

<b>JRPP No:</b>	2010HCC029
<b>DA No:</b>	DA/1458/2010
<b>Proposal:</b>	Telecommunications Facility (Mobile Phone Tower)
<b>Address:</b>	400 Pacific Highway, Cams Wharf - Lot 10 DP 517891
<b>Applicant:</b>	Daly International on behalf of Optus Mobile P/L
<b>Owner:</b>	Mrs Yvonne Crosbie
<b>Lodged:</b>	27 August 2010
<b>Value:</b>	\$240,000
<b>Consent Authority:</b>	JRPP (over 13 metres high in a coastal zone)
<b>Referral Agencies:</b>	Mine Subsidence Board
<b>Exhibition:</b>	2 September 2010 to 16 September 2010
<b>Report By:</b>	Andrew Leese – Senior Development Planner

## Assessment Report and Recommendation

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### Precis

It is proposed to erect:

- One 30 metres high concrete monopole.
- Three panel antennas, to be mounted on the triangular headframe at 30 metres.
- One 1200mm diameter parabolic radio communications antenna, to be mounted on the monopole at 25 metres.
- One 3m x 2.5m prefabricated equipment shelter located adjacent to the monopole within a security compound fence 6m x 8m.

The land is zoned 7(2) Conservation (Secondary) under the Lake Macquarie Local Environmental Plan 2004. The use is permissible on the site as '*telecommunications facilities*' defined under LMLEP 2004

As the structure exceeds 13 metres in height in a coastal zone, the Joint Regional Planning Panel (JRPP) is the consent authority.

This tower has been previously approved. Development consent DA/4415/2004 for a 30 metres monopole and associated structures at this site was considered at the Council meeting of 14 February 2005 and the recommendation for approval, subject to conditions, was adopted. The consent for this DA lapsed on 15 February 2008, resulting in this new DA being lodged.

## Location

The site is located on the northern side of the Pacific Highway, just to the west of the intersection with Cams Wharf Road. The locality is predominately low density rural type residential and bushland. The site slopes to the north down towards Lake Macquarie. The highway is located on the ridgeline. The site is identified as being in the coastal zone and part ecological corridor. The compound is setback approximately 10 metres from the Pacific Highway, with access to the compound by the existing driveway to the house. The tower is located some 55 metres from the existing dwelling.

## Surrounding development

The subject land is identified as Lot 10 DP 517891, 400 Pacific Highway, Cams Wharf. It is rectangular in shape and adjoins the Pacific Highway to the south east. There is a dwelling located in the centre of the site and associated buildings on the land. A driveway connects the house to the Pacific Highway. The proposed facility is to be located adjacent to the existing driveway, on the eastern boundary of the property.

The site of the tower is located on the edge of a steeply sloping vegetated hillside in an area which has previously been disturbed and is flat. The land is 2.1ha in area and adjoins other rural-residential allotments. Whilst the majority of these contain dwellings, the land immediately adjacent to the subject land is heavily vegetated.



## **Figure 1 – Site Aerial Photograph**

### **The Assessment**

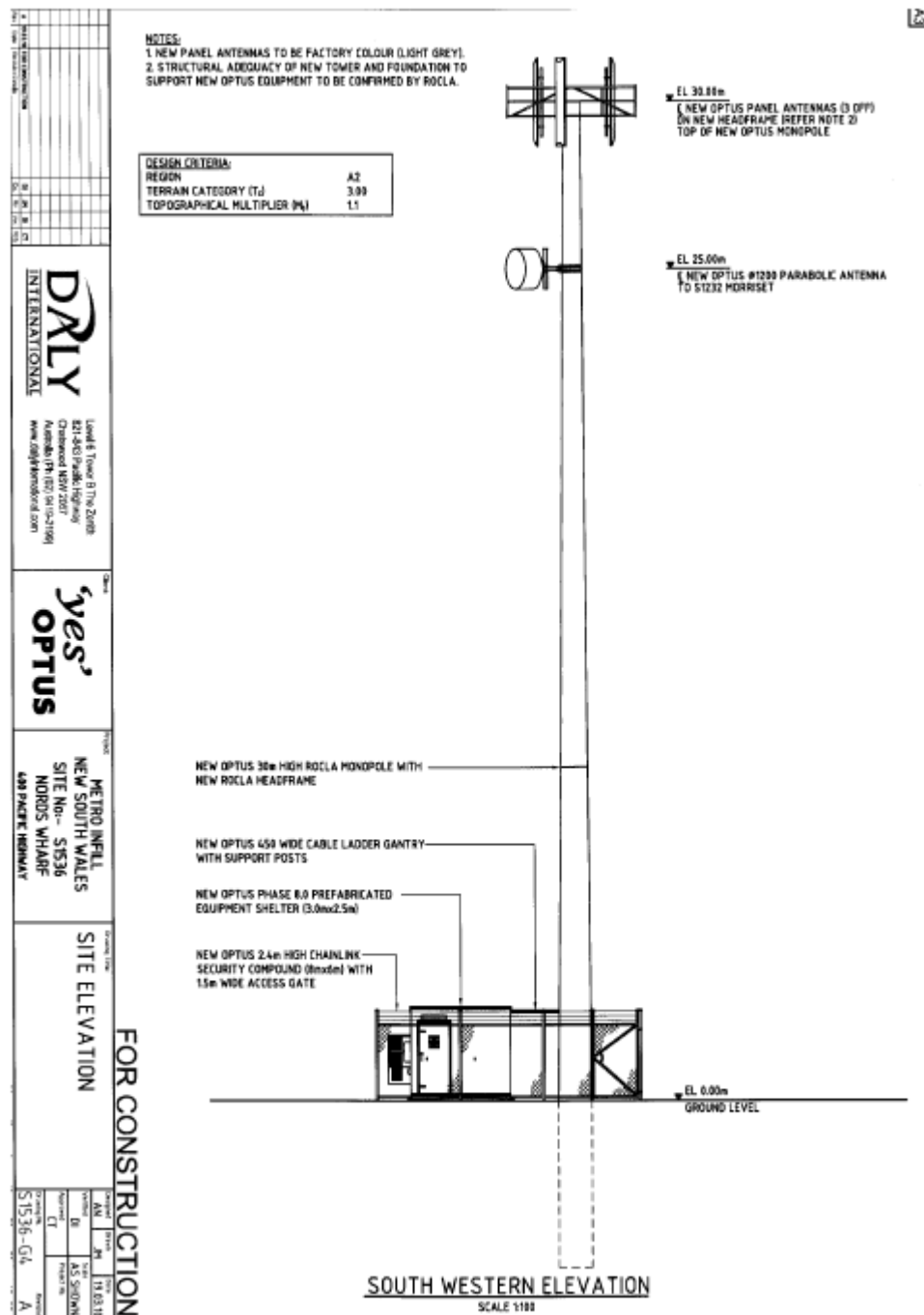
This report provides an assessment of the material presented in the application against the relevant State and local planning legislation and policy.

