

### Planning Advisory Note 80

January 2023

This advisory note explains changes to the telecommunications planning provisions introduced by Amendment VC226 to the *Victoria Planning Provisions (VPP)* and all planning schemes which came into operation on 4 November 2022.

It should be read in conjunction with the VC226 Explanatory Report.

#### What are the telecommunications planning provisions?

The telecommunications planning provisions form part of the VPP and all planning schemes. The provisions regulate the development of telecommunications facilities including mobile phone towers, antennas, equipment cabinets, satellite dishes and cabling. The key clauses are:

- **Clause 19.03-S (Telecommunications)** which expresses the state's telecommunications planning policy
- **Clause 52.19 (Telecommunications facility)** which sets out requirements for telecommunications facilities, including when a permit is required.

Other clauses that include provisions specific to telecommunications include:

- **Clause 62.01 (Uses not requiring a permit)**
- **Clause 62.02 (Buildings and works not requiring a permit)**
- **Clause 73.01 (General terms)**

Zones, overlays and general provisions also include requirements that may be relevant to the development of telecommunications facilities.

#### What has changed?

Amendment VC226 changed the telecommunications planning provisions in the VPP and all planning schemes to:

- remove [A code of practice for telecommunications facilities in Victoria](#) (the code of practice) and incorporate relevant provisions into clause 52.19
- modernise and expand the list of telecommunications facilities that do not require a planning permit
- exempt more permit applications from the notice and review requirements of the *Planning and Environment Act 1987* (PE Act)
- clarify permit requirements and resolve inconsistencies.



## Why was the change needed?

Telecommunications services are vital for supporting economic, social and safety outcomes across Victoria. The technology that supports these services is constantly advancing, at the same time as demand for improved services increases. Regulatory frameworks must evolve to support these changing needs.

Before Amendment VC226, the telecommunications planning provisions had not changed significantly in almost 20 years. The provisions were complex, describing obsolete technology and practices which made them difficult to apply. By simplifying the provisions, exempting more facilities from planning requirements, and broadening the description of facilities, the changes make it easier to deploy, upgrade and deliver telecommunications facilities.

The changes also support the operation of critical telecommunications facilities used for emergency warnings during bushfires and floods. Facilities will be able to be quickly deployed, upgraded or reinstated.

## Why is the code of practice no longer part of planning schemes?

The code of practice was an incorporated document in the VPP and all planning schemes. It included information about how the telecommunications provisions worked and listed facilities that were exempt subject to conditions. It also set out four principles to be applied to telecommunications facilities.

Relevant material from the code of practice has been simplified and incorporated into clause 52.19. This places all the planning information for telecommunications in a single place.

### Code of practice principles

The principles in the code of practice will no longer apply. This is because some of the principles included broad, qualitative statements that caused uncertainty in their application, while others duplicated other regulatory frameworks. The new provisions provide greater certainty about what requirements must be met and what an application must be assessed against. However, parts of each principle remain relevant, and this is reflected in the updated provisions as follows:

- Principle 1, that *a telecommunications facility be sited to minimise visual impact*, remains a key planning consideration. The updated provisions focus on balancing a facility's visual impact with the appropriate planning process. For example, facilities capable of generating a more significant visual impact continue to require a planning permit that will be assessed against those matters.

- Principle 2, that *telecommunication facilities should be co-located wherever practical*, has become a new state-wide strategy in clause 19.03-4S.
- Principle 3, that health standards for exposure to radio emissions will be met, is a responsibility of the federal government who are responsible for setting electromagnetic energy (EME) safety standards and regulating compliance by telecommunications carriers. More information about EME is available from the [federal government](#).
- Principle 4, that *disturbance and risk related to siting and construction should be minimised*, dealt with the environmental, safety and practical construction impacts of telecommunications facilities. These issues are usually given effect through other legislation including the *Environment Protection Act 2017*.

