



Notice of Commercial Services Committee Meeting

A Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Monday 11 March 2019 commencing at 4.00 pm.**

Business

1. Apologies
2. Declarations of Interest
3. Deputations
4. Committee Reports

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a horizontal line underneath.

Paul Hickey
General Manager

The non-confidential parts of Council's meetings are broadcast live to the web and are recorded for future reference. Recordings are made available on Council's website. In accordance with our Code of Meeting Practice, the recording or taking of photos by other people during the meeting is not permitted unless permission has been granted from the meeting.

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1. Apologies
 2. Declarations of Interest
 3. Deputations
-

1. Apologies

2. Declarations of Interest

3. Deputations

4.1 Community Land - Lease to Telstra

4. Committee Reports

4.1 Community Land - Lease to Telstra

Delivery Program Commercial Services

Objective To assess the response to the public exhibition of the proposal to lease Part Lot 11 DP 627149, North Creek Road Lennox Head to Telstra for a telecommunications tower.

Background

Council was approached by Telstra seeking approval to lease a portion of Council land at Lot 11 DP 627149 North Creek Road, Lennox Head. This site was identified by Telstra after a lengthy search into a number of alternate sites within the vicinity.

A report was presented to Council's Commercial Services Meeting of 4 December 2018 whereat it was recommended:

1. *"That Council authorizes the General Manager to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the Local Government Act 1993.*
2. *At the conclusion of the community consultation process the matter be reported back to Council."*

This decision was ratified at Council's Ordinary Meeting of 13 December 2018.

This report provides feedback in relation to the community consultation process undertaken and update on other matters concerning the proposal.

Key Issues

- Leasing of community land
- Community consultation
- Provision of telecommunication infrastructure
- Covenant on title

Information

In accordance with the *Local Government Act 1993* a community consultation process has been undertaken for the proposal to lease the subject portion of community land. This process included advertising in local press, notification to adjoining owners and a placement of a sign on the site.

4.1 Community Land - Lease to Telstra

The original closing date for submissions was 8 February 2019. This was extended to Friday 15 February 2019 due to requests from some members of the community.

Twenty eight submissions were received in regards to the proposal.

Of these one submission with three signatories is in support of the proposal and the balance is against (see copies of submissions **attached**). Two submissions have been withheld as attachments at the request of the submitters.

A number of issues were raised in the submissions against the proposal including the fact that there is a restrictive covenant burdening the land, concerns with potential damage to Norfolk Island pine trees, potential health concerns to residents within close proximity and diminution of property values.

There has been a tower with a navigation beacon on the Site for a number of years to warn pilots of the Norfolk Island pine trees.

The most recent monopole was the subject of Development Application 2013/281 for the “erection of a 45 metre high monopole (obstacle light pole) for the purposes of establishing being an Obstacle Hazard Beacon for the Ballina Byron Gateway Airport and ongoing topping of Norfolk Island Pine trees if (in the future) the trees grow to a height exceeding 115 metres AHD”.

Construction of this monopole or tower was agreed to by the beneficiaries of the covenant, Robert and Judith Pidcock, on the grounds of public and navigational safety. Judith Pidcock has lodged a submission in objection to the Telstra lease proposal.

Telstra is still keen to pursue erection of a telecommunications tower on the Site.

Legal / Resource / Financial Implications

The land is classified Community Land under the provisions of the *Local Government Act 1993*. There is no specific plan of management for this parcel of land known as Public Reserve No. L31007_001 although it is categorised as CU – General Community Use and as such it falls under Council’s Generic Plan of Management for Community Land 2015.

“The core objectives for management of community land categorized as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public...”

The subject site, Lot 11 DP 627149 is burdened by a restrictive covenant as follows:

- i. *“That no building or structure shall be erected on the land hereby transferred*
- ii. *That no tree of the Norfolk pines variety shall be destroyed except with the consent of the Transferor first had and received in writing*

4.1 Community Land - Lease to Telstra

- iii. *That the said land shall not be used for the purpose of public parking or public picnics nor shall the public be invited to use it for occupation or enjoyment.*"

This covenant may be released, varied or modified by the Transferor (beneficiaries and adjoining owner), the late Robert John Pidcock and Judith Mary Pidcock, their heirs, administrators or assigns.

Legal advice obtained by Council staff suggests it is unlikely Council would be able to remove or vary the covenant without incurring significant legal costs. Furthermore the success of such an action is doubtful.

If Council was successful in removing the covenant, the proposal to lease the Site would require Minister's consent in accordance with the provisions of the *Local Government Act 1993* as a result of receiving submissions objecting to the proposal and the proposed lease being for over five years.

Consultation

In accordance with the requirements of the *Local Government Act 1993* a community consultation process has been undertaken.

Options

1. Council advises Telstra that it does not wish to lease Part Lot 11 DP 627149, North Creek Road, Lennox Head due to concerns expressed by some members of the community and the restrictive covenant on title.

This option is recommended as legal costs to remove the restrictive covenant may be substantial and the likelihood of success is doubtful.

2. Council resolves to continue with the request from Telstra for a lease over Part Lot 11 DP 627149, North Creek Road Lennox Head and authorizes the General Manager to commence legal proceedings to remove the restrictive covenant burdening the land.

Should Council be successful in having the restrictive covenant removed, Council must seek Ministerial Consent in accordance with Section 47 of the *Local Government Act 1993* to lease community land to Telstra.

This option is not recommended due to community concerns against the lease proposal and the cost to remove the restrictive covenant from the land.

RECOMMENDATION

That Council advise Telstra that it does not wish to lease Part Lot 11 DP 627149 North Creek Road, Lennox Head due to the restrictive covenant on title and concerns expressed by members of the community.

Attachment(s)

1. Locality Plan - Lot 11 DP 627149 North Creek Road Lennox Head
2. Submission in favour of the proposal
3. Submissions in opposition to the proposal



Ballina Shire Council
 40 Cherry Street
 BALLINA NSW 2478
 PO Box 450
 BALLINA NSW 2478

1300 864 444
 council@ballina.nsw.gov.au
 www.ballina.nsw.gov.au



Site Plan ♦ Proposed Telstra Communication Pole North Creek Road Lennox Head

ballina shire council
 geographical information system

Projection: GDA94 / MGA zone 56
 Date: 15/10/2018

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Melinda Jones

From: B M Berghuis <bMBERGHUIS@gmail.com>
Sent: Monday, 28 January 2019 12:51 PM
To: Ballina Shire Council
Subject: Telecommunication monopole DP 627149 Lennox Head

Re: Community Consultation - Proposal to Lease Lot 11 DP 627149 North Creek Road - Lennox Head

Re: Proposed Upgrade of current Aircraft Nav Light to a combined Telecommunication Infrastructure/Aircraft Nav Light

Ballina Shire Council
Cherry St Ballina 2478

Dear Sir/Madam

We are fully **supportive of the proposal to upgrade telecommunications in Lennox Head**, through the construction of a Telecommunications Monopole at Lot 11 North Creek Road.

For many years residents in our area have complained about the inconvenience and disruption of **very poor (and at times non-existent) mobile phone coverage**, especially compared to most of Ballina Shire.

The replacement of the current aircraft navigation light with a **combined telecommunication infrastructure/aircraft nav light** makes a lot of sense - a win-win result!

Thanking you

Bert & Marie Berghuis
2 Tara Downs
Lennox Head 2478

Eric Ellis
6 Tara Downs
Lennox Head 2478

28 January 2019

B & M Berghuis

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<BR

OBJECTION:

To- Proposed Telstra Tower, Fence and shelter, North Creek Rd
Part Lot 11 on DP627149

Alex and Joy Richardson
6 Silver Gull Drive
East Ballina NSW 2478

We, as rate payers of Ballina Shire, wish to lodge our objection to the above mentioned proposal.

There is a need for better telecommunications but not at the detriment to the community and environment. The Norfolk pines are iconic to Lennox head. They are right on the skyline and it would be a travesty to allow development to affect these beautiful Norfolk pines in any way.

There must be an alternative site where there would be less impact to the surrounding area. Building such a large tower, the foundation alone would impact the roots of such large trees. If the proposed Lease Agreement were granted, Council would mostly lose its ability to protect the trees and the site.

Having a Telstra tower built on the skyline of Lennox will be an eyesore as well as greatly impact the house prices in the area. We have been granted the care of this beautiful land for our lifetime and the decisions that we make to its care will greatly impact future generations. Please make your decision wisely.

You, as our councillors, we employ you to work on our behalf and that of the community, protect the skyline of Lennox, protect the trees, be our advocate and please DO NOT enter into the proposed lease.

Sincerely,



Signed this 31/1/2019, by Ballina Shire Council Ratepayers: Alex and Joy Richardson

Melinda Jones

From: James Mallen <jimmymallen@hotmail.com>
Sent: Saturday, 26 January 2019 12:29 PM
To: Leanne Harding
Subject: Submission to oppose lease of land

Dear Leanne

I'd like to make a submission to oppose the lease of public land for a Telstra telecommunications tower on north creek road in Lennox head. We live directly opposite the proposed site at 2A Castle Drive.

As a medical doctor, who also has a strong physics background, I am very concerned about the proposed development. I strongly believe that placing a source of radiation so close to residential housing is unsafe, and would carry a cancer risk for local residents.

The scientific evidence to date shows there is a link between telecommunications radiation and neurological cancers in animal studies. There are no human studies as studying the effects of radiation on humans is largely unethical. There is no such things as a 'safe' level of radiation dose and even a relatively small amount can cause a mutation leading to cancer. In addition, other health concerns relating to radiation include dermatitis and colitis.

As the amount of radiation drops off exponentially the further away you are from the source (r-squared law) then I believe it would be much safer to place the tower in another area away from housing.

I thank you for your consideration of this matter.

Kind regards

Dr James Mallen
FRACGP
BSc with honours - physics

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Jamie Rowe

From: peter@audas.net
Sent: Friday, 18 January 2019 3:28 PM
To: Ballina Shire Council
Cc: Leanne Harding; Peter Drew; Daniel
Subject: Proposed lease of Community Land for a Telecommunications Tower at North Creek Road, Lennox Head
Attachments: Objection by Walsh Family.pdf

To Ballina Shire Council:

We respectfully submit the attached Objection to the granting of a Lease over Community Land for a Telecommunications Tower at North Creek Road, Lennox Head.

We trust that Council will give our Objection full and sympathetic consideration. Please contact us on 0435 131 264 if any further input would be of assistance.

Sincerely,
Peter Walsh
Daniel Walsh

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Submission

To	Ballina Shire Council
Reference	Proposal to Enter into Lease Agreement for Occupation of Land Classified under the Local Government Act 1993 as Community Land, for the Purpose of Erecting a Telecommunications Tower and Equipment Shelter
Location	Part Lot 11 on DP 627149, North Creek Road, Lennox Head NSW
Submission	OBJECTION
By Ratepayers	Kenneth Peter Walsh and Daniel Korsten Walsh
Home Address	37 Crane Street, Ballina NSW 2478
Email	peter@audas.net
Telephone	0435 131 264

Preamble

This Community Land is a landmark in Ballina Shire. Due to its elevation and tall Norfolk Pines, it can be seen from many kilometres all around. These trees are iconic and important to the identity of Lennox Head. Residents place great importance upon their preservation and expect Council to protect them. Residents also place great importance upon the preservation of this Community Land for and on behalf of the community in perpetuity, and expect Council not to permit any development upon it.

If the proposed Lease Agreement were granted, Council would mostly lose its ability to protect the trees and site. Around the country, once Telstra secures land for a telecommunications tower, the corporation leverages legal appeal processes to overturn Council decisions. This strategy is successful because courts take the view that telecommunications infrastructure is essential public infrastructure and inevitably involves impacts, so planning considerations such as character and heritage are not given much weight.

The impacts and risks set out in our **Objections** overleaf would be too great. The undersigned therefore submit that Council should **NOT** enter into the proposed Lease Agreement.

Sincerely,

Signed this 18th day of January 2019, by Ballina Shire Council Ratepayers:

Kenneth Peter Walsh



Daniel Korsten Walsh



Objections

1. Environmental

- 1.1 In order for the proposed telecommunications tower to achieve good signals all round, some trees on the site would be either removed or substantially lopped.
- 1.2 Footings for the tower and equipment shelter would affect the root systems of trees in a substantial radius.
- 1.3 The tower, equipment shelter and high fencing would significantly diminish the visual amenity of the site as it would become a dominant feature in the landscape, whereas the existing navigation tower is less obtrusive.
- 1.4 Telecommunications towers in residential areas are believed by the community to be an environmental health hazard. While scientific evidence on this issue is inconclusive, health effects are real even if due only to the nocebo effect, which "must be recognized as true adverse reactions and not neglected" (Planes et al, 2016).

2. Financial

- 2.1 Proximity to this valuable Community Asset played a significant part in valuations prior to purchase by nearby landowners.
- 2.2 In Australia, stand-alone monopole telecommunication towers negatively affect residential property values by 15% or more within 200 metres of the site (Rajapaksa et al, 2017). Abrogation of this Community Land could expose Council to demands for compensation by affected landowners.
- 2.3 The negative effect upon land values would reduce the financial viability of possible future subdivisions of nearby properties, which in turn would diminish potential revenue to Council from developer contributions and the rates base.

3. Other

- 3.1 Access to and from the site on North Creek Road, directly opposite Castle Drive, would pose a traffic hazard.
- 3.2 From information made available to the community so far, it does not appear that Telstra has identified and evaluated alternative sites that would pose fewer or less significant risks than the above.

References

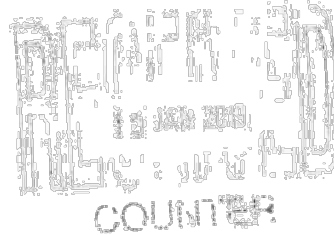
The impact of cell phone towers on house prices: evidence from Brisbane, Australia.

Rajapaksa et al, The Official Journal of the Society for Environmental Economics and Policy Studies, Springer Japan KK 2017

The nocebo effect of drugs.

Plain et al, Pharmacology Research and Perspectives (online), 2016

Submission



To: Ballina Shire Council

Reference: Proposal to Enter into Lease Agreement for Occupation of Land Classified under the Act 1993 as Community Land, For the Purpose of Erecting a Telecommunications Tower and Equipment Shelter

Location: Part Lot 11 on DP 627149, North Creek Road Lennox Head N.S.W.

Submission: OBJECTION

By Ratepayers: John Edward Grew, Susan Margaret Grew

Home address: 160 North Creek Road Lennox Head 2478
(20 METERS FROM POLE)

Email: johnandsuegrew@hotmail.com

Telephone: 0432517723

OBJECTIONS: We purchased our property 160 North Creek Road excepting the pole and the aviation light as a safety device for air craft landings at night. This device was installed to save lives. Had we known then this could turn into a telecommunications tower and Equipment shelter enclosed in a 3-meter-high and unsightly fence we would have not purchased the property.

I have a heart problem and 69 years old and the stress of the huge depreciation in the value of our property will most certainly have serious effects on my health.

My daughter Natalie who just had a double mastectomy and now is clear of all cancer is also concerned the cancer could reappear.

As councillors with the ability to stop this proposal if you were in our position what would you do?

ACCESS: The existing location will require a new driveway on a dangerous corner as access through my property will not be allowed.

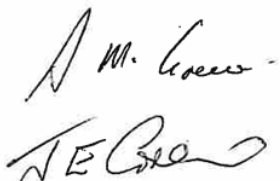
BETTER LOCATION: To serve a wider area a better location would be Banyan Hills Cumbalum Heights where the water Tanks are.

TREES: The Norfolk Pines are "ICONIC" to Lennox Head and would most certainly have to be removed to increase reception for the tower. and the foundations would most certainly weaken the ROOT system of the trees.

The undersigned submit should not enter into the proposed agreement.

Sincerely

J.E. & S.M GREW

Handwritten signatures of J.E. & S.M. Grew. The top signature appears to be 'S.M. Grew' and the bottom signature appears to be 'J.E. Grew'.

5 Fieldcrest Pl
Lennox Head NSW 2478

2 February 2019

The General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Dear Sir

Re: Proposal to Install Telephone Tower on North Creek Road

I am writing to object to the proposed Telephone Tower on North Creek Road. The tower is to replace the existing aircraft warning light but will also include an equipment shed and fencing around the total installation.

This area has an important history that should not be destroyed by a commercial structure that can be readily installed at a less intrusive site. The nearby trees are listed on the heritage tree register and the entire area is well looked after in a manner that presents their values in an appropriate manner.

This ridgeline is also an iconic feature that is visible from a large number of areas around the district. We have even observed it from Evans Head. Whilst the telephone transmission tower would not be a dominating feature from any distance it will detract from closer viewing points.

The entire area is situated in well presented residential environment that will be completely destroyed by such a large and visible commercial installation. I believe that there is a need for better Telstra transmissions but this could be accomplished just as effectively further south in the rural section of North Creek road.

As there are also many people who are concerned due to the high intensity radiation emissions that will be introduced into the area, removal into a less populated site will avoid such conflict.

Yours faithfully

Malcolm Milner

Jamie Rowe

From: Dianne Lamb <dianne@mglamb.com.au>
Sent: Tuesday, 5 February 2019 8:57 AM
To: Ballina Shire Council
Subject: RE- OBJECTION TO PROPOSED TELSTRA TOWER
Attachments: BRN3C2AF420E85D_000310.pdf

Dear Councillors,
We have been granted the care of this beautiful land for our lifetime and the decision that we make will greatly impact future generations.
Please make your decision wisely.

Kind Regards
Michael and Dianne Lamb

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OBJECTION:

Proposal to lease community land - Telstra tower, North Creek Road.

To	Ballina Shire Council
With Reference	Proposal to Enter into Lease Agreement for Occupation of Land Classified under the Local Government Act 1993 as Community Land, for the Purpose of Erecting a Telecommunications Tower and Equipment Shelter
Location	Part Lot 11 on DP 627149, North Creek Road, Lennox Head NSW
Submission	OBJECTION
By Ratepayers	Michael and Dianne Lamb
Home Address	168 North Creek Rd, Lennox Head
Email	dianne@mglamb.com.au
Telephone	0417025019 / 0427848238

WE OBJECT GREATLY TO THE PROPOSED LEASE OF COMMUNITY LAND BY TELSTRA

We, as rate payers of Ballina Shire, wish to lodge our objection to the above mentioned proposal. Our objections, listed below, outline that the site for the proposed tower is unsuitable and needs to be stopped.

We employ you, as our councillors, to act for us and the community to keep control of this community land. There is a need for improved telecommunication but this can be achieved by upgrading current services or finding an alternative site that poses less risks to the environment and surrounding highly populated residential area.

The current skyline of Lennox Head is beautiful that of Norfolk pine trees, do you really want to destroy this?

Please save our skyline, protect our trees, preserve Lennox Head.

Sincerely,




Signed this 31/1/2019, by Ballina Shire Council Ratepayers: Michael and Dianne Lamb

OBJECTION:

Proposal to lease community land - Telstra tower, North Creek Road.

- **PROTECT THE TREES**-For the tower to be affective there will be removal of trees and severe cutting and chopping down. You will destroy in a few hours what has taken 2 lifetimes to grow.
- For such a tower to be built there will be significant foundations which will destroy the root system of the Norfolk Pines.
- **PRESERVE THE SKYLINE**-Instead of looking up and seeing the pines as the skyline of Lennox there will only be a tower, A tower that Telstra control and can take more trees in the future to preserve their site.
- Telecommunications towers in residential areas are believed by the community to be an environmental health hazard.
- Building a tower so close to a children's park. You don't know the future implications of such technology both now and future addition to this tower will be.
- Unsightly, as you travel North along North creek Rd all you will see is an unsightly tower rather than trees.
- **LAND PRICES**- All people with houses near the tower will have a significant price drop in the value of their property.
- **HEALTH IMPLICATIONS**-In Australia, stand-alone monopole telecommunication towers negatively affect residential property values by 15% or more within 200 metres of the site (Rajapaksa et al, 2017). Compensation will need to be sort. Land owners will need to recoup their losses. This may open up Council to litigation.
- The blocks around the proposed towers are mostly 8000 square meters blocks and could be subdivided in the future but a tower would significantly deter this and therefore stop council revenue.
- **PRESERVE THE LAND** -This is community land and was given for the benefit of residents, both now and in the future. This land was never given to be used in this way. We expect as councillors that you uphold the wishes in which the land was given and place no structure upon this land or develop it in any way.
- **STOP THE LEASE**- Council needs to remain in control of this land. As councillors it is your duty to protect these trees, preserve our land and the only way to do this is to remain in control and stop the lease.



Melinda Jones

From: Bernice Woods <bernice.m.woods@gmail.com>
Sent: Tuesday, 5 February 2019 7:06 PM
To: Ballina Shire Council
Subject: Objection to Proposed Lease of Community Land

I would like to voice my objection to the proposed lease of community land (Lot 11 DP 627149) on North Creek Road Lennox Head, for the purpose of erecting a telecommunications tower and equipment shelter.

I and my partner own and reside at 151 North Creek Road, Lennox Head, across the road from the subject proposal. The current navigation tower is clearly seen from our property. While I understand the need for this type of construction on community land, I do not understand how Council could grant Telstra a lease which would allow them to construct a telecommunications tower and associated buildings on community land.

I consider the proposal would have a negative impact on the amenity of the area for the following reasons:

Concern about the negative effects of exposure to electromagnetic fields produced by these towers;

Negative impact on property values in the vicinity;

An ugly unsightly construction from which a telecommunications operator benefits financially at the community's expense.

Telecommunications towers do NOT belong in highly populated residential areas.

Regards
Bernice Woods & Paul Buchanan
151 North Creek Road, Lennox Head
bernice.m.woods@gmail.com
0403 575 796

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Jamie Rowe

From: James Gatland <james.gatland@gmail.com>
Sent: Tuesday, 5 February 2019 10:14 PM
To: Ballina Shire Council; Leanne Harding; Councillor David Wright; Councillor Sharon Cadwallader; Councillor Jeff Johnson; Councillor Keith Williams; Councillor Phil Meehan; Councillor Nathan Willis; Councillor Stephen McCarthy; Councillor Eoin Johnston; Councillor Ben Smith; Councillor Sharon Parry
Subject: OBJECTION: Proposal to lease community land, Telstra tower, North Creek Road
Attachments: Attachment 1.pdf; Attachment 2.pdf; Attachment 3.pdf

Dear Leanne & Ballina Shire Councillors

Please accept my submission in objection to Telstra's proposal to construct a telecommunications tower and associated facilities on North Creek Road in Lennox Head. The grounds of my objection are as follows:

1. As a resident living and operating a family day care within close proximity of the proposed tower, I am concerned about the potential health implications associated with the constant high frequencies emitted by such a tower. I accept that there are differing opinions and research findings on this topic, however when it comes to health I prefer to err on the side of caution.
2. I believe a telecommunications tower in the proposed location would negatively impact the value of my property and those of my neighbours due to the reduced demand for our properties for the reason outlined above. This is already evidenced in my conversations with neighbours who talk of selling their properties and moving elsewhere should the tower proceed.
3. I understand that Telstra's proposal is to remove the existing aircraft navigation tower and replace it with a 45 metre high monopole nearby. This would need to be supported by substantial new concrete footings, the associated works for which I believe are likely to compromise the adjacent heritage-listed pine trees. These trees were planted in 1886 and now form an important part of the visual amenity of the area.
4. The proposed improvements - telecommunications tower, equipment shelter, 120m² fenced area and driveway (refer Attachment A) - would be of a bulk and scale far greater than the existing tower and would diminish the natural beauty of the site.
5. The aforementioned improvements also conflict with the site's classification as community land and the provisions of council's Plan of Management for Community Land 2015 (refer Attachment B). In particular, the plan of management does not permit "The erection of any building or structure of a permanent nature". I note that the existing aircraft navigation tower was an exception and was endorsed by the neighbouring landowners on the basis that it was necessary for public safety. I would argue that the opposite is true of the proposed telecommunications tower - it poses a potential risk to public safety.
6. I receive sufficient reception via Telstra's existing telecommunications tower that I see any additional tower as being potentially detrimental for all of the above reasons for no real benefit. If there are areas of Lennox Head which do not currently receive as good reception, then perhaps there is a location for a smaller tower closer to them that would be more appropriate.
7. I further understand the parcel of land in concern to be burdened by a covenant (refer Attachment 3) which prohibits the erection of any structures without the express permission of all benefiting parties, namely Ballina Shire Council AND at least one of the adjacent landowners. My conversations with the adjacent landowners revealed that they also oppose the tower and would not give permission for it to proceed.

