

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Development Application Number:	DA2021/0674
Planner:	Thomas Burns
Property Address:	1 / 0 Oxford Falls Road, Oxford Falls
Proposal Description:	Alterations and additions to an existing Telecommunications Facility
Recommendation:	Approval
Clause 20 Variation:	N/A
Proposal in Detail:	<p>The applicant seeks development consent for the installation of a satellite dish at the existing Oxford Falls telecommunications facility.</p> <p>The proposed satellite dish comprises of the following:</p> <ul style="list-style-type: none">• 1.8m diameter satellite dish with 1.8m high antenna.• 0.915m x 1.2m platform.• Electronics enclosure with shroud.• Associated electricity, earthing and fibre cabling.• 7.62m x 3.66m x 1.8m high fencing surrounding the new satellite dish.
History and Background:	<p>The subject site has been used for the purposes of a telecommunications facility since 1987 and currently provides services for television, radio and internet services. The SSES operates only for the use of an internal network for media operations and the Telstra Corporation network. Telephone services at the SSES consist only of a termination point for an international undersea optic fibre cable (refer to DA2000/3686).</p> <p>The SSES currently has a total of 25 dish antennas and 4 pole antennas, with the largest dish having an estimated height of 32m. A similar facility is located adjacent the site at Lot 1013 Oxford Falls, operated by Optus Networks Pty Ltd.</p> <p>Relevant development consents at the site consist of the following:</p> <p>DA2012/0100: Consent granted for eight (8) satellite dishes including ancillary internal road works on 18 April 2012.</p> <p>DA1999/1836: Consent granted for alterations and additions to an existing telecommunication facility on 7 June 1999.</p> <p>DA2000/3686: Consent granted for "extension of existing telecommunication facility for the purpose of a cable station and associated works" on 17 April 2000.</p> <p>DA2002/1673: Consent granted for "Portable Building" on 11 December 2002.</p>

DA2002/1940: Consent granted for “Expansion of Existing Telecommunication Facility” on 5 May 2003.

DA2017/0265: Consent granted for Additions to existing Telecommunication Facility for seven (7) satellite dish antennas and ancillary site works on 20 June 2017.

Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes
Section 2 – Issues Assessment	Yes
Section 3 – Site Inspection	Yes

Notification Required:	Yes	14 DAYS
Submissions Received:	No	
Cost of Works:	\$60,000	
Section 7.12 Applicable:	N/A	

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 – Remediation of Contaminated Lands establishes State-wide provisions to promote the remediation of contaminated land.

The SEPP states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals.

The site has been used for the purposes of a telecommunications facility for an extended period of time. As such, Council is satisfied that the site is not a contamination risk and that the proposal complies with the relevant provisions within SEPP 55.

State Environmental Planning Policy (Infrastructure) 2007

The definitions within Division 21 of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) in states that a telecommunications facility means:

“(a) any part of the infrastructure of a telecommunications network, or

(b) any line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or

(c) any other thing used in or in connection with a telecommunications network.”

The works proposed relate to an telecommunications network that are outside of the requirements for exempt and complying development specified under Schedule 3A “Exempt and Complying Development in Relation to Telecommunications Facilities” of SEPP Infrastructure. Hence the provisions of Clause 115 of the SEPP would apply, which requires development consent for a telecommunications facility.

Clause 115 requires a consent authority to consider any Guidelines issued by the Director-General in relation to the operation of this Clause. Planning Circulars issued the NSW Director-General of Planning & Infrastructure relevant to telecommunication facilities include the following: PS_08_001, PS_10_018 and PS_10_026. There are no requirements pertinent to Clause 115 in any of these Circulars, with the exception of PS_10_026, however this only makes reference to any aerial cabling which may require development consent and none in relation to dish antennas.

The proposal was referred to the Ausgrid and a referral response provided. Ausgrid advised no objection to consent is raised, subject to conditions addressing proximity to existing power lines and activities near electricity easements. The required conditions are included with the recommended conditions of consent.

Development consent has been sought for the proposed works, consistent with the requirements of SEPP Infrastructure and a detailed assessment of the proposal has found that the proposal is consistent with the objectives of this SEPP.

