

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2020/0619 |
|----------------------------|-------------|

|                                           |                                                             |
|-------------------------------------------|-------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Nick Keeler                                                 |
| <b>Land to be developed (Address):</b>    | Lot 2 DP 855673, 12 Rodborough Road FRENCHS FOREST NSW 2086 |
| <b>Proposed Development:</b>              | Construction of a microwave link dish and tower             |
| <b>Zoning:</b>                            | Warringah LEP2011 - Land zoned B7 Business Park             |
| <b>Development Permissible:</b>           | Yes                                                         |
| <b>Existing Use Rights:</b>               | No                                                          |
| <b>Consent Authority:</b>                 | Northern Beaches Council                                    |
| <b>Land and Environment Court Action:</b> | No                                                          |
| <b>Owner:</b>                             | Alsent Pty Ltd                                              |
| <b>Applicant:</b>                         | NPC Media Pty Ltd                                           |

|                                  |                          |
|----------------------------------|--------------------------|
| <b>Application Lodged:</b>       | 12/06/2020               |
| <b>Integrated Development:</b>   | No                       |
| <b>Designated Development:</b>   | No                       |
| <b>State Reporting Category:</b> | Residential - Other      |
| <b>Notified:</b>                 | 26/06/2020 to 10/07/2020 |
| <b>Advertised:</b>               | Not Advertised           |
| <b>Submissions Received:</b>     | 1                        |
| <b>Clause 4.6 Variation:</b>     | Nil                      |
| <b>Recommendation:</b>           | Approval                 |

|                                 |               |
|---------------------------------|---------------|
| <b>Estimated Cost of Works:</b> | \$ 175,588.00 |
|---------------------------------|---------------|

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the construction of a microwave link dish mounted to a new 15.6m high lattice tower on the roof of the existing commercial building. The microwave link dish is 0.9m in diameter, operating at KU Band and facing south west, specifically 226.36 degrees, true north.

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone B7 Business Park

### SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 2 DP 855673 , 12 Rodborough Road FRENCHS FOREST NSW 2086                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the northern side of Rodborough Road.</p> <p>The site is irregular in shape with a frontage of 55.885m along Rodborough Road and a depth of 88.43m. The site has a surveyed area of 5,268m<sup>2</sup>.</p> <p>The site is located within the B7 Business Park zone and accommodates four-storey commercial office building with basement car parking and a telecommunications satellite dish on the roof.</p> <p>The site falls from the north and southwest towards the southeastern corner.</p> <p>The site contains a number of canopy trees at the front and rear of the building with a large area of grass and gardens at the front and along the eastern boundary.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by multi-storey commercial and office development and industrial warehouses.</p> |

Map:



## SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **DA2010/1299** for Alterations and additions to a commercial office building and construction of diesel fuel tanks and associated facilities was approved on 30/09/2010 by Council staff under delegated authority.

Application **DA2010/1937** for Alterations and additions to existing structures and construction of an antenna/dish was approved on 10/01/2011 by Council staff under delegated authority.

Application **DA2019/0651** for Installation of a satellite dish was approved on 30/07/2019 by Council staff under delegated authority.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

| Section 4.15 Matters for Consideration'                                              | Comments                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument        | See discussion on "Environmental Planning Instruments" in this report.                                                                                                                                                                                                                                                                                                                                   |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination |

| Section 4.15 Matters for Consideration'                                                                                                                                            | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                    | risk.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan                                                                                                             | Warringah Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement                                                                                                                  | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)                                                          | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Section 4.15 Matters for Consideration'                                                | Comments                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                        | <p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development                 | The site is considered suitable for the proposed development.                                                                                                                                                                                                                                                                   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report.                                                                                                                                                                                                                                                         |
| Section 4.15 (1) (e) – the public interest                                             | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.                                                                                                                                                                                                             |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

| Name:                | Address:                          |
|----------------------|-----------------------------------|
| DFP Planning Pty Ltd | PO Box 230 PENNANT HILLS NSW 1715 |

