

Council Ref:GB:NN:VH

28 November 2024

Mark Beade
c/- NBN Co Limited
PO Box 50
Clayfield QLD 4011

Dear Mr Beade,

REGARDING: NOTICE OF DETERMINATION

Application:	DA 19/24-25 (PAN-464541)
Property Title:	Lot 21 DP753272
Property Address:	2 Simpson Street, Deepwater NSW 2371
Proposal:	Telecommunications Facility (NBN Tower)

I wish to advise that Council has approved the above application subject to conditions as outlined in the attached prescribed Notice of Determination under the *Environmental Planning and Assessment Act 1979*.

Please read the Determination Notice carefully and observe / implement any conditions of consent as outlined in the Notice.

Failure to comply with the Determination Notice may render you liable to legal proceedings under the *Environmental Planning and Assessment Act 1979*.

For further information, please contact Council's Growth and Development Department on (02) 6730 2350.

Yours faithfully,



Gayleen Burley
DIRECTOR OF PLACE AND GROWTH



Glen Innes Severn Council

PO Box 61, GLEN INNES NSW 2370
Telephone: (02) 6730 2350

NOTICE OF DETERMINATION Development Application

Issued under Section 4.18 of the *Environmental Planning and Assessment Act 1979*

Development Application Number: 19/24-25

APPLICANT NAME:	NBN Co Limited
APPLICANT ADDRESS:	PO Box 50, Clayfield QLD
OWNER NAME:	Rosemary Helen Barratt & Elizabeth Viola Barratt
OWNER ADDRESS:	2 Simpson Street, Deepwater NSW

LAND TO BE DEVELOPED

Property Address:	2 Simpson Street, Deepwater NSW
Property Title:	Lot 21 DP753272

PROPOSED DEVELOPMENT

Development Description:	Telecommunications Facility (NBN Tower)
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DETERMINATION

- Consent granted unconditionally
- Consent granted subject to conditions described below
- Application refused

CONSENT TO OPERATE FROM
(SEE Note 1)

28 November 2024

CONSENT TO LAPSE ON

28 November 2029



Administrative Conditions

1. Development consent is granted only to carrying out the development described in detail below:

- **Telecommunications Facility (NBN Tower)**

The proposed development being carried out strictly in accordance with the details set out on the application form and any other information submitted with the application.

Note: Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason: To ensure compliance with the development consent.

2. The development is to be implemented in accordance with the plans set out in the following table except where modified by any conditions of this consent (Development Consent No. DA 19/24-25).

Plans Prepared by: National Broadband Network **Job No.:** 2DPW-51-01-DEEW

Plan/Supporting Document(s)	Drawing No.	Revision	Dated
Cover Sheet	2DPW-51-01-DEEW-T1	01	06/08/2024
Site Specific Notes	2DPW-51-01-DEEW-C1	01	06/08/2024
Overall Site Plan	2DPW-51-01-DEEW-C2	01	06/08/2024
Site Setout Plan	2DPW-51-01-DEEW-C3	01	06/08/2024
Site Elevation and Details	2DPW-51-01-DEEW-C4	01	06/08/2024

Plans Prepared by: NBN **Job No.:** Deepwater

Plan/Supporting Document(s)	Drawing No.	Revision	Dated
Statement of Environmental Effects	-	-	Undated
Environmental EME Report	2371010 (RFNSA No.)	-	15/08/2024



Plans Prepared by: CivilTest Pty Ltd Job No.: 1241041-1

Plan/Supporting Document(s)	Drawing No.	Revision	Dated
Geotechnical Report	-	-	01/08/2024

In the event of any inconsistency between conditions of this development consent and the plans referred to above, the conditions of this development consent prevail. The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: To ensure compliance with the development consent.

Development Generally (under the Environmental Planning and Assessment Regulation 2021)

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

Reason: To comply with the provisions of Clause 69(1) of the Environmental Planning and Assessment Regulation 2021.

4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, such sign is to be maintained while the work is being carried out but must be removed when the work has been completed. The sign must include the following:

- Showing the name, address and telephone number of the principal certifier for the work, and
- Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- Stating that unauthorised entry to the work site is prohibited.

Reason: To comply with the provisions of Clause 70 of the Environmental Planning and Assessment Regulation 2021.

5. The proposed development is to be carried out strictly in accordance with the details set out on the application form and any other information submitted with the application.

Note: Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason: To confirm and clarify the terms of Council's approval.

