
CONSULTANT ASSESSMENT REPORT

DA No:	DA/999/2019 (Lodged on 31 October 2019)
Description:	Telecommunications Facility
Property:	Lot 19 DP 3468, No. 20X Harris Road, Normanhurst (Normanhurst Park)
Applicant:	CPS Global
Owner:	Hornsby Shire Council
Estimated Value:	\$250,000

- The application involves the demolition of an existing flood light pole and the construction of a 30-metre free standing steel monopole telecommunications facility, installation of three (3) Optus and three (3) Vodafone panel antennas, oval flood lighting fixtures at height of 22 metres, ground level fencing and ancillary telecommunication equipment.
 - The development was originally proposed on the western side of Normanhurst Oval, adjacent to the existing two storey amenities building on Harris Street. Following the conclusion of the public notification period, Council met with the applicant to discuss the relocation of the tower to the eastern side of the playing field. This report assesses the amended proposal that involves the location of the facility on the eastern side of Normanhurst Park.
 - The site is owned by Council. In accordance with Council's adopted Policy '*Proposed Council Developments*' an independent assessment of the development application has been undertaken by Peter Fryar – Key Urban Planning.
 - The proposal generally complies with the *Hornsby Local Environmental Plan 2013*, *State Environmental Planning Policy (Infrastructure) 2007*, *Telecommunications Act 1997*, NSW Telecommunications Facilities Guideline 2010 and the Hornsby Development Control Plan 2013.
 - A total of thirty-one (31) submissions have been received in respect of the application. Twenty-four (24) submissions have raised objection and seven (7) submissions have supported the development application.
 - The application is required to be determined by the Hornsby Council Local Planning Panel as the site is owned by Council. Furthermore, more than 10 unique submissions objecting to the proposal have been lodged.
 - It is recommended that the application be approved.
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SITE

The site for the proposed telecommunications facility is located within the north-eastern portion of Normanhurst Park at Normanhurst. The proposed monopole that forms part of the proposal will replace an existing flood light tower at the edge of the main oval.

The site is accessed by vehicle from Harris Road and comprises Normanhurst Oval, netball courts, a playground, and amenities building.

The site contains an area of mature bushland to the east and north immediately adjoining the proposed location of the telecommunications facility. To the west and south of Normanhurst Park exists generally low-density residential areas.

The majority of the site is identified as bushfire prone land.

The site does not contain a heritage listed item and is not located within a heritage conservation area. Heritage Listed Item No. 597 Harris Road Street Trees, is located adjacent to the western boundary of the site.

PROPOSAL

The proposed development comprises the following:

- Replacing the existing flood light pole with a new 30 metre steel monopole;
- Reinstating the flood light on the new monopole at the height of 22 metres;
- Installation of three (3) Optus and three (3) Vodafone panel antennas on a triangular headframe mounted atop of the monopole;
- Installation of ancillary equipment including non-EME emitting Remote Radio Units (RRUs) mounted on the headframe;
- Installation of 5-bay outdoor equipment unit in standard colour "pale eucalypt";
- Ancillary equipment associated with the operation of the facility, including but not limited to, extension of the access track from Bryan Avenue, minor modifications to existing Oval fencing, equipment housing, cable trays, cable ladders, cabling, earthing, electrical works, and air conditioning equipment.

ASSESSMENT

The development application has been assessed having regard to the *Greater Sydney Region Plan - A Metropolis of Three Cities*, the *North District Plan* and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling

targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years.

Planning priority N1 of the North District Plan is to provide infrastructure that supports forecast population growth. In this regard the proposed telecommunications facility accords with Planning Priority N1.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*”.

2.1 Hornsby Local Environmental Plan 2013

The Hornsby Local Environmental Plan 2013 (HLEP) applies to all land within Hornsby Shire. An assessment of the development against the relevant sections of the *HLEP* is provided below.

2.1.1 Zoning of Land and Permissibility

The subject land is zoned RE1 Public Recreation under the *HLEP*. The objectives of the zone are:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect and maintain areas of bushland that have ecological value.*

The proposed development is defined as a “*telecommunication facility*” and is a prohibited land use under the *HLEP* within the RE1 Public Recreation zone. Notwithstanding, the proposal is permitted pursuant to Clause 115(1) of *State Environmental Planning Policy (Infrastructure) 2007* which states:

“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”.

The provisions of *State Environmental Planning Policy (Infrastructure) 2007* prevail to the extent of any inconsistency with the *HLEP*.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* states that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. There is no maximum building height control for the subject site as it is zoned RE1 Recreation.

The 'Dictionary' contained within the *HLEP* defines 'building height' as follows:

"building height (or height of building) means:

(a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*

(b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

*including plant and lift overruns, **but excluding communication devices**, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."*

Note: Bold and underlining by author.

The proposed 30m tower (30.2m with antennas) is considered a communication device and is excluded from the maximum building height control under the *HLEP*.

The proposed equipment shelter would be approximately 2m in height with the enclosing fencing being reliant on the use of an existing fence and part construction of a new low height chain wire fence.

2.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. Accordingly, no further assessment regarding heritage is necessary.

Pursuant to the provisions of clause 5.10(5) of the *HLEP* the site is located within the vicinity of a heritage item No.597, of local significance, which is identified as Roadside trees (east side) Harris Road Normanhurst. The inventory sheet for item No. 597, contained within Council's heritage register, describes the heritage item as "*Scattered remnant stands of native trees occur between the southern end of Harris Road (near the junction with Milson Parade) and the cul-de-sac adjacent to Normanhurst Park (northern end)*".

The applicable objective of Clause 5.10(4) of the *HLEP* is "*to conserve the environmental heritage of Hornsby*", and "*to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views*".

