

5.4 OUTCOME OF PUBLIC NOTICE - PROPOSED LEASE OF PORTION NO. 41 (LOT: 31) BRITANNIA ROAD, LEEDERVILLE

- Attachments:**
1. Plan of Lease Area & Drawings of Telecommunication Facility
 2. Summary of Submissions from Public Notice

RECOMMENDATION:

That Council **APPROVES** the lease of a portion of land located No. 41 (Lot 31) Britannia Road, Leederville to Indara Corporation Pty Ltd (ACN 643 875 165) shown on the plan attached as Attachment 1 subject to the following key terms:

1. **Initial Term:** Ten (10) years
2. **Option Term:** Two x Five (5) year terms
3. **Rent:** \$48,000 per annum (plus GST)
4. **Rent Review:** CPI on 1 July annually
5. **Market Rent Review:** Market rent review at each Option Term which is to be undertaken 6 – 9 months before commencement of each Option Term.
6. **Outgoings:** Lessee's responsibility
7. **Rates & Taxes:** Lessee's responsibility
8. **Permitted Use:** For the purpose of constructing, maintaining and operating a telecommunications network and telecommunications service including but not limited to accessing, installing, storing, operating, repairing, maintaining, altering, removing, adding and replacing telecommunications equipment consistent with the evolving nature of telecommunications services
9. **Maintenance of leased area:** Lessee's responsibility
10. **Redevelopment clause:** City will have ability to require Indara to relocate after ten (10) years provided the City provides Indara with twenty four (24) months' written notice.

PURPOSE OF REPORT:

To present the outcome of public notice advertised in accordance with section 3.58 of *Local Government Act 1995* (Act) and to seek Council's determination whether to proceed with the proposed lease to Indara Corporation Pty Ltd (Indara) (ACN 643 875 165).

BACKGROUND:

Optus currently maintains an existing telecommunications facility at No. 7 Lynton Street, Mount Hawthorn on land which is owned by FES Ministerial body (State Emergency Services). The lattice tower structure on which Optus and other telecommunications companies have installed equipment is also owned by the State Emergency Services. Although, the carriers have received notice to vacate the site by January 2023 due to potential redevelopment of the land, Optus is currently on a month to month tenancy at No. 7 Lynton Street, Mt Hawthorn. Optus has not advised the City of their forthcoming status with the tenancy.

Optus is seeking an alternate location within the area to ensure continuous service delivery of the telecommunications network with improvements to the network coverage along the Mitchell Freeway and residences within proximity to Britannia Reserve and Lake Monger.

In the interim, until a permanent site can be secured, Optus has instigated a separate project to find a suitable temporary location for a Cell on Wheels (CoW) to ensure continuous delivery of the telecommunications network within this area once the 7 Lynton Street property is decommissioned. Unfortunately, the CoW will only offer partial relief in network coverage holes within the Mount Hawthorn and Leederville areas as the network provided by these temporary facilities are considerably shorter than a permanent facility. Given that Telstra, Optus and Vodafone are all reliant on the existing facility at No.7 Lynton Street, if the tower is decommissioned the area will have network coverage holes from all mobile carriers until a new permanent telecommunications facility is in operation.

The City received a request from the Optus project team (Optus) acting on behalf of Indara to construct and operate a Telecommunications Facility on a portion of Britannia reserve.

Council at its meeting on 4 April 2023 resolved to:

- approve the giving of public notice under s3.58 of the Act and inviting submissions for the proposed lease of a portion of land located at No. 41 (Lot 31) Britannia Road, Leederville at Britannia Reserve subject to key lease terms;
- if no submissions were received as a result of public notice period, authorise the Chief Executive Officer to enter into the lease and Mayor and Chief Executive Officer to affix the common seal and execute the lease in accordance with the Execution of Documents Policy; and
- if any submissions were received as a result of the public notice period, the Chief Executive Officer will provide submissions to Council for consideration and Council will determine whether to proceed with the proposed lease.

DETAILS:

No. 41 (Lot 31) Britannia Road, Leederville (Land) is owned in freehold by the City and comprised in Certificate of Title Volume 1769 Folio 075. The Land forms part of Britannia Reserve.