Warmest regards

Jimi Gatland
20 Fox Valley Way, Lennox Head

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4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



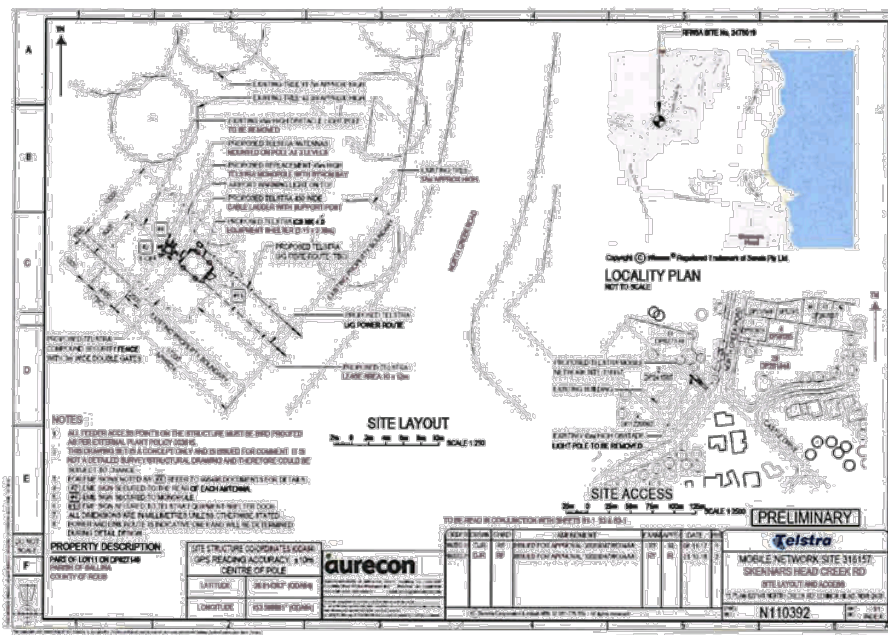
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PO Box 452
BALLINA NSW 2479
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council@ballina.nsw.gov.au
www.ballina.nsw.gov.au



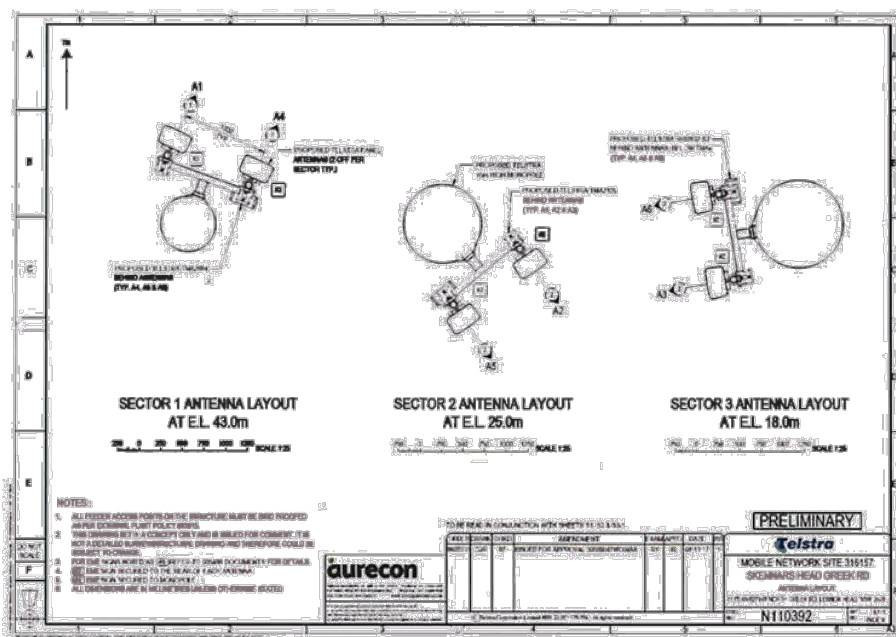
Site Plan ♦ Proposed Telstra Communication
Pole North Creek Road Lennox Head

ballina shire council
geographic information systems
Projection: GDA94 / MGA zone 56
Scale: 1:518/2014

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land





Ballina Shire Council
Plan of Management
for
Community Land
2015

Version 3 17/58178



Req:R663929 /Doc:DL M624992 /Rev:21-May-1997 /Sts:OK.OK /Pgs:ALL /Prt:30-Nov-2018 12:25 /Seq:1 of 4
 Ref: /Src:A

No. 0

M:6 2 49 9,2 12 FEB 23 AM 10:04

Example

BC R.P. 13a

From: Lodgment Endorsement

MEMORANDUM OF TRANSFER
 (REAL PROPERTY ACT, 1900.)

I, LESTER COLIN BRIEN of Lennox Head Solicitor
 (herein called transferor)
 being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject however, to such encumbrances, liens and interests as are notified hereunder, in consideration of FIVE HUNDRED DOLLARS
 (\$500.00) (the receipt whereof is hereby acknowledged) paid to me by
THE COUNCIL OF THE SHIRE OF TINTERRAR
 do hereby transfer to

THE COUNCIL OF THE SHIRE OF TINTERRAR
ALSTONVILLE 2477
 (herein called transferee)

ALL such my Estate and Interest in ALL the land mentioned in the schedule following:—

County	Parish	Reference to Title			Description of Land (if part only)
		Whole or Part	Vol.	Fol.	
ROUSE	BALLINA	WHOLE	1167	68	

Req:R663929 /Doc:DL M624992 /Rev:21-May-1997 /Sts:OK,OK /Pgs:ALL /Prt:30-Nov-2018 12:25 /Seq:2 of 4
Ref: /Src:A

And the transferee covenant(s) with the transferor for itself and its assigns or other the registered proprietors for the time being of the land hereby transferred hereby covenants with the Transferor and his assigns

1. That no building or structure shall be erected on the land hereby transferred
2. That no tree of the Norfolk pine variety shall be destroyed except with the consent of the Transferor first had and received in writing.
3. That the said land shall not be used for the purpose of public parking or public piers nor shall the public be invited to use it for occupation or enjoyment

AND IT IS HEREBY AGREED AND DECLARED that the benefit of the foregoing Covenants shall be appurtenant to all the other land in Certificate of Title Volume 10450 Folio 8 and that the said covenants may be released varied or modified by the registered proprietors for the time being of the lands to which they are appurtenant.

Strike out if unnecessary
(i) if any covenants are to be created or an exception to be made of
(ii) if the statutory covenants implied by the Act are intended to be varied or modified.
Covenants shall comply with the provisions of Section 11 of the Conveyancing Act, 1919.

ENCUMBRANCES, &c. REFERRED TO:

A very short note will suffice.
K111-3

Melinda Jones

From: Susan Perrow <susanperrow@gmail.com>
Sent: Wednesday, 6 February 2019 1:01 PM
To: Ballina Shire Council
Subject: Telstra tower, North Creek Road, Lennox Head

To whom it may concern.

Re: Proposed Telstra Tower, North Creek Road, Lennox Head

I am writing to express my concern that Ballina Council have agreed to a Telstra tower in the middle of a suburban area. I strongly oppose this decision and recommend that Council encourages Telstra to find a hill on a rural property, of which there are many around Lennox Head.

You don't have to search far on the Internet to find evidence of the negative effects on human health of such a tower.

E.g.: If you **live** within a quarter mile of a **cell phone** antenna or **tower**, you may be at risk of serious harm to your health, according to a German study cited at www.EMF-Health.com, a site devoted to exposing hazards associated with electromagnetic frequencies from **cell phone towers** and other sources. See: <http://www.emf-health.com/>

E.g.: The WHO's International Agency for Research on Cancer (IARC) reported that mobile tower radiations are carcinogenic to humans and can cause brain cancer. It has the same effects as being surrounded by DDT, chloroform, lead and petrol exhaust.

E.g.: <https://www.safespaceprotection.com/emf-health-risks/emf-health-effects/cell-towers/>

E.g.: <http://www.environmentalpollution.in/radiation-pollution/7-major-harmful-effects-of-cell-phone-towers-radiation-pollution/1478>

Regards,
Susan Perrow

13 Karalauren Ct, Lennox Head, NSW, 2478, Australia

Mobile: +61-413734125

Email: susanperrow@gmail.com Website: www.susanperrow.com

39 Greenfield Road, Lennox Head 2478
woffies@mac.com

The General Manager,
Ballina Shire Council
council@ballina.nsw.gov.au

7 February 2019

Dear Sir,

PROPOSED LEASE TO TELSTRA – NORTH CREEK ROAD, LENNOX HEAD

We refer to Council's proposed Lease of Lot 11, DP 627149 (Lot 11) to Telstra to construct and operate a telecommunications pole and associated structures.

We are **strongly opposed** to any proposal to lease all or part of Lot 11 for any purpose, and in particular for the purpose of constructing a telecommunications tower.

Area of cultural and natural significance

As Council should be aware, virtually the entire of Lot 11 is a natural reserve covered by a magnificent stand of tall Norfolk Pine trees. In addition to the Norfolk Pines, there are a significant number of other species (including Bunya pines and large Moreton Bay Fig trees). Some of these trees are almost 200 years old and are associated with the advent of early European settlers to the region.

The trees have been an important site for native and migratory birds for many decades and they are also used as a maritime navigation tool. As one of the highest points in the area, the Norfolk Pines stand is a significant natural feature that can be seen for many kilometres to the east and west, and from the northern and southern coastlines. Along with Lennox Headland, it represents one of the most important natural landforms in Lennox Head and the Ballina Shire. It was presumably for these reasons that in 1971 the then owner of the land dedicated Lot 11 to preserve, protect and maintaining this significant stand of trees for future generations.

The construction of a 45-metre telecommunications tower – being taller than the tallest Norfolk Pine – and its associated structures would amount to an improper interference with the views toward this iconic Lennox Head spot from every angle, including out to sea. Neither a tower nor any associated structures could be built on any part of Lot 11 without initial and/or future damage to the Norfolk Pines and their root systems on the site. Indeed, it is hard to believe that anyone – whether Telstra, its agent Axicom, or Council – would consider this site a proper site for such construction.

Community Land

As Council is aware, Lot 11 DP 627149 is classified as Community Land – that is land which is designated as such for community use under the Local Government Act and managed

according to Council's 'Plan of Management for Community Land' (PMCL). Under s2 of that Plan, Community Land must be retained for community use.

In the PMCL Lot 11 is known as 'Lennox Norfolk Pines Reserve' and is to be retained for general community use.

The proposed Lease to Telstra is incompatible with community use of the land. The core objectives for the land preclude a lease for the provision of public utilities and/or works associated with those utilities.

Covenant to protect Norfolk Pines

As Council should be aware, the title to Lot 11 is burdened by two Registered Covenants entered into by Council to protect the Norfolk Pines reserve. Both Covenants state that *no building or structures shall be erected on the land and that no Norfolk Pine trees shall be destroyed.*

Industry Code

It is our understanding that Telstra is a signatory to the Industry Code for Mobile Phone Base Station Deployment. The Code clearly states that when selecting a site for a base station such as that proposed for Lot 11, Telstra must have regard to a range of issues including the likelihood of the area being in a community sensitive location, the cultural and natural heritage significance of the site, and minimisation of EME exposure to the public. It appears Telstra/Axicom has not paid sufficient regard to those factors when selecting this site.

Health issues

Although we do not live in close vicinity to the proposed tower, our views are aligned with the concerns of those residents of Lennox Head who do live nearby – some of whom reside within 100 metres of the proposed tower. There is enough evidence to suggest that people who live in close vicinity to phone towers may be subject to unsafe levels of radiation. As there are numerous residents of Lennox Head living in *very* close vicinity to Lot 11, it is Council's duty to adopt the precautionary principle and refuse to grant a Lease for such a tower in any such area of the Shire with high residential population.

For the reasons outlined above, we urge the Council and all Councillors to act in the best interest of the residents of Lennox Head and the Ballina Shire and to:

- 1 reject the Telstra proposal for Lot 11; and
- 2 to reclassify Lot 11 under the PMCL as an area of cultural significance.

Sincerely,
Sharne Wolff & David Wolff

The General Manager,
Ballina Shire Council,
Cherry Street,
BALLINA, NSW, 2478

council@ballina.nsw.gov.au

7th February 2019

Dear Sir,

Proposed Lease to Telstra - North Creek Road, Lennox Head

In regards to the above I strongly object to the development of the proposed Telstra tower on Lot 11, D.P. 627149 - North Creek Road, Lennox Head.

My parents The Late Robert (Bob) Pidcock and Judith Pidcock purchased the now known Lot 11 and the surrounding 40+ hectares of farming land in 1973. At the time they agreed with the then owner/farmer, The Late Mr. L. Brien to survey and sell to the council the now known Lot 11 to the community for a generous \$500.00. It was their joint intent not only to pass on the land to the community but also to create an agreement with council to become joint guardians of the site to protect all the Norfolk Pine Trees and to keep the visual landscape free of all structures forever into the future.

To my knowledge the covenant states that - The land should not be used for public utilities and all trees within the site should be protected.

Community land should remain for the community.

The erection of a Telstra pole with a significant number of aerials will have a significant and devastating impact to what is currently an iconic natural landscape.

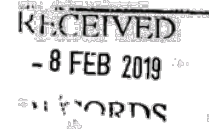
The iconic stand of Norfolk Pine Trees is to many people: A natural feature of Lennox Head - Representing the past and the future - and party to forming a lifetime of memories.

With my Late father Bob Pidcock I have maintained Lot 11 for over 40 years. I have a good knowledge of the land and can only be puzzled when I perused the Telstra plans to note they have omitted to show the location of one of the best specimens of Norfolk pine on the North Coast (a 30+ metre tree) standing within 5 metres of the proposed pole site. The continued natural growth and or life of this tree is under serious threat. Both this tree and other trees in the immediate area will be effected by construction and require extensive maintenance in the future not to hinder the pole.

To understand how the reception of the proposed aerials will not be impinged by the trees now and into the future is lunacy and an insult to reasonable thinking. Any ongoing tampering with any of the Norfolk Pine Trees by Telstra in the future would be a travesty. The potential to molest the trees for better reception in the future is very real.

Over the years lightning strikes and major winds have taken out several matured Norfolk Pine Trees on site. We have tried to nurture all the younger trees to take their place. The younger trees are now potentially at risk.

(1 of 2)



(2 of 2)

In regards to any potential health issue resulting from the tower. My wife and I currently live at 130 North Creek Road and therefore reside within 200 metres to the west of telephone aerials located on the water reservoir in Basalt Court. If this new tower were to be constructed we would also be subjected to the potential unknown health effects from a second large number of additional Telstra aerials 200 metres to the south - resulting in a field of electrical reception extremely unsatisfactory to reasonable health levels. Several hundred neighbouring residents live within say a 500 hundred metre precinct and deserve a reprieve from this insult to common sense.

I urge council to stand up and act in an environmentally responsible manner - Pay attention to the guardianship roll they have been entrusted with as intended by the parties who made the agreement on the land and decline Telstra's proposal without further delay or review.

Sincerely,



Paul Pidcock
130 North Creek Road, Lennox Head. NSW. 2478

Jamie Rowe

From: Watt, Annie <Annie_Watt@steris.com>
Sent: Friday, 8 February 2019 11:19 AM
To: Ballina Shire Council
Subject: Submission re Telecommunications Tower and Equipment Shelter North Creek Rd Lennox Head

Dear Council Members

I wish to loge my submission re the erection of a Telstra Communications Tower and Equipment Shelter on North Creek Rd, Lennox Head.

I am totally opposed to erecting this tower for several reasons:

1. There is conflicting data globally relating to EMR emissions causing community fears about the unknown effects of EMR. These have been exacerbated by lack of access to detailed scientific and medical research into the potential effects of EMR in Australia. I reside in Fieldcrest Place, Lennox Head and feel we will be exposed to these EMR emissions at a far greater level than the general community. If the Councilors are not concerned about EMR emissions then I suggest you place this Telstra tower in your backyard!
2. In relation to Australian Standards (AS 2772.1-1990) and emissions from telecommunications towers, the following point was made:

*Everyone is aware of the Australian standards and everyone is aware that the telecommunications towers are well within the Australian standards. **Our concern is that evidence is starting to show that continuous 24-hour background radiation, low levels of EMR, may have some long-term effects on the community.** Our position is to treat the matter cautiously and simply insist that the towers not be located in sensitive areas. The long-term research may very well lead to a significant change in Australian standards. [62]*

3. *There is wide spread documented evidence that Mobile Phone Towers emit radiation with reports of increased brain cancer, leukemia and anxiety related to the erection of these towers. There are large areas of land in Lennox Head which are away from the general community housing which could be utilized for these towers!*
4. *Our house backs onto the Council nature corridor which is home to various birds animals. Some of the bird life is quite rare and exposing these creatures to EMR emissions as they perch on these towers, or are in close vicinity to these towers, has been seen to have a significant effect on the wildlife's health and reproduction . Once again there is enormous amount of data regarding this – please see one website <https://ehtrust.org/science/bees-butterflies-wildlife-research-electromagnetic-fields-environment/> - See a Review of 113 studies from original peer-reviewed publications, RF-EMF had a significant effect on birds, insects, other vertebrates, other organisms and plants in 70% of the studies. Development and reproduction of birds and insects are the most strongly affected endpoints.*
5. *Presently there is an aviation beacon erected on this site. This poses no threat to either human or animal life as it is a pole with a red warning light. The pole stands at 35 meters however the new telecommunications tower is stated to be 45 meters which is NOT replacing the existing pole. I believe the agreement is to replace the present aviation pole with a tower of the same height – obviously the Telstra tower will be 10 meters higher????*

I feel there are far better sites to erect this telecommunications tower which will not impact human or wildlife's health. Consideration must be given to those who will be in the direct firing line of these towers and it is the responsibility of the council to ensure safety for the entire community!

Kind regards

Lennox Head 2478
Mobile: +61 407065166
Email: annie.watt@steris.com

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Melinda Jones

From: John Adam <jasadam@hotmail.com>
Sent: Saturday, 9 February 2019 11:06 AM
To: Ballina Shire Council
Subject: Proposed Telstra tower, North Creek Road, Lennox Head.

To whom it may concern,

I, as a rate payer and resident of Ballina Shire, am extremely concerned that Ballina Shire Council have agreed to a Telstra tower being erected in the middle of a suburban area.

I strongly oppose this decision and recommend that Council encourages Telstra to find a hill on a rural property, of which there are many around Lennox Head that will cover the same signal area.

You don't have to search far on the Internet to find evidence of the negative effects on human health of such a tower.....

I urge you to read and take seriously the following:

If you live within a quarter mile of a cell phone antenna or tower, you may be at risk of serious harm to your health, according to a German study cited at www.EMF-Health.com, a site devoted to exposing hazards associated with electromagnetic frequencies from **cell phone towers** and other sources. See: <http://www.emf-health.com/>

The WHO's International Agency for Research on Cancer (IARC) reported that mobile tower radiations are carcinogenic to humans and can cause brain cancer. It has the same effects as being surrounded by DDT, chloroform, lead and petrol exhaust.

<https://www.safespaceprotection.com/emf-health-risks/emf-health-effects/cell-towers/>

<http://www.environmentalpollution.in/radiation-pollution/7-major-harmful-effects-of-cell-phone-towers-radiation-pollution/1478>

Clean up your act council!!

John Adam
Lennox Head

Sent from [Mail](#) for Windows 10

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Melinda Jones

From: Georgia Wolff <georgia_wolff@me.com>
Sent: Monday, 11 February 2019 10:10 AM
To: Ballina Shire Council
Subject: Re proposal to lease Lot 11 DP 627149

Dear Councillors

I understand that the Ballina Council proposes to lease the site at Lot 11, DP 627149 (the Land) to Telstra to construct and operate a telecommunications pole and associated structures.

I am **strongly opposed** to the construction of the telecommunications pole for several reasons, as outlined below.

Area of natural significance

Lot 11 is home to an impressive stand of Norfolk Pines trees. The Norfolk Pines are close to 200 years old and are an iconic emblem of Lennox Head – they are clearly visible from the airplane window and, for many Lennox Head residents, are symbolic of home. Visitors to the Northern Rivers always comment on the Norfolk Pines as a distinguishing feature of Lennox Head and representative of its natural beauty. Along with Lennox Headland and Lake Ainsworth, the Norfolk Pines are one of the Northern Rivers' natural wonders.

Having survived many hundreds of electrical storms, the Norfolk Pines have stood the test of time and remain responsible for housing many native bird species that have nested in their branches for (at least!) my lifetime. The Norfolk Pines are also a powerful source of shade for other small animals living in the bush surrounding their trunks.

Health issues

The construction of the telecommunications pole on Lot 11 is likely to generate significant adverse health impacts for those residents who live nearby. The telecommunications pole and associated infrastructure may expose them to unsafe levels of radiation. As the body responsible for representing the best interests of the community, the Council should adopt the precautionary principle and refuse to grant a lease to Telstra to construct the pole on Lot 11.

For the reasons discussed above, the Council should reject the proposal to lease Lot 11 to Telstra to construct the telecommunications pole.

Sincerely,
Georgia Wolff

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For more information please visit <http://www.symanteccloud.com>.

140 North Creek Road, Lennox Head. 2478

pidcocks@mac.com

12 February 2019

The General Manager,
Ballina Shire Council,
council@ballina.nsw.gov.au

Dear Sir,

PROPOSED LEASE OF COMMUNITY LAND – Lot 11, DP 627149 NORTH CREEK ROAD,
LENNOX HEAD

I refer to Council's letter of 4 January 2019 regarding the proposed Lease of Community Land at Lot 11, DP 627149 (the 'Reserve') to Telstra to construct and operate a telecommunications pole and ancillary services. I am one of the adjoining neighbours of the Reserve.

I vigorously oppose any Council proposal to lease the Reserve and specifically for the purpose of constructing a telecommunications pole and services.

Covenant to protect

In 1971, in recognition of the Reserve's natural value, uniqueness and heritage significance, the former owner Mr. Lester Brien dedicated a one-acre parcel for the purpose of protecting it for future generations. His original property in its entirety was approximately 133 acres – and Tintenbar Shire Council (as Ballina Shire was then known) agreed to acquire a one-acre parcel burdened by a Covenant regarding the ongoing protection of the Norfolk Pine trees on the Reserve. Joint signatories to the document were Lester Brien and K. Arrowsmith (Town Clerk).

This Covenant remains on the Lot 11 Reserve today. It provides for 'joint guardianship' of the trees with Council and the current owner charged with the responsibility to observe the intentions prescribed in 1971. In 1973 my husband, The Late Bob Pidcock and myself purchased the grazing property of 132 acres from Lester Brien. I am still resident on this neighbouring site and remain committed to honouring the intent of the Covenant.

