

CONSULTANT ASSESSMENT REPORT

DA No:	DA/1117/2021 (Lodged on 22/10/2021)
Description:	Telecommunications Facility
Property:	Lot 73 DP10902, No. 4 Grantham Crescent Dangar Island Lot 3 DP597242, No. 6-10 Grantham Crescent Dangar Island
Applicant:	Telstra Corporation Limited
Owner:	Hornsby Shire Council
Estimated Value:	\$303,000

- The application involves construction of a 25m tall (26.4m including antennas) monopole with 6 (six) antennas, 1 (one) GPS antenna and ancillary works including ground-based cabinetry.
- 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 38 (thirty-eight) submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal is on land owned by Hornsby Shire Council and 10 or more unique submissions were received by way of objection. An independent assessment of the development application has been carried out by Octagon Planning.
- It is recommended that the application be approved.

BACKGROUND

Round 3 of the Federal Government's Mobile Black Spot Program has identified a need to improve mobile phone coverage on Dangar Island and the surrounding area.

Telstra investigated three "co-location" sites (sites with existing infrastructure that could be added to, along with seven "greenfield" sites on the island and one "greenfield" site on the mainland.

On Saturday 17 October 2020, Telstra held two community consultation sessions on Dangar Island and presented the potential sites, with a specific emphasis on four "greenfield" sites on the island - on top of the hill at Kiparra Reserve, near the basketball court in the park, on the community garden south of the bowling club, and south of the playground in the park. The subject site, east of the bowling club, was suggested by community members at these sessions and attracted considerable support.

It is noted that at the community consultation sessions there was considerable interest in "small cell" solutions for the island. Small cells are antennas of 60-100cm mounted on existing infrastructure such as light poles or tall houses. Telstra has carried out some assessments and determined that at least five (5) small cells would be required to provide the required coverage to the island. Small cells are not

covered by the Black Spot Program; funding is in place to provide coverage to Dangar Island under the Black Spot Program and therefore the proposal under the Development Application is a standard monopole within the parameters of the Black Spot Program.

SITE

The subject site is Numbers 4 and 6-10 Grantham Crescent, Dangar Island (Lot 73 DP 10902 and Lot 3 DP 597242). The two sites are currently occupied by Dangar Island Bowling Club. The club building straddles the boundary of the two sites, with approximately half of the building footprint on each lot. The bowling green is located in the south-western corner of the two sites on Lot 3 (No. 6-10). Also on Lot 3, south of the bowling club and east of the bowling green, is the community garden.

The combined site area is 3,115m². The site has an easterly frontage to Grantham Crescent and a southerly frontage to Barooka Street. The site is reasonably flat.

There are a number of trees on the subject site including in the vicinity of the development.

To the north of the development area is a group of trees up to 20m in height, beyond which is 2 Grantham Crescent, which contains a residence. East of the site is Grantham Crescent, beyond which are a number of residences at varying distances from the road. South of the development area is Grantham Crescent, with residences beyond. West of the development area is the community park which includes a community centre, playground and amenities building.

Dangar Island is only accessible by ferry or private boat. There are no private cars on the island; a community buggy and utility vehicle are the only vehicles permanently on the island.

PROPOSAL

The application proposes the construction of new telecommunications infrastructure comprising:

- one (1) new 25m tall (26.4m inc. antennas) monopole
- one (1) headframe at 25m with 6 antennas (each measuring 2.5m in length) on the monopole
- one (1) GPS antenna
- two (2) outdoor units (total measurement 3m long x 0.8m deep and 2.3m high) to sit adjacent to monopole pad/area
- an unfenced land area of approximately 25m² (subject to final foundation designs)
- landscaping along Grantham Crescent adjacent to the proposal location
- power extension from existing power in the Grantham Crescent road reserve

A separate Development Application is to be lodged for a fibre extension via undersea cable onto Dangar Island and from there through the road reserve to the proposed facility.

Two (2) trees would be removed by the development and one (1) other would be pruned.

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.

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.

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan, by providing additional infrastructure to support a growing population.

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 Telecommunications Legislation

Under the *Telecommunications Act 1997*, telecommunications carriers are no longer exempt from State and Territory planning laws except in very limited instances which do not apply to the current proposal. The Telecommunications Code of Practice 2018 authorises carriers to enter and inspect land and install and maintain facilities. Under the "best practice" provisions of the Code, the proposal will improve telecommunications and wireless internet coverage on Dangar Island while using the smallest configuration possible to reduce visual impacts. The Telecommunications (Low-impact Facilities) Determination 2018 lists telecommunications facilities that the Commonwealth will continue to regulate, and which are low impact and do not require planning approval. The current proposal does not fall under the Determination and must be approved under State planning legislation.

The Communications Alliance Ltd Code C564: 2020 Industry Code - Mobile Phone Base Station Deployment applies to low-impact facilities and does not apply to the current proposal; however, the applicant has demonstrated that the site has been selected and designed to comply with the requirements of the code by taking a precautionary approach and minimising public exposure to electromagnetic energy (EME).

2.2 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.

2.2.1 Zoning of Land and Permissibility

The subject land is zoned E4 Environmental Living (now C4 Environmental Living since 1 December 2021 under state-wide zoning changes) under the HLEP. The objectives of the zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To permit development that is compatible with the character, infrastructure capacity and access limitations of the area.*

The proposal is consistent with these objectives as it is development that increases infrastructure capacity within the access limitations of the area and is compatible with the character of the area.

The proposed development is defined as a telecommunications facility and is prohibited in the zone. However, as discussed in section 2.6, the Infrastructure SEPP, which takes precedence over the HLEP, allows development for telecommunications facilities to be carried out on any land with consent.