Indara is proposing to install a 36 metre high monopole with a headframe reaching a height of approximately 38 meters with flood lighting located within a fenced area with a ground footprint size of approximately 140 square metres. The monopole would be shared by Optus, Vodafone and Telstra who would all locate their antennas on the monopole. The compound would also contain a concrete pole foundation, six bay outdoor equipment cabinet, a separate equipment cabinet for Telstra, underground cables and other associated infrastructure. Given that electricity is required to be provided to the Premises, Indara would be required to install a separate sub-meter to account for electricity usage.

The proposed location is shown in the proposed tower location plans in **Attachment 1**.

The City gave public notice of the proposed lease, which included the lease term, rent and proposed lease area. The following are the key terms of the proposed lease with Indara, which are supported by Indara with the exception of the Market Rent Review.

1	Initial Term	10 years (2023 – 2033)
2	Option Term	Two x Five (5) year options: (a) 5 years (2034 – 2038) (b) 5 years (2039 – 2043)
3	Rent	\$48,000 per annum (plus GST) The current GRV for the Land is \$25,000. The market valuation undertaken on 14 September 2022 is attached as Confidential Attachment 1 .

4	Rent review CPI Increase Market rent review	Rent will be increased by CPI on 1 July annually. CPI increase is consistent with the City's rent review clause for all its leases, including commercial leases. Note that Indara has supported CPI increases subject to there being no market rent review. Market rent review is not agreed by Indara. Despite this, a Market Rent Review prior to the commencement of each option term is recommended by Administration as this term is consistent with the City's commercial leases and ensures the City is receiving the market rent for the Land over the life of the lease: Market rent review is to be undertaken 6-9 months prior to the commencement of each Option Term, and that the date for exercise of the options is 3-6 months prior to the commencement date of the relevant option term. The cost of meeting the market rent review is to be shared equally between the City and Indara.
5	Outgoings	Paid by lessee In accordance with the City's Property Management Framework, Indara will be responsible for paying all outgoings.
6	Rates & taxes	Paid by lessee In accordance with the City's Property Management Framework, Indara will be responsible for paying all rates and taxes.
7	Permitted Use	For the purpose of constructing, maintaining and operating a telecommunications network and telecommunications service including but not limited to accessing, installing, storing, operating, repairing, maintaining, altering, removing, adding and replacing Telecommunications Equipment consistent with the evolving nature of telecommunications services.
8	Maintenance of leased area	Lessee's responsibility.
9	Redevelopment clause	City will have ability to require Indara to relocate after ten (10) years provided the City provides Indara with twenty four (24) months' written notice.

The commencement of the Lease would be conditional upon Indara obtaining development approval in respect of the Telecommunications Facility. In order to minimise the risk that there will be network coverage issues as a result of the 7 Lynton Street telecommunication facility decommissioning, Indara have already lodged a development application for the Telecommunications Facility proposed for Britannia Reserve. This application is subject to community consultation and is to be determined by the Western Australian Planning Commission.

Subject to Council approval of the key terms, formal documentation would be prepared by Indara's lawyers and subsequently reviewed by Administration.

CONSULTATION/ADVERTISING:

Local Public Notice

In accordance with section 3.58 of the *Local Government Act 1995* (Act), publication of the local public notice for a period of 16 days between 29 April 2023 and 15 May 2023.

Local public notice was provided in the following ways:

- published in The Voice local newspaper;
- posted to the City Administration and Civic Centre, Library and Local History Centre notice boards;
- published on the City's website and social media platforms; and
- signage installed on the site of the proposed lease area.

Submissions and responses

A total of 22 submissions were received at the end of the public notice period with eight in support of the proposed lease area and 14 objecting to the proposed lease.

A petition containing 28 signatures was also received objecting to the proposed lease area and requesting an alternative location be considered.

The submissions largely raised concerns in relation to:

- potential health implications from the telecommunications facility; and
- the location of the telecommunications facility.

The detailed submissions and Administration's responses to the submissions are set out in **Attachment 2**.

