



# **Ordinary Meeting of Council**

**25 May 2022**

**UNDER SEPARATE COVER  
ATTACHMENTS**

**ITEM 9.3. AND 9.4**

**QUEANBEYAN-PALERANG REGIONAL COUNCIL  
ORDINARY MEETING OF COUNCIL**

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# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

- ITEM 9.3            DEVELOPMENT APPLICATION DA.2021.1672 -  
                                         CONSTRUCTION OF TWO SHEDS - 124 HICKEY ROAD,  
                                         SUTTON
- ATTACHMENT 1    DA.2021.1672 – SECTION 4.15 ASSESSMENT REPORT – 124  
                                         HICKEY ROAD SUTTON NSW 2620

# QPRC



## DELEGATED REPORT - DA.2021.1672

### SUMMARY

<b>Proposal:</b>	Construction of two sheds.
<b>Address:</b>	124 Hickey Road SUTTON NSW 2620
<b>Property description:</b>	Lot 5 DP 882752
<b>Applicant:</b>	Geoffrey Flynn Develin
<b>Owner:</b>	Judith Anne Frances Develin & Geoffrey Flynn Develin
<b>Date of lodgement:</b>	08/11/2021
<b>Notification period:</b>	25/11/2021 to 13/12/2021
<b>Submissions received:</b>	0
<b>Assessment officer:</b>	Roshan Bhandari
<b>Estimated cost of works:</b>	\$ 165000.00
<b>Zoning:</b>	C4 – Environmental Living
<b>Heritage:</b>	N/A
<b>Flood affected:</b>	N/A
<b>Bushfire prone:</b>	Yes
<b>Recommendation of officer:</b>	<b>Refusal</b>

### EXECUTIVE SUMMARY

Approval is sought for two farm buildings (sheds) to be constructed on at 124 Hickey Road SUTTON NSW (Lot 5 DP 882752). Each shed is proposed to be 15.44 metres in length and 12.2 metres in width, with a maximum height of 6.575 metres at the ridgeline. The total area of two proposed sheds are 376.736m<sup>2</sup>.

There is an existing shed on the site approved by council in 2003 with file number 2003/DA-002. The shed is 30.46 metres in length and 23.55 meters in width with area of 717.33m<sup>2</sup>. The combined area of both existing and proposed sheds on the site is 1094.069 m<sup>2</sup>.

The application was notified in accordance with the Queanbeyan Community Engagement and Participation Plan 2019. No submissions were received.

Key issue involved in the proposed development is noncompliance with Palerang DCP 2015 clause C25. On lots less than 16 ha sheds shall not exceed 300m<sup>2</sup> (cumulatively) in E3 Environmental Management and E4 Environmental Living land use zones.

The proposed sheds would increase the total floor area of sheds located on the site to 1094.069 m<sup>2</sup>, 364.68 % greater than the control allows. The extent of the DCP Variation is significant.

The proposal is recommended for refusal on the basis of the size of the proposed shed. The size variation is not minor and does not meet the objectives of the DCP. Additionally, the sheds have been constructed without consent which contravenes with Section 4.15 of the Environmental Planning and Assessment Act 1979. DA assessment was undergoing in the Council while the sheds were built.

## **BACKGROUND**

The site currently contains a dwelling with attached garage, two natural dams and an existing shed (with a footprint of approximately 717.33m<sup>2</sup>). The proposed two farm sheds are already built on the site without the DA being determined.

Previous approvals on the site include:

- Application number 2003/ DA-002 for brick veneer residence and storage shed approved on 27 May 2003.
- Application number LGA.2012.131 for Solid Fuel Heater approved on 05/06/2012.

## **DESCRIPTION OF THE SITE AND LOCALITY**

The subject site is legally described as Lot 5 DP 882752 and is commonly known as 124 Hickey Road SUTTON NSW. The site is located on the eastern side of Hickey Road and has an area of 4.772 ha.

The site is irregular in shape and has a highpoint of approximately 710m, sloping downward from the east toward Hickey Road to approximately 700m. The site is largely clear of significant vegetation and is made up of scattered established trees.

Existing development on the site comprises a dwelling with attached garage and three farm sheds. Vehicular access is provided to the site via an existing driveway from Hickey Road.

Existing development within the locality consists of dwellings and associated outbuildings.

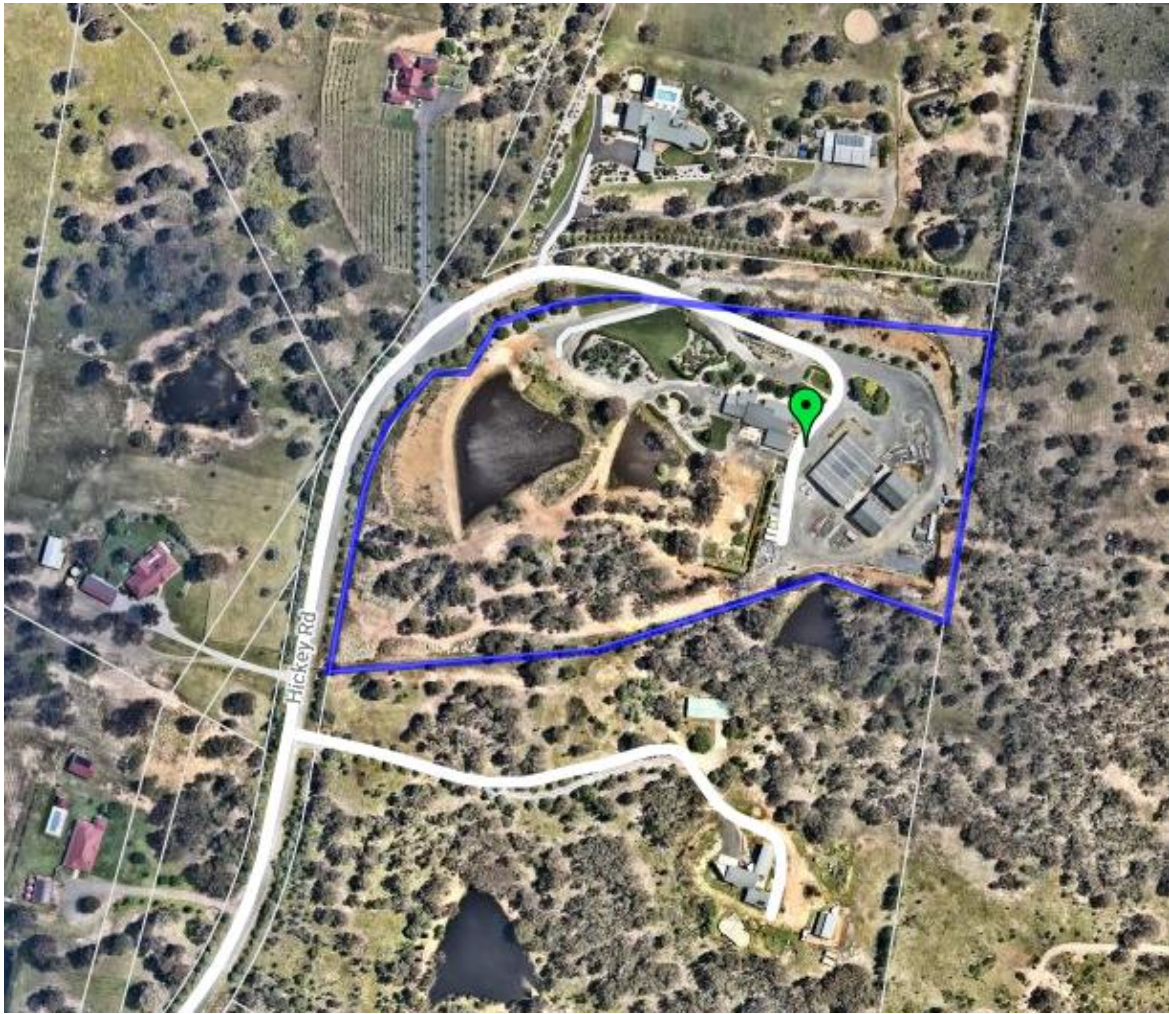


Figure 1: Locality plan (Near Map accessed on 24 January 2021)

### Site Photos



Figure 2: Site View (North West) 16 Nov 2021



**Figure 3: Site View (South West) 16 Nov 2021**



**Figure 4: Site View (South) 16 Nov 2021**



*Figure 5: Site View (North East) 16 Nov 2021*

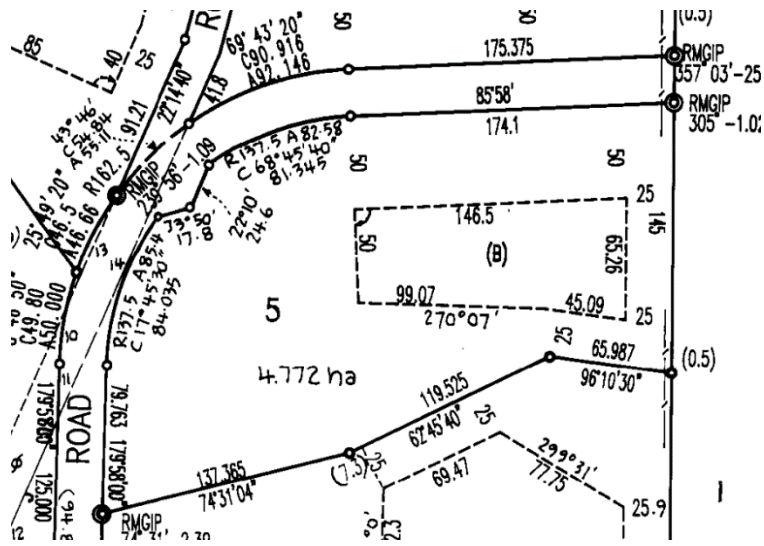




**Figure 6: Proposed sheds built on site without DA determination (photos sent to council by applicant on 08 Feb 2022)**

**PROPERTY BURDENS AND CONSTRAINTS**

The subject site contains an approved building precinct marked (B) on Deposited Plan 882752 as shown below. All development is to be carried out within this precinct. A site plan showing the proposed sheds in relation to the building precinct was submitted as part of the application.



**Figure 7: Deposited Plan**

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application seeks Council approval for two farm buildings (sheds).

The specific elements of the proposal are:

- Each shed is 15.44 metres in length and 12.2 metres in width, with a maximum height of 6.575 metres (overall footprint of two sheds is 376.736m<sup>2</sup>).

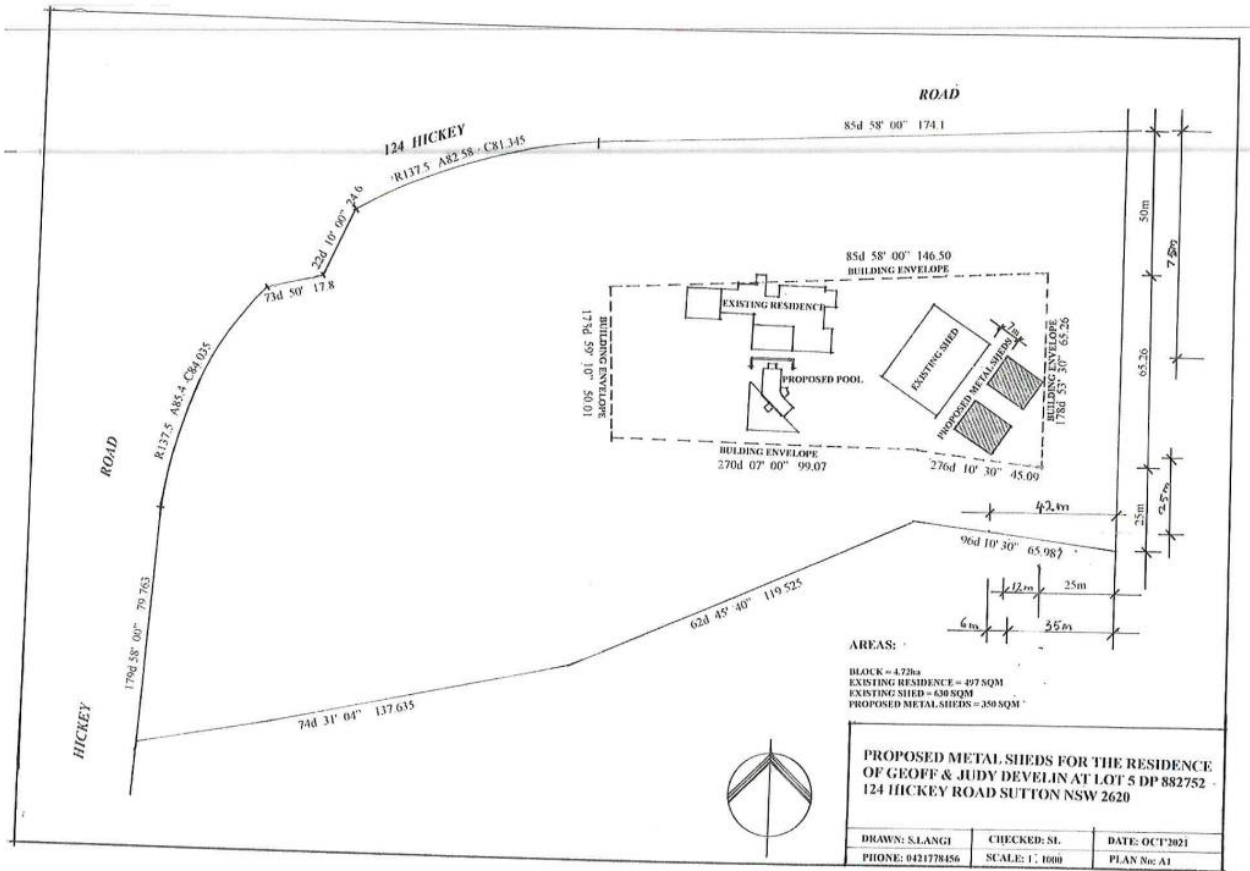


Figure 8: Site Plan

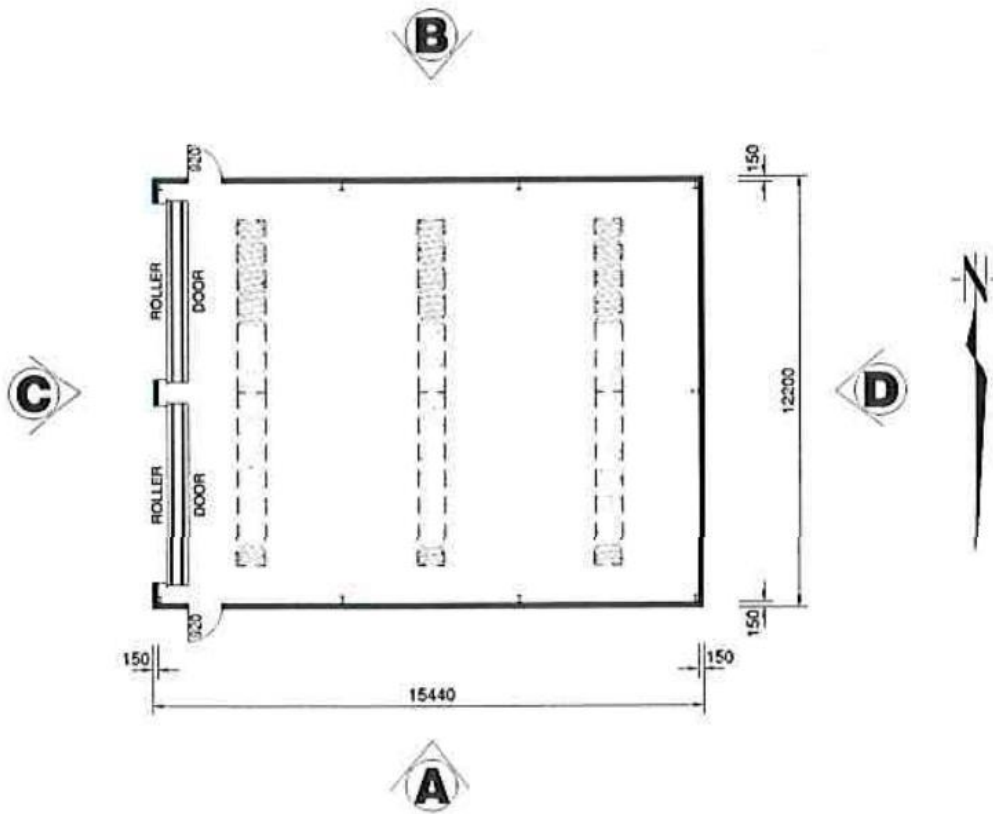
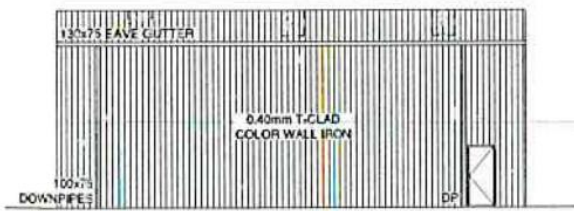
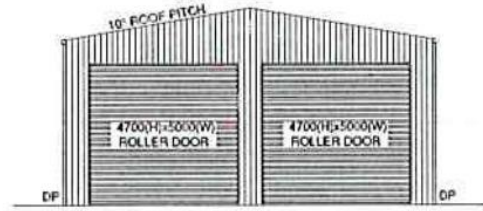


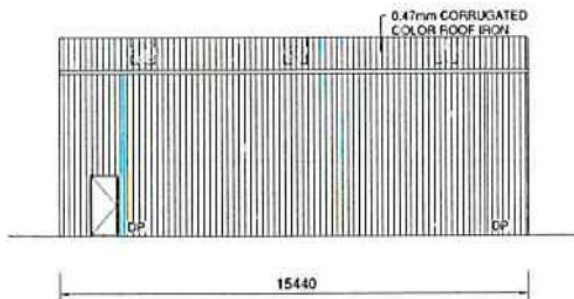
Figure 9: Floor Plan



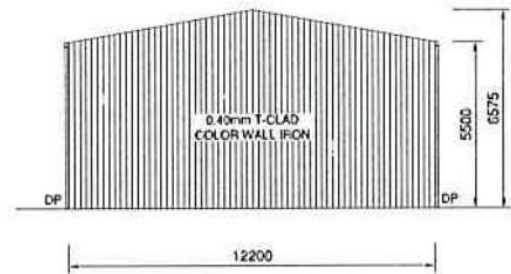
ELEVATION B



ELEVATION C



ELEVATION A



ELEVATION D

Figure 10: Elevations

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

#### **SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not designated development.

#### **SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not integrated development.

#### **REFERRALS**

##### **INTERNAL REFERRALS**

##### **Engineering Comments**

Council's Development Engineer has commented on the proposal as follows:

##### Water:

Council Water service is not available to the lot.

##### Sewer:

Council Sewer Service is not available to the lot.

##### Storm Water:

Two metal storage sheds are proposed behind the existing dwelling. Roof water from proposed storage sheds that is not connected to a rain water storage tank, any overflow from any storage tank and hard stand area must be discharged into an absorption trench or through a stormwater outlet device with scour protection into an overland flow path, at least 3 metres clear of any building and the boundaries of the site.

##### Traffic and Parking:

N/A

##### Access:

N/A

##### Section 64:

Not Applicable

##### 7.11 Roads:

N/A

##### Flooding:

N/A

Council's Development Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

##### **EXTERNAL REFERRALS**

No external referrals were required.

#### **CONSIDERATION OF THREATENED SPECIES**

Council is required under Section 4.15 of the Environmental Planning and Assessment Act 1979 to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the NSW Biodiversity Conservation Act 2016 or under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The assessment process under the EPBC Act can occur outside the NSW planning system and requires input from the Federal Department of Environment. Any EPBC Act requirements associated with this proposal are discussed later in this section.

Section 7.3 of the Biodiversity Conservation Act 2016 sets out what must be considered in determining whether a proposed development will have a significant impact. Section 7.3 requires the consideration of the following:

- any assessment guidelines applicable to the species, population, or ecological communities, or their habitats, and
- the application of the ‘seven-part test’ described in the Section.

The site is predicted to contain modified native vegetation under Council’s predictive native vegetation mapping.

An inspection of the site noted that it was largely clear of significant vegetation and is made up of scattered established trees.

The proposed development does not involve the removal of the vegetation. The proposed development is unlikely to impact threatened species, the ecological communities, and their habitats.

#### **SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSHFIRE PRONE LAND – EP&A ACT, 1979**

Section 4.14 of the EP&A Act requires an assessment to be made of the proposal against the requirements of the Rural Fire Service document ‘Planning for Bushfire Protection 2019’. The Act allows this assessment to be made by the Council or the RFS. Assessments under Section 4.14 against the PBP 2019 need to be made for most development on bushfire prone land which does not require an approval under the Rural Fires Act 1997 as integrated development.

Bushfire prone land on the subject site covers the entire site.

The proposed sheds are located more than 6 metres from the existing dwelling and existing shed, and therefore does not require a bushfire assessment under the Planning for Bushfire 2019 Guidelines.

#### **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

##### **4.15(1)(a) the provisions of:**

- (i) any environmental planning instrument**

#### **STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008**

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* limits exempt cut and fill to be no more than 600mm below or above ground level (existing).

The application does not indicate any proposed cut or fill, therefore any associated earthworks would be assumed to be limited to and must comply with the provisions of the (Codes SEPP).

A site inspection was conducted on 16 November 2021, evidence was present that earthworks associated with cutting and levelling the site for the shed exceeded 600 mm. Therefore, the cut and fill of earthworks associated with the proposed site would require approval.



*Figure 11: Cut and Fill*

## **STATE ENVIRONMENTAL PLANNING POLICY NO. 55 - REMEDIATION OF LAND**

In determining the proposed development, Council is required to consider the contamination potential for the site.

In considering the possible contamination of the site, Council holds no records of the site having previously been used for any potentially contaminating activities.

## PALERANG LOCAL ENVIRONMENTAL PLAN (PLEP) 2014

An assessment of the proposal against the general aims of PLEP 2014 is included below:

<b>Cl. 1.2(2)</b>	<b>Aims</b>	<b>Complies</b>
(a)	<i>to protect and improve the economic, environmental, social and cultural resources and prospects of the Palerang community,</i>	<b>Yes</b>
(b)	<i>to encourage development that supports the long-term economic sustainability of the local community, by ensuring that development does not unreasonably increase the demand for public services or public facilities,</i>	<b>Yes</b>
(c)	<i>to retain, protect and encourage sustainable primary industry and commerce,</i>	<b>Yes</b>
(d)	<i>to ensure the orderly, innovative and appropriate use of resources in Palerang through the effective application of the principles of ecologically sustainable development,</i>	<b>Yes</b>
(e)	<i>to retain and protect wetlands, watercourses and water quality and enhance biodiversity and habitat corridors by encouraging the linking of fragmented core habitat areas within Palerang,</i>	<b>Yes</b>
(f)	<i>to identify, protect and provide areas used for community health and recreational activities,</i>	<b>Yes</b>
(g)	<i>to ensure that innovative environmental design is encouraged in residential development.</i>	<b>Yes</b>

**Comments:** The proposed development complies with the relevant aims of the Palerang Local Environmental Plan.

## Permissibility

The subject site is Zoned E4 Environmental Living zone under Palerang Local Environmental Plan 2014.

Development for the purposes of a farm building (shed) such as is proposed is permissible within the zone with consent and is defined under PLEP 2014 as follows:

**“farm building** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.”

## Zone Objectives

An assessment of the proposal against the objectives of the E4 Environmental Living zone is included below:

<b>Objectives</b>	<b>Complies</b>
➤ To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.	<b>Yes</b>
➤ To ensure that residential development does not have an adverse effect on those values.	<b>Yes</b>
➤ To encourage development that is visually compatible with the landscape.	<b>Yes</b>

➤ To minimise the impact of any development on the natural environment.	<b>Yes</b>
➤ To ensure that development does not unreasonably increase the demand for public services or facilities.	<b>Yes</b>
➤ To minimise conflict between land uses within the zone and land uses within adjoining zones.	<b>Yes</b>

**Comments:** The proposed development is not considered to meet the objectives of the E4 zone. A site inspection on 16 November 2021, noted that there was earthwork associated with cutting the natural terrain of the proposed site and impacting the natural environment.

### Demolition

Under Clause 2.7 of the QLEP 2012, the proposal does not involve demolition of an existing structure.

### Part 4: Principal development standards

An assessment of the proposal against the relevant provisions contained within Part 4 of the PLEP 2014 is provided below.

#### Height of building

Cl.	Standard	Controls	Proposed	Complies
4.3	Height of building	9m	6.575m	<b>Yes</b>

**Comments:** Complies.

### Part 6: Local Provisions

The relevant provisions contained within Part 6 of the PLEP 2014 are addressed below as part of this assessment:

#### 6.1 Earthworks

Clause 6.1 of the PLEP 2014 establishes a number of matters requiring consideration for development involving earthworks.

- (3) *In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*
- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
  - (b) *the effect of the development on the likely future use or redevelopment of the land,*
  - (c) *the quality of the fill or the soil to be excavated, or both,*
  - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
  - (e) *the source of any fill material and the destination of any excavated material,*
  - (f) *the likelihood of disturbing relics,*
  - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
  - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*

As mentioned above, the level of cut and fill exceeds the amount outlined in the Codes SEPP. No earthworks have been indicated as part of application.

The extensive unapproved cutting and earthworks associated with the proposed site have been conducted with disregard to natural environment.



## 6.2 Flood planning

Clause 6.2 of the PLEP 2014 makes provision for developments within the flood planning area. The site is not identified as “flood planning area” on the Flood Planning Map, and is not at or below the flood planning level.

## 6.3 Terrestrial biodiversity

Clause 6.3 of the PLEP 2014 makes for provision for developments that impact on terrestrial biodiversity. This clause is considered relevant to the proposed development as the site is identified as “ Within Terrestrial Biodiversity Land (partially) ” on the Terrestrial Biodiversity Map.

- (3) *In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether the development is likely to have:*
- (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function, and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise, or mitigate the impacts of the development.*

As most of the site contains areas of mapped biodiversity, consideration should be given to the potential impacts to such identified areas and the potential impacts to flora and fauna. No consideration has been given as part of the application. However, the proposed development does not involve the removal of the vegetation. It is unlikely to impact threatened species, the ecological communities, and their habitats.

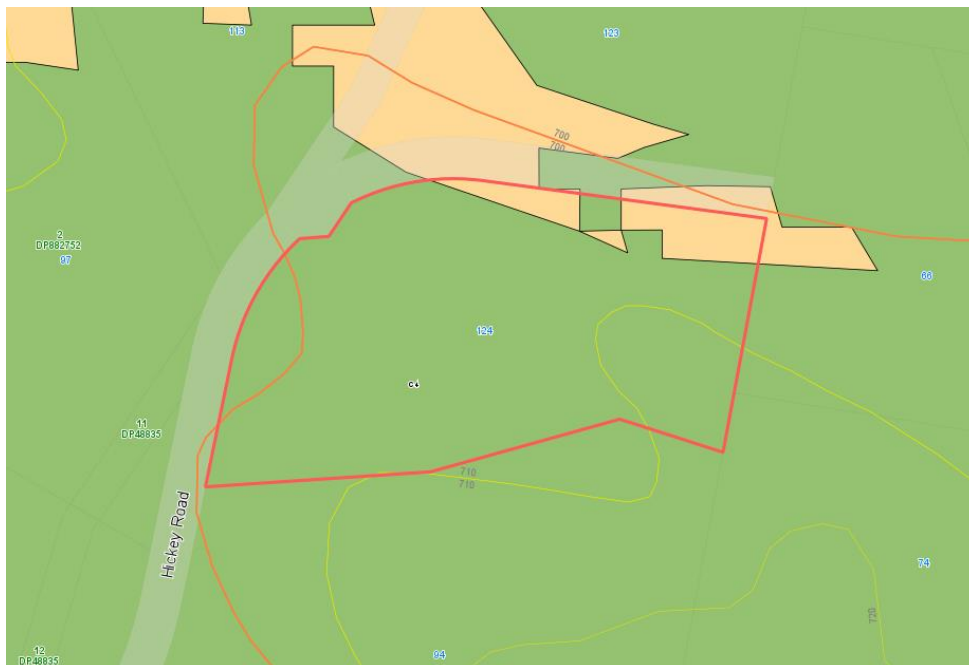


Figure 12: Terrestrial Biodiversity

## 6.8 Airspace operations & 6.9 Development in areas subject to aircraft noise

Clause 6.8 & 6.9 of the PLEP 2014 makes provisions for developments located in areas that are affected by airspace operations and aircraft noise. The proposed development will not penetrate the Obstacle Limitations Surface Map for the Canberra Airport. It is not located near the Canberra Airport or within an ANEF contour of 20 or greater.

### 6.11 Essential services

Clause 6.11 of the PLEP 2014 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access.

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

Council's Development Engineer has assessed the proposed development and confirmed that the site does have suitable vehicle access and adequate services are available.

#### 4.15(1)(a)(ii) any draft environmental planning instruments

The draft Queanbeyan-Palerang LEP was exhibited in June 2020. The draft plan will have no effect on the proposed development.

#### 4.15(1)(a)(iii) any development control plan

PALERANG DCP 2015 COMMENTS		
Section	Controls	Complies
<b>PART B – GENERAL PROVISIONS</b>		
<b>B3</b>	<b>Flora, Fauna, Soil and Watercourses</b> Threatened ecological communities and terrestrial biodiversity have no adverse effect with the development of the proposed shed.	Complies
<b>B4</b>	<b>Bushfire Prone Land</b> The lot is identified as being bushfire prone land. A bushfire assessment was not required as the proposed shed is located further than 6m from the existing dwelling.	Complies
<b>B8</b>	<b>Erosion and Sediment control</b> Standard conditions relating to site management would be imposed should development consent be granted.	NA
<b>B10.2</b>	<b>Aboriginal Heritage</b> An AHIMS search was carried out and did not indicate any heritage sites within the vicinity of the proposed development, as such it is considered that the proposed development is unlikely to result in the disturbance of any items of aboriginal indigenous cultural heritage. A condition however will be contained within the consent that the development is to proceed with caution and if any Aboriginal objects are found works should stop and DECCW are to be notified.	Complies
<b>B13</b>	<b>On-site System of Sewage Management (OSSM)</b> Further OSSM will not be required as the proposal will not increase the number of bedrooms on site.	Complies

<b>B15</b>	<b>Waste Management</b> Standard conditions relating to waste management would be imposed should development consent be granted.	NA																				
<b>B17</b>	<b>Rainwater Tanks</b> Further rainwater tanks are not required as the application does not propose the construction of a new dwelling or any extra bedrooms.	Complies																				
<b>PART C.25 – Sheds in RU1 Primary Production, E3 Environmental Management and E4 Environmental Living</b>																						
<b>1</b>	The shed is sited in a way that avoids the removal of any significant vegetation.	Complies																				
<b>2</b>	The proposed sheds will not be visible from the road. However, the proposed shed site is elevated and puts them higher than the existing shed and dwelling. The proposed two sheds combined with a large existing shed looks excessive in size and contradicts with the character of existing sheds in the locality.	Does not comply																				
<b>3</b>	The development is not located on or within 100m of a prominent hill.	Complies																				
<b>4</b>	The proposed height of 6.575m for the development is in accordance with the PLEP 2014 Height of Buildings Map which has a maximum height of 9m.	Complies																				
<b>5</b>	<table border="1" data-bbox="304 994 1141 1211"> <thead> <tr> <th>Setbacks</th> <th>Minimum</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Front</td> <td>50m</td> <td>&gt;100m</td> <td>Yes</td> </tr> <tr> <td>South Side</td> <td>25m</td> <td>25m</td> <td>Yes</td> </tr> <tr> <td>North Side</td> <td>25m</td> <td>50m</td> <td>Yes</td> </tr> <tr> <td>Rear</td> <td>25m</td> <td>25m</td> <td>Yes</td> </tr> </tbody> </table>	Setbacks	Minimum	Proposed	Complies	Front	50m	>100m	Yes	South Side	25m	25m	Yes	North Side	25m	50m	Yes	Rear	25m	25m	Yes	Complies
Setbacks	Minimum	Proposed	Complies																			
Front	50m	>100m	Yes																			
South Side	25m	25m	Yes																			
North Side	25m	50m	Yes																			
Rear	25m	25m	Yes																			
<b>6</b>	<p>On lots less than 16 ha the cumulative area of sheds shall not exceed 300m<sup>2</sup> in E4 &amp; E3 zone. The lot has an area of 4.772ha. A variation to the size of the shed has been formally submitted. The variation seeks approval for 376.736m<sup>2</sup> two sheds.</p> <p>The control outlines that the cumulative area of all sheds within the property to not exceed 300m<sup>2</sup>. An existing shed with an area of approximately 717.33m<sup>2</sup> is located on the site. The proposed two sheds would increase the total floor area of sheds located on the site to 1094.069 m<sup>2</sup>, 364.68 % greater than the control allows. The extent of the DCP Variation is significant.</p> <p>Justification provided for the variation states that –</p> <ul style="list-style-type: none"> <li>- “The purpose of a DCP is to provide <b>guidance</b> to developers <b>and</b> the <b>consent authority</b> when carrying out or approving development. Provisions in a DCP are therefore to provide <b>guidance</b> and “<b>are not</b>” statutory requirements”.</li> <li>- “The structures <b>DO NOT</b> detract from the surrounding landscape, and <b>CAN NOT</b> be seen from any public thoroughfare or any location other than very limited view from the Harries and Backhouse properties which have no objections to the application”.</li> </ul>	Variation – not supported																				

	<ul style="list-style-type: none"> <li>- <i>“The height of the building conforms with PLEP 2014 Height of Buildings Map 5. The setback conforms with table #22”.</i></li> <li>- <i>“There is a need for protective storage / garaging of our family vehicles and equipment since our family unit has now grown from 2 adults with 2 young primary school aged children (at the time of the original development of our home) to 5 adults with multiple vehicles. In addition, Judy and I are entering retirement age and now have extra equipment i.e.: motorhome, boat, trailer and off road vehicle”.</i></li> </ul> <p>Justifications try to address few clauses of Palerang DCP 2015 related to visual impact and setback requirements. Palerang DCP 2015 is the major document to regulate development in the region. The scope of Palerang DCP cannot be limited only as a guidance document.</p> <p>DCP variation of 364.68 % for floor area of sheds is very significant.</p> <p>Larger sheds may be permitted on lots that are greater than 16ha. Under such circumstances, the applicant can justify the rural use of the shed having regard to land size and subsequent agricultural activities and farming. In addition, there can be measures taken to reduce the impact of development on neighbours and the locality. The subject site has an area of less than 16 ha.</p> <p>The justifications for DCP variation is not satisfactory.</p>	
7	Standard condition for building materials to be sympathetic to the surrounding environment and buildings be imposed should the development consent be granted.	Conditioned
8	Standard condition for building materials to be non-reflective be imposed should the development consent be granted.	Conditioned
9	Landscaping was not required as the proposal will not result in a significant impact upon neighbouring dwellings on Hickey Road as the shed is adequately setback.	NA

**Use of shed:**

Palerang DCP 2015 clause 25 states that “Sheds include those used for the storing of hay and machinery, shearing sheds, roofs of horse arenas or the like but do not include a dwelling”.

The proposed use of shed as a storage of vehicles, machinery, equipment, and construction tools meets the DCP control.

However, the applicant intends to convert half of the proposed shed to a craft studio for pottery. It is unclear whether there is a commercial aspect to the proposal. The property owner is a sole self-employed contractor and owns two excavators, a roller and two trucks. This indicates that the shed would likely be used as a part of a private business. The use of shed for home industry is only permitted with consent under Palerang LEP 2014.

**4.15(1)(a)(iia) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

#### **4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Having regard to this prescribed matter, the proposed development does not involve the demolition of a building for the purposes of AS 2601 – 1991: *The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are included within the recommended to ensure compliance with any relevant regulations.

#### **4.15(1)(a)(v) any coastal zone management plan**

Council is not subject to a coastal zone management plan.

#### **4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The Aboriginal Cultural Heritage Due Diligence process was followed as part of the assessment. A basic AHIMS search was carried out and no recorded or declared Aboriginal sites were found in or near the subject site. There are no other sources of information of which a person is already aware and the landscape does not contain features which are likely to indicate the presence of Aboriginal objects.

#### **4.15(1)(c) the suitability of the site for the development**

The subject site is relatively unconstrained, and the proposed sheds will not be visible from the road. However, the site is elevated and puts the proposed sheds higher than the existing shed and dwelling. The proposed two sheds combined with a large existing shed looks excessive in size and contradicts with the character of existing sheds in the locality.

#### **4.15(1)(d) any submissions made in accordance with this Act or the regulations**

The application was notified in accordance with Queanbeyan Community Engagement and Participation Plan 2019 from 25/11/2021 to 13/12/2021, with no submissions received.

#### **4.15(1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development contradicts with Palerang DCP controls with overbuilt structures on the subject site and is considered to be contrary to the public interest.

### **SECTION 64 CONTRIBUTIONS**

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage, and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

### **SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are not applicable to the proposed development.

## CONCLUSION

The application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979, and is considered to be unsatisfactory for approval for the following reasons:

- (1) The proposal contravenes the zone objectives of the E4 Environmental Living zone under Palerang LEP 2014.
- (2) No consideration to Clauses 6.1 of Palerang LEP have been made by the applicant.
- (3) The proposal contravenes the relevant objectives and controls of the Palerang DCP 2015.
- (4) The submitted variation provided insufficient justification and is not considered to be minor.
- (5) The proposed farm building alone is 125.57% in excess of the total floor area permissible within the E4 zone under Clause 25 of the Palerang DCP 2015.
- (6) The proposed farm building combined with the existing shed located on site would increase the total floor area to 364.68% in excess of the permissible area under Clause 25 of the Palerang DCP 2015.
- (7) The proposed sheds have been constructed without consent which contravenes with Section 4.15 of the Environmental Planning and Assessment Act 1979. DA assessment was undergoing in the Council while the sheds were being built.
- (8) The applicant intends to convert half of the proposed shed to a craft studio for pottery. It is unclear whether there is a commercial aspect to the proposal. The likely use of shed as a part of a private business for home industry is only permitted with consent under Palerang LEP 2014.

## CONDITIONS OF CONSENT OR REASONS FOR REFUSAL

*The proposed farm buildings (sheds) are recommended for refusal on the grounds that the proposal contravenes the relevant objectives and controls of the Palerang DCP 2015. The submitted variation provided insufficient justification and is not considered to be minor.*

*The proposed farm building alone is 125.57% of the total floor area permissible within the E4 zone under Clause 25 of the Palerang DCP 2015. The proposed farm building combined with the existing shed located on site would increase in total floor area to be 364.68% of the permissible area under the Palerang DCP 2015. Additionally, the proposed sheds have been constructed without consent while DA assessment was undergoing in the council which contravenes with Section 4.15 of the Environmental Planning and Assessment Act 1979.*



Signed: \_\_\_\_\_ Date: 02/ 05/2022

Assessing Officer: Roshan Bhandari

**Determination:** DA.2021.1672 be **Refused** under delegated authority pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979.

