



Planning Assessment Report

Development Application DA 289-11-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 289-11-2004.

The application seeks consent for the construction of a 19m slimline monopole mobile phone base transceiver station and equipment shelter. The site is located at Lot 418 DP257378, 50 Marine Drive, Fingal Bay in the Port Stephens Council local government area.

The Minister for Infrastructure and Planning is the consent authority under clause 10(2) of State Environmental Planning Policy No. 71 – Coastal Protection. The proposal is generally consistent with the range of planning controls and legislation applicable to the development. The assessment concludes that there are no significant planning impacts or issues arising from the proposal.

It is recommended that the development application be granted consent subject to conditions (tagged **A**).

2 BACKGROUND

2.1 Site Context

The site is located at Lot 418 DP257378, 50 Marine Drive, Fingal Bay in the Port Stephens local government area and is located within an existing sports reserve in the township of Fingal Bay. The site is surrounded by native vegetation to the east, which provides a buffer onto Marine Parade and the foreshore, and Rocky Point Road to the north. The adjoining properties are residential. There are no schools, kindergartens or hospitals within 300m of the site.

The development application was lodged with the Department on 22 November 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

A site visit was conducted of the site in January 2005.

A site plan is at Attachment **B**.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for:

- construction of one (1) 19 metre slimline monopole;
- two (2) panel antennas (2095mm in length x 370mm wide) collar mounted, at an elevation of 18 metres to the 19 metre pole;
- one (1) parabolic microwave antenna (600 mm on diameter) mounted onto the top of the monopole; and

- a prefabricated external equipment shelter 3.28m long x 3.0m high located adjacent to the tower within a security compound fence 2.4m high.

The 19m slimline monopole is replacing an existing light pole of the same height, situated at the south west corner of the playing field. The lighting fixture will be reattached to the monopole.

The proposed development will be undertaken in accordance with the plans at Attachment **C** and the submitted Statement of Environment Effects (Attachment **D**) except as altered by the recommended conditions of consent.

4 STATUTORY FRAMEWORK

4.1 *Statement of permissibility*

The subject property is zoned 6(a) General Recreation under the provisions of Port Stephens Local Environmental Plan 2000 (PSLEP 2000). The proposal is not inconsistent with the objectives of the zone, nor is it listed as prohibited development.

4.2 *Instrument of consent and other relevant planning instruments*

The subject site is located within the coastal zone, as defined in Part 1(3) of SEPP 71.

The development application is identified as significant coastal development – specified development under Schedule 2 of SEPP 71 as it involves the erection of a structure greater than 13 metres in height. As a result, the application is State Significant development pursuant to clause 10(1) of the Policy.

The EPIs applicable to the site include:

- SEPP71 – Coastal Protection;
- Port Stephens Local Environmental Plan 2000
- Hunter Regional Environmental Plan

An assessment of the proposal against these provisions is at Attachment **E**.

4.3 *Legislative context*

- Environment Protection and Biodiversity Conservation Act, 1999 (EPBC Act)
- Commonwealth Regulatory Framework (CRF)

An assessment of the proposal against these provisions is at Attachment **E**.

4.4 *Other statutory provisions*

Additionally, the following local controls apply to the site:

- Port Stephens Telecommunications and Radiocommunications Guidelines 2003 (PSTRG)
- Australian Communications Industry Forum (ACIF) Industry Code
- NSW Coastal Policy

An assessment of the proposal against these provisions is at Attachment **E**.

5 CONSULTATION

5.1 *Public consultation*

The application was notified, in accordance with the Regulations and the Urban Assessments Draft Notification Policy including:

Notifications – landowners/occupiers	One hundred and ten (110) adjoining property owners were notified
Newspaper advertisements	Advertised in Port Stephens Examiner on 14 April 2005
Exhibition dates	Start: 14 April 2005 End: 28 April 2005
Exhibition venues	1) Planning Information Centre, 20 Lee Street Sydney 2) Department of Infrastructure, Planning and Natural Resources Suite 6 – 464 King Street NEWCASTLE WEST (Mon to Fri 8:30am to 4:30pm) 3) Port Stephens Council 116 Adelaide Street (Old Pacific Highway) RAYMOND TERRACE (Mon to Fri - 8:30am to 5:00pm) 4) Tomaree Library Town Centre Circuit SALAMANDER BAY (Mon to Fri – 8:30am to 4:30pm)

No submissions were received regarding the Application.