Heritage Value of the site

It has been documented that four of the highest Norfolk Pines on the Reserve were planted in 1866 by one of the earliest European settlers – Mr. Albert Hodgkinson. Subsequently, more plantings took place in the 1930's. In 2006, the Reserve was recognised as being of high aesthetic value, and in 2008 the Reserve was nominated as being worthy of heritage listing. The proposed lease of the Reserve is inconsistent with its value as one of natural and cultural significance.

Visual Natural Environmental and Ecological Value

Further, this Reserve is widely recognised as an iconic natural visual feature of Lennox Head. These grand old Norfolk Pine trees standing sentinel on the hill provide a haven for a wide variety of birds, both roosting and nesting. Migratory birds, including Swifts for example, have frequently been sighted very high in the sky encircling the trees on their flight south from Mongolia.

The Amenity of the Site

It is stated in your letter of 4 January that there is “no proposed change to the current operation of these facilities”. This is not the case. The telecommunications ‘monopole’ (as illustrated in Telstra’s design drawings) is not of a similar design to that of the pole erected on site in 2013 to serve as a warning beacon for Ballina Airport traffic. The current pole provides just two passive red warning lights fixed to its apex and its location on this site is inflexible and essential for public safety.

The proposed telecommunications structure which is proposed to replace the Airport beacon would require additional substantial concrete footings – both wide and deep. Excavation would necessitate intrusion of the site by heavy machinery and overall could result in irreparable damage being incurred to the root systems of the Norfolk Pines now and into the future. Telstra’s illustrated design is also of a substantial bulky form and provides for additional ancillary services.

Community Land

Council has classified Lot 11 as ‘Community Land’, the use of which is subject to many conditions. Ballina Shire Plan of Management for Community Land states that such land must be managed consistently with the specified core objectives for community purposes.

Health Risks

Many eminent Health Organisations have cautioned against the construction of telecommunication towers near residential areas. The function of such towers is to transmit Radiofrequency Signals whereby electromagnetic radiation is produced – known to cause a wide variety of adverse health problems, including cancer. Aside from myself, many of my neighbours are new residents who have elected to make Lennox Head their home. Those who considered this neighbourhood a desirable place to raise young families have suddenly found themselves thrust into this awful, unenviable and worrying predicament.

Diminution of Property Values

It is evidenced that the construction of a telecommunications tower impacts dramatically on the valuation of property in the environ. Significant adverse valuations of residential property would be the result. This would directly impact the numerous homeowners located in the immediate vicinity and would constitute a violation on the livelihoods of many members of our community.

Council responsibilities

Ballina Shire Council strives to be a leader in environmental responsibility – surely now is the time to advise Telstra they should seek an alternative site that is located away from a residential area.

Council's Charter states as its role is:

“To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development” and further to “have regard to the long term and cumulative effects of its decisions”.

As a concerned community member, I request that Council exercise its duty of care in respect of the Norfolk Pines Reserve and adhere to the role set out in the Charter.

Yours faithfully,

Judith Pidcock

Lennox Head Heritage Committee (LHHC)



ABN 35 635 025 203

42 Dress Circle Drive
LENNOX HEAD N S W 2478
Contact: 0412 660 994

Email: lennoxheritagecommittee@gmail.com

12 February 2019

General Manager
Ballina Shire Council
40 Cherry Street
BALLINA N S W 2478

Dear Sir

Lot 11 DP 627149 Proposal by Axicom to erect a 45 metre high monopole for telecommunications infrastructure. Notice in *Ballina Shire Advocate* of 9 January 2019

Details of the above proposal contained in Ballina Shire Council's (Council) minutes of the Commercial Services Committee meeting of 4 December 2018 have come to the attention of Lennox Head Heritage Committee (LHHC).

LHHC is concerned about the proposal because the site is in close proximity to and contains a number of large Norfolk Island pine trees which were planted by early selectors well over 100 years ago – some close to 140 years ago.

The trees' significance has been recognized by listing in Council's 2008 *Draft Shire Wide Community Based Heritage Study* on pages 5, 144-5 and Item I71, Schedule 5 of the 2012 Local Environmental Plan as matters of environmental heritage. It is understood they have been approved for inclusion on Council's *Significant Tree Register, 2018-2019*.

From a heritage perspective, no objection is raised to the principle of the above proposal. However, LHHC seeks professional assurance from Council and developers that the health of these trees with significant heritage value and surrounding vegetation is protected and not compromised in any manner whatsoever by the construction and works involved.

Lennox Head will celebrate its Centenary in 2022. North Creek Road was the early settlement transport corridor with amenities of the village sited along it. Apart from the spectacular Norfolk Island trees (c1886), North Creek Road contains buildings important to the heritage of our village, namely the old school house (c1905), original St John the Baptist Anglican Church (c1898) and dry stone walls (c1800). Preservation of our heritage is important at all times and three years from a major milestone, risking destruction of any part of it would be contrary to community interests.

Sincerely

Robyn Hargrave
Convenor

The General Manager,
Ballina Shire Council
council@ballina.nsw.gov.au
12 February 2019

Dear Sir,

**PROPOSED LEASE TO TELSTRA – NORTH CREEK ROAD,
LENNOX HEAD**

I refer to Council's proposed Lease of Lot 11, DP 627149 (Lot 11) to Telstra to construct and operate a telecommunications pole and associated structures.

I am strongly opposed to any proposal to lease all or part of Lot 11 for the purpose of constructing a telecommunications tower. The proposed site lies within a densely populated residential area with many children and families as well as both large and small formal childcare centres.

This technology has not been in use for long enough for potential harms from the radiation to be confidently known, and therefore the precautionary principal should apply.

Given the many alternative rural locations for the tower, eg on road reserve of the old Pacific Highway on the ridge to the North East of Lennox Head, I do not believe a location within town can be justified.

Please do not allow this lease to proceed.

With kindest regards,

Dr Jane Burges (GP)
Ballina.

Jamie Rowe

From: Renae Denny <renae@rareindigo.com.au>
Sent: Wednesday, 13 February 2019 8:58 PM
To: Ballina Shire Council
Cc: Leanne Harding; Councillor Keith Williams; Councillor Sharon Cadwallader; Councillor Jeff Johnson; Councillor David Wright; Councillor Phil Meehan; Councillor Nathan Willis; Councillor Stephen McCarthy; Councillor Eoin Johnston; Councillor Ben Smith; Councillor Sharon Parry
Subject: Lennox Head Telstra Lease proposal - Objection submission
Attachments: Objection Submission.docx; Attachment #1.pdf; Attachment #2.pdf; Attachment #3.pdf; Attachment #4.docx; ATT00001.txt

To Whom It May Concern

Please find attached my family's objection submission of the proposal by Telstra to lease Community Land on North Creek Road from Council with the intent to install a 45m telecommunications tower and maintenance shed.

I have my faith in the decision makers of Council that they will consider the impact that this tower will have on surrounding residents and reject Telstra's proposal.

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For more information please visit <http://scanmail.trustwave.com/?c=4991&d=ievj3D90-KuCrnonSEQNsTXJ797p-NeYnll-bKlybDA&u=http%3a%2f%2fwww%2esymanteccloud%2ecom>

Objection to Telstra's proposal to lease from Council a portion of Community Land on North Creek Road for an intended future mobile tower and shed.

To whom it may concern

I wish to register my objection to Telstra's proposal to lease part of Lot 11 DP 627149 for the purpose of a future telecommunications tower and equipment shelter. I appreciate that this proposal is only for the lease, but Telstra's intent is clear - obtain the lease and then install a telecommunications tower and equipment shelter and it is unclear whether such a development could be exempt development and so this may be the communities only opportunity to comment on the intended tower.

No lease, means no tower. But the granting of a lease means a potential tower on this location, so arguments against the tower are valid in regards to objection to the lease proposal.

1. Unsuitability of the chosen site.

a. This land is zoned RE1 or "Public Recreation" in Council's Ballina LEP 2012. As Council would know, some of the objections of this zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide for public access to open space and natural recreation areas.
- To protect and conserve landscapes in environmentally sensitive areas, particularly in foreshore and visually prominent locations.

There could be no denying that this allotment in question is a visually prominent location.

A telecommunications tower does not fall under Item 2 being "Permitted without consent", as it is neither Environmental protection works; Flood mitigation works; Roads.

Equally, a telecommunications tower does not fall under Item 3 being "Permitted with consent" as defined by the BLEP 2012.

As such, as far as I see, it falls under Item 4 being "Prohibited".

The allotment in question should be available, unencumbered for public use, not portioned off for commercial gain.

b. Non-compliance with components of Principles 1 and 2 of the Telecommunications Facilities Guideline Including Broadband – July 2010.

In applying for the lease, Telstra have not provided sufficient evidence to confirm that the proposal will not have an adverse visual impact of the heritage listed pines on site (Principle 1(g)) or compliance with Principle 2 (co-location). The Applicant has not demonstrated that the intended tower cannot be located somewhere else to comply with co-location principles. The existing tower for the airport could not be used as an existing tower to attach to, as it was never approved for such use and communications were received from Council during the approval process of the airport tower confirming that it will not be used for telecommunications. Such communications can be forwarded if required.

c. Back in the 70s when this land was originally purchased by Council, it was sold to them in good faith by the farmer who placed a memorandum on title which stated "That no building or structure shall be erected on the land hereby transferred", as well as other impositions with the intent to ensure that the land in question was not developed, that it was kept as green space for the communities benefit and the

heritage listed Norfolk Pines were protected. Please refer to attached document - Attachment #1.

As far as I am aware, this covenant still remains burdening the subject allotment and due to further subdivision of the original residual farmland that had the benefiting right of this Covenant, these rights transfer over to the new lot owners whose property has descended from the original, residual parcel, of which Council has not obtained all (if any) of their consents to release, vary or modify this restriction.

Irrespective, the intent all those years ago was for this land to be handed over to Council for the ongoing protection and non-development of this site, to preserve the trees and green-space for the communities benefit. This is in line with the parcels zoning and that zones objections (as mentioned above) and needs to be upheld by Council.

- d. Council's "Commercial Services Committee Meeting Agenda" minutes for the proposed Item 4.4 North Creek Road Lennox Head - Proposal to Lease Community Land (refer attached – Attachment #2) states the following;
- i. The future proposal works would "include a 120m² fenced site with vehicular access to North Creek Road."
 - That's 120m² of Community Land that would be excluded from public access, which again contradicts the objections of land zoned "Public Recreation".
 - The agenda also makes comment that a subdivision would be required to create this 120m² parcel of land. Again I revert back to Point 1c above. In my learned opinion (having a Surveying background), without the consent of all the benefiting owners, I don't see how legally (or ethically with full disclosure of Council's intent made available to the public) that such a subdivision could proceed.
 - ii. Mr David Hughes' (Axicom) email (which forms part of Attachment #2) states that "as this site has an existing pole it was considered to be a good selection". Really!!!! Is that the extent that Telstra and their contractors do in assessing suitable sites? Is there no consideration to the existing restriction on title, the zoning of the land, the impact such a development will have on the surrounding community (both visually, on property values and potential health impacts), that the site contains heritage listed trees? etc. The existing pole has 2 ambient red lights on it. Surely this is not considered by Telstra, Axicom or Council as being of an equivalent impact as a 45m mobile tower with 3 banks of mobile transmitters emitting RadioFrequency (RF) & ElectroMagnetic Radiation (EMR) 24/7.

As stated above in Point 1(b), I am of the opinion that the applicant has not showed compliance with Principles 1 and 2 of the Telecommunications Facilities Guideline Including Broadband – July 2010, in order for Council to consider the lease with the intent to install a telecommunications tower.

- e. Need to protect the Heritage listed Norfolk Pines
- The root system of these protected trees have already been disturbed by the installation of the airport tower, but we all appreciate that this was mandatory for airport safety. Additional disturbance by way of an additional, extensive footing for a new tower and that also for the shed can however be avoided by this proposal not proceeding. The damage to these protected trees by way of further disturbance to their root systems cannot be quantified. Again, the intent of this land being handed

to Council (and the subsequent zoning of the land) is to ensure the integrity of these trees, not have them potentially compromised.

- f. This ridgeline is iconic along the east coast of Australia. The Norfolk Pines on this allotment can be seen as far south as Evans Head and when you turn at the roundabout at Ross Lane and look towards Lennox, these trees are the first view of our beloved Lennox Head. Surely Council do not want the immediate image of Lennox to be of a protruding mobile tower.

As mentioned in Point 1(a) above, one of the objectives of land zoned RE1 is "To protect and conserve landscapes in environmentally sensitive areas, particularly in foreshore and visually prominent locations". The intended tower will not comply.

- g. The NSW Dept. of Education impose a 500m buffer against telecommunications in the vicinity of any of their schools as research has shown that a child's developing brain is more susceptible to long term exposure to RF / EMR waves which many researchers say is carcinogenic. I find this extremely hypocritical that such a buffer can be imposed to a school but potentially Council and Telstra think nothing of locating a tower right next door to an established residential community which most likely will contain children, infants and possibly pregnant women. They could not assure otherwise. I also don't see why impacts on my adult brain could be disregarded either.

Telecommunication sites should not be allowed amongst established residential areas, full-stop. There are plenty of areas around Lennox where a tower could be installed to address "black-spots" with way less impact to surrounding residents.

2. Very Poor public consultation

- a. Council's "Commercial Services Committee Meeting Agenda" minutes (Attachment #2) states that in order to undertake the relevant process for granting a long term lease over community land for commercial purposes, Council is to undertake a "community consultation" process as the "leasing of community land for telecommunication towers has the potential to raise conflicting views within the community."

This indicates to me that both Council and Telstra were well aware that such a proposal would be controversial and sensitive to the surrounding residents, yet Council sent out only 2 notification letters (one to each of the immediate adjacent neighbours). The neighbour across the road was not even given the courtesy of a notification letter. This is very disappointing.

I questioned whether such "community consultation" was considered acceptable to your General Manager. He advised (via email received 7 February 2019) that "this proposal was advertised in the Ballina Shire Advocate, adjoining owners were notified and signage was placed on the property. From my perspective this is a reasonable level of consultation, at this point in time". Again, very disappointing for something so controversial, which impacts on so many people.

I did a door knock around the vicinity of the subject site once I was aware of the proposal and of 35 house residents that I spoke to, only 1 knew of the proposal. I refer you to Attachment #3 which provides a signed petition (predominantly of residents surrounding the site in question, that I was able to speak to + other concerned residents) accompanied by a map showing the location of these residents in the immediate vicinity of the proposed tower site and whether they were "in favour" (green), "don't care" (yellow) or "against" (pink) the proposal.

Unfortunately, we were unable to get to every house, but every person we did speak to sign the petition irrespective of their stance on the proposal. As can clearly be seen, all but 1 are against the proposal.

3. Consideration of submission is favour of the proposal

- a. It is noted in Council's "Commercial Services Committee Meeting Agenda" minutes (Attachment #2) that "*Council must balance the views of residents in the immediate vicinity of such proposed infrastructure with the needs of residents elsewhere in the community who seek improved mobile phone and internet services.*"
 - i. This proposal with the intent for a future tower on this allotment is a classic "as long as it is not in my back yard" scenario.

It is requested that Council takes into consideration the location of residents who submit submission. I am very confident that the majority of supporters will not live within 500m of the proposed tower site and if the tower was proposed closer to their place of residence, then their opinion of the proposal would most likely change. I ask that council give considerable more weigh to submission received from residents who are in the immediate vicinity of the proposed site, as they will be the ones permanently affected if this developed proceeds.

- ii. It is also asked that Council does not disregard the impact that this tower will have on surrounding residents and underweight that against the benefit that the tower may have on residents further afield. If the same tower was proposed closer to Lennox Village (say on the hill behind the medical centre - which would be a suitable, elevated location for a large catchment), then I would confidently anticipate that a significant number of residents in the village (who may have registered support for this current proposal) would be against a proposal closer to town. Closer to their back yard.
- iii. If there are submitters who support the proposal in existing "black-spots" then it is requested that Council direct Telstra to look at locations closer to these "black-spot" areas. If those residents are so in favour of a tower being installed to improve their internet service, then they should still support it if it was closer to their back yard. In regards to this proposal however, as shown by Attachment #3, residents in the immediate vicinity of the subject allotment, do not want it.

4. Potential Health Impacts

Attachment #4 provides numerous articles, documents, references, research findings on the effects of long term exposure to RF EMR radiation which is emitted 24/7 from telecommunication towers.

- a. In 2015, 215 scientists from 41 countries communicated their alarm to the United Nations (UN) and World Health Organization (WHO) stating that "numerous recent scientific publications have shown that EMR affects living organisms at levels well below most international and national guidelines". More than 10,000 peer-reviewed scientific studies demonstrate harm to human health from RF radiation.
Reference - <https://emfscientist.org/index.php/emf-scientist-appeal>
- b. ARPANSA (Australia's ruling body on Radiofrequency (RF) & ElectroMagnetic Radiation (EMR)) will tell you that the health effects of RF EMRs are "ambiguous and unproven", however the government told us that smoking was OK only a few decades ago as well.

- c. The US Government National Toxicology Program's research has advised that there is "clear evidence of carcinogenic activity" caused by RF EMR exposure. So much so that Countries such as Greece, Hong Kong, Slovenia, Italy, Luxembourg, Lithuania, Bulgaria, Belgium, Israel, India, Peru and Switzerland (and I believe recently France) have lowered their acceptable RF EMF reference level to 1% of that which ARPANSA consider accept for us Australians to be exposed to.

A precautionary approach is need as we simply do not yet know the long term effects, but the signs are there.

- d. Dr Charlie Teo (Australia's leading neurosurgeon) says the increase in brain cancers in Australia (especially amongst children) simply comes down to Australia's unacceptable exposure to RF EMRs from mobile phones and phone towers. At least with your phone you can choose to put it on Flight Mode when you sleep, but if the proposed tower was erected following endorsement of a lease, **Council will be exposing and imposing radiation 100x stronger than that which some countries now find acceptable, into the home of it's residents, it's constituents 24/7.**

- e. Some additional, light reading

- <https://ehtrust.org/>
- <http://www.bioinitiative.org/>
- <https://www.emfacts.com/>
- Compiled peer-reviewed science.
- http://www.emraware.com/scientific_evidence.html
- Searchable database.
- <https://www.orsaa.org/>

There is plenty of information available, research, discussion papers, reports, recommendations available that directs Council to take a precautionary stance on the installation of telecommunication towers near established residential communities and so should not proceed with this lease proposal, being a precursor to a tower being proposed / installed at this location (as indicated by Telstra). There may be a portion of the wider community that want better mobile coverage, but it cannot be to the sacrifice of any resident.

It may be Telstra's preferred site, but it is unacceptable to the immediate community, does not comply with the zoning objectives, has a covenant on title intended on restricting such development, does not comply with components of Principles 1 and 2 of the Telecommunications Facilities Guideline Including Broadband – July 2010 and as such, the proposal to lease this land for a future tower should be refused and Telsta should undertake further investigations to find a more suitable site, with less impact on surrounding residents whilst still addresses "black-spots" as required.

I appreciate that the Councillors are elected to make hard decisions, but if this is lease is approved and the intended tower installed, you will be setting a legacy that will be irreversible and extremely damaging not only to the appearance of Lennox, to the protected heritage listed Norfolk Pines, to surrounding property owners in regards to loss of property value, but also potential health implications.

Prior to the determination of this proposal, I ask Ballina Shire's decision makers to think that if they did support this proposal and a telecommunications tower was erected (as intended by Telstra), would they drive past the tower once it has been erected and turn to the person beside them (possibly their son or daughter – future generations of

Lennox residents) and say, "*I had a hand in that going there*" or would they quietly look away with regret?

Please:

- Protect our iconic ridgeline and the heritage listed Norfolk Island Pines (as the farmer originally intended).
- Protect our health, your family, your children.
- Protect our investment.
- The weight of evidence strongly supports greater precaution is required.
- Don't support the requested lease.

Thank you for considering my submission.

Regards

Mick Denny (and family) – Fieldcrest Drive, Lennox Head

- Attachment #1 – Covenant / Memorandum of transfer.
- Attachment #2 – Council's "Commercial Services Committee Meeting Agenda" minutes for the proposed Item 4.4 North Creek Road Lennox Head - Proposal to Lease Community Land
- Attachment #3 – Signed Petition and associated Map
- Attachment #4 – Additional information and referenced on the health impacts of telecommunication towers



Req:R663929 /Doc:DL M624992 /Rev:21-May-1997 /Sts:OK,OK /Pgs:ALL /Prt:30-Nov-2018 12:25 /Seq:1 of 4
 Ref: /Src:A

No. 0

M 8 2 4 3 9 2
 12 FEB 23 AM 10:04
 New South Wales

BC R.P. 13A
 Fees:—
 Lodgment
 Endorsement

MEMORANDUM OF TRANSFER
 (REAL PROPERTY ACT, 1900)

I, LESTER COLIN BRIEN of Lennox Head Solicitor
 (herein called transferor)
 being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject
 however, to such encumbrances, liens and interests as are notified hereunder, in consideration of
FIVE HUNDRED DOLLARS
 (\$ 500.00) (the receipt whereof is hereby acknowledged) paid to me by
THE COUNCIL OF THE SHIRE OF TINTENDAR
 do hereby transfer to

THE COUNCIL OF THE SHIRE OF TINTENDAR
ALSTONVILLE 2477
 (herein called transferee)

ALL such my Estate and Interest in ALL the land mentioned in the schedule following:—

County	Parish	Reference to Title			Description of Land (if part only)
		Whole or Part	Vol.	Fol.	
ROTS	BALLINA	WHOLE	11687	68	

Req:R663929 /Doc:DL M624992 /Rev:21-May-1997 /Sts:OK,OK /Pgs:ALL /Prt:30-Nov-2018 12:25 /Seq:2 of 4
Ref: /Src:A

And the transferee covenants with the transferor for itself and its assigns or other the registered proprietors for the time being of the land hereby transferred hereby covenants with the Transferor and his assigns

1. That no building or structure shall be erected on the land hereby transferred
2. That no tree of the Norfolk pine variety shall be destroyed except with the consent of the Transferor first had and received in writing.
3. That the said land shall not be used for the purpose of public parking or public picnics nor shall the public be invited to use it for occupation or enjoyment

AND IT IS HEREBY AGREED AND DECLARED that the benefit of the foregoing Covenants shall be appurtenant to all the other land in Certificate of Title Volume 10450 Folio 8 and that the said covenants may be released varied or modified by the registered proprietors for the time being of the lands to which they are appurtenant.

Strike out if unnecessary
initially edited.

(f) If any covenants are to be created or an exception to be made of

(g) If the statutory covenants implied by the Act are intended to be varied or modified.

Covenants should comply with the provisions of Section 88 of the Conveyancing Act, 1919.

ENCUMBRANCES, &c. REFERRED TO:

A very short note will refer to

Kind 3

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

Delivery Program Commercial Services

Objective To seek Council's concurrence to undertake community consultation for a proposal to lease a portion of community land under Section 47 of the Local Government Act 1993. The proposal involves erecting a telecommunications monopole on a portion of Lot 11 DP 627149 North Creek Road, Lennox Head.

Background

Telstra, through its consultant Axicom, is seeking Council's approval to lease a portion of Lot 11 DP 627149 North Creek Road, Lennox Head which is classified as community land. A locality plan is attached.

Telstra are proposing to remove an aircraft navigation lighting tower that was erected on the site by Council for the Ballina Byron Gateway Airport and replace it with a new 45 metre high monopole for telecommunications infrastructure. Telstra has advised that the current monopole lacks the structural strength to support the telecommunications infrastructure and aircraft navigation lighting.