Signed: \_\_\_\_\_ Date: <insert date>

Delegated Authority: <insert name>

Annex 1 : AHIMS Search



Your Ref/PO Number : NA  
Client Service ID : 653100

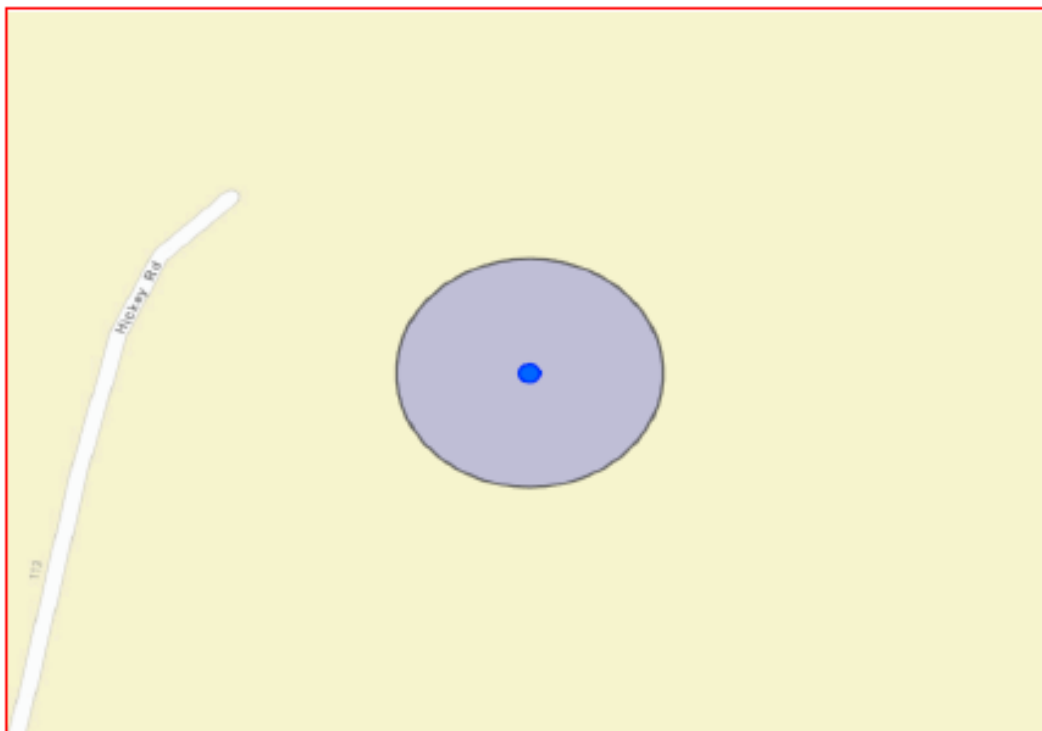
Queanbeyan Palerang Regional Council  
256 Crawford Street  
Queanbeyan New South Wales 2620  
Attention: Roshan Bhandari  
Email: roshan.bhandari@qprc.nsw.gov.au

Date: 20 January 2022

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Address : 124 HICKEY ROAD SUTTON 2620 with a Buffer of 50 meters, conducted by Roshan Bhandari on 20 January 2022.**

**The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.**



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

<input type="checkbox"/>	Aboriginal sites are recorded in or near the above location.
<input type="checkbox"/>	Aboriginal places have been declared in or near the above location. *

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

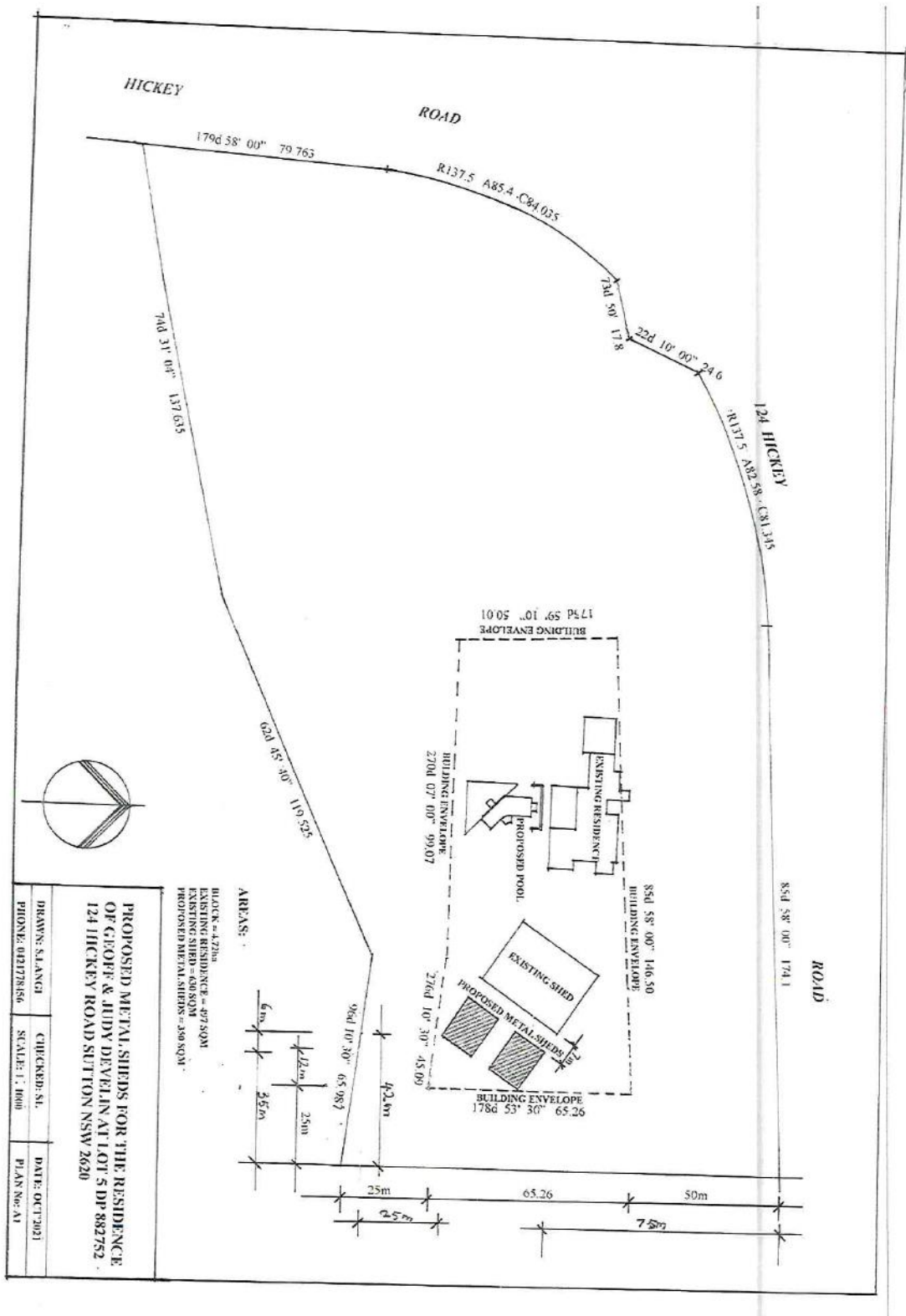
25 MAY 2022

- ITEM 9.3            DEVELOPMENT APPLICATION DA.2021.1672 -  
                              CONSTRUCTION OF TWO SHEDS - 124 HICKEY ROAD,  
                              SUTTON
- ATTACHMENT 2    DA.2021.1672 – ARCHITECTURAL PLANS-124 HICKEY ROAD  
                              SUTTON NSW 2620



17/11/2021, 17:34

9k= (1169x1654)





ELEVATION A  
ELEVATION B

**COLUMN SCHEDULE**

MARK	SIZE	FINISH
C1	300x300	CONCRETE
C2	300x300	CONCRETE

**TRUSS SCHEDULE**

MARK	GRADE	RESISTANCE	R.O. (KPa)
T1-T8	STEEL	250kN	5.0

**PIENET SCHEDULE**

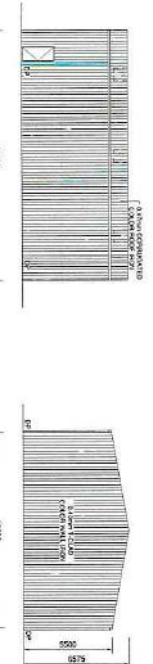
MARK	GRADE	SHADING	LPF
P1	STEEL	150%	1.0

**GIRT SCHEDULE**

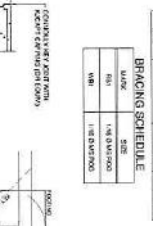
MARK	GRADE	SHADING	LPF
G1	STEEL	150%	1.0

**BRACING SCHEDULE**

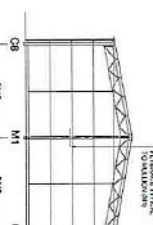
MARK	GRADE	SHADING	LPF
B1	STEEL	150%	1.0



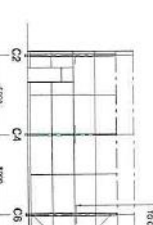
ELEVATION C  
ELEVATION D



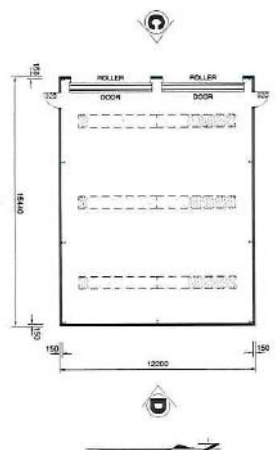
KEY JOINT DETAIL



ELEVATION C



ELEVATION B



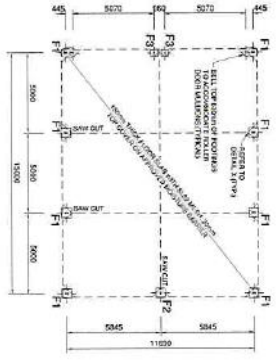
STRUCTURAL STEELWORK FLOOR PLAN

**FOOTING SCHEDULE**

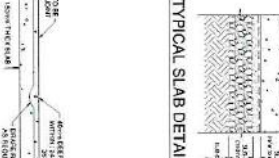
MARK	SIZE	DEPTH
F1	400x400	300
F2	400x400	300
F3	400x400	300

**FOOTING SCHEDULE - CONCRETE**

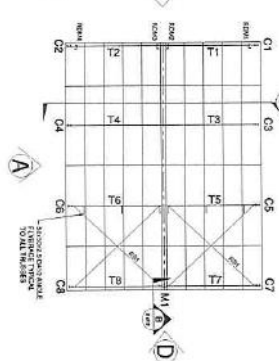
MARK	GRADE	SHADING	LPF
F1	STEEL	150%	1.0



ROOF PLAN



SAW CUT



ROOF PLAN

**GENERAL NOTES:**

1. All dimensions are in millimetres unless otherwise stated.

2. All work shall be in accordance with the Australian Standards (AS) and New South Wales (NSW) Building Code of Australia (BCA) unless otherwise stated.

3. The contractor shall be responsible for obtaining all necessary permits and approvals from the relevant authorities.

4. The contractor shall be responsible for ensuring that all work is completed in accordance with the approved plans and specifications.

5. The contractor shall be responsible for ensuring that all materials and workmanship are of a high standard and meet the requirements of the relevant standards.

6. The contractor shall be responsible for ensuring that all safety measures are in place and that all workers are trained and qualified to perform the work.

7. The contractor shall be responsible for ensuring that all environmental requirements are met and that any waste is disposed of in accordance with the relevant regulations.

8. The contractor shall be responsible for ensuring that all work is completed in a timely manner and that the project is completed within the agreed budget.

9. The contractor shall be responsible for ensuring that all work is completed in a safe and sound manner and that all workers are protected from injury and illness.

10. The contractor shall be responsible for ensuring that all work is completed in a professional and courteous manner and that the client is kept informed of the progress of the project.

**CONCRETE:**

1. All concrete shall be in accordance with the relevant Australian Standards (AS) and New South Wales (NSW) Building Code of Australia (BCA) unless otherwise stated.

2. The concrete shall be cast and cured in accordance with the relevant standards and specifications.

3. The contractor shall be responsible for ensuring that all concrete is cast and cured in a timely manner and that the concrete is of a high standard and meets the requirements of the relevant standards.

4. The contractor shall be responsible for ensuring that all concrete is cast and cured in a safe and sound manner and that all workers are protected from injury and illness.

5. The contractor shall be responsible for ensuring that all concrete is cast and cured in a professional and courteous manner and that the client is kept informed of the progress of the project.

**STEELWORK:**

1. All steelwork shall be in accordance with the relevant Australian Standards (AS) and New South Wales (NSW) Building Code of Australia (BCA) unless otherwise stated.

2. The steelwork shall be fabricated and erected in accordance with the relevant standards and specifications.

3. The contractor shall be responsible for ensuring that all steelwork is fabricated and erected in a timely manner and that the steelwork is of a high standard and meets the requirements of the relevant standards.

4. The contractor shall be responsible for ensuring that all steelwork is fabricated and erected in a safe and sound manner and that all workers are protected from injury and illness.

5. The contractor shall be responsible for ensuring that all steelwork is fabricated and erected in a professional and courteous manner and that the client is kept informed of the progress of the project.

**WOODWORK:**

1. All woodwork shall be in accordance with the relevant Australian Standards (AS) and New South Wales (NSW) Building Code of Australia (BCA) unless otherwise stated.

2. The woodwork shall be fabricated and erected in accordance with the relevant standards and specifications.

3. The contractor shall be responsible for ensuring that all woodwork is fabricated and erected in a timely manner and that the woodwork is of a high standard and meets the requirements of the relevant standards.

4. The contractor shall be responsible for ensuring that all woodwork is fabricated and erected in a safe and sound manner and that all workers are protected from injury and illness.

5. The contractor shall be responsible for ensuring that all woodwork is fabricated and erected in a professional and courteous manner and that the client is kept informed of the progress of the project.

**PAINTWORK:**

1. All paintwork shall be in accordance with the relevant Australian Standards (AS) and New South Wales (NSW) Building Code of Australia (BCA) unless otherwise stated.

2. The paintwork shall be applied in accordance with the relevant standards and specifications.

3. The contractor shall be responsible for ensuring that all paintwork is applied in a timely manner and that the paintwork is of a high standard and meets the requirements of the relevant standards.

4. The contractor shall be responsible for ensuring that all paintwork is applied in a safe and sound manner and that all workers are protected from injury and illness.

5. The contractor shall be responsible for ensuring that all paintwork is applied in a professional and courteous manner and that the client is kept informed of the progress of the project.

**GENERAL NOTES:**

1. All dimensions are in millimetres unless otherwise stated.

2. All work shall be in accordance with the Australian Standards (AS) and New South Wales (NSW) Building Code of Australia (BCA) unless otherwise stated.

3. The contractor shall be responsible for obtaining all necessary permits and approvals from the relevant authorities.

4. The contractor shall be responsible for ensuring that all work is completed in accordance with the approved plans and specifications.

5. The contractor shall be responsible for ensuring that all materials and workmanship are of a high standard and meet the requirements of the relevant standards.

6. The contractor shall be responsible for ensuring that all safety measures are in place and that all workers are trained and qualified to perform the work.

7. The contractor shall be responsible for ensuring that all environmental requirements are met and that any waste is disposed of in accordance with the relevant regulations.

8. The contractor shall be responsible for ensuring that all work is completed in a timely manner and that the project is completed within the agreed budget.

9. The contractor shall be responsible for ensuring that all work is completed in a safe and sound manner and that all workers are protected from injury and illness.

10. The contractor shall be responsible for ensuring that all work is completed in a professional and courteous manner and that the client is kept informed of the progress of the project.

PROJECT: PROPOSED SHED #2 FOR G.F. & J.A. DEVLIN AT 124 HICKEY RD, SUTTON NSW.

DRAWING TITLE: LAYOUT.

**TELFORDS BUILDING SYSTEMS**  
 COMMERCIAL INDUSTRIAL & RURAL BUILDING SPECIALISTS  
 NVC (Sydney) NSW (Sydney) QLD (Tribble)  
 PH: (02) 5821 4399  
 PH: (02) 4229 8116  
 PH: (07) 5804 0588

**RAVENS**  
 RURAL BUILDING SPECIALISTS  
 COORINA, VIC  
 PH: (03) 5291 1111

**RBI**  
 RURAL BUILDING SPECIALISTS  
 BRISBANE, QLD  
 PH: (07) 5599 7777

DRAWN	DATE	SCALE	CHECKED	DATE	SCALE
AEADY	10/09/2021	1:200(A2)	AEADY	10/09/2021	1:200(A2)

DWG No: HR/258/2  
 Sheet 1 of 2



# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

- ITEM 9.3            DEVELOPMENT APPLICATION DA.2021.1672 -  
                              CONSTRUCTION OF TWO SHEDS - 124 HICKEY ROAD,  
                              SUTTON
- ATTACHMENT 3    DA.2021.1672 – APPLICANT'S REQUEST FOR DCP  
                              VARIATION & ADDITIONAL INFORMATION - 124 HICKEY  
                              ROAD SUTTON NSW 2620

Geoffrey Develin  
124 Hickey Road  
Sutton, NSW  
2620

To: QPRC  
[council@qprc.nsw.gov.au](mailto:council@qprc.nsw.gov.au)  
Ref: Development Application DA.2021.1672  
Subject: Supporting information  
Date: 15 November 2021

Dear Planning Officer,

On Thursday 11<sup>th</sup> November I received a call from Planning Officer Roshan (?) in regards to DA.2021.1672. Roshan advised me that he will not consider the application on the grounds that the building footprint is in excess of 300 sqm. The 300 sqm limit to which Roshan is referring is identified in the QPRC Development Control Plan clause #25.

I submit the following information in support of the DA application. Please note that the **bold and underlined** text is provided so as to emphasise the importance of the information.

**1. QPRC Development Control Plan:**

The following is taken directly from the QPRC DCP.

**"A1 – The purpose of a DCP is to provide guidance to developers and the consent authority when carrying out or approving development to: • Achieve the objectives of land use zones under an environmental planning instrument (EPI); and • Facilitate permissible development under an EPI. Provisions in a DCP are therefore to provide guidance and "are not" statutory requirements."**

**Conclusion= It is unlawful for the development officer to reject the application solely upon a guidance principle (especially if the "objective" of the DCP can be met).**

**2. Objectives under the DCP:**

The following is taken directly from the QPRC DCP.

**"Objective a) To ensure farm buildings are designed and sited so as to not detract from the rural landscape, scenic quality and environmental significance of the rural areas b) To provide buffers between farm buildings and residential uses."**

**Conclusion= The application demonstrates that the structures DO NOT detract from the surrounding landscape which comprises of surrounding adjoining properties and their existing structures. The structure surface finish is non reflective and the colour is Woodland Grey which is compatible with the surrounding environment and surrounding property infrastructure.**

The scenic quality **IS IN NO WAY** compromised because the structures **CAN NOT** be seen from any public thoroughfare or any location other than very limited view from the Harries and Backhouse properties which adjoin our property on Hickey Road. I have consulted with and shown the plans to both the Harries and Backhouse neighbours and they have no objections to the application.

The Environmental significance is **IN NO WAY** compromised. There will be **NO** loss of Flora / Fauna or wildlife habitat.

### **3. Controls under the DCP:**

The following is taken directly from the QPRC DCP.

“Control 1) Buildings are to be sited to minimise the removal of existing vegetation 2) Buildings shall not be sited in a visually prominent location. Refer to C24 Visual impact in rural and environmental land use zones in this DCP 3) The highest point of a building must be at least 5m below the highest ridgeline of any hill within 100m of the building 4) The maximum height of farm buildings is to be in accordance with PLEP 2014 Height of Buildings Map 5) Setbacks are to be in accordance with Table 22 below”

Conclusion= There is **NO** existing vegetation to be removed.

The buildings are NOT sited in a visually prominent location. The buildings are not visible from any public location and are only **SLIGHTLY** visible from our neighbouring Harries and Backhouse properties both of which have no objection to the structures or intended use.

There is NO hill ridgeline within 100m of the building. The Highest point of the building will be well more than 5m below the highest ridgeline of the only hill which is more than 100m to the South East of the site. In fact the building will be well more than 5m below the floor level of the Backhouse property which is located more than 100m to the South of the site.

The height of the building conforms with PLEP 2014 Height of Buildings Map 5.

The setback conforms with table #22.

### **4. Intended Use:**

Our 5.5Ha property currently comprises an existing fully approved house dwelling and fully approved unattached garaging structure. The garaging structure is being used as its approved intended use which is for the storage of my sporting (drag racing) and hobby (car enthusiast / collection) vehicles and equipment. This use is consistent today.

Our family consists of myself and my wife Judy and our 2 young adult children. Our daughter has a partner who lives in our home within our family unit.

When our current structures were approved our children were barely in primary school. The council approved our existing garaging facility so as to accommodate my drag racing and enthusiast hobbies. This use is consistent with its approval and fully utilized today.

Since the approval and construction of our existing garaging structure our children have grown to be adults and our daughter has a live in partner. So we now have 5 adults. Our son has a vehicle and motorbike, our daughter has a vehicle, our daughter’s live in partner has 2 vehicles and a motorbike. Total = 4 vehicles and 2 motorbikes over and above our original requirements.

Judy and I are 60 years of age and semi retiring. I have recently purchased a full size motorhome and will soon purchase a trailer and small off road vehicle to tow behind the motorhome.

So in total our requirements for protective storage of our FAMILY vehicles has increased by a full size motorhome plus a trailer, plus 4 vehicles, plus 2 motorbikes. All of which is over and above the storage uses which were approved in the original DA for the garaging and home.

In addition to the storage uses as described above we wish to have the flexibility to also use one of the structures for hobby pottery activities which Judy is taking up in retirement

**5. Design:**

The structures are designed as such that they are fully concealed from view from Hickey Road or any public road. The siting is behind the existing garage structure. The structures are designed so that they fit symmetrically with and compliment the existing garage structure. The structures are colour matching to the existing garage structure and will blend with the natural environment.

We have intentionally separated our size requirement into 2 individual structures (rather than 1 larger building) so as to reduce any visual impact and also to allow for some flexibility to have some hobby pottery activity in one structure so that the other structure can house the more sensitive vehicles in a dust controlled environment.

**6. DEFINITION:**

**Is this application to be considered as a "SHED" (farm building) or rather as detached garaging to the existing approved home as is our existing approved detached garaging structure?**

Given that the intended use is for personal vehicle garaging and potential hobby studio use, one should consider this application to not be a "SHED" (farm building) but rather detached garaging to the existing approved home.

**CONCLUSION:**

The above information identifies the need for protective storage / garaging of our family vehicles and equipment since our family unit has now grown from 2 adults with 2 young primary school aged children (at the time of the original development of our home) to 5 adults with multiple vehicles. In addition Judy and I are entering retirement age and now have extra equipment ie: motorhome, boat, trailer and off road vehicle.

The potential / optional utilisation of one of the structures for hobby activities ie: pottery is also a legitimate use of the structure.

If the application is to be assessed as a "shed" under clause #25 of the QPRC DCP then the above information clearly achieves the "**objectives**" and meets the "**Controls**" as set out in clause #25 of the QPRC Development Control Plan.

As stated in the DCP..... "Provisions in a DCP are therefore to provide **guidance** and "**are not**" **statutory requirements.**"

To reject this application on the grounds of a “guidance” limit of 300 sqm would be unlawful and discriminatory given that the application meets the “objectives” and “controls” set out in the Development Control Plan.

Geoffrey Develin



# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4 DEVELOPMENT APPLICATION DA.2021.1628 –  
TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
CARWOOLA

ATTACHMENT 1 DA.2021.1628 - OFFICER'S REPORT - SECTION 4.15  
ASSESSMENT - MATTERS FOR CONSIDERATION - 34  
POWELL DRIVE, CARWOOLA



## DELEGATED REPORT - DA.2021.1628

### SUMMARY

<b>Proposal:</b>	Construction of a Telecommunication Facility
<b>Address:</b>	34 Powell Drive CARWOOLA NSW 2620
<b>Property description:</b>	Lot 33 DP 774571
<b>Applicant:</b>	Jason Fulton
<b>Owner:</b>	Brian Stanley Helmers, Tanya Ann Jefferis, Lesley Eileen Helmers
<b>Date of lodgement:</b>	27/10/2021
<b>Notification period:</b>	29/11/2021 to 15/12/2021
<b>Submissions received:</b>	Five (5)
<b>Assessment officer:</b>	Vageesha Wellalage
<b>Estimated cost of works:</b>	\$20000.00
<b>Zoning:</b>	C4 - Environmental Living
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Bushfire prone:</b>	Yes
<b>Recommendation of officer:</b>	Approval subject to conditions

### EXECUTIVE SUMMARY

Approval is sought for the construction of a telecommunications facility.

The application was notified to adjoining properties in accordance with the Community Engagement and Participation Plan and four submissions were received during the notification period raising multiple concerns. One additional submission supporting the proposal and one submission from the landowner has also been received after the notification period.

No principle issues identified.

Approval is recommended subject to conditions.

### BACKGROUND

113-2016 issued for Bed and Breakfast Accommodation

531/92 was issued for a dual occupancy and shed

As background, Council received notification that a complying development certificate (CDC) was issued for a telecommunications pole, solar array and roadside cabinet (Council's Reference: CDCP.2021.0101) at 34 Powell Drive, Carwoola. The CDC was issued by a private accredited certifier, Mr. David Millar on 8 September 2021 (Certifiers Reference: 21058/01). Council reviewed

the CDC issued by the accredited certifier and formed the view that the CDC had not been validly issued because:

- The CDC was issued under State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP).
- Item 5 of Part 2 Complying development, Schedule 3A Exempt and complying development in relation to telecommunications facilities under the Infrastructure SEPP limits new towers to land that is zoned IN1, IN2, IN3, RU1, RU2, RU3 or RU4.
- The property is zoned E4 Environmental Living under the Queanbeyan Local Environmental Plan 2012.
- As the land is not in a zone indicated in Item 5 Part 2 of Schedule 3A of the Infrastructure SEPP a CDC cannot be issued.

As such, Council contacted the accredited certifier and advised him of Council's position. The certifier concurred with Council's view and confirmed that the CDC was invalid. The application will subsequently be withdrawn.

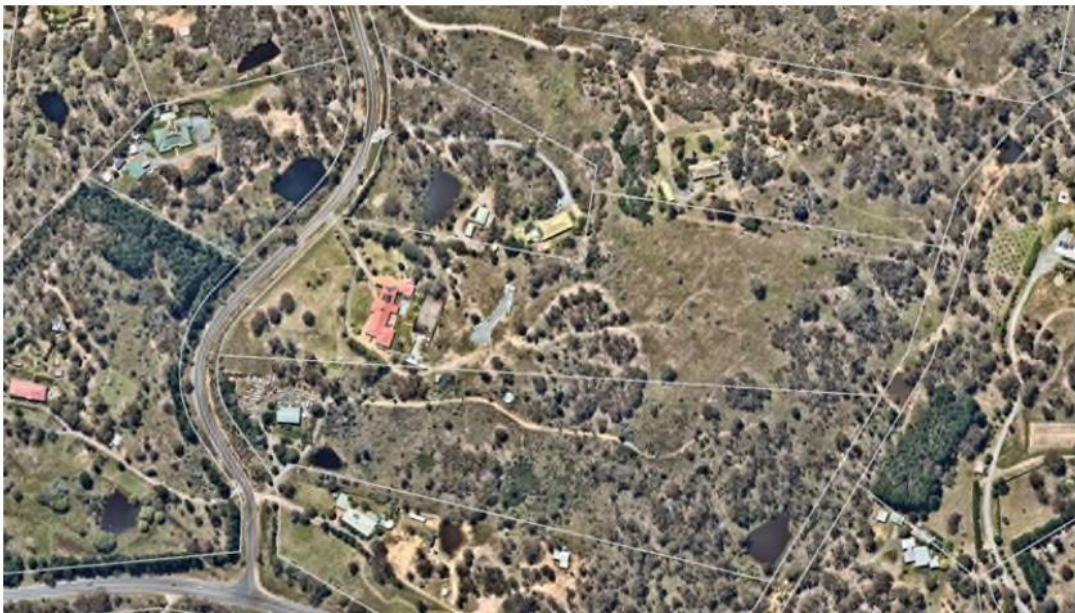
### **DESCRIPTION OF THE SITE AND LOCALITY**

The subject site is legally described as Lot 33 DP 774571 and is commonly known as 34 Powell Drive CARWOOLA NSW 2620. The site is located on the east side of Powell Drive and has an area of 6.5 Ha.

The site is irregular in shape and contains scattered vegetation. Topography of the land is undulating.

Existing development on the site comprises a dwelling and associated sheds. Vehicular access is provided to the site via an existing driveway from Powell Drive.

Existing development within the locality consists of rural lifestyle dwellings.



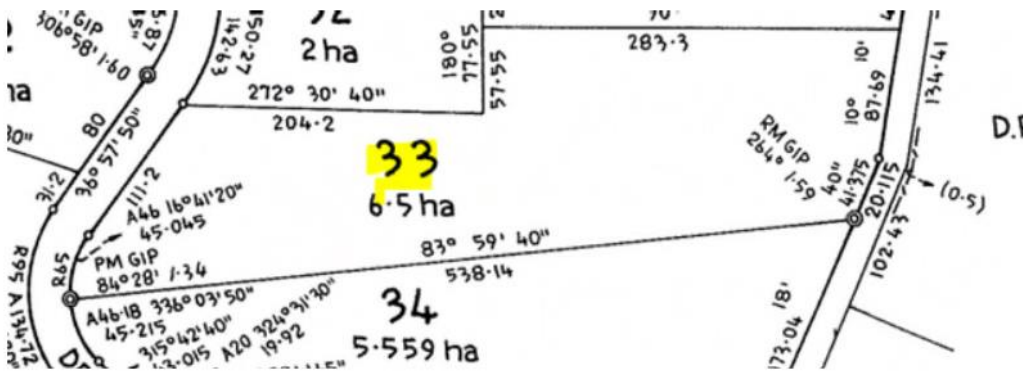
**Figure 1: Locality plan**



Figure 2: Location of the tower marked in yellow

**PROPERTY BURDENS AND CONSTRAINTS**

There are no easements or burdens on the land which could affect, or be affected by, the proposed development.



However, the site is affected by Section 88B instrument that has multiple restrictions on the site.

PART 2

1. Terms of Restrictions as to User Firstly referred to in the above-mentioned Plan:

- (1) No dwelling house shall be erected on any lot burdened of materials other than new materials.
- (2) No dwelling shall be erected or permitted to remain on any lot unless it has a gross floor area excluding garages carports verandahs patios decks and the like of at least 110 square metres.
- (3) No advertising hoarding shall be erected on any lot burdened.
- (4) No pigs shall be kept on any lot burdened nor shall any animal boarding, breeding or training establishment be carried on upon any lot burdened.

**PART 2 (continued)**

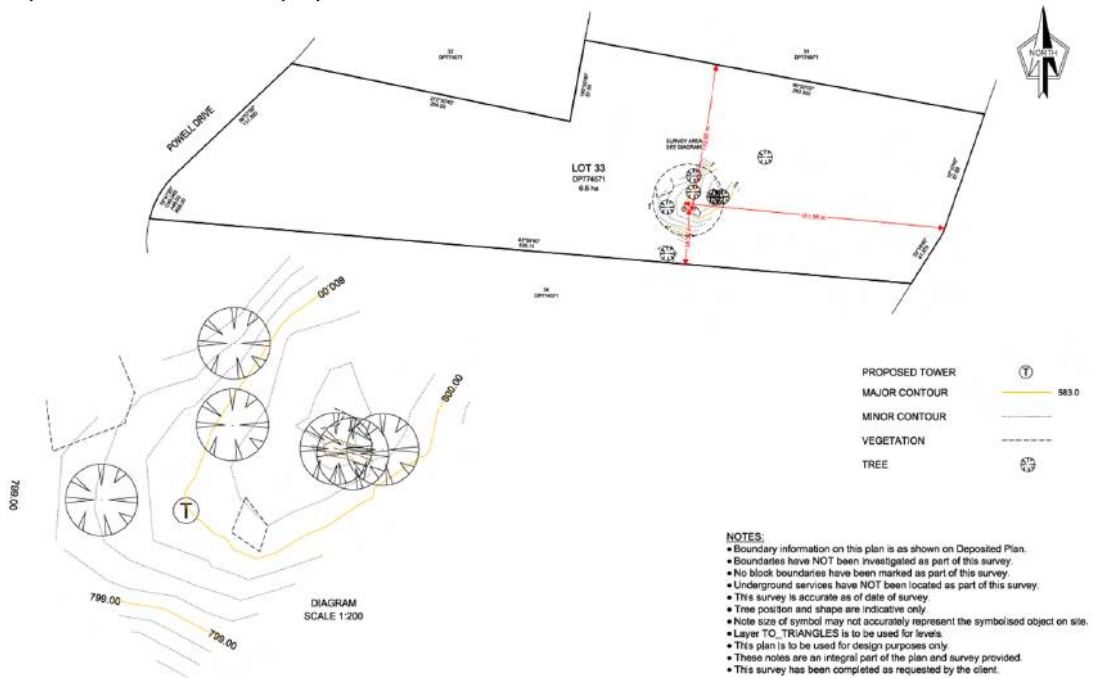
- (5) No temporary residential building or caravan shall:-
  - (a) be placed on any lot burdened without approval of the Council of the Shire of Yarrowlumla and
  - (b) remain on any lot burdened and be used as a residence for a period longer than 6 months from the date of approval of the Council of the Shire of Yarrowlumla.
- (6) No outbuildings (being all buildings other than a dwelling house) shall be erected on any lot burdened of materials other than Lysaght Colorbond bronze-olive or other materials of similar quality, substance and colour as may be approved by Jerrabomberra Estates Limited.
- (7) The restrictions (1) - (6) inclusive aforementioned may be released varied or modified by Jerrabomberra Estates Limited.

The above restrictions are not applicable to the proposed development of a Telecommunications Facility.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application seeks Council approval for a telecommunications facility.

The specific elements of the proposal are:



- The tower will be located towards the centre of the site on the highest point of the land with setbacks of 102 metres from the northern boundary, 181 metres from the eastern boundary and 38 metres from the southern boundary.
- The tower is 12m in height.
- Single Pole Tower with hydraulic capabilities for lowering and raising – pole depth 1.5 to 2 metres depth in ground. Picture below is similar to what will be used.



- Single pole solar array – pole depth 1.5 to 2 metres depth in ground



- Roadside type cabinet – 1375H x 750W x 620D with 2 x fans & 2 x Filters Fitted – Concrete base measurements are approx.. 850 mm wide x 750 mm high and the concrete thickness will be approx.. 90 mm to 100 mm in depth.



#### **CONSENT AUTHORITY**

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

#### **SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not designated development.

#### **SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979**

The proposal is not integrated development.

#### **REFERRALS**

##### **INTERNAL REFERRALS**

##### **Engineering Comments**

##### **Proposal**

The proposal includes a single pole 12m Telecommunications Tower with hydraulic capabilities for lowering and raising, single pole array of four (4) Solar Panels and 850x750mm Battery Cabinet.

##### **Water**

Not applicable.

##### **Sewer**

Not applicable.

##### **Storm Water**

Not applicable.

### **Entrance**

The current unsealed gravel entrance and gate is satisfactory. No further works required.

### **Access**

Internal access and drainage structures from the entrance are satisfactory. No further works required.

### **Flooding**

Not applicable.

### **HEADWORKS CONTRIBUTIONS SEC.64**

Not applicable.

### **DEVELOPMENT CONTRIBUTIONS SEC.7.11**

Not applicable.

### **Health & Building Comments**

Council's Building Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

### **EXTERNAL REFERRALS**

Nil.

### **CONSIDERATION OF THREATENED SPECIES**

Council is required under Section 4.15 of the Environmental Planning and Assessment Act 1979 to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the NSW Biodiversity Conservation Act 2016 or under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The assessment process under the EPBC Act can occur outside the NSW planning system and requires input from the Federal Department of Environment. Any EPBC Act requirements associated with this proposal are discussed later in this section.

Section 7.3 of the Biodiversity Conservation Act 2016 sets out what must be considered in determining whether a proposed development will have a significant impact. Section 7.3 requires the consideration of the following:

- any assessment guidelines applicable to the species, population, or ecological communities, or their habitats, and
- the application of the 'seven-part test' described in the Section.

The site is predicted to contain 290 Red Stringybark - Red Box - Long-leaved Box - Inland Scribbly Gum tussock grass - shrub low open forest on hills in the southern part of the NSW South Western Slopes Bioregion under Council's predictive native vegetation mapping.

The proposed telecommunications tower does not require any vegetation removal. As such, there is no impact on existing vegetation.

### **SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSHFIRE PRONE LAND – EP&A ACT, 1979**

Section 4.14 of the EP&A Act requires an assessment to be made of the proposal against the requirements of the Rural Fire Service document 'Planning for Bushfire Protection 2006'. The Act allows this assessment to be made by the Council or the RFS. Assessments under Section 4.14 against the PBP 2006 need to be made for most development on bushfire prone land which does not require an approval under the Rural Fires Act 1997 as integrated development.

Bushfire prone land on the subject site covers the entire site.



Under Section 8.3.7 of the Planning for Bushfires 2019 document, telecommunication towers are considered essential infrastructure and should be designed in a way as to minimise the impact of bushfires and ensure that the communication capabilities are not compromised during bushfire emergencies.

The application was referred to the RFS and they had no objection to the proposal subject to conditions set out below:

*“The development shall comply with the recommendations of the Bush Fire Risk Management Plan by Mackenzie Davey Consulting dated 25 January 2022 ref: CMD 13.22.”*

#### **SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979**

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

##### **4.15(1)(a) the provisions of:**

###### **(i) any environmental planning instrument**

#### **STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

The proposed telecommunications tower requires development consent as it is proposed to be located on environmentally sensitive land, zoned C4.

Before determining a development application for development CI 115 states:

#### **115 Development permitted with consent**

- 1) *Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.*
- 2) *(Repealed)*
- 3) *Before determining a development application for development to which this clause applies, the consent authority **must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette.***

In 2010, the secretary issued the ‘NSW Telecommunications Facilities Guideline including Broadband’ which is the guideline used for this purpose. In addition to the guideline, a ‘Communications Alliance Ltd Industry Code’ supplements the regulatory regime and sets obligations to the carriers. The proposed development has been assessed against the Guideline in the table below:

<b>NSW Telecommunications Facilities Guideline including Broadband (2010)</b>	
<b>Principle 1: A Telecommunications Facility should be sited to minimize visual impact</b>	
<b>Principle</b>	<b>Comment</b>
(a) As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.	Not applicable.
(b) The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.	<p>The proposed tower is located at the centre of the site, a considerable distance from the road and only 12 metres in height.</p> <p>The scale and height of the tower does not create a visual bulk in the area.</p>
(c) Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.	Not applicable.
(d) Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical	No such facilities proposed. One roadside type cabinet and solar array is proposed.
(e) A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.	The proposed tower is designed and located approximately 300m away from the Powell Drive and well setback from the property boundaries. It is therefore appropriate to its rural landscape setting.
(f) A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.	Not applicable.

<p>(g) A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.</p>	<p>The proposed tower is well setback from the roads (approximately 300m) and the neighbouring dwellings (100m+). As such the proposed tower is unlikely to obstruct any significant element of the surrounding.</p> <p>Council officers have inspected the neighbouring dwelling at 58 Powell Drive to gain an understanding of the impact of the proposed tower on views as indicated in their submission. Officers have noticed that the location of the tower identified by the submitter is closer to their property boundary than the actual proposed location of the tower. The site plan provided by the applicant indicates the tower will be located approximately 102 metres from the northern property boundary (the common boundary between the two properties), which is 40 metres further away from their residence than the location indicated on the submission.</p> <p>Officers also noted that the submitters have 180-degree views. A telecommunications tower which does not have a significant building mass and is only 12 metres in height, is unlikely to have a significant impact on views.</p> <p>In addition to the above, and subsequent to the discussions with the applicant and the owner of the subject site, a suggestion has been made to provide screen planting around to limit any potential impact on views. However, Council has formed a view that screen planting may exacerbate impact on views, therefore, screen planting was not formally requested by Council.</p>
<p>(h) The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.</p>	<p>Not applicable.                  The proposed works do not require vegetation removal.</p>
<p>(i) A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.</p>	<p>Not applicable.</p>
<p>(j) The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.</p>	<p>The applicant has confirmed the development is in accordance with relevant Industry Design Guides.</p>
<p><b>Principle 2: Telecommunications Facilities should be co-located wherever possible</b></p>	

(a) Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.	The associated telecommunication lines are located underground.
(b) Overhead lines, antennas and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio communications equipment to minimise the proliferation of telecommunication facilities and unnecessary clutter.	Not applicable.
(c) Towers may be extended for the purposes of colocation.	Not applicable.
(d) The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.	Not applicable.
(e) If a facility is proposed not to be collocated the proponent must demonstrate that colocation is not practicable.	The application indicates that there are no suitable towers nearby to co-locate the proposed tower.
(f) If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.	Not applicable.
<b>Principle 3: Health Standards for exposure to radio emissions will be met</b>	
(a) A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.	A condition will be placed on the consent that the development is maintained in accordance with the Radiation Protection Standard.
(b) An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.	Not applicable.
<b>Principle 4: Minimise disturbance and risk, and maximise compliance</b>	

<p>(a) The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.</p>	<p>The application has been referred to Canberra Airport who had no objections to the proposal subject to conditions. If approved, these conditions will be imposed on the consent.</p>
<p>(b) The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.</p>	<p>The application has been referred to Canberra Airport who had no objections to the proposal subject to conditions. If approved, these conditions will be imposed on the consent.</p>
<p>(c) The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.</p>	<p>The application documents included technical diagrams which indicate the specifications of the proposed tower.</p>
<p>(d) The telecommunications facility is not to affect the structural integrity of any building on which it is erected.</p>	<p>Not applicable.</p>
<p>(e) The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.</p>	<p>The landowner has provided consent to the facility being located on the land.</p>
<p>(f) The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – 'Managing Urban Stormwater: Soils and Construction' (Landcom 2004), or its replacement.</p>	<p>A condition in relation to sediment and erosion controls will be imposed as a condition on the consent.</p>
<p>(g) Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.</p>	<p>Not applicable.</p>
<p>(h) Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.</p>	<p>Hours of construction will be imposed as a condition on the consent.</p>

(i) Traffic control measures are to be taken during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.	The tower is constructed within the site. Therefore, there will be no traffic impacts generated by the proposal.
(j) Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps	Not applicable. The tower is located towards the rear of the site.
(k) Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.	The tower is located in a cleared area, therefore, there would be no impact on existing trees. Given the earthworks are limited, the impact of the proposal on native grasses is also limited.
(l) The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.	Not applicable.
(m) The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.	Complies via conditions.
(n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.	Not applicable.

