

7.6 Telecommunications Facilities Policy

Executive Summary

Purpose

To seek Council approval of the reviewed and updated document, Telecommunications Facilities Policy (**Attachment 1**).

Background

Telecommunications companies wishing to install a telecommunications tower on Council land must lodge a Planning Application. The Planning Application cannot be lodged without first obtaining Council's consent as the landowner.

The need for telecommunications tower facilities is sometimes required throughout the suburbs to meet demand. Although the community recognises the need for telecommunications facilities they are not often favourably embraced, particularly in public parks.

The policy was developed in 2016 and provides guidance to Council and the telecommunications industry regarding the criteria against which Council will consider applications for consent to lodge a Planning Application to locate telecommunications facilities.

Key Issues

The policy was developed following internal consultation with relevant Council departments and guidance from Councillors.

This policy sets out that any application will be subject to public consultation prior to any decision being made on whether or not consent will be provided for a telecommunications facility on Council land or a facility.

Officers' recommendation

That Council resolve to:

1. Adopt the reviewed policy document, Telecommunications Facilities Policy (as annexed to the minutes).
2. Adopt the amendments to the 2022-23 Fees and Charges Schedule - **Attachment 2** as attached to the minutes.

Responsible director: Phillip Storer, Chief Executive Officer

1. Purpose

To seek Council approval of the reviewed and updated document, Telecommunications Facilities Policy (**Attachment 1**).

2. Policy implications and relevance to community plan and council plan

This policy is consistent with the Boroondara Community Plan 2021-31(BCP) (incorporating the 10-year Community Vision, Council Plan 2021–25 and Municipal Public Health and Wellbeing Plan 2021–25).

In particular strategies:

2.3: “Parks and green spaces are accessible and appealing through maintaining, improving and increasing amenities”. It also supports Strategic Objective 2 of the BCP, that “Green and open spaces are provided, well-utilised and enhanced”;and

7.1 “Decision-making is transparent and accountable through open governance processes with timely communication and reporting”. It also supports Strategic Objective 7 of the BCP, to “Ensure decisions are financially and socially responsible through transparent and ethical processes”.

3. Background

Telecommunications companies wishing to install a telecommunications tower on Council land must lodge a Planning Application. The Planning Application cannot be lodged without first obtaining Council’s consent as the landowner. However if the telecommunications tower is classed as a low impact facility, as determined by the *Telecommunications (Low-impact Facilities) Determination 2018*, no approvals are required, thereby giving Council no ability disapprove the installation.

The need for telecommunications tower facilities is sometimes required throughout the suburbs to meet demand. Although the community recognises the need for telecommunications facilities, they are not often favourably embraced, particularly in public parks.

The policy was developed in 2016 to provide guidance on how to respond to requests for Council’s consent to the lodging of a Planning Application for placement of telecommunications towers on Council owned and controlled land.

Prior to the finalising of the 2016 policy, the following was considered:

- The potential that refusal to consider towers on public land, may result in alternative sites being selected that have greater community impact;
- Concerns that Council consideration of sites on public land will make Council the target of criticism, rather than telecommunications companies;
- Council reliance and promotion of mobile technologies that are served by the towers;

- Potential revenue stream from permitting towers on public land; and
- The power of telecommunications companies to use compulsory acquisition for the installation of towers.

When the policy was first adopted, Council had two leases for telecommunications towers; Greythorn Park and the Boroondara Tennis Centre.

Shortly after the adoption of the policy, the tower located at the Greythorn Park was removed from the light pole leaving just the large tower located in the south west corner of the Boroondara Tennis Centre. The current annual rental is \$49,248.52 plus GST.

The Boroondara Tennis Centre is one of the sites to be compulsorily acquired as part of the North East Link project at which time the current lease with Council will terminate.

4. Outline of key issues/options

The policy was developed following internal consultation with relevant Council departments and guidance from Councillors.

This policy sets out that any application will be subject to public consultation prior to any decision being made on whether consent will be provided for a telecommunications facility on Council land or facility.