6. In accordance with Section 4.17(1) of the Environmental Planning and Assessment Act 1979 and the Glen Innes Severn Section 94A Development Contributions Plan 2014, \$4,730 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$473,000.



- i. The value of this contribution is current as of the date of the notice of determination. If the contributions are not paid within the same financial year, they may increase in line with the Consumer Price Index (CPI).
- ii. The monetary contribution shall be paid to Council prior to the commencement of works.

Reason: To address the increased demands on community infrastructure resulting from the approved development and comply with the Glen Innes Severn Section 94A Development Contributions Plan 2014.

7. Damage caused to Council infrastructure as a result of the building activities shall be rectified by the applicant at their full expense. The adjustment of any existing utility services or installation of new services is to be at the full cost of the developer.

Reason: To ensure infrastructure is not damaged as a result of the development and because the nature of the proposed development may have an impact on the operation of the utility services.

8. All building materials, painting or other external finishes are required be of natural tones with low reflective quality, or such other treatment as may be appropriate to ensure that the buildings are not intrusive in the residential setting.

Reason: To maintain the amenity of the surrounding area and to comply with the Glen Innes Severn Development Control Plan 2014.

Conditions to be Completed Prior to Issue of a Construction Certificate

9. Before the issue of the relevant construction certificate, the long service levy of **\$1,182.50**, as calculated at the date of this consent, must be paid to the Long Service Corporation of Council under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to Council.

The levy rate is 0.25% of the cost of building and construction works of \$250,000 and or more (including GST).

Reason: To ensure the long service levy is paid.

10. For all construction activity within public roads (such as for stormwater, footpaths, kerb and gutter, tree removal etc.), the Applicant is to seek any necessary Council approvals for work in road reserves under the Roads Act 1993. The Application must have been approved prior to the issue of a Construction Certificate.

Reason: To ensure pedestrian and vehicular safety during construction.

11. The materials for the tower/buildings/infrastructure associated with the tower shall be designed to withstand 40kWm² of radiant heat and to withstand ember penetration into the structure and associated infrastructure.

Reason: To ensure structures are designed and constructed to withstand the potential impacts of bushfire attack, to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting in fire-fighting activities.



Conditions to be Completed Prior to Works Commencing

12. No construction work is to commence until a Construction Certificate is issued for the proposed works. The works are to be constructed in accordance with the plans and specifications referred to in the Construction Certificate.

Reason: So that the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development complies with the appropriate construction standards.

13. No construction work is to commence until a Principal Certifying Authority (PCA) has been appointed for the proposed works.

Council, in the case of being the Principal Certifying Authority, is to be given 48 hours' notice of any critical stage inspections where applicable as per the issued PCA Agreement.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulation 2021 and Building and Development Certifiers Regulation 2020.

14. All earthworks and the construction or installation of retaining walls or other forms of structural support that do not comply with the exempt development standards under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* require approval prior to any building works on the subject land.

Reason: To comply with the Building Code of Australia and the provisions of the Environmental Planning & Assessment Act 1979.

15. A Section 68 Local Approval must be lodged and approved prior to any plumbing or drainage works on the subject land.

Reason: To comply with the Local Government Act 1993.

16. Effective and appropriate sediment and erosion control facilities must be installed during the initial stages of construction and maintained throughout the construction period until vegetation has been established over all disturbed areas. These works must be designed and installed in accordance with current industry and regulatory guidelines as well as Council's Erosion and Sediment Control Policy.

Note: Failure to take effective action may render the developer liable to prosecution under the *Protection of the Environment Operations Act 1997*.

Reason: To prevent soil leaving the site and entering the stormwater system and to comply with the requirements of the Protection of the Environmental Operations Act 1997 and protect the amenity of the local environment.

These measures shall be maintained throughout the course of construction and until all disturbed areas are restored by turfing, paving or revegetation.

17. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.



Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:

- (i) to a public sewer, or
- (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

Reason: To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act 1979.

Conditions to be Undertaken During Construction

18. Construction, demolition and associated work shall be carried out only between the times stated as follows: -

Mondays to Fridays	7.00a.m. to 6.00p.m.
Saturdays	8.00a.m. to 1.00p.m.
Sundays & Public Holidays	No construction work to take place.

Reason: To ensure that the environmental quality of adjoining land is not adversely affected, such as by the generation of excessive noise levels.