The telecommunications facility would be located approximately 120 metres to the east of the heritage item, separated by Normanhurst Oval and associated facilities. The sporting oval and associated facilities, combined with the significant distance between the heritage item and the proposed development site, would visually and spatially separate the proposed development from the heritage item, and it is considered that the proposal would have negligible impact on the heritage significance of the trees identified within the Harris Road (road reserve), settings or views.

2.1.4 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for any proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining

properties, drainage patterns and soil stability of the locality. Minimal earthworks are proposed as part of the development proposal and no concerns are raised with respect to Clause 6.2.

2.1.5 Flood Planning

The site is not identified as a flood planning area on the Flood Planning Map and further assessment under Clause 6.3 of the *HLEP* is not required.

2.1.6 Terrestrial Biodiversity

The site is not within an area mapped in the *HLEP* as containing terrestrial biodiversity.

2.2 Development on Bushfire Prone Land

Section 4.14 'Consultation and development consent certain bush fire prone land' of the *Environmental Planning and Assessment Act 1979* states that development consent cannot be granted for any purpose on bushfire prone land unless the consent authority is satisfied that the development conforms to the specifications and requirements of the version the document entitled *Planning for Bush Fire Protection* prepared by the *NSW Rural Fire Service* in co-operation with the Department. The applicant submitted a Bushfire Risk Assessment report, prepared by Blackash Bushfire Consulting, dated 6 March 2020, which assessed Section 4.3.6.f of *Planning for Bush Fire Protection 2006* (PBP) and the *Building Code of Australia* (BCA). The report noted that these documents do not provide for any bushfire specific performance requirements for construction of a telecommunications tower.

It is therefore considered that the provisions of Section 4.14 of the *Environmental Planning and Assessment Act 1979*, do not apply to the development. Notwithstanding, an assessment of the bushfire risk applicable to the proposal is contained within Part 2.9.6 of this report, in accordance with the precautionary approach outlined in the *NSW Rural Fire Service's Practice Note 1/11 "Telecommunication Towers in Bush Fire Prone Areas"*.

2.3 Telecommunication Act 1997

Under Division 1 of Part 1 of Schedule 3 of the *Telecommunications Act 1997* a carrier has the right to install a telecommunications facility for purposes connected with the supply of a carriage service if:

- “(i) The carrier is authorised to do so by a facility installation permit*
- (ii) The facility is a low impact facility*
- (iii) The facility is a temporary facility for use by a defence organisation for defence purposes.*
- (iv) The facility is installed before 1 July 2000 for the sole purpose of connecting a building, structure, caravan or mobile home to a line that forms part of a telecommunications network that was in existence on 30 June 1997.”*

Under Division 1 of Part 1 of Schedule 3 of the *Telecommunications Act 1997* the proposal does not qualify as a 'low impact facility' installation. Therefore, the development is not exempt and requires consent under the *Environmental Planning and Assessment Act 1997*.

2.4 State Environmental Planning Policy (Infrastructure) 2007

2.4.1 Telecommunications Facilities

SEPP Infrastructure contains provisions that allow telecommunications carriers to install telecommunication facilities as either exempt or complying development subject to a range of criteria including health and amenity considerations. Under Clause 116 and 116A, the proposed development is not exempt or complying development as the facility is not existing and the development is not carried out on land in Zone IN1, IN2, IN3, RU1, RU2, RU3 or RU4 or an equivalent land use zone.

Notwithstanding, the proposal is permitted with development consent pursuant to Clause 115(1) of *SEPP Infrastructure* which states:

“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”.

Under Clause 115(3), when determining a proposal for a telecommunications facility, Council “*must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette*”. Consequently, the telecommunication facility is required to be assessed against the ‘*NSW Telecommunications Facilities Guideline including Broadband – July 2010*’. An assessment is provided below.

2.4.1.1 NSW TELECOMMUNICATIONS FACILITIES GUIDELINE (INCLUDING BROADBAND) 2010

Principle 1: *A telecommunications facility is to be designed and sited to minimise visual impact.*

Comment: The supplied Statement of Environmental Effects, (SEE) prepared by CPS Global states that the height of the tower has been selected to achieve the stated goal of improving mobile phone coverage within the locality. The 30 metre height of the tower is considered to have minimal visual impact due to the location of the facility on the eastern side of the oval adjacent to an area of established bushland and remote from any nearby residential properties to the site. The tower could be painted however due to the sites remote location this is unlikely to have a net benefit by reducing visual impact. There is a lack of any unifying colour scheme present at the site that would require painting.

In accordance with the Land and Environment Court judgement *Telstra Corporation Limited v Clarence Valley Council [2012] NSWLEC 1125*, the fact that the facility would be visible from some adjoining areas is not sufficient grounds to refuse consent. The facility would not obstruct any high-quality views to water, significant landmarks or significant scenic areas.

Principle 2: *Telecommunications facilities should be co-located wherever practical.*

Comment: The submitted Statement of Environmental Effects (SEE) states the following with respect to potential co-location;

- *There are no existing facilities within the required search ring that are practical for co-location. Nonetheless, the facility will support infrastructure for two Carriers and would be considered a co-location once operational.*

- *The proposed facility will accommodate Optus and VHA facility. Once constructed it will be a co-located facility and will not require an extension.*

A total of four (4) candidate sites were considered as part of determining a location for the facility. The subject site was considered to be the preferred location as alternative sites were not able to achieve the desired coverage target area that can be obtained from the subject site. In fact, a higher monopole (40 metres) was considered in the installation at two of the alternative sites and still could not achieve the desired coverage due to topographical constraints.

The supplied SEE outlines that co-location of the tower is not a possibility in this instance and the chosen site is suitable for achieving the desired network service coverage. As the primary purpose of this tower is to service areas within Normanhurst, Thornleigh and Hornsby that currently receive poor network coverage, it is considered that the proposed site is acceptable and co-location is not considered to be feasible for this development in the circumstances of the case.

