



Hawkesbury Local Planning Panel

Date of meeting: 17 April 2025
Location: By audio-visual link
Time: 10:00 AM

BUSINESS PAPER

HAWKESBURY LOCAL PLANNING PANEL

Table of Contents

Meeting Date: 17 April 2025

Table of Contents

1. PROCEDURAL MATTERS	4
Welcome	4
Attendance	4
Declaration of Interest	4
2. REPORTS FOR DETERMINATION	5
2.1.1. DA0561/24 - Telecommunications Facility - Lot 4 DP 38137, 81 Berambing Crest BERAMBING	5
3. REPORTS FOR ADVICE.....	47
3.1.1. CP - LEP001/25 - Slab Barns and Outbuildings Heritage Listing Planning Proposal	47

HAWKESBURY LOCAL PLANNING PANEL

1. PROCEDURAL MATTERS

Meeting Date: 17 April 2025

1. PROCEDURAL MATTERS

Welcome

The Chairperson will acknowledge the Indigenous Heritage and address the Hawkesbury Local Planning Panel meeting, mentioning:

- Recording of the Hawkesbury Local Planning Panel Meeting
- Statement regarding people addressing the Meeting

Attendance

Attending Panel members and Council staff members will be noted for the purposes of the Minutes.

Declaration of Interest

The Chairperson will ask for any Declaration of Interests from the attending Panel Members. These will then be addressed at the relevant item.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

2. REPORTS FOR DETERMINATION

2.1.1. DA0561/24 - Telecommunications Facility - Lot 4 DP 38137, 81 Berambing Crest BERAMBING

Directorate: City Planning

DEVELOPMENT INFORMATION

Development Application No.	DA0561/24
Date Received	4/12/2024
Proposal	Telecommunications Facility
Estimated Cost	\$230,000.00
Legal Description	Lot 4 DP 38137
Property Address	81 Berambing Crest BERAMBING
Area	6.63 Ha
Zoning	RU2 Rural Landscape
Applicant	Amplitel Pty Ltd
Owner	Anne and Mark McDonnell
Exhibition Dates	18/12/2024 – 15/01/2025
Submissions	Two (2) submissions
Recommendation	Approval, subject to conditions.

EXECUTIVE SUMMARY

1. Reason for Consideration by Local Planning Panel

In accordance with Section 9.1 – Directions by the Minister under the Environmental Planning and Assessment Act 1979, , the subject application is reported to the Hawkesbury Local Planning Panel for determination as the application involves a Clause 4.6 variation to the applicable maximum height development standard in excess of 10%.

2. Proposal

The development site is located at No.81 Berambing Crest, Berambing (Lot 4 DP 38137) and seeks consent for the construction of a telecommunications facility to host Telstra equipment. The proposal includes:

- Construction of new 40m high concrete monopole and an associated a triangular headframe atop the tower.
- Installation of six argus panel antennas, each 2.53m in length, at a height of 41.3m (or 42.7m at the Top of Antenna (TOA)).
- Ancillary installations include three radio unit boxes, three junction boxes, six TMA units, feeder cables, an Amplitel equipment shelter, cable ladders, GPS antenna atop the shelter, which will have a lease area of 119sqm defined by the proposed compound area.

- Planned compound area will be 47sqm (Approx.).
- Planned monopole with require a 4m to 5m excavation, which will form part of the equipment shelter's planned pier foundation
- One tree planned for removal to facilitate the proposed development.

Telstra regularly undertakes detailed assessments of the performance and coverage of its digital mobile telephone network to ensure the system is reliable and achieving the required objectives. Reference to customer demand also provides an indication of areas of poor performance or where coverage does not exist. During these assessments, Telstra identified that new mobile telephone coverage is required to provide 4G mobile coverage and traffic capacity in the Berambing area. Although the area may have intermittent Telstra mobile telephone coverage, the level of service is poor and Telstra's customers experience call 'drop-outs' and slower mobile broadband experiences. This is due to the capacity problems with the surrounding base stations and the lack of Telstra wireless services in the Berambing area. The number of calls a mobile telephone base station can transmit and receive at any one time is limited. Therefore, when customer demand exceeds a base station's capacity, an enhancement of the network is required.

Further, the proposal also seeks to introduce 4G mobile phone network to the local area. The new network will be operated in the 700 MHz and 2600 MHz frequency bandwidth and is a high-speed broadband service that allows for greater range of mobile phone services such as transmission for live video footage and faster data speeds for uploading and or downloading information between the internet and smart phones.

It should be noted that the proposed development has been predicated on the basis of a grant that was issued to Council by the Australian Government's Department of Industry, Science and Resources under its Black Summer Bushfire Recovery Grants Program. Council has received funding to facilitate development for a number of telecommunication facilities, including at this location, so as to improve mobile reception in this part of the Hawkesbury local government area.

Whilst the end date for this funding program lapsed on 31 March 2025, Telstra still seeks Development Consent which, if approved, will aim to be constructed through an alternate funding.

3. Permissibility

The subject site is zoned RU2 Rural Landscape under the *Hawkesbury Local Environmental Plan 2012 (HLEP 2012)*, with the proposed telecommunications facilities being prohibited development. However, the development application is made under the provisions of Clause 2.143(1) of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP)*, which permits the construction of telecommunications facilities to be carried out on any land.

4. Consultation

In accordance with Council's Community Participation Plan 2019, the Development Application was notified to adjoining properties from 18 December 2024 to 15 January 2025. During the notification period, two (2) submissions were received in response to the proposal.

The submissions did not raise objection to the proposal. One submission raised support for the proposal noting that it would significantly improve mobile coverage in the area. The second submission was received from Department of Defence (DoD) which requested that all tall structures be marked subject to meeting a threshold, including an overall height of 30m and 45m above ground level and within 30km of an aerodrome and elsewhere for RAAF, respectively. The proposal does not meet these thresholds.

As such, the issues raised in the submissions have been addressed.

5. Key Issues

The proposal seeks to vary Clause 4.3 Height of buildings, which is a development standard under HLEP 2012. The maximum permitted building height on the site is 10 metres. The proposed building height is 42.7 metres, which represents a numerical non-compliance of 327%. The application is supported by a written request to vary a development standard pursuant to Clause 4.6 of HLEP 2012.

RECOMMENDATION

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979:

- A. That the variation to Clause 4.3 Height of Buildings in the HLEP 2012 pursuant to Clause 4.6 be supported for the following reasons:
1. Strict compliance of the proposed telecommunication facility would render the proposed structure inadequate for the purposes of providing much-needed telecommunications coverage across the Berambing locality and the surrounding area.
 2. The surrounding landform consists of predominately single dwellings and outbuilding on large rural lots. The proposed built form is not considered excessive within the context of its setting.
 3. The proposal retains surrounding well-established canopy trees that effectively screens the bulk and scale of the structure from the wider area and consequently, would not have an adverse visual impact to the surrounding area.
 4. The proposed building height of 42.7 metres is not unreasonable in the circumstances of the development, which is warranted for a much needed facility that would improve mobile reception in the locality.
- B. That the Hawkesbury Local Planning Panel, exercising the function of the consent authority, approve development consent to DA0561/24 for the construction of a telecommunication facility on land at No.81 Berambing Crest, BERAMBING for the following reasons:
1. The proposed development is permissible by virtue of Clause 2.143(1) of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* and satisfies the requirements of all applicable planning controls;
 2. The proposed development is consistent with Section 4.14 of the EP&A Act with respect to the bushfire hazard;
 3. The proposed development would deliver improved coverage and capacity to the Berambing area and ensures sufficient mobile coverage during a potential natural disaster;
 4. The proposed development would be of a scale that would visually recede into the prevailing rural landscape and would not unreasonably impinge on the surrounding context;
 5. The development would not create unreasonable demands for the provision or extension of public amenities and services; and

For the reasons given above, approval of the application is in the public interest.

- C. That those who made a submission be advised of the decision made by the Hawkesbury Local Planning Panel.

BACKGROUND

1. Site Description & Conditions

The subject site is legally described as Lot 4 DP 38137, No. 81 Berambing Crest, Berambing.

The site is an irregular shaped allotment with an overall site area of 6.63 hectares and has an west facing primary frontage to Berambing Crest to the west, and an east facing secondary frontage to Bells Line of Road. The site falls approximately 30m to 40m to the north-east.

The site accommodates a single dwelling and ancillary structure. Vehicular access is gained via an unformed driveway from Berambing Crest. Two (2) dams are located to the south and north-east of the existing residence. The site is densely vegetated with an established tree canopy to the north, east and south of the site.

The site is located approximately 20.7km west of Kurrajong and 29.5km west of Richmond. The site is in a RU2 Rural Landscape zone and is surrounded by expansive rural lots within steep, undulating topography.



Figure 1 Aerial image of subject site outlined in green with the approximate location of the proposed telecommunications tower marked in blue

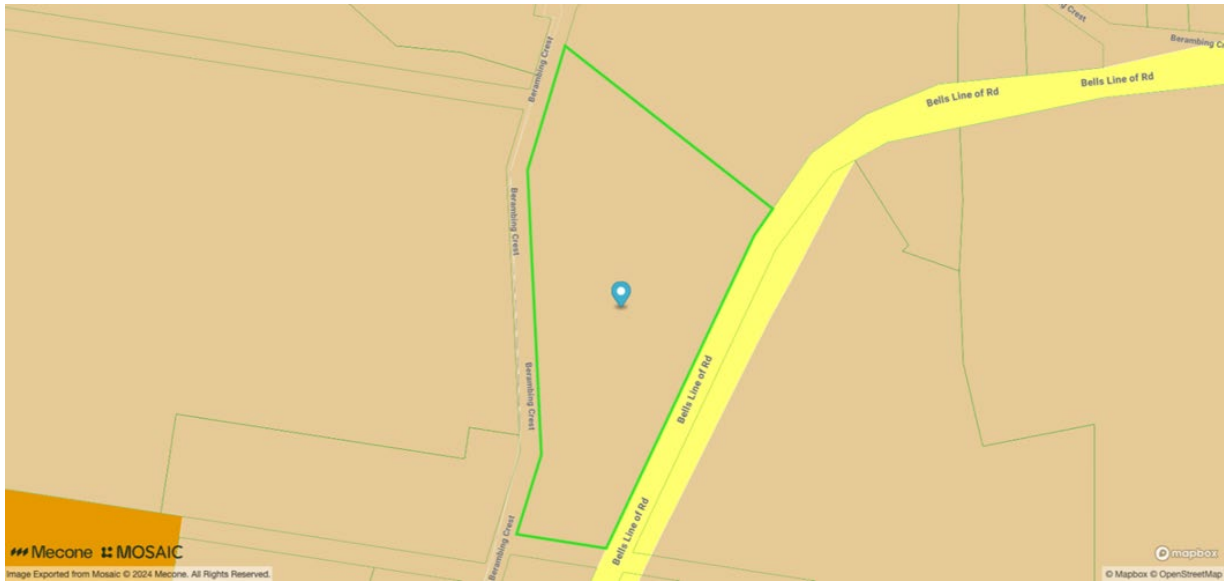


Figure 2 Zoning Map with subject site outlined in green

2. Relevant Site History

The site has not been subject to any previous development applications other than the current development application DA0561/24, which was lodged on 4 December 2024.

3. The Proposal

The proposal seeks consent for the construction of a telecommunications facility to host Telstra equipment. The proposal includes:

- Construction of new 40m high concrete monopole with an associated triangular headframe atop the tower.
- Installation of six argus panel antennas, each 2.53m in length, at a height of 41.3m (or 42.7m at the Top of Antenna (TOA)).
- Ancillary installations include three radio unit boxes, three junction boxes, six TMA units, feeder cables, an Amplitel equipment shelter, cable ladders, GPS antenna atop the shelter, which will have a lease area of 119sqm defined by the proposed compound area.
- Planned compound area will be 47sqm (Approx.).
- Planned monopole with require a 4m to 5m excavation, which will form part of the equipment shelters planned pier foundation
- One tree planned for removal to facilitate the proposed development.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

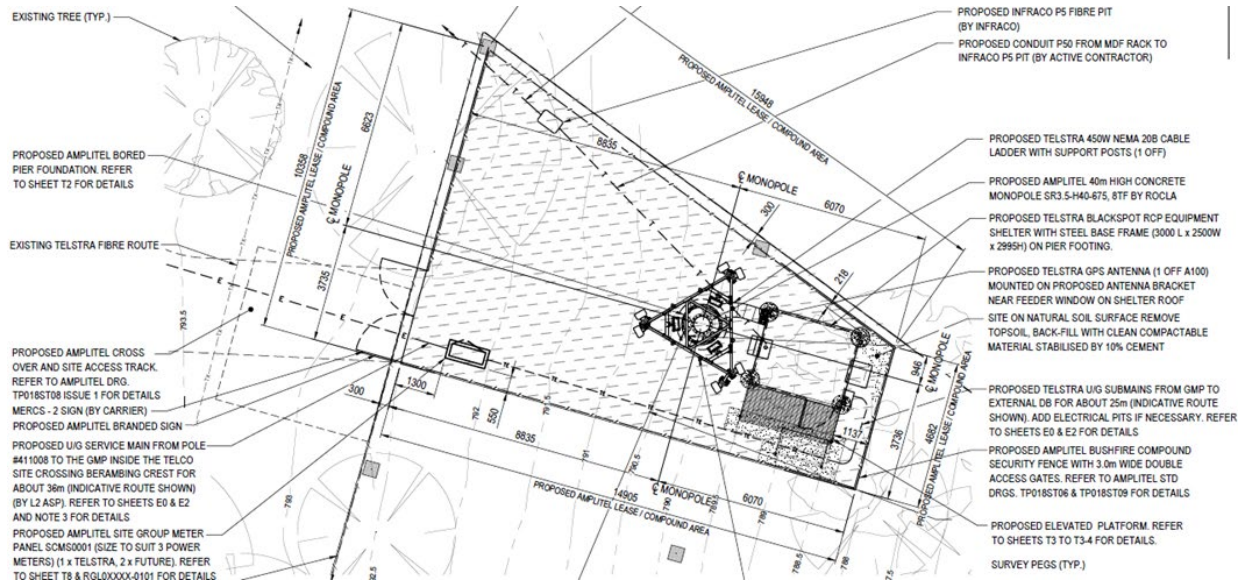


Figure 3 Site Setout Plan (Source: Decon Technologies)