5. Consultation/communication

As part of any Planning Application, the permit application is advertised and objections may be lodged.

6. Financial and resource implications

The introduction of a set application fee provides for consideration of officer time required for the review of applications and supporting documentation.

Placement of telecommunications towers on Council owned or managed land provides an opportunity to realise rental income. Rental rates would be based on full commercial market valuations.

7. Governance issues

Officers involved in the preparation of this report have no general or material conflict of interest.

The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed in accordance with Council's Human Rights Compatibility Assessment Tool and it is considered that the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

8. Social and environmental issues

Australian Communications and Media Authority (ACMA) regulate communications and media to maximise the economic and social benefits of Australia.

ACMA's electromagnetic energy (EME) regulatory arrangements consider possible adverse health effects associated with the use of telecommunications devices. The arrangements comprise technical limits for human exposure to EME and the industry code that covers the steps carriers must take when designing, siting and operating mobile telecommunications base stations. The limits are based on exposure rather than emission and public exposure to transmitters is the key issue in determining compliance.

9. Evaluation and review

The 2016 policy has served Council well in providing guidance to applicants requesting to locate telecommunications towers on Council land. All requests, verbal or written, have been directed to the policy and attached application form for completion.

Manager: Amy Montalti, Chief Financial Officer

Report officer: Rebecca Dewar, Acting Coordinator Revenue and Property Services

Telecommunications Facilities Policy

2022

Responsible Directorate: Chief Financial Office
Authorised By: Council
Date of Adoption: <Date>
Review Date: <Date>
Policy Type: Council





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1 Introduction

1.1 Purpose

The purpose of this policy is to provide guidance to the telecommunications industry regarding the criteria against which Council will consider applications for consent to lodge a planning application to locate telecommunications facilities on council land or facilities by:

- Setting the principles for the uniform management of requests to host telecommunications facilities on council land or facilities.
- Providing a consistent approach to the decision making process in relation to all requests for consent to make a planning permit application to construct or carry out works for a telecommunications facility on council land or facilities.
- Considering all relevant issues prior to determining any application for consent to lodge a planning application, including the effect of the proposal on adjacent land.
- Establish guidelines to encourage the siting and design of low-impact telecommunications facilities in a manner which results in minimal impact on the local amenity.

Applications for consent to lodge a planning application to place telecommunications facilities on land or facilities will only be approved by Council acting under the guidance contained in this policy. Consent provided as land owner to proceed with lodging a planning application does not guarantee the outcome of the consideration of that planning application.

1.2 Scope

The scope of this policy applies to existing telecommunications facilities on council land or facilities* when existing leases are due for renewal and for all new applications to install telecommunications facilities on Council land or Council facilities.

This policy documents the assessment to be applied to all applications for consent to lodge a planning application to upgrade existing telecommunications facilities and to all new applications to install telecommunications facilities on Council land or facilities.

**For any telecommunications facility to be located on a building the telecommunications provider will need to obtain a structural report if the application is to progress.*

1.3 Corporate framework

This policy is consistent with the Boroondara Community Plan 2021-31 (BCP) (Incorporating the 10-year Community Vision, Council Plan 2021–25 and Municipal Public Health and Wellbeing Plan 2021–25).



In particular strategies;

2.3: 'Parks and green spaces are accessible and appealing through maintaining, improving and increasing amenities'. It also supports Strategic Objective 2 of the BCP, that "Green and open spaces are provided, well-utilised and enhanced"; and

7.1 "Decision-making is transparent and accountable through open governance processes with timely communication and reporting". It also supports Strategic Objective 7 of the BCP, to "Ensure decisions are financially and socially responsible through transparent and ethical processes".

2 Background

2.1 Policy environment

Telecommunications facilities are becoming more prevalent throughout suburbs and towns across the world to keep up with the growing needs of society as a means for communication.

The community recognises the need for such facilities however they are often not favourably embraced, particularly in built up areas and public parks.