2.2.2 Minimum Lot Size

Clause 4.1 (minimum lot size) of the HLEP specifies a minimum lot size for the subject lots of 40 hectares. No subdivision is proposed so this development standard is not applicable.

2.2.3 Height of Buildings

Clause 4.3 of the HLEP provides 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. The maximum permissible height for the subject site is 8.5m. HLEP defines building height as:

- 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*
- 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.

The proposal is a communication device and is therefore excluded from the maximum building height control under HLEP. The proposal complies with this provision.

2.2.4 Floor Space Ratio

Clause 4.4 of the HLEP provides for a maximum Floor Space Ratio of 0.3:1 for the subject site. Floor Space Ratio is defined as the ratio of the gross floor area of all buildings within the site to the site area.

The combined site area of the bowling club site is 3,115m², which allows for floor space of approximately 934.5m². The existing bowling club is 209m². The proposal, being an unenclosed monopole, does not

have a floor area. Nonetheless, it is noted that the tower pad will have an area of 12.25m² so the total development on site would be well below the maximum permitted under Clause 4.4.

2.2.5 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. Clause 5.10(4) states that the “*consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned*”.

There are a number of heritage items in and around the subject site.

The subject site, 6-10 Grantham Crescent, forms part of Item No. 325 (Bowling Club/ Reserve), which also takes in the adjacent lot to the east at 15 Baroona Crescent (Lot 1 DP 597242).

Three items are located in the immediate vicinity:

- Item No. 323 - Pedestrian Street, Baroona Street (to the south of the site)
- Item No. 326 - Pedestrian Street, Grantham Crescent (to the east of the site)
- Item No. 327 - Blackbutt Trees, Grantham Crescent (to the east of the site)

One built item and three archaeological sites are located relatively nearby:

- Item No. 331 - Sandstone Tower, 9 Neotsfield Avenue (west of the site)
- Item No. A32 - Tyneside House, 8 Baroona Street (south-west of the site)
- Item No. A35 - Sandstone Tower, 9 Neotsfield Avenue (west of the site)
- Item No. A37 - “The Pavilion”, 9 Yallaroi Parade (north of the site)

The Statement of Heritage Impact accompanying the Development Application notes that although the proposal introduces “*a large visual element into a mature landscape setting which will have an inevitable visual impact on the surrounding heritage items*” it “*would not have a major adverse impact on the identified heritage values of the surrounding heritage items*”. The author concurs with this assessment. The proposed development is located in an area of Dangar Island in which many facilities of public benefit are co-located - community hall, bowling club, playground, basketball court, public amenities. The heritage significance of Item No. 325 (Bowling Club/ Reserve) is primarily derived from its social significance rather than any particular significance attached to built or landscape forms or appearances.

The proposed development’s visual impact on heritage items will be mitigated by the monopole being painted Mist Green, which will help it to blend into its surroundings, and by screen planting between the site and the street frontage. The ancillary outdoor units have been selected in preference to traditional equipment shelters and fencing which create more visual clutter, and, although close to the street frontage, are essentially located around the back of the bowling club and are not visible from the main public park areas.

The heritage referral from Council’s Principal Strategic Planner raised concerns with cabling works that would be required to facilitate the proposed development. However, the cabling works are subject to a separate approval/ legislation process. Council’s Principal Planner outlined that:

No heritage objections are raised with regards to the location of the proposed facility tower at 4-10 Grantham Crescent. While it would distract in some ways from the aesthetic of the park,

it is to be located in an area of minimal impact on the park's landscape values and will be screened and enclosed.

Heritage concerns are raised that the proper heritage evaluation and assessment of the associated cabling works may be bypassed and that assumptions with regards to the approval process may result in inadvertent adverse heritage impacts, statutory breaches, or challengeable outcomes. Consequently, it is recommended that should DA/1117/2021 be approved, that the Notice of Determination include an advisory note that requires the applicant to undertake a heritage impact assessment of the likely route and construction impacts of the cabling/service works. The advisory note should also require that the assessment is to be submitted to Council before construction specifications are finalised or any site works commence, so that Council can properly consider all heritage impacts, consult with relevant State agencies if required, and confirm the statutory assessment and approval pathway.

An advisory note is recommended in Schedule 1 of this report to make the applicant aware of the heritage requirements for any future application for the associated cabling.

2.2.6 Acid Sulfate Soils

The objective of Clause 6.1 Acid Sulfate Soils (ASS) of the HLEP is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Clause 6.1(2) provides that development consent must be granted under this clause for a range of works in Class 1 to 5 ASS. The site contains land identified to potentially contain Class 5 ASS.

The applicant provided laboratory results from the testing of ASS soils at the development site and provided an ASS work instruction document. Council's Environmental Protection Team assessed the supplied ASS material, as well as detail regarding the proposed earthworks on site, and concluded that the application does not require an acid sulfate soils management plan as it would be unlikely to comprise of any of the works listed in Clause 6.1(2). Notwithstanding the above, appropriate conditions were recommended by Council, in the event of encountering ASS are encountered during works. These conditions are recommended in Schedule 1 of this report.

2.2.7 Earthworks

Clause 6.2 of the HLEP states that consent is required for 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.

The proposal has been assessed by Council's Environmental Protection Team, who requested additional information regarding total depth of excavation works, total volume of excavated material and total land disturbance area, which will in turn be used to determine whether an Acid Sulfate Soils Management Plan and Sediment & Erosion Control Plan will be required. Correspondence from the applicant dated 17 December 2021 stated that this information would be forthcoming in February 2022.

