

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION**

**DEVELOPMENT CONSENT**

**Environmental Planning and Assessment Act, 1979  
DA16/1213**

**TO:**

**CPS Global  
Level 5, 55 Grafton Street  
BONDI JUNCTION NSW 2022**

**being the applicant(s) for DA16/1213 relating to:  
9 Geary PI, NORTH NOWRA - Lot 12 - DP 700116**

**APPROVED USE AND OR DEVELOPMENT:**

**Erection of a telecommunication facility including a 26.5 m high monopole tower, antennas and equipment shelter**

**DETERMINATION DATE:**

**[#Determined#]**

Pursuant to the Section 81 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

**CONSENT TO OPERATE FROM:**

**[#ConsentFrom#]**

**CONSENT TO LAPSE ON:**

**[#LapseDate#]**

**DETAILS OF CONDITIONS**

The conditions of consent and reasons for such conditions are set out as follows:

## **PART A**

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

#### **General**

1. This consent relates to the **erection of a telecommunication facility including a 26.5 m high monopole tower, antennas and equipment shelter**, as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.

<b>Document</b>	<b>Ref No</b>	<b>Author</b>	<b>Date</b>
Statement of Environmental Effects including:	None	CPS Global	February 2016
Visual Assessment Report	None	Richard Lamb and Assoc	December 2015
Bushfire Risk Assessment	None	Bushfire Planning Services	6 October 2016
Waste Minimisation and Management Plan	None	CPS Global	Undated
Environmental EME Report	RFNSA Site No. 2541023	UGL Limited	11 January 2016
Letter re cumulative EME, provision of a vegetated buffer, vegetated buffer within an Asset Protection Zone, and Impact on adjoining residential properties	JS3775 Bangalee	CPS Global	22 April 2016
Amended Environmental EME Report	RFNSA Site No. 2541023	UGL Limited	20 April 2016
Vodafone Site – 240072 Bangalee. Joint Venture No. JS3775 – Drawings by CPS Global dated 10 February 2016:			
Cover sheet	24072-00		
Site and locality plans	240072-G1 Rev C		
Site setout plan	240072-G2 Rev C		
Site elevation	240072-G3 Rev C		
Sediment and Erosion Control Plans and details Sht 1 of 2	240072-C1 Rev C		
Sediment and Erosion Control Plans and details Sht 2 of 2	240072-C2 Rev C		
Standard construction notes – Sheet 1	STD-N001 Rev 07		
Standard construction notes – Sheet 2	STD-N002 Rev 06		
Floor plan (3.150m x 2.83m shelter)	VOD-ZCS-EL-002 Rev 01		
External elevations (3.150m x 2.83m shelter)	VOD-ZCS-EL-003 Rev 01		

Internal elevations (3.150m x 2.83m shelter)	VOD-ZCS-EL-013 Rev 00		
--	-----------------------	--	--

**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 development must not be occupied, nor must the use 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).

## **PART B**

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

#### ***Erosion and Sediment Control Plan***

3. The preparation of 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 4<sup>th</sup> Edition, March 2004*", shall be lodged for approval with the application for a construction certificate. The ESCP controls shall be implemented, inspected and approved prior to the commencement of any site works and maintained for the life of the construction period and until revegetation measures have taken hold. The ESCP shall include, but not be limited to location and type of proposed erosion and sediment control measures.

#### ***Landscaping***

4. The applicant must lodge a detailed landscape plan with Council **prior to the issue of a construction certificate**. The plan must be prepared by a practising, qualified landscape professional. The plan may be approved by Council or an accredited certifier.

The detail landscape plan must include the following:

- a) A planting schedule showing an identification symbol, botanical and common names, pot size, estimated mature height, spacing and quantity of each species proposed;
- b) The applicant must provide a common tap/taps/irrigation system to permit all landscape works to be adequately watered. Location of common taps must be indicated on the detailed landscape plan for the Construction Certificate;
- c) the erection of a 900mm high masonry retaining wall on the boundary with No 111 McMahons Rd, with a 2400mm masonry fence on the boundary of the facility

compound approximately 800mm inside the boundary. The resulting raised bed must be planted with at least ten (1) large shrubs that will have a height at maturity of approximately 2400mm and at least 10 small shrubs or 20 ground covers. The retaining wall must extend for the full length of the boundary with No. 111 McMahons Rd. The 2400mm high fence must extend for the full length of that boundary, with a 3 metre return along the boundary with No. 8 Geary Place. The fence and retaining wall must be constructed of masonry that is sympathetic to the colours of the walls of the adjoining residential buildings.

#### **Water and/or Sewer Contributions**

5. A Certificate of Compliance (CC) under Section 307 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance shall be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and **prior to the issue of an Occupation Certificate**, Subdivision Certificate or Caravan Park Approval, as the case may be.

In the event that development is to be completed in approved stages or application is subsequently made for staging of the development, separate Compliance Certificates shall be obtained for each stage of the development.

**Where a Construction Certificate is required all conditions listed on the Shoalhaven Water Development Application Notice under the heading "PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE" must be complied with and accepted by Shoalhaven Water. The authority issuing the Construction Certificate for the development shall obtain written approval from Shoalhaven Water allowing a Construction Certificate to be issued. This shall also apply to approved staged developments.**

<b>Note:</b> Relevant details, including <b>monetary</b> contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water.
---

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

#### **Approval for work within the Road Reserve – Section 138 Roads Act**

6. Prior to undertaking any works within the road reserve, the contractor must obtain the approval of Council under Section 138 of the Roads Act, 1993. The following details must be submitted (as relevant) to Council for in order to obtain the s.138 approval:
  - Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the RTA's manual – "*Traffic Control at Work Sites*". Warning and protective devices shall comply with the provisions of AS 1742.3 – 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate RTA accreditation, a copy of which is to be submitted with the plan;
  - Insurance details.

## **PART C**

### **CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORKS COMMENCE**

#### ***Construction Certificate***

7. A Construction Certificate must be obtained from either Council or an accredited certifier before any building work can commence.

#### ***Notice of Commencement***

8. Notice must be given to Council **at least two (2) days prior to the commencement of building work.** (The attached form '*Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority*' is to be completed and returned to Council.)

#### ***Supervision of Works***

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

#### ***Disposal of excavated material***

10. All excavated surplus material shall be hauled to an approved landfill site. Details of fill storage and/or disposal and haulage routes shall be submitted to Council for approval prior to the commencement of works.

#### ***Existing services – Dial Before You Dig (DBYD)***

11. The developer or his agent must complete a Dial Before You Dig (DBYD) and 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.

#### ***Damage to Public Assets – to be repaired by applicant***

12. Any damage to the adjacent kerbs, gutters, footpaths, walkways, carriageway, reserves and the like, that occurs during development works shall be repaired by the applicant. The developer or his agent must undertake a site inspection and document any evidence of damage to the public assets prior to commencement of work. Failure to adequately identify existing damage will result in all damage detected by Council after completion of the building work being repaired at the applicant's expense.

