

STATEMENT OF HERITAGE IMPACT

Planning Proposal at

50 Botany Street

BONDI JUNCTION



Job No. 10108
November 2023

Heritage21
CULTURAL BUILT HERITAGE IN THE 21ST CENTURY

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Acknowledgement of Country

Heritage 21 wishes to acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and community. We pay our respects to them and their cultures and to elders both past and present.

Name of the heritage item:

Telecommunication Tower (Item I166)

State Heritage Register / LEP heritage schedule item number and name:

Telecommunication Tower (Item I166 as listed under Schedule 5 of the *Waverley Local Environmental Plan 2012*)

Address and location:

50 Botany Street, Bondi Junction

Statement of heritage impact for:

Proposed Planning Proposal for the change of land use zone to R3 Medium Density Residential, the implementation of a minimum lot size of 232m², and delisting of a heritage item at 50 Botany Street, Bondi Junction.

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Cover image: Subject site at 50 Botany Street, Bondi Junction looking west to Council Street façade
(Source: Heritage 21, 17 October 2023).

The following table forms part of the quality management control undertaken by Heritage 21 regarding the monitoring of its intellectual property as issued.

Issue	Description	Date	Written by	Reviewed by	Issued by
1	Draft report (D1) issued for comment.	03.11.2023	KT	AP	KT
2	Report Issued (RI).	06.11.2023	KT	-	KT

1.0 INTRODUCTION

1.1 Background

As per Appendix A, the site was approved for demolition by the Waverley Local Planning Panel as part of DA-79/2020. This Statement of Heritage Impact (“SOHI” or “report”) has been prepared on behalf of Bondi Exchange Pty Ltd who have engaged Heritage 21 to submit a Statement of Heritage Impact in the context of a planning proposal for the change of land use zone to R3 Medium Density Residential, the implementation of a minimum lot size of 232m², and delisting of a heritage item at 50 Botany Street, Bondi Junction (‘the site’).

1.2 Site Identification

The subject site is located at 50 Botany Street, Bondi Junction which falls within the boundaries of the Waverley Council Local Government Area (LGA) and it comprises Lot 1 DP 619753. As depicted in Figure 1 below, the site is located on the eastern side of Botany Street and is near the corner of Botany and Birrell streets. The subject site comprises a Telstra Radio Exchange building as well as a radio telephone terminal, presenting to both Botany Street and Council Street. The setting and topography of the site will be more fully described in Section 3.0 below.



Figure 1. Aerial view of the site, which is highlighted in yellow (Source: NSW Spatial Services, “SIX Maps,” accessed 26 October 2023, <http://maps.six.nsw.gov.au/>, annotated by Heritage 21).

1.3 Heritage Context

1.3.1 Heritage Listings

The subject site **is** listed as an item of environmental heritage under Schedule 5 of the *Waverley Local Environmental Plan 2012* (“WLEP”). It **is not** listed on the NSW State Heritage Register, the National Heritage List, the Commonwealth Heritage List, the National Trust Register (NSW), or the former Register of the National Estate.¹

The details of the listings follow:

Statutory List – Legislative Requirements				
List	Item Name	Address	Significance	Item No.
Waverley Local Environmental Plan 2012	Telecommunication tower	50 Botany Street	Local	I166