The purpose of this report is to determine whether or not Council wishes to pursue leasing this portion of community land to Telstra.

Key Issues

- Leasing of community land
- Provision of telecommunication infrastructure
- Airport navigational infrastructure

Information

A tower with aircraft navigational lighting was erected in 2013 by Council for the airport on Lot 11 DP 627149, North Creek Road, Lennox Head ("the Site").

Axicom, acting on behalf of Telstra, has approached Council seeking approval to replace the existing navigation tower with a new 45 metre high monopole that could accommodate telecommunications infrastructure and aircraft navigational lighting. The requirements for this proposed structure include a 120m² fenced site with vehicular access to North Creek Road. A plan of the proposed structure is attached.

This site was selected by Axicom following an extensive search in the local area for a suitable location to house a large monopole structure. It is proposed to affix telecommunications infrastructure to the monopole to enhance mobile phone and internet services west of the North Creek Road Reservoir and down past Skennars Head. An email from Axicom identifying the subject Site and outlining the need to erect the monopole is attached.

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

As the subject Site is classified as community land a number of steps need to be taken or addressed including:

1. Council agreeing to undertake the relevant process for granting a long term lease over community land for commercial purposes. This process would require Council to undertake community consultation for the proposed lease under Section 47 of the *Local Government Act 1993*. The maximum lease period being 21 years.
2. Council reaching an agreement in principle with Telstra for a long term lease on commercial terms and conditions that are mutually acceptable.
3. Council granting landowner's approval to Telstra to lodge a development application for their proposed telecommunications monopole which would include aircraft navigation infrastructure.

Telstra are keen to progress this matter and have presented various leasing proposals to Council, the most recent of which is noted in a confidential report included in this meeting agenda. Council could reach agreement in principle on lease terms and conditions with Telstra, subject to the outcome of Step 1 above; i.e. the community consultation process.

Subject to a positive outcome for Steps 1 and 2, Council could then progress to Step 3 and grant landowner's consent for Telstra to lodge a development application to erect the monopole structure on the subject Site.

Lot 11 DP 627149 comprises a site area of 4,743m², however Telstra only require a 120m². So a subdivision of Lot 11 would be required to create a 120m² site for Telstra. Alternatively Council could grant Telstra a licence over the site area they require.

Legal / Resource / Financial Implications

The subject Site is classified as community land and as such any proposed commercial lease or licence requires notification under Section 47 of the *Local Government Act 1993*.

Consultation

Council has consulted with airport operational staff. Telstra has also consulted with Council in a pre-lodgement development application meeting.

Options

The leasing of community land for telecommunication towers has the potential to raise conflicting views within the community.

Council must balance the views of residents in the immediate vicinity of such proposed infrastructure with the needs of residents elsewhere in the community who seek improved mobile phone and internet services.

The following options have been drafted accordingly.

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

1. Council resolves to reject Telstra's request for a lease or licence over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head, remove the existing navigation tower and erect a new monopole structure and affix telecommunications infrastructure and aircraft navigational lighting, as the use of community for this purpose is not supported.

This option is not recommended as Telstra and its consultant Axicom, have conducted an extensive search for a suitable site to erect the proposed structure and enhance mobile phone and internet services in areas where such services are lacking or substandard.

The options for such a site in the elevated areas of Lennox Head and Skennars Head are very limited due to the Ballina Byron Gateway Airport flight path OLS ("Obstacle Limitation Surface") requirements.

2. Council resolves to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the *Local Government Act 1993*. This option would also be dependent on the commercial leasing arrangements as per the confidential report.

Option two is recommended as investigations by Telstra identify an urgent need to improve mobile phone and internet services in the areas west of the North Creek Road Reservoir and Skennars Head.

Furthermore there is a lack of alternate sites due to Ballina Byron Gateway Airport's flight path OLS requirements.

RECOMMENDATIONS

1. That Council authorises the General Manager to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the *Local Government Act 1993*.
2. At the conclusion of the community consultation process the matter be reported back to Council.

Attachment(s)

1. Locality Plan - Lot 11 DP 627149 North Creek Road Lennox Head
2. Telstra Proposed Infrastructure Plans
3. Axicom Email 27 November, 2018

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478
PO Box 980
BALLINA NSW 2478
E300 864 444
council@ballina.nsw.gov.au
www.ballina.nsw.gov.au

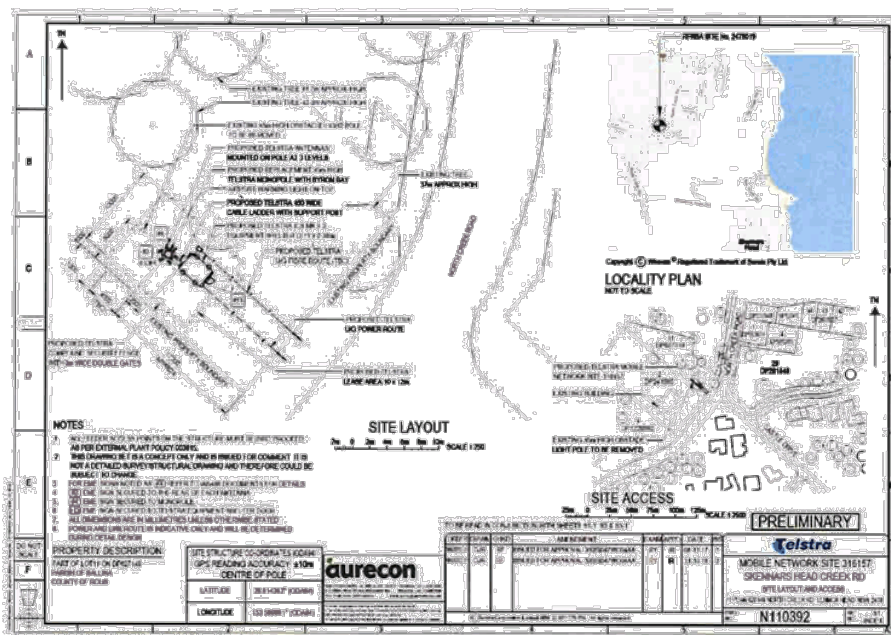


Site Plan ♦ Proposed Telstra Communication Pole North Creek Road Lennox Head

ballina shire council
geographic information system
Projection: GDA94 / MGA zone 56
Date: 15/10/2018

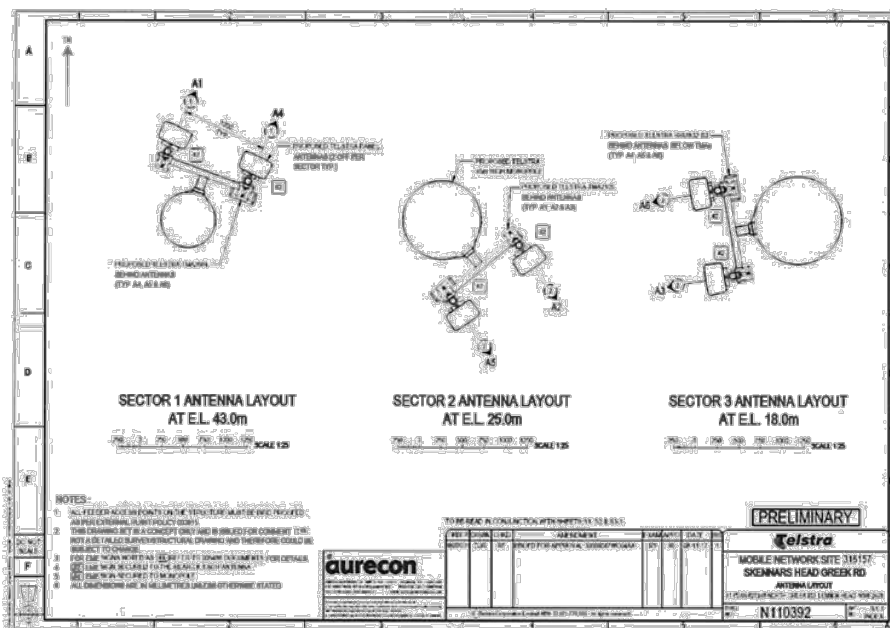
4.1 Community Land - Lease to Telstra

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.1 Community Land - Lease to Telstra

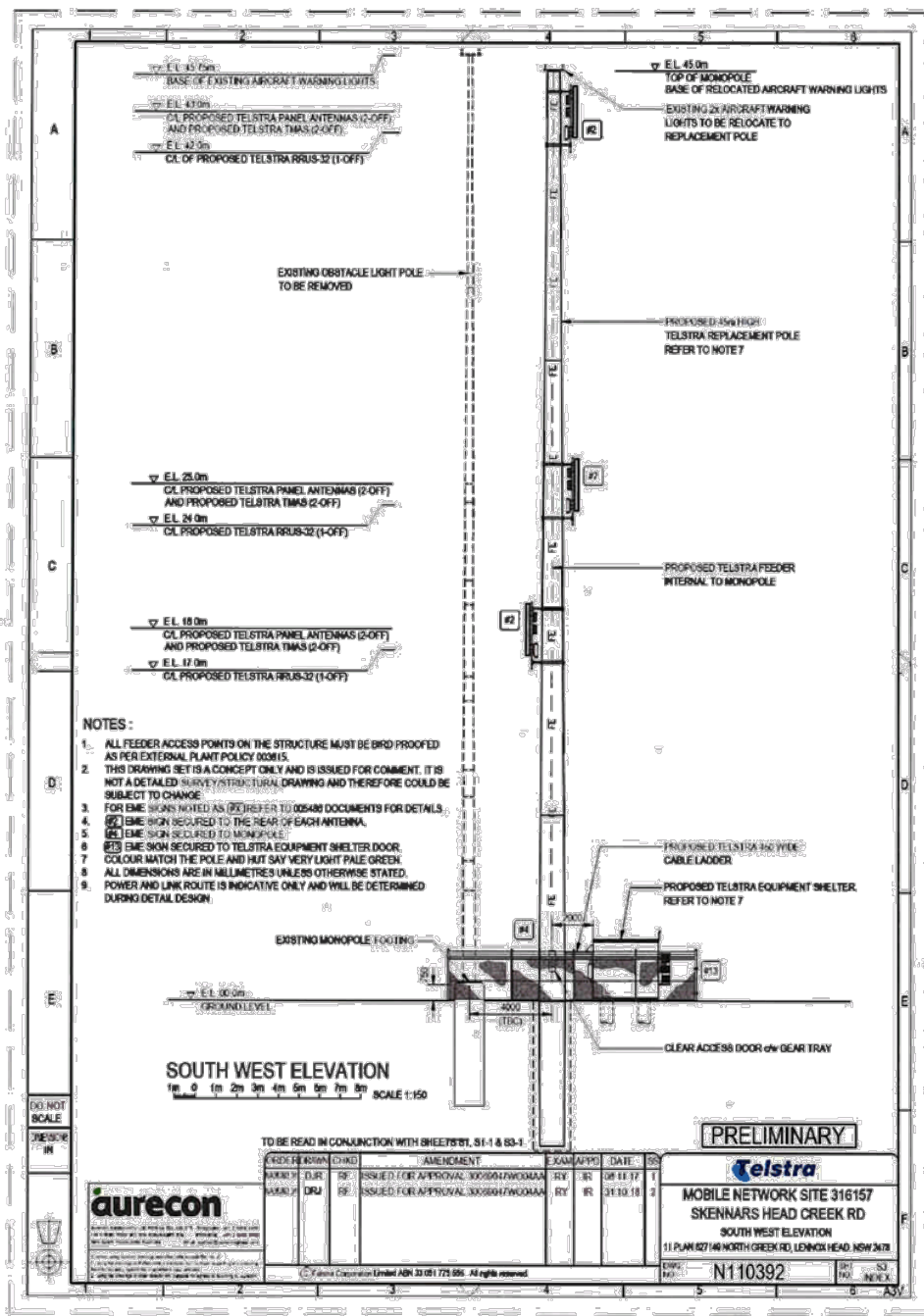
4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



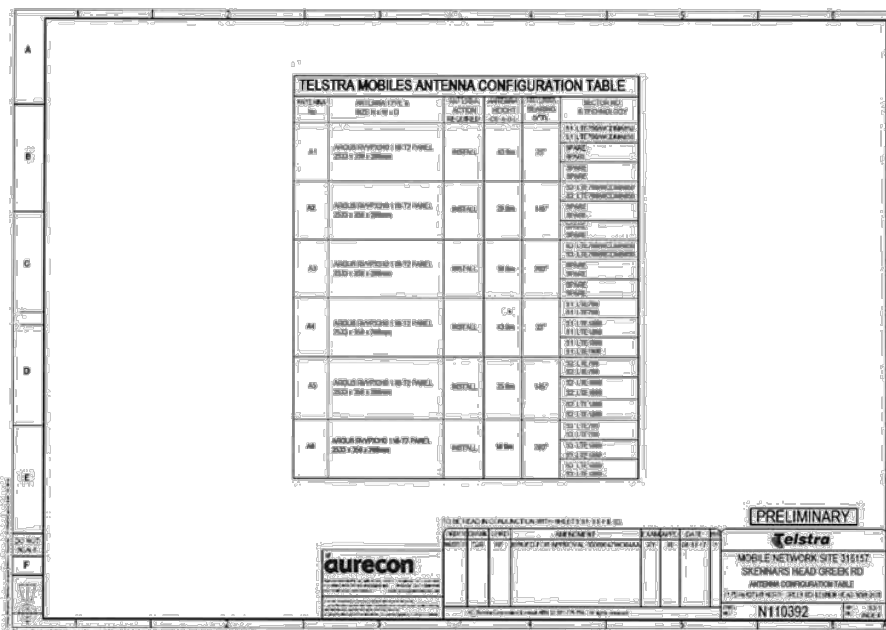
Ballina Shire Council
04/12/18

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4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

From: "Hughes, David" <David.Hughes@axicom.com.au>
Date: 27 November 2018 at 8:48:32 am AEDT
To: Leanne Harding <Leanne.Harding@ballina.nsw.gov.au>
Subject: RE: Our Ref: NA06763.01 Skennars Head - Proposed Aviation Pole Swap out

Leanne, I have received [below](#) response from Telstra for inclusion in your report, let me know if any further clarifications required also –

The existing site at Lennox Head Water Tank is a two sector site that provides little to no coverage to the residential area to the south described as Sector 1 in the below image.

The area from the south of Lennox Head Water Tank down to Skennars Head is the area that we are trying to provide coverage.

In reference to the map below our site will provide three sectors of coverage:

- 1. Sector 1 Towards Lennox Head including the highway.*
- 2. Sector 2 Along the highway to the south and west.*
- 3. Sector 3 To the south east towards and covering Skennars Head township.*

This site will provide coverage and capacity to these areas which currently have very little coverage.

In relation to site selection as you would be aware there are no other areas which are suitable due to the majority of the coverage area being compacted residential areas, as this site has an existing pole it was considered to be a good selection, it also has elevation and will cover the area mentioned above.

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

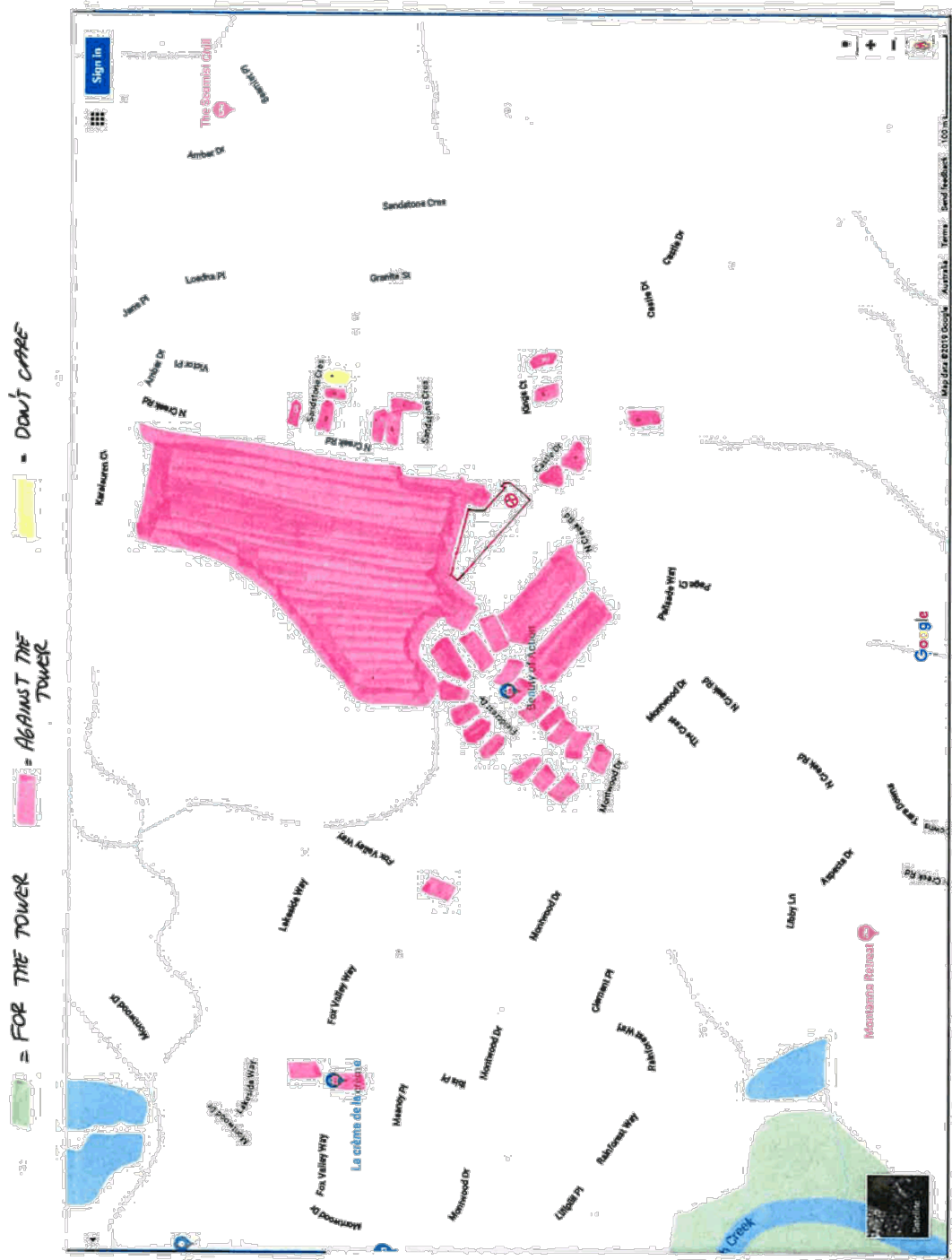


Regards

David Hughes **AREA**
Site Acquisition Manager
Axiom
Address: PO Box 13127, George Street, QLD, 4003
M +61 433 142 402 | F +61 7 3003 0916
david.hughes@axiom.com.au | www.axiom.com.au

Download our whitepaper:
"How shared Infrastructure offers carriers a way forward for 5G". [Click here.](#)

4.1 Community Land - Lease to Telstra



Telstra Tower Petition				Stance	
Name	Address	Signature	For	Against	Don't Care
1. MICK + RENAE DENNY	13 FIELDCREST PLACE			MD.	
2. Annie + Jeff WATT	11 FIELDCREST PLACE			AW	
3. FRANK & LYNN POWEN A GOWEDGE	15 FIELDCREST PLACE			L.C	
4. AUBREY SIM RICHARD	17 FIELDCREST PLACE LENNOX			RG	
5. PETER WIERKER	19. FIELDCREST PLACE LENNOX			PR	
6. NATHAN WALLACE	16 FIELDCREST PL. LENNOX			DS	
7. MATT STANAND	12 FIELDCREST DR. LENNOX HEAD			DS	
8. Brett + Linda Popham	10 FIELDCREST DR. LENNOX HEAD			DS	
9. Mary Donnelly	6 Fieldcrest Dr, Lennox Heads			DS	
10. SYL GREEN	4 Fieldcrest Av. LENNOX HEADS			DS	
11. MALCOLM MILLER	11 BILOELA CT PORT MACQUARIE			DS	
12. Sandra Headon	5 FIELDCREST PL LENNOX HEAD			DS	
13. Graham Headon	3 Fieldcrest Dr Lennox Head			DS	
14. CATHY FLANNERY	12 MONTWOOD PL LENNOX HEAD			DS	



Telstra Tower Petition				Stance	
Name	Address	Signature	For	Against	Don't Care
16 SHANE FLANNERY	12 MONTWOOD DR LENNOX HEAD	<i>Shane Flannery</i>		<input checked="" type="checkbox"/>	
17 PETER RAUNSEY	12 MONTWOOD DR LENNOX HEAD	<i>Peter Raunsey</i>		<input checked="" type="checkbox"/>	
18 MATT MOYLE	143 NORTH CREEK RD LENNOX HEAD	<i>Matt Moyle</i>		<input checked="" type="checkbox"/>	
19 Christina Donne	143 North Cr Rd Lennox Head	<i>Christina Donne</i>		<input checked="" type="checkbox"/>	
20 ADAM CATTEN	141 NORTH CR RD LENNOX HEAD	<i>Adam Catten</i>		<input checked="" type="checkbox"/>	
21 JARLAH GRIFFITH	73 SANDSTONE CRESCENT	<i>Jarlah Griffith</i>		<input checked="" type="checkbox"/>	
22 Rebekah Hermann	73 Sandstone Crescent Lennox Hd.	<i>Rebekah Hermann</i>		<input checked="" type="checkbox"/>	
23 Bill Thomson	1 Sandstone Cres Lennox Head	<i>Bill Thomson</i>		<input checked="" type="checkbox"/>	
24 Dore Jones	3 Sandstone Cres Lennox Hd	<i>Dore Jones</i>		<input checked="" type="checkbox"/>	
25 TIANA JONES	2 SANDSTONE CRES LENNOX HD	<i>Tiana Jones</i>		<input checked="" type="checkbox"/>	
26 GORDON JOHNSON	2 COSTHE PRIVE LENNOX HD	<i>Gordon Johnson</i>		<input checked="" type="checkbox"/>	
27 JULIE NAGORCKA	4 KING'S CRT LENNOX H	<i>Julie Nagorka</i>		<input checked="" type="checkbox"/>	
28 Kate Vercin	8 Kings Cr Lennox Hd	<i>Kate Vercin</i>		<input checked="" type="checkbox"/>	
29 Lynette Kean	20 Palisade Way Lennox Hd	<i>Lynette Kean</i>		<input checked="" type="checkbox"/>	
30 Patrick Kean	" " "	<i>Patrick Kean</i>		<input checked="" type="checkbox"/>	


~

Telstra Tower Petition			Stance		
Name	Address	Signature	For	Against	Don't Care
LISA BARDES	22 LYNOTT RICHMOND HILL	<i>[Signature]</i>		✓	
JODI TROUGHTON	26 PELTINS CLOSE CUMBOULUM	<i>[Signature]</i>		✓	
TREVOR BARKER	7 FIELDCREST PLACE	<i>[Signature]</i>		✓	
LEE BARKER	7 FIELDCREST PLACE	<i>[Signature]</i>		✓	
Elle + Justin	18(A) Fieldcrest Place, Lennox	<i>[Signature]</i>		✓	
CATHERINE MOORE	18 FIELDCREST PL LENNOX HEAD	<i>[Signature]</i>		✓	
James Mallen + Danielle Hill	2 on castle drive, lennox head	<i>[Signature]</i>		✓	
LUCAS BECKER	180 NORTH CREEK RD, LENNOX	<i>[Signature]</i>		✓	
SEAN RADBUEN	4 FIELDCREST AVE LENNOX	<i>[Signature]</i>		✓	
Megan Radburn	4 Fieldcrest Pl Lennox Head	<i>[Signature]</i>		✓	
Dominic O'Brien	35 FOX VALLEY WAY LENNOX HEAD	<i>[Signature]</i>		✓	
Helene GATLAND	20 Fox Valley way, Lennox Head	<i>[Signature]</i>		✓	
JAMES GATLAND	20 FOX VALLEY WAY, LENNOX HEAD	<i>[Signature]</i>		✓	
Quaid Jurech	140 North Beach Rd, Lennox Head	<i>[Signature]</i>		✓	
DOCK CANNING	8 Fieldcrest Place Lennox Head	<i>[Signature]</i>		✓	