### QUEANBEYAN LOCAL ENVIRONMENTAL PLAN (QLEP) 2012

An assessment of the proposal against the general aims of QLEP 2012 is included below:

<b>Cl.</b>	<b>Aims</b>	<b>Complies</b>
<b>1.2(2)</b>		
(a)	<i>To facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles.</i>	Not applicable
(b)	<i>To provide for a diversity of housing throughout Queanbeyan.</i>	Not applicable
(c)	<i>To provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development catering for the retail, commercial and service needs of the community.</i>	Not applicable
(d)	<i>To recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek.</i>	<b>Yes</b>

(e)	To protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra.	Yes
(f)	To maintain the unique identity and country character of Queanbeyan.	Yes
(g)	To facilitate the orderly growth of the urban release area in Googong in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure through appropriate phasing of the development of land.	Not applicable

**Comments:** Complies

### Height of building

Cl.	Standard	Controls	Proposed	Complies
4.3	Height of building	Not applicable.	12m	Not applicable

**Comments:** complies – Masts, antennas and the like are not restricted.

## Part 7: Local Provisions

The relevant provisions contained within Part 7 of the QLEP 2012 are addressed below as part of this assessment:

### 7.1 Earthworks

Clause 7.1 of the QLEP 2012 establishes a number of matters requiring consideration for development involving earthworks. Earthworks associated with the development are proposed and form part of this application. The proposed earthworks will not have a detrimental impact on drainage patterns and soil stability or the existing and likely amenity of adjoining properties. The development application will be condition to mitigate the potential impact of soil erosion and the like during construction.

### 7.3 Terrestrial biodiversity

Clause 7.3 of the QLEP 2012 makes for provision for developments that impact on terrestrial biodiversity. This clause is considered relevant to the proposed development as the site is identified as “Biodiversity” on the Terrestrial Biodiversity Map.

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether the development is likely to have:*
- (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed tower is located on a cleared area, as such will not impact on existing vegetation.

### 7.4 Riparian land and watercourses

Clause 7.4 of the QLEP 2012 makes provision for developments within riparian land and watercourses. This clause is not considered relevant to the proposed development as the site is not identified as a “Watercourse” on the Riparian Land and Watercourses Map”. According to the

map below, the development is not located within the mapped area. As such the proposal is less likely to impact the watercourses or riparian land.



**7.6 Airspace operations**

Clause 7.6 of the QLEP 2012 makes provisions for developments located in areas that are affected by airspace operations and aircraft noise. The proposed development will penetrate the Obstacle Limitations Surface Map for the Canberra Airport. Therefore, the application was required to be referred to the relevant Commonwealth body for comment.

Airservices had no objection to the proposal subject to conditions including that the tower height not exceed 812m AHD. These conditions will be included in the consent.

**7.9 Essential services**

Clause 7.9 of the QLEP 2012 requires satisfactory arrangements to be made for electricity, water supply, stormwater drainage, sewage, and the treatment and disposal of effluent along with suitable vehicle access. The proposal is consistent with this clause as the current entrance is considered satisfactory and the development is to be conditioned to provide suitable power supply.

**4.15(1)(a)(ii) any draft environmental planning instruments**

The draft Queanbeyan-Palerang Comprehensive Local Environmental Plan 2020 is on public exhibition from 1 June 2020. The draft plan has been considered as part of this assessment and has no effect on the proposed development.

**4.15(1)(a)(iii) any development control plan**

QUEANBEYAN DCP 2012 COMMENTS		
Section	Controls	Compliance / Conditions
<b>PART 1 – ABOUT THIS DEVELOPMENT CONTROL PLAN</b>		
1.8	<b>Public Notification of A Development Application</b> The development application was notified to adjoining owners and 5 submissions were received.	Complies.
<b>PART 2 – ALL ZONES</b>		
2.2.9	<b>Car Parking</b> Given the small scale of the tower in comparison to the other large-scale towers, a separate access track leading to the tower is not required. The company maintaining the tower intends to use site appropriate vehicles such as four-wheel drives to access the tower when required. Given the site is large in size it is evident that sufficient area is available for car parking.	Complies.



	<p>The application has been referred to Council's Development Engineer who has found the parking arrangements including access and manoeuvring areas to be satisfactory in this instance.</p> <p>According to Table 1 of this clause the service vehicle requirements are calculated based on the floor area of the building and one space per 2000m<sup>2</sup> is required to be provided. The floor area of the tower is less than 2000m<sup>2</sup> therefore no service parking is required to be provided. As such, clause 2.2.14 is not applicable to this development.</p>	
2.4	<p><b>Contaminated Land Management</b>                  The proposal is considered generally satisfactory with respect to State Environmental Planning Policy 55 – Remediation of Land (SEPP 55). The site is not listed on Council's Contamination Register as being used for potential contaminated purposes and therefore also with respect to DCP clause 2.4. The land is not known to have been used for potentially contaminating activities.</p>	Complies.
2.6	<p><b>Landscaping</b>                  The proposed development is not specifically nested under industrial or commercial use. Installation of infrastructure to provide essential services is not listed on the Table 7. As such, a landscape plan is not required to be provided.</p>	Not applicable.
2.7	<p><b>Erosion and Sediment Control</b>                  Standard conditions relating to site management will be imposed should development consent be granted.</p>	Complies via a condition.
2.8	<p><b>Guidelines for Bushfire Prone Areas</b>                  The area is identified as bushfire prone. Please refer to Section 4.14 of this report for further details.</p>	Complies.
2.11	<p><b>Airspace Operations and Airport Noise</b>                  The proposed development complies with the requirements prescribed for the site in clause 7.5 <i>Airspace Operations</i> of the QLEP 2012 – see previous discussion in this assessment.</p>	Complies.
2.12	<p><b>Preservation of Trees and Vegetation</b>                  The proposed development does not require the removal of any existing vegetation.</p>	Not applicable.

QUEANBEYAN DCP 2012 COMMENTS		
Section	Controls	Compliance / Conditions
<b>PART 5 – RURAL AND ENVIRONMENTAL ZONES AND R5 LARGE LOT RESIDENTIAL ZONES</b>		
5.1.3	<p><b>Objectives applicable to the Rural and Environmental and R5 Large Lot Residential Zones</b></p> <p>Objectives (1) and (2) are as follows:</p> <ol style="list-style-type: none"> <li>1) <i>Ensure that development maintains the rural character of the locality and minimises disturbance to the landscape and the environment generally.</i></li> <li>2) <i>Ensure land use is ecologically sustainable, taking into account the environmental capabilities of the land and based on best management practices.</i></li> </ol>	Yes

	<p>The purpose of these objectives are to ensure the developments have minimal impact on the environmental values of the site by way of reducing the number of buildings on site and avoiding non-compatible uses on the land to limit the impact on flora, fauna and the natural environment.</p> <p>The property is already developed for residential purposes containing a dwelling and associated sheds. The existing development is concentrated to one small portion of the land. The proposed tower is a tall, narrow structure which is incapable of creating a visual dominance in the landscape or significantly impacting the rural character of the area. The tower is well setback from Powell Drive and therefore, it will not be visible from the road.</p> <p>The earthworks required to install the tower are similar to installing stumps or footings for a dwelling. It does not involve a large area of earthworks. Therefore, the impact on native grasses will not be significant.</p> <p>The development site is clear of trees, therefore, no tree removal is associated with the development.</p> <p>Taking all the above into consideration, Council is in the view that the proposed tower is consistent with the above objectives.</p>	
5.2.3	<p><b>Management of Flora and Fauna</b>                  As discussed above, the impact of the development on flora and fauna is very limited. As such, it is Council's view that a flora and fauna report is not required in this instance.</p>	Not applicable.
5.2.4	<p><b>Aboriginal Heritage</b>                  An AHIMS search was carried out and did not indicate any heritage sites within the vicinity of the proposed development. As such, it is considered that the proposed development is unlikely to result in the disturbance of any items of Aboriginal Indigenous cultural heritage. A condition will however be contained within the consent that the development is to proceed with caution and if any Aboriginal objects are found works should stop and DECCW are to be notified.</p>	Complies via a condition.
5.2.5	<p><b>Bush Fire Management</b>                  A bushfire assessment was prepared by a BPAD accredited consultant, Mackenzie Davey Consulting, that addresses all requirements relevant to the development.</p> <p>The report was referred to Rural Fire Services for further assessment and RFS is satisfied that the proposed tower is consistent with bushfire protection measures. The conditions provided by them will be included in the consent.</p>	Complies.

**4.15(1)(a)(iii) any planning agreement or draft planning agreement**

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

**4.15(1)(a)(iv) matters prescribed by the regulations**

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard *AS2601–1991: The Demolition of Structures* in the determination of a development application.

The proposed development does not involve the demolition of a building for the purposes of *AS 2601 – 1991: The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are included to ensure compliance with any relevant regulations.

**4.15(1)(a)(v) any coastal zone management plan**

Council is not subject to a coastal zone management plan.

**4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The impact of the proposed telecommunications facility on the natural environment is limited.

**4.15(1)(c) the suitability of the site for the development**

The subject site is relatively unconstrained and is considered to be suitable in its current state for the purposes of the proposed development.

**4.15(1)(d) any submissions made in accordance with this Act or the regulations**

The application was notified in accordance with the Queanbeyan Palerang Community Engagement and Participation Plan from **29/11/2021 to 15/12/2021**, with **five (5)** submissions received, one submission supporting the proposed tower and others raising the following concerns. The submission from the landowner has not been counted.

**1. Incomplete and Inaccurate DA Submission**

Assessing officer's comments:

Council has three different templates of Statement of Environmental Effects (SEE) for residential, commercial and industrial uses. The development is for a telecommunications facility which cannot be classified as residential use, therefore, it is Council's view that either the commercial or industrial SEE form satisfies the requirement to submit an SEE.

Council officers have conducted site inspections and observed that the proposed tower is located within a cleared area of the site. Earthworks required to accommodate the tower are limited. No access road to the tower location is proposed, and the applicant has confirmed that regular access to the tower is not required. Therefore, separate access to the tower is not required.

The applicant has provided an assessment against the Telecommunications Guidelines showing compliance of the proposal with all relevant guidelines.

Given the above, Council is satisfied that the proposed development has minimal impacts on the flora and fauna and natural environment.

**2. Fails to address the site's E4 Environmental Living zoning objectives and Aims of Plan in the QLEP**

Assessing officer's comments:

The objectives one, two and three identified on the submission are related to residential development within an environmental zone. Therefore, these objectives are not relevant to the proposed telecommunications facility.

**3. State Environmental Planning Policy (Infrastructure) 2007 and NSW Telecommunications Facilities Guidelines including Broadband**

Assessing officer's comments:

*These provisions have been addressed in Section 4.15 under State Environmental Policies Section of this report.*

**4. Contrary to Part 5 Environmental Zones in the Queanbeyan Development Control Plan 2012**

Assessing officer's comments:

Detailed assessment against the clauses 5.1.3 and 5.2.3-5.2.5 has been completed in the Development Control Plan Section of this report.

**5. Failure to address Part 2 All Zones of the Queanbeyan Development Control Plan 2012**

Assessing officer's comments:

Detailed assessment against Part 2 of the DCP have been completed in the Development Control Plan Section of this report.

**6. Visual and view impacts**

Assessing officer's comments:

The proposed tower is located approximately 100m+ from the nearest dwellings at 42 Powell Drive and 58 Powell Drive. The proposed tower is considered to be a small-scale development which is unlikely to be intrusive and create a visual bulk.



**Figure 1: View from No.58 Powell Drive**

As discussed above, Council officers have inspected the neighbouring dwelling at 58 Powell Drive to gain an understanding of the impact of the proposed tower on views as indicated in their submission. Officers noted that the location of the tower identified by the submitter is closer to their property boundary than the actual proposed location of the tower. According to the site plan provided

by the applicant, the tower will be located approximately 102 metres from the northern property boundary (the common boundary between the two properties), which is 40 metres further away from their residence than the location indicated on the submission.

Officers also noted that the submitters have 180 degree views along the southern side of the property. The proposed telecommunications tower does not have a significant building mass and therefore, it is unlikely to be visually dominant within the view.

Given the impact of the proposal is very limited on the natural environment and the benefits of the proposed tower to improve connectivity, views are not considered to be a significant factor to disallow this development.

#### **7. Suitability of the site**

Assessing officer's comments:

The proposal has been assessed against all relevant clauses of the LEP, DCP and State policies and it has been determined that the development is suitable for the site due to its low impact on the natural environment and rural character.

#### **8. Impact of harmful radiation emissions**

Assessing officer's comments:

The telecommunications facilities are required to be constructed in accordance with the Telecommunications Act and various other controls including Radiation Protection Standards to minimise human exposure to radiation. Council is not the regulatory authority to assess and approve radiation levels, therefore, a condition will be imposed on the consent requiring the proposed facility comply with the relevant controls.

#### **4.15(1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development is not considered to be contrary to the public interest.

### **SECTION 64 CONTRIBUTIONS**

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

### **SECTION 7.11 CONTRIBUTIONS**

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are not applicable to the proposed development.

### **CONCLUSION**

The application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and is considered to be satisfactory for approval, subject to the recommended conditions of consent:

**Recommendation:** That DA.2021.1628 be **Approved** under delegated authority pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979.

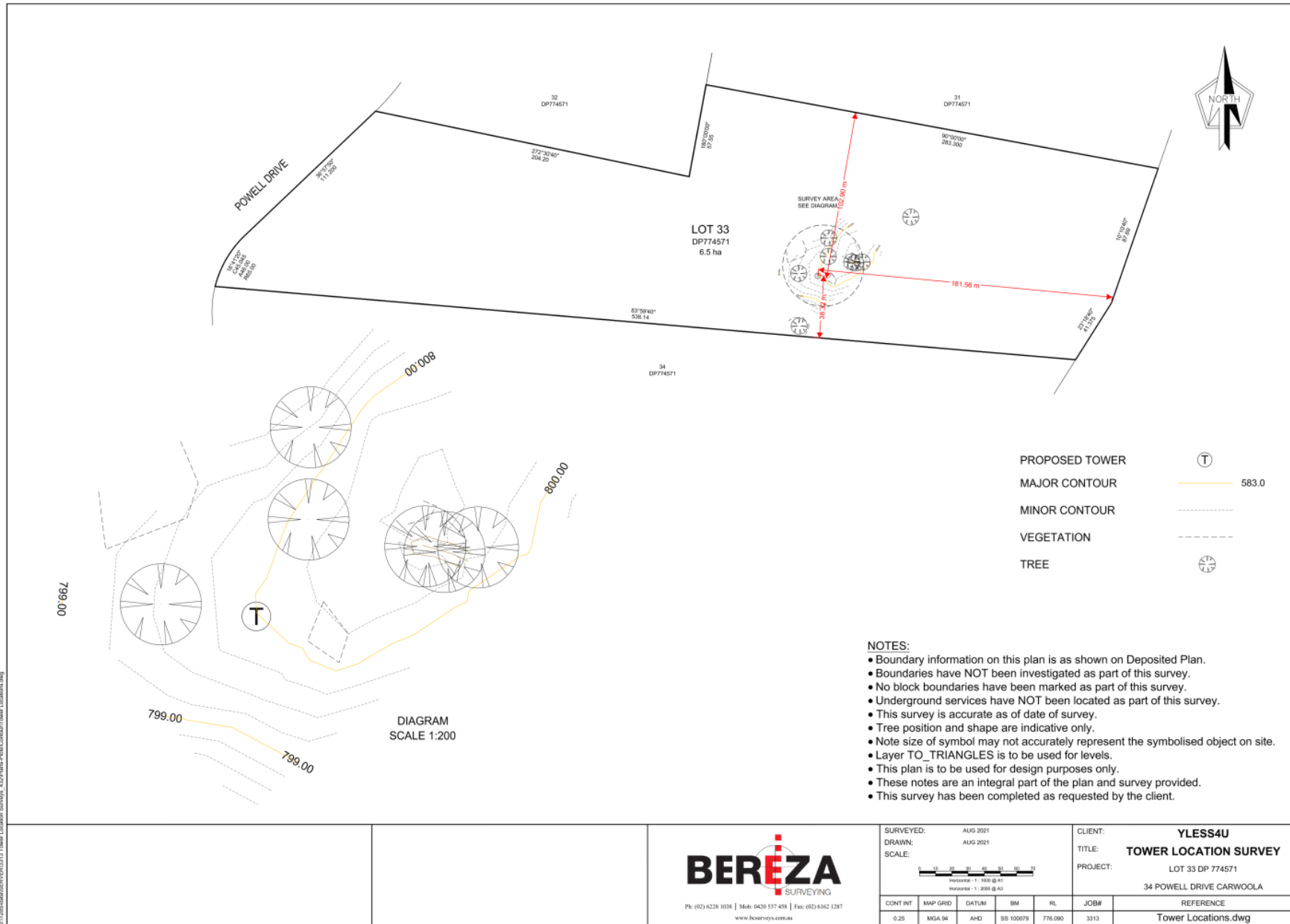
# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4            DEVELOPMENT APPLICATION DA.2021.1628 –  
                                         TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
                                         CARWOOLA

ATTACHMENT 2    DA.2021.1628 - PLANS - 34 POWELL DRIVE CARWOOLA





1. Roadside Cabinet – 1375H x 750W x 620D with 2 x fans & 2 x Filters Fitted – Concrete base measurements are approx.. 850 mm wide x 750 mm high and the concrete thickness will be approx.. 90 mm to 100 mm in depth.

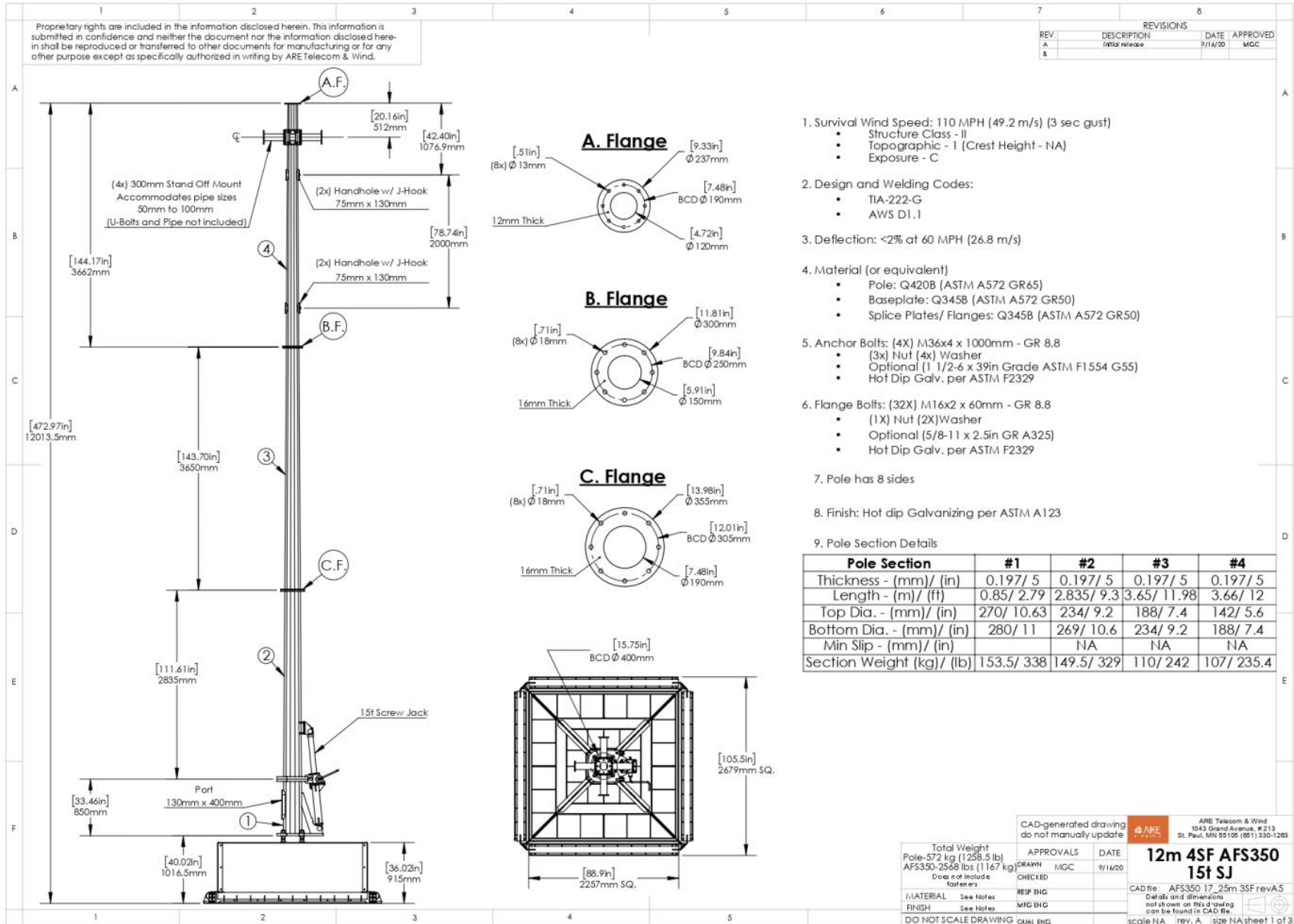


2. Single pole solar array – pole depth 1.5 to 2 metres depth in ground



3. Single Pole Tower with hydraulic capabilities for lowering and raising – pole depth 1.5 to 2 metres depth in ground. Picture below is similar to what we will be using.





Proprietary rights are included in the information disclosed herein. This information is submitted in confidence and neither the document nor the information disclosed herein shall be reproduced or transferred to other documents for manufacturing or for any other purpose except as specifically authorized in writing by ARE Telecom & Wind.

**Notes:**

- All plate material shall have a minimum yield strength of 345 MPa (50 ksi)
- Tube shall be 102mm x 5mm GR. Q345 (4.5" x 0.25" ASTM A500 Gr B)
- All right angles shall be Q345 (ASTM A572 Gr 50) or equivalent
- All welding shall conform to the minimum requirements of AWS D1.1
- All welding shall be done by welders qualified under AWS specifications, using E80XX, low hydrogen electrodes
- All components shall Hot Dip Galvanized in accordance with ASTM A123
- Debur all sharp edges

#	DESCRIPTION	QTY.	Weight (kg/ lbs)
1	Corner Bracket	4	2.5/ 5.5
2	Upper Chord	8	5.4/ 11.9
3	Brace	8	0.78/ 1.72
4	Sidewall	4	50.5/ 111.1
5	Anchor Spoke	4	27.3/ 60.1
6	Center Web	4	10.8/ 23.8
7	Outer Bearing Plate	4	58/ 127.6
8	Outer Ballast Tray	4	47/ 103.4
9	Inner Ballast Tray	4	18.3/ 40.3
10	Lower Splice Plate	1	47.11/ 103.6
11	Upper Splice Plate	1	37.7/ 83
12	Lower Chord	8	4.7/ 10.34
13	Truss Heel Plate	4	20.6/ 45.32

**Ballast Requirements:**

- Ballast Volume = 4.7 cu-m (6.1 cu-yds, 165 cu-ft)
- Unit Weight
  - cu-ft = 45.45 kg (100 lbs)
  - cu-yd = 1227.3 kg (2700 lbs)
  - cu-m = 1605.5 kg (3532 lbs)
- The foundation design is based upon an ultimate bearing pressure of 4000 pounds per square ft (PSF)

#	Unit	Bolt Size	Length	Width Across Flats	Thread Length	Grade	Coating	Nut Qty.	Washer Qty.	Bolt Qty.
14	Metric	M12x1.75	30mm	18mm	Full Thread	8.8	Hot Dip Galv.	56	112	56
14	Imperial	1/2-13	1 3/16"	7/8"	Full Thread	A325	Hot Dip Galv.	56	112	56
15	Metric	M12x1.75	60mm	18mm	Full Thread	8.8	Hot Dip Galv.	24	48	24
15	Imperial	1/2-13	2 3/8"	7/8"	Full Thread	A325	Hot Dip Galv.	24	48	24
16	Metric	M20x2.5	55mm	30mm	Full Thread	8.8	Hot Dip Galv.	72	144	72
16	Imperial	3/4-10	2 3/16"	1 1/8"	Full Thread	A325	Hot Dip Galv.	72	144	72
17	Metric	M36x2.5	1000mm	55mm	300mm	8.8	Hot Dip Galv.	12	16	4
17	Imperial	1 1/2-6	39"	2 3/16"	12"	A325	Hot Dip Galv.	12	16	4

REVISIONS		DATE	APPROVED
REV. A	DESCRIPTION	9/16/20	MGC
REV. B	Initial release		

Does not include anchor bolts, templates or flange bolts	APPROVALS	DATE
	DRAWN MGC	9/16/20
	CHECKED	
MATERIAL See Notes	REP BHG	
FINISH See Notes	MFG BHG	
DO NOT SCALE DRAWING	QUAL ENG	

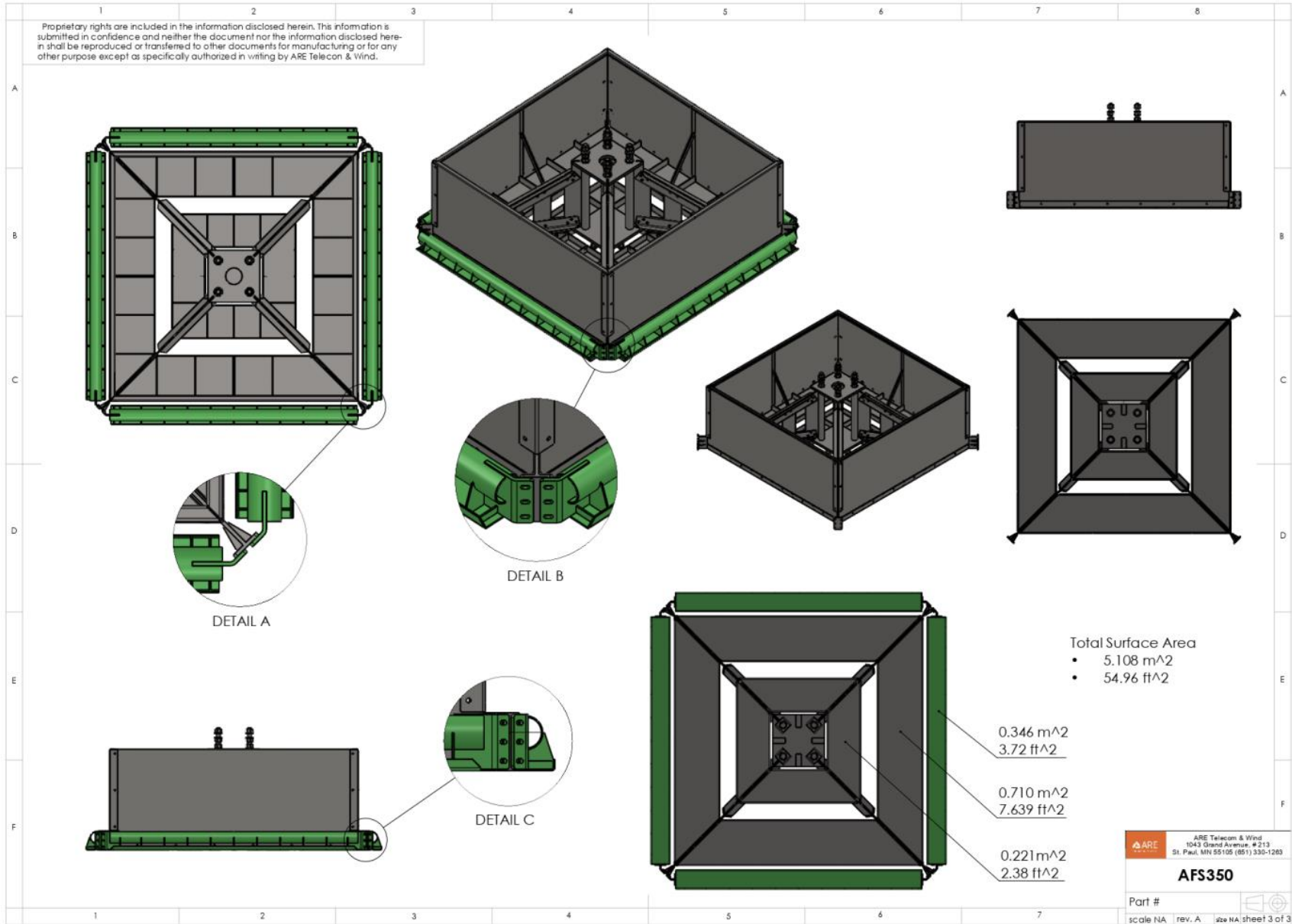
CAD-generated drawing do not manually update

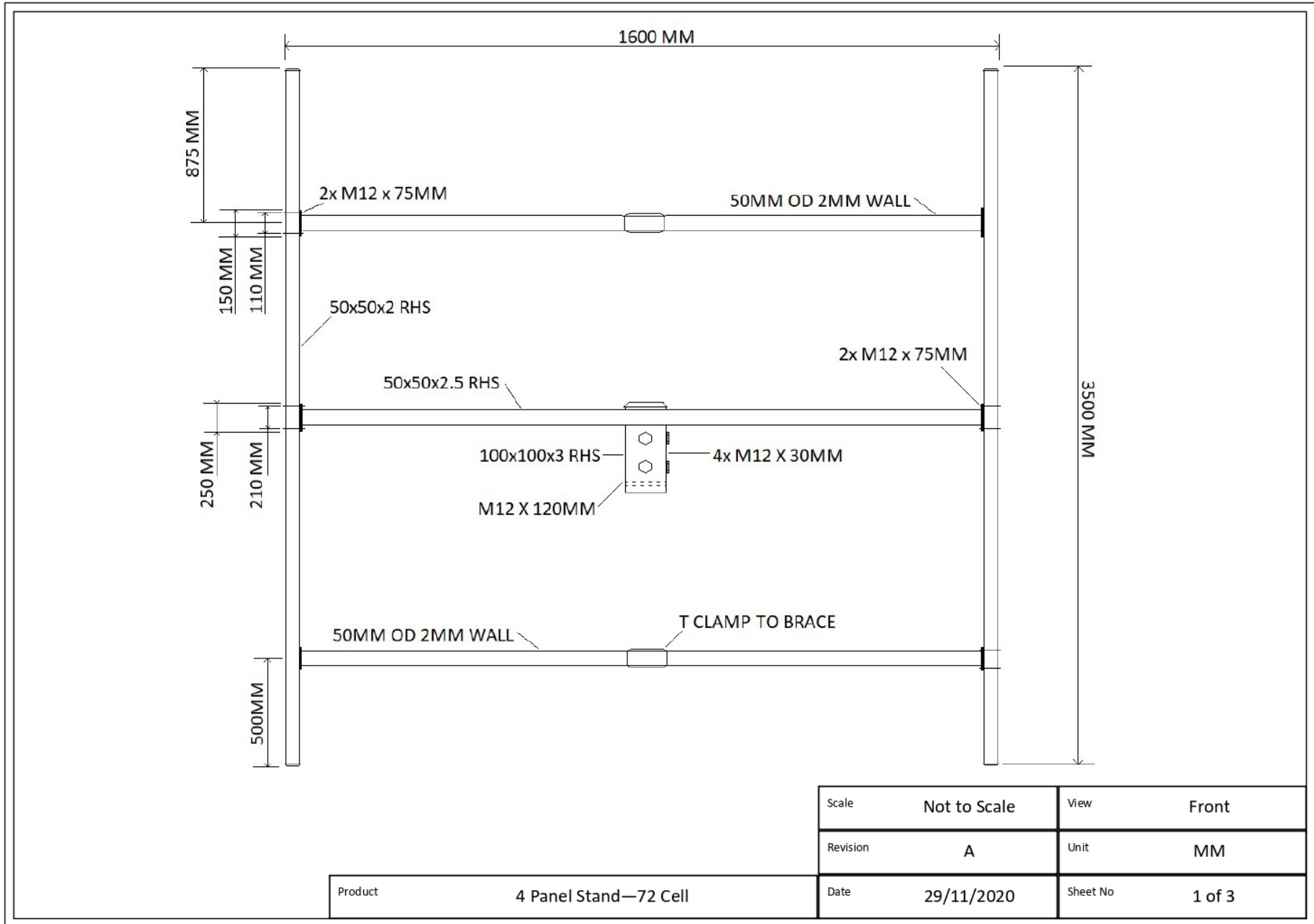
ARE Telecom & Wind  
 413 Maccoota St, Suite #440  
 51 Paul, MN 55101 (651) 330 1243

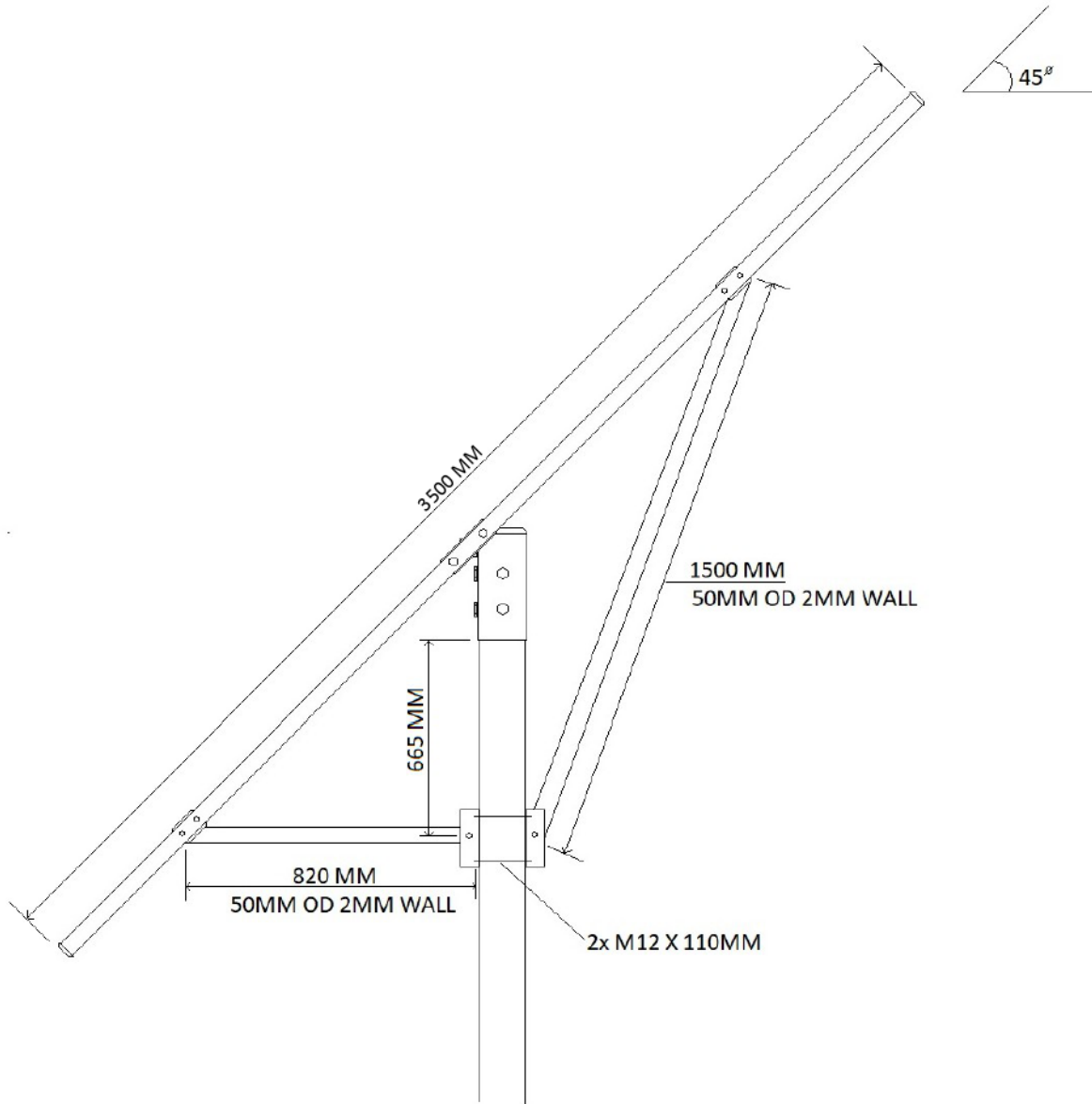
**AFS350 BOM**

CAD file:  
 Details and dimensions not shown on this drawing can be found in CAD file

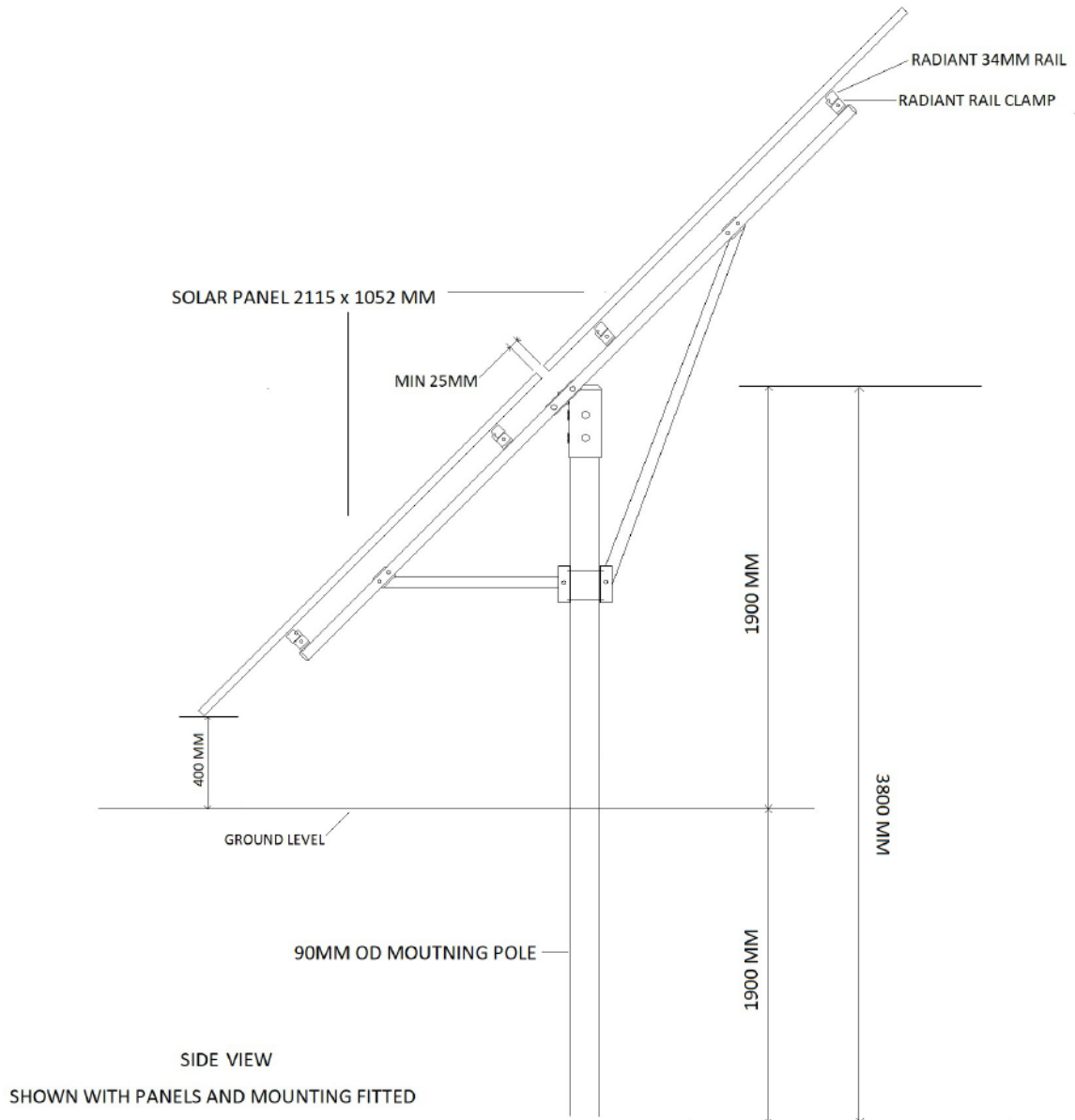
Scale NA rev. A size NA 2 of 3







Product	4 Panel Stand—72 Cell		
Scale	Not to Scale	View	Side
Revision	A	Unit	MM
Date	29/11/2020	Sheet No	2 of 3



Product	4 Panel Stand—72 Cell		
Scale	Not to Scale	View	Side with Panels
Revision	A	Unit	MM
Date	29/11/2020	Sheet No	3 of 3

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4            DEVELOPMENT APPLICATION DA.2021.1628 –  
                                         TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
                                         CARWOOLA

ATTACHMENT 3    DA.2021.1628 - SUBMISSION 1 - 34 POWELL DRIVE,  
                                         CARWOOLA



14<sup>th</sup> December 2021

Vageesha Wellalage  
Assessing Officer  
Natural and Built Character  
Queanbeyan-Palerang Regional Council  
PO Box 90 QUEANBEYAN NSW 2620

Dear Assessing Officer,

**Re: - Objection to Development Application No DA.2021.1628 for the Construction of a Telecommunications Facility (12m high telecommunications pole, solar array and roadside cabinet) at 34 Powell Drive (Lot 33 DP 7745718), Carwoola NSW 2620**

We, the residents of [REDACTED] Carwoola, NSW make the following submission objecting to Development Application No. DA.2021.1628, in terms of the proposed developments siting, proximity to surrounding residents (most particularly [REDACTED]), visual impact, health and amenity impacts and environmental impacts. The objections are made on the following grounds: -

### **NSW Environmental Planning and Assessment Act 1979**

**The Matters for consideration in the Evaluation of a Development Application under Clause 4.15 of the Environmental Planning and Assessment Act 1979 are as follows: -**

#### **4.15 Evaluation**

##### **(1) Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—*

##### **(a) the provisions of—**

**(i) any environmental planning instrument, and**

**(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

**(iii) any development control plan, and**

**(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

**(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

*that apply to the land to which the development application relates,*

**(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

**(c) the suitability of the site for the development,**

**(d) any submissions made in accordance with this Act or the regulations,**

**(e) the public interest.**

Note: - Emphasis has been added to highlight specific considerations that have been addressed separately below: -

### Clause 14.15(1)(a)(i) - Environmental Planning Instruments

#### State Environmental Planning Policies

##### ▪ Grounds for Objection to Development Application

Pursuant to Section 4.16 (b), of the Environmental Planning and Assessment Act 1979, it is requested that the Development Application No. DA.2021.1628 for a 12-15m high telecommunications pole, solar array and roadside cabinet at 34 Powell Drive Carwoola, 2620 (Lot/Section/Plan No: 33/-/DP774571) be **refused** by Council for the following reasons:

- i. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, Subdivision 2 (Clause 5.5(1)), specifies a *Duty of determining authorities to consider environmental impact of activities*,

**Objection: - There is insufficient information in the development application to determine the environmental impacts of the proposed development.**

- ii. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application fails to address the environmental impacts on species, populations and ecological communities of the proposed development.