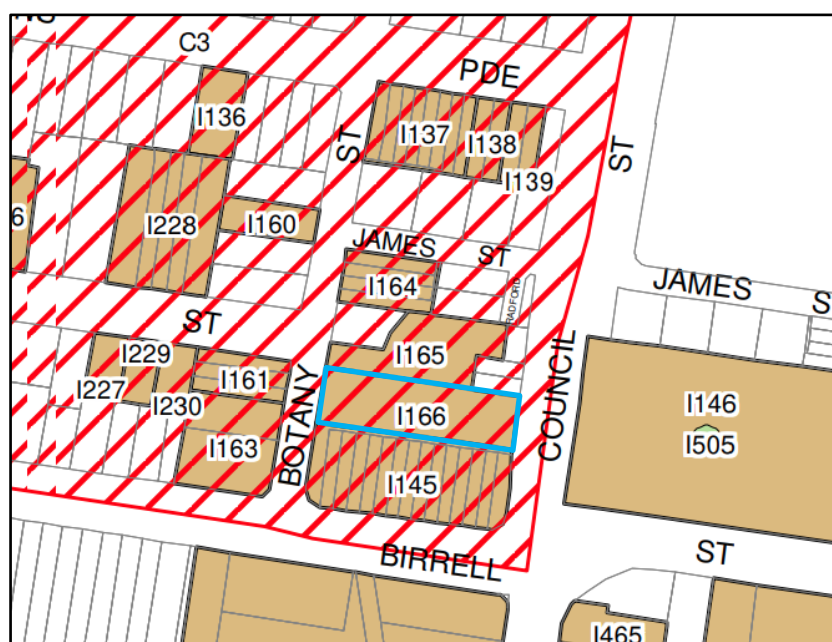


Figure 2. Detail from Heritage Map HER_001A. The site is outlined in blue, heritage items shaded brown and heritage conservation areas are hatched red (Source: NSW Legislation Online, <https://www.legislation.nsw.gov.au/maps>, annotated by Heritage 21).

¹ The Register of the National Estate ceased as a statutory heritage list in 2007, but it continues to exist as an inventory of Australian heritage places.

1.3.2 Heritage Conservation Areas (“HCA”)

As depicted in Figure 2 above, the subject site is located within the boundaries of the Botany Street Heritage Conservation Area (“HCA”), listed under Schedule 5 of the WLEP 2012.

Properties located within the HCA fall into one of the three following classifications:

- Contributory Item – the property makes a positive contribution to the character and heritage significance of the HCA.
- Neutral Item – the property does not contribute nor detract from the character and heritage significance of the HCA.
- Non-Contributory Item – the property detracts from the character and heritage significance of the HCA.

Heritage 21 notes that the subject site, including the telecommunications tower and associated buildings has been approved for demolition by the Waverley Local Planning Panel as part of DA-79/2023. Due to the demolition of the telecommunications tower being approved, and the images taken by Heritage 21 during the site visit (refer to Section 3.4 below), Heritage 21 is of the opinion that the subject site has lost its integrity and is considered by Heritage 21 to be a non-contributory item within the HCA.

1.3.3 Heritage Items in the Vicinity

As depicted in Figure 2 above, the subject site is situated within the general vicinity of the following heritage items listed under Schedule 5 of the WLEP 2012. The details of the listings follow:

Item/HCA Name	Address	Significance	Item Number
Two storey terrace row	208-236 Birrell Street	Local	I145
Ecclesiastical Gothic style stone church, St Mary’s Church	240-248 Birrell Street	Local	I146
Two storey residential flat building	19 Botany Street	Local	I160
Single storey terrace row	25-29 Botany Street	Local	I161
Semi-detached dwellings	31-33 Botany Street	Local	I163
Two storey terrace row	40-46 Botany Street	Local	I164
Single dwelling	48 Botany Street	Local	I165
Two storey terrace row	14-22 Porter Street	Local	I228
War Memorial Hospital, Late Victorian buildings and former stables	125 Birrell Street	Local	I449
Federation house	4 Carrington Road	Local	I465
St Mary’s Anglican Church and grounds	240 Birrell Street	Local	I505
St. Mary’s Anglican Church and Pipe Organ	240 Birrell Street	State	00160 (SHR)

Among the heritage items in the vicinity listed above, the subject site is adjacent to or within the visual catchment of Item I145 (208-236 Birrell Street), Item I146 (240-248 Birrell Street), Item I161 (25-29 Botany Street), Item I163 (31-33 Botany Street), Item I164 (40-46 Botany Street), Item I165 (48 Botany Street), Item I505 (240 Birrell Street), Item I228 (14-22 Porter Street), and Item I465 (4 Carrington Road). Accordingly, the discussion in Section 6.0 of this SOHI of the potential heritage impact of the proposal on heritage items in the vicinity is limited to these items.

