

3. USE OF COUNCIL LAND FOR THE SITING OF CELL SITES

Officer responsible Environmental Policy and Planning Manager	Author Isobel Stout, Environmental Health Officer
Corporate Plan Output: Environmental Health Policy	

The purpose of this report is twofold:

1. to review the Council's Policy with regard to cellular telephone base stations on Council owned land
2. to promote a formal process whereby Council owned land can be made available where it provides the best practical option for siting cellular telephone base stations.

BACKGROUND

The siting of cellular telephone base stations in residential areas in particular, continues to be of concern to citizens. No one wants one in their backyard yet increasing customer demand is driving the need for more sites. We have been advised that more sites are needed to handle calls and in areas of high call rates existing cell sites are no longer able to cope. In some areas of the city basic coverage is so poor a call cannot be made or received at all. New cell sites are needed to service these areas.

Projections are that demand will increase and both cellular telephone providers, (Telecom and Vodafone) have been approached to indicate to the Council the areas of critical need for sites so that a more co-ordinated and strategic approach can be taken in siting towers in the future.

The consultation undertaken on the issue of cell sites has been a long and continuing process, beginning with a special subcommittee in 1995, through the City Plan hearings process, through many individual resource consents to three completed Environment Court hearings. All decisions have granted consent for the utility with conditions attached. The Court's most recent findings echo those of the World Health Organisation, the International Commission on Non Ionising Radiation Protection and the New Zealand Ministry of Health and indicate that the typical installation of a cell site is not a health concern. The control of any potential health effects is covered by the rules in the City Plan as are any visual effects there may be upon amenity. Visual effects are typically handled by distance rules and conditions on colour. Notwithstanding this it is clear that cell sites remain controversial and in the interests of all parties it is appropriate the Council take another look at making available its own land where legally and practically it can do so.

There are a number of places where the Council has stated its position as regards new technology, the promotion of economic development and ensuring that the City can be a modern business centre. Mobile communications have proved essential to modern business and are an increasing feature of the domestic and residential market.

Some examples include:

Strategic Goals

(Pg 23 draft 2000 Annual Plan)

- B Economic Development
Foster opportunities for sustainable economic development in order to generate employment and income and enhance the quality of life of all residents.

- F Essential infrastructure
Maintain and improve the physical and service infrastructure of the city in order to generate wealth, promote health and safety, reduce hazards and facilitate social opportunities.

City Plan Objectives

(Volume 2)

Utilities: The Provision of efficient and environmentally sensitive utilities for servicing and developing the City.

Policy 8.1.6 Future needs

To recognise the future needs of utilities and ensure their provision in conjunction with the provider.

Policy 8.2.5 Advanced technologies

To enable utilities using advanced technology to establish within the City, limiting controls to situations where adverse effects are significant.

Policy 8.3.1 To recognise and provide for the diverse nature and specialised character of utilities, in contrast to other land uses generally.

CITY PLAN

The City Plan applies to all land regardless of ownership and is the first point of reference that should be considered in any development. This report is aimed solely at the review of council policy on the use of Council owned land for possible cell sites. The City Plan is going through the references (appeals) stage at present and it is essential that this process should be allowed to follow its legal course.

The framework for the control of cell site exposures and actual exposures is as follows:

- The New Zealand Standard 2772.1 (1999) is 450 microwatts per square centimetre ($\mu\text{W}/\text{cm}^2$)
- The City Plan Standard is $200 \mu\text{W}/\text{cm}^2$ (less than 50 % of the New Zealand standard)
- Typical public exposure values around cell sites are in the order of $5 \mu\text{W}/\text{cm}^2$ or less, i.e. 5% of City Plan standard.

COUNCIL LAND

It is the existing policy that should suitable commercial or industrial land not be available then Council land could be considered. There are some sixty cell sites throughout the City and I am only aware of one macro site operating from Council owned land at this time. Clearly, Council land can have certain advantages over residential areas and there is increasing pressure for Council to take much more seriously this consideration. Cell sites have to go somewhere and using Council land may well save residents much anxiety. Examples of land available may include some parks and reserves, some depots, pumping stations, buildings and workshops etc.

Some advantages of Council land include:

- Open space
- Non residential uses
- Range of zones and sites
- good geographic spread

Cell Sites typically need:

- Line of sight/low level surroundings
- Ease of access/power
- Space for equipment
- To fit into the network
- 20m height

SUGGESTED POLICY CRITERIA

Important

These suggestions are purely indicative as there has not been time to address them fully before this meeting, but in order for Councillors to gain an appreciation for the potential process the following is presented.

The Council may make land available when:

1. Other sites such as industrial and commercial land prove unavailable/unacceptable and prior investigations are to be tabled
2. Council land sites fit the technical requirements of the network
3. Council can legally lease the land for cell site purposes

4. The cell site will not conflict with the predominant use of the land, general amenity, heritage buildings, ecological heritage areas, notable trees, waahi tapu etc

To move the policy forward from this point requires:

- Clarification of legal issues
- Investigation on the level and mechanism for public consultation

Possible protocol for the administration of applications to be:

- Application to Property Unit who co-ordinate inter-unit officer input
- Property Unit reports to the new Strategy and Resources cell sites subcommittee
- The subcommittee considers all issues and can call for Community Board comments
- The subcommittee reports to Strategy and Resources Committee
- Strategy and Resources Committee makes a recommendation to the Council as to whether to lease land
- If decision is positive then the company makes a Resource Consent application
- A Resource Consent and/or Reserves Act hearing is held before a commissioner if a hearing is required
- The consent decisions are made.

Arising from a discussion on the powers of the subcommittee, the Environmental Services Manager was requested to report direct to the Council on the question of delegating to the subcommittee the authority to make the final decision on applications for cell phone towers (including whether or not to notify the application and whether or not to grant consent). The Environmental Services Manager's report has been separately circulated to Councillors.

- Recommendation:**
1. That a Cell Sites Subcommittee comprising the Chairpersons of the Resource Management, Parks and Recreation, City Services and Environment Committees and Councillors Sheriff and Stewart be appointed to:
 - (i) Advise the Council on the policy framework and further develop the protocol.
 - (ii) Consider future applications for cell sites on Council-owned land.
 - (iii) That the subcommittee operate on the principle of achieving siting of cell sites in locations which provide the best practical outcome.

2. That the subcommittee report back to the June meeting of the Strategy and Resources Committee.
3. That clause 1 of the existing policy be rescinded because the standards it contains have been overtaken by decisions on the Proposed City Plan.
4. That clause 3 also be rescinded as it is *ultra vires* and not legally enforceable.
5. That clause 2 be revised by the new subcommittee to include the use of any Council-owned land where appropriate, subject to the development of a protocol setting out the procedure, including public consultation, that is to be followed before any lease or license can be granted.