The following issues were raised in the submissions and each have been addressed below:

- Electromagnetic radiation survey

The matters raised within the submissions are addressed as follows:

- *Concern is raised that the submitted Electromagnetic Radiation Exposure Assessment has not fully considered the potential radiation impact by requiring additional radiation surveys to be conducted at the time of commissioning of the antenna and that such surveys should be provided at the development assessment stage.*

Comment:

The Electromagnetic Radiation Exposure Assessment provides predictions of the expected transmitting power of the antenna in 'worst case' context. It is common practice to undertake further testing at the time of facility commissioning to determine the accuracy of the predictions prior to long-term operations. Council's Environmental Health team has reviewed the submitted Electromagnetic Radiation Exposure Assessment. The recommendations outlined in the report are considered acceptable, including undertaking additional radiation surveys at the time of commissioning. A condition of consent is included to require compliance with the recommendations of the Electromagnetic Radiation Exposure Assessment.

This issue does not warrant refusal of the development application.

## REFERRALS

| Internal Referral Body                         | Comments                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Environmental Health<br>(Industrial)           | <p><b>General Comments</b></p> <p>A review of the Electromagnetic Radiation Exposure Assessment has provided recommendations that will be included in the proposal.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>                                                                                                                     |
| Strategic and Place Planning<br>(Urban Design) | <p>The proposed functional and purpose-built look of the microwave link dish and tower structure to the existing rooftop would not detract from the verdant context setting of the light industrial area. Moreover, the new structure will be obscured due to the vegetated character of the area and will be more than 200m away from any residential area.</p> |

| External Referral Body | Comments                                                                                                                                                                                                    |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ausgrid: (SEPP Infra.) | <p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p> |

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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 Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP (Infrastructure) 2007

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

#### Telecommunications and other communication facilities

Division 21 of SEPP (Infrastructure) permits the development of 'Telecommunication facilities' which are defined as;

- "(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."*

Clause 115 of the SEPP specifically permits development with consent as follows:

- "(1) Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land."*

Accordingly, the telecommunication facility proposed can be considered as a development permitted with consent.

As the consent authority, Council must consider *"any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette"*.

The principles of the Guideline are addressed below.

### **Principle 1: A Telecommunications Facility should be sited to minimise visual impact**

The proposed development generally demonstrates consistency with Principle 1 for the following

reasons:

- The facility is mounted on top of an existing commercial building.
- The visual impact of the proposed facility is not considered to be unreasonable as existing canopy trees will shield the tower when viewed from Rodborough Road.
- The tower is to incorporate a recessive colour to reduce its prominence.
- Ancillary facilities are to be located at the base of the tower and inside the building.
- The facility is not expected to unreasonably impact upon any view corridor or vista.
- No vegetation is required to be pruned or removed to facilitate the tower and ancillary facilities.
- The site is capable of being remediated if the facility is removed in the future.

### **Principle 2: Telecommunications Facilities should be co-located wherever possible**

The proposed development generally demonstrates consistency with Principle 2 for the following reasons:

- The facility is co-located with an existing satellite dish on the roof of the building.
- New services and facilities are able to be appropriately managed to limit unnecessary clutter.

### **Principle 3: Health Standards for exposure to radio emissions will be met**

The proposed development generally demonstrates consistency with Principle 3 for the following reason:

- An Electromagnetic Radiation Exposure Assessment has been submitted demonstrating compliance with relevant codes, standards and manufacturer specifications.