### **Section 79C: Potential Matters for Consideration**

#### **79C(1)(a)(i) the provisions of any Environment Planning Instrument (EPI)**

*State Environmental Planning Policy 71 Coastal Protection*

Clause 8 of the SEPP raises 'Matters for Consideration' for developments within the coastal zone. A SEPP 71 assessment is attached in Appendix 2.



**Figure 2 – plans (elevation)**

*State Environmental Planning Policy (Major Development) 2005*

Pursuant to clause 13C (b) of the policy, the proposed development is a regional development, due to the structure being over 13 metres in height in a coastal zone.

In this regard the consent authority for this development is the JRPP.

The Lake Macquarie LEP 2004 does not provide development standards in relation to height.

*State Environmental Planning Policy (Infrastructure) 2007*

Clause 115 Development permitted with consent is applicable. It states:

- (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 Director-General for the purposes of this clause and published in the Gazette.*

Clause 116D states:

*A consent authority is not required to have regard to guidelines issued for the purposes of clause 115 (3) (as inserted by State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications Facilities) 2010) in relation to development applications made, but not finally determined, before the commencement of that subclause.*

Planning Comment:

This DA was made after July 2010 and the 'NSW Telecommunications Facilities Guidelines Including Broadband' is applicable.

The guideline contains four principles. A further planning comment for each principle is made below:

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

The proposal is for a new monopole. The antennas will not be 'attached' to an existing structure or building. As such, it will be highly visible from a number of locations. The guideline indicates a neutral colour such as grey is used in these type of situations. The aim of the tower is to provide mobile phone coverage to an important transport corridor, that presently has poor coverage. The area where it will be highly visible is a short section of Pacific Highway, a high speed transport and infrastructure (eg power lines) corridor. The visual impact from critical views, such as from the Lake, coast and surrounding residences is not considered adverse given the distances to these view points, the heavy vegetation at the lower section of the monopole and reduced sight lines given the topography of the locality.

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

The applicant was requested to consider co-location and have provided detailed coverage information to show that co-location would not provide adequate coverage in this area of the Pacific Highway.

**Principle 3: Health Standards for exposure to radio emission will be met.**

The application includes a report indicating the Electromagnetic Emissions (EME) is 0.048% of the maximum public exposure limits set by the Australian Radiation Protection and Nuclear Safety Agency.

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

The proposed location will not have an adverse impact on aviation, other communications facilities, stormwater management, traffic, pedestrians, flora, fauna or Aboriginal Heritage.

*Lake Macquarie Local Environmental Plan 2004 (LMLEP)*

*Clause 16 Development Consent – matters for consideration*

*(a) Lifestyle 2020 Vision, Values and Aims*

In considering this application Council must have regard to the following vision, values and aims of the Lifestyle 2020 Strategy as expressed in Part 2 of the LMLEP:

***Vision***

*The vision for land to which this plan applies is described in the Lifestyle 2020 Strategy, which is available from the office of the Council.*

***Values***

*The 4 core values of that strategy are sustainability, equity, efficiency and liveability.*

