

# AGENDA

## **NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL MEETING**

Notice is hereby given that a Meeting of the Northern Beaches Independent Assessment Panel will be held in the Council Chambers, Civic Centre, Dee Why on

**WEDNESDAY 19 JULY 2017**

Beginning at 6 p.m. for the purpose of considering and determining matters included in this agenda.



**Peter Robinson**  
**Executive Manager Development Assessment**

**Panel Members**

|                  |                           |
|------------------|---------------------------|
| Lesley Finn      | Chair (Environmental Law) |
| Steve Kennedy    | Urban Design Expert       |
| Marcus Sainsbury | Environmental Expert      |

**Quorum**

A quorum is three Panel members

**Conflict of Interest**

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

**Agenda for a Meeting of the Northern Beaches Independent  
Assessment Panel**

**to be held on Wednesday 19 July 2017**

**in the Council Chambers, Civic Centre, Dee Why**

**Commencing at 6 p.m.**

|            |  |          |
|------------|--|----------|
| <b>1.0</b> | <b>APOLOGIES &amp; DECLARATIONS OF PECUNIARY INTEREST</b>  |          |
| <b>2.0</b> | <b>MINUTES OF PREVIOUS MEETING</b>   |          |
| 2.1        | Minutes of Northern Beaches Independent Assessment Panel held 16 May 2017  |          |
| <b>3.0</b> | <b>NORTHERN BEACHES INDEPENDENT ASSESMENT PANEL REPORTS .....</b>  | <b>2</b> |
| 3.1        | Crown Reserve 84882, Griffin Road, Curl Curl - Installation of a Telecommunications Facility (Monopole and Antennae) with associated Equipment Shelter ..... | 2        |
| <b>4.0</b> | <b>REVIEW OF DETERMINATIONS</b>  |          |
|            | Nil  |          |
| <b>5.0</b> | <b>PLANNING PROPOSALS</b>  |          |
|            | Nil  |          |



## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL HELD 16 MAY 2017**

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#### **RECOMMENDATION**

That the Minutes of the Northern Beaches Independent Assessment Panel held 16 May 2017, copies of which were previously circulated to all Members, be confirmed as a true and correct record of the proceedings of that meeting.

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### **3.0 NORTHERN BEACHES INDEPENDENT ASSESMENT PANEL REPORTS**

**ITEM 3.1**                      **CROWN RESERVE 84882, GRIFFIN ROAD, CURL CURL -  
INSTALLATION OF A TELECOMMUNICATIONS FACILITY  
(MONOPOLE AND ANTENNAE) WITH ASSOCIATED  
EQUIPMENT SHELTER**

**REPORTING OFFICER**

**TRIM FILE REF**                      **2017/218579**

**ATTACHMENTS**                      **1** [↓](#) **Assessment Report**  
   **2** [↓](#) **Site and Elevation Plans**

**PURPOSE**

To refer the attached application for determination as required under adopted delegations of Council.

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**RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT**

THAT Council (Northern Beaches Independent Assessment Panel) as the consent authority refuse Development Consent to DA2017/0298 for Installation of a Telecommunications Facility (Monopole) with associated equipment shelter on land at Lot 7356 DP 1167221 Griffin Road, Curl Curl (John Fisher Park Reserve), for the reasons outlined in the report.

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**DEVELOPMENT APPLICATION ASSESSMENT REPORT**

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2017/0298 |
|----------------------------|-------------|

|   |   |
|---|---|
| <b>Responsible Officer</b>                | Sarah McNeilly (Independent Consultant Planner - Watermark Planning Pty Ltd)                            |
| <b>Land to be developed (address)</b>     | Crown Reserve 84882, Griffin Road, Curl Curl  |
| <b>Proposed Development</b>               | Installation of a Telecommunications Facility (Monopole and Antennae) with associated equipment shelter |
| <b>Zoning:</b>                            | RE1 Public Recreation   |
| <b>Development Permissibility:</b>        | Yes (Pursuant to State Environmental Planning Policy (Infrastructure) 2007                              |
| <b>Existing Use Rights:</b>               | No  |
| <b>Consent Authority:</b>                 | Northern Beaches Independent Assessment Panel   |
| <b>Land and Environment Court Action:</b> | No  |
| <b>Owner:</b>                             | Department of Industries (Lands)  |
| <b>Applicant:</b>                         | Optus Mobile Pty Limited  |

|                                  |  |
|----------------------------------|--|
| <b>Application lodged:</b>       | 5 April 2017   |
| <b>Application Type:</b>         | Local  |
| <b>State Reporting category:</b> | Infrastructure   |
| <b>Notified:</b>                 | 21/04/2017 to 26/05/2017   |
| <b>Advertised:</b>               | Advertised in accordance with A.7 of WDCP. Exhibited 24 April 2017 to 26 May 2017. |
| <b>Submissions:</b>              | 139 (133 against and 6 in support)<br>1 petition with 839 signatures (against)     |
| <b>Recommendation:</b>           | REFUSAL  |

|                                 |              |
|---------------------------------|--------------|
| <b>Estimated Cost of Works:</b> | \$250,000.00 |
|---------------------------------|--------------|

**ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

#### **SUMMARY OF ASSESSMENT ISSUES**

- Warringah LEP 2011 – Aims
- Warringah LEP 2011 – Objectives of the RE1 Zone
- Warringah DCP 2011 - Objectives
- Warringah DCP 2011 - D4 Electromagnetic Radiation
- Warringah DCP 2011 - D7 Views
- Warringah DCP 2011- D9 Building Bulk
- Warringah DCP 2011 - E7 Development on land Adjoining Public Open Space
- SEPP (Infrastructure) 2007, Clause 115 – Guidelines (Visual impact)
- EPAA Section 79C (1) (b) – Impact on the environment (built, natural and social impacts)
- EPAA Section 79C (1) (e)- Public Interest (Community Concerns in relation to impacts on the parkland, visual and scenic impacts and radiation)
- Electromagnetic Emissions
- John Fisher Park Plan of Management
- Inadequate plans submitted with DA
- Proximity to Nearby School

#### **SITE DESCRIPTION**

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 7356 DP 1167221 Griffin Road, Curl Curl (John Fisher Reserve)  |
| <b>Detailed Site Description:</b> | <p>The subject allotment comprises a large area of public open space separated into 8 parts and divided by Curl Curl Lagoon and Griffin Road. The allotment has an area of 14517.3m<sup>2</sup> and is zoned RE1 Public Recreation.</p> <p>Surrounding allotments consist of further public open space including sand dunes, parkland and the Abbott Road netball courts. North Curl Curl Public School is located approximately 400 metres north west of the site. Residential properties are the primary use surrounding the open space area in all directions. To the south east across Griffin Road is Curl Curl Beach.</p> <p>The area of the site relevant to this proposal is known as John Fisher Park and is accessed from Griffin Road. It includes an existing turfed soccer field, pedestrian path and is bounded by vegetation on its perimeter with the lagoon to the north and to Griffin Road to the east. The southern edge of the reserve to the residential properties is sparsely vegetated.</p> |





#### **SITE HISTORY**

There are numerous approvals relevant to the broader Parklands surrounding Curl Curl Lagoon and Curl Curl Beach in its entirety, which primarily deal with the North and South Curl Curl Surf Club's, sporting fields and community and sports centres.

There are no approvals in the immediate proximity of John Fisher Reserve which are of particular relevance to the subject application and its location.

#### **Prelodgement Meeting (PLM2016/0056)**

The applicant attended a prelodgement meeting at Council on 1<sup>st</sup> July 2016, wherein the applicant was advised that the option of a monopole at the selected location was not supported due to concerns in relation to impacts on the character of the parkland setting and visual and scenic impacts within the broader visual catchment.

