

# Central Coast

## Local Planning Panel

Central Coast  
Supplementary Local Planning Panel  
Business Paper  
**15 November 2021**



# Meeting Notice

**The Supplementary Local Planning Panel  
of Central Coast  
will be held remotely - online,  
Monday 15 November 2021 at 2.00 pm,  
for the transaction of the business listed below:**

## **1 PROCEDURAL ITEMS**

1.1 Disclosures of Interest ..... 3

## **2 REPORTS**

2.1 Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare  
Heights - Telecommunications Tower - Agenda Item 3.1  
Local Planning meeting 19 August 2021 ..... 4

Donna Rygate  
**Chairperson**

**Item No:** 1.1  
**Title:** Disclosures of Interest  
**Department:** Governance

---

**Central Coast**  
Local Planning Panel

15 November 2021 Supplementary Local Planning Panel

Reference: F2020/02502 - D14205789

The NSW Local Planning Panel Code of Conduct states that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting.

### **Recommendation**

***That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.***

**Item No:** 2.1  
**Title:** Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower - Agenda Item 3.1  
Local Planning meeting 19 August 2021

**Department:** Environment and Planning

---

15 November 2021 Supplementary Local Planning Panel

Reference: 011.2019.00057736.001 - D14925000  
Author: Susana Machuca, Senior Development Planner  
Manager: Ailsa Prendergast, Section Manager, Development Assessment South  
Approver: Andrew Roach, Unit Manager, Development Assessment

### Recommendation

- 1 That the additional information be considered in the Panel's determination of the application.**
- 2 That the Local Planning Panel assume the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.**
- 3 That the Local Planning Panel grant consent to DA57736/2019 for a telecommunications facility on Lot:1 DP:616676, 37 Wards Hill Road Killcare Heights, subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act.**
- 4 That Council advise those who made written submissions of the Panel's decision.**
- 5 That the Council advise relevant external authorities of the Panel's decision**

### Summary

An application was received for the construction and installation of a telecommunications facility on Council-owned infrastructure land, at 37 Wards Hill Road KILLCARE HEIGHTS. The application is required to be reported to the Local Planning Panel for determination due to the variation to the maximum Height of Building (HOB) in excess of 10%, in this instance 24.5m or 288.23% and the number of submissions received in relation to the application. 116 submissions were received in total, with 10 submissions received in response to the last notification period.



**2.1 Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower - Agenda Item 3.1 Local Planning meeting 19 August 2021 (contd)**

The Local Planning Panel considered the matter at its meeting of 19 August 2021. The matter was deferred at the meeting pending the submission of supplementary information regarding:

- a. Item 3.1(3) – Applicant Revised Clause 4.6; and
- b. Item 3.1(4) – DA Consultation with Darkinjung Local Aboriginal Council (DLALC).

It is noted that no amendment to the development design and/or plans have been carried out.

<b>Applicant</b>	Lendlease – Telecommunication Services Pty Ltd
<b>Owner</b>	Optus Mobiles Pty Ltd
<b>Application No</b>	DA57736/2019
<b>Description of Land</b>	Lot:1 DP:616676, 37 Wards Hill Road, Killcare Heights.
<b>Proposed Development</b>	Telecommunications Facility
<b>Site Area</b>	2,908m <sup>2</sup>
<b>Zoning</b>	E4 Environmental Living
<b>Existing Use</b>	Water Reservoir
<b>Estimated Value</b>	\$462,000.00
<b>Relevant Legislation</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning &amp; Assessment Act 1979 – Section 4.15</i></li> <li>• <i>Telecommunications Act 1997</i></li> <li>• <i>Local Government Act 1993 – Section 89</i></li> <li>• <i>State Environmental Planning Policy (Infrastructure) 2007</i></li> <li>• <i>State Environmental Planning Policy (Coastal Management) 2018</i></li> <li>• <i>Gosford Local Environmental Plan 2014</i></li> <li>• <i>Gosford Development Control Plan 2013</i></li> </ul>
<b>Current Use</b>	Water Reservoir
<b>Integrated Development</b>	No – not integrated development in accordance with Clause 4.46 of the <i>Environmental Planning &amp; Assessment Act 1979</i>
<b>Submissions</b>	The application has been advertised on five occasions. A total of 116 submissions were received from 72 separate submitters.
<b>List all documents submitted with this report for the Panel's consideration</b>	<p>Attachments:</p> <ol style="list-style-type: none"> <li>1. Revised Clause 4.6 Exceptions to development standards - Applicant's response to Local Planning Panel (LPP) regarding cl. 4.6 variation to Height of Building (HOB) dated 17 September 2021 - D14849482</li> <li>2. Letter of response from Darkinjung Local Aboriginal Council dated 25 October 2021</li> <li>3. Geoarchaeological Assessment 31 Wards Hill Road, Killcare Heights - Submission lodgers' Further Additional</li> </ol>

**2.1 Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower - Agenda Item 3.1 Local Planning meeting 19 August 2021 (contd)**

---

	Information - Objection response under revised cl.4.6 – D14889482 4. Aboriginal Heritage Due Diligence Assessment Report 31 Wards Hill Road, Killcare Heights Submission lodgers' Further Additional Information - Objection response under revised cl.4.6 – D14889487 5. LPP Report and Attachments (19 August 2021) 6. LPP Minutes (19 August 2021) 7. Draft Conditions of Consent
<b>Report prepared by</b>	Susana Machuca – Senior Development Planner
<b>Report date</b>	28 October 2021

**Background**

The Panel considered a Planning Report on the matter at its meeting on 19 August 2021 and resolved as follows:

**Panel Decision**      **That the Local Planning Panel defer determination of the application DA/57736/2019 – 37 Wards Hill Road, Killcare Heights - Telecommunications Tower and:**

**1 Requests the applicant to submit a revised Clause 4.6 request. Such revised request to be provided within four weeks of today's meeting:**

During consideration by the Panel, attention was brought to the Clause 4.6 request letter which requested a variation to Clause 4.3 of the *Gosford Local Environmental Plan 2014* (GLEP 2014) concerning building height limits. It had been noted that the request letter made incorrect reference to the variation percentage described as 75% as opposed to 288% and improper justification to contravene the development standard. The Applicant's Clause 4.6 request submitted with the Addendum to the Statement of Environmental Effects must be revised to fully satisfy the requirements of clause 4.6(3) of the Gosford LEP 2014.

**2 The Panel also requests Council to consult Darkinjung Local Aboriginal Land Council (DLALC) about the application during this period and to report its response, if any, to the Panel:**

During the public forum one of the speakers against the recommendation for approval, brought to the attention of the Panel the possibility of Aboriginal objects likely to be present in the neighbouring property at 31 Wards Hill Road Killcare Heights.

**2.1                    Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower - Agenda Item 3.1 Local Planning meeting 19 August 2021 (contd)**

---

Notwithstanding this, the Panel accepts the advice from Council staff in respect of current protocols and requests at this stage that the Darkinjung Local Aboriginal Land Council should be consulted about the proposal.

**Reasons**            There is insufficient information for the Panel to make a decision.

**Additional Information**

In response to the outcome of the Panel meeting of 19 August 2021, the following additional information has been submitted:

7 September 2021:

- Received Applicant's Revised Clause 4.6 prepared by Lendlease, dated 7/09/2021. Council raised concerns with revised cl. 4.6 cross referencing, formatting relating to original cl.4.6 and commentary references to Court Judgements. Applicant to resubmit.

17 September 2021:

- Received Applicant's final Revised Clause 4.6 prepared by Lendlease, dated 17/09/2021.

22 September 2021 (as a result of Council's legal advice):

- The development application (including Revised CI 4.6 Variation request, Revised Plans April 2021 and Addendum to the Statement of Environmental Effects April 2021) were notified between 22 September 2021 to 14 October 2021 (Notification 5) in accordance with *Gosford Development Control Plan 2013* (GDCP 2013).

14 October 2021 (as a result of Public Submission Objection – 31 Wards Hill Road Killcare Heights):

- Geoarchaeological Assessment prepared by Down to Earth Geoarchaeological Services, dated 27/09/2021; and
- Aboriginal Heritage Due Diligence Assessment Report prepared by Scribe Cultural Resource Management, dated September 2021

These two reports were received as attachments to the submission Objection from Mr & Mrs Denny from adjoining property located on 31 Wards Hill Road Killcare Heights.

18 October 2021:

- The Geoarchaeological Assessment and Aboriginal Heritage Due Diligence Assessment Report were referred as additional information to Darkinjung Local Aboriginal Land Council (DLALC) for comment.

14, 18 & 27 October 2021:

- Verbal communication with Barry Williams of DLALC.

## **RESPONSE TO PANEL DECISION**

The applicant has addressed the decision of the Panel as follows:

### **1. Provide a revised Clause 4.6 (Exceptions to Development Standards) Variation for the non-compliances associated with Building Height (cl 4.3 and 4.3(2A) of the GLEP 2014).**

In accordance with cl. 4.6(4) of GLEP 2014, development consent must not be granted for a development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated in subclause (3). Subclause 3 provides:

- *'Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.'*

In accordance with cl. 4.6(3) the applicant has submitted a revised written request seeking variation for the non-compliance associated with building height of 33.0m which results in a 24.5m (or 288%) variation to the standard height limit of 8.5m on the 17 September 2021.

The revised cl.4.6 of the GLEP 2014 request submitted by the applicant (**Refer to attachment 5**) states how strict compliance with the development standards is unreasonable or unnecessary (having regard to the decision in *Wehbe v Pittwater Council [2007] NSW 827*) and how there are sufficient environmental planning grounds to justify the contravention, is summarised below:

Summary of Applicants CI 4.6

The Applicant contends that compliance with the development standard is unreasonable or unnecessary in the circumstances of the development:

- *The intent of the Height of Building Standard is to limit undesirable impacts from matters such as bulk and scale, overshadowing, solar access and visual dominance. Infrastructure such as telecommunications facilities, power poles and masts have far less impact when they breach the Height of Building standard than that of a more traditional building such as a dwelling, office or retail building. The impact of breaching this height restriction is different depending on the type of development - an office building would have a vastly greater impact on the skyline than that of a monopole of the same height.*
- *The proposal does not compromise the environmental outcome intended to be achieved by the Development Standard. The establishment of a monopole of greater height than provided in Clause 4.3 of the E4 – Environmental Living zone does not set a precedent for other buildings to exceed the height limit...The slimline design of the facility ensures that breaching the building height limit does not necessarily compromise the remaining objectives of the Height of Buildings Clause.*
- *Telecommunication facilities by their nature are not considered to be architectural features or significant contributors to the urban form...The expectation from the community is that telecommunication facilities, like other service infrastructure, will fade into the background so as not to detract from the surrounding urban form...*
- *The topography of the area and the orientation of existing houses (which are at a depressed viewpoint from the proposed development and orientated west to take advantage orientated to take in natural views and vistas. The closest residential properties to the facility (residences on the western side of Wards Hill Road) are orientated west to take in views of Hardys Bay and minimises visual impact on existing residential development and urban form in the area. . As a result, dwellings on the western side of Wards Hill Road will have limited or filtered views of the proposed development.*
- *The development comprises a single monopole supporting two slimline headframes... Telecommunication services are required in all zones as mobile voice and data services are required in all locations. The design of the facility does not detract from the variation in land uses between national park, recreational uses, coastal town commercial uses and residential uses. The slimline nature of the facility is designed to blend into the background and will not interrupt the transition in built form between the E4 Environmental Living zone and surrounding land uses.*
- *In respect of the Wards Hill Road view corridor as an entry point to the area; the base of the proposed facility will be screened to traffic along Wards Hill Road by existing vegetation. The topography and vegetation of the area ensure that distance views are not impacted by the facility. Passing motorists utilising Wards Hill Road may intermittently view the upper portion of the proposed facility however this*

*viewing will be brief based on the topography and speed limit of 60km on the road. It is not expected that viewing the top of the facility would impact the character of the area... As such, the facility, due to its slimline design and siting, will not impact view corridors or significant vistas. The siting takes advantage of the natural topography of the area to mitigate the impact of the height on surrounding vistas.*

- *The proposal does not conflict with special ecological, scientific or aesthetic values. The existing use at the subject site is not residential development as it hosts a 10.9m high, above ground, water reservoir. The facility is not expected to infringe on the ecological, scientific or aesthetic values of the area. Rather, the proposed development will provide a service which is essential to existing development in the area.*
- *The area is recognised as a mobile blackspot. Having no reliable mobile coverage in a residential area, in a high bush fire risk area, is a significant safety risk. A telecommunications facility in this location complements the residential land uses in the area by providing the local community with essential mobile telecommunication services:*
  - *to work from home*
  - *for education*
  - *for emergency contact in the case of bushfire, accident or for personal safety*
  - *for social connectivity*
- *Mobile base stations are relatively commonplace in today's landscape – thousands of telecommunications facilities are in operation across Australia, over a variety of land uses and environments. The proposed facility will have significant benefits to the local surrounding communities of Killcare Heights. It is considered that the benefits of the coverage improvement from the proposed facility will outweigh the visual impact of the proposed facility on Wards Hill Road. Further, it is not considered that the visual impact will have an impact on the overall aesthetic of the zone.*
- *The proposal would contribute to the provision of improved Optus and Telstra coverage to Killcare Heights and the Central Coast Council LGA. The facility would provide economic benefits, through improved services and a choice of service providers. The improvement in coverage and call quality would facilitate business opportunities for local operators and the ability of residents to work from home.*
  - *Usage of mobile services continues to widen as new technologies become progressively more affordable and accessible for the wider community.*
  - *The provision of maintaining communications services in the area will have many beneficial impacts on the people who live, work, visit and travel through the area. Better internet access will improve education, access to media, emergency and health services and information, and increase efficiency in the workplace.*
  - *Reliable mobile coverage promotes economic activity for the area and contributes to the sustainability of the residential development within the area. This development can achieve these goals without compromising the ecological significance of the area. The facility is on an already disturbed land parcel utilised*

*for infrastructure and only removes the required amount of vegetation to meet bushfire asset protection zone requirements.*

- *The proposed site is required to infill a significant coverage gap in the area. This coverage gap impacts subscribers to all current mobile phone Carriers; Optus, Telstra and Vodafone. The proposal incorporates Telstra and Optus onto one compact structure. This will provide a choice of service providers to mobile users in the area. Most significantly it will provide essential mobile voice and data coverage in times of emergency.*
- *The need for reliable mobile coverage is no more prevalent than in the time of emergency. NSW Ambulance states that the majority of calls to triple zero are made from mobile phones and the NSW Rural Fire Service state that poor mobile phone coverage in high bushfire risk areas can put people's lives at risk.*
- *The proposed infrastructure is required to provide necessary infill mobile voice and data coverage, an essential service, to a bushfire prone area. Every effort has been made to locate the facility in the most appropriate location in the context of the area. The facility will be located within an existing utility services area, in an otherwise primarily residential and rural residential area. The existing development on site, an above ground water reservoir, also already breaches the building height limit.*
- *The proposed development was to comply with the building height requirement of 8.5m it would not meet the coverage objectives of the facility. The height limitation would render the proposed facility unviable for any Carrier. This would not be effective coordination of orderly development as per Section 1.3(c) of the EP&A Act.*

#### Council's assessment of the Applicant Clause 4.6

The revised CI 4.6 (Exceptions to Development Standards) of GLEP 2014 variation request submitted by the applicant also provides assessment of the proposal against the relevant development standard, zone objectives and commentary on public interest. The revised CI 4.6 variation makes clear this application has different circumstances whereby the location of the site and the nature of the development is unique in that it is for essential services infrastructure, highly technical and in the public interest.

It is noted and as previously mentioned in the assessment report that, the proposal is for the construction and installation of a telecommunications facility on Council-owned infrastructure land which will provide efficient and equitable provision of public of public services and amenities to the immediate local and surrounding areas which are naturally developing and densifying with residences, sustainable rural activities and tourism destination experiences. By increasing network capacity and high-quality telecommunication delivery and coverage services including emergency services app connectivity to these evolving suburban areas, a range of housing, employment, educational, health and recreational areas will highly benefit from lifestyle opportunities in a sustainable and safe place to live, work and visit.

Overall, the aesthetic, visual bulk and scale of the monopole tower is considered generally acceptable as the structure is tapered and slender in its proportions, is made of material and colour that is matt and not reflective. The proposal will not result in unacceptable building density, bulk, scale and overshadowing.

In terms of natural environment, the proposed works are contained within an existing cleared area and required NSW RFS 10m APZ area of the subject site. The total clearing impact area for these works is estimated at 0.037ha which falls below the 0.5ha clearing threshold of native vegetation under the BC Act 2016. The native vegetation proposed for removal within the subject site is not identified on the NSW biodiversity Values Map, no tree hollows or fauna habitat features of significance were identified as occurring within the impacted area and no threatened flora species or threatened ecological communities were observed within the subject site.

Given the abovementioned, Council must consider that the application sufficiently demonstrates that compliance with the development standard for height is unreasonable and that the application to the best of its ability, provides the most reasonable outcome with regards to height limits and other relevant development standards.

In accordance with clause 4.6(4), development consent must not grant consent for a development that contravenes a development standard unless:

1.     The consent authority is satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated in clause 4.6(3).

Comment: The revised clause 4.6 submitted by the Applicant has addressed how strict compliance with the development standards is unreasonable or unnecessary having regard to various relevant decisions in the NSW Land and Environment Court and New South Wales Court of Appeal and how there are sufficient environmental planning grounds to justify the contravention.

Council is satisfied that the matters required to be demonstrated in subclause 4.6(3)(a) have been adequately addressed for the variation to the maximum height of building development standard.

2.     The consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment: In order to demonstrate if the proposal has merit, consideration of the proposed building height non-compliance regarding the objectives of the control contained within Clause 4.3(1) of GLEP 2014 is as follows:



- The proposed development is considered to be in the public interest as it provides for an essential service that supports immediate local and surrounding residential areas;
- The proposal is for a co-located telecommunication facility that is, for two (2) carriers (Optus and Telstra equipment) to minimise proliferation of telecommunication facilities and capable of providing wireless radio services to the surrounding locality;
- The proposals additional building height does not detract from the attainment of providing quality suburban and rural form in accordance with the character of the zone and locality. It is considered to comply with the aims and objectives of the LEP, E4 Environmental Living Zone and development standard objectives;
- The locality has the ability to absorb an infrastructure development of this typology whilst retaining the attributes of the zones.
- The design of the tower is slimline and will be located within an existing mainly cleared utility service site, near an existing 10.90m water reservoir tank and ancillary building of which all structures are surrounded by heavy vegetation (Canopy trees averaging 15-20m in height) around boundary edges;
- The proposal does not increase density of the land nor does it result in unacceptable building bulk, scale or overshadowing; and
- The subject site has not been identified as being located within an immediate protected view corridor nor will the proposal cause excessive overshadowing to public open spaces, achieving reasonable disturbance to views and natural topographical features; and
- The development is considered acceptable in terms of impact of the proposed works as assessed against the biodiversity values to determine if the changes in the landscape are consistent with the natural environment of the locality.

3. Has the concurrence of the Secretary been obtained?

Comment: Planning Circular PS 18003 issued 21 February 2018 states that Council may assume the concurrence of the Secretary when considering exceptions to development standards under clause 4.6. The Central Coast Local Planning Panel is therefore empowered to determine the application.

Council is satisfied that the Applicant has demonstrated compliance with the objectives of the development standard and the zone objectives such that the proposal is in the public interest. The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal. Strict compliance with the prescriptive building height control is unreasonable and unnecessary in the context of the proposal in the circumstances of this case. The proposed development meets the underlying intent of the control and is identified as the development option that best avoids unreasonable environmental amenity impacts that would otherwise be associated with a standard telecommunications facility.

This assessment concludes that the clause 4.6 variation of GLEP 2014 provided having regard to clause 4.3(2) of GLEP 2014 is well founded and worthy of support.

The request for a variation under Clause 4.6 is considered to be well founded and is recommended for support.

## **Submissions**

As a result of Council's legal advice, the development application (including Revised CI 4.6 Variation request, Revised Plans April 2021 and Addendum to the Statement of Environmental Effects April 2021) were notified between 22 September 2021 to 14 October 2021 (**Notification 5**) in accordance with *Gosford Development Control Plan 2013* (GDCP 2013). A total of 10 submissions were received by Council - 8 Objections and 2 in support.

