



MINUTES OF THE WORKS COMMITTEE INSPECTION MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 23rd March 2009 commencing from the Civic Centre at 1.04 p.m.

PRESENT:

Councillors J H Bowell, (Mayor and Chairman), E A Campbell, E A Green, J C Gribbin, J A C Hayes, D F Saul, A D Snowsill, J A Sproule and E R Walker

Also present were the General Manager, A V Burgess; Director Sustainable Development Services, R B Pitt; Acting Manager Administration, K R Woods and Minute Taker D M Pearson.

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The Works Committee inspected the following sites and returned to the Civic Centre at 1.00 p.m. for Committee deliberations.

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WI 1	CONTINUED USE OF EXISTING DECK 6B BEECH PLACE, SOUTH WEST ROCKS FILE: T6-08-447 SDS {Folio No. * }
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SUMMARY:

Reporting that Council has received an application for continued use of an existing deck for which an objection has been received.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Applicant: Mr & Mrs Szerences
Subject Property: Lot222 DP1070406
6B Beech Place, South West Rocks
Zone: 2A Residential

Background:

A deck and screen was constructed at the rear of the subject land sometime after December 2003. Following recent complaints, investigations revealed that due to there being no setback to boundaries the deck is not exempt

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development and no approval for the deck has been issued or building certificate issued to formalise the unlawful use.

Council is unable to issue consent retrospectively and the application to continue the use of the deck must consider potential impacts on neighbours.

Heads of Consideration

The proposal was examined having regard to the Heads of Consideration identified under Section 79 (1) of the Environmental Planning and Assessment Act, 1979 with the following matters considered to be of particular relevance to the proposal.

Public Exhibition

Having regard to previous complaints, the proposal was advertised with one objection received which is summarised as follows:

Objection	Planning Comment
The existing deck that the adjoining owner is proposing for continuation of use does not comply with guidelines as set out in DCP 30.	existing deck and screen can not be considered as exempt development and a Development Application is therefore required.
The existing deck is adjoining the side boundary fence hence not complying with the stated 0.9m from a property boundary.	.9 metre setback applies in respect to exempt development. The deck is not setback from the fence and a Development Application is required. Through consideration of the Development Application Council is required to consider the merits of a reduced setback. eck need not be cut back the 0.9m, provided a privacy screen 1.8m in height from the top of the deck is erected to the existing deck. The screen will need to be erected for the full length of the deck and staircase in order to reduce impacts on privacy.
The existing deck allows the adjoining owner to look directly into the rear yard of the adjoining premises, compromising privacy.	n high privacy screen would alleviate the loss of privacy to the adjoining owner's private open space.
The existing deck affects privacy and does not meet the guidelines as set out in DCP22 "visual privacy between proposed and existing adjoining dwellings is to be ensured. Overlooking of living	bove'

spaces in buildings and private open space is to be avoided".

The existing timber screen fixed to the fence has deteriorated and requires maintenance.

timber screen is to be replaced with a screen fixed to the timber deck and not to the boundary fence.

Planning comment

The issues raised in the submissions have been assessed and it would be unreasonable to require the deck to be demolished subject to the applicant complying with the following:

- Removal of the existing screen from the colour bond fence
- Erection of a 1.8m high privacy screen to the existing unlawfully erected timber deck
- That an application be made to Council for a Building Certificate accompanied by a recent survey by a registered surveyor showing buildings and the timber deck relative to the boundaries.
- Provide engineer's certificate certifying the structural adequacy of timber deck as constructed.

RECOMMENDATION IMPLICATIONS:

- ***Environmental***

Nil

- ***Social***

Nil

- ***Economic (Financial)***

Nil

- ***Policy or Statutory***

Nil

Director Sustainable Services Department Recommendation:

A. That consent be granted subject to the following conditions:

1. The existing timber screen fixed to the colour bond fence is to be removed.
2. A 1.8m high privacy screen measured from the top of the deck and fixed to the deck floor frame for the full length of the deck, staircase and one colour bond panel past the staircase is to be erected.

previously approved timber privacy screen and inclusion of a timber deck around an above ground pool for which objections have been received.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Applicant: Mr H & Mrs K Morgan
Subject Property: Lot23 DP1044239
7 Beech Place South West Rocks
Zone: 2A Residential