**Objection: - The site of the proposed development has a Biodiversity rating, and part of the land is identified by an environmental planning instrument as being environmentally sensitive land for exempt and complying development – (Palerang Local Environmental Plan 2014 3.3 (2)(jc)). The Development Application fails to address the environmental impact the proposed development will have on species, populations and ecological communities.**

- iii. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to comply with objectives (a) and (b) of Clause 3 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

**Objection: The proposed development is located within an E4 zoned region which represents a suitable habitat for numerous protected, rare or vulnerable plant species. The development application also states that earthworks will be required for the development. There is no evidence in the development application that an assessment of the vegetation, and the impact of the development, has been undertaken.**

- iv. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to address Clause 45 of the State Environment Planning Policy (Infrastructure) 2007. As identified in the Property Report for the abovementioned property, the site may be located near electrical infrastructure and could be subject to requirements listed under Clause 45, however there is no evidence that this has been addressed with Essential Energy.

**Objection: - There is no evidence that the development application has taken into account the impact on electrical infrastructure.**

#### Local Queanbeyan- Palerang Regional Council Environmental Planning Instrument

##### - Queanbeyan-Palerang Local Environmental Plan 2012

##### ▪ Grounds for Objection to Development Application

The Zoning and land use under Queanbeyan Local Environmental Plan 2012 (Updated 2020) of 34 Powell Drive (Lot 33 DP 774571) is identified as: *E4 Environmental Living*

The aim of *Zone E4 Environmental Living* is to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

##### 1) Failure to meet the land use requirements for E4 zoning:-

Queanbeyan-Palerang Local Environmental Plan 2020, Part 3 Exempt and complying development, Clause 3.2 Complying development [compulsory], (3) specifies that to be complying development, the development must—

*(a) be permissible, with development consent, in the zone in which it is carried out.*

Queanbeyan-Palerang Local Environmental Plan 2020, Part 2, Permitted and Prohibited Development, **Land Use Table**, identifies the land uses for E4 zoned land as follows:-

a) Uses permitted without consent:- *Extensive agriculture; Home occupations*

b) Uses permitted with consent:- *Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dwelling houses; Emergency services facilities; Environmental protection works; Farm buildings; Flood mitigation works; Function centres; Homebased child care; Home businesses; Home industries; Information and education facilities; Intensive plant agriculture; Oyster aquaculture; Places of public worship; Plant nurseries; Pond-based aquaculture; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Secondary dwellings; Tank-based aquaculture; Water reticulation systems; Water storage facilities*

c) Prohibited industries:- *Service stations; Turf farming; Warehouse or distribution centres; **any other development not specified in item a) or b)***

##### 2) Failure to meet the objectives for E4 zoned land

Queanbeyan-Palerang Local Environmental Plan 2020, Part 2, Permitted and Prohibited Development, Land Use Table - identifies the land uses for E4 zoned land. The objectives of the Zone E4 Environmental Living are as follows: -

• **To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.**

In relation to this value, the following specific issues have been identified: -

➤ The proposed development does not constitute a residential development,

- The proposed development does not constitute a “low-impact” development.
  - The development does not constitute a “low-impact” development as defined under the Telecommunication (Low-impact Facilities) Determination Act 1997. One effect of that determination is that a facility in an area of environmental significance cannot be a low-impact facility. Section 2.5 (4) states that an area, *is an area of environmental significance if, under a law of the Commonwealth, or a State or Territory, is protected from significant environmental disturbance.*
  - Subclause 6(4), (5) and (7) also specify that certain facilities cannot be low-impact facilities (i.e.) – “a tower that is not attached to a building”

It should be noted that Development Application No. DA.2021.1628 is for a **12-15m** high telecommunications tower.

**Objection: - The development constitutes 12- 15m “high impact”, non-residential, structure to facilitate a commercial undertaking not permitted under land use requirements as specified in 1) above, and is contrary to this value.**

- **To ensure that residential development does not have an adverse effect on those values (i.e. special ecological, scientific or aesthetic).**

In ascertaining the impact of the proposed “non-residential” development on the stated **special ecological, scientific or aesthetic** values, the following issues are noted: -

**A. Special ecological, and scientific value**

- **Flora and Fauna**

As specified in the Property Report for 34 Powell Drive Carwoola, 2620 (Lot/Section/Plan No: 33/-/DP774571), the relevant site has been allocated a **Terrestrial Biodiversity rating**. Council has also identified that part of the relevant land is classified by an environmental planning instrument as being **environmentally sensitive land** for exempt and complying development.

Queanbeyan-Palerang Local Environmental Plan 2020, Part 7 - Additional local provisions, Clause 7.3 **Terrestrial biodiversity** states that: -

*(1) The objective of this clause is to maintain terrestrial biodiversity by— (a) protecting native fauna and flora, and (b) protecting the ecological processes necessary for their continued existence, and (c) encouraging the conservation and recovery of native fauna and flora and their habitats. (2) This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map. (3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider— (a) whether the development is likely to have— (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and (ii) any adverse impact on the importance of the vegetation on the land to the habitat and*

*survival of native fauna, and (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and (iv) any adverse impact on the habitat elements providing connectivity on the land, and (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— ECM 332234 Page 58 of 134 (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The relevant land and adjoining properties provide a habitat for many plant and bird species and wildlife including arboreals (such as squirrel gliders), and micro-bats. The area also serves as a wildlife corridor for many birds, tree and ground mammals, reptiles, amphibians and insects, due to its close proximity to the Cuumbeun Reserve. The region has also been identified as a suitable, or as potentially suitable, habitat for a number of protected, rare or vulnerable species such as:

- a. *Diuris aequalis* – Buttercup Doubletail (Vulnerable)
- b. *Prasophyllum petilum* – Tarengo Leek Orchard (Endangered)
- c. *Craspeddia spp.* – Billy Button (Protected)
- d. *Thysanotus tuberosus* – Fringe Lily
- e. *Aprasia parapulchella* – Pink-tailed Legless Lizard (Vulnerable)
- f. *Petaurus norfolcensis* – Squirrel Glider (Vulnerable)

Additionally, numerous studies have found that Electro-Magnetic Frequency (EMF) exposure can have an adverse impact on flora and fauna. The studies referenced below identify the following impacts:

“in plants reduced growth, increased infection and physiological and morphological changes (Balodis et al. 1996, Haggerty 2010, Waldmann-Selsam et al. 2016, Havas and Symington 2016, Vian et al. 2016, Halgamuge 2017);

in birds, aggressive behavior, impaired reproduction and interference with migration (Southern 1975, Larkin and Sutherland 1977, Balmori 2004, Balmori and Hallberg 2007, Everaert and Bauwens 2007, Fernie et al. 2010, Engels et al. 2015, Wiltschko et al. 2015);

in livestock, especially dairy cows, reduced productivity, impaired reproduction, and sudden death (Burchard et al. 1996, Loscher and Kas 1998, Hillman et al. 2013, Stetzer et al. 2016);

in rodents, increased cancer risk in three long-term studies (Chou et al 1992, NTP 2018, Falcioni et al. 2019);

in amphibians (Balmori 2006, Balmori 2010) and insects (Cucurachi et al. 2013), deformities and population decline; and

in honey bees, aggressive behavior, reduced learning, reduced productivity, swarming and abandoning hives (Harst et al. 2006, Pattezhay 2009, Warnke 2009, Favre 2011, Kumar et al. 2011, Sahib 2011, Shepherd et al. 2019).”

**[Reference: Selected Studies that Reported Adverse Effects of Electromagnetic Field (EMF) Exposure on Plants, Animals and Insects**

Excerpted from a [letter to the United Nations Environmental Programme](#) written by the Advisors to the [International EMF Scientist Appeal](#), June 25, 2019 – Retrieved from:-  
<https://www.saferemr.com/2016/07/effects-of-wireless-radiation-on-birds.html> ]

Another such study conducted overseas (Mt Nardi), also indicates adverse effects on wildlife arising from EME radiation.

<https://ehtrust.org/science/bees-butterflies-wildlife-research-electromagnetic-fields-environment/>

Note also,

Beason R, Semm P, (November 2002) Responses of neurons to an amplitude modulated microwave stimulus, *Neurosci Lett* 2002 Nov 29;333(3):175-8. [H+]

**Objection: - (a) There has been no flora and fauna assessment or survey of the site to ascertain species and the suitability of habitat to particular species, provided with the development application to adequately assess the ecological impacts of the proposed structure and axillary equipment, despite there being considerable scientific research undertaken to indicate that the emissions from telecommunication structures adversely impact wildlife, and (b) The development is not demonstrated to be appropriate to the zoning, location, and environmental characteristics of the land.**

• **Soil and Geology**

Queanbeyan-Palerang Local Environmental Plan 2020, Part 7 Additional local provisions, **7.1 Earthworks**, states: -

*(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

*(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

*(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and*

*potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

**Objection: -The development application states that excavation works will be required, but fails to address the effect this will have on soil structure, erosional factors and run-off, and how this will impact both the site and neighbouring properties.**

Queanbeyan-Palerang Local Environmental Plan 2020, Part 7, Additional local provisions, Clause 7.7 **Highly erodible soils** states: -

*(1) The objective of this clause is to provide for the appropriate management of land that has highly erodible soils or has the potential to be affected by the process of soil erosion. (2) This clause applies to land identified as “Erodible Lands” on the Landscape Map. (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following— (a) whether the development is likely to have an impact on soil erosion processes, (b) whether soil erosion processes are likely to have an impact on the development, (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

**Clause 7.8 Slopes over 18 degrees** *(1) The objective of this clause is to provide for the appropriate management of land that has a slope of over 18 degrees. (2) This clause applies to land identified as “Slopes over 18 degrees” on the Landscape Map. (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered— (a) whether the development is likely to have an impact on surrounding vegetation, the movement of water and soil erosion, and (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid any ECM 332234 Page 61 of 134 significant adverse environmental impact, or (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

We note that a copy of the Landscape Map as referenced in this clause could not be located, so as to determine the applicability of this requirement.

**Objection: - The development application states that excavation works will be required, however there is no evidence that an assessment has been done to establish the erodibility of the soil or the slope gradient, and therefore fails to address the**

impact the proposed development will have on the surrounding vegetation, the movement of water and soil erosion.

- **Water courses**

As specified in the Property Report for 34 Powell Drive Carwoola, 2620 (Lot/Section/Plan No: 33/-/DP774571), the relevant site has been identified as containing **Riparian land and watercourses**.

Queanbeyan-Palerang Local Environmental Plan 2020 under the Environmental Planning and Assessment Act 1979, Part 7 Additional local provisions, **Clause 7.5 Riparian land and watercourses** states that: -

*(1) The objective of this clause is to protect and maintain the following— (a) water quality within watercourses, (b) the stability of the bed and banks of watercourses, (c) aquatic and riparian habitats, (d) ecological processes within watercourses and riparian areas. ECM 332234 Page 59 of 134 (2) This clause applies to all of the following— (a) land identified as “Riparian land” on the Riparian Lands and Watercourses Map, (b) land identified as “Watercourse” on that map, (c) all land that is within 40 metres of the top of the bank of each watercourse on land identified as “Watercourse” on that map. (3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider— (a) whether or not the development is likely to have any adverse impact on the following— (i) the water quality and flows within the watercourse, (ii) aquatic and riparian species, habitats and ecosystems of the watercourse, (iii) the stability of the bed and banks of the watercourse, (iv) the free passage of fish and other aquatic organisms within or along the watercourse, (v) any future rehabilitation of the watercourse and riparian areas, and (b) whether or not the development is likely to increase water extraction from the watercourse, and (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

**Objection: - There is no evidence that an assessment has been done of the impact that the proposed development will have on the habitats and ecosystems of the watercourse, or the stability of the bed and banks of the watercourse.**

**B. Aesthetic value**

NSW Telecommunications Facilities Guidelines including Broadband, July 2010. Principle 1 states that: A telecommunication facility is to be designed and sited to minimise visual impact,



*(g) a Telecommunication facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.*

The proposed site of the 12-15 m fixed wireless tower is in close approximately to the property at 5 [REDACTED] (approximately 70m from the rear yard boundary and recreational areas, and approximately 100 m from the premises). The tower and associated hardware, will significantly impact on the visual amenity of residents of [REDACTED], and the outstanding panoramic views (including striking scenic views of the Brindabella mountains), from yard areas, seating areas and children’s play areas.



Current View from [REDACTED], looking west

Cherry pickers recently erected on the proposed site to simulate visual impact, were conspicuous from seating areas, rear and side yards, and from within the premises from south facing windows, including lounge areas. (Refer below)



View from [REDACTED] with the cherry picker simulating the impact on the vista and the proximity to the residence



Before - current view looking south from front door

After - view with proposed infrastructure from front door

**Objection: - The proposed development and associated hardware will be prominent structures at odds with the ecological and aesthetic values of the sites' E4 zoning, and the environmental significance of the region, and will greatly impact the visual amenity the adjoining property at [REDACTED].**

• **To encourage development that is visually compatible with the landscape.**

The Development Application states that the proposal for is "a single pole on top of a hill. The pole will blend in with surrounding trees. The cabinet is olive coloured which will blend in with surrounding vegetation".

It should be noted that the Development Application No. DA.2021.1628 for a 12-15m high telecommunications pole, solar array and roadside cabinet. It is suggested that there will also be associated hardware i.e., dish/dishes affixed to the pole, although details of such hardware have not been included with the development application.

It is also noted that the Telecommunications provider's ACMA licence was issued for a point-to-point tower with 85 Wanna Wanna Road, however in a zoom community meeting conducted on Saturday 4<sup>th</sup> September, numerous references were made to communication with a Fyshwick site. Should such communication with a second location require additional hardware, any evaluation of landscape compatibility and visual amenity would need to take into consideration a fully populated structure and associated hardware.

**Objection: - a) Given the characteristics of the proposed site location including its skyline backdrop, its proximity to surrounding vegetation, and its aspect in relation to adjoining properties (in particular [REDACTED]), the proposed development and associated hardware will not blend with the environment and will be incompatible with the landscape. The proposed development will therefore conflict with this stated value for E4 zoned land, and**

**b) There is insufficient specific detail provided with the development application to adequately assess both the full extent of the proposed development's incompatibility with the landscape and impact on visual amenity.**

- *To minimise the impact of any development on the natural environment.*

Objection: - The proposed development will significantly impact the visual aspects of the natural environment. There is also significant body of research to suggest that it could also adversely impact both flora and fauna. There is insufficient information provided with the development application to determine the impact on these and other aspects of the natural environment such as the geology, soil and erosion, watercourses and so forth, or to assess any proposed measures planned to mitigate or minimise these impacts.

- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*

Objection: -There is no way of knowing the impact that the proposed development will impact the demand for public services or public facilities at this time, and the development application does not adequately address this value.

- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

Objection: - The proposed development conflicts within land uses within the E4 zone and land uses within adjoining zones and is at odds with this value.

- *To ensure that rural residential development provides for integrated rural residential communities in its design.*

Objection: - The proposed development does not constitute a rural residential development and the development application does not address this value.

#### Clause 14.15(1)(a)(iii) – Development Control Plans

#### Queanbeyan-Palerang Regional Council Development Control Planning Instruments

##### ▪ **Grounds for Objection to Development Application**

The proposed site is identified in the *QPRC Certified Bush Fire Prone Land Map* as Bush Fire prone land (Vegetation- Category 1). The land is fully bush fire prone as defined in Section 10.3 of the Environmental Planning and Assessment Act 1979.

The relevant Queanbeyan Development Control Plan (2012), clause 2.8.3 states as objectives in relation to Bushfire Prone Areas: -

- 1) *To ensure that all new allotments and buildings have measures sufficient to minimise the impact of bushfires.*
- 2) *To minimise the impact of fire protection measures on vegetation, fauna, views, watercourses and soil erosion, amenity and access.*
- 3) *To identify the potential bushfire threats to individual sites.*
- 4) *To reduce the risk to property and the community from bushfire.*
- 5) *To ensure that bushfires protection is afforded to all new building allotments and the likely future improvements.*

Queanbeyan Development Control Plan (2012), Clause 2.8.5 Planning For Bushfire Protection requires that: -

*All development on Bush Fire Prone Land must satisfy the aim and objectives of Planning for Bushfire Protection 2006 (Updated 2019). Applicants must demonstrate to the Rural Fire Service and Council that the proposal satisfies the broad aim and objectives of Planning for Bush Fire Prone Land, specific objectives for the development type and the performance criteria for the various proposed bushfire protection measures.*

**Objection:** - There is no evidence in the development proposal that the above requirements have been addressed. There is no evidence of a site assessment, or the identification of strategies for the site to address the mitigation and management of the fire risks associated with such factors as location (vegetation density, slope etc), electrical faults, lighting strikes and human traffic to the site, or the impacts on the ecology.

**Clause 14.15(1)(b)- The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Whilst the likely impacts on the **natural** and **built** (particularly [REDACTED]) environments have been addressed previous, the identified **social** and **economic** impacts are outlined below: -

▪ **Grounds for Objection to Development Application**

• **Social Impacts**

- a) Concerns relating to the **health impacts** of Electromagnetic Emissions

It is noted that location of the proposed development is such that south facing rooms, including bedrooms and the lounge area, will be fronting the structure.

**It is also noted that the Development Application is not supported by an EME report addressing the impact of the proposal on the closest residences.**

Irrespective of the findings of such a report, there is now a sizeable body of existing and emerging peer-reviewed scientific study on the effects of Radiofrequency Electromagnetic Radiation (and the adverse impacts on human health), sufficient to cause the residents of [REDACTED] concerns, both in terms of the close proximity of the proposed development to the residence, and its potential short-term and long-term health impacts on family members and visitors to the residence

The BioInitiative 2012 Report- Retrieved from (<http://bioinitiative.org>), for example, compiled by 29 independent scientists, looked at many issues including the effects of wireless radiofrequency radiation on brain development, and the effects on children and adolescents in wireless classrooms.

Table 1-1 BioInitiative Report's Overall Conclusions (updated 2014), states that:-  
*"Overall, these new studies report abnormal gene transcription (Section 5); genotoxicity and single- and double-strand DNA damage (Section 6); stress proteins because of the*

*fractal RF-antenna like nature of DNA (Section 7); chromatin condensation and loss of DNA repair capacity in human stem cells (Sections 6 and 15); reduction in free-radical scavengers, particularly melatonin (Sections 5, 9, 13, 14, 15, 16 and 17); neurotoxicity in humans and animals (Section 9); carcinogenicity in humans (Sections 11, 12, 13, 14, 15, 16 and 17); serious impacts on human and animal sperm morphology and function (Section 18); effects on the fetus, neonate and offspring (Section 18 and 19); effects on brain and cranial bone development in the offspring of animals that are exposed to cell phone radiation during pregnancy (Sections 5 and 18); and findings in autism spectrum disorders consistent with EMF/RFR exposure.”*

The September 2020 Updated Research Summaries, also confirm the trend that “the great majority of studies report effects of low-intensity exposures to both ELF-EMF and RFR”

Some of the many references relevant to the topic, include:-

<https://emraustralia.com.au/blogs/news-1/tighter-standards-needed>

<https://ehjournal.biomedcentral.com/track/pdf/10.1186/s12940-021-00768-1.pdf>  
Cuicui Hu et al, ‘Effects of Radiofrequency Electromagnetic Radiation on Neurotransmitters in the Brain’, Front. Public Health, 17 August 2021, - Retrieved from <https://www.frontiersin.org/ar...>;

Chen,G.,Upham,B.L.,Wei Sun,Chang,C.,Rothwell,E.J.,Chen,K.,Yamasaki, H., and Trosko, J.E. (2000), “Effect of Electromagnetic Field Exposure on Chemically Induced Differentiation of Friend Erythroleukemia Cells”, Environ Health Perspect. Vol.108:967-972.

Ghazanfarpour M, Kashani ZA, Pakzad R, Abdi F, Rahnamaei FA, Akbari PA, Roozbeh N. Effect of electromagnetic field on abortion: A systematic review and meta-analysis. Open Med (Wars). 2021 Nov 3;16(1):1628-1641. doi: 10.1515/med-2021-0384. PMID: 34761114; PMCID: PMC8569282.

Michelozzi, P. Capon, A., Kirchmayer, U., Forastiere, F., Biggeri, A., Barca, A., & Perucci, C.A. (2002), “Adult and childhood Leukemia near a High-Power Radio Station in Rome, Italy”, American Journal of Epidemiology, Vol. 155, pp.1096-1103.

Investigation of the Effects of 2.1 GHz Microwave Radiation on Mitochondrial Membrane Potential ( $\Delta\Psi$  m), Apoptotic Activity and Cell Viability in Human Breast Fibroblast Cells. - Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/23723005?dopt=Abstract>

**Objection: As a result of the close proximity of the proposed development to [REDACTED], and the growing body of peer-reviewed scientific evidence of adverse health impacts of EMF radiation, the development will cause a level of concern to the residents that is unjust and unreasonable.**

b) Familial and Social Network

Due to their perceptions of the dangers of EMF/RFR radiation and the “precautionary approach” to exposure adopted by many schools, there are friends and family members of the residents of [REDACTED], who would be reluctant to have their children play in the vicinity of a microwave tower.

The residents enjoy entertaining, and the company of their family and friends. They want them to visit, enjoy the aspects of E4 Living, and to stay over should they choose, without the concern associated with the potential impacts of 24/7/365 EMF emissions.

**Objection: As a result of the close proximity of the proposed development to [REDACTED] and the growing body of peer-reviewed scientific evidence of adverse health impacts of EMF radiation, the development will likely impact the both the number of visitors to the premises, and their comfort while visiting. This will in-turn impact the residents’ amenity and enjoyment of their property.**

c) Removal of surrounding residents’ right to freedom of choice:-

i) Choice of residential location

The residence of [REDACTED] is ideally located on approximately 7 hectares, in a rural residential area within easy driving distance of Queanbeyan. The property is zoned E4 – for its environmental significance and terrestrial biodiversity rating. The residents chose to live in this part of regional Australia because of its impressive views and environmental characteristics, which provide habitat for many plant and bird species, and wildlife. The residents appreciate the peace and tranquillity, the aesthetics, and the fact that they are not surrounded by the structures associated with city living.

**Objection:- The installation of a 12-15m structure and associated hardware, will deprive the residents of [REDACTED] of the very attributes associated with the property, that motivated them to choose to reside at that location.**

ii) Choice on exposure to RF EME

It is noted that users of a mobile phone or home wi-fi system can choose to turn it off when not in use. However as highlighted in the development application and relevant ACMA licence for the site, the fixed wireless telecommunication will put out 398mW of Microwave emissions at 19.59GHz (X Band Super High Frequency) and will operate 24 hrs per day, 7 days a week, 365 days a year. The residents surrounding the location of telecommunications tower cannot choose to turn off such a facility, nor can they choose to limit their exposure to the Microwave Frequency emissions.

The forced exposure to EMR emissions that have the potential damage one’s health against one’s will, has been identified as a potential human rights issue.

**The Advisors to the Appeal sent a letter on 15 October 2019, to the U.N. Human Rights Advisory Committee commenting on its July 2019 Resolution, entitled “New and Emerging Digital Technologies and Human Rights”(it states);**

“Wireless communication technologies are rapidly becoming an integral part of every economic sector. But there is a rapidly growing body of scientific evidence of harm to people, plants, animals, and microbes caused by exposure to these technologies.

It is our opinion that adverse health consequences of chronic and involuntary exposure of people to non-ionizing electromagnetic field sources are being ignored by national and international health organizations despite our repeated inquiries as well as inquiries made by many other concerned scientists, medical doctors and advocates.

This constitutes a clear violation of human rights, as defined by the United Nations:

*“Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education.”*

(Retrieved from: - Welcome to **EMFscientist.org** ([www.emfscientist.org](http://www.emfscientist.org)))

It is also worth noting that as highlighted by the Environmental Health Trust – Electromagnetic Field Insurance Policy Exclusion Are The Standard ([eh.trust.org](http://eh.trust.org)), some public liability policies will now not cover damages or injury due to electromagnetic radiation.

**Objection: - The installation of a 12-15m structure and associated hardware, will deprive the residents of [REDACTED] of the choice to limit their exposure to RF EME.**

- **Economic Impact**

- a) **Impact on Property Value**

The vast majority of property owners that choose to sell their property, are looking to maximise the return on their investment.

As is evident from the photos presented previously in this submission from the front door of the premises at [REDACTED] (i.e., the before and after (cherry-picker simulated) views), there are no screening trees present between the location of the proposed tower and the residence, and the structure will be a prominent feature on the landscape.

The likely expectation of any prospective purchaser of the surrounding properties, and in particular [REDACTED] where the proximity and visual amenity will have the most significant impact, is that the purchase price reflect:-

- I. reduced visual amenity
- II. public perception of the potential health impacts

- III. any costs associated with additional landscaping deemed necessary to attempt to obscure the structure and associated hardware, and
- IV. any costs associated with any EMR protection changes, features and measures the purchaser deems necessary to make to the property, to ensure their desired level of comfortable within the premises.

There is supporting research evidence to suggest that telecommunication towers can in fact have a negative effect on property values and could reduce values by up to 20%. (Refer:- Bond, S., Mun, Si-Yeoul., Sakornvanasak, P., McMahon, N. (19-22/01/2003) - The Impact Of Cellular Phone Base Station Towers On Property Values. Ninth Pacific-Rim Real Estate Society Conference. Retrieved from [http://www.prrs.net/Papers/Bond The Impact Of Cellular Phone Base Station Towers On Property Values.pdf](http://www.prrs.net/Papers/Bond%20The%20Impact%20Of%20Cellular%20Phone%20Base%20Station%20Towers%20On%20Property%20Values.pdf))

This study states that *new technology that represents potential hazards to human health and safety may cause property values to diminish due to the existence of "widespread public fear" and "widespread public perceptions of hazards"*

It is also worth noting that even a research study that could not establish a relationship between cell towers and house prices, provided for an exception, being *"armed monopole towers located in residential areas due to such towers' acute visual disamenity"*. Retrieved from [https://www.researchgate.net/publication/235317103\\_The\\_impact\\_of\\_proximity\\_to\\_cell\\_phone\\_towers\\_on\\_residential\\_property\\_values](https://www.researchgate.net/publication/235317103_The_impact_of_proximity_to_cell_phone_towers_on_residential_property_values))

Refer also: –

Emfanalysis. (2019) Property Values Declining Near Cell Towers. Retrieved from <https://www.emfanalysis.com/property-values-declining-cell-towers/>)

Campanelli & Associates. (N.D). Does the Installation of a Cell Tower Reduce the Value of Nearby Properties. Retrieved from [https://anticelltowerlawyers.com/anti\\_cell\\_lawyer\\_1\\_018.htm](https://anticelltowerlawyers.com/anti_cell_lawyer_1_018.htm).

**Objection: The proposed development will likely negatively impact the property value of [REDACTED].**

#### **Clause 14.15(1)(c)- the suitability of the site for the development,**

In relation to ***the suitability of the site for the development***, the following points are noted:-

- Technology alternative options

The residents of [REDACTED] currently have a [REDACTED] land line and a [REDACTED] modem with Wi-Fi (which is optional and can be turned off), for the premises. Their business which relies very heavily on broadband and is located in Canberra, requires them to conduct regular Zoom/Team meetings from the residence to numerous overseas



organisations to accommodate different their time zones. They also use the Wi-Fi for watching movies and for some other internet activities. The residents are satisfied with the service they currently have and will receive no benefit from the proposed development.

It should be noted that, if satisfactory 4G coverage were an issue, there are plans available with satellite-based providers that appear to offer attractive internet speeds as an alternative, and that do not require the construction of a permanent 12-15m structure on environmentally sensitive land. Given the advances in Satcom technology, and issues associated with hilly terrains that can pose problems for technology that requires line-of- sight, this may well be the way of the future for challenging locations.

The location of the proposed tower is intended to be extremely close to the residents' home and yard, and will significantly affect their amenity and enjoyment of their own property.

- Site Alternatives

The region has numerous hills that are either privately owned, state owned or designated as Crown land. Some possess some form of existing easement and/or access. It has also been confirmed in both correspondence with the Telco provider and in the zoom community meeting conducted on Saturday 4th September, that viable alternative sites do exist for the proposed development, however, the reason that they are not being pursued remains unclear.

Private geospatial line-of sight modelling undertaken by the residents of [REDACTED] confirms the existence of alternative sites which will likely meet more of the regulatory requirements, and have less impact in relation to proximity to residents, aesthetics, and the environment.

Some of the hills are even higher in elevation than the proposed site, and as indicated in line-of-sight modelling, would provide more extensive coverage of the Carwoola region. One particular site already has some existing infrastructure and would more likely satisfy **Principle 2** of the NSW Telecommunications Facility Guideline Including Broadband dated July 2010, which states that, *Telecommunication facilities should be co-located wherever possible.*

Relevant Commonwealth, State legislation and local planning provisions are designed to provide protection to the characteristics that provide the appeal of environmental E4 living, and which attract residents to this region. It is difficult to comprehend the choice of a site for the proposed development that would impact surrounding residents, and potentially destroy an environmentally significant and picturesque E4 setting.

**Objection: - For all of the reasons set out in this submission, the site at 34 Powell Drive is considered to be a wholly unsuitable site for the proposed development.**

Clause 14.15(1)(d)- the public interest,

*d) the public interest.*

Objection: - Given,

- the E4 zoning requirements
  - the proximity of the proposed development to surrounding residents,
  - the impacts that the development will have on visual amenity,
  - the existence of alternative technology options, and
  - the potential environmental, social and economic impacts,
- the proposed development is considered by the residents of [REDACTED], to **NOT** be in the public interest.



**Conclusion: -**

Development Application No. DA.2021.1628 for the development of a 12-15m high telecommunications pole, solar array and roadside cabinet at 34 Powell Drive Carwoola, 2620 (Lot/Section/Plan No: 33/-/DP774571) does not demonstrate that it is appropriate to the location, surrounding development and environmental characteristics of the land (E4 zoning). Additionally, the development application does not demonstrate that it will not have a significant negative impact on the environmental amenity of the locality, species, populations and ecological communities on and in proximity to the site, and wildlife arising from EME radiation.

The residents of [REDACTED] consider the proposed development to be wholly unacceptable in terms of siting (including its proximity to surrounding residents and the existence of alternative locations), environmental impacts, visual impacts, unreasonable social impacts (including on health and amenity), and unreasonable economic impacts, and **request that Council refuse the development application** on this basis, and the further grounds outlined in this objection.

Yours sincerely,

[REDACTED]

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4            DEVELOPMENT APPLICATION DA.2021.1628 –  
                                 TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
                                 CARWOOLA

ATTACHMENT 4    DA.2021.1628 - SUBMISSION 2 - 34 POWELL DRIVE,  
                                 CARWOOLA

Queanbeyan Palerang Regional Council  
PO Box 90  
Queanbeyan NSW 2620

[REDACTED]  
CARWOOLA NSW 2620  
8 December 2021

**Development Application No DA.2021.1628**  
**Construction of a Telecommunication Facility**  
**Assessing Officer: Vageesha Wellalage**

Dear Sir/Madam

I refer to the above-mentioned Development Application which is for the property [REDACTED] on Powell Drive.

My daughter, her family and I moved to Carwoola 6 years ago from Canberra. We chose a semi-rural area so that we could be free of the usual trappings of urban life, such as noise, traffic, inappropriate building and communications facilities, yet still be within commuting distance of employment and shopping.

While the proposed tower would not be visible from the housing [REDACTED], it would be visible from the gazebo at the top of the property where we gather on a regular basis to view the country landscape and to hold social events. It would not be attractive and would detract from the surrounding scenery.

In addition, we are concerned about emissions from the tower, which is something we were trying to avoid by moving to this area.

We also believe that this could be the tip of the iceberg, and that once one installation is approved, there would be nothing stopping more from popping up all over our beautiful landscape.

For your consideration

[REDACTED]  
[REDACTED]  
[REDACTED]

RECEIVED IN Records Queanbeyan-Palerang Regional Council	
14 DEC 2021	
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**DECLARATION OF POLITICAL  
DONATIONS AND GIFTS FOR  
SUBMITTERS**

Use this form to declare whether you have made a Political Donation to an elected member of Council or gift to an elected member of Council or Council staff

Has the person lodging this written submission made political donation or gift to the value of \$1,000 or greater, to an elected member of Council or staff of Queanbeyan-Palerang Regional Council?

NO   
YES

Signature of Submitter: [Redacted]

Name: [Redacted]

Address: [Redacted]

Development Application Number: DA, 2021.1628

Property Address: [Redacted]

If yes, you must complete and return with your submission the form entitled "Political Donations and Gifts Disclosure Statement to Council". This form is available on Council's website at [www.qcc.nsw.gov.au](http://www.qcc.nsw.gov.au)

The Political Donations and Gifts Disclosure Statement to Council can be obtained from Council's Natural and Built Character Service Counter at 256 Crawford Street, Queanbeyan.

Further details are available from the NSW Government Department of Planning website at [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations)

**IMPORTANT**  
**You must complete and attach this form to your written submission to Council**

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4 DEVELOPMENT APPLICATION DA.2021.1628 –  
TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
CARWOOLA

ATTACHMENT 5 DA.2021.1628 - SUBMISSION 3 - 34 POWELL DRIVE,  
CARWOOLA

09 December 2021

To whom it may concern

Re- DA 2021.1628 34 Powell Drive Carwoola

Lot 33 DP774571 for construction of a telecommunications facility

October last year I purchased [REDACTED] Carwoola. Which is within close proximity to the above DA .There was no mention in the contract of any proposed telecommunication facilities, nor did my legal representative find any such proposal.

Had I known of such a construction I would have not proceeded with purchase. As I was relocating to be close to the youngest daughter to be the main daytime carer for her new son.

My biggest concern is with the impact of the radiation from these towers have on our health particularly our very young ones, environment and the decrease of value that land holders have invested in.

The only notification I received about this DA was in my mailbox from the owners of [REDACTED] [REDACTED] a week prior to the online community meeting held on 04/09/21 by [REDACTED] Without hesitation I attended and emailed [REDACTED] after the meeting with safety questions of which he was unable to address my concerns.

What I did understand from [REDACTED] community meeting was there are other locations which are suitable and would not impact the rural landscape.

I strongly OPPOSE the construction of this DA to build a telecommunications facility and any future telecommunication facilities in close proximity to my property.

Just thinking of a tower radiating permanent electromagnetic fields and frequencies given children absorb these at a significant higher rate and that I'm the permanent part time carer for 2 of my precious grandsons, aged 1 and 2. It is really concerning me that I just couldn't go and turn it OFF when I care for my grandchildren, which is why I am writing and appeal to you to REJECT DA2021.1628

Yours sincerely

[REDACTED]

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4 DEVELOPMENT APPLICATION DA.2021.1628 –  
TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
CARWOOLA

ATTACHMENT 6 DA.2021.1628 - SUBMISSION 4 - 34 POWELL DRIVE,  
CARWOOLA



# Make a submission on a Development Application



Submission date: 7 December 2021, 7:11PM  
Receipt number: 513  
Related form version: 14

Development Application Number	DA2021.1628
Your full name	[REDACTED]
Email address	[REDACTED]
Contact number	[REDACTED]

Submission

Hi there, I am writing as a concerned Carwoola resident and the proposal of the 12 metre tower proposed for Powell Drive

We attended a zoom community consultation where I raised concerns around the frequency omission of the tower which was described as no stronger than a WiFi signal. However this is a structure that will operate 24 hours/day, 7 days a week and unlike a WiFi router, will project frequencies to a larger radius and interrupt the natural frequency to local flora and fauna. Along with human kind, my 2 year old son and is regularly cared for by [REDACTED], very close proximity to the proposal

This is a 12 metre structure which imposes on the rural aspect and landscape of the area. This is the exact reason we purchased our land in the location of Carwoola, to not be surrounded by man made infrastructure on our property or those neighbouring

I urge for council to reject this proposal and consider an alternate site for this proposal, well away from the residences, young children and adults alike.