Those matters associated with key issues have been addressed in the report here within. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within section 4.15 of the *Environmental Planning and Assessment Act 1979*.

A summary of the issues in the submissions in relation to the proposal are detailed below.

- *...A revised request pursuant to cl 4.6 of the GLEP was lodged outside the time stipulated by the Central Coast Local Planning Panel...*

Comment: The LPP requested the revised cl 4.6 be provided within four weeks of the meeting held on 19/08/2021. The applicant submitted the revised CI4.6 dated 7 September 2021 and subsequently a corrected revised cl. 4.6 on 17 September 2021. It is noted that these time frames are general in manner to define a period for the work to be completed. As such, it has been accepted and forms part of this supplementary report.

- *...The constrained nature of the chosen site and that the proposal does not fit...this is demonstrated by the setback requirement of 10m in the E4 zone on a lot of up to 4,000m2,...the applicant wishes to cram the proposed development into a small confined area where the creation of the APZ will render it visible top all and sundry because no setback is possible and all screening vegetation will be lost...*

Comment: It is noted that the requirement of 10m setback for lots up to 4,000m2 is applicable to residential development in E4 zoning. Under the provisions of part 3.10 Environmental Controls for Development in Zone E4 of the GDCP 2013, non-residential development is divided into ecological and landscape matters only, there are no numeric value controls. Furthermore, part 3.10.3 Specific Requirements of the GDCP 2013 outlines the following matters:

- a. *Restrict the amount of development on land on slopes greater than 20%. Building works, accessways, ancillary development or land uses shall not be located on land on the subject site which has a slope of 20% or greater. Where this is not possible, due to the extensive areas of the land having slopes over 20%, development can occur on the steeper land as long as building methods are adopted which rely on minimal disturbance to the land surface such as pole or similar type construction.*

Comment: The proposal is located within a relatively flat area of the site between RL106.30 and RL107.07 and relies on minimal disturbance to the land surface.

- b. *Maximise retention of existing native vegetation. All development including all building works, access, bushfire asset protection zones should be confined to existing cleared areas (as identified on February 1999 Aerial Photo series). Ground truthing will be expected as part of the development application submission.*

*If the site is vegetated and does not contain any cleared areas or existing cleared areas are insufficient to accommodate the development, Council may consider sensitive design that minimises native vegetation removal whilst having regard to bushfire protection asset zones.*

Comment: The proposal is confined to an established infrastructure services site which is already largely cleared to accommodate Water reservoir infrastructure and buildings within the required NSW RFS 10m bushfire APZ area. No native vegetation proposed for removal is identified on the NSW biodiversity Values Map (as at 03/06/2021), and it is also noted that the amended plans created some additional land space to improve landscaping and buffer from street frontage by 3.0m (from 0.5m to 3.51m). Additionally, the Draft Schedule 1 includes Conditions of Consent to include to retain a number of trees that represent 14% canopy coverage within the 10m APZ areas allowed in accordance with the guidance provided by the *RFS Planning for Bushfire Protection 2019* document, and the RFS' specific determination and consent conditions relevant to this proposal. Refer to condition 3.16.

- c. *Restrict the amount of cut and fill.*

*The extent of cut and fill for buildings is to be limited to a maximum of 1m and in other cases is to be minimised.*

Comment: The proposed development has limited land disturbance including minimal cut and fill.

- d. *Ensure provision of utility services protects ecological and landscape values of land and catchment.*

*For any tourist-related development, connection to Council's sewer system is required. No exceptions will be considered even if augmentation is required or the development is of a small scale. All other utility services are to be located underground*

Comment: Not applicable as proposal is not a tourist development notwithstanding this, all utility services will be underground.

- e.     *Encourage a design of tourist development which is compatible with the natural/rural character of Environmental land in the City.*  
*Layout of development on site to be such that the development, either through the existing natural/rural character or through introduced landscaping and building design, blends into the natural/rural landscape. Further, development should comply with the aims and objectives of the Chapters on Scenic Quality and Character.*

Comment: Not applicable is not a tourist development notwithstanding this, the proposal's telecommunications facility by typology can be perceived as a simple one storey building base with a maximum height of 3m and which will be material colour blended with existing surroundings and will formalize new screen landscaping and tree planting were practical in line with APZ requirements.

- *...We continue to stand with our neighbours and local residents to strongly object to this DA to erect a 30 (now "33 metre minimum" – according to Revised Plans – e-portal dated 08/07/21).*

Comment: It is noted that the proposed telecommunications tower height has not changed from the original plans submitted, it has always being 33.0m to top of structure.

- *... The Bouddi National Park and surrounds are a truly special area of the Central Coast accessed by residents and visitors via the winding Wards Hill Road with its native bush environment and a glimpse of the ocean atop the hill. The "drive in" is a taste of the natural beauty that the area offers and is part of "the package" that attracts residents, holidaymakers and day trippers to this region, all year round... As recently as October 2019, Council adopted a five-year Tourism Opportunity Plan for the Central Coast "which will maximise opportunities to attract visitors to the region...The plan recognises the strengths of our region, identifies challenges and opportunities and seeks greater efforts to capitalise on them for the future, with a goal to boost the visitor economy for the region by \$70million...*

Comment: Noted and agreed. As such and as previously outlined in the reports, increasing network capacity and high-quality telecommunication delivery and coverage services including emergency services app connectivity to these evolving suburban areas which are naturally developing and densifying with residences, sustainable rural activities and tourism

**2.1                    Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower - Agenda Item 3.1 Local Planning meeting 19 August 2021 (contd)**

---

destination experiences will highly benefit from lifestyle opportunities in a sustainable and safe place to live, work and visit.

**2                    The Panel also requests Council to consult Darkinjung Local Aboriginal Land Council (DLALC) about the application during this period.**

As requested by the LPP a referral letter was sent to Darkinjung Local Aboriginal Land Council (DLALC) on 25 August 2021 for consideration, review and comments on the proposal for the telecommunications tower.

The assessing planner contacted DLALC on numerous occasions without success during the allocated (14) day consultation period. As outlined in the referral letter should a reply not be received within this (14) days, Council assumes that DLALC have no objections to the proposal.

On 14 October 2021 the assessing planner was able to obtain a verbal confirmation from Barry Williams, DLALC Senior Cultural and Heritage Officer that upon a desktop assessment of the development application there were no issues of concern raised.

On 14 October 2021 as part of an objection submission from HWL Ebsworth Lawyers on behalf of the owners of adjoining properties Nos 31, 45, 49 Wards Hill Road and 91-105 The Scenic Road Killcare Heights. The objection contained attachments the following reports:

- Geoarchaeological Assessment prepared by Down to Earth Geoarchaeological Services dated 27 September 2021; and
- Aboriginal Heritage Due Diligence Assessment Report prepared by Scribe Cultural Resources Management dated September 2021

Both assessments were conducted on the south neighbouring property at No 31 Wards Hill Road, Killcare Height (**Refer to attachments 6 and 7**):

On 18 October 2021 and in light of the new information received, further comment was sought from DLALC for 2021 for consideration, review and comments of the Geoarchaeological Report and Aboriginal Cultural Heritage Assessment and possible effects on the proposal for the telecommunications tower.

On 22 and 27 October 2021 further advice was provided Barry Williams DLALC Senior Cultural and Heritage Officer who verbally confirmed that upon a desktop review and without forming part of the fieldwork investigations, the findings and conclusions of both reports allude to potential findings that are on a neighbouring property and not in the site of the development application. At this stage there are no issues of concern.

Taking into consideration that:

**2.1                    Supplementary Report - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower - Agenda Item 3.1 Local Planning meeting 19 August 2021 (contd)**

---

- a. Darkinjung Local Aboriginal Land Council (DLALC) have reviewed the initial referral and provided verbal confirmation that they have no issues of concern.
- b. Upon a second referral of the additional Archaeological reports (submitted by adjoining property owner of 31 Wards Hill Road Killcare Heights), Darkinjung Local Aboriginal Land Council (DLALC) and again confirmed verbally that DLALC do not have issues of concerns.
- c. Confirmation that both the proposals (Lot:1 DP:616676) and adjoining neighbour's (Lot:2 DP:616676 - 31 located at Wards Hill Road Killcare Heights) AHIMS Search Reports respectively show that:
  - 0 Aboriginal sites are recorded in or near the above locations. And
  - 0 Aboriginal places have been declared in or near the above locations.
- d. The archaeological findings do not pertain to the proposed development's site area, and the telecommunications tower location is positioned on existing disturbed and cleared land within the site. And
- e. That Schedule 1 of Draft Conditions of Consent has included protection provisions and protocols conditions to be implemented should any Aboriginal object (including evidence of habitation or remains), be discovered during the course of the work. Refer to conditions 4.3, 4.9 and Advisory Notes.

Due diligence of the proposed development regarding Darkinjung consultation on Aboriginal Heritage matters is considered completed as requested by the LPP.

Additional Council's Comment:

As part of the assessment of the information the Geoarchaeological Report and Aboriginal Cultural Heritage Assessment reports were referred to Council Ecologists for consideration (in relation to the matters pertaining to vegetation disturbance).









Upon review of this information and cross reference with Council's mapping systems it has been brought to Council's attention that the land on 31 Wards Hill Road which conforms part of the Bouddi core habitat corridor shows evidence of vegetation disturbance over the last few years. Further investigation will be undertaken by Council's Compliance section in regards to the disturbance and with reference to the points raised in the Geoarchaeological Report and Aboriginal Cultural Heritage Assessment with regards to clearing in this area.

## **Conclusion**

The applicant has submitted a revised Clause 4.6 variation to Clause 4.3 of the *Gosford Local Environmental Plan 2014* (GLEP 2014) concerning height of building (HOB) and consultation with Darkinjung Local Aboriginal Land Council (DLALC) has been carried out as requested by the Panel.

This application has been assessed against the matters for consideration of Section 4.15 of the *Environmental Planning & Assessment Act 1979* and all relevant instruments, plans and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is considered reasonable and therefore it is recommended that the Local Planning Panel grant consent to DA57736/2019 for a telecommunications facility on Lot:1 DP:616676, 37 Wards Hill Road Killcare Heights.

## **Attachments**

<a href="#"> 1</a>	<a href="#">Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS</a>		D14682577
<a href="#"> 2</a>	<a href="#">Amended Plans April 2021 LPP</a>		D14682543
<a href="#"> 3</a>	<a href="#">PUBLIC Amended EME Report - 37 Wards Hill Road, KILLCARE HEIGHTS</a>		D14534539
<a href="#"> 4</a>	<a href="#">Addendum to Statement of Environmental Effects - April 2021 - Location Update - Hydro Excavation Survey Complete - 28-04-2021</a>		D14625849
<a href="#"> 5</a>	<a href="#">Applicant's Revised Clause 4.6 Variation Request - 17 September 2021</a>		D14849482
<a href="#"> 6</a>	<a href="#">Objectors Geoarchaeological Assessment prepared by Down to Earth Geoarchaeological Services – 27 September 2021</a>	Provided Under Separate Cover	D14889482
	<b>SUBJECT TO CLIENT LEGAL PRIVILEGE</b>		
<a href="#"> 7</a>	<a href="#">Objectors Aboriginal Heritage Due Diligence Assessment Report prepared by Scribe Cultural Resources Management - September 2021</a>	Provided Under Separate Cover	D14889487
	<b>SUBJECT TO CLIENT LEGAL PRIVILEGE</b>		
<a href="#"> 8</a>	<a href="#">Local Planning Panel Minutes - 19 August 2021</a>		D14808781

## 1. PARAMETERS OF THIS CONSENT

### 1.1. Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

#### Architectural Plans by Lendlease Pty Ltd

Drawing	Description	Sheets	Issue	Date
S1872-P1	Site Layout	1	01	23/04/2021
S1872-P2	Site Elevation	1	01	23/04/2021
S1872-P3	Property Layout	1	01	23/04/2021
S1872-P4	Utility Layout	1	01	23/04/2021
L200	Tree Retention	1	A	09/02/2021
L201	Tree Retention with Aerial	1	A	09/02/2021
L202	Landscape Plan	1	C	09/02/2021
DWG-01	Underground Utility Survey	2	R0	24/06/2020

#### Supporting Documentation

Title	Document No.	Prepared by	Date
Statement of Environmental Effects (SoEE)	ECMD25477288	Urbis Pty Ltd	December 2019
Addendum SoEE	D14625849	Lendlease Pty Ltd	28 April 2021
Amended Flora & Fauna Assessment V3	D14534525	Eco Logical Au Pty Ltd	01 December 2020
ARPANSA Environmental EME Report	D14534539	Lendlease Pty Ltd	06 January 2021
Visual Impact Assessment Report	ECMD25477284	Urbis Pty Ltd	December 2019
Amended Bushfire Report V1	D14541724	Eco Logical Au Pty Ltd	30 November 2020

- 1.2. Carry out all building works in accordance with the Building Code of Australia.
- 1.3. Comply with the General Terms of Approval from the Authorities as listed below and attached as a schedule of this consent



<b>Title</b>	<b>Description</b>	<b>Document No.</b>	<b>Date</b>
NSW RFS Determination	57736/2019 (CNR-3557) DA20200115000106	D13900757	17 March 2020

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2. Pay to Council a contribution amount of \$4,620.00 that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

The total amount to be paid must be indexed each quarter in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

Contact Council's Contributions Planner on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies the contributions have been paid. A copy of this receipt must accompany the documents submitted by the principal certifier to Council under Clause 104/Clause 160(2) of the Environmental Planning and Assessment Regulation 2000.

A copy of the Contribution Plan may be inspected at the offices of Central Coast Council, 49 Mann Street Gosford, or 2 Hely Street Wyong or on Council's website: [Development Contributions - former Gosford LGA](#)

- 2.3. Submit amendments to the approved plans to the Accredited Certifier pursuant to Clause 139 of the Environmental Planning Regulation 2000 that must detail:
  - a. Landscape Plan  
This condition must include any alterations to the development design
- 2.4. No activity is to be carried out on site until any Construction Certificate has been issued, other than:
  - a. Site investigation for the preparation of the construction, and / or
  - b. Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
  - c. Demolition

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

- 2.5. Submit an application to Council under section 305 of the Water Management Act 2000 to obtain a section 307 Certificate of Compliance. The *Application for a 307 Certificate under section 305 Water Management Act 2000* form can be found on Council's website [www.centralcoast.nsw.gov](http://www.centralcoast.nsw.gov). Early application is recommended.

The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone eg. prior to construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.

- 2.6. Submit a site traffic access plan for approval with excavation method(s) proposed. No plant or vehicles shall traverse the site within the zone of influence of Council's Water Mains in accordance with Council's Building Over or Adjacent to Sewer and Water Main Guidelines. Site access shall be from the northern access only. No vibratory excavation/earth work to take place. A plan assessment fee applies.
- 2.7. Prior to issue of a construction certificate execute an agreement between Council and the operator of the telecommunication facility for installation of telecommunication infrastructure on Council land.
- 2.8. Identify trees and native vegetation proposed for retention and those approved for removal must be clearly marked on all final engineering and landscaping plans. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans. The location of any threatened species and ecological communities must also be marked on all plans.
- 2.9. **Delineate edge of IPA and OPA (modified)**

Permanently delineate the edge of the bushfire Asset Protection Zone for the structure using fencing, posts, bollards or similar. Evidence of compliance to this condition is to be provided to Council.

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. All conditions under this section must be met prior to the commencement of any works.
- 3.2. Appoint a Principal Certifying Authority after the construction certificate for the building work has been issued.
- a. The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

- 
- carried out in respect of the building work no later than two (2) days before the building work commences.
- b. Submit to Council a *Notice of Commencement of Building Works* form giving at least two (2) days notice of the intention to commence building or subdivision work. The forms can be found on Council's website [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)
- 3.3. Do not commence site works until the sediment control measures have been installed in accordance with the approved plans / Gosford DCP 2013 Chapter 6.3 - *Erosion Sedimentation and Control*.
  - 3.4. Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
    - a. The name, address and telephone number of the principal certifying authority for the work; and
    - b. The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
    - a. That unauthorised entry to the work site is prohibited;
    - b. Remove the sign when the work has been completed.
  - 3.5. Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- Contact Council prior to submitting these forms to confirm the relevant fees.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.
- 3.6. Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight-fitting lid and be suitable for food scraps and papers.
  - 3.7. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
    - a. erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
    - b. diverting uncontaminated run-off around cleared or disturbed areas, and
    - c. preventing the tracking of sediment by vehicles onto roads, and
    - d. stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

- 3.8. Notify the intention to commence works by giving written notice to the owner of the adjoining property affected by the proposed excavation and/or structural protective works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protection works.

- 3.9. Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- a. be a standard flushing toilet connected to a public sewer, or
  - b. have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - c. be a temporary chemical closet approved under the *Local Government Act 1993*.
- 3.10. Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. The plan must be prepared and implemented only by persons with Roads and Maritime Service accreditation for preparing and implementing traffic management plans at work sites.

The CTPMP must describe the proposed construction works, the traffic impacts on the local area and how these impacts will be addressed.

The CTPMP must address, but not be limited to, the following matters:

- Ingress and egress of construction related vehicles to the development site.
- Details of the various vehicle lengths that will be used during construction and the frequency of these movement.
- Use of swept path diagrams to demonstrate how heavy vehicles enter, circulate and exit the site or Works Zone in a forward direction.
- Deliveries to the site, including loading / unloading materials and requirements for work zones along the road frontage to the development site. A Plan is to be included that shows where vehicles stand to load and unload, where construction plant will stand, location of storage areas for equipment, materials and waste, locations of Work Zones (if required) and location of cranes (if required).
- Works Zones if heavy vehicles cannot enter or exit the site in a forward direction.
- Control of pedestrian and vehicular traffic where pre-construction routes are affected.
- Temporary Road Closures.

Where the plan identifies that the travel paths of pedestrians and vehicular traffic are proposed to be interrupted or diverted for any construction activity related to works inside the development site an application must be made to Council for a Road Occupancy Licence. Implementation of traffic management plans that address interruption or diversion of pedestrian and/or vehicular traffic must only take place

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

following receipt of a Road Occupancy Licence from Council or the Roads and Maritime Service where on a classified road.

Where a dedicated delivery vehicle loading and unloading zone is required along the road frontage of the development site a Works Zone Application must be lodged and approved by Council. A minimum of 3 months is required to allow Traffic Committee endorsement and Council approval.

The Construction Traffic and Pedestrian Management Plan must be reviewed and updated during construction of the development to address any changing site conditions.

A copy of the Construction Traffic and Pedestrian Management Plan must be held on site at all times and be made available to Council upon request.

- 3.11. Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.12. Landscaping within the inner protection (IPA) is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
- 3.13. Any part of the subject property within 10 metres of the proposed towers and buildings (shelters) shall be managed in perpetuity as an inner protection area (IPA). The IPA must comprise:
  - Minimal fine fuel at ground level;
  - Grass mowed or grazed on a frequent basis;
  - Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
  - Trees and shrubs located far enough from buildings so that they will not ignite the building;
  - Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
  - Minimal plant species that keep dead material or drop large quantities of ground fuel;
  - Tree canopy cover not more than 15%;
  - Tree canopies not located within 2 metres of the building;
  - Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building;
  - and,
  - Lower limbs of trees removed up to a height of 2 metres above the ground.
- 3.14. The proposed communication tower shall be of non-combustible materials.
- 3.15. New construction of the equipment shelters shall comply with Sections 3 and 9 (BAL FZ) of Australian Standard AS3959-2009 *Construction of buildings in bush fire-prone*

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

areas or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas –2014' as appropriate. Except for windows, flaming of the specimen is not permitted and there shall be no exposed timber.

- 3.16. Submit a tree removal/retention survey plan to Council's Ecologist/Environment Officer for approval. The Plan for management of vegetation within the bush fire asset protection zones and driveway must be approved by Council. Tree retention is to be limited to a maximum of 14% canopy cover whilst adhering to all other relevant requirements of an Inner Protection Zone as per the NSW Rural Fire Service document, *Planning for Bushfire Protection (2019)*.