The Commonwealth Government has established a legislative and policy framework to ensure consistency across the nation in the provision of telecommunications infrastructure. This has led to some telecommunications facilities, depending on the type of facility and the zoning of the site, being exempt from state legislation including the need to obtain a planning permit.

All telecommunications facilities, including mobile phone antennas, must be licensed by the Australian Communications and Media Authority (ACMA). ACMA maintains a register of telecommunications licenses, which lists operational facilities.

ACMA's electromagnetic energy (EME) regulatory arrangements consider possible adverse health effects associated with the use of telecommunications devices. Applicants must demonstrate the proposed installation meets the ACMA regulatory requirements.

2.2 Policy context

Council officers have an obligation to consider all requests for use of Council land or facilities. All requests should be dealt with in an open, transparent, and consistent manner with consideration given to community benefit, risk management, financial impact and appropriate land use and neighbourhood amenity.

There are a number of telecommunications devices within Boroondara situated on land and or structures which are not Council owned or managed. Council's only input on these is through a building or planning permit application where required.

This policy informs the general community regarding the principles, general practices and requirements by Council that will be applied to all applications for consent to



lodge a planning application to install or upgrade telecommunications facilities within Boroondara.

3 Methodology

3.1 Consultation

This policy is largely consistent with the previous policy which was developed following internal consultation with relevant Council departments and guidance from Councillors.

This policy sets out that any application will be subject to public consultation prior to any decision being made on whether or not consent will be provided for a telecommunications facility on Council land or facility.

3.2 Compliance with Legislation

It is the responsibility of the telecommunications carrier to ensure compliance with all the requirements under the *Telecommunications Act 1997*, the *Telecommunications Code of Practice 1997* and the *Telecommunications (Low-Impact Facilities) Determination 1997*.

Council must ensure that any proposed telecommunications facilities comply with the *Code of Practice for Telecommunications Facilities in Victoria, July 2004*, which is an incorporated document in all Planning Schemes within the State.

It is the responsibility of the telecommunications carrier when claiming to be exempt from State legislation to provide Council proof that they are exempt.

4 Policy statement

4.1 Aim

Council seeks to ensure that the installation and operation of the telecommunications facilities in Boroondara does not detract from the local amenity nor lead to any detrimental environmental, health, social or economic effects on the local community.

This policy supports consolidation of telecommunications facilities by encouraging the co-location of facilities or the upgrade of existing facilities whilst recognising the public benefits of telecommunication infrastructure.

Any telecommunications carrier which ultimately receives the necessary planning permit to locate a telecommunications facility on Council's land or Council's facilities will be required to enter into a lease on commercial terms including at current market rent as assessed by Council's valuer.

4.2 Planning Permit

Where consent to lodge a planning application is granted by Council officers to locate or upgrade a telecommunications facility on Council land or Council facility the



telecommunications carrier will be required to follow the standard process to seek a planning permit under relevant sections of the *Boroondara Planning Scheme*.

4.3 Assessment

The following criteria will be used to assess applications requesting consent to lodge a planning application to locate or upgrade telecommunication facilities on Council owned or managed land:

- the need for the facility;
- the upgrading of an existing facility;
- the co-locating with an existing facility;
- the site's ability to host more than one telecommunications carrier;
- the need for vegetation and habitat removal; and
- minimising the visual impact by:
 - insisting equipment structures including fencing are designed, landscaped and finished in colours and materials that harmonise with the immediate surroundings;
 - insisting that any tower or antennae is of both colour and design which are as unobtrusive as possible; and
 - insisting that no signage, except any required by law, will be attached to the tower or equipment structure.