#### **PROPOSED DEVELOPMENT IN DETAIL**

This application is for the construction of the following items as listed in the Statement of Environmental Effects:

- 25 metre monopole
- 3 x panel antennas attached on a turret mount at 26.6m (2600mm x 548mm x 150mm)
- Overall height of the structure is 28.2m (monopole plus antennas)
- Optus equipment shelter (2940mm x 2380mm x 3150mm)
- 11 x remote radio units
- Underground power and fibre connections

- Access path
- Additional screen planting
- Ancillary equipment

(Note: The following matters are identified as being inconsistencies or discrepancies in the application documentation:

- The description of the proposal varies in places
- Number of remote radio units are noted as 11 and 12 (clarification sought from Optus via Urbis)
- No plans or description is provided for the remote radio units detailing what these are or where they are located
- Path listed in the SEE is not shown in any plans
- No details of proposed fencing are provided
- The height of the monopole varies in plans, SEE and Visual impact Assessment
- The site and detail plans require more detail with regard to setbacks, dimensions etc. and are at too small a scale to be clearly read
- Only one elevation is provided)

Despite the above deficiencies in the documentation, a complete assessment of the critical issues associated with the proposal was able to be conducted for the purposes of making a conclusion and recommendation.

In consideration of the application, a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

| <b>Section 79C 'Matters for Consideration'</b>                                      | <b>Comments</b>   |
|---|---|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument        | See discussion on "Environmental Planning Instruments" in this report.                                |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument | Not Applicable  |
| Section 79C (1) (a)(iii) – Provisions of any development control plan               | Warringah Development Control Plan 2011 applies to this proposal.                                     |
| Section 79C (1) (a)(iiia) – Provisions of any planning agreement                    | None applicable.  |
| Section 79C (1) (a)(iv) – Provisions of the regulations                             | <u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed |

| Section 79C 'Matters for Consideration'   | Comments  |
|---|---|
|   | <p>conditions" of development consent. Should the Development Application be approved, these matters will be addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This is not relevant to the proposal.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). Should the Development Application be approved, this matter will be addressed via a condition of consent.</p> |
| Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report. In summary, it is noted that the proposed structure is not supported based on its negative visual and scenic impact to the character of the parklands and the broader locality.</p> <p>(ii) The proposed development will have a detrimental social impact in the locality considering its poor location with regard to impacts on community open space and the local school.</p>   |

| Section 79C 'Matters for Consideration'   | Comments   |
|---|--|
|   | (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.       |
| Section 79C (1) (c) – the suitability of the site for the development                 | The site is considered unsuitable for the proposed development based on the excessive scale and visual impact of the development on the parklands and setting. |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Public Exhibition” in this report.  |
| Section 79C (1) (e) – the public interest   | The visual impact of the structures from numerous public spaces and recreation areas warrants the refusal of the application in the public interest.           |

#### **EXISTING USE RIGHTS**

Existing Use Rights are not applicable to this application.

#### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application, Council received 139 submissions, including 133 raising objection and 6 providing support (including 1 petition with 839 signatures which raised objection).

| Name                          | Address/Email                       |
|-------------------------------|-------------------------------------|
| Thelma Hobday                 | 15 Curl Curl Parade, Curl Curl      |
| Susan Stack                   | Address withheld                    |
| Sophie Stack                  | 1/43 Adams Street, South Curl Curl  |
| Ann Sharp                     | 77 Brighton Street, North Curl Curl |
| Tod Logan                     | 2 Stirgess Avenue, Curl Curl        |
| Ms M McGuire                  | 23 Blackwood Road, North Curl Curl  |
| Morgan Irvine                 | 24 Avon Road, Dee Why               |
| Stephen Brickwood x 3         | 25 Blackwood Road, North Curl Curl  |
| Petition                      | 839 signatures                      |
| Name withheld                 | Address withheld                    |
| North Curl Curl Public School | Playfair Road, North Curl Curl      |
| Catherine Vautier             | 23 Griffin Road, North Curl Curl    |
| Kate Serisier                 | 12 Monash Parade, Dee Why           |
| Adrian Harley                 | 49 Bellevue Parade, North Curl Curl |
| Curl Curl Community Group     |                                     |

|                       |                                       |
|-----------------------|---------------------------------------|
| Michael Nikotin       | 3 Curl Curl parade, Curl Curl         |
| Christian Trabona     | 67 Griffin Road, North Curl Curl      |
| Kylie Trabona         | c/o North Curl Curl School            |
| Robyn Logan           | 4 Lalchere Street, Curl Curl          |
| ChrisThomas           | PO Box 4103, North Curl Curl          |
| K Wilson              | Daisy Street, Dee Why                 |
| Rachel Thomson        | 20 Seaview Ave, Curl Curl             |
| Nancy Wright          | 52 Robertson Road, North Curl Curl    |
| Rachel Thomas         | 9/43 Adams Street, Curl Curl          |
| Andrew Batchelar      | 17 Spring Road, North Curl Curl       |
| Angela Peterson       | 30 Robertson Road, North Curl Curl    |
| John Sullivan         | 15 Stewart Ave, South Curl Curl       |
| Louise Hislop         | 8 Playfair Road, North Curl Curl      |
| Christine Dunn        | 45 Curl Curl Parade, Curl Curl        |
| John Hanson           | 26 Pitt Road, North Curl Curl         |
| Johnathon Martin      | 29 McDonald Street, Freshwater        |
| Christine Freedman    | 5 Pitt Road, North Curl Curl          |
| Deidre Bennett        | 26 Robertson Road, North Curl Curl    |
| Christopher Smyth     | 8 Adams Street, Curl Curl             |
| Peter Gledhill        | 29 Farnell Street, South Curl Curl    |
| Sundip Ghedia         | 21 Pitt Road, North Curl Curl         |
| Edwin Bodkim          | 5 Lillie Street, North Curl Curl      |
| David Gilmour         | 18/178184 Pacific Parade, Dee Why     |
| Ruth Clarkson         | 4 Griffin Road, North Curl Curl       |
| Sally Taylor          | 31 Farnell Street, Curl Curl          |
| Arnold Barkhordarian  | 26a Surf Road, North Curl Curl        |
| Simon Yeandle         | 40 Bellevue Parade, North Curl Curl   |
| Lindsay Greinke       | 11 Robertson Road, North Curl Curl    |
| Susan Bruce           | 41 Bellevue Parade, North Curl Curl   |
| Janet O'Hare          | 89 Bennett Street, Curl Curl          |
| Kim Shelley           | 7 Pitt Road, North Curl Curl          |
| Robyn Price           | 16 Loch Street, Freshwater            |
| Tarne Zarzeczny       | 21 Curl Curl Parade, Curl Curl        |
| Lisa Stephens         | 5 Soniver Road, North Curl Curl       |
| Michael Huchison      | 26 Surf Road, North Curl Curl         |
| Sylvia Raptis         | 27 Robertson Road, North Curl Curl    |
| James Griffin MP      | 2/2 Wentworth Street, Manly           |
| Sarah Hutchison       | 26a Surf Road, North Curl Curl        |
| Mark Catanzariti      | 10 Lalchere Street, Curl Curl         |
| Robert Mohan          | 27 Robertson Road, North Curl Curl    |
| Marieke Van Dinternen | 2 Stirgess Avenue, Curl Curl          |
| Steven Farrage        | 79 Carrington Parade, Curl Curl       |
| Vincent Tan           | 1 Adina Road, Curl Curl               |
| Jaap van Dam          | 19 Travers Road, Curl Curl            |
| Dieuwke Winter        | 19 Travers Road, Curl Curl            |
| Jason Ellis           | 13 Stewart Avenue, Curl Curl          |
| John Kalcic           | 35 Quirk Street, Dee Why              |
| Deborah Moffat        | 18 Stirgess Avenue, Curl Curl         |
| Matthew Klaiber       | 14a Lillie Street, North Curl Curl    |
| Glenn Butler          | 2/40 Adams Street, Curl Curl          |
| Tijmen Van Der Mas    | 106 Narrabeen park Parade, Warriewood |
| Viktorija McDonell    | 17/28 McDonald Street, Freshwater     |
| Nicola Andrews        | 2 Austin Avenue, North Curl Curl      |