***Aims***

*The aims of the Lifestyle 2020 Strategy are to:*

- (a) provide the community with realistic expectations about the future development patterns for land in Lake Macquarie City, while retaining flexibility for land use decision making in the longer term, and*
- (b) reinforce and strengthen centres so that a wide range of commercial and community services may be provided in a timely and accessible manner, and*
- (c) provide local employment opportunities for residents and promote economic development consistent with the City's natural, locational and community resources, and*
- (d) guide the development of urban communities that are compact, distinct and diverse and include a range of housing types and activities, and*
- (e) achieve a strong sense of positive community identity, through the development of local communities that are safe and liveable and offer a diversity of uses, economic opportunities and ready access to services, and*
- (f) develop an attractive urban setting for the City which reflects its physical and natural environment, and visual character, and*
- (g) manage the City's natural environment so that its ecological functions and biological diversity are conserved and enhanced, and contribute to the City's overall well being, and*
- (h) manage the City's heritage and economic resources in a way that protects the value of these resources and enhances the City's character, and*
- (i) integrate land use with the efficient provision of public and private movement systems.*

The proposal provides a community benefit for Lake Macquarie and passing travellers within an appropriate setting. The development will not adversely detract from the visual setting nor affect surrounding communities to a degree that will significantly impact upon the liveability or quality of life of residents in the locality. The proposal utilises land zoned which permits such a use and as indicated by this assessment, will integrate the use into the existing surrounds.

*(b) Objectives of Zone*

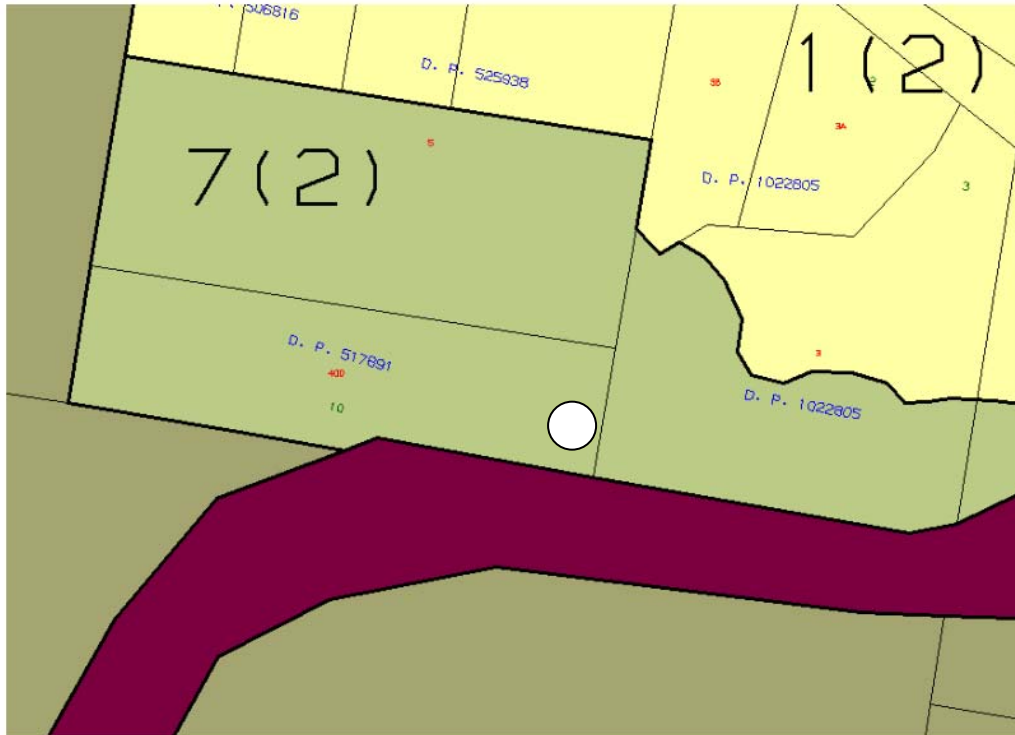
The land is zoned 7(2) Conservation (Secondary), (see Figure 3 below). The objectives of this zone are to:

- (a) protect, conserve and enhance land that is environmentally important, and*
- (b) protect, manage and enhance corridors to facilitate species movement, dispersal and interchange of genetic material, and*
- (c) enable development where it can be demonstrated that the development will not compromise the ecological, hydrological, scenic or scientific attributes of the land or adjacent land in Zone 7 (1), and*
- (d) ensure that development proposals result in rehabilitation and conservation of environmentally important land, and*
- (e) provide for sustainable water cycle management.*

The proposed development will have no measurable impact in terms of objectives (b), (d) and (e).

The proposed development does not fully satisfy zone objective (a) as it will have a negative visual impact on the land. However, as the proposed development is to be located in an area that is already disturbed, it is unlikely to impact adversely on the conservation values or protection of the subject land.

While the proposed development may compromise the scenic attributes of the land in the context of objective (c) it is unlikely to compromise the ecological, hydrological or scientific attributes of the land or adjacent land. The scenic impact is considered to be minor given the adjacent highway use and infrastructure zoning.



**Figure 3 – Zoning of the land / locality – LMLEP 2004**

*Clause 17 Provision of essential infrastructure*

The site contains an existing dwelling which is serviced by essential infrastructure.

*Clause 21 Development the subject of SEPP 1 application*

Not applicable.

*Clause 29 Building heights*

*Proposed Heights*

The monopole is 30 metres in height. As this height exceeds 8 metres, consideration must be given to whether the height is compatible with the heights of other buildings in the vicinity or locality and is compatible with:

- (a) the site attributes, and existing or proposed uses of the land to which the application relates, and
- (b) the other requirements of this plan and the provisions of any relevant development control plan.