The applicant supplied further detail regarding the earthworks on 21 April 2022. The further detail described the proposed earthworks as follows:

Following a detailed geotechnical investigation and preliminary structural designs, additional details on the extent and volume of excavation and land disturbance can be provided. The tower will use a bored pier footing design which will minimise the total land disturbance area and volume of concrete to be transported to the island.

- *Total depth of excavation: 6.5m below ground level*

- *Volume of soil to be removed: 15m³ (including cabling, outdoor units and pole foundation but excluding fibre to site and change from overhead power to underground by power authority)*
- *Volume of concrete to be used: 12m³*
- *Extent of land disturbance: 40m² (tower footings, outdoor units, additional pits) plus an additional 17m² for proposed landscaping and excluding fibre to site and change from overhead power to underground by power authority*

The above information was assessed by Council's Environmental Protection Team, who found the information sufficient and provided recommended conditions of development consent with are recommended in Schedule 1 of this report.

Subject to the imposition of these conditions, no objections are raised to the proposed earthworks on the subject site.

2.3 State Environmental Planning Policy No. 19 - Bushland in Urban Areas

State Environmental Planning Policy No. 19 Bushland in Urban Areas does not apply to the proposed development as the subject land is not zoned as open space under clause 4(2) of the SEPP.

2.4 State Environmental Planning Policy No. 55 - Remediation of Land

State Environmental Planning Policy No. 55 Remediation of Land (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.

A search of Council's records and aerial photos indicates the portion of the site where the facility would be located was undeveloped until the bowling club was constructed in 1956. No current contamination events are recorded for the site and the site does not appear on the Environmental Protection Agency 'List of Notified Sites'. 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.

2.5 State Environmental Planning Policy (Coastal Management) 2018

The subject site is identified as within Coastal Environment Area under State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP), which states, in Clause 13:

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

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- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

It is considered that the proposal will not have impacts on the natural environment other than tree removal (discussed in Section 2.10.2) and the visual impacts inherent in its form. The proposal is considered acceptable with regards to the coastal environment zone.

The site is identified as part of the coastal use area under Clause 14 of the Coastal Management SEPP, which states:

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that—*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

The proposed development will have no impacts on access to coastal areas, overshadowing, wind funnelling, loss of views, or Aboriginal cultural heritage, practices and places. There will be visual

impacts, as discussed elsewhere in this report. Impacts on cultural and built environment heritage are discussed in Section 2.2.5. The proposal is considered acceptable with regards to the coastal use zone.

2.6 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 sets out controls for various categories of infrastructure across New South Wales. Division 21 relates to telecommunications facilities. Clause 115 states that “*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*”. It is noted that Telstra is not considered to be a public authority so clause 114 does not apply. Telecommunications facility is 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.*

Clauses 116 and 116A set out parameters and development standards for telecommunications facilities to be carried out as complying development. However, as the subject site is zoned E4 Environmental Living, it does not meet the criteria for complying development and consent must be sought. Clause 115(3) states that:

Before determining a development application for development to which this clause applies, the consent authority must take into consideration 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.

With regard to this clause, the NSW Telecommunications Facilities Guideline including Broadband (July 2010) has been issued by the Director General. An assessment of the proposal against this guideline is provided below.

2.6.1 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 Ventia states that the facility has been located and re-designed to respond to the surrounding landscape in addition to community feedback. The original concepts proposed were for 30m monopoles; the selected location allows for a reduction in height to a 25m monopole. The proposal will not obstruct any significant views of heritage items or places, landmarks, streetscapes, vistas or panoramas. The facility has been designed without an equipment shelter or a fence to minimise visual impacts. The documentation states that the equipment associated with the facility will be housed in two small outdoor units which are proposed to be either Magnolia to blend in with the Bowling Club or Mist Green to blend in with the surrounding vegetation. Conditions of consent are recommended to ensure the monopole is painted Mist Green. There is substantial mature vegetation including tall trees around the development site which will mitigate visual impacts. Tree removal is limited to two trees (with pruning of one other tree). The proposal also includes landscape planting between the pole and the road reserve.

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) outlines how a number of potential sites were investigated and co-location was not possible as it would not provide sufficient coverage to actually remediate the Black Spot on the island. The proposed telecommunications lines will be a minimal run and will either be underground or through a new property pole adjacent to the facility.

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 Telstra using methodology developed by ARPANSA. It is important to note that due to the way that electromagnetic waves travel and spread out and the way that telecommunications facilities are designed to direct waves towards the horizon, EME levels vary with distance from the tower and are not necessarily highest in the immediate vicinity.

The EME report states that the maximum EME level calculated for the proposal is 0.76% out of 100% of the public exposure limit, 148m from the location. At 0-50m from the site the maximum EME level is 0.10%, and at 50-100m the level is 0.34%. The report also provides calculated EME levels at specific areas of interest including residences to the north, east, south and west of the site/park, the playground and the community centre. The maximum EME level across these sites is 0.87% for the residence west of the site.

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 site has been selected and the proposal has been designed to minimise clearing of vegetation, minimise impacts on existing structures, utilise existing roads and power and comply with the relevant regulatory frameworks of Commonwealth, State and Local governments. 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 in the guidelines.

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

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

The proposal's compliance with Part 1B.6.1 of HDCP is discussed in Section 2.10.2 of this report.

2.8 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2 - 1997)

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.