## **PART D**

### **CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT**

#### ***Building Code of Australia***

13. 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 to Shoalhaven City Council (SCC) Engineering Design Specification**

14. All design and construction shall be in accordance with SCC Engineering Design Specification.

**Bushfire protection**

15. The development shall comply with the following requirements:

- a) At the commencement of building works and in perpetuity the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of "Planning for Bushfire Protection 2006" and the NSW Rural Fire Service's document "Standards for asset protection zones"
- b) Where practicable, new electrical transmission lines are underground. Where new overhead electrical transmission lines are proposed:
  - i) Property access roads shall comply with section 4.1.3 (2) of "Planning for Bush Fire Protection 2006"; Lines re installed with short pole spacing (30 metres) unless crossing gullies, gorges or riparian areas; and
  - ii) No part of a tree is closer to a power line than the distance set out in accordance with the specifications in "Vegetation Safety Clearances" issued by Energy Australia (NS179, April 2002);
- c) Property access roads shall comply with section 4.3.1 (2) of "*Planning for Bush Fire Protection 2006*".
- d) New construction shall comply with sections 3 and 8 (BAL 40) Australian Standard AS3959-2009 "*Construction of Buildings in Bush Fire-Prone Areas*" and section A3.7 Addendum Appendix 3 of "*Planning for Bushfire Protection 2006*";
- e) Landscaping to the site is to comply with the principles of Appendix 5 of "*Planning for Bush Fire Protection 2006*".

**Road reserve to be kept clear of debris**

16. The road, open drain and nature strip area adjacent to and nearby the site shall be kept clear of soil and debris.

**Occupation Certificate**

17. An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA – i.e. Council or an accredited private certifier) before any of the approved development can be 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.

**Erection of Signs**

18. A sign must be erected in a prominent position on any site which building work or demolition work is being carried out:

- 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.
- c. Stating that unauthorised entry to the site is prohibited.

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

### ***Construction Hours***

19. To limit the impact of the development on adjoining owners, *all* construction work shall be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturdays. No construction work shall take place on Sundays or Public Holidays.

### ***Waste Minimisation and Management***

20. 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. 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.

### ***Colour Schedule***

21. The building(s) must be constructed in accordance with the approved schedule of colours and building materials and finishes.

### ***Landscaping***

22. All landscaping, including plantings, fences, retaining walls, mulch, watering systems and barriers must be carried out in accordance with the approved plan.

### ***Disposal of excavated material***

23. All excavated surplus material shall be hauled to an approved landfill site. Details of fill storage and/or disposal and haulage routes shall be submitted to Council for approval prior to the commencement of works.

### ***Road reserve to be kept clear of debris***

24. The road, open drain and nature strip area adjacent to and nearby the site shall be kept clear of soil and debris.

***Access levels designed to prevent runoff from entering building***

25. The levels of the access and landscaped areas adjacent to the building must be designed so as to prevent the 1 in 100 year stormwater runoff from overland flows or pipe blockages from entering the building.

***Access to be flush with natural surface***

26. The internal access and turning areas is to be constructed flush with the existing surface levels so as not to affect the overland flow of stormwater runoff.

***Stormwater Drainage Design – 10 year ARI (within the site)***

27. All drainage works within the site shall be designed and constructed for a 10 year average recurrence interval unless otherwise specified.

## **PART E**

### **CONDITIONS THAT RELATE TO ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT**

***Access Internal Driveway***

28. Where required the internal access and turning area shall be constructed to an all-weather gravel standard, with a minimum compacted pavement thickness of 200mm. The driveway carriageway within the site shall be a minimum 3.0m wide with 0.5m wide gravel shoulders.

***Noise***

29. Noise levels from the premises from pumps, air conditioners or pool filtration equipment (measured using the L<sub>10</sub> noise level descriptor) must not exceed the background noise level in any octave band (measured using the L<sub>90</sub> noise level descriptor) by more than 5 dB(A) when measured at the boundary of the closest residential premises.

***Removal of redundant telecommunications facility.***

30. If and when the telecommunications facility becomes redundant, it is to be removed at the applicant's cost.

## **PART F**

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

31. All conditions of this consent must be met before an occupation certificate is issued.



## **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, carparking 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 six (6) 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 six (6) 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 for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

## **PART J**

### **GENERAL ADVICE TO APPLICANT**

#### ***Private Use of Public Parking Spaces***

If the temporary use of public parking spaces (either on street or off street) for private purposes is proposed to be undertaken during development construction and/or for maintenance purposes, a formal request for use of public parking shall be submitted to Council, in accordance with Council's Policy – "*Private use of public parking, policy No. POL08/408*". Such request shall be submitted to Strategic Planning and Infrastructure Group of Council, with the relevant application fee.

#### ***Privacy Notification***

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) (GIPA) Act 2009*.

#### ***Trees Located on Public Land***

Please note that any works carried out on the subject property or within the road reserve, such as construction of a driveway, that damages or otherwise detrimentally impacts on the health or safety of any tree located on public land may result in the applicant incurring the costs of any remedial action or removal of the tree(s). If you are proposing to carry out any works that may impact on any tree on public land, it is recommended that you contact Council for advice before carrying out those works.

#### ***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.

#### ***Disability Discrimination Act 1992***

This application has been assessed in accordance with the Environmental Planning & Assessment Act, 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

#### ***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 1.9A of Shoalhaven Local Environmental Plan 2014 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.

#### ***Occupation Certificate***

An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA – i.e. Council or an accredited private certifier) before any of the approved (e.g. tourist cabin) development can be 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.

Prior to a final inspection being carried out, the applicant must complete and submit an Application for an Occupation Certificate to Council electronically, in person or by post. Please note that according to the Environmental Planning and Assessment Regulations 2000, Council cannot except forms sent by fax.

Please find enclosed a copy of the Occupation Certificate application form, to comply with the requirements of Clause 149 of the Environmental Planning and Assessment Regulation 2000. In completing the Occupation Certificate application form, please refer to the attached form and note that areas marked with (\*) must be completed.

### ***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](mailto:southern@cma.nsw.gov.au).

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

### ***Principal Certifying Authority***

A Principal Certifying Authority (PCA) must be appointed before any building work can commence.

### ***DBYD Enquiry - 'Dial Before You Dig'***

In order to avoid risk to life and property it is advisable that an enquiry be made with “Dial Before You Dig” on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

### ***Inspections***

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

***Signage***

This consent does not imply approval for any advertising sign located, or proposed to be located, on the property for which development consent is required.