|                          |  |
|--------------------------|--|
| Michael Kelly            | 34 Jocelyn Street, North Curl Curl     |
| Matthew Devine           | 143 Clontarf Street, Seaforth          |
| Heather Lawson           | 30 Bennett Street, Curl Curl           |
| Sarah Gould              | 45 Jocelyn Street, North Curl Curl     |
| Wendy Quigley            | 45 Jocelyn Street, North Curl Curl     |
| Karl Black               | 3/ 70-72 Pitt Road, North Curl Curl    |
| Rachel Wildig            | 105 Wyndora Avenue, Freshwater         |
| Mark Stack               | 4 Spring Street, North Curl Curl       |
| Andrew Chisholm          | 105 Oliver Street, Freshwater          |
| Amber Evans              | 126 Oliver Street, Freshwater          |
| Jessica Pollard          | 115a Powderworks Road, Elanora Heights |
| Stephanie Haagen         | 48 Veterans Parade, Collaroy Plateau   |
| Stacey Poynton           | 40 Rose Avenue, wheeler Heights        |
| Isabella Wakes-Miller    | 1125 Oxford Falls Road, Oxford Falls   |
| Justin Cooper            | 11 Blackwood Road, North Curl Curl     |
| Joanna Punter            | 3/17 Fairlight Street, Manly           |
| Ann Barlow               | 4 Rabaul Road, North Curl Curl         |
| Greg Allsop              | 4 Rabaul Road, North Curl Curl         |
| Rebecca Hanel            | 25 Augusta Road, Fairlight             |
| Maria Williams           | iamwills@gmail.com                     |
| Norman and Jean McArthur | 14 Taylor Street, North Curl Curl      |
| Katherine Westren        | 2/10 Wethrill Street, Narrabeen        |
| Stacey Bunnett           | 149 Veterans Parade, Narrabeen         |
| Steph Oakey              | 193 Woodland Street, Balgowlah         |
| Phillipa Wrench-Podvinec | 28 Tango Avenue, Dee Why               |
| Meghan McLeod            | 29 Lynwood Avenue, Dee why             |
| Nicholas Harris          | 5 Stewart Avenue, Curl Curl            |
| Mehgan Cady              | 5 Stewart Avenue, Curl Curl            |
| David Ellis              | 11 Travers Road, Curl Curl             |
| Michele Zaccaria         | 312/ 16-22 Sturdee Parade, Dee why     |
| Richard Pillinger        | 46 Robertson Street, North Curl Curl   |
| Michael Rosato           | 4 Blackwood Road, North Curl Curl      |
| Peter Puhl               | 60 Abbott Road, North Curl Curl        |
| Michelle Puhl            | 60 Abbott Road, North Curl Curl        |
| Leanne Cooper            | 31 Griffin Road, North Curl Curl       |
| Rebecca Harris           | 32 Stewart Avvenue, Curl Curl          |
| Matt Truman              | 6a Spring Street, North Curl Curl      |
| Wendy Nield              | 25 Wheeler parade, Dee Why             |
| Chris Wade               | 4 Stewart Avenue, Curl Curl            |
| Michael Hodgett          | 69 Bennet Street, Curl Curl            |
| I Hodgeson               | 38 Adams Street, South Curl Curl       |
| Catherine Fitzgerald     | 12 Lalchere Street, Curl Curl          |
| Beate Schroefl           | 7 Ross Street, North Curl Curl         |
| Lance Stockdale          | 9 Lalchere Street, Curl Curl           |
| Tiffancy Kenton          | 3 Spring Street, North Curl Curl       |
| Andrew Stuart            | 33 Austine Avenue, North Curl Curl     |
| Peter Beaumont           | 45 Adams Street, Curl Curl             |
| Andrew Stevens           | 8/51 Adams Street, Curl Curl           |
| Carly Stevens            | 8/51 Adams Street, Curl Curl           |
| Emma Adams               | 5/37 Adams Street, Curl Curl           |
| John Parker              | 32 Bellevue Parade, North Curl Curl    |
| John and Julie Walsh     | 5 Stirgess Avenue, Curl Curl           |
| Kerri James              | 3 Griffiths Street, Fairlight          |

|                           |                                     |
|---------------------------|-------------------------------------|
| Curl Curl Lagoon Friends  | curlcurlagoon@gmail.com             |
| Annika Schomann           | 18 Brookvale Avenue, Brookvale      |
| Susan Sergi               | 56 Hay Street, Collaroy             |
| Lusia Alzate              | 99B Pitt Road, North Curl Curl      |
| Michael and Irene Gaffney | 2/51 Adams Street, Curl Curl        |
| Louise Hewitt             | 18 Abbott Road, North Curl Curl     |
| Karl Noonan               | 5 Ross Street, North Curl Curl      |
| Lanne Ippolito            | 38 Delaigh Avenue, North Curl Curl  |
| Dawn Gledhill             | 29 Farnell Street, South Curl Curl  |
| Sue Whyte                 | 57 Pitt Road, North Curl Curl       |
| Vincent Roperti           | 30 Federal Parade, Brookvale        |
| Helen Dransfield          | 24 Curl Curl Parade, Curl Curl      |
| Mary Indersmith           | 21 Bellevue Parade, North Curl Curl |
| Isabella Jolly            | 2a Lancaster Crescent, Collaroy     |
| Belinda Gremmo            | 4A Adina Road, Curl Curl            |
| Lesa O'Neill              | Lesa@smklawyers.com.au              |
| Craig Stephen             | 88 Pitt Road, North Curl Curl       |
| Sacha Staniford           | 32 Adams Street, Curl Curl          |
| Rebecca Jones             | 5/51 Adams Street, Curl Curl        |
| Anne Grunseit             | 30/2-4 Beach Street, Curl Curl      |
| Anthony Sanbrook          | 27 Stirgess Avenue, Curl Curl       |
| David Martyn              | 31/2-4 Beach Street, Curl Curl      |
| Harry Elliffie            | 13/2-4 Beach Street, Curl Curl      |
| Jennifer Roberts          | 50 Wyuna Avenue, Freshwater         |
| Nick Beaugeard            | 6 Henry Street, Dee Why             |

The following issues were raised in the submissions:

#### **1. Health Risks**

- Area should be kept free of electromagnetic devices/microwave radiation (effects on health)
- Proximity to residences, schools, playing fields, children's playground, youth centre, beaches and waterways
- Inadequate evidence to prove Electromagnetic Emissions (EME) and proposed phone tower is not harmful to local people
- Australian Standards are extremely high and don't take into account uncertainty about the long term effects of this relatively new technology
- phone technology is in its infancy, long term effects are unknown, especially with regard to children
- Has the Council/Administration and Optus completed a full due diligence health report in respect to EMEs from Mobile towers and their effect on the public?
- There is growing concern worldwide about the towers impact on public health and a belief that the agencies regulating the telecommunications industry have purposely maintained dangerous high tolerance for the Specific Absorption Rate (SAR)
- Possible health risks for children
- Health risks to waterway and wetlands
- World Health Organisation acknowledges that EMEs are potentially carcinogenic
- Rising non-genetic aggressive breast cancer and Motor Neurone Disease (MND) cases being investigated relating to radiation which is concentrated surrounding mobile phone towers
- Immoral to risk health of children in sport fields. Could open up criminal negligence prosecution should illness and death result

- National Code of Practice for Mobile Phone Base Station Deployment is premised on location atop high buildings and not in parkland
- No safety studies that can assure us that there are no negative health effects from this type of construction, in fact quite the opposite; there is substantial evidence suggesting there are very serious health risks
- Does the Council warrant that there are and will be no adverse health effects that can be attributed to RF EME, even at low emissions?
- The Federal government continues to undertake research into this area

**Planners Comments:**

The Australian Government has adopted standards for electromagnetic emissions from such facilities to ensure these types of infrastructure can be safely deployed. Council should be able to rely on those standards and be confident that should an application comply with these standards, it will be safe.

The proposed location is highly utilised by children, locals, sports teams and is in the immediate proximity of homes, schools and public recreation space. Given the community concern and the continuing research into this matter, a more appropriate location should be sought, or other options such as retaining existing service levels or waiting for improve technology should be considered by Optus.

**2. Curl Curl North Public School Health Risks**

- We should be cautious when considering the installation of telecommunications towers in close proximity to our school and recreational facilities regularly used by our students in order to limit exposure.
- School planning to develop classrooms closer to boundary.
- During construction children will use playing fields and school playground
- 12-13 schools use fields for weekly sport

**Planners Comments:**

It is agreed that the close proximity of the proposal to North Curl Curl Public School and the use of the fields by the students is at odds with the community expectations for public spaces.

This is particularly of concern if the playing fields are regularly utilised by the school for playgrounds as this has not been considered by the applicant.

**3. Visual Impacts**

- Proposed tower unsightly and large
- View from beach
- Tower visually conspicuous in reserve due to height and central location
- Visual impact to highly valuable community asset
- Visual Impact Assessment accompanying application concedes the proposal will have a high impact
- Visual Impact Assessment provided by Optus is deficient and one sided
- Light towers have not been through DA process and are precedent Optus using as precedent
- Conflict with the Northern Beaches Council Curl Curl Beach Landscape Master Plan
- Permanent structure that is totally out of line with the surrounding landscape.



- Outlook from majority of houses in North Curl Curl, South Curl Curl detrimentally impacted
- No other structures in the vicinity of a similar height
- Adjacent tree buffer is approximately 15 metres in height and will not fully screen the structure
- In order for the height of 25 metres to be achieved, the base of the tower would be required to be wide enough to provide structural strength for the tower and would create a negative visual impact at its base
- View already interrupted by Optus lines.
- Equipment shelter not clearly shown or addressed in visual impact assessment

**Planners Comments:**

The height of the proposed monopole is excessive and far greater than anything in the immediate vicinity. It will be highly visible with the antennae atop and has been nominated in the applicant's visual assessment as having a "*high impact*" in many instances.

The existing trees will not screen the structure and Council's Landscape Officer has provided advice that the trees proposed to be planted will not grow to sufficient height to screen in the long term (5-7 years). It is also considered inappropriate to screen with trees to 26.6 metres as this will be to the detriment of ocean views for others.

It is agreed that the light poles shown in the Visual Assessment submitted with the application have not been approved and should not be considered in the assessment.

The siting of the tower will mean that it is visually prominent both in the immediate vicinity and from a distance. Similarly, the associated structures will have a strong visual presence from within the reserve area.

It is agreed that the structure is unsightly and inappropriate for the location. The review of alternate locations provided in the Statement of Environmental Effects demonstrated that another location or a far less dominant structure could be provided. A lesser structure in a suitably selected higher location is certainly a preferred option.

The application is not supported on the basis of its high visual impact in an environmentally significant open space location currently dominated by green space, the lagoon and the immediate proximity of the beach and local natural heritage items.

**4. Inappropriate location**

- There are alternative options
- Too much development already in park
- More appropriate to industrial location e.g. Brookvale
- Majority of coverage will be directed at the ocean, lagoon and parklands
- All parkland inappropriate
- Optus previously unsuccessful on north side of the lagoon
- Optus's discussion of suitability considers Optus not community
- Other sites considered by Optus with lesser structures ruled out for visual impacts
- According to Code, as far as practical a telecommunications facility is to be mounted on an existing building or structure and integrated with the design and appearance of the building or structure, you will find plenty of those in Brookvale
- Alternative would be on top of the new Harbord Diggers club
- Should be underground

- Optus should look at improving existing surrounding towers rather than adding new ones
- If it is not acceptable at Freshwater then it should not be acceptable in this location either
- Central location within field makes more prominent
- Better to locate on high ground where height of structure can be lower and lesser impact
- suggest that the pole be left where it is in Mary McKillop Park or situated on, or near, a ridge line where it can have greatest effect in improving telephone reception
- Better located adjacent existing development e.g. community centre or rear of art centre

**Planners Comments:**

This application can only consider the proposed location and the impacts in this locality. The applicant has investigated alternative locations and these have been discounted for various technical and other reasons.

It is noted that underground development is not feasible for this telecommunications use.

It is considered that development within the RE1 zone should be community based and should other structures be permitted, they need to be of a scale and overall impact consistent with the character and landscape of the area. Based on the scale and height of the development, the proposed location is not considered to be appropriate.

**5. Environment (Flora and Fauna)**

- Detrimental impacts on flora and fauna
- Curl Curl Lagoon Estuary management Plan breached
- Preservation of natural parks and wildlife breached by Optus use
- Natural corridor been rehabilitated recently and bush regeneration has done in this area – proposed development is to the detriment of these works
- Community and Council have spent an enormous amount of time and money on rehabilitation work in Curl Curl Lagoon and surrounding reserves, beach (less than 200 m away) and John Fisher Park
- effect on local wildlife which is slowly coming back after the pristine lagoon was destroyed by the tip and runoff from local industries
- Wildlife just returning to area following rehabilitations works

**Planners Comments:**

Council's Environmental Officers have indicated that they have no objections to the development based on the imposition of conditions which ensure the maintenance and consideration of environmental factors. The advice provided is that the natural habitats will be retained and protected adequately and that the development is appropriate subject to appropriate management and construction measures.

The community rehabilitation works will be unaffected.

**6. Neighbours Heritage sites**

**Planners Comments:**

Council's Heritage Officer has concluded that neighbouring heritage sites will not be detrimentally impacted and their heritage significance will be appropriately maintained.

## **7. Reclamation of Curl Curl Lagoon**

*"The reclamation of Curl Curl Lagoon is a simple mechanical investment using the methods of containment and flushing. We can get back clear water. YES we can. If Optus can absolutely guarantee safety what about they invest in the Lagoon? We need your good will."*

### **Planners Comments:**

The application is specifically for the monopole and antennae tower and associated structures. In its current form, Council cannot consider investment from Optus in Curl Curl Lagoon.