Description of proposal

The applicant proposes to increase the height of an approved timber privacy screen. [\(Appendix S – Page G96\)](#)

Background

In November 2008 Council approved a privacy screen 0.3metres clear of the western side boundary at 7 Beech Place, South West Rocks. [\(Appendix T – Page G97\)](#)

Work commenced on the screen which was not in accordance with the approved plan. The owner has lodged a request to modify the application to increase the height of the screen and to include a timber deck around the approved pool. Prior to the preparation of this report further meeting was held with the applicant. The application was further amended to a lower height with the first three sections at one level. [\(Appendix T – Page G97\)](#)

Heads of Consideration

The amended proposal was examined having regard to the Heads of Consideration identified under Section 79 (1) of the Environmental Planning and Assessment Act, 1979 with the following matters considered to be of particular relevance to the proposal.

Protection of views

Having regard to decisions of the Land and Environment Court, the following principles apply to applications to determine impact of development on the views enjoyed by adjoining properties.

STEP 1.

Where views will be affected

- Water views are more valuable than land views
Land views of part of Smoky Cape not are affected.
- Whole views are valued more highly than partial views
Partial views of Smoky Cape not are affected.

STEP 2.

Where are views obtained from?

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- Views across side boundaries cannot be protected by unreasonable requirements.
The views from the adjoining premises are across the side boundary. The proposed amended screen will not reduce the view of Smoky Cape to be seen from living and kitchen area in standing position.
- Views from sitting positions can not be protected by unreasonable requirements.
There will be loss of view when sitting in the adjoining living area.
- Views across front or rear boundaries, from a standing position should be protected to reasonable extent.
The views are across the side boundary.

STEP 3

Where is the impact?

- Will views be retained from other parts of the property?
Views will be retained from the front entry deck, rear deck.
- Views from living areas and kitchens are more important than from bedrooms and service areas.
Views from living and kitchen areas will not be reduced.
- Assess view loss in qualitative terms: negligible, minor, moderate, severe or devastating.
Minor from the information submitted.

STEP 4

Is the proposal reasonable?

- Does the proposal comply with other controls in DCP?
See "Privacy"
- Would a more clever design provide the same development potential and amenity and reduce the impact on views

Whilst some loss of privacy is expected at the height of the amended screen to parts of the rear yard, views will largely be maintained from the adjoining premises.

Privacy

Council's DCP 22 Development Standards encourages the use of fences and screen walls to designated private open space. However, this must be balanced against other amenity considerations. The application under consideration is for a screen extending from the rear of the dwelling to rear boundary.

Public Exhibition

The proposal was advertised in accordance with Council's Policy with a total of 2 objections received which are summarised as follows. [\(Appendix U – Page G99\)](#)

The objections relate to the original modification that was advertised. In accordance with Council's Notification Policy, the amended modification was not readvertised as the screen is substantially lower than the original modification, thereby not being prejudicial to the objector's submissions.

Objection	Planning Comment
Loss of view	See "Protection of view"
The proposed screen causing overshadowing	Proposed fence will not overshadow the living area or landscaped open space for more than 2 hours between 9.00am and 3.00pm on the 22 nd June.
Loss of privacy to 8 Beech Place.	Condition could be imposed to provide additional screening to the eastern side of the swimming pool deck.

The objection has also included issues that are not relevant to Council's consideration of the application being:

- Work commencing as exempt development and attached to the dividing fence.
- Poles being placed near the boundary in October 2008.
- The deck on the adjoining property.
- Non advertising of the application approved in November 2008.

Planning Comments

The amended application under consideration does not compromise the views from the adjoining dwelling, albeit across a side boundary. The adjusted height of the screen has minimised the impact on the adjoining dwelling and reduced the bulk of the overall structure. If the application is refused the applicant can complete the screen in accordance with the existing consent.

RECOMMENDATION IMPLICATIONS:

- *Environmental*

Nil

- *Social*

Enjoy privacy from adjoining properties

- *Economic (Financial)*

Nil

- *Policy or Statutory*

Nil

MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Saul*

- A. That the application to modify Development Consent T6-08-397 be approved subject to the following conditions.

