

JRPP Reference No.	2010STH011
DA No.	RA10/1003
Proposed Development	Mobile Phone Telecommunications Facility, Lot 1 in DP 1036505 (No.3) Geary Place, NORTH NOWRA
Applicant	Aurecon for Telstra Corporation Pty Ltd
Local Government Area	Peter Marczuk, Shoalhaven City Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

Reason for Consideration by Joint Regional Planning Panel

The application has been referred to the Joint Regional Planning Panel pursuant to Clause 13C(b) of the State Environmental Planning Policy (Major Development) 2005 as the development is greater than 13 metres in height and is proposed to be located within the coastal zone as defined under State Environmental Planning Policy No. 71 - *Coastal Protection*.

Proposal

The development application seeks approval for a third generation (3G) mobile phone telecommunications facility comprising a thirty-five (35) metre monopole with three (3) panel antennas and an equipment shelter.

Permissibility

The subject site is zoned 4(b) (Industrial "B" (Light) Zone) under the Shoalhaven Local Environmental Plan 1985 (SLEP 1985). The proposal is not listed as a prohibited use and is therefore permissible in this zone with development consent. Whilst not an industrial land use, the proposal would not compromise the existing or potential future industrial development in this estate. Given the telecommunications facility would assist industrial development through the provision of more reliable mobile telecommunications and wireless broadband, the proposal is consistent with the zone objectives.

Consultation

The application was notified in accordance with Council's Community Consultation Policy and four submissions were received.

Main Issues

- Visual impact of the tower; and
- Generation of Electro Magnetic Emissions (EME's); and the
- Associated Health Impacts of those radiation emissions.

RECOMMENDATION

It is recommended that RA10/1003 be approved subject to the conditions contained in ATTACHMENT "A" – CONDITIONS of CONSENT.

ASSESSMENT REPORT

1. Background

Telstra regularly undertakes detailed assessments of the performance and coverage of its digital mobile telephone and broadband internet networks to ensure its systems are reliable and achieving the required objectives. Reference to customer demand also provides an indication of areas of poor performance or where coverage does not exist.

Telstra has identified a need to improve digital mobile telephone and mobile broadband internet coverage within the suburb of North Nowra and the surrounding areas. Telstra has determined that the best location to install a new mobile phone base station is at No. 3 Geary Place, North Nowra.

The current application was lodged on 18th May, 2010. No formal Development Advisory Unit (DAU) meeting was had prior to the applications lodgement.

A review of Council's computer records indicates that building application BA89/1944 was lodged on the subject property for a 729m² Industrial Factory building and approved on 24th August 1989.

2. Subject Site and Surrounding Area

The site has a legal description of Lot 1 in Deposited Plan 1036505 (No.3) Geary Place, North Nowra. The subject land is situated approximately 3.3km north-west of the Nowra Central Business District and is located on the southern side of Geary Place and between McMahons Road at North Nowra at the rear (southern side) of a building owned by a local construction company (BATMAC). The building is currently utilised for the construction and storage of building components and materials. The surrounding area accommodates similar properties and is essentially established for industrial purposes. According to the applicant, there would be minimal impact on existing infrastructure and natural vegetation as a result of this development as the subject site has been previously cleared of vegetation.

The subject land is adjoined on both sides by privately-owned and developed industrial land and land zoned 2(a1) approximately 50m to the south that has been developed for residential and related uses.

The subject land has a total area of 3,228 m² of which the proposed Telstra lease area will occupy approximately 60m². The land is not identified as bushfire prone, nor is it potentially contaminated. The property contains no established vegetation and is currently used for purposes approved under DA85/1748, being a light industry.

Whilst the development site itself has no direct street frontage, it is accessed from Geary Place via a concrete driveway. The closest residential zoned land is located at No.123 McMahons Road located approximately 50m from the development site. The closest sensitive land uses are the Illaroo Co-Operative Aboriginal Corporation Retirement and Nursing Home located at No.55 Judith Drive, North Nowra which is located approximately 280m north-east of the subject site's eastern western boundary and approximately 380m to the buildings themselves and the William Campbell College located on the grounds of the Christian Outreach Centre Church, some 390 metres south-west of the development site on the corner of the McMahons Road and Pitt Street intersection (see **Attachment "B"**).

Refer to ATTACHMENT "B" – SUBJECT SITE DETAILS.

3. Proposal

The submitted development application proposes the installation of a 3G mobile phone telecommunications base station comprising:

- Construction of a new 35m high monopole;
- Initial installation of three (3) new panel antennas (each measuring 2.6 metres in length) mounted at EL 35m on the new monopole (36.3m overall height). (Telstra propose to undertake the installation of an additional nine (9) new panel antennas on the monopole under the Low Impact Facilities notification procedure at an undetermined date in the future); and
- Installation of one (1) new equipment shelter (3m x 2.5m) near the base of the monopole within security fencing.

Refer to ATTACHMENT "C" – PROPOSED DEVELOPMENT PLANS

The applicant at this time has not applied for a Construction Certificate through Council and has not nominated Council as the Principal Certifying Authority.

4. Community Consultation

In accordance with Council's Community Consultation Policy, the development application was notified as follows:

- Individual property owners within a 300 metre radius of the site were notified of the proposal (168 letters sent). The notification period was from 26th May 2010 to 17th June 2010;
- The proposal was advertised in the Local Press (South Coast Register) on 26th May 2010; and
- The application and supporting documentation were on display at Council's City Administrative Centre, Nowra as well as on Council's website.

Council received four submission during the community consultation period.

5. Statutory Considerations

The following planning instruments and controls apply to the proposed development:

- i. State Environmental Planning Policy (Major Development) 2005;
- ii. State Environmental Planning Policy (Infrastructure) 2007;
- iii. State Environmental Planning Policy No.55 – Contaminated Land;
- iv. State Environmental Planning Policy No.71 – Coastal Protection;
- v. Deemed SEPP (Illawarra Regional Environmental Plan);
- vi. Shoalhaven Local Environmental Plan 1985 (as amended);
- vii. Draft Telecommunications Facility (Mobile Phone Towers) Policy;
- viii. Development Control Plan No.18 – *Car Parking Code*;
- ix. Development Control Plan No.93 – *Waste Minimisation and Management*;
- x. Shoalhaven City Council Section 94 Contribution Plan (as amended).

Additional information on the proposal's compliance with the above documents is detailed below in Section 6 (Statement of Compliance/Assessment) of this report.

6. Statement of Compliance / Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section S79C(1)(a) (*any planning instrument, draft instrument, DCP's and regulations that apply to the subject land*) of the Environmental Planning and Assessment Act 1979.

6.1 State Environmental Planning Policy (Major Development) 2005

The provisions of SEPP (Major Development) 2005 apply to the proposed development as the facility is located within a “coastal zone” and exceeds 13m in height. In accordance with Clause 13C(b) (Coastal development to which this part applies), the submitted application is classified as “regional development” with the determining authority for the application being the Southern Region Joint Regional Planning Panel. Accordingly, this application is referred to the Joint Regional Planning Panel pursuant to the relevant provision of SEPP (Major Development) 2005 for its determination.

6.2 State Environmental Planning Policy (Infrastructure) 2007

The proposed facility is prepared in accordance with the aims and objectives of this SEPP. Particular reference is made to *Clause 115 - development permitted with consent* which states that development for the purposes of telecommunications facilities may be carried out by any person with consent on any land.

Given that the proposed facility is consistent with the SEPP definition of a “*telecommunications facility*”, the provisions of SEPP (Infrastructure) 2007 apply to the proposed development. Notwithstanding the requirements of the SEPP, the proposed development does not satisfy the criteria identified under Clause 114 - *Development permitted without consent*, and is, therefore, considered as being development permitted with development consent. Accordingly, this development application seeks the required development consent.

6.3 State Environmental Planning Policy No.55 - Remediation of Land

Under Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. In this regard, an initial evaluation of the subject land indicates that:

- A potentially contaminating activity has not been previously conducted on the property;
- No records exist at Council to indicate or identify that the subject land is contaminated; and
- There is no land use restrictions relating to possible contamination affecting the land.

As such, there is no reason to suspect contamination and it is considered that the land is suitable for the proposed development.

No additional concerns relating to contamination issues are raised at this stage of assessment, subject to the imposition of specific conditions relating to:

- the management of waste material on site (i.e. to be carried out in accordance with DCP 93 - *Waste Minimisation and Management*);
- the implementation of adequate soil (sediment/erosion) management measures; and
- environmental (storm-water) management plan; and
- further sampling and visual identification of any land contamination being undertaken during the construction stage.

Further to the above, the proposed works are not affected by the requirements of Clause 9, 10, 12, 13, 15, 16 and 17 of SEPP 55.

