

# Information for Organisations Seeking to Construct New Communications Tower Facilities on Crown Land

July 2015

## Communications Infrastructure Located on Crown Land

NSW Department of Primary Industries – Lands (the Department) makes Crown land available under licence to a variety of organisations to construct and operate communication infrastructure.

Organisations seeking to construct new communications tower facilities on Crown land administered by the Department require consent from the Minister administering the *Crown Lands Act 1989* (Minister), in order to:

- i. Occupy that land
- ii. Lodge any required development or other applications to relevant approval authorities.

Applicants will be required to apply direct to the Department for consent to occupy Crown land and enter into a licence agreement.

## Planning Approvals

In addition to any consent provided by the Minister to occupy Crown land, it is the responsibility of the applicant to ascertain and obtain the required planning permissions. Depending on the proposal this may include:

- A Development Application (DA) for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979 (EP&A)* (which requires the consent of the Minister, as landowner, to enable lodgement with Council); or
- An environmental assessment under Part 5 of the *EP&A Act* where the proposal is for a matter that does not require development consent (and is not 'exempt or complying development').

Regardless of the route taken the applicant must enter into a licence agreement with the Minister to occupy Crown land.

## Licence Rental

The rental is based on the published Independent Pricing and Regulatory Tribunal (IPART) fee schedule. The rental is determined by the location of the facility. For more information refer to the fact sheet '[Information for communication organisations occupying Crown land](#)'.

## Development Applications

For proposals on Crown land, the written consent of the Minister as landowner is required to lodge a Development Application with a consent authority. Applicants should refer to the fact sheet '[Development and Crown land](#)' for the full requirements and procedure for seeking landowners consent. The Department will need to review:

- The completed Development Application (DA) that will be submitted to Council;
- Location, plan & elevation drawings of the proposed works, including towers, compound, associated buildings and access tracks;

- Statement of Environmental Effect (SEE) that will be submitted with the DA.

The fact sheet '[Documentation guidelines for communication facility proponents on Crown land](#)' provides detail on the matters of interest to the Department when considering landowner's consent.

Should the approving authority require plans to be modified during the assessment process the amended plans and drawings will be required to be reassessed by the Department and landowner consent reissued by the Minister. Failure to advise the Department of any changes to the proposed development during the DA process may result in a refusal of a licence to occupy the Crown land if the approved development differs significantly from the original proposal.

Providing the DA is given development consent by the relevant authority, the applicant is required to provide the Department with a copy of the approved development plans bearing the consent authority's stamp of approval, and the development consent document. At this point the applicant may seek the Minister's consent to apply for a construction certificate. Licensing will commence from the date development consent is granted.

## State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Division 21 of the ISEPP permits certain communication facility proposals to be carried out:

- without consent (s.114),
- with consent (s.115); and as
- exempt development (s.116).

Development listed in section 115 'development permitted with consent' will require a DA to be lodged with the relevant consent authority. Development listed in section 116 'exempt development' does not require any planning permissions (although a licence to occupy Crown land is still required).

Development listed in section 114 'development permitted without consent' is considered an 'activity' under Part 5 of the *EP&A Act 1979* and the proponent is required to submit an environmental assessment that addresses the provisions of Part 5 to the Department for determination.

Where a communication facility is permitted without consent by the provisions of the ISEPP and the proponent is another public authority, the proponent is responsible for satisfying the environmental assessment provisions of Part 5 of the *EP&A Act*. Evidence that a Part 5 environmental assessment has been completed is required to be submitted with any licence application.

Approval to proceed with works will not be granted until a licence has been executed between the applicant and the Minister.

When seeking consent of the Minister to occupy the Crown land, the Department will need to review:

- Location, plan & elevation drawings of the proposed works, including towers, compound, associated buildings and access tracks;
- An up to date identification survey, including the proposed tower, compound, associated buildings and access track;
- The environmental assessment under Part 5 [Review of Environmental Factors (REF)] or Environmental Impact Statement (EIS)

## Application Fees

The following application fees apply (inclusive of GST):

- Land Status Search: \$71.20
- Landowner's consent to lodge Development Application: \$65.70
- Application for new site licence: \$ 383.60

All fees apart from the application for new site licence are required to be paid in advance via cheque to the Department and mailed with accompanying documentation to the Telecommunications Team.

The fee associated with an application for a new site licence will be charged to the applicant's account and is payable when the first annual rent is due.

Fees are correct at the time of publication and maybe subject to change.

## More information

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the NSW Department of Primary Industries - Lands or the user's independent advisor.

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