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

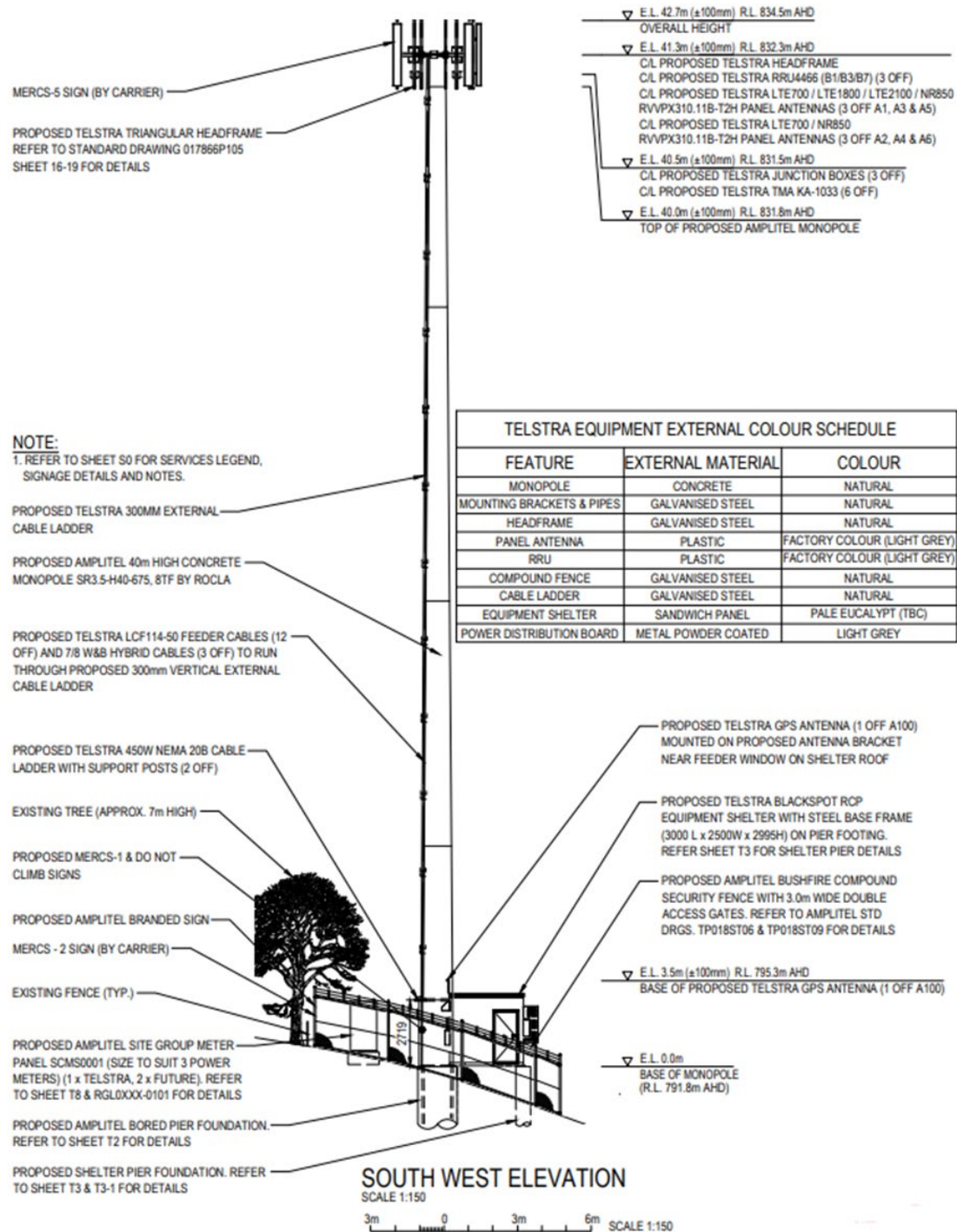


Figure 4 South-West Elevation Plan (Source: Decon Technologies)

It should be noted that the proposed development has been predicated on the basis of a grant that was issued to Council by the Australian Government's Department of Industry, Science and Resources under its Black Summer Bushfire Recovery Grants Program. Council has received funding to facilitate development for a number of telecommunication facilities, including at this location, so as to improve mobile reception in this part of the Hawkesbury local government area.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

Whilst the end date for this funding program lapsed on 31 March 2025, Telstra still seeks Development Consent which, if approved, will aim to be constructed through an alternate funding.

4. Relevant Application History

Date	Comment
4/12/2024	Application lodged into Council's system.
18/12/2024 – 15/01/2025	Neighbour notification period. Two (2) submissions were received during this period.
18/02/2025	A request for Information (RFI) issued to the applicant. The RFI requested an amended arboricultural impact assessment (AIA) due to inconsistencies between the AIA and plans submitted for approval. A revised AIA was submitted on 6 March 2025.

5. Referrals

Department	Comment
Building Surveyor	No objections, subject to conditions of consent.
Arborist	No objections, subject to conditions of consent.
Parks Officer	No objections, subject to conditions of consent.
NSW Rural Fire Service	No objections, subject to conditions of consent.

6. Environmental Planning and Assessment Act 1979

Section 4.14 of the Environmental Planning and Assessment Act 1979 states:

- Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority,
- is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or
- has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

The site is identified as bush fire prone land for the purposes of Section 10.3 of the Environmental Planning and Assessment Act 1979. The legislative requirements for building on bush fire prone lands are applicable.

The application is supported by a detailed Bushfire Assessment Report prepared by Building Code & Bushfire Hazard Solutions in accordance with the methodology and requirements of the Planning for Bushfire Protection 2019 (PBP 2019) and supporting NSW Rural Fire Service (RFS) policy.

The Bushfire Assessment Report provided recommendations that provide a reasonable level of bushfire protection to the subject development. Consequently, The proposal complies with the provisions of Section 4.14 of the Environmental Planning and Assessment Act 1979 and other relevant policies and standards, including PBP 2019 and AS3559-2018.

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021;
- State Environmental Planning Policy (Resilience & Hazards) 2021;
- State Environmental Planning Policy (Transport & Infrastructure) 2021;
- Hawkesbury Local Environmental Plan 2012 (LEP 2012);
- Hawkesbury Development Control Plan 2002 & 2023 (HDCP 2002 & 2023).

7.2 State Environmental Planning Policy (Biodiversity & Conservation) 2021

The State Environmental Planning Policy (Biodiversity & Conservation) 2021 (Biodiversity and Conservation SEPP) applies to the site.

Chapter 2 – Vegetation in Non-Rural Areas

The Biodiversity and Conservation SEPP regulates clearing that is not ancillary to development requiring consent. Whereas, clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process. The area of proposed works is in a predominately cleared area of the site. However, there are works located in proximity of existing trees, including within the road reserve. Council's consulting arborist had reviewed the proposed works and amended Arboricultural Impact Assessment and provided the following comments:

This assessment considers the proposed impact on existing trees as part of a Development Application (DA) for the construction of a 40m telecommunication monopole, associated equipment and tree removal at 81 Berambing Crest, Berambing. As part of this assessment, a site inspection was undertaken by James Hume-Grimm (AQF Level 5 Arborist) on 15 January 2025.

It is noted that this assessment follows a preliminary review completed by CPS dated 22 January 2025 from which concerns were raised with anticipated 'major' impacts to existing Council Street trees.

While the updated Arboricultural Impact Assessment (AIA) prepared by Arboriculture Consultancy Australia has referenced the current Site Setout Plan, the impact summary and discussion have not been revised to provide a comprehensive assessment of the proposed impacts.

Following a comprehensive assessment by CPS, the proposed removal of one (1) site tree (Tree 8) has been supported. Elsewhere, the proposed retention of eight (8) trees (Trees 1-7 & 9) is also supported pending compliance with the detailed tree protection conditions contained within Section 4.1.

Chapter 6 – Water Catchments

Chapter 6 of the Biodiversity and Conservation SEPP generally aims to improve water quality and river flows, protect and enhance the environmental quality of water catchments and ensure consistency with local environmental plans and principles of ecologically sustainable development. The site is mapped as being located within the Hawkesbury-Nepean Catchment. The proposal has been designed to avoid adverse impact upon water quality and river flows. The proposal maintains the existing landscaped character of the site, including retaining existing native vegetation including canopy trees to enhance the site's environmental qualities. The proposal has been designed to respond to the surrounding site context, environmental considerations to ensure the principles of ecologically sustainable development are demonstrated.

The proposal has been considered against Clause 6.13 of the SEPP. The proposal is not considered to cause interference with the sub-catchment or create adverse impacts to the structure and floristics of native vegetation. The subject site contains existing residential development, with the proposed alterations and additions not considered to create detrimental scenic quality impacts.

Part 13.4 – Strategic Conservation Planning

The development does not include the removal of native vegetation in order to accommodate for the proposed works. The proposal is not considered to create adverse impacts to any significant vegetation in the immediate area and will not cause detrimental impacts to the ecological function of the locality.

7.3 State Environmental Planning Policy (Resilience and Hazards) 2021

The State Environmental Planning Policy (Resilience and Hazards) 2021 applies to the site.

Chapter 4 – Remediation of Land

The aims of this chapter are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. In accordance with this chapter, Council must consider if the land is contaminated, and if it is contaminated, if the land is suitable for the proposed use.

The proposal includes the construction of a telecommunications facility. Minimal earthworks are proposed as part of this application. Given the existing use of the subject site and, in particular the proposed lease area previously used for the purposes of a telecommunications facility, as well as no previous application records indicating potential contamination, there is no specific evidence that indicates the site is contaminated. This is considered to be acceptable in this instance.

7.4. State Environmental Planning Policy – Transport and Infrastructure 2021

The relevant matters to be considered under Chapter 2 of State Environmental Planning Policy – Transport and Infrastructure 2021 for the proposed development outlined below:

“Division 21 Telecommunications and other telecommunication facilities

Clause 2.143 Development permitted with consent

- *Development for the purposes of telecommunications facilities, other than development in section 2.141 or development that is exempt development under section 2.20 or 2.144, may be carried out by any person with consent on any land.*
- *Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities*

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.”

The proposal has been considered against the NSW Telecommunications Facilities Guideline, Including Broadband (October 2020). Compliance with the requirements specified within this guideline is addressed below:

	Compliance with NSW Telecommunications Facilities Guideline
Principal	Response
	Principle 1 – Design and site telecommunications facilities to minimise visual impact
(a) As far as practical, integrate a telecommunications facility that is mounted on an existing building or structure with the design and appearance of the building or structure.	Not applicable given the proposal is for a new telecommunications facility.
(b) Minimise the visual impact of telecommunications facilities, reduce visual clutter (particularly on tops of buildings) and ensure physical dimensions (including support mounts) are sympathetic to the scale and height of the building to which it is to be attached and to adjacent buildings.	<p>The proposal is supported by a detailed visual impact assessment.</p> <p>The VIA considers the densely vegetated surrounds which help to obscure the proposed tower and mitigate any visual impact as viewed from surrounding land.</p> <p>The applicant provides the following comment in relation to the visual impact of the tower:</p> <p>Given that the proposed pole height will be 40m above natural ground level, surrounded by mature vegetation; it is anticipated that the visual impacts will have a negligible effect to the surrounding area. See view that is 48.53m south facing north towards the proposed site on Berambing Crest.</p> <p>In this regard, the proposal is considered satisfactory.</p>
(c) If a telecommunications facility protrudes from a building or structure and is predominantly seen against the sky, either match the prevailing colour of the host building or structure or use a neutral colour such as pale grey.	<p>The proposal is a standalone structure made of concrete.</p> <p>Antennas and ancillary equipment on the headframe will be a neutral grey colour to best blend with the sky background.</p>
(d) Where possible and practical, screen or house ancillary facilities using the same colour as the prevailing background and consider using existing vegetation or new landscaping.	The proposed equipment shelter will be screened by existing vegetation to best blend with the vegetation at ground level. Additionally, it will be finished with neutral colouring to further reduce the impact.
(e) Locate and design a telecommunications facility in a way that responds to its setting (rural, residential, industrial, or commercial).	The telecommunications tower has been located and designed to mitigate its impact on the visual setting which is predominately rural. By retaining most established vegetation, the impact on the rural setting is appropriately minimised.
(f) Site and design a telecommunications	Not applicable.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	Compliance with NSW Telecommunications Facilities Guideline
facility located on or adjacent to a listed heritage item or within a heritage conservation area with external colours, finishes and scale sympathetic to the heritage item or conservation area.	
(g) Locate telecommunications facilities to minimise or avoid obstructing significant views of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.	The proposal will not obstruct any significant views, vistas, heritage items, landmarks, panoramas or generate any adverse visual impacts for the surrounding land uses.
(h) Consult with relevant council when proposing pruning, lopping, or removing any tree or vegetation. Obtain a tree preservation order, permit or development consent if required.	Not applicable.
(i) Remove redundant telecommunications facilities and restore the site to the condition it was in prior to the facility's construction.	Not applicable.
(j) Remove redundant components of existing facilities after upgrades.	Not applicable.
(k) Where possible, consolidate telecommunications facilities to reduce visual clutter and work with other users on co-location sites to minimise cumulative visual impact.	The applicant has provided detailed information in relation to the site selection process which was undertaken in determining the most suitable location for the tower. During this process, co-location options were considered, but were non-existent due to the options not providing the required coverage objectives. It is noted that once deployed the new monopole provides opportunities for other carriers, providers, and most importantly emergency service organisations to collocate in the future.
(l) Accord with all relevant industry design guides when siting and designing telecommunications facilities.	The siting and design of the proposed telecommunications facility is generally compliant with the New South Wales Telecommunications Facility Guideline, as released by the NSW Department of Planning and Environment.
(m) Assess potential visual impact in alternative site assessments.	An assessment of the visual impact accompanies the DA submission which also considered alternate sites. The proposed location was considered most appropriate.
	Principle 2 – Co-locate telecommunications facilities wherever practical
(a) As far as practical, locate telecommunications lines underground or within an existing underground conduit or duct.	All proposed conduits will be installed underground.
(b) Where practical, co-locate or attach overhead lines, antennas and ancillary telecommunications facilities to existing buildings, public utility structures, poles, towers or other radiocommunications equipment to minimise clutter.	It is considered that there are no suitable co-location opportunities within the subject area.
(c) Consider extending an existing tower as a practical co-location solution to new towers.	Not applicable.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	Compliance with NSW Telecommunications Facilities Guideline
(d) Demonstrate that co-location is not practicable ¹ if choosing not to co-locate a facility.	It is considered that there are no suitable co-location opportunities within the subject area.
(e) If choosing to co-locate, design, install and operate a telecommunications facility so that resultant cumulative levels of radio frequency emissions are within the maximum human exposure levels set out in RPS S-1.	Not applicable.
	Principle 3 – Meet health standards for exposure to radio emissions
(a) Design, install and operate a telecommunications facility so that maximum human exposure levels to radiofrequency emissions comply with RPS S-1 (see Appendix C).	It is the legal obligation for any carrier to ensure that any telecommunications equipment is operated within the human exposure limits within the Radio Protection Standard. The maximum human exposure levels have been calculated to be 0.34% of the public exposure limit.
(b) Using the format required by ARPANSA, report on predicted levels of EME surrounding any development covered by the Industry Code C564:2020 Mobile Phone Base Station Deployment, and how the development will comply with ACMA safety limits and RPS S-1.	An EME Environmental Report has been included within the supporting documentation. The EME Environmental Report is in accordance with the format prescribed by Australian Radiation Protection Nuclear Safety Agency.
	Principle 4 – Minimise disturbance and risk, and maximise compliance
(a) Ensure the siting and height of a telecommunications facility complies with the of the Commonwealth Civil Aviation Regulations 1998 and Airports (Protection of Airspace) Regulations 1996. Avoid penetrating any obstacle limitation surface (OLS) shown on a relevant OLS plan for an aerodrome or airport (as reported to the Civil Aviation Safety Authority) within 30 km of the proposed development.	The proposal is compliant with the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996. The proposal does not penetrate any Obstacle Limitation Surface.
(b) Ensure no adverse radio frequency interference with any airport, port or Commonwealth defence navigational or communications equipment, including the Morundah Communication Facility, Riverina	The proposed equipment at the subject site is licensed as per ACMA regulations. As a result, there is to be no interference with other civil and military communications facilities.
(c) Carry out the telecommunications facility and ancillary facilities in accordance with any manufacturer's installation specifications.	The proposed equipment is to be installed as per the manufacturer's specifications.
(d) Protect the structural integrity of any building or structure on which a telecommunications facility is erected.	Not applicable.
(e) Erect the telecommunications facility wholly within the boundaries of a property as approved by the relevant landowner.	The proposed 119sqm lease area is to be located within the boundaries of the lot and will not encroach on surrounding property boundaries.
(f) Ensure all construction of a	The construction of the proposal is to adhere to

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	Compliance with NSW Telecommunications Facilities Guideline
telecommunications facility accords with Managing Urban Stormwater: Soils and Construction – Volume 1 (Landcom 2004), or its replacement.	and comply with the regulations set out within the Blue Book – ‘Managing Urban Stormwater: Soils and Construction’ (Landcom 2004). Conditions will be applied.
(g) Mitigate obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction.	The site is not generally accessible by pedestrians or vehicles, and will be fenced during construction.
(h) Where practical, carry out work at times that minimise disruption to adjoining properties and public access and restrict hours of work to 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.	Construction works will be conducted between 7.00am and 5.00pm, Mondays to Saturdays or as per the recommended hours stipulated by conditions of consent.
(i) Employ traffic control measures during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads.	Any required traffic control will be conducted in accordance with the relevant Australian Standard S S1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads
(j) Guard open trenching in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.	Open trenching for the installation of underground power and fibre will be executed in compliance with the Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.
(k) Minimise disturbance to flora and fauna and restore land to a condition similar to its condition before the work was carried out.	Not applicable.
(l) Identify any potential impacts on threatened species and communities in consultation with relevant authorities and avoid disturbance to identified species and communities where possible.	There will be no impact on threatened species or communities.
(m) Identify the likelihood of harming an Aboriginal place and/or Aboriginal object and obtain approval from the Department of Premier and Cabinet if the impact is likely, or Aboriginal objects are found.	Not applicable.
(n) Reinstate, at your expense, street furniture, paving or other facilities removed or damaged during construction to at least the same condition as that prior to installation.	Not applicable.
	Principle 5 – Undertake an alternative site assessment for new mobile phone base stations
(a) Include adequate numbers of alternative sites in the alternative site assessment as a demonstration of good faith.	A detailed site selection process was undertaken by the applicant and accompanies the DA submission.
<ul style="list-style-type: none"> In addition to the new site selection matters in Section 4 of the Industry Code C564:2020 Mobile Phone Base Station Deployment: only include sites that meet coverage 	<p>The applicant has provided the following comments in relation to the site selection process.</p> <p>“proposing a new telecommunications facility at Candidate E of (Lot 4DP38137), offers a suitable</p>

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	Compliance with NSW Telecommunications Facilities Guideline
<p>objectives, and that have been confirmed as available, with an owner agreeable to having the facility on their land.</p> <ul style="list-style-type: none">• if the preferred site is a site owned by the Carrier, undertake a full assessment of the site.• indicate the weight placed on selection criteria.• undertake an assessment of each site before any site is dismissed.	<p>location for a new tower facility that will preclude the requirements of significant tree clearing and that the land offers readily available power access, which minimizes the need for further tree clearing. In this instance, Telstra were able to design a facility that would only require a 40m structure. Therefore, Candidate E was selected.”</p>

The proposed development has demonstrated its consistency to the *NSW Telecommunications Facilities Guideline, Including Broadband (October 2020)*.

8. Hawkesbury Local Environmental Plan 2012

The relevant matters considered under the HLEP 2012 for the proposed development are outlined below:

8.1. Clause 1.2 Aims of plan

“(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

- *to provide the mechanism for the management, orderly and economic development and conservation of land in Hawkesbury.*
- *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- *to protect and enhance the natural environment in Hawkesbury and to encourage ecologically sustainable development,*
- *to conserve and enhance buildings, structures and sites of recognised significance that are part of the heritage of Hawkesbury for future generations,*
- *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups in Hawkesbury,*
- *to encourage tourism-related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.”*

The proposal is considered to align with the aims of the plan under Clause 1.2(b)(c)(d).

8.2. Clause 2.3 Zone objectives and land use table

The site is zoned RU2 Rural Landscape under the HLEP 2012. The objectives of the RU2 zone are as follows:

- *“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 restrict development on land that is inappropriate for development because of its physical characteristics or bushfire risk.*
- *To ensure that land uses are compatible with existing infrastructure, services and facilities and with the environmental capabilities of the land.*
- *To encourage existing sustainable agricultural activities.*
- *To ensure that development does not create or contribute to rural land use conflicts.*
- *To promote the conservation and enhancement of local native vegetation, including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.”*

The proposed development is considered to be reflective of the above objectives.

‘Telecommunications facility’ is defined pursuant to HLEP 2012 as follows:

“telecommunications facility means—

- *any part of the infrastructure of a telecommunications network, or*
- *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*
- *any other thing used in or in connection with a telecommunications network.”*

The proposed development is best described as a ‘telecommunications facility’, which is prohibited in the RU2 zone under the HLEP 2012; however, as noted above, the proposal is permitted with consent under the Transport and Infrastructure SEPP.

Clause	Comment
	Part 4 – Principal development standards
4.1 Minimum subdivision lot size	The application does not include subdivision works.
4.2 Rural subdivision	N/A
4.3 Height of buildings	The maximum permitted building height on the site is 10 metres. The proposed building height is 42.7 metres, which represents a numerical non-compliance of 327%. The application is supported by a written

HAWKESBURY LOCAL PLANNING PANEL**2. REPORTS FOR DETERMINATION****Meeting Date:** 17 April 2025

Clause	Comment
	request to vary the development standard pursuant to Clause 4.6 of HLEP 2012 which is discussed later in this report.
4.4 Floor Space Ratio	There is no nominated FSR for the site.
4.6 Exceptions to development standards	The proposal seeks a variation to Clause 4.3, as above. A Clause 4.6 Written Request has been submitted by the applicant. A detailed assessment can be found further below.
Part 5 – Miscellaneous provisions	
5.1A Development on land intended to be acquired for public purposes	The deposited plans do not demonstrate that the site is or will be subject to future land acquisition.
5.10 Heritage conservation	Not applicable.
5.11 Bush fire hazard reduction	The site is mapped as being located on bushfire prone land. The DA was referred to NSW Rural Fire Service who had issued conditions of consent.
5.21 Flood planning	Not applicable.
Part 6 – Additional local provisions	
6.1 Acid sulphate soils	Not applicable.
6.2 Earthworks	Council's Development Engineers have reviewed the proposed earthworks involved and support the application subject to the imposition of conditions.
6.6 Development in areas subject to aircraft noise	The site is not considered to fall within the vicinity of the RAAF base Richmond.
6.7 Essential services	The subject site is appropriately serviced. The nature of the development will not place unnecessary strain on these services.

9.3 Clause 4.6 Exceptions to development standardsDescription of non-compliance

Development Standard:	Clause 4.3 - Building height
Requirement:	10 metres
Proposed:	42.7 metres
Percentage variation to requirement:	327%

Assessment of request to vary a development standard:

The variation sought to Clause 4.3 maximum height of building is considered having regard to the provisions contained in Clause 4.6 of the Hawkesbury Local Environmental Plan 2012 as follows:

The following assessment of the variation to maximum building height under Clause 4.3 of the Hawkesbury Local Environmental Plan 2011, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

Clause 4.6 Exceptions to development standards:

- *The objectives of this clause are as follows:*
- *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause."*

Comment:

The Clause 4.3 Height of buildings development standard is not expressly excluded from the operation of this clause.

- *"Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- *Development consent must not be granted for development that contravenes a development standard unless:*
- *the consent authority is satisfied that:*
- *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- *the concurrence of the Secretary has been obtained."*

Clause 4.6 (3) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are considered as follows:

- *that compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

The Applicant's written request states that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case on the following grounds:

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

"The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary. Commonly, the building height limit of an area is in place to ensure the scale and bulk of development is kept in line with the locality in which it is being proposed. This applies specifically to low density residential dwellings in a rural landscape in the Berambing area. As an uncommon development type, mobile telecommunications facilities fall foul of height limits within almost every CBD, suburban, urban, regional, and rural environment. In this instance, the zoning of the subject land parcel is rural landscape zone, and while the building height restriction would usually apply to any new low-density dwellings, it is impossible to define a telecommunications facility as a low-density residential dwelling in a rural landscape (i.e. environmental living) use. As such, it is considered that the height of buildings development standard is not relevant and is unnecessary.

The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable. It is the inherent nature of a telecommunications facility that they be of a height that is above the area which it intends to service. As such, it is almost never the case that a telecommunications facility can adhere to Council building height limits.