### **Principle 4: Minimise disturbance and risk, and maximise compliance**

The proposed development generally demonstrates consistency with Principle 4 for the following reasons:

- The facility will not impact upon airspace operations and will not penetrate the Obstacle Limitation Surface for any nearby airport.
- The facility will not interfere with any airport, port or Commonwealth Defence navigational or communications equipment.
- The facility is to be installed in accordance with the manufacturer's specifications.
- The facility will not impact upon the structural integrity of the building it is affixed to.
- The facility is located wholly within the property lot boundaries.
- Construction of the facility will comply with all relevant erosion and sediment controls.
- The facility will not cause obstruction to pedestrians or vehicle during construction and operation.
- Conditions are able to be imposed to ensure construction works and traffic control do not impact upon adjoining properties and public access.
- Flora and fauna, including threatened species, are not expected to be impacted by the construction and operation of the facility.
- No Aboriginal Places and/or objects are identified in proximity to the site. As the facility is contained within the existing building footprint, it is unlikely that undiscovered Aboriginal objects will be found during construction.
- Existing street furniture will not be impacted by the facility.

## Warringah Local Environmental Plan 2011

|                                                                                        |     |
|----------------------------------------------------------------------------------------|-----|
| Is the development permissible?                                                        | Yes |
| After consideration of the merits of the proposal, is the development consistent with: |     |
| aims of the LEP?                                                                       | Yes |
| zone objectives of the LEP?                                                            | Yes |

### Principal Development Standards

| Standard             | Requirement    | Proposed | % Variation | Complies |
|----------------------|----------------|----------|-------------|----------|
| Height of Buildings: | No requirement | 35.7m    | N/A         | N/A      |

### Compliance Assessment

| Clause                          | Compliance with Requirements |
|---------------------------------|------------------------------|
| 6.4 Development on sloping land | Yes                          |

### Detailed Assessment

#### Zone B7 Business Park

| Proposed Use                | Permitted or Prohibited |
|-----------------------------|-------------------------|
| Telecommunications facility | Permitted with consent  |

The underlying objectives of the B7 Business Park zone

- To provide a range of office and light industrial uses.*

#### Comment

The proposed telecommunications facility does not alter the existing primary office premises land use on the site.

- To encourage employment opportunities.*

#### Comment:

Existing employment opportunities in the business park zone will not be impacted by the proposed development.

- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

#### Comment:

The proposed development will not change the existing service and facilities access of workers in the locality.

- *To create business park employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

The proposed development is not expected to unreasonably detract from the existing architectural treatment of the building or the landscaped setting of the site. The tower and antenna are located on the roof of the building and are generally shielded from direct view by the canopy trees surrounding the site.

While the height of the tower leads to an overall building height of approx. 35.7m, the additional height is not expected to detract from the existing visual quality of the building and locality. This is due to the width and depth of the tower being approx. 1.7m and the tower being sited centrally within the building footprint.

The site contains an existing telecommunications satellite dish on the roof adjacent to where the proposed tower is to be sited. Other similar telecommunication facilities exceeding 30m above ground level are located close to the site, including mobile base stations at 49 Frenchs Forest Road East, Frenchs Forest and 42-46 Government Road, Beacon Hill.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or nearby residential land uses.*

Comment:

The site is located more than 200m away from the nearest residential zone. The proposed development is not expected to cause any level of conflict between other nearby land use zones.

## Warringah Development Control Plan

### Built Form Controls

| Built Form Control                                  | Requirement | Proposed                              | % Variation* | Complies    |
|-----------------------------------------------------|-------------|---------------------------------------|--------------|-------------|
| B4 Site Coverage                                    | 33.3%       | No change to existing site coverage   | N/A          | As existing |
| B5 Side Boundary Setbacks                           | Nil         | E - 18.6m                             | N/A          | Yes         |
|                                                     |             | W - 37.4m                             | N/A          | Yes         |
| B7 Front Boundary Setbacks                          | 10.0m       | 41.1m                                 | N/A          | Yes         |
| B10 Merit assessment of Rear Boundary Setbacks      | Merit       | 44.8m                                 | N/A          | Yes         |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 33.3%       | No change to existing landscaped area | N/A          | As existing |

