

Joint Regional Planning Panel (Southern Region) – 14 July 2011

JRPP No	2011STH005
DA Number	RA10/1010
Local Government Area	Shoalhaven City Council
Proposed Development	Mobile Phone Telecommunications Facility comprising of a thirty (30) metre monopole with three (3) panel antennas and an equipment shelter
Street Address	Lot 1862 DP 31816 Waratah Crescent, Sanctuary Point
Applicant/Owner	Total Communications Infrastructure (TCI) Pty Ltd for Telstra Corporation Pty Ltd
Number of Submissions	Thirty-Nine (39)
Recommendation	Approval with Conditions
Report by	Stephen McDiarmid, Senior Development Planner

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Reason for Consideration by Joint Regional Planning Panel

The application has been referred to the Southern Regional Joint Planning Panel (JRPP) 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 (3G) and fourth (4G) generation mobile phone telecommunications facility comprising of a thirty (30) metre monopole with three (3) panel antennas and an equipment shelter.

Permissibility

The land is zoned 6(b) (Open Space – Recreation “B” (Private) Zone) under the Shoalhaven Local Environmental Plan 1985 (SLEP 1985). Clause 9 of SLEP 1985 lists the proposed development as a prohibited use, however, Clause 115 of the SEPP - Infrastructure provides that development for the purposes of “telecommunication facilities” may be carried out on “*any land with development consent*”.

Whilst not a recreational land use, the proposal will not compromise the existing use as a golf course and will assist the local Sanctuary Point community through the provision of more reliable mobile telecommunications and wireless broadband coverage.

Consultation

The application was notified in accordance with Council's Community Consultation Policy and thirty-nine (39) submissions were received.

Main Issues

- Visual impact of the tower; and
- Generation of electro magnetic emissions (EME's); and
- Associated health impacts of those radiation emissions.

RECOMMENDATION

- # **It is recommended that RA10/1010 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 broadband internet coverage within the suburb of Sanctuary Point and surrounding areas. In this regard, Telstra determined that the best location to install a new mobile phone base station was on the grounds of the St. Georges Basin Country Club's (SGBCC) golf course.

The current application was lodged on 22 September 2010. No formal Development Advisory Unit (DAU) meeting was held prior to the application's lodgement.

2. Subject Site and Surrounding Area

The site has a legal description of Lot 1862 in Deposited Plan 31816 Waratah Crescent, Sanctuary Point. The subject land is situated approximately 750m south-east of the Sanctuary Point Central Business District and forms part of the SGBCC. The specific telecommunication tower site is located amidst mature trees that are adjacent to the rear of residential premises that front onto Waratah Crescent. The immediate surrounding area primarily comprises the SGBCC golf course to the west, south and north with 2(a1) residentially zoned land to the east, which consists of low-density dwellings on properties which abut the golf course along the northern and western lengths of Waratah Crescent. In this regard, the closest residential

properties (Nos. 61 and 63 Waratah Crescent) are located approximately 30 metres to the east of the proposed development.

Other than residential premises, there are no land uses commonly considered to be community sensitive locations, such as schools, in the immediate vicinity. According to the applicant, there will be no impact on natural vegetation as no additional clearing will be required to cater for the subject monopole.

The subject land has a total area of 18.25 hectares of which the proposed Telstra lease area will occupy approximately 60m². The land is not identified as bushfire prone, nor is it potentially contaminated.

Whilst the development site itself has no direct street frontage, it is accessed from Waratah Crescent with the closest residential zoned land located approximately 30m east from the development site. The closest sensitive land use is the Sanctuary Point Public School, located at No.41 Idlewild Avenue, Sanctuary Point, approximately 850m south-east of the lease area for the proposed telecommunication facility.

Refer to Attachment B – Subject Site Details

3. Proposal

The submitted development application proposes the installation of a 3G and 4G mobile phone telecommunications base station comprising:

- Construction of a new 30m high monopole;
- Initial installation of three (3) new panel antennas (each measuring 2.6 metres in length) mounted at EL 30m on the new monopole (31.315m overall height). Telstra propose to undertake the installation of an additional three (3) 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 (2.3m x 3.2m) 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 270 metre radius of the site were notified of the proposal. The notification period was from 2 March 2011 to 1 April 2011;
- The proposal was advertised in the local press (South Coast Register) on 2 March 2011 and 16 March 2011;
- A residential briefing meeting was held at the St Georges Basin Community Centre on 11 April 2011;
- The application and supporting documentation were on display at Council's City JRPP (Southern Region) Business Paper – Item 2 – 14 July 2011 – JRPP Ref 2011STH005

Administrative Centre, Nowra, Council's website and the SGBCC;

- Thirty-nine (39) submissions were received, all opposing the siting of the proposed telecommunications facility for reasons including:
 - Perceived health effects from electro magnetic emissions (EMEs);
 - Not aesthetically pleasing;
 - Reduction in property values;
 - Out of character with surrounding area; and
 - More practical locations for tower.