## **8. Impacts on the local community**

- Property values decreased
- Local community opposed
- Community lose control of land if leased
- Community being taken advantage of by big business who are more worried about profit than community health and the environment
- Inadequate time to review as a community
- Freshwater community had a tower removed based on a variety of issues.
- Only 4-5 weeks to meet and discuss this DA as a group
- Note not all the Community were contacted based on the very short time frame we had to consult the Community
- Overwhelmingly opposed to this mobile tower proposal in Adams Street Reserve BUT also in ANY park, reserve, public land, near homes, schools or beaches
- Inadequate community consultation by Optus
- Already have to deal with construction of asphalt netball courts which increase the runoff of pollutants into the Curl Curl Lagoon
- Beach is tourist attraction which would be detrimentally impacted by eyesore. Loss of interest would impact local economy
- Tower will deter locals from using the area
- TV reception will worsen (already poor)
- Too close to football field (accident waiting to happen)
- Impossible to alter to 2 smaller fields in this location in the future
- Helicopters have landed here in the past to assist with rescuers. Is this possible with tower?
- Parents will take their kids out of sport to avoid fields
- Community minded residents who live in area long term and look after environment.

### **Planners Comments:**

The community consultation process by Optus and the notification process by Council have been undertaken accordingly to relevant requirements under the WDCP 2011. The overwhelming view of locals is in opposition to the application.

- 9. Council promised no new building without community involvement after the increase in netball courts. There are numerous other broken promises regarding traffic conditions**

**Planners Comments:**

The proposed development is by Optus and not Council. The appropriate statutory requirements have been followed in the Development Application process.

- 10. Mistakes have been made in the past (e.g. tip) when people were not as well educated. We now know the value of the environment and should fight for it**

**Planners Comments:**

The community are very aware of possible issues and it is believed that they have been raised well in the submissions. The application is recommended for refusal in line with some of the issues raised by the community including visual impact in the immediate vicinity of schools and public recreation space.

- 11. Should not be lit at night/too close to homes and sports lights are to be turned off at 9pm**

This could be conditioned should the application be approved.

**12. Proposed Installation is Unnecessary**

- Optus has advertising material stating reception in Curl Curl is perfect
- Phone reception in South Curl Curl consistent and adequate
- Need for facility not established
- Benefits low, with mobile coverage adequate and limited number of users (25% being Optus)
- Optus has successfully operated without this tower
- The argument of improved communications for users of the park is not essential
- Small area of bad reception is accepted by residents (only 25% use Optus)

**Planners Comments:**

Varying comments were received from the public stating that the phone reception is both good and bad in the area. Similarly, some find this acceptable and others unacceptable. It is noted that Optus is just one of many phone companies and have 25% of the market.

Optus have advised that the installation is partly to assist with future issues when another tower is removed and development occurs, further upsetting the existing signal.

It is not considered that inadequate phone signal is grounds to justify the visual and scenic impacts of the application.

**13. Council Issues**

- At odds with Council's goal to increase number and utility of sports fields
- Inconsistent with community agreement to Freshwater community that no towers would be located in public parks and reserves
- Benefits not proportional with environmental and health costs

**Planners Comments:**

The sportsfield would not be lost as a result of the development. It is noted that the removal of the monopole and associated telecommunications infrastructure at McKillop Park (Freshwater Headland) has created the need for a replacement location for this infrastructure.

It is agreed on balance that in its entirety the application is more detrimental than beneficial.

#### **14. Future Additions**

- Full impact not addressed as other providers may want to use tower and also locate enclosures, antennas etc. at site, resulting in greater environmental impacts
- Other towers and enlargement possible in the future as co-sharing is encouraged
- Sets precedent for other towers and telecommunications companies.

#### **Planners Comments:**

Should the application be approved and the structure built, any future additions to the monopole and Optus development would be subject to a new and separate Development Application. The impacts of these would be considered at that time. It is acknowledged that co-sharing/co-location is encouraged under the relevant legislation/guidelines and that applications may result in the future.

#### **15. Documentation Deficient**

- Light poles not existing and should not be shown
- Plans inadequate/ no dimensions
- Difficult to work out location
- Size and location not clear

#### **Planners Comments:**

The plans are inadequate, with limited dimensions, too small a scale and only one elevation was provided. They are insufficient to appropriately understand the full details of the application.

#### **16. Submissions in favour of the Proposal**

- Extremely please poor service will be resolved
- Appropriate location as it is away from schools and dwellings
- Should include lights for playing field also
- Acceptable if trees not disturbed
- Appropriate subject to top of pole must be minimised as it will be visible
- Good piddle post for dogs
- Unobtrusive and utilises existing location for light pole

#### **Planners Comments:**

Light poles have not been approved in this location and are not a part of this application and the lack of service in the Curl Curl area is noted.

#### **MEDIATION**

No requests for mediation have been made in relation to this application.



## REFERRALS

### External Referrals

| External Referral Body | Comments   |
|------------------------|--|
| Ausgrid                | The application was referred to Ausgrid on 18 April 2017. 21 days has expired with no comments received and accordingly concurrence is assumed with no conditions. |

### Internal Referrals

| Referral Body<br>Internal | Comments  | Recommendation |
|---------------------------|---|----------------|
| Landscape Officer         | <p>Council's Landscape Officer has provided the following comments:</p> <ul style="list-style-type: none"> <li><i>It is noted that the Visual Impact Assessment provided rates 3 of the 6 selected viewing points as experiencing 'High' visual impact from the proposed monopole and 2 experiencing 'Medium' impact. The proposal is visually significant as the tallest structure in the generally flat landscape of the surrounding public reserves.</i></li> <li><i>The Visual Impact Assessment concludes that the proposed planting of trees, indicated on the Landscape Plan as 4 x Waterhousia floribunda, will sufficiently reduce the visual impact in time. It is considered unlikely that the nominated trees will attain a height of greater than 10 metres in this location due to the predominant salt laden winds naturally tip pruning vegetation. The sand dune area east of the trees is indicated on Council's GIS system as being at a height of 8 metres above sea level. Waterhousia is noted to be a rainforest species and not particularly adapted to salt laden wind tolerance, which will limit the height of the trees as they grow above the protection of the sand dune.</i></li> </ul> <p><i>Having noted this, it is not considered that alternate species, such as more salt tolerant Araucaria sp. capable of attaining heights of 25 metres, would be appropriate in any case due to potential for view blocking of the ocean from residential areas surrounding the reserve, further exacerbating visual impacts in a broader sense.</i></p> <ul style="list-style-type: none"> <li><i>The plans provided do not clearly indicate dimensions of the pole diameter. The drawings scale the width of the pole at 1.2 metres wide at the base tapering to 800mm at the junction with the antennae. The structure would be higher and</i></li> </ul> | No             |

|  |  |     |
|--|--|-----|
|  | <p><i>bulkier than the existing sports field light poles on the Abbott road fields.</i></p> <ul style="list-style-type: none"> <li><i>The issue remains therefore that the proposed facility will be visually intrusive in the landscape.</i></li> <li><i>It is noted that the land is Zoned RE1 - Public Recreation under WLEP 2011. As indicated in the Statement of Environmental Effects provided with the application, the proposed use is prohibited. It is noted that various other instruments are cited which would enable the WLEP to be overridden. However, from a Council landscape assessment perspective, it is considered that the visual impact of the proposed pole is significant from a number of public viewing places with high visitation rates and that the proposed location is inappropriate, as supported by the prohibition of such facilities under WLEP 2011.</i></li> <li><i>If, however, the proposal is to be approved, in order to maximise the benefits of the proposed landscaping around the equipment shelter and protection of existing landscaping, conditions have been recommended.</i></li> </ul> |     |
| Urban Designer   | <p>Council's Urban Designer has provided the following comments:</p> <p><i>The proposed 28 meter tall structure will be a lot taller than the three lighting poles located around the football field so it will stand out and create a negative visual impact when viewed from the surrounding park and lagoon environment. As such it should be treated more as a sculpture to make it look more aesthetically pleasing and not so utilitarian.</i></p>   | No  |
| Natural Environment (Biodiversity)                         | <p>Council's Natural Environment (Biodiversity) section raises no objections to the proposal, subject to conditions.</p>   | Yes |
| Environmental Investigations Referral (Contaminated Lands) | <p>Council's Environmental Investigations Officer states:</p> <p><i>The SEE states that John Fisher Park is on the 'List of NSW contaminated sites notified to EPA' not the 'Contaminated Land: Record of Notices'. According to the EPA the reasoning for the contamination was "landfill". The EPA has completed an assessment of the contamination and decided that regulation under the Contaminated Land Management Act 1997 is not required. No objections to the installation of a telecommunications facility subject to the following condition.</i></p>  | Yes |

