

# Telecommunications Infrastructure Policy



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Record number	D22/12323
Responsible Manager	Manager Finance and Rating Services
Other key internal stakeholders	Director Organisational Services and Excellence
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Legal requirement	NA
Due date next review	2025

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## PURPOSE

The purpose of this policy is to state Council's position in regard to the installation of telecommunications infrastructure on Council property.

## POLICY

### Use of Council Property for Telecommunications Infrastructure

Council supports the use of its facilities for the purpose of installing telecommunications facilities where access to appropriate modern telecommunications coverage would not otherwise be available to our community. Access to these facilities is essential to ensure that our community wellbeing is enhanced and facilities are available for emergencies.

Council will generally consider proposals for the installation of telecommunications infrastructure on Council property in the following circumstances:

- The proposed infrastructure is 'Low Impact' or, in the case where the facility requires approval under the Development Act 1993, the development is not listed as 'non-complying' within the relevant zone in Council's Development Plan
- It has been clearly demonstrated that co-location with another existing facility has been considered by the proponent, but rejected on technical/practical grounds
- The infrastructure will not adversely impact adjoining users to a significant degree
- The proponent can demonstrate that there are unlikely to be implications for the health and safety of Council employees or members of the public engaged in the use of the land in question, or other properties within the local area
- The site (land and/or building) is not being held by Council for a stated strategic purpose / future development
- The site has not been identified for potential sale, disposal or other exclusive use by another party
- An appropriate commercial lease fee is able to be negotiated.

Any telecommunications infrastructure installed on Council property remains the property and responsibility of the relevant telecommunication provider, who must comply with any applicable Council licence/authorisation conditions.

Where infrastructure is proposed to be installed on a road as opposed to Local Government land, subject to any laws to the contrary, Council may grant an authorisation for such infrastructure under the Local Government Act 1999.

Council will assess proposals to lease / licence land classified as Community Land in accordance with its Community Land Management Plan. Wherever necessary, the Council will ensure it complies with its public consultation obligations as required by the *Local Government Act 1999* and in accordance with Council's Community Engagement (Public Consultation) Policy (in respect of a telecommunication infrastructure proposal, licence or lease). This may occur concurrently with any public notification required by the Development Act 1993.

The matter (including the results of community consultation) will then be brought before a meeting of the Council for a final decision on whether the Council land will be made available for the proposal.

Note: Telecommunication infrastructure that requires a development approval under the Development Act 1993 is subject to the statutory processes set out within this legislation. Assessment of the proposal will be against the relevant policies in Council's Development Plan. Depending on the circumstances, public notification of the proposal may also be required under the Act. Council does not have any powers to regulate such infrastructure on property it does not own or manage.

## Installation of Low Impact Facilities over Council Land

The installation of a Low Impact Facility over Council land does not require the approval of Council as the land owner, and is exempt from requiring development approval under the *Development Act 1993*.

Notwithstanding the above, in accordance with the Telecommunications Code of Practice 2018, the carrier is required to notify Council of any low impact facility installed over public land. Where appropriate, Council may submit an objection to the activity proposed.

Any objection must be submitted at least 5 days before the carrier intends to commence the activity and the objection must relate to one of the following matters:

- The use of Council land to engage in the activity
- The location of the low impact facility on the land
- The dates the carrier proposes to start, engage in or cease the activity
- The likely effect of the activity on Council land (e.g. impact on trees, footpaths, street furniture etc.)
- The carriers proposals to minimise any detriment and inconvenience, and to do as little damage as practicable to Council land.

## LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

### [Telecommunications Act 1997 \(Cth\)](#)

This Act, which is Commonwealth legislation, provides the legislative framework for the installation of telecommunication infrastructure. The Act provides that carriers have certain rights concerning the installation of telecommunications infrastructure. Furthermore the Act provides certain immunities from legislative obligations which would otherwise need to be met at the State, Territory and local government level.

### [Telecommunications \(Low-Impact Facilities\) Determination 2018 \(Cth\)](#)

This Determination identifies a range of facilities deemed to be Low-Impact Facilities, which are exempt from State planning legislation.

Low Impact Facilities must be installed in accordance with the Telecommunications Code of Practice 2018.

### Telecommunications Code of Practice 2018

This Code clarifies the process to be followed for the installation of telecommunications infrastructure, including infrastructure determined to be of a low impact nature as defined within the Telecommunications (Low-Impact Facilities) Determination 2018.

As required by clause 4.24 of this Code, before engaging in a low-impact facility activity, the carrier must give written notice of its intention to do so to:

- The owner of the land; and
- If the land is occupied by someone other than the owner, the occupier of the land.

Pursuant to Clause 4.30 of the Code, the owner or occupier of land who received notification of the installation of a low-impact facility may confirm in writing their objection to the activity in accordance with the process contained within the Code.

### Local Government Act 1999

Section 202 of this Act makes provision for Council to grant a lease or licence over community land. In prescribed circumstances, public consultation is required before a lease or licence (including one relating to telecommunication infrastructure) is entered into.

Under section 217, Council has the power to order the owner of infrastructure on a road to carry out specified maintenance or repair work.

### Development Act 1993

Development approval will be required under this Act and the Development Regulations 2008, if the facility is not determined to be a low-impact facility. Council advises all potential applicants to seek advice from Council in this regard. If a development approval is required under this Act, the telecommunications facility may be subject to public notification.

## Other references

Council's document including:

- Community Engagement (Public Consultation) Policy
- Community Land Management Plan
- Fees and Charges Register
- Road Alteration and Encroachment Policy
- Development Plan

## STRATEGIC PLAN/POLICY

### Strategic Plan

Theme	Objective	Comments
HEALTHY AND SAFE	<i>A community where people are safe in our public places and spaces.</i>	Our community is healthy and safe.
PROSPEROUS AND CONNECTED	<i>A community where people have the resources and capacity to achieve goals.</i>	Our local economy prospers and people feel a sense of purpose and belonging.
VIBRANT AND LIVEABLE	<i>A sustainable city that has a healthy natural environment and is resilient to climate change.</i>	Our city is a desirable and sustainable place to live.

With additional initiatives that focus on upgrading the public realm, attracting future target markets, investment and housing development we will be better focused to deliver the kinds of outcomes for the precinct that are listed in the above objectives

### Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems, Continuous improvement

## DEFINITIONS

For the purposes of this policy the following definitions apply:

#### Community land

All local government land (except roads) that is owned by Council or under Council's care, control and management and has been classified as community land

#### Council property

Land owned by Council or under Council's care, control and management

## POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council's scheme of delegations.

## ACCESSIBILITY

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)

Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.