Trees to be retained/removed within the bush fire asset protection zone and driveway area are to be selected as per the following criteria:

Trees to be retained:

- hollow bearing trees
- larger healthy native trees
- trees containing nests or signs of fauna usage; and
- trees growing in clusters

Trees that may be suitable for removal:

- damaged trees or trees with poor structural form
- non-natives
- small/regrowth trees; and
- trees that are likely to damage assets or infrastructure

#### 4. DURING WORKS

- 4.1. All conditions under this section must be met during works.
- 4.2. Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 4.3. During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- a. All excavation or disturbance of the area must stop immediately in that area, and
  - b. The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

**Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

- 4.4. Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment. The controls must comply with Gosford DCP 2013 Chapter 6.3 - *Erosion and Sedimentation Control*.
- 4.5. Keep a copy of the stamped approved plans on site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.6. Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with *the Plumbing and Drainage Act 2011*.  
This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).
- 4.7. Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8. Pruning of trees to accommodate the works must be undertaken in accordance with Australian Standard AS 4373-2007: *Pruning of amenity trees* by a qualified Arborist.
- 4.9. Cease work immediately in that area if any relics are uncovered during excavation on-site. Contact the Heritage Office in accordance with section 146 of *the NSW Heritage Act 1977*.  
  
Work must not recommence until any necessary Excavation Permit has been obtained from the Heritage Council under section 140 of *the NSW Heritage Act, 1977*.
- 4.10. The facility tower is to be constructed of non-combustible materials and colours that are matt and none-reflective. The equipment shelters are to be of a 'pale eucalyptus' colour to ensure compatibility with the hue of the proposed screening vegetation.
- 4.11 Undertake the removal of trees as shown on the approved Tree Retention Plan by Urbis 9/2/21 in a manner so as to prevent damage to those trees that are to be retained.
- 4.12. Implement erosion and sediment control measures and undertake works in accordance with the 'Blue Book' (*Managing Urban Stormwater: Soils and Construction, Landcom, 2004*).

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

- 4.13. Implement dust suppression measures on-site during bulk earthworks to suppress dust generated by vehicles and equipment. Dust must also be suppressed at all other stages of construction in order to comply with the Protection of the Environment Operations Act 1997.
- 4.13 Undertake clearing in accordance with the approved tree removal/retention survey plan. Trees must be removed in such a manner so as to prevent damage to surrounding trees to be retained.
- 4.14 Supply any plant stock used in landscaping from provenance specific seed/material collected from locally endemic species to maintain genetic diversity. Non-provenance specific material is prohibited.
- 4.15 Manage native fauna appropriately during clearing and construction phase of the approved works. In this regard, an appropriately licensed Fauna Ecologist is to be engaged to advise and supervise the clearing of trees. Where, in spite of precautions, wildlife is injured, the Fauna Ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as WIRES or Wildlife Arc.

## 4.16 Stockpiling

Stockpiling will be undertaken within the approved works footprint.

Stockpiling will not be undertaken in locations that impact on adjacent areas of retained native, estuarine or aquatic vegetation or within a tidal or riparian zone or that has the potential to cause water pollution.

Stockpiles are to be managed to suppress dust, prevent erosion and reduce the impact of sediment and other contaminants on the environment. This may require compaction and the installation of adequate sediment and erosion control measures around the stockpiles in accordance with the Blue Book and Best Practice Erosion and Sediment Control (IECA) guidelines.

No contaminated material is permitted to be stockpiled onsite.

4.17 **Weeds and pathogens**

Vehicles and other equipment to be used on site must be free of soil, seeds and plant material before entering/leaving the site to prevent the spread of exotic plant species and pathogens. Standard hygiene protocols will be used to clean tools and other equipment. All vehicles and machinery must be inspected prior to site entry and those failing inspection are to be sent away for cleaning. Appropriate records of inspections shall be maintained.



**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS****4.18 Bushfire Asset Protection Zone Management**

Maintain native tree canopy cover within the prescribed Inner Protection Area (IPA) - Asset Protection Zone (APZ) at no less than 14% in perpetuity. Canopy coverage should be maintained and should not exceed 14%. Retained vegetation should be maintained in order to satisfy all other requirements of an IPA APZ.4.20 No native vegetation or tree removal is permitted under this consent.

### 5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2. Submit an application for the Occupation Certificate to the Principal Certifying Authority for approval.
- 5.3. Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifier. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.4. Complete landscaping works in accordance with the approved landscape plan.
- 5.5. Revegetate and stabilise all areas disturbed by construction activities associated with the development so as to prevent erosion and dust nuisance occurring.
- 5.6. Install lighting to telecommunication facility and access track in accordance with the requirements of Australian Standard 1158: *Lighting for roads and public spaces* and Australian Standard 2890.1.
- 5.7. Construct the car park and access in accordance with Australian Standard AS2890.1-2004: *Parking facilities - Off-street parking*. Certification of the construction of the car park and associated accesses by a suitably qualified consultant must be provided to the Principal Certifier.
- 5.8. Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 5.9. Plant a minimum of 8 replacement tree(s) (advanced specimens min 200lt pot size). Replacement trees must be native species capable of achieving a minimum height of 20m. New trees are not to be located within an authority's service easement, or within 3m of an approved building. Where the replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.

- 5.10. Obtain the Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate.

## **6. ONGOING OPERATION**

- 6.1. Comply with On-Going Operation and Management and Use commitments detailed in the Operations Management Plan signed by Joanna Ward, 28 April 2021.
- 6.2. Load and unload Delivery/Maintenance vehicles wholly within the site. Delivery/Maintenance vehicles must enter and exit the site in a forward direction
- 6.3. Manage any incidences of anti-social behaviour or nuisance on the site by implementing appropriate responses to such incidences if they occur. The operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.
- 6.4. Maintain all security fencing for the life of the development in the approved location.
- 6.5. Maintain the site landscaping for the life of the development.
- 6.6. Do not store goods, equipment, packaging material or machinery exposed outside the building so as to be visible from any public road or thoroughfare.
- 6.7. Operate and maintain all external lighting so as not to impact on any adjoining property.
- 6.8. Maintain the external finishes of the building(s), structures, walls and fences for the life of the development and remove any graffiti within seven (7) days.
- 6.9. Implement the required Asset Protection Zone to the perimeter of the asset. The Asset Protection Zone must be fuel managed so as to maintain fuel loadings as detailed within *Planning for Bush Fire Protection Guidelines 2006* (NSW).
- 6.10. Use external lighting that minimises overspill into retained vegetated areas.
- 6.11. Maintain all works associated with the approved Landscape Plans for a period of twelve (12) months from the date of the issue of any Occupation Certificate to ensure the survival and establishment of the landscaping.
- 6.12. Replace all damaged, dead or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.

6.13 Service Waste Management in accordance with *Gosford Development Control Plan 2013*, Part 7: Chapter 7.2 - Waste Management, Appendix H.

6.14 The entire property must be managed as an inner protection area (IPA) in perpetuity. The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed on a frequent basis;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building;
- and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

6.15 The facility is to be removed and the site restored to a condition similar to that before construction once the facility is no longer required.

6.16 Do not give rise to electromagnetic energy emissions greater than the maximum amount specified in the Radiation Protection Series No. 3 Standard by the Australian Radiation Protection and Nuclear Safety Agency.

6.17 Any upgrades to the Telecommunications Facility will require an Environmental (EME) report to be submitted and approved by Council.

6.18 Use external lighting that minimises overspill into retained vegetated areas.

**6.19 Bushfire Asset Protection Zone Management**

Maintain native tree canopy cover within the prescribed Inner Protection Area (IPA) - Asset Protection Zone (APZ) at no less than 14% in perpetuity. Canopy coverage should be maintained and should not exceed 14%. Retained vegetation should be maintained in order to satisfy all other requirements of an IPA APZ.

## 7. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a **criminal offence**. Failure to comply with other environmental laws may also be a **criminal offence**.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### Warnings as to Potential Maximum Penalties

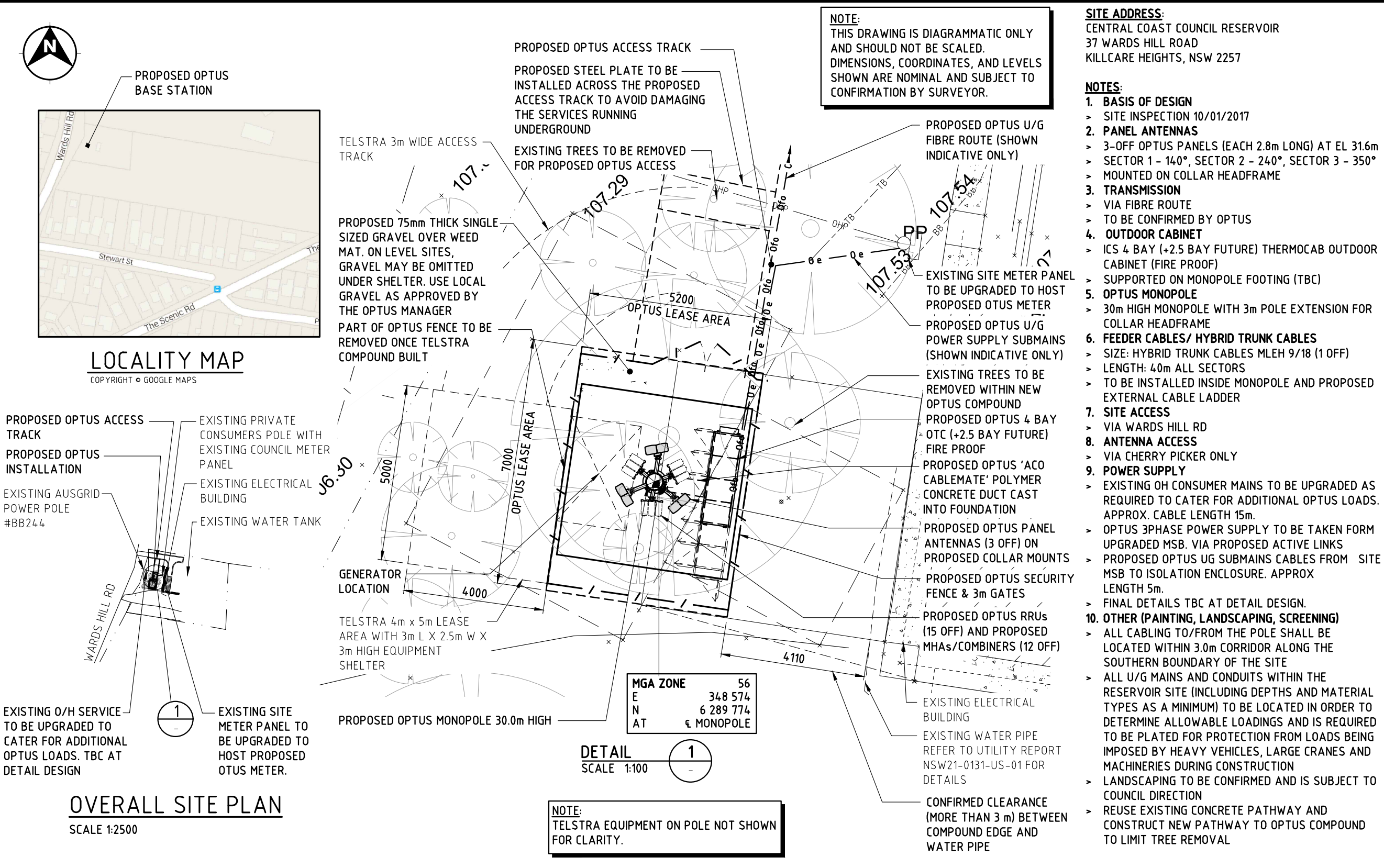
Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

## ADVISORY NOTES

- It is an offence under the National Parks and Wildlife Act 1974 to disturb an Aboriginal artefact without a Permit.
- Offence to harm native protected fauna  
It is an offence under the Biodiversity Conservation Act 2016 to harm protected native wildlife. If during works fauna is displaced, it must not be harmed.  
  
If required works will cease and fauna will be transferred to the nearest veterinary hospital and Councils Ecologist will be notified within 24hrs.
- Discharge of sediment from a site may be determined to be a pollution event under provisions of the Protection of the Environment Operations Act 1997. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities who may have separate requirements in the following aspects:
  - a. *Australia Post* for the positioning and dimensions of mailboxes in new commercial and residential developments;
  - b. *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c. *Ausgrid* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d. *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.

**Attachment 1****Draft Conditions of Consent 37 Wards Hill Road KILLCARE HEIGHTS**

- 
- e. *Central Coast Council* in respect to the location of water, sewerage and drainage services.
- The Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
  - 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.
  - Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
  - 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](http://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.
  - The operation of all mechanical plant equipment and machinery must not give rise to offensive noise as defined in the Protection of the Environment Operation Act 1997.



Rev	Date	Revision Details	LENDLEASE	AB	LC	SK	SK
01	23.04.21	ISSUED FOR APPROVAL	LENDLEASE	AB	LC	SK	SK
			Consultant	CAD	Designer	Verifier	Approver



OPTUS

Client:  
Project:  
MOBILE NETWORK AUSTRALIA  
SITE No:- S1872  
KILLCARE  
CENTRAL COAST COUNCIL RESERVOIR

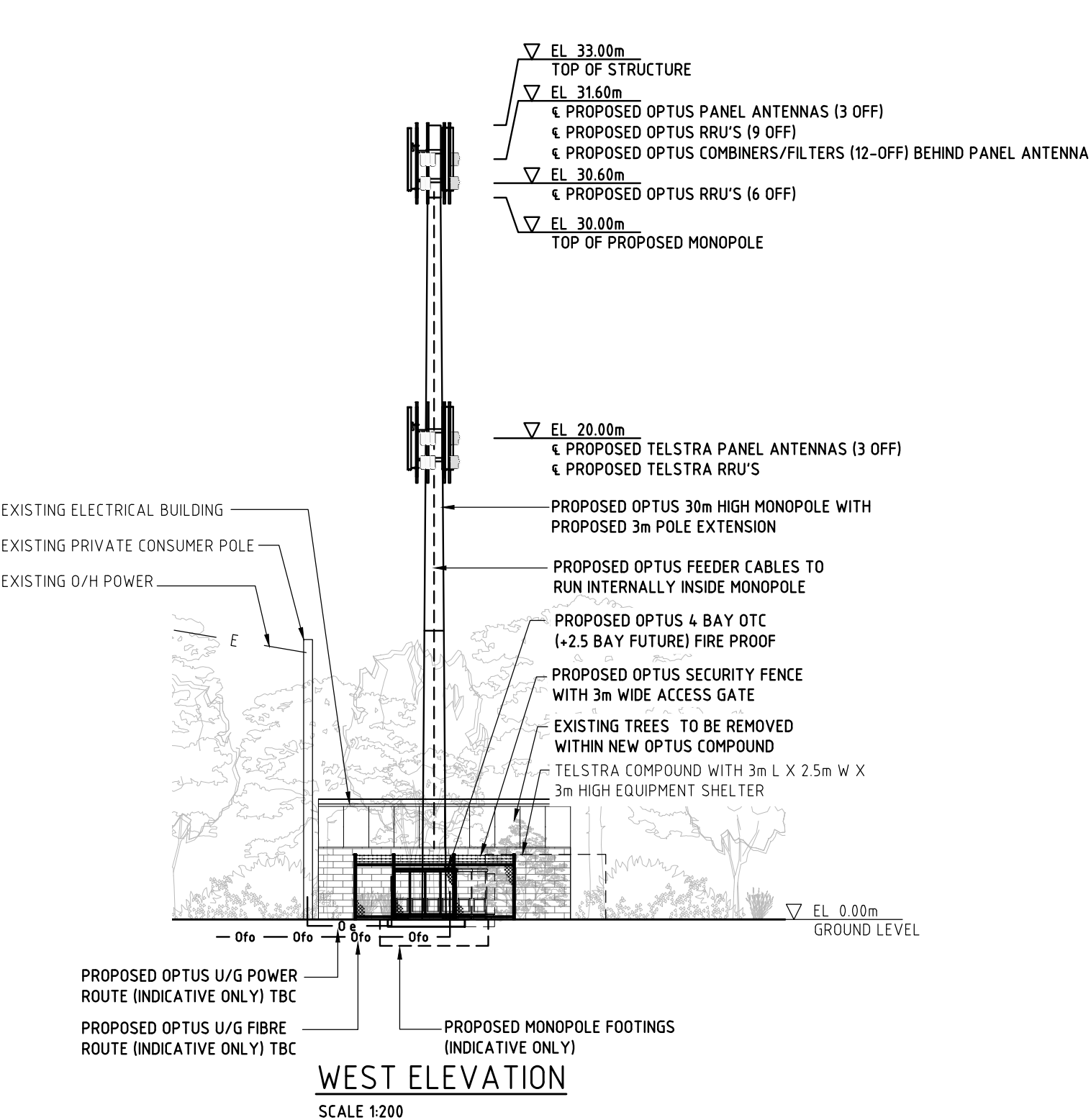
Drawing Title:  
DRAFT SITE LAYOUT

Drawing Status:  
FOR APPROVAL

Drawing No.  
S1872-P1

Revision  
01





01	23.04.21	ISSUED FOR APPROVAL	LENDLEASE	AB	LC	SK	SK
Rev	Date	Revision Details	Consultant	CAD	Designer	Verifier	Approver

Client:

Project:

MOBILE NETWORK AUSTRALIA

SITE No:- S1872 KILLCARE

CENTRAL COAST COUNCIL RESERVOIR

Drawing Title:

DRAFT SITE ELEVATION

Drawing Status:

FOR APPROVAL

Drawing No.