**SIGNED** on behalf of Shoalhaven City Council:

**Signature**

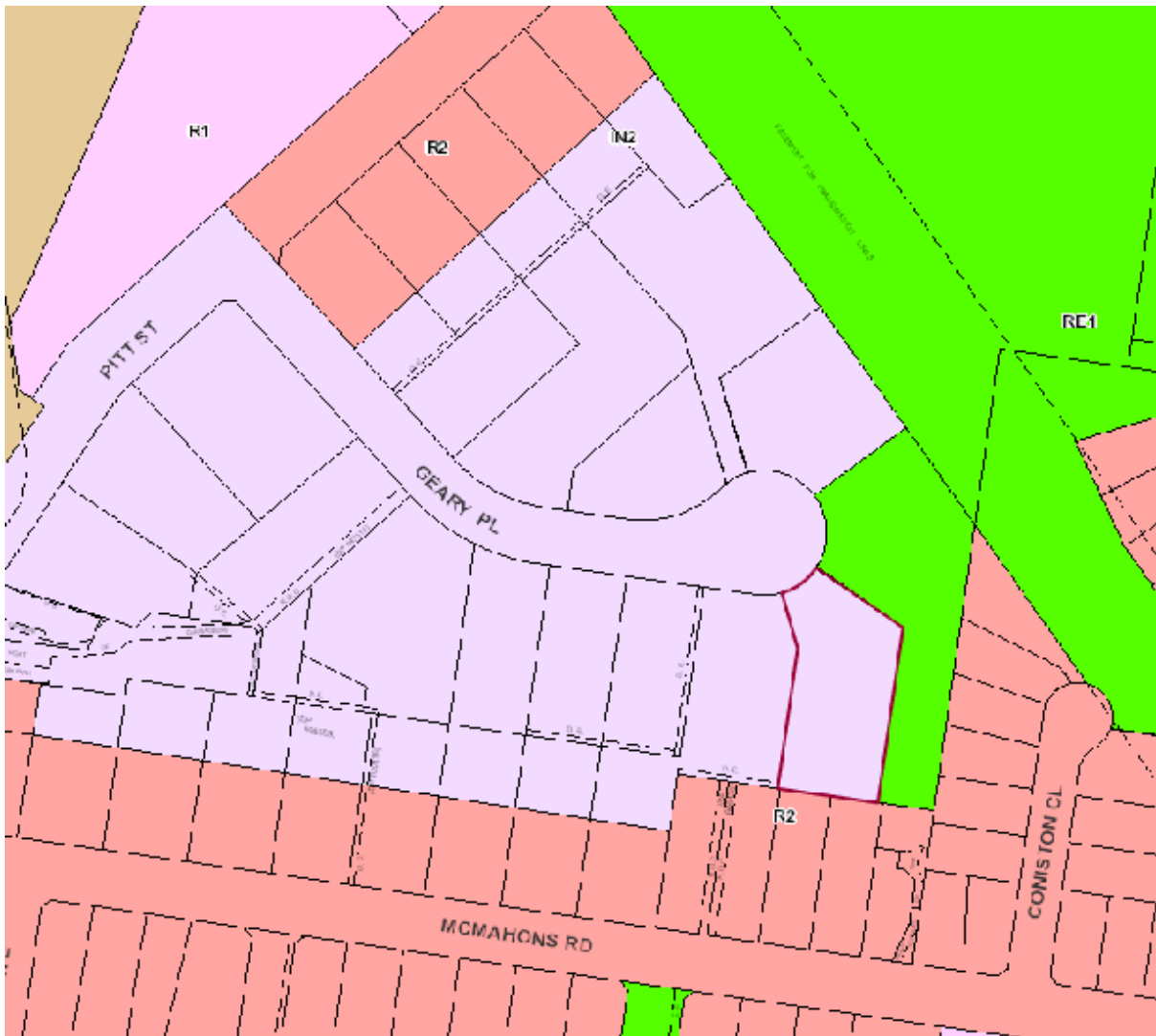
<b>Name</b>	<b>Name</b>
	<b>Position</b>
	<b>Planning &amp; Development Services Group</b>

**DA 16/1213 - Proposed telecommunications facility at 9 Geary Place, North Nowra**

**Figures**



**Figure 1: Site and surrounds**  
**(subject site shown outlined in red)**



**Figure 2: Zoning of site and surrounds**  
**(subject site shown outlined in red)**





**Figure 3 – Aerial photograph showing relationship of site of proposed tower to adjoining residential development**



**DEVELOPMENT ASSESSMENT REPORT  
S79C Environmental Planning & Assessment Act 1979**

<b>Application number:</b>	DA16/1213
<b>Proposed development</b>	Installation of a 26.5 metre telecommunications tower and associated equipment shelter
<b>Property:</b>	Lot 12 DP700116, 9 Geary Place North Nowra
<b>Applicant:</b>	CPS Global
<b>Owner:</b>	Hailbay Pty Ltd
<b>Date of Receipt:</b>	25 February 2016
<b>Notification periods:</b>	<ul style="list-style-type: none"> <li>• 23 March to 8 April 2016</li> <li>• 2 to 17 May 2016</li> </ul> Advertised in the South Coast Register on 23 March 2016
<b>Submissions:</b>	One (1)

**1. Proposal**

This application is for the erection of a telecommunications tower made up of the following elements:

- a 26.5 metre high concrete monopole;
- two sets of three panel antennas, one below the other, to be flush mounted to the proposed monopole;
- the installation of 36 remote radio units (RRUs);
- an equipment shelter 3.15 metres in length, 2.38 metres in width and 2.94 metres in height;
- a compound area measuring 10 metres by 5.1 metres, enclosed by a 2.4 metre high chain link fence;
- ancillary equipment such as equipment housing, cable trays and cable ladders, cabling, earthing, electrical works and air conditioning equipment.