1.4 Purpose

The subject site is a heritage item and is located within the Botany Street Heritage Conservation Area and is located in the vicinity of multiple heritage items, all of which are listed under Schedule 5 of the WLEP 2012. Sections 5.10(4) and 5.10(5) of the WLEP 2012 require Waverley Council to assess the potential heritage impact of non-exempt development, such as the proposed works (refer to Section 5.0), on the heritage significance of the abovementioned heritage items and heritage conservation area and, also, to assess the extent (whether negative, neutral or positive) to which the proposal would impact the heritage significance of those heritage items and heritage conservation area. This assessment is carried out in Section 6.0 below.

Accordingly, this SOHI provides the necessary information for Council to make an assessment of the proposal on heritage grounds.

1.5 Methodology

The methodology used in this SOHI is consistent with *Guidelines for preparing a statement of heritage impact* (2023) and *Assessing heritage significance* (2023) published by the NSW Department of Planning and Environment, and has been prepared in accordance with the principles contained in the 2013 edition of *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*.

1.6 Limitations

- This SOHI is based upon an assessment of the heritage issues only and does not purport to have reviewed or in any way endorsed decisions or proposals of a planning or compliance nature. It is assumed that compliance with non-heritage aspects of Council's planning instruments, the BCA and any issues related to services, contamination, structural integrity, legal matters or any other non-heritage matter is assessed by others.
- This SOHI essentially relies on secondary sources. Primary research has not necessarily been included in this report, other than the general assessment of the physical evidence on site.
- It is beyond the scope of this report to address Indigenous associations with the subject site.
- It is beyond the scope of this report to locate or assess potential or known archaeological sub-surface deposits on the subject site or elsewhere.
- It is beyond the scope of this report to assess items of movable heritage.
- Any specifics regarding views should be assessed by a view expert. Heritage 21 does not consider itself to be a view expert and any comments in this report are opinion based.
- Heritage 21 has only assessed aspects of the subject site that were visually apparent and not blocked or closed or to which access was not given or was barred, obstructed or unsafe on the day of the arranged inspection.

1.7 Copyright

Heritage 21 holds copyright for this report. Any reference to or copying of the report or information contained in it must be referenced and acknowledged, stating the full name and date of the report as well as Heritage 21's authorship.

2.0 HISTORICAL CONTEXT

2.1 Local History

The following summary history of the suburb of Bondi Junction has been extracted from the Heritage Assessment of Bondi Junction for Heritage NSW by Colin Brady & Ines Meyer:

Pre-European Settlement

Prior to European settlement of the Sydney Basin the region was home to a group of Aboriginal tribes, bound by loose family connections and speaking variations of a common language called Darug. Those to the southern side of the Harbour and Parramatta River were identified as the Wangal Clan of which Bennelong is the best-known member. Following European settlement in 1788, the clan progressively retreated to lands about Rushcutters Bay and then to the lagoon behind the dunes then fronting Bondi Beach.

As European settlement expanded from Sydney Cove aboriginal settlement tended to cluster about the outskirts of European farms and villages focusing on locations where the natural environment provided opportunity for continued sustenance supplemented by handouts from farms and small villages. Thus to the east of Sydney later accounts of Aboriginal settlement identify Rushcutters's Bay, the slope to the eastern side of Trumper Park, Bondi Lagoon and Clovelly as residential locations of aboriginals through to the 1860's with the last full blooded aboriginal dying at Clovelly in 1863.