Warringah Local Environmental Plan 2011

The B2 Oxford Falls Valley locality (which cover the land subject to this Application) under the WLEP 2000 were proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah’s standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning, Industry and Environment deferred land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

Warringah Local Environmental Plan 2000

WLEP 2000 applies to the subject land and the DA is made pursuant to this instrument. Under WLEP 2000, the subject site is located within the B2 Oxford Falls Valley Locality and the proposed development, which consists of alterations and additions to an existing ‘telecommunications facility’ under the provisions of SEPP (Infrastructure) 2007. This SEPP prevails over WLEP 2000. However, an assessment of the proposed works under WLEP 2000 finds that there is no definition in this instrument for the proposed land use and hence the development is consistent with the “innominate (other development not specified)” land definition in Category Two of the B2 Locality.

Pursuant to Clause 12 of WLEP 2000, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant General Principles of Development Control in Part 4 of WLEP 2000, and any relevant State Environmental Planning Policy described in Schedule 5 (State Policies).

Furthermore, Clause 12 indicates that before granting consent for development, the consent authority must be satisfied that the development will comply with the relevant requirements made by Parts 2 and 3, and the development standards for the development set out in the Locality Statement for the locality in which the development will be carried out.

Finally, Clause 12 states that before granting consent for development classified as Category Two or Three, the consent authority must be satisfied that the development is consistent with the Desired Future Character (DFC) described in the relevant Locality Statement.

The DFC statement for the B2 locality states as follows:

B2 Oxford Falls Valley Locality

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its Catchment and will ensure that ecological values of natural watercourses are maintained.

Each element of the desired future character statement is discussed below as follows:

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Comment:

The proposed development pertains to alterations and additions to an approved telecommunications facility at the subject site. The works do not alter the approved land use or the approved operational requirements of the development. In this regard, Council is satisfied that the proposed development will not alter the present character of the Oxford Falls Valley locality.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

Comment:

As the proposal is not for detached housing, consideration is also required to be applied to whether the development is consistent with a 'low intensity and low impact' uses. An interpretation of low intensity and low impact uses was used in the *NSW Land and Environment Court Case of Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128*. The interpretation of the judgement is provided as follows:

- *"Intensity – is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore "low intensity" would constitute a development which has a low level of activities associated with it"; and*
- *"Impact – is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape, privacy, solar access etc. Therefore, "low impact" would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality".*

Based on the above interpretation, intensity and impact are interconnected in terms of evaluating if the development results in an unacceptable impact, then the intensity of the development is too great. Accordingly, it is appropriate to consider the levels of impact first.

The works consist of a new satellite dish and associated works/electronic cabling. The structures are consistent with the relevant built form controls of the B2 locality and information provided with the application demonstrates that the development is unlikely to have an adverse impact on the natural environment.

In regards to the intensity of the proposed development, the additional dish will be located on a site that already has 29 existing dish/pole antennas, many of which are significantly larger than the proposed structure. Whilst it is acknowledged that the proposed structure has an unusual visual presentation, the development does not depart significantly from the visual presence of the existing telecommunications facility. No additional sources of noise, generation of emissions, additional employees or vehicular traffic is likely from the additional structure and the operational characteristics of the existing facility will remain largely unchanged. In summary, the intensity of the proposed development will not vary significantly from the existing land use and is considered to be acceptable.

It is further noted that the works are within a valley and are not visible from Narrabeen Lagoon or the Wakehurst Parkway. Therefore, the development will not dominate the skyline.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Comment:

The proposed development is located within an area on the site that has been previously cleared of significant vegetation. The proposed works do not result in the removal of trees or significant landscape features.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Comment:

The works are significantly separated from Forest Way and Wakehurst Parkway, such that the development will not be visible from these arterial roads. The fencing proposed is consistent with existing fencing on the site.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Comment:

A condition has been included with this consent requiring sediment and erosion control measures to be implemented during construction works.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposed development is consistent with the desired future character statement of the Oxford Falls Valley locality.

BUILT FORM CONTROLS

Built Form Compliance Table B2 Locality Statement				
Built Form Standard	Required	Proposed	Comment	Compliance
Building Height (Ridge)	8.5m	2.55m (satellite)	Complies	Yes
Front Setback	20m from all boundaries that front roads	75m	Complies	Yes
Rear and Side Setback	10m	Minimum 45m	Complies	Yes
Landscape Open Space	30% of site	Approx. 70%	Complies	Yes