There are little studies on the impact these towers have on the wellbeing and while we were referred to a government

website which lacked any unfunded research or information, I refer you to the following appeal and ask for council to consider how safe these towers are?  
'The EMF Call'  
(<https://www.emfcall.org/the-emf-call/>), which reads:  
'Scientists and NGOs Call for Truly Protective Limits for Exposure to Electromagnetic Fields (100 kHz to 300 GHz)'  
'ICNIRP's opinion and guidelines are unscientific and protect industry, not public health... In order to protect the public and the environment from the known harmful effects from electromagnetic fields (EMF) we ask the United Nations, the World Health Organization and all governments not to accept the ICNIRP guidelines. They are not protective, rather they pose a serious risk to human health and the environment since they allow harmful exposure to the world population, including the most vulnerable, under the unscientific pretext that they are "protective".'

Attach your submission

Attach your Political Donations and Gifts Disclosure Statement

[20211207\\_190003.jpg](#)

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4            DEVELOPMENT APPLICATION DA.2021.1628 –  
                                         TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
                                         CARWOOLA

ATTACHMENT 7    DA.2021.1628 - SUBMISSION 5 - 34 POWELL DRIVE,  
                                         CARWOOLA



14 December 2021

Mr Peter Tegart  
Chief Executive Officer  
Queanbeyan Palerang Regional Council  
PO Box 90 QUEANBEYAN NSW 2620

Dear Mr Tegart,

**Re: Objection to Development Application No DA.2021.1628 for Construction of a Telecommunications Facility at 34 Powell Drive (Lot 33 DP 7745718), Carwoola NSW**

Capital Region Planning has been engaged by the owners and residents of [REDACTED], Carwoola to review DA.2021.1628 and prepare a letter of objection to the proposed telecommunications facility at 34 Powell Drive Carwoola (**the site**). The site is currently improved with a single dwelling and associated structures set within an rural environmental living setting. The site is zoned E4 Environmental Living, pursuant to the Queanbeyan Local Environmental Plan 2012 (**the LEP**).

DA.2021.1628 seeks Council's consent for the construction of a Telecommunications Facility, under Part 4 of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act 1979**). The DA proposes the following:

1. Installation of a telecommunications facility (specifically a microcell installation) which comprises of a tower with contradictory maximum heights of 12.13 metres and 15 metres in the DA documentation;
2. Installation of a road side cabinet or field cabinet;
3. Installation of a solar array;
4. Installation of single pole tower with hydraulic capabilities with an unknown maximum height;
5. Earthworks and potential tree removal or pruning works; and
6. Potential construction of an access road to service facility.

The DA has been placed on public exhibition from 19 November until 7 December 2021, and exhibition was subsequently extended until 15 December 2021. It should be noted that our review of the DA submission has identified several inconsistencies and deficiencies in the supporting commentary, proforma drawings and documentation. Accordingly, the DA as submitted constitutes an incomplete application and should not be approved by Council as a full and proper assessment cannot be completed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**).

The following sections, of this letter outlines the reasons for objection and provides a brief conclusion. We request that Capital Region Planning and our clients (owners and residents of [REDACTED], Carwoola) be kept informed of the DA assessment and determination process including any referral of the DA to a Council meeting (if required), along with the opportunity to review a revised DA.



We hereby submit our grounds for objection to DA.2021.1628 for the construction of a telecommunication facility at DA at 34 Powell Drive Carwoola as follows:

**1 Incomplete and Inaccurate DA Submission**

1.1 Our review of the DA submission indicates that the application is incomplete and therefore Council is unable to complete a full and proper assessment of the application under Section 4.15 of the Environmental Planning and Assessment Act 1979 (**the EP&A Act**). The DA is considered incomplete for the following reasons:

- a) Drawing identified as sheet 1 of 3 titled 12m 4SF AFS350 15t SJ revision A indicates that the tower will have a height of 12013.5mm (12.01 metres). Contradicting this information is the document titled TLess4U Planning Pathway for: POWELL which states that the tower will have a height of no greater than 15 metres.
- b) The DA relies on a proforma Statement of Environmental Effects (**SEE**) for an Industrial land use, industrial land uses are prohibited in the sites E4 Environmental Living zone. The DA seeks approval for a *Communications Facility* which does not constitute an industrial land use and the SEE fails to adequately describe and assess the impacts of the development, such as:
  - Fails to accurately detail and describe the proposed development in its entirety and its potential impacts;
  - Fails to detail how much excavation or land clearing will be completed as part of the development and its impacts along with the exact location of all associated structures, noting the development is proximate to existing trees and/or vegetation;
  - Fails to address all relevant provisions under *SEPP (Infrastructure) 2007 (the SEPP)*;
  - Fails to address the NSW Telecommunications Facilities Guideline Including Broadband July 2010 which is a requirement under the SEPP;
  - Fails to address all relevant provisions under the *Queanbeyan Local Environmental Plan 2012 (the QLEP)*, in particular the site's zoning and environmental affectations including Riparian Lands and Watercourses and Terrestrial Biodiversity matters;
  - Fails to consider and address the relevant parts of the *Queanbeyan Development Control Plan 2012*;
  - Fails to outline requirements for accessing the location of the telecommunications facility both during construction and for ongoing maintenance.
  - Fails to identify the likely impacts of the development (including environmental impacts on the natural environment, and social and economic impacts in the locality);
  - Fails to demonstrate that the development is suitable for the site and consider if the development is in the public interest.



- c) The submission of a complete SEE is required for all DAs as outlined under Schedule 1 of the Environmental Planning and Assessment Regulations 2000 (**the Regulations**), accordingly, the DA cannot be fully assessed nor can the DA be approved.
- 1.2 The drawing titled Tower Location Survey only identifies the location of the proposed tower. The proposed location of associated facilities is unknown, such as the solar array, pole tower with hydraulic capabilities, trenching for cables and roadside cabinet are not identified on the site plan or any plan reflecting the site and its characteristics. Accordingly, we are unable to determine the full extent of impacts on [REDACTED].
- 1.3 The drawings submitted with the DA prepared by ARE Telcom & Wind are proforma drawings which do not correlate with the site conditions and characteristics.
- 1.4 The documentation titled IP66 19" Field Cabinet is proforma and does not correlate with the site plan submitted with the DA. Furthermore, the associated services with the cabinet are not included such as any connections, conduits and excavation associated with the tower. We note that the field cabinet is proposed to contain electrical equipment in a bushfire prone area, this may present a bushfire risks.
- 1.5 Based on our review of the DA, Capital Region Planning has identified the following additional issues as requiring further investigation:
- (a) Full set of DA drawings completed in accordance with Council's DA submission requirements;
  - (b) Consideration of the extent of cut and fill associated with the works and potential impact on trees and vegetation in an environmentally sensitive area;
  - (c) The lack of any meaningful visual impact assessment from the proposed tower and associated facilities;
  - (d) Terrestrial biodiversity and riparian corridor – ecological and environmental reports;
  - (a) Bushfire affectations – reports detailing implications for the site, development and any implications for surrounding properties; and
  - (b) Proper SEE prepared in accordance with the requirements of Schedule 1 of the Regulations.
- 1.6 Accordingly, we are of the view that Council must refuse the DA under the provisions of the EP&A Act. In the event Council seeks amended or addition information, the revised DA must be renotified to provide the public with an opportunity to review and comment on the merits or otherwise of the proposed telecommunications facility.
- 2 Fails to address the site's E4 Environmental Living zoning objectives and Aims of Plan in the QLEP**
- 2.1 The site is zoned E4 Environmental Living, pursuant to the LEP. E4 zoned land is the most sensitive environmental lands which may be utilised for a limited range of permissible uses including low impact residential. The E4 zone objectives are detailed below.



**Zone E4 Environmental Living**

**1 Objectives of zone**

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To encourage development that is designed to recognise the bushland character of the locality where appropriate and to minimise the impact of urban development, particularly on the edge of the urban area.*
- *To ensure that rural residential development provides for integrated rural residential communities in its design.*

2.2 In our view, the proposed telecommunication facility fails to address objective one and two as the development constitutes a high impact facility on land which has special ecological and aesthetic values. The installation of the tower and associated structures will diminish the setting of the site and its locality, with the potential to result in adverse ecological and visual impacts.

2.3 in terms of objective three the proposed development has failed to have regard to and recognise the desired bushland character by situating a high impact telecommunication facility in an E4 Environmental Living zone and in a highly prominent location. The proposed location of the high impact telecommunication facility is near the dwelling situated at [REDACTED] and will be readily visible detracting from district views and the reducing the residential amenity of the property – see site plan overleaf.

---



Figure 1: Site Plan of Telco facility relative of at [redacted] dwelling, 6maps

- 2.4 This telecommunication facility is located directly in my client’s vista from their home and made more prominent because it is on a small hill where tree have been cleared around it. This is the main impact on my client and there are various more suitable locations on this site for such a tower. This tower is located well away from the proponent’s dwelling but parallel and in the most visually obtrusive place possible for my client.
- 2.5 Finally, the proposed telecommunication facility will be situated on an existing residential site and is not sited proximate nor is it collocated with any other utilities or telecommunication facilities which is required under objective four of the E4 zoning.
- 2.6 Having regard to clause 1.2 Aims of Plan it is submitted that the telecommunication facility with a height of up to 15 metres is contrary to subclause 2 (e) and (f) which aims to protect the scenic quality, views and vistas, and maintain the unique identity and country character of Queanbeyan.
- 2.7 Accordingly, the proposed telecommunications facility is contrary to the E4 Environmental Living zone objective and Aims of Plan resulting in adverse impacts on the site, surrounding properties and locality.





**3 State Environmental Planning Policy (Infrastructure) 2007 and NSW Telecommunications Facilities Guidelines including Broadband**

3.1 The proposed high impact telecommunications facility development must address the provisions of SEPP (Infrastructure), specifically clause 115 Development permitted with consent provisions which states (emphasis added):

**115 Development permitted with consent**

(1) *Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.*

(2) *(Repealed)*

(3) **Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette.**

3.2 The SEE submitted with the DA fails to address the provisions of SEPP (Infrastructure) and the guidelines reference under clause 115. These are significant omissions demonstrating that the DA has neither considered nor addressed the provisions of the SEPP and detailed guidelines in the preparation and submission of the DA.

3.3 The *NSW Telecommunications Facility Guideline Including Broadband* dated July 2010 (**the Guideline**) details a range of matters which must be addressed in the submission of a DA and assessment for a Telecommunication Facility. Section 2.2 The Principles outlines the key considerations, and our review indicates that the DA fails to address multiple requirements under each of the principles. The reasons for this are set out below.

(a) *Principle 1: A telecommunication facility is to be designed and sited to minimise visual impact,* the proposed development fails to address principle 1 subclauses (d), (e), (g) and (h) for the following reasons:

- Matter (d) the proposed ancillary facilities are not detailed on the site plans and the DA does not demonstrate how these facilities would be screened and integrated into the telecommunications facility, to reduce its visibility both through colours and use of existing or new vegetation.
- Matters (e) and (g) are not addressed as the telecommunications facility must be located and designed to respond appropriately to the site's environmental landscape setting. The objectors dwelling at 58 Powell Drive is situated in close proximity to the proposed telecommunications facility and the 15-metre height of the tower and associated facilities will make the tower readily visible and diminish the landscape setting. Furthermore,



telecommunication facilities fail to avoid the obstructions to significant view, vista and panorama when viewed from 58 Powell Drive.

- Matter (h) the site plan submitted with the DA indicates that the telecommunications facility and associated structures are proximate to several existing trees and/or vegetation which may require pruning or removal. Furthermore, it is noted that the site is mapped for terrestrial biodiversity characteristics this has not been considered nor addressed in the DA submission.

(b) *Principle 2: Telecommunication facilities should be co-located wherever possible*, the DA fails to address subclauses (b), (d) and (e) for the following reasons:

- Matter (b) the telecommunications facility has not been co-located or attached to existing structures to minimise the proliferation of telecommunication facilities and unnecessary clutters. To the contrary this facility will be isolated on a relatively small Environmental Living lot and impacting on neighbouring properties.
- The DA fails to address matter (d) and (e) as the proponent has failed to demonstrate that existing towers in Carwoola cannot be extended to accommodate the facility and the proponent must demonstrate that co-location is not practicable by providing specific coverage objectives and negotiations with co-located providers.

(c) *Principle 3: Health standards for exposure to radio emissions will be met*, the DA fails to address subclauses (a) and (b) as no information has been provided with the application dealing with radiofrequency emissions to comply with the Radiation Protection Standard. Furthermore, an EME Environmental Report has not been provided and is required from the proponent to address the Mobile Phone Network Code in terms of design, siting of facilities and notifications.

#### **4 Contrary to Part 5 Environmental Zones in the Queanbeyan Development Control Plan 2012**

- 4.1 Part 5 of the Queanbeyan Development Control Plan 2012 (**the DCP**) applies to all development zoned E4 Environmental Living under the QLEP. Part 5 contains several sections, objectives and controls which have not been addressed as part of the DA submission, these are discussed below.
- 4.2 Section 5.1.3 Objectives applicable to the Rural and Environmental Zones the DA fails to address subsections (1) and (2) as the telecommunications facility fails to maintain the rural character of the locality and will result in disturbance on the landscape and environment generally. In addition, the Telecommunication Facility land use is not ecologically sustainable and has failed to address the environmental characteristics of the site and locality.
- 4.3 The DA fails to address section 5.2.3 Management of Flora and Fauna which requires the submission of a preliminary flora and fauna report which determines if the proposed development



is likely to significantly access threatened species, populations or ecological communities or their habitats.

- 4.4 The DA fails to address section 5.2.4 Aboriginal Heritage which requires the application to demonstrate that the development will not adversely impact Aboriginal objects and places in NSW, noting no investigations have been completed nor provided with the DA.
- 4.5 The DA fails to address section 5.2.5 Bush Fire Management which requires a bush fire report to accompany the DA submission noting the affectations over the site and potential implications for surrounding land.

**5 Failure to address Part 2 All Zones of the Queanbeyan Development Control Plan 2012**

- 5.1 Part 2 All Zones of the DCP applies to all development within QPRC. Part 2 contains a number of sections, objectives and controls which have not been addressed as part of the DA submission, these are discussed below.
- 5.2 The DA fails to address sections 2.2.9 Access Ways Associated with Car Parking Areas and 2.2.14 Service Vehicle Areas as the application does not consider the ongoing vehicular access requirements to the Telecommunications Facility nor its impact on the site and surrounding properties.
- 5.3 The DA fails to address section 2.6 Landscaping which requires the preparation and submission of landscape plans to ensure new development in the LGA reinforces the natural environment and quality of the environment for the broader community.

**6 Visual and view impacts**

- 6.1 The SEE fails to provide any consideration or assessment on the visual or view loss impacts that the 15-metre-high telecommunications facility will create. As discussed, there is significant visual impact on the existing dwelling at [REDACTED]. In this regard, the SEE and DA is patently deficient, and the consent authority does not have enough information to make a genuine assessment.
- 6.2 Based on the plans, it appears to us that the proposed development would result in visual impacts and view loss for residents at [REDACTED]. The proposed development will be particularly prominent and yet the SEE pays no regard to this.
- 6.3 In our view, Council cannot undertake any meaningful assessment of the likely visual impact and view loss arising from the proposed development, on the basis of the documents provided. Council should insist that the applicant prepare a detailed visual impact assessment which considers the proposed high impact telecommunications facility in respect of which approval is sought. This assessment should pay particular regard to:
  - (a) the proposed development when viewed from [REDACTED]; and





- (b) the need to maintain the environmental setting of the both sites E4 Environmental Living zoning, vistas and view through the Site from adjoining properties.

**7 Suitability of the Site**

- 7.1 In our view, the issues set out above are all indicia of the unsuitability of the Site for the proposed telecommunications facility development.
- 7.2 The DA articulates a form and intensity of development that is not suitable for the Site, for the reasons set out above.

**8 Conclusion**

- 8.1 For the reasons set out above, in our view the DA should be refused.

Should you have any queries regarding this matter please do not hesitate to contact myself on 02 6262 5091.

Yours sincerely,

**Capital Region Planning**

Andrew Connor RPIA  
**Manager - Senior Town Planner**

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

- ITEM 9.4            DEVELOPMENT APPLICATION DA.2021.1628 –  
                                         TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
                                         CARWOOLA
- ATTACHMENT 8    DA.2021.1628 - SUBMISSIONS MADE TO MAYOR AND/OR  
                                         COUNCILLORS (POST NOTIFICATION) - 34 POWELL  
                                         DRIVE CARWOOLA

[REDACTED]

---

**From:** Kenrick Winchester  
**Sent:** Wednesday, 20 April 2022 6:19 PM  
**To:** [REDACTED]  
**Subject:** FW: Attn Required: YLESS4U tower on Powell drive

**Importance:** High

**Kenrick Winchester**  
Mayor  
**Tel:** [\(02\) 6285 6299](tel:0262856299) **Mob:** [0407 782 138](tel:0407782138)

---

**From:** [REDACTED]  
**Sent:** Wednesday, 20 April 2022 12:50 PM  
**To:** Kenrick Winchester <Kenrick.Winchester@qprc.nsw.gov.au>  
**Cc:** Cr Katrina Willis <CrKatrina.Willis@qprc.nsw.gov.au>; Cr Louise Burton <CrLouise.Burton@qprc.nsw.gov.au>; Cr Bryce Wilson <CrBryce.Wilson@qprc.nsw.gov.au>; Cr Esmā Livermore <CrEsmā.Livermore@qprc.nsw.gov.au>; Cr Jacqueline Ternouth <CrJacqueline.Ternouth@qprc.nsw.gov.au>; Cr Mareeta Grundy <CrMareeta.Grundy@qprc.nsw.gov.au>; Cr Steve Taskovski <CrSteve.Taskovski@qprc.nsw.gov.au>; Cr Edwina Webster <CrEdwina.Webster@qprc.nsw.gov.au>; Cr Michele Biscotti <CrMichele.Biscotti@qprc.nsw.gov.au>; Cr John Preston <CrJohn.Preston@qprc.nsw.gov.au>  
**Subject:** Attn Required: YLESS4U tower on Powell drive  
**Importance:** High

[EXTERNAL] This email originated from outside of the organisation. Please do not click links or open attachments unless you recognise the sender and know that the content is safe.

Kenrick,

We live [REDACTED] in Carwoola NSW 2620.

We purchased out here in [REDACTED] and have been anticipating the improvement to our internet connection for several years now.

Not long after moving in there was a gathering at the Carwoola community centre where several providers including YLESS4U and some government officials presented a plan for the improved connectivity.

Now several years later, it was a welcome update that things were finally progressing for our particular area. This excitement was shortly followed by bewilderment at the fact that one of the 40 residents in the Powell Drive/Watson Place/Trig Lane community was opposed to what has been a long time coming.

Coming from my own IT background of almost 40yrs, I have attempted to understand the logical reasons for opposition to this tower. In my research of the proposal, I cannot find any logical reason for opposition to something that will benefit all Powell Drive/Watson Place/Trig Lane residents and others further out from Queanbeyan that rely on this link.

From talking to longer standing residents, this area was originally farm land and largely cleared. When the properties were first establish the necessary power poles would have stood out quite remarkably. Some 30 years

later, the area is now well covered in establish trees. In particular, our property is bordered by [REDACTED] trees that are now 20+ metres high.

From my understanding the proposed site for the 12 mtr tower is 100+ mtrs from the boundary and in time (with appropriate planting), will disappear like all the power poles servicing the houses.

Although we have been lucky to have a reasonable 4G connection to our home, we look forward to the time when we have a decent internet connection.

My role with [REDACTED] requires that I am available 24/7 to provide after hours support. A better internet will improve my working arrangements.

In addition, we have not subscribed to any internet entertainment due to the poor quality internet that we currently have. A better internet will improve our entertainment side of life.

In short, it has been a long time coming to have better internet and unless there is a good logical reason not to proceed, we look forward to taking advantage of it.

I can be contacted on the mobile numbers below for further comment if required.

Regards

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** Kenrick Winchester  
**Sent:** Friday, 15 April 2022 3:35 PM  
**To:** [REDACTED]  
**Subject:** FW: YLess4U WiFi Tower at 34 Powell Drive, Carwoola

FYI

**Kenrick Winchester**  
Mayor  
**Tel:** [\(02\) 6285 6299](tel:0262856299) **Mob:** [0407 782 138](tel:0407782138)

---

**Sent:** Thursday, 14 April 2022 3:18 PM  
**To:** Cr Katrina Willis <CrKatrina.Willis@qprc.nsw.gov.au>; Kenrick Winchester <Kenrick.Winchester@qprc.nsw.gov.au>; Cr Louise Burton <CrLouise.Burton@qprc.nsw.gov.au>; Cr Bryce Wilson <CrBryce.Wilson@qprc.nsw.gov.au>; Cr Esmā Livermore <CrEsmā.Livermore@qprc.nsw.gov.au>; Cr Jacqueline Ternouth <CrJacqueline.Ternouth@qprc.nsw.gov.au>; Cr Mareeta Grundy <CrMareeta.Grundy@qprc.nsw.gov.au>; Cr Steve Taskovski <CrSteve.Taskovski@qprc.nsw.gov.au>; Cr Edwina Webster <CrEdwina.Webster@qprc.nsw.gov.au>; Cr Michele Biscotti <CrMichele.Biscotti@qprc.nsw.gov.au>; Cr John Preston <CrJohn.Preston@qprc.nsw.gov.au>; Jason Green [REDACTED]  
**Subject:** YLess4U WiFi Tower at 34 Powell Drive, Carwoola

[EXTERNAL] This email originated from outside of the organisation. Please do not click links or open attachments unless you recognise the sender and know that the content is safe.

Hi Kennrick,

I am an owner of the [REDACTED] property in Carwoola, where the new development of the YLess4U Wifi Tower is currently being proposed. I am writing to provide you with an overview of my experience and thoughts on the proposed WiFi tower development

In 2018/19, we were approached by Jason Green (YLess4U) who asked whether I (and the other owners) would be interested in allowing a WiFi Tower to be built on the property. I understand that our property provides a key location for the erection of the WiFi tower to enable it to connect to other WiFi towers in the region, to deliver better internet connectivity to residents all of the way out to Hoskingtown and the greater Carwoola region.

Initially, I carried out my own due diligence and research to better understand if there would be any potential health impacts that could be experienced by me or my friends and family. Once I was satisfied that the location of the WiFi tower on our property (and if maintained/operated appropriately) would not cause us any potential health risks greater than operating other existing electronic devices in my own home, such as a microwave or internet modem. I engaged further with Jason to enable him to progress the development approval with the state government and the council to help other residents in the Carwoola region get better access to the internet for homeschooling or working from home.

I understand one of our boundary neighbors is unhappy about the proposed YLess4U WiFi tower as they have expressed to us it will impact their view over our property. Once I became aware of their concerns, I asked Jason Green to erect a lifesize mobile 'mock-up' of the proposed tower (i.e. put up a mobile cherry picker at the same height) so that I could practically see the impact on the boundary neighbor's view over my property. I carried out a



photo study of the mock-up tower from all boundary fences on my property for my own personal use, and I would be happy to meet with you to allow you to view the personal photo study (if required).

I understand Jason has offered to establish and maintain a natural tree screen between the proposed WiFi tower development and the neighbor's boundary fence to alleviate any concerns with the neighbor's views over my property. I am very supportive of YLess4U's endeavor to deliver better internet connectivity to the region to help improve learning outcomes and productivity in our local economy.

Please do not hesitate to contact me if you would like to discuss this further.

Kind regards

A solid black rectangular box used to redact the sender's name and signature.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Tuesday, 5 April 2022 11:02 AM  
**To:** Kenrick Winchester  
**Cc:** [REDACTED]  
**Subject:** Re: DA.2021.1628 - Concerns (URGENT)  
**Attachments:** nsw-telecommunications-facilities-guideline-including-broadband-2010-07 (2).pdf

[EXTERNAL] This email originated from outside of the organisation. Please do not click links or open attachments unless you recognise the sender and know that the content is safe.

Dear Kenrick

To give you a heads up - fundamentally we would like to discuss the points below - which Council staff have still not addressed, even though we have raised them in almost every form of communication - including the recent site visit.

The Objections identified by Council's Natural & Built Character Team, and listed as :

1. *Human exposure to radiation*
2. *Impact on views*
3. *Environmental impact*
4. *Incomplete application as the SEE provided is incorrect*

are incomplete. As you can see from the CRP and our own Objection (previously forwarded to you), there were several other key issues raised including the impact on property valuation, impact on residents, more suitable site locations, inappropriate community engagement etc. - refer also to the Matters for Consideration document attached to our initial email to you.

We note that the provisions of State Environmental Planning Policy (Infrastructure) 2007 and the NSW Telecommunications Facilities Guidelines (see attachment) are the key Environmental Planning Instrument and Guidelines for the consideration and assessment of the DA by the Consent Authority. Specifically, clause 115 Development permitted with consent provisions of the SEPP states (**emphasis added**):

**115 Development permitted with consent**

*(1) Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.*

*(2) (Repealed)*

***(3) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette.***

As part of preparing the objection letter we engaged a Town Planning Consultant to undertake a detailed review of the NSW guidelines which indicated that the DA submission failed to address the requirements of the SEPP and associated guidelines. These matters are detail on page 6 and 7 of the CRP objection letter, we attached to previous correspondence. Essentially, we are of the view that the application fails to address principles 1, 2 and 3 which are stated below.

*Principle 1: A telecommunication facility is to be designed and sited to minimise visual impact,  
Principle 2: Telecommunication facilities should be co-located wherever possible.*

Principle 3: Health standards for exposure to radio emissions will be met,

As illustrated in the aerial imagery below, it is our view that proposed tower and its location will have unreasonably adverse impacts on [REDACTED] and the dwelling these matters are covered in detail in the CRP objection letter and letter from [REDACTED]. The proposed tower location from where our family undertakes outdoor entertainment is less than 70m away.

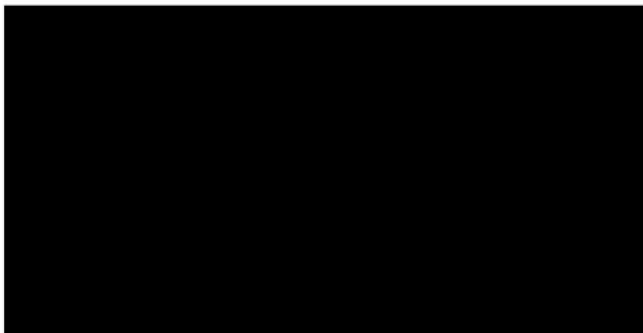


Figure 1: Site Plan of Telco facility relative of at [REDACTED] dwelling, 6maps

With regards to the DA submission we do not believe that Council would have been able to complete a full and proper assessment of the DA as required under Section 4.15 of the *Environmental Planning and Assessment Act 1979* having regard to limited documentation and plans included in the DA submission. The CRP Objection previously forwarded to you, outlines this in detail on pages 2 and 3.

Looking forward to speaking with you.

Kind regards,





# NSW TELECOMMUNICATIONS FACILITIES GUIDELINE INCLUDING BROADBAND

July 2010



Telecommunications Facilities Guideline Including Broadband

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NSW Department of Planning

[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)  
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# 1 Introduction

## 1.1 THE PURPOSE OF THIS GUIDELINE

The purpose of the *NSW Telecommunications Facilities Guideline including Broadband* is to:

- (a) provide a guide to the State wide planning provisions and development controls for telecommunication facilities in NSW contained in *State Environmental Planning Policy Infrastructure 2007* (SEPP Infrastructure);
- (b) provide guidance to assist the facilitation of the roll out of broadband in NSW.

The Commonwealth *Telecommunications (Low-impact Facilities) Determination 1997* (Determination) made under the *Telecommunications Act 1997* (Telco Act), operates in NSW and provides for the carrying out of many 'low-impact' telecommunication facilities that are not subject to NSW planning law.

This Guideline outlines the provisions of SEPP Infrastructure which incorporates the facilities contained in the *Determination* and provides for the development of further telecommunications facilities that do not require consent, together with complying developments.

The Guideline also provides a guide to the planning laws that relate to those telecommunication facilities that are:

- (a) development permitted without consent; and
- (b) development permitted with consent

Principles for the design, siting, construction and operation of telecommunications facilities that apply to all proposed telecommunications facilities in NSW have been developed and are contained in this Guideline.

The purpose of the Principles is to encourage the provision of telecommunications facilities with minimal impact on the amenity of an area.

It is anticipated that the new provisions of the SEPP Infrastructure and this Guideline will ensure that both wireline and wireless telecommunications infrastructure, including that which delivers broadband, is able to be provided in an efficient and cost effective manner to meet community needs for telecommunications services.

## 1.2 WHAT IS A TELECOMMUNICATIONS FACILITY?

A telecommunications facility is defined in SEPP Infrastructure as:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, cable, optical fibre, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole, or other structure in connection with a telecommunications network.

Telecommunications facilities provide for transmission of voice, data, image, graphic and video information between or among points by wire, cable, optical fibre, microwave, radio, satellite or similar facilities.

## 1.3 WHAT IS BROADBAND?

Broadband is a term used to express the speed and capacity at which a telecommunications service is delivered. Broadband is derived from the words, 'broad' and 'bandwidth' and is a generic term covering many different high capacity telecommunication circuits including two-way, 'always-on' internet connections. Broadband offers the opportunity to access the Internet and to obtain high volume data, at fast speeds.

The current and proposed delivery of broadband in Australia is via:

- (a) Copper telephone lines (e.g. ADSL and VDSL);
- (b) Wireless systems (e.g. mobile broadband, WiFi, WiMax, satellite);
- (c) Hybrid fibre-coaxial (HFC); and
- (d) Fibre systems including fibre-to-the-node (FTTN)/fibre-to-the-premises (FTTP).

Each of these digital delivery methods can produce fast broadband and include services such as voice, video, TV (including IPTV), data and text on a range of platforms.



#### 1.4 THE RELATIONSHIP BETWEEN THIS GUIDELINE AND COMMONWEALTH TELECOMMUNICATIONS LEGISLATION

This Guideline must be read in conjunction with relevant Commonwealth telecommunications legislation and SEPP Infrastructure. Where there is any inconsistency between Commonwealth laws and the laws of a State or Territory, the Commonwealth legislation prevails.

The Commonwealth *Telco Act* and the *Radiocommunications Act 1992* provide the framework for regulating the provision of telecommunications and radiocommunications services throughout Australia.

The *Telco Act* exempts certain telecommunications facilities from some State and territory laws including town planning laws. These facilities are described in Schedule 3 of the *Telco Act*, the *Determination* and the *Telecommunications Code of Practice 1997*.

The *Determination* contains a schedule of “low-impact” telecommunications facilities. Facilities that are low impact and installed pursuant to the carrier powers are not subject to State planning laws and therefore do not require development consent.

The principles outlined in this Guideline do not apply to development covered by the *Determination*.

Table 1 in this Guideline provides a list of telecommunications facilities that are Exempt or Complying Development in NSW as provided for in Schedule 3A of SEPP Infrastructure. This Guideline incorporates the facilities contained in the *Determination* and provides for additional exemptions as well as for complying development. Appendix C provides a full copy of the *Determination*.

All carriers licensed under the *Telco Act* must comply with the *Telco Act* and the *Telecommunications Code of Practice 1997*. The *Telecommunications Code of Practice* was made pursuant to Schedule 3 of the *Telco Act* and requires, amongst other things, carriers to comply with recognised industry Codes and Standards.

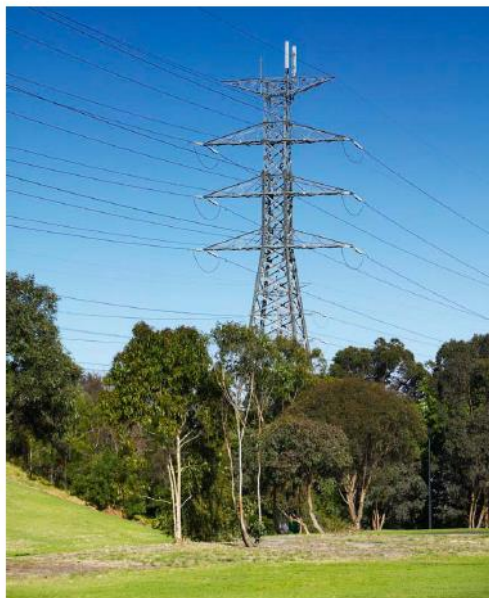
#### 1.5 HOW TO USE THIS GUIDELINE UNDER THE NSW PLANNING SYSTEM

Under the NSW planning system, development may be:

- (a) **Development that does not need consent**
  - (i) **Exempt Development** – no approval required;
  - (ii) **Development that is an activity under Part 5 of the EP&A Act** – requires an approval under Part 5 of the EP&A Act.
- (b) **Development that needs consent**
  - (i) **Development carried out in accordance with a development consent** – usually from council – a Development Application (DA) must be lodged, unless the proposal is a major project or critical infrastructure under Part 3A of the EP&A Act.
  - (ii) **Complying Development** – requires a Complying Development Certificate from a council or private certifier.
- (c) **Development that is prohibited**

**Note:**

- (i) SEPP Infrastructure prevails where there is any inconsistency with a Local Environmental Plan (LEP). (Refer to Clause 8(1) of SEPP Infrastructure).



Panel antenna on existing high voltage tower

### Initial Assessment Steps

In order to determine the type of approval required for a proposed telecommunications facility, the following steps may be followed by the proponent. (Refer to Figure 1).

#### Step 1

Step 1 is relevant to carriers only. Carriers are to determine if the proposed facility is contained in the *Determination* or is otherwise exempt from NSW planning law pursuant to Schedule 3 of the *Telco Act*. Always check the latest version of the *Determination* made by the Commonwealth Minister. Where the type of facility is contained in the *Determination*, then NSW planning legislation and the principles in this Guideline do not apply. No approval is required under NSW law and the following steps are not relevant. Carriers therefore shall not use this Guideline where the facility is covered by the *Determination*. However, where the proposal is not included in the *Determination*, carriers are to proceed to the following steps.

#### Step 2

Check if the proposed telecommunication facility is a **permissible use** on the proposed site in the LEP and SEPP Infrastructure. If not, talk to the council or find another site.

#### Step 3

If a permissible use, and if not authorised pursuant to Commonwealth law, determine if the proposed facility corresponds with a type of facility description in Clause 116 and 116A and Schedule 3A of SEPP Infrastructure set in Table 1 of this Guideline. If so, it may be Exempt or Complying Development.

#### Step 4

Does the proposed facility meet the listed standards for **Exempt Development** in Schedule 3A Part 1 Column 2 of SEPP Infrastructure which are set out in Table 1 of this Guideline? – if yes - no approval required.

#### Step 5

If not, does the proposed facility meet the listed standards for **Complying Development** in Schedule 3A, Part 2, Column 2 of SEPP Infrastructure (set out in Table 1 of this Guideline)? – if yes, a Complying Development Certificate will need to be obtained to certify that the development does comply with the SEPP Infrastructure and may be carried out.

#### Step 6

If not, check if the proposal is **permitted without consent or permitted with consent** under Clause 114 and 115 of SEPP Infrastructure.

If permitted without consent an assessment process under Part 5 of the EP&A Act is required.

If it is permitted with consent a DA must be lodged to obtain **development consent** from the consent authority – usually council.

### 1.6 TO WHICH ZONES DOES THE GUIDELINE APPLY?

The general and specific requirements relating to telecommunications facilities apply to all zones contained within LEPs in NSW. In some instances the specific requirement in the SEPP Infrastructure may specify that it relates only to a specific zone(s).

The zone types are defined in the Standard Instrument Principal Local Environmental Plan. Refer to Clause 6 of SEPP Infrastructure in relation to equivalent zones.

### 1.7 DEVELOPMENT APPLICATIONS

When considering a development application for a telecommunications facility, the consent authority is to refer to SEPP Infrastructure and consider the Principles set out in this Guideline, and relevant Commonwealth legislation.

All carriers must comply with the Radiation Protection Standard entitled Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz (2002) in relation to health and wireless telecommunications facilities.

If the consent authority determines to approve the development, Appendix B provides an example set of standard conditions of consent as a guide.

### 1.8 CONSULTATION

For both exempt development and complying development to the extent that the development involves the installation of fixed radiocommunications infrastructure used, intended to be used or capable of being used to supply Public Mobile Telecommunications Services, the installation of such a facility must comply with the ACIF Code C564:2004. Deployment of *Mobile Phone Network Infrastructure (Mobile Phone Networks Code)*. Refer to the notification sections of the ACIF Code, and Appendix F of this Guideline.

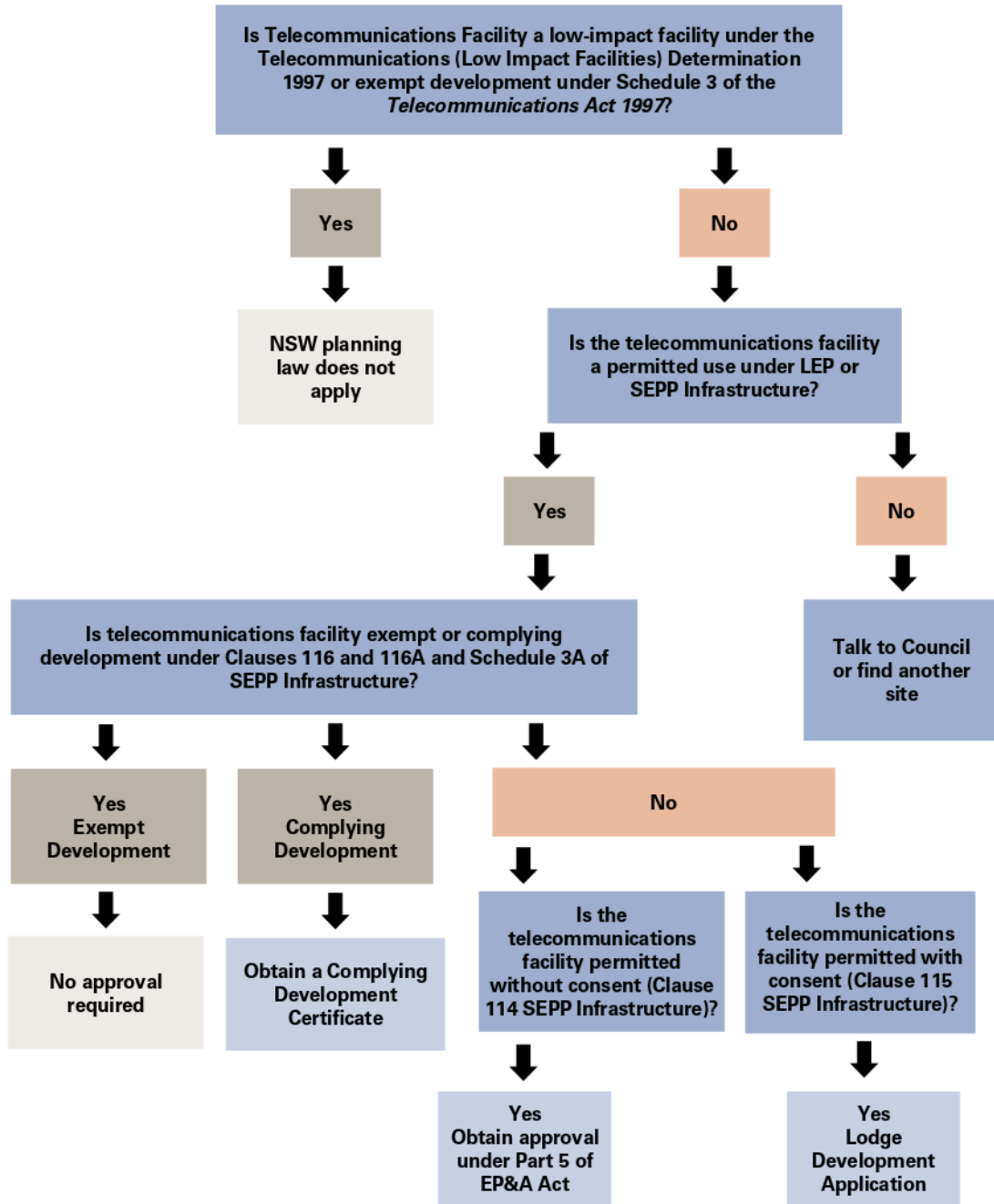
Complying development certificate applications and development applications must be accompanied by a statement signed by the owner of the land to the effect that the owner consents to the making of the application.