### Code of practice planning permit exemptions

The code of practice listed 13 telecommunications facilities that did not require a planning permit subject to conditions. The list has been simplified, expanded and modernised, and included in clause 52.19. The appendix to this advisory note lists each exempt facility from the former code of practice and sets out the new requirements that apply to that facility.

## How have planning permit requirements changed?

### Which telecommunications facilities are exempt from state planning requirements under federal legislation?

The federal government exempts specified low-impact telecommunications facilities from state planning requirements, including land use and development. Exempt facilities continue to be set out in the [Telecommunications Act 1997](#) and [Telecommunications \(Low-impact Facilities\) Determination 2018](#).

Amendment VC226 does not change this determination.

### When is a planning permit required to use land for a telecommunications facility?

Clause 62.01 now specifies that any requirement relating to the use of land in a planning scheme (other than a requirement in the Public Conservation and Resource Zone) does not apply to the use of land for a telecommunications facility.



## When is a planning permit required for buildings and works for a telecommunications facility?

A planning permit is required to construct a building or construct or carry out works for a telecommunications facility unless the facility is exempt from this requirements. The permit requirement and exempt facilities are set out in clause 52.19-1.

## How have exempt facilities changed?

Before Amendment VC226, some exempt facilities were set out in clause 52.19 and others in the code of practice. Facilities have been updated and consolidated into clause 52.19-1. Key changes to exempt facilities include:

- A telecommunications tower replacing an existing light pole on council land is now an exempt facility. The tower must be no more than 8 metres higher than the light pole it is replacing
- Telecommunications towers being extended or replaced may now extend 8 metres higher than the tower being extended or replaced (previously 5 metres)
- Microcells, antennas and other facilities on and inside buildings have been consolidated into a new 'facility on a building' exemption. Facilities may extend 8 metres above the building, unless in a residential zone, in which case they may extend up to 1 metre (various height limits previously applied, including 5 metres for a facility on a roof)
- Provisions for radio communications dishes have been combined with clause 52.04 (Satellite dishes). Planning permit requirements have been removed for dishes that meet specified setbacks. Any dish over 2.4 metres in diameter now requires a permit.

Following Amendment VC226, the principles in the code of practice no longer apply and if a facility meets the requirements of clause 52.19-1, it is exempt.

If the facility is not exempt under clause 52.19-1, the usual planning scheme requirements apply.

Amendment VC226 also changed the provisions in clause 62.02 so that any requirement in a planning scheme relating to buildings and works (other than a requirement in the Public Conservation and Resource Zone) does not apply to buildings and works for a telecommunications facility exempt from a permit under clause 52.19-1.

## What is considered when a planning permit is required?

An application to construct a building or construct or carry out works for a telecommunications facility follows the normal planning permit application process. Before determining an application for a telecommunications facility, the responsible authority must consider all relevant planning matters relating to the site, including the matters set out in clause 52.19, any applicable zone or overlay, the general decision guidelines of clause 65 and referrals required under clause 66.

## What changes have been made to notice and review?

Before Amendment VC226, many classes of application for a telecommunications facility were exempt from the notice and review requirements in the PE Act. Amendment VC226 exempts additional facilities from these requirements.

After the changes, notice and review requirements will only apply to:

- An application under a Significant Landscape Overlay, a Heritage Overlay, or Neighbourhood Character Overlay
- An application under a public land zone if the responsible authority is not the public land manager
- An application for any of the following:
  - A telecommunications dish
  - A telecommunications facility on a building within 100 metres of a residential zone or dwelling not on the same land
  - A telecommunications tower in a residential zone
  - A telecommunications tower within 100 metres of a residential zone or dwelling not on the same land.

Notice and review rights only apply when a planning permit is required.



## Appendix

### Comparison between code of practice exempt facilities and new clause 52.19 exempt facilities

Important note: This table summarises the key characteristics of the telecommunications facilities that were exempt from a planning permit under the code of practice. More detailed requirements may have applied, including the application of the principles in the code of practice.