For a telecommunications facility to operate, it is necessary to have a height that allows the antennas to provide coverage services above and over the existing landforms and developments. As a single telecommunications facility is intended to service as wide an area as is possible, height is necessary to achieve this. Should a facility be only slightly higher than surrounding elements in the environment, it will not provide service to a wide area, and numerous facilities will be required to service the area. Essentially, it is not feasible or practical to have a telecommunications facility that would adhere to the height limit as described in the Hawkesbury LEP 2012. The limit of 10m in the proposed site location would provide no services to the surrounding area. Therefore, the much-needed required proposed upgrade increases the structure height to 40m to adequately service the wider area. The proposed height ensures that Telstra's Network objectives can be met in the surrounding area, both now and into the future."

Council response

This assessment concurs with the justification provided by the applicant above. To require strict compliance in the case of the proposed telecommunication facility would render the proposed structure inadequate for the purposes of providing much-needed telecommunications coverage across the Berambing area.

- that there are sufficient environmental planning grounds to justify the contravention of the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*"As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act."*

Section 1.3 of the EPA Act reads as follows:

"1.3 Objects of Act (cf previous s 5)

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

The objects of this Act are as follows:

- *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- *to promote the orderly and economic use and development of land,*
- *to promote the delivery and maintenance of affordable housing,*
- *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- *to promote good design and amenity of the built environment,*
- *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- *to provide increased opportunity for community participation in environmental planning and assessment."*

The applicant's written request states:

"It can be reasonably assumed that the Height of Buildings development standard has not been formulated with the intention of limiting the provision of mobile telecommunications services. Rather, its intent is outlined in the standards objectives, which relate primarily to building development. In this instance, the contravening of the Height of Buildings development standard is necessary to ensure the provision of vital, and often considered essential, services to the surrounding community.

The proposed telecommunications facility at 81 Berambing Crest, Berambing NSW, will form an integral part of the mobile telecommunications network in the greater Hawkesbury area. The new facility will deliver improved coverage and capacity to the Berambing area. This deployment is part of the Federal Government initiative, Black Summer Bushfire Recovery Program, and ensures sufficient mobile coverage during a potential natural disaster, including bushfire and flood, while enabling connection into the surrounding existing and proposed network.

The proposed facility is considered appropriate for the subject site regarding environmental planning grounds. Further the proposed facility is defined as critical infrastructure and the following items have been listed for you on a merit based consideration of the project:

- *The use of a monopole with minimal bulk ensures that visual impact is significantly mitigated;*

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

- *The proposal is consistent with the relevant provisions of the Hawkesbury LEP and Development Control Plan (DCP) 2023, by siting the facility within a rural (i.e. Rural landscape zone) area, as outlined in the accompanying SEE;*
- *The facility will ensure the provision of improved mobile phone coverage and competition in the area;*
- *The site location is able to ensure that Telstra's network reconfiguration, which will assist in the implementation of future network growth can proceed efficiently;*
- *This deployment is part of the Federal Government initiative, Black Summer Bushfire Recovery Program, and ensures sufficient mobile coverage during a potential natural disaster, including bushfire and flood;*
- *Emissions from the proposed facility will be significantly below the Australian Radiation Protection and Nuclear Safety Agency standards adopted by the Australian Communications and Media Authority; and*
- *When viewed from surrounding roads and areas, it is not expected that the proposed facility will be seen as a negative visual addition in the locality due primarily to sightings of the proposed facility will be obscured by the existing vegetation and topography. Any visual impact of the proposed facility is further mitigated by the use of a monopole structure, providing a slimline structure that is far less visually obtrusive than the bulk of a lattice tower."*

Comment:

The above justification provided by the applicant has demonstrated that the proposed development is an orderly and economic use and development of the land (being of a form anticipated and required for telecommunications facility), therefore satisfying (c) of Clause 1.3 Objects of the Environmental Planning and Assessment Act 1979.

Therefore, the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6 (3)(b). Council is satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2010 are:

- The objectives of this clause are as follows:
- to protect privacy and the use of private open space in new development and on adjoining land,

Comment:

Due to the nature of the proposed development, the privacy and use of private open space on adjoining land will not be impacted by the proposal.

- to ensure that the bulk of development is not excessive and relates well to the local context,

Comment:

The bulk and scale of the telecommunications facility is commensurate with the anticipated bulk and scale of such a facility. The surrounding landform consists of predominately single dwellings and outbuilding on large rural lots. The proposed built form is not considered excessive within the context of the rural setting that consists of predominately single dwellings and outbuildings on large lots. The proposal largely retains surrounding well-established canopy trees that effectively screens the bulk and scale of the structure from the wider area.

- to nominate heights that will provide a transition in built form and land use intensity,

Comment:

Notwithstanding the height variation, the proposed building height of 42.7m is not unreasonable in the circumstances of the development, which is not a typical low-density residential land use.

- to ensure an appropriate height transition between new buildings and heritage items.

Comment:

Not applicable.

Zone objectives

The underlying objectives of the RU2 Rural Landscape zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

Comment:

The proposed telecommunications tower will not impact on existing primary industry production or natural resource base.

- To maintain the rural landscape character of the land.

Comment:

The proposal will result in little disturbance to the rural landscape character of the land with one tree proposed for removal.

- To provide for a range of compatible land uses, including extensive agriculture.

Comment:

The proposal is considered compatible with the land.

- To minimise conflict between land uses in the zone and land uses in adjoining zones.

Comment:

Not applicable.

- To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

Comment:

The proposal will not adversely impact on water catchments, including surface and groundwater quality and flows. Nearby waterways will not be impacted by the works.

- To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.

Comment:

The tower will retain the landscape values of the land by preserving existing native vegetation including established canopy trees.

- To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.

Comment:

There are no known river valley systems, scenic corridors, wooded ridges, escarpments or environmentally sensitive areas nearby.

- To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

Comment:

The proposal retains the existing rural character of the land and surrounding area. The tower will be largely obscured by established canopy trees.

The submitted written request is considered to be well-founded having regard to the circumstances of the development and it is therefore considered appropriate that flexibility in the application of the development standard be applied in this instance. In this context, the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Consequently, the development is considered to be in the public interest, subject to conditions.

9. Hawkesbury Development Control Plan 2002 and 2023

Consideration of the relevant provisions within the Hawkesbury Development Control Plan 2002 & 2023 is provided below:

CONTROL	COMPLIANCE
	Chapter 5: Telecommunications
	5.1 Objectives for Telecommunications Facilities
Any land zoned Rural, Residential, Special Uses, Open Space, Environmental Protection, Nature Reserve, Proposed Road under HLEP 1989 and land immediately adjacent to these zones. A minimum of 300 metres from any school, childcare centre or hospital.	The DCP requires telecommunications facilities to be a minimum of 300m from any school, childcare centre or hospital. There are no such facilities located within 300m of the facility.
Any land zoned Rural, Residential, Special Uses, Open Space, Environmental	The structure is located approximately 145m from the

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

CONTROL	COMPLIANCE
<p>Protection, Nature Reserve, Proposed Road under HLEP 1989 and land immediately adjacent to these zones.</p> <p>A minimum of 300 metres from any residential dwelling unless annual average exposure at any such premises is less than 0.2 uw/cm2.</p>	<p>nearest dwelling.</p> <p>At a fundamental level, telecommunications facilities must be located near the area they are to provide mobile telecommunications coverage to. Based on research undertaken by the applicant of other potential locations for the telecommunications facility, that there are no viable locations identified what are capable of achieving the coverage objectives located greater then 300m from a dwelling.</p> <p>The maximum safety to EME exposure is 100%, however, the predicted maximum EME levels will be less than 0.34% of the maximum level specified under the relevant mandatory Australian safety standard for such facilities set by the ARPANSA and regulated by ACMA and are well below the ACMA mandatory standard.</p>
<p>All zones, including the above.</p> <p>To minimise visual impact, no tower may be constructed closer than 100 metres or three times the height of the tower, whichever is the greater, to any residential dwelling.</p> <p>This criteria does not apply to residences in business, industrial, nature reserves and special use zones.</p> <p>This condition does not apply in cases of colocation or location on existing built structures</p>	<p>The subject site is not located within 129m (three times structure height) from the nearest dwelling.</p> <p>The applicant has undertaken a visual impact assessment contained within the supporting SEE.</p>
	5.2 Key Assessment Issues
Proposals for telecommunication facilities should utilise buildings, structures or other non-residential and non-community based features of the built environment for support of towers, antennae and ground based facilities, wherever possible.	A detailed site selection process was undertaken in determining site suitability. The findings of this process confirmed there are no viable co-location facilities of existing tall structures within the search area, therefore necessitating a new facility.
Proposals for towers greater than 5 metres in height are encouraged to locate in commercial/industrial zones, and/or premises used for commercial premises.	The proposal will be located in an existing private property.
Proposals for towers should provide evidence of investigation into co-locating with other carriers, wherever possible.	As part of the site selection process, it was confirmed that any co-location options are too far from the search area and does not achieve the coverage objectives for the site, therefore we are unable to pursue that co-location opportunity further.
Proposals for towers in rural zones should avoid locations in close proximity from any residences.	Refer above. The tower is sufficiently located away from nearby dwellings.
Proposals for towers and/or other telecommunication works should avoid	The area of land identified for the structure is not located near wetlands, creeks or protected habitats of

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

CONTROL	COMPLIANCE
environmentally sensitive lands including wetlands, creeks and protected habitats of endangered flora and fauna.	endangered flora and fauna. The area of work is located in a previously disturbed area of land, therefore not requiring the removal or disturbance of vegetation.
Proposals for towers should be located to have minimal visual impact.	The proposed tower will have minimal and acceptable visual impact on the landscape. The proposal successfully minimises the extent of vegetation removal with the exception of one tree which is proposed for removal.
Proposals for aerial cabling will only be considered where there is existing aboveground cables or wires within the same street or locality. Where underground services are provided, every effort should be made to coordinate the provision of underground telecommunication facilities.	Not applicable. The proposal does not include aerial cabling.
Any proposal for a tower needs to justify the location in terms of "servicing areas".	<p>The applicant provides the following response:</p> <p><i>"During these assessments, Telstra identified that new mobile telephone coverage is required to provide 4G mobile coverage and traffic capacity in the Berambing area. Although the area may have intermittent Telstra mobile telephone coverage, the level of service is poor, and Telstra's customers experience call 'drop-outs' and slower mobile broadband experiences. This is due to the capacity problems with the surrounding base stations and the lack of Telstra wireless services in the Berambing area. The number of calls a mobile telephone base station can transmit and receive at any one time is limited. Therefore, when customer demand exceeds a base stations capacity, an enhancement of the network is required."</i></p> <p>There is considered sufficient grounds to justify the location of the structure in terms of "servicing areas".</p>
	5.3 Matters for Consideration
The need for the proposal with respect to expansion of the carrier's network and alternatives examined within the proposed area to be covered.	The proposal is necessary to provide enhanced mobile telecommunications coverage to Berambing and surrounding area.
The proximity of the proposed facility to residential and community facility land uses.	The proposal is sufficiently separated to nearby dwellings.
The visual impact of the proposal and measures to ameliorate this impact.	The visual impact of the tower has been appropriately considered through the retention of existing vegetation and significant separation to surrounding land uses.
Site access, security and landscaping proposals.	<p>The site will be accessed via existing crossover and access gates off Berambing Crescent.</p> <p>Landscaping is not required given the existing vegetation in place.</p>

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

CONTROL	COMPLIANCE
The impact of electromagnetic radiation on public health, safety and other electronic communications.	Telstra has obligations to comply with mandated standards set by ARPANSA. EME exposure levels are 98.93 times lower than the public exposure limit of the ARPANSA Standard.
Any submissions received from the public.	Two (2) submissions were received during the community consultation period. Refer above for discussion.

10. Development Contributions

Not applicable.

11. EP&A Regulations 2021

Applicable regulation considerations for compliance with the Building Code of Australia, PCA appointment and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection will be covered under the recommended conditions of consent.

12. The likely impacts of the development

The proposed development seeks construction of a new telecommunications facility. The proposal does not include excessive earthworks in order to accommodate for the proposed tower, with conditions of consent to include appropriate measures to ensure that site stability is maintained during construction.

The proposal retains landscaping and fencing and is not considered to significantly impact upon any significant views. The proposed tower will not result in adverse solar impacts to the subject site or adjoining properties. Additionally, the proposal has been designed to minimise impacts on the aural and visual privacy of adjoining sites.

The proposed development will utilise existing infrastructure including electricity, sewer, and water.

While it is noted that the proposed telecommunication facility would exceed the maximum height controls, it is considered to be satisfactory from a height perspective and would provide much-needed telecommunications coverage across Berambing.

The proposal is not considered to result in adverse economic and social impacts. In this regard, the proposed development can be supported subject to the imposition of appropriate conditions.

13. Suitability of the Site

The site is located in an RU2 Rural Landscape zone with the proposal being a permissible form of development with consent pursuant to the provisions of the T&I SEPP. The proposed development will promote greater reliability and coverage in terms of mobile coverage in the region, whilst maintaining the amenity of surrounding properties. The proposal will not alter the sites compliance with the relevant provisions of the DCP.

Notwithstanding the bushfire hazard, the proposal will not increase the likelihood of such hazards occurring and is considered appropriate in this instance.

Accordingly, the site is suitable for the proposed development.

14. Public Consultation

In accordance with Council's Community Participation Plan 2019, the Development Application was required to be notified to adjoining properties. During this time, two (2) submissions had been received in response to the proposal. These submissions have been considered and do not warrant amendment or refusal of the application.