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Version	Prepared by	Dated
One Sheet	-	Submitted by H P Morgan	-

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989
- a) All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.
 - b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b) to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

3. Site construction sign required
A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and

- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

- 4. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
 - a) Monday to Friday, from 7 a.m. to 6 p.m.
 - b) Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Sundays or Public Holidays.

- 5. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

- 6. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

- 7. **Works to be completed**
All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
- 8. **Screen is to be provided on the eastern side**
Screen is to be provided on the eastern side of the swimming pool deck. Details to be submitted to Council for approval prior to the issue of the construction certificate.

B. That the objectors be advised of Council's decision.

An AMENDMENT was MOVED:

*Moved: Cl. Walker
Seconded: Cl. Green*

B. That the application to modify Development Consent T6-08-397 be approved subject to the following conditions.

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989
 - c) All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.
 - d) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- c) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- d) to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

3. Site construction sign required
A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
 - a) showing the name, address and telephone number of the principal certifying authority for the work, and

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- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

- 4. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
 - a) Monday to Friday, from 7 a.m. to 6 p.m.
 - b) Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Sundays or Public Holidays.

- 5. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

- 6. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

- 7. **Works to be completed**
All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
- 8. **Screen is to be provided on the eastern side**
Screen is to be provided on the eastern side of the swimming pool deck. Details to be submitted to Council for approval prior to the issue of the construction certificate.

B. That the objectors be advised of Council's decision.

That the height of the proposed fence be reduced by 100mm.

The MOTION was WITHDRAWN at the request of Councillors Hayes and Saul.

2009. WI2 The AMENDMENT became the MOTION, was PUT to the MEETING and was CARRIED (see also minute number 2009. WI6).

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Bowell	F	Campbell	F	Green	F	Gribbin	-	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

Councillor Gribbin returned to the Chamber.

WI3	SALEYARDS	{ Folio No. * }
	FILE: 255 KEO	

2009. WI3 RESOLVED: *Moved: Cl. Bowell*
Seconded: Cl. Saul

1. That the Saleyards Focus Group be invited to fine tune the draft program of works which was the subject of a report to Council in February.
2. That expressions of interest be invited for the purpose of additional agents being engaged to operate at the saleyards from 2010.
3. That the members of the Focus Group be thanked for their commitment to meet with Council.
4. Once the draft program is firmed up the Council hold a works inspection on sale day.

Councillor Gribbin recorded his vote against the foregoing Resolution.

WI4	APPLICATION TO REVIEW DETERMINATION	{ Folio No. * }
	TELECOMMUNICATION TOWER	
	285 TURNERS FLAT ROAD, TURNERS FLAT	
	FILE: T6-08-264 SDS	

SUMMARY:

Reporting that Council has received a request for Review of Determination under Section 82A of the Environmental Planning and Assessment Act 1979, including a revised site plan indicating a change of position for a telecommunication tower

and compound at Turners Flat

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Applicant: Crown Castle Australia Pty Ltd
Subject Property: Lot381 DP701898
285 Turners Flat Road Turners Flat
Zone: 1(a1) Rural

Background

Development Application T6-08-264 seeking Council Consent for Telecommunications Facility was refused by Council at its meeting of 14 October 2008 on the following grounds:

1. The proximity to the nearest residents;
2. The proximity to a school bus stop;
3. The withdrawal of the owner's consent to the development.

Council further resolved that the applicant be invited to submit an application for an alternative site. Council subsequently received a request for Review of Determination under Section 82A of the Environmental Planning and Assessment Act 1979 which included a revised site plan, indicating a change of position for the tower and compound.

Description of proposal

The application proposes the installation of a telecommunication tower and an equipment shelter on the subject property. [\(Appendix M – Page G68\)](#)

The application's Statement of Environmental Effects describes the proposed development as follows:

- The installation of a triangular steel lattice tower with a height of 40metres;
- The development of a tower compound with a 2.4metre high chain wire security fence;
- The installation of an external equipment shelter.