Initial European Settlement – Establishment of the South Head and Frenchman's Roads

European settlement of Bondi Junction evolved about primitive tracks established at the time of the First Fleet and responding to the geographic landforms of the location. Whilst anchored at Botany Bay, Captain Arthur Phillip sent men overland to investigate Cook's earlier report of an inlet to the north. Following the coastal ridgeline, they are thought to have arrived at and viewed Port Jackson from the lookout point later to form Bellevue Hill Park. This practise of following the ridgelines about the Coastal inlets of the Sydney Basin established a basis for early road construction. By 1803 a track was recorded leading along the ridgeline to the south of Sydney Harbour then descending to the broad sand blow linking Bondi Beach and Rose Bay before rising again to the signal station established at South Head in 1792. In 1811 the track was consolidated as a crude road formation identified as the South Head Road. At the later location of Bondi Junction another track led south from the new road following the ridgeline previously trekked by Captain Phillip's crew. The track was identified as the Frenchman's Road as it lead to the inner headland of Botany Bay where French explorer LaPerouse had buried

his ships surgeon whilst anchored to the north eastern end of Botany when Phillip's First Fleet was in the Bay.

The South Head Road was substantially improved by Major Druitt in 1820, the same year Governor Macquarie established a lookout tower at the Botany Bay end of the Frenchman's Road to discourage smuggling. The improved South Head Road became a fashionable route for Sunday excursions from Sydney. Many Sunday promenaders would terminate their trip at a promontory above the Rose Bay Valley east of what is now Bondi Junction. Governor Macquarie named the vantage point Belle-Vue the name soon gaining the suffix Hill the name Bellevue Hill being adapted for the sparsely settled area extending back from the lookout point to the junction of the South Head and Frenchman's Roads. The narrow ridgeline occupied by the South Head Road marked a division between the 1500acre expanse of the Cooper Estate to the north and the open sand flats of the Sydney Common to the south. Initially proclaimed by Governor Phillip in 1792 and subsequently extended as the Sydney Water Reserve the common encompassed the open sand soaks and rivulets flowing from the ridgeline to the northern shore of Botany Bay.

Initial Land Grants

Through the 1820's land within the narrow corridor leading to Belle Vue between the Piper/ Cooper holdings and the Sydney Common remained under Crown title. The one exception, a grant of 60 Acres on the southern side of the South Head Road made to Thomas Jones in 1821, passed to William Foreman in 1825 and thence to Barnett Levey in 1826. Levey brother of Solomon Levey (briefly in possession of the vast Captain Piper Estate in partnership with Daniel Cooper) to the opposite side of South Head Road was an entrepreneur and sought to capitalise on the outlook of his grant extending between later day alignments of Paul Street and Hollywood Avenue. Levy's plans were not to use the land as farmland as the owner before had used it and he arranged to build the Waverley House and an estate of cottages on it. The residence was located to the south of Waverley Crescent, itself the result of a further speculative venture by Levey. In 1828 Barnett Levey had undertaken the Permanent settlement was confined to the area around Tea Gardens in Bondi Junction. In mid-19th Century the Waverley community was still isolated from Sydney Cove.

By 1827 Levey had commenced construction of a substantial two-storey residence facing the South Head Road and the following year commenced the Waverley Crescent subdivision including an inn aimed at the travellers to the nearby Belle Vue look out. Waverley Crescent Subdivision was the first private subdivision in the study area. Levey struck difficulties financing the project and sold Waverley House

when it was completed in 1829. In 1844, 12.2 hectares of his estate were still undeveloped.

Lands to the west of Levey's grant were briefly the subject of a Charter granted under Royal consent to a corporation enabling reservation of one seventh of all lands within every parish of a county to assist with support and establishment of the Church of England. The Charter of March 9 1826 saw all lands to the south of the South Head Road not already subject to grant or inclusion in the Sydney Common reserved under this provision. By 1829 the Royal consent was facing revocation. The lands within Waverley returned to the Crown. Lands. Prior to reform of the land grants process in August 1831 one further parcel of land was granted under the initial grant system. Based on an earlier promise, farmer Henry Hough was in December 1832 granted possession of 1 Dacres facing The South Head Road, possession being granted in December 1832. Hough's land became the site of a windmill employed by 1841 for the grinding of corn and other cereals. The demand for such a mill reflected the increased agricultural activity in the area by the 1840's.