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 (Jervis Bay Regional Environmental Plan);
- vi. Shoalhaven Local Environmental Plan 1985 (as amended);
- vii. Development Control Plan No.18 – *Car Parking Code*;
- viii. Development Control Plan No.93 – *Waste Minimisation and Management*;
- ix. Shoalhaven City Council Section 94 Contribution Plan (as amended).
- x. NSW Telecommunication Facilities Guide including Broadband – July 2010

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 JRPP. Accordingly, this application is referred to the JRPP 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 approval.

The proposal complies with the requirements of subclause (1). Subclause (2) requires Council to have regard for any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General before determining a development application ie. NSW Telecommunications Facilities Guide Including Broadband – July 2010 (NSW TF Guide). As this application was made after the commencement of this clause (ie. application lodged November 2010, clause inserted July 2010), Council is required to have regard for the guidelines and consideration has been given to them within appropriate sections of this report.

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 are no identified land use restrictions relating to possible contamination affecting the land.

As such, there is no reason to suspect contamination and 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 mean high water mark 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 880 metres north and 1.9kms west from St Georges Basin. As such, the proposal is suitable development having regard for existing and 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 SLEP 1985 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 a golf course. The land does not have, or provide, direct access to the Jervis Bay or St Georges Basin foreshores.

Given the development site's distance away from these foreshore areas, the proposed development should 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.

The proposed development should 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, the proposed development does not conflict with the aims and applicable provisions of SEPP 71.

6.5 Deemed State Environmental Planning Policy – Jervis Bay Region Environmental Plan

The subject site is located within the area governed by the Jervis Bay Regional Environmental Plan (JBREP). The JBREP is supported by a series of maps that identify areas for future urban development, location of habitat corridors and distributed lands that could function as habitat corridors should active management be undertaken including the uses of nearby waterways. The subject site is NOT identified in any of the maps that support this Plan.

The JBREP introduces a number of provisions and objectives which are relevant to this development. The subject DA addresses and provides a comprehensive analysis of the assessable provisions of the JBREP (Clause 11) which is considered to be satisfactory in the circumstances of this case. In this regard, the following mitigation measures will be implemented in order to protect the resultant water quality from this proposal, discharging into Jervis Bay:

- Provision of suitable ‘erosion and sediment controls’ prior to works being carried out on site. In this regard, a detailed Sediment and Erosion Control Plan is to be provided for Council’s consideration, prior to the issue of a construction certificate.
- Upon completion of the development and suitable stabilisation of this site, through development and site landscaping, the impact on water quality should not be significant. Consequently, it is expected that, in the long-term, any water leaving the site would be relatively clean.
- The site does not have direct frontage to a water body.

6.6 Shoalhaven Local Environmental Plan 1985

The provisions of SLEP 1985 apply to this site. The clauses/matters contained in SLEP 1985, which 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 land is zoned 6(b) (Open Space – Recreation “B” (Private) Zone) under SLEP 1985. Clause 9 of SLEP 1985 lists the proposed development as a prohibited use, however, Clause 115 of the SEPP - Infrastructure provides that development for the purposes of “telecommunication facilities” may be carried out on “*any land with development consent*”.

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, the proposed development does not conflict with the aims and relevant provisions of SLEP 1985.

6.7 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 site will be accessing the site via a right-of-way from Waratah Crescent.

6.8 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 was 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, to determine its waste classification and appropriate place for disposal.

As such, 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.

6.9 Shoalhaven City Council Section 94 Contribution Plan 1993

As the proposed telecommunication tower 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 this application.

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

7.1 Construction Materials

The equipment shelter associated with the development is proposed to be constructed from 'colourbond' panels and finished in a suitable colour which matches the existing tree canopy at this location. Fencing around the site is proposed to be galvanised chain wire fencing. These materials are satisfactory given the fence and shelter structure will be out of the line of sight from the residential properties to the east (Waratah Crescent).

7.2 Context and Setting

Given its height of 30 to 31.3 metres, the telecommunications tower will be visible from a number of locations. The applicant did not submit a satisfactory visual impact assessment as part of this application. In this regard, the applicant was subsequently requested to provide a more comprehensive visual impact assessment, including a photomontage of the proposed development.

At the residential briefing meeting held on 11 April 2011, nine (9) local residents expressed concerns in relation to the potential detrimental visual impact the proposed facility will have when viewed from their properties. Photomontages were prepared illustrating the visual impact of the proposal, from various viewing points around the site, including those residential properties whose owners raised concerns in relation to this potential visual impact.

To facilitate producing the photomontages and the visual assessment, Telstra engaged a consultant to hoist a balloon to the overall height of the proposed structure (31.3 metres) on 16 May 2011 between 9.30am and 12.30pm. Once the

balloon was hoisted, photos were taken from a specific locations, on their sites, nominated by each of the individual residents.