15. Public Interest

The proposed development has been considered to relate to the size, shape and context of the site and has been designed in accordance with the existing character of development in the area.

The proposal has been designed to minimise, as far as practicable, any adverse effects on neighbouring properties, with the development complying with the principal controls and/or objectives of the LEP and the DCP. Any non-compliances have been adequately justified. The proposal is not considered to result in adverse amenity impacts to the residents and public. Accordingly, the proposed development is considered to be in the public interest.

16. Conclusion

The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal from a merit perspective, the development is considered to be appropriate for the site and in the public interest. It is considered that the proposal sufficiently minimises potential adverse impacts on the amenity of neighbouring properties. Hence the development is consistent with the aims of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. The proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

Attachments

AT - 1 Recommended Conditions of Consent

AT - 2 Plans used for Assessment - (*Distributed under separate cover*).

AT - 3 Statement of Environmental Effects - (*Distributed under separate cover*).

AT - 4 Written Statement - Clause 4.6 Variation

Attachment 1 – Recommended Conditions for Consent**ATTACHMENT 1: RECOMMENDED CONDITIONS OF CONSENT****Recommendation**

That development application DA0561/24 at Lot 4, DP 38137, No. 81 Berambing Crescent, Berambing for a telecommunications facility be approved, subject to the following conditions:

Schedule 1**General Conditions**

1

Appointment of a Principal Certifier

No work must commence until:

a) A Principal Certifier is appointed for the building/engineering works and the following details relating to the carrying out of the works have been provided:

(i) name and licence number of the builder/contractor undertaking the construction works; or

(ii) name and permit number of the owner-builder (if relevant);

b) The Principal Certifier has:

(i) provided a copy of the notice of its determination to the consent authority, and to Council (within two days after the date of the determination);

(ii) notified the person having benefit of the consent of any critical stage inspections and other inspections that it requires to be carried out in relation to the approved work;

(iii) notified Council of its appointment (not less than two days before commencement of building work);

c) The person having benefit of the consent (if not carrying out work as an owner-builder) has:

(i) appointed a principal contractor who must hold a 'contractor licence' if any residential building work is involved;

(ii) notified the Principal Certifier of the appointment of the principal contractor;

(iii) notified the principal contractor of any critical stage inspections or any other inspections that are required to be carried out in relation to the approved work; and

d) At least two days' notice are to be provided to Council of the date on which it is proposed to commence work associated with this development consent.

Condition reason: To comply with legislative requirements.

2

Approved Plans and Supporting Documentation

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

a) Plans Reference:

Drawing Reference No.	Drawing Description	Prepared By	Issue No.	Date
NSW100009, Sheet No. S1	Site Access and Locality Plan	Decon Technologies	2	11/11/2024
NSW100009, Sheet No. S1-1	Site Layout	Decon Technologies	2	11/11/2024
NSW100009, Sheet No. S1-2	Site Setout Plan	Decon Technologies	2	11/11/2024
NSW100009,	Antenna Layout	Decon	2	11/11/2024

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

Sheet No. S1-3		Technologies		
NSW100009, Sheet No. S3	South-West Elevation	Decon Technologies	2	11/11/2024

b) Document Reference:

Document Title	Reference	Prepared By	Date
NSW100009, Sheet No. G4, Site Earthling	-	Decon Technologies	11/10/2024
Typical Access Road Cross Section	Issue 1	Amplitel	6/11/2023
Bushfire Assessment Statement	Ref: 240475	Building Code & Bushfire Hazard Solutions	11/12/2023
Arboricultural Impact Assessment	Issue B	Arboriculture Consultancy	3/03/2025
Flora and Fauna Assessment	V1	Narla Environmental	October 2024

No works, other than those approved (including raising or lowering of ground levels on the site, or construction of retaining walls on any property boundary) are permitted by this consent.

Note: Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

(i) any amendments made by Council on the approved plans or documents;

(ii) any notes, markings, or stamps on approved plans or documents; and

(iii) any conditions contained in this consent.

Condition reason: To ensure the work is carried out in accordance with the approved plans.

3	Archaeology - Discovered During Excavation
As required by the <i>Heritage Act 1977</i> , in the event that items, relics, historical cultural fabric and/or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the NSW Government’s Heritage Council must be notified of the discovery.	
In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the <i>Heritage Act 1977</i> to obtain the necessary approvals/permits from NSW Department of Planning and Environment - Environment and Heritage.	
Note: The <i>Heritage Act 1977</i> imposes substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.	
Condition reason: To ensure that any Aboriginal and European archaeological items are appropriately managed and requirements of the NSW Department of Planning and Environment - Environment and Heritage are satisfied.	

4	Civil Works Specification – Private Land
Council requires the following works to be carried out as part of the development:	
a) earthworks;	
b) including vehicular access track minimum 4m wide;	
c) stormwater drainage work;	

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	<p>d) site fencing, a lockable access gate minimum 5m wide along St Albans Road, and associated fence splay for stationary vehicles; and</p> <p>e) a turning head or turning bay for vehicles to have egress and ingress in a forward direction from the site.</p> <p>All civil construction works required by this consent must be undertaken in accordance with Hawkesbury Development Control Plan <i>Appendix E - Civil Works Specification</i>.</p> <p>A Construction Certificate is required to be in force prior to work commencing. It may be necessary to obtain appropriate Compliance Certificates for certain aspects of the development prior to the issue of a Construction Certificate.</p> <p>Inspections must be carried out either by Council or an Accredited Certifier. Should Council be engaged to issue compliance certificates or carry out inspections, fees can be provided on request.</p> <p>Condition reason: To ensure that civil works are designed and undertaken to meet minimum specifications.</p>
5	<p>Excavation - Aboriginal Relics</p> <p>If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:</p> <p>a) all excavation or disturbance of the area must stop immediately in that area; and</p> <p>b) NSW Department of Planning and Environment - Office of Environment and Heritage Group must be advised of the discovery.</p> <p>All necessary approvals from NSW Department of Planning and Environment - Office of Environment and Heritage Group must be obtained and a copy provided to Council prior to works recommencing.</p> <p>Note: If an Aboriginal object is discovered, an Aboriginal Heritage Impact Permit may be required under the <i>National Parks and Wildlife Act 1974</i>.</p> <p>Condition reason: To ensure that any Aboriginal archaeological items are appropriately managed.</p>
6	<p>Excavation - No Material to be Removed</p> <p>No excavated material, including soil, is to be removed from the site.</p> <p>Condition reason: To ensure compliance with the approval.</p>
7	<p>Part 6 Certificates Required</p> <p>The accredited certifier must provide copies of all Part 6 Certificates issued under the <i>Environmental Planning and Assessment Act 1979</i> relevant to this development to Council within seven days of issuing the certificate.</p> <p>Note: A registration fee applies.</p> <p>Condition reason: Statutory requirement.</p>
8	<p>Prescribed Conditions - Compliance with National Construction Code</p> <p>All building works must be carried out in accordance with the requirements of the National Construction Code (Building Code of Australia).</p> <p>Condition reason: Statutory requirement.</p>
9	<p>Road Opening Permit</p> <p>Should the subdivision/ development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under the consent then a separate road opening permit must be applied for and the works inspected by Council's Construction and Maintenance Services team.</p>

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	<p>Note: The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction and Maintenance Engineer if it is unclear whether a separate road opening permit is required.</p> <p>Condition reason: To ensure protection of public infrastructure.</p>
10	<p>Security Bond/ Bank Guarantee Requirements</p> <p>A security bond may be submitted in lieu of a cash bond. The security bond must:</p> <ul style="list-style-type: none"> a) be in favour of Hawkesbury City Council; b) be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking); c) have no expiry date; d) reference the development application, condition and matter to which it relates; e) be equal to the amount required to be paid; and f) be itemised, if a single security bond is used for multiple items. <p>Condition reason: To clarify the terms of any required security bond.</p>
11	<p>Works Must Not Commence Until a Construction Certificate is Issued</p> <p>Construction or preparatory work (including earthworks or tree and/or vegetation removal) must not commence until:</p> <ul style="list-style-type: none"> a) a Construction Certificate is obtained from either Council or an Accredited Certifier; b) a Principal Certifier is appointed; and c) a Notice of Commencement is lodged with Council. <p>Note: If the Construction Certificate is issued by an Accredited Certifier that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval (a registration fee is payable upon lodgement).</p> <p>Condition reason: To ensure work does not commence until a construction certificate is issued,</p>
12	<p>Works on Public Land - Not Permitted Without Approval</p> <p>No work can be undertaken within adjoining public lands (i.e. Parks, Reserves, Roads etc.) without the prior written consent of Council or other relevant authority. In this regard the person having benefit of the consent is to contact Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.</p> <p>The developer must bear the cost of all works associated with the development that occurs on public land, including the restoration of any damaged areas.</p> <p>Condition reason: To ensure no work is undertaken on public land without the appropriate approvals.</p>
13	<p>Tree Retention</p> <p>The following trees, as referenced within the Arboricultural Impact Assessment prepared by Arboriculture Consultancy Australia dated 3 March 2025, must be retained and protected: Trees 1, 2, 3, 4, 5, 6, 7 & 9 (8 trees).</p> <p>Reason: To ensure all trees which are not significantly impacted by the proposed works are appropriately retained and protected.</p>
14	<p>Tree Removal</p> <p>The following tree, as referenced within Arboricultural Impact Assessment prepared by Arboriculture Consultancy Australia dated 3 March 2025, is approved for removal: Tree 8 (1 tree).</p> <p>Reason: To remove trees to facilitate development and ensure existing trees are suitably</p>

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

retained and protected.

Building Work

Before issue of a construction certificate

15	Bush Fire Safety Requirements The requirements of the NSW Rural Fire Service in their correspondence Ref. No DA20250120000240-Original-1, dated 6 February 2025 shall be incorporated into the construction certificate documentation for approval. Details demonstrating compliance with the above shall be provided to the Certifying Authority prior to the issue of a construction certificate. Condition reason: To ensure compliance with NSW Rural Fire Service Requirements
16	Erosion and Sediment Control Plan Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Accredited Certifier approval of an Erosion and Sediment Control Plan (ESCP). The ESCP must show the location of site boundaries, adjoining roads, approximate grades, vegetation, site access, impervious areas, existing and proposed site drainage and a north point. The ESCP must take into account the requirements of Landcom's publication 'Managing Urban Stormwater - Soils and Construction' (2004). The plan must show the following: <ul style="list-style-type: none">a) timing of works;b) nature and extent of earthworks, including the amount of any cut and fill;c) where applicable the diversion of runoff from upslope lands around the disturbed areas;d) location of all soil and other material stockpiles including topsoil storage;e) location and type of proposed erosion and sediment control measures;f) site rehabilitation proposals; andg) frequency and nature of maintenance program. Condition reason: To ensure that construction works are managed so that contaminated runoff, siltation and degradation of waterways does not occur.
17	Structural Engineers Design - Concrete and Structural Steel A qualified Structural Engineer's design for all reinforced concrete and structural steel must be provided to the Accredited Certifier prior to issue of Construction Certificate. Condition reason: To ensure that the construction work is structurally sound.
18	Flood Prone Land - Building components and structural soundness The equipment shelter, including all new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 11.3m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events. Details demonstrating compliance are to be submitted to the Principal Certifier for approval. Condition reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy
19	Vehicle Entry and Exit from Commercial/Industrial Property The vehicular usage of the site must be constructed to comply with the following requirements: <ul style="list-style-type: none">a) all vehicles must be loaded and unloaded entirely within the property in a safe and practical manner;b) all vehicles must be driven in a forward direction at all times when entering and leaving the

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	<p>premises; and</p> <p>c) vehicles entering and exiting the site must not create queuing which adversely affects vehicles travelling on the public road network.</p> <p>Loading and unloading areas are to be clearly designated and the swept paths of the longest vehicle entering and exiting the subject site must be in accordance with:</p> <p>a) Australian Standard AS 2890.1 - 'Parking facilities - Off-street car parking' and</p> <p>b) Australian Standard AS 2890.2 - 'Parking facilities - Off-street commercial vehicle facilities'.</p> <p>Details demonstrating compliance with the above requirements must be submitted to the Principal Certifier prior to issue of the Construction Certificate.</p> <p>Condition reason: To ensure that access along the road and adjacent road reserve is maintained ensuring the ongoing safety and protection of people.</p>
20	<p>Compound Site Surface</p> <p>Preparation of the compound site surface is to be above the existing grade so that minimal excavation and sub-base preparation within the TPZ of Trees 1 & 5 takes place. Permeable paving or a loose aggregate surface is to be provided for compound site surface for the full extent of the TPZ of Trees 1 & 5 to mitigate impacts. Project Arborist supervision is required should excavation greater than 100mm occur within the TPZ of Trees 1 & 5. Permeable pavement details and installation specifications should be reviewed and signed off by the Project Arborist prior to issue of the Construction Certificate.</p> <p>Reason: To ensure impacts to root zones of protected trees are minimised.</p>