*Surrounding buildings*

There are no buildings in this area of a similar height. There is another monopole approximately 7km to the south of the site on the southern side of the Pacific Highway.

*Compatibility with surrounding buildings and site attributes*

The proposed structure is not compatible with existing heights in the area and will be highly visible from the adjacent public sphere, (the short section of the Pacific Highway that abuts



the site). However, given monopoles are not a common structure, the height above 8 metres is considered acceptable given the limited environmental impacts the proposal will result in and its limited visual impact when viewed from a distance. There are no height controls for this site / use identified in any relevant DCP.

*Clause 30 Control of pollution*

N/A

*Clause 31 Erosion and sediment control*

No specific concerns in relation to erosion and sediment control were raised by Council's Subdivision Engineer.

*Clause 32 Flood prone land*

The land is not flood prone.

*Clause 33 Bush fire considerations*

The proposed development is not identified as a development which is likely to be of concern in the Planning for Bushfire Protection guidelines. No specific controls in these guidelines apply to the development.

The proposed development is consistent with the objectives of the policy. The tower and associated structures do not pose an increased bushfire threat or affect any existing or proposed bushfire mitigation measures. The majority of objectives relate to bushfire mitigation with respect to habitable buildings. The proposal does not adversely affect access to the site and provides safe access for emergency and other vehicles at all times.

The proposal is consistent with the provisions of Clause 33.

*Clause 34 Trees and native vegetation*

Council's Flora and Fauna officer raises no objection to the proposal. (See further comments at section 2.1 DCP No 1.)

*Clause 35 Acid Sulfate Soils*

The site is identified as class 5, land being within 500 metres of an area of having a higher risk of acid sulfate soils. Given the height above the Lake no specific conditions have been recommended.

*Clauses 36 - 42*

Not applicable.

*Clause 60 – land adjacent 5 zone*

The proposed development will be consistent with the efficient operation of the potential and existing infrastructure development within the adjacent 5 zone.

**79C(1)(a)(ii) the provisions of any draft EPI**

There are no draft EPIs that have any impacts in relation to this particular lot or use.

## **79C(1)(a)(iii) the provisions of any Development Control Plan (DCP)**

### *Development Control Plan No. 1 – Principles of Development*

#### **Section 1.8 – Development Notification Requirements**

As required by the EPA Regulation 2000, the Mine Subsidence Board General Terms of Approval were received (by Council) with the application. The plans are stamped 26 July 2010.

Adjoining and adjacent neighbours were notified of the proposal. One submission was received, raising concerns with the proposal. This objection is addressed at section 79C(1)(d) of this report.

#### **Section 2.1 – Environmental Responsibility and Land Capability**

##### 2.1.1 - Ecology

Development within Zone 7(2) Conservation (Secondary) must be designed to minimise impacts on the ecological value of the land, does not further fragment the land and maintains minimum impact on viable habitat areas for native flora and fauna. The proposed tower and 6m x 8m compound is to be located within the boundary of an existing residential dwelling on a site that has already been disturbed. Whilst the development will have a visual impact, its impact on the ecological value of the land will be minimal.

##### 2.1.2 - Ecological Corridors

DCP 1 requires that development avoid or minimise impacts on the ecological corridors of the land, further fragmentation of the land and shall maintain minimum viable habitat areas for significant species. The proposed development is immediately adjacent an ecological corridor. This corridor, located to the north, covers the steeply sloping vegetated hillside. The site itself has been previously cleared and has had surface soil removed. The proposed development will have minimal impact on the corridor. The development is considered to comply with the DCP in this regard.

##### 2.1.3 Scenic Values

The subject land falls within Zone A of the Scenic Management Zone Maps. This is the highest scenic quality value. These areas are of critical value to the scenic value of the City. No Visual Impact Statement was provided by the applicant.

The identified performance criteria for DCP 1 requires development to complement rather than detract from the landscape. Whilst the tower will be visible from outside the site, nearby properties and the Pacific Highway, its visual impact has been minimised through the 'slimline' design of the tower and the colour scheme proposed. The development does not require large scale clearing and will be screened at ground level. A similar tower is located to the south of this site (approx 7km) on the Pacific Highway and does not adversely detract from the scenic value of the area when viewed from the road. (See Figure 4.)

The proposed development will be visible to a number of rural residential properties located on Cams Wharf Road. These properties are both located a significant distance (min 200m) from and well below the proposed site. The existing trees on the site and surrounding area

will screen the majority of the structure resulting in only the upper sections of the tower being visible. It is therefore considered that the proposed development will have little impact on the scenic values when viewed from Cams Wharf Road.

It is considered that the impact of the development on the scenic values of the area is acceptable in this instance.



**Figure 4: Monopole located approximately 7kms to the south of the site**

#### 2.1.4 - Bushland and Tree Preservation

The intent of DCP 1 is to protect culturally significant vegetation, bushland and understorey vegetation. As noted earlier, the site has previously been disturbed. The site at ground level is not highly visible from the Pacific Highway or surrounding areas.

Council's Flora and Fauna officer has not raised any objections to the proposal. It is therefore considered that the proposed development is consistent with the provisions of the DCP.

#### 2.1.5 Bushfire Risk

While it is recognised that the proposed mobile telephone facility is in an area of fire risk, the facility is not considered to pose an increased bushfire risk. As discussed previously, the

proposed development is unstaffed and is not identified in Planning for Bushfire Protection as a development likely to be of concern.