Refer to Attachment D – Visual / Scenic Impact

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

7.3 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, improved mobile phone and (3G and 4G) 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 in general. 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.

7.4 Flooding

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

7.5 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 30m from the subject site, 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 to limit any ongoing noise generated at the boundary of the nearest effected residence.

7.6 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.

7.7 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 Waratah Crescent. Waratah Crescent is capable of accommodating this marginal increase in traffic generation. As addressed above, given the development would be seen from some nearby locations, this proposal would have a potential visual impact. However, given the location of the site within a heavily vegetated Golf Course, visual impact is likely to be limited and therefore acceptable.

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.

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

7.8 Threatened Species

As no trees or vegetation are required to be removed as part of this proposal, the subject development will have no detrimental impact on threatened fauna, flora or their habitats.

7.9 Traffic and Access

Access to the development site from Waratah Crescent is via an unsealed right-of-way. This access way is constructed to a suitable standard and is of a sufficient width to accommodate construction and service/maintenance vehicles. Once the subject tower is completed, vehicle generation is estimated to be no more than 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. 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. Traffic from this construction would only occur from the hours of 7.00 am to 6.00 pm.

The base station facility will be unmanned but would require quarterly maintenance checks 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 an 'as needed' basis but would not involve significant traffic generation.

7.10 Visual / Scenic Impact

Visual impact is often a significant issue with respect to mobile phone communications where such facilities require the installation of a tall pole or tower in order to provide adequate service levels. It is not always possible to locate mobile phone antennas in a discreet fashion on a building or in locations of minimal visual impact. Mobile phone towers, like many other items of infrastructure comprising taller structures, such as transmission line towers and wind generator towers, are likely to intrude above existing buildings and vegetation and hence readily seen in the landscape, particularly when viewed from closer distances.

The proposed communications facility is located within an area of private open space used as a golf course. Where industrial locations are not feasible, an open space location is often the best alternative option. The chosen site is, however, located relatively close to residential development to the east in Waratah Crescent.

The existing treed golf course and residential development backing onto this area could be characterised as comprising a visual setting of good quality, particularly in locations where there is extensive tree cover. Many residential properties in the vicinity of the golf course also enjoy attractive treed views towards the golf course.

The primary contributors to the quality of the visual landscape, in this locality, are the extensive tree canopy and grassed open space of the golf course. As demonstrated in the attached photomontages, the tree canopy is of sufficient density to largely screen the majority of the proposed 30m (31.3m) telecommunications pole. There are no vertical items of infrastructure evident in the landscape of the golf course. Dwellings backing onto the golf course have views dominated by trees, grass and other vegetation. Electricity poles and powerlines are evident in the streets surrounding the golf course and appear in views to the golf course from dwellings that do not back directly onto this area.

7.11 General Location

The proposed development is not entirely in character with the existing urban landscape patterns. A grove of tall mature trees will surround the proposed tower which will also alleviate the presence of this structure to those residential properties located in close proximity to the subject site. In addition, the proposed development would also be consistent with other existing physical elements such as existing power poles, overhead power lines and electricity distribution poles located in close proximity to the subject site - all of which protrude into the skyline.

In order to minimise any visual impact, the proposed facility has been located 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 Waratah Crescent residents', located to the east of the subject proposal, due to the dense vegetation that exists in this vicinity.

The various photomontages submitted demonstrate that the proposal has limited to minor visual impact from almost all viewing points. The only view lines where the proposed facility is evident is from relatively close range, due to a gap in the tree canopy, as seen from the frontage of 58 Waratah Crescent (Refer to Attachment D). In these cases there is only a minor visual impact if a suitable colour is used to match the tree canopy.

Properties backing onto the golf course, in the vicinity of the proposed facility, will be unable to readily perceive the pole and antenna due to the screening effect of existing trees in the angle of view. There are two properties (Nos 61 and 63 Waratah Avenue), which currently enjoyed a treed outlook towards the golf course, that will be impacted to a minor extent (if any) by the proposed equipment shelter and security fencing.

On balance, the proposal is considered to have a satisfactory visual impact.

In summary, whilst it is acknowledged that the proposed development is likely to have some degree of visual impact on the immediate locality, the impact from a distance is unlikely to have a significant impact on the visual quality of the wider environment in general. As such, the proposed development should not be refused on the grounds of visual impact as the facility has been designed and sited to minimise the visual impact in accordance with the NSW TF Guide.

Refer to Attachment D – Visual / Scenic Impact

7.12 Location of Telecommunications Facilities

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

The increasing residential development in the Sanctuary Point / St Georges Basin 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 exist that service this area. Therefore, according to Telstra, a new facility is required in this area.

Telstra selected the proposed location as it has made efforts to locate the proposed development as far as possible from community-sensitive locations.

7.13 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.