Before building work commences

21	<p>Erosion and Sediment Control - Minor Development</p> <p>Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with Hawkesbury Council's publication Guidelines for Erosion and Sediment control on a building site (2017).</p> <p>Condition reason: To ensure that construction works are managed so that contaminated runoff, siltation and degradation of waterways does not occur.</p>
22	<p>Notice of Commencement</p> <p>No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:</p> <p>a) details of the appointment of a Principal Certifier (PCA) providing name, address and telephone number; and</p> <p>b) details of the name, address and licence details of the Builder.</p> <p>Condition reason: Statutory requirement.</p>
23	<p>Principal Certifier - Details</p> <p>The applicant must advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 6.6(2) of the Environmental Planning and Assessment Act 1979.</p> <p>Condition reason: Statutory requirement.</p>
24	<p>Principal Certifier Site Sign</p> <p>A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:</p> <p>a) showing the name, address and telephone number of the Principal Certifier for the work;</p>

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	<p>b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and</p> <p>c) stating that unauthorised entry to the work site is prohibited.</p> <p>Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.</p> <p>Condition reason: Statutory requirement.</p>
25	<p>Protection of Adjoining Public Land</p> <p>The public land adjoining the site must not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like.</p> <p>No access for vehicles, machinery or goods to the site must be gained across public land (other than the road reserve) without a prior written approval from Council.</p> <p>Condition reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land.</p>
26	<p>Site Safety Fencing</p> <p>The site is to be secured by a fence, in accordance with SafeWork NSW requirements, to prevent unauthorised access during the period of all works.</p> <p>Condition reason: To ensure security and public safety.</p>
27	<p>Toilet Facilities</p> <p>Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.</p> <p>Each toilet must:</p> <ol style="list-style-type: none"> be a standard flushing toilet connected to a public sewer; be attached to an approved on-site effluent disposal system; be a temporary chemical closet that is regularly maintained; and appropriate facilities for the disposal of sanitary items are to be provided within the toilet. <p>Condition reason: To ensure that a satisfactory level of amenities are available for construction workers and that they are connected to services or regularly maintained.</p>
28	<p>Tree Protection Measures.</p> <p>All tree protection works including installation of any fencing, is to be undertaken prior to any the commencement of any works on site.</p> <p>Reason: To ensure suitable tree protection is in place prior to the commencement of any works.</p>

During building work

29	<p>Approved Construction Hours</p> <p>Clearing of land, running of machinery, excavation, and/or earthworks, building works and the delivery of building materials must be carried out between the following hours:</p> <ol style="list-style-type: none"> between 7am and 6pm, Mondays to Fridays inclusive; between 8am and 4pm, Saturdays; no work on Sundays and public holidays; works may be undertaken outside these hours where: <ol style="list-style-type: none"> the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities; it is required in an emergency to avoid the loss of life, damage to property and/or to prevent
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HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	<p>environmental harm; and</p> <p>(iii) a variation is approved in advance in writing by Council.</p> <p>Condition reason: To protect the amenity of the area.</p>
30	<p>Critical Stage Inspections</p> <p>Prior to the commencement of building work and at nominated stages during the construction of the building, a minimum of 48 hours' notice is required to be provided to allow the Principal Certifier to ensure that the critical stage inspections are undertaken.</p> <p>Note: Critical stage inspections are required to be carried out in accordance with Section 61 of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: To ensure compliance with statutory requirements.</p>
31	<p>Earthworks - General Requirements</p> <p>All earthworks being undertaken as part of this approval must comply with the following:</p> <ul style="list-style-type: none"> a) topsoil must be stripped only from approved areas and must be stockpiled for re-use during site rehabilitation and landscaping; b) once the topsoil has been removed the natural batter must be suitably stepped, scarified or roughened to prevent slipping and the fill is to be keyed in to hold the toe of the fill batter in place; c) filling must comprise either uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material must be provided to the Principal Certifier prior to placing any fill on site or Council Officers upon request; d) a ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records. An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the proposed use and free of contamination; e) where batters exceed a ratio of three horizontal to one vertical, retaining walls, stoneflagging or terracing must be constructed; f) all fill within the site must be placed in layers not exceeding 300mm thickness and compacted to achieve a minimum dry density ratio of 98% when tested in accordance with Australian Standard AS 1289 - 'Methods of testing soils for engineering purposes unless otherwise specified'; and g) all disturbed areas are to be stabilised/revegetated, using a minimum 300mm surface layer of topsoil, as soon as practicable after the completion of filling works. <p>Details of all contractors, excavators, and/or truck deliveries must be recorded and provided to Council Officers upon request.</p> <p>Note: ENM is defined by the Excavated Natural Material Exemption - NSW Environment Protection Authority.</p> <p>Condition reason: To ensure that earthworks are carried out in accordance with relevant standards.</p>
32	<p>Erosion and Sediment Control Plan - Implementation</p> <p>Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved Erosion and Sediment Control Plan.</p> <p>Condition reason: To ensure that construction works are managed so that contaminated runoff, siltation and degradation of waterways does not occur.</p>
33	<p>Loading and Unloading During Construction</p> <p>The following requirements relating to loading and unloading apply during construction:</p> <ul style="list-style-type: none"> a) All loading and unloading associated with construction activity must be accommodated on site.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR DETERMINATION

Meeting Date: 17 April 2025

	<p>b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.</p> <p>c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.</p> <p>d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval must be obtained from Council.</p> <p>Condition reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.</p>
34	<p>Construction of New Crossover, Access Track and EWP Area.</p> <p>Construction of the new crossover, access track and EWP area is to be above the existing grade so that minimal excavation and sub-base preparation within the TPZ of Trees 1, 2, 3, 4 & 5 takes place. Project Arborist supervision is required should excavation greater than 100mm occur within the TPZ of Trees 1, 2, 3, 4 & 5.</p> <p>Reason: To ensure impacts to root zones of protected trees are minimised.</p>
35	<p>Construction of New Crossover, Access Track and EWP Area</p> <p>Construction of the new crossover, access track and EWP area is to be above the existing grade so that minimal excavation and sub-base preparation within the TPZ of Trees 1, 2, 3, 4 & 5 takes place. Project Arborist supervision is required should excavation greater than 100mm occur within the TPZ of Trees 1, 2, 3, 4 & 5.</p> <p>Reason: To ensure impacts to root zones of protected trees are minimised.</p>
36	<p>Installation of Underground Services</p> <p>The alignment of the proposed underground fibre route and service main within the Berambing Crest frontage is to be installed by horizontal directional drilling. The directional drilling bore should be at least 1000mm deep, with entry and exit pits positioned outside the TPZ of retained trees. The Project Arborist should assess the likely impacts of boring and bore pits on retained trees. Under no circumstances should roots be severed or cut without prior approval from the Project Arborist.</p> <p>Reason: To ensure installation of services does not result in damage to existing tree roots.</p>
37	<p>Construction of Fences</p> <p>Construction of fences within the TPZ of trees to be retained is to be undertaken utilising isolated pier footings. Excavation for piers should be undertaken in a root sensitive manner to ensure roots are maintained and un-damaged. Excavation should be undertaken using non-motorised hand tools under supervision of the Project Arborist. Should significant roots be identified (>25mmØ) during construction, works are to cease and direction sought from the Project Arborist with regards to root pruning, or re-location of the pier footing.</p> <p>Reason: To ensure installation of services does not result in damage to existing tree roots.</p>
38	<p>Tree Protection Fencing</p> <p>The Tree Protection Zones of Trees 1, 2, 3, 4, 5, 6 & 7 should be protected by way of fencing and signage designed in accordance with AS4970: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance AS4687 Temporary fencing and hoardings.</p> <p>Reason: To provide suitable protection fencing for trees nominated for retention.</p>

Attachment 4 - Written Statement - Clause 4.6 Variation



Clause 4.6 Variation – 81 Berambing Crescent, Berambing NSW 2758.

Proposed mobile telecommunications facility (monopole and associated antennas).

This document relates to the proposed telecommunications facility at 81 Berambing Crescent, Berambing NSW. This variation 4.6 document has been prepared by Site Logic and is published on 3 December 2024 in response to Hawkesbury City Council's request for further information letter dated 20 November 2024. Specifically, we are required to justify the proposed development pursuant to the Section 4.6 variation clause (LEP). Our comments and interpretations are provided below.

1. What is the name of the environmental planning instrument that applies to the land?

Hawkesbury Local Environmental Plan (LEP) 2012.

2. What is the zoning of the land and what are the objectives of the zone?

RU2 – Rural Landscape Zone Objectives:

- a) To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- b) To maintain the rural landscape character of the land.
- c) To provide for a range of compatible land uses, including extensive agriculture.
- d) To minimise the fragmentation and alienation of resource lands.
- e) To minimise conflict between land uses in the zone and land uses in adjoining zones.
- f) To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.
- g) To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.
- h) To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.
- i) To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

Comments

The purpose of zone objective (a) is to encourage sustainable primary industry production by maintaining and enhancing the natural resource base. Reference to the proposal is for a new 40m concrete monopole (42.7m at top of antenna). The proposed works is not directly relevant to the proposal. However, the proposal does seek to facilitate mobile phone and internet use, which will facilitate the necessary services to support primary industry sectors. As such, zone objective (a) will be satisfied.

The purpose of zone objective (b) is to maintain rural landscape character of the land. The proposed fenced compound area will be 47m² (Approx). In contrast to the total site area of 81 Berambing Cres of 66300m², the proposed footprint will require a 0.07% ($x = (47m^2 / 66300m^2) \times 100$). This means, the proposed footprint plan will have a negligible effect to the rural landscape character of the land.

The purpose of zone objective (c) is c) to provide for a range of compatible land uses, including extensive agriculture. The proposed mobile phone infrastructure proposal is not relevant to this zone. However, will have a subordinate effect to the land by way of its location at the corner of the LOT (North west location) and will have a minor effect to the footprint of the area in contrast the site area of 81 Berambing Crest, Berambing NSW.



Reference to zone objective (d), the proposed telecommunications facility is not particularly relevant in this instance.

Reference to zone objective (e) seeks to minimise conflict between land uses in the zone and land uses in adjoining zones. It is considered that the proposal will not conflict with existing uses on the land given the established uses on the land will not be impacted by the proposal. As such, this standard will be satisfied.

Zone objective (f) seeks to ensure that new development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways. Given the proposal will be located at the north west location, the planning and site design will not impact any ground roots, which is supported by the Arboricultural Impact Assessment submitted with this application. Plus, the proposal will not affect any neighbouring tree canopy. As such, zone objective (e) will be satisfied.

The purpose of zone objective (g) is to ensure that development retains or enhances existing landscape values including a distinctive agricultural component. As provided in comments provided for zone objective (b), the proposed footprint plan will have a negligible effect to the landscape values within and nearby the site.

The purpose of zone objective (h) is to preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality. The proposed works will not be located within environmentally sensitive area as defined under the SEPP Codes 2008. As such, it is considered that the proposed siting and location will satisfy this objective by way of having no effect on nearby trees ground roots. Further, detailing that the proposed earthing is limited to the tower only. The fence compound is the planned lease area only and does not require excavation. This further minimises the effect on the land.

Zone objective (i) is in place to ensure that development does not detract from the existing rural character or create unreasonable. In response to this zone objective, it is considered that the planned grey neutral colours will have a neutral effect to the established tree vegetation in the area. Further adding the vegetation in the area is non-deciduous which means that the trees will prevail the established visual landscape in contrast to the proposed monopole. As such, this standard will be satisfied.

Overall, zone objective (c) and (d) is not relevant to the proposal. However, the remainder of the zone objectives will be satisfied. Given this, council can accept that the proposal will have a negligible effect.

3. Identify the Development Standard to which this Clause 4.6 Variation applies?

Clause 4.3 Height of Buildings.

4. What are the objectives of the development standard?

Height of Buildings objectives:

- (a) to protect privacy and the use of private open space in new development and on adjoining land,
- (b) to ensure that the bulk of development is not excessive and relates well to the local context,
- (c) to nominate heights that will provide a transition in built form and land use intensity,



(d) to ensure an appropriate height transition between new buildings and heritage items.

5. What is the numeric value of the development standard in the environmental planning instrument?

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum height shown for the land at 81 Berambing Crest, Berambing NSW, is 10m.

6. How do the existing and proposed numeric values relate to the development standard?

What is the percentage variation (between your proposal and the environmental planning instrument)?

- 'Current' Height of Building? n/a.
- HLEP 2012 Height of Building(m)? 10m.
- Proposed height of building? 40m.
- Percentage variation? 300% (30m in excess).

Comments:

It is the inherent nature of a telecommunications facility that it be of a height that is above the area which it intends to service. As such, it is almost never the case that a telecommunications facility can adhere to Council building height limits.

It is often considered that a telecommunications facility is not specifically a 'building', rather a utility or provision of a service to the community. With this in mind, the percentage variation as noted above appears inappropriately skewed – when referenced against a standard building height. Notwithstanding, it is accepted that a non-compliance variation is to be submitted to Council.