|   |  |     |
|---|--|-----|
| Natural Environment (Coastal)                     | Council's Natural Environment Officer (Coastal) States:<br><br><i>The proposal is supported without condition as it is not impacted by coastal processes.</i>  | Yes |
| Parks, Reserves and Foreshores                    | Parks and Recreation raises no objections to the proposed development subject to conditions.   | Yes |
| Natural Environment (Riparian)                    | Council's Natural Environment Officer (Riparian) provided the following comment:<br><br><i>No objection with no additional conditions recommended. Please ensure this application is referred to Parks, Reserves and Foreshores due to contaminated lands potential.</i>   | Yes |
| Natural Environment (Flood)                       | Council's Natural Environment Officer (Flooding) provided the following comment:<br><br><i>The development is located in the Low Flood Risk Planning Precinct. The applicant should be aware that the Probable Maximum Flood Level at the location of the equipment shelter is 5.7m AHD. The development is not considered to increase flood risk. No flood-related development controls are recommended.</i>  | Yes |
| Environmental Investigations (Acid Sulfate Soils) | Council's Environmental Investigations Officer provided the following comment:<br><br><i>Geotechnical report prepared by Martens &amp; Associates Pty Ltd titled Geotechnical Investigation: Optus Site: S2711-G NORTH CURL CURL – Adam Street Reserve, Curl Curl, NSW report no.P1605385JR01V01 dated August 2016 states that "The project requires a detailed ASS management plan (ASSMP) in accordance with ASSMAC (1998)." Conditioned to prepare and issue an Acid Sulphate management plan in accordance to what is outlined in the above report prior to CC.</i>  | Yes |
| Heritage Officer                                  | <i>The proposed telecommunications facility is located on John Fisher Park, near Griffin Road, on Lot 7356 DP 1167221. There are no listed heritage items located on this lot nor any within the immediate vicinity. The closest heritage items and conservation areas, listed in Schedule 5 of WLEP2011, are:</i><br><br><ul style="list-style-type: none"> <li>• <i>Item C10 – Coastal Cliffs - Between Dee Why Beach, Curl Curl Lagoon and North Curl Curl Headland (700m);</i></li> <li>• <i>Item I109 – North Curl Curl Rock Pool (700m);</i></li> <li>• <i>Item I149 – WW1 Obelisk – Cliff behind North</i></li> </ul> | Yes |



|  |  |  |
|--|--|--|
|  | <p><i>Curl Curl Beach (550m);</i></p> <ul style="list-style-type: none"> <li><i>Item I129 – South Curl Curl Rock Pool (750m);</i></li> <li><i>Item I128 – Building known as “Stewart House” (650m).</i></li> </ul> <p><i>All these items are physically and visually separated from the proposed telecommunications facility site.</i></p> <p><i>As a result, the proposal will have no impact upon the identified heritage significance of these listed items. Therefore, no objections are raised on heritage grounds.</i></p> |  |
|--|--|--|

#### **COMMONWEALTH LEGISLATION**

The relevant Commonwealth legislation is the Telecommunications Act 1997 and the Telecommunications (Low-impact Facilities) Determination 1997. The provisions of the Act are inherent in the assessment process. In this case, the proposed facility is not a low-impact facility and the Determination does not apply.

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

#### **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

##### **State Environmental Planning Policy No 71 – Coastal Protection**

SEPP 71 applies to all land within the NSW Coastal Zone as defined by the NSW Coastal Protection Act 1979 and the location of the proposed telecommunications facility is nominated within the NSW Coastal Zone area. Additionally, Curl Curl Lagoon is also listed in Schedule 1 of SEPP 71 as a coastal lake.

| <b>Matters for Consideration</b>  | <b>Comment</b>   | <b>Consistent</b> |
|---|--|-------------------|
| <p>(a) The aims of the policy are:</p> <p>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</p> <p>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with</p> | <p>The proposal, is considered to be consistent with the aims of the policy for the following reasons:</p> <p>a) The proposal will not affect the natural, recreational and economic attributes of the NSW coast.</p> <p>b) Public access will not be impacted.</p> <p>c) The proposal does not have potential to provide new public access to the</p> | <b>NO</b>         |

| Matters for Consideration  | Comment  | Consistent |
|--|--|------------|
| <p>the natural attributes of the coastal foreshore, and</p> <p>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</p> <p>(e) to ensure that the visual amenity of the coast is protected, and</p> <p>(f) to protect and preserve beach environments and beach amenity, and</p> <p>(g) to protect and preserve native coastal vegetation, and</p> <p>(h) to protect and preserve the marine environment of New South Wales, and</p> <p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i>), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals, and</p> <p>(m) likely impacts of development on the water quality of coastal water bodies, and</p> <p>(n) the conservation and preservation of items of heritage, archaeological or historic significance, and</p> <p>(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities, and</p> <p>(p) only in cases in which a development application in relation to proposed development is determined:</p> <p>(i) the cumulative impacts of the proposed development on the</p> | <p>foreshore.</p> <p>d) The development will have no impact.</p> <p>e) There will be no detrimental impact on the coastal foreshore.</p> <p>f) The scenic value of the beach will be retained.</p> <p>g) There will be no impact as a result of the proposal.</p> <p>h) The proposal will not affect the marine environment of NSW.</p> <p>i) No rock platforms are affected by the proposal.</p> <p>j) The proposal is considered to be in accordance with the principles of ecologically sustainable development.</p> <p>k) The proposal will not result in any conflicts between land and water based activities.</p> <p>l) No impacts will result as a result of the proposed development.</p> <p>m) There will be no impact on water quality as a result of proposed development.</p> <p>n) Council's heritage officer is in support of the proposed development having considered the neighbouring heritage items.</p> <p>o) Not applicable.</p> <p>p) Not applicable.</p> |            |

| <b>Matters for Consideration</b>  | <b>Comment</b>   | <b>Consistent</b> |
|---|--|-------------------|
| environment, and<br>(ii) measures to ensure that water and energy usage by the proposed development is efficient.   |  |                   |
| (b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved | The public access to the foreshore is not altered by the proposal.   | YES               |
| (c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability  | The proposal does not have potential to provide new public access to the foreshore.  | YES               |
| (d) The suitability of development given its type, location and design and its relationship with the surrounding area   | The proposal is not supported in its current form  | <b>NO</b>         |
| (e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore                       | There is no significant loss of view or overshadowing of the foreshore as a result of the proposal.  | YES               |
| (f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities   | The proposal is not considered to detract from the scenic qualities of the New South Wales coast. Although it is noted that there are detrimental impacts within the public open space area. | <b>NO</b>         |
| (g) Measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i> ) and plants (within the meaning of that Act), and their habitats   | There is no remanent native vegetation or potential habitat for threatened species on the subject site, as such measures to conserve animals, plants or their habitat are not required.      | YES               |
| (h) Measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i> ) and marine vegetation (within the meaning of that Part), and their habitats  | The proposal involves a telecommunications facility and therefore additional measures to conserve fish and marine vegetation are not required.   | YES               |
| (i) Existing wildlife corridors and the impact of development on these corridors  | The proposal does not significantly impact upon any existing wildlife corridors.   | YES               |
| (j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards  | The proposal is not considered to increase the likely impacts of coastal processes and coastal hazards to the site.  | YES               |
| (k) Measures to reduce the potential for conflict between land-based and water-   | The proposal is unlikely to create any potential conflict between land based and water based   | YES               |