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

As part of its assessment process and in accordance with the NSW TF Guide, 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 close proximity to 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:

Alternative Location A - Francis Ryan reserve, Kerry Street.

This site would require the existing 16.5 metre timber pole to be replaced with a new 30 metre steel/concrete monopole. The site is within close proximity to a school and Telstra claim that it would achieve only 55% of the coverage objective.

Alternative Location B - St. George's Basin Country Club, 11 Paradise Beach Road.

Any proposal at this site would require a new 30 metre steel/concrete monopole with headframe. There is a school to the south, within relatively close proximity. Telstra contend that a facility here would achieve 75% of the coverage objective.

Alternative Location C - Sanctuary Point oval, 139 Lamer Avenue.

Any proposal at this site would require a new 35 metre steel/concrete monopole with headframe and could provide floodlights on the monopole. This candidate is located further away from the school and is surrounded by lower density residential premises, however, Telstra claim that any proposal in this location would achieve only 50% of the coverage objective.

Alternative Location D - Existing Telstra mini exchange, 30 Sanctuary Point Road.

Any proposal at this site would require the replacement of the existing approximately 20 metre concrete pole with a new 35 metre steel/concrete monopole. Being Telstra owned this site is the best option from a leasing point of view but, again, would provide only 50% of the coverage objective.

Alternative Location E - St. George's Basin waste water treatment plant, The Wool Road.

This site is within close proximity to the Rural Fire Service site and Telstra's radio frequency engineers have advised that this site would not meet the coverage objectives at all.

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.

Refer to Attachment B – Subject Site Details

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 utilised as a golf course and the area has an private recreation zoning. The site is also located over 300m away from community sensitive locations such as the Sanctuary Point Public School (approx. 850m away). In conclusion, 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 submissions relate to:

- The health effects from prolonged exposure to electromagnetic emissions from this development would have on the people in the area.
- A 30m high monopole would be out of character with surrounding area and not aesthetically pleasing;
- Reduction in the value of the objector's property; and
- Should be a more practical location for the tower;

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* (R (EMR-HE) Standards 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 adopted by 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 0.29% 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 0.12% and 0.29% 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. This meets the requirements of the NSW TF Guide and, as such, the development application should not be refused on the grounds of generated EME levels or associated health impacts.

Out of Character

The proposed development is 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 to "Visual / Scenic Impact" for a more detailed assessment of issues associated with this issue.

Reduction in Property Values

No evidence is available in support of the claim that a 30m (31.3m) 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, 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 3rd and 4th generation (3G & 4G) 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 residents living in Sanctuary Point.

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

A More Practical Location

The submitted Statement of Environmental Effects states that five 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 also located away from community sensitive locations such as schools and nursing homes. As such, the site is suitable for the proposed development.

Refer to the “Suitability of the Site” for more detailed assessment of issues associated with site suitability.

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

There has been debate within the general community regarding the possible health risks of EMEs. 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.

The Sanctuary Point area is a growing residential community with zonings for commercial 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 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, 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 Sanctuary Point residents.

11. 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 to Shoalhaven City Council and review by the JRPP.

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 in accordance with the requirements of the NSW TF Guide.

Electro Magnetic Emissions and associated Health Impacts

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

R(EMR-HE) Standard 2003) 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 Waratah Cres. in 360° circular bands	Maximum Cumulative EME Level – All carriers at this site. (% of ARPANSA exposure limits 2) Public exposure limit = 100%
0m to 50m	0.0083%
50m to 100m	0.12%
100m to 200m	0.29%
200m to 300m	0.16%
300m to 400m	0.073%
400m to 500m	0.041%
<i>Maximum EME level</i> 133.9m from the antennas at Waratah Cres.	0.29%

Reference: *ARPANSA EME Report*

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 0.29% of the Australian Standard.

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.

Council can be assured that the facility would always operate well within this Standard.

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.

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 in accordance with the NSW TF Guide.

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 previously advised, in response to another similar proposal at North Nowra, 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.

Previous Review of EME Effects Caused by Telecommunications Facilities

Council previously engaged the services of Rodney Croft, PhD to provide advice on the effects of Electro Magnetic Radiation (EMR). Professor Croft is currently employed as a Professor of Health Psychology at the University of Wollongong and has conducted EMR research within the University environment for over 10 years. He is the Executive Director of the Australian Centre for Radiofrequency Bioeffects Research which researches health effects of EMR as it relates to telecommunication devices and is a member of the Biology Standing Committee of the International Commission of Non-Ionising Radiation Protection which is the international standards setting body. The report prepared by Professor Croft, was in relation to another similar monopole facility located within 100 metres of residents at Callala Bay and in part concluded:

“There is strong scientific evidence supporting the view that adherence to the Australian RF Standards relevant to DA09/1516 (ARPANSA RPS3) is adequate to protect people from all known harm associated with RF. This is regardless of the age of the person being exposed. The DA09/1516 predicated RF exposure levels in the Callala Bay area are extremely small compared to the Australian as well as other relevant international RF Standards (<0.1%). Therefore, there is no scientific evidence that the RF emissions from DA09/1516 will be hazardous to health in the Callala Bay area. This applies to both the Child Care Centre at 22-24 Callala Bay Road and the residence at 31 Callala Bay Road, as well as the area more generally. Consequently, no mitigating measures are required to reduce potential health

consequences. Further, should SCC move to co-locate other base stations on the proposed facility, this would result in levels that are still many times below the Australian RF Standard (ARPANSA PRS3), and so this would not affect the above health determination.