#### 2.1.6 - 2.1.7 Waterbodies

N/A

#### 2.1.9 Sloping Land and Soils

The site is within T1 and T3 geotechnical zones, which signify steep grades. The pole itself is not located in those parts of the site. Council's Subdivision Engineer noted the pole is located in a level area and "*likely suitable for the development*", but is near a T1 geotechnical zoning. The subdivision Engineer has noted that the submitted geotechnical report did not address slope stability and has recommended a condition that requires a geotechnical assessment "*confirming the suites suitability prior to the issue of a Construction Certificate.*" This has been included in the draft conditions for any approval.

#### 2.1.10 Acid Sulfate Soils

See comments Clause 35 above.

#### 2.1.11 Erosion Prevention and Sediment Control

See comments at Clause 31 above.

#### 2.1.12 Mine Subsidence

The Mine Subsidence Board approved of the proposal via stamped plans lodged with the application.

#### 2.1.13 Contaminated Land

The land is not known to be contaminated.

#### 2.1.14 Energy Efficiency

N/A .

#### 2.1.15 Noise and Vibration and 2.1.16 Air Quality and Odour

Council's Environmental Health officers have raised no objection to the proposal, noting that are not specialists in analysing electromagnetic emissions.

#### 2.1.17 Building Waste Management

Council's standard condition regarding building waste is recommended.

Section 2.2 – 2.4      Social, Economic and Heritage
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Not applicable.

Section 2.5 – Stormwater Management, Infrastructure and On-site Services
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#### 2.5.1 Essential Infrastructure

The site is serviced with essential infrastructure.

The intent of DCP 1 is to ensure the provision of essential infrastructure to all development in a manner minimising environmental impacts. The relevant provisions require that the siting, design and installation of telecommunications towers are not visually obtrusive and do not create an unacceptable risk to human health or the environment. To achieve this, telecommunications towers should comply with the Code for the Deployment of

Radiocommunications Infrastructure (ACIF, 2002), the Australian Communications Authority standards (ACA) and legislation.

DCP 1 also recommends that towers or base stations be located away from sensitive land uses (residences, schools, childcare centres, hospitals, nursing homes and the like). Facilities should be co-located for services to the same geographical area and Electromagnetic Radiation (EMR) minimised in accordance with the ACIF Code.

A number of rural residential dwellings (approximately 10) are located nearby the proposed tower. The applicant has advised that while co-location of this facility has been investigated, no appropriate shared site was suitable in this case. The EME report submitted with the application states that the maximum level of emissions from this site will be 0.048% of the Australian Radiation Protection and Nuclear safety Agency public exposure limits.

DCP 1 also requires that the design of towers/antennas, base stations and supporting infrastructure minimise the visual impact and cumulative visual impact on scenic quality and the public domain. While the tower will be visible and have some minor negative impact on scenic quality in the locality, its slimline design and colour will help minimise this impact. The site has been disturbed and is not highly visible at ground level. The prominence of the tower is further reduced by the existing vegetation. As discussed previously, it is considered that the visual impact of the proposal is acceptable in this instance.

#### 2.5.2 On-Site Wastewater Treatment

Not applicable.

#### 2.5.3 Stormwater Management (Drainage System Design) and 2.5.4 On-Site Stormwater Harvesting (Source Controls)

N/A

### **Section 2.6 – Transport, Parking, Access and Servicing**

#### 2.6.1 Movement System

Not applicable.

#### 2.6.2 Traffic Generating Development

N/A

#### 2.6.3 Road Design

Not applicable.

#### 2.6.4 - 2.6.5 Pedestrian / Public Transport

Not applicable.

#### 2.6.6 Vehicle Parking Provision

Informal parking can be provided on site to cater for maintenance visits.

#### 2.6.7 Car Parking Areas and Structures

The internal driveway and car parking space (including turning movements) appear adequate for the development and comply with DCP requirements including AS 2890.1.

#### 2.6.8 Vehicle Access

The existing driveway crossing will be used.

#### 2.6.9 Access to Bushfire Risk Areas

See comments at Cause 33 above.

#### 2.6.10 Servicing Areas

The existing service areas will be retained.

#### 2.6.11 On-Site Bicycle Facilities

N/A

#### 2.6.12 Non-Discriminatory Access and Use

N/A

### Section 2.7 – Streetscape and the Public Realm

#### 2.7.1 Streetscape and Local Character

The context of the site is one of a primarily rural residential and coastal bushland setting. When viewed from various aspects from the Pacific Highway will result in a significant visual change, but given the route of the highway its major impact will only be visible for a short distance.

The pole base will not stand out at a further distance from the Cams Wharf Road properties. With the use of colour and the slimline design it is considered that the proposal's visual impact will not be adverse along the highway/ridgeline and when viewed from residential properties directly to the north and towards the Lake.

#### 2.7.2 Landscape

N/A

#### 2.7.3 - 2.7.4 Public Open Space

Not applicable.

#### 2.7.5 Light, Glare and Reflection

Council's standard conditions in relation to light and glare have been included in the recommended conditions of approval.

#### 2.7.6 Views

The proposal will not result in significant view loss for neighbouring residential properties.

#### 2.7.7 Signs

No signs are proposed as part of this application.