| <b>Matters for Consideration</b>  | <b>Comment</b>  | <b>Consistent</b> |
|---|---|-------------------|
| based coastal activities  | coastal activities.   |                   |
| (l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals  | The proposal is not in the vicinity of any known aboriginal sites and does not require any specific measures for the preservation of cultural places, values, customs or beliefs.   | YES               |
| (m) Likely impacts of development on the water quality of coastal water bodies  | The proposal is unlikely to create any additional impact to water quality.  | YES               |
| (n) The conservation and preservation of items of heritage, archaeological or historic significance   | The subject site does include heritage items. The alterations and additions proposed will not impact on any neighbouring heritage sites.  | YES               |
| (o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities   | Council has not prepared a draft LEP that specifically applies to the site in regards to compact towns and cities.  | YES               |
| (p) Only in cases in which a development application in relation to proposed development is determined:<br>(i) the cumulative impacts of the proposed development on the environment, and<br>(ii) measures to ensure that water and energy usage by the proposed development is efficient   | The cumulative impacts of the proposal are satisfactory.  | YES               |
| S13) A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.  | The proposal does not attempt to allow development within a zone to be consented to as if it were in a neighbouring zone.   | YES               |
| S14) A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.                        | The proposal is unlikely to result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.  | YES               |
| S15) The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an | The proposal does not involve a non-reticulated effluent disposal system that will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform. | YES               |

| Matters for Consideration   | Comment   | Consistent |
|---|---|------------|
| estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.  |   |            |
| S16) The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform. | The proposed development will not discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform. | YES        |

#### **SEPP 55 – Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. John Fisher Park is on the 'List of NSW contaminated sites notified to EPA' not the 'Contaminated Land: Record of Notices'. According to the EPA the reasoning for the contamination was "landfill". The EPA has completed an assessment of the contamination and decided that regulation under the Contaminated Land Management Act 1997 is not required.

In this regard, it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the telecommunications facility use.

#### **SEPP (Infrastructure) 2007**

Division 21 of SEPP (Infrastructure) permits the development of 'Telecommunication a facilities' which are defined as;

- "(a) any part of the infrastructure of a telecommunications network, or  
(b) any line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or  
(c) any other thing used in or in connection with a telecommunications network."*

Clause 115 of the SEPP specifically permits development with consent as follows:

- "(1) Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land."*

Accordingly, the telecommunication facility proposed at John Fisher Reserve can be considered as a development permitted with consent, even though it is a prohibited use under the provision of the Warringah LEP.

As the determining Authority, Council must consider *"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"*.

The principles of the Guideline are addressed below.



| <b>Principle</b>   | <b>Consideration</b>   | <b>Consistent</b> |
|--|--|-------------------|
| Principle 1:<br>A telecommunications facility is to be designed and sited to minimise visual impact. | The monopole and antennae structure is considered to be visually displeasing and of excessive height.  | <b>No</b>         |
| Principle 2:<br>Telecommunications facilities should be collocated wherever practical                | The application satisfactorily demonstrates that co-location is not an available or practical option in this case. Co-location is not considered practicable where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio traffic capacity demands and sufficient call quality.  | <b>Yes</b>        |
| Principle 3:<br>Health standards for exposure to radio emissions will be met.                        | The application contains an EME Environmental Report showing the predicted levels of electromagnetic energy to comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrating compliance with the Mobile Phone Networks Code.<br>The application demonstrates the facility is designed and can be installed and operated so the maximum human exposure levels to radiofrequency emissions comply with the Radiation Protection Standard. | <b>Yes</b>        |
| Principle 4:<br>Minimise disturbance and risk, and maximise compliance                               | Sydney Airport is 20km from the site. The siting and height of the facility meets the requirements of the Civil Aviation Regulations 1988 and Airports (Protection of Airspace) Regulation 1996 of the Commonwealth. A consent condition requires written verification to be provided prior to the issue of a Construction Certificate.<br>The proposed facility minimises site disturbance and impacts on the natural attributes of the site.   | <b>Yes</b>        |

**Warringah Local Environmental Plan 2011**

|  |   |
|--|---|
| Is the development permissible under WLEP 2011?  | <b>No</b><br><br>A Telecommunications Facility is a prohibited land use in the RE1 Public Recreation zone. However, this use is permissible with consent under Clause 115 of State Environmental Planning Policy (Infrastructure) 2007. |
| After consideration of the merits of the proposal, is the development consistent with:<br>Aims of the LEP? | <b>No</b>   |

|                             |   |
|-----------------------------|---|
|                             | <p>The development does not satisfy the Aims specifically (clause 1.2(f) of the WLEP) which requires:</p> <p><i>in relation to environmental quality, to:</i></p> <p>(i) achieve development outcomes of quality urban design, and</p> <p>(ii) encourage development that demonstrates efficient and sustainable use of energy and resources, and</p> <p>(iii) achieve land use relationships that promote the efficient use of infrastructure, and</p> <p>(iv) ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, and</p> <p>(v) protect, conserve and manage biodiversity and the natural environment, and</p> <p>(vi) manage environmental constraints to development including acid sulfate soils, land slip risk, flood and tidal inundation, coastal erosion and biodiversity.</p> <p>The development creates a visually displeasing structure within an area of environmental significance. The large public open space area will be detrimentally impacted and accordingly, the development as proposed does not satisfy the aims of the LEP.</p> |
| Zone objectives of the LEP? | <b>No</b>   |

Principal Development Standards

| Standard            | Requirement | Proposed | % Variation | Complies |
|---------------------|-------------|----------|-------------|----------|
| Height of Buildings |             | N/A      |             | N/A      |

Compliance Assessment

| Clause                                  | Compliance with Requirements |
|---|------------------------------|
| 4.3 Height of buildings                 | N/A                          |
| 5.3 Development near zone boundaries    | N/A                          |
| 5.5 Development within the coastal zone | No                           |
| 5.10 Heritage Conservation              | Yes                          |
| 6.1 Acid Sulfate soils                  | Yes                          |
| 6.2 Earthworks                          | Yes                          |
| 6.3 Flood planning                      | Yes                          |
| 6.4 Development on Sloping Land         | Yes                          |
| 6.5 Coastal Hazards                     | N/A                          |

**Detailed Assessment**

**RE1 Public Recreation**

The objectives of the RE1 zone are not considered to be fulfilled as is detailed below.

- **To enable land to be used for public open space or recreational purposes.**

Comment: The installation of a telecommunications monopole within the public open space area does not allow for use for recreation purposes.

- **To provide a range of recreational settings and activities and compatible land uses.**

Comment: The use is not relevant to recreation and is incompatible with the land use zone.

- **To protect and enhance the natural environment for recreational purposes.**

Comment: The tower will detract from the natural environment in the immediate space and in neighbouring RE1 zones including the beachfront form where the tower will be visible.