"It is concluded that the base station proposed in DA09/1516 would not represent a risk to health in the Callala Bay area in general, and in particular for people at either the Child Care Centre at 22-24 Callala Bay Road or the 31 Callala Bay Road residence."

Whilst Professor Croft's report did not relate to this current application, given its similarity in the type of structure, its design and location near urban housing, some degree of acceptability for the current proposal can be assumed from his report in general.

12. Referrals

Building Surveyor: No objection to the proposal subject to the imposition of standard conditions requiring the appointment of a Principal Certifying Authority and 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: 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 Electromagnetic Emissions (EMEs)

13. Options

The JRPP 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.

14. 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, the Development Application No. RA10/1010 may be supported subject to suitable conditions (Attachment "A") being imposed on any issued development consent.

15. RECOMMENDED that:

- # **RECOMMENDED that, in respect to RA10/1010 for the proposed mobile phone telecommunications facility at Lot 1862 DP 31816 Waratah Crescent, Sanctuary Point (SGBCC), the application be approved as an operational development consent, subject to the conditions contained in Attachment A.**

Signed: Stephen McDiamid

Date: 16 June 2011

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 30m 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. N109082: Site Layout, Access and Locality Plan: Sheet S1-1: Issue 2 dated 4/11/2010;
 - Dwg No. N109082: Shelter, Pier/Footing detail and South-Western Elevation of Proposed Monopole: Sheet S3: Issue 2 dated 4/11/2010;

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.

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;
 - (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).

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. Huskisson 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 strong 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 1862 DP 31816 (the subject golf course 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.

PART E

CONDITIONS THAT RELATED TO ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT

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 1862 in DP 31816 (Golf Course land).

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 shown and predicted in the submitted “Environmental EME Report”, dated 11th May 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.

PART F

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

Consent Compliance

24. All conditions associated with the construction and operation of the subject development proposal must demonstrate full compliance with this Development Consent **prior to the issue of an Occupation Certificate.**

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.

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 I

ADVICE ABOUT WHEN THIS CONSENT LAPSES

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.

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.

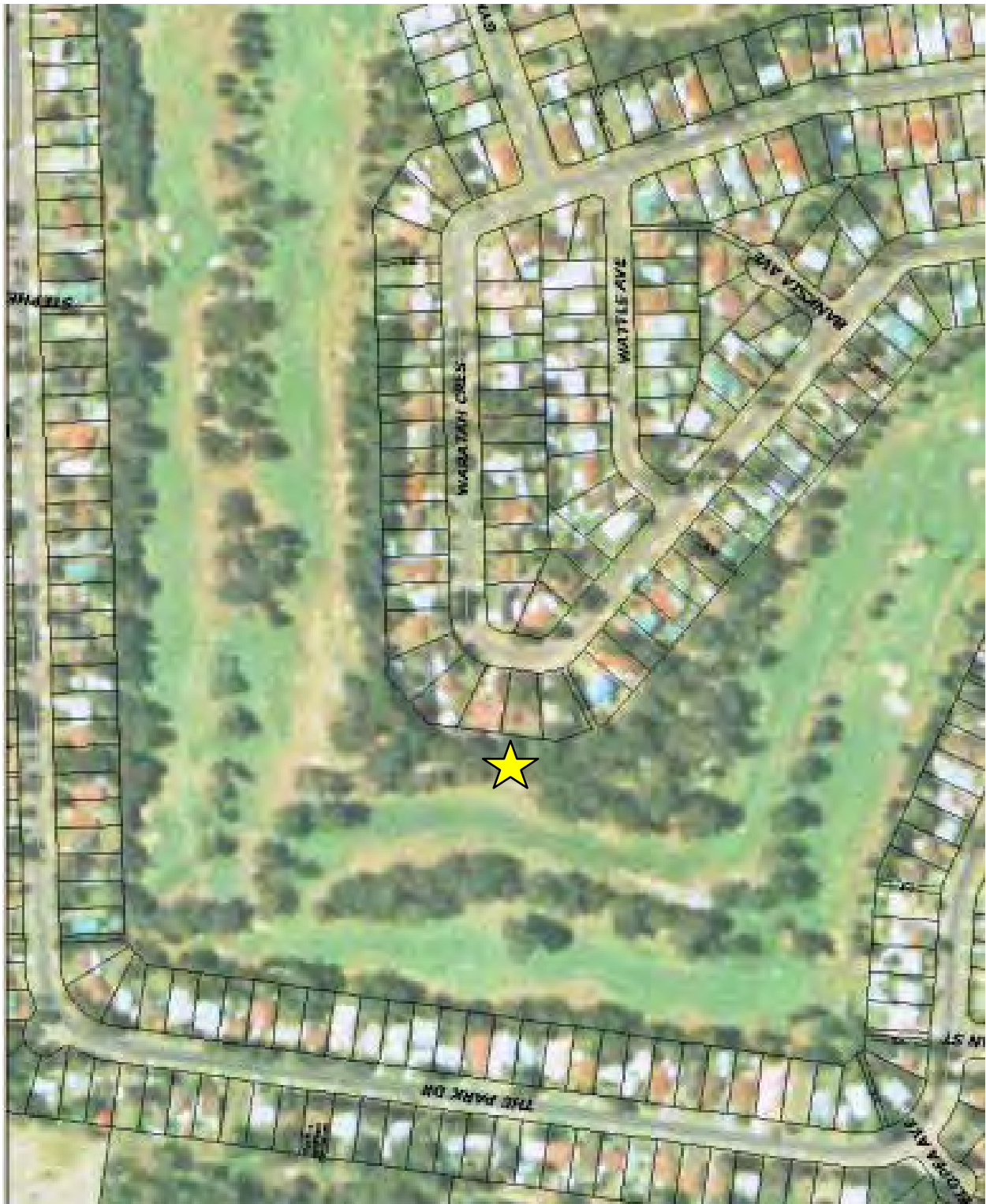
This development application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this development application has not involved any assessment of the proposed development in regard to the NSW Native Vegetation Act 2003.