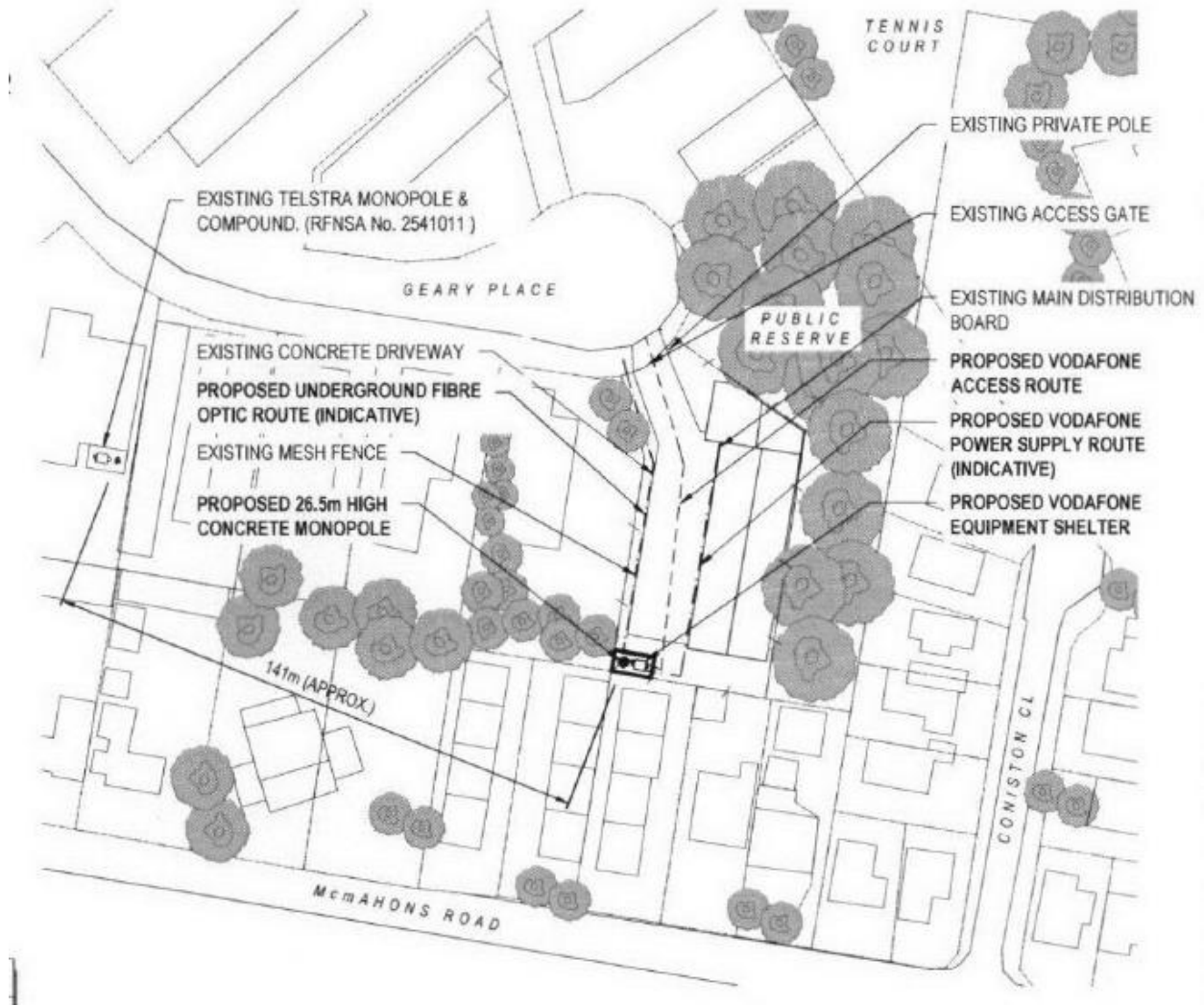


Figure 1 Site locality plan

## 2. Background/History

Council's Records provide the following list of development and other applications applying to the site:

### Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Co
<a href="#">DA16/1213</a>	26/02/2016	Development Application	Miscellaneous - Installation of 26m Telecommunications Tower & Associated Equipment Shelter	Incomplete	
<a href="#">OC13/1183</a>	19/02/2013	Final Occupation Certificate	Commercial Additions - Change of Use to Community Facility	Approved	15

Development Committee-18 July 2016 - Item 4 - Attachment C

<a href="#">CC12/2179</a>	18/12/2012	Construction Certificate	Commercial Additions - Change of Use to Community Facility	Approved	13
<a href="#">DR12/1629</a>	05/09/2012	Sewer Connection (Amended)	New Commercial - Change of Use to Community Facility	Approved	11
<a href="#">DA12/1909</a>	05/09/2012	Development Application	Commercial Additions - Change of Use to Community Facility	Approved	05
<a href="#">OC11/1967</a>	23/09/2011	Final Occupation Certificate	Miscellaneous - Free Standing Advertising Sign	Approved	23
<a href="#">CC11/1559</a>	10/06/2011	Construction Certificate	Miscellaneous - Free Standing Advertising Sign	Approved	24
<a href="#">DS11/1222</a>	10/06/2011	Section 96 Amendment	Section 96 to Amend Location of Sign	Approved	23
<a href="#">DA11/1431</a>	28/04/2011	Development Application	Miscellaneous - Free Standing Advertising Sign	Approved	12
<a href="#">TRP11/1078</a>	21/04/2011	Tree Removal/Pruning	Tree removal	Approved	21

**Plain Sailing - since 2nd September 1996**

Application	Appl. Date	Proposal	Status	Sta
<a href="#">BA97-2140</a>	02/12/1997	Industrial Building	Approved (B)	06
<a href="#">DR97-1217</a>	02/12/1997	Sewer Application	Approved (P)	06

**DA data prior to the 2nd Sept 1996**

Application	Appl. Date	Proposal	Status	Sta
<a href="#">DA95/3197</a>	8/06/1995	Other Storage & Goods Handling N.E.C.	Approved	22
<a href="#">DA94/1564</a>	5/12/1994	Other Miscell N.E.C.	Refused	7/
<a href="#">DA89/2014</a>	26/05/1989	Manufacturing (General)	Approved	5/

**BA data prior to the 2nd Sept 1996**

Application	Appl. Date	Proposal	Status	Status Date
<a href="#">BA89/2692</a>	04/09/1989	NEW INDUSTRIAL	Cancelled	13/02/199
<a href="#">SD89/2692</a>	04/09/1989			

**3. Subject site and surrounds**

The land subject to the development application is lot 12 DP 700116, 9 Geary Place, North Nowra. It contains a 5 unit industrial building that commenced with a development approval in 1989. It is a lot of narrow frontage located at the end of the Geary Place cul-de-sac. The site and its surrounds are shown on the aerial photo in Figure 1 below.



**Figure 2 Aerial photograph of site and surrounds  
(site is shown outlined in red)**

The subject site:

- is zoned IN2 Light Industrial under Shoalhaven Local Environmental Plan 2014 (SLEP2014);
- has an area of 2,642 sq m;
- directly adjoins land fronting McMahons Rd to the south that is used and zoned for residential purposes;
- is separated from other land zoned and used for residential purposes fronting Coniston Close by a Council-owned public reserve;
- is partly within Bush Fire Prone land (buffer);
- lies approximately 400 m from the banks of the Shoalhaven River and is therefore within the Coastal Zone as referenced in State Environmental Planning Policy



(SEPP) No 71 Coastal Protection.

In the vicinity of the site is another telecommunications tower at 3 Geary Place and a radio transmission tower at 119 McMahons Road.

#### 4. Statutory consideration

The following State & Regional Environment Planning Policies (SEPPs & REPPs), Environmental Planning Instruments (LEPs), Development Control Plans (DCPs), Council Codes and Policies are relevant to this development application:

- Section 79BA – Bush fire prone land - Environmental Planning and Assessment Act 1979;
- State Environmental Planning Policy No 55 - Remediation of Land;
- State Environmental Planning Policy No 71 – Coastal Protection;
- State Environmental Planning Policy (Infrastructure) 2007;
- Shoalhaven Local Environmental Plan 2014;
- Chapters G2, G9 and G30 of Shoalhaven Development Control Plan 2014; and
- Shoalhaven Contribution Plan 2010.