Telstra Tower Petition				Stance	
Name	Address	Signature	For	Against	Don't Care
46 Kristene Reavers	53 Parade Row Lennox Hd.			✓	
47 Dianne Lamb	168 Northcreek Rd, Lennox Hd.			✓	
48 IRVAN SAHGAJ	170 NORTH CREEK ROAD			✓	
49 TESS SAHGAJ	170 NORTH CREEK RD			✓	
50 DAVID SPACOCK	1 NIXON PLACE LENNOX HEAD			✓	
51 MARIT SUAREZ	7 THOMPSON CRES EAST BALLINA			✓	
52 Geraldine Pugh/isi	86 Old Bangalow Rd Tintenbar			✓	
53 MICHAEL HEEMANS	25 1315 PLACE, LENNOX HEAD			✓	
54 Ryley Woods	45 Beryl Place Lennox Head			✓	
55 ANTHONY EDEN	42 NORRIS STREET LISMORE			✓	
56 DAVID RICHARDSON	6 SILVERBUII DRIVE BALLINA			✓	
57 JOY RICHARDSON	6 SILVERBULL DR. BALLINA EAST			✓	
58 CLARE LUNN	216 Patricia Pde LENNOX			✓	
59 HAMISH LUNN	216 PATRICIA PDE LENNOX HEAD			✓	
60					

		Telstra Tower Petition		Stance	
Name	Address	Signature	For	Against	Don't Care
60 Damen Watson	8 The Grove Lennox HD	Damen		✓	
61 Debra Pearson	1 Nixon Place Lennox Head	D Pearson		✓	
62 Val CULICAN	7 Susan Place Skenners Head	Val Culican		✓	
63 Agn Pirak	1125 Bay of Lennox Head	Agn Pirak		✓	
64 M. NILES	14 SUNRISE CRTS.	M. Niles		✓	
65 Dawn Leveque	1 Parkland Drive Alstonville	Dawn Leveque		✓	
66 Andrew Letts	12 DAINETREE DR. LENNOX	A. Letts		✓	
67 Mick Skilton	McLeans St Skenners	Mick Skilton		✓	
68 Chris Edwards	117 Henderson Pl, Lennox	Chris Edwards		✓	
69 Della Lazzaro	280 NORTH CREEK RD LENNOX	Della Lazzaro		✓	
70 Kim Collins	Raynes Lane Lennox Head.	Kim Collins		✓	
71 GERARD WILKINSON	2175 STEWART ST. LENNOX HEAD	Gerard Wilkinson		✓	
72 Lydia CARNS	34 WILKINSON ST LENNOX HD.	Lydia Carns		✓	
73 LARRY TAYLOR	71 SURVEY ST LENNOX HD	Larry Taylor		✓	
74 SPROMODIANIS	18 BIRKON ST LENNOX	SPROMODIANIS		✓	

Telstra Tower Petition				Stance	
Name	Address	Signature	For	Against	Don't Care
93 NARALIE ATA	2/13 BYRON ST LENNEY HEAD		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
94 Lloyd Herbert	8 Olivia Cct, Lennox Head		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
95			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
96			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
97			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
98			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
99			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
100			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
101			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
102			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
103			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
104			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
105			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Telstra Tower Petition				Stance	
Name	Address	Signature	For	Against	Don't Care
77 76 DR. N. MAHEPACH	105 BALLINA STREET, LENNOX HEAD, 2478			✓	
77					
78					
79					
80					
81					
82					
83					
84					
85					
86					
87					
88					
89					
90					

Telstra Tower Petition				Stance	
Name	Address	Signature	For	Against	Don't Care
Julie-ann McFee	14 Freecrest Pl Lennox Head	<i>J McFee</i>		✓	
106					
107					
108					
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110					
111					
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OVER 40% of the worlds population have exposure guidelines substantially more rigorous than those provided by International Commission on Non- Ionising Radiation Protection (ICNIRP) (Jamieson 2014). Australian Standard follows the ICNIRP guidelines.

THE INTERNATIONAL EMF SCIENTIST APPEAL TO THE UNITED NATIONS (2015)

Scientists who work and research in this field have jointly appealed to the United Nations (UN) urgently calling upon The UN and its sub-organizations, the WHO and UNEP, and all U.N. Member States, for greater health protection on EMF exposure. The appeal was launched due to the inaction of some governments; the signatories have collectively published over 2000 papers in peer-reviewed journals on the biological effects or health effects of EMF. They note the weight-of-evidence strongly supports greater precaution. Scientific research has shown that EMF affects living organisms at levels well below most international and national guidelines.

The appeal points out the various agencies setting safety standards have failed to impose sufficient guidelines to protect the general public, particularly children who are more vulnerable to the effects of EMF. Collectively they have a number of requests including; children and pregnant women be protected; and the public be fully informed about the potential health risks from electromagnetic energy and taught harm reduction strategies. In August 2018, 244 scientists from 41 nations had signed the appeal. The International EMF Scientist Appeal serves as a credible and influential voice from EMF (electromagnetic field).

<https://emfscientist.org/>

International EMF Scientist (2015). "International Appeal Scientists call for Protection from Non-ionizing Electromagnetic Field Exposure."

<https://emfscientist.org/>

NATIONAL TOXICOLOGY PROGRAM RECOMMENDED A RECLASSIFICATION TO 'CLEAR EVIDENCE OF CARCINOGENIC ACTIVITY' 2018

The US government National Toxicology Program provides the scientific basis for programs, activities, and policies that promote health or lead to the prevention of disease.

NTP conducted a 10-year and \$25 million study of research into cell phones. In conclusion a panel of external scientific experts recommended a reclassification of RF EMFs. Currently WHO IARC classify RF EMFs 'possibly carcinogenic'. This independent panel found '**clear evidence of carcinogenic activity**' caused by RF EMFs and recommended this reclassification to reflect the seriousness of their findings. They found clear evidence of malignant schwannoma in the heart in male rats. Along with 'some evidence of carcinogenic activity' for a certain type of brain tumor, namely malignant glioma, and a tumour in the adrenal gland, called pheochromocytoma.

https://ntp.niehs.nih.gov/ntp/about_ntp/trpanel/2018/march/actions20180328_508.pdf

National Toxicology Program (2018). *Cell Phone Radiofrequency Radiation*. Retrieved 1st December 2018.

<https://ntp.niehs.nih.gov/results/areas/cellphones/index.html>

WHAT OTHER COUNTRIES ARE DOING? (MARY REDMAYNE 2015)

Many other countries have set a "precautionary" standard, a low but technically manageable level that excludes a wide range of exposures demonstrated as being biologically active. As the exposure circumstances under which biological effects begin to occur are still being investigated, this approach is usually based on a fixed percentage of the ICNIRP guidelines. Typically, this is 1% of the reference level. The countries include Greece, Hong Kong, Slovenia, Italy, Luxembourg, Lithuania, Bulgaria, Belgium, Israel, India, Peru, Switzerland, and regions including Plenum and Catalonia in Spain; Brussels, Wallonia and Flanders in Belgium; various regions in Brazil; and the city state of Monaco and the Principality of Liechtenstein, cities include Paris and Salzburg. The Toronto Health Board has also established this lower reference level.

In addition to lowering the exposure standard, other precautions have been taken, such as removing WIFI from schools; some countries have restricted WIFI usage if wired connections are not yet possible. In Israel, WIFI in schools is limited to 3 hours per week, and the Wireless Access Point must be turned off when not in use. Other actions include providing an education program on how to navigate a world of

unavoidable, invisible radiation not detected by our senses. Some countries ban children using mobile phones except in emergencies and have banned mobile phone advertising.

France and Israel have passed legislation to remove WIFI and restrict exposure in schools, taking what is called a Precautionary approach.

http://www.abc.net.au/catalyst/download/Redmayne_2015_Policy_paper_WITH_HIGHLIGHTS_EBM.pdf

Redmayne, M. (2015). "International policy and advisory response regarding children's exposure to radio frequency electromagnetic fields (RF-EMF)." *Electromagn Biol Med*: 1-9.

http://www.abc.net.au/catalyst/download/Redmayne_2015_Policy_paper_WITH_HIGHLIGHTS_EBM.pdf

Redmayne, M. (2015). *Wireless devices: Risk, regulation, compliance and liability. Children's and workers exposure to radiofrequencies: International approaches to policy and advice.* UNSW, Faculty for Law. *Wireless devices: Risk, Regulation, Compliance and Liability.*

A COLLATION OF 4000 PEER REVIEWED SCIENTIFIC PUBLICATIONS SHOWING NON-THERMAL EFFECTS (CHANGES IN THE BODY) OF RF-EMR THE BIO-INITIATIVE REPORT 2012 (UPDATED IN 2017)

The Bio-Initiative Report was released in 2008, and updated in 2012 and again in 2017. This international panel of experts provide the scientific evidence for the rationale towards biologically based exposure limits for electromagnetic radiation. The published scientific study references and abstracts that were updated in 2017, replacing the 2014 files.

<http://www.bioinitiative.org/updated-research-summaries-december-2017/>

Bio initiative Report. (2012). "Conclusions: Defining a new 'Effect Level' for RFR"
<http://www.bioinitiative.org/conclusions/>

RADIOFREQUENCY ELECTROMAGNETIC FIELDS CLASSIFIED AS POSSIBLY CARCINOGENIC TO HUMANS IN MAY 2011 BY THE WORLD HEALTH ORGANISATION

(WHO) INTERNATIONAL AGENCY FOR RESEARCH ON CANCER (IARC) 2011:

http://www.iarc.fr/en/media-centre/pr/2011/pdfs/pr208_E.pdf

World Health Organisation International Agency for Research for Cancer (2011). "IARC Monographs on the evaluation of carcinogenic risks to humans, vol 102. Non-ionising radiation, part 11: radiofrequency electromagnetic fields." from http://www.iarc.fr/en/media-centre/pr/2011/pdfs/pr208_E.pdf.

Have any countries set their standards based on scientific evidence?

Yes, the Russian Federation, China, and Poland have RF-EMF exposure guidelines that address acute thermal and chronic "non-thermal" biological effects. **This is based on scientific research conducted in those countries.** That is, they are not "precautionary" but scientifically based. This includes consideration of processes of adaptation under chronic influence of RF- EMF exposure (Redmayne 2015).

EMF health effect studies were initiated in Russia in 1948. During the following 55 years, comprehensive hygienic, clinical, physiological, and experimental studies were carried out. The contemporary Russian electromagnetic safety standards are developed basing upon the analysis of these study results. **These studies (including chronic (long term) EMF exposure) have given the opportunity to identify most sensitive systems of the human body: nervous, endocrine, immune, cardiovascular and reproductive systems.** These critical system reactions were obligatory taken into account, when assessing the risk of negative EMF effects in human health to develop Russian standards of the electromagnetic safety. It was also demonstrated that EMF health effects under the long term exposure within many years are cumulative, so the resultant late effects are possible including degeneration processes in the central nervous system, leukaemia's, brain tumours, cardiovascular and hormonal diseases. EMF can be essentially dangerous in children, pregnant women, patients with diseases of central nervous, hormonal, and cardiovascular systems, allergy, and persons of weaken immunity (Center for Electromagnetic Safety 2004).

The basic requirement for EMF permissible levels established in Russia is the absence of even transient homeostasis disorder (including reproductive function) as well as the tension of protective and adaptive-compensatory mechanisms both at nearest and late periods of time (which is different from EMF regulation system adopted in Western Europe and the United

States)(Center for Electromagnetic Safety 2004).

The Russian National Committee on Non-Ionizing Radiation Protection (RNCNIRP) is an independent scientific organization that does not accept financial sponsorship.

ARPANSA

The Australian Standard has not been updated since 2002

The Australian Standards are set by Australian Radiation Protection And Nuclear Safety Agency (ARPANSA) to protect from a thermal effect (how much it heats your body). The science use to set the Australian Standard is limited to the scientific understanding of acute heating effects, such as heat-damage, shocks and burns. It does not include biological effects from long-term or low exposures as the science for how these occur is not understood. Interestingly, we know smoking causes many health effects, but science still hasn't determined the mechanism. The standard created in 2002 has not been updated to include the significant scientific evidence demonstrating multiple biological effects (changes in the body), which are now well documented.

Australia follows the ICNIRP guidelines published in 1998 (International Commission on Non- Ionizing Radiation Protection 1998). The 18-year-old guideline has not been updated to include this more recent understanding of biological effects. The ARPANSA Standard (2002) also does not reflect this understanding. Many other countries have rejected ICNIRPs guidelines reducing their exposure limit to just 1% or less of ICNIRPS guidelines (Redmayne 2015).

International Commission on Non-Ionising Radiation Protection

(ICNIRP)- not updated since 1998

ICNIRP only addresses, "short-term, immediate health effects such as stimulation of peripheral nerves and muscles, shocks and burns caused by

touching conducting objects, and elevated tissue temperatures resulting from absorption of energy during exposure to EMF page 496 (International Commission on Non-Ionizing Radiation Protection 1998).

The ICNIRP guidelines specify that infants and young children were taken into consideration as "a general variable" in the 50x built-in safety factor applied to the whole body heat response calculation Page 508 (International Commission on Non-Ionizing Radiation Protection 1998, Redmayne 2015). ***Australia's legislation is based on scientific research limited to the thermal, acute heating effects, such as heat-damage, shocks and burns. It does not consider biological effects from long-term or chronic low exposures because the 'mechanism' science for how these occur is not understood.***

Effectively our biological protection has been established by a "calculation" that dividing the thermal effect by 50, will protect us from biological effects. Other countries have reduced their standard to 1% of this "calculation" and still issue warnings.

ICNIRP themselves admit that the guidelines may not protect all, page 546 it says: "some children, the elderly and chronically ill people might have a lower tolerance for the radiation than the rest of the population.....it may be useful or necessary to develop separate guideline levels for different groups within the population...Some guidelines may still not provide adequate protection for certain sensitive individuals...." (International Commission on Non-Ionizing Radiation Protection 2002).

ARPANSA acknowledge the WHO IARC classification in May 2011, **Radiofrequency electromagnetic fields as possibly carcinogenic to humans (World Health Organisation International Agency for Research for Cancer 2011).**

OCEANIA RADIOFREQUENCY SCIENTIFIC ADVISORY ASSOCIATION

An analysis conducted by Oceania Radiofrequency Scientific Advisory Association (ORSAA) found ARPANSAs review (TR-164 relied heavily on reviews that showed no effects and reviews that were proven flawed and biased. Significantly underreporting on the number of papers that showed bio-effects in its database (Bijlsma, 2017).

The ORSAA database analysis of *In vivo* testing from human epidemiological studies found bio- effects in 51 of 68 studies. These effects include DNA damage, biochemical changes, altered enzyme activity, cell irregularities, cell

damage, oxidative stress, cardiovascular and vascular effects. *In vivo* testing of animal studies found bio-effects in 70% of the 610 studies on the database. Effects include biochemical changes, altered enzyme activity, oxidative stress, cell irregularities, cell damage, neuro-behavioural effects, cognitive effects, DNA damage, mutagenic and genotoxic effects, apoptosis (programmed cell death), sperm effects, and tumour promotion

Long term bio-effects of oxidative stress has been linked to cardiovascular disease (cardiac and vascular effects), neurodegenerative diseases (neuronal damage, metabolic changes, blood brain barrier damage), and cancer (DNA damage, altered cell metabolism, altered gene expression and inflammation). Neurobehavioural changes include anxiety, cognitive impairment and changes in neurotransmitters (

Jamie Rowe

From: Mick Denny <MDenny@tweed.nsw.gov.au>
Sent: Monday, 4 February 2019 5:01 PM
To: Leanne Harding
Cc: Councillor Keith Williams; Councillor Sharon Cadwallader; Councillor Jeff Johnson; Councillor David Wright; Councillor Phil Meehan; Councillor Nathan Willis; Councillor Stephen McCarthy; Councillor Eoin Johnston; Councillor Ben Smith; Councillor Sharon Parry
Subject: re: PROPOSED TELSTRA TOWER: Useful documents
Attachments: Commercial Services Committee Meeting Agenda.pdf

Hi Leanne

Can you please forward my email to your General Manager, for his prompt reply. Thank you.

Hi Paul

I refer you to the attached document.

Can you please advise when Recommendation #2 being "Community Consultation" is to commence? My understanding is that 2 letters were sent out to the 2 adjoining residents. That's all in regards to letter notification. Not even the property owner across the road received a letter. This proposal has a far reaching impact on surrounding residents than the neighbours 20m away, and the report even indicates that.

In addition, I see that David Hughes' (Axicom) argument is that "as this site has an existing pole it was considered to be a good selection". Really!!!! A pole with 2 ambient red lights on it surely is not considered equivalent to a 45m mobile tower with 4 banks of mobile transmitters.

I appreciate your reply this week as submissions close very soon.

I equally appreciate a reply from my elected Councillors.

Regards

Mick Denny B.Eng., B.Surv.
Acting Unit Co-ordinator Development
Engineer



p (02) 6670 2602

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Your actions matter. print less to save more

All official correspondence requiring a formal written response should be addressed to the General Manager, PO Box 816, Murwillumbah, 2484; or emailed to tsc@tweed.nsw.gov.au; or faxed to 02 6670 2429.

We work flexibly. If you have received an email from me outside of normal business hours, I'm sending it at a time that suits me. Unless it's flagged as urgent, I'm not expecting you to read or reply until normal business hours.



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

Delivery Program Commercial Services

Objective To seek Council's concurrence to undertake community consultation for a proposal to lease a portion of community land under Section 47 of the Local Government Act 1993. The proposal involves erecting a telecommunications monopole on a portion of Lot 11 DP 627149 North Creek Road, Lennox Head.

Background

Telstra, through its consultant Axicom, is seeking Council's approval to lease a portion of Lot 11 DP 627149 North Creek Road, Lennox Head which is classified as community land. A locality plan is **attached**.

Telstra are proposing to remove an aircraft navigation lighting tower that was erected on the site by Council for the Ballina Byron Gateway Airport and replace it with a new 45 metre high monopole for telecommunications infrastructure. Telstra has advised that the current monopole lacks the structural strength to support the telecommunications infrastructure and aircraft navigation lighting.

The purpose of this report is to determine whether or not Council wishes to pursue leasing this portion of community land to Telstra.

Key Issues

- Leasing of community land
- Provision of telecommunication infrastructure
- Airport navigational infrastructure

Information

A tower with aircraft navigational lighting was erected in 2013 by Council for the airport on Lot 11 DP 627149, North Creek Road, Lennox Head ("the Site").

Axicom, acting on behalf of Telstra, has approached Council seeking approval to replace the existing navigation tower with a new 45 metre high monopole that could accommodate telecommunications infrastructure and aircraft navigational lighting. The requirements for this proposed structure include a 120m² fenced site with vehicular access to North Creek Road. A plan of the proposed structure is attached.

This site was selected by Axicom following an extensive search in the local area for a suitable location to house a large monopole structure. It is proposed to affix telecommunications infrastructure to the monopole to enhance mobile phone and internet services west of the North Creek Road Reservoir and down past Skennars Head. An email from Axicom identifying the subject Site and outlining the need to erect the monopole is attached.

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

As the subject Site is classified as community land a number of steps need to be taken or addressed including:

1. Council agreeing to undertake the relevant process for granting a long term lease over community land for commercial purposes. This process would require Council to undertake community consultation for the proposed lease under Section 47 of the *Local Government Act 1993*. The maximum lease period being 21 years.
2. Council reaching an agreement in principle with Telstra for a long term lease on commercial terms and conditions that are mutually acceptable.
3. Council granting landowner's approval to Telstra to lodge a development application for their proposed telecommunications monopole which would include aircraft navigation infrastructure.

Telstra are keen to progress this matter and have presented various leasing proposals to Council, the most recent of which is noted in a confidential report included in this meeting agenda. Council could reach agreement in principle on lease terms and conditions with Telstra, subject to the outcome of Step 1 above; i.e. the community consultation process.

Subject to a positive outcome for Steps 1 and 2, Council could then progress to Step 3 and grant landowner's consent for Telstra to lodge a development application to erect the monopole structure on the subject Site.

Lot 11 DP 627149 comprises a site area of 4,743m², however Telstra only require a 120m². So a subdivision of Lot 11 would be required to create a 120m² site for Telstra. Alternatively Council could grant Telstra a licence over the site area they require.

Legal / Resource / Financial Implications

The subject Site is classified as community land and as such any proposed commercial lease or licence requires notification under Section 47 of the *Local Government Act 1993*.

Consultation

Council has consulted with airport operational staff. Telstra has also consulted with Council in a pre-lodgement development application meeting.

Options

The leasing of community land for telecommunication towers has the potential to raise conflicting views within the community.

Council must balance the views of residents in the immediate vicinity of such proposed infrastructure with the needs of residents elsewhere in the community who seek improved mobile phone and internet services.

The following options have been drafted accordingly.

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

1. Council resolves to reject Telstra's request for a lease or licence over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head, remove the existing navigation tower and erect a new monopole structure and affix telecommunications infrastructure and aircraft navigational lighting, as the use of community for this purpose is not supported.

This option is not recommended as Telstra and its consultant Axicom, have conducted an extensive search for a suitable site to erect the proposed structure and enhance mobile phone and internet services in areas where such services are lacking or substandard.

The options for such a site in the elevated areas of Lennox Head and Skennars Head are very limited due to the Ballina Byron Gateway Airport flight path OLS ("Obstacle Limitation Surface") requirements.

2. Council resolves to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the *Local Government Act 1993*. This option would also be dependent on the commercial leasing arrangements as per the confidential report.

Option two is recommended as investigations by Telstra identify an urgent need to improve mobile phone and internet services in the areas west of the North Creek Road Reservoir and Skennars Head.

Furthermore there is a lack of alternate sites due to Ballina Byron Gateway Airport's flight path OLS requirements.

RECOMMENDATIONS

1. That Council authorises the General Manager to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the *Local Government Act 1993*.
2. At the conclusion of the community consultation process the matter be reported back to Council.