The subject site is mapped as scenic protection land under the SREP. Under Clause 16, consent is required for:

The following in scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only—

- (a) subdivision,*
- (b) clearing,*
- (c) erection of a structure greater than 50 sq m in area or over 1 storey in height,*
- (d) carrying out of works for the purpose of stabilising the riverbank.*

The SREP sets out the following matters which must be considered by the consent authority in the assessment of a development application:

- (a) The need to prevent large scale, high density or visually intrusive development on waterfront land or on slopes and ridgetops which are visible from the river or the surrounding visual catchment. (This requires consideration of the proposed form and siting of buildings, of the colours and building materials used, and of landscaping.)*
- (b) Whether the materials used in stabilising the banks are consistent with the scenic character of the area as described in the Scenic Quality Study.*
- (c) Whether the development will damage the banks of the river or creeks.*
- (d) Whether the development is adequately set back from the river.*
- (e) Whether it is necessary and appropriate to increase public recreational and visual access to the river.*
- (f) The need for conditions of consent to protect the scenic character, such as conditions requiring tree planting.*

(g) *Whether any proposed works will improve scenic quality by repairing degradation.*

With regard to item (a), the subject site is not on waterfront land, but it is visible from the river and the surrounding visual catchment. The location has been selected to minimise visual intrusion and the identification and selection of the subject site also allowed the height to be reduced by five metres. Visual impacts will be mitigated by the selected paint colour, Mist Green, and screen planting. With regard to item (f), conditions requiring replacement tree planting have been recommended in Schedule 1 of this report.

2.9 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.

2.10 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).

2.10.1 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 in the table 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 infrastructure to minimise electromagnetic radiation.	The submitted documentation confirms that the facility is designed as per the ACIF code. The application satisfactorily addresses alternative locations and demonstrates compliance with RF EME exposure limits.
7.3.1(b) Telecommunications facilities should be located: <ul style="list-style-type: none"> • on business and industrial sites, or 	There are no business or industrial sites on Dangar Island; the entire island is zoned C4 Environmental Living, with the exception of Kiparra Park, Bradleys Beach, the community park/playground and a small

<ul style="list-style-type: none"> • 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>area adjacent to the ferry wharf which are zoned RE1 Public Recreation, and the site of Dangar Island Depot, which is zoned B1 Neighbourhood Centre. There are no existing infrastructure sites on Dangar Island. The location is not within a significant vista. The facility is located on a lot that contains a listed heritage item, however it is not considered to have any impacts on that item. A number of locations were investigated for the proposed facility and the subject site chosen as it would, on balance, have the fewest impacts.</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>	<p>Alternative locations were considered however the closest co-location sites (Long Island, Patonga and Brooklyn) were obstructed by topography.</p>
<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>	<p>Alternative locations were considered however the closest co-location sites (Long Island, Patonga and Brooklyn) were obstructed by topography.</p>
<p>7.3.2(a)</p> <p>Telecommunications facilities should be designed in accordance with industry best practice.</p>	<p>The submitted documentation states that the facility will be designed and installed in accordance with industry best practice.</p>
<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>	<p>The proposed tower monopole will be painted Mist Green to help it blend into its surroundings. Screen planting will mitigate visual impacts at street level.</p>
<p>7.3.2(c)</p> <p>Ground level ancillary structures (such as equipment huts) should be screened with native landscaping.</p>	<p>Ancillary structures have been kept to a minimum and screen planting will mitigate visual impacts.</p>

2.10.2 Stormwater Management

Section 1C.1.2 of HDCP sets out desired outcomes and prescriptive measures for stormwater. The proposal comprises a very small area of concrete hardstand and will generate negligible stormwater runoff and is considered acceptable.

2.10.3 Waste Management

Section 1C.2.3 of HDCP sets out desired outcomes and prescriptive measures for waste management. A Waste Management Plan was submitted with the Development Application which satisfies the requirements of HDCP and is included as an approved supporting document in Schedule 1.

2.11 Section 7.12 Contributions Plan

Hornsby Shire Council Section 7.12 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

Section 1B.6 Tree and Vegetation Preservation of HDCP is made in accordance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP) and prescribes the trees and vegetation to which the Vegetation SEPP and/or Clause 5.10 of the HLEP applies and the applicable approval process.

The prescriptive measures of Part 1B.6.1 Tree Preservation of the HDCP state that:

- a) *“The prescribed trees that are protected by the Vegetation SEPP and/or Clause 5.10 of the HLEP and this section of the DCP include:*
- *all trees except exempt tree species in Hornsby Shire as listed in Table 1B.6 (a) or subject to a Biodiversity Offset Scheme,*
 - *all trees on land within a heritage conservation area described within the HLEP, and*
 - *all trees on land comprising heritage items listed within the HLEP.*
- b) *To damage or remove any tree protected under the HDCP is prohibited without the written consent of Council, except in accordance with the exemptions prescribed in this part (under the heading ‘Exempt Tree Work’).”*

On 21 April 2022, the applicant supplied amended plans detailing the presence of four trees in close proximity to the development area. Two of these trees, both native Lilly Pillies, would be removed by the proposed works. Whilst tree loss is identified as an irreversible environmental impact, the proposed tree removal is considered acceptable as:

- The trees to be removed are not visually prominent in the landscape.
- Relocating the tower would result in larger impacts to other nearby trees or cause the tower to impact on existing recreation facilities on the island.

- Lilly Pilly trees, whilst native, are not recognised as locally occurring natives on Dangar Island. Removal of the trees and replacement at a ratio of 3 to 1 locally occurring natives species may have a minor long term positive benefit and would assist in canopy renewal across the island.
- Tree Protection Measures can be implemented during construction to ensure that the health and longevity of trees located in the vicinity of the subject site are adequately protected during construction.

For the reasons outlined above, no objections are raised to the proposed tree removal, subject to the provision of replacement planting at a ratio of 3 to 1 and the implementation of tree protection measures during construction.