6.4 State Environmental Planning Policy No.71 - Coastal Protection

Given that the subject site is located within the 'coastal zone' as defined by SEPP71 (i.e. one kilometre landward of the western boundary of coastal waters), the provisions of SEPP 71 apply. This Policy requires certain matters to be considered when determining a development application that is located within the coastal zone. The clauses/matters contained in the SEPP71 that have relevance to this application are addressed below as follows:

Clause 8 - *Matters for consideration*

It is considered that the proposal is consistent with the requirements of this clause as the proposal:

- would not impact or impinge on public access to or along the coastal foreshore;
- is located approximately 500 metres landward of the coastal foreshore (i.e. Shoalhaven River). As such, the proposal is considered suitable development having regard for existing surrounding land uses;
- would not lead to excessive overshadowing of foreshore areas;
- would not diminish the scenic qualities of the foreshore area;
- would not have an adverse impact upon flora and fauna;
- would not impact upon wildlife corridors;
- would not lead to a conflict between land based and water based coastal activities;
- would not impact upon the water quality of coastal water-bodies; and
- would not impact upon aboriginal heritage.

Clause 13 - *Flexible zoning provisions*

Flexible zoning provision clauses in the Shoalhaven Local Environmental Plan do not impact upon or apply to this development site.

Clauses 14 - *Public access*

The proposed site is located on land that has previously been developed for the provision of industrial infrastructure. The land does not have, or provide, direct access to the Shoalhaven River. As such, it is considered that the proposal would not affect the catchment environs of the River.

Given the development site's location away from any foreshore areas, it is considered that the proposed development would have no impact upon public access to or along the coastal foreshore.

Clause 15 - *Effluent disposal*

No effluent disposal is proposed as part of this application.

Clause 16 - *Storm-water*

The only hard-stand area would be the roof of the equipment shelter and all run-off from the roof would be wholly contained within the compound leased area. The ground within the compound would be covered with loose gravel, allowing the natural percolation of water through to the water table.

It is considered that the proposed development would not result in untreated stormwater being discharged 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.

Other parts of SEPP 71 relating to “significant coastal development” and “master plans” do not apply to the proposed works. In summary, it is considered that the proposed development does not conflict with the aims and applicable provisions of SEPP 71.

6.5 Deemed State Environmental Planning Policy - Illawarra Region Environmental Plan

The provisions of Deemed State Environmental Planning Policy - IREP, affect the subject land. An assessment against the requirements of the IREP indicated that the subject land is not identified as a wildlife corridor, land of prime crop and pasture potential, land supporting rainforest vegetation, land containing extractive materials, land containing coal resources or land that is part of the sub regional commercial centre. It is however identified as land with landscape or environmental attributes.

In this regard:

- Clause 3 of the IREP contains the aims and objectives of the plan. It is considered that the submitted proposal does not conflict with the general aims and objectives as outlined in this clause;
- **The Regional Landscape and Environmental Study**
The IREP contains no specific provisions that apply to land with “landscape and environmental attributes”. The Regional Landscape and Environmental Study that supports the IREP provides specific recommendations for broad areas of the south coast, including the North Nowra area. In terms of the area within which the subject site is located within Unit 6: Shoalhaven Delta. The Study identifies Policy Recommendations for the area as “Ilc/a” – Priority Protection. According to the Study, *“the area requires zoning to protect the riverside environment. The main component of this environment is its scenic amenity and the rezoning should be appropriate to it. Agriculture should continue but there should be no further clearing nor intensive development”*. It is noted that the priority protection requirement apply more specifically to river foreshore and rural areas north of the Shoalhaven River. However, given that the proposed development is located within the existing urban zoned area of North Nowra and this area has no recommendations for change, the priority protection requirement do not directly affect the subject application.

In summary, it is considered that the proposal does not conflict with the relevant provisions of the IREP and would achieve the relevant outcomes. It should be noted that the proposed development is not affected by the provisions of Clause 139 (Development applications-high rise buildings) as the height requirement of 11 metres contained in this clause relates to buildings not structures.

6.6 Shoalhaven Local Environmental Plan 1985

The provisions of SLEP 1985 apply to this site. The clauses/matters contained in SLEP 1985 that have relevance to this application are addressed below:

Cl. 2 Aims and Objectives

The proposed development satisfies the general aims and objectives as outlined in this clause.

Cl. 9 Zone Objectives and Development Control Table

The subject land is zoned 4(b) (Industrial “b” (Light) Zone) under SLEP 1985.
The objectives of this zone are:

- (a) to provide for a wide range of light industrial development, including warehousing, processing and general light industries but excluding offensive or hazardous industries,
- (b) to allow non-industrial uses which are ancillary to industry,
- (c) to allow for retailing of bulky goods, and
- (d) to allow other non-industrial uses that do not significantly compromise the existing or potential industrial development of the area.

The proposal is consistent with these objectives in providing infrastructure ancillary to industry that does not compromise the potential for industrial development in the area. The proposed development, as described on the development application form (mobile phone telecommunication facility), is not listed as a prohibited use and is therefore permissible as an “in-nominate” landuse within the zone subject to development consent from Council.

Whilst “telecommunications facilities” are not defined under the Shoalhaven LEP 1985, the proposal is considered permissible development with consent in this zoning by virtue of the provisions of clause 115 of SEPP (Infrastructure) 2007.

Cl. 28 Danger of Bushfire

A review of Council’s Bushfire Prone Lands Map has indicated that the subject site is not identified as bushfire prone.

Cl. 37A Notification of certain development

The submitted application was notified in accordance with Council’s Community Consultation Policy. Refer below to Section “9. S79C(1)(d) Submissions made in accordance with the Act or Regulations” of this report for further details.

In summary, it is considered that the proposed development does not conflict with the aims and relevant provisions of SLEP 1985.

6.7 Draft Telecommunications Facility (Mobile Phone Towers) Policy

The proposed development falls within the draft DCP’s definitions of a telecommunications facility. According to the Draft Policy, telecommunications facilities are permitted development within the *4(b) Industrial ‘B’ (Light) Zone*. The proposed development is not located in an area zoned as residential.

Exempt Development

- The proposed development is not defined as a Low Impact Facility under the Telecommunications (Low-impact Facilities) Determination 1997.

- The proposed development is not located in an area defined as an area of environmental significance.
- Telstra does not hold a Facility Installation Permit for the proposed development.
- The proposed development is a new development and therefore, does not meet the requirement for work carried out prior to 1 July 2000.
- The proposed development is not a temporary installation for Defence purposes.

As the proposed development does not meet any of the criteria for Exempt Development, a DA has been submitted to Shoalhaven City Council.

Maintenance of Facilities

Telstra must, at all times, maintain the facility in order to ensure the required operation and connection to the network. This maintenance would include the alteration, removal or repair of the facility as well as the monitoring of the facility's function. Telstra would provide all material and information required to establish and maintain the facility.

Telstra must also ensure that the leased compound area is well maintained in consideration of the visual amenity of the area. No vegetation would be removed as a result of this development as the area has been previously cleared for development.

Location of Telecommunications Facilities

The development is proposed for an area defined as an industrial zone and would not be located within 300m of a boarding house, primary school, the temporary William Campbell College, child-care centre, hospital or nursing home.

The increasing residential development in the Nowra North area has added considerable demand to existing facilities located in the surrounding suburbs. Telstra has established that this increased, and increasing, demand is not able to be met by existing facilities. Telstra has considered co-locating its facility with existing telecommunications infrastructure, as required under the Telecommunications Act 1997; however, no other telecommunications facilities were identified in the Nowra North area. Therefore, according to Telstra a new facility is required in the area.

Telstra selected the proposed location as it was an industrial area and Telstra considers that it has made every effort to locate the proposed development as far as possible from community-sensitive locations.

6.8 Development Control Plan No.18 - *Car Parking Code*

The proposed development does not require the formal provision of car parking within the site. The vehicles required to service the site for on-going maintenance will be a mixture of two wheel drive station wagons/sedans and four wheel drive sedans. Sufficient space currently exists within the site to allow construction and maintenance vehicles to enter the site, manoeuvre and exit the site safely. It is noted that the subject site is located within an industrial estate and service vehicles would not be accessing the site directly from a residential street.

6.9 Development Control Plan No. 93 - Waste Minimisation and Management

The provisions of DCP 93 apply to this development. A waste minimisation and management plan (WMMP) for the construction and the on-going use of the proposed development has not been submitted with the development application. In accordance with the requirements of DCP 93, a WMMP is not required to be lodged at the development application stage and can be lodged prior to the release of the Construction Certificate. Given the site has not been identified as containing contamination, specific concerns are not raised regarding disposal of excavated material off-site.

Nevertheless, in the event of approval, any excess material to be disposed of off-site must be stockpiled, sampled and analysed by a suitably trained environmental scientist or engineer prior to its removal from the site to determine its waste classification and appropriate place for disposal.

As such, it is considered that the proposed development does not conflict with the aims and relevant provisions of DCP 93, subject to the imposition of conditions on any issued development consent requiring a WMMP to be prepared prior to the issue of a Construction Certificate and disposal off site of excavated material having regard for the issue of contamination.

6.10 Shoalhaven City Council Section 94 Contribution Plan 1993

Council's Section 94 Contribution Plan applies to industrially zoned land (i.e. bushfire and administration related contributions). As the portion of the site to which this application relates has been previously developed, and as the new proposed use will not result in an intensification of the usage of the site over that previously approved, no opportunities exist for the levying of additional/new contributions on the current application.