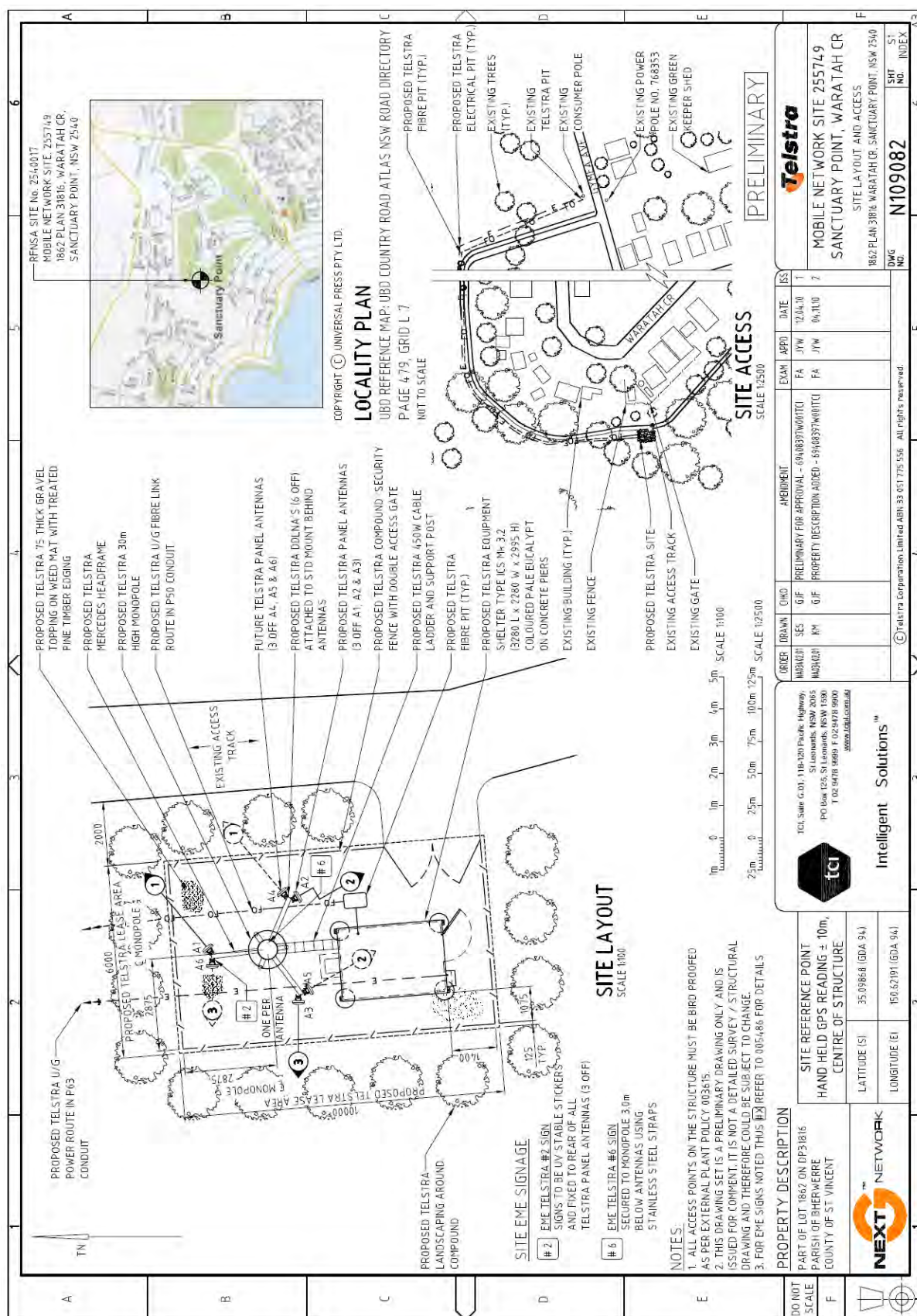
It is the proponent's responsibility to consult the Southern Rivers Catchment Management Authority to determine the need or otherwise for their approval and you should not construe the granting of this development consent as notification to you that the NSW Native Vegetation Act does not apply. The NSW 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.