S1872-P2

Revision

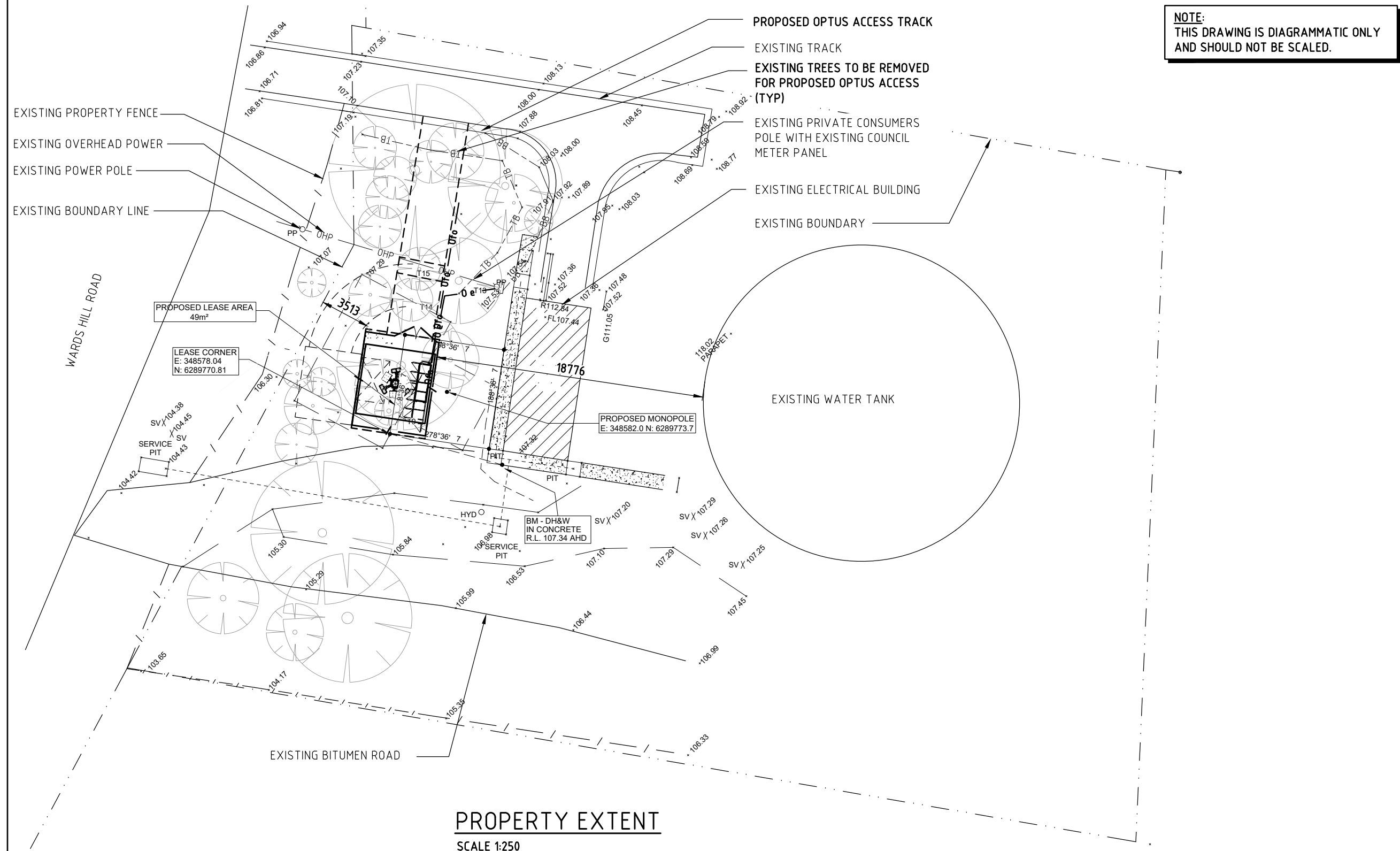
01

CAD File: Z:\1. Greenfield\S1872\_Killcare\Phase 1\Design\2. CAD Folder\2.2 Internal CAD (Do not send)\S1872\_DSL 210423.dwg Date: 23.04.2021 4:41 PM

COPYRIGHT © OPTUS MOBILES PTY LTD ABN 65 054 365 696. ALL RIGHTS RESERVED. VERSION 2.0 NOVEMBER 2013

20 10 0 10 20 30 40 50mm

A3

[illegible]

Client:
---------



Project:	
----------	--

Project: MOBILE NETWORK  
AUSTRALIA  
SITE No:- S1872  
KILLCARE  
CENTRAL COAST COUNCIL RESERVOIR

Drawing Title:
----------------

DRAFT PROPERTY LAYOUT

Drawing Status:

**FOR APPROVAL**

Drawing No.
-------------

**S1872-P3**

Revision	
----------	--

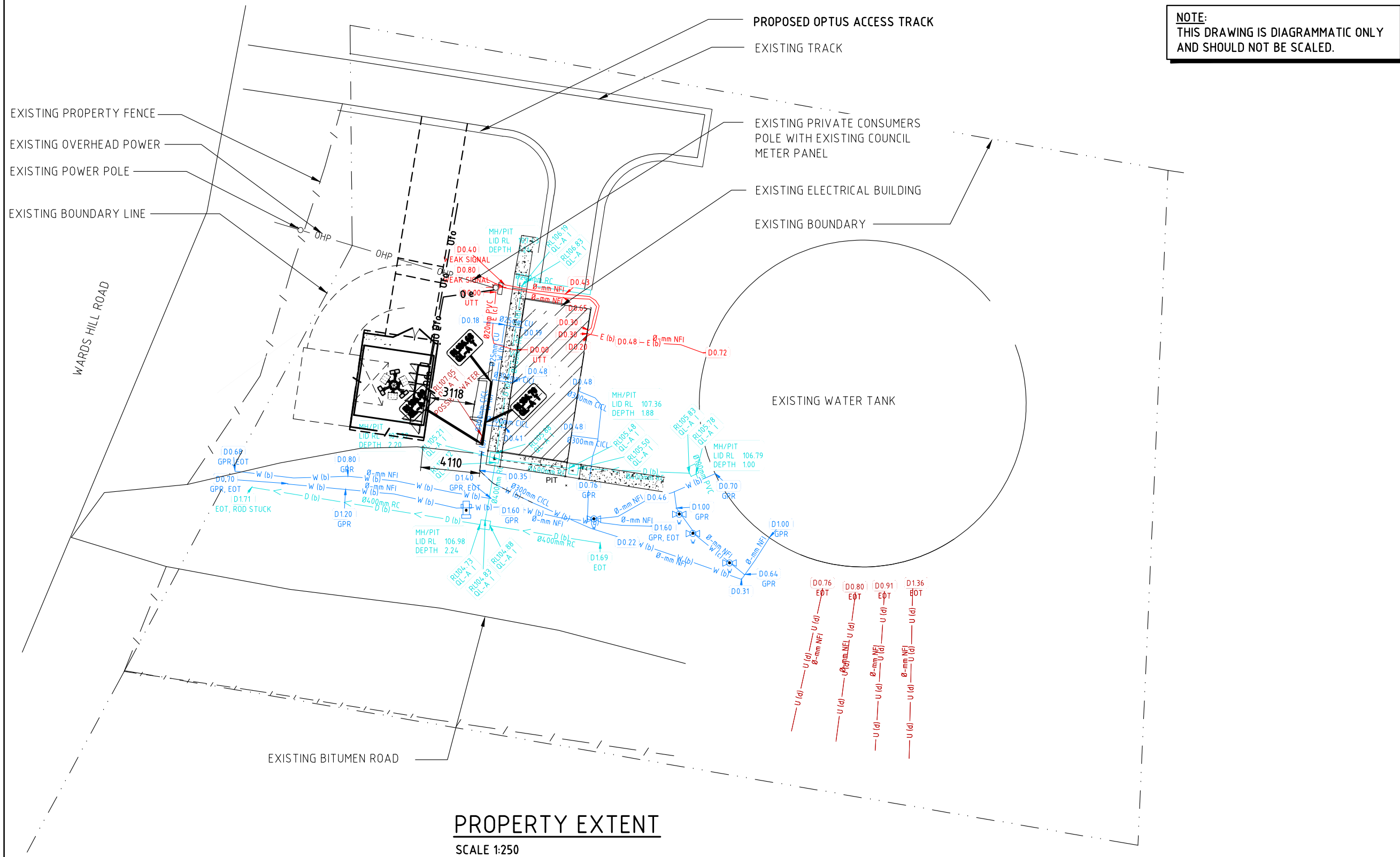
01

COPYRIGHT © OPTUS MOBILES PTY LTD ABN 65 054 365 696. ALL RIGHTS RESERVED. VERSION 2.0 NOVEMBER 2013



CAD File: Z:\1. Greenfield\51872\_Killcare\Phase 1\Design\2. CAD Folder\2.2 Internal CAD (Do not send)\51872 DSL 2'104'23 dwg Date: 23.04.2021 4:41 PM





01	23.04.21	ISSUED FOR APPROVAL	LENDLEASE	AB	LC		SK		SK
Rev	Date	Revision Details	Consultant	CAD	Designer		Verifier		Approver



Client:	
---------	--



Project:	
----------	--

Project: MOBILE NETWORK  
AUSTRALIA  
SITE No:- S1872  
KILLCARE  
CENTRAL COAST COUNCIL RESERVOIR

Drawing Title:
----------------

## DRAFT UTILITY LAYOUT

Drawing Status:	
-----------------	--

**FOR APPROVAL**

Drawing No.
-------------

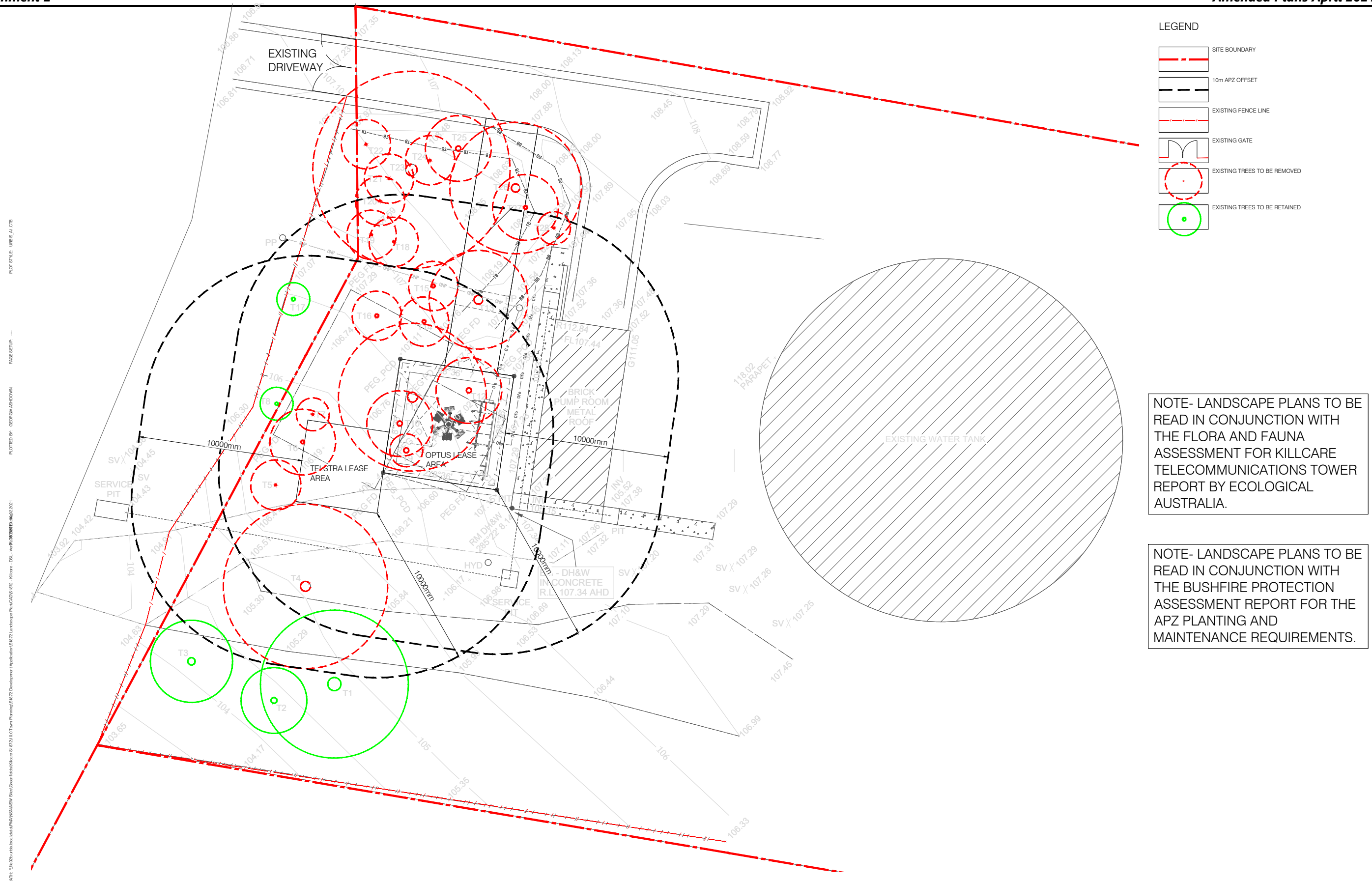
Drawing No.  
**S1872-P4**

Revision	
----------	--

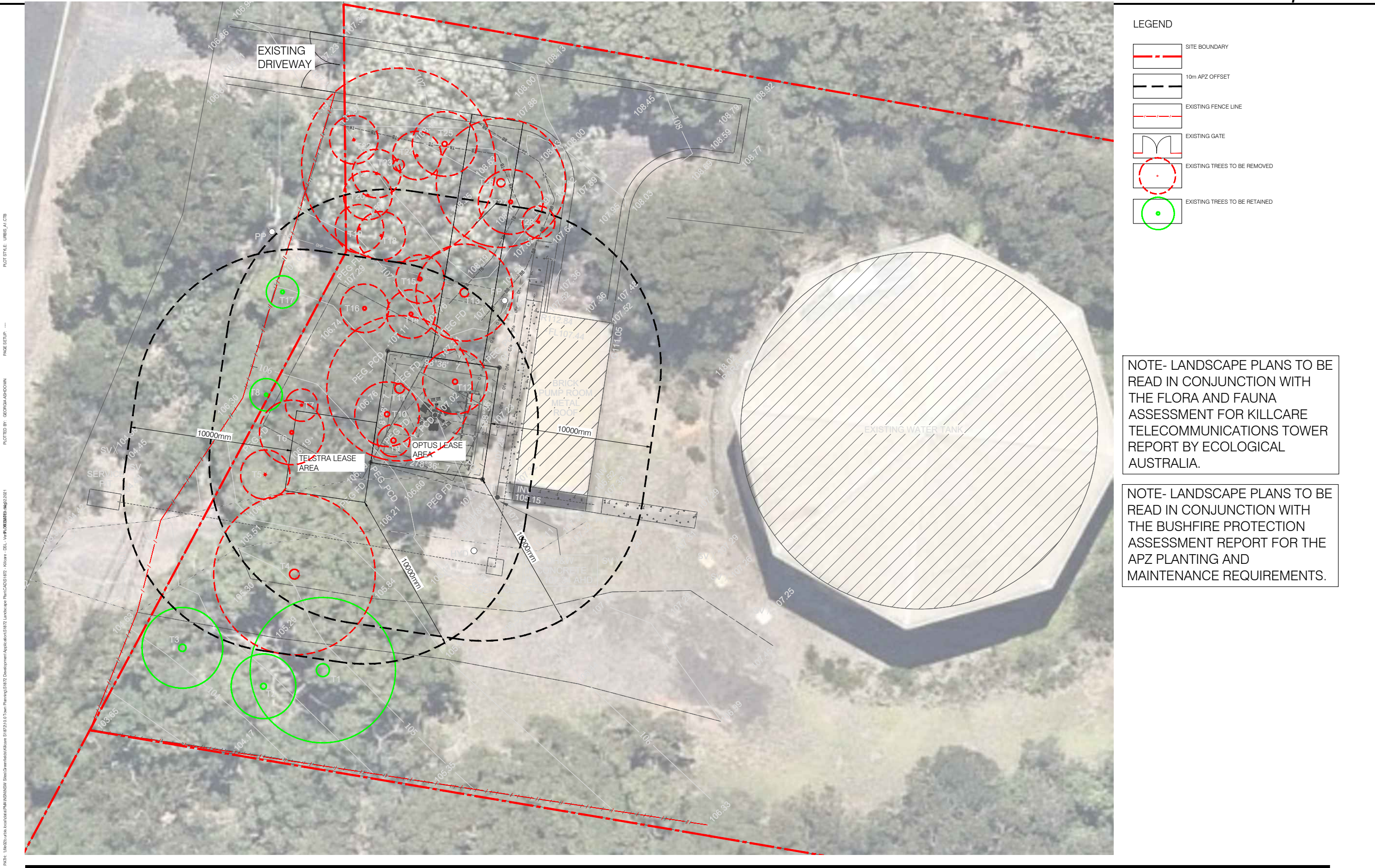
Revision  
01

COPYRIGHT © OPTUS MOBILES PTY LTD ABN 65 054 365 696. ALL RIGHTS RESERVED. VERSION 2.0 NOVEMBER 2013

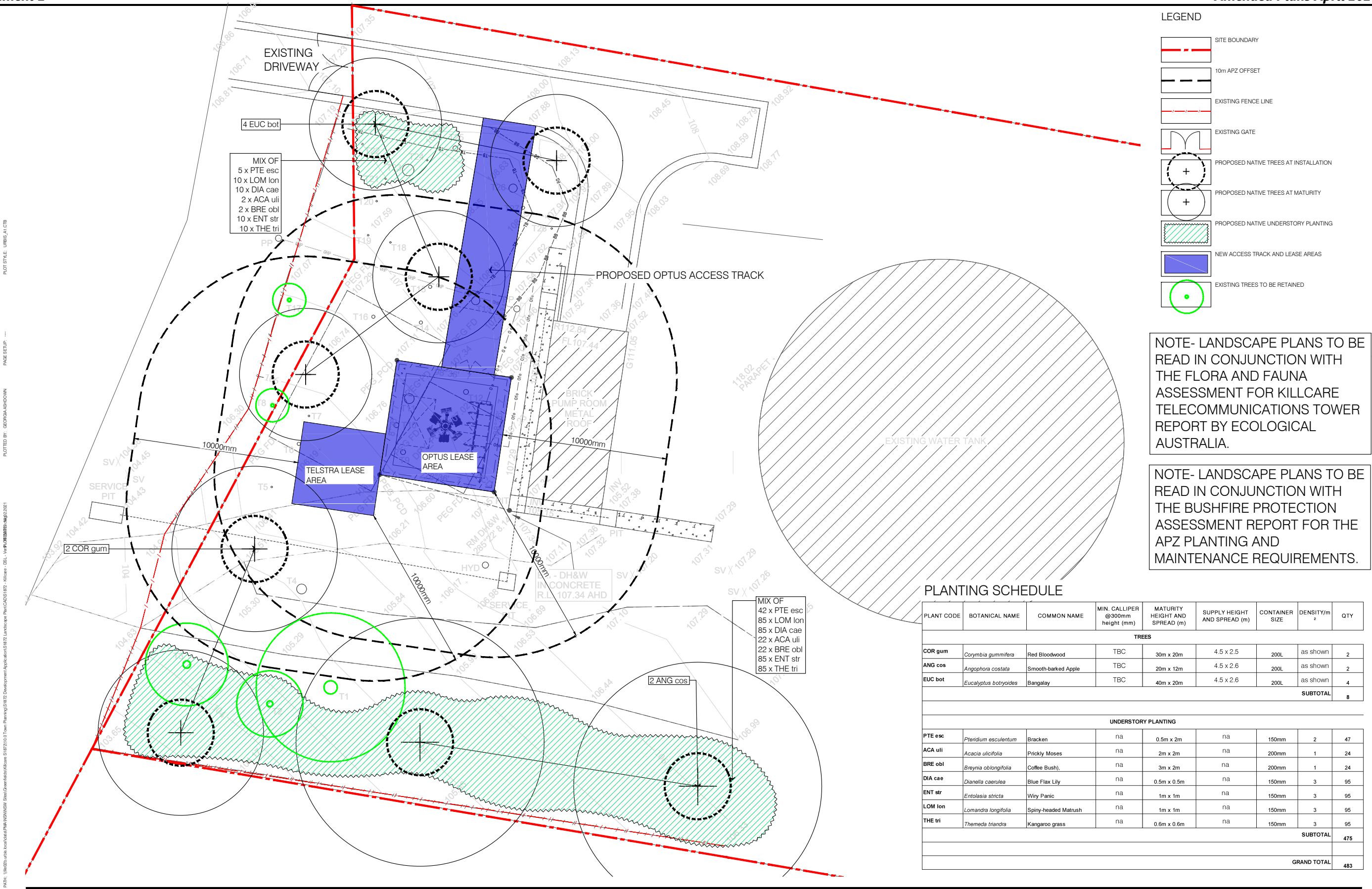
CAD File: Z:\1. Greenfield\51872\_Killcare\Phase 1\Design\2. CAD Folder\2.2 Internal CAD (Do not send)\51872\_DSL 210423.dwg Date: 23.04.2021 4:49 PM











KILLCARE - LANDSCAPE PLAN  
CENTRAL COAST COUNCIL

Tower 2, Level 23, Darling Park, 201 Sussex Street | Sydney NSW 2000 Australia | +61 2 8233 9900 | URBIS Pty Ltd | ABN 50 105 256 228

C	FOR DEVELOPMENT APPLICATION	GA	FJ	09.02.2021
A	FOR DA	JT	JP	19.06.19
B	FOR DA	JT	JP	31.05.19
REV	DESCRIPTION	DWN	CHK	DATE

**DISCLAIMER**  
Copyright by URBIS Pty Ltd. This drawing or parts thereof may not be reproduced for any purpose or used for another project without the consent of URBIS. The plan must not be used for ordering, supply or installation and no reliance should be placed on this plan for any financial dealing of the land. This plan is conceptual and is for discussion purposes only and subject to further detail study. Council approval, engineering input, and survey. Cadastral boundaries, areas and dimensions are approximate only. Written figured dimensions shall take preference to scaled dimensions.