Principle 3: *Health standards for exposure to radio emissions must be met.*

Comment: In 2002, Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) published the standard: *Radiation Protection Standard - Maximum Exposure Levels to Radiofrequency Fields - 3 kHz to 300 GHz*. The ARPANSA RF Standard sets limits for human exposure to Radiofrequency Electromagnetic Radiation (RF EMR) in the frequency range 3 kHz to 300 GHz. The Standard also includes requirements for protection of the general public and the management of risk in occupational exposure, together with additional information on measurement and assessment of compliance. This Standard was most recently reviewed in 2014 by an independent panel who found that the exposure limits in the RF Standard continue to provide a high degree of protection against known health effects of RF electromagnetic fields.

The proposal was accompanied by an “Environmental EME Report” which provides a summary of levels of radiofrequency electromagnetic energy around the wireless base station. These levels have been calculated by Radhaz Consulting on behalf of the proponents using methodology developed by ARPANSA.

The SEE further details that the predictions in the Environmental EME Report assume a worst-case scenario including:

- *Base station transmitters are operating at maximum power (no automatic power reduction).*
- *Simultaneous telephone calls on all channels.*
- *An unobstructed line of sight view to the antennas.*

The SEE states that:

“The report shows that the maximum predicted EME levels will equate to 2.39% of the maximum exposure limit, which is significantly below the allowable exposure limit under the Australian Standard (100% – which is still considered to be safe).

This measurement is based on the maximum worst case scenario, considering direct exposure at full operational capacity of the facility which is generally not a true representation of a real-life scenario. The signal from the facility is usually affected by

various factors including service demand, the existing network support of surrounding base stations, distance, topography, physical and natural barriers (e.g. hills, trees, buildings et cetera). Other variations include antenna specifications and azimuth, power input to name a few.

Refer to Figure 4 below for EME predictions at various distances within 500m from the facility and 1.5m from ground level. The table illustrates the maximum predicted level from the proposed facility will be 2.39% at 178 metres from the subject site.

Furthermore, wherever possible the Carriers seek to locate their facilities away from community sensitive locations (e.g. schools, childcare centres, hospitals). In some instances however, this is unavoidable especially in densely populated and well-developed areas.

The predicted EME levels shown in the Environmental EME Report are based on the distance, angle, and height range relative to the specific ground level at the area of interest. The prediction shows the worst-case scenario, not including possible signal attenuation due to physical or natural obstacles such as buildings or trees. The predicted EME levels are considerably low and will within the allowable ARPANSA Standard.”

The proposed telecommunications tower would therefore be compliant with the Maximum Exposure Levels to Radiofrequency Fields developed by ARPANSA.

Principle 4: *Minimise disturbance and risk and maximise compliance.*

Comment: The proposal has been designed to minimise disturbance of the locality and is sited in a location that is easily accessible for construction and maintenance within Normanhurst Park. Conditions are recommended to control construction activities and minimise disturbance of the locality.

It is considered that the applicant has had regard to the above principles and the development is consistent with the matters outlined within the guidelines.

2.5 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) commenced 25 August 2017 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 3 of the *Vegetation SEPP* states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the Hornsby Development Control Plan 2013 (HDCP) prescribes works that can be undertaken with or without consent to trees.

No trees would be removed as part of the development and accordingly no further assessment under the *Vegetation SEPP* is required.

2.6 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy.

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

State Environmental Planning Policy No. 55 (SEPP 55) requires that consent must not be granted to the carrying out of any development on land unless Council has considered whether the land is contaminated or requires remediation for the proposed use.

The section 10.7 Planning Certificate for the site indicates that the site may have had a potentially contaminating activity occurring in the past. The proposed tower design does not require significant soil disturbance or excavation and accordingly, it is not likely that the development would disturb any potential contamination. Further assessment under *SEPP 55* is not required for the proposed use as a telecommunications facility.

2.8 Section 3.42 Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.9 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The proposed development generally complies with the prescriptive measures within the HDCP. A discussion on compliance with relevant requirements of Part 1 General, Part 7 Community is provided below.

2.9.1 Telecommunications

Part 7.3 of the *HDCP* relates to telecommunications and promotes the co-location of facilities in order to limit visual impact and the careful selection of sites in order to minimise the impact of electromagnetic radiation on sensitive land uses.

An assessment regarding the prescriptive measures of Part 7.3 of the *HDCP* is provided below:

HDCP Control	Comment
7.3.1(a) The facility should be consistent with the Australian Communications Industry Forum (ACIF) Code, including consideration of alternative locations and	The submitted documentation confirms that the facility is designed as per the industry code. The application satisfactorily addresses

infrastructure to minimise electromagnetic radiation.	alternative locations and demonstrates compliance with RF EME exposure limits.
<p>7.3.1(b)</p> <p>Telecommunications facilities should be located:</p> <ul style="list-style-type: none"> • on business and industrial sites, or • on existing infrastructure sites, and • to avoid locations within or at the termination of a significant vista or focal point of a streetscape, and • to avoid heritage conservation areas or items. 	<p>As per Part 2.4.1.1 of this report, alternative locations have been considered however due to the specific brief of the project, no suitable alternative were available.</p> <p>As outlined in Part 2.1.3 of this report, the site does not include a heritage item and is not located in a heritage conservation area.</p>
<p>7.3.1(c)</p> <p>Where practical, antennae and similar structures should be co-located or attached to existing structures, such as buildings, public utility structures, poles, towers or other telecommunication facilities to minimise visual impact.</p>	As per Part 2.4.1.1 of this report, alternative locations have been considered however due to the specific brief of the project, no suitable alternatives were available.
<p>7.3.1(d)</p> <p>If a facility is proposed not to be co-located, the proponent should demonstrate that co-location is not practical or desirable considering the ACIF Code exclusions.</p>	As per Part 2.4.1.1 of this report, alternative locations have been considered however due to the specific brief of the project, no suitable alternatives were available.
<p>7.3.2(a)</p> <p>Telecommunications facilities should be designed in accordance with industry best practice.</p>	The submitted documentation states that the facility will be designed and installed in accordance with industry best practice.
<p>7.3.2(b)</p> <p>Telecommunications facilities should be integrated with the design, appearance and scale of the building or structure on which it is located with regards to colour, texture, material and built form.</p>	The proposed tower would have a metallic finish. No prevailing design exists in the immediate locality that would warrant the design of the tower to be amended.
<p>7.3.2(c)</p> <p>Ground level ancillary structures (such as equipment huts) should be screened with native landscaping.</p>	Existing vegetation partially screens the ground level cabinetry. Due to the location of the tower within an active recreation area and adjacent bushland, further landscaping is not considered appropriate.