Consolidation of the area about the future Bondi Junction stemmed from division of the remaining lands into small grants through the 1830's and early 1840's. Whilst lands to the northern side of the by now renamed, Old South Head Road were largely left undeveloped, the gradual slopes adjacent to the open grazing lands of the Sydney Common were favourable to small scale farming. In the latter part of the 1830's the area, which is now bounded by Oxford Street, Denison Street, a part of Hollywood Avenue and Birrell Street, was subdivided into 12 land grants of approximately 1.2 to 2 hectares. This included the road reserves now known as Denison, Newland, Brisbane, Birrell and Ebley streets and formed the structure for the present subdivision pattern in the area. The grants were advertised for sale in the Government Gazette between September, 1838 and November 1839. They were all sold within this year.

Consolidation of Bondi Junction

Occupation of lands about the future Bondi Junction continued to be determined by the Sydney Common now Lachlan Swamps Water reserve. In efforts to remove noxious industries from Sydney beginning in the 1820's Government grants sought to relocate these industries to areas beyond the catchment of both the Tank Stream and the Lachlan and Botany Swamps. Hence early grants along the South Head Road in the Rose Bay Valley are accompanied by requirements for the construction of tanneries, the Rose Bay-Bondi lagoons being remote from Sydney's water supply. Similar noxious industries were progressively located to the Tamarama and Double Bay Valley sides of the ridgelines occupied by the South Head and Frenchman's Roads. Glenrock Tannery established in Carrington Road by

J Vickery in 1866 represented the closest noxious industry to the Lachlan Swamp Catchment. Objections to the small of the tanning pits saw the tannery closed and subdivided as the Tannery Estate in 1881.

Establishment of a village at the junction of the Old South Head Road and the former Frenchman's Road, later Cowper Road (now Bronte Road). Catering to passing travellers and day-trippers from Sydney the intersection became the location of established inns and tea gardens with the original identity of Bellevue hill changing to that of Tea Gardens. By the 1850's horse drawn omnibuses began regular services from the Tea Gardens to the city with connecting services to Simeon Pearce's village of Randwick and the seaside settlement of Coogee accessed along Cowper Road. This role of transport interchange would remain a feature of the village as it developed into a suburb of Sydney.

From the 1850's settlement focused on lands to the east and north of the future Bondi Junction. Wealthy landowners chose the ridgeline and slopes facing the harbour and ocean as the sites of large residences providing a distinctive pattern of substantial houses set within generous grounds well away from the close settlement of the villages at Tea Gardens and Charring Cross.

Within the small grants to the southern side of Old South Head Road/Oxford Street the only significant residence recorded from the later 19th Century was Westgate House. T.W. Wiltshire occupied Westgate Cottage at the corner of St James Road and Oxford Street in 1871-72 with a subsequent storey added when later occupied by Lt. Col. T.W. Raymond. Portions of the lands previously reserved for a Church of England Schoolhouse were included in the Westgate Estate Subdivision of 1881.

Between 1860 and 1887 the fledgling Waverley Municipality transformed from an area where "the scattered and irregular way in which buildings have been erected tends to show that there is little prospect at the present time of their being consolidated into a regular and compact town" to "a borough of 1,510 houses having established main streets at both Charring Cross and Tea Gardens." Since 1881 steam trams had operated from Charring Cross to Sydney and by 1882 were conveying 4,700 passengers a day. Despite duplication of tramlines to Tea Gardens and beyond by 1885 the combined population of Waverley, Randwick, Paddington and Woollahra was 25,190 spread over 20,000 acres. The expanding tram system spelt the end of this sparse population. The character of Waverley and the proposed conservation area began to change from the era of small holdings, estates and villas to an area that was became increasingly suburban. In 1884 a new line was opened to Bondi and the junction. At this time the junction was still known as the Tea Gardens, but was identified within the tram network as Bondi Junction.

In 1870 there had been approximately 21 streets and 184 occupied properties in the whole area of Waverley, while ten years later at least 40 streets had been laid out (Sands, J., Sands Directory, 1870-1932). By the end of 1870's a diverse range of development with large villas, industrial sites, and modest cottages located in close proximity to each other. In 1874 the 4.5 acre site including the Tea Garden Hotel and site located on the Western site of Cowper Street (now Bronte Road), was subdivided into 19 allotments and in 1875 it was resubdivided into 55 allotments.