CLIENT  
OPTUS  
NOKIA



PROJECT NO.  
S1872

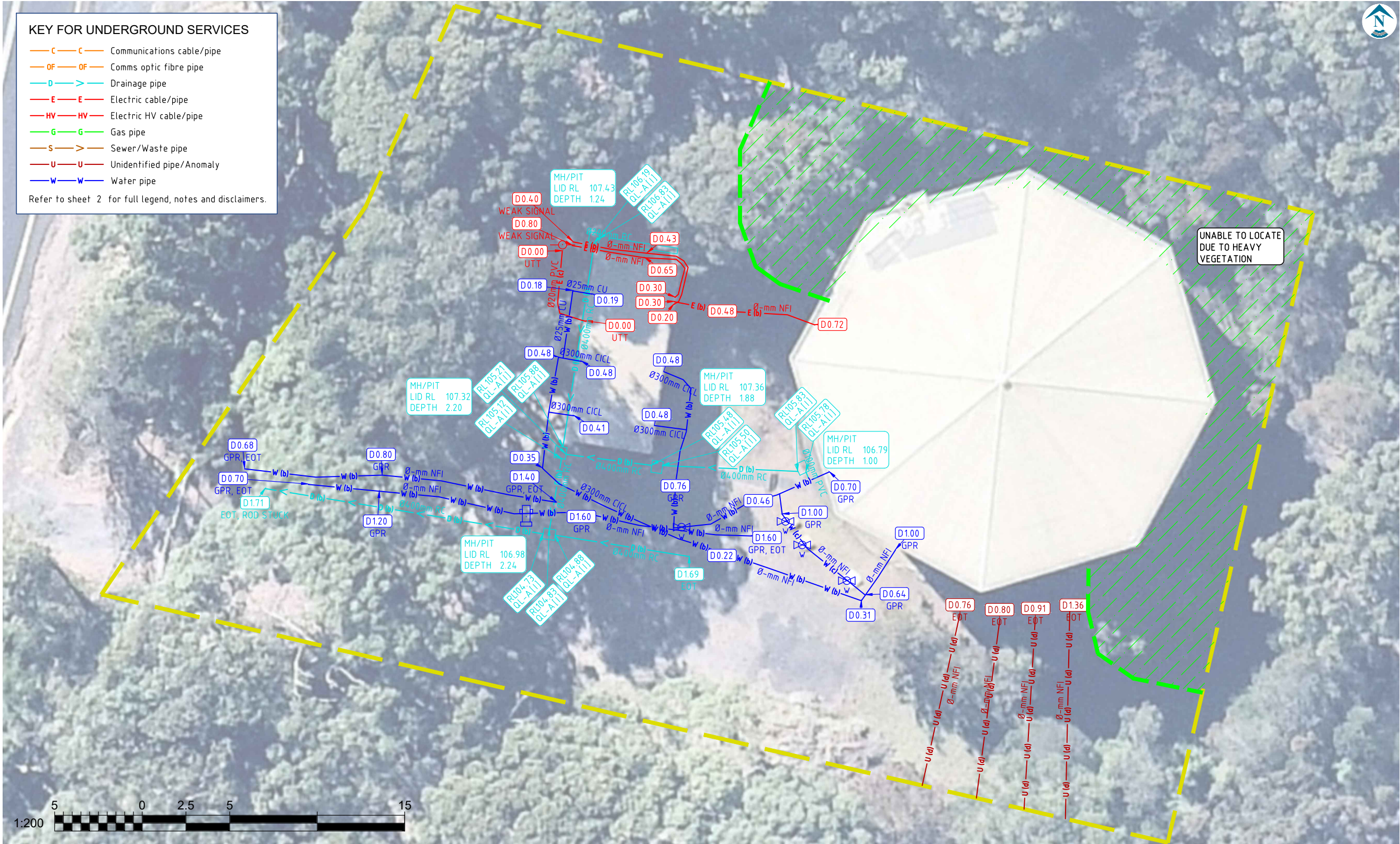
DRAWING NO.  
L202

DATE  
09.02.2021

REVISION  
C

1:100 @ A1  
1:200 @ A3





						LEND LEASE			LOCATED: CR			CHECKED: SN			DATE: 24/06/2020								
						UNDERGROUND UTILITY SURVEY			SURVEYED: GC			SCALE AT A3: 1:200			DATUM: AHD								
						37 WARDS HILL ROAD			DRAWN: HM			DBYD REF: 19276909			GRID: MGA20 Z56								
						KILLCARE HEIGHTS			STATE/YEAR			JOB No			DRG TYPE			DRG No			REV		
						NSW			NSW20			- 0270			- US			- 01			R 0		
REV	REVISION DESCRIPTION					DATE	DRN	CHK	Unit 8, 3 Gibbs Street Chatswood NSW 2067			Ph: 1300 62 77 46 Mail: <a href="mailto:sydney@utilitymapping.com.au">sydney@utilitymapping.com.au</a> Web: <a href="http://www.utilitymapping.com.au">www.utilitymapping.com.au</a>											

SHEET 1 OF 2



SUBSURFACE UTILITY INFORMATION (SUI) AS5488 CLASSIFICATION

QUALITY LABELING UTILITY INFORMATION BY A CLASSIFICATION CODE ALLOWS THE USER OF THIS INFORMATION TO UNDERSTAND CLEARLY HOW THE INFORMATION WAS COLLECTED AND THEN PLACE AN APPROPRIATE AMOUNT OF RELIANCE ON IT. PROJECT RISKS RELATED TO UNDERGROUND UTILITIES CAN THEN BE PROPERLY MANAGED.

QUALITY A:

INFORMATION IS THE HIGHEST POSSIBLE LEVEL OF ACCURACY AND IS OBTAINED EXPOSING THE UNDERGROUND UTILITY USING A NON DESTRUCTIVE EXCAVATION (POT HOLING) TECHNIQUE. THE VERTICAL INFORMATION FOR THIS LOCATING METHOD IS TO THE TOP OF THE SHALLOWEST PART OF THE LOCATED SERVICE. THE 3D LOCATION IS RECORDED AS AN X,Y,Z COORDINATE. EXPECTED HORIZONTAL AND VERTICAL ACCURACY IS +/-50mm.

QUALITY B:

INFORMATION IS COLLECTED BY DESIGNATING THE HORIZONTAL AND VERTICAL LOCATION OF UNDERGROUND UTILITIES BY USING ELECTROMAGNETIC PIPE AND CABLE LOCATORS, SONDES OR FLEXI TRACE, GROUND PENETRATING RADAR AND ACOUSTIC PULSE EQUIPMENT. THIS IS THE MOST COMMON FORM OF UTILITY LOCATING AND ALTHOUGH AN X,Y, AND Z AXIS CAN BE ESTABLISHED IT IS NOT ALWAYS ENTIRELY ACCURATE DUE TO DIFFERING ELECTROMAGNETIC FIELDS, SOIL CONDITIONS AND MULTIPLE BANKS OF CABLES AFFECTING THE LOCATING SIGNAL. EXPECTED HORIZONTAL ACCURACY IS +/-300mm, VERTICAL ACCURACY +/-500mm.

QUALITY C:

INFORMATION IS COLLECTED BY CORRELATING THE SURVEY OF VISIBLE UTILITY SURFACE FEATURES SUCH AS MARKER PLATES OR WATER HYDRANTS AND ACQUIRED DIAL BEFORE YOU DIG PLANS TO DRAW A STRING WHICH SHOWS THE APPROXIMATE POSITION OF SERVICES. THIS METHOD DOES NOT USUALLY SHOW MULTIPLE BANKS OF CABLES AND DOES NOT ALWAYS SHOW THREE DIMENSIONAL INFORMATION. EXPECTED HORIZONTAL ACCURACY (SURFACE FEATURES ONLY) IS +/-300mm.

QUALITY D:

INFORMATION IS THE MOST BASIC LEVEL OF UTILITY LOCATIONS USING ONLY INFORMATION BASED ON EXISTING DIAL BEFORE YOU DIG PLANS OR OTHER RECORDS AND BY MEASURING BOUNDARY OFFSETS ETC. THIS METHOD OF UTILITY LOCATION SHOULD ALWAYS BE TREATED AS AN INDICATION OF THE PRESENCE OF A SERVICE ONLY AND SHOULD NOT BE USED FOR DESIGN. TOLERANCE DOES NOT APPLY TO AN INDICATIVE LOCATION THAT IS ATTRIBUTED TO QUALITY LEVEL D.

DETECTION DISCLAIMER:

ELECTROMAGNETIC LOCATING TECHNIQUES AS WELL AS GROUND PENETRATING RADAR HAVE BEEN UTILISED IN THE LOCATION OF UNDERGROUND SERVICES. THESE RESULTS ARE NOT INFALLIBLE AND A NON DESTRUCTIVE DIG PROCESS SHOULD BE CARRIED OUT TO CONFIRM SERVICE IDENTIFICATION, POSITIONS AND PARTICULARLY HEIGHTS, WHERE THESE ARE CRITICAL. ALTHOUGH ALL REASONABLE EFFORT HAS BEEN MADE IN LOCATING AND MAPPING THE UNDERGROUND SERVICES, THE COMPLETE EXTENTS OF THE THIS UTILITY SURVEY INFORMATION CANNOT BE GUARANTEED.

SURVEY TECHNIQUE DISCLAIMER:

ALL SURVEY INFORMATION COLLECTED BY UTILITY MAPPING SHOWN ON THIS PLAN HAS BEEN SURVEYED USING GNSS AND TPS SURVEY METHODS. EXPECTED MINIMUM ACCURACY OF GNSS SURVEY DATA IS +/-50mm. ACCURACY IS SUBJECT TO VARIATION DEPENDANT ON SITE CONDITIONS AND SURVEY CONTROL NETWORK SOURCES. AFOREMENTIONED TOLERANCE PROVIDED SHOULD BE USED AS A GUIDE ONLY AND REVIEWED ON A PROJECT BY PROJECT BASIS.

THIRD PARTY INFORMATION DISCLAIMER:

ALL FEATURES SHOWN IN GREY HAVE BEEN TAKEN FROM EXTERNAL SOURCES AND AS SUCH UTILITY MAPPING CANNOT VERIFY THE ACCURACY OF THIS INFORMATION. CONTACTING THE RELEVANT PROVIDER IS RECOMMENDED FOR THE LATEST INFORMATION.

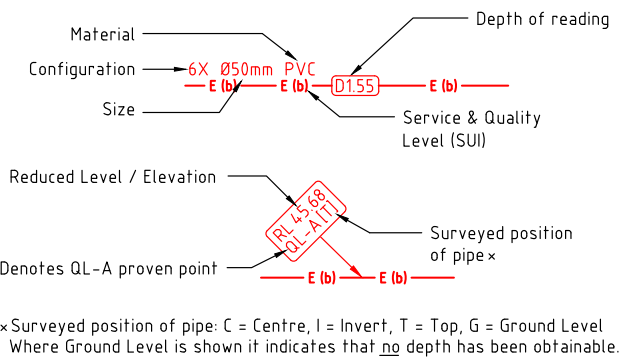
AERIAL IMAGERY DISCLAIMER:

AERIAL IMAGERY HAS BEEN SUPPLIED UNDER A COMMERCIAL LICENCE AGREEMENT AND IS NOT TO BE REPRODUCED FOR ANY OTHER PURPOSES OTHER THAN THAT INTENDED BY UTILITY MAPPING UNDER ANY CIRCUMSTANCE WITHOUT WRITTEN APPROVAL. FEATURES SHOWN ON IMAGERY ARE INDICATIVE ONLY AND MAY NOT REPRESENT THE TRUE AND FINAL POSITION OF FEATURES ON SITE.

KEY FOR UNDERGROUND SERVICES

	AIR	AIR	Air line		OIL	OIL	Oil pipe
	CH	CH	Chemical cable/pipes		RC	RC	Rail counter cable/pipes
	C	C	Communications cable/pipes		S	S	Sewer/Waste pipe
	OF	OF	Comms optic fibre pipe		P	P	Sewer pressure main pipe
	D	D	Drainage pipe		TC	TC	Traffic cable/pipes
	ER	ER	Electric earth cable/pipes		U	U	Unidentified pipe/Anomaly
	E	E	Electric cable/pipes		W	W	Water pipe
	DB	DB	Electric direct buried cable				Underground storage tank
	HV	HV	Electric HV cable/pipes		MUD	MUD	Multi user duct
	F	F	Fuel pipe		EMPTY	EMPTY	Empty duct
	G	G	Gas pipe		O/H	O/H	Overhead service
	IRR	IRR	Irrigation pipe				Survey Boundary
	CW	CW	Chilled water pipe				Cable/Pipe group or duct
	HW	HW	Heated water pipe				Trench scar
	A	A	Air pit centre				Fuel access point
			Air valve		F	F	Fuel pit centre
	CH	CH	Chemical pit centre				Fuel valve
			Chemical valve				Gas bottle
			Comms main marker				Gas meter
			Comms pillar				Gas main marker
			Comms pole		G	G	Gas pit centre
	C	C	Comms pit centre				Gas test point
			Drainage connection				Gas valve
			Drainage down pipe		I	I	Irrigation pit centre
			Drainage pump				Irrigation sprinkler
	D	D	Drainage pit centre				Irrigation valve
			Electric dome				Mechanical chilled water valve
			Electric earth cover				Mechanical hot water valve
			Electric earth spike		ME	ME	Mechanical pit centre
			Electric junction box				Oil pit centre
			Electric light				Oil valve
			Electric light pole				Rail junction box
			Electric main marker				Rail light
			Electric power pole		R	R	Rail pit centre
	E	E	Electric pit centre				Rail signal control box
			Electric sign centre				Rail traffic signal
							Water bore
							Water connection
							Water fire hose
							Water hydrant
							Water meter
							Water main marker
							Water pump
					W	W	Water pit centre
							Water tap
							Water valve
							Characteristic change
							Pothole (indicative)
							Miscellaneous pipe riser
							End of trace

EXPLANATION OF PIPE ANNOTATION



EXPLANATION OF CONFIGURATION

Pipe configuration is annotated as the number of pipes per row. For example: 2x3x4 (total of 9 pipes)

EXPLANATION OF PIT ANNOTATION

MH/PIT	54	Pit number/name
LID RL	45.70	Lid level
DEPTH	1.80	Depth to base

EXPLANATION OF SUBSURFACE UTILITY INFORMATION (SUI AS5488)

E (a)	Denotes electric pipe/cable verified to QL-A	Verified utility
E (b)	Denotes electric pipe/cable verified to QL-B	
E (c)	Denotes electric pipe/cable verified to QL-C	Unverified utility
E (d)	Denotes electric pipe/cable verified to QL-D	

ABBREVIATIONS FOR UNDERGROUND SERVICES

AC	Asbestos cement	NLA	Not located - route assumed
ALK	Alkathene	NLI	Not located - route plotted from on-site information
BR	Brick		
CI	Cast iron	NLR	Not located - route plotted from records
CICL	Cast iron cement lined		
CONC	Concrete	NLT	Not located - plotted from visible trench scar detail
CU	Copper		
DI	Ductile iron	NVP	No visible pipes
DICL	Ductile iron cement lined	UTF	Unable to find
DIPL	Ductile iron poly lined	UTGA	Unable to gain access
EW	Earthenware	UTL	Unable to lift
FG	Fibreglass	UTR	Unable to rod
GI	Galvanised iron	UTS	Unable to survey
GRP	Glass reinforced plastic	UTT	Unable to trace
MDPE	Medium density polyethylene		
MS	Medium steel	BL	Base level
MSCL	Medium steel cement lined	CL	Cover level
PE	Polyethylene	IL	Invert level (pipe)
PVC	Polyvinyl chloride	NFI	No further information
RC	Reinforced concrete	NS	No signal
SGW	Salt glazed ware	O/H	Overhead
SI	Spun iron		
SPL	Steel poly lined	(R)	Information taken from records
ST	Steel		
VC	Vitrified clay		

NOTES FOR UNDERGROUND SERVICES

- Pipe sizes which cannot be obtained by visual survey are taken from record drawings/marker plates where available.
- Cable routes shown as a single line may actually consist of many cables, refer to annotated configuration details.
- Drainage pipe sizes & invert levels have been determined without man entry into chambers. Every effort has been made to correctly obtain this information, however, accuracy is dependent on visibility from the surface.
- All annotations depict 'depth to service' UNLESS otherwise stated. Annotations marked 'RL' indicate the true elevation of service feature.
- Utility lines located using Electromagnetic Induction (EMI) or similar proving techniques are assumed to have been located to the approximate CENTRE of the service.
- Utility lines located using Ground Penetrating Radar (GPR) or similar proving techniques are assumed to have been located to the TOP of the service.

					  Unit 8, 3 Gibbs Street Chatswood NSW 2067  Ph: 1300 62 77 46 Mail: <a href="mailto:sydney@utilitymapping.com.au">sydney@utilitymapping.com.au</a> Web: <a href="http://www.utilitymapping.com.au">www.utilitymapping.com.au</a>	LEND LEASE	LOCATED: CR	CHECKED: SN	DATE: 24/06/2020	SHEET 2 OF 2
						UNDERGROUND UTILITY SURVEY	SURVEYED: GC	SCALE AT A3: 1:200	DATUM: AHD	
						37 WARDS HILL ROAD	DRAWN: HM	DBYD REF: 19276909	GRID: MGA20 Z56	
REV	REVISION DESCRIPTION	DATE	DRN	CHK		KILLCARE HEIGHTS NSW	STATE/YEAR      JOB No      DRG TYPE      DRG No      REV NSW20 - 0270 - US - 01 R0			

**Attachment 3****PUBLIC Amended EME Report - 37 Wards Hill Road, KILLCARE HEIGHTS**

## Environmental EME Report

<b>Location</b>	Water Reservoir, 37 Wards Hill Road, KILLCARE HEIGHTS NSW 2257		
<b>Date</b>	06/01/2021	<b>RFNSA No.</b>	2257008

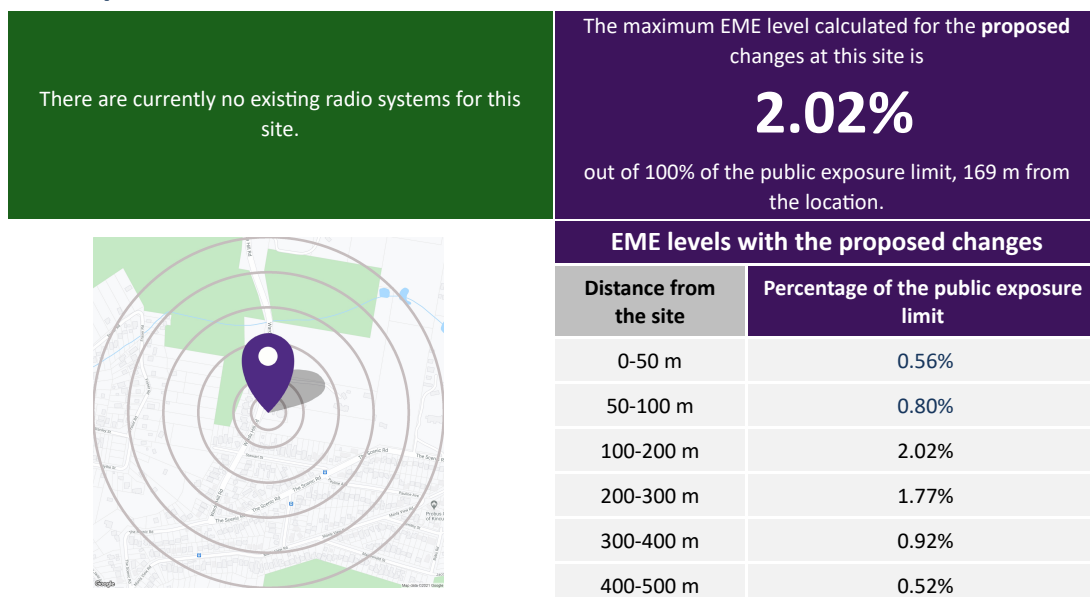
### How does this report work?

This report provides a summary of levels of radiofrequency (RF) electromagnetic energy (EME) around the wireless base station at Water Reservoir, 37 Wards Hill Road, KILLCARE HEIGHTS NSW 2257. These levels have been calculated by Lend Lease using methodology developed by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

A document describing how to interpret this report is available at ARPANSA's website:

[A Guide to the Environmental Report.](#)

### A snapshot of calculated EME levels at this site



For additional information please refer to the EME ARPANSA Report annexure for this site which can be found at <http://www.rfnsa.com.au/2257008>.