#### 2.7.8 Fences

New safety fencing of the compound is proposed. This is considered satisfactory.

#### 2.7.9 Safety and Security

Access to the facility will be restricted by the fence. Issues concerning public safety and EME levels are discussed in Section 3.6.1 below.

### Section 3.1 - Lake, Waterway and Coastline Development

#### 3.1.1 - 3.1.2

The development is over 750 metres to the Lake. The proposal will not have any adverse impacts on the coastal zone or coastal processes, subject to satisfactory site management during the construction phase.

### Section 3.2 – Subdivision

Not applicable.

### Sections 3.6.1 – Industrial, Bulky Goods and Utility Installation Development

The intent of DCP 1 is to ensure that development is operated within acceptable environmental standards. DCP 1 addresses noise and vibration, air quality, odour and visual impact.

Noise impacts will be most relevant during the construction phase. It is considered that the proposed development will not impact upon air quality or result in any odour. Visual impacts have been discussed above.

#### **79C(1)(a)(iiia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into**

Not applicable.

#### **79C(1)(a)(iv) any matters prescribed by the regulations**

The Regulation 2000 provides:

- (1) *For the purposes of section 79C (1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*
  - (a) *in the case of a development application for the carrying out of development:*
    - (i) *in a local government area referred to in the Table to this clause, and*
    - (ii) *on land to which the Government Coastal Policy applies,*  
*the provisions of that Policy,*
  - (b) *in the case of a development application for the demolition of a building, the provisions of AS 2601.*

The application is not for the demolition of a building. The Government Coastal Policy applies. The site is 750m metres from the Lake and 2.3 kilometres from the coast and is not considered to have any adverse impacts on this zone.

### **79C(1)(b) the likely impacts of the development**

The following matters were considered and, where applicable, have been addressed elsewhere in this report.

Context & Setting	Waste
Access, transport & traffic	Energy
Public domain	Noise & vibration
Utilities	Natural hazards
Flora & fauna	Technological hazards
Other land resources	Safety, security & crime prevention
Water	Social impact on the locality
Soils	Economic impact on the locality
Air & microclimate	Site design
	Construction

### **79C(1)(c) the suitability of the site for development**

#### **Does the proposal fit the locality?**

The proposal is suited to the locality, subject to the imposition of appropriate conditions.

#### **Are the site attributes conducive to development?**

The site attributes are conducive to the proposed development.

### **79C(1)(d) any submissions made in accordance with this Act or the Regulations?**

#### **Public submissions:**

One submission was received. The objection noted the following concerns:

#### **Health Concerns – EME/EMR**

##### Planning Comment:

The report submitted with the application indicates the expected highest level of electromagnetic energy at ground level will be 0.048% of the Australian Radiation Protection and Nuclear Safety Agency. While the EME/EMR is a public concern, the proposal will be well under the public exposure limits set by the ARPNSA.

#### **Visual Obstruction from neighbouring residential properties**

##### Planning Comment:

The proposal will have a visual impact on surrounding residential properties. The question is will this be significant? The property on which the tower is to be located will be most affected. However, as owners of the site, this would have been considered prior to giving owner's consent to this and the earlier application. From properties in Cams Wharf Road, where the tower will be some 200 metres away, it is considered that given the change in levels/slope of the land, distance and extent of vegetation that the visual impact from these residential properties will not be detrimental.



## **Loss of Land Values**

### Planning Comment:

This is not considered to be a relevant planning objection.

Submissions from public authorities: N/A

### **79C(1)(e) the public interest**

There are no significant objections to the proposal from the community.

### **Conclusion:**

Based on the above assessment it is concluded that the proposed telecommunications facility located at 400 Pacific Highway, Cams Wharf, will result in a minimal impact on the environment and therefore the development is recommended for approval with conditions

### **Recommendation:**

It is recommended the DA/1458/2010 be approved, subject to the conditions contained in Appendix A to this report.

Andrew Leese  
**Senior Development Planner**  
**Lake Macquarie City Council**

I have reviewed the above planning assessment report and concur with the recommendation.

Chris Dwyer  
**Acting Chief Development Planner**  
**Lake Macquarie City Council**

## APPENDIX 1 – CONDITIONS

### 1. Prescribed Conditions

- (a) The work must be carried out in accordance with the requirements of the Building Code of Australia.
- (b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i)	showing the name, address and telephone number of the Principal Certifying Authority for the work, and
(ii)	showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
(iii)	stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the Council written notice of the following information:

(i)	in the case of work for which a principal contractor is required to be appointed:	
	a.	the name and licence number of the principal contractor, and
	b.	the name of the insurer by which the work is insured under Part 6 of that Act,
(ii)	in the case of work to be done by an owner-builder:	
	a.	the name of the owner-builder, and
	b.	if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e)

(i)	For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the
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	person's own expense:
a.	protect and support the adjoining premises from possible damage from the excavation, and
b.	where necessary, underpin the adjoining premises to prevent any such damage.
(ii)	The condition referred to in (e) (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

## 2. Approved Documentation

This development consent incorporates plans and documents referenced and stamped:

- (a) Development Consent No. DA/1458/2010
- (b) Plans Reference:

Architectural (or Design) Drawings; prepared by:Daly International; Project no. S1536			
Drawing No.	Issue	Name of Plan	Date
G1	A	Site Locality Plan	19.03.10
G2	A	Overall Site Plan	19.03.10
G3	A	Site Layout and Setout Plan	19.03.10
G4	A	Site Elevation	19.03.10
T1	A	Site Transmission Details	19.03.10

- (c) Document Reference:

Statement of Environmental Effects - Entitled Environmental report Proposed Telecommunications Facility Project No S1536 Nords Wharf ; Prepared by: Daly International; Dated: August 2010

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) Any amendments in RED on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents;
- (iii) Any conditions contained in this consent.