3.2 Built Environment

3.2.1 Built Form

With a total height of 26.4m, the telecommunications facility will be visible from various points on and around Dangar Island. As described above, the proposed location has allowed the height of the monopole to be reduced by 5m. The height of the monopole is the minimum possible to provide the required coverage while clearing topographical obstructions. The visual impacts are acceptable when considered against the essential service that the facility will provide. Further, as outlined in the body of the report, the tower will be painted Mist Green to assist in visually recessing the structure into the surrounding vegetated landscape. A condition of development consent is recommended in Schedule 1 of this report for the tower and all affixed antenna and devices to be green in colour. A further operational condition is applied to require any future additions to the tower to be painted Mist Green.

3.2.2 Construction and Maintenance Access

There are no private vehicles permanently located on Dangar Island. However, a permit system operated by Council allows vehicles to access the site. The Statement of Environmental Effects submitted with the application states that construction vehicles including a crane, elevated work platform, equipment and material truck, tool truck, standard utility vehicles and concrete truck would be required during construction. Permits for construction vehicles would be applied for as required. Vehicles and equipment will be barged to the island and then driven to the construction site. The Construction Management Plan submitted with the application provides detailed site layouts for each stage of the development: tree removal, excavation and foundations, pole and equipment installation, and site remediation and landscaping.

The Statement of Environmental Effects states that for ongoing maintenance the facility will require maintenance checks 2-3 times per year or as required (in the case of an electricity failure or similar).

3.3 Social Impacts

The proposed development is essential communications infrastructure that will have various positive social impacts. The community submissions on the proposal highlighted a number of social benefits including improved mobile coverage, emergency communication, and enabling commerce opportunities in regard to wireless payments. Further detail is provided in Section 5.1 of this report.

3.4 Economic Impacts

The proposed development will improve mobile phone and data coverage on the island which will have positive economic impacts for individuals and businesses.

4. SITE SUITABILITY

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

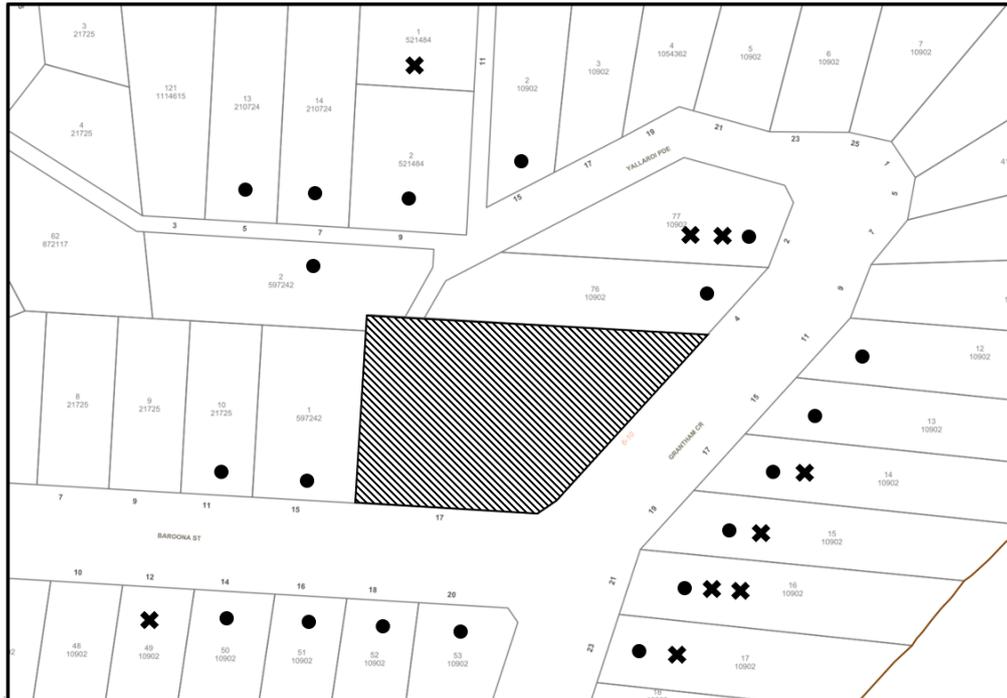
The subject site has not been identified as bushfire prone or flood prone land. The documentation submitted with the application describes a number of other sites that were considered and discarded due to inability to provide the required coverage, unacceptable impacts on Aboriginal heritage sites, unacceptable impacts on vegetation, lack of electricity infrastructure, and accessibility issues. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is considered acceptable.

5. PUBLIC PARTICIPATION

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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 25 October 2021 and 16 November 2021 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 38 submissions, with 21 supporting the application and 17 raising concerns with the proposal. It is noted that Council also received a Community Support Memorandum which listed the names of 113 individuals in support of the proposal. 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

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> ✕ SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
29 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

17 submissions objected to the development, generally on the grounds of:

- Visual impacts - addressed in Sections 2.6.1 and 2.10.1 of this report
- Health impacts - addressed in Sections 2.1 and 2.6.1 of this report
- Heritage impacts - addressed in Section 2.2.5 of this report
- Location of the facility - addressed in background and Section 2.10.1 of this report
- The proposal is not necessary as wifi and/or landlines can be used – addressed in Section 5.1.1 below
- Small cell options are preferred - addressed in Section 5.1.2 below
- Future upgrades and maintenance - addressed in Section 5.1.3 below
- Inconsistencies in documentation - addressed in Section 5.1.4 below
- Proposed landscaping - addressed in Section 5.1.5 below
- Devaluation of property - addressed in Section 5.1.6 below

21 submissions supported the development. While some submissions simply stated they were in support of the development, others provided compelling reasons for their support. The two primary reasons for supporting the proposal were:

- Emergencies - addressed in Section 5.1.7 below
- Working from home - addressed in Section 5.1.8 below

In addition to these concerns, it was also noted by the operator of the Brooklyn-Dangar Island Ferry service that full phone service was required to achieve the required transition to Opal (Transport for NSW) ticketing for passengers.