### Radio systems at the site

This base station currently has equipment for transmitting the services listed under the existing configuration.

The proposal would modify the base station to include all the services listed under the proposed configuration.

Carrier	Existing		Proposed	
	Systems	Configuration	Systems	Configuration
Optus			3G, 4G	LTE700 (proposed), WCDMA900 (proposed), LTE1800 (proposed), LTE2300 (proposed), LTE2100 (proposed), LTE900 (proposed), LTE2600 (proposed)

**Attachment 3****PUBLIC Amended EME Report - 37 Wards Hill Road, KILLCARE HEIGHTS**

Telstra			3G, 4G	WCDMA850 (proposed), LTE700 (proposed), LTE1800 (proposed), LTE2600 (proposed)
---------	--	--	--------	--



**Attachment 3****PUBLIC Amended EME Report - 37 Wards Hill Road, KILLCARE HEIGHTS****An in-depth look at calculated EME levels at this site**

This table provides calculations of RF EME at different distances from the base station for emissions from existing equipment alone and for emissions from existing equipment and proposed equipment combined. All EME levels are relative to 1.5 m above ground and all distances from the site are in 360° circular bands.

Distance from the site	Existing configuration			Proposed configuration		
	Electric field (V/m)	Power density (mW/m <sup>2</sup> )	Percentage of the public exposure limit	Electric field (V/m)	Power density (mW/m <sup>2</sup> )	Percentage of the public exposure limit
0-50m				4.10	44.58	0.56%
50-100m				4.06	43.77	0.80%
100-200m				6.57	114.56	2.02%
200-300m				6.36	107.19	1.77%
300-400m				4.69	58.47	0.92%
400-500m				3.54	33.15	0.52%

**Calculated EME levels at other areas of interest**

This table contains calculations of the maximum EME levels at selected areas of interest, identified through consultation requirements of the [Communications Alliance Ltd Deployment Code C564:2018](#) or other means. Calculations are performed over the indicated height range and include all existing and any proposed radio systems for this site.

**Maximum cumulative EME level for the proposed configuration**

Location	Height range	Electric field (V/m)	Power density (mW/m <sup>2</sup> )	Percentage of the public exposure limit
Residential Property	0-6 m	1.94	9.94	0.14%
Residential Property	0-3 m	1.79	8.47	0.13%
Residential Property	0-3 m	2.24	13.33	0.18%
Residential Property	0-6 m	2.49	16.41	0.24%
Residential Property	0-6 m	2.53	16.94	0.27%
Multi-storey Residential Property	0-6 m	7.67	156.09	2.74%
Multi-storey Residential Property	0-6 m	8.65	198.67	3.11%

Attachment

**to Statement of Environmental Effects - April 2021 - Location Update -  
Hydro Excavation Survey Complete - 28-04-2021**




28 April 2021

Susana Machuca  
Development Assessment South  
Central Coast Council  
P.O. Box 21  
GOSFORD, NSW 2250

Sent via email: [Susana.Machuca@centralcoast.nsw.gov.au](mailto:Susana.Machuca@centralcoast.nsw.gov.au)

Dear Ms Machuca

**Addendum to Statement of Environmental Effects to accompany Development Application for a proposed Optus telecommunications facility at 37 Wards Hill Road, KILLCARE HEIGHTS NSW 2257 (DA 57736/2019)**

Optus Mobiles Pty Ltd (Optus) has engaged Lendlease Services Pty Ltd (Lendlease) to project manage the end-to-end rollout of the Optus wireless network across Australia.

Lendlease is writing on behalf of Optus, to provide additional information to assist with the assessment of DA 57736/2019.

As a result of feedback received during the consultation period, it was requested by Council that the design for the proposal was modified to reduce the proposed facility's visual impact on Wards Hill Road. In addition, Council requested the below engineering and asset management requirements be accounted for when mitigating the visual impact:

- Minimum 3m separation from underground services;
- Adequate separation from existing Council assets;
- Steel plate to be installed across the access way for the protection of existing services; and
- Utilisation of only the northern access gate for Optus access and egress.

This addendum to the Statement of Environmental Effects (SEE) is aimed to address the following matters:

- Site selection
- Range of the proposed telecommunications facility
- Clause 115 of the State Environmental Planning Policy (Infrastructure) 2007
- Clause 4.6 Variation Request
- Operational management plan for the lease area
- Landscaping and tree removal offset

Lendlease Services  
Zenith Centre, Level 3, Tower B, 821 Pacific Highway  
Chatswood NSW 2067 Australia  
[www.lendlease.com](http://www.lendlease.com)

### Site Selection

The State Environmental Planning Policy (Infrastructure) (2007), commonly referred to as the ISEPP, requires Carriers to seek co-location opportunities wherever practical. As a result, when first considering the appropriate location for a required new greenfield facility, co-location opportunities are always first reviewed.

The proposed facility is required for infill network coverage in a high bushfire risk area and limited opportunities were available. Co-location opportunities and the reason they were unable to be pursued are detailed below.

#### Opportunities for Co-Location

##### ***Existing New South Wales Government Telco Authority Facility***

(1.18km from proposal location)

This location was addressed in the original Statement of Environmental Effects (SEE). This existing facility is near the boundary of the coverage area. A site in this location will not meet the RF requirements for the site. It is also close to existing Optus facility S1289 at Macmasters Beach and thus does not provide the required in-fill coverage.

##### ***Existing Rooftop Site 51-54 The Esplanade, Ettalong Beach***

(3.28m from proposal location)

This site is an existing rooftop facility. This facility currently hosts Optus, Vodafone and Telstra equipment. Even if upgraded, this facility would not have sufficient radio frequency range to provide coverage to the area which is currently lacking mobile voice and data service.

##### ***Existing Facility at Bombi Road South, Macmasters Beach***

(3.3m from proposal location)

Similarly, with the existing facility at Ettalong Beach, this facility currently hosts Optus, Vodafone and Telstra equipment. Even if upgraded, this facility would not have sufficient radio frequency range to provide coverage to the area which currently lacks mobile voice and data service.

The proposed design, co-locating Telstra and Optus on the same facility, removes the need for multiple sites in the Killcare Heights, Killcare and Hardys Bay area.

#### Greenfield Site Selection

There has been a known coverage deficit within this location for a number of years. Optus and Telstra have been seeking a solution to this coverage issue for a number of years. The subject site was selected based on an extensive search of the area.

The coverage area is represented by a 'coverage polygon' which depicts the desired coverage area of the facility. Figure 1 shows the target coverage polygon and surrounding sites.



Figure 1: Target coverage polygon and surrounding sites

The site is for infill network coverage in a high bushfire risk area, for surrounding sites at Ettalong Beach (Resort rooftop) and Macmasters Beach (45m lattice tower). All three Carriers are co-located on these sites.

Topography in the coverage polygon is very undulating, rising generally from west to north and north-east and from south to north.

The undulating land and tall, dense vegetation rule out utilising Small Cell facilities to cover the area. The antennae of a facility must be above the canopy of trees to provide reliable coverage.

Due to the land elevation, selection for a viable site in the polygon is generally limited to the area:

- North of Manly View Road (east of approx. 23 Manly View Road to approx. Macdonald Street);
- North of Macdonald Street; and
- East of Wards Hill Road.

Only locations within the above parameters have produced candidates with viable coverage results.

Approximately half of this area is low density residential development with very high amenity. Many dwellings in the area are oriented to take in views of the ocean. Being entirely residential (save for a small portion of Bouddi National Park), this area provides no opportunities for siting a monopole.

Land north of Stewart Street and north of The Scenic Road (east beyond its intersection with Stewart Street) is more open with, for the most part, rural residential properties.

Commercial / Utility land uses in this area include:

- Council's water reservoir
- Bells at Killcare hotel and restaurant
- Water reservoir and NSW Police monopole

As presented within the SEE, six candidates were originally considered in the wider area. Four of these six candidates were ruled out as they did not meet the coverage objectives of the proposed facility. This is primarily driven by topography. These candidates were detailed within Section 4 of the SEE and are summarised in Table 1 below.

<b>Table 1 – Summary of Previously Considered Candidates As presented in Section 4 of SEE</b>	
<b>Candidate</b>	<b>Reason Location was Discounted</b>
Candidate A: Swap out of existing NSW Police 29m monopole Zone: E3 223 The Scenic Road, Killcare Heights	This existing facility is near the boundary of the coverage area. A site in this location will not meet the RF requirements for the site. It is also close to existing Optus facility S1289 at Macmasters Beach and thus does not provide the required in-fill coverage.
Candidate B: Low Impact on the water reservoir Zone E3 223 The Scenic Road, Killcare Heights	Near the edge of the coverage area. A site in this location will not meet the RF requirements for the site.  Insufficient height to provide coverage into the development areas in the polygon.
Candidate C: Low Impact on the water reservoir Zone E4 37 Wards Hill Road, Killcare Heights	Insufficient height under LI – unable to project above canopies of nearby trees. Council not supportive.
Candidate D: New 30m monopole (overall height 33m) Zone E4 37 Wards Hill Road, Killcare Heights	Proposed Candidate.
Candidate E: New 30m monopole Zone E1 National Park. Hawke Head Drive Box Head	Significant tree clearing required.  Near the edge of the coverage area. A site in this location will not meet the RF requirements for the site.
Candidate F: New 30m monopole Zone E1 Bouddi National Park. Off Hawk Head Drive	Significant tree clearing required.  Near the edge of the coverage area. A site in this location will not meet the RF requirements for the site.

As a result of feedback received, a second site selection process was undertaken to consider locations where there was more confidence that a site at the location would satisfy the required coverage objectives.

The majority of these locations are low density residential developments with very high amenity. This further limits opportunities for site selection. The result of this secondary review is presented within Figure 2 below:

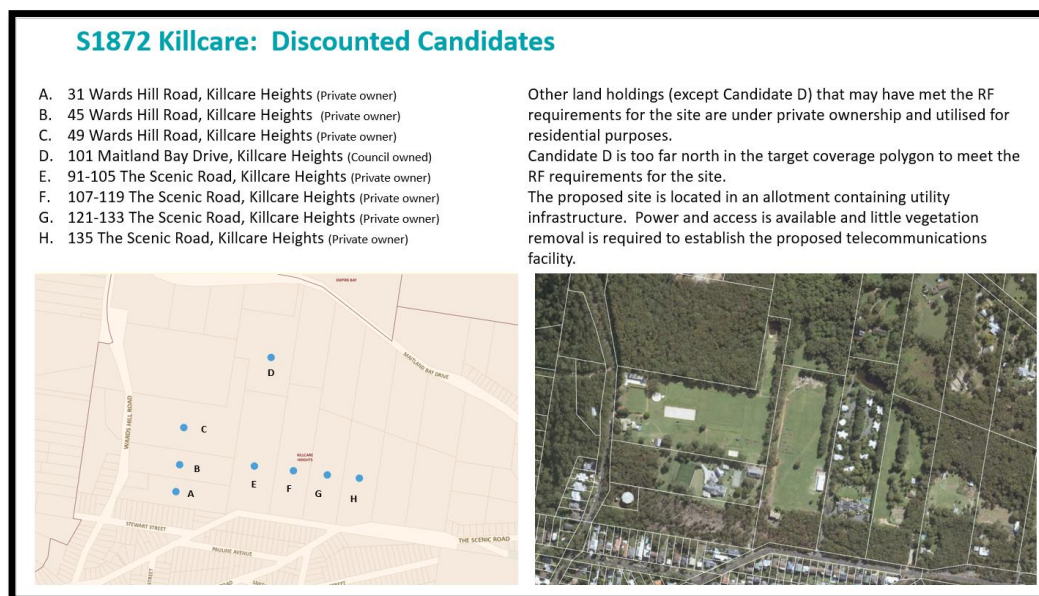


Figure 2: Discounted Candidates

Based on the limited number of sites for consideration due to topography and its associated impacts of radio frequency performance, it was determined that the subject site, where existing utility services are already present, was the most suitable location for the proposed facility. Based on this determination, considerable effort was made to best site the facility on the subject allotment to reduce visual impact on the residential area and Wards Hill Road.

#### Siting on the Subject Property

The locations considered on this property and why they were discounted was detailed within the Addendum to the SEE submitted to Council on 11 March 2021 and is presented again below.



Options considered within the subject site were:

1. Remaining consistent with the proposed location as per the Development Application lodged in December 2019;
2. Remaining within the existing site footprint but rotating the compound 180 degrees to allow for a moderate increase in separation to the roadway;
3. Moving north to site the facility at the northern most portion of subject land, aligned with the existing access point;
4. Partial shift to align with the existing pump room; and
5. Relocation to the rear (southern) portion of the subject land.


These locations are identified indicatively within Figure 3 below.



**Figure 3:** Indicative Locations Considered on Subject Site

After extensive consultation with Council over a period of months, Option 2 was determined to be most viable. This site allowed for Council's ongoing maintenance requirements at the subject land to

be met whilst improving separation from Wards Hill Road. Further details about the five considered options is provided within **Table 2** below.

Table 2 – Options Considered within the Subject Land	
Option Considered	Benefit and Constraints
Option 1 - Remaining consistent with proposed location.	This location was originally considered most viable however after consideration of matters raised during community consultation and based on Council engineering feedback, it was determined alternate locations within the subject land needed to be reviewed
Option 2 Remaining within existing site footprint but flipping the compound to allow for moderate increased separation from the roadway.	This location allows for the proposed monopole to be moderately setback from the property boundary, reducing the visual impact of the proposal to residential dwellings in the locality and to Wards Hill Road. Further setback was not possible due to Council's engineering requirement to have the facility setback by 3m from underground services, specifically the underground water pipe.
Option 3 Moving north to site the facility at the northern most portion of subject site, aligned with existing access point.	This location is depicted within the below mark-up. Whilst originally considered viable, this location was not acceptable to Council due to its potential impact on accessibility and maintenance of the other utilities on the subject land. Council's water reservoir is a crucial water asset within the Central Coast Council and any facility constructed within the subject land should not compromise the existing functionality of the property. 
Option 4 Partial shift to align with the existing pump room.	This location allowed the facility to be further setback off Wards Hill Road and aligned with the existing pump room. However, due to Council's specific requirements for a 3m setback from underground utilities (as discussed in relation to Option 3 above), this location was not acceptable to Council.



Option 5 Relocation to the rear (southern) portion of the subject land.	This location was originally considered during the 2018 site selection process for the proposed facility. This location was ruled out as Council Water and Sewer staff could not support the facility being located anywhere east of the pumping station. This was due to the risk to buried water mains and Council's infrastructure in general.
	As a result, this location could not be pursued.

It is hoped that by altering the compound orientation, and reducing both the Optus and Telstra lease areas, the visual impact of the proposed facility from Wards Hill Road will be partially improved. Further to this, Optus has elected to utilise an outdoor unit as opposed to a larger equipment shelter to further reduce the visual impact of the proposed facility from Wards Hill Road.

It is acknowledged that this will not eliminate the visual impact however, it is hoped the impact will be minimised (as much as is possible) from outside of the subject land.

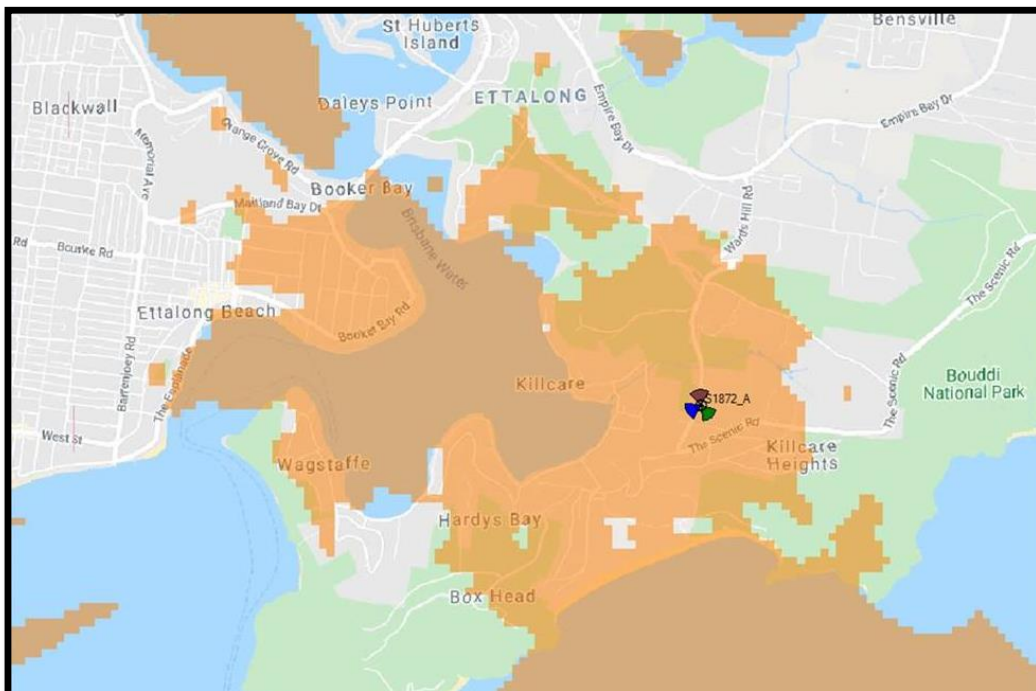
### **Range of Proposed Telecommunications Facility**

The proposed facility will provide an essential service to the Killcare area.

At present, there is a significant mobile coverage deficiency within the Killcare area and surrounding suburbs. The proposed facility will provide coverage to an estimated 1300 registered addresses. In addition, the proposal involves both Optus and Telstra equipment and as such will allow for the provision of coverage in the area for two Carriers from one structure, preventing the proliferation of towers within the area.

The facility is expected to provide coverage to areas highlighted in dark orange identified within Figure 4.

The coverage quality will vary as distance from the facility increases.



**Figure 4:** Expected LTE700 Coverage from the Proposed Facility (shown in dark orange)

Generally the coverage received from the proposed facility can be summarised as:

- The proposed facility is expected to provide coverage to over 1300 addresses.
- There is no effective site currently servicing the area within a 3km radius.
- There are two Optus facilities within 3.6km of the proposed facility, one is 3.3km north-east and the second 3.36km west across the Brisbane Waterway at Ettalong Bay. The proposed facility intends to fill the coverage gap between these two facilities.
- The challenging terrain further reduces the impact existing sites have in the area. Given the bushfire risk within the area, and that the proposal includes both Telstra and Optus coverage, it is considered that a facility in this location would be important for communication services within the community in an emergency.
- The proposed facility will provide improved Optus coverage in an area which is currently considered to have poor mobile voice and data coverage. It will improve data download capacity and call traffic capacity.

### Clause 115 of the State Environmental Planning Policy (Infrastructure) 2007

Clause 115 of the State Environmental Planning Policy (Infrastructure) (ISEPP), requires the consent authority take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette before determining an application for a telecommunications facility.

These Guidelines are known as the NSW Telecommunications Facilities Guideline Including Broadband (2010). An assessment of the proposal against these guidelines was submitted as Appendix K to the SEE. This assessment has been moderately updated in Table 3 below, to include the latest information on the proposed facility.

<b>Table 3: Assessment of Proposal Against the NSW Telecommunications Facilities Guideline Including Broadband (2010)</b>		
<b>Principle 1: A Telecommunications facility should be sited to minimize visual impact</b>		
<b>Specific Principles</b>	<b>Compliance</b>	<b>Comment</b>
(a) <i>As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.</i>	Yes	(a) to (c) These principles relate to facilities that are located on an existing building or structure and are not directly applicable to new freestanding monopole elements such as proposed in this instance.
(b) <i>The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.</i>		(d) The associated equipment would be housed in a prefabricated outdoor unit and equipment shelter. The shelters would be coloured Pale Eucalypt and this could be conditioned by council as part of any development consent.
(c) <i>Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.</i>		(e) The facility has been located and designed to respond to the surrounding landscape context. The location was significantly influenced by the landscape, as detailed in the addendum to the SEE. For further detail, please see chapter 10.4.5 of the SEE and associated visual impact assessment.  (f) The proposal is not within proximity of a local or state heritage listed item or conservation area.