2.9.2 Access

Access to the site for construction and ongoing maintenance is available via an existing access track used by Council for maintenance of the recreation area. However, Councils Landscape Architect has

recommended an upgrade to the access track to ensure future maintenance vehicles associated with the facility do not cause damage to the recreation facilities contained within the park.

It is considered that access to the site is satisfactory, with future site access to be controlled by Hornsby Shire Council as required. An appropriate condition is recommended under Schedule 1 of the report below.

2.9.3 Traffic and Parking

The proposed facility would not generate traffic volumes above the capacity of the local road network and would have little impact on the level of service of the local roads.

2.9.4 Waste Management

The proposed facility would not generate ongoing waste and therefore would not require regular waste collection.

2.9.5 Heritage

As per Part 2.1.3 of this report, the site is located within the vicinity of a heritage item No. 597 and it is considered that the proposal would have negligible impact on the heritage significance of the trees identified within the Harris Road (road reserve), settings or views.

2.9.6 Bushfire

The majority of the development site is located on bushfire prone land. Council's bushfire prone land mapping identifies that the proposed telecommunication tower site would be located within the 100 metre buffer from category 1 vegetation.

The applicant submitted a Bushfire Protection Assessment report, prepared by Backlash Bushfire Consulting to support the development application. In assessing the applicable Bushfire Level, and determining the appropriate bushfire protection requirements, the Bushfire Protection Assessment report assessed Section 4.3.6.f of *Planning for Bush Fire Protection 2006* (PBP) and the *Building Code of Australia* (BCA). It is noted that these documents do not provide for any bushfire specific performance requirements for construction of a telecommunications tower. The asset protection zone and building construction requirements specified within PBP and AS 3959-2009 *Construction of buildings in bushfire-prone areas* do not apply as Deemed-to-Satisfy provisions for bushfire protection for this development.

The report concludes that:

“The proposed development is on designated bushfire prone land and the legislative requirements for development in bushfire prone areas are applicable. The proposed development will be constructed to the minimum standards required in accordance with the guidelines of Planning for Bushfire Protection 2006.

The Building Code of Australia does not provide for any bushfire specific performance requirements for the proposed development and as such AS3959-2009 does not apply as a deemed to satisfy provision. PBP accepts the general fire safety construction provisions of the BCA are taken as acceptable solutions. The community Resilience Practise Note 1/11 from the RFS provides direction on the application of bushfire protection measures for these towers and the RFS advises a construction standard of BAL 40 for the associated infrastructure.

This report has considered all elements of bushfire attack and provided the proposed development is constructed in accordance with the recommendations included in section 9 of this report, it is my considered opinion that the development satisfies the Aims and Objectives of Planning for Bushfire Protection 2006.

This Report is a Bush Fire Hazard Assessment that provides the required information to assist Council in determining compliance in accordance with the aims and objectives of Planning for Bushfire Protection 2006.”

Practice Note 1/11 states that a 'precautionary approach' should be taken with respect to telecommunication towers in Bush Fire Prone Areas as the NSW RFS considers that telecommunications towers are critical infrastructure for firefighting communications and for providing warnings, information and communication channels for people in bush fire prone areas during bush fire emergencies.

With respect to the proposed telecommunication tower, it is noted that due to its specific intended use of improving reception outcomes for residents in the locality, the proposed tower would offer limited assistance in a bushfire emergency to the Normanhurst community. Other existing telecommunications sites that currently provide coverage to the Normanhurst region would be more critical in conveying emergency messages.

The supplied Bushfire Protection Assessment Report recommends:

- 1. Construction Standard:** *The proposed development shall be constructed to a minimum standard of Section 3 (construction general) and Section 8 (BAL 40) of AS3959-2009 'Construction of Buildings in Bushfire Prone Areas' and Section A3.7 of the NSW Rural Fire Service Addendum to Appendix 3 of 'Planning for Bushfire Protection 2006'.*
- 2. Asset Protection Zones:** *At the commencement of building works and in perpetuity, the area within the equipment cabin should be managed as an asset protection zone.*

The NSW RFS have considered the proposal and have raised no objection. The RFS recommend that a 10 metre inner protection area be maintained around the facility. Appropriate conditions of consent in accordance with the requirements of the Bushfire Protection Assessment report and NSW RFS are recommended in Schedule 1 of this report.

Note: During the assessment of this application, *Planning for Bushfire Protection 2019* was adopted. The newer version of PBP contains a section on telecommunication towers, which is located at Part 8.3.7 of the document. Part 8.3.7 of PBP 2019 states the following;

“In order to determine the level of bush fire risk and to develop a suitable suite of protection measures, the NSW RFS should be consulted.

There should be a minimum APZ around the tower/ buildings/associated infrastructure which will increase based on the assessed level of risk and criticality.