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

5.1.1 Need for the Proposal

Several submitters questioned the need for the proposal as people can use Wi-Fi to make calls or send messages. As demonstrated in Section 5.1.7 below, Wi-Fi is not always an acceptable solution, particularly in the case of emergency services and first responders. Wi-Fi may not be available during power outages.

5.1.2 Small Cells Preferred

Several submitters stated that small cell solutions were preferable to a monopole. No funding is currently available for small cell solutions and consequently the proponent has sought approval for a monopole, which is covered by a federal scheme to eliminate mobile blackspots.

5.1.3 Future Upgrades and Maintenance

Concern was raised that the facility would become a co-location facility in future. Council can only assess the content of the current development application rather than hypothetical future developments. One submitter was concerned about the frequency and intensity of maintenance. Correspondence from the applicant indicates that maintenance will be carried out 2-3 times annually.

5.1.4 Inconsistencies in Documentation

Submitters noted that the location of the pole and extent of tree removal was not consistent across all documentation submitted by the applicant. It was also claimed that the level of community support was misrepresented by the applicant. One submitter noted that Figure 17 in the SEE actually faced away from the proposed development. While such errors are unfortunate, they do not prevent a full and accurate assessment of the proposal, as provided in this planning report.

5.1.5 Proposed Landscaping

One submitter noted that there was no list of plant species native to the island in the documentation. Conditions of consent will be recommended requiring replacement planting to be species native to Dangar Island/ Hornsby Shire.

5.1.6 Property Devaluation

Several submitters raised objections that the proposal would devalue residences on the island.

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.

5.1.7 Emergencies

The majority of submissions in favour of the proposal cited emergency situations and public safety as a concern. Several submissions came from emergency service workers and first responders. A selection of comments is reproduced verbatim below.

Recently as the only [first responder] on duty I did not get an incoming 000 call. The missed call sms message came through the following day when I walked 500m down the road. I checked and this was a day when Telstra claimed to have had no interruption to their normal services. On another call-out when I did receive the initial call-out I was unable to contact NSW Ambulance to advise that we needed an urgent evacuation.

I am a [first responder] on Dangar Island and reliable communication is absolutely critical to our service. When our CFR service phone and/or personal mobiles hit a black spot during a call out, it's really scary. We need to be able to stay in contact with the Control Centre and with each other, to seek advice during challenging cases (one example was a preterm baby who had turned blue and we had difficulty getting oxygen into him), to find out when the police boat is arriving with paramedics, and to coordinate with each other.

Recently, due to the poor phone Reception at my home, I have both missed Firecalls and have only been made aware of them when a Crew Member has called at my house to make me aware of the Emergency. Luckily I only live 100m from the Fire Station which also has non existent mobile phone service.

When my elderly neighbour fell in her home and broke her hip a month ago, I had to leave her alone and head into the roadway to get phone coverage to put in a 000 call.

On Thursday last, I had to attend the monthly RFS Exec Zoom meeting while sitting on the slippery dip in the local park, in the rain as to have gone home would have caused me to lose connection.

I have a long history as the Equipment Officer for the Island RFS Brigade. It has always been a struggle to get a reliable mobile signal in the brigade shed and surrounding area. I have tried installing mobile boosters, but there is nothing to boost.

It is important to have good communication not only between brigade members but also between the brigade and the public we serve, particularly in an emergency situation.

Please note that the recently introduced formal RFS Call-out system (ACTIV) operated by Fire Control relies solely on our members having their own smartphone with the specialist app installed to call out members to a fire. No reception means no response, or a slow or poor response in an emergency. We also use a "WhatsApp" message group to follow up brigade members. All this requires reliable mobile reception to work efficiently.

Currently, mobile phone reception is patchy across the entirety of Dangar Island. The most affected areas work intermittently if at all, and requires the brigade to use several different call out processes such as internet, text messages, manual phone calls and a paging system in the hope that one form of contact will get through and we will have sufficient personnel to respond to an incident.

This naturally causes delays in putting together a crew to respond to an emergency services incident as well as causing difficulties in not having sufficient personnel numbers to deal safely and effectively with incidents when they occur.

These submissions clearly demonstrate that a fully functioning mobile phone network is necessary to ensure that emergency situations can be dealt with safely and effectively. As well as benefitting the general public, this would also remove a great deal of stress and anxiety for the emergency services personnel who can be sure that they can rely on the system.

5.1.8 Working from Home

A number of submitters raised issues around working from home. One submitter noted that the increase in the number of people working from home had exacerbated existing poor mobile coverage. Another submitter raised the point that the existing network issues caused problems with two-factor authentication (where a text message is sent to a mobile number to confirm that it is the correct account holder attempting to log into a website/ app) whereby they had to walk up the street to retrieve confirmation codes, then return to their computer.

5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

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 mobile phone coverage for Dangar Island. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes construction of a 25m tall (26.4m including antennas) monopole with 6 (six) antennas, 1 (one) GPS antenna and ancillary works.

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Council received 38 submissions during the public notification period. The matters raised have been addressed in the body of the report.

Having regard to the circumstances of the case, approval of the application is recommended.

The reasons for this decision 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 visitors by improving the mobile network coverage in the locality which will in turn have positive social and economic benefits and improve public safety and emergency response times.
- The design, height and location of the telecommunications facility is appropriate with respect to eliminating identified mobile black spots on the island, 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 officer responsible for the preparation of this report is Nicola Neil, an independent planning consultant at Octagon Planning.