7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The NSW Land and Environment Court in **Four2Five Pty LTD v Ashfield Council [2015]**

NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in **Wehbe v Pittwater Council [2007] NSWLEC 827**. The court provided five tests that

can be used as prompts to answer the above question. A number of these tests are highlighted below regarding this specific proposal at 81 Berambing Crest, Berambing NSW:

Test A

The underlying object or purpose of the standard is not relevant to the

development and compliance is unnecessary. Commonly, the building height limit of an area is in place to ensure the scale and bulk of development is kept in line with the locality in which it is being proposed. This applies specifically to low density residential dwellings in a rural landscape in the Berambing area. As an uncommon development type, mobile telecommunications facilities fall foul



of height limits within almost every CBD, suburban, urban, regional, and rural environment. In this instance, the zoning of the subject land parcel is rural landscape zone, and while the building height restriction would usually apply to any new low-density dwellings, it is impossible to define a telecommunications facility as a low-density residential dwelling in a rural landscape (i.e. environmental living) use. As such, it is considered that the height of buildings development standard is not relevant and is unnecessary.

Test B

The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable. It is the inherent nature of a telecommunications facility that they be of a height that is above the area which it intends to service. As such, it is almost never the case that a telecommunications facility can adhere to Council building height limits.

For a telecommunications facility to operate, it is necessary to have a height that allows the antennas to provide coverage services above and over the existing landforms and developments. As a single telecommunications facility is intended to service as wide an area as is possible, height is necessary to achieve this. Should a facility be only slightly higher than surrounding elements in the environment, it will not provide service to a wide area, and numerous facilities will be required to service the area. Essentially, it is not feasible or practical to have a telecommunications facility that would adhere to the height limit as described in the **Hawkesbury LEP 2012**. The limit of 10m in the proposed site location would provide no services to the surrounding area. Therefore, the much needed required proposed upgrade increases the structure height to 40m to adequately service the wider area. The proposed height ensures that Telstra's Network objectives can be met in the surrounding area, both now and into the future.

8. Are there sufficient environmental planning grounds to justify contravening the development standard?

It can be reasonably assumed that the Height of Buildings development standard has not been formulated with the intention of limiting the provision of mobile telecommunications services. Rather, its intent is outlined in the standards objectives, which relate primarily to building development. In this instance, the contravening of the Height of Buildings development standard is necessary to ensure the provision of vital, and often considered essential, services to the surrounding community.

The proposed telecommunications facility at **81 Berambing Crest, Berambing NSW**, will form an integral part of the mobile telecommunications network in the greater Hawkesbury area. The new facility will deliver improved coverage and capacity to the **Berambing** area. This deployment is part of the Federal Government initiative, Black Summer Bushfire Recovery Program, and ensures sufficient mobile coverage during a potential natural disaster, including bushfire and flood, while enabling connection into the surrounding existing and proposed network.

The proposed facility is considered appropriate for the subject site regarding environmental planning grounds. Further the proposed facility is defined as critical infrastructure and the following items have been listed for you on a merit based consideration of the project:

- The use of a monopole with minimal bulk ensures that visual impact is significantly mitigated;
- The proposal is consistent with the relevant provisions of the Hawkesbury LEP and

Development Control Plan (DCP) 2023, by siting the facility within a rural (i.e.

Rural landscape zone) area, as outlined in the accompanying SEE;

- The facility will ensure the provision of improved mobile phone coverage and competition





in the area;

- The site location is able to ensure that Telstra's network reconfiguration, which will assist in the implementation of future network growth can proceed efficiently;
- This deployment is part of the Federal Government initiative, Black Summer Bushfire Recovery Program, and ensures sufficient mobile coverage during a potential natural disaster, including bushfire and flood;
- Emissions from the proposed facility will be significantly below the Australian Radiation Protection and Nuclear Safety Agency standards adopted by the Australian Communications and Media Authority; and
- When viewed from surrounding roads and areas, it is not expected that the proposed facility will be seen as a negative visual addition in the locality due primarily to sightings of the proposed facility will be obscured by the existing vegetation and topography. Any visual impact of the proposed facility is further mitigated by the use of a monopole structure, providing a slimline structure that is far less visually obtrusive than the bulk of a lattice tower.

The proposed development, which provides a significant benefit to the public, could not proceed in any area due to the building height limits as noted by the **Hawkesbury LEP 2012**. The proposal is considered to be consistent with the broad intent of the **Hawkesbury LEP 2012** and the Hawkesbury DCP 2023, as the proposed facility is sited in a location that is considered one of the most appropriate by Council's DCP. It is therefore necessary to apply for this variation to the Height of buildings limit for the proposed mobile telecommunications facility.

9. Is the proposed development, despite the contravention to the development standard, in the public interest?

The proposed development is, in its entirety, in the public interest. It is indeed due to the specific need for this facility by the surrounding area – for continued and improved mobile telecommunications services to residents, businesses, motorists, and most importantly during natural disasters – that this proposal is a necessity and is therefore in the public interest.

This proposed new site, and the contravention of the development standard, is required for several reasons:

- **Federal Government initiative, Black Summer Bushfire Recovery Program:** The proposal ensures sufficient mobile coverage during a potential natural disaster, including bushfire and flood. Therefore, the proposal should be supported at this location for this reason. i.e. to provide connectivity during a bushfire/flood in the area.
- **Network upgrade and reconfiguration:** Telstra's network is becoming an outdated one, and as they look to expand and create greater competition in the telecommunications industry, they are upgrading their network across Australia. This upgrade includes adding new technology and equipment in locations that best fit into their existing and expanding network.
- **Future 5G Network:** the evolution of mobile telecommunications services is upon us, and the requirement for Telstra to provide 5G services to its customers is paramount. A new standalone facility is required for Telstra to be able to install its equipment effectively and efficiently on so that it can provide services now and into the future.
- **Coverage expansion:** As Telstra's customer base grows across Australia, new telecommunications facilities are required to service its growing (and changing) customer levels. Existing sites are at



capacity or no longer provide the right services into the right areas. The proposed site will provide significant improvements in the Telstra network in the areas surrounding the site location.

Despite contravening the development standard, the proposed development is significant to the improved coverage that this proposed facility will provide into the surrounding area. There is also a high level of importance of this proposed site in the wider Telstra network, as it is imperative that this site is configured in a way that it will integrate effectively into the existing surrounding sites, and 5G network. The proposed mobile telecommunications facility, by virtue of the relatively small area of land required for the installation, will not be detrimental to the achievement of the RU2 Rural Landscape Zone objectives.

The proposed facility will provide a necessary service to the surrounding properties and wider area and will continue to provide the most up-to-date mobile telecommunications services to the surrounding residential and business uses.

The development will not increase the demand for public services, being an unmanned facility that does not require the service of water/sewerage.

It is considered that the proposed mobile telecommunications base station will not adversely impact the natural environment due to its relatively small footprint, and its setting within a **rural area**.

Commonly, the building height limit of an area is in place to ensure the scale and bulk of development is kept in line with the locality and landscape in which it is being proposed. As an uncommon development type, mobile telecommunications facilities fall foul of height limits within almost every CBD, suburban, urban, regional, and rural environment. In this instance, the zoning of the subject land parcel is environmental living, and while the building height restriction would usually apply to any low-density dwelling developments in a rural landscape, it is difficult to define a telecommunications facility as a residential/rural dwelling use.

The proposed development, which provides a significant benefit to the public, could not proceed in any area due to the building height limits as noted by the **Hawkesbury LEP 2012**. It is therefore necessary to apply for this variation to the Height of Buildings development standard limit for the proposed mobile telecommunications facility.

10. Is there any other relevant information to be considered in order to justify varying the development standard?

Without a variation to the building height development standard, this proposed facility and its significant benefits to the public could not proceed. It is understood that the building height development standard does not necessarily consider every type of specific development. It is considered that by their inherent nature, telecommunications facilities must be well above the area they are required to provide coverage to, and as such in this instance, it is necessary and considered appropriate to vary the building height development standard.

HAWKESBURY LOCAL PLANNING PANEL

3. REPORTS FOR ADVICE

Meeting Date: 17 April 2025

3. REPORTS FOR ADVICE

3.1.1. CP - LEP001/25 - Slab Barns and Outbuildings Heritage Listing Planning Proposal

Previous Item: 10.1.2, Ordinary (10 December 2024)

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP001/25
Property Address:	Various (Refer to Table 1)
Applicant:	Hawkesbury City Council
Owner:	Various
Intended Change:	Local heritage listing of 19 sites under Schedule 5 of the Hawkesbury Local Environmental Plan 2012 as recommended by the Update Hawkesbury Slab Barns and Outbuildings Study.
Current Zone:	C4 Environmental Living RU1 Primary Production RU2 Rural Landscape RU4 Primary Production Small Lots R2 Low Density Residential

RECOMMENDATION

That the Hawkesbury Local Planning Panel provide advice with respect to Planning Proposal LEP001/25 Slab Barns and Outbuildings Heritage Listings Planning Proposal.

BACKGROUND

Since the earliest years of European settlement, the Hawkesbury River - Dyarubbin, its tributaries, and their surrounding lands have played an important role in food supply for the developing Greater Sydney Region. As a region that developed as a principally agricultural locality, the barn (together with other farm buildings), has been a feature of the area from the time of the region's initial period of colonial settlement. With such a long and important history of European based farming practices in the area, surviving physical evidence (such as early barns) of the earliest phases of agricultural development in the area is highly prized by the local community (and others) for its historical significance, as well as its aesthetic significance as a contributor to the historical landscape character that defines much of the Hawkesbury Local Government Area.

In recognising the value of these slab barns as surviving physical evidence, Council has previously undertaken several studies, including:

Pitt Town Slab Barn Study (May 1991)

HAWKESBURY LOCAL PLANNING PANEL

3. REPORTS FOR ADVICE

Meeting Date: 17 April 2025

Hawkesbury City Council Slab Barn Study (March 2010)

In 2023, Council commissioned Lucas Stapleton Johnson & Partners Pty Ltd as the lead consultant to undertake an updated Timber Slab Barns & Outbuildings Study (the Study). This study was carried out over 2023 and 2024 with the following aims.

- A definitive list of the location and current condition of extant timber slab barns located throughout the Hawkesbury Local Government Area
- New or updated heritage inventory sheets (including histories and assessments of significance) for the surviving barns
- Consideration of whether any of the surviving barns warrant listing on the NSW State Heritage Register under the Heritage Act 1977 (either individually or as a group)
- Consideration of whether any of the surviving barns warrant listing on the National Heritage List under the Environmental Protection and Biodiversity Conservation Act 1999 (either individually or as a group)
- Innovative strategies for incentivising the retention and conservation of surviving timber slab barns that are of significance.

Following input from Council's Heritage Committee and Council endorsement, the Study was publicly exhibited from 28 January 2025 to 9 March 2025. Following this exhibition, the Study was reported back to Council for adoption on 8 April 2025. The adopted Study is included as Attachment 1 to this report.

Planning Proposal LEP001/25 included in Attachments 2 and 3 acts on the recommendation of this Study in respect to the identified slab barns which currently have no statutory protection, by seeking the local heritage listing of a total of 19 sites through inclusion in Schedule 5 Part 1 of the Hawkesbury Local Environmental Plan 2012. It is noted that the Study makes additional recommendations in relation to clause 5.10 of the Hawkesbury Local Environmental Plan 2012, which will be pursued under a future Planning Proposal.

DISCUSSION

Proposed Heritage Items

The Planning Proposal seeks the heritage listing of a total of 19 sites with slab barns throughout the Hawkesbury as provided in Table 1, and identified in Figures 1 and 2. These sites are based on the recommendations of the Hawkesbury Timber Slab Barns & Outbuildings Update Study.