Code of practice exempt facility	Exemption in 52.19 that may apply
<p><b>A microcell</b> was exempt if:</p> <ul style="list-style-type: none"> <li>• it was not attached to a building or structure listed in the Heritage Overlay; and</li> <li>• it did not exceed:                             <ul style="list-style-type: none"> <li>o 800mm x 550mm x 300mm combined volume of cabinet/s</li> <li>o 1000mm for an omni whip antenna, outriggered not more than 500mm from the support structure</li> <li>o 1200mm x 350mm x 150mm for a panel antenna.</li> </ul> </li> </ul>	<p>A telecommunications facility on a building is exempt if the following requirements are met:</p> <ul style="list-style-type: none"> <li>• If the building is in a residential zone, the height of the facility must not be more than 1m higher than the building height of the building</li> <li>• If the building is in a zone other than a residential zone, the height of the facility must not be more than 8m higher than the building height of the building.</li> </ul>
<p><b>An above ground housing</b> was exempt, however a remote integrated multiplexer could not be located on a heritage place listed in the schedule to the Heritage Overlay.</p>	<p>A telecommunications facility equipment shelter.</p>
<p><b>A temporary facility</b> was exempt if it:</p> <ul style="list-style-type: none"> <li>• did not exist on the land for more than a total of 4 months in any 12 month period</li> <li>• Provided service coverage:                             <ul style="list-style-type: none"> <li>o during emergency maintenance of an existing facility</li> <li>o during the construction or installation of a new facility</li> <li>o for an event.</li> </ul> </li> </ul> <p>The height did not exceed 25m above its base or the height of the existing facility, whichever is the greater.</p>	<p>A telecommunications facility that provides service coverage during routine or emergency maintenance of an existing facility, construction or installation of a new facility, or additional service coverage for an event, is exempt if the following requirements are met:</p> <ul style="list-style-type: none"> <li>• The height of the facility must not exceed 25m above its base or the height of the existing facility, whichever is the greater</li> <li>• The facility must not be located on the land for more than a total of 4 months in any 12 month period.</li> </ul>
<p><b>Underground cable or duct</b> was exempt if it did not exceed a width of 450mm (or 650mm for more than one carrier).</p>	<p>A telecommunications facility located underground if any ground disturbed in constructing or installing the facility is reinstated.</p>
<p><b>Boring cable</b> was exempt if the boring took place at a minimum depth of 600mm or 1200mm where the cable was located in a Road Zone – Category 1 (now Transport Zone 1).</p>	

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Code of practice exempt facility	Exemption in 52.19 that may apply
<p><b>Radio communications dish</b> was exempt if:</p> <ul style="list-style-type: none"> <li>• it was not attached to a heritage building or structure</li> <li>• it was less than 1.2m in diameter</li> <li>• it was in a residential or commercial zone and between 1.2m and 2.4m in diameter and met specified requirements; and</li> <li>• it was in any other zone, with no size requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• A telecommunications dish with a diameter of 1.2m or less.</li> <li>• A telecommunications dish with a diameter of more than 1.2m and less than or equal to 2.4m if the following requirements are met: <ul style="list-style-type: none"> <li>○ If the dish is in a Heritage Overlay, it must not be visible from a street (other than a lane) or public park.</li> <li>○ If the dish is in a residential zone, it must: <ul style="list-style-type: none"> <li>– Be set back from the side or rear boundary 1m, plus 0.3m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m.</li> <li>– Be set back at least 3m from a boundary opposite an existing habitable room window.</li> <li>– Not be visible from the street (other than a lane) or a public park.</li> </ul> </li> </ul> </li> </ul>
<p><b>Replacement tower or facility associated with a tower to enable co-location</b> was exempt if it was:</p> <ul style="list-style-type: none"> <li>• for the purpose of co-location;</li> <li>• not in a residential zone;</li> <li>• not in an Environmental Significant Overlay, a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, or Erosion Management Overlay; and</li> <li>• not more than 5m higher than the tower being replaced.</li> </ul>	<p>A telecommunications tower that replaces an existing light pole on public land is exempt if the following requirements are met:</p> <ul style="list-style-type: none"> <li>• The public land manager must be a municipal council.</li> <li>• The tower must not be more than 8m higher than the light pole.</li> </ul> <p>A telecommunications tower that replaces an existing telecommunications tower on the same land is exempt if the following requirements are met:</p> <ul style="list-style-type: none"> <li>• The tower must not be in a residential zone, or a Significant Landscape Overlay, Heritage Overlay or Neighbourhood Character Overlay.</li> <li>• The tower must not be more than 8m higher than the existing tower.</li> <li>• The tower must not be a lattice tower.</li> <li>• The tower must be located within 20m of the existing tower.</li> <li>• The existing tower must be removed within 60 days of the new tower commencing operation.</li> </ul>