7. S79C(1)(b) Likely impact of that development on the Natural and Built Environment and Social and Economic impacts in the Locality.

Construction Materials

The equipment shelter associated with the development is proposed to be constructed from colorbond panels and is to be acceptable in colour. Fencing around the site is proposed to be galvanised chain wire fencing. It is considered that these materials are satisfactory given the fence and shelter structure will be out of the line of sight of the residential properties to the west.

Context and Setting

Given its height of 35 to 36.3m, the telecommunications tower would be visible from a number of locations. The applicant has not submitted a visual impact assessment as part of this application. In this regard, the applicant has been requested to provide a visual impact assessment, including a photomontage of the proposed development (refer to letter on file dated 19th May 2010).

At the time of preparing this S79C assessment, no such visual assessment has been submitted (21st June 2010). It is understood that the applicant is currently in the process of preparing a photomontage which may be available for the 8th July meeting. Notwithstanding, a visual analysis, including photographs of the existing views towards the subject site has been prepared by Council staff.

Refer to ATTACHMENT "D" - VISUAL IMPACT existing outlook.

Refer below to Visual / Scenic Impact for more detailed assessment of issues associated with the visual impact of the proposed development on the surrounding area.

Economic Impacts

It is anticipated that the proposed development would have a positive economic impact during the construction phase with regard to short-term employment opportunities. In the longer term, it is considered that improved mobile phone and wireless internet coverage would provide a positive benefit to the economy of the local community. The tower facility would make additional telecommunications services available to the local community, including tourists and business generally. Such telecommunications services are currently unavailable or, if available, are not of an acceptable standard.

Improved mobile phone and wireless internet coverage would also increase and enhance the communication capabilities of local emergency services organisations and, in turn, have the potential to facilitate greater efficiency and reliability in these services.

Flooding

The subject site is not identified as being flood prone on Council's mapping. As such, no further assessment has been undertaken.

Noise

It is expected that some noise will be created during the construction phase of the development. However, this would be of short duration and would be in accordance with relevant guidelines for construction site noise contained within the EPA Environmental Noise Control Manual. Construction noise levels would not exceed these guidelines and construction would only occur during the hours of 7.00 am to 6.00 pm. Such noise would be similar to the volume generated from normal dwelling construction works and would be generated for a considerably shorter period of time. Given that the nearest residential property is located approximately 60m from the subject site, it is considered that construction noise generated should not adversely impact adjoining lands. Notwithstanding the above, any adverse impact can be minimised through the imposition of a condition limiting construction hours.

The only noise emitted by the facility would be associated with a small air conditioning unit attached to the proposed Telstra shelter, which would produce a sound level similar to that of domestic air conditioners. In terms of ongoing noise, it is anticipated that the development, once operational, would not generate any noise and, given the separation from the closest residential property boundary, no impact should be had. Any issued development consent should however be conditioned so as to limit any ongoing noise generated at the boundary of the nearest effected residence.

Sediment and Erosion Control

It is anticipated that only minimal works would be involved in the erection of the tower facility at ground level. However, there is a need to ensure adequate water and soil control management during the construction of the proposed development. In this regard, it is noted that an erosion and sediment control plan (ESCP) has not been submitted as part of this application. However, in the event of approval, the development consent would be conditioned to require an ESCP to be prepared by a suitably qualified/experienced person. Such an ESCP needs to be based on the Landcom manual *"Soils and Construction, Managing Urban Stormwater, Vol 1 4th Edition, March 2004"* and should be submitted and approved prior to the issue of a Construction Certificate. In addition, to ensure that no sediment and/or contaminated material leaves the site, a condition would be imposed requiring the proposed erosion control measures to be installed prior to the commencement of any works.

Social Impacts

The proposed development would provide improved mobile phone coverage and wireless internet coverage to the surrounding areas. During the construction phase, the proposed development would result in a marginal increase in traffic along McMahons Road and Pitt Street. It is considered that McMahons Road is capable of accommodating the increased traffic generated. As addressed above, given the development would be seen from some adjoining areas, the proposed development would have a potential visual impact. However, it is considered that, given the location of the site within an industrial estate, visual impact is likely to be minimal.

Further, the discharge of electromagnetic emissions (EME) and the associated health impacts is considered to be a potential social impact. As currently submitted, the proposal is compliant with applicable regulations in terms of EME emissions. In this regard it is noted that the predicated EME levels would be significantly below the Australian Communications and Media Authority Standard. Notwithstanding the above, in the event of approval the development consent would be conditioned to require certification that the facility is complying with the predicated EME levels facility prior to the commencement of operations. In addition, to ensure levels would not be exceeding the predicated EME levels, conditions should be imposed requiring a validation report to be submitted within 12 months of the facility commencing operations. Additional discussion on some of the above issues is provided below in Section 7 (Other Issues).

In summary, based on the submitted information, it is considered that the proposed development would have minimal adverse social impact.

Threatened Species

A review of Council records has indicated that there are no records of endangered fauna within 400m of the subject land. The site of the proposed development is located within land that has been previously heavily disturbed (i.e. currently 100% developed) and contains no established native/natural vegetation. A pro-forma Threatened Species Preliminary Site Assessment has been undertaken (copy on file) and has confirmed that, given the current level of disturbance on the site, it is highly unlikely that any threatened flora/fauna would be impacted upon directly or indirectly and, as such, no further assessment is required.

The following Threatened Species have been sighted or have been located within 1km of the subject site:

- Glossy Black-Cockatoo sighted approximately 330m from the subject property;
- Powerful Owl sighted approximately 650m and 790m from the subject property;
- Yellow-bellied Glider sighted approximately 640m and 990m from the subject property;
- Nowra Heath Myrtle *Triplarina nowraensis* located approximately 710m from the subject site.

It is considered that the proposed development would have no impact on threatened fauna or flora or their habitats.

Traffic and Access

Access to the development site from Geary Place is via a concrete driveway. Access to the site is constructed to a suitable standard and is of a sufficient width to accommodate construction and service/maintenance vehicles. Once constructed, vehicle generation is estimated to be one vehicle a week. As such, no additional works are required.

A truck would be used to deliver equipment to the site and a small crane used to lift most of the equipment into place. The crane and truck would need to be parked at the site for

approximately two days. During construction, there would be a temporary (i.e. up to three weeks) addition of a maximum of ten private vehicle trips per day associated with workmen assembling the equipment. Ample parking is available in the vicinity for these vehicles and these movements would not impact on local traffic. Traffic from this construction would only occur from the hours of 7.00am to 6:00pm.

The base station facility is unmanned but would require maintenance checks quarterly or as required in the event of an electricity failure or other similar event. Routine maintenance would involve one vehicle per visit per quarter and parking would be available on-site for this purpose. Other maintenance would occur on a needs basis but would not involve significant traffic generation.

Visual / Scenic Impact

Even though the proposed site is located within the coastal zone and notwithstanding that the structure exceeds 13m in height, it is located over 500m from the Shoalhaven River northern foreshore. An extensive grove of tall mature trees along the embankment of the river, together with other vegetated areas projecting northwards towards the subject site area, would provide significant screening of the site from vantage points along the river. There are also extensive residential and some light industrial / commercial developments in this area providing further significant screening of the proposed development. It is considered, therefore, that the proposal would not have a significant impact upon the coastal environment.

General Location

The proposed development is considered to be not entirely in character with the existing urban landscape patterns. In this regard however, the proposed development would be consistent with other existing physical elements such as existing power poles, overhead power lines, electricity distribution poles, radio transmission tower at radio station 2ST, the major electricity transmission line that runs through the area less than 200 metres to the east of the subject site and sporting oval lighting towers located in the vicinity of the subject site - all of which protrude into the skyline. A tall grain hopper is located on a property adjacent to the proposed site and there is also an existing radio mast with attached antennas located approximately 75m south-east of the site. A grove of tall mature trees is also located at the end of the street on undeveloped Council land.

In order to minimise as far as possible any visual impact, the proposed facility has been located to the rear of an existing industrial building and as far as practicable from community properties. It is noted that the equipment shed and security fencing are located on the subject site such that they cannot be seen from the adjoining public streets or from residential land to the south. It is noted that allotments to the south of the subject site have split industrial/residential zonings, with industrial buildings located at the rear (northern end) of these properties immediately behind (south of) the subject tower site. The land between McMahons Road and the subject site is designed to allow for industrial uses to be located at the rear and dwellings addressing the street.

Residential Properties located on the Northern side of McMahons Road

The houses located closest to the facility on the northern side of McMahons Road (i.e. to the south of the proposed facility) will have direct views of the proposed monopole looking north. Whilst the subject area is located within an industrial complex, the facility would have a visual presence, particularly for those residential/industrial allotments close to the southern side of the development site. Whilst the visual impact is somewhat interrupted by the adjoining split-zone land uses, it is considered that the current northern outlook from these

residential/industrial properties would be altered given the height of the tower and the relative distance to these properties.