Telecommunication towers should be constructed from non-combustible materials, and designed to mitigate the risk of flame damage, ember attack and radiant heat.”

The proposed development is considered to be consistent with the updated version of PBP 2019 and the assessment pathway detailed within Part 8.3.7 of the PBP has been followed in the assessment of this application.

2.10 Section 7.12 Contributions Plans

Hornsby Shire Council Section 7.12 Development Contributions Plan 2019-2029 applies to the development as the estimated costs of works is greater than \$100,000. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

Vegetation removal is not required.

The development would have a negligible impact on the surrounding natural environment.

3.2 Built Environment

3.2.1 Built Form

The location, design and visual impact of the proposal are discussed in the report above under Part 2.4.1.1. The location, design and visual impact of the proposed structure and ancillary buildings are considered acceptable in the context of the site.

3.3 Social Impacts

The proposed telecommunication facility would have a positive social impact in that it would significantly increase the level of telecommunications service to the local community and rail commuters.

3.4 Economic Impacts

There would be negligible economic impacts resulting from the proposed development.

4. SITE SUITABILITY

Section 4.15(1)(c) of the Act requires Council to consider *the suitability of the site for the development*.

It is considered that the site is both suitable and capable of accommodating the proposed development. The telecommunications facility would not result in tree loss, diminished landscaping or significant earthworks. Whilst the facility would be partially visible from nearby residential developments, it is considered that the proposal would not cause a significant adverse impact to the amenity of residents in the immediate area by loss of significant views.

5. PUBLIC PARTICIPATION

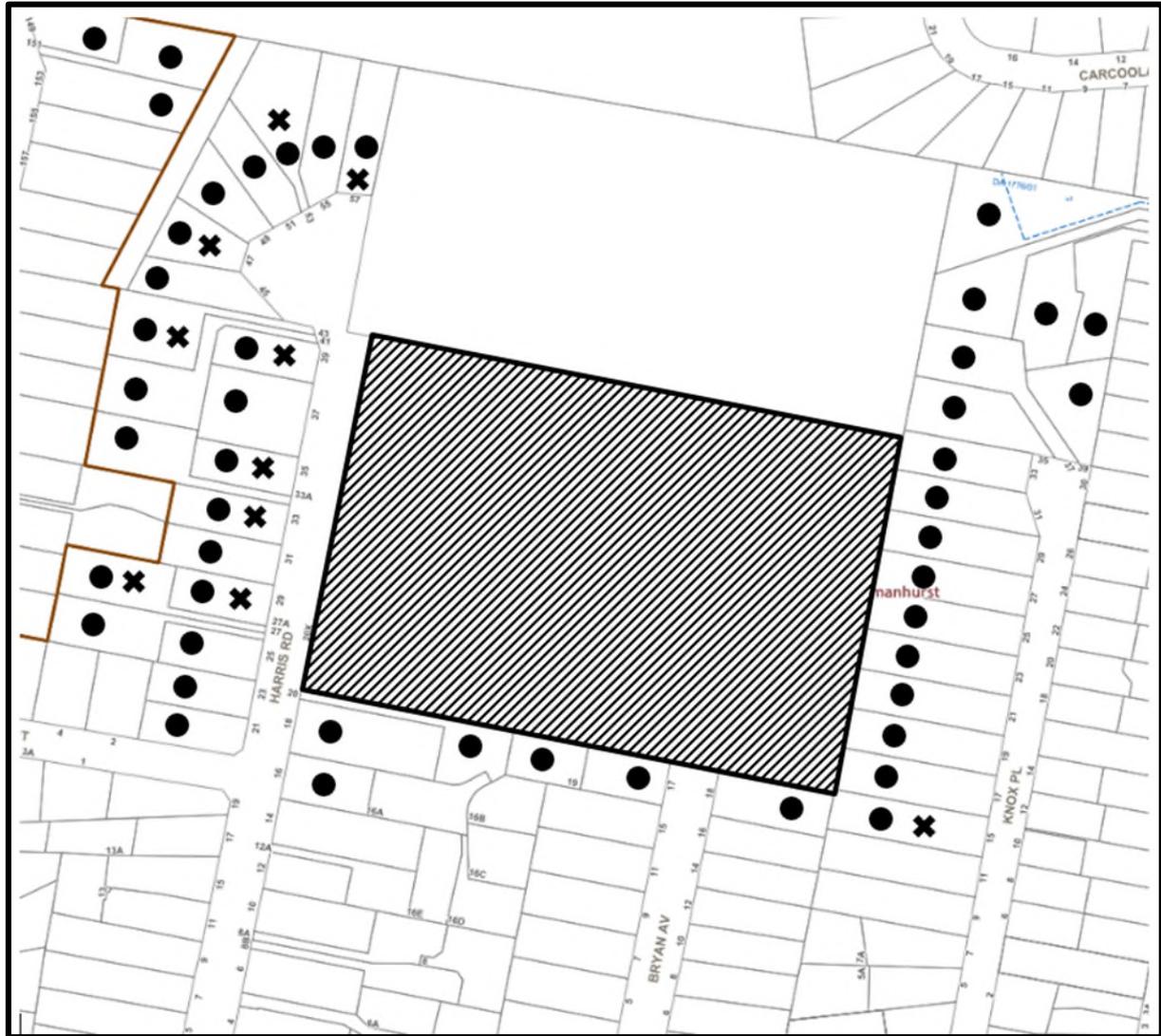
Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 22 November 2019 until 6 December 2019 in accordance with the Notification and Exhibition requirements of the HDCCP. The applicant submitted further information that included the

relocation of the proposed facility within Normanhurst Park following negotiations with Council and consideration of concerns raised in submissions. Council re-exhibited the development application from 12 March 2020 to 27 March 2020 to allow for further community comment on the revised tower location.