Under the provisions of Section 82A of Environmental Planning and Assessment Act 1979, the applicant has submitted a Request to Review Determination of the subject Development Application. Pursuant to the Act, the applicant has included a revised site plan, which includes the relocation of the proposed Telecommunication Tower and related infrastructure. It is considered that with the proposed changes the application remains substantially the same as that which was previously received. [\(Appendix N – Page G69\)](#)

The applicant believes that the modification to the plans has addressed the concerns of proximity to the school bus stop and nearest residents in moving the tower compound 110metres from the east and west boundaries and 30metres from Turners Flat Road.

In respect to Council's ground for refusal relating to withdrawal of Owners Consent by letter of 5 December 2008, the owner has again provided his consent. [\(Appendix O – Page G74\)](#)

Heads of Consideration

The proposal was examined having regard to the Heads of Consideration identified under Section 79 (1) of the Environmental Planning and Assessment Act, 1979 with the following matters considered to be of particular relevance to the proposal.

Public Exhibition

The development application and accompanying information was previously placed on public exhibition for a period of 14 days from 12th August 2008 to 26th August 2008 where eight (8) submissions against the proposed development were received. On receipt of the request for review of determination the proposal was readvertised from 13th January 2009 to 27th January 2009 with one (1) submission received against the development and one (1) for.

The main issues raised by submissions are summarised below and comment provided: [\(Appendix P – Page G75\)](#)

Objection	Planning Comment
1 Potential health risks	<p>1 The report submitted in support of the application, indicates that the exposure to Electromagnetic Energy is estimated to be below 3% of the Australian Government's published maximum public exposure limit.</p> <p>The World Health Organisation's current advise is-</p> <p><i>“Consultations with the community in siting base stations: Base station sites must offer good signal coverage and be accessible for maintenance. While RF field levels around base stations are not considered a health risk, siting decisions should take into account aesthetics and public sensibilities. Siting base stations near kindergartens, schools and playgrounds may need special consideration”.</i></p> <p>The modification of the location of the tower and associated infrastructure as part of the 82A application; to be a further 110 metres away from the nearest adjoining dwelling further reduces any health concerns.</p>
2 Visual pollution	<p>2 Whilst the tower will be visible its impact will be softened by the natural vegetation surrounding its proposed location. The development will not have an adverse effect on any significant views.</p>

3	Resale value of adjoining properties	3	Land values are not a planning issue.
4	Disruption to television and radio signals	4	The applicant has stated that the bandwidth of the tower should not impact on television or radio signals.
5	Advantages of Mobile phone and wireless internet access	5	It is in the interests of the general public to have good access to these services.

Planners Comment

The issues raised in the submissions have been assessed and are not considered sufficient to warrant refusal of the application.

The modification made as part of the Section 82A application, namely, the relocation of the tower site and compound 110 metres from the east and west property boundaries, marginally alleviates concerns of proximity to neighbouring dwellings and the bus stop marginally raised in the submissions to Council.

Withdrawal of owners consent does not prevent the consent authority from determining the development applicant as it is legally considered to have been "made". In any event the owner has again provided his consent to the lodgement of the Development Application.

RECOMMENDATION IMPLICATIONS:

- ***Environmental***

Nil

- ***Social***

Nil

- ***Economic (Financial)***

Nil

- ***Policy or Statutory***

Nil

- ***Directors Comment***

Council should be aware that a recent decision of the Land and Environment Court reaffirmed that in respect to potential health effects the Australian Radiation Protection and Nuclear Safety Agency safety standard provide the appropriate criteria for assessment. The proposal easily meets all relevant standards and refusal on such ground would be difficult to defend.

2009. WI 4

RESOLVED:

Moved: Cl. Walker

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- A. That Development Application No. T6-08-264 be approved subject to the conditions prescribed below:

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No. / Supporting Document	Version	Prepared by	Dated
Locality & Site Plan Job No. T237 S1 Sheets 2	3	MYD Consulting Engineering	21 st Jan 2009
Site Setout Plan Job No. T237 S2 Sheets 3	3	MYD Consulting Engineering	21 st Jan 2009
Site Elevation Job No. T237 S3 Sheets 4	2	MYD Consulting Engineering	21 st Jan 2009

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Compliance with Building Code of Australia
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b. to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

3. This consent does not permit commencement of any works

This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

4. **Erosion & sediment control - special measures required**
Erosion and sedimentation controls are to be in place in accordance with the Development Control Plan (DCP) 36. Particular attention is to be given to the provision of the following sediment and erosion control measures:
- a. Temporary driveway from the edge of road to the building site;
 - b. Temporary downpipes immediately that the roof has been erected; and
 - c. Silt fence or sediment barrier.