#### Note:

1. This Guideline provides a summary to the SEPP Infrastructure 2007. You should always check the most recent version of the relevant environmental planning instruments.
2. Clauses 114, 115, 116, 116A, 116B, 116C and 116D, and Schedule 3A of SEPP Infrastructure 2007 relate to telecommunications facilities.
3. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 applies to aerials and antennas and communications dishes for television, radio and citizens band (CB) radio only

FIGURE 1

What Type of Approval is Required for a Proposed Telecommunications Facility in NSW?



**Note:** Always check the latest compilation of the *Commonwealth Telecommunications (Low-impact Facilities) Determination 1997* in the first instance, and the most recent version of SEPP Infrastructure.

## 2 Site Selection, Design, Construction and Operation Principles for Telecommunications Facilities

### 2.1 INTRODUCTION

The site selection, design, construction and operation of telecommunication facilities in NSW if carried out under clause 114 or 115 of Infrastructure SEPP must be consistent with the principles set out in this Guideline. All people carrying out development for the purpose of a telecommunications facility should take these principles into consideration in order to follow best practice. It is anticipated that through the application of the principles, decisions will be more efficient and consistent.

The health and electromagnetic energy (EME) exposure related principles have their origins in the existing regulatory and scientific framework for wireless telecommunications facilities. This regulatory framework is discussed below. The principles related to visual impact originate from the Victorian Telecommunications Facilities Code of Practice.<sup>1</sup>

#### The Australian Communications and Media Authority

The Australian Communications and Media Authority (ACMA) is the Commonwealth body responsible for regulating telecommunications and radiocommunications, including promoting industry self-regulation and managing the radiofrequency spectrum. The ACMA licenses Australia's telecommunications carriers and regulates fixed line and mobile telecommunications.

All mobile phone base stations must comply with the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz 2002* (Radiation Protection Standard), which regulates the performance of particular radiocommunications transmitters to protect the health and safety of people.

The ACMA has introduced radiofrequency (RF) electromagnetic energy regulatory arrangements to limit exposure to EME from radio communications transmitters. The mandatory human exposure standard *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003* and its 2007 amendment applies to most mobile and portable radiocommunications transmitters with

integral antennas operating in the 3 kHz to 300 GHz frequency range. The limits are based on the Radiation Protection Standard.

The Radiation Protection Standard 2002 prescribes 'fundamental limits designed to ensure that known health effects do not arise from exposure to radiofrequency fields.'<sup>2</sup>

The considered scientific opinion about possible health effects from this type of infrastructure is that 'the weight of national and international scientific opinion is that there is no substantiated evidence that RF emissions associated with living near a mobile phone base station of telecommunications tower poses a health risk'.<sup>3</sup>

#### ACIF Industry Code

Industry self-regulation is encouraged through the development of voluntary industry codes of practice and technical standards. The Australian Communications Industry Forum (ACIF), which is now called Communications Alliance Ltd., was established by the communication services industry to support this process.

The ACIF (Mobile Phone Networks Code) identifies the steps telecommunications carriers must take when deciding where to install a wireless telecommunications facility such as a mobile phone tower or base station.

The aim of the Mobile Phone Networks Code is to have carriers apply a precautionary approach to the design, operation and selection of sites for wireless communications facilities. Under the Mobile Phone Networks Code, carriers are required to consider 'community sensitive' locations such as schools and hospitals and balance this with other factors, such as coverage objectives and engineering requirements, when deciding on placement for a site.

1. Department of Sustainability and Environment *Telecommunications Facilities A Code of Practice for Telecommunications Facilities in Victoria*, July 2004.
2. Australian Radiation Protection and Nuclear Safety Agency and the Committee on Electromagnetic Energy *Public Health Issues Fact Sheet No.4 – The ARPANSA radiofrequency radiation exposure standard*, available via [www.acma.gov.au](http://www.acma.gov.au)
3. Australian Radiation Protection and Nuclear Safety Agency and the Committee on Electromagnetic Energy *Public Health Issues Fact Sheet No.9 – What about base stations and telecommunications towers – are there any health effects?* Available via [www.acma.gov.au](http://www.acma.gov.au)

### The Australian Radiation Protection and Nuclear Safety Agency

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is the Commonwealth body charged with the responsibility for establishing standards that protect the health and safety of the community, including the Radiation Protection Standard.

ARPANSA states that the standards which protect people from EME exposure do not set any distances between mobile base station locations and areas which may be considered to be sensitive. ARPANSA highlights that: *'Similarly, the ACIF Code does not specify arbitrary distances at which infrastructure must be sited from community sensitive locations, because arbitrary distances do not necessarily reflect a precautionary approach. In fact, infrastructure sited further from a community sensitive area may need to operate at a higher power and may result in higher EME exposures in that sensitive area. Furthermore, it must be remembered that evidence gathered by ARPANSA confirms that exposure levels in public areas are typically hundreds or thousands of times less than the exposure limit set by the ACMA'.<sup>4</sup>*

ARPANSA states that *'public concern has also been expressed regarding the possibility of adverse health effects from mobile phone base stations that are sited on or near places where children spend large amounts of time, for example, in or outside their home, kindergartens, schools, playgrounds etc. The balance of evidence does not indicate a risk to the health of people, including children, living in the vicinity of base stations where the exposure levels are only small fractions of the ARPANSA Standard'.<sup>5</sup>*

The ARPANSA has undertaken a number of surveys of environmental radiofrequency EME levels arising from mobile phone base station antennas. The most recent ARPANSA coordinated survey was undertaken in 2007–08. Results show that actual measured values, including 'cumulative' effect were much lower than levels permitted by the Radiation Protection Standard.<sup>6</sup> A summary of the results may be found in Appendix D. The results demonstrate the ARPANSA statement immediately above.

Further information on a range of issues relevant to EME and the placement of telecommunication towers is available at <http://www.arpansa.gov.au/>.

It is instructive also to refer to *Telstra Corporation Limited v Hornsby Shire Council* 2006 148 LGERA 124. This case dealt with the application of the precautionary principle in the case of emission of radiofrequency EME. Telecommunications carrier,

Telstra, proposed to address inadequate mobile coverage in the suburb of Cheltenham by building a mobile base station. Council refused the application and Telstra appealed to the Land & Environment Court of NSW and the Court upheld the appeal.

## 2.2 THE PRINCIPLES

### Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact.

- (a) As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.
- (b) The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.
- (c) Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.
- (d) Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.
- (e) A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.
- (f) A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.
- (g) A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.

4. ARPANSA Fact Sheet No. 6 *About mobile phone networks*, revised June 2008  
5. ARPANSA Fact Sheet No. 11 *Mobile Phones and Children*, revised April 2008  
6. Mobile Carriers Forum Fact Sheet *ARPANSA Base Station Survey 2007-2008*, February 2009. available via [www.mca.amta.org.au](http://www.mca.amta.org.au)

- (h) The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.
- (i) A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.
- (j) The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.

**Principle 2: Telecommunications facilities should be co-located wherever practical.**

- (a) Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.
- (b) Overhead lines, antennas and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio-communications equipment to minimise the proliferation of telecommunication facilities and unnecessary clutter.
- (c) Towers may be extended for the purposes of co-location.
- (d) The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.
- (e) If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.
- (f) If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.

**Note:**

Co-location is 'not practicable' where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio traffic capacity demands and sufficient call quality.

**Principle 3: Health standards for exposure to radio emissions will be met.**

- (a) A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard. Refer also to Appendix D.

- (b) An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.

**Principle 4: Minimise disturbance and risk, and maximise compliance**

- (a) The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the *Civil Aviation Regulations 1988* and the *Airports (Protection of Airspace) Regulations 1996* of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.
- (b) The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.
- (c) The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.
- (d) The telecommunications facility is not to affect the structural integrity of any building on which it is erected.
- (e) The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.
- (f) The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – 'Managing Urban Stormwater: Soils and Construction' (Landcom 2004), or its replacement.
- (g) Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.

- (h) Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.
- (i) Traffic control measures are to be taken during construction in accordance with *Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads*.
- (j) Open trenching should be guarded in accordance with *Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps*.
- (k) Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.
- (l) The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.
- (m) The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.
- (n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.



Panel antenna on street light pole

## 3 Types of Telecommunications Facilities

### 3.1 BASE STATIONS

Mobile multimedia devices, such as mobile phones and multimedia handsets, send and receive radiofrequency waves to and from the nearest base station.

Mobile telecommunication networks have a cellular design to maximise the use of limited radiofrequency spectrum. These network cells overlap at the edges to limit gaps in coverage. If the base stations are too far apart, calls may not be handed over from one cell to another and call quality may be impacted resulting in an interruption to service.

A base station is comprised of several different components – including an equipment shelter which houses the transceiver and transmission equipment, a tower, mast or support mount which provides the necessary height to give required coverage, and the antennas which are mounted on a tower or mast – or on the roof or sides of buildings.

The specific type of antenna required depends upon the shape and range of the coverage area desired and the available mounting locations. An omnidirectional antenna provides 360 degrees of signal propagation and an example includes whip antennas.

Directional antennas are used to focus the signal in a particular direction. Examples include panel antennas, Yagi antennas and radiocommunication dishes.

Line-of-sight radiocommunication dishes are sometimes used for communication between base stations. These dishes send a radio signal to a neighbouring dish at a nearby base station.

The area covered by each cell base station is governed by:

- the height of the antenna above the ground (a mobile device needs to have 'sight' of a base station which means the radio signal from the device to the base station needs to be uninterrupted. Hills, trees and tall buildings can obscure this line-of-sight and therefore base stations need to be appropriately located to maximise the coverage available); and

- the radiofrequency. The frequency band in which the network operates can affect cell base station size – normally the higher the radiofrequency (as in third generation or 3G technology) the shorter the distance the signal travels.

The largest area covered by cell base stations occur in sparsely populated rural areas and the smallest in urban centres. In addition, the base station area size in a new 3G network will often be smaller than those required for 2G networks because of user demands for 3G services and the fact that some 3G networks use a higher radiofrequency.

An increase in demand requires additional cell base stations as each base station can only support a limited number of calls simultaneously.

Mobile telecommunication networks are comprised of three types of base station or installation namely macrocell, microcell and picocell. Each of these are described below.

#### 3.1.1 Macrocell Base Station

Macrocell base stations provide the main infrastructure for a mobile telecommunications network. Antennas for macrocells are usually mounted on monopole towers or masts, or on high voltage towers, rooftops and other structures but may be within a building. They are positioned at a height that is not obstructed by surrounding buildings and terrain.

Omnidirectional antennas can be part of a macrocell base station, and radiocommunication dishes can also be part of a macrocell base station.

Digital macrocell base stations (2G and 3G) usually use directional antenna. To cover all directions at least three 120 degree angled macrocell antennas are used.

The following photographs provide examples of macrocell base stations.





Digital macrocell base station (two directional or panel antenna).



A radiocommunication dish used to send a radiofrequency signal from a macrocell base station to another base station (line-of-sight).



An array of omnidirectional antennas.

The photo below shows a monopole macrocell base station with above ground housing located at the base which is connected to the antennas. A number of carriers are co-located on this monopole. Macrocell base stations directional antennas are typically about 2.8metres in length. These can be placed on existing towers, new towers, rooftops or external sides of buildings or structures.



Macrocell base station antennas co-located on an existing high voltage tower.

### 3.1.2 Microcell Installation

A microcell comprises one or two antennas and associated equipment units that supplement the mobile network in heavy usage areas by providing localised additional coverage and/or extra call capacity.

The antennas for microcells are mounted externally at street level, and are smaller than those used by macrocell base stations and can often be disguised as building features. The antenna(s) can be attached to an existing pole or other street furniture and the equipment unit may be mounted on the pole or structure or on the ground.

Microcells provide coverage for a small geographic area and are often found at intersections and in heavy pedestrian traffic areas. They have a range of a few hundred metres.

Microcell installations, typically, do not use radiocommunication dishes as the installation is linked into the telecommunication network via cable or optical fibre.



A microcell omnidirectional antenna attached to an existing street light pole (extending to the left under the light) and accompanying equipment unit (attached to the right).

### 3.1.3 Picocell Installation (In-Building-Coverage Facility)

Picocells (or In-Building-Coverage-Systems) provide a more localised coverage than microcell installations. These are generally found inside buildings where coverage is poor or where there is a dense population of users such as in airport terminals, office buildings, hotels, stadiums, hospitals, train stations and shopping centres. The picocell base station equipment is usually located in the central plant equipment room (near the MDF) of a building or other service area and includes:

- cables which run from the base station through the building risers connecting the base station equipment to antennas; and
- small antennas located on ceilings or walls

Picocells operate in a similar way to microcell external base stations and operate at a low power level.



Left-right: Picocell antenna suspended from a ceiling;  
A cone shaped picocell on a ceiling.

### 3.2 ASSOCIATED AND UNDERGROUND FACILITIES

#### 3.2.1 Underground housing

Underground housing for telecommunications facilities includes pits, boxes, manholes or other underground equipment or shelter housing that house or provide access to equipment located beneath ground level. Their common feature is a surface lid that sits flush with the adjoining ground surface.



Example of underground housing for telecommunications facilities.

#### 3.2.2 Above Ground Housing

An above ground housing provides shelter for telecommunications infrastructure.

Two typical examples of Above Ground Housing are shown in the following photographs.



Pillar



Cabinet

#### 3.2.3 Underground Conduit or Cable

An underground conduit or cable is placed into the ground by trenching or direct burial. Once in the ground, the ground is reinstated and the cable cannot be seen. An underground conduit or cable may be on any land. Note: "land" is defined in the EP&A Act.



Cable being inserted into duct.

#### 3.2.4 Boring or Directional Drilling

Underground boring or directional drilling is a process whereby a new line is bored or directionally drilled underground. In most cases, a conduit is inserted through the bore hole. A new cable is then hauled through the conduit in the underground bore hole from one end point to the other.

#### 3.2.5 Emergency Facilities

In an emergency, telecommunication facilities may be required to protect:

- (a) the integrity of a telecommunications network or a facility, or
- (b) the health or safety of persons, or
- (c) the environment, or
- (d) property, or
- (e) maintenance of an adequate level of service.

### 3.2.6 Temporary Facility

A temporary facility is to:

- (a) to provide service coverage during either routine or emergency maintenance of an existing telecommunications facility, or
- (b) to provide service coverage during the construction or installation of a replacement telecommunications facility, or
- (c) to provide additional service coverage at events such as sporting carnivals, cultural festivals, business conventions, or the like.



Temporary macrocell base station (consisting of two panel antennas) on lattice support mount deployed at a sporting event.

### 3.2.7 Ancillary Facilities

A new or existing radio base station facility generally requires the installation of ancillary facilities that are not directly related to its transmission capabilities but are necessary to ensure the protection of the facility, the safety of maintenance workers and the general public, to provide access to the facility, to provide screening to minimise visual impacts or which are reasonably necessary from the construction and/or operation of the facility. These types of facilities may include:

- (a) Safety rails, fences or guards
- (b) Staircases and ladders
- (c) Steel walkways
- (d) Spreader beams supporting shelters
- (e) Screens and shrouds
- (f) Cable trays
- (g) Pole, rail or pedestal mounts
- (h) EME safety or operational signage
- (i) Anti climbing devices
- (j) Power supply facilities such as cabling, stand by generators and small solar arrays
- (k) Raised platforms in flood-prone land.



Rooftop installation with colour matched cable tray, safety rail and ladder

### 3.2.8 Maintenance of Facilities

Maintenance activities are required for the periodic upkeep and repair of facilities, and to ensure the proper functioning of the facility.

Maintenance is not to result in any more than a minimal increase in size, area occupied by, or noise levels associated with the facility.

## 4 Exempt and Complying Development General Requirements

### 4.1 GENERAL REQUIREMENTS

#### (a) Exempt development (clause 116)

A telecommunications facility described in Part 1 of Schedule 3A to SEPP Infrastructure (also set out in Table 1 of this Guideline) may be exempt development, meaning it may be carried out without the need to submit a development application provided that:

- (a) it is for any of the purposes specified in Part 1 of Schedule 3A, and
- (b) it meets the development standards (if any) for the development specified in Part 1 of Schedule 3A, and
- (c) it complies with clause 20 (2) of SEPP Infrastructure, and
- (d) the land on which the development is proposed to be carried out is not located in an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
- (e) in the case of development that involves the installation of equipment – it is carried out in accordance with the applicable specifications (if any) of the manufacturer for the installation of such equipment, and
- (f) in the case of development that is development of a kind to which the Mobile Phone Networks Code applies – it:
  - (i) complies with that Code, and
  - (ii) is designed, installed and operated so that the maximum human exposure levels to radio frequency emissions comply with the Radiation Protection Standard, and

**Note.** If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.

- (g) in the case of development for the purpose of boring or directional drilling in connection with a telecommunications facility or for the purpose of an underground conduit or cable deployed by either trench or direct burial:
  - (i) access to business premises is not restricted between the hours of 7am and 5pm, Monday to Friday, or such other hours agreed to by the relevant local government authority (i.e. any hours within the range of 7am to 5pm), and

- (ii) where the development is on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone – not more than 100 metres of excavation is left open at any time and vehicle access to each affected property is not lost for more than 8 hours in total, and
- (h) it complies with any relevant site and height requirements specified by the *Civil Aviation Regulations 1988* and the *Airports (Protection of Airspace) Regulations 1996* of the Commonwealth, and

**Note.** See the Advisory Circular 139-08(0) entitled *Reporting of Tall Structures* issued by the Civil Aviation Safety Authority Australia in 2005 concerning these requirements.

- (i) it does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia, and
- (j) it does not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

**Note.** A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

#### (b) Complying development (clause 116A)

An application for a complying development certificate may be made for a telecommunications facility described in Part 2 of Schedule 3A to SEPP Infrastructure (also set out in Table 2 of this Guideline) as complying development provided:

- (a) it is for any of the purposes specified by Part 2 of Schedule 3A, and
- (b) it meets the development standards (if any) for the development specified in Part 2 of Schedule 3A, and
- (c) it complies with the requirements of this clause.

To be complying development, the development:

- (a) it is carried out in relation to an existing building – it must not cause the building to contravene the *Building Code of Australia*, and

- (b) must be carried out in accordance with all relevant requirements of the Blue Book, and
- (c) must not be carried out on land located in an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
- (d) in the case of development that involves the installation of equipment – it is carried out in accordance with the applicable specifications (if any) of the manufacturer for the installation of such equipment, and
- (e) in the case of development that is development of a kind to which the Mobile Phone Network Code applies – must:
  - (i) comply with that Code, and
  - (ii) be designed, installed and operated so that the maximum human exposure levels to radio frequency emissions comply with the radiation Protection Standard, and

**Note.** If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.

- (f) must comply with any relevant site and height requirements specified by the *Civil Aviation Regulations 1988* and the *Airports (Protection of Airspace) Regulations 1996* of the Commonwealth, and

**Note.** See the Advisory Circular 139-08(0) entitled *Reporting Tall Structures* issued by the Civil Aviation Safety Australia in 2005 concerning these requirements.

- (g) must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority, and
- (h) must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and

**Note.** A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

- (i) must not involve land comprising, or on which there is, a heritage item.

**Note.** Section 76A (6) of the Act also provides that certain development cannot be complying development, including development on land that comprises, or on which there is, an item of environmental heritage.

### (c) Complying development certificates

A complying development certificate for development of a telecommunications facility that is complying development under SEPP Infrastructure is subject to the following conditions:

- (a) if the development is part of infrastructure for a public mobile phone network – the principal certifying authority must, before work commences, be given:
  - (i) in the case of development that will produce electromagnetic radiation – a report in the format required by the Australian Radiation Protection Nuclear Safety Agency that shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Commonwealth and Media Authority and the Electromagnetic Radiation Standard, and
  - (ii) a report showing compliance with the Mobile Phone Networks Code,
- (b) if the works are for an extension of a tower, replacement tower or new tower – temporary construction site fence must be erected around the work site before the works commence and must be kept in place until after completion of works,
- (c) work must be carried out only between 7am and 5pm, Monday to Saturday,
- (d) work must not be carried out on a Sunday or public holiday,
- (e) run-off and erosion controls must be implemented in accordance with the plans to which the complying development certificate relates (before any disturbance to soil at the site) and maintained throughout the period of the works,
- (f) building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held,
- (g) the work site must be left clear of waste and debris at the completion of works and restored, as far as possible, to the original condition.



## 5 Exempt and Complying Development Specific Requirements

### 5.1 SPECIFIC REQUIREMENTS

Table 1 in this Guideline provides a list of telecommunications facilities that are exempt and complying development as provided by SEPP Infrastructure. It incorporates the facilities contained in the Commonwealth *Telecommunications (Low-impact Facilities) Determination 1997* (Determination) and provides for additional developments that do not require development consent as well as complying developments. Appendix C provides a full copy of the *Determination*.

Please refer to Schedule 3A of SEPP Infrastructure for the latest list of exempt and complying developments as SEPP Infrastructure may have been amended since the publication of this Guideline. Please also refer to the latest compilation of the *Determination* for the same reason.

#### PART 1 – EXEMPT DEVELOPMENT

TABLE 1

ITEM	DEVELOPMENT PURPOSE		DEVELOPMENT STANDARDS
1	<b>Subscriber and non subscriber connection to a telecommunications network deployed by means of radio or satellite dish (including a radio communication dish)</b>	1.1	If the development is carried out on land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone or on a dwelling: <ul style="list-style-type: none"> <li>(a) in the case of a dish located on a roof – the dish must not be more than 1.2 metres in diameter and no higher than 1.8 metres above the highest point of the roof, or</li> <li>(b) in the case of a ground mounted dish – the dish must:                             <ul style="list-style-type: none"> <li>(i) be located in the rear yard</li> <li>(ii) be not more than 1.2 metres in diameter, and</li> <li>(iii) be no higher than 1.8 metres above the highest point of the existing ground level on the lot.</li> </ul> </li> </ul>
		1.2	If the development is not carried on land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone or on a dwelling, the dish must be no more than 1.8 metres in diameter.
		1.3	The dish must be the same colour as its background or painted a neutral colour such as grey.
		1.4	If the dish is mounted on a heritage item or in a heritage conservation area, the dish must not be visible from the street at ground level from the property boundary.
2	<b>A panel antenna, yagi antenna or other directional antenna</b>	2.1	The antenna: <ul style="list-style-type: none"> <li>(d) must be flush mounted to an existing structure, or</li> <li>(e) if not flush mounted, must not be:                             <ul style="list-style-type: none"> <li>(i) more than 2.8 metres long, or</li> <li>(ii) more than 5.8 metres (including support mount) in height above the building or structure while it is attached.</li> </ul> </li> </ul>

ITEM	DEVELOPMENT PURPOSE		DEVELOPMENT STANDARDS
		2.3	If the antenna is flush mounted, it must not project above the height of the structure on which it is mounted.
		2.4	The antenna must be the same colour as its background or painted a neutral colour such as grey.
		2.5	If the antenna is mounted on a heritage item or in a heritage conservation area other than by means of flush mounting, the antenna must not be visible from the street at ground level from the property boundary.
3	Omnidirectional antenna	3.1	An antenna must not be: (a) more than 4.5 metres in length excluding support mount, or (b) outriggered more than 500 metres from the support mount, or (c) more than 6.5 metres in height including support mount unless required for NSW Government Radio Networks in which case must not be more than 8.0 metres in height including support mount.
		3.2	If an antenna is mounted on a heritage item or in a heritage conservation area, the antenna must not be visible from the street at ground level from the property boundary.
4	Microcell installation	4.1	If the installation includes a cabinet, the cabinet must not be more than 1 cubic metre in volume.
		4.2	If the installation includes an omnidirectional antenna, the antenna must not be more than 1 metre long.
		4.3	If the installation includes a directional antenna, the antenna must not be more than 1.2 metres long.
5	In-building coverage installation (picocell installation) for the purposes of improving broadband coverage to wireless technology users or the coverage of mobile phone users operating inside the building	5.1	All elements of the installation must be wholly located within a building, structure or tunnel, or integrated with the building, structure or tunnel in such a way as to have the general appearance of being part of the structure.
6	Equipment installed inside a structure	6.1	Equipment installed inside a structure (including an antenna or optic fibre cable) must be concealed in the existing structure.
7	An extension to a tower on land other than in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone	7.1	The extension must be: (a) no greater than 5 metres in height, and (b) for co-location purposes.
		7.2	The tower to be extended must not have previously been extended.



ITEM	DEVELOPMENT PURPOSE		DEVELOPMENT STANDARDS
8	<b>Replacement of a tower</b>	8.1	If the original tower is located on land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone: (a) the height of a replacement tower (including telecommunications facilities) must not be greater than the height of the original tower (including telecommunications facilities), and (b) the replacement tower is to be located within 10 metres of the position of the original tower.
		8.2	If the original tower is not located on land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone: (a) the height of a replacement tower (including telecommunications facilities) must not be greater than the height of the original tower (including telecommunications facilities), and (b) the replacement tower is to be located within 20 metres of the position of the original tower but no closer to land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone.
		8.3	The replacement must be similar in appearance to the original tower, except that a lattice tower (free standing steel framework tower) may be replaced by a monopole tower (free standing mast or pole like tower).
		8.4	The original tower is to be decommissioned and removed within 12 weeks of the telecommunications equipment on the replacement tower being commissioned.
		8.5	The location of the tower that has been removed must be restored to a condition that is similar to its condition before the original tower was installed, and landscaped as appropriate.
9	<b>Underground housing for telecommunications facilities</b>	9.1	If the housing is in the form of a pit, manhole or other underground equipment or shelter housing, the opening area for the pit, manhole, shelter or housing must be not more than 2 square metres.
		9.2	The land on which the housing is located is to be restored to a condition that is similar to its condition before the underground housing was constructed.

ITEM	DEVELOPMENT PURPOSE		DEVELOPMENT STANDARDS
<b>10</b>	<b>Above ground housing of any of the following kinds:</b> (a) a pillar, cabinet or pedestal installation, (b) an equipment shelter, (c) housing within a building for subscriber connection equipment, (d) if on land in Zone RU1, RU2, RU3, RU4, RU5, or RU6 or an equivalent land use zone – a solar panel used to power telecommunications equipment contained in the above ground housing.	10.1	If the development is a pillar, cabinet or pedestal installation, it must: (a) not be more than 2 metres high, and (b) have a base area of not more than 2 square metres.
		10.2	If the development is an equipment shelter (other than an equipment shelter used solely to house equipment associated with any antenna, radiocommunication, satellite or microwave dish, or tower or the like), it must: (a) not be more than 2.5 metres high, and (b) have a base area of not more than 5 square metres (excluding minor protrusions such as air conditioning units, steps and cable tray attachments), and (c) be the same colour as its background or painted a neutral colour such as grey.
		10.3	If the development is an equipment shelter used solely to house equipment associated with any antenna, radiocommunication, satellite or microwave dish, or tower or the like, it must: (a) not be more than 3 metres high, and (b) have a base area of not more than 7.5 square metres (excluding minor protrusions such as air conditioning units, steps and cable tray attachments), and (c) be the same colour as its background or painted a neutral colour such as grey.
		10.4	If the development is a solar panel used to power telecommunications equipment contained in the above ground housing, the base area of the panel must not be more than 7.5 square metres.
		10.5	If the development is on a heritage item or in a heritage conservation area, it must not be visible from the street at ground level from the property boundary.
<b>11</b>	<b>Underground conduit or cable including subscriber connection and fibre-optic cable for broadband</b>	11.1	The conduit or cable may only be: (a) laid in an existing trench, or (b) laid in a trench that has been lawfully created for any other purpose, or (c) hauled or otherwise deployed through a duct, pit, hole, tunnel or conduit, or (d) installed in, on or under an existing bridge.
		11.2	A marking post or sign must be erected indicating the location of the conduit cable.
		11.3	After the conduit or cable has been laid, deployed or installed, detectable metallic tracer material or similar material must be installed in or above the conduit or cable to assist with identifying the position of the conduit or cable.
		11.4	The land under which the conduit or cable is installed is to be restored to a condition that is similar to its condition before the conduit or cable was installed.

ITEM	DEVELOPMENT PURPOSE		DEVELOPMENT STANDARDS
12	<b>Above ground cable for subscriber connection or fibre optic cable for broadband</b>	12.1	The cable must be co-located with an above ground electricity supply connection and installed in a manner that is consistent with the requirements set out in the Cable Networks Code.
13	<b>Conduit or cable within a building for subscriber connection or fibre optic cable for broadband</b>		
14	<b>Boring or directional drilling in connection with a telecommunications facility</b>	14.1	The boring or directional drilling must take place at a minimum depth of 600 millimetres.
		14.2	The land on which the boring or directional drilling is carried out is to be restored to a condition that is similar to its condition before the drilling was carried out.
15	<b>Public payphone</b>	15.1	The public payphone cabinet or booth must: <ul style="list-style-type: none"> <li>(a) be for use solely for carriage and content services, and</li> <li>(b) not be designed for other uses (for example, as a vending machine), and</li> <li>(c) not be fitted with devices or facilities for other uses, and</li> <li>(d) not be used to display commercial advertising other than advertising related to the supply of standard telephone services, or displayed as part of the supply of a content service.</li> </ul>
		15.2	The public payphone instrument must: <ul style="list-style-type: none"> <li>(a) be for use solely for carriage and content services, and</li> <li>(b) not be designed for other uses (for example, as a vending machine), and</li> <li>(c) not be fitted with devices or facilities for other uses, and</li> <li>(d) not be used to display commercial advertising other than advertising related to the supply of standard telephone services, or displayed as part of the supply of a content service.</li> </ul>
16	<b>Installation and use of telecommunications facilities:                      (a) for use in an emergency, or                      (b) to provide assistance to an emergency services organisation.</b>		

ITEM	DEVELOPMENT PURPOSE		DEVELOPMENT STANDARDS
17	<p><b>Installation and use of temporary telecommunications facilities:</b></p> <p>(a) to provide service coverage during either routine or emergency maintenance of an existing telecommunications facility, or</p> <p>(b) to provide service coverage during the construction or installation of a replacement telecommunications facility, or</p> <p>(c) to provide additional service coverage at events such as sporting carnivals, cultural festivals, business conventions, or the like.</p>	17.1	<p>The facility must:</p> <p>(a) not permanently alter any building or site so that, upon removal, the building or site is in a substantially different condition than it was prior to the establishment of the facility, and</p> <p>(b) be removed within 28 days after the need for the facility has ceased.</p>
18	<p><b>Ancillary facilities to a telecommunications facility for any of the following purposes:</b></p> <p>(a) to ensure the protection or safety of the telecommunications facility, members of the public in close proximity to that facility or persons required to access and maintain that facility</p> <p>(b) to screen or shroud antennas or telecommunications equipment (or both) to minimise their visibility and improve visual outcomes.</p>	18.1	<p>If located on a heritage item or in a heritage conservation area, the facilities must not be visible from the street at ground level from the property boundary.</p>
		18.2	<p>The facilities must not include a power generator.</p>
19	<p><b>Maintenance activities in relation to a telecommunications facility for any of the following purposes:</b></p> <p>(a) the maintenance or repair of the facility,</p> <p>(b) to ensure the proper functioning of the facility.</p>	19.1	<p>The maintenance activities must not result in any more than a minimal increase in size, area occupied by, or noise levels associated with the facility.</p>
20	<p><b>Installation and use of permanent transmission and power cabling (including underground cabling that meets the development standards for underground cable or boring or directional drilling under this Schedule) to enable installation and removal of temporary telecommunications facilities for the purpose of providing additional service or coverage at events such as sporting carnivals, cultural festivals or business conventions, or the like, on the site.</b></p>		

**PART 2 – COMPLYING DEVELOPMENT**

**TABLE 2**

ITEM	DEVELOPMENT PURPOSE	DEVELOPMENT STANDARDS	
1	<b>Subscriber and non subscriber connection to a telecommunications network deployed by means of radio or satellite dish (including a radio communication dish) on land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone</b>	1.1	If the dish is located on a roof, the dish must: (a) not be more than 1.8 metres in diameter, and (b) be no more than 2.4 metres above the highest point of the roof.
		1.2	If the dish is ground mounted, the dish must: (a) be located in the rear yard, and (b) not be more than 1.8 metres in diameter, and (c) be no higher than 2.4 metres above the highest point of the existing ground level on the lot.
		1.3	The dish must be the same colour as its background or painted a neutral colour such as grey.
		1.4	If located in a heritage conservation area, the dish must not be visible from the street at ground level from the property boundary.
2	<b>A panel antenna , yagi antenna or other directional antenna on land other than in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone</b>	2.1	If the antenna is not flush mounted to an existing structure: (a) the antenna must not be more than 2.8 metres long, and (b) the antenna must not be more than 8 metres (including support mount) in height above the building or structure to which it is attached, and (c) if located in a heritage conservation area – the antenna must not be visible from the street at ground level from the property boundary.
		2.2	The antenna must be the same colour as its background or painted a neutral colour such as grey.
3	<b>An omnidirectional antenna on land in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone</b>	3.1	An antenna must not be: (a) more than 8.5 metres in height, (b) outriggered more than 500 millimetres from the support mount.
		3.2	The antenna must be the same colour as its background or painted a neutral colour such as grey.
		3.3	If located in a heritage conservation area, the antenna must not be visible from the street at ground level from the property boundary.
4	<b>An extension to a tower on land other than in Zone R1, R2, R3, R4, R5, or RU5 or an equivalent land use zone</b>	4.1	The extension must be: (a) no greater than 7.5 metres in height, and (b) for co-location purposes.
		4.2	The tower to be extended must not have previously been extended.

ITEM	DEVELOPMENT PURPOSE	DEVELOPMENT STANDARDS
5	<b>New tower on land in Zone , IN1, IN2, IN3, RU1, RU2, RU3 or RU4 or an equivalent land use zone</b>	5.1 If the tower is located on land in Zone IN1, IN2, IN3 or an equivalent land use zone, the tower must not: <ul style="list-style-type: none"> <li>(a) be located within 100 metres of a Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone boundary, or</li> <li>(b) exceed 25 metres in height (including telecommunications facilities) where located between 100 and 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, or</li> <li>(c) exceed 30 metres in height (including telecommunications facilities) where located more than 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary.</li> </ul>
		5.2 If the tower is located on land in Zone RU1, RU2, RU3, RU4 or an equivalent land use zone, the tower must not: <ul style="list-style-type: none"> <li>(a) be located within 100 metres of a Zone R1, R2, R3, R4, R5, RU5 or an equivalent land use zone boundary, and</li> <li>(b) exceed 25 metres in height (including telecommunications facilities) where located between 100 and 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, and</li> <li>(c) exceed 50 metres in height (including telecommunications facilities) where located more than 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary.</li> </ul>
6	<b>Ancillary facilities to a telecommunications facility</b>	6.1 If located in a heritage conservation area, the facilities must not be visible from the street at ground level from the property boundary.
		6.2 If the facilities include a stand by power generator, it must be insulated to ensure noise levels do not exceed 35dB(A) from outside the generator housing.

## 6 Development Permitted Without Consent

### 6.1 SPECIFIC REQUIREMENTS

Table 3 provides a list of specific requirements for telecommunications facilities that are Permitted Without Consent in clause 114 of SEPP Infrastructure.

TABLE 3

SPECIFIC DEVELOPMENT PERMITTED WITHOUT CONSENT REQUIREMENTS
(1) Development for the purposes of telecommunications facilities (including radio facilities) may be carried out by a public authority without consent on any land.
(2) Before a public authority undertakes the development of a tower or mast under this clause, the public authority must: <ul style="list-style-type: none"><li>(a) give written notice of its intention to carry out the development to the council of the area in which the land is located (unless the authority is that council) and to the occupiers of any adjoining land, and</li><li>(b) take into consideration any response to the notice that is received within 21 days after the notice is given, and</li><li>(c) take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette.</li></ul>
(3) Development for the purpose of co-locating telecommunications network cables on electricity poles or with underground electricity facilities, other than subscriber connections, may be carried out by any person without consent on any land.
(4) Development for the purpose of subscriber connections, other than development of a kind specified in clause 116, may be carried out by any person without consent on any land unless the subscriber's premises, or any land traversed by the connection, is a State or local heritage item or is located in a heritage conservation area.
(5) To the extent that the development under this clause involves the erection of an aerial cable by a person other than a public authority, the erection of the cable must be consistent with the Cable Networks Code.

## 7 Development Permitted With Consent

### 7.1 SPECIFIC REQUIREMENTS

Table 4 provides a list of specific requirements for telecommunications facilities that are Permitted With Consent in clause 115 of SEPP Infrastructure.

TABLE 4

SPECIFIC DEVELOPMENT PERMITTED WITH CONSENT REQUIREMENTS
(1) Development for the purposes of telecommunications facilities, other than development in clause 114, or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.
(2) To the extent that the development under this clause involves the erection of an aerial cable, the erection of the cable must be consistent with the Cable Networks Code.
(3) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette.

## Appendix A – Terminology

Set out below is a guide to the terminology used in this Guideline.

<b>1G and 2G</b>	means the original mobile network systems, known as first generation (1G) included analog mobile phones. Second generation (2G) systems included digital mobile phones using Global System for Mobile (GSM) technology (a digital standard for mobile telecommunications).
<b>3G</b>	means traditional voice services, involving high-quality voice transmission, global roaming, always-on data availability, high speed mobile Internet access, and high capacity email.
<b>4G and 5G</b>	<p>The introduction of 3G technology provided a huge expansion in mobile capacity and bandwidth, and 4G, will do the same for broadband communications in the 2010-2015 timeframe. 4G will support a wide range of data rates, enhanced multimedia services, new transmission techniques, new Internet access technology, greater compatibility in interfacing with wired backbone networks, and security mechanisms.</p> <p>5G. The users of 5G will be able to download a movie or videogame and then store the data in a handset. 5G will support the sorts of advanced multimedia applications such as teleimmersion, three-dimensional virtual reality and telerobotics.</p>
<b>Above ground Housing</b>	means shelter for above ground telecommunications infrastructure. See Table 1 of this Guideline.
<b>ADSL</b>	means Asymmetric Digital Subscriber Line - a technology that allows existing twisted pair telephone lines to access the Internet at high speeds. A technology for transmitting digital information at a high bandwidth on existing phone lines to homes and businesses. Unlike regular dial up phone service, ADSL provides continuously-available, 'always on' connection. ADSL is asymmetric in that it uses most of the channel to transmit downstream to the user and only a small part to receive information from the user. ADSL simultaneously accommodates analog (voice) information on the same line.
<b>Aerial/antenna</b>	means a structure or electrical device that sends or receives electromagnetic wave signals.
<b>Aerial cabling</b>	means an outside communications cable designed to be suspended from poles or other overhead structures.
<b>Ancillary facilities</b>	<p>Ancillary facilities to a telecommunications facility means any of the following:</p> <ul style="list-style-type: none"> <li>(a) safety rails, fences or guards,</li> <li>(b) staircases or ladders,</li> <li>(c) steel walkways,</li> <li>(d) spreader beams supporting shelters,</li> <li>(e) screens or shrouds,</li> <li>(f) cable trays</li> <li>(g) pole, rail or pedestal mounts,</li> <li>(h) electromagnetic energy, safety or operational signage,</li> <li>(i) anti climbing devices,</li> <li>(j) power supply such as cabling, stand by generators or small solar arrays,</li> <li>(k) raised platforms in flood-labile land.</li> </ul>



<b>Array of antennas</b>	means two or more antennas connected and arranged in a regular structure to form a single antenna.
<b>Base station</b>	See Macrocell, Microcell or Picocell Base Station.
<b>Boring or directional drilling</b>	means a process whereby new cable is run through ducts that already exist or is directionally bored underground from one end point to the other.
<b>Broadband</b>	<p>means a term used to express the speed and capacity at which a telecommunication service is delivered. Broadband is derived from the words, 'broad' and 'bandwidth' and is a generic term covering many different high capacity telecommunication circuits including two-way, 'always-on' Internet connections. Broadband offers the opportunity to access the Internet and to obtain high volume data, at fast speeds.</p> <p>The current and proposed delivery of broadband in Australia is via:</p> <ul style="list-style-type: none"> <li>(a) Copper telephone lines (e.g. ADSL and VDSL);</li> <li>(b) Wireless systems (e.g. mobiles, WiFi, WiMax, satellite);</li> <li>(e) Hybrid fibre-coaxial (HFC); and</li> <li>(f) Fibre systems, including the fibre-to-the-node (FTTN) and fibre-to-the-premises (FTTP) technology.</li> </ul> <p>Each of these digital delivery methods can produce fast broadband and include services such as voice, video, TV (including IPTV), data and text on a range of platforms.</p>
<b>Cabinet</b>	means a structure which protects transmitters and receivers and repeater equipment from damage. They can be in the form of small or large cabinets.
<b>Cable Network Code</b>	means the Australian Communications Industry Forum Industry Code entitled ACIF C524:2004 External Communication Cable Network.
<b>Carrier</b>	a telecommunication carrier has the same meaning as in the <i>Telecommunications Act 1997</i> .
<b>Cell</b>	means a geographic area of coverage of a base station.
<b>Co-located purpose</b>	means for the purpose of placing the telecommunications facilities of two or more carriers on the same support structure.
<b>Coverage objectives</b>	means the geographic area in which a carrier intends to provide their services
<b>Digital</b>	means a process which breaks an audio or video signal into a binary format where the audio or video data is represented by a series of '1's and '0's.
<b>Directional antenna</b>	means an antenna that focuses a narrow beam in a single specific direction, and includes an array of such antennas.
<b>DSL</b>	means digital subscriber line which is a family of technologies that provides digital data transmission over the wires of a local telephone network. DSL can be used at the same time and on the same telephone line with regular telephone, as it uses high frequency, while regular telephone uses low frequency.
<b>Electromagnetic Radiation Standard</b>	means the <i>Radiocommunications (Electromagnetic Radiation-Human Exposure) Standard 2003</i> made under section 162 of the <i>Radiocommunications Act 1992</i> of the Commonwealth.
<b>Electromagnetic waves/fields</b>	means electromagnetic waves/fields that are used to transmit and receive signals from mobiles phones and their base stations. The type of electromagnetic waves mobile phones use is called radiofrequency waves/fields.