RECOMMENDATION Consent

THAT Development Application No. DA/1117/2021 for a telecommunications facility at Numbers 4 and 6-10 Grantham Crescent, Dangar Island (Lot 73 DP 10902 and Lot 3 DP 597242) 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, 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
N111158 S1	Site Access/Locality Plan	Visionstream	30/07/2020	
N111158 S1-1	Site Layout Plan	Visionstream	30/07/2020	
N111158 S1-2	Antenna Layout	Visionstream	30/07/2020	
N111158 S1-3	Tree Details	Visionstream	30/07/2020	
N111158 S3	South Elevation	Visionstream	30/07/2020	
N111158 S3-1	Antenna Configuration Table	Visionstream	30/07/2020	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Environmental EME Report	Visionstream	17/12/2021	D08325981
Statement of Heritage Impact	RPS Group	06/10/2021	D08277001
Geotechnical Report 1211052-1	Civil Test	23/08/2021	D08276990
Waste Management Plan	Ventia	20/08/2021	D08276974

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*, **\$3,030** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of **\$303,000**.
- b) The value of this contribution is current as of 9 May 2022. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\text{\$C}_{PY} = \frac{\text{\$C}_{DC} \times \text{CPI}_{PY}}{\text{CPI}_{DC}}$$

Where:

\\$C_{PY} is the amount of the contribution at the date of Payment

\\$C_{DC} is the amount of the contribution as set out in this Development Consent

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

CPI_{DC} is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date of this Development Consent.

- c) The monetary contributions shall 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
 - (iv) 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.

Note: In accordance with Ministerial Directions, the payment of contribution fees for development with a cost of works of over \$10 million can be deferred to prior to Occupation Certificate.

Note: The Hornsby Shire Council Section 7.12 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 is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.
- b) The Construction Certificate plans must be consistent with the Development Consent plans.

4. Removal of Trees

This development consent permits the removal of tree(s) numbered T2 and T3 as identified on the Tree Details Plan, prepared by Visionstream, dated 30/07/2021.

Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013.

5. Appointment of a Project Arborist

- a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.
- b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Building Code of Australia

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

7. Construction Management Plan (CMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist and submitted to Council's Compliance Team via Council's Online Services Portal for review and written approval.

The CMP must include the following details:

- a) A Construction Traffic Management Plan (CTMP) including the following:

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- i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
 - ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - iii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
 - a. Public notification of proposed works;
 - b. Long term signage requirements;
 - c. Short term (during actual works) signage;
 - d. Vehicle Movement Plans, where applicable;
 - e. Traffic Management Plans;
 - f. Pedestrian and Cyclist access and safety.
 - v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
 - vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
 - vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
 - viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
 - ix) Swept path analysis for ingress and egress of the site for all stages of works.
 - x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
 - xi) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
 - xii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
 - xiii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
 - xiv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.

-
- xv) The source site location of any proposed fill to be imported to the site, for all stages of works.
 - xvi) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
 - xvii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- b) A Construction Waste Management Plan detailing the following:
- i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with *AS 2601–2001 – ‘The Demolition of Structures’*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- c) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
- i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.
 - iii) Location of dedicated material storage space on site outside of TPZ’s and SRZ’s for retained trees.
- d) A Construction Noise and Vibration Management Plan (CNMP) which includes:
- i) Existing noise and vibration levels within the proximity of the proposed development site.
 - ii) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
 - iii) The maximum level of noise and vibration predicted to be emitted during each stage of construction.
 - iv) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
 - v) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.

- vi) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- e) Identification of approved sediment and erosion control measures.
- f) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.

Note: The CMP must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the following menu options: Applications > New Applications > Under 'Application Types': Management Plans.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

8. Installation of Tree Protection Measures

- a) Trees to be retained must have tree protection measures for the ground, trunk and canopy installed to the satisfaction of the project arborist prior to the commencement of any works on site.
- b) Tree protection fencing for the trees to be retained numbered T1 and T4 must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings at setbacks to be defined by the project arborist.
- c) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.
- d) The circumference of the trunk(s) of T1 and T4 must be wrapped in hessian material to provide cushioning for the installation of timber planks.
- e) Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.

9. Relocation of Memorial Items within Building Footprint

Prior to commencement of any works, any memorial items located within the building footprint must be relocated within the park area, as per the requirements of Council.

Note: prior to the commencement of works, please contact council via devmail@hornsby.nsw.gov.au to arrange for the relocation of memorial items.

10. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which any approved work is being carried out:

- a) Showing the name, address and telephone number of the principal certifying authority for the work;
- b) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and

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

The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

11. 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; and/or
- 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.

12. 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.

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*.

13. Garbage Receptacle

- a) A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
- b) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- c) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- d) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

14. Prohibited Actions within the Fenced Tree Protection Zone

The following activities are prohibited within the approved fenced tree protection zones unless otherwise approved by Council:

-
- a) Soil cutting or filling, including excavation and trenching
 - b) Soil cultivation, disturbance or compaction
 - c) Stockpiling storage or mixing of materials
 - d) The parking, storing, washing and repairing of tools, equipment and machinery
 - e) The disposal of liquids and refuelling
 - f) The disposal of building materials
 - g) The siting of offices or sheds
 - h) Any action leading to the impact on tree health or structure

15. Maintaining the Health of Trees Approved for Retention

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for retained trees.

16. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with this consent for the duration of works.