## 3. Construction Certificate

Prior to the commencement of work for the construction of a building or structure, a Construction Certificate shall be obtained.

#### 4. **Occupation Certificate**

Prior to the occupation and/or use of a new or altered building, an Occupation Certificate shall be issued by the accredited certifier.

#### 5. **Construction Site Safety Fencing**

Construction site safety fencing shall be provided around the construction area to prevent unauthorised access to the construction site.

#### 6. **Geotechnical Report**

A Slope Stability Assessment shall be prepared by a qualified geotechnical engineer in accordance with Council's Policy on Geotechnical Assessment. Two copies of the report shall be submitted to the Principal Certifying Authority (or Council) prior to the issue of a **Construction Certificate** for any construction works. Construction works includes footings, retaining walls (over 900mm in height), drainage works, and filling (in excess of one (1) metre).

The slope stability assessment shall assess and determine whether the site is suitable for the development proposed and if any restrictions should be imposed to ensure the proposed works would be unlikely to initiate instability.

Further, any engineering plans submitted for a **Construction Certificate** shall embody all relevant recommendations of the report and be endorsed (carry the original signatures) of the Geotechnical Consultant.

#### 7. **Bushfire - Development**

The development for any purpose on bushfire prone land shall conform to the specifications and requirements of:

- the guide "*Planning for Bushfire Protection 2006*" produced by the NSW Rural Fire Services; and
- if another document is prescribed by the regulations for the purposes of Section 79BA of the Environmental Planning and Assessment Act, that document.

#### 8. **Fix Damage Caused By Construction Works**

The Applicant shall make good any damage or injury caused to a public road or associated structures including drains, kerb and gutter and utility services caused as a consequence of the development works. Any disused gutter and footpath crossing shall be removed and replaced with full kerb to match adjoining kerb to the satisfaction of the Principal Certifying Authority.

#### 9. **Lighting**

Lighting of the land shall be designed so as to ensure minimal glare onto adjoining properties or roadways. The design of the lighting shall comply with the relevant Australian Standard.

#### 10. **Buildings & Structures**

Buildings and structures shall be constructed of materials having non-reflective properties (low reflective properties in the case of windows). Natural tones and finishes which complement native vegetation are required. Colours are to be olive greens, browns and greys.

#### 11. **Building Waste**

Suitable provision for the containment of building waste materials generated by the building process, shall be provided within the boundaries of the building site prior to any construction work being commenced above natural or excavated ground level, as follows:-

- (a) Such containment measures are to be either by means of a screened area of silt stop fabric or shade cloth, having dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin;
- (b) The provision of a suitable enclosure or bin shall be maintained for the term of the construction to the completion of the project;
- (c) The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the construction site.

Appropriate provision is to be made to prevent wind blown rubbish escaping from the containment.

## **12. Site Amenities**

Throughout the course of building operations on the land, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be installed as follows:

- (i) in a sewered area, connect the temporary builder's service to the Hunter Water Corporation's sewerage system in accordance with such authority's requirements prior to commencing building operations.
- (ii) Where the connection of the builder's toilet to the Hunter Water Corporation's sewer is impractical, an application to approve the use of a chemical closet is to be made to Council accompanied with the appropriate fee for approval.

## **13. Erosion & Sediment Controls**

Prior to the commencement of work on the site, erosion and sediment control shall be installed in accordance with Council's Guidelines for Erosion and Sediment Control and the Blue Book (Landcom, 2004) as follows:

- (a) Sediment fence consisting of 1.5m tall driven pickets at 2.5m maximum intervals with Geotextile filter fabric securely attached to the pickets with the base of the fabric entrenched a minimum 150mm below undisturbed ground surface and/or straw bales fixed in a 100mm deep trench and held in position with stakes driven 600mm into the ground. Ensure any star pickets are fitted with safety caps. The use of shade cloth for this purpose is not satisfactory.
- (b) The site entrance/exit shall be constructed where identified on the site plan submitted with the DA. It shall have a minimum width of 3 metres with a surface of compacted aggregate (minimum 30mm to a max of 75mm) or a sealed surface. Where the sediment fence joins onto the site access, construct a hump in the access to divert water to the sediment fence.
- (c) Provision of a blue metal filled groin adjacent to the kerb inlet. The groin shall be 900 mm long by 200 mm diameter to be filled with 10-18 mm blue or crushed rock.
- (d) Material stock pile area (eg. sand or soil) shall be contained with a silt fence installed as per condition (a).

(e) Any other directions given by Council's Sediment and Erosion Control Officer.

Should any soil or sediment escape from the building site (for example from vehicle tyres) it is to be cleaned off the roadway or gutter immediately to ensure it can not enter the drainage system. Any nearby drainage pit must be protected with blue metal sausages.