Table 1 - Identified Items for Local Heritage Listing

Address	Name
13 Serpentine Lane, Bowen Mountain	Slab Barn and Plank Shed
331 Cattai Road, Cattai	Two Storey Slab Barn with Two Storey Side Skillion
753 Upper Colo Road, Upper Colo	Single Storey Plank Barn with Skillions
307 Tizzana Road, Ebenezer	Single Storey Slab Barn with Loft and Skillion
279 Freemans Reach Road, Freemans Reach	Two Storey Slab Barn with Skillion
331 Freemans Reach Road, Freemans Reach	Complex of Two Slab Barns
307 Kurmond Road, Freemans Reach	Raised Single Storey Slab Barn with End Skillions

HAWKESBURY LOCAL PLANNING PANEL

3. REPORTS FOR ADVICE

Meeting Date: 17 April 2025

Address	Name
30 Wolseley Road, McGraths Hill	Single Storey Slab Barn with Loft and Skillion
4 Bensons Lane, Richmond	Two Storey Slab Carriage House and Stables
239 Upper McDonald Road, St Albans	Complex of Two Slab Barns
33 Griffins Road, Tennyson	Slab Slaughterhouse
995 Upper Colo Road, Upper Colo	Two Storey Slab Barn with Side and End Skillions
1764 Upper MacDonald Road, Upper MacDonald	Single Storey Slab Barn/Milking Shed with Skillion
235 Wilberforce Road, Wilberforce	Complex of Two Slab Barns
86 King Road, Wilberforce	Single Storey Slab Barn with Silo
87 King Road, Wilberforce	Single Storey Town Barn with End Skillion
191 Wilberforce Road, Wilberforce	Two Storey Slab Barn with Skillion
63 Wilberforce Road, Wilberforce	Slab Barn
55 McKinnons Road, Wilberforce	Two Storey Slab Barn with Skillion

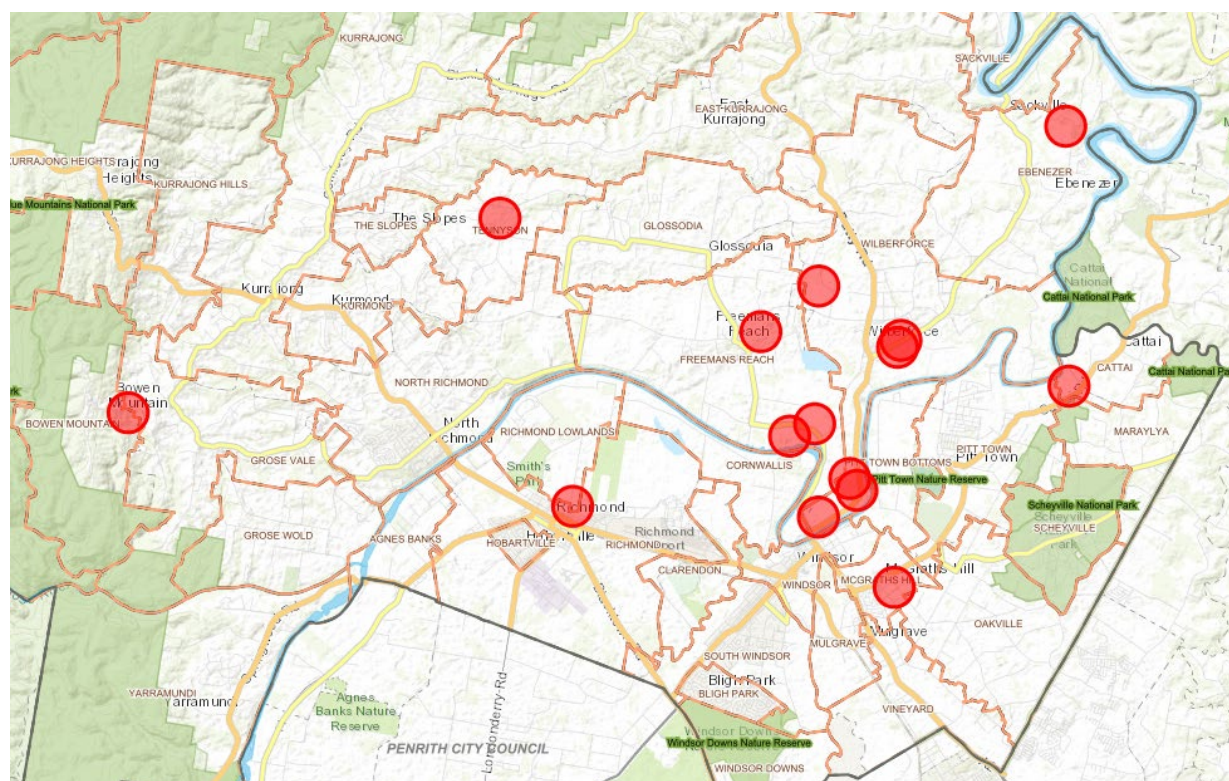


Figure 1 - Location of Slab Barns in Table 1

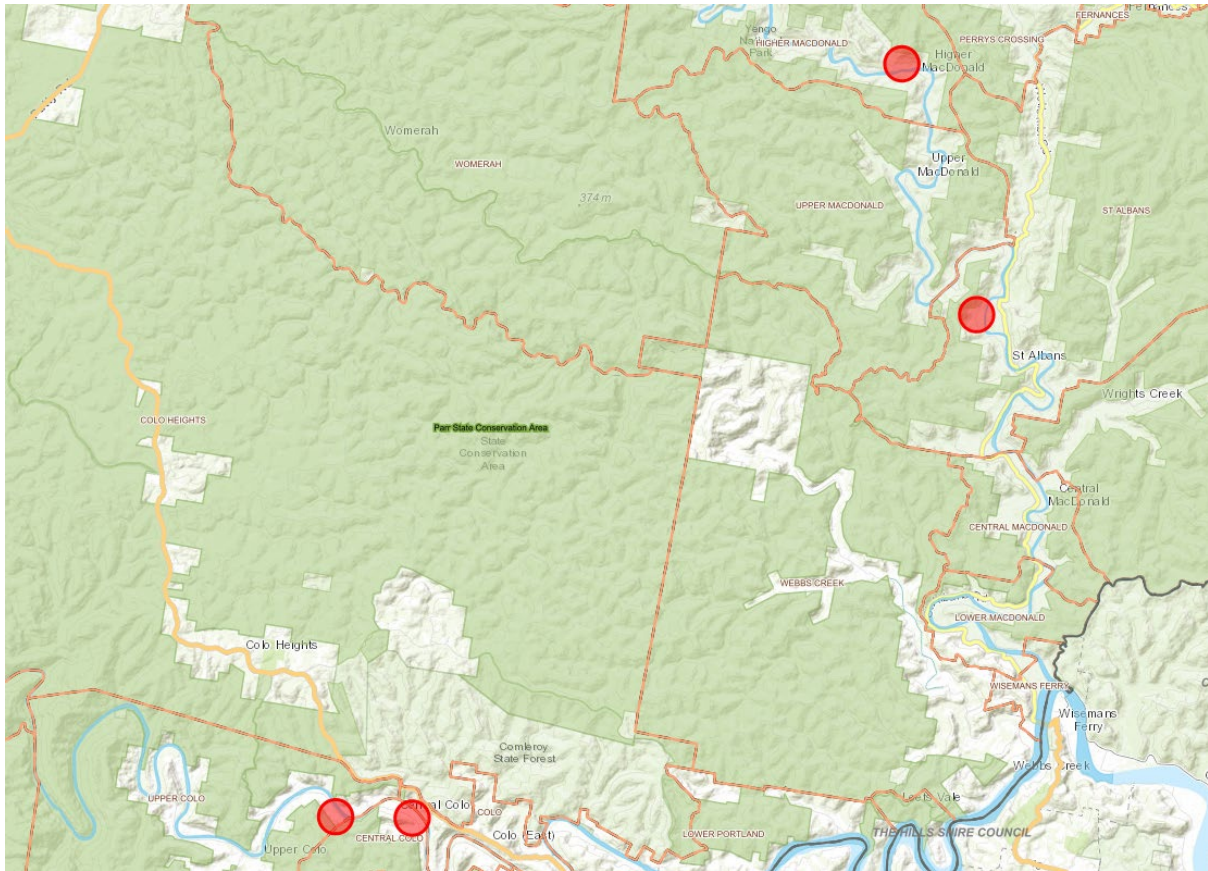


Figure 2 - Location of Slab Barns in Table 1

Heritage Significance

The Study has identified a high degree of heritage significance of the proposed heritage items both collectively and individually. Collectively, the Slab Barns are surviving evidence of early agriculture production of Colonial Sydney, providing significant historic representativeness and tangible examples of the regions cultural heritage. Individually, the barns have their own significance in respect to their association to particular early land grants and individuals in the Region. Further, each barn demonstrates its own unique architectural value as influenced by its initial function, site specific needs and dominant styles over the varying decades of construction of these barns.

Reference should be made to the Study, and to the individual heritage inventory sheets included in Attachment 3 for a comprehensive assessment and statement of significance for each item, along with location specific merit.

Consistency with Strategic Framework and Policies

The Planning Proposal is considered to be consistent with relevant State and local strategic Plans and policies.

Greater Sydney Region Plan

The following objectives of the Greater Sydney Region Plan are identified in the Planning Proposal in Part 3 Section B as being of particular relevance to the objectives and provisions of the Planning Proposal.

Objective 13: Environmental heritage is identified, conserved and enhanced

The Planning Proposal is consistent as it aims to identify and conserve slab barns and outbuildings that are of historical and cultural significance. By including these properties in Schedule 5 of the Hawkesbury Local Environmental Plan 2012, it ensures their protection and acknowledges their value to the community and their contribution to sense of place and identity in Hawkesbury.

Objective 28: Scenic and cultural landscapes are protected

and

Objective 29: Environmental, social and economic values in rural areas are protected and enhances

The timber slab barns and outbuildings contribute to the scenic landscapes of the Hawkesbury Region. Their preservation enhances the visual appeal of the rural landscape, maintaining the region's unique character and charm. These structures are culturally significant items that represent the agricultural history of the region. Protecting these heritage structures can enhance the region's appeal as a destination for heritage and cultural tourism, supporting local economic development. The proposal includes measures for the maintenance and restoration of the identified barns, ensuring they remain prominent and well-preserved features of the landscape.

Western Sydney District Plan

Further to the Greater Sydney Region Plan Objectives, the Planning Proposal is consistent with the priorities of the Western City District Plan, which aim to provide regionally focused priorities to enact upon the metropolitan wide objectives.

Planning Priority W6: Creating and renewing great places and local centres, and respecting the District's heritage

and

Planning Priority W16: Protecting and enhancing scenic and cultural landscaped

The Planning Proposal aims to protect and enhance the scenic and cultural landscapes of the Hawkesbury region by preserving the timber slab barns and outbuildings. These structures are integral to the area's historical, cultural and visual identity as well as contributing to the local sense of place. This aligns with broader efforts to conserve the natural and built environment, supporting sustainable tourism and community engagement with the landscape.

Hawkesbury Local Strategic Planning Statement 2040

The Planning Proposal is assessed to be consistent with all relevant Planning Priorities of the Hawkesbury Local Strategic Planning Statement 2040, which aim to provide local direction and action to Greater Sydney Region Plan and Western City District Plan. Of significant relevance is the following Planning Priorities:

- **Planning Priority 3: Providing a Diversity of Housing Types**
 - **Objective:** Ensure housing diversity and affordability while maintaining local character.

The Planning Proposal supports housing diversity by preserving heritage properties that add to the character and attractiveness of the residential environment, encouraging sympathetic development through adaptive reuse of heritage items.

- **Planning Priority 4: Protect and Promote Aboriginal and European Heritage**

HAWKESBURY LOCAL PLANNING PANEL

3. REPORTS FOR ADVICE

Meeting Date: 17 April 2025

- **Objective:** Ensure heritage items are protected and promoted.

The inclusion of significant properties in Schedule 5 of the Hawkesbury Local Environmental Plan 2012 directly addresses this priority by ensuring these heritage assets are identified, protected, and promoted for future generations.

- **Planning Priority 6: Manage, Enhance, and Celebrate the Distinctive Heritage Character of Towns and Villages and natural environment**

- **Objective:** Enhance the heritage character through planning controls and community engagement.

By providing statutory protection for these items of cultural and historical value, this Planning Proposal helps manage and celebrate Hawkesbury's distinctive heritage, fostering community pride and tourism.

State Environmental Planning Policies

The Planning Proposal contains an assessment of consistency against relevant State Environmental Planning Policies in Appendix D of the Planning Proposal. It is noted that no State Environmental Planning Policies are of significant relevance to the Planning Proposal.

Ministerial Directions

The Planning Proposal is considered to be consistent with all relevant Ministerial Directions as included in Appendix E of the Planning Proposal. Of particular relevance to the Planning Proposal are the following directions:

3.2 Heritage Conservation - to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The Planning Proposal is consistent with this direction as it seeks to provide statutory protection of heritage significant items, constant with the above objective.

In respect to other Ministerial Directions that seek to prevent or mitigate development facilitated through Planning Proposals on land with environmental risk such as bushfires and flooding, the Planning Proposal is consistent as the objectives and provisions are not to facilitate additional development beyond the adaptive reuse of the structure made available under clause 5.10 of the Hawkesbury Local Environmental Plan 2012.

Planning Implications

To ensure the protection of recognised items of heritage significance, there are substantial planning implications for land listed under Part 1 Schedule 5 of the Hawkesbury Local Environmental Plan 2012. For any development application on a heritage listed site, consideration will be made to the potential impacts of the development on the integrity of the identified heritage item. This will require consideration of this impact in the Statement of Environmental Effects and in most cases requiring a heritage management plan. The inclusion of a site in Schedule 5 of the Hawkesbury Local Environmental Plan 2012 provides for the application of Clause 5.10 which includes the following provisions:

- When consent is or isn't required,
- What Council must consider, and may request from an applicant,
- Requirements when granting consent, and

HAWKESBURY LOCAL PLANNING PANEL

3. REPORTS FOR ADVICE

Meeting Date: 17 April 2025

- Conservation incentives.

To ensure proper consideration and assessment of the potential impacts, the heritage listing of an item removes the ability to undertake complying development under State Environmental Planning Policy (Exempt and Complying Development) 2008 (Codes SEPP). Exempt development under the Codes SEPP or Hawkesbury Local Environmental Plan 2012 may still be undertaken on locally listed heritage items, but not on any heritage items awarded State listing, whereby a development application will be required. Future purchasers of land that is heritage listed will be made aware of this impact on approval pathways by way of notation on the respective Section 10.7 Planning Certificate.

ATTACHMENTS

AT - 1 Timber Slab Barns & Outbuilding Update Study - *(Distributed under separate cover)*.

AT - 2 LEP001/25 - Slab Barn and Outbuilding Heritage Listing Planning Proposal - *(Distributed under separate cover)*.

AT - 3 Slab Barn and Outbuildings Heritage Listing Planning Proposal - Appendix A,B and C - *(Distributed under separate cover)*.

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Hawkesbury Local Planning Panel Meeting

End of Business Paper

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