The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<p>● PROPERTIES NOTIFIED</p>	<p>X SUBMISSIONS RECEIVED</p>	<p> PROPERTY SUBJECT OF DEVELOPMENT</p>	
<p><i>Note: Numerous submissions were received either out of map range, or the submitters chose not to disclose their address. Multiple submissions were received from some properties, in response to the two notification periods</i></p>			

A total of 24 submission were received objecting to the development. Submissions raised concerns on the grounds of:

- Precautionary principle in determining site location and alternative sites
- Health Impacts including future use of 5G technology

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- Aesthetics
 - Inadequate documentation including Statement of Environmental Effects
 - Property Devaluation
 - Safety for children
 - Noise and light pollution
 - Access including vehicle and emergency
 - Impacts on expansion of the club house
 - Permissibility under the Hornsby LEP 2013
 - Probity in development application assessment

A total of 7 submission were received in support of the development. Submissions raised support on the grounds of:

- Existing problems with mobile phone coverage being experienced in the locality and hopeful that proposed facility will address current problems

The merits of the matters raised in community submissions have been addressed in the body of the report with health impacts and aesthetic considerations discussed in Part 2.4.3. Concerns not addressed in the body of the report are addressed below.

5.1.1 Precautionary Principle in Determining Site Location and Alternative Sites

A number of objections to the proposal raise concerns in relation to the suitability of the site and whether alternative sites considered and identified in the Statement of Environmental Effects should be utilised for the proposed facility. In particular, several submissions mention the 'precautionary principle' in determining the suitability of the site.

While terms such as "ecologically sustainable development" and "the precautionary principle" are frequently used in planning law, in a decision of the NSW Land and Environment Court, *Telstra Corporation Limited v Hornsby Shire Council [2006] NSWLEC 133*, the Chief Judge, Justice Preston, gave a detailed consideration of the principles of ecologically sustainable development ("ESD") and, in particular, the precautionary principle. The author of this report (Peter Fryar) was involved in these proceedings on behalf of Council and shares intimate knowledge of the facts of the case.

The Court heard and accepted expert evidence on behalf of Telstra and the Court-appointed expert that the radiofrequency EME from the proposed base station "*would not conceivably cause any adverse biological health effect.*"

The Council primarily relied on non-expert evidence from people objecting to the proposal. In addition to objections such as impacts on visual amenity, the objectors asserted that radiofrequency EME presented a threat of harm to residents and irrespective of proposed facility's compliance with any applicable industry or Australian standards regarding EME emissions, the Court should apply the precautionary principle to abate that threat.

Justice Preston noted that while a number of decisions of the Court had established that the 'precautionary principle' is to be considered in determining a development application under the Act, there had been no detailed explanation of the precautionary principle or its application.

Justice Preston stated that the application of the precautionary principle and the need to take precautionary measures is triggered by the satisfaction of two conditions precedent:

- a threat of serious or irreversible environmental damage; and
- scientific uncertainty as to the nature and scope of the threat of environmental damage.

When both of these conditions have been satisfied, a precautionary measure should be taken but it must be proportionate to the level of the threat.

The precautionary principle permits the taking of preventative measures, without waiting to ascertain the reality and seriousness of environmental threats. However, Justice Preston expressed the view that the precautionary principle should not be used to try and avoid all risks, as "*some are plainly acceptable and others are plainly unacceptable*".

Justice Preston found that the first condition precedent for the application of the precautionary principle, that there be a threat of serious or irreversible environmental damage, was not satisfied as there was no evidence of such a threat. Consequently, there was no basis for the application of the precautionary principle in respect of Telstra's development application.

Justice Preston also concluded that the objectors' claims in relation to the alleged impact of RF EME on people and the environment were without reasonable evidentiary foundation. Therefore, little weight was to be given to the residents' perceptions. As a result, there was no probative evidence upon which the Court could make findings of adverse effects on the amenity of the locality or on the health and safety of persons in the locality or on the environment.

Having considered the matters articulated by Justice Preston in consideration of the development application and issues addressed above in this assessment report, the site is considered suitable for the proposed facility.

5.1.2 Health Impacts Including Future use for 5G Technology

This matter is discussed in detail under section 2.4.1.1 of this report. The proposed telecommunications tower would therefore be compliant with the Maximum Exposure Levels to Radiofrequency Fields developed by ARPANSA.

5.1.3 Aesthetics

A number of submissions raised concern to the adverse visual impact of the proposed facility on the site and surrounding locality. Telecommunication towers are a part of the modern urban landscape and the design and location of the monopole is not considered to be obtrusive in the context of the proposed site. The monopole is a slender structure that will replace an existing light pole, albeit of a greater height.

Aesthetics and visual impact must be considered in the context of a site and surrounding development. In the opinion of the author, the visual impacts of the proposed facility in the context of the site and

surrounding locality are considered acceptable. This can be a subjective opinion that can be formed differently by various individuals.

5.1.4 Inadequate Documentation Including Statement of Environmental Effects

Clause 50 of the *Environmental Planning and Assessment Regulation 2000* requires that a development application “*must contain the information, and be accompanied by the documents, specified in Part 1 of Schedule 1*”. The Council has formed the opinion as the consent authority that the information provided satisfies the requirements of the Regulation.

5.1.5 Property Devaluation

Submitters raised objections that the proposal would devalue residential development in the locality.

In addressing this concern, Section 4.15 of the *Environmental Planning and Assessment Act 1979* does not require Council to take into consideration the impact of development on the value of nearby properties.

5.1.6 Safety for Children

Submitters raised concerns regarding access to the facility for children using the park and safety concerns. This issue was raised with the proponent who advises as follows:

“In regards to fencing, no fencing is required as the monopole is a smooth surface with a ladder required to reach the foot pegs to the top. No fencing is required around the ground level cabinetry as the design of these units prevents access without the need for additional fencing.”