5.2 *Referrals*

5.2.1 *Integrated Approval Bodies*

The application was not integrated.

5.2.2 *Council*

The application was referred to the Port Stephens Council on 13 April 2005. Council responded on 4 May with board comments. Council's full submission is at Attachment F.

5.3 *Internal consultations*

The Newcastle regional office has been consulted regarding the application and did not provide comment.

6 CONSIDERATION

The major issues associated with the proposal are as follows:

▪ **Electromagnetic Emissions (EME)**

The issue of electromagnetic emissions need to be considered in relation to surrounding dwellings, schools, hospitals and day care centres. In this regard an EME Prediction Report (tagged G) dated 18 November 2004 was submitted with the application titled *Summary of Estimated RF EME Levels around the proposed Mobile Phone Base Station at Off Rocky Point Road, Fingal Bay*. The report indicates that

the maximum cumulative EME level at 1.5m above ground level has been estimated to be 1.88% of the Australian Communications Authority's (ACA) mandated limits for continuous exposure. The applicant has indicated that the proposed telecommunication equipment will be operated at low levels and will be well within the ACA's mandatory limits.

The nearest residential dwellings are approximately 300m and are located to the north at Rocky Point Road and Lentara Road, to the west Farm Road, and the eastern side of Whitesands Road. An assessment of the EME levels indicates that the anticipated radiation levels reaching the dwelling are in the range of 0.17% of the ACA mandated exposure limits at 300m. Sensitive locations such as hospitals, schools or day care centres are not located within 300m of the site.

To ensure that the facility is operated with minimal risk to adjoining landowners, a condition of consent has been recommended requiring the EME levels to be within the maximum identified level within all times of operation. The condition also requires closure of the facility in the instance that the level emitted exceeds the maximum identified level in the submitted EME report or the recommended level established (now or in the future) by the Department of Health.

▪ **Visual Impact**

The proposal, by its very nature, is required to be one of the tallest structures in the area to ensure comprehensive mobile phone coverage. As such, the only way to ameliorate the impact of such a facility is to locate it away from areas of natural scenic beauty.

The structure is replacing an existing light pole of the same height (19m) that is one of several that are located around a sports field. The proposed structure will be visible from the foreshore but will appear as one of several light poles and be ameliorated to some degree by the existing vegetation surrounding the site. The applicant has provided colour montage of the structure and its impact on the skyline (attachment H).

The proposed equipment shelter will be a pre-fabricated aluminium structure. The equipment shelter will be surrounded by a 2.4m fence. Conditions of consent have been recommended requiring the shelter in addition to construction materials, antennas and dishes to be non-reflective and have an external finish to blend as much as possible with the existing skyline and backdrop.

▪ **Co-Location**

Commonwealth legislation aims to minimise the number of telecommunication towers in any given area by promoting co-location. The applicant was required to submit photo montages (attachment I₁ & I₂) demonstrating various options supporting co-location allowing at least one other telecommunication provider to install antennae. However, the structure would be a minimum 25-27m and this was consider of greater visual impact as it would no longer "blend in" with the surrounding sports field lighting.

▪ **General**

Standard conditions of consent have been recommended in relation to soil erosion and sedimentation and construction activities.

Four trees (3 *Melaluca sp.* & 1 *Callistemon sp.*) will require removal to accommodate the equipment shelter. The removal of the trees will not have a negative impact on

the site as the trees are part of a large stand of trees which provide a visual buffer to Marine Drive. A plan of the proposed tree removal is at attachment J.

7 CONCLUSION

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and there are no significant planning impacts arising from the proposal. It is recommended that the proposal be granted development consent, subject to conditions.

8 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was asked to comment on the draft conditions of consent on 12 May 2005. The applicant responded on 16 May 2005 and suggested minor wording/editing changes to several draft conditions which were accepted by DIPNR.

9 RECOMMENDATION

It is recommended that the Minister for Infrastructure and Planning pursuant to section 80 (1) and 80A of the Environmental Planning and Assessment Act, 1979 (as amended) and clause 10(2) of State Environmental Planning Policy No. 71 – Coastal Protection:

- (A) grant **consent** to the application subject to conditions (Tagged **A**), and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial Approval
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Endorsed by

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