Visual Impact on the Wider Area

From a distance of 500m to 5km from the site however, views of the proposed structure are likely to be largely restricted by the natural topography and other natural and man-made physical features. Given the presence of existing vegetation for example, it is considered that vision would not be specifically drawn to the structure. It is therefore unlikely that the proposal would significantly alter the existing landscape or impact upon the visual amenity from a distance. The immediate area is characterised by industrial allotments and allotments that have a split industrial/residential zoning. This area provides for people wishing to live near their businesses.

In summary, whilst it is acknowledged that the proposed development is likely to have some degree of visual impact on the immediate locality, it is considered that the impact from a distance is unlikely to have a significant impact on the visual quality of the wider environment in general. As such, it is considered that the proposed development should not be refused on the grounds of visual impact.

Refer to ATTACHMENT "D" – VISUAL IMPACT existing outlook

8. S79C(1)(c) Suitability of the Site for the Development

As part of its assessment process, the applicant (Telstra) has considered a number of alternative sites. The submitted Statement of Environmental Effects states that six alternative sites have been investigated. The applicant advises that there are a number of requirements that need to be addressed in site selection process. These include, but are not limited to:

- cost factors;
- landowner's consent and ability to obtain a suitable lease;
- proximity to community sensitive locations;
- minimising public exposure to EME;
- zoning of the land;
- minimising the visual impact on the existing environment;
- physical characteristics of the site, incl. height and terrain;
- ability to connect with the rest of the network;
- opportunities to co-locate in the future;
- environmental impacts;
- conformance to appropriate RF coverage objectives; and
- ability to achieve community and Council preferences.

The code applying to telecommunication facilities encourages the use of existing sites to mitigate the effects of facilities (i.e. on the landscape). Based on information that has been provided by the applicant, Council is satisfied that sufficient investigation of alternative sites has been undertaken. As the consent from current land owners has been obtained, the current site appears to provide the best opportunity for coverage while having minimal visual impact.

Investigation of Alternative Sites

The Australian Communications and Media Authority (ACMA) requires Telstra, and the other carriers, to balance these factors when deciding on the placement of a site. Telstra has taken all these factors into careful consideration and is satisfied that the proposed site chosen is suitable. An investigation of surrounding land uses was undertaken and it was revealed that no community sensitive sites are located within 300 metres of the proposed site.

The applicant advises that all location opportunities have been investigated, especially consultation with other Carriers as required by the ACIF Code and the Telecommunications Code of Practice 1997. The potential base station locations identified in preliminary investigations included:

- **Water Reservoir, Pitt Street** - this site was investigated; however, there was insufficient height to meet the necessary radiofrequency requirements. Also there is an existing child care centre next door.
- **Ex-Quarry Land, Illaroo Road** - this site was investigated; however, the cost of supplying power to the site was not considered to be commercially viable
- **Previous Tip Site, adjacent to Bomaderry Creek Recreation Park** - this site was investigated; however, the cost of supplying power to the site was not considered to be commercially viable.
- **Public Land, end of Geary Place adjacent to Drexel Park** - this location was investigated; however, it was not possible to negotiate a lease with the owners
- **Private Properties, individual industrial properties in Geary Place** – these properties were investigated; however, it was not possible to negotiate a lease with the owners
- **Local Radio Mast, McMahons Road** - this site was investigated as it was already developed for communications infrastructure; however, the structure was not considered to be structurally adequate to support the required additional antennas

Following extensive investigations by Telstra, the above options were discarded.

According to Telstra, the selection of the proposed site has accounted for all the provisions stipulated under the *Telecommunications Act 1997* and the *Telecommunications Code of Practice 1997*. Telstra concludes that the most appropriate location for the facility is a new monopole at the subject site of 3 Geary Place, Nowra North.

The proposed development is located within industrial zoned estate and is considered to be located at a satisfactory distance from the nearest residential/industrial properties at Nos. 125 and 123 McMahons Road, approximately 25m to the boundary and 60m to the dwellings south of the subject site. The nearest community sensitive sites are the nursing home located at No.55 Judith Drive, North Nowra which is located approximately 300m north-east of the subject site's eastern western boundary and approximately 380m to the buildings themselves and the William Campbell College located in the Outreach Church complex 390m south-west of the subject site..

Refer to ATTACHMENT "E" – SENSITIVE LAND USES

In addition, the site allows for co-location opportunities for future expansion and would not constrain the current development potential of adjoining properties. The subject site also

meets Telstra's coverage objectives that ensure the provision of good quality telecommunication coverage for the area. The site is appropriate for the development as it is currently being utilized for a commercial/industrial enterprise and the area has an industrial zoning. The site is also located over 300m away from community sensitive locations such as school and nursing homes. As such, it is considered that the site is suitable for the proposed development.

9. S79C(1)(d) Submissions made in accordance with the Act or Regulations

The application was notified by way of a public notification in accordance with Council's Community Consultations Policy and four submissions were received.

Essentially, the issues raised in the submission relate to:

- Reduction in the value of the objector's property;
- Tower would be out of character with surrounding area and not aesthetically pleasing;
- Should be a more practical location for the tower; and
- The health effects from prolonged exposure to electromagnetic emissions from this development would have on the people in the area.

Reduction in Property Values

Whilst the objector states that he has spoken to "a couple of different Real estate agents", it is noted that no evidence is submitted in support of the claim that a 35m telecommunications monopole tower would affect property values in the area. Whilst Council has no mechanisms to compensate the objector or other property owners for any perceived reduction in property values, it is considered that the Telstra facility is vital infrastructure that would provide enhanced services to customers by providing improved coverage to residential areas that are currently experiencing limited reception due to the undulating nature of the terrain. Due to the growth of wireless broad-band inter-net services, the proposed facility is vital for providing the much needed improvement to the quality of these connections for both the current and future usage of North Nowra residents.

In conclusion, it is considered that the net gain provided by improved telecommunications would outweigh any perceived potential loss in the property values.

Out of Character

The proposed development is considered to be in character with the existing landscape patterns. In this regard, the proposed development would be consistent with existing physical elements such as existing overhead power poles, power lines, electricity distribution poles, radio transmission tower and sporting oval lighting towers.

Refer above to 7 - Visual / Scenic Impact for a more detailed assessment of issues associated with visual impact.

A More Practical Location

The submitted Statement of Environmental Effects states that six alternative sites have been investigated. Council is satisfied that sufficient investigation of alternative sites has been undertaken. The subject site meets Telstra's coverage objectives that ensure the provision of good quality telecommunication coverage for the area. The site is appropriate for the development as it is currently being utilized for a commercial enterprise and the area has an industrial zoning. The site is also located away from community sensitive locations such as schools and nursing homes. As such, it is considered that the site is suitable for the proposed development.

Refer above to section 8 Suitability of the Site for the Development for more detailed assessment of issues associated with site suitability.

Health Effects

As a licensed telecommunications carrier, Telstra must operate under the provisions of the *Telecommunications Act 1997* and the *Telecommunications Code of Practice 1997*. In its submitted Statement of Environmental Effects, the applicant has advised that outputs from the proposed facility would be well below the limits defined by the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003* prepared by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

The ARPANSA is a Federal Government agency charged with the responsibility for protecting the health and safety of people and the environment from the harmful effects of radiation.

The Electro Magnetic Emissions (EME) limits, as set by ARPANSA, have been subsequently set by Australian Communications and Media Authority (ACMA) who administer the Commonwealth legislation and associated regulations. Using the ARPANSA standard methodology, the submitted compliance report predicts that the maximum levels of radiofrequency EME from the proposed installation, once it is operational, will be 0.093% of the ACMA mandated exposure limit. The above estimate being expressed as a percentage of the ACMA mandated exposure limit (100% being the maximum allowable exposure limit).

It is noted that according to the submitted Table of Predicted EME Levels, at a distance of 200 metres from the proposed tower, the maximum cumulative EME Level of exposure would be between 0.071% and 0.093% of the maximum 100% public exposure limit.

The proposal, as submitted, is compliant with current regulations/requirements in relation to EME emissions, with the predicated EME levels being significantly below the ACMA standards. As such, it is considered that the development application should not be refused on the grounds of generated EME levels or associated health impacts.

10. S79C(1)(e) the Public Interest

There has been debate within the general community regarding the possible health risks of electromagnetic energy (EME). The applicant advises that the health and safety of the public, customers and employees is of paramount importance to Telstra. Having reviewed relevant research on EME to date, Telstra believes that mobile base stations that operate within the mandatory guidelines do not pose a risk to human health.

Radio telecommunications technology has been in use for over 100 years. Radio frequencies and electromagnetic energy has been the subject of many scientific studies. The overwhelming majority indicates there are no negative health effects, while a small number indicate that more research is needed. No scientific study has found conclusive evidence of negative health effects. Telstra encourages people to obtain more information about EME if they are at all concerned.

Refer above to Section 7 – Economic and Social Effects.

Refer below to Electro Magnetic Emissions and associated Health Impacts.