Attachment(s)

1. Locality Plan - Lot 11 DP 627149 North Creek Road Lennox Head
2. Telstra Proposed Infrastructure Plans
3. Axicom Email 27 November, 2018

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



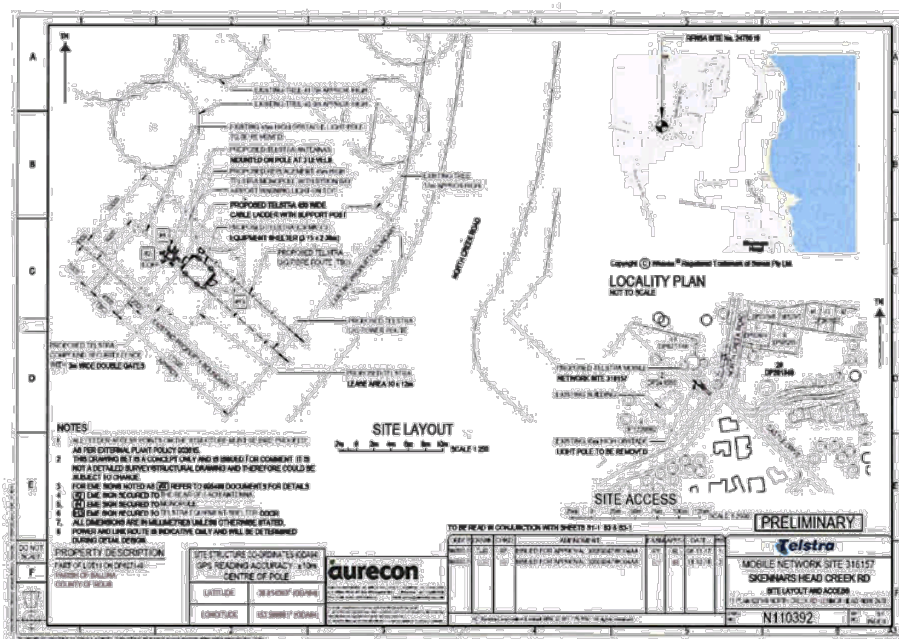
Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478
PO Box 490
BALLINA NSW 2478
1300 664 444
council@ballina.nsw.gov.au
www.ballina.nsw.gov.au



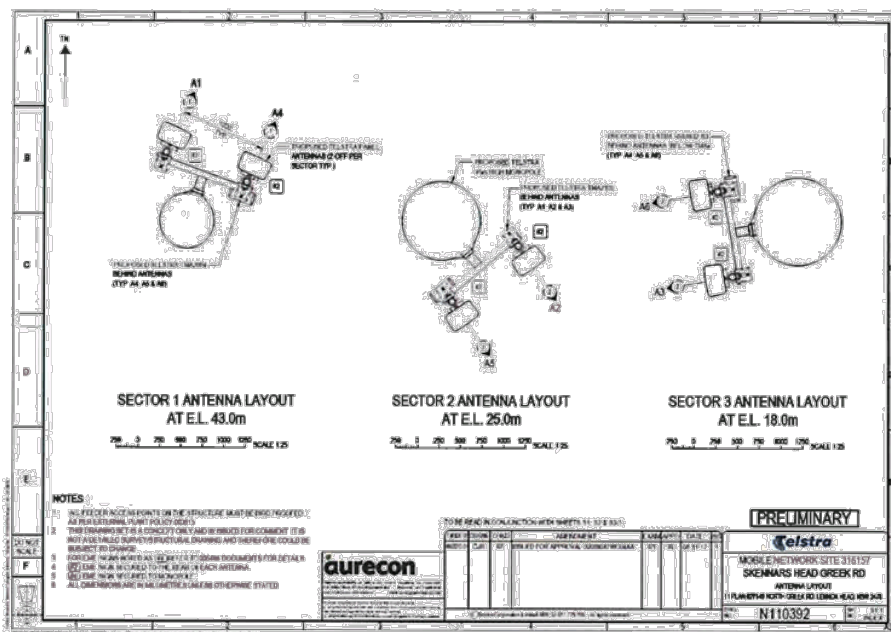
Site Plan ♦ Proposed Telstra Communication
Pole North Creek Road Lennox Head

ballina shire council
Proposed Telstra Communication
Projection: GDA94 / MGA Zone 56
Scale: 1:20m

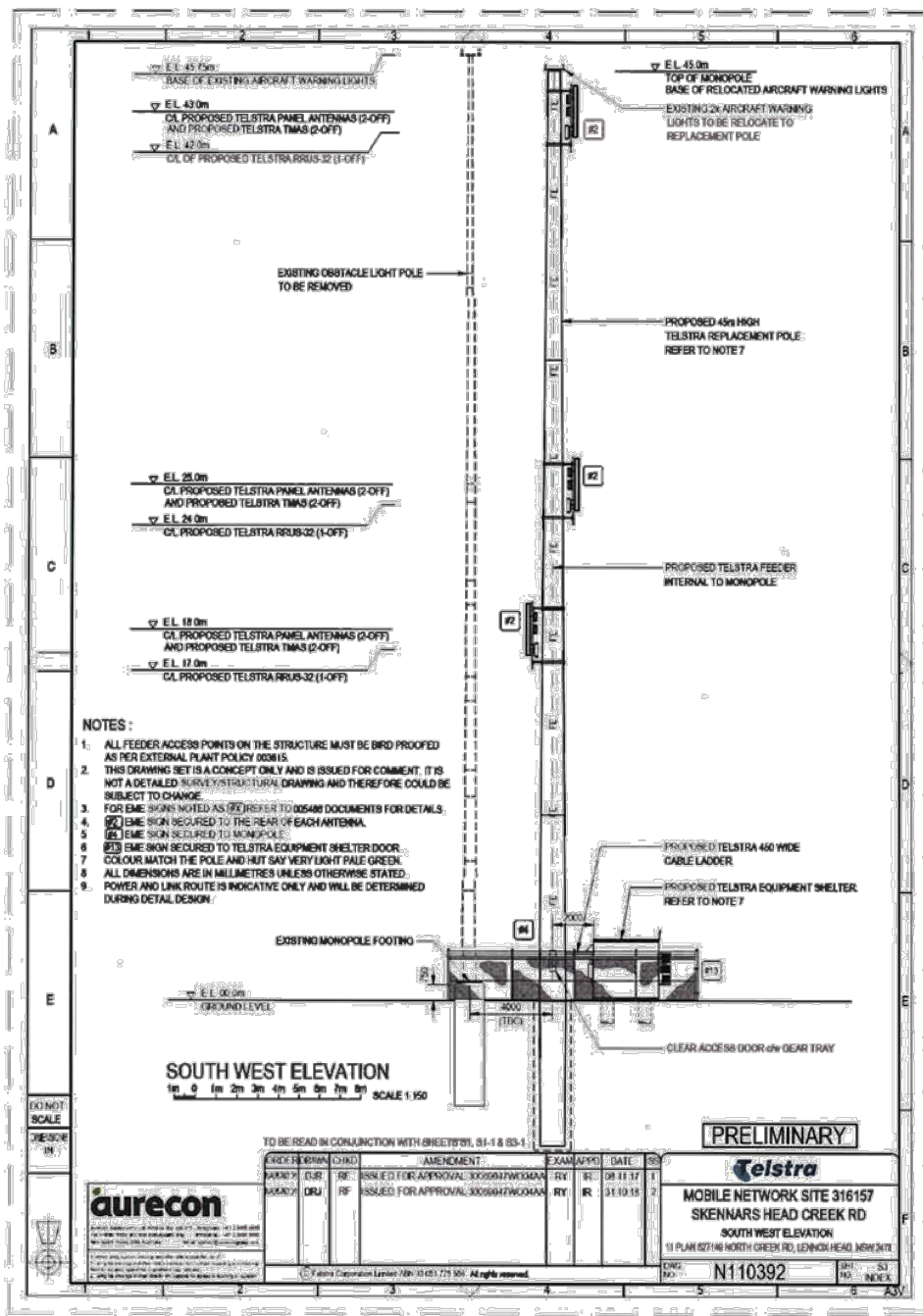
4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



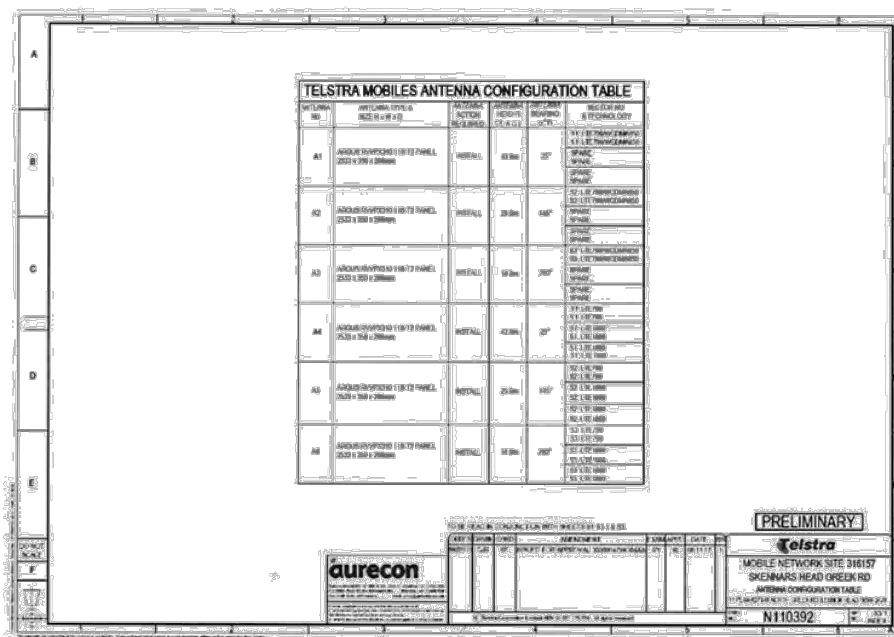
4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

From: "Hughes, David" <David.Hughes@axicom.com.au>
Date: 27 November 2018 at 8:48:32 am AEDT
To: Leanne Harding <Leanne.Harding@ballina.nsw.gov.au>
Subject: RE: Our Ref: NA08763.01 Skennars Head - Proposed Aviation Pole Swap out

Leanne, I have received [below](#) response from Telstra for inclusion in your report, let me know if any further clarifications required also –

The existing site at Lennox Head Water Tank is a two sector site that provides little to no coverage to the residential area to the south described as Sector 1 in the below image.

The area from the south of Lennox Head Water Tank down to Skennars Head is the area that we are trying to provide coverage.

In reference to the map below our site will provide three sectors of coverage:

- 1. Sector 1 Towards Lennox Head including the highway.*
- 2. Sector 2 Along the highway to the south and west.*
- 3. Sector 3 To the south east towards and covering Skennars Head township.*

This site will provide coverage and capacity to these areas which currently have very little coverage.

In relation to site selection as you would be aware there are no other areas which are suitable due to the majority of the coverage area being compacted residential areas, as this site has an existing pole it was considered to be a good selection, it also has elevation and will cover the area mentioned above.

4.4 North Creek Road Lennox Head - Proposal to Lease Community Land



Regards

David Hughes LREA
Site Acquisition Manager
Axicom
Address: PO Box 13127, George Street, QLD, 4003
M +61 433 142 402 | F +61 7 3003 0916
david.hughes@axicom.com.au | www.axicom.com.au

Download our **whitepaper**:
"How shared Infrastructure offers carriers a way forward for 5G". [Click here](#).

Jamie Rowe

From: Dom O'Brien <domobrien@yahoo.com>
Sent: Thursday, 14 February 2019 2:21 PM
To: Ballina Shire Council; Councillor Sharon Cadwallader; Councillor Jeff Johnson; Councillor Keith Williams; Councillor Phil Meehan; Councillor Nathan Willis; Councillor Stephen McCarthy
Cc: Leanne Harding; Councillor David Wright; Councillor Eoin Johnston; Councillor Ben Smith; Councillor Sharon Parry
Subject: OBJECTION: Proposal to lease community land, Telstra tower, North Creek Road
Attachments: Telstra Material Risk.pdf; Advice-Medical-Evidence-and-the-Precautionary-Principle.pdf; World Health Organisation.pdf; Council Recommendations for DA vote (3) (1).pdf

Dear Leanne & Ballina Shire Councillors,

Please accept my submission in objection to Telstra's proposal to construct a telecommunications tower and associated facilities on North Creek Road in Lennox Head. I have serious concerns about the health impacts on local residents if this proposal is approved, in addition to my own health as a long time sufferer of Electromagnetic Hyper Sensitivity. I am unable to use wi-fi in my own house and have therefore spent thousands of dollars installing data cabling to enable me to use the internet around my home. Prolonged exposure to strong EMF fields such as those from wi-fi routers, or close proximity to high voltage power lines and mobile phone towers results in a range of symptoms including exhaustion, abdominal disruption, dehydration, headaches and loss of cognitive function. Telstra's tower proposal is just 500 metres from my house and in direct line of sight. Should it be approved I would be forced to relocate. I am equally concerned for the health of other residents living in close proximity, many of whom are children.

I am currently seeking medical advice to confirm the harm I would experience should a communications tower be built in close proximity to my residence. Please refer to the attached advice from barrister Raymond J Broomhall to ECSFR in relation to the Wilson's Creek tower proposal which Byron Shire Council rejected last year. It refers to medical evidence and the precautionary principle as grounds on which council can reject the proposal.

In addition to my experience I have the following concerns about Telstra's proposal:

1. Thousands of peer-reviewed studies indicate adverse biological effects from EME at field intensities comparable to (or below) what persons living within 500 metres of the proposed tower will be subjected to on a continual basis. Copies of these studies are available for Council's perusal upon request. Such effects far outweigh any benefit of the proposed facility.
2. According to prior experience, additional telecommunications services will inevitably be co-located upon the proposed tower. The impacts of accumulated infrastructure and its contribution to overall radiation levels must be considered as an increased risk to the health of residents in the vicinity.
3. Persons living in proximity to the proposed tower would be exposed without consent to a form of electromagnetic radiation classified as a "possible carcinogen" by the World Health Organisation (attached). Other official bodies provide similar or more critical warnings. Said exposure may constitute tortious assault or trespass under Common Law.
4. Telstra's definition of "sensitive" locations to be avoided as phone tower sites is limited to schools, hospitals, high density housing and the like. This constitutes an admission of potential harm, and unfairly discriminates against persons who may be equally susceptible living or working in less densely populated areas.

effects. Should the proposal be accepted, *Council may be assisting Telstra to impair the health of those within its care.*

6. I understand that the covenant covering the lot that the current aviation tower exists on was negotiated in good faith by the owner of adjacent lot, on the condition that nothing else could be constructed without their approval. My understanding is also that the adjacent landowner does not approve of the proposal, and I will therefore feel obliged to offer them my ongoing support to ensure the integrity of this covenant is retained.

7. I refer you Byron Shire Council's rejection of the Wilson's Creek tower (attached), particularly points 4, 5 and 6 of the staff recommendations to councilors:

4. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfactorily address the environmental impacts of the proposal including impacts on threatened species, populations and ecological communities, nor does it meet the requirements under the Biodiversity Conservation Act 2016.

5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is considered unsuitable for the proposed development having regards to the ecological values of the site and its proximity to surrounding properties.

6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest having regards to the level of community objection to the telecommunication tower.

8. Telstra acknowledges that electromagnetic energy is a 'material risk' to shareholders (see attached), meaning it is uninsurable because the risk is so high.

I appreciate your genuine consideration of this submission. Should you have any questions about the objections raised in this submission, please do not hesitate to contact me at this email address.

Kind regards,

Dom O'Brien
35 Fox Valley Way, Lennox Head



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RAYMOND J. BROOMHALL
BARRISTER

Michael Kirby Chambers
49 Davey Street
HOBART TAS 7000
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ABN: 19 811 830 629

Our Ref: ECSFR/12
Your Ref:

23 August 2018

ENVIRONMENT AND COMMUNITY SAFE FROM RADIATION INC.



Dear 

ADVICE: MEDICAL EVIDENCE & THE PRECAUTIONARY PRINCIPLE

I thank you for requesting an 'urgent' advice in regards to the above matter.

My advice is as follows;

The precautionary principle is a relevant consideration to be made by Council of its evaluation of the development under s 4.15 of the *Environmental Planning and Assessment Act 1979* given the reference to ecologically sustainable development in that Act's objectives as found in section 1.3(b). The objective being to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.

The *Protection of the Environment Operations Act 1997*, amongst other sources, can provide assistance on what ecologically sustainable development and the numerous principles incorporated in it mean. I consider these matters can be taken into account under s 4.15.

This approach was taken by Lloyd J in *Carstens v Pittwater Council* (1999) 111 LGERA 1 and in *Hutchison Telecommunications (Australia) Pty Ltd v Baulkan Hills Shire Council* [2004] NSWLEC 104..

The absence of a definition of ecologically sustainable development in the *Environmental Planning and Assessment Act 1979* and the ARPANSA approach to the precautionary principle is not the only relevant consideration. The Land and Environmental Court is not limited on a merits assessment by the ARPANSA approach to the precautionary principle.

The Council must have a legally valid basis under which the principles of ecologically sustainable development and the precautionary principle can be applied by the said Court.

Developers who intend to emit electromagnetic radiation have appealed many decisions made by other Local Governments who have rejected DA's in the past.

Councils have lost appeals based on unsupported 'subjective' evidence. Subjective evidence usually comes in the form of letters submissions by individuals and community organisations. These letters usually raise personal unsupported opinion that their residences, persons and businesses will be affected and/or harmed by electromagnetic radiation. Unfortunately, this subjective, unsupported evidence will have little credibility and be of little weight to enable Councils to make an informed decision. If a Council relied on this evidence to reject a development the decision can easily be overturned by appeal.

To remedy I suggest the 'objective' test needs to be applied in order for the Council to have the tools it requires to make a solid and informed decision in order to enable the precautionary principle to be enacted if needed to reject a development.

What is the objective test?

The Australian Government under the Australian Radiation Protection and Nuclear Safety Authority (ARPANSA) published a fact sheet in June 2015 headed 'Electromagnetic Sensitivity'. In that fact sheet ARPANSA advise the following;

'On the basis of current scientific information, there is no established evidence that EHS is caused by EMF at levels below exposure guidelines. ARPANSA acknowledges that the health symptoms experienced by the effected individuals are real and can be a disabling problem, and advise those affected to seek medical advice from a qualified medical specialist'.

The advice of ARPANSA infers with clarity that an opinion from a qualified medical specialist reigns supreme over any information provided or adopted by ARPANSA under ARPANS Act. The advice rightly infers that a medical specialist's can interpreting the science collated by ARPANSA at the medical specialist's sole discretion to assist in consulting, diagnosing and treating his/her patients who present with symptoms associated with exposure to electromagnetic radiation.

If the Council were to be presented with a medical specialist's opinion as to harm or potential harm caused by exposure to electromagnetic radiation then the 'objective test' would be satisfied.

Letters to Council armed with a medical specialists opinion would provide decision makers in Council with the necessary tools to make an informed and objective decision. A developer would be hard pressed to appeal a 'rejection' decision based on medical opinion of harm to members of the public.

That concludes my opinion of the matter, please contact me if you require further clarification or assistance.

Yours faithfully,



RAYMOND J. BROOMHALL

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.13

<p>Report No. 13.13</p> <p>5</p> <p>Directorate:</p> <p>Report Author:</p> <p>File No:</p> <p>Theme:</p> <p>10</p> <p>DA No:</p> <p>Proposal description:</p> <p>Property description:</p> <p>Parcel No/s:</p> <p>Applicant:</p> <p>Owner:</p> <p>Zoning:</p> <p>Date received:</p> <p>Integrated Development:</p> <p>Public notification or exhibition:</p> <p>Delegation to determination:</p> <p>Issues:</p>	<p>PLANNING - Development Application 10.2018.233.1 Mobile Telecommunications Facility including 35 metre Monopole, Six (6) antennae and ancillary equipment at Wilsons Creek Road, Wilsons Creek</p> <p>Sustainable Environment and Economy Greg Smith, Team Leader Planning Services Noreen Scott, EA Sustainable Environment and Economy</p> <p>I2018/1564 Sustainable Environment and Economy Development and Certification</p> <p>10.2018.233.1</p> <p>Mobile Phone Telecommunications Facility including 35 Metre High Monopole, Six (6) Antennae and Ancillary Equipment LOT: 1 DP: 202997</p> <p>Wilsons Creek Road WILSONS CREEK</p> <p>99360</p> <p>Service Stream</p> <p>Telstra Corporation Ltd</p> <p>7(c) (Water Catchment Zone)</p> <p>16 May 2018</p> <p>No</p> <ul style="list-style-type: none"> - Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications - Exhibition period: 7/6/2018 to 12/7/2018 - Submissions received: 114 individual submissions, plus a petition indicated to contain 1304 signatures on pro forma letters - Submissions are publically available from the following link: www.byron.nsw.gov.au/Council/Council-meetings/Additional-Supporting-Information/ <p>Council</p> <ul style="list-style-type: none"> • Bush fire prone land • High environmental value vegetation, Very high ecological values, Threatened species, populations and ecological communities, High Biodiversity Values on the Biodiversity Values Map under the Biodiversity Conservation Act 2016. • Council cannot approve Part 4 development without a Biodiversity Development Assessment Report (BDAR). • Flora and Fauna assessment report and Assessment of Significance not submitted. • EME radiation impacts on wildlife. • Building height under LEP 1988 clause 40, with SEPP 1 objection submitted (development standard is 9m, total height is 36.3m). • Development not demonstrated to be appropriate to the location, surrounding development and environmental characteristics of the land. SEPP 1 objection not well founded and does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. • Not consistent with objective (d) of the 7(c) (Water Catchment Zone).
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BYRON SHIRE COUNCIL

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- Conflicts with existing overhead 11kV powerlines, LV overhead powerlines and a 11kV / LV pole substation.
- Application not supported by a site plan identifying the closest residences contained in EME Report to determine the impact of the proposal on these dwellings.
- Application fails to address on-site sewage management.
- Public submissions (114 individual submissions, plus a petition indicated to contain 1304 signatures on pro forma letters).

Summary:

The DA proposes Mobile Phone Telecommunications Facility including 35 Metre High Monopole, Six (6) Antennae and Ancillary Equipment.

The proposal raised a significant level of objection from the community in terms of siting, environmental impacts, health and amenity impacts, electro magnetic radiation, visual impacts, proximity to power lines and surrounding residential properties.

It is considered that the development does not meet Councils planning controls or standards, having regards to the height provisions within Byron LEP 1988, and the objectives of the 7(c) Water Catchment Zone. Further having regards to the number of objections it is considered the proposed telecommunications tower is not in the public interest.

The application is recommended for refusal.

5

NOTE TO COUNCILLORS:

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In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application 10.2018.233.1 for Mobile Phone Telecommunications Facility including 35 metre high monopole, six (6) antennae and ancillary equipment, be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to comply with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007, having regards to its proximity existing overhead power lines.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with objective (d) of the 7(c) Water Catchment Zone as insufficient information has been provided to demonstrate that the use is appropriate in terms of conserving or enhancing the environmental amenity of the locality.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Cause 40 (Height) of Byron LEP 1988 and the SEPP 1 Objection has failed to demonstrate that compliance with the development standard

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is unreasonable or or unnecessary in the circumstances of the case.

4. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfactorily address the environmental impacts of the proposal including impacts on threatened species, populations and ecological communities, nor does it meet the requirements under the Biodiversity Conservation Act 2016.
5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is considered unsuitable for the proposed development having regards to the ecological values of the site and its proximity to surrounding properties.
6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest having regards to the level of community objection to the telecommunication tower.

Attachments:

- 1 Proposed Plans, E2018/68630
- 5 2 Confidential - further submissions dated 23/8/18, E2018/71816
- 3 Legal Advice received from objectors dated 23 August 2018, E2018/71820



Home / News / Fact sheets / Detail / Electromagnetic fields and public health: mobile phones

Electromagnetic fields and public health: mobile phones

8 October 2014



Key facts

- Mobile phone use is ubiquitous, with an estimated 6.9 billion subscriptions globally.
- The electromagnetic fields produced by mobile phones are classified by the International Agency for Research on Cancer as possibly carcinogenic to humans.
- Studies are ongoing to more fully assess potential long-term effects of mobile phone use.
- WHO will conduct a formal risk assessment of all studied health outcomes from radiofrequency fields exposure by 2016.

Mobile or cellular phones are now an integral part of modern telecommunications. In many countries, over half the population use mobile phones and the market is growing rapidly. In 2014, there is an estimated 6.9 billion subscriptions globally. In some parts of the world, mobile phones are the most reliable or the only phones available.

Given the large number of mobile phone users, it is important to investigate, understand and monitor any potential public health impact.