These controls are to be effectively maintained throughout the construction and post construction phase until the site's groundcover is measured at 90%. Failure to comply with these requirements may lead to Council instituting legal proceedings under the *Protection of the Environment Operations Act 1997*.

#### **13. ROCW - Easement for Services**

The Applicant shall extend leasing arrangements to incorporate Vehicle Access and Service Corridors as required, to be created over lot 10 DP 517891 to service the proposed facility.

Documentation confirming the above shall be submitted to the Principal Certifying Authority prior to the issue of a **Construction Certificate**.

#### **14. Emissions**

There shall be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

## **APPENDIX 2 – SEPP 71 Assessment**

# State Environmental Planning Policy 71 – Coastal Protection

Clause		Yes/No
<b>Part 1 - Preliminary</b>		
4(1)	Is the subject site within the coastal zone? <i>If yes, then this policy applies.</i>	YES
<b>Part 2 – Matters for Consideration</b>		
8	<p>(a) the aims of this Policy set out in clause 2;</p> <p><i>This Policy aims:</i></p> <p><i>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</i></p> <p><i>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i></p> <p><i>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i></p> <p><i>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</i></p> <p><i>(e) to ensure that the visual amenity of the coast is protected, and</i></p> <p><i>(f) to protect and preserve beach environments and beach amenity, and</i></p> <p><i>(g) to protect and preserve native coastal vegetation, and</i></p> <p><i>(h) to protect and preserve the marine environment of New South Wales, and</i></p> <p><i>(i) to protect and preserve rock platforms, and</i></p> <p><i>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of <a href="#">section 6 (2) of the Protection of the Environment Administration Act 1991</a> ), and</i></p> <p><i>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</i></p> <p><i>(l) to encourage a strategic approach to coastal management.</i></p> <p><b><u>Comments:</u></b></p> <p>Items such as (b), (c) (f) and (h) are not applicable.</p> <p>In relation to items (e) and (k), the proposed structure will be visible from Lake Macquarie, though from the foreshore in the area it will be barely visible given the distance (700m) and sightlines, which are obscured by vegetation. Thus the proposal will have minimal visual impacts.</p>	

Clause	Yes/No
In relation to other matters such as, protection of Aboriginal Heritage, rock platforms, coastal vegetation and strategic coastal management the proposal will not have an adverse impact.	
<p>(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
<p>(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
<p>(d) the suitability of development given its type, location and design and its relationship with the surrounding area;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>The zoning permits such developments and it complies with the fundamentals within Council's DCP No 1.</li> </ul>	
<p>(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
<p>(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>As the development is within a disturbed area the proposal will not have an adverse impact on the natural scenic quality of the surrounding area.</li> </ul>	
<p>(g) measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a>) and plants (within the meaning of that Act), and their habitats;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>No adverse impacts.</li> </ul>	
<p>(h) measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a>) and marine vegetation (within the meaning of that Part), and their habitats;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
(i) existing wildlife corridors and the impact of development on these corridors;	



Clause		Yes/No
	<p><u>Comments:</u></p> <p>The works are within a disturbed area, with the bushland area of the site (an identified ecological corridor) is not adversely affected by the proposal.</p>	
	<p>(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
	<p>(k) measures to reduce the potential for conflict between land-based and water-based coastal activities;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
	<p>(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
	<p>(m) likely impacts of development on the water quality of coastal waterbodies;</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
	<p>(n) the conservation and preservation of items of heritage, archaeological or historic significance,</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
	<p>(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A (no draft LEP applies to the land)</li> </ul>	
	<p>(p) only in cases in which a development application in relation to proposed development is determined:</p> <ul style="list-style-type: none"> <li>(i) the cumulative impacts of the proposed development on the environment, and</li> <li>(ii) measures to ensure that water and energy usage by the proposed development is efficient.</li> </ul> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>the cumulative impacts of the proposal could not be considered adverse in relation to their environmental impact.</li> </ul>	
<b>Part 3 – Significant Coastal Development</b>		
9	Is the proposed development within 100m below mean high water mark of	No

Clause		Yes/No
	<p>the sea, a bay or an estuary?</p> <p><i>If yes, then this part applies to the proposal unless:</i></p> <p><i>(2) This Part does not apply to:</i></p> <p><i>(a) development in relation to which, under another environmental planning instrument, development consent cannot be granted without the concurrence of the Minister or the Director-General, or</i></p> <p><i>(b) development in relation to which, under another environmental planning instrument, the Minister or the Director-General is the consent authority.</i></p> <p><i>(3) Despite subclause (2), this Part does apply to development in relation to which, under:</i></p> <p><i>(a) State Environmental Planning Policy No 1 Development Standards , or</i></p> <p><i>(b) State Environmental Planning Policy No 14 Coastal Wetlands , or</i></p> <p><i>(c) State Environmental Planning Policy No 26 Littoral Rainforests ,</i></p> <p><i>development consent cannot be granted without the concurrence of the Director-General, whether or not the concurrence may be lawfully assumed.</i></p>	
11(2)	If answered yes above and this part applies, has a copy of the development application been sent to the Director-General within 2 days of the application being received by Council?	N/A
<b>Part 4 – Development Control</b>		
14	<p>A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
15	<p>The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	
16	<p>The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>	