Health concerns associated with the presence of a telecommunications facility will be assessed and considered by the Western Australian Planning Commission as part of the State Planning Policy 5.2 prepared under the *Planning and Development Act 2005*. This policy applies throughout Western Australia in respect to above and below ground telecommunications infrastructure other than those facilities exempted under the *Commonwealth Telecommunications Act 1997* (Telecommunications Act). The telecommunications facility proposed by the operator is not exempted under the Telecommunications Act.

The location of the lease area for a telecommunications facility has been considered by Administration for close to three years in consultation with the community, initially as part of the Britannia Reserve Development Plan. Administration has, since 2021, undertaken pop-up sessions, community consultations, informal resident consultations, one-on-one resident consultation and resident phone discussions with the community and recommends that the lease area shown in the plan in **Attachment 1** be approved by Council.

Administration has notified all submitters of the lease being presented to Council for approval.

LEGAL/POLICY:

S 3.58(3) of *Local Government Act 1995* – Disposing of Property:

- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed*
 - (b) *disposition —*
 - 1. *describing the property concerned; and*
 - ii. *giving details of the proposed disposition; and*
 - iii. *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

and

it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to consider the proposed location within Britannia Reserve to Indara for the use of a Telecommunications Facility. The commercial risks associated with operating and maintaining the Telecommunications Facility and infrastructure would be managed solely by Indara.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Enhanced Environment

Our parks and reserves are maintained, enhanced and well utilised.

Connected Community

Our community facilities and spaces are well known and well used.

Thriving Places

Our physical assets are efficiently and effectively managed and maintained.

Innovative and Accountable

Our resources and assets are planned and managed in an efficient and sustainable manner.

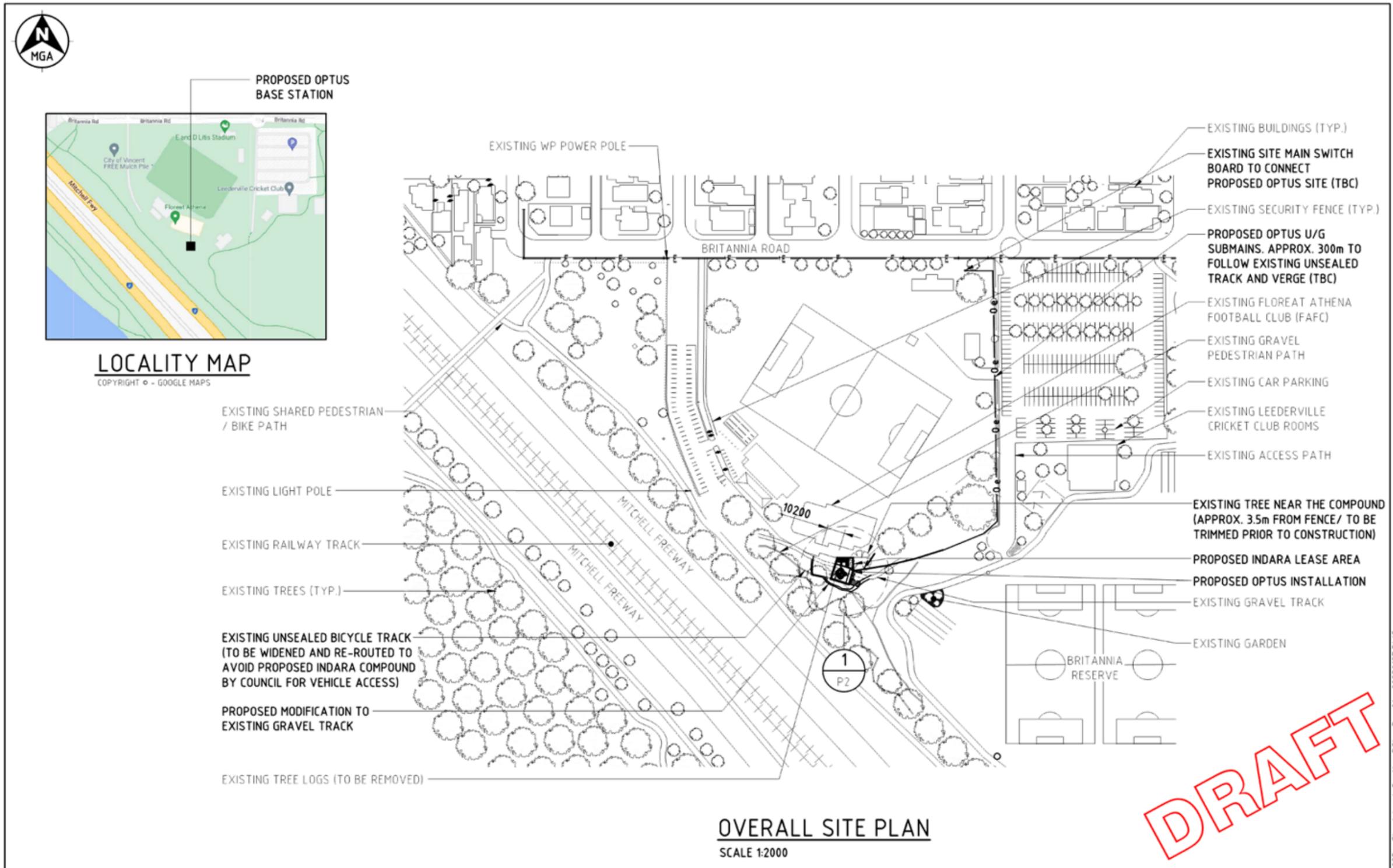
FINANCIAL/BUDGET IMPLICATIONS:

The proposed rent is \$48,000 plus GST per annum which will be held in Municipal Funds which is consistent with the City's usual approach to lease income.

COMMENTS:

The proposed location has been considered by Administration and the following considerations are relevant:

- The location balances service coverage with minimisation of visual amenity impact to users of Britannia Reserve and owners and occupiers of dwellings adjoining Britannia Reserve. The proposed tower would be purpose built to accommodate more frequency channels and increased network capacity. This would mean that coverage and capacity in the network would improve;
- The Telecommunications Facility would be located approximately 150 metres away from the closest dwellings on Britannia Road;
- The majority of the Telecommunications Facility would benefit from screening from mature trees located at the edge of the reserve adjacent to Mitchell Freeway and the sporting club clubrooms; and
- The proposed location would be the most appropriate location for the Telecommunications Facility in Britannia Reserve. The proposed location does not impact on current or future areas of useable POS.



01	22.12.22	ISSUED FOR APPROVAL	VENTIA	SRS	KG	AT	HE
Rev	Date	Revision Details	Consultant	CAD	Designer	Verifier	Approver

ventia
Level 8, 80 Pacific Hwy, North Sydney, NSW 2060
www.ventia.com

Client:
OPTUS

Project:
MOBILE NETWORK AUSTRALIA
SITE No:- P0925
GLEN DALOUGH SOUTH
BRITANNIA ROAD, LEEDERVILLE

Drawing Title:
DRAFT SITE LAYOUT - SHEET 1 OF 2

Drawing Status:
FOR APPROVAL

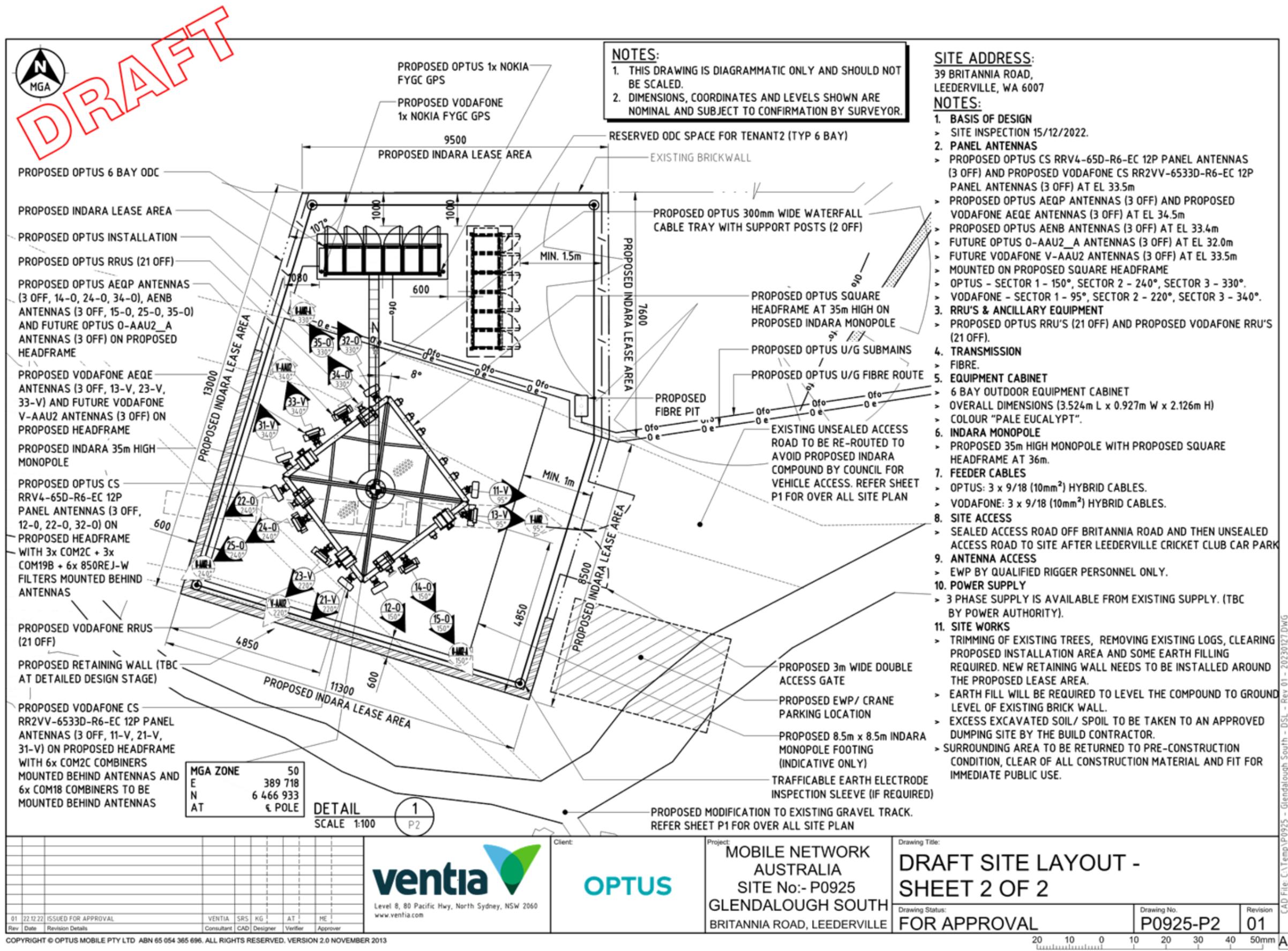
Drawing No.
P0925-P1

Revision
01

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

20 10 0 10 20 30 40 50mm **A3**

CAD File: C:\Temp\IP0925 - Glendalough South - DSL - Rev 01 - 20230127.DWG
Plot By: Milan Shukya Date: 28.02.23 3:40 PM