The area of Nowra North is a growing residential community with zonings for commercial and industrial infrastructure requiring and expecting a high degree of service infrastructure, including mobile phone and internet availability. The applicant advises that Telstra's aim is

to meet this growing need with a high quality range of Next Generation phone services together with the most up-to-date mobile broadband internet connections – vital commodities to the expanding private and commercial needs of this dynamic community. Telstra considers that the community, residential, commercial and industrial business needs would benefit significantly from the proposal by providing enhanced mobile phone and mobile broadband internet services to the area and providing greater opportunity for competitive development. Telstra considers this site the most suitable to provide significant coverage for the area and that the public would benefit by the approval of this proposal.

While the telecommunications facility would have a visual presence, it is considered that the facility is vital infrastructure that would provide enhanced services to customers, providing improved in-building coverage to residential areas that are currently experiencing limited reception due to the undulating nature of the terrain. Due to the growth of wireless broadband internet services, the proposed facility is vital for providing the much needed improvement to the quality of these connections for both the current and future usage of North Nowra residents.

Other Issues

Telecommunications Legislation/Requirements

As a licensed telecommunications carrier, Telstra must operate under the provisions of the *Telecommunications Act 1997* and the *Telecommunications Code of Practice 1997*. The 1997 Act exempts carriers from the requirements of State and Territory environmental and planning legislation in certain circumstances, including where a proposed facility falls within the definition of the *Telecommunications (Low-impact Facilities) Determination 1997* (as amended). This current proposal cannot be defined as a Low Impact facility and has therefore, required the submission of a Development Application (DA) to Shoalhaven City Council and review by the Joint Regional Planning Panel.

In order to demonstrate compliance with the regulations regarding maximum human exposure limits for radio frequency fields, and to take appropriate measures to restrict general public access to the radio frequency hazard areas in accordance with the Code of Practice, the applicant has applied the precautionary principles in respect of site selection, infrastructure design and the operation of the site.

Electro Magnetic Emissions and associated Health Impacts

The emission of radiation from the tower (electromagnetic emissions-EME) and associated health impacts is an issue that needs to be considered as part of this development assessment.

Under S376 (2) of the *Telecommunications Act 1997* and S162 (3) of the *Radiocommunications Act 1992* the Australian Communications and Media Authority (ACMA) sets standards that limit human exposure to EME. ACMA adopted a technical standard, prepared by ARPANSA (Australian Radiation Protection and Nuclear Safety Agency), called Radiocommunications (Electromagnetic Radiation - Human Exposure) Standard 2003. This sets the mandatory standard to which Telstra' base station must comply. ACMA is consistent with the standard recommended by the World Health Organisation.

Listed below are estimates of the maximum levels of EME from the facility at the distances specified in the ARPANSA methodology. These strengths have been calculated with the assumption that there are no buildings or structures surrounding the facility. Therefore,

these levels are higher than what the actual levels would be. The levels mentioned below are estimated at 1.5m above ground level.

Predicted EME Levels

Distance from the antennas at 3 Geary Place Nowra North in 360° circular bands	Maximum Cumulative EME Level All Carriers (% of ARPANSA exposure limits²) Public exposure limit = 100%
0m to 50m	0.0038%
50m to 100m	0.0063%
100m to 200m	0.093%
200m to 300m	0.071%
300m to 400m	0.033%
400m to 500m	0.019%
Maximum EME level 157.86m from the antennas at Nowra North	0.093%

Reference: ARPANSA EME Report (See **Appendix B**)

As shown above, the predicted maximum EME levels are very small and are well below the ARPANSA mandatory standard. The maximum EME level, from the site in a publicly accessible location, is predicted to be 0.093% of the Australian Standard. Council can be assured that the facility would always operate well within this Standard.

In their submitted Statement of Environmental Effects, the applicant has advised that outputs from the proposed facility would be well below the limits defined by the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003* prepared by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The ARPANSA is a Federal Government agency charged with the responsibility for protecting the health and safety of people and the environment from the harmful effects of radiation.

The EME limits, as set by ARPANSA, have been subsequently set by Australian Communications and Media Authority (ACMA) who administer the Commonwealth legislation and associated regulations. Using the ARPANSA standard methodology, the submitted compliance report predicts that the maximum levels of radiofrequency EME from the proposed installation, once it is operational, will be 0.093% of the ACMA mandated exposure limit. The above estimate being expressed as a percentage of the ACMA mandated exposure limit (100% being the maximum allowable exposure limit). The submitted estimate assumes the worst case scenario - That is:

- Base station transmitters operating at maximum power (no automatic power reduction),
- Simultaneous telephone calls on all channels,
- An unobstructed line of sight view to the antennas.

Documentation that ARPANSA currently has available contains the following statements in relation to mobile phone base station antennas:

- *Mobile phone base stations and telecommunications towers produce weak radiofrequency (RF) electromagnetic energy (EME) exposure levels. The weight of national and international scientific opinion is that there is no substantial evidence that RF emissions associated with living near a mobile phone base station or telecommunications tower poses a health risk.*
- *Current research indicates that....RF radiation is not known to have any adverse health effects.*

- *While human studies to assess the possibility that RF exposure increases the risk of cancer are few in number, laboratory studies do not provide evidence to support the notion that RF fields cause cancer.*
- *No adverse health effects are expected from continuous exposure to the RF radiation emitted by the antennas on mobile telephone base station towers.*

In addition, a review of several Land and Environment Court judgements relating to the provision of telecommunication facilities (similar to what is currently proposed) has indicated that the court, has found that it was not appropriate for them to set aside or disregard the existing safety standards (i.e. the ARPANSA standard) nor is it appropriate for the court to create its own standards. As such, the court has ruled that it is appropriate for safety standards to be set by authorities with special expertise such as ARPANSA. The above being reflected in a decision (*Telstra Corporation Limited v Hornsby Shire Council* (2006) NSWLEC 133) where the court specifically in relation to EME levels and whether the proposed levels will harm the health and safety of residents, stated that Councils should adopt the ACMA standard (i.e. the ARPANSA standard) when measuring and determining EME levels, given that it was the ACMA that has the responsibility for ensuring that exposure limits do not adversely affect the health and amenity of the community.

Given that the predicated EME levels are significantly below the Australian Communications and Media Authority Standard, the proposal development is compliant with current regulatory requirements in relation to EME emissions. Thus, based on submitted information, it is considered that the proposed development is satisfactory and should not be refused on the grounds of electro magnetic emissions and associated health impacts.

However, it should be noted that in considering a Telstra Monopole Telecommunications Facility at Callala Bay, Council, despite having had reported to it these assurances in complying with the relevant standards, resolved that an independent expert in the field of Electro-Magnetic Radiation (EMR) be commissioned to provide advice on the effects of EMR. Council is currently awaiting receipt of this advice.

Co-location of facilities

The *Australian Communications Industry Code of Practice 2004 (C564:2004)* encourages the use of existing telecommunication sites to mitigate the effects of multiple facilities. The proposed site would provide an opportunity for co-location.

Any co-location on this site may not require development consent as it could be classified as "low impact" under the schedule to the *Telecommunications (Low Impact Facility) Determination 1997*. In terms of additional impacts from the provision of further facilities, Council's Communications and Electrical Services Manager has advised that *"If additional mobile phone carriers come onto this tower in the future, the EME level will increase as a cumulative sum of the transmitter radiated powers. However, even with 3 carriers, the total EME level at any location away from the tower will still be a very small percentage of the ARPANSA limit."* Given the land that has been made available for the lease to Telstra, it is unlikely that any more than two carriers would be able to locate on this facility as sufficient space for the ancillary infrastructure would not be available.

11. Referrals

Building Surveyor

No objection to the proposal subject to the imposition of standard conditions requiring the appointment of a Principle Certifying Authority and a requirement to obtain a Construction Certificate.

Development Engineer

No objection to the proposal subject to recommended conditions to be imposed on any issued development consent.

Environmental Health Officer - verbal consultation only

No objection to the proposal subject to the imposition of suitable conditions on any issued development consent (i.e. preparation of a sediment and erosion control plan, management of waste material on site in accordance with DECC Environmental Guidelines, etc).

Communication and Electrical Services

No objection subject to conditions relating to EME.

12. Options

The Joint Regional Planning Panel may:

- (a) Resolve to approve the application subject to conditions (i.e. adopt the recommendations of this report, including the draft conditions of consent provided in ATTACHMENT "A" or modify the those conditions or new conditions); or
- (b) Resolve to refuse the application (i.e. on the grounds that the submitted proposal has an unsatisfactory visual impact and/or will have adverse health impacts); or
- (c) Notify the applicant requesting amendments/modifications the proposal, subject to any matters of concern being adequately resolved and a further report to be submitted to the Joint Regional Planning Panel (Southern Region) for its consideration.

It will be noted from the above report, staff have concerns in regard to Council's ability to defend a decision based on adverse visual or health impacts (relating to point (b) above).

13. Conclusion

A planning assessment of the proposed development has been undertaken and has revealed that the proposal complies with the zoning and other statutory controls of the Shoalhaven Local Environmental Plan (LEP) 1985.