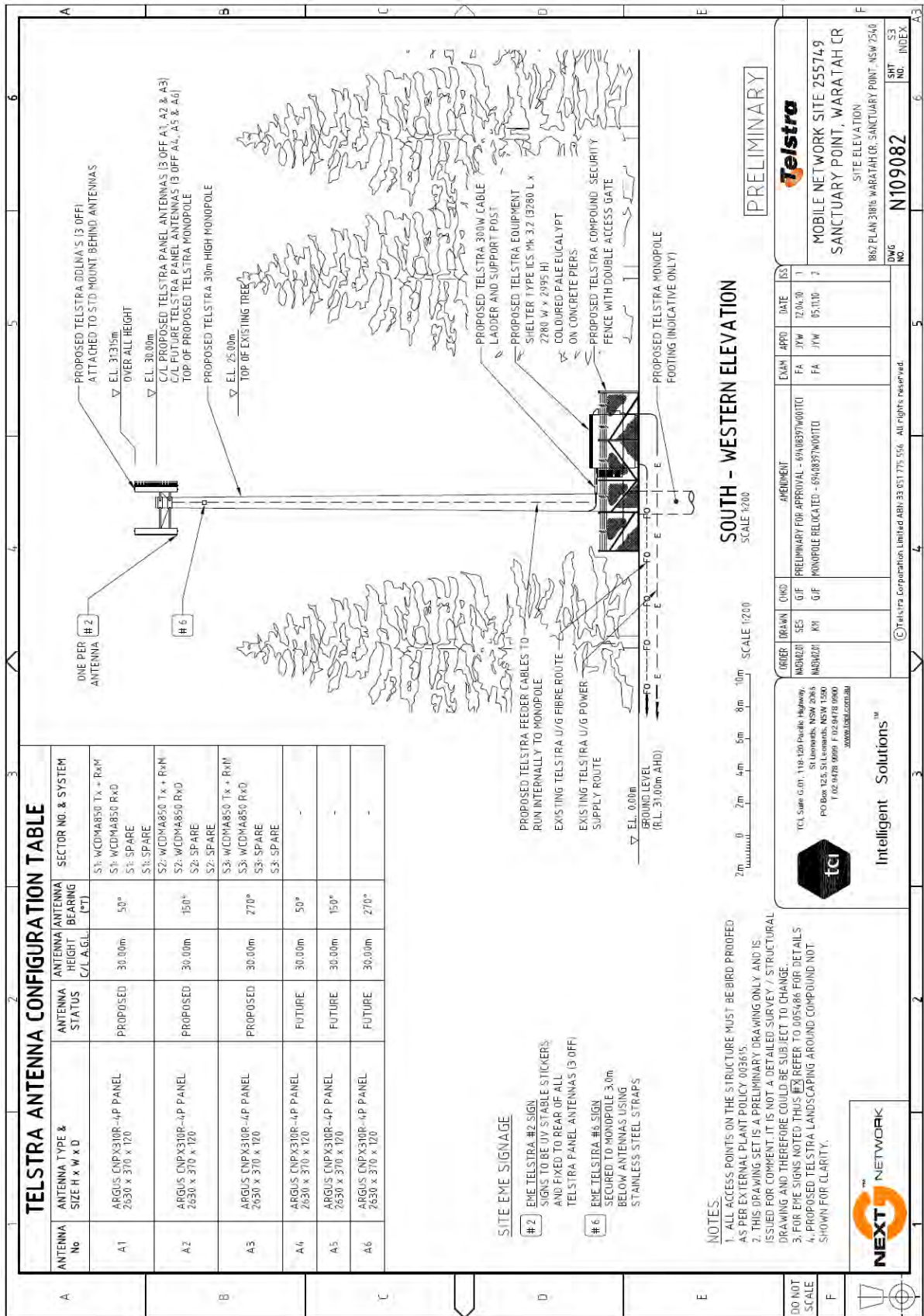
There are severe penalties for non-compliance with the Native Vegetation Act 2003.