An assessment of the proposal's compliance with the above documents is detailed in Section 6 (Statement of Compliance/Assessment) of this report.

#### Applicant's submission

The applicant has submitted the following plans, reports and documents in support of the application:

Document	Ref No	Author	Date
Statement of Environmental Effects including:	None	CPS Global	February 2016
Visual Assessment Report	None	Richard Lamb and Assoc	December 2015
Bushfire Risk Assessment	None	Bushfire Planning Services	6 October 2016
Waste Minimisation and Management Plan	None	CPS Global	Undated
Environmental EME Report	RFNSA Site No. 2541023	UGL Limited	11 January 2016
Vodafone Site – 240072 Bangalee. Joint Venture No. JS3775 – Drawings by CPS Global dated 10 February 2016:			
Cover sheet	24072-00		
Site and locality plans	240072-G1 Rev C		

Site setout plan	240072-G2 Rev C		
Site elevation	240072-G3 Rev C		
Sediment and Erosion Control Plans and details Sht 1 of 2	240072-C1 Rev C		
Sediment and Erosion Control Plans and details Sht 2 of 2	240072-C2 Rev C		
Standard construction notes – Sheet 1	STD-N001 Rev 07		
Standard construction notes – Sheet 2	STD-N002 Rev 06		
Floor plan (3.150m x 2.83m shelter)	VOD-ZCS-EL-002 Rev 01		
External elevations (3.150m x 2.83m shelter)	VOD-ZCS-EL-003 Rev 01		
Internal elevations (3.150m x 2.83m shelter)	VOD-ZCS-EL-013 Rev 00		

Following the initial public notification and referrals, it was determined that additional information was required in terms of cumulative Electromagnetic Emissions (EME) (with the existing tower at 3 Geary Place) and visual impact on the directly adjoining residential properties. The following additional information was provided in response to this request:

<b>Document</b>	<b>Ref No</b>	<b>Author</b>	<b>Date</b>
Letter re cumulative EME, provision of a vegetated buffer, vegetated buffer within an Asset Protection Zone, and Impact on adjoining residential properties	JS3775 Bangalee	CPS Global	22 April 2016
Amended Environmental EME Report	RFNSA Site No. 2541023	UGL Limited	20 April 2016

The above documents provide Council with sufficient quality information to properly assess the application.

### **5.Statement of compliance /assessment**

Following an assessment of the application having regard to the Matters for Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979, the following matters are considered important to this application.

(a) **Any planning instrument, draft instrument, DCPs and regulations that apply to the land**

i. State Environmental Planning Policy No 55 – Remediation of Land

There is no evidence of contamination on the site or in its documented history as held by Council. The land is not identified as potentially contaminated land in Council's GIS mapping system.

ii. State Environmental Planning Policy No 71 – Coastal Protection:

Council is required to consider the matters listed in clause 8 of the SEPP when determining a development application. The provisions of this clause relating to development within the coastal zone have been considered. Specifically, it is considered that the proposal:

- is not inconsistent with the aims of the Policy;
- has no impact on existing public access to the foreshore;
- will not impede opportunities for new public access;
- is not unsuitable having regard to its type, location and design and relationship with the surrounding area;
- will have no detrimental impact on the amenity of the foreshore;
- will have no significant impact on the scenic qualities of the coast;
- will have no impact on the conservation of animals and plants within the meaning of the Threatened Species Conservation Act 1995;
- is not relevant to measures to conserve fish and marine vegetation;
- will have no impact on existing wildlife corridors;
- will have no interaction with coastal processes and coastal hazards;
- will have no impact on measures to reduce the potential for conflict between land and water based coastal activities;
- will have no adverse impact on measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;
- will have no impact on water quality of coastal waterbodies;
- will have no impact on the conservation and preservation of items of heritage, archaeological or historic significance;
- will have a minor cumulative impact in terms of visual impact and electromagnetic emissions when added to those from the existing phone tower at 3 Geary Place (see further discussion below);
- will implement industry-typical measures to ensure that water and energy usage is efficient.

Clauses 14, 15 and 16 of the Policy set out further considerations relating to public access, effluent disposal and stormwater that Council must consider. The proposal meets the requirements of each of these clauses.

iii. State Environmental Planning Policy (Infrastructure) 2007:

Division 21 of the SEPP applies to telecommunications and other communication facilities. Clause 115 (1) of the SEPP provides that

telecommunication facilities are permissible in all zones with the consent of Council. Clause 115 (3) requires that Council take into account any guidelines concerning site selection, design, construction, or operating principles issued for telecommunications facilities. This refers to the NSW Telecommunications Facilities Guideline including Broadband (July 2010). The proposal's compliance with the Guideline was addressed by the applicant in the Statement of Environmental Effects (see copy at Attachment 2). The matters in the Guideline have been considered by Council staff and the application generally complies with the Guideline. The following comments are made:

- i. Principle 1 (i): removal of redundant telecommunications facilities: a condition is recommended to require the removal of the facility if and when it is no longer required;
  - ii. Principle 2: Telecommunication facilities are to be co-located wherever practical. The applicant identified a range of alternative sites before settling on the subject site. Co-location at the existing tower at 3 Geary Place was pursued by the applicant but abandoned due to the owner of the property not agreeing to co-location, reportedly due to receiving complaints from neighbours about the existing tower. The Guideline requires the applicant to demonstrate that co-location is not practicable. **The applicant was invited to demonstrate that co-location was not practicable and has supported XXXXXX**
  - iii. Principle 4 (a): Height Limits (aviation): The site is within an area mapped in the Defence (Area Control) Regulation as permitting structures up to 90m high above natural ground level without the need for referral to the Department of Defence.
- iv. Section 79BA (Bush fire prone land) EPA Act 1979:  
This section requires that Council be satisfied that the development conforms to *Planning for Bushfire Protection* and that it be provided with a certificate to that effect by a qualified consultant recognized by the NSW RFS.

A Bush Fire Risk Assessment report prepared by Matthew Willis of Bushfire Planning Services was submitted with the application. It includes a Bushfire Risk Assessment Certificate and recommendations in relation to Construction and Design, Utilities, Asset Protection Zone (APZ) and Landscaping. The report notes that NSW RFS regards communications facilities as critical infrastructure (refer to RFS Practice Note 1/11) and recommends the adoption of a precautionary approach to the protection of the facility from the effects of a bushfire. The report states that the Practice Note has been incorporate into the recommendations of the report.