4.4 Application requirements

All applications** for consent to lodge a planning application for a telecommunications facility to be located on Council land or Council facilities must be accompanied by the following information:

- 1 written explanation of why the telecommunications facility is required including a demand analysis of the area the proposed telecommunications facility is to serve;
- 2 steps that have already been taken to improve existing telecommunications facilities in the area and any considerations for co-location;
- 3 a written assessment of a minimum of three other feasible sites on different properties and the rationale for the preferred proposed site;
- 4 detailed images of both long and short range views of the proposed telecommunications facility from key vantage points;
- 5 a detailed analysis of the proposed site and surrounding area including identification of any other telecommunications facilities in the area;
- 6 details of any vegetation that requires removal;
- 7 a written explanation of how the facility has been designed in order to minimise the visual impact;
- 8 a written description of how new and existing landscaping will assist in screening the proposed telecommunications facility from short and long range view;
- 9 details showing compliance with all relevant legislation; and
- 10 a report addressing as a minimum the following:
 - The measures to be taken to fulfil the principles of prudent avoidance and to minimise public exposure to electromagnetic fields (EMFs).



- Projected EMF levels at 5, 10, 50, 100, 150, 300, 500 and 1000 metres from the site for the frequency allocated to them. On completion of construction and conditioning of the facility, a subsequent reading will be required at these ranges.
- Details of the cumulative EMF levels and impact of any existing facility within close proximity to the proposed site.
- Details of proposed equipment, including evidence that the proposed facility is the latest design and technology being employed by the applicant and complies with relevant Australian Standards.

***Application form attached as Appendix 1*

4.5 Application Fee

An application fee, as determined in the annual Council budget, will be payable at the time the application is submitted.

Current fee as at the adoption of this policy is \$2,000 GST exempt.

4.6 Consideration of Applications

All applications will be submitted to a meeting of the Building and Property Working Group for consideration and recommendation.

The report to the Building and Property Working Group will include but not be limited to:

- the application details;
- rental return expected;
- outcome of public consultation.

The recommendation of the Building and Property Working Group will either grant or refuse the application for consent to lodge a planning application. Any subsequent proposed lease be included in a report to Council seeking a Council resolution to support an offer to lease.

4.7 Redundant Telecommunication Facilities

Where a telecommunications facility exists and is no longer required it is a requirement of Council's lease that all infrastructure is removed and the area is returned to its original form. All costs must be met by the telecommunications carrier.

4.8 Financial implications

Should Council proceed with a lease for a telecommunications facility on Council land or facilities there is the potential for annual rental income. For any lease agreement granted for the purpose of a telecommunications facility the rent will be at current market rent, as assessed by Council's valuer, and increased annually by the greater of 5% or CPI.



Council will not incur any costs in respect to installation, site restoration, maintenance requirements or lease preparation. These costs are to be met solely by the owner of the telecommunications facility.

5 Implementation and monitoring

5.1 Evaluation

This policy will be reviewed in five years.

5.2 Accountabilities

For all queries or feedback regarding this policy, please use the contact details for the responsible department below.

Position Title	Contact number	Contact department email
Coordinator Revenue and Property Services	9278 4325	revenue@boroondara.vic.gov.au

6 References

6.1 Related documents

- *Administrative Decisions (Judicial Review) Act 1977*
- Australian Communication Industry Forum (ACIF) Deployment of Mobile Phone Network Infrastructure Industry Code
- Boroondara Planning Scheme
- Building Regulations 2006
- Code of Practice for Telecommunications Facilities in Victoria 2004
- Council Assets - Leasing and Licensing Policy 2017
- *Local Government Act 1989*
- *Planning and Environment Act 1987*
- *Telecommunications Act 1997*
- Telecommunications Code of Practice 1997
- Telecommunications (Low-Impact Facilities) Determination 1997



6.2 Definitions

ACMA	means the Australian Communications and Media Authority and includes its successors and assigns.
Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)	is the Australian Government's primary authority on radiation protection and nuclear safety. ARPANSA regulates Commonwealth entities using radiation with the objective of protecting people and the environment from the harmful effect of radiation. ARPANSA undertakes research, provides services, and promotes national uniformity and the implementation of international best practice across all jurisdictions.
Building and Property Group	This is an internal advisory group consisting of the Chief Executive Officer, directors and key managers across Council.
CBAA	means the Community Broadcasting Association of Australia and includes its successors and assigns.
Community group	means a group of people currently leasing or licensing the Council facility in question under Council's <i>Council Assets - Leasing and Licensing Policy</i> .
Council	means Boroondara City Council and includes the Council's successors and assigns and where it is consistent with the context includes the Council's employees and agents.
Council land or facility	means any land or facilities owned or managed by Council.
EME	means electromagnetic energy.
EMF	means electromagnetic field.
Low-impact facility	means a facility as defined under the Telecommunications (Low-Impact Facilities) Determination 1997.
Emergency service	means services provided in an emergency or disaster as defined (however described) within the meaning of an emergency law as specified by the Minister administering the <i>Administrative Decisions (Judicial Review) Act 1977</i> .