<p>(d) Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical</p> <p>(e) A telecommunications facility should be located and designed to respond appropriately to its landscape setting.</p> <p>(f) A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.</p> <p>(g) A telecommunications facility should be located to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.</p> <p>(h) The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.</p> <p>(i) A telecommunications facility that is no longer required is to be</p>		<p>(g) The proposed facility does not occupy a position that will or sightlines to any heritage item of place landmark, streetscape, vista or panorama.</p> <p>(h) The direct impact area for the construction of the compound, 10m APZ and access track requires the removal of 0.037 ha of the PCT 1627 Smooth-barked Apple - Turpentine - Sydney Peppermint heathy woodland. For this assessment, it is assumed that a total of 33 trees will require removal, with 22 of these relatively small with Diameter at Breast Height (DBH) between 30-150mm. Two E. botryoides are substantial sized trees, with DBH of 800mm, however, neither of these, nor any other trees to be impacted comprise hollows. The ecological impacts are detailed within the associated ecological impact assessment, submitted on 11 March 20 Council.</p> <p>(i) This aspect could be conditioned as part of any development consent.</p> <p>(j) The siting and design have taken into consideration the precautionary approach. For more detail please see Appendix I of SEE</p>
--	--	--

<p>removed and the site restored, to a condition that is like its condition before the facility was constructed.</p> <p>(j) The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.</p>		
<b>Principle 2: Telecommunications facilities should be co-located wherever possible</b>		
<p>(a) Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.</p> <p>(b) Overhead lines, antennas and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radiocommunications equipment to minimise the proliferation of telecommunication facilities and unnecessary clutter.</p> <p>(c) Towers may be extended for the purposes of co-location.</p> <p>(d) The extension of an existing tower must be considered as a practical co- location solution prior to building new towers.</p> <p>(e) If a facility is proposed not to be co- located the proponent must demonstrate that co-location is not practicable.</p> <p>(f) If the development is for a co- location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co- located telecommunications</p>	Yes	<p>(a) Not applicable</p> <p>(b) There are currently no existing telecommunications facilities located in the vicinity, please see chapter 4 of the SEE as well as this addendum to the SEE, with the required position, height and/or structural suitability that are potentially capable of providing the wireless radio services to the locality on which the proposed equipment can be co-located.</p> <p>(c) The proposal has been designed to allow for co-location and provide sufficient height. This proposal includes Optus and Telstra equipment.</p> <p>(d) Not applicable.</p> <p>(e) The proposal is for a co-located facility.</p> <p>(f) Not applicable.</p>

<i>facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.</i>		
<b>Principle 3: Health standards for exposure to radio emissions will be met</b>		
<p><i>(a) A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.</i></p> <p><i>(b) An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard and demonstrate compliance with the Mobile Phone Networks Code.</i></p>	Yes	<p>(a) The proposed installation would comply with the Australian Communications and Media Authority regulatory arrangements with respect to electromagnetic radiation exposure levels.</p> <p>(b) EME Exposure Levels from this site have been calculated in accordance with the ARPANSA prediction methodology and report format. This report is enclosed as appendix 1. For more detail, please see chapters 8 and 10.4.8 of the SEE.</p>
<b>Principle 4: Minimise disturbance and risk, and maximize compliance</b>		
<p><i>(a) The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any</i></p>		<p>(a) CASA has been notified of the proposal and has advised that the proposal is not within the obstacle restriction area of an aerodrome or at a height above ground level that would mandate the structure to be marked or lit. Please find enclosed a letter to and a letter from CASA as appendix F.</p>

<p>relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.</p> <p>(b) The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.</p> <p>(c) The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.</p> <p>(d) The telecommunications facility is not to affect the structural integrity of any building on which it is erected.</p> <p>(e) The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.</p> <p>(f) The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book 'Managing Urban Stormwater: Soils and Construction' (Landcom 2004), or its replacement.</p>		<p>(b) The base station is designed to create no electrical interference problems with other radio-based systems and complies with the requirements of relevant Australian Standards in this regard.</p> <p>(c) The base station facility is designed and will be installed in accordance with any relevant manufacturer specifications. The proposal would comply with the requirements of all relevant Australian Standards.</p> <p>(d) The facilities are not being erected on any existing building or structure.</p> <p>(e) The location and layout of the facilities reflect discussions with the landowner and would be reflected in any associated lease or licence entered between Optus/Telstra and the landowner/s.</p> <p>(f) to (j) These matters can be appropriately addressed through the imposition of conditions by council on any development consent.</p> <p>(k) to (l) The direct impact area for the construction of the compound, 10m APZ and access track requires the removal of 0.037 ha of the PCT 1627 Smooth-barked Apple - Turpentine - Sydney Peppermint heathy woodland. For this assessment, it is assumed that a total of 33 trees will require removal, with 22 of these relatively small with Diameter at Breast Height (DBH) between 30-150mm. Two E. botryoides are substantial sized trees, with DBH of 800mm, however, neither of these, nor any other trees to be impacted comprise hollows. The ecological impacts are detailed within the associated ecological impact</p>
---	--	---

<p>(g) Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.</p> <p>(h) Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.</p> <p>(i) Traffic control measures are to be taken during construction in accordance with Australian Standard S1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.</p> <p>(j) Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.</p> <p>(k) Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.</p> <p>(l) The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species</p>		<p>assessment, submitted on 11 March 20 Council.</p> <p>(m) The site has been cleared to accommodate the water reservoir use. As such it is unlikely that there would be any Aboriginal heritage located at the subject site. For more detail, please see chapters 3.1, 9.2.5, 9.2.6 and 10.4.3 of the SEE.</p> <p>(n) The site has been cleared to accommodate the water reservoir use. As such it is unlikely that there would be any Aboriginal heritage located at the subject site. For more detail, please see chapters 3.1, 9.2.5, 9.2.6 and 10.4.3 of the SEE</p>
--	--	---



<p>and communities avoided wherever possible.</p> <p>(m) The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.</p> <p>(n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.</p>		
--	--	--

#### Clause 4.6 Variation Request

Below is a written response providing grounds for a variation to a development standard prepared in accordance with Appendix 3 of the Department of Planning's guidelines.

1. What is the name of the environmental planning instrument that applies to the land?

Gosford Local Environmental Plan 2014

2. What is the zoning of the land?

E4 – Environmental Living

3. What are the objectives of the zone?

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.

- To provide land for low-impact tourist-related development that is of a scale that is compatible with the special ecological, scientific or aesthetic values of the area.
- To ensure that development is compatible with the desired future character of the zone.

4. *What is the development standard being varied? e.g. FSR, height, lot size*

Height of Building

5. *Under what clause is the development standard listed in the environmental planning instrument?*

Clause 4.3 – Height of Buildings

6. *What are the objectives of the development standard?*

- (a) to establish maximum height limits for buildings,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity,
- (e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,
- (f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

7. *What is the numeric value of the development standard in the environmental planning instrument?*

8.5m height limit.

8. *What is proposed numeric value of the development standard in your development application?*

33m in height.

9. *What is the percentage variation (between your proposal and the environmental planning instrument)?*

75%

10. *How is strict compliance with the development standard unreasonable or unnecessary in this particular case?*

The nature of telecommunication facilities requires the radio frequency equipment, such as antenna, to sit elevated above the surrounding structures and vegetation. Greater height of radio frequency equipment allows the signal to propagate further, providing more effective coverage to a greater area

17

from the facility. A 33m height is the minimum height required to allow the radio signal to provide coverage to the appropriate area. A 33m height allows for signal to be uninterrupted by surrounding buildings and trees and accounts for surrounding topography.

*11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.*

If the proposed development was to comply with the building height requirement of 8.5m it would not effectively meet the coverage objectives of the facility. This would therefore make the proposed facility unviable for Optus. This would not be effective co-ordination of orderly development.

*12. Is the development standard a performance based control? Give details.*

This development standard is not performance based.

*As outlined in "Varying Development Standards: A Guide" there are other additional matters that applicants should address when applying to vary a development standard.*

*13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?*

Strict compliance with the current building height standard would be unreasonable in this instance. Strict compliance would inhibit the proposed development's purpose.

*14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.*

There are sufficient environmental planning grounds to justify contravening the relevant development building standard. The proposal is for a telecommunication facility required to provide necessary infill mobile voice and data coverage, an essential service, to a bushfire prone area. Effort has been made to locate the facility in the most appropriate location in the context of the area. The facility will be located with an existing utility services area, in an otherwise primarily residential area. As stated above, telecommunication facilities must protrude above the surrounding building line and be designed at a height which allows the RF signal to adequately service the area.

### **Operational Management Plan for Lease Area**

The ongoing operational management of the Optus lease area will be governed by the agreed conditions within the final lease document between Central Coast Council and Optus Mobiles Pty Ltd. The lease has not been finalised and executed by both parties however at present, on-going management includes:

- The Lessee must use all reasonable endeavours to minimise interference with the Lessor's existing use of the Land.
- The Lessee must keep the Premises clean and tidy and free from rubbish.
- The Lessee must not install or display advertisements on the Premises. This clause does not apply to the Lessee's operational signage or signage required by law.

- The Lessee must maintain the ground areas within the Premises, including mowing, weeding and removing leaf litter and fallen branches.
- The Lessee must not contaminate, pollute or cause any environmental harm or hazard on the Premises or the Land ('Environmental Harm') and must comply with all relevant environmental laws.
  - If the Lessee creates any Environmental Harm or breaches any environmental laws, the Lessee must immediately notify the Lessor and the relevant Government Agency. The Lessee is responsible for preparing, at its own cost, any reports required to determine the nature and extent of the Environmental Harm and for preparing a remediation plan, if required by the Lessor or the relevant Government Agency. The Lessee must provide the Lessor with a copy of all notes and reports and obtain the Lessor's approval of the remediation plan (if one is required).
- The Lessee must remove any Environmental Harm caused by the Lessee and clean up the Premises in accordance with the remediation plan (if any) and the requirements of the relevant Government Agency, and to the reasonable satisfaction of the Lessor.
- The Lessee must on receiving a written notice from the Lessor:
  - remove any graffiti on the Premises or on the Telecommunications Equipment; or
  - make good any damage to the Premises or anything on the Premises, or to any access controls installed by the Lessee, caused by vandalism.
- The Lessee must maintain the Premises in good repair, order and condition during the Term, fair wear and tear excepted.
- The Lessee must maintain the Telecommunications Equipment in good repair, order and condition during the Term at its cost to the reasonable satisfaction of the Lessor and in accordance with all relevant statutory requirements.
- If the Lessee or the Lessee's employees or agents damage the Premises or any part of the Premises the Lessee must promptly make good the damage to the reasonable satisfaction of the Lessor.

#### **Landscaping and Tree Removal Offset**

A landscaping plan has been submitted to Council to demonstrate a landscaping solution. It is intended to be considered indicatively, upon Council approval of the proposed site location, Optus will commit to formalising the landscape plan and seek approval from Council prior to obtaining a Construction Certificate.

The landscaping plan is designed to mitigate the impact of the proposed tree removal as well as partially screen the proposed facility from Wards Hill Road. Due to the requirements of the Inner Protection Area (IPA) associated with the asset protection zone (APZ) a full screening solution of the facility could not be achieved. The IPA requirements for the APZ include:

- Tree canopy cover should be less than 15% at maturity;
- Lower limbs should be removed up to a height of 2 m above the ground;
- Shrubs should not be located under trees;
- Shrubs should not form more than 10% ground cover; and
- Leaves and vegetation debris should be removed.

To achieve the above, outlined within the submitted bushfire impact plan, the landscaping plan provides provision for three large trees within the APZ and no understory planting.

Planting is proposed on the northern and southern portion of the subject site to offset the impact of the associated tree removal for the proposal. Optus is also committed to undertake offset 2:1 replacement planting at an alternate location, such as a local park, of Council's choosing and are happy for this to be conditioned within any planning permit.

The below accompanies this addendum to the SEE:

- Appendix 1 – Amended Plans

Kind regards,



**Joanna Ward**

Lendlease Services – on behalf of Optus Mobiles Pty Ltd  
0447682140  
Joanna.Ward@Lendlease.com



17 September 2021

Susana Machuca  
Development Assessment South  
Central Coast Council  
P.O. Box 21  
GOSFORD, NSW 2250

Sent via email: [Susana.Machuca@centralcoast.nsw.gov.au](mailto:Susana.Machuca@centralcoast.nsw.gov.au)

Dear Ms Machuca

**RE: Cause 4.6 Variation Request to accompany Development Application DA 57736/2019  
Proposed Optus telecommunications facility at 37 Wards Hill Road, Killcare Heights NSW**

Optus Mobile Pty Ltd (Optus) has engaged Lendlease Services Pty Ltd (Lendlease) to project manage the end-to-end rollout of the Optus wireless network across Australia. Lendlease is writing on behalf of Optus, to provide additional information to assist with the assessment of DA 57736/2019.

As an outcome of the Local Planning Panel (LPP) meeting on 19 August 2021 the LPP determined that a revised request to vary a development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014 (GLEP) be prepared and submitted to Council.

The Clause 4.6 Variation Request is to include:

- A list and assessment/consistency against each of the objectives of the zone;
- Assessment/discussion against the objectives of development standard; and
- Demonstrate why compliance with a development standard is unreasonable or unnecessary in the circumstances.

The specific Development Standard which the applicant seeks to vary is the Height of Buildings Standard (the Standard), listed within Clause 4.3 of the GLEP. Pursuant to Clause 4.3 of the E4 – Environmental Living zone, the subject property and surrounding area have a building height limit of 8.5m.

The proposal is for a new telecommunications facility, consisting of a 30m monopole and two headframes supporting antennas and ancillary equipment; one for Optus and one for Telstra. The highest headframe, the Optus headframe, brings the total height of the structure to 33m in height. The heights of each Carrier's antennas can be seen in Figure 1 below.

The overall 33m height creates a 288% variation to the development standard height limit of 8.5m.

Lendlease Services  
Zenith Centre, Level 3, Tower B, 821 Pacific Highway  
Chatswood NSW 2067 Australia  
[www.lendlease.com](http://www.lendlease.com)

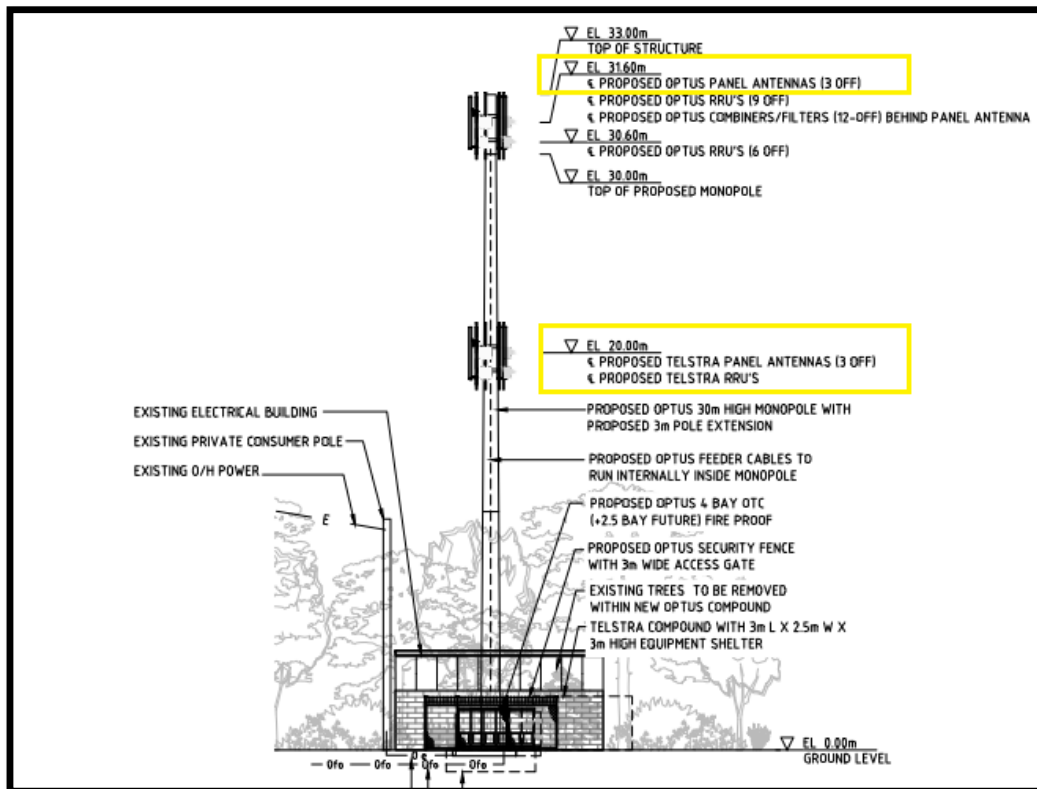


Figure 1: Elevation of proposed development showing overall structure height.

To provide an appropriate degree of flexibility; pursuant to Clause 4.6(3); exceptions to Development Standards can be granted provided the applicant provides a formal written request to the consent authority justifying the contravention of a development standard.

Recent Case law *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 has provided judgement on how a written request under Clause 4.6 should be prepared.

A Clause 4.6 variation request must adequately demonstrate each of the required outcomes of Clause 4.6(3) which are that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the development; and
- there are sufficient environmental planning grounds to justify contravening the development standard.

This variation request has carefully considered each of these matters and how the proposed development relates to them. It will demonstrate how compliance with each of the above two matters has been achieved. As per both of the above cited cases, the above matters will not be “adequately” addressed unless the non-conformity is justified. This variation request will provide justification for this non-conformity on the basis that the functional use of the proposed essential infrastructure, requires the antennas to be elevated over the Carriers’ network coverage areas.

**Compliance with the development standard is unreasonable or unnecessary in the circumstances of the development.**

*Wehbe v Pittwater Council (2007) NSWLEC 827* is widely cited throughout considerable Clause 4.6 Variation case law. This case established five potential ways to determine whether a development standard could be considered to be unreasonable or unnecessary. Compliance with the standard can be considered as unreasonable or unnecessary provided it is outlined how the request falls within one of the five justifications raised.

1. the objectives of the development standard are achieved notwithstanding non-compliance with the standard; or
2. the underlying objective or purpose of the standard is not relevant to the development; or
3. the underlying objective or purpose would be defeated or thwarted if compliance was required; or
4. the standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard; or
5. the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.

*Wehbe* was a decision of the Court dealing with SEPP 1, however it has been also found to be applicable in the consideration and assessment of Clause 4.6.

The proposed development is considered to fall within justifications 1 and 2 as demonstrated below. There is also reference to justification 4.

This variation request will address justification two first, being that the underlying purpose of the standard is not relevant to the development.

The intent of the Height of Building Standard is to limit undesirable impacts from matters such as bulk and scale, overshadowing, solar access and visual dominance. Clause 4.3 is a generic provision and could not possibly anticipate every type of development likely to be proposed. It was not intended to limit infrastructure heights but rather limit the height of standard buildings. Infrastructure such as telecommunications facilities, power poles and masts have far less impact when they breach the Height of Building standard than that of a more traditional building such as a dwelling, office or retail building. The most important consideration of this height provision is what the impact will be. The impact of breaching this height restriction is different depending on the type of development - an office building would have a vastly greater impact on the skyline than that of a monopole of the same height. Whilst it is acknowledged that a large office building of the same height would considerably impact the character of the area and potentially lead to further noncompliant development, the same could not be said for a telecommunications facility.



It is for these reasons that we understand that the purpose of this standard is not intended to constrain utility infrastructure development.

In accordance with Section 4.3 of the GLEP, the objectives of the Height of Buildings Development Standard are:

- (a) *to establish maximum height limits for buildings,*
- (b) *to permit building heights that encourage high quality urban form,*
- (c) *to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity,*
- (e) *to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*
- (f) *to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.*

**An assessment of the proposal against the objectives to Height of Buildings Standard is presented below:**

- (a) *to establish maximum height limits for buildings,*

The proposal does not offend this objective. This objective addresses the administrative goal of the development standard and does not require an environmental planning outcome. As a result, compliance is achieved based on the fact that the proposal does not compromise the environmental outcome intended to be achieved by the Development Standard. The establishment of a monopole of greater height than provided in Clause 4.3 of the E4 – Environmental Living zone does not set a precedent for other buildings to exceed the height limit.