The proposed facility has also been designed and located in accordance with the principles outlined in the ACIF Code, the *Telecommunications Act 1997* and the *Telecommunications Code of Practice 1997*. The proposed facility is considered by Telstra as the most appropriate location for the facility considering those principles, zoning controls and environmental planning instruments that apply to the site and would benefit the local community significantly by providing enhanced communication for both personal and commercial usage.

This application has been assessed having regard to the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Following a detailed

assessment, it is considered that Development Application No. RA10/1003 may be supported subject to suitable conditions (ATTACHMENT "A") being imposed on any issued development consent.

14. RECOMMENDED that:

in respect of RA10/1003 for the proposed mobile phone telecommunications facility at Lot 1 in DP 1036505 (No.3) Geary Place NORTH NOWRA, the application be approved as an operational development consent subject to conditions as contained in **Attachment "A"**.

Signed

Peter Marczuk
Senior Development Planner
Development and Environmental Services - SCC
Date: 21st June 2010

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

PART A

CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

General

1. This consent relates to a **Telecommunication Facility (comprising a 35m high monopole and associated headframe with 3 panel antennas, an equipment building, security fencing and associated power supply/optic cable works)** as illustrated on the plans with the following references:

- Dwg No. N109011 Site Layout and Access Sheet S1 issue 3 dated 19/02/2010;
- Dwg No. 017866P45 Shelter Pier Footing Details Sheet 1 issue 2 dated 26/02/2009;
- Dwg No. N109011 Site Locality Plan Sheet S1-1 issue 1 dated 23/04/2010;
- Dwg No. N109011 Site Elevation (Southern) Sheet S3 issue 3 dated 19/02/2010;

stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.

Notes:

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
 - *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*
2. The approved development/use shall not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with council (i.e. a security).

Occupation Certificate

3. An **Occupation Certificate** shall be issued by the Principal Certifying Authority (PCA) before the approved building/development is used or occupied.

Note: Refer to Part F of this development consent for additional requirements in relation to this condition.

PART B

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

Notice of Commencement

4. Notice must be given to Council **at least two (2) days** prior to the commencement of building work.

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

Principal Certifying Authority/Construction Certificate

5. The following must be undertaken **before any building works can commence**:

- (a) A Principal Certifying Authority (PCA) must be appointed; and
- (b) A Construction Certificate must be obtained from either Council or an accredited certifier.

Builders' toilet

6. **Before commencing building operations**, a builder's water closet accommodation must be provided to Council's satisfaction. A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational.

Under no circumstances will pit toilets or similar be accepted by Council.

Existing services and damage to public assets

7. **Prior to the commencement of any work(s)** associated with this development:

- (a) The developer or his agent shall undertake a site inspection of the adjacent kerbs, gutters, carriageway, reserves and the like and document evidence of any damage to existing assets. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense. Any damage to the adjacent kerb, gutter, footpath/road reserve area, carriageway and the like that occurs during development works shall be repaired by the applicant; and
- (b) The developer or his agent must check that the proposed works are not affected by any Council, Integral Energy, telecommunications, gas service or other services. Any required alterations to services will be at the developer's expense.

Soil and water management

8. The relevant sedimentation and erosion controls required by this consent (refer to Condition 10) must be implemented **prior to commencement of any work** and maintained until the work is completed and the site stabilised. Soil and water management including siltation and erosion controls shall be inspected and approved prior to the commencement of any site works.

Supervision of works

9. **Prior to the commencement of any works**, Council shall be advised in writing of the name of a designated person/company nominated by the applicant to be responsible for construction of all engineering works including erosion and sediment control measures.

PART C

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

Erosion and Sediment Control Plan

10. An Erosion and Sediment Control Plan (ESCP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified/experienced person and based on the Landcom manual “*Soils and Construction, Managing Urban Stormwater, Vol 1 4th Edition, March 2004*”, shall be lodged for approval with the application for a Construction Certificate. The ESCP shall include, but not be limited to the following:

- (a) The location and type of proposed erosion and sediment control measures;

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

- (b) Detail environmental (stormwater) management measures that will be implemented; and
- (c) Detail on measures to be put in place to ensure contaminated material does not impact on adjoining lands.

The ESCP controls must be implemented, inspected and approved prior to the commencement of any site works.

Waste Minimisation and Management

11. A Waste Minimisation and Management Plan (WMMP) must be prepared that complies with the requirements of Development Control Plan No. 93 - *Waste Minimisation and Management*. The plan must clearly detail how the management of waste material(s) on site will be carried out in accordance with NSW DECC *Environmental Guidelines: Classification and Management of liquid and Non-liquid Wastes*.

The WMMP shall be lodged for approval with the application for a Construction Certificate. A copy of the approved WMMP shall be lodged with Council prior to the issue of the Construction Certificate.

Note: “Waste” has the same meaning as the definition of “Waste” in the *Protection of the Environment Operations Act 1997*.

PART D

CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT

Building Code of Australia

12. All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Note: *This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*

Design and Construction

13. All design and construction shall be in accordance with DCP 100 - *Subdivision Code*.

New construction shall comply with the following:

- (a) External doors are to be sealed with draft excluders or weather strips to prevent the entry of embers;
- (b) Vents and weepholes shall be screened with corrosive resistant steel mesh with an aperture not greater than 1.8mm; and
- (c) All new fencing shall be non-combustible.

Soil and Water Management

14. All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur.

All silt fences or equivalent must be regularly inspected and cleaned out and/or repaired as necessary and all collected silt must be disposed of to the satisfaction of the Principal Certifying Authority (PCA).

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

Unnecessary disturbance of the site (eg excessive vehicular access) must not occur.

Waste Minimisation and Management

15. All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility (i.e. West Nowra Tip). No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP shall be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Contamination

16. Where there is visual evidence or other clear identification of further land contamination (e.g. layers of ash or string hydrocarbon odour, etc) during construction, further sampling and chemical analysis must be carried out to confirm the magnitude and extent of contamination, including a suitable removal strategy developed in regard to waste classification and disposal if required. These works are to be undertaken in accordance with the NSW Department of Conservation, Climate Change and Water (DECCW) *Environmental Guidelines: Classification and Management of liquid and Non-Liquid Wastes*.

Construction hours/storage

17. To limit the impact of the development on adjoining owners/occupiers, the following must be complied with:
- (a) All construction work shall be restricted to the hours of 7:00am to 6:00pm Monday to Friday and 8:00am to 1:00pm Saturdays. No construction work shall take place on Sundays or Public Holidays; and
 - (b) The parking of machinery/vehicles or the storing of construction equipment/materials, soil, spoil, or rubbish external to Lot 1 DP 1036505 (the subject land) is prohibited.

Exterior Materials/colour Schedule

18. To maintain the amenity of the area:
- (a) The development must be constructed in accordance with the approved schedule of colours and building materials and finishes; and
 - (b) Exterior materials are to be non-reflective and of a texture and colour which blend with the existing surroundings.

Occupation Certificate

19. An **occupation certificate** must be issued by the Principal Certifying Authority (PCA) before the building is used or occupied.

If Council is the appointed PCA for this project, a minimum of twenty four (24) hours' notice must be given to Council to make an inspection of the work.

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

PART E

CONDITIONS THAT RELATED TO ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT REASONS FOR CONDITIONS

Site Management and Maintenance

20. The proprietor shall at all times be responsible for on-going site management and maintenance in accordance with the following:

- (a) The use of the approved development must not:
 - (i) Cause transmission of vibration to any place of different occupancy;
 - (ii) Cause ‘Offensive Noise’ as defined in the Protection of the Environment Operations Act 1997;
 - (iii) Impact upon the amenity of any adjoining property or tenancy by reason of the emission of noise, dust, fumes, odour, vibration, electrical interference or otherwise;
- (b) Loading and unloading in relation to the use of the approved development must occur within Lot 1 in DP 1036505.

maintenance of facilities

- (c) Telstra must, at all times, maintain the facility in order to ensure the required operation and connection to the network. This maintenance must include the alteration, removal or repair of the facility, as well as the monitoring the function of the facility. Telstra must provide all material and information required to establish and maintain the facility.

visual amenity

- (d) in consideration of the visual amenity of the area, Telstra must ensure that the leased compound area is well maintained.

Noise

21. The L_{A10} (Source) noise level emitted from the Telecommunications facility shall not exceed the background noise level in any octave band (measured using the L_{90} noise level descriptor) by more than 5 dB(A) when measured at the boundary of the nearest affected residence.

Electro Magnetic Energy Levels

22. The telecommunications facility is to comply with the Australian Radiation Protection and Nuclear Safety Agency Protection Standard – Maximum exposure levels to radiofrequency fields – 3kHz to 300Hz as amended from time to time.

Validation Report

23. A validation report shall be submitted to Council within 12 months of the facility commencing operations. This report shall demonstrate that emissions levels for adjoining areas (i.e. at the distances as shown in the submitted Predictive EME Report, Dated 11th March 2010, NSA Site No. 2541011) do not exceed the predicated EME levels and comply with the Australian Radiation Protection and Nuclear Safety Agency Protection Standard – Maximum exposure levels to radiofrequency fields – 3kHz to 300Hz as amended from time to time.

