

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Wednesday, 5 June 2019
PANEL MEMBERS	Jason Perica (Chair), Kara Krason, Peter Brennan and Kellie Scholes
APOLOGIES	Michael Leavey
DECLARATIONS OF INTEREST	Derek Finnigan declared a non-pecuniary interest in that his team is responsible for community facilities and this may lead to a perception of bias. He took no part in the deliberations or decision.

Public meeting held at Muswellbrook Council – 157 Maitland Street, Muswellbrook on 5 June 2019, opened at 3.00pm and closed at 3.30pm.

MATTER DETERMINED

2019HCC011 – Muswellbrook Council – DA76-2019 at Victoria Park, Hill Street, Muswellbrook – Telecommunications Tower (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel had regard to the applicant's (updated) Clause 4.6 written request regarding the Building Height contravention within Clause 4.3 of Muswellbrook LEP 2009 and formed the view it satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent (or not inconsistent) with the zone objectives and the objectives of the Building Height development standard, notwithstanding the non-compliance, and granting consent would be in the public interest. In reaching this conclusion, the Panel had regard the Council staff report, the proposal and observations at the site.

Other reasons to support the proposal included:

- The proposal would have wider benefits for the township in terms of mobile phone coverage and bandwidth, and would also allow improved communication from those using the recreation area and others in the surrounding area, or in downloading data;
- The colocation with a light pole was rational and orderly;
- The site was considered suitable, with reasonable separation from residential areas;
- Emissions were found to be well within Australian guidelines;
- Visual impacts would not be significant in a wider context and did not warrant refusal of the application.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- A new condition be imposed to state:
"The fence, building, tower and fittings/devices shall be painted a non-reflective dark colour (dark grey or black), with details included in the Construction Certificate, and implemented prior to issue

of an Occupation Certificate (Reason: to match or complement existing fencing and to reduce the visual impact of the tower).





CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel (nil attended). The Panel notes that issues of concern included:

- Health/radiation impacts;
- Visual impacts;
- Other impacts summarised in the assessment report.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and agreed with conclusions.

The radiation emitted was found to be around 1% of the acceptable level, while the visual impacts were reasonably mitigated by replacing a light pole (albeit higher and wider), setting amongst other light poles, separation from residents and mitigation measures in conditions of consent.

PANEL MEMBERS	
 Jason Perica (Chair)	 Kara Krason
 Peter Brennan	 Kellie Scholes

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019HCC011 – Muswellbrook Council – DA 76-2018
2	PROPOSED DEVELOPMENT	Telecommunications Tower
3	STREET ADDRESS	Victoria Park, Hill Street, Muswellbrook
4	APPLICANT/OWNER	Applicant: Kordia Solutions Australia Owner: Muswellbrook
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> SEPP 55 - Remediation of Land SEPP 65 – Design Quality of Residential Flat Development SEPP (Infrastructure) 2007 Muswellbrook LEP 2009 Development control plans: Muswellbrook DCP 2009 Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Email from council received on Tuesday, 4 June 2019 at 10:41am reviewed by the Panel, including 6 page assessment of the applicant's Clause 4.6 written request regarding the height standard. Council assessment report: 28 November 2018 Written submissions during public exhibition: 12 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Nil In objection – Nil Council assessment officer –Sharon Pope On behalf of the applicant – Phil Hull and Paul Davidson
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: Wednesday, 5 June 2019 Briefing: Wednesday, 5 June 2019 <ul style="list-style-type: none"> Final briefing to discuss council's recommendation, Wednesday, 5 June 2019 at 2.00pm (including clarification regarding zone objectives) <u>Panel members</u>: Jason Perica (Chair), Kara Krason, Peter Brennan, Kellie Scholes <u>Council assessment staff</u>: Sharon Pope
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report