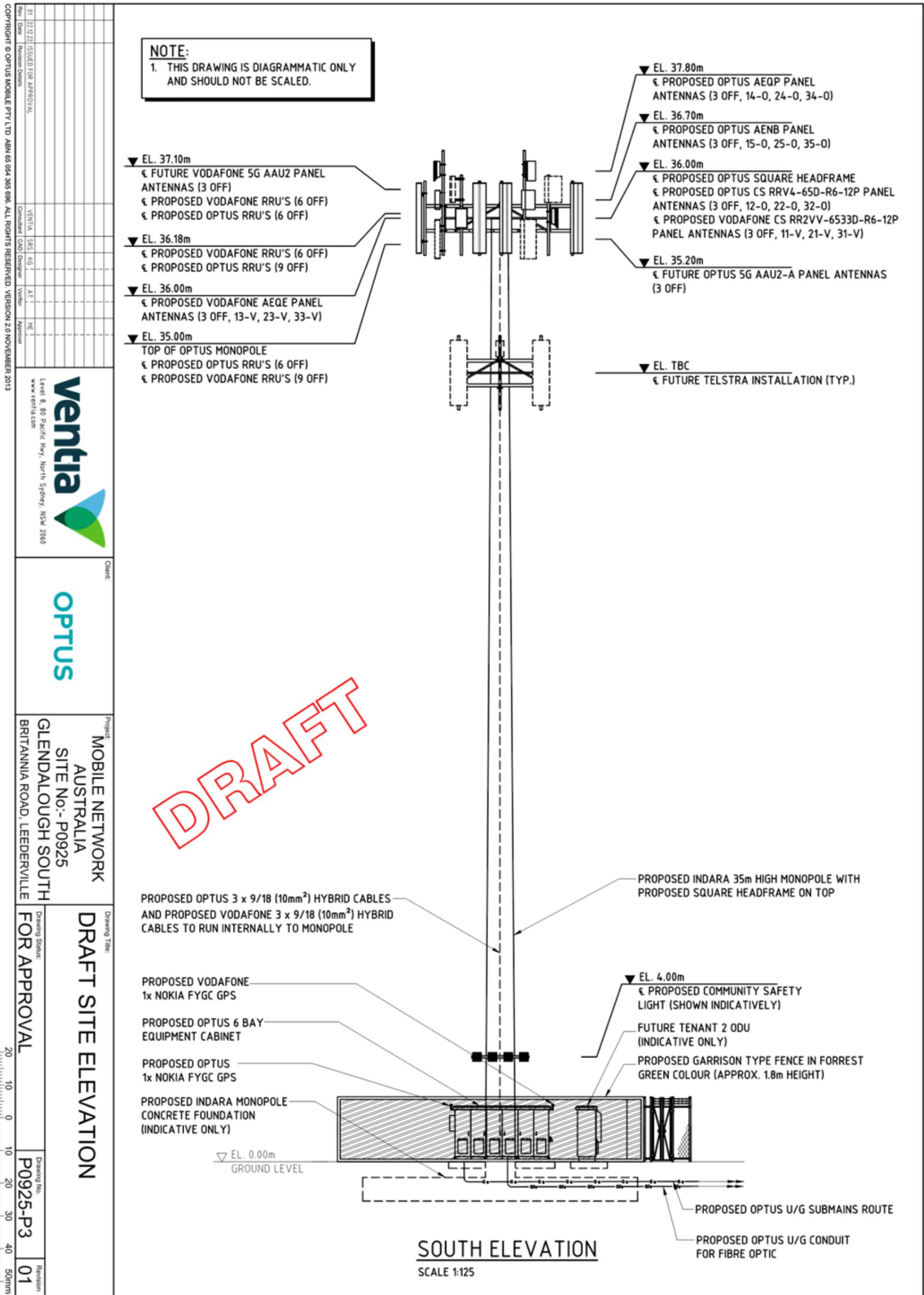
Rev	Date	Revision Details	Consultant	CAD	Designer	Verifier	Approver
01	22.12.22	ISSUED FOR APPROVAL	VENTIA	SRS	KG	AT	ME

ventia
Level 8, 80 Pacific Hwy, North Sydney, NSW 2060
www.ventia.com

OPTUS

Client: **MOBILE NETWORK AUSTRALIA**
Project: **SITE No:- P0925**
GLENDALOUGH SOUTH
BRITANNIA ROAD, LEEDERVILLE

Drawing Title: **DRAFT SITE LAYOUT - SHEET 2 OF 2**
Drawing Status: **FOR APPROVAL**
Drawing No: **P0925-P2**
Revision: **01**



01	22/12/22	ISSUED FOR APPROVAL	VENTILIA	SNS	IG	AT	HE
Rev	Date	Revision Details	Consultant	CEO	Designer	Vendor	Approver