Telecommunications facility	means land or structure used to accommodate any part of the infrastructure of a Telecommunications network. It includes any telecommunications line, equipment, apparatus, telecommunications tower, mast, antenna, tunnel, duct, hole, pit, pole, or other structure or thing used, or for use in or in connection with a Telecommunications network.
Telecommunications network	means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided and/or unguided electromagnetic energy.



Appendix 1 Application for consent to lodge a Planning Application to locate or upgrade Telecommunications facilities on Council Land or Facilities

Please complete the application form including providing numbered responses and attachments to the required details listed below. Completed applications and attached documentation should be forwarded to revenue@boroondara.vic.gov.au for assessment and consideration.

Applicant:		
Contact name:		
On behalf of which telecommunications provider(s):		
Applicants address:		
		Postcode:
Telephone:	Business:	Mobile:
Email:		
Proposed site and site address: (Please include a detailed map)		
Required details		Checklist:
1. Provide details of why the telecommunications facility is required - include a demand analysis of the area the proposed telecommunications facility is to serve.		Yes <input type="checkbox"/>
2. Provide details of steps that have already been taken to improve existing telecommunications facilities in the area and any considerations for co-location and why this is not an option.		Yes <input type="checkbox"/>
3. Provide a written assessment of a minimum of three other feasible sites on different properties and the rationale for the preferred proposed site over each of the other assessed sites.		Yes <input type="checkbox"/>
4. Provide detailed images of both long and short range views of the proposed telecommunications facility from key vantage points.		Yes <input type="checkbox"/>
5. Provide a detailed analysis of the proposed site and surrounding area including: a. topography of the land b. location of proposed vehicle access c. identification of any other telecommunications facilities in the area.		Yes <input type="checkbox"/>
6. Provide details of any vegetation that requires removal.		Yes <input type="checkbox"/>
7. Provide a written explanation of how the facility has been designed in order to minimise the visual impact.		Yes <input type="checkbox"/>
8. Provide a written description of how new and existing landscaping will assist in screening the proposed telecommunications facility from short and long range view.		Yes <input type="checkbox"/>
9. Provide details showing compliance with all relevant legislation and codes of practice.		Yes <input type="checkbox"/>



10.A report detailing the required information as stated under 3.5.10.	Yes <input type="checkbox"/>
11.Any other information relevant to your application.	Yes <input type="checkbox"/>

Privacy Statement:

This personal information will be used solely by Council for the primary purpose or directly related purposes of the application. Council will not disclose this information. If this information is not collected Council will not be able to confirm your booking. The applicant understands that the personal information provided is for booking purposes only and that he or she may apply to Council for access to and/or amendment of the information. Requests for access and or correction should be made to Council's Privacy Officer

Attachment 2

2022-23 FEES AND CHARGES SCHEDULE

Fees and charges to be changed	Statutory Fee	UNIT	PROPOSED GST inclusive 2022-23 fee \$	ADOPTED GST inclusive 2022-23 fee \$	Fee increase \$	Fee increase %	GST applied at 10%	Policy / Strategy Act / Regulation	Pricing Policy Category
NEW FEE									
Chief Financial Office - Revenue & Property Services									
Telecommunications Facility Application Fee	N	Per application	\$ 2,000.00	\$ -	\$ 2,000.00	0%	N	Pricing Policy	Full Cost Recovery Pricing
<i>Commentary for fees: In line with the updated adopted Telecommunications Facilities on Council Land or Facilities Policy.</i>									