephones, telecommunications pits in footpaths and co-located facilities.
High Impact Facilities	A tower that requires a Planning Permit under the Melton Planning Scheme. They are man-made structures that are always taller than they are wide, usually by a significant margin, generally built to take advantage of their height and can stand alone or as part of a larger structure. In the context of telecommunications, a tower requires a planning permit to be erected and is usually either a HUB or a BTU.
Lease	An interest in land granted by an owner ( <u>Lessor</u> ) to another person ( <u>Lessee</u> ) granting exclusive possession of property for a certain period of time.
Lessor	Owner of land granting the Lease – in this case, Council.
Lessee	Occupants of land under a lease, usually a commercial lease (may also be called a Tenant).
Licence	Means a licence for 1 or more years.  Permission granted by an owner (licensor) to another person (licensee) to occupy property (or part thereof) non-exclusively. For the purposes of this policy, general references to licences do not include hire agreements.
Licensor	Owner of land granting the licence – in this case, Council.
Licensee	Occupants of land under a licence.
Relevant Legislation	Means all legislation that is relevant from time to time, includes but is not limited to the legislation set out in <i>Telecommunications Act 1997</i> , the <i>Telecommunications (Low-impact Facilities) Determination 2018</i> , the <i>Telecommunications Code of Practice 2021</i> and the <i>The Act (Vic)</i> .
Tenant(s)	Occupants of land under a lease (may also be called a Lessee).

Installation	<ul style="list-style-type: none"> <li>a. the construction of the facility on, over or under any land; and</li> <li>b. the attachment of the facility to any building or other structure; and</li> <li>c. any activity that is ancillary or incidental to the installation of the facility (for this purpose, installation includes an activity covered by paragraph (a) or (b).</li> </ul>
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## 10. Related Documents

Name	Location
Local Government Act 2020	<a href="https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020">https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020</a>
Crown Land (Reserves) Act 1978 (Vic)	<a href="https://www.legislation.vic.gov.au/in-force/acts/crown-land-reserves-act-1978/128">https://www.legislation.vic.gov.au/in-force/acts/crown-land-reserves-act-1978/128</a>
The Leasing Policy for Victorian Crown Land (2018)	<a href="http://www.delwp.vic.gov.au">www.delwp.vic.gov.au</a>
Community Engagement Policy	<a href="#">Community Engagement Policy</a>
Planning and Environment Act 1987 (Vic)	<a href="https://www.legislation.vic.gov.au/in-force/acts/planning-and-environment-act-1987/156">https://www.legislation.vic.gov.au/in-force/acts/planning-and-environment-act-1987/156</a>
Code of Practice for Telecommunications Facilities in Victoria	<a href="chrome-extension://efaidnbnmnibpcajpcqlclefindmkaj/https://yarraranges.moderngov.com.au/documents/s5518/Attachment%209%20-%20Code%20of%20Practice%20for%20Telecommunication%20Facilities%20in%20Victoria.pdf">chrome-extension://efaidnbnmnibpcajpcqlclefindmkaj/https://yarraranges.moderngov.com.au/documents/s5518/Attachment%209%20-%20Code%20of%20Practice%20for%20Telecommunication%20Facilities%20in%20Victoria.pdf</a>
Melton Planning Scheme	
Application for the installation of Telecommunications Facilities	

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