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	The proposed satellite dish is unlikely to generate an adverse level of impact in regard to glare and reflection. The facility is in a rural bushland value and the antennas on the site do not point towards any nearby housing.	Yes
CL42 Construction Sites	Yes	Conditions imposed with this consent will limit impacts from construction works.	Yes
CL43 Noise	Yes	The works will not result in excessive noise with regards to the long term operation of the dish.	Yes
CL46 Radiation Emission Levels	Yes	<p>The general principle requires that radiation emission levels from antennas are to be as low as practicable or the facilities be located as far as practical from dwellings and other areas where people are concentrated.</p> <p>The proposed works are located a significant distance from the nearest residential area, being Belrose, which is located approximately 500m to the south-west of the proposed dish. The nearest single residence is 250m to the south-east on Oxford Falls Road. The proposed works are on a large site (8.3 hectares) that is not used for residential purposes and is adjacent to public open space. Hence, the works are consistent with this General Principle.</p>	Yes
CL48 Potentially Contaminated Land	Yes	The requirements of Clause 48 have been addressed under 'State Environmental Planning Policy No.55 – Remediation of Land' in this report.	Yes
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	The works will not have an adverse impact on nearby bushland reserves.	Yes
CL54 Provision and Location of Utility Services	Yes	Adequate services are provided on the site to allow for the proposed works.	Yes
CL56 Retaining Unique Environmental Features on Site	Yes	The proposal does not result in the removal of trees or unique environmental features (i.e. rock outcrops).	Yes
CL58 Protection of Existing Flora	Yes	The proposal does not require the removal of significant vegetation.	Yes
CL59 Koala Habitat Protection	Yes	The proposal does not impact upon koala habitat.	Yes
CL60 Watercourses & Aquatic Habitats	Yes	The works are sufficiently separated from watercourses. Sediment and erosion control	Yes

General Principles	Applies	Comments	Complies
		measures will be in place to mitigate siltation of watercourses.	
CL61 Views	Yes	The site is significantly distanced from nearby residential housing. Furthermore, the site is not located within a prominent view corridor, such that the works will not give rise to adverse view impacts.	Yes
CL62 Access to sunlight	Yes	The works do not result in overshadowing of residential properties.	Yes
CL65 Privacy	Yes	The works do not compromise the visual or aural privacy of nearby residential development.	Yes
CL78 Erosion & Sedimentation	Yes	Conditions have been imposed to mitigate sediment migration into adjoining lands	Yes
CL83 Development of Known or Potential Archaeological Sites	Yes	The works are sufficiently distanced from Aboriginal sites within the Oxford Falls Valley. Conditions have been imposed that require works to cease and relevant authorities notified if Aboriginal relics are uncovered during works.	Yes

SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	Yes	Yes
Schedule 6 Preservation of bushland	Yes	Yes
Schedule 7 Matters for consideration in a subdivision of land	No	N/A
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	No	N/A
Schedule 10 Traffic generating development	No	N/A
Schedule 11 Koala feed tree species and plans of management	No	N/A
Schedule 12 Requirements for complying development	N/A	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	No	N/A
Schedule 14 Guiding principles for development near Middle Harbour	No	N/A
Schedule 15 Statement of environmental effects	No – not Category Three development	N/A
Schedule 17 Carparking provision	N/A	N/A

EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Conditioned
Clause 54 & 109 (Stop the Clock)	No	No
Clause 92 (Demolition of Structures)	Yes	Yes
Clause 92 (Government Coastal Policy)	No	No
Clause 93 & 94 (Fire Safety)	No	No
Clause 94 (Upgrade of Building for Disability Access)	No	No
Clause 98 (BCA)	Yes	Yes

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Landscape Officer	<p>The development proposal is for a satellite ground network earth station in support of future Telstra products and services (satellite dish) at the existing Telecommunications Facility at Oxford Falls, comprising the following: 1.8m diameter satellite dish with 1.8m high antenna; 0.915m x 1.2m platform; electronics enclosure with shroud; associated electricity, earthing and fibre cabling; and a 7.62m x 3.66m x 1.8m high fencing surrounding the new satellite dish.</p> <p>The Landscape Referral is considered against the following policies and controls:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Infrastructure) 2007, and the NSW Telecommunications Facilities Guideline including Broadband 2010, • Warringah LEP 2000 Locality B2 Oxford Falls Valley, and Warringah DCP including D1 Landscaped Open Space and Bushland Setting, D4 Electromagnetic Radiation, D9 Building Bulk, and D21 Provision and Location of Utility Services. <p>The location of the proposed works are sited upon cleared land without no significant existing trees or vegetation, adjacent to existing telecommunications facilities. The landscape character of the area is not impacted upon by the development proposal, and adjacent land is heavily vegetated such that the proposal does not impact upon the visual character of the area, and LEP objective 58 Protection of existing flora is satisfied.</p> <p>Landscape Referral raise no objections to the proposal.</p>	Approval
Natural Environment Officer - Riparian	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. This site is close to Oxford Creek which drains into Narrabeen Lagoon. The development must not significantly impact on these waters, or on the quantity and quality of surface and ground water flows to the creek or lagoon.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on Oxford Creek or Narrabeen Lagoon if conditions are adhered to.</p>	Approval