5.1.7 Access Including Vehicular and Emergency

Concerns were raised in regard to access to the Normanhurst Park and in particular, emergency access for medivac helicopter.

Vehicular access is proposed from an access road that enters the site from Bryan Avenue. Council's Landscape Architect has required that the access road be upgraded to a specified standard to the satisfaction of Council.

The monopole is proposed to be located at the perimeter of the oval and sufficient area is available for emergency medivac access if required.

5.1.8 Impacts on Club House Expansion

The location of the proposed facility was initially proposed on a site adjacent to the existing clubhouse. In response to a number of concerns raised by objectors to the likely impacts of the facility on any likely expansion of the club house and upon established trees, the facility has been relocated in the design to a cleared area on the park clear of trees and the clubhouse.

5.1.9 Noise and Light Spill

These matters can be dealt with by appropriate conditions of consent.

5.1.10 Permissibility under the Hornsby LEP 2013

The proposed development is defined as a “*telecommunication facility*” and is a prohibited land use under the *HLEP* within the RE1 Public Recreation zone. Notwithstanding, the proposal is permitted pursuant to Clause 115(1) of *State Environmental Planning Policy (Infrastructure) 2007* which states:

“*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*”.

The provisions of *State Environmental Planning Policy (Infrastructure) 2007* prevail to the extent of any inconsistency with the *HLEP*.

5.1.11 Probity in Development Application Assessment

The site is owned by Council. In accordance with Council's adopted Policy ‘*Proposed Council Developments*’ an independent assessment of the development application has been undertaken by Peter Fryar – Key Urban Planning.

5.2 Public Agencies

The development application was referred to the following Agencies for comment:

5.2.1 NSW Rural Fire Service

The NSW RFS have considered the proposal and have raised no objection. The RFS recommend that a 10 metre inner protection area be maintained around the facility. Appropriate conditions of consent in accordance with the requirements of the Bushfire Protection Assessment report and NSW RFS are recommended in Schedule 1 of this report.

6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community by improving the mobile network coverage for local residents and commuters. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application involves the demolition of an existing flood light pole and the construction of a 30-metre free standing steel monopole, installation of three (3) Optus and three (3) Vodafone panel antennas, oval flood light on new pole, fencing and ancillary telecommunication equipment. The report deals with an amended proposal that involves the location of the facility on a different site within Normanhurst Park to that originally proposed in the application.

A total of 31 unique submissions have been received in respect of the application by way of objection. The matters raised have been addressed in the body of this report.

Having regard to the circumstances of the case, approval of the application is recommended. The reasons for this recommendation are:

- The proposal generally complies with the *Hornsby Local Environmental Plan 2013*, *State Environmental Planning Policy (Infrastructure 2007)*, *Telecommunications Act 1997*, *NSW Telecommunications Facilities Guideline 2010* and the *Hornsby Development Control Plan 2013*.
- The proposal would provide a positive impact on the local community and rail commuters by improving the mobile network coverage in the locality.
- The design, height and site location of the telecommunications tower is appropriate with respect to servicing the locality, lack of suitable colocation facilities in the locality and surrounding topography.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

RESPONSIBLE OFFICER

The consultant responsible for the preparation of this report is Peter Fryar – Key Urban Planning.

RECOMMENDATION

THAT Development Application No. DA/999/2019 for the installation of a telecommunications facility, provision for sports field lighting and ancillary equipment at Lot 19 DP 3468, No. 20X Harris Road, Normanhurst (Normanhurst Park) be approved subject to the conditions of consent detailed in Schedule 1 of this report.

SCHEDULE 1

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
S8687-P1 Revision 6	Site Access and Site Layout	GPS Global	24/02/2020	D07875522
S8687-P2 Revision 5	Draft site elevation	GPS Global	24/02/2020	D07875522
S8687-P3 Revision 1	Sediment and erosion control plan	GPS Global	15/07/2019	D07875522
S8687-P4 Revision 1	Sediment and erosion control plan	GPS Global	15/07/2019	D07875522

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Bushfire Risk Assessment Report: S86687	Backlash Consulting	6/03/20	D07875525

2. Section 7.12 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan –2019-2029*, \$2,500 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$250,000.

- b) The value of this contribution is current as at 28 April 2020. If this contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\frac{\$C_{PY}}{CPI_{DC}} = \frac{\$C_{DC}}{CPI_{PY}}$$

Where:

\$CPY is the amount of the contribution at the date of Payment

\$CDC is the amount of the contribution as set out in this Development Consent

CPIPY is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

CPIDC is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- c) The monetary contributions must be paid to Council:
- (i) Prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (ii) Prior to the issue of the first Construction Certificate where the development is for building work; or
 - (iii) Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or

Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

Note: It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's S94A Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

3. Construction Certificate

- a) A construction certificate must be approved by either Council or a Private Certifying Authority (PCA) prior to the commencement of any works on the site approved under this development consent.
- b) The plans submitted with the application for the construction certificate must not be inconsistent with the plans approved under this development consent.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Note: In addition to the conditions outlined in this section, further requirements are to be met to the satisfaction of Sydney Trains, which are outlined at the end of this document.

4. Sports Field Lighting

To ensure that the monopole contains adequate facilities to enable the affixation of Council's sport field lighting, provision must be granted for the following design elements prior to the issue of a construction certificate;

- a) The applicant must ensure that the monopole will facilitate Council supplied power cables through the inside of the pole so Council's sports field and lighting contractor can mount/install sports field lights, cross arm and cable at a height of 22m onto the Tower.
- b) Applicant is to remove and dispose of the existing steel light pole as part of the works.

