

# The Vacluse Progress Association

Established 1915

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Communication Tower Sites Review  
Independent Pricing and Regulatory Tribunal  
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## Review of rentals for Crown Lands communication tower sites

We represent residents in the Vacluse and Watsons Bay districts of Woollahra Municipality, in Sydney's eastern suburbs.

Our primary interest in this review stems from our experiences with the deployment of "low-impact" telecommunications equipment locally. We are concerned to ensure that Woollahra Council captures a reasonable share of public benefit from deployment of communications infrastructure in public lands of all types, including those Crown lands under the care, control and management of the Council. This concern is separate from but partly related to the practicality of deployment of "low impact" facilities under the terms of the Commonwealth Government's Low Impact Determination without local right of refusal.

We understand carriers do pay rentals to private landowners for the location of communications facilities on privately-owned land (and buildings). As a principle, we think carriers should also pay rental for the use of public land (and buildings) for those purposes.

While we have not monitored in detail events outside our membership area of Vacluse and Watsons Bay, our close interest in and observations of Council business papers indicate that at no stage in the period since 1997 has the Council itself initiated or sought any specific contribution or public benefit from a carrier for the use of a public recreational area for deployment of communications equipment. It did participate in an un-successful local government legal action which related to the charging of rental for communications cables.

The terms of the IPART Issues Paper are not clear as to whether this review applies to Crown lands under the care, control and management of local councils. If it does not apply to such lands, we suggest the scope of the review should be extended.

By way of illustration of our concerns, we refer specifically to two Crown land areas in our area, namely Johnson's Lookout at Hopetoun Avenue and New South Head Road, Vacluse; and Robertson Park at Military Road and Marine Parade, Watsons Bay. Each has been chosen by carriers for placement of "low impact" equipment.

No initiating action was taken by Woollahra Council to seek or negotiate any public benefit or rental for the facilities in either location. However, each relevant carrier received written requests by us, made in response to advertisements of their intention

to deploy the facilities, for the carrier to provide a public benefit by way of recognition of their use of public recreational lands for commercial purposes. In each instance, we simultaneously informed Woollahra Council of our submissions to the carriers, and requested the Council to support them.

In the case of Johnson's Lookout, Optus agreed in 2001 to our request to fund a natural extension of an access stair that accompanied its installation, but Council staff refused the offer on the ground that no maintenance funding was available. Subsequently, late in 2002 Hutchison also agreed to a similar request relating to its use of the same site, and was also rebuffed by Council staff.

In the case of Robertson Park, Optus agreed in 2003 to make a contribution to park improvement, and this offer was accepted by Council staff.

Thus, as far as we know, the Optus contribution to Robertson Park – which we initiated – is the sole contribution made, and the two offers made at Johnsons Lookout following our initiative were the only other attempts made to recover any reward for use of the public land involved, and the Council had not sought either of them anyway.

The Council does not appear to charge any type of rental for communications facilities in any other location.

Recognising the desirability for clearly understood arrangements and policy transparency, we have persistently been urging Woollahra Council to devise and apply a formal policy commitment to the negotiation of public benefit contributions for communications facilities established on public lands, including Crown lands under Council control.

Our campaign has extended over many years, and been increasingly active since 1997. It includes the period from 2001 comprising the devising of a Model development control plan relating to the deployment of communications facilities by a group of councils including Woollahra. We participated in the Model DCP Forum drafting group (which comprised several councils), but it declined outright to adopt our submissions relating to capture of public benefit, and made no provision in its final document for that purpose.

Throughout the 2003 drafting and exhibition and 2004 adoption of a specific Woollahra development control plan by the Council for telecommunications and related equipment, we likewise argued the case to Woollahra at each opportunity, but it was not accepted.

Most recently, in March 2004 after more submissions from us, Woollahra Council resolved to seek a report on the development of a Land Owners Consent Manual including the principles to be applied in negotiating public benefits (including licence and lease fees) associated with the commercial use of public land. The report has not yet been produced.

The experience we summarise above is intended to show the Tribunal how Woollahra Council has failed at this stage to act positively in this context, whether in relation to

municipal or Crown land. Its reasoning has generally been obscure to us, but we do discern and recognise from the Johnsons Lookout instance an in-principle reluctance to accept capital works requiring later maintenance expenditures. It appears that the option of requiring the relevant carrier to undertake the maintenance has not resonated with the Council, although we have ourselves identified it clearly in our submissions.

The Model DCP Forum experience suggests that other Councils have similar attitudes to Woollahra.

We think the IPART Review could usefully provide a framework for the managers of Crown land in council control to recover proper rents/value for the use of public land for communications facilities. Such a framework would, we imagine, also be suitable for councils to use for similar purposes related to municipal lands.

Our Association strongly commends this approach to the Tribunal.

Michael Rolfe  
President  
3 October 2004