The Height of Buildings clause is intended to provide maximum height limits for standard buildings. The slimline design of the facility ensures that breaching the building height limit does not necessarily compromise the remaining objectives of the Height of Buildings Clause.

- (b) *to permit building heights that encourage high quality urban form,*

Telecommunication facilities by their nature are not considered to be architectural features or significant contributors to the urban form. Therefore, there is no community expectation that they will have a stylish design or be architecturally significant and contribute to the urban form of the area. The expectation from the community is that telecommunication facilities, like other service infrastructure, will fade into the background so as not to detract from the surrounding urban form. The proposed development achieves this goal.

The building height limit will still be in effect and the proposed telecommunications facility will not irrevocably change the character of the area so as to render this control meaningless.

The topography of the area and the orientation of existing houses (which are at a depressed viewpoint from the proposed development and orientated west to take advantage of the Hardys Bay outlook) minimises visual impact on existing residential development and urban form in the area.

The predominant character of the area is low density residential development within a zone which embraces the natural beauty and environmental significance of the surroundings. The area is flanked by National Parks to the north, south and east. Development in the area is orientated to capitalise on the natural beauty which surrounds it. Development is relatively low lying, and the urban form is dwarfed by the environmental characteristics of the area. This is what would be expected in land zoned for E4-Environmental Living.

*(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,*

Compliance with this objective is achieved. The development comprises a single monopole supporting two slimline headframes. The thin design of the facility prevents blocking of the sky and sunlight penetration for all users of the area including nearby residences and road users.

Again, it is important to consider what the impact of contravening the development standard would be for each development type. A standard building with an overall height of 33m would have a vastly greater impact on solar access and overshadowing than the proposed development. The monopole is slimline, and the headframe is an open design. The shadow cast will not impact on any nearby residential properties' exposure to sunlight or sky.

*(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,*

The proposal does not offend this objective. Telecommunication services are required in all zones as mobile voice and data services are required in all locations. The design of the facility does not detract from the variation in land uses between national park, recreational uses, coastal town commercial uses and residential uses. The slimline nature of the facility is designed to blend into the background and will not interrupt the transition in built form between the E4 Environmental Living zone and surrounding land uses.

*(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*

Compliance with this objective is achieved. As mentioned above, existing urban development in the area is designed to take advantage of the surrounding natural landscape. Residential development is orientated to take in natural views and vistas. The closest residential properties to the facility (residences on the western side of Wards Hill Road) are orientated west to take in views of Hardys Bay. The topography of the area allows the properties on Wards Hill Road to take in the natural beauty of Hardys Bay in their western orientation.

Given the topography of the area, all properties west of Wards Hill Road are lower in elevation than 37 Wards Hill Road. As a result, dwellings on the western side of Wards Hill Road will have limited or filtered views of the proposed development.

In respect of the Wards Hill Road view corridor as an entry point to the area; the base of the proposed facility will be screened to traffic along Wards Hill Road by existing vegetation. The topography and vegetation of the area ensure that distance views are not impacted by the facility. Passing motorists utilising Wards Hill Road may intermittently view the upper portion of the proposed facility however this viewing will be brief based on the topography and speed limit of 60km on the road. It is not expected that viewing the top of the facility would impact the character of the area.

The facility, due to its slimline design and siting, will not impact view corridors or significant vistas. The siting takes advantage of the natural topography of the area to mitigate the impact of the height on surrounding vistas.

*(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.*

Compliance with this objective is achieved. The slimline facility will not create undue overshadowing, nor will it impact views to natural topographical features. While the area is undulating, there are no specific topographical features of note in the surrounding area. The topography of the area did dictate the required height of the facility however it also allows for the facility to disappear into the background in many instances.

The reason the development does not conflict with the objectives of the Standard is because the purpose and intent of the Standard is not relevant to the development. The Standard was not established to limit the height of telecommunication facilities and other infrastructure services but rather to limit the height of more traditional buildings.

Lastly, and relevant to justification 4 of Webhe, there are multiple proven examples where similar developments contravene the Height of Buildings Development Standard;

- a. The Subject Site – there is an existing above ground water reservoir, 10.9m in height.
  - a. Building Height Limit in Accordance with GLEP: 8.5m
- b. Existing 35m Concrete Monopole with 8m Extension located at 189 Cape Three Points Road, Kincumber NSW 2251.
  - a. Building Height Limit in Accordance with GLEP: 8.5m
- c. Existing 30m Concrete Monopole at 223 The Scenic Road Killcare Heights.
  - a. Building Height Limit in Accordance with GLEP: 8.5m

Mobile telecommunication facilities are required to be higher than surrounding development and vegetation in the area to provide reliable depth of coverage.

**There are sufficient environmental planning grounds to justify contravening the development standard.**

The environmental planning grounds which justify contravening this development standard are:

- The proposal is generally in accordance with the objectives of the E4 Environmental Living Zone.
- The proposal is in the public interest.
- There is a demonstrated need for this infrastructure in the area.
- The proposal is in accordance with the objectives of the Gosford Local Environmental Plan 2014 and State Environmental Planning Policy (Infrastructure) 2007 and other State and Federal Legislation, that allow development for the purposes of telecommunications facilities on any land, with consent (refer to Statement of Environmental Effects).
- The environmental impact assessment undertaken pursuant to Section 4.15 of the EPA Act 1979 has determined that the proposal would not cause any significant environmental impact and would have minimal impact upon the amenity of the area (refer to Statement of Environmental Effects).

The subject site is zoned E4-Environmental Living. The objectives of the E4 Environmental Living zone as well as an assessment of the proposal against each objective are listed below. The proposed facility is not expected to undermine the character or the objectives of zone.

**An assessment of the proposal against the objectives of the E4 Environmental Living Zone:**

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

The proposal does not conflict with this objective. The existing use at the subject site is not residential development as it hosts a 10.9m high, above ground, water reservoir. The facility is not expected to infringe on the ecological, scientific or aesthetic values of the area. Rather, the proposed development will provide a service which is essential to existing development in the area.

The area is recognised as a mobile blackspot. Having no reliable mobile coverage in a residential area, in a high bush fire risk area, is a significant safety risk. A telecommunications facility in this location complements the residential land uses in the area by providing the local community with essential mobile telecommunication services:

- to work from home;
- for education;
- for emergency contact in the case of bushfire, accident or for personal safety; and
- for social connectivity.

Mobile base stations are relatively commonplace in today's landscape – thousands of telecommunications facilities are in operation across Australia, over a variety of land uses and environments. The proposed facility will have significant benefits to the local surrounding communities of Killcare Heights. It is considered that the benefits of the coverage improvement from the proposed facility will outweigh the visual impact of the proposed facility on Wards Hill Road. Further, it is not considered that the visual impact will have an impact on the overall aesthetic of the zone.

- *To ensure that residential development does not have an adverse effect on those values.*

This objective is not materially relevant as the proposal is not for residential development.

- *To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.*

The proposal would contribute to the provision of improved Optus and Telstra coverage to Killcare Heights and the Central Coast Council LGA. The facility would provide economic benefits, through improved services and a choice of service providers. The improvement in coverage and call quality would facilitate business opportunities for local operators and the ability of residents to work from home.

Usage of mobile services continues to widen as new technologies become progressively more affordable and accessible for the wider community. The previous decade has also seen a significant rise in use of the wireless network for smart devices. Australia has one of the highest penetrations of "smartphone" usage in the world, with reliance on this technology increasing – the abovementioned ACMA study estimates 83% of Australian adults were using smartphones as at June 2019, against 79% in May 2018. The provision of maintaining communications services in the area will have many beneficial impacts on the people who live, work, visit and travel through the area. Better internet access will improve education, access to media, health services and information, and increase efficiency in the workplace.

Reliable mobile coverage promotes economic activity for the area and contributes to the sustainability of the residential development within the area. This development can achieve these goals without compromising the ecological significance of the area. The facility is on an already disturbed land parcel utilised for infrastructure and only removes the required amount of vegetation to meet bushfire asset protection zone requirements.

- *To provide land for low-impact tourist-related development that is of a scale that is compatible with the special ecological, scientific or aesthetic values of the area.*

The development is sited on already disturbed land which is currently utilised for community infrastructure. It does not impact the availability of land for tourist related development. Although not specifically relevant to this objective, the provision of reliable mobile voice and data services will support tourism pursuits.

- *To ensure that development is compatible with the desired future character of the zone.*

The subject land is surrounded to the north, east and south by existing mature, native vegetation. Further to the north, north-east, south and to the nearby western side of Wards Hill Road is residential development. The development to the north-east and north is characterised by low density dwellings on large rural living allotments, while that to the south and west of Wards Hill Road is of a more suburban character.

The proposal would retain the informal scenic character of the locality from public vantage points. The proposal avoids a solid, high or extensive boundary treatment and utilises an existing driveway, negating the need for an additional access track and loss of street verge trees and vegetation. The proposal is compatible with the desired character of the E4 Environmental Living Zone.

The monopole is a thin structure that would create limited overshadowing, similar to that of a power pole. As previously identified, the impact of a 33m high monopole is significantly less than the impact of a 33m high building, such as an office building.

**Is the proposal in the public interest?**

The development is part of the Federal Government Blackspot program. The Australian Federal Government has committed \$380 million to the Mobile Black Spot Program (the Program) to invest in telecommunications infrastructure to improve mobile coverage and competition. The Program receives co-contributions from State and Local Governments as well as from mobile network operators, resulting in a total investment of \$875 million. Blackspot sites are put forward for funding by local communities and Councils.

The proposed site is required to infill a significant coverage gap in the area. This coverage gap impacts subscribers to all current mobile phone Carriers; Optus, Telstra and Vodafone. The proposal incorporates Telstra and Optus onto one compact structure. This will provide a choice of service providers to mobile users in the area. Most significantly it will provide essential mobile voice and data coverage in times of emergency.

The need for reliable mobile coverage is no more prevalent than in the time of emergency. NSW Ambulance states that the majority of calls to triple zero are made from mobile phones and the NSW Rural Fire Service state that poor mobile phone coverage in high bushfire risk areas can put people's lives at risk.

The facility is well located in the context of the local area, sited on a property with other essential infrastructure and with existing vegetation screening from nearby residences. As discussed above, the closest residential dwellings are orientated away from the subject land. It is considered that any negative visual impact from the facility would be offset by the significant benefit of the provision of reliable mobile voice and data coverage. Secondly, it is considered that any negative visual impact from the proposal would not have an overall impact on the character and objectives of the Zone.

There is no public benefit in maintaining the development standard as an 8.5m high telecommunications facility would not provide any benefit to the local community as it would not alleviate the current coverage deficit.

The proposed development is in the public interest.

**Justification for the Facility**

The proposed infrastructure is required to provide necessary infill mobile voice and data coverage, an essential service, to a bushfire prone area. Every effort has been made to locate the facility in the most appropriate location in the context of the area. The facility will be located within an existing utility

services area, in an otherwise primarily residential and rural residential area. The existing development on site, an above ground water reservoir, also already breaches the building height limit.

Each Carrier has different coverage objectives and varying differences in their coverage "footprints". This is why one Carrier may be able to function at a lower height than another on the same facility. In this instance the centerline of the Telstra antennas is 20m, while the centerline of the Optus antennas is 31m. As a comparison, the lattice tower at Macmasters Beach, which is located 3.3km from the subject property hosts Telstra equipment at 37m, while the Optus equipment sits at 30m. The required height of each Carrier is also dictated by the bandwidth each Carrier is licensed by the ACMA to utilise.

If the proposed development was to comply with the building height requirement of 8.5m it would not meet the coverage objectives of the facility. The height limitation would render the proposed facility unviable for any Carrier. This would not be effective coordination of orderly development as per Section 1.3(c) of the EP&A Act.

If the Optus antenna height was reduced, there would be noticeable degradation of coverage areas in key locations including Maitland Drive, Putty Beach Road and parts of the Bouddi Coastal Walk. A drop in height of the Optus antennas would result in coverage degradation to the Bouddi Coastal Walk look out and into the edge of the national park. To the north, the improved mobile coverage would not reach Maitland Drive. At the current proposed height, the projected coverage of Maitland Drive is set to become good. If the antenna height were to be reduced, coverage along Maitland Drive would be reduced to average and poor.

Based on the information provided, we respectfully request the LPP assume concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the GLEP, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.

Kind regards,



**Joanna Ward**

Lendlease Services – on behalf of Optus Mobiles Pty Ltd  
0447 682 140  
Joanna.Ward@Lendlease.com

**Central Coast**  
Local Planning Panel

Minutes of the  
**LOCAL PLANNING PANEL MEETING**

Held remotely - online  
on 19 August 2021

**Panel Members**

Chairperson	Donna Rygate
Panel Experts	Grant Christmas Sue Francis
Community Representative/s	Mark Elsley

**Central Coast Council Staff Attendance**

Scott Cox	Director Environment and Planning
Andrew Roach	Unit Manager Development Assessment
Emily Goodworth	Section Manager Development Assessment North
Alisa Prendergast	Section Manager Development Assessment South
Robert Eyre	Principal Planner Development Assessment South
Martin Ball	Principal Solicitor Governance & Legal
Susana Machuca	Senior Development Planner Development Assessment South
Amy Magurran	Development Planner Development Assessment South (observer)
Johnson Zhang	Team Leader Water Assessment
Danielle Allen	Senior Ecologist Development Assessment Pre Lodgement
Kim Holding	Civil Works Engineer
Rachel Callachor	Meeting Support Officer Civic Support
Kelly Drover	Meeting Support Officer Civic Support
Sophie Kennedy	Civic Support Officer Civic Support
Zoie Magann	Meeting Support Officer Civic Support

The Chairperson, Donna Rygate, declared the meeting open at 2.02pm and advised in accordance with the Code of Meeting Practice that the meeting was being recorded.

The Chair read an acknowledgement of country statement.

**Apologies**

***The Panel noted that no apologies had been received.***



### **1.1 Disclosures of Interest**

---

The Panel noted that declaration forms had been received and no conflicts had been identified.

**Unanimous**

### **2.1 Confirmation of Minutes of Previous Meeting**

---

***The Minutes of previous Local Planning Panel Meetings, which had been endorsed by the Chairs of those meetings, were submitted for noting:***

- ***Local Planning Panel meeting held on 22 July 2021***
- ***Electronic Determination regarding DA59637/2020 dated 27 July 2021***

**Unanimous**

### **Public Forum**

---

The following people addressed the Panel:

***Agenda item 3.1 - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights -  
Telecommunications Tower***

- 1 Josephine Howie - against recommendation
- 2 Rodney Dawson - against recommendation
- 3 Michael Allen - for recommendation
- 4 Mike Allsop (President, Wagstaffe to Killcare Community Association) -  
for recommendation
- 5 Tony Denny - against recommendation
- 6 Joanna Ward (Lendlease) - on behalf of applicant

***Agenda item 3.2 - DA/57957/2020 - 396 & 404 The Entrance Road, Erina Heights -  
Centre-Based Child Care Facility***

- 1 Peta Harris (Perception Planning) - on behalf of applicant

The Local Planning Panel public meeting closed at 2:49pm. The Panel moved into deliberation from 3:02pm, which concluded at 3:30pm.

**Attachment 8 Minutes of the Local Planning Panel Meeting 19 August 2021**

**3.1 DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower**

<b>Site Inspected</b>	Site orientation via video conference
<b>Relevant Considerations</b>	As per Council assessment report Supplementary memo dated 18.08.21
<b>Material Considered</b>	<ul style="list-style-type: none"> <li>• Documentation with application</li> <li>• Council assessment report</li> <li>• Submissions</li> <li>• Council advice regarding notification</li> </ul> Addresses in public meeting and responses to Panel questions
<b>Council Recommendation</b>	Approval
<b>Panel Decision</b>	<p><b>1 The Local Planning Panel notes the advice received from Council in relation to the fourth round of notification of previous submitters in relation to this matter and is satisfied that notification has occurred consistent with Council's policies.</b></p> <p><b>2 The Panel is satisfied with Council's legal advice on the issue of whether the subject site is Community/Operational land.</b></p> <p><b>3 The Local Planning Panel however deferred the determination of the application to allow the applicant to submit a revised Clause 4.6 request . Such revised request to be provided within four weeks of today's meeting.</b></p> <p><b>4 The Panel also requests Council to consult Darkinjung Local Aboriginal Land Council (DLALC) about the application during this period and to report their response, if any, to the Panel</b></p> <p><b>The Panel requests Council to submit a supplementary assessment report addressing the above matters to a special electronic Panel public meeting within 8 weeks of today's meeting.</b></p>
<b>Reasons</b>	<p>1 The Panel considers that the Applicant's Clause 4.6 request submitted with the Addendum to the Statement of Environmental Effects does not fully satisfy the requirements of clause 4.6(3) of the Gosford LEP 2014.</p>

While the Panel accepts the advice from Council staff in respect of current protocols, the Darkinjung Local Aboriginal Land Council should be consulted about the proposal, with the outcome included in a supplementary report to the LPP.

**Votes** The decision was unanimous

**3.2 DA/57957/2020 - 396 & 404 The Entrance Road, Erina Heights - Centre-Based Child Care Facility**

---

**Site Inspected** Site orientation via video conference

**Relevant Considerations** As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report
- Submissions
- Address in public meeting and responses to Panel questions

**Council Recommendation** Approval

**Panel Decision**

- 1 That development consent be granted to DA57957/2020 for a Centre-Based Child Care Facility on No. 396 and 404 The Entrance Road, Erina Heights subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel's decision.**
- 3 That Council advise relevant external authorities of the Panel's decision.**

**Reasons**

- 1 The proposal is satisfactory having regard to the relevant environmental planning instruments, plans and policies.
- 2 The proposal has been considered against the provisions of Interim Development Order No 122 and has been found to be satisfactory.

**Attachment 8 Minutes of the Local Planning Panel Meeting 19 August 2021**

---

- 3 There are no significant issues or impacts identified with the proposal under s.4.15 of the *Environmental Planning and Assessment Act 1979*.

**Votes** The decision was unanimous

**4.1 DA/61991/2021 - 23 Anchorage Crescent, Terrigal - Alterations and Additions**

---

<b>Site Inspected</b>	Site orientation via video conference
<b>Relevant Considerations</b>	As per Council assessment report
<b>Material Considered</b>	<ul style="list-style-type: none"> <li>• Documentation with application</li> <li>• Council assessment report</li> </ul>
<b>Council Recommendation</b>	Approval
<b>Panel Decision</b>	<p><b>1 That development consent be granted to DA61991/2021 Part 1 - LOT: 15 DP: 202199, 23 Anchorage Crescent, Terrigal - Alteration/Additions to Existing Dwelling subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.</b></p>
<b>Reasons</b>	<p>1 The proposal is satisfactory having regard to the relevant environmental planning instruments, plans and policies.</p> <p>2 The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.</p> <p>3 Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact.</p> <p>4 It is considered that the proposed development will complement the locality and meet the desired future character of the area.</p>

**Votes** The decision was unanimous

**4.2 DA/61627/2021 - 7 Helen Drive, Copacabana - Demolition of Existing and new Three Storey Dwelling**

---

**Site Inspected** Site orientation via video conference

**Relevant Considerations** As per Council assessment report

**Material Considered**

- Documentation with application
- Council assessment report

**Council Recommendation** Deferred Commencement Approval

- Panel Decision**
- 1** ***That the Local Planning Panel assumes the concurrence of the Secretary of the Department of Planning to Permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.***

***The Panel agrees that the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.***

***Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the objectives for development within zone R2 – Low Density Residential in which the development is proposed to be carried out.***

  - 2** ***That deferred development consent be granted to DA61627/2021 – 7 Helen Drive, Copacabana - Demolition of dwelling and construction of single dwelling over three levels - subject to appropriate conditions as detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act.***

**Reasons** 1 The proposal is satisfactory having regard to the relevant

environmental planning instruments, plans and policies.

- 2 The development is considered suitable for the site despite the listed variations.

**Votes**

The decision was unanimous

**5.1 Request to prepare a Planning Proposal for 437 Wards Hill Road, Empire Bay**

The Panel supports Council progressing with the Planning Proposal, however Council should ensure that any subsequent development application for use of the land thoroughly addresses the issues of flooding, evacuation and suitability of the future proposed use.