



Office of Sustainable Development Assessment and Approvals, Urban Assessments

Planning Assessment Report

Application to Modify Development Consent

MOD 159-10-2005 modifying DA 184-8-2004

LOT 59, Off Soldiers Point Road, Salamander Bay

1 SUMMARY

This report is an assessment of Modification number MOD 159-10-2005 modifying Development Application DA 184-8-2004 pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979 (the Act).

This application for modification was lodged by Ms Divini Tsoi of Connell Wagner Pty Ltd on behalf of Optus Pty Ltd on 20 October 2005. The application seeks to modify Development Application DA 184-8-2004 approved by the Minister on 22 June 2005.

The site is located at Lot 59 in DP 831253, Salamander Bay Waste Transfer Station, Off Soldiers Point Road, Salamander Bay.

The Minister for Planning is the consent authority for modifications to consents the Minister has granted.

It is recommended that the modification application be **approved**.

1.1 Background

The Development Application (DA) 184-8-2004 involved a proposal for a telecommunications tower, including:

- One (1) 35m high slimline concrete monopole;
- Three (3) panel antennas (each 2.7m long) turret mounted on the monopole at an elevation of 35.3m;
- One (1) parabolic radiocommunications dish (300mm in diameter) strap mounted at an elevation of 18.0m;
- One (1) Phase 7.5 (3m x 2.5m) prefabricated equipment shelter adjacent to the base of the monopole;
- One (1) cable ladder/support which will be located adjacent to the base of the monopole; and
- An access track, 3m wide and approximately 7m long.

The above proposal was approved by the Minister on 22 June 2005 subject to conditions of development consent.

2 THE PROPOSED MODIFICATIONS

The applicant is seeking to modify the approved development by amending Schedule 2, Condition A2 "Development in Accordance with Plans", as outlined below.

Current Condition of Consent A2 "Development in Accordance with Plans"

The development shall be in accordance with development application number 184-08-2004 submitted by the applicant on 4 August 2004, and in accordance with the following:

Statement of Environmental Effects entitled <i>Optus Mobile Pty Ltd Statement of Environmental Effects Proposed Mobile Phone Facility at Salamander Waste Transfer Station, Off Soldiers Point Road, Salamander Bay</i> prepared by Connell Wagner dated July 2004.			
Architectural (or Design) Drawings prepared by Connell Wagner			
Drawing No.	Revision	Name of Plan	Date
S1676-00	n/a	Cover Page	n/a
S1676-G1	A	Site Specifications	21/06/04
S1676-G2	A	Overall Site Plan	28/06/04
S1676-G3	A	Site Layout and Setout Plan	28/06/04
S1676-G4	A	Site Elevation and Antennas Plan	28/06/04
RF EME Report entitled Summary of Estimated RF EME Levels around the proposed Mobile Phone Base Station at "S1676 Corlette", Salamander Bay Waste Transfer Depot, Salamander Bay NSW dated 06 June 2004.			

Proposed Condition of Consent A2 "Development in Accordance with Plans"

The development shall be in accordance with development application number 184-08-2004 submitted by the applicant on 4 August 2004, and in accordance with the following:

Statement of Environmental Effects entitled <i>Optus Mobile Pty Ltd Statement of Environmental Effects Proposed Mobile Phone Facility at Salamander Waste Transfer Station, Off Soldiers Point Road, Salamander Bay</i> prepared by Connell Wagner dated July 2004.			
Architectural (or Design) Drawings prepared by Connell Wagner			
Drawing No.	Revision	Name of Plan	Date
S1676-00	n/a	Cover Page	n/a
S1676-G1	B	Site Specifications	19/09/05*
S1676-G2	B	Overall Site Plan	19/09/05*
S1676-G3	B	Site Layout and Setout Plan	19/09/05*
S1676-G4	B	Site Elevation and Antennas Plan	19/09/05*
S1676-S1	A	Equipment Shelter Foundation Details	19/09/05 [#]
S1676-C1	B	Erosion & Sediment Control Plan	19/09/05 [#]
RF EME Report entitled Summary of Estimated RF EME Levels around the proposed Mobile Phone Base Station at "S1676 Corlette", Salamander Bay Waste Transfer Depot, Salamander Bay NSW dated 06 June 2004.			