Mobile phones communicate by transmitting radio waves through a network of fixed antennas called base stations. Radiofrequency waves are electromagnetic fields, and unlike ionizing radiation such as X-rays or gamma rays, can neither break chemical bonds nor cause ionization in the human body.

<http://www.who.int/news-room/fact-sheets/detail/electromagnetic-fields-and-public-h...> 22/08/2018

Our material risks

The dynamic markets we compete in present both opportunities and risks. In this context, our material risk profile continues to evolve. The following describes the material risks that could affect Telstra, including any material exposure to economic, environmental and social sustainability risks, and how we seek to manage them.

These risks are not listed in any order of significance, nor are they all encompassing. Rather they reflect the most significant risks identified at a whole-of-entity level through our risk management process.



Industry disruption and competition

Rapid changes in telecommunications technology are lowering barriers to entry and increasing the level of competition in the telecommunications industry in Australia and the world.

Our digitalisation program, which has a detailed and integrated program of work, is focused on enabling brilliant customer experiences and simplifying the way we work to meet complexity for our customers and the needs of our business. The program serves a level of risk due to the large scale complexity and the significant cross-company effort required, however the detailed and integrated programs of work in conjunction with our customer experience action plan (which aims to address known customer pain points and frustrations) helps us deliver on our brand promise and continue to build on the trust of our customers.

In the Australian fixed telecommunications market the non-transition is well positioned to continue to benefit from the focus on changing the mix of our earnings, including through the negative effect of the nbn on our EBITDA over the period of the nbn rollout discussed in the Chairman and CEO Message. In addition, there are risks related to successfully transitioning to become an access seeker and reseller on the nbn and providing a high-quality service to our environment. While we have been successful in maintaining our market share and focused on reducing our unit costs in the early phase of the nbn transition, pressure on our ability to continue this and generate acceptable

processes, making it simpler for our customers to deal with us and complete for market share including through the nbn digital value proposition and Only with Telstra services offerings.

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margins remains as the migration volumes increase. We are also undertaking steps to improve the way we set customers' expectations of the experience they will receive on the nbn. We are undertaking significant work to address the risks for nbn on a number of these areas long-term and complex contracts and we manage them through specific programs of work aimed at delivering an outcome that achieves our target margin. These programs also support our goal of reducing costs to maintain the legacy copper network as the nbn rolls out.

Business resilience and reputation

Our network differentiation is critical to our ability to compete and maintain our brand and price premium and the fact networks and services is also key to maintaining market share and growing revenues. There are multiple threats to our ability to ensure resilience and continuity of key processes, systems and people, including extreme weather events, natural disasters, malicious attacks, loss of third party key service providers, and human error. We are focused on ensuring our services to our customers, so when we don't meet our customers' expectations, through network congestion or prolonged network or other critical service disruptions) we can frustrate or adversely impact our customers and the communication we serve, which can affect our reputation and brand, and undermine the trust our customer have in us.

We have business capabilities, strategies, and plans in place which seek to prevent, respond to and recover from network/critical service disruptions. The aim of our strategy is to provide means to manage consequences and to provide acceptable levels of service continuity, especially for critical transactions and applications. We also partner with our external vendors on whom we rely to deliver improved management of our technology asset, lifecycles and resilience. We communicate and engage with our customers and the community in relation to the experiences and services in order to manage our 'Why Telstra' value proposition and to build differentiation based on speed, security and reliability.

People, culture and safety

Technological evolution, transformation and innovation require us to change our people and realise our strategy and adapt to the changing external environment. If we fail to attract, retain and develop the right talent and capabilities, and to create the right culture and organisational structure to enable new and existing talent to thrive (for example through less complexity and streamlined accountability) we may not be able to achieve our strategy and realise the benefits of our investment strategy.

We are focused on delivering the capabilities required to simplify our business, transition to an nbn, operating environment and extract value from our business. Our people and capability programs support this future operating model and our succession programs (especially at the senior levels of the organisation) and are periodically reviewed for their ongoing relevance in our changing business environment. Our performance based culture seeks to encourage above industry performance to deliver increased customer experiences, personalised customer responsiveness.

We carry a level of Inherent Health, Safety and Environmental (HSE) risk considering the nature of the infrastructure we maintain and the activities we undertake on daily basis. This includes risks to our people, our products and services, environmental hazards associated with our work, our products and services and the facilities in which we operate. Failure to manage these risks effectively, could also affect our reputation with stakeholders and customers and expose us to regulatory action or litigation.

We have an HSE strategy, a five year HSE improvement plan, and comprehensive systems and processes to actively monitor safety outcomes and build broader considerations of our safety culture (including managing workplace aggression and drug and alcohol use), how we manage environmental hazards and those that may arise from use of our products such as electromagnetic compatibility.

Major regulatory change and stakeholder engagement

Regulatory or policy changes may directly impact our strategy and business model as well as increase complexity and the cost of doing business. We proactively develop and maintain relationships with regulatory stakeholders and policy makers to understand the regulatory environment and to identify potential adverse effects of policy and regulatory decisions. It is important we have clear, transparent and timely communications with our stakeholders, including government, shareholders, investors, government and regulators about our company and corporate strategy, and seek to understand the views of our stakeholders and maintain good relationships with them. We understand that if we are not successful in doing so, it may adversely affect our ability to execute our strategy.

In May we welcomed the Australian Competition and Consumer Commission's draft decision not to impose regulated domestic mobile roaming and encouraged them to move quickly to finalise the future investments across the industry. We are also engaging with the Australian Government as they develop their response to the Productivity Commission's recommendations on the future of the Universal Service Obligation.

We are generally supportive of regulatory and policy changes if they improve the experience for customers, particularly those in rural and remote Australia. We will continue to talk with our customers as

Our material risks | Telstra Annual Report 2017

Data governance

The world is experiencing increased security risks and it is not always clear what is and is not an acceptable risk. Cyber attacks, theft of other malicious actions, this could result in significant or failures, disruptions in our operations or dissemination of sensitive information about Telstra and our customers. If we are unable to provide services to our customers as a result of such events, this may result in significant expense, lower customer confidence and loss of reputation. Failure to protect customer information such as through a breach of security, could result in regulatory action, litigation and reputational damage from four customer centric information customers and our reputation and result in adverse regulatory outcomes. Changes in technology that affect how personal data is collected, changed in our business model and how we digitise our business could increase this risk over time. Changes in expectations from our customers, such as through social media access to metadata, data security and mandatory data breach disclosure, are also important factors that affect how this risk is managed.

We have mandatory training in relation to data security and privacy awareness for all employees, and conduct regular cyber security and privacy drills across the organisation to test the level of staff compliance and vigilance. We also continuously review and update the security controls on our network, especially in times of global ransomware and other cyber-crime events and we monitor our risk in high risk areas and governance focus. In regards to social expectations when reviewing our policy, compliance and training programs.



Melinda Jones

From: Hélène Gatland <helene.gatland@gmail.com>
Sent: Thursday, 14 February 2019 9:00 PM
To: Ballina Shire Council; Leanne Harding; Councillor David Wright; Councillor Sharon Cadwallader; Councillor Jeff Johnson; Councillor Keith Williams; Councillor Phil Meehan; Councillor Nathan Willis; Councillor Stephen McCarthy; Councillor Eoin Johnston; Councillor Ben Smith; Councillor Sharon Parry
Subject: OBJECTION: Proposal to lease community land, Telstra tower, North Creek Road

Dear Leanne & Councillors

Please accept this submission in objection to Ballina Shire Council entering into a lease agreement with Telstra for occupation of Part Lot 11 DP 627149 North Creek Road, Lennox Head.

Objections for personal reasons

In 2015, my husband and I fell in love with Lennox Head and considered buying a block of land in Stage 1 of Epiq. As part of our due diligence, we contacted council to enquire as to whether or not the aircraft navigation tower (which is in direct line-of-sight of our property) hosts any telecommunications equipment. We were delighted to hear that it did not and proceeded with the purchase and construction of our home. For the past 18 months I have been operating a family day care from our premises for children aged 10 months to 5 years. One of the main differentiating factors of my business is that I make a strong commitment to the health and well-being of the children in my care, including reducing exposure to electromagnetic radiation (refer below extract from my philosophy and link to my company website).

<http://lecocon.com.au/philosophy.html>

This approach has been so successful that I have enjoyed a consistently long wait-list and families who travel from as far afield as the Gold Coast to ensure their children receive such a high standard of care. I believe that the six antennas proposed by Telstra could have a negative impact on the health of the children in my care, but at the very least, would almost certainly have a negative impact on my business.

Objections due concerns for the wider community

1. Health: People have different views on this issue so until nothing is proven, I would like to be cautious with Electromagnetic radiation being so close to houses.
2. Usage: My reception is fantastic and I never have any issue. Our adjacent neighbours have confirmed the same. As a result, our neighbourhood has nothing to gain from this tower.
3. Pine trees: I pass the historic pines each time on my way home and consider our community lucky to have them over a built environment. I am concerned that the various structure that Telstra is proposing to build (new tower, equipment shed, fencing and driveway) will be an eyesore and may affect the roots of these trees and the trees themselves.
4. Covenant: I understand council is aware of the covenant over the title which restricts any construction without the express permission of the adjoining landowner. Whatever action council decides to take on the covenant will send a strong message to the community. I trust that council will honour and uphold this covenant and it's intention to retain the land as natural open space.

Finally, I would like to take this opportunity to thank you for all the hard work you are doing for our community. I feel very blessed that our councillors are really listening to our concerns.

Thank you

Helene Gatland

20 Fox Valley Way, Lennox Head

To Ballina Shire Council

With reference to **Proposal to Enter into Lease Agreement for Occupation of Land Classified under the Local Government Act 1993 as Community Land, for the Purpose of Erecting a Telecommunications Tower and Equipment Shelter**

At Location **Part Lot 11 on DP 627149, North Creek Road, Lennox Head NSW**

Submission	OBJECTION
By Ratepayers	Dr Iravan Misha Sahgal Mrs Therese Anita Sahgal
Of	170 North Creek Road Lennox Head NSW 2478
Email	iri1@yahoo.com
Phone	0410344454 / 0432441032

We the undersigned ratepayers wish to state our objections for the above proposal.

We outline our objections in the forthcoming notice and employ council to act immediately to stop this proposed development and seek a new site, or additions to current telecommunications infrastructure to provide the local area with improved services.

We believe the legal aspects pertaining to the site as well as the potential risks and use of community land are grounds for immediately ceasing the proposed plan.

Signed this 14th Day of February 2019



Mrs Therese Anita Sahgal



Dr Iravan Misha Sahgal

Objections

1) Environmental and legal obligations

1.1 Any lease of the land with the intention to construct a telecommunications tower would be in direct breach of the burden of covenant which is included in the special condition of the contract of sale of the land, and subsequently transferred to the Proprietors of the adjoining land. The special condition made categorically states:

"No building or structure will be erected on the subject lot."

This agreement was made in good faith by the original land owners and transferred to the current adjacent land owners. Council have an obligation, both legally and morally to abide by it and to immediately cease pursuing the proposed lease agreement. Allowing the lease would severely impact the trust local property owners have in the council and would set precedent for legal documents to be ignored.

1.2 The land in question was purchased by council with the intent to ensure protection of the Norfolk Pines which have become heritage listed. Any construction of a tower and communications shed would have severe and permanent effects on these trees, which are beautiful and occupy an iconic place on the ridge. Any party entering into a lease agreement for potential development of the site would severely, if not totally destroy the ability of local council to maintain their control over the site and protect the trees, which was the intended reason for council to take partial control over the land.

1.3 The proposed construction would destroy the natural beauty of the site which is an iconic spot in Lennox.

1.4 The health impacts of large telecommunications towers in residential areas are currently the subject of much debate. Being a relatively new phenomenon there are simply no long term studies that conclusively show that there are no health effects. This is especially true when considering new technologies - such as 5G. There are many eminent scientists and doctors who remain convinced that the potential health impacts are very severe. This has led to widespread community concern for those living close to towers. It should be noted this site is extremely close to a children's play area.

2) Financial

2.1 It has been well proven that telecommunication towers have a negative effect on land prices. Many families have bought into the local area and would be directly financially effected by the proposed construction of such a tower.


2.2 Construction of such a tower would negatively impact the land price for any future developments of land close to the tower.

3) Other

3.1 There has also been no community discussion on the possibility of using other sites or additions to current sites to improve telecommunications services.

3.2 We have perfect phone reception. Placing the tower at this site would have no benefits to our household, and we would only be detrimentally effected.

We implore council to immediately cease this proposal, and abide by the covenant that the land has, and to ensure the trees remain protected and the land remains as it was intended to be.



Mrs Therese A. Sahgal



Dr Iravan M Sahgal

Objection to Telstra Proposal for Lot 11 DP 627149 North Creek Rd

Dear sir

This proposal was brought to the attention of our February meeting. The membership on the night unanimously supported a motion that we object to the proposal on the following grounds:

- The subject site is classified as Community Land. We understand it was sold to Tintenbar Shire Council by the Pidcocks with a covenant that prohibited any construction without consultation and written consent of the Pidcocks. We further understand that Mrs Pidcock is extremely concerned that she has not been approached on this matter. We also understand that BSC staff are aware of this covenant attached to the transfer of title and have sought legal advice on this. The honouring of the Intent of this transfer of title is a matter of high importance to residents and therefore of this association as it would be with any other lands gifted or sold under covenant by members of our community. We absolutely expect that BSC will respect this and abide by it.
- There are many Norfolk Pines on this site which have been in place for so long that all residents regard them as part of their historical heritage. These trees appear on the Significant Trees Register and at least 4 are so close to the current aviation tower that we are concerned there will be a need to trim branches for this proposal. It would also seem likely that foundation work for the tower and construction of the fence and storage shed could well interfere with the root zones of these trees. On top of this we would have strong concerns about Telstra being responsible for the ongoing health of the vegetation on Lot 11 DP 627149 should this lot be leased to Telstra.
- Many residents remain concerned that there is no conclusive scientific evidence that electromagnetic radiation associated with telecom towers is safe whilst there is a considerable body of support within the international scientific community that is counselling regulatory bodies to err on the side of caution. This issue attracted a lot of attention amongst our members on the night and considerable anxiety amongst a significant number. They feel their health could be compromised in order to provide signal that is not for their benefit but for the benefit of others who much much further away from the proposed tower.
- The location of the proposed vehicle access from Nth Creek Rd has been queried in terms of safety
- The increased height of the mast along this ridgeline will obviously impact on scenic amenity.

Yours on behalf of
Lennox Head Residents' Association,

Shaun Eastment
Vice-President

**OBJECTION TO LEASE AND SUBSEQUENT TELSTRA TOWER OF
LOT 11 DP627149**

**NORTH CREEK ROAD LENNOX HEAD - PROPOSAL TO LEASE
COMMUNITY LAND - THE PROPOSAL INVOLVES
ERECTING A TELECOMMUNICATIONS MONOPOLE ON A PORTION
OF LOT 11 DP 627149 NORTH CREEK ROAD, LENNOX HEAD**

The Main Purpose For Which The Land Is Reserved

The site is classified as community and is maintained as a public reserve.

Before 1971 the site was privately owned. In 1971 Council purchased the land for the sum of \$500.00

It was a condition of the purchase by way of a protective covenant¹ that council would never allow any construction on the site. The protective covenant and council ownership were to ensure the site was protected in perpetuity.

The reason it was so important to protect the site was that it contains a stand of trees that is regarded by council as having significant historic, cultural and aesthetic value to Lennox Head and the Lennox Head community.

“Historically the trees have been associated with domestic life for various reasons including for aesthetic and shade purposes domestic food production, as memorials to loved ones, and as land mark features”²

The site is on the highest part of the hill along North Creek Road Lennox Head and contains approximately 25 trees made up of predominantly Norfolk pines.

¹ Annexure 1

² The Ballina Shire council draft shire wide community-based heritage study

It is fair to say that Norfolk Pines are to Lennox Head what the Harbour Bridge is to Sydney.

Some of these trees are aged up to 110 years old with the majority being planted in and around 1930.³

The site can be seen from Byron Hinterland from the North and from East Ballina from the south.

By agreeing to the protective covenant council resolved and determined in 1971 that the main (only) purpose of the land was for green space and tree protection for its significant, historic, cultural and aesthetic value.

In addition to the protective covenant councils general plan of management for community land ("POMS") permits a range of possible uses provided there is no significant detrimental impact on the main purpose for which the land is reserved.

The Current Navigational Tower Is Consistent With The Main Purpose.

In 2013, council with the consent of resident stakeholders approved the erection of a 45m high hazard beacon mono pole on the site with two red beacon lights attached ("the navigational tower").

The navigational tower is not intrusive, offensive or dangerous and is consistent with the protective covenant and the sites main purpose and POMS.

The erection of the navigational tower was essential to protect the trees. Council had been issued with a request for corrective action by CASA⁴ (RCA No 9323921). Due to the height of the trees CASA had assessed them as safety risks to aircraft and therefore CASA required that either the trees be significantly lowered, removed or a navigational tower erected.

³ Ardil Payne report for the DA for the Aircraft Navigational Tower

⁴ RCA No 9323921.

In the DA documentation for the Navigational Tower it states:

"There is no intention for the pole to be used for any purpose other than as an obstacle limitation surface height pole atop which hazard lights will be affixed. No objection will be raised by council imposing conditions of consent that will preclude/prohibit the erection or relocation of any other fixtures to the proposed new pole that are not expressly related to the operations of the airport."⁵

Accordingly, the Aircraft navigational tower was erected, and the trees were saved and the main purpose for which the land was reserved was protected.

The proposed Telstra tower is not consistent with the main purpose of the land.

The Telstra tower will destroy the sites historic, cultural and aesthetic value to Lennox head.

The Telstra tower is in breach of the protective covenant attached to the site.

The Telstra tower is inconsistent with the recommendations adopted by council when they approved the DA for the Aircraft navigational tower.

Further, The Telstra tower does not directly relate in any way to the safe operations of the airport.

Parties To The Protective Covenant

The protective covenant which amongst other things prevents the erection of any structure on the site can only be varied with the consent of the relevant stakeholders.

⁵ DA for Aircraft navigational tower

The relevant stakeholders are defined in the protective covenant as relevant stakeholders of land in certificate of title volume 10450 Folio 8 and or their assigns (who are the beneficiaries of the subdivided parts of the land) ("the resident stakeholders").

It is our understanding that this folio of land has been subdivided and therefore there are numerous resident stakeholders who council would now be required to obtain written consent from.

It is my understanding that council has not obtained their consent nor sought to identify who they may be. This leaves council open to separate legal proceedings from all relevant stakeholders for breach of covenant/contract if they unilaterally attempt to approve the lease.

Further it entitles these stakeholders to file a caveat on the property preventing the lease being registered which will only lead to potential further litigation.

No Proper Investigation Into Alternative Sites

Further, council clearly has not properly investigated alternative sites which may be more suitable in the circumstances.

There is no report commenting on alternative sites or any investigations that have been undertaken as to the most suitable site.

Pages 16 and 17 of the Ballina Council Commercial services Committee Meeting held on 4 December 2018 simply state *"that there is a lack of alternative sites due to the Ballina Byron gateway Airports flight path OLS requirements"*. Further it appears they are relying on Telstra's Consultant Axicom for that advice⁶.

⁶ See email from Axicom attached to the agenda of the minutes on 4 December 2018.

Telstra clearly have a conflict of interest when providing that opinion. Their interests are commercial, and profit driven. They have no interests in properly investigating the matter.

Axicom's email attached to the December agenda demonstrates the lack of enquiry into suitable alternative sites. It states "*as this site has an existing pole it is considered to be a good selection*"

This statement lacks any merit and fails to consider all the costs to the community as I have mentioned in these submissions.

Further, it contradicts the fact that council must have considered the issue of attaching antenna's to the aircraft navigational pole in 2013 when approving the mono pole and made recommendations against it.

The mere fact that the proposed site has an existing pole is insufficient information for council to rely upon to demonstrate that the site should receive a Telstra tower.

For council to rely on a basic statement from Axicom before approving a lease and tower on what is clearly a very sensitive and important community site and will have a significant cost to the Lennox Head community and residents is a failure of due enquiry, investigation and governance.

Council have an obligation and duty before approving this lease to ensure it is the most appropriate site in all of the circumstances.

Safety Concerns For Residents And The Community

The safety risks of telecommunication towers are now well known and established and needs no additional comment. There is a plethora of published evidence that demonstrates the health risks to residents within at least a 500m radius of these tower.

Below are links to some of the information and evidence relating to the health and safety risks:

<https://ehtrust.org/>

<http://www.bioinitiative.org/>

<https://www.emfacts.com/>

http://www.emraware.com/scientific_evidence.html

<https://www.orsaa.org/>

Council has allowed the area surrounding the site to be developed and invited families to build, buy and live there. As a result, It is now an extremely populated area. These families did not choose to live next to a three tier Telstra tower and council certainly need to carefully consider the risks of forcing exposure on these families and the community to Electromagnetic Radiation (EMR) 24 hours a day 7 days a week without any reprieve whatsoever. Council have not considered this in any of their reports.

Devaluation Of Property In The Vicinity Of The Telstra Tower

There is again sufficient evidence to support the submission that property prices around any tower will be affected by at least 20% causing many residents financial hardship. Again, Council have not considered this in any of their reports. Any enquiry with a qualified Valuer will confirm this fact. Council should not make a decision that they know will cause their residents to suffer loss and damage and financial hardship.

Community Consultation

Further Council has not had proper community consultation on this issue as required under the act. The process should be open and transparent including:

1. Directly notifying all affected residents, and
2. Notifying all relevant stakeholders to the protective covenant and advising them that they are stakeholders and council needs to seek their agreement, and
3. A thorough Investigation into:

- a. The health effects and risks of residents and families in Lennox who will be exposed to the EMR, and
- b. The effect on the surrounding property prices and the hardship caused to the residents,
- c. Alternative sites and their benefits and disadvantages.

Council has not completed the above. It has been left to local community groups and individuals to inform residents. Council employees even removed a sign from the property that was simply informing residents of the proposal and the location of the tower. This is not an issue that council should attempt to rush through. The process must be transparent and be seen to be transparent. Council needs to investigate and make all reports available for community consultation as is the intention of the Act.

Community Opposition

There is significant community opposition to the proposal. The community is telling Council they do not want the Telstra tower on this sensitive site. Council need to listen to their residents.

Effect On The Trees

As discussed above the trees on the site are considered to be of significant importance. In addition, there is a tree preservation order covering the site and the location along North Creek Road.

The proposed "NEW TOWER" is significantly wider with deeper footings than the existing pole. There is not even an arborist report as to what effect the proposed construction will have on the health of the trees and tree roots.

Again, there is no report as to what affect the Telstra tower will have on the wildlife that live in the trees due to EMR exposure and the like.

How can council contemplate approving a lease which in reality approves the construction of a Telstra tower without consideration of all the facts and evidence.

To do so would be making a decision that has not been based on merit.

Summary

If council approves this lease for a three tier Telstra tower they have:

1. Ignored a promise and a restrictive covenant to protect the area in perpetuity from any construction, and
2. Will be destroying a site that has enormous ecological, heritage, cultural and aesthetic importance to Lennox Head, and
3. Will be exposing residents, families and the Lennox Head community to significant health risks without consent or reprieve, and
4. Will Cause financial hardship to residents due to the decrease in property values, and
5. Will Ignore their own recommendation (they made when the aircraft navigational structure was erected) not to approve any further construction that did not directly relate to the airport safety, and
6. Will be Ignoring the significant community opposition to the proposal who have said we do not want this tower on this site, and
7. Will be making a decision not based on merit and without all the relevant information at hand.
8. Finally promotes a very real risk of legal proceedings against council and claims for damages further eroding funds and resources that should be spent on the community.