Copyright © OPTUS MOBILE PTY LTD. ABN 65 004 365 696. ALL RIGHTS RESERVED. VERSION 2.0 NOVEMBER 2013

Level 8, 80 Pacific Hwy, North Sydney, NSW 2060
www.ventia.com



EXISTING



PROPOSED



PHOTO LOCATION



EXISTING



PROPOSED



PHOTO LOCATION

PLANNING SOLUTIONS PS
 URBAN & REGIONAL PLANNING

SCALE NTS @ A3
 DATE 14 February 2023
 FILE 230214 8007 Photo Montage 2.dwg
 REVISION 1/CD/14.02.2023



**VIEW FROM BRITANNIA ROAD RESERVE
 LOOKING NORTH-WEST TOWARDS THE CRICKET NETS**
 LOT 30 (39) BRITANNIA ROAD
 LEEDERVILLE, WA

DISCLAIMER: THIS DOCUMENT IS AND REMAINS THE PROPERTY OF PLANNING SOLUTIONS AND MAY NOT BE COPIED IN WHOLE OR IN PART WITHOUT THE WRITTEN CONSENT OF PLANNING SOLUTIONS. ALL AREAS, DISTANCES AND ANGLES ARE APPROXIMATE ONLY AND ARE SUBJECT TO SURVEY BASE PLAN SOURCE.

Summary of Submissions**Outcome of public notice – proposed lease of a portion of Britannia Reserve for a telecommunication facility:**

The tables below summarise the comments received during the public notice period (29 April 2023 to 15 May 2023), together with the City's response to each comment.

No.	Comments Received in Support:	Administration's Comment:
1.	<p><u>Impact</u></p> <p>Minimal to no impact on the surrounding area.</p>	Noted.
2.	<p><u>Location</u></p> <ul style="list-style-type: none"> • Support proposed location which is south of Litis Stadium clubrooms. • Least intrusive location of the park. • Location is a significantly more appropriate than the previous two proposed locations submitted as part of the Britannia Reserve Development Plan. • Current location makes use of what is currently a 'no-man's land'. There is an adhoc gravel bike 'pump' track but we understand this is being diverted (kids reshape/reroute this track in any case) and tree removal is being carefully minimised. • Importantly, it moves the tower away from residents and makes use of the drop in elevation, the Litis Stadium changing rooms infrastructure and existing tree canopy to best mask what is always going to be an unsightly structure. • The proposed lease area protects what is a small, but important pocket of communal green space as well as the visual amenity of local residents. It is the 'gateway' to Britannia Reserve, Lake Galup and the Floreat Athena club rooms and sits at the intersection of key vistas and pedestrian routes. • There is never an ideal location for this type of infrastructure within a residential neighbourhood. The current telecoms tower in Lynton Street which this is replacing, I'm sure you will agree is perhaps as poor an outcome as you could get in a residential setting. • With its decommissioning, the City has the opportunity to significantly improve the visual amenity for the local and wider area for the next generation to come and I believe this is a significantly better outcome than the previous options. 	Noted

Summary of Submissions**Outcome of public notice – proposed lease of a portion of Britannia Reserve for a telecommunication facility:**

No.	Comments Received in Support:	Administration's Comment:
3.	<u>Revenue</u> Lease will provide much needed funds back into the reserve. Good revenue for City of Vincent.	Noted.
4.	<u>Infrastructure</u> <ul style="list-style-type: none"> • Bad phone coverage in the area. Black zone for mobiles and home internet is not working. • Without the lease (and the telecommunication facility), there will be zero to no coverage in the Mt Hawthorn area which is critical. It is as critical as power and gas. 	<ul style="list-style-type: none"> • Optus currently maintains an existing telecommunications facility at No. 7 Lynton Street, Mount Hawthorn on a monthly tenancy. • If the tower at No. 7 Lynton Street site is decommissioned, Optus will instigate a temporary solution to ensure continuous delivery of the telecommunications network within this area. • This will only offer partial relief with network coverage holes within the Mount Hawthorn and Leederville areas as the network infrastructure provided by these temporary facilities are considerably shorter than a permanent facility. • Telstra, Optus and Vodafone are all reliant on the existing facility at No. 7 Lynton Street, if the tower is decommissioned the Mt Hawthorn and Leederville areas will have network coverage holes from all mobile carriers until a new permanent telecommunications facility is in operation.
No	Comments Received in Objection:	Administration's Comment:
1.	<u>Health Implications</u> <ul style="list-style-type: none"> • Concerns about 5G impact on patrons of Britannia Reserve. • Potential impact of mobile phone base stations on nearby residents. • Concerns regarding technology associated with the tower having effect on current and future generation's health. 	The health impact and considerations of the potential tower would form part of the assessment of the development application by the West Australian Planning Commission.

