

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 289-11-2004

(FILE NO. 9036670)

**19 METRE MONOPOLE TELECOMMUNICATIONS TOWER, ASSOCIATED
ANTENNAS AND EQUIPMENT SHELTER**

I, the Minister Assisting the Minister for Infrastructure and Planning, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of *State Environmental Planning Policy No.71 – Coastal Protection*, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) ensure the creation of a high quality environment,
- (2) ensure compliance with planning controls,
- (3) ensure provision of necessary infrastructure services to the land and local community, and
- (4) protect the amenity of the local environment and land owners.

Diane Beamer, MP
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)
Minister for Western Sydney
Minister for Juvenile Justice

Sydney,

2005

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Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2005

SCHEDULE 1

PART A – TABLE

Application made by:	Angelini Planning Services Pty Ltd Shop 7, 108 Penshurst St, Willoughby
Application made to:	Minister for Infrastructure and Planning
Development Application:	289-11-2004
On land comprising:	Lot 418 DP257378 50 Marine Drive, Fingal Bay
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$250 000
Type of development:	State Significant Development
S.119 Public inquiry held:	No
BCA building class:	Class 10 (a) and (b)
Approval Body / Bodies:	Not Integrated
Determination made on:	
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying letter.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 289-11-2004***Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice.

Appeals—Third Party

For designated development, a third party has the right to appeal to the Land and Environment Court on the merits of this decision under Section 98 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only available within 28 days of the date of commencement of this consent.

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Angelini Planning Services Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Port Stephens Council.

DA No. 289-11-2004 means the development application and supporting documentation submitted by the applicant on 22 November 2004.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 289-11-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

Development consent is granted only to the construction of a telecommunications facility comprising:

1. construction of one (1) 19 metre slimline monopole;
2. two (2) panel antennas (2095mm in length x 370mm wide) collar mounted, an elevation of 18 metres to the 19 metre pole;
3. one (1) parabolic microwave antenna (600 mm on diameter) mounted onto the top of the monopole; and
4. a prefabricated external equipment shelter located adjacent to the tower within a security compound fence 3.28m long x 3.0m high.

A2 *Development in Accordance with Plans*

The development shall be generally in accordance with development application number 289-11-2004 submitted by the applicant on 22 November 2004, and in accordance with the supporting documentation submitted with that application, except where amended by conditions of this consent:

Statement of Environmental Effects entitled Proposed construction of a mobile telephone base station at Fingal Bay Oval, Fingal Bay			
Architectural (or Design) Drawings prepared by Gridcomm Pty Ltd			
Drawing No.	Name of Plan	Revision	Date
T1418-N052010	Lease Plan	A	17 June 04
T1418-N052002	Existing Site Layout	C	14 May 04
T1418-N052003	Proposed Site Layout	B	17 May 04
T1418-N052004	Proposed Site Elevations	B	17 May 04
RF EME Report entitled Summary of Estimated RF EME Levels around the proposed Mobile Phone Base Station at Off Rocky Point Road, Fingal Bay 18 November 2004			

A3 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B – PRIOR TO COMMENCEMENT OF WORKS

Excavation Works

B1 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

Structural Works

B2 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Construction Management

B3 Construction Management Plan

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) noise and vibration management,
- (4) waste management, and
- (5) erosion and sediment control.

B4 Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

B5 Acid Sulphate Soil Management Plan

Testing for Acid Sulphate Soils (ASS) must be carried out by a suitably qualified person prior to any excavation being carried out. Should ASS material be identified, an Acid Sulphate

Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998). The Management Plan shall be submitted to satisfaction of the Certifying Authority prior to the issue of a Construction Certificate (Note: The site lies in an area mapped as Class 4 ASS).

Compliance

B6 Compliance Report

Prior to the commencement of works, the applicant shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART C—DURING CONSTRUCTION

Site Maintenance

C1 Erosion and Sediment Control

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

Structural Works

C2 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

Construction Management

C3 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

C4 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

C5 *Hours of Work*

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) the work is approved through the Construction Noise and Vibration Management Plan; and

Compliance**C6 *Compliance Report***

The Applicant shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

PART D—GENERAL

D1 *Finishes*

To reduce the visual impact of the tower and equipment shelter, construction materials, antennas and dishes shall be non-reflective and have an external finish to blend as much as possible with the existing skyline and backdrop.

D2 *Fencing*

The facility will be enclosed by a 2.4m chain wire security fence which should deter public access with appropriate warning signage regarding trespass.

D3 *Electricity Cables*

All electricity cables required for the development shall be located underground.

D4 *EME Levels*

The electromagnetic energy level at ground level emitted from the development is to be within the maximum identified level within the document titled *Summary of Estimated RF EME Levels around the proposed Mobile Phone Base Station at Off Rocky Point Road, Fingal Bay 18 November 2004* at all times of operation.

Should the level emitted exceed the maximum identified level or should it exceed the recommended level established (now or in the future) by the Department of Health at any time in the future, the base station shall cease use.

D5 *Tree Removal*

The Tree Preservation Order prohibits the removal or lopping of any tree without the consent of Council. The order applies to all species of trees and shrubs on all land in the Port Stephens Council area. An application must be made to Council for the removal or pruning of any other tree or trees on the property (\$15.00 application fee applies).

ADVISORY NOTES

AN1 Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN2 Compliance with Building Code of Australia

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN3 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN4 Use of Mobile Cranes

The applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN5 Construction Inspections

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation, and

- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN6 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN7 Excavation – Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the National Parks and Wildlife Service shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN8 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.