A condition is recommended to ensure compliance with the recommendations of the Bush Fire Risk Assessment report, which have been accepted by RFS (see below in Referrals section).



v. Shoalhaven Local Environmental Plan 2014:

*Land Use Table:*

The site on which the development is proposed is zoned IN2 Light Industrial under SLEP2014. The development is defined as *telecommunications facility*. In this zone the development is permissible with consent. The proposal is not inconsistent with the objectives of the zone.

*Clause 4.3 Height of buildings:* There is no height overlay on the subject site so a maximum height of 11 metres applies. The tower is 26.5 metres in height so considerably exceeds this height limit. The applicant has sought a variation to this development standard which is discussed at clause 4.6 below.

It is noted that the LEP adopts the definition of “building” that is provided in the Local Government Act 1993, which includes “any structure”.

*Clause 4.6 Exceptions to development standards:* The applicant has submitted a written request seeking to justify the departure from the 11 metre height limit prescribed by clause 4.3.

The applicant needs to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify convening the development standard.

Council cannot grant consent for such a development unless it is satisfied that the applicant has adequately addressed the above matters and that the proposal will be in the public interest because it is consistent with the objectives of both the development standard and the zone in which the development is proposed.

The objectives of the development standard are:

*“(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality;  
(b) to minimize visual impact, disruption of views, loss of privacy and loss of solar access to existing development;  
(c) to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation areas respect heritage significance.”*

The objectives of the IN2 Light Industrial zone are to:

- *provide a wide range of light industrial, warehouse and related land uses;*
- *encourage employment opportunities and to support the viability of centres;*
- *minimise any adverse effect of industry on other land uses;*

- *enable other land uses that provide facilities or services to meet the day to day needs of workers in the area;*
- *support and protect industrial land for industrial uses; allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.*

A copy of the applicant's request is at **Attachment 2**.

(The request to vary the development standard submitted with the application referred mistakenly to SEPP 71 and did not address the objectives of the development standard in clause 4.3 or of the IN2 zone.

*Clause 5.5 Development within the coastal zone:* This clause largely parallels the consideration required by SEPP 71 – Coastal Protection. The following is noted:

- The proposal will have no impact on existing and new public access to and along the coastal foreshore;
- the proposal is generally suitable for the location and its context, having regard especially to the particular type of development proposed ie a telecommunications tower (see further discussion below at Visual Impact);
- the proposal will have no impact on the amenity of the coastal foreshore;
- the proposal will have no significant impact on visual amenity of the coast
- the proposal will have no impact on biodiversity;
- any cumulative effects are limited to those occurring in conjunction with the existing telecommunications tower at 3 Geary Place and are limited to visual impact and Electromagnetic Emissions (EME), both of which are further discussed below.

In terms of those matters about which Council must be satisfied before granting consent:

- the proposal will not impede or diminish public access to the foreshore;
- the development will generate no sewage effluent;
- the proposal will not discharge untreated stormwater into the Shoalhaven River; and
- the proposal will not be subject to or increase the risk of coastal hazards.

*Clause 7.1 Acid sulfate soils:* The land is identified as Class 5. There is no lowering of the water table involved in the development so this clause does not apply.

*Clause 7.9 HMAS Albatross airspace operations:* This clause was considered having regard to the proposed height of the structure which is 26.5 metres above existing ground level. The Department of Defence was consulted and, in the absence of a finalised Obstacle Limitation Surface Plan (OLS) as referred to in this clause, advised that the development should be considered against the height limits set out in the Defence (Area Control) Regulation map. For the subject land

this map indicates a maximum height above existing ground level of 90m beyond which the proposal should be referred to the Department. As the tower is well below this limit, no further consideration is required.

- vi. Chapter G2 of Shoalhaven DCP 2014 – Sustainable stormwater management and erosion/sediment control: An erosion and sediment control plan was submitted with the application. A condition is recommended requiring compliance with this plan.
- vii. Chapter G7 of Shoalhaven DCP 2014 – Waste Minimisation and Management Controls: The applicant has submitted a waste minimisation and management plan. The plan is generally satisfactory and is the subject of a recommended condition of consent.
- viii. Chapter G20 of Shoalhaven DCP 2014 – Industrial Development: This Chapter is focussed primarily on industrial development that involves buildings and so is of marginal relevance to this proposal. The relevant provisions are addressed below:

*Section 5.1 – Site suitability:* it is considered that Performance Criteria P1 and P2 are met (these require that the development is compatible with the character of the site, and that the site has sufficient area and dimensions to accommodate all areas necessary for the proposed industrial development. Performance Criteria P3 requires that adjoining sites are not to be negatively impacted by the proposed development and drainage works. There will be no adverse impact from drainage works however the adjoining residential properties will be affected by the tower in terms of visual impact and its physical presence and possibly overbearing nature. A condition requiring screening and landscaping will assist in mitigating this impact.

*Section 5.2 – Building setbacks:* the proposal meets the Performance Criteria and Acceptable Solutions for this section.

*Section 5.3 – Building and site design:* the proposal does not meet the Acceptable Solutions for height and bulk, as it significantly exceeds the height limit in Shoalhaven LEP 2014. The proposal complies with Performance Criteria P13 in that its materials avoid causing glare hazard for traffic using nearby roads.

*Section 5.5 – Landscaping:* Performance Criteria P16 relevantly requires that landscaping... “provides a landscaping buffer where an industrial area is adjacent to residential areas”. The development is located virtually on the boundary between 9 Geary Place and the residential properties fronting McMahan Rd. In response to this issue being raised by Council staff, the applicant has proposed a slight relocation (0.8 metre) of the facility compound away from the rear boundary fence to accommodate some landscape screening. There are opportunities to use a combination of fencing, low walls and plantings to screen the base of the tower and the equipment shelter which has a finished height of about 3 metres above existing ground level. While the equipment shelter is of materials suitable to an industrial site it is less compatible with the character of a residential area. The

tower cannot be relocated significantly further away from the rear fence as there is a Council sewer main about 5 metres from the rear fence. Relocation to the northern side of the sewer main would result in some intrusion into the parking area for the industrial units on site.

It is recommended that a condition be imposed to provide effective screening from the residential properties at the rear, notably Nos. 111 and 113 McMahons Rd. This could be achieved by requiring the erection of a 900mm high masonry retaining wall on the boundary with No 111 McMahons Rd, with a 2400mm masonry fence on the boundary of the facility compound approximately 800mm inside the boundary. The resulting raised bed is to be planted with large shrubs that will have a height at maturity of approximately 2400mm. The retaining wall is to extend for the full length of the boundary with No. 111 McMahons Rd. The 2400mm high fence is to extend for the full length of that boundary, with a 3 metre return along the boundary with No. 8 Geary Place. The fence and retaining wall are to be constructed of masonry that is sympathetic to the colours of the walls. The masonry fence would also reduce the noise from the air conditioning units mounted on the equipment shelter. A condition of consent in these terms is recommended.