ATTACHMENT B

★ Location of proposed facility









*PHOTO 1 – Photomontage view of the Facility
as seen from 17 Wattle Avenue*



The photomontage at left illustrates visual impact of the proposal as viewed from 17 Wattle Avenue and demonstrates how visual impact is moderated by existing tree cover and viewing distance, as well as existing electricity infrastructure in the street. At a distance of 200 metres or more, the facility is difficult to see within a treed backdrop, and has minimal to no visual impact.

*PHOTO 2 – Photomontage view of the Facility
as seen from 18 Wattle Avenue*



The photomontage at left illustrates visual impact as viewed from 18 Wattle Avenue and demonstrates how visual impact is moderated by both existing tree cover and distance, but in circumstances where the facility is more evident in the view line due to projection into the skyline. The topmost portion of the facility can be seen against the skyline however it forms only a very minor element in the view and is not obvious to the viewer. Its visual impact is minor.



PHOTO 3 – Photomontage view of the Facility as seen from 58 Waratah Crescent



The photomontage at left illustrates visual impact as viewed from 58 Waratah Crescent & demonstrates how visual impact is moderated by tree canopy and distance. Only the top of the pole & the antenna are visible from in front of No. 58 Waratah Cr., even though this dwelling is located relatively close to the proposed site. Use of a colour similar to the existing tree canopy for the pole and antenna would minimize visual impact.

PHOTO 4 – Photomontage view of the Facility as seen from 74 Waratah Crescent



The photomontage at left illustrates visual impact as viewed from 74 Waratah Crescent. As in previous photos, Photo 4 demonstrates how visual impact is moderated by distance. Even though in this photo the proposed facility extends into the skyline above an existing house roof and there is no immediately adjoining tree canopy, the proposed facility is not noticeable in the view and has minimal if any visual impact.

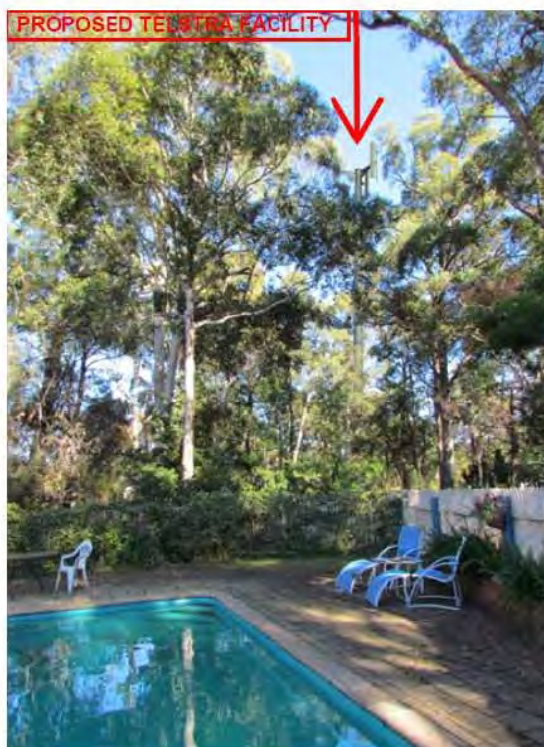


PHOTO 5 – Photomontage view of the Facility as seen from rear of 61 Waratah Crescent

The photomontage at left illustrates visual impact from a close viewing position, in this case the rear of No. 61 Waratah Crescent. In this case tree canopy and other vegetation substantially screens the proposed facility from view. Similar tree canopy and vegetation screens most of the facility from view from within the golf course (see Photo 6).

PHOTO 6 – Photomontage view of the Facility as seen from within the golf course



The photomontage at left illustrates a typical view of the facility from within the golf course. Existing tree canopy and viewing distance combine to ensure that the facility has minimal visual impact, as viewed from within the golf course.



PHOTO 7 – Photomontage view of the facility as seen looking west from the rear of No 63 Waratah Crescent



The photomontage at left also illustrates a close up view from the rear of No. 63 Waratah Crescent. Due to the proximity of the viewing point and existing tree canopy the upper half of the pole and the antenna are not readily seen. There is a view of the equipment shelter and associated security fencing (in a suitable colour), however the provision of screen shrub planting as indicated in Photo 8 would effectively screen these ancillary facilities from view from the nearby residences in Waratah Crescent that back on to the site.

PHOTO 8 – Photomontage view of the Facility as seen looking west from near the rear of Nos. 61 and 63 Waratah Cr.



The photomontage at left also illustrates a close up view of the proposed facility, from a point west of the rear fence of Nos. 61 and 63 Waratah Crescent. This photo includes screen planting to demonstrate that the proposed equipment shelter and associated security fencing would have no visual impact if screen planting is provided.