<b>Emergency</b>	<p>in relation to a telecommunications facility, means circumstances in which the facility must be installed without delay to protect:</p> <p>(a) the integrity of a telecommunications network or a facility, or                  (b) the health or safety of persons, or                  (c) the environment, or                  (d) property, or                  (e) the maintenance of an adequate level of service.</p>
<b>Equivalent land use zone</b>	<p>equivalent land use zone, in relation to a named land use zone, means a land use zone that is equivalent to the named land use zone.</p> <p>Note: Land use zones that are named in this Guideline are those set out in the standard instrument. See also clause 6 of <i>State Environmental Planning Policy Infrastructure 2007</i> for the meaning of a land use zone that is equivalent to a named land use zone.</p>
<b>Feeder cable</b>	<p>means the cable which connects an antenna to a base station transmitter or receiver.</p>
<b>Fibre-to-the-premises (FTTP) network</b>	<p>means a telecommunication architecture based on fibre-optic cables run directly to the customers' premises. FTTP allows delivery of broadband services such as high speed internet.</p>
<b>Flush</b>	<p>means fixed flush with surface, where the facility is close to or against the surface.</p>
<b>Frequency</b>	<p>means the number of times per second at which an electromagnetic wave oscillates. It determines the wave's properties and usage. Frequencies are measured in hertz (Hz). 1 Hz is one oscillation per second, 1 kHz a thousand, 1 MHz is a million and 1GHz is a thousand million. Frequencies between 30 kHz and 300 GHz are widely used for telecommunications, and broadcast radio and television, and comprise the radiofrequency band. Mobile telephony systems currently operate at 800MHz, 900MHz, 1800MHz and 2100MHz.</p>
<b>Global positioning system antenna</b>	<p>means an antenna receives signals sent by GPS satellites.</p>
<b>Heritage item</b>	<p>means a local heritage item or a State heritage item.</p>
<b>Hybrid fibre-coaxial (HFC)</b>	<p>means a term for a broadband network which combines optical fibre and coaxial cable. The fibre optic network extends from the cable operators' master headend, sometimes to regional headends, and out to a neighbourhoods hubsite, and finally to a fibre optic node which serves anywhere from 25 to 2000 homes. A master headend will usually have satellite dishes for reception of distant video signals as well as IP aggregation routers. A fibre optic node has a broadband optical receiver which converts the downstream optically modulated signal coming from the headend/hub to an electrical signal going to the homes.</p>
<b>In-building coverage installation</b>	<p>means a facility installed within a building with the aim of managing and maintaining the supply of carriage services to a customer of a carrier.</p>
<b>IPTV</b>	<p>means Internet Protocol Television which is a system where a digital television service is delivered using Internet Protocol over a network infrastructure, which may include delivery by a broadband connection. A general definition of IPTV is television content that, instead of being delivered through traditional broadcast and cable formats, is received by the viewer through the technologies used for computer networks.</p> <p>For residential users, IPTV is often provided in conjunction with Video on Demand. IPTV is typically supplied by a service provider using a closed network infrastructure. This closed network approach is in competition with the delivery of TV content over the public Internet, called Internet Television</p>
<b>Lattice tower</b>	<p>means a freestanding steel framework tower.</p>

<b>Low impact facility</b>	Low-impact facility has the same meaning as in <i>Telecommunications (Low-impact Facilities) Determination 1997</i> .
<b>Low-Impact Facilities Determination</b>	means the Telecommunications (Low-impact Facilities) Determination 1997 made under clause 6(3) of Schedule 3 to the Telecommunications Act 1997 of the Commonwealth.
<b>Maintenance activities</b>	in relation to a telecommunications facility, means painting, restoration or minor replacement of materials, elements, components, equipment or fixtures that compromise the facility for the purposes of maintaining or ensuring the proper functioning of the facility.
<b>MDF</b>	means main distribution frame which is where inside and outside cables and conduit terminate. It is the usual location for most of the electronic hardware associated with the building's telecommunications facilities, including data equipment.
<b>Macrocell base station</b>	means the main infrastructure for a mobile telecommunications network. Antennas for macrocells are usually mounted on monopole towers or masts, rooftops and other existing structures but may be within a building. They are positioned at a height that is not obstructed by surrounding buildings and terrain. See Chapter 3 of this Guideline.
<b>Maintenance activities</b>	Maintenance activities, in relation to a telecommunications facility, means painting, repair or minor replacement of materials, elements, components, equipment or fixtures that comprise the facility for the purposes of maintaining, repair or ensuring the proper functioning of the facility.
<b>Microcell installation</b>	means an installation that comprises one or more antennas and associated equipment cabinets for use in supplementing a mobile phone network in heavy usage areas by providing localised additional coverage or extra call capacity (or both).
<b>Mobile Phone Networks Code</b>	Means the Australian Communications Industry Forum Industry Code entitled ACIF C564:2004 <i>Deployment of Mobile Phone Network Infrastructure</i> .
<b>Monopole tower</b>	means a single free standing mast or pole like tower. See 'Tower'.
<b>Omnidirectional antenna</b>	means an antenna that sends or receives signals equally in all directions, and includes: (a) an array of such antennas, and (b) such antenna for repeater installations, global positioning systems and the like
<b>Panel antenna</b>	means a directional antenna that is flat and has a panel-like appearance.
<b>Phased-array antennas</b>	means a small, flat antenna that is steered electronically. It is a group of antennas in which the relative phases of the respective signals feeding the antennas are varied in such a way that the effective radiation pattern of the array is reinforced in a desired direction and suppressed in undesired directions. It provides great agility and fast tracking, as well as the ability to form multiple antenna beams simultaneously. It allows for very fast and precise steering of the communication beam.
<b>Picocell installation</b>	means In-Building Coverage Installation or In-Building-Coverage-Systems that provide more localised coverage and are smaller than microcells. These are generally found inside buildings where coverage is poor or where there is a dense population of users such as in airport terminals, office buildings, hotels, stadiums, hospitals, train stations and shopping centres. The picocell base station equipment is usually located in a building's Facilities Room or other service area and includes: (a) cables which run from the base station through the building risers connecting the base station equipment to antennas; and (b) small antennas located on ceilings or walls in strategic locations  Picocells operate in a similar way to microcell external base stations but at lower power levels.

<b>Public utility structure</b>	means a structure used, or for use, by a public utility, for the provision to the public of: (a) reticulated products or services, such as electricity, gas, water, sewerage or drainage; or (b) carriage services (other than carriage services supplied by a carriage service provider); or (c) transport services; or (d) a product or service of a kind that is similar to a product or service covered by paragraph (a), (b) or (c).
<b>Radiation Protection Standard</b>	means the Radiation Protection Standard entitled <i>Maximum Exposure Levels to Radiofrequency Fields-3 kHz to 300 GHz (2002)</i> published by the Australian Radiation Protection and Nuclear Safety Agency.
<b>Radiocommunication dish</b>	means a dish directional antenna used to send and /or receive radiofrequency communications, on a point to point basis for example between base stations, and forms part of the mobile telecommunications network.
<b>Radio traffic capacity demands</b>	means the amount of demand for wireless voice and data services in the geographic area.
<b>Radio waves</b>	means the electromagnetic waves (signals) occurring on the radiofrequency portion of the electromagnetic spectrum.
<b>Repeater installation</b>	means a radiofrequency installation is used in situations where signal is required to be improved. Repeaters may be used inside retail outlets, shopping centres or commercial buildings to improve coverage to specific areas within those buildings or at selected remote locations. A repeater installation consists of an external antenna or antennas, a small internal antenna and a small equipment box.
<b>Rf field hazard area</b>	means radiofrequency field hazard areas that show the assessed hazardous area related to Rf fields prepared for occupational exposure purposes related to a telecommunication facility.
<b>Subscriber connection</b>	means an installation for the sole purpose of connecting premises to a telecommunications network.
<b>Sufficient call quality</b>	means a service level metric applicable to the relevant carrier which may include latency and speed throughout.
<b>Support mount</b>	support mount, in relation to a telecommunications facility, means a structure to support the facility but does not include a tower.
<b>Telecommunications facility</b>	means: 1. any part of the infrastructure of a telecommunications network, or 2. any line, cable, optical fibre, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole, or other structure in connection with a telecommunications network.
<b>Telecommunications network</b>	Telecommunication network has the same definition as it has in the Standard Instrument. <b>Note:</b> The Standard Instrument defines telecommunications network as follows – telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.
<b>Tower</b>	means a freestanding ground-based structure that supports a telecommunications facility at a height where it can satisfactorily send and receive waves, but does not include the facility.
<b>Transmission tower</b>	means a steel tower or mast carrying high-tension electricity lines, telephone wires, or other cables and lines.

<b>Transmitter</b>	means electronic equipment that generates radiofrequency electromagnetic energy and is connected to an antenna via a feeder cable.
<b>Underground cable facility</b>	means an underground cable or duct that is placed into the ground by trenching or direct burial. Once in the ground, the ground is reinstated and the cable cannot be seen. It includes Fibre-to-the-Premises (FTTP) for broadband.
<b>Underground housing</b>	means underground housing including pits, boxes, manholes, etc, that house or provides access to equipment located beneath ground level. Their common feature is a surface lid that sits flush with the adjoining ground surface.
<b>VDSL</b>	means Very-High-Bit-Rate DSL – A transmission medium that provides a maximum span of about 1,500 m over a twisted-pair cable.
<b>Wavelength</b>	means the distance in metres between any two ‘similar’ points on a radio wave. This portion of the wave is referred to as one complete cycle. The lower the frequency of a wave the longer the wavelength.
<b>Whip antenna</b>	means an antenna that is a stiff, yet flexible, wire (almost always) mounted vertically, and attached at one end to a ground plane. Whips are thought of as omnidirectional, because they radiate equally in all directions when viewed from above, however whips are less receptive to signals directly above them.
<b>WiFi</b>	means a wireless Local Area Net technology (LAN) that provides wireless transmission of data based on the Institute of Electrical and Electronics Engineers or IEEE 802.11 standards. The trademark Wi-Fi was created by the Wi-Fi Alliance, comprising more than 300 companies, whose products are certified by the Wi-Fi Alliance to be interoperable. A Wi-Fi enabled device such as a laptop, PC (personal computer), PDA (personal digital assistant – handheld computer) or mobile phone can connect to the Internet when within range of a wireless network connected to the Internet.
<b>Wireless facility</b>	means a facility that transmits and receives radio frequency waves to communicate within a cellular network or to facilitate backhaul transmissions to a mobile telephone exchange.
<b>Wireline facility</b>	means a facility that provides telecommunications links and services by transmitting signals between network elements via a guided path such as copper or optical fibre.
<b>WiMax</b>	means Worldwide Interoperability for Microwave Access, which is a telecommunications technology that provides wireless transmission of data using a variety of transmission modes, from point-to-point links to portable internet access. The name ‘WiMAX’ was created by the WiMAX Forum, which was formed in June 2001 to promote conformity and interoperability of the standard. The forum describes WiMAX as ‘a standards-based technology enabling the delivery of last mile wireless broadband access as an alternative to cable and DSL’.
<b>Yagi antenna</b>	means an antenna that radiates in only one direction, consisting of one or two dipoles connected to the transmitting or receiving circuit, and several insulated dipoles all parallel and about equally spaced in a line. The formal name for a “Yagi antenna” is “Yagi-Uda array”. A Yagi antenna is used to improve the directional gain of a television antenna when reception is otherwise weak.
<b>Zone</b>	means a zone in the Standard Instrument Principal Local Environmental Plan or an equivalent zone

## Appendix B – Example of Set Standard Conditions of Consent

### PART A – ADMINISTRATIVE CONDITIONS

#### A1 Development Description

Development consent is granted only to carrying out the development described in detail as follows:

#### A2 Development in Accordance with Plans

The development shall be generally in accordance with development application number... submitted by the applicant on, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following (Statement of Environmental Effects, Drawings, reports and the like)

#### A3 Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/ documents referred to above, the conditions of this consent prevail.

### PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### B1 Payment of Levy Fee

Payment of the prescribed Long Service Levy Fee is to be made to Council prior to the issue of a Construction Certificate.

#### B2 Airspace

The Council must, prior to the release of the Construction Certificate, be given a report:

- (1) showing compliance with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth, and
- (2) showing that it does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.

**Note:** See the Advisory Circular 139-08(0) entitled Reporting of Tall Structures issued by the Civil Aviation Safety Authority Australia in 2005 concerning these conditions.

### PART C – PRIOR TO COMMENCEMENT OF WORKS

#### C1 Construction Certificate

A Construction Certificate issued by the PCA is to be deposited with Council at least 48 hours prior to commencement of any building work on the site.

#### Construction Management

##### C2 Contact Telephone Number

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

#### Compliance

##### C3 Compliance Report

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the Council a report addressing compliance with all relevant conditions of this consent.

### PART D – DURING CONSTRUCTION

#### Site Maintenance

##### D1 Erosion and Sediment Control

All erosion and sediment control measures are to be effectively maintained 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.

#### Construction Management

##### D2 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 Council or the PCA.

##### D3 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

#### **D4 Contact Telephone Number**

The applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development and this is displayed for public viewing at the entrance to the site.

#### **Noise and Vibration**

##### **D5 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 5:00 pm, Mondays to Saturdays inclusive;
- (2) 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; or
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
- (3) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

#### **Heritage**

##### **D6 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics**

If any previously unidentified archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the Heritage Branch of the Department of Planning must be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977* may be required for further works can be considered in that area. Works shall not recommence until the applicant receives written authorisation from the Heritage Branch.

##### **D7 Impact of Below Ground (Sub-surface) Works – Aboriginal Relics**

If any previously unidentified Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately cease work and notify the DECCW in accordance with the *National Parks and Wildlife Act 1974* and obtain any necessary approvals to continue the work. Works shall not recommence until an appropriate strategy for managing the objects has been determined in consultation with the DECCW and the applicant receives written authorisation from the DECCW.

#### **PART E—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

##### **E1 Road Damage**

The cost of repairing any damage caused to Council or other Public Authority's assets adjoining the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant prior to the issue of an Occupation Certificate.

##### **E2 Electromagnetic Emissions**

Where the development is part of infrastructure for a public mobile phone network – the Council must, before commencement of use, be given:

- (i) in the case of development that will produce electromagnetic radiation-a report in the format required by the Australian Radiation Protection Nuclear Safety Agency that shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and
- (ii) a report showing compliance with the Australian Communications Industry Forum Industry Code entitled CIF C564:2004 *Deployment of Mobile Phone Network Infrastructure*.

##### **E3 Electromagnetic Emissions**

Where the development is part of infrastructure for a public mobile phone network – the Council must, before commencement of use, be given:

- (i) in the case of development that will produce electromagnetic radiation-a report in the format required by the Australian Radiation Protection Nuclear Safety Agency that shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and

- (ii) a report showing compliance with the Australian Communications Industry Forum Industry Code entitled ACIF C564:2004 *Deployment of Mobile Phone Network Infrastructure*.

#### **ADVISORY NOTES**

##### **AN1 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.



## Appendix C – The (Commonwealth) Telecommunications (Low-Impact Facilities) Determination 1997

**Note:**

The compilation date of the *Telecommunications (Low-impact Facilities) Determination 1997* contained in Appendix C is dated 14 July 2004. This compilation has taken into account Amendment No. 1 of 1999.

Please check to ensure this compilation is the latest copy, and that other Commonwealth legislation does not apply. Please seek advice from the Commonwealth regarding compliance.

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## **Telecommunications (Low-impact Facilities) Determination 1997**

**as amended**

made under subclause 6 (3) of Schedule 3 of the

*Telecommunications Act 1997*

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This compilation was prepared on 14 July 2004  
taking into account amendments up to *Telecommunications (Low-impact  
Facilities) Determination 1997 (Amendment No. 1 of 1999)*

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra

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## Part 1 Preliminary

### 1.1 Citation [see Note 1]

This determination may be cited as the *Telecommunications (Low-impact Facilities) Determination 1997*.

### 1.2 Commencement

This determination commences on 1 July 1997.

#### Background to determination

Part 1 of Schedule 3 to the *Telecommunications Act 1997* authorises a carrier to enter on land and install a facility if the facility is a low-impact facility.

Under subclause 6 (3) of Part 1, the Minister may, by written instrument, determine that a specified facility is a low-impact facility.

Under subclauses 6 (4), (5) and (7), certain facilities cannot be low-impact facilities:

- designated overhead lines
- a tower that is not attached to a building
- a tower attached to a building and more than 5 metres high
- an extension to a tower that has previously been extended
- an extension to a tower, if the extension is more than 5 metres high.

A facility cannot be a low-impact facility unless it is specified in this determination. Therefore, overhead cabling and new mobile telecommunications towers are not low-impact facilities.

Also, a facility will be a low-impact facility only if it is installed in particular areas identified in this determination. The areas have an order of importance, based on zoning under State or Territory laws, so that any area only has its “highest” possible zoning. The order of priority is:

- area of environmental significance
- residential areas
- commercial areas
- industrial areas
- rural areas.

Part 1 Preliminary

### Section 1.3

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One effect of this determination is that a facility in an area of environmental significance cannot be a low-impact facility.

Rules for the installation and maintenance of a low-impact facility can be found in Schedule 3 to the Telecommunications Act and the Telecommunications Code of Practice 1997.

#### Simplified outline of determination

The determination has 3 Parts.

Part 2 identifies areas in which a facility may be installed, by reference to zoning arrangements under State and Territory planning laws.

Part 3 and the Schedule identify the low-impact facilities.

Definitions for words and expressions used in this determination are to be found in section 1.3.

### 1.3 Definitions

In this determination:

**Aboriginal person** has the same meaning as in Schedule 3 to the Act.

**Act** means the *Telecommunications Act 1997*.

**area of environmental significance** has the meaning given by section 2.5.

**co-located facilities** means one or more facilities installed on or within:

- (a) an original facility; or
- (b) a public utility structure.

**commercial area** has the meaning given by section 2.1.

**emergency**, for the installation of a facility, means circumstances in which the facility must be installed without delay to protect:

- (a) the integrity of a telecommunications network or a facility; or
- (b) the health or safety of persons; or
- (c) the environment; or
- (d) property; or
- (e) the maintenance of an adequate level of service.

**emergency services organisation** has the same meaning as in subsection 265 (11) of the Act.

*Note* At the commencement of this determination, the emergency service organisations were:

- a police force or service
- a fire service

**Section 1.3**

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- an ambulance service
- a service specified in the numbering plan (see Act, s 455) as an emergency services organisation
- a service for despatching the force or service.

***in-building subscriber connection equipment*** means a facility installed within a building with the aim of managing and maintaining the supply of carriage services to a customer of a carrier.

***industrial area*** has the meaning given by section 2.2.

***installation***, for a facility, has the same meaning as in Part 1 of Schedule 3 to the Act.

*Note* Installation includes:

- construction of the facility
- attachment of the facility to a building or other structure
- any activity ancillary to installation.

***listed international agreement*** has the same meaning as in Schedule 3 to the Act.

*Note* Listed international agreements are agreements specified in the regulations.

***Nature Conservation Director*** means the Director of National Parks and Wildlife under the *National Parks and Wildlife Conservation Act 1975*.

***original facility*** means the original structure that is currently used, or intended to be used, for connection to a telecommunications network where the original structure was:

- (a) in place on the date on which the *Telecommunications (Low-impact Facilities) Determination 1997 (Amendment No. 1 of 1999)* took effect; or
- (b) installed after that date by means other than in accordance with Part 7 of the Schedule.

***planning law***, for an area, means a law of the State or Territory where the area is located dealing with land use, planning or zoning.

***principal designated use***, for an area, has the meaning given by section 1.4.

***public utility*** has the same meaning as in Schedule 3 to the Act.

***public utility structure*** means a structure used, or for use, by a public utility, for the provision to the public of:

- (a) reticulated products or services, such as electricity, gas, water, sewerage or drainage; or
- (b) carriage services (other than carriage services supplied by a carriage service provider); or
- (c) transport services; or
- (d) a product or service of a kind that is similar to a product or service covered by paragraph (a), (b) or (c).

***relevant local government authority***, for land in a State or Territory, means an authority of the State or Territory responsible for the local government of the area where the land is located.

***residential area*** has the meaning given by section 2.3.

Part 1 Preliminary

#### Section 1.4

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*rural area* has the meaning given by section 2.4.

*significant environmental disturbance* means significant interference with the relationship between a species or community and its immediate environment or habitat and includes, for example, significant interference with identified flora and fauna, ecological communities, geological features, wilderness values or scientific values within an area.

*subscriber connection* means an installation for the sole purpose of connecting premises to a telecommunications network.

*Torres Strait Islander* has the same meaning as in Schedule 3 to the Act.

*tower* means a tower, pole or mast.

*Note* A number of other words and expressions used in this determination are defined in the *Telecommunications Act 1997* (see s 7), including ‘carrier’ and ‘facility’.

*volume* means the apparent volume of materials that constitute:

- (a) co-located facilities; or
- (b) an original facility; or
- (c) a public utility structure;

where the materials are visible from a point outside the co-located facilities, original facility or public utility structure.

#### 1.4 Principal designated use

- (1) If an area is described, under a planning law, as having a sole or principal use, the use is the *principal designated use* of the area.
- (2) If an area is described, under a planning law, as having 2 or more uses, in terms that show that 1 of the uses is the predominant, preferred or most likely use, the use is the *principal designated use* of the area.
- (3) If an area is described, under a planning law, as having 2 or more principal uses, without any indication of the predominant, preferred or most likely use, the *principal designated use* of the area is determined on the following basis:
  - (a) if the uses include residential purposes, the principal designated use is for residential purposes;
  - (b) if the uses include commercial purposes, but not residential purposes, the principal designated use is for commercial purposes;
  - (c) if the uses include industrial purposes, but neither residential nor commercial purposes, the principal designated use is for industrial purposes.
- (4) If a carrier proposes to engage in a low-impact facility activity in an area under Chapter 4 of the *Telecommunications Code of Practice 1997*, the principal designated use of the area is to be determined by reference to the time when the carrier proposes to issue the first notice to the owner or occupier of land in the area under Part 5 of that Chapter.

*Note* Areas of environmental significance are identified in accordance with section 2.5, not by reference to planning laws.

Preliminary

Part 1

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**Section 1.4**

The effect of this determination is that an area may be an area of environmental significance, and also a residential, commercial, industrial or rural area identified by reference to planning laws. However, the area's status as an area of environmental significance is more important for the identification of low-impact facilities.



Part 2 Areas

**Section 2.1**

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## **Part 2 Areas**

### **2.1 Commercial area**

An area is a commercial area if its principal designated use is for commercial purposes.

*Note* The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

### **2.2 Industrial area**

An area is an industrial area if its principal designated use is for industrial purposes.

*Note* The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

### **2.3 Residential area**

- (1) An area is a residential area if its principal designated use is for residential purposes.
- (2) A part of a built-up area is a residential area if it cannot otherwise be described as a commercial, industrial or rural area.

*Note* The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

### **2.4 Rural area**

- (1) An area is a rural area if its principal designated use is for rural purposes.
- (2) An area that is not part of a built-up area is a rural area if it cannot otherwise be described as a commercial, industrial or residential area.

*Note* The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

### **2.5 Area of environmental significance**

- (1) An area is an area of environmental significance if it is identified property for section 3A of the *World Heritage Properties Conservation Act 1983*.
- (2) An area is an area of environmental significance if it is an identified property (within the meaning of section 3A of the *World Heritage Properties Conservation Act 1983*).
- (3) An area is an area of environmental significance if it is a place that Australia is required to protect by the terms of a listed international agreement.
- (4) An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory:
  - (a) it is designated as a reserve for nature conservation purposes; and
  - (b) the principal purpose of the designated reserve is for nature conservation.

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**Section 2.5**

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- (5) An area is an area of environmental significance if it is an area that, under a law of the Commonwealth, or a State or Territory, is protected from significant environmental disturbance.
- (6) An area is an area of environmental significance if it is entered in the Register of the National Estate or the Interim List for that Register.
- (7) An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory, it consists of a place, building or thing that is entered in a register relating to heritage conservation.
- (8) An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory, it is:
  - (a) entered in a register; or
  - (b) otherwise identified;  
as being of significance to Aboriginal persons or Torres Strait Islanders, in accordance with their traditions.

Part 3 Low-impact facilities

**Section 3.1**

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## **Part 3 Low-impact facilities**

### **3.1 Facilities**

- (1) A facility described in column 2 of an item in the Schedule is a low-impact facility only if it is installed, or to be installed, in an area mentioned in column 3 of the item.
- (2) However, the facility is not a low-impact facility if the area is also an area of environmental significance.
- (3) For subsection (1), trivial variations for a facility mentioned in column 2 are to be disregarded.
- (4) A facility that is ancillary to a facility covered by subsection (1) is also a low-impact facility only if it is installed, or to be installed, solely to ensure the protection or safety of:
  - (a) the low-impact facility; or
  - (b) persons or property in close proximity to the low-impact facility.

**Schedule**                      **Facilities and areas**  
 (section 3.1)

**Part 1**                      **Radio facilities**

<b>Column 1 Item no.</b>	<b>Column 2 Facility</b>	<b>Column 3 Areas</b>
1	Subscriber connection deployed by radio or satellite terminal antenna or dish: (a) not more than 1.2 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
1A	Subscriber connection deployed by radio or satellite terminal antenna or dish: (a) not more than 1.8 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local government authority	Industrial Rural
2	Panel, yagi or other like antenna: (a) flush mounted to an existing structure; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
3	Panel, yagi or other like antenna: (a) not more than 2.8 metres long; and (b) if the antenna is attached to a structure — protruding from the structure by not more than 3 metres; and (c) either: (i) colour-matched to its background; or	Residential Commercial Industrial Rural

Schedule Part 1 Facilities and areas  
 Radio facilities

Column 1 Item no.	Column 2 Facility	Column 3 Areas
	(ii) in a colour agreed in writing between the carrier and the relevant local authority	
4	An omnidirectional antenna or an array of omnidirectional antennas: (a) not more than 4.5 metres long; and (b) not more than 5 metres apart; and (c) if the array is attached to a structure — protruding from the structure by not more than 2 metres	Industrial Rural
5	Radiocommunications dish: (a) not more than 1.2 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local government authority; and (c) if attached to a supporting structure, the total protrusion from the structure is not more than 2 metres	Residential Commercial Industrial Rural
5A	Radiocommunications dish: (a) not more than 1.8 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local government authority	Industrial Rural
6	Microcell installation with: (a) a cabinet not more than 1 cubic metre in volume; and (b) a separate antenna not more than 1 metre long	Residential Commercial Industrial Rural
7	In-building coverage installation: (a) to improve cellular coverage to mobile phone users operating inside a building; and (b) wholly contained and concealed in a building	Residential Commercial Industrial Rural
12	<i>Telecommunications (Low-impact Facilities) Determination 1997</i>	

Facilities and areas  
 Above ground housing

Schedule  
 Part 3

Column 1 Item no.	Column 2 Facility	Column 3 Areas
8	Equipment installed inside a structure, including an antenna concealed in an existing structure	Commercial Industrial Rural
9	An extension to a tower if: (a) the height of the extension does not exceed 5 metres; and (b) there have been no previous extensions to the tower	Industrial Rural

## Part 2 Underground housing

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Pit with surface area of not more than 2 square metres	Residential Commercial Industrial Rural
2	Manhole with surface area of not more than 2 square metres	Residential Commercial Industrial Rural
3	Underground equipment shelter or housing with surface area of not more than 2 square metres	Residential Commercial Industrial Rural

## Part 3 Above ground housing

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Pillar: (a) not more than 2 metres high; and (b) with a base area of not more than 2 square metres	Residential Commercial Industrial Rural
2	Roadside cabinet: (a) not more than 2 metres high; and (b) with a base area of not more than 2 square metres	Residential Commercial Industrial Rural

Schedule Part 3 Facilities and areas Above ground housing

Column 1 Item no.	Column 2 Facility	Column 3 Areas
3	Pedestal: (a) not more than 2 metres high; and (b) with a base area of not more than 2 square metres	Residential Commercial Industrial Rural
4	equipment shelter: (a) not more than 2.5 metres high; and (b) with a base area of not more than 5 square metres; and (c) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
5	equipment shelter: (a) used solely to house equipment used to assist in providing a service by means of a facility mentioned in Part 1; and (b) not more than 3 metres high; and (c) with a base area of not more than 7.5 square metres; and (d) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
6	In-building subscriber connection equipment	Residential Commercial Industrial Rural
7	Solar panel with a base area of not more than 7.5 square metres	Rural

Facilities and areas  
 Underground cable facilities

Schedule  
 Part 4

**Part 4      Underground cable facilities**

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Underground conduit or cable deployed by: (a) narrow trench not more than: (i) 450 millimetres wide; or (ii) 650 millimetres wide if intended to be used by more than one carrier; or (b) direct burial; or (c) bore or directional drill hole at least 600 millimetres below the surface;  where: (d) access to business premises is not restricted between the hours of 8 am and 6 pm, Monday to Friday, or such other hours agreed to by the relevant local government authority; and (e) in relation to residential areas, not more than 100 metres of excavation is left open at any time and vehicle access to each property is not lost for more than 8 hours in total	Residential Commercial Industrial Rural
2	Conduit or cabling to be laid in: (a) an existing trench; or (b) a trench created by a developer, relevant local government authority, public utility or carrier.	Residential Commercial Industrial Rural
3	Cable location marking post or sign	Residential Commercial Industrial Rural



Schedule  
 Part 5                      Facilities and areas  
                                     Public payphones

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**Part 5                      Public payphones**

<b>Column 1 Item no.</b>	<b>Column 2 Facility</b>	<b>Column 3 Areas</b>
1	Public payphone cabinet or booth: (a) used solely for carriage and content services; and (b) not designed for other uses (for example, as a vending machine); and (c) not fitted with devices or facilities for other uses; and (d) not used to display commercial advertising other than advertising related to the supply of standard telephone services	Residential Commercial Industrial Rural
2	Public payphone instrument: (a) used solely for carriage and content services; and (b) not designed for other uses (for example, as a vending machine); and (c) not fitted with devices or facilities for other uses; and (d) not used to display commercial advertising other than advertising related to the supply of standard telephone services or displayed as part of the supply of a content service	Residential Commercial Industrial Rural

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**Part 6                      Emergency facilities**

<b>Column 1 Item no.</b>	<b>Column 2 Facility</b>	<b>Column 3 Areas</b>
1	A temporary facility installed: (a) in an emergency; and (b) to provide assistance to an emergency services organisation	Residential Commercial Industrial Rural

Facilities and areas  
 Co-located facilities

Schedule  
 Part 7

**Part 7 Co-located facilities**

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Facility mentioned in: (a) Part 1, 5 or 6; or (b) item 3 of Part 4;  installed on or within: (c) an original facility; or (d) a public utility structure	Industrial Rural
2	Facility mentioned in: (a) Part 1, 5 or 6; or (b) item 3 of Part 4;  installed on or within: (c) an original facility; or (d) a public utility structure;  where: (e) the total volume of the co-located facilities is no more than 25 per cent greater than the volume of the original facility or the original infrastructure; and (f) the levels of noise that are likely to result from the operation of the co-located facilities are less than or equal to the levels of noise that resulted from the operation of the original facility or the public utility structure	Residential Commercial

Notes to the *Telecommunications (Low-impact Facilities) Determination 1997*

**Table of Instruments**

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**Notes to the *Telecommunications (Low-impact Facilities) Determination 1997***

**Note 1**

The *Telecommunications (Low-impact Facilities) Determination 1997* (in force under subclause 6 (3) of the *Telecommunications Act 1997*) as shown in this compilation is amended as indicated in the Tables below.

**Table of Instruments**

<b>Title</b>	<b>Date of notification in Gazette</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
<i>Telecommunications (Low-impact Facilities) Determination 1997</i>	30 June 1997 (see Gazette 1997, No. S250)	1 July 1997	
<i>Telecommunications (Low-impact Facilities) Determination 1997 (Amendment No. 1 of 1999)</i>	17 Aug 1999 (see Gazette 1999, No. S377)	17 Aug 1999	—

Notes to the *Telecommunications (Low-impact Facilities) Determination 1997*

**Table of Amendments**

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
S. 1.3.....	am. 1999 No. 1
<b>Part 2</b>	
S. 2.5.....	am. 1999 No. 1
<b>Part 3</b>	
S. 3.1.....	am. 1999 No. 1
<b>Schedule</b>	
<b>Part 1</b>	
Part 1.....	am. 1999 No. 1
<b>Part 3</b>	
Part 3.....	am. 1999 No. 1
<b>Part 4</b>	
Part 4.....	am. 1999 No. 1
<b>Part 5</b>	
Part 5.....	am. 1999 No. 1
<b>Part 7</b>	
Part 7.....	am. 1999 No. 1

## Appendix D

### Surveys of Environmental Radiofrequency Electromagnetic Energy (RF EME) Levels arising from Mobile Phone Base Station Antennas by ARPANSA

#### SURVEY – 1997–99

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) conducted measurements of RF EME levels at 14 locations near GSM mobile phone base stations during 1997-99. ARPANSA found that emissions from these antennas were usually many orders of magnitude below the limit of 450  $\mu\text{W}/\text{cm}^2$  set by the ARPANSA Radiation Protection Standard 'Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz' for general public exposure. The levels measured were comparable to television and FM radio transmitters and considerably lower than those from AM radio transmitters, all measured at the same time.

#### SURVEY – 2003

A further study of 60 base stations, including GSM and 3G technologies, in 2003 confirmed that RF EME levels were well below general public exposure limits.

#### SURVEY 2007–08

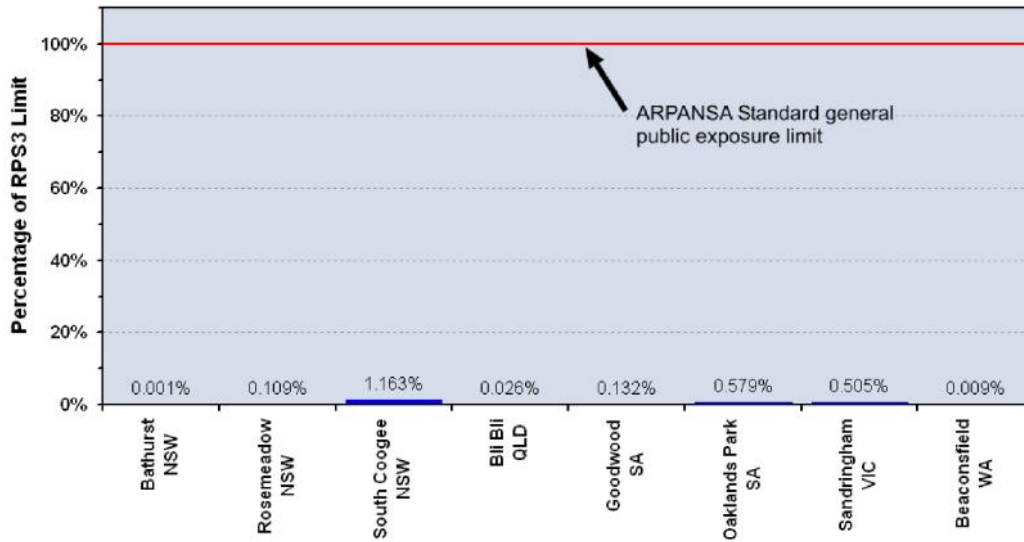
ARPANSA is coordinating a survey of environmental radiofrequency electromagnetic energy (RF EME) levels arising from mobile phone base station antennas during 2007-08 and according to their web site results are still being gathered. Suitability of the location was primarily determined by ability to access to the areas expected to have the highest levels and good line of sight to the antennas as well as being representative of carrier, technology, geography and type of installation, level of public concern, concentration of base stations in close proximity, or other special circumstances that may provide cause for community concern. The exposure levels measured, as reported to date on their web site, are well below the maximum level of exposure allowed by the Australian Government and the summary results are as follows:

Suburb/Town	Address	State	RF Level (% of maximum exposure allowed by Australian Government Standard)
Bathurst	230 Howick Street	NSW	<0.001%
Rosemeadow	Lot 1 Appin Road	NSW	0.109%
South Coogee	175 Malabar Road	NSW	1.163%
Bli Bli	Whitecross Road	QLD	0.026%
Goodwood	147 Goodwood Road	SA	0.132%
Oaklands Park	Warradale Barracks	SA	0.579%
Sandringham	48 Bay Road	VIC	0.505%
Beaconsfield	20 Moran Street	WA	0.009%
City Beach	Lot 245 Kilpa Court	WA	0.303%

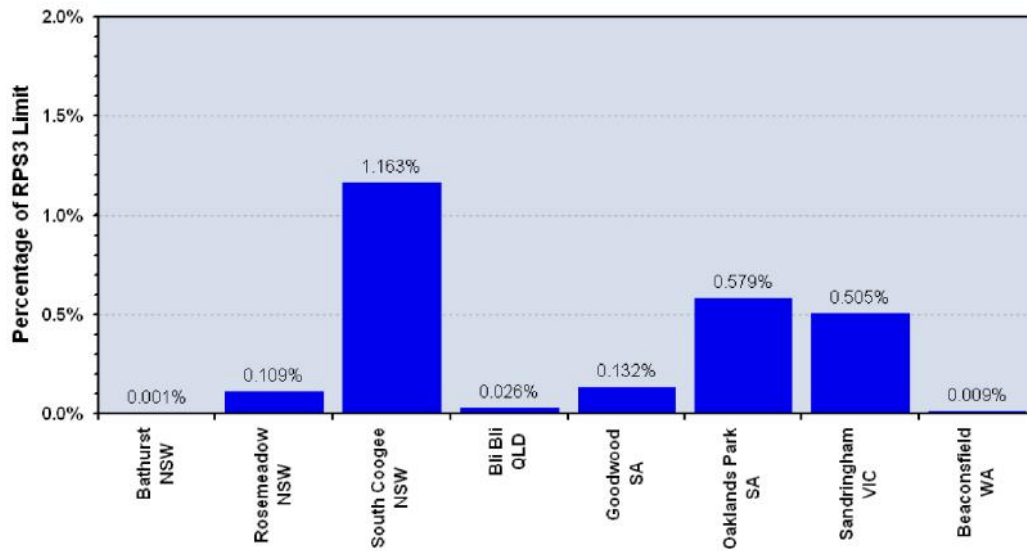
The following graphs summarise the results of the 2007-08 ARPANSA Survey.