Summary of Submissions

Outcome of public notice – proposed lease of a portion of Britannia Reserve for a telecommunication facility:

No	Comments Received in Objection:	Administration’s Comment:
2.	<p><u>Location</u></p> <ul style="list-style-type: none"> • Majority of residents favouring Option 1 location i.e mulch pile. • Proposal for an alternative location on the other side of the freeway. • Much used pump-track and pedestrian path. Walk access being removed. • Affecting visual amenity of semi natural bush area. • Affecting children’s nature play area. • Too close to Litis Stadium and playing fields where children play. • Not child, family or community focused. • Unaesthetic • Proposed lease area is a known flight path and feeding area for red tailed black cockatoos. 	<ul style="list-style-type: none"> • When considering the appropriateness of locating the tower at the site identified on the Britannia Reserve Development plan as ‘option one’ the City received adverse feedback, in particular from residents whose dwelling abutted Britannia Road and are located opposite the car park accessed from Britannia Road and were concerned about the visual amenity impact of the tower in this location • ‘Option one’ would have resulted in the loss of amenities and a greater loss of POS area compared to the current proposed lease area. The basketball court and a number of established trees would have had to be removed to accommodate the base station and the height of the tower would not have had a great visual amenity impact. • A location across the Mitchell Freeway was considered by the operator and was deemed unsuitable as it did not offer the network coverage that would service the suburbs in that area without network holes. • The bike track and pedestrian path will not be removed. If the lease is approved, both the track and path will be relocated within the same vicinity away from the lease area. • Propose lease area reduces the potential visual amenity impact by being located as far as possible for surrounding properties compared to locations previously considered by the City. • The proposed lease areas does not result in the loss of any existing defined play areas. • The proposed location has been chosen as it presents the least visually obtrusive location being located on the lower section of the reserve. • Although red tailed black cockatoos are known to visit Britannia Reserve, to the best of the City’s knowledge, the Reserve is not a flight path to the cockatoos.

Summary of Submissions**Outcome of public notice – proposed lease of a portion of Britannia Reserve for a telecommunication facility:**

No	Comments Received in Objection:	Administration's Comment:
3.	<u>Environmental</u> <ul style="list-style-type: none"> • Environmental impact on red tailed black cockatoos. • Mature trees damaged. Trees hacked. 	<p>Any potential environmental impact would form part of the assessment of the development application by the West Australian Planning Commission. The trees surrounding the proposed lease area were pruned as part of Administration's ongoing maintenance operations.</p>
4.	<u>Planning considerations</u> Query assessment undertaken by operator's consultants.	<p>The responses from the planning consultants in Attachment 3 of Council Agenda 4 April 2023 re compliance of the State Planning Policy 5.2 will be considered by the West Australian Planning Commission when assessing the future development application by the operator.</p>
5.	<u>Lease considerations</u> Does lease include provisions relating to: <ul style="list-style-type: none"> • maintenance by operator is not to interfere with public use of public space; and • make good any damage or harm to the environment or space as a result of the proposed telecommunications facility being constructed and present on the proposed lease area. 	<p>If the lease is approved by Council, external lawyers will be appointed to represent the City. Administration will work with the external lawyers to ensure that the terms of the lease will mitigate potential risks to the City and will negotiate with the operator that they:</p> <ul style="list-style-type: none"> • will not interfere with the public use of Britannia Reserve; and • make good damage to the lease area.

Note: Submissions are considered and assessed by issue rather than by individual submitter.