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X,

then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

#### Compliance Assessment

| Clause                                          | Compliance with Requirements | Consistency Aims/Objectives |
|-------------------------------------------------|------------------------------|-----------------------------|
| A.5 Objectives                                  | Yes                          | Yes                         |
| B4 Site Coverage                                | Yes                          | Yes                         |
| B5 Side Boundary Setbacks                       | Yes                          | Yes                         |
| B7 Front Boundary Setbacks                      | Yes                          | Yes                         |
| B10 Merit assessment of rear boundary setbacks  | Yes                          | Yes                         |
| C8 Demolition and Construction                  | Yes                          | Yes                         |
| C9 Waste Management                             | Yes                          | Yes                         |
| D1 Landscaped Open Space and Bushland Setting   | Yes                          | Yes                         |
| D3 Noise                                        | Yes                          | Yes                         |
| D4 Electromagnetic Radiation                    | Yes                          | Yes                         |
| D7 Views                                        | Yes                          | Yes                         |
| D9 Building Bulk                                | Yes                          | Yes                         |
| D10 Building Colours and Materials              | Yes                          | Yes                         |
| D11 Roofs                                       | Yes                          | Yes                         |
| D12 Glare and Reflection                        | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services  | Yes                          | Yes                         |
| D22 Conservation of Energy and Water            | Yes                          | Yes                         |
| E1 Preservation of Trees or Bushland Vegetation | Yes                          | Yes                         |
| E6 Retaining unique environmental features      | Yes                          | Yes                         |
| E10 Landslip Risk                               | Yes                          | Yes                         |

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

#### **POLICY CONTROLS**

##### **Northern Beaches Section 7.12 Contributions Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$ 878 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 175,588.

## CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0619 for Construction of a microwave link dish and tower on land at Lot 2 DP 855673, 12 Rodborough Road, FRENCHS FOREST, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp |            |                      |
|-----------------------------------------------------|------------|----------------------|
| Drawing No.                                         | Dated      | Prepared By          |
| 790-00.50 Issue 1                                   | 09/04/2020 | Y Squared Architects |
| 790-10.11 Issue 1                                   | 09/04/2020 | Y Squared Architects |
|                                                     |            |                      |

|                   |            |                      |
|-------------------|------------|----------------------|
| 790-20.01 Issue 1 | 09/04/2020 | Y Squared Architects |
|-------------------|------------|----------------------|

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |              |                         |
|-----------------------------------------------------------------------------------------|--------------|-------------------------|
| <b>Report No. / Page No. / Section No.</b>                                              | <b>Dated</b> | <b>Prepared By</b>      |
| Electromagnetic Radiation Exposure Assessment (Ref: 190311b)                            | 14/04/2020   | EMC Services            |
| BCA Statement (Ref: 2020/0701)                                                          | 16/04/2020   | Steve Watson & Partners |
| Geotechnical Stability Assessment (Ref: 32536SJrpt2)                                    | 20/04/2020   | JK Geotechnics          |

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

| <b>Waste Management Plan</b> |              |                                    |
|------------------------------|--------------|------------------------------------|
| <b>Drawing No/Title.</b>     | <b>Dated</b> | <b>Prepared By</b>                 |
| Waste Management Plan        | 17/04/2020   | Igor Vieira - TX Australia Pty Ltd |

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

#### 4. **Electromagnetic Radiation Exposure**

The recommendations contained within the electromagnetic radiation exposure report prepared by EMC Services Pty Ltd (No.190311b) dated 17 April 2020 are to be implemented into the operation of the development.

Reason: Protect health and safety (DACHPBOC5)

### FEES / CHARGES / CONTRIBUTIONS

#### 5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$877.94 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$175,588.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate

where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

## **6. Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

## **7. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Nick Keeler, Planner**

The application is determined on 07/08/2020, under the delegated authority of:



**David Auster, Acting Development Assessment Manager**