

Subject: PES - DA215/2009 - Installation of Telecommunications Facility - Lot 148
DP 729933 Yamba Street, Hawks Nest
Index: DA215/2009 & PK17931
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DETAILS:

Date Received: 28 October 2008
Applicant: Connell Wagner Pty Ltd
Owner: Department of Lands
Land: Lot 148 Dp 729933 - Yamba Street, Hawks Nest
(Myall Park Sports Reserve)
Area: 4.0935 Ha
Prop Key: 17931
Zoning: 6(a) Open Space & Recreation
2(a) Low Density Residential

SUMMARY OF REPORT:

- The application proposes the erection of a monopole type telecommunications tower in the north-eastern corner of Myall Park.
- 20 Submissions were received during the Notification Period objecting to the proposed telecommunication tower.
- A similar proposal at the sewerage treatment plant was rejected by the Department of Planning in 2005 for non-compliance with SEPP 71 with regard to potential visual impact and relationship with the surrounding area.
- Council at it's meeting held on 24 February 2009 resolved that *"Council withdraw it's consent to the siting of the telecommunications tower on Council land due to it's height, impact on visual amenity and proximity to the preschool."*

SUMMARY OF RECOMMENDATION:

That the application be refused.

FINANCIAL/RESOURCE IMPLICATION:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

The applicant has the right to appeal against Council's decision.

LIST OF ANNEXURES:

Nil.

SITE PLAN



REPORT

Council at its meeting held on 24 February 2009 considered a development application for the installation of a telecommunications facility at Lot 148, DP 729933 Yamba Street, Hawks Nest. At that meeting, it was resolved that:

"Council withdraw its consent to the siting of the telecommunications tower on Council land due to its height, impact on visual amenity and proximity to the preschool."

Council's legal advice in this matter is that it cannot withdraw owners consent due to:

- The owner of the land is the Department of Lands and Council is only the trustee. Therefore, Council is not the owner.
- Once the owner has signed the development application form, owners consent cannot be withdrawn.

Accordingly, if Council does not wish to support the application, it should be refused.

It is therefore suggested that Council could refuse the application based on the grounds of the previous resolution.

CONCLUSION

If Council wishes to refuse the application, it should be refused on the following grounds:

1. The development proposal is inconsistent with the aims of State Environmental Planning Policy No. 71 – Coastal protection as the proposed 30m high monopole telecommunications tower, represents a potential threat to the visual amenity of the locality.
2. The proposal is inconsistent with the matters for consideration listed in Part 2 of State Environmental Planning Policy No. 71 – Coastal Protection due to the unsuitability of development given its type, location and design and relationship with the surrounding area.
3. The proposal is inconsistent with the Objectives of the 6(a) – Open Space and Recreation Zone contained in Great Lakes Local Environmental Plan 1996 which require, in part, to restrict development to that which does not have an unacceptable impact on the amenity of adjoining areas.

RECOMMENDATION:

That the application for a monopole telecommunications tower and associated equipment shelter at Lot 148 DP 729933 be refused for the following reasons:

1. The development proposal is inconsistent with the aims of State Environmental Planning Policy No. 71 – Coastal protection as the proposed 30m high monopole telecommunications tower, represents a potential threat to the visual amenity of the locality.
2. The proposal is inconsistent with the matters for consideration listed in Part 2 of State Environmental Planning Policy No. 71 – Coastal Protection due to the unsuitability of development given its type, location and design and relationship with the surrounding area.
3. The proposal is inconsistent with the Objectives of the 6(a) – Open Space and Recreation Zone contained in Great Lakes Local Environmental Plan 1996 which require, in part, to restrict development to that which does not have an unacceptable impact on the amenity of adjoining areas.