

**TITLE: [EO-OC] Telstra Communication Building - SALT**

**ORIGIN:**

**Design**

**FILE NO: DA05/0248**

**SUMMARY OF REPORT:**

In April 2005 Council approved an application for the construction of a Telstra communication building at SALT within Lot 471 DP 1075192. It was noted in the assessment of the application that a new Lot was to be created, and as it would be for the purpose of a public utility undertaking, development consent for the subdivision would not be required in accordance with Clause 19 of the Tweed LEP.

The building was subsequently constructed, however, the plan of subdivision to create the Lot for the Telstra facility was not lodged prior to Lot 471 being subdivided. The effect of the registration of the subdivision of Lot 471 is that the land where the facility was constructed is now community land, as it was vested in Council as a Public Reserve, now known as Lot 941 in DP 1079124.

Telstra require ownership of the land where the facility is constructed, together with a legal access to the facility.

**RECOMMENDATION:**

**That Council:-**

- 1. Approves the creation of a Right of Access 5 wide burdening Lot 469 in DP 1075142 and benefiting Telstra Corporation;**
- 2. Approves the acquisition of proposed Lot 943 in the subdivision of Lot 941 in DP 1079124 for the purposes of the Local Government Act, 1993 under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 and the making of the necessary application to the Minister and/or Governor;**
- 3. Advises the Director-General of the Department of Planning that, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, and Section 28 of the Local Government Act 1993, it intends to prepare a draft Local Environmental Plan Amendment to reclassify proposed Lot 943 at Kingscliff from Community Land to Operational Land;**
- 4. Approves the transfer of proposed Lot 943 to Telstra Corporation following reclassification;**
- 5. Proceeds with any necessary actions only upon receipt of an undertaking from Telstra or Ray Group Pty Ltd to cover all costs relating to this matter; and**

- 6. All necessary documentation be executed under the Common Seal of Council.**





of a new plan of management that will replace the existing plan. Council will receive a report in the future relating to the funding of a new management plan.

In the meantime, the creation of Lot 943 can be achieved by excising the parcel from Lot 941 by compulsory acquisition. This would be a compulsory acquisition by Council from itself, allowable pursuant to section 7B of the *Land and Acquisition (Just Terms Compensation) Act*. Upon obtaining approval from the Governor, the acquisition will be gazetted, the parcel would be re-classified from community to operational as an LEP amendment and then a transfer of the parcel can be effected.

The re-classification process is expensive, and the compulsory acquisition will require a high level of Council input from the appropriate officers and it is recommended that either Telstra or the developers of SALT, between whom it was agreed to transfer the site for the facility to Telstra, cover all costs relating to the preparation and registration of relevant plans and to pay Council for its services relating to the preparation of reports relating to the reclassification and the making of an application to the Department of Local Government for the compulsory acquisition.

The acquisition is to proceed under the provisions of *the Land Acquisition (Just Terms Compensation) Act, 1991* whereby an application is to be made to the Department of Local Government for approval to the acquisition.

It is recommended that Council only approve the compulsory acquisition, re-classification and transfer of proposed Lot 943 if all costs are borne by either Telstra or the SALT developers.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

---

Agenda Report

**TWEED SHIRE COUNCIL  
MEETING TASK SHEET**

**User Instructions**

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

**Action Item - OPERATIONS MEETING  
Tuesday 5 September 2006**

Action for Item **O6** as per the Committee Decision outlined below.

**ATTENTION:**

**PLEASE NOTE THE ADOPTION OF THE OPERATIONS COMMITTEE RECOMMENDATIONS BY COUNCIL AT ITS MEETING HELD 5 SEPTEMBER 2006:**

**174 COUNCIL DECISION:**

**Administrator Boyd  
Administrator Willan**

**RESOLVED** that the recommendations of the Operations Committee held Tuesday 5 September 2006 be adopted.

***FOR VOTE - Voting - Unanimous***

***ABSENT. DID NOT VOTE - Administrator Turnbull***

---

**TITLE: [EO-OC] Telstra Communication Building - SALT**

**COMMITTEE DECISION:**

**Administrator Boyd  
Administrator Willan**

**RECOMMENDED** that Council:-

1. Approves the creation of a Right of Access 5 wide burdening Lot 469 in DP 1075142 and benefiting Telstra Corporation;
2. Approves the acquisition of proposed Lot 943 in the subdivision of Lot 941 in DP 1079124 for the purposes of the Local Government Act, 1993 under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 and the making of the necessary application to the Minister and/or Governor;
3. Advises the Director-General of the Department of Planning that, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979,

and Section 28 of the Local Government Act 1993, it intends to prepare a draft Local Environmental Plan Amendment to reclassify proposed Lot 943 at Kingscliff from Community Land to Operational Land;

4. Approves the transfer of proposed Lot 943 to Telstra Corporation following reclassification;
5. Proceeds with any necessary actions only upon receipt of an undertaking from Telstra or Ray Group Pty Ltd to cover all costs relating to this matter; and
6. All necessary documentation be executed under the Common Seal of Council.

***FOR VOTE - Voting - Unanimous***

***ABSENT. DID NOT VOTE - Administrator Turnbull***