17. Approved Works within Tree Protection Zone Incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 50mm.
- b) Approved excavations within the Tree Protection Zone of trees to be retained numbered not associated with installation of services must be undertaken as follows:
 - i) Excavations within the Tree Protection Zone of trees to be retained must be overseen by the AQF 5 project arborist for the first 1m undertaken manually to locate roots and allow for pruning in accordance with this consent.
- c) To minimise impacts within the Tree Protection Zone (TPZ) of trees on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection zones.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must utilise directional drilling only
OR
 - iii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.

- iv) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.
- d) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip and;
 - ii) Installation of geotextile fabric ground covering and;
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

18. 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.

19. 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*.

20. 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.

Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.

21. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, including natural rock-outcrops, vegetation, soil and watercourses must not be altered unless otherwise nominated on the approved plans.

22. Acid Sulfate Soils

Should acid sulfate soils be encountered during construction works, Council is to be notified immediately.

An Acid Sulfate Soil Management Plan, written in accordance with the *NSW Acid Sulfate Soil Manual 1998*, is to be submitted to Council for approval and implementation.

23. Landfill Not Permitted

The importation of fill material associated with earthworks, or structural or engineering works, is not permitted as part of this consent.

24. Compliance with Construction Management Plan

The Council approved Construction Management Plan must be complied with for the duration of works, unless otherwise approved by Council.

25. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

26. Unexpected Finds

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**27. Compliance with Acid Sulfate Soil Management Plan**

Should an Acid Sulfate Soil Management Plan be required for the site, a report is to be submitted to the PCA by a suitably qualified Environmental Consultant in consultation with a chartered Structural Engineer prior to the issue of an Occupation Certificate, confirming compliance with all recommendations as outlined in the Acid Sulfate Soil Management Plan.

28. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

29. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

30. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority

Tipping dockets for the total volume of excavated material that are received from the licensed waste facility must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

31. Finishes and Fixtures

- a) Prior to the provision of an occupation certificate for the subject site:
 - i) The tower and any affixed antenna or communication devices must be painted mist green to match the prevailing colour of the surrounding vegetation and reduce the visual impact of the monopole.

32. Replacement Tree Requirements

- a) The trees approved for removal under this consent must be offset through replacement planting of a minimum of 6 trees.
- b) All replacement plantings must be species native to Dangar Island and selected from the 'Trees Indigenous to Hornsby Shire (as of 1 September 2011)' document available for viewing on the Hornsby Council's website <http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees>
- c) The location and size of tree replacement planting must comply with the following:
 - i) All replacement trees must be located at locations pre-approved by Council and planted 4 metres or greater from the foundations of the approved development.
 - ii) The pot size of the replacement trees must be a minimum 45 litres.
 - iii) All replacement trees must be a minimum of 3 metres in height.
 - iv) All replacement trees must have the potential to reach a mature height greater than 15 metres.

OPERATIONAL CONDITIONS

33. 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 and marked to the attention of Council's Environmental Compliance Manager at devmail@hornsby.nsw.gov.au.

34. Telecommunications Facility

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

- i) Australian Radiation Protection and Nuclear Safety Agency's (ARPANSA) 'Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz', (2002).
 - ii) The Australian Communication Industry Forum Code (ACIF), Industry Code C564:2004, Deployment of Mobile Phone Network Infrastructure, (2002).
 - iii) The Australian Communications Authority (ACA), Radiocommunications (Electromagnetic Radiation - Human Exposure) Standard, (2003).
- b) Attachment of any additional antenna and replacement of any antenna, related infrastructure (excluding lightning rods) or portion of the tower must be pale eucalypt in colour.

35. Noise

All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

36. Maintenance, Replacement or Future Installation

To ensure an adequate level of visual reduction is maintained over the life of the telecommunications site:

- a) The telecommunications tower must be maintained in the approved mist green colour. Any significant discolouration from any deterioration of the telecommunications tower or any attached device must be rectified via the repainting or repair of the site to the approved green mist colouration.
- b) Any replacement parts affixed to the tower must be mist green in colour.
- c) Any additional communication devices attached to the telecommunications tower (including any colocation by third parties) must be mist green in colour.

- 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.workcover.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* Asbestos and Demolition Team on 8260 5885.

Future Works – Electrical Cabling / Fibre Optic Cabling

Council notes that future cabling works would be required to be undertaken to connect the site to the telecommunications network. The indicative route of the cabling indicates that it will pass through several heritage items and that it will be located in close proximity to several heritage items including archaeological items of heritage significance. There may be some potential to disturb Aboriginal objects as defined by the *National Parks and Wildlife Act 1974*. Council recommends that any future works involving cabling be informed by the completion of a Heritage Impact Assessment **prior** to any determination being made regarding the appropriate approval pathway. Council recommends completion of the following:

- a) A heritage impact assessment of any land within the route of, or likely to be impacted by, disturbance, trenching or other construction impacts of, or associated with, linked cabling/service works. The disturbance zone for the impact assessment should extend 1m either side of the likely pit/trench /cabling works curtilage. The assessment should include:

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- i) An assessment of impacts on all local heritage items to be directly impacted or which are adjacent to or in the vicinity of the proposed works
 - ii) An historical archaeological impact assessment undertaken according to applicable NSW Heritage NSW guidelines and requirements
 - iii) An Aboriginal cultural heritage Due Diligence Assessment undertaken according to applicable Heritage NSW guidelines and requirements for the cabling/service works at locations outside properties 4-10 Grantham Avenue
 - iv) Advice with regards to any statutory consequences and approval requirements under the *Telecommunications Act 1997*, the *Heritage Act 1977*, the *National Parks and Wildlife Act 1974* or State Environmental Planning Policy (Transport and Infrastructure) 2021 that may apply.