5. Shoalhaven Contributions Plan 2010: Due to the nature of the development and the absence of an increase in equivalent tenements, there are no contributions to be levied on this application.

**(b) *likely impact of that development on the natural and built environment and social and economic impacts in the locality.***

- i) Context and setting: The site is within a small light industrial area that is adjoined by residential development. It is located on a high point which is why the area is sought to be used for transmission purposes, noting the existing Telstra tower at 3 Geary Place and the radio broadcast tower at 119 McMahons Rd. There is a transition from residential to light industrial on the western end of McMahons Rd approaching Rock Hill Rd and Pitt St. which has been recognised by split industrial/residential zonings in that vicinity.
- ii) Economic impacts: There will be a slight positive economic impact arising from construction activities. It is expected that the improved mobile phone and internet reception will be of economic advantage to business customers of Vodaphone and Optus in the area.
- iii) Noise: Some construction noise will be involved and this will be controlled by limiting construction hours and the need to comply with State government noise regulations. During operation there will be some noise from the air conditioning units. The impact of this can be reduced by the recommended conditions to limit noise emissions during operation and the

requirement to construct a masonry fence near the boundary.

- iv) Sediment and erosion control: Minor impact during construction, managed by Soil and Erosion Management Plan and suitable condition of consent.
- v) Social impacts: On the plus side, the improved phone and internet reception will be of social benefit in improving access to telecommunications. On the negative side, there will be residents who will perceive a loss of environmental quality arising from the visual impact of the tower and the supposed risk of radio frequency electromagnetic emissions (RF EME).
- vi) Threatened species: The site is devoid of vegetation or rock features. It is some distance from native vegetation in the adjoining public reserve and will have no impact on that vegetation. There are no threatened species mapped nearby the site. The development will not influence any of the key threatening processes. Consequently it is considered that the development will not have any impact on threatened species.
- vii) Traffic and access: The tower and compound are located at the rear of the industrial site, clear of parking and manoeuvring areas. After construction, access will be required for maintenance from time to time, which should have limited impact on the existing development. Existing driveways and manoeuvring areas are adequate for the size of vehicle likely to need to access the development.
- viii) Vegetation impact: Nil
- ix) Visual scenic impact: The applicant has submitted a detailed Visual Assessment Report with the application. This uses a complex and multi-faceted assessment methodology to assess the visual impact of the proposal. It includes a number of before and after photographs showing the proposed view of the tower from a select number of locations. The conclusion of the report is reproduced below:

The potential visual catchment of the proposed development is relatively small whereby the monopole may be noticeable over a limited distance to the north, east and south. However, those most affected will be the closest residential dwelling located along the north side of McMahons Road adjacent to the proposed facility.

We acknowledge that the efficiency of such a facility is determined by technical requirements and that some visibility of the proposed development is unavoidable. In this regard we consider that the overall height of the facility and its slim strap mounted arrangement of an antennae is a reasonable outcome within a visual catchment which includes light industrial uses and residential development with closer range views.

We suggest that in order to help mitigate visual impacts in views from the closest residences adjacent south of the site, that a 2.5m wide vegetative buffer be established between the wire fence of the proposed development and the existing subject site boundary ie. the proposed development including its security fence, be setback to the north by an additional 2.5m.

The buffer zone would therefore be approximately 10m x 2.5m and should include deep soil to facilitate the establishment of appropriate fast growing native species. In our opinion a vegetative screen which reaches a mature height between 5m and 10m would be sufficient to provide beneficial screening effects in views from inside residential units and from outside the units in shared service and driveway areas.

In our opinion the monopole is best in a neutral light grey tones such a Surf Mist, as it would be most often viewed against the sky and not against a dark background of vegetation, unless moved to an alternative location with the site such as the north east corner, in which case colour choice would need to be reconsidered.

The visual impacts of the subject monopole on its overall visual catchment were considered to be low to moderate and acceptable regarding potential visual impacts. In our opinion the development application is worthy of approval on visual grounds.

The assessing officer has reviewed the report and made his own assessment of the visual impact of the proposal. It is agreed that the visual catchment of the tower is relatively small and that the most affected properties and residents will be those that directly adjoin the site.

While the assessed impact is relatively minor, the sensitivity of viewers will be heightened by the existing 35 m tower nearby at 3 Geary Place, although it must be noted that the current proposal is 8.5 metres lower and on a site that is about 3m lower in elevation, so will be visible over a smaller area than the existing tower.

Sensitivity of viewers is also likely to be greater in the short term when the tower is newly erected, and will diminish over time as it becomes an accepted part of the landscape.

The report's consequent recommendation for the facility to be relocated to the north by 2.5 metres and a vegetated buffer be established were reviewed with the applicant. It appears that a relocation of this extent is not feasible due to a Council sewer main being located about 5 m from the boundary. The applicant has proposed relocation by 800 mm and planting within that space, with additional planting in the adjoining property. This latter suggestion cannot however be done without the agreement of the owner of that property, so Council cannot rely on this as a solution.

A combination of masonry fencing and plantings was outlined in the discussion under Chapter 20 of Shoalhaven DCP 2014 above. If the proposal is to be approved in its current form this is likely to be the most effective landscape treatment that can be effected in the limited space available.

- x) EME (Electromagnetic radiation): The applicant submitted with the application a report assessing the level of RF EME (radio frequency electromagnetic radiation). A second report was provided at Council's request which assessed the combined levels of EME of this proposal and the existing Telstra tower at 3 Geary Place. Both reports used the procedure prescribed in the Technical Report "Radio Frequency EME Exposure Levels – Prediction Methodologies" published by ARPANSA (Australian Radiation Protection and Nuclear Safety Authority).

When combined with the EME from the existing tower at No. 3 Geary Place, the maximum EME is limited to 2.98% of the maximum allowable under the ARPANSA standard. On its own the EME level is 2.044% of the public exposure limit. Council has no expert role in relation to EME and its health effects and in the absence of evidence to the contrary must accept the standard set by the relevant expert authority. The ARPANSA Fact Sheet "Mobile Phone Base Stations and Health" states that "based on current research there are no established health effects that can be attributed to the low RF EME exposure from mobile phone base station antennas".

**(c) the suitability of the site for the development**

The site is generally suitable for the proposal. The applicant has determined that the site can meet its technical requirements and the light industrial character of the site is appropriate. The main negative with respect to site suitability is its proximity to residential development.

In support of the proposed location, the applicant conducted an analysis of alternative sites, as detailed in the Statement of Environmental Effects (pp. 10-13). A total of six (6) alternative sites were evaluated – 3 Geary Place, Drexel Park, the Shoalhaven Water reservoir at the corner of Illaroo Rd and Pitt St, Nowra City Church site at 167 McMahons Rd, Illaroo Soccer Club, North Nowra Tavern site at the corner of Illaroo Rd and Page St. These alternative sites were eventually discounted in favour of the current site due to reasons including:

- inability to secure land tenure;
- Crown land requiring Ministerial consent;
- difficulty in achieving the desired radiofrequency coverage;
- perceived community concerns;

- existing development approvals would restrict site development for the proposal.