Additionally the enclosed sign, to promote the awareness of the importance of maintenance of sediment and erosion controls, is to be clearly displayed on the most prominent sediment fence or erosion control device for the duration of the project.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

5. **Toilet facilities**
Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.
6. **Site construction sign required**
A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
- a. showing the name, address and telephone number of the principal certifying authority for the work;
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

7. **Construction times**
 Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
- Monday to Friday, from 7 a.m. to 6 p.m.
 - Saturday, from 8 a.m. to 1 p.m.
- No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.
8. **Builders rubbish to be contained on site**
 All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
9. **No filling around trees**
 No soil or fill material is to be placed within the drip-line of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.
10. **Burning of felled trees prohibited**
 The burning of trees and associated vegetation felled during clearing operations is not permitted. Where possible, vegetation is to be mulched and reused on the site.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

11. **Asset Protection Zone**
 The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.
- a) At the commencement of building works and in perpetuity the property around the building shall be managed as follows:
- North, South, East and West for a distance of 20 metres as an asset protection zone, as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.
12. **Access**
 The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities.
- a) Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

13. Design and Construction

New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development:

- a) New construction shall comply with Australia Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 3;
- b) Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5;
- c) There is to be no exposed timber on the proposed building.

14. Demolition of tower upon decommissioning

At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

B. That the objectors be advised on Council's decision.

A Division on this decision resulted in the following votes.

**F = Voted For
A = Voted Against**

Bowell	F	Campbell	A	Green	F	Gribbin	F	Hayes	A	Saul	F	Snowsill	F
Sproule	A	Walker	F										

**W15 TELECOMMUNICATION TOWER – WILLAWARRIN
2418 ARMIDALE ROAD, WILLAWARRIN
FILE: T6-08-464 SDS {Folio No. *}**

SUMMARY:

Reporting that Council has received a request for Review of Determination under Section 82A of the Environmental Planning and Assessment Act 1979, including a revised site plan indicating a change of position for a telecommunication tower and compound at Turners Flat

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Applicant: Connell Wagner
Subject Property: Lot 22 DP862857
 2418 Armidale Road, Willawarrin
Zone: 1(a1) Rural

DESCRIPTION:

THIS IS PAGE 19 OF THE FULL TEXT MINUTES OF THE WORKS COMMITTEE INSPECTION OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 23RD MARCH 2009.

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MAYOR – J H BOWELL

This report has been presented to Council following a previous request by Council that all applications for telecommunication facilities be referred to Council for determination.

The application is to install a telecommunications tower and an equipment / maintenance shed on the subject site. [\(Appendix R – Page G92\)](#)

The application's Statement of Environmental Effects describes the proposed development as follows:

- Construction of one (1) new lattice tower 58.8 metres in height;
- Installation of three (3) panel antennas (each measuring 2.6 metres in length) at EL 58 metres;
- Installation of one (1) parabolic antenna (1200mm in diameter) at EL 58 metres;
- Installation of one (1) equipment shelter (3 metres x 2.5 metres) at base of the lattice tower.

The application's Site Plan indicates the proposed development is to be located at the peak of the hill on the subject site.

Public Exhibition:

The application was advertised from 30th December 2008 to 13th January 2009 and adjoining owners were notified.

Whilst the original notification was consistent with Council's policy, given the prominent location of the tower over-looking Willawarrin, it was considered appropriate to expand the range of notification. As such, the development application was re-notified to all dwellings, businesses and public buildings on Main Street, Willawarrin. Notification included the Willawarrin Post Office, Willawarrin Hotel, Upper Macleay Pre-School, the Department of Education, Nulla Nulla Boongutti Aboriginal Corporation, the Country Women's Association of NSW, the Willawarrin Public Hall Committee, the Anglican Church of Australia, and the All Saints Roman Catholic Church.