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

Electro Magnetic Energy Monitoring

24. In the interests of public safety, the applicant must carry out on-going and regular monitoring of the Electro Magnetic Energy emission levels to ensure that the predicted radiation levels are not exceeded. The results of such monitoring must be submitted to Council annually and be available for public inspection.

In the event that EME level exceeds the predicted levels, power to the telecommunications facility must be reduced or turned off until compliance with the submitted EME Predicted Levels is achieved.

PART F

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED

25. **Prior to the issue of an Occupation Certificate** for the approved development, the requirements of the following conditions must be complied with and completed:

Condition 13 - Design and Construction;
Condition 18 - Exterior Materials/colour Schedule.

PART G

REASONS FOR CONDITIONS

Conditions of consent have been imposed to:

1. Ensure the proposed development:
 - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, car parking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

PART H

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Development Determination under Environmental Planning and Assessment Act, 1979

*Under section 82A of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a complying development certificate, designated development or integrated development. The request must be made **within twelve (12) months** of the date of the receipt of the determination, with a prescribed fee of 50% of the original DA fee.*

*Section 97 of the Environmental Planning and Assessment Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised **within twelve (12) months** after receipt of this notice.*

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

*Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within **twelve (12) months** of the date of determination.*

PART H

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

This consent is valid for five years from the date hereon.

In accordance with Section 95 of the Act, development consent of the erection of a building does not lapse if building, engineering or construction work relating to the building or work is physically commenced on the land to which the consent applies before the lapse date.

PART J

GENERAL ADVICE TO APPLICANT

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on

- a) A matter of national environmental significance (NES) matter; or
- b) Commonwealth land

without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation.

RA10/1003 ATTACHMENT “A” – CONDITIONS of CONSENT

It is the proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application.

The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

Disclaimer – s88B restrictions on the use of land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under clause 37 of Shoalhaven Local Environmental Plan 1985 agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

NSW Native Vegetation Act 2003

The Native Vegetation Act 2003 requires consent for the clearing of remnant native vegetation or protected regrowth from the Southern Rivers Catchment Management Authority. In the Shoalhaven City Council area, this requirement generally applies to land that is zone Rural (Zone 1), Special Use (Zone 5), Open Space (Zone 6), Environment Protection (Zone 7) and Natural Hazards (Zone 9). If your development consent relates to land in such a zone then you may need to get a further separate approval from the Southern Rivers Catchment Management Authority for the clearing of remnant native vegetation or “protected” regrowth.

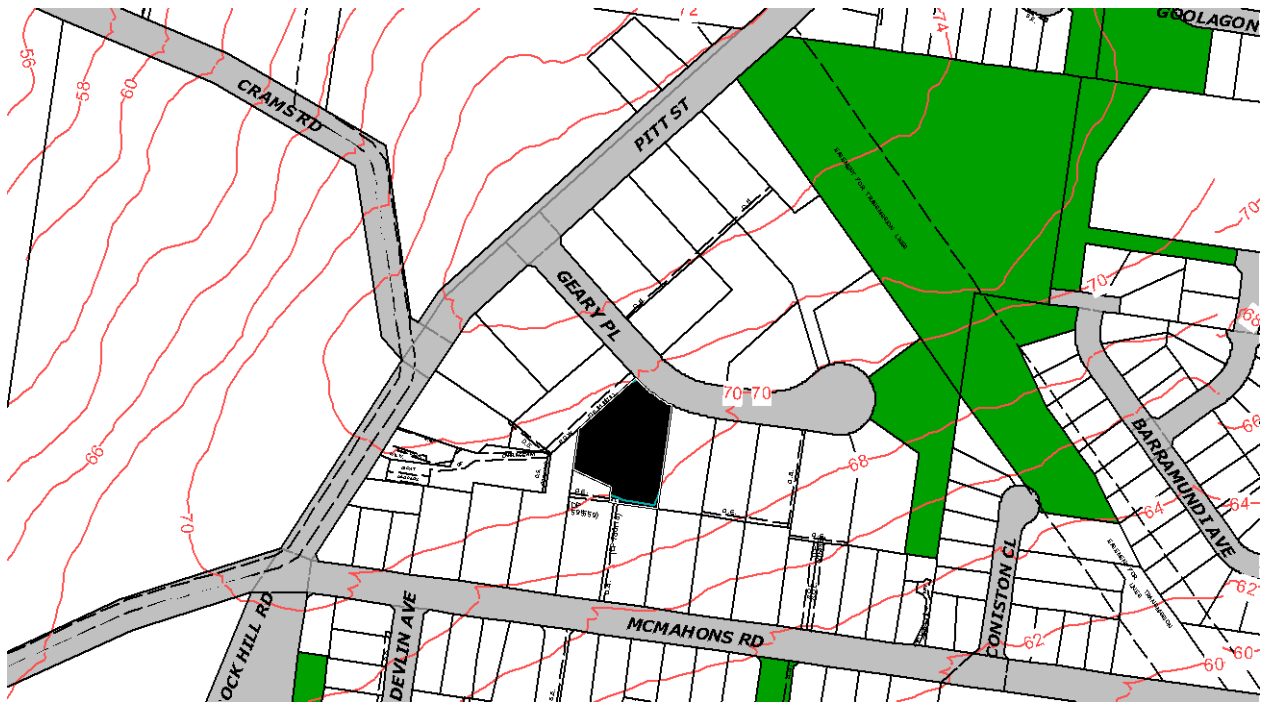
This development application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this development application has **not** involved any assessment of the proposed development in regard to the NSW Native Vegetation Act 2003.

It is the proponent's responsibility to consult the Southern Rivers Catchment Management Authority to determine the need or otherwise for their approval and you should not construe the granting of this development consent as notification to you that the NSW Native Vegetation Act does not apply. The NSW Native Vegetation Act 2003 may have direct application to your proposal and you should obtain advice about this matter directly from the Southern Rivers Catchment Management Authority. You can contact them on 4429 4446 or by email southern@cma.nsw.gov.au.

There are severe penalties for non-compliance with the Native Vegetation Act 2003.

RA10/1003
ATTACHMENT "B" – SUBJECT SITE DETAILS

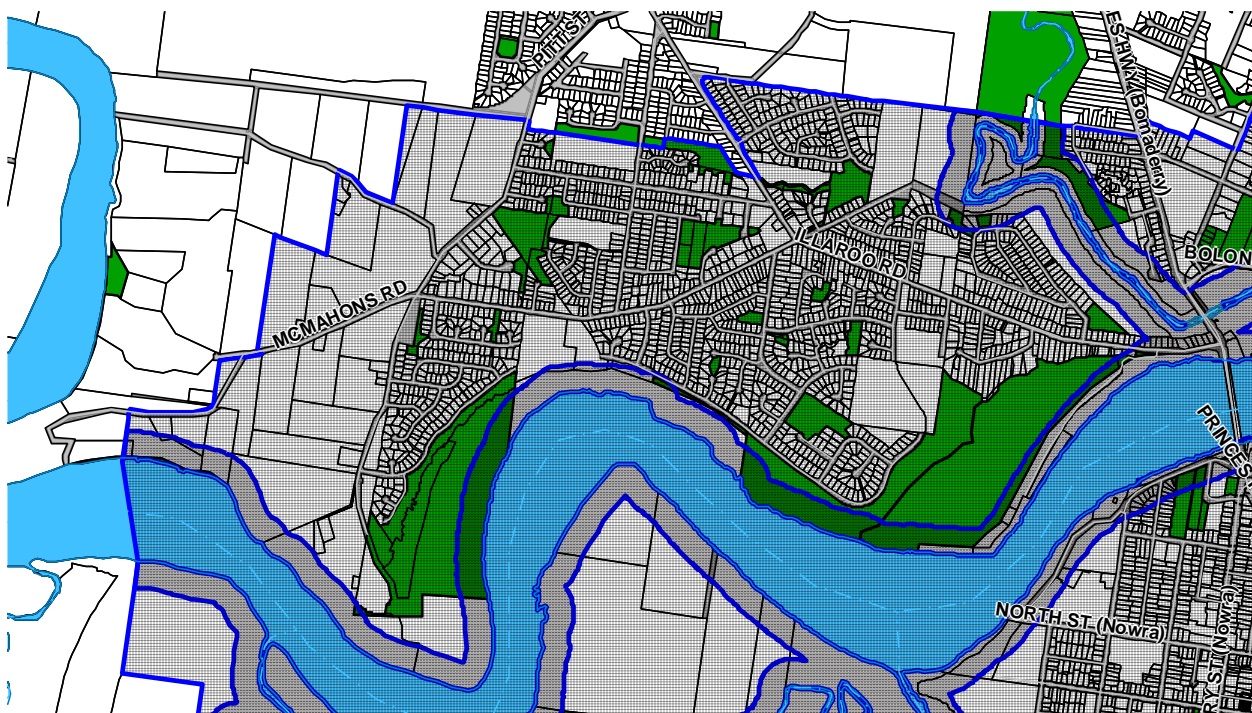
Lot 1 in Deposited Plan 1036505 (No.3) Geary Place NORTH NOWRA