There are two potential alternative sites within 9 Geary Place that have been identified during the assessment of this application that would provide a greater separation from the residential properties at the rear of the site. Both have constraints.

The first is between the street boundary and the front of the existing building. This site would have impacts in terms of visual prominence from Geary Place. Its impact on the functioning of the front industrial unit has not been assessed. The second is in front of the sewer main that lies about 5m from the rear boundary. This would impinge on the approved parking spaces for the existing building and may affect vehicle manoeuvring at the rear of the site.

**(d) any submissions made in accordance with the Act or the regulations**

In accordance with Council's "Community Consultation Policy", the proposal was notified on two occasions and was advertised in the South Coast Register on 23 March 2016. The first notification period was from 23 March to 8 April. One (1) submission was received during that period. The notification was sent to 55 landowners within 120 metres of the site.

Following the submission of an amended EME report requested by Council, which addressed the cumulative EME arising from the existing facility at 3 Geary Place as well as that from the proposed new tower, the application was notified for a second period. The notification was sent to the same 55 landowners and 14 occupants of residential units at 111, 113 and 115 McMahons Rd. This was done to ensure these residents, who are most probably renters, would be informed about the proposal that closely adjoined their homes.

No further submissions were received as a result of the second notification. The submission is reproduced in full as it is the only submission received:

*"I am writing a submission, as I am concerned with the current application for 9 Geary Place, North Nowra to have a 26-metre Telecommunications Tower and Associated Equipment shelter installed.*

*This proposed tower will have a significant visual impact on my property especially the western side of my property, which is my outdoor living area. I believe this tower will detract from future re-sale of my property and depreciate my investment potential. Most photographs in the Visual Assessment Report were taken from eye level perspective rather than from a distance not creating a clear picture of the impact on surrounding houses. The proposed vegetation buffer is 5-10 meters, however, the tower is 26 meters a difference of 21-16 meters. Thus, creating an eyesore for surrounding houses and businesses.*

*I feel this tower is to be situated too close to residential and recreational facilities where*



*all over the world there are reported cases of cancer clusters relating to this sort of telecommunications tower. In the area is Drexel Park, Illaroo Soccer Club, Pitt Street Kindy, Archery NSW, North Nowra Public School, Havenlee School and Illaroo Road Public School all these places could be affected by the occurrence of a greater than expected number of cancer cases among people in this defined geographic area.”*

Comment:

1. *Visual impact:* it is acknowledged that the tower will have some visual impact on the adjoining area. Visual impact has been addressed in the Visual Assessment Report submitted with the applications and is further considered under Visual Impact below. The proposed tower location is approximately 140 metres from the respondent’s property boundary, and its lower sections will be screened by the trees in the reserve lying to the east of the development site. While the top of the tower and headframe including antennas will most likely be visible from the respondent’s property, it is respectfully considered that properties closer to the site will encounter significantly greater visual impact. The sensitivity of the respondent is probably heightened by concerns about the EME radiation from the tower and the orientation of the outdoor living area which has an outlook in the direction of the development site.
2. *Impact on resale:* there is no evidence to suggest that a new tower 140 metres distant from the property will have a negative impact on property values. The reason for the tower is to improve the mobile phone and mobile internet reception in the North Nowra area for customers of Vodaphone and Optus and this connectivity can also be valued by purchasers of residential property.
3. *Increased cancer risk:* This aspect of the development is also discussed under Electromagnetic Emissions (EME) above. It is noted that, even when combined with the EME from the existing tower at No. 3 Geary Place, the maximum EME is limited to 2.98% of the maximum allowable under the ARPANSA standard. Council has no expert role in relation to EME and its health effects and in the absence of evidence to the contrary must accept the standard set by the relevant expert authority (ARPANSA – the Australian Radiation Protection and Nuclear Safety Agency). The ARPANSA Fact Sheet “Mobile Phone Base Stations and Health” states that “based on current research there are no established health effects that can be attributed to the low RF EME exposure from mobile phone base station antennas”.

(e) **the public interest**

The public interest issues relevant to this application are:

1. improvement in mobile phone and mobile broadband reception: the proposal will result in improved reception for customers of Vodaphone and Optus in the North Nowra area;
2. the proposal will result in a limited visual impact from a number of public places in North Nowra;
3. regardless of the absence of scientific evidence, the proposal will result in

apprehension of increased risk from RF EME.

## **6. Referrals (Internal/External):**

Rural Fire Service: The application was referred to the RFS for advice under section 79BA. The Service has recommended the imposition of conditions relating to asset protection zones, water and utilities, access, design and construction and landscaping.

Development Engineer: has provided a list of conditions relating to internal access; siteworks; engineering plans, designs and approvals; stormwater quality; and site drainage.

Building Surveyor: advised that Council has not been appointed as PCA or asked to issue a CC. Noted that Bushfire Assessment Report and RFS had recommended setting BAL at 40 given the status of the facility as critical infrastructure, and that the development would need to comply with the relevant requirements under the Commonwealth's telecommunications laws. No conditions.

Communication Sites Coordinator: Noted the level of radio frequency emissions forecast in the EME report. Advised that there are no Council-owned telecommunications towers in the vicinity of the proposal. No conditions.

Environmental Health Officer: In the absence of any scientific information to the contrary, Environmental Services Section concurs with the findings, conclusions and recommendations in the Statement of Environmental Effects prepared by CPS Global dated February 2016. Should concerns be received from occupants of adjacent premises concerning possible health risks associated with EMR, recommended the application be referred to NSW Health for comment.

Shoalhaven Water: has provided a notice and a number of conditions to be applied, including protection of the existing water main.

## **7. Delegations**

The variation in the development standard for height of buildings under clause 4.3 of SLEP2014 exceeds the authority delegated to staff and therefore requires determination by Council or its Development Committee.

## **8. Options**

Options available to Council are to:

1. approve the application, either with or without conditions;
2. refuse the application;
3. defer the application and request the applicant to consider relocating the proposed

tower away from the boundary with residential development.

## **9. Conclusion**

In summary, this application has been assessed having regard to the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Following this assessment it is **recommended** that **DA16/1213** be **approved** subject to the conditions set out in **Attachment 1**.

**John Clague**  
**Consultant Town Planner**

**Reviewed by:**  
**Nicholas Cavallo**  
**Senior Planner**

**Cathy Bern**  
**Section Manager – Development Services**

### **Attachments:**

- 1. Draft Notice of Determination**
- 2. Request to vary the development standard – height limit under cl. 4.3 of Shoalhaven LEP 2014**