No objections were received in regard to the proposal.

RECOMMENDATION IMPLICATIONS:

• ***Environmental***

Health - The cumulative radiofrequency electromagnetic energy of the telecommunications tower, in relation to possible health impacts, is below the Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) public exposure limits. ARPNSA is considered the leading authority on the impacts of mobile base telecommunications towers. As the predicted exposure is below the ARPNSA limitations it is considered the risk to public health is minimal.

Visual Impacts - The telecommunications tower would be prominent on the south-western skyline from the village of Willawarrin. The tower would be positioned on the peak of the hill and is proposed to be approximately fifty-nine (59) metres in height. There is a cluster of trees to the north of the proposed position of the tower that may act as a minor visual shield, however the upper-half of the tower would be

visible above the tree-line. The tower is not an obstruction to line of sight of any natural feature or significant views from Willawarrin.

As the visual impact of the tower should be minimal from all elevations the visual impact of the tower is considered acceptable.

Public Interest - The tower would provide mobile telephone coverage for the village of Willawarrin and surrounding areas. Mobile telephone coverage in Willawarrin is currently very poor, with many areas providing no service. Installation of the proposed tower would offer a mobile telecommunications service currently unavailable in Willawarrin.

- *Social*

Nil

- *Economic (Financial)*

Nil

- *Policy or Statutory*

Nil

2009. WI5 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Gribbin*

- A. That development application T6-08-464 be approved subject to the conditions prescribed below:

PARAMETERS OF THE CONSENT

1. Development is to be in accordance with approved plans. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No. / Supporting Document	Version	Prepared by	Dated
Statement of Environmental Effects	-	Connell Wagner P/L	19.12.08
Site Elevation Plan	-	Connell Wagner P/L	19.12.08
Site Layout Plan	-	Connell Wagner P/L	19.12.08
Site Location Plan	-	Connell Wagner P/L	-

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Compliance with Building Code of Australia**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b. to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

3. This consent does **not** permit commencement of any works. This consent does **not** permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
4. **Engineer's details**
Structural Engineer's Details for the lattice tower, all antennas, the maintenance shed, and the reinforced concrete slab are to be submitted to Council prior to the issue of a Construction Certificate.
5. **Section 88B Instrument requirements**
A Section 88B Instrument and 1 copy are to be submitted to Council prior to the issue of Construction Certificate. The Section 88B Instrument is to be provided for the item listed in the following table:

Item for inclusion in Section 88B Instrument	Details of Item
Rights of Carriageway	The creation of suitable rights of carriageway over the access to proposed Lot 22.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

6. **Erosion & sediment control - special measures required**
Erosion and sedimentation controls are to be in place in accordance with the Development Control Plan (DCP) 36 prior to the commencement of any works.

Erosion and sediment controls are to be maintained at all

times to the satisfaction of Council until the site has been stabilised by hard surface or permanent vegetation.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

7. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

8. Site construction sign required

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

9. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- Monday to Friday, from 7 a.m. to 6 p.m.
- Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

10. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

11. No filling around trees

No soil or fill material is to be placed within the drip-line of a

tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

12. Demolition of tower upon decommissioning
 At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

A Division on this decision resulted in the following votes.

F = Voted For
 A = Voted Against

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

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The following item was recommitted at the request of the Director Sustainable Development Services to further clarify conditions of the resolution.

Councillor Gribbin declared an interest in the following item for the reason that he is a neighbour of the property in the report and retired from the Chamber.

WI2	MODIFICATION TO TIMBER SCREEN AND TIMBER POOL DECK 7 BEECH PLACE, SWR FILE: T6-08-397 SDS	{Folio No. *}
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2009. WI6 RESOLVED: *Moved: Cl. Walker
 Seconded: Cl. Green*

That the section of the fence to the rear of the existing screen of the adjoining property be deleted (that is, the end panel on the north western corner).

(see also minute number 2009. WI2)

A Division resulted in the following votes.

F = Voted For
 A = Voted Against

Bowell	F	Campbell	F	Green	F	Gribbin	-	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

Councillor Gribbin returned to the Chamber.

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CONCLUSION:

There being no further business, the Meeting terminated at 1.46 p.m.

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