Over the following years a variety of buildings continued to be built which included large freestanding villas like 'Gladsmuir' erected in 1881 on Llandaff Street, to rows of single, double and three storey terraces and small timber cottages. The predominant housing form was increasingly the terrace chosen in the following decade by the upper-working class and salaried middle class.

Transport brought commuters and enabled travel to industries south of Sydney and movement of labour to new industries about the Bondi Junction. In 1886 George Fletcher opened his Stove Works and Ornamental Iron Foundry to the northern side of Bondi Junction. The Waverley brewery and a gas works also opened in the same area. Main street frontages also experienced substantial change due to growth. Through the land boom of the 1880's pressure for residential sites saw subdivision of the small holdings to the south of Oxford Street and subdivision of lands within the Cooper Estate to the North of Oxford Street by the Australian Land Company on behalf of Daniel Cooper III. In 1881 demolition of Hough's windmill was completed, the grant in May 1881 being subdivided into '183 allotments with twenty feet frontages, except the corner allotments which ranged from thirty one feet to Oxford Street and forty feet to other corners.'

This subdivision created Mill Hill Road, Hough and Hope Streets and present Spring Street, all aligned with the grid pattern of the original grants. To the west of the subdivision a further section of the former Church of England School reservation was resumed for construction of a tram depot the land being formally annexed from the Centennial Parklands.

Similar subdivision and associated construction of narrow fronted residences occurred to the vacant lands north of Oxford Street. Following establishment of steam tram services the Australian Land Development Company undertook development of the Grafton Estate subdividing lands stretching from the earlier Edgecliff Estate west of the Junction, east to a line defined by Adelaide Street and Burrow and Gleeson's Brewery. Junction Street within Section E of the Estate typifies the progressive infill of these lands. Offered for sale in 1885 Junction Street subdivisions were occupied by sporadic rows of residence between 1888 and 1892 and were all built upon by 1895. The late nature of much of the construction

reflected a gradual move away from the earlier residential focus of Paddington to the west. Improved tram services particularly after electrification of the line in 1902 and the introduction of the semi detached and wider single storey terraced residences of the Federation era fuelled the growth of the area.

With residential growth came the impetus for increased amenity. New Churches were constructed at this time in Mill Hill Road Denison Streets and in Oxford Street east of the Bronte Road junction. This junction had by the turn of the century also provided the name Bondi Junction. This finally replaced the name Tea Gardens i which stemmed from the Hotel first established in Cowper Street in 1854 as the Waverley Tea Gardens and later known as the Tea Gardens Hotel following subdivision of the 4.5 acre site...

The new century brought continued growth of close spaced housing about the shopping centre which soon extended along Oxford Street from the expanded tramsheds to the junction with Bondi Road. Industry rapidly closed the land Increasing land values and complaints against noxious odours hastened the demise of the iron stove works whilst centralisation of breweries about Central Railway saw the relocation of the Waverley Brewery to South Dowling Street.

In 1910 Bondi Junction received its first picture show an open air enclosure established on the later site of the Metro Theatre and in the 1970's, the Westfield Shopping centre. This theatre, a second theatre in Bondi Road and a third opposite the initial site were rebuilt by the Olympic Theatre Company who also assumed control of another theatre in Bronte Road - the Star. All were substantially rebuilt between the Wars those in Oxford Street becoming the Metro and Coronet with the Star retaining its name and accommodating 2300 patrons after its 1928 reconstruction.

By the outbreak of World War One Oxford Street Bondi Junction possessed a notable recent and continuous streetscape of substantially tow storey forms having street front post supported verandahs screening shopfront windows with residential floors above. Major civic buildings principally hotels, churches and theatres punctuated this line whilst the sealed roadway and its enclosing buildings reflected the gentle sweep of the omnipresent tramlines. Prior to the First World War most of Waverley's population relied on public transport and suburban development was both generated by and focused on tram routes.