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Code of practice exempt facility	Exemption in 52.19 that may apply
<p><b>Co-location of a facility on an existing tower</b> was exempt if:</p> <ul style="list-style-type: none"> <li>• it was for the purpose of co-locating a carrier;</li> <li>• it was not in a residential zone; and</li> <li>• it was not more than 5m higher than the existing tower.</li> </ul>	<p>A telecommunications facility on a building is exempt if the following requirements are met:</p> <ul style="list-style-type: none"> <li>• If the building is in a residential zone, the height of the facility must not be more than 1m higher than the building height of the building</li> <li>• If the building is in a zone other than a residential zone, the height of the facility must not be more than 8m higher than the building height of the building.</li> </ul> <p>The extension of an existing telecommunications tower if the following requirements are met:</p> <ul style="list-style-type: none"> <li>• The tower must not be in a residential zone.</li> <li>• The height of the extension must not exceed 8m.</li> <li>• The tower must not have been previously extended without a permit.</li> <li>• The tower must have been constructed for 12 months before the extension.</li> </ul>
<p><b>A telecommunications facility located inside a building, structure or tunnel</b> was exempt.</p>	
<p><b>A telecommunications facility located on a roof</b> was exempt if:</p> <ul style="list-style-type: none"> <li>• it was not attached to a building or structure listed in the schedule to the Heritage Overlay;</li> <li>• the antenna support structure did not exceed 5m above the building height; and</li> <li>• it was not located in a residential zone.</li> </ul>	
<p><b>A repeater installation</b></p> <p>The facility was exempt if:</p> <ul style="list-style-type: none"> <li>• it consisted only of an external yagi antenna no longer than 1.8m located on the roof of the building; and</li> <li>• ancillary equipment located on the roof was not more than 450mm x 550mm x 250mm.</li> </ul>	
<p><b>A telecommunications facility attached to infrastructure located within a Road Zone – Category 1 (now Transport Zone 1)</b></p> <p>The facility was exempt if:</p> <ul style="list-style-type: none"> <li>• it was located in a Road Zone – Category 1 (now Transport Zone 2);</li> <li>• it was not attached to a building or structure listed in the schedule to the Heritage Overlay;</li> <li>• an antenna mounted on a road overpass did not exceed 2.8m;</li> <li>• a panel antenna incorporated into or mounted on an advertising sign, street lighting pole, directional sign or similar did not exceed 2.8m;</li> <li>• an omni-directional antenna incorporated into or mounted on an advertising sign, street lighting pole, directional sign or similar did not exceed 4.5m; and</li> <li>• a transmission dish did not exceed 1.2m in diameter.</li> </ul>	<p>An optical fibre ground wire that replaces an electricity ground wire on a high-voltage transmission tower that supports powerlines designed to operate at 222,000 volts or greater.</p>
<p><b>An optical fibre ground wire on high voltage transmission towers</b> was exempt if it:</p> <ul style="list-style-type: none"> <li>• replaced an existing electricity ground wire; and</li> <li>• was located on a tower supporting power lines designed to operate at 220,000 volts or greater.</li> </ul>	



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