Referral Body Internal	Comments	Consent Recommended
	The proposal is therefore supported.	
Natural Environment Officer - Biodiversity	The application does not require the removal of prescribed trees or vegetation nor is it likely to impact on nearby biodiversity values, therefore Natural Environment Unit - Biodiversity has no objections to the proposal. The proposal is therefore supported.	Yes

Referral Body External	Comments	Consent Recommended
NSW Rural Fire Service	Planner Comment: The NSW RFS have reviewed the proposal and raised no objections, subject to conditions. The conditions have been include as part of this consent.	Yes
Ausgrid	Planner Comment: Ausgrid have reviewed the proposal and raised no objections, subject to conditions. The conditions have been include as part of this consent.	Yes

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
EPA Act 1979	Yes
EPA Regulations 2000	Yes
Disability Discrimination Act 1992	No
Local Government Act 1993	Yes
Roads Act 1993	No
Rural Fires Act 1997	Yes
RFI Act 1948	No
Water Management Act 2000	No
Water Act 1912	No
Swimming Pools Act 1992	No
SEPP No. 55 – Remediation of Land	Yes
SEPP No. 64 – Advertising and Signage	No
SEPP BASIX	No
SEPP Infrastructure	Yes
WLEP 2000	Yes
WDCP	No

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
WLEP 2000	No
Section 7.12 Development Contributions Plan	No
NSW Coastal Policy (cl 92 EPA Regulation)	No

Section 4.15 "Matters for Consideration"	
Section 4.15 (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	Yes
Section 4.15 (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 4.15 (1) (a)(iia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	N/A
Section 4.15 (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 4.15 (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	Yes
Section 4.15 (1) (c) – Is the site suitable for the development?	Yes
Section 4.15 (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	No submissions were received
Section 4.15 (1) (e) – Is the proposal in the public interest?	Yes

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

There are no draft environmental planning instruments applicable to the proposed development.

SECTION 2 – ISSUES

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

SECTION 3 – SITE INSPECTION ANALYSIS



Figure 1: site image

SITE DESCRIPTION:

The subject site comprises five (5) separate allotments, which consist of Lots 1, 2 3 and 4 of DP 205815 and Lot 982 DP 752038, and is commonly known as Lot 1/ Oxford Falls Road, Oxford Falls.

The site is irregular in shape and has a total area of 8.3ha. The site currently accommodates a telecommunications facility which consists of dish antennas and other receiving structures, an administration building, outbuildings, car parking and access roads.

The site slopes away from the south towards the north. Natural site features include remnant vegetation, understorey vegetation and lawn areas.

The site is located within close proximity to riparian lands and is mapped as being bushfire prone.

The surrounding built environment generally consists of detached residential development or telecommunication facilities on large rural allotments.

Site constraints and other considerations	
Bushfire Prone?	Yes
Flood Prone?	No

Site constraints and other considerations	
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	No
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	No
Located within an area identified as potential land slip?	No
Is the development Integrated?	No
Does the development require concurrence?	Yes
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No

SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY:

Does the site inspection confirm the assessment undertaken against the relevant EPI's?	Yes
Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?	No
Are there any existing unauthorised works on site?	No
If YES has the application been referred to compliance section for comments?	N/A

SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

RECOMMENDATION – APPROVAL

That Council as the consent authority:

Development Application DA2021/0674 for alterations and additions to an existing telecommunications facility at 1/0 Oxford Falls Road, Oxford Falls having regard to the assessment and recommendation for Approval in the Assessment Report and the associated conditions of consent attached to this report.

"I am aware of Council's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest"



Signed

Date: 20 July 2021

Thomas Burns – Planner

The application is determined under the delegated authority of:



Signed

Date 20/07/21

Rodney Piggott – Manager, Development Assessments