- **To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.**

Comment: The installation of the facility does not support this objective.

- **To prevent development that could destroy, damage or otherwise have an adverse effect on those values.**

Comment: The development should be refused having an adverse impact on all key considerations for the zone.

| Land use definition: WLEP 2011 | Permitted or Prohibited  |
|--------------------------------|--|
| Telecommunications Facility    | Prohibited   |
|                                | Permissible with consent under the provisions of SEPP (Infrastructure) 2007. |

#### **Heritage**

The large site includes three heritage items being:

- Coastal Cliffs landscape conservation heritage area – Item C10
- South Curl Curl Pool – Item I129
- WW1 Obelisk – Item I109
- Building known as “Stewart House” – Item I128

All items are located a significant distance from the subject site and will not be impacted by the proposal. The heritage significance of each of the above is retained should the proposed development proceed.

#### **Warringah Development Control Plan 2011**

##### Compliance Assessment

| Clause         | Compliance with Requirements | Consistency Aims/Objectives |
|----------------|------------------------------|-----------------------------|
| A.5 Objectives | No                           | No                          |



|  |     |     |
|--|-----|-----|
| C2 Traffic, Access and Safety  | Yes | Yes |
| C4 Stormwater  | Yes | Yes |
| C5 Erosion and Sedimentation   | Yes | Yes |
| C8 Demolition and Construction   | Yes | Yes |
| C9 Waste management  | Yes | Yes |
| D4 Electromagnetic Radiation   | Yes | No  |
| D7 Views   | No  | No  |
| D9 Building Bulk   | No  | No  |
| D10 Building Colours and Materials   | Yes | Yes |
| D12 Glare and Reflection   | Yes | Yes |
| E2 Prescribed Vegetation   | Yes | Yes |
| E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Habitat | Yes | Yes |
| E4 Wildlife Corridors  | Yes | Yes |
| E5 Native Vegetation   | Yes | Yes |
| E6 Retaining unique environmental features   | Yes | Yes |
| E7 Development Adjoining Public Open Space   | No  | No  |
| E8 Waterways ad Riparian lands   | Yes | Yes |
| E10 Landslip Risk  | Yes | Yes |
| E11 Flood Prone Land   | Yes | Yes |

#### Detailed Assessment

#### **Objectives of DCP**

The objectives of the DCP are not met by the proposed development as is demonstrated in the following:

- To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood***

Comment: The development is to the detriment of the site characteristics and does not complement its surrounds.
- To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome***

Comment: The development does not create a positive design outcome.
- To inspire design innovation for residential, commercial and industrial development***

Comment: N/A
- To provide a high level of access to and within development.***

Comment: N/A
- To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained***

Comment: The existing site is in close proximity to environmentally sensitive areas and is a visually important area within the locality. Scenic qualities and natural qualities are detrimentally impacted by the installation of the telecommunications tower at John Fischer Park as proposed.

- ***To achieve environmentally, economically and socially sustainable development for the community of Warringah***

Comment: This is not achieved through the large visually unattractive structure.

#### **D4 Electromagnetic Radiation**

##### **Description of Non-compliance**

The DCP requires that mobile phone base stations and associated infrastructure and equipment do not result in an adverse visual impact on the natural or built environment. The proposed development is 28.2 metres in height and far greater in height than surrounding development, which in the immediate vicinity is primarily public open space.

##### **Merit consideration**

While the proposal will comply with relevant standards with regard to electromagnetic radiation levels, it will not fulfil the other component of this DCP requirement, with the visual impact of the structure being excessive and to the detriment of the natural environment. The views of the structure will create high impacts from many locations which is undesirable and unacceptable in this natural precinct.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and the Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

#### **D7 Views**

##### **Description of Non-compliance**

The DCP requires the reasonable sharing of views. The proposed development includes a 26.6 metre monopole and 28.2 metre overall height and the planting of significant trees with a mature height of up to 25 metres.

##### **Merit consideration**

The views to the ocean and from many areas in the locality will be detrimentally impacted by the structure. Similarly, the proposed trees have potential to block ocean views for many. The unsightly pole is not consistent with the intention for retaining quality intact views.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

#### **D9 Building Bulk**

##### **Description of Non-compliance**

The DCP requires minimisation of the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes. Similarly, it is required that the building height and scale needs to relate to topography and site conditions.

**Merit consideration**

Having regard to the installation of the monopole, antennae and associated structures, and the scale of the structure in comparison to the open space surrounds, it is concluded that the proposed development is inconsistent with the relevant objectives of the WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

**E7 Development on Land Adjoining Public Open Space**

**Description of Non-compliance**

The DCP requires development on land adjoining public open space complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.

**Merit consideration**

The telecommunications facility is not consistent with the public open space landscape character. The height, materials and siting will be to the detriment of enjoyment of the open space and will alter the visual aesthetic of John Fisher Reserve.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of the WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

**THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

**POLICY CONTROLS**

**Warringah Section 94A Development Contribution Plan**

Section 94 contributions will be levied should the application be approved.

**John Fisher Park Plan of Management**

The site is covered by the John Fisher Park Plan of Management. The Plan does not include development in the nature of the telecommunications facility as proposed. The structure of the POM bases its forward planning on the premise of retention and improvement of the natural environment and improvement and upgrading of sporting and community facilities.

It is not considered that the proposed development is consistent with the key objectives being:

- *To provide a sound basis for the future management of John Fisher Park and Abbott Road Land, guiding the major strategies and actions that are needed to achieve the vision for John Fisher Park and Abbott Road Land.*
- *To manage John Fisher Park and Abbott Road Land in accordance with ecologically sustainable development principles.*
- *For a participatory style of management to be encouraged in all aspects of park operations so as to develop a sense of ownership between the community and the park.*
- *To be consistent with and contribute to Council's overall management plan*
- *To incorporate Curl Curl Lagoon Rehabilitation Study recommendations and other relevant studies into the plan.*

These objectives envisage an open space area used by the community and retained as ecologically sustainable parkland. The installation of a telecommunications tower of excessive height within the space is at direct odds with the desired outcomes for the public open space location.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- All relevant Environmental Planning Instruments and draft EPI's
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 71 – Coastal Protection
- Warringah Local Environment Plan 2011
- Warringah Development Control Plan 2011
- Codes and Policies of Council
- John Fisher Park Plan of Management

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

The assessment has concluded that the proposal will result in an unreasonable and unacceptable impact on the existing public open space area, particularly with regard to visual scenic and view impacts and is not in the public interest and accordingly is recommended for refusal.

**RECOMMENDATION (REFUSAL)**

THAT Council (Northern Beaches Independent Assessment Panel) as the consent authority refuse Development Consent to DA2017/0298 for Installation of a Telecommunications Facility (Monopole) with associated equipment shelter on land at Lot 7356 DP 1167221 Griffin Road, Curl Curl (John Fisher Park Reserve), for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.
2. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will have unacceptable impacts with regard to the natural and built environments and the social impacts in the locality.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Clause 115(3) of SEPP (Infrastructure) 2007 - (Guidelines).
4. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause D4 Electromagnetic Radiation of the Warringah Development Control Plan 2011.
5. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause D7 Views of the Warringah Development Control Plan 2011.
6. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan 2011.
7. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause E7 Development on Land Adjoining Public Open Space of the Warringah Development Control Plan 2011.
8. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of State Environmental Planning Policy No 71 – Coastal Protection.
9. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Aims of the Warringah Local Environmental Plan 2011.
10. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Objectives of the RE1 – Public Recreation zone under the Warringah Local Environmental Plan 2011.