19. All building materials, plant and equipment is to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves etc.

Reason: To ensure pedestrian and vehicular access is not restricted in public places.

20. All vehicles servicing the site are to enter and leave the site in a forward direction.

Reason: to ensure traffic/pedestrian safety is maintained at all times during any construction work at the property.

21. If any previously unidentified archaeological relics are uncovered, all works must cease immediately and Department of Premier and Cabinet (DPC) contacted. An archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before further works can be considered. Works will not recommence until the applicant receives written authorisation from DPC.

Reason: to protect relics in accordance with the Heritage Act 1977.



22. If any previously unidentified Aboriginal archaeological relics are exposed during construction works, work will immediately cease and DPC contacted accordance with the National Parks and Wildlife Act 1974. All necessary approvals must be obtained continue the work. Works will not recommence until an appropriate strategy for managing the objects has been determined in consultation with the Department of Planning and Environment and DPC provides written authorisation.

Reason: to protect relics in accordance with the National Parks and Wildlife Act 1974.

Conditions to be Completed Prior to Occupation

23. Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and an Occupation Certificate has been applied for and issued.

Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979 and Council's terms of consent.

Conditions Relating to Ongoing Operations

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

Reason: To maintain local amenity.

25. A report is to be submitted to Council with measurement of EME levels at the nearest residence to the facility. The EME levels are to comply with the standard specified in the Australian Radiation Protection and Nuclear Safety Agency 2021 publication "Standard for Limiting Exposure to Radiofrequency Fields – 100 kHz to 300 GHz". Mitigation measures are to be proposed to Council for implementation if levels are found to not comply with the standard. The report is to be submitted to Council within 30 days of commissioning the facility and be prepared by a suitably qualified person with relevant experience in EME measurement.

Reason: To ensure the facility is operating in accordance with relevant standards.

26. A 10 metre Asset Protection Zone from the tower/buildings/infrastructure associated with the tower shall be provided. The APZ must be free of surface fuel and elevated fuel and should have minimum canopy.

Reason: To minimise bushfire risk in accordance with NSW Rural Fire Service guidelines.

Public Notification

Reasons for Conditions

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.



Reasons for Approval

The development satisfies the relevant aims, objectives and provisions of both the *Glen Innes Severn LEP 2012* and *Glen Innes Severn DCP 2014*.

Community Consultation

The application was required to be notified in accordance with Table 2.1 of the *Glen Innes Severn DCP 2014*.

Advisory Note

- a) A further application is to be made for any change, enlargement or intensification of the premises or land use, including the display/erection of any new structure such as signage, partition walls or building fit-out (unless the proposed work is exempt from the need for consent under *State Environmental Planning Policy (Codes SEPP) 2008* for exempt development.
- b) **Dial Before You Dig**
Underground assets may exist in the area that is subject to your application. In the interests of health and safety, and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- c) **Telecommunications Act 1997 (Commonwealth)**
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

Right of Review

In accordance with the provisions of Section 8.2 of the *Environmental Planning and Assessment Act 1979*, an Applicant may request Council to review the determination that has been made in respect of a development application other than:

- a) a determination to issue or refuse to issue a complying development certificate, or
- b) a determination in respect of designated development, or
- c) a determination in respect of integrated development, or
- d) a determination made by the council under Division 4 in respect of an application by the Crown.



In requesting a review, the Applicant may make amendments to the development described in the original application, provided that the development, as amended, is substantially the same development as the development described in the original application.

Any request for review of the determination under the provisions of Section 8.2 of the *Environmental Planning and Assessment Act 1979* would need to be made within 6 months after the date on which the Applicant received the Council's Notice of determination of the development application because the Council has no power to conduct a review after that time. The prescribed fee must be paid in connection with an application for a review.

Right of Appeal

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months:

- a) after the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined

The *Environmental Planning & Assessment Act 1979*, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development) either unconditionally or subject to conditions, the objector may, within twenty eight (28) days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of court, appeal to the Court.

SIGNED:

Gayleen Burley
DIRECTOR OF PLACE AND GROWTH

On behalf of the consent authority

Date: 28 November 2024

Note 1 Where the consent is subject to a condition that the consent is not to operate until the applicant satisfies a particular condition the date should not be endorsed until that condition has been satisfied.

Note 2 Clause 89 of the Regulation contains additional particulars to be included in a notice of determination where a condition under Sections 7.11 & 7.12 of the Environmental Planning and Assessment Act 1979 has been imposed.