5. Access Track

The access track must be designed in accordance with the following requirements:

- a) Minimum 3m wide,
- b) 25mpa concrete coloured 'Honeycomb'
- c) 200mm thick and with two layers of SL82 mesh.
- d) Fall away from the oval.
- e) Where adjacent to the netball court be widened to remove any open drain and be fully paved between the netball court fence and the oval fence.
- f) Where required the existing oval fence is to be relocated to ensure minimum access track width is provided.
- g) New fencing is to match the existing oval fencing

The design of the access track is to be submitted the Manager of Parks Trees & Recreation Hornsby Shire Council for written approval prior to the release of a construction certificate.

Note: Please contact Council via hsc@hornsby.nsw.gov.au "Attention Manager Parks, Trees and Recreation" to obtain written approval.

6. Sports Field Lighting

The telecommunications tower must be designed in accordance with the following requirements:

- a) The sports field lights are outside the EMF (Electro Magnetic Field) energy pattern of the telecommunications facility when installed at 22m on the pole.
- b) The facility does not require to be de-energised for Council to undertake maintenance works on the sports field lights and subsequent equipment.
- c) The Telecommunications Tower will facilitate Council supplied power cables and power through the inside of the pole to the sports field lights mounted on the pole at 22m.

- d) A certificate prepared by a suitably qualified person is to be provided to the Certifying Authority prior to the issue of a Construction Certificate confirming that the design of the telecommunications facility is in accordance with this condition of consent.

7. Building Code of Australia

All approved building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

8. Design and Construction - Bushfire Attack Category

- a) New construction must comply with the bushfire requirements outlined in the Bushfire Risk Assessment Report Ref: S867, prepared by Backlash Bushfire Consulting, dated 6 March 2020.
- b) A certificate prepared by a suitably qualified person is to be provided to the Certifying Authority prior to the issue of a Construction Certificate confirming that the design of the telecommunications facility is in accordance with this condition of consent.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

9. Park Access Licence

A separate application must be submitted to the Manager of Parks Trees & Recreation Hornsby Shire Council for a licence to access the park prior to commencement of any work. The application must be approved prior to any work commencing on site.

Note: Please contact Council via hsc@hornsby.nsw.gov.au "Attention Manager Parks, Trees and Recreation" to obtain a copy of the application form.

10. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
- i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) Showing the name of the principal contractor (if any) for any demolition or 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.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

11. Bushfire Management – Protection Zones

At the commencement of building works and in perpetuity, the property around the base of the proposed tower to a distance of 10 metres, shall be managed as an inner protection area (IPA).

The IPA must comprise

- a) Minimal fine fuel at ground level;

- b) Grass mowed or grazed;
- c) Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- d) Trees and shrubs located far enough from buildings so that they will not ignite the building;
- e) Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- f) Minimal plant species that keep dead material or drop large quantities of ground fuel;
- g) Tree canopy cover not more than 15%; and
- h) Tree canopies not located within 2 metres of the building;

12. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
- b) Could cause damage to adjoining lands by falling objects; and/or
- c) Involve the enclosure of a public place or part of a public place.
- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

13. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

14. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING CONSTRUCTION

15. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

16. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

17. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication *'Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997*.

18. Excavated Material

Any excavated material removed from the site must be classified by a suitably qualified person in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to an approved waste management facility and be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

19. Restoration

Applicant is to restore any areas of damage to the site from the work the site including but not limited to ensuring all trenches are flush with adjacent ground surfaces. Any trenching is to occur outside of the oval playing area.

20. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets because of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

21. Preservation of Survey Marks

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in

accordance with the Surveyor General's Direction No.11 – "**Preservation of Survey Infrastructure**".

22. Bushfire Protection Certification

To ensure the recommended bushfire mitigation measures were installed at the site, a certificate is to be prepared by a suitably qualified person and provided to the Certifying Authority, certifying that the site was constructed in accordance with the conditions of consent for bushfire protection prior to the issue of any Occupation Certificate for the site.

OPERATIONAL CONDITIONS

23. EME Report

A report is to be submitted to Council with measurement of EME levels in the vicinity of the site. The EME levels are to comply with the standard specified in the Australian Radiation Protection and Nuclear Safety Agency 2002 '*Radiation Protection Standard: Maximum exposure levels to Radiofrequency Fields – 3 kHz to 300 GHz*', Radiation Protection Series No 3. Mitigation measures are to be proposed to Council for implementation if levels are found to not comply with the standard. The report is to be submitted to Council within 30 days of commissioning the facility and be prepared by a suitably qualified person with relevant experience in EME measurement using the methodology developed by the Australian Radiation Protection and Nuclear Safety Agency.

Note: The report is to be sent electronically to Council's development mailbox at devmail@hornsby.nsw.gov.au

24. Telecommunications Facility

The telecommunications facility on the site must be operated in compliance with, but not limited to:

- a) Australian Radiation Protection and Nuclear Safety Agency's (ARPANSA) '*Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields - 3kHz to 300 GHz*', (2002).
- b) The Australian Communication Industry Forum Code (ACIF), Industry Code C564:2004, Deployment of Mobile Phone Network Infrastructure, (2002).
- c) The Australian Communications Authority (ACA), Radiocommunications (Electromagnetic Radiation - Human Exposure) Standard, (2003).

25. Council Sports Field Lighting

The following are required in relation the sports field lighting:

- a) Any sports field lights, cross arm, cable and all ancillary equipment installed on or inside the Telecommunications Tower will remain the property of Council.
- b) The sports field lights and ancillary equipment (e.g. cross arm and cable) may be worked on at any time by Council for maintenance purposes.

- c) The sports field lights will not be interfered with or disturbed for any reason by any person including power supply, for any reason other than in an emergency or with prior authorisation from Council.
- d) Council will be advised of any issues with the Telecommunications facility that may affect the operation of the sports field lights or any of the ancillary equipment as soon as an issue is identified.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act, 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* on 13 10 50.