Note: * indicates amended drawing, [#] indicates new drawing.

As reflected on the amended proposed drawings, the modifications to DA 184-8-2004 involve the following:

- Optus equipment shelter was raised by 500mm above the ground to provide appropriate ventilation due to the presence of methane gas being produced by the tip fill. The

modification was deemed necessary due to the results of a geotechnical investigation undertaken for the site. The raised concrete raft foundation, which supports the shelter, is detailed on new drawing S1676-S1.

- Site compound was increased from 7.5m to 9.5m in order to accommodate the monopole foundation and the raised shelter raft foundation. The location of the monopole changed by only 1.5m. This is reflected on amended drawings S1676-G2 and S1676-G3.
- Site specifications for electrical power details were finalised. This is detailed on amended drawing S1676-G1.
- Monopole type was specified. This is shown on amended drawings S1676-G1 and S1676-G4.
- There are no changes in height of the monopole, the elevation of the antennas (top at EL38m), the number and azimuth of antennas.

3 STATUTORY FRAMEWORK

3.1 *Statement of permissibility*

The subject site is zoned as 6(a) General Recreation "A" Zone under the provisions of Port Stephens Local Environmental Plan 2000. Within this zone, telecommunications facilities are permissible with development consent.

3.2 *Instrument of consent*

Pursuant to Clause 10 and Schedule 2 of State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71), the Minister is the consent authority. Schedule 2 identifies specified development as including all development above 13 metres. The proposed telecommunication tower is 38 metres above existing ground level.

3.2.1 *Relevant planning instruments/guidelines/policies*

The environmental planning instruments applicable to the site are as follows:

- State Environmental Planning Policy No.71 - Coastal Protection
- NSW Coastal Policy 1997
- Hunter Regional Environmental Plan
- Port Stephens Local Environmental Plan 2000

4 CONSULTATION / PUBLIC EXHIBITION

One objector to the original proposal was notified of the application for modification on 7 November 2005 and was given 7 days to provide a response. No submission was received.

The application was also referred to the Port Stephens Council on 7 November 2005. Council responded on 17 November 2005 (refer **Tag B**) and raised no objections to the proposed changes.

5 CONSIDERATION

5.1 *Section 96*

The application is considered to meet the prerequisites of Section 96 (1A) of the Act in that the proposed modifications are considered to be of minimal environmental impact, and that the development as modified is considered to be substantially the same development as that to which consent was originally granted.

5.2 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. The consideration is also given to relevant provisions of the planning instruments/guidelines/policies described at Section 3.2.1 of this report. It is considered the proposed modifications do not materially alter the approved development's compliance or otherwise with those planning instruments/guidelines/policies listed at Section 3.2.1.

6 CONCLUSION

The Minister for Planning is consent authority for modifications to consents he has granted.

The proposed development as modified is considered to be substantially the same development as that originally approved.

The application has been considered with regard to the matters raised in Section 79C of the Act. Due to the minor nature of the application for modification, the only person notified was one objector to the original proposal and Council. The person notified did not lodge a submission. Council raised no objections to the modifications.

On balance, it is considered that the proposed development as modified is acceptable and should be approved.

7 DELEGATION

Under the instrument of delegation dated 12 September 2005, the Minister has delegated to the Deputy Director General his functions under Section 96(1A) of the Act relating to modifying development consents except where they relate to designated development or development that is declared to be State Significant development (other than under SEPP 56).

Having regard to the Urban Assessments Guidelines for Delegates, it is considered appropriate that the application be determined under delegation by the Deputy Director General.

8 RECOMMENDATION

It is recommended that the delegate for the Minister for Planning pursuant to Sections 81 and 96(1A) of the *Environmental Planning and Assessment Act, 1979* and clause 122 (2) of the *Environmental Planning and Assessment Regulations, 2000*:

- (A) **approve** the application subject to conditions (refer Tag A), and
- (B) authorise the Department to carry out notification of determination of the application to modify the consent.

Prepared by:

Endorsed by

Paulina Hon
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Gordon Kirkby
Acting Director
Urban Assessments
Determined as Delegate of the Minister for Planning