Source: ([www.arpansa.gov.au/radiationprotection/BaseStationSurvey/index.cfm](http://www.arpansa.gov.au/radiationprotection/BaseStationSurvey/index.cfm)).

Summary Results and ARPANSA Standard limit



Summary Results on an expanded scale (2% of limit)

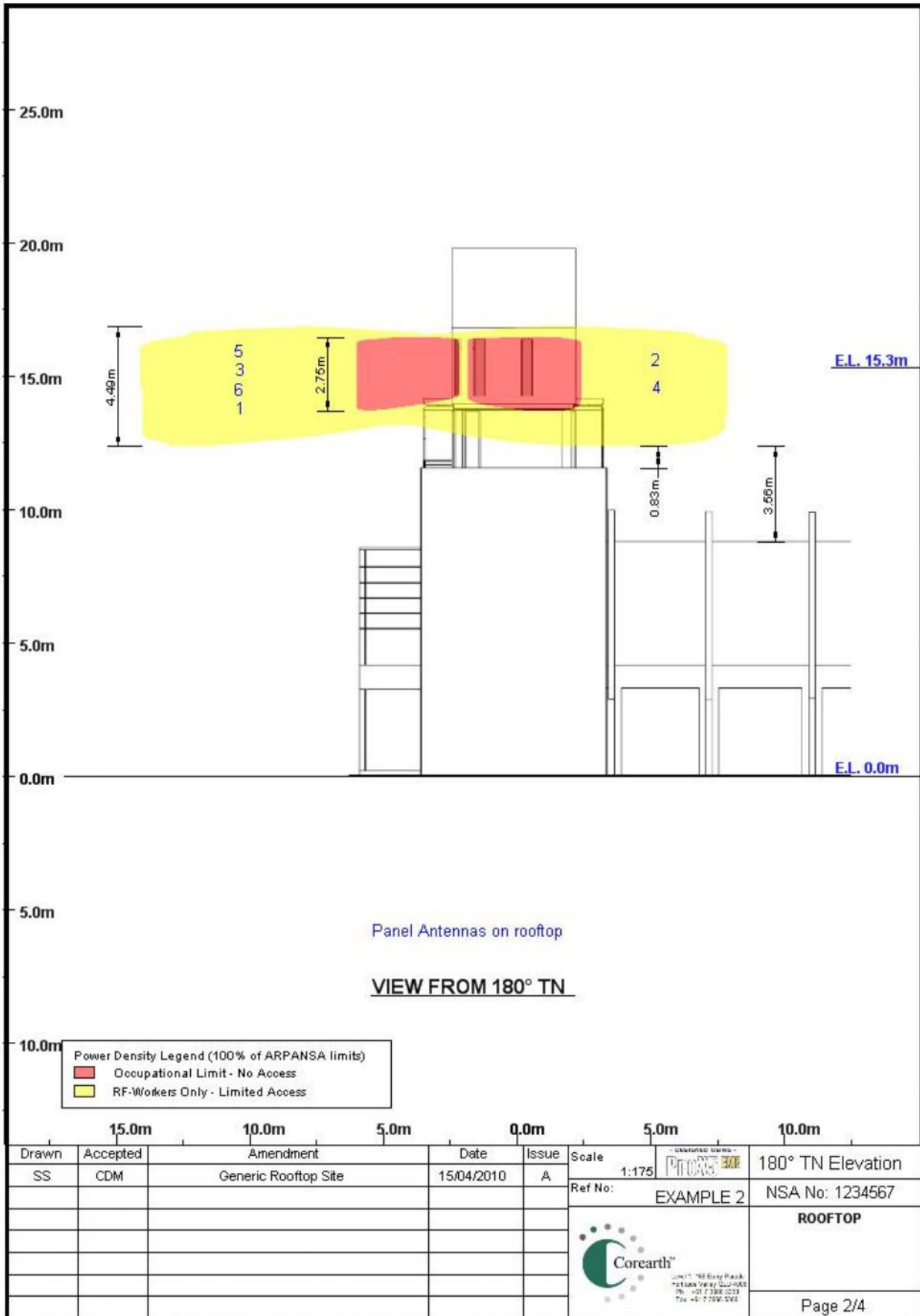


## Appendix E – Radiofrequency Hazard Fields

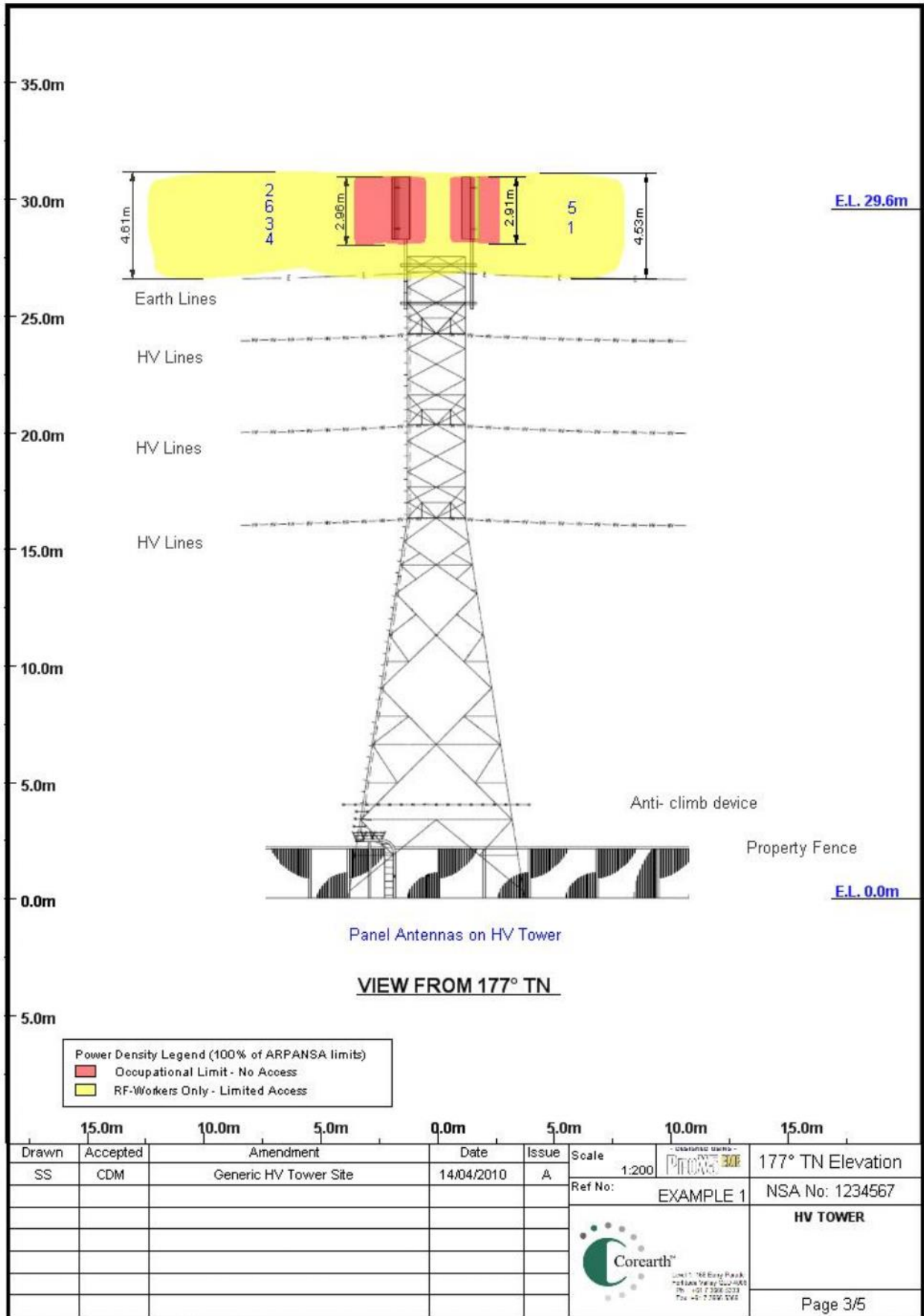
The antennas associated with mobile phone base stations emit radiofrequency (RF) beams that are typically very narrow in the vertical direction but quite broad in the horizontal direction. These create RF fields and the only locations where RF field intensity exceeds exposure limits are in immediate proximity to the antennas.

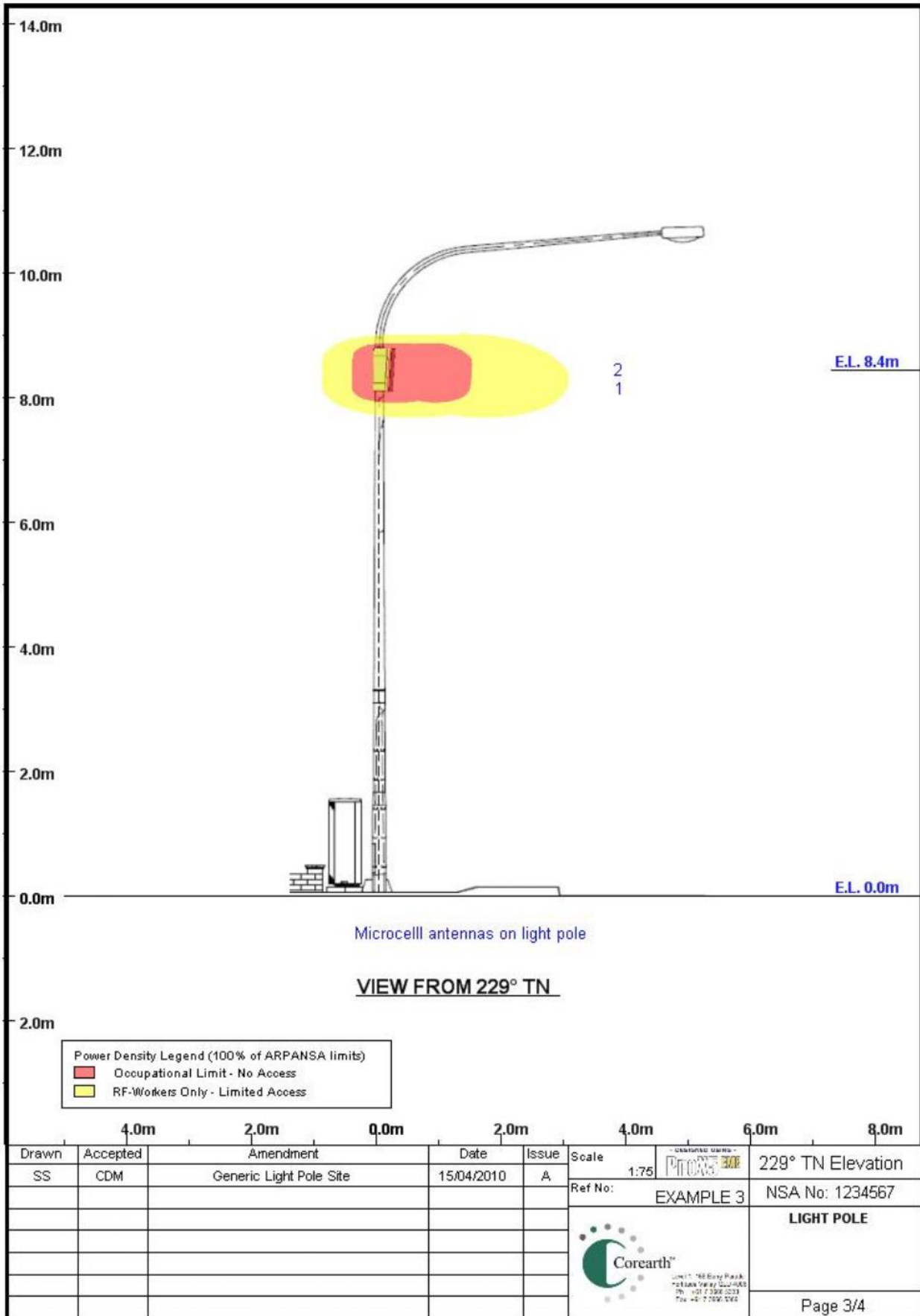
The typical extent of RF field hazard areas associated with different types of mobile phone base station facilities (rooftop, monopole and microcell installations) are depicted in the following diagrams.

Typically, the hazard areas extend only a short distance from the antennas and the only way a transmitting facility can be non compliant with the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz (2002)* is if these areas are accessible to the public in some way. For this reason, telecommunication carriers employ mandatory site practices that restrict access to antennas to keep the public away from locations where RF fields may exceed exposure limits.









## Appendix F – Consultation

In relation to notification, the general requirement for both exempt development and complying development is that to the extent that the development involves the installation of fixed radiocommunications infrastructure used, intended to be used or capable of being used to supply Public Mobile Telecommunications Services, the installation of such a facility must comply with the Mobile Phone Networks Code. This means that, amongst other matters, the notification requirements of the Mobile Phone Networks Code are to be followed.

The notification requirements in Mobile Phone Networks Code are provided in clause 5.4, 5.5 and 5.6 of that Code as follows. Please check to ensure these clauses are the latest copy, and that the requirements have not altered. Please seek advice from Australian Communications Industry Forum, now called Communications Alliance Ltd, regarding compliance.

### 5.4 NOTIFICATION TO COUNCIL – INSTALLATION AT A NEW SITE WITHOUT DEVELOPMENT APPLICATION

5.4.1 Section 5.4 applies if:

- (a) a Carrier proposes to carry out any work at premises in relation to the installation of radiocommunications infrastructure that is not Low RF Power Infrastructure; and
- (b) there is no radiocommunications infrastructure at the premises, other than Low Power RF Infrastructure; and
- (c) the work does not require Development Approval.

Note: The consultation requirements of this Code do not apply to infrastructure that requires Development Approval. In such cases it is expected that public consultation will occur through the Development Application process.

5.4.2 Before commencing the proposed work, the Carrier must notify Council about the work.

5.4.3 Where it can reasonably be expected that an adjacent local government area will be impacted by a proposal, the Carrier must also notify the Council administering that adjacent local government area.

5.4.4 Notification to the Councils must include:

- (a) the proposed location;
- (b) a written description of the proposal;

- (c) a statement setting out whether the Carrier regards the infrastructure as a Low Impact Facility under the *Telecommunications (Low-impact Facilities) Determination 1997* and the reasons for that conclusion;
- (d) a statement that the proposed infrastructure will be in compliance with the ACA EMR regulatory arrangements;
- (e) if the radiocommunications infrastructure is associated with a base station used for the supply of public mobile telecommunications services, a statement of estimated EMR exposure levels in accordance with the ARPANSA prediction methodology and report format (see Appendix B – *Additional Design Information*);
- (f) references to information on the effects of radio emissions on health;
- (g) the Carrier’s contact details; and
- (h) the proposed community consultation plan for the site.

Note: The Carrier may also have to comply with State and local planning requirements.

5.4.5 The Carrier must allow Council:

- (a) a comment period of five business days from the date of notification, to provide comment in writing in relation to the proposed community consultation plan (provided under clause 5.5.2);
- (b) an extension period of an additional five business days to provide comment if requested by Council in writing.

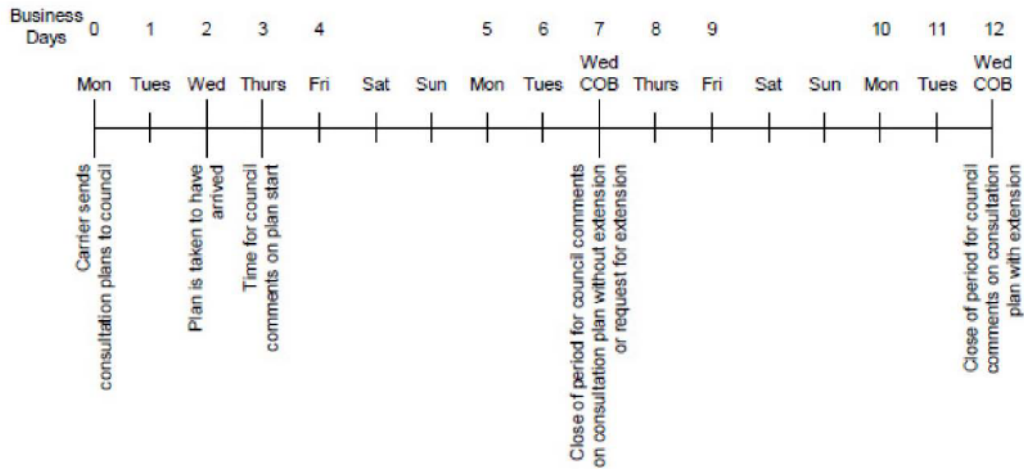
5.4.6 Comments under clause 5.4.5 (a) or written requests under clause 5.4.5 (b) must be received by the Carrier by no later than 5.00pm on the fifth business day from the date of notification.

5.4.7 The Carrier must not give notices under clause 5.5.7 before it has considered, and responded in writing to all issues raised in the Council’s comments indicating acceptance or reasons for rejection of Council’s views. The Carrier may commence the consultation process as in its plan under clause.

5.5.2:

- (a) if there is an extension period, at the close of that extension period; or
- (b) if there is no extension period, at the close of the comment period.

**Timeline for Council on Carrier Consultation Plan**



**Note:** The above figure is included to provide an indication of number of days to be allowed for receipt of notice and council comments.

Public holidays and weekends are not counted as business days.

**5.5 CONSULTATION WITH LOCAL COMMUNITIES – INSTALLATION AT A NEW SITE WITHOUT DEVELOPMENT APPLICATION**

- 5.5.1** Section 5.5 applies if:
- (a) a Carrier proposes to carry out any work at premises in relation to the installation of radiocommunications infrastructure that is not Low RF Power Infrastructure; and
  - (b) there is no radiocommunications infrastructure at the premises, other than
    - (i) Low Power RF Infrastructure; or
    - (ii) Exempt Radiocommunications Infrastructure; and
  - (c) the work does not require Development Approval.

Note: For guidance, where there is a large physical separation between facilities on a premises, they should be dealt with as separate sites for the purposes of consultation.

**5.5.2** Before commencing the proposed work, the Carrier must develop a plan for local community consultation.

Note: The Carrier must notify the Council of its consultation plan under clause 5.4.4.

Note: Appendix C - Consultation Guidelines, should be used for guidance.

**5.5.3** The consultation plan must be in writing and set out the consultation that the Carrier proposes to carry out in relation to a site.

**5.5.4** The Carrier must comply with its consultation plan.

**5.5.5** In developing a consultation plan for a site the Carrier must:

- (a) have regard to the objectives of:
  - (i) identifying and informing Interested and Affected Parties of the proposed project;
  - (ii) providing adequate time for Interested and Affected Parties to consider and engage in meaningful dialogue on the project;
  - (iii) maximising the level of accurate and accessible information about the project to Interested and Affected Parties;
  - (iv) identifying and attempting to resolve potential issues early in the site planning process; and
  - (v) obtaining mutually acceptable outcomes on individual projects;
- (b) have regard to the fact that a consultation program may not always:
  - (i) satisfy all participants; or
  - (ii) resolve all differences of opinion or values.
- (c) have regard to Council’s views on consultation;
- (d) use its reasonable endeavours to identify community sensitive locations; and

Note: Examples of sites which sometimes have been considered to be sensitive include residential areas, childcare centres, schools, aged care centres and hospitals.

- (e) use its reasonable endeavours to identify relevant community stakeholders.

Note: Examples of relevant community stakeholders who have sometimes been identified for specific sites include Local Progress Associations, Parents and Citizens groups for preschools and schools, Local MPs, Resident Groups.

- 5.5.6** The plan must require the Carrier to:
- (a) consult with the owner of the subject site;
  - (b) consult with the Council;
  - (c) consult occupiers of the subject site;

Note: By way of clarification, where the subject contains multiple residences, notification to the occupants of all residences is required.

- (d) consult immediate residential neighbours;
- (e) consult Interested and Affected Parties, occupiers of community sensitive locations and relevant community stakeholders who were identified under clause 5.5.5;
- (f) respond to specific information requests in a timely manner;
- (g) provide the Carrier's phone contact for development and/or construction issues in all notices;
- (h) provide the Carrier's phone contact for references to EMR information in all notices;
- (i) identify timeframes allowed in the consultation plan; and
- (j) undertake the following in respect of on-site signage:
  - (i) place a sign regarding the proposed work at the site proposed in a manner that ensures that it is clearly visible and legible from a public road or footpath, unless local government approval is required for the sign, the Council instructs otherwise, or it is not practical to do so;
  - (ii) the sign must include:
    - (A) the name and contact details of the Carrier or site manager;
    - (B) information on how to register comments with the Carrier or site manager;
    - (C) the closing date for comment;
  - (iii) the sign must be weather proof if installed externally;
  - (iv) the sign must not be removed by the Carrier until construction is complete.

- 5.5.7** Any notice given for the purposes of the consultation plan must contain:
- (a) the time within which they may comment on the proposed work; and
  - (b) a statement as to whether the Carrier regards the proposed work as a Low Impact Facility under the *Telecommunications (Low-impact Facilities) Determination 1997* and the reasons for that conclusion.

- 5.5.8** The time under clause 5.5.7 (a) must be:
- (a) if the notification is to a Council, not less than twenty business days; or
  - (b) if the notification is not to a Council, not less than ten business days.

**5.5.9** The Carrier must provide the Council with a report about the responses received from those notified and the results of any other consultation conducted under the plan.

Note: If everyone notified in accordance with the plan agrees, then the Carrier may immediately report to Council.

- 5.5.10** The Report must include:
- (a) summary of comments received during the consultation process;
  - (b) the Carrier's consideration of these comments; and
  - (c) a statement about the Carrier's intended actions regarding the proposed work.

**5.5.11** This Report must be available to a member of the public on written request.

**5.5.12** The Carrier must not commence the work until after the Report has been given to Council.

## **5.6 NOTIFICATION TO COUNCILS AND THE PUBLIC – INSTALLATION AT AN EXISTING SITE WITHOUT DEVELOPMENT APPLICATION**

- 5.6.1** Section 5.6 applies if:
- (a) a Carrier proposes to carry out any work at premises in relation to the installation of radiocommunications infrastructure that is not Low RF Power Infrastructure; and
  - (b) there is already radiocommunications infrastructure at the premises, other than
    - (i) Low Power RF Infrastructure; or
    - (ii) Exempt Radiocommunications Infrastructure and;
  - (c) the work does not require Development Approval.

Note: For guidance, where there is a large physical separation between facilities on a premises, they should be dealt with as separate sites for the purposes of consultation.

- 5.6.2** The Carrier must give the Council notice of the proposed work which must include:
- (a) the proposed location;
  - (b) a written description of the proposed work;
  - (c) a statement setting out whether the Carrier regards the infrastructure as a Low Impact Facility under the *Telecommunications (Low-impact Facilities) Determination 1997* and the reasons for that conclusion;
  - (d) a statement that the proposed infrastructure will be in compliance with the ACA EMR regulatory arrangements;

- (e) if the radiocommunications infrastructure is associated with a base station used for the supply of public mobile telecommunications services, a statement of estimated EMR exposure levels in the ARPANSA Report format (see Appendix B – *Additional Design Information*); and
- (f) a statement that Council may obtain further information on the proposed work, and contact details for the Carrier’s representative from whom the information may be obtained.

**5.6.3** The Carrier must also publish in a newspaper circulating in the area surrounding the location of the proposed work a notice which must:

- (a) describe the proposed work and its location, including street address and suburb if applicable; and
- (b) state that members of the public may obtain further information on the proposed work, and set out contact details for the Carrier’s representative from whom the information may be obtained; and
- (c) invite written submissions on the proposed work;
- (d) specify the closing date for submissions, which must be at least 10 days after the date on which the notice is published; and
- (e) state the address to which submissions should be sent.

**5.6.4** The notice must be legible and be in the public notice section of the newspaper.

**5.6.5** Before commencing the work, the Carrier must have regard to any submissions received from the public and Council.

Note: The potential for increase in EMR from maintenance of, or changes to, existing infrastructure is currently regarded as low. However, such increases will be notified to the ACA and the issue will be reconsidered when this Code is reviewed.

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

25 MAY 2022

ITEM 9.4            DEVELOPMENT APPLICATION DA.2021.1628 –  
                                         TELECOMMUNICATIONS FACILITY - 34 POWELL DRIVE,  
                                         CARWOOLA

ATTACHMENT 9    DA.2021.1628 - PROPOSED CONDITIONS OF CONSENT - 34  
                                         POWELL DRIVE CARWOOLA

**CONDITIONS OF CONSENT**  
**DA.2021.1628**

**1. APPROVED DEVELOPMENT AND PLANS**

The development referred to in the application is to be carried out in accordance with the approved plans and documents including the following:

Title / Description	Prepared by	Issue/Revision & Date	Date received by Council
Site Plan	Bereza Surveying	08/2021	01/02/2022
Details of the development	unnamed	undated	27/10/2021
Tower Plans	ARE Telecom and Wind	16/09/2020	27/10/2021
4 Panel Stand -72 Cell Plan	unnamed	29/11/2021	27/10/2021

except as modified by any of the following conditions of consent.

*Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.*

**SPECIAL CONDITIONS**

**2. Rural Fire Services and Canberra Airport Conditions**

The proposal must comply with the conditions provided by Rural Fire Services and Canberra Airport as per Schedule 1 and Schedule 2 of this consent.

*Reason: To ensure the proposed development is consistent with the bushfire regulations and aerservices guidelines.*

**3. Radiation Protection Standards**

The development is to comply with the Mobile Phone Networks Code & the Australian Communications and Media Authority (ACMA) regulatory arrangements with respect to electromagnetic radiation exposure levels.

*Reason: To ensure compliance with NSW Telecommunications Facilities Guideline including Broadband (2010) in respect to health standards.*

**GENERAL CONDITIONS**

**4. Obtain Construction Certificate**

Obtain a construction certificate/subdivision works certificate from Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier before undertaking any work. Forward a copy of any construction certificate/subdivision works certificate issued by a private certifier to Queanbeyan-Palerang Regional Council at least 2 days before undertaking any work in accordance with that construction certificate/subdivision works certificate.

*Reason: Work is undertaken in accordance this consent & relevant construction standards.*

**5. Obtain Occupation Certificate**



Do not occupy or use the premises until an occupation certificate has been issued by Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier. Provide a copy of any occupation certificate, issued by a private certifier, to Queanbeyan-Palerang Regional Council no later than 2 days after the occupation certificate is issued.

*Reason: Ensure that the building complies with relevant standards.*

#### **6. Comply with the Building Code of Australia**

All work is to comply with the current edition of the Building Code of Australia.

*Reason: All building work is carried out in accordance with relevant construction standards.*

#### **7. Construction within Boundaries**

The development including but not limited to footings, walls, roof barges and guttering must be constructed wholly within the boundary of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath or adjoining land.

*Reason: Approved works are to be contained wholly within the subject site.*

#### **8. Copy to Owner**

A copy of this consent is to be provided to the owner.

*Reason: To ensure the owner is aware of the requirements imposed under the consent.*

#### **9. Retaining Walls**

Any retaining wall greater than 1000 mm is to be designed and constructed to structural engineer's details. Prior to issue of any construction certificate provide a certified copy of the design to Queanbeyan-Palerang Regional Council.

*Reason: Retaining walls are structurally strong enough to bear the loads put on them.*

#### **10. Batters**

No batter is to have a gradient greater than 1:4. Batters greater than 1:4 must be retained.

*Reason: Prevent soil erosion, water pollution and the discharge of loose sediment on surrounding land.*

#### **11. Unauthorised Use of Public Land**

No building materials are to be stored or construction activities undertaken on public or adjoining land without prior written approval from Council.

*Reason: To prevent unnecessary disturbance to public land.*

### **CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORKS**

#### **12. Appoint PCA (Building)**

Appoint a principal certifying authority before any work is undertaken. Provide details of the appointed principal certifying authority (if not Queanbeyan-Palerang Regional Council) to Queanbeyan-Palerang Regional Council at least 2 days prior to any work being undertaken.

*Reason: To provide for supervision of the subdivision works.*

#### **13. Site Identification**

The site where building work, subdivision work, or demolition work are proposed to be carried out shall be identified by a sign sited in a visually prominent position containing the following information;

- the development application number,
- name, address and telephone number of the principal certifying authority,
- name of the principal contractor (if any) and 24 hour contact telephone number, and
- a statement that “unauthorised entry to the work site is prohibited”.

*Reason: To satisfy the provisions of Clause 136B and 227A of the Environmental Planning and Assessment Regulation 2000.*

#### **14. Sediment and Erosion Controls**

Install and maintain sediment and erosion controls, prior to and during construction activities, in accordance with the approved Erosion and Sediment Control Plan, to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:

- (a) divert uncontaminated run-off around cleared or disturbed areas,
- (b) erect a silt fence to prevent debris escaping into drainage systems or waterways,
- (c) prevent tracking of sediment by vehicles on roads, and
- (d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.

*Reason: To minimise environmental impact associated with any works & to prevent soil erosion/water pollution.*

### **CONDITIONS TO BE SATISFIED DURING DEMOLITION AND/OR BUILDING WORKS**

#### **15. Hours of Operation for Works**

All works associated with the construction and/or demolition of this development must be carried out between the following hours unless Queanbeyan-Palerang Regional Council agrees in writing. A written application shall be made to Queanbeyan-Palerang Regional Council if a variation of hours is required.

Weekdays:	7.00am to 6.00pm
Saturdays:	8.00am to 4.00pm
Sundays and Public Holidays:	NIL

*Reason: To reduce the chance of offensive noise being created and to minimise the impacts of the development in its locality.*

#### **16. Approval Documents**

Keep a copy of all stamped approved plans, specifications and documents on site while work is being undertaken.

*Reason: Relevant documentation is available for perusal on site by a council officer, for compliance check.*

#### **17. Construction Facilities**

Toilet facilities are to be provided at or in the close vicinity of the work site on which work involved in the erection or demolition of a building is being carried out.

*Reason: To provide adequate facilities to the work site.*

#### **18. All Works to Be Confined to the Site**

All demolition, excavation, backfilling, construction and other activities associated with the development must:-

- a) Be carried out entirely within the allotment boundaries unless otherwise approved by Council.

- b) Comply with the requirements of AS 2601-2001 - The demolition of structures.
- c) If within one metre of the verge, the site must be protected by a hoarding which must be erected prior to the commencement of the demolition works.
- d) Be kept clear of stormwater, sewer manholes and service easements on the site.
- e) Any gates must be installed so they do not open onto any footpath or adjoining land.

*Reason: To ensure that all development activity associated with the development does not pose a hazard to life or property and that the effectiveness of public services is not impaired.*

#### **19. Demolition Works**

The demolition of the existing building must be carried out in accordance with the:

- a) requirements of the SafeWork Authority of New South Wales,
- b) *NSW Work Health and Safety Act 2011*, and
- c) *Australian Standard AS 2601-2001: The Demolition of Structures*.

*Reason: To ensure compliance with SafeWork and occupational health and safety requirements.*

#### **20. Construction Waste Management**

All waste materials generated on-site during construction are to be stored in enclosed containers and deposited in an approved landfill at regular periods.

*Reason: To ensure adequate waste management practices are in place during the construction phase.*

#### **21. Excavation and Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed in accordance with the requirements of SafeWork.

*Reason: To ensure excavation does not impact on adjoining property and compliance with SafeWork requirements.*

#### **22. Unexpected Finds**

The development is to proceed with caution. If any Aboriginal objects are found, works should stop and DECCW notified. If human remains are found work is to stop, the site is to be secured and the NSW Police and NSW Office of Environment and Heritage are to be notified.

*Reason: To ensure objects discovered during construction are protected and notified in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales.*

### **CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION/COMPLETION CERTIFICATE**

#### **23. Occupation Certificate**

The occupation certificate must not be issued until all conditions of consent have been satisfactorily complied with and all mandatory stage/required plumbing inspections undertaken. Plumbing and drainage must be inspected by Queanbeyan-Palerang Regional Council at the relevant stages of construction in accordance with the attached inspection schedule and a final plumbing certificate obtained prior to issue of any occupation certificate.

*Reason: Development is safe & appropriate for occupation, and is completed in accordance with the consent.*

#### **24. Colours and Material Finishes**

The development is to be finished in materials that have a low reflectivity. Colours are to incorporate the use of muted, natural colours that will blend with, rather than stand out from, the landscape for major features such as walls, roof and fencing.

*Reason: The building is not visually intrusive in the landscape and does not cause glare.*

#### **25. Disturbed areas to be stabilised**

All disturbed areas must be stabilised by the application of grass seeding, turf or hydro-grass mulching or other surface treatment approved by Council prior to the issue of the final occupation/completion certificate. Do not use species that are listed under the *Noxious Weeds Act 1993*.

*Reason: Prevent soil erosion, water pollution and the discharge of loose sediment on surrounding land and to ensure that disturbed areas are rehabilitated.*

#### **26. Repair Damaged Public and Private Property**

All damage caused to public and private property during the establishment of the development must be repaired or reinstated prior to the issue of any Completion Certificate.

*Reason: To ensure that all public property in the vicinity of the development is maintained in its pre-development condition.*

#### **27. Erosion and Sediment Control**

Maintain erosion and sedimentation controls for as long as necessary after completion of works to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land. The controls are to remain in place until all disturbed ground surfaces are rehabilitated/revegetated and stabilised to prevent erosion or sediment loss.

*Reason: To minimise environmental impact associated with any works & to prevent soil erosion/water pollution.*

#### **Please Note:**

##### **Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

##### **Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorized contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

**Applications referred to in this consent or information to satisfy a condition of consent may be lodged through:**

[development@gprc.nsw.gov.au](mailto:development@gprc.nsw.gov.au)

Or in person at:

**Queanbeyan** 256 Crawford Street, Queanbeyan, NSW, 2620.

**Bungendore** 10 Majara Street, Bungendore, NSW, 2621.

**Braidwood** 144 Wallace Street, Braidwood, NSW, 2622.

*Please reference DA.2021.1628 when information is submitted.*

## Schedule 1



NSW RURAL FIRE SERVICE

Queanbeyan-Palerang Regional Council  
PO Box 90  
QUEANBEYAN NSW 2620

Your reference: (CNR-32431) DA.2021.1628  
Our reference: DA20220313006032-Original-1

**ATTENTION:** Vagesha Wellalage

Date: Friday 1 April 2022

Dear Sir/Madam,

**Development Application**  
**s4.14 - Other - Industry**  
**Telecommunication Facility - 34 POWELL DR CARWOOLA NSW 2620, 33//DP774571**

I refer to your correspondence dated 09/03/2022 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

### General Conditions

1. The development shall comply with the recommendations of the Bush Fire Risk Management Plan by Mackenzie Davey Consulting dated 25 January 2022 ref: CMD 13.22.

For any queries regarding this correspondence, please contact Anna Jones on 1300 NSW RFS.

Yours sincerely,

Martha Dotter  
Supervisor Development Assessment & Plan  
Built & Natural Environment

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#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

## Schedule 2



**Australian Government**  
**Department of Infrastructure, Transport,  
 Regional Development and Communications**

File reference: F17/184-84

TO	CC	FROM
YLess4U Rural Internet Solutions <a href="mailto:helpdesk@yless4u.com.au">helpdesk@yless4u.com.au</a>  For  Mr Jason Fulton	Andrew Newton Canberra Airport <a href="mailto:A.Newton@canberraairport.com.au">A.Newton@canberraairport.com.au</a> <a href="mailto:airspaceprotection@canberraairport.com.au">airspaceprotection@canberraairport.com.au</a>  Civil Aviation Safety Authority <a href="mailto:airspaceprotection@casagov.au">airspaceprotection@casagov.au</a>  Airservices Australia <a href="mailto:airport.developments@airservicesaustralia.com">airport.developments@airservicesaustralia.com</a> <a href="mailto:ifp@airservicesaustralia.com">ifp@airservicesaustralia.com</a>  Queanbeyan-Palerang Regional Council <a href="mailto:council@qprc.nsw.gov.au">council@qprc.nsw.gov.au</a>	Flysafe Airspace Protection <a href="mailto:flysafe@infrastructure.gov.au">flysafe@infrastructure.gov.au</a>

### DECISION UNDER THE AIRPORTS (PROTECTION OF AIRSPACE) REGULATIONS 1996

**Proposed Activity:** Construction of a Pole, Solar Array and Cabinet  
**Location:** 34 Powell Drive, Carwoola NSW  
**Coordinates:** S 35.355515; E 149.295712  
**Proponent:** Mr Jason Fulton

I refer to the application from YLess4U on behalf of Mr Jason Fulton (the Proponent), received by the Department of Infrastructure, Transport, Regional Development and Communications (the Department) on 23 November 2021 from Canberra Airport. This application sought approval under the Airports (Protection of Airspace) Regulations 1996 (the Regulations) for the intrusion of a pole, solar array and cabinet at 34 Powell Drive, Carwoola NSW (the site) into airspace which, under the Regulations, is prescribed airspace for Canberra Airport.

Under regulation 6(1), 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport'.

The Outer Horizontal Surface of the OLS above this site is at a height of 720 metres above the Australian Height Datum (AHD) and hence prescribed airspace above the site commences at 720 metres AHD. Due to the existing intrusion of the underlying terrain, at a maximum height of 807 metres AHD, the pole, solar array and cabinet will penetrate the OLS by up to 87 metres.

Accordingly, the construction of the pole, solar array and cabinet constitutes a 'controlled activity' under Section 182 of the *Airports Act 1996* (the Act). Section 183 of the Act specifies that controlled activities cannot be carried out without approval. Details of the penetration of prescribed airspace are provided in Table 1.

Table 1: Height and location of the proposed activity that will intrude into prescribed airspace for Canberra Airport.

Activity	Coordinates	Maximum height (AHD)	Penetration of prescribed airspace
Building	S 35.355515; E 149.295712	807 metres	87 metres

Regulation 14 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Regulation 14(1)(b) provides that an approval may be granted subject to conditions.

Under the Regulations, the Secretary of the Department is empowered to make decisions in relation to the approval of controlled activities, and impose conditions on the approval. I am the Secretary's Delegate for the purposes of the Regulations.

#### **Decision**

In accordance with regulation 14, I **approve** the controlled activity for the intrusion of a pole, solar array and cabinet at 34 Powell Drive, Carwoola NSW into prescribed airspace for Canberra Airport to a **maximum height of 807 metres AHD**.

In making my decision, I have taken into consideration the opinions of the Proponent, the Civil Aviation Safety Authority, Airservices Australia's advice number YSCB-CA-126 and Canberra Airport.

In accordance with regulation 14(1)(b), I impose the following conditions on my approval:

1. The pole, solar array and cabinet **must not exceed** a maximum height of **807 metres AHD**.
2. Separate approval **must be sought** under the Regulations for any equipment (i.e. cranes, concrete pumps, etc.) required to construct the pole, solar array and cabinet. Construction cranes and/or concrete pumps may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes, concrete pumps, etc.) be obtained prior to any commitment to construct.
3. The Proponent **must advise** Airservices Australia at least three business days prior to the controlled activity commencing by emailing [ifp@airservicesaustralia.com](mailto:ifp@airservicesaustralia.com) and quoting YSCB-CA-126.
4. On completion of construction of the pole, solar array and cabinet, the Proponent **must provide** Canberra Airport with a written report on the finished height of the tower.



**Breaches of approval conditions are subject to significant penalties under Sections 185 and 187 of the Act.**

Yours sincerely



Grace Daniel  
A/g Director  
Airspace Protection & Airport Safeguarding  
Domestic Aviation & Reform

15 December 2021