For these reason council should not grant a lease or approve a telecommunications tower on the said site.

Yours faithfully

Sean Radburn
Lennox Head Resident
15/2/2019

"ANNEXURE 1"



LAND
REGISTRY
SERVICES



Req:R663929 /Doc:DL M624992 /Rev:21-May-1997 /Sts:OK,OK /Pgs:ALL /Prt:30-Nov-2018 12:25 /Seq:1 of 4
Ref: /Sro:

No. 0 *Example* M:6:2 450 9.2 FEB 23 AM 10:04 BC R.P. 13A

MEMORANDUM OF TRANSFER
(REAL PROPERTY ACT, 1900)

I, LESTER COLIN BRIEN of Lonnox Road Solicitor
(herein called transferor)

being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject however, to such encumbrances, liens and interests as are notified hereunder, in consideration of FIVE HUNDRED DOLLARS (- \$500.00) (the receipt whereof is hereby acknowledged) paid to me by THE COUNCIL OF THE SHIRE OF TINTINNABAH

do hereby transfer to

* THIS COUNCIL OF THE SHIRE OF TINTINNABAH

ALSTONVILLE 2077

(herein called transferee)

ALL such my Estate and Interest, in ALL the land mentioned in the schedule following:-

County	Parish	Reference to Title		Description of Land (if part only)
		Whole or Part	Vol. Fol.	
<u>ROCK</u>	<u>BALLINA</u>	<u>WIDE</u>	<u>1167 68</u>	

Req:R663929 /Doc:DL M624992 /Rev:21-May-1997 /Sts:OK.OK /Pgs:ALL /Prt:30-Nov-2018 12:25 /Seq:2 of 4
Ref: /Src:A

And the transferee covenant(s) with the transferor, for itself and its assigns or other the registered proprietors for the time being of the land hereby transferred hereby covenants with the Transferor and his assigns
1. That no building or structure shall be erected on the land hereby transferred
2. That no tree of the Norfolk pines variety shall be destroyed except with the consent of the Transferor first had and received in writing.
3. That the said land shall not be used for the purpose of public parking or public piers nor shall the public be invited to use it for occupation or enjoyment.

d. State out if unnecessary
Julily adjust, ...
(1) If any covenants are to be created or any exceptions to be made or
(2) If the statutory covenants implied by the Act are intended to be varied or modified.
Covenants should comply with the provisions of Section 88 of the Conveyancing Act, 1919.

AND IT IS HEREBY AGREED AND DECLARED that the benefit of the foregoing Covenants shall be appurtenant to all the other land in Certificate of Title Volume 10450 Folio 8 and that the said covenants may be released varied or modified by the registered proprietors for the time being of the lands to which they are appurtenant.

ENCUMBRANCES, &c., REFERRED TO.

e. A very short note will suffice.
X 115-3

Melinda Jones

From: Lennox Residents <lhrainc@gmail.com>
Sent: Monday, 18 February 2019 8:59 AM
To: Ballina Shire Council
Subject: Title on Lot 11 DP 627149, North Creek Rd Lennox Head

Dear sir

At its February meeting, the Lennox Head Residents' Association mover to inform both Ballina Shire Council and Telstra of the covenants attached to the transfer of title of this land (dated Feb 23 1972). One of these covenants requires the written agreement of the previous owners for the erection of any building or other construction without the prior written agreement of the previous owners. We understand that this agreement does not exist. Since the meeting we have learnt that BSC is aware of this covenant and taking it into account in it's considerations of Telstra's request to lease the land. We would add to this however that our membership feels strongly that it is Important that the spirit of this covenant is honoured in order to keep faith with the community.

Yours
Shaun Eastment
Vice - President
Lennox Head Residents' Association

Sent from my iPad

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit http://scanmail.trustwave.com/?c=4991&d=0Nnp3lLg7kAFghJDv_PugTmSQJf-LjU8ABLrMmQ9g&u=http%3a%2f%2fwww%2esymanteccloud%2ecom

4.2 Lennox Head Community Sports Club - Rent Review

4.2 Lennox Head Community Sports Club - Rent Review

Delivery Program Commercial Services

Objective To determine the rent review for the Lennox Head Sports Club.

Background

A report was presented to Council's Ordinary meeting held 13 December 2018 in response to a request for a rent review by the Lennox Head Community Sports Club.

At the meeting it was resolved as follows:

1. *That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited (‘the Club’), for the next five year option period.*
2. *That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:*
 - a) *50% of the independent market valuation, as per the arrangements for the existing lease rental OR*
 - b) *25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR*
 - c) *a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)*
3. *The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.*
4. *The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)*
5. *The Council seal is authorised to be attached to all associated documentation.*
6. *That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.*

A rescission motion was subsequently lodged and discussed at Council's Ordinary meeting held 24 January 2019 and the previous resolution was rescinded.

4.2 Lennox Head Community Sports Club - Rent Review

Two new resolutions were adopted at the meeting being:

“That Council authorizes the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited (“the Club”), for the next five year option period.

That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.”

This report deals with the first part of the resolution; i.e. market rental valuations have been obtained for the two parcels of land.

Key Issues

- Level of rent subsidy

Information

Lennox Head Community Sports and Recreation Club Limited, trading as Club Lennox (“the Club”), hold a lease with Council over Lot 1 DP 11905 10 Stewart Street Lennox Head. They also held a lease over a portion of road reserve in King Street, Lennox Head which has now expired and is on month to month holdover. The Club owns all building and site improvements.

Council has allowed the Club to pay a discounted rent for the past five years to assist with the Club’s financial viability.

At present the Club is paying \$21,431.54 p.a. + GST reflecting a discount of 50.00% on the \$42,863.08 p.a. + GST that the Stewart Street lease allows for (with CPI increases applied).

The Club had the benefit of a 50.00% rental discount on the King Street road reserve site for the first three years of the recently expired five year lease.

For the last two years of the lease the Club has been paying \$3,194.00 p.a. + GST without the benefit of a rental discount.

A market rent valuation for the site has been prepared by Herron Todd White Valuers and Consultants.

The interests valued were the ground rentals subject to the existing lease for 10 Stewart Street (the Club Site) and assuming vacant possession for the King Street road reserve.

The current market rentals for the two portions of land have been assessed as follows:

10 Stewart Street	\$63,600 p.a. + GST
Part of King Street Road Reserve	\$6,400 p.a. + GST

If a 50.00% discount factor is applied to these rentals, as has been done in the past, the rentals would reduce as follows:

Options

The options available include providing no discount through to a pepper corn rent.

The recommendation for this report is the status quo being the 50% discount, with that discount applied to the King Street road reserve and the 10 Stewart Street site.

The recommendation also seeks Council approval to grant a new lease over the King Street road reserve for a term consistent with the remaining lease term of the 10 Stewart Street site.

RECOMMENDATIONS

1. That Council authorises the General Manager to finalise negotiations with Lennox Head Community Sports and Recreation Club Limited for a lease over a portion of the King Street road reserve consistent with the remaining lease term over 10 Stewart Street.
2. That Council applies a discount of 50.00% to the market rentals assessed for 10 Stewart Street and the portion of the King Street road reserve.
3. That Council authorises the Council seal to be attached to the documents outlined above.

Attachment(s)

1. Locality Plan - Stewart Street Lennox Head
2. King Street - Lease Plan
3. Council Report - 13 December 2018
4. Council Minutes - 13 December 2018 Ordinary Meeting
5. Rescission Motion - 24 January 2019

4.2 Lennox Head Community Sports Club - Rent Review



Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478

PO Box 450
BALLINA NSW 2478

1300 864 444
council@ballina.nsw.gov.au
www.ballina.nsw.gov.au

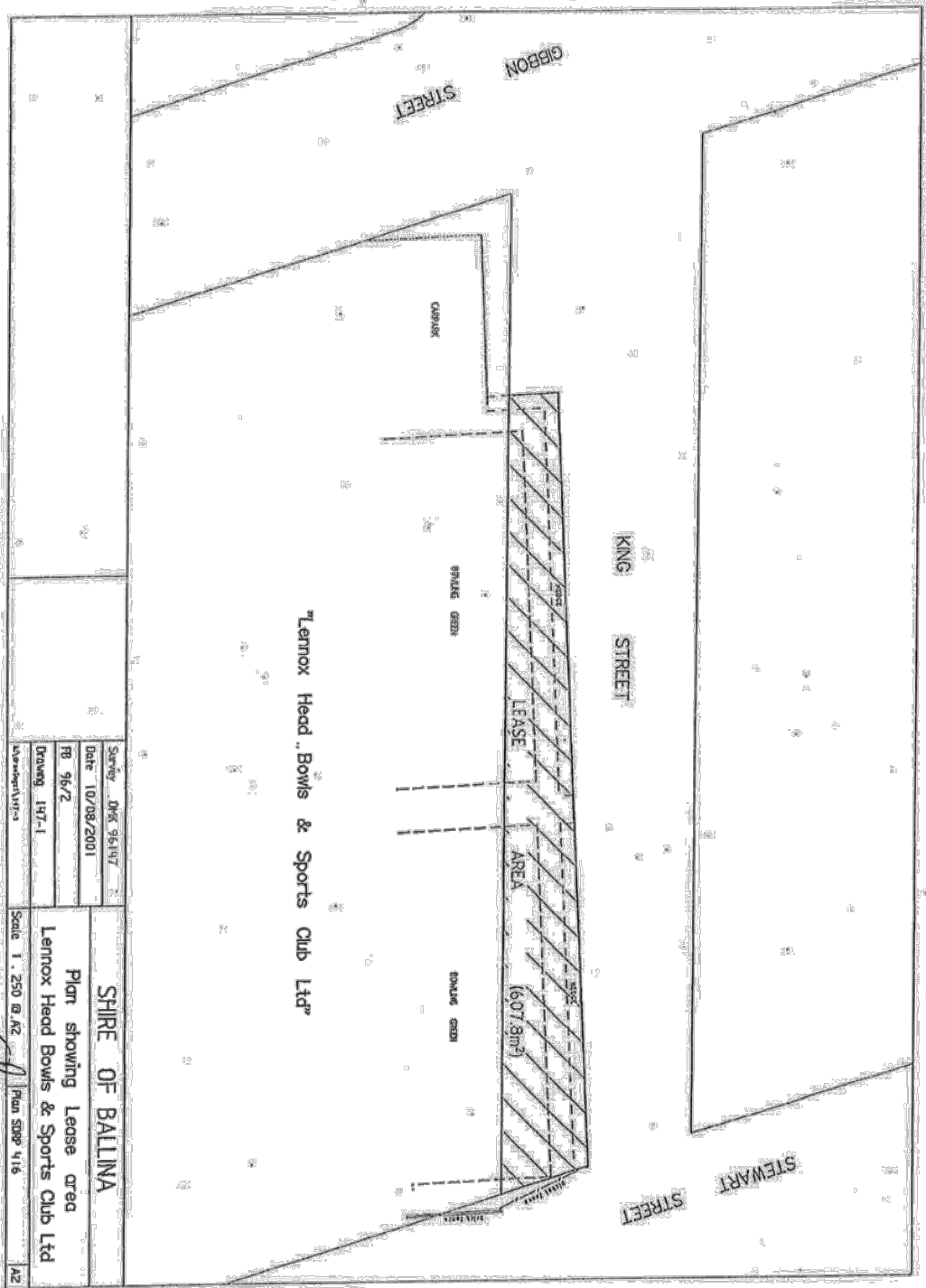


Lennox Head Community Sports and Recreation Club Ltd - Locality Plan

ballina shire council
geographical information system

Projection: GDA94 / MGA zone 56
Date: 3/12/2018

© Ballina Shire Council © NSW Spatial Services 2018
While every care is taken to ensure the accuracy of this product, Ballina Shire Council and the Local / State / Federal Government departments and the Government agencies have made no representations or warranties about the accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which you might incur as a result of the product being inaccurate or incomplete in any way and for any reason.



10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

Delivery Program Commercial Services

Objective To determine if Council wish to provide ongoing rental relief to Lennox Head Community Sports and Recreation Club Limited trading as Club Lennox

Background

Council is in receipt of a request from the Lennox Head Community Sports and Recreation Club Limited trading as Club Lennox ("the Club") for a review of the rent payable from 1 January 2019 for Lot 1 DP 11905, 10 Stewart Street Lennox Head.

A locality plan is included as Attachment 1 and the Club's letter is included as Attachment 2.

Council has previously granted a reduced rental payment plan for a five year term that is due to expire on 31 December 2018.

This purpose of this report is to determine if Council wishes to support a new reduced rental payment plan.

Key Issues

- Rental subsidy
- Equity and use of community land

Information

In 2013 Ramsgate RSL Memorial Club Ltd assigned the current lease to the Club as the business had ceased operating. The Club, which was formed by the community in response to the closure, owns the building improvements and lease the land from Council.

On assignment of the lease Council agreed to a reduced rental payment plan to assist the Club with its financial viability. The approved plan was for a five year period and was structured to increase rent incrementally each year.

In 2015 the Club requested a further review of their rental payment plan whereby the rental was reduced by 80.00%. The resolution arising from Council's November 2015 Ordinary meeting approving this reduction was as follows:

"That Council not agree to the Lennox Head Community Sports Club's request that the rental payable be reduced to 20% of the scheduled rent for the remaining term of the five year rental discount agreement expiring on 31 December 2018, as the 50% proposed from Year 3 onwards is already a significant reduction and is similar to the community service recognition provided by Council for other fees and charges for community groups."

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

The report and the recommendation from 17 November 2015 Commercial Services Committee meeting are attached as background information, with the recommendation being adopted at the November 2015 Ordinary meeting.

The Club is currently paying \$21,431.54 p.a. + GST equating to about 50.00% of the rent noted in the lease.

The Club has paid CPI increases on the discounted rental over the past five years. In addition to the discounted rental the Club also pays Council rates and charges which for the 2018 year equated to \$22,917.52.

The Club's rental payment plan is due to expire 31 December, 2018 at which time the Club will be required to pay 100.00% of the rental noted in the lease (after allowances for CPI movements).

The Club has requested rental relief in the order of 75.00%. This would reduce the rental noted in the lease from \$42,863 p.a. + GST down to \$10,715 p.a. + GST.

The Club has not specified how long this rental relief is to run for.

The Club has provided its latest annual report and a letter from the Club's auditors to support their request is also attached.

Under the terms of the lease, a market rent review is due on 1 January 2019.

The Club also lease a 607.8m² portion of King Street Lennox Head (see Attachment 7). This lease is due to expire 31 December 2019. The current rent payable for this area is \$3,194.00 p.a. + GST.

This lease was also subject to a reduced payment however that expired two years ago, since which time they have been paying the full amount.

The Club has not sought a discount on this rental however this could be an oversight on their part.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Club have advised they provide a social benefit to the community through various community activities.
- **Economic**
The Club have advised that they are registered as a Not for Profit Organisation.

Legal / Resource / Financial Implications

The subject site is classified as community land and as such Council needs to ensure that the community expectations in dealing with this land are met.

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

Consultation

The Club has provided information in support of their request for rental relief.

Options

The normal process for a lease renewal would be to obtain an independent valuation and negotiate based on that valuation.

The options available include:

1. Still proceed with the market valuation and negotiate an agreed rent based on that figure. The agreed figure could be any percentage of the valuation.
2. Council could save the expense of not obtaining a market valuation and just agree on a figure based on the current rental, or a percentage of the current rental.
3. The rental for the King Street portion of the land could also be subject to a discount as part of these negotiations.

From a probity and transparency perspective it is always beneficial to have an independent valuation to support market rentals, or subsidized rentals.

On that basis the preferred approach is:

- a) Agree to the Club's request to have the rental based on 25% of the updated market rental. Based on increases in rents in recent years in Lennox Head, the market value is expected to increase which means that even though the 25% may be less than the current rental, it may not be that much less once the new valuation is obtained.
- b) It is also recommended that the King Street portion of the lease be subject to the same discount, for 2019 onwards, as it is not logical to have only one lease subsidized.
- c) The agreed rental would still be subject to annual CPI increases, and Council would next review the figure when the leases expire in five years. The next renewal of the King Street lease should only be for four years to ensure the expiry date for both leases is the same.

The recommendation that follows supports this approach with the other options available to Council being to increase the rent from 25% to 50% or more.

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

RECOMMENDATIONS

1. That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), with the rental for the Club to be 25% of that market valuation, for the next five year option period, subject to annual CPI increases.
2. The King Street road reserve lease for this site is also to be subject to the same process as point one, with the rent based on 25% of the market value.
3. The 25% rental figure has been endorsed due to the current financial situation of the Club as per the latest financial reports.
4. The Council seal is authorised to be attached to all associated documentation.

Attachment(s)

1. Locality Plan
2. Club Lennox - Rent Relief Request
3. Commercial Services meeting - 17 November 2015 - Report
4. Commercial Services meeting - 17 November 2015 - Minutes
5. Club Lennox - Annual Report 2018
6. Club Lennox - Auditor Letter 2018
7. King Street - Lease Plan

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 13/12/18 AT 9.00 AM

Cr Ben Smith declared an interest in Item 10.5 and left the meeting at 11:27 am.

10.5 Managed Print Services Agreement - Extension

131218/16 RESOLVED

(Cr Nathan Willis/Cr Sharon Parry)

That Council authorises the General Manager to enter into a new 48 month contract for Managed Print Services with Colourworks Pty. Ltd. as per State Government Contract NSW2390, and as outlined within this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Ben Smith

Cr Ben Smith returned to the meeting at 11:27 am.

10.6 Policy (Review) - Corporate Sponsorship

131218/17 RESOLVED

(Cr Eoin Johnston/Cr Nathan Willis)

1. That Council adopts the amended Corporate Sponsorship Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

FOR VOTE - All Councillors voted unanimously.

10.7 Lennox Head Community Sports and Recreation Club - Rent Relief

A **Motion** was moved by Cr Nathan Willis and seconded by Cr Keith Williams

1. That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), for the next five year option period.
2. That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:
 - a) 50% of the independent market valuation, as per the arrangements for the existing lease rental OR
 - b) 25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR

..... MAYOR

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 13/12/18 AT 9.00 AM**

- c) a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)
3. The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.
4. The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)
5. The Council seal is authorised to be attached to all associated documentation.
6. That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.

An **Amendment** was moved by Cr Jeff Johnson

That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire and what impact it would have if Council proposed a reduction in poker machines on Council owned land.

The Mayor advised that he would not be accepting the Amendment as it did not relate to the matter at hand, i.e. Lennox Head Community Sports and Recreation – Rent Relief.

The **Motion** was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams
AGAINST VOTE - Cr Phillip Meehan, Cr Eoin Johnston, Cr Sharon Cadwallader and Cr Ben Smith

131218/18 RESOLVED

(Cr Nathan Willis/Cr Keith Williams)

1. That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), for the next five year option period.
2. That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:
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**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
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- b) 25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR
 - c) a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)
- 3. The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.
 - 4. The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)
 - 5. The Council seal is authorised to be attached to all associated documentation.
 - 6. That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams
AGAINST VOTE - Cr Phillip Meehan, Cr Eoin Johnston, Cr Sharon Cadwallader and Cr Ben Smith

10.8 Class Action - Jardine Lloyd Thompson

131218/19 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this report in respect to the class action against Jardine Lloyd Thomson.

FOR VOTE - All Councillors voted unanimously.

..... MAYOR

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

13. Notices of Motion

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

Councillor Cr Meehan
Cr Johnston
Cr Cadwallader

We move

That Resolution 131218/18, as follows, be rescinded:

Lennox Head Community Sports and Recreation Club - Rent Relief

1. *That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), for the next five year option period.*
2. *That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:*
 - a) *50% of the independent market valuation, as per the arrangements for the existing lease rental OR*
 - b) *25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR*
 - c) *a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)*
3. *The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.*
4. *The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)*
5. *The Council seal is authorised to be attached to all associated documentation.*
6. *That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.*

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

In the event that the above rescission motion is carried, we intend to move the following alternative motion:

1. *That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), with the rental for the Club to be 25% of that market valuation, for the next five year option period, subject to annual CPI increases.*
2. *The King Street road reserve lease for this site is also to be subject to the same process as point one, with the rent based on 25% of the market value.*
3. *The 25% rental figure has been endorsed due to the current financial situation of the Club as per the latest financial reports.*
4. *The Council seal is authorised to be attached to all associated documentation.*

Staff Comment

Some of the uncertainty in respect to the discussion at the December 2018 Council meeting related to the sale of poker machines.

The information staff have been able to source to date on this topic is a response from Mr Charles Rivers, Senior Licensing Officer, NSW Liquor and Gaming Unit, Department of Industry who emailed the following advice:

We impose a cap on machines at a state wide level, then (potentially) at a Statistical Local Area level, then at a venue level – But this is a cap on maximums, not minimums.

Accordingly if a venue was to reduce its number of gaming machines – there is no reason to assume that these will remain in the same (or even broader local) area.

Perhaps the best way to describe things is that venues are free to sell to any buyer, however permission to become a buyer is dependant on the Statistical Local Area that the buyer is in (email dated 21 December 2018).

Further clarification on this was sought and Mr Rivers provided the following information in an email dated 15 January 2019.

In NSW rural hotels are restricted in how many gaming machine entitlements they may sell to metropolitan areas annually – however apart from this venues are free to sell entitlements to whoever wishes to by them.

We do restrict who may buy – but only in terms of overall numbers – If a venue is allowed an increase they may source that increase from anywhere in the state.

The main point from these responses is that it is not guaranteed that any poker machine entitlements sold will remain in the local area, although there is no certainty as to where they may end up.

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

COUNCILLOR RECOMMENDATIONS

That Resolution 131218/18, as follows, be rescinded:

Lennox Head Community Sports and Recreation Club - Rent Relief

1. *That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), for the next five year option period.*
2. *That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:*
 - a) *50% of the independent market valuation, as per the arrangements for the existing lease rental OR*
 - b) *25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR*
 - c) *a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)*
3. *The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.*
4. *The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)*
5. *The Council seal is authorised to be attached to all associated documentation.*
6. *That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.*

Attachment(s)

Nil

4.3 153 River Street, Ballina - Lease Variation

4.3 153 River Street, Ballina - Lease Variation

Delivery Program Commercial Services

Objective To seek Council's concurrence to vary the lease agreement for 153 River Street Ballina to extend the term of the lease.

Background

Council currently has a lease with L Rizzo for Shop 153 River Street, Ballina known as "LA Hair Design". The lessee has been in occupation of the premises since 4 March 2015 with the second term of the lease expiring on 3 March 2019. The lease also provided for a one year option commencing 4 March 2019. The lessee has exercised the one year option term on the lease and has requested a variation to the option to extend the term to five years with an expiry of 4 March 2024.

Key Issues

- Lease terms and conditions

Information

The lessee has approached Council requesting a variation to the lease agreement to extend the lease term for five years commencing 4 March 2019. This request has been made to provide certainty to the lessee for a longer term. Negotiations have been undertaken with the lessee regarding the proposal with the financial details contained in a confidential report included in this agenda.

Legal / Resource / Financial Implications

The property is classified as operational land under the Local Government Act 1993 and as such Council is able to lease the property.

Consultation

Consultation has been undertaken with the lessee.

Options

This report is for noting only.

RECOMMENDATION

That Council notes the contents of this report in respect to the variation request for the lease of 153 River Street, Ballina.

Attachment(s)

1. Wigmore Arcade Leasing Plan

5. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

5.1 153 River Street, Ballina - Lease Variation - Details

Reer to Item 4.3 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

5.1 153 River Street, Ballina - Lease Variation - Details

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.