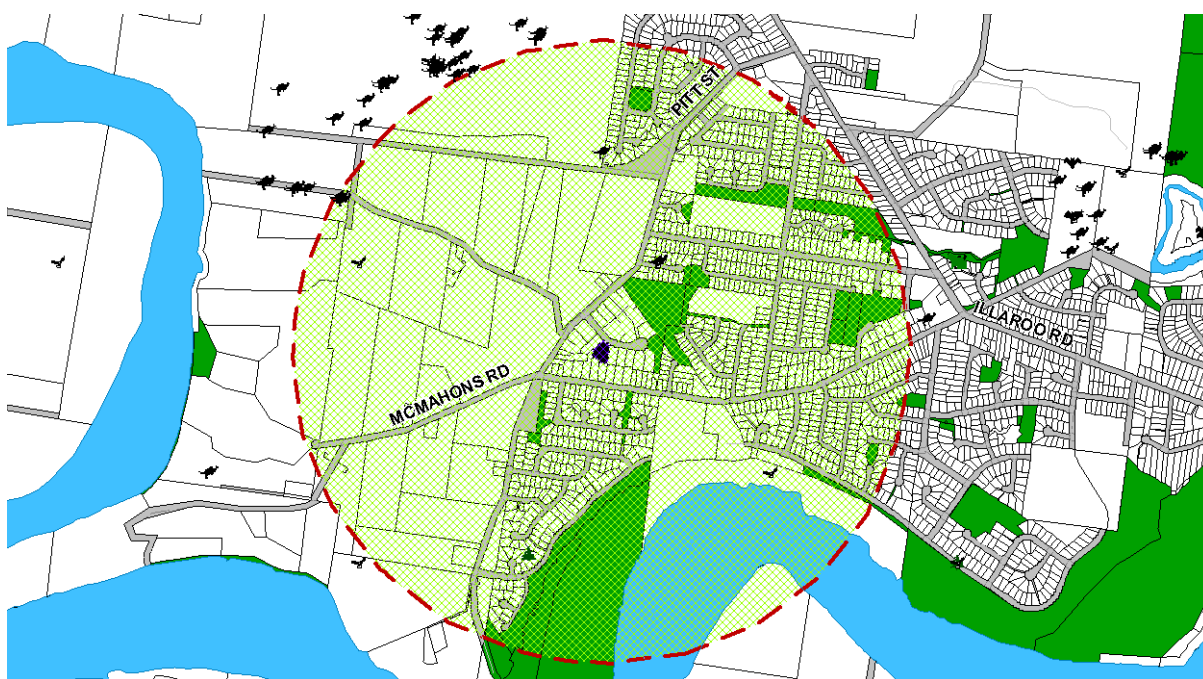
Cadastral and Contour Map



Aerial Photo Map



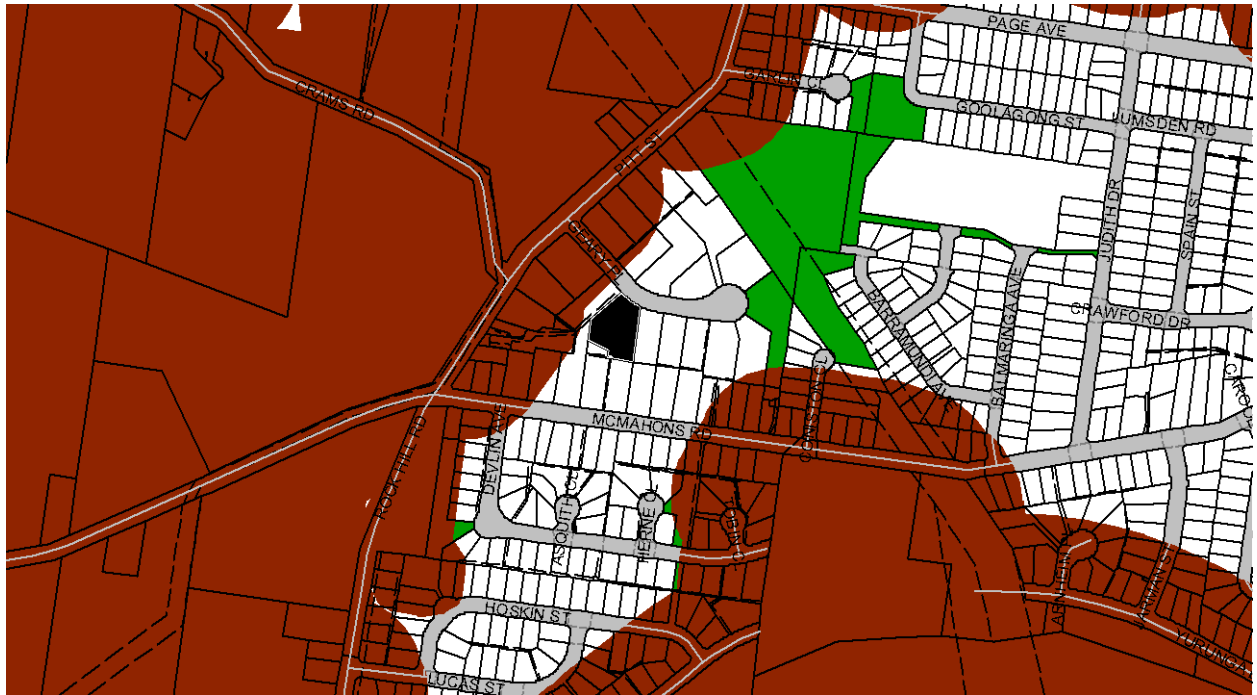
SEPP No. 71 – Coastal Protection Zone and Sensitive Coastal Zone (land located within 100m of the Shoalhaven River)



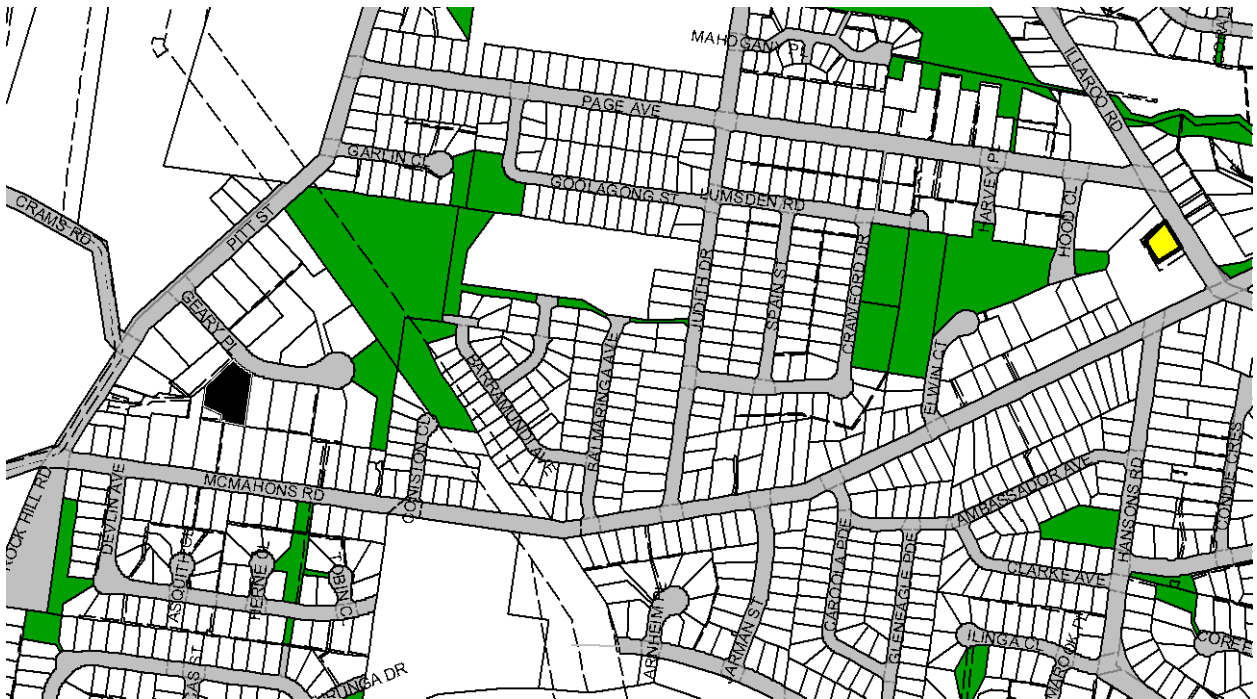
Threatened Species

The following Threatened Species have been sighted or have been located within 1km of the subject site:

- Glossy Black-Cockatoo sighted approximately 330m from the subject property;
- Powerful Owl sighted approximately 650m and 790m from the subject property;
- Yellow-bellied Glider sighted approximately 640m and 990m from the subject property;
- Nowra Heath Myrtle *Triplarina nowraensis* located approximately 710m from the subject site.



BUSHFIRE – the subject land is not shown as being bush fire prone



CONTAMINATED LAND - the subject land is not shown as being potentially contaminated