Growth in Australia continued well into 1915 when the first casualty figures from the Gallipoli campaign brought construction to a halt. A housing shortage followed leading to the conversion of many larger residences to residential flats and boarding houses. Construction of was Whilst the first purpose built flats had been built in Windmill Street Milers Point in 1906 residential flat construction

principally evolved after the First World War again focusing on areas close to transport . About Bondi Junction this resulted in residential flat construction to the south east of Oxford in the vicinity of Ebley and Allen Streets both in new subdivisions of former large residences such as Eastcourt and in streets formerly occupied by light industrial rural and service industries. This precinct with its wide street alignments also witnessed the introduction of California Bungalow Style residences, a housing style employed in vast numbers in the outer areas of Bronte and Bondi by speculative developers of the Inter War period. Pockets of flats also developed within remnants of the Grafton Estate to the northern side of Oxford Street.

With a substantial working class population Waverley was significantly affected by the Great Depression of 1929-33. Growth in this period reflected the national pattern with hotels and picture theatres undergoing reconstruction and expansion and more economical forms of housing particularly residential flats continuing to be built...

When War again commenced in 1939 Bondi Junction remained much as it stood at the beginning of the previous conflict a closely settled commuter and working class suburb focused about a strip shopping centre offering a broad range of entertainment and retail opportunities.

Post World War Two saw Waverley reach its highest recorded population in the 1950's. Substantial growth to the outer areas of Bondi and Dover Heights combined with the continued but static population about Bondi Junction. Change soon came with the growth of vehicle ownership releasing much of the population from dependence upon the tram system and connecting bus services. Trams were seen as an obstacle to the smooth flow of motor traffic and were rapidly abandoned with Waverley Tram Depot converted to a bus depot in 1959. The Junction became more of a through way to residential areas and the beaches beyond. Construction of a retail Department Store by Grace Brothers in the late 1950's and the persistence of the large picture theatres into the early 1960's maintained the identity of the Junction as a retail and entertainment centre.

In 1915 the City and Suburban Electric Railways Bill had included a provision for the extension of the railway to Bondi Junction but it was not until the 1970's that this project was undertaken. 19 years after the last tram ran into Bondi Junction, the Eastern Suburbs Rail commenced in 1979 with Bondi Junction Station opened to the northern side of Oxford Street below a bus interchange. A study of Bondi Junction done in 1969 by the State Planning Authority of NSW aimed to create an efficient and economic passenger interchange and to optimise the public investment in a major transport hub undertaking by creating conditions for a positive and buoyant re-development. The outcome of this study was the creation

of a bus/rail interchange, the construction of an expressway and the construction of a vehicular free Oxford Street Mall.

In conjunction with rapid rail connection to the city came other changes. The decline of picture theatres due to the impact of television, saw first the Star in Bronte Road then the Coronet and Metro theatres closed, the last as part of a large scale redevelopment of the northern side of Oxford Street incorporating office towers above a retail podium. Visually this substantially changed the Oxford Street shopping precinct from a predominantly two storey street frontage to a new order of scale extending the singularly high form of Grace Bothers on the southern side of the street.

From the mid - 1960's onward, a new order of height was also developing about Spring Street parallelling Oxford Street. Beginning with multi storied developments on the former site of the Star Picture Theatre and for the Eastern Suburbs Rugby League Club in Bronte Road this pattern of growth continued with a further podium and twin tower development at the Eastgate site of the early 1980's. The pattern of tall structures along the ridgeline dividing the watershed to the harbour and Centennial parklands has been maintained in subsequent growth, mainly of a residential nature. Concentrating this process has been the construction of Syd Enfield Drive about the Northern side of the Junction and closure of Oxford Street between Newland Street and Bronte Road in 1979.²

² Colin Brady and Ines Meyer, *Bondi Junction Heritage Assessment*, 2004.

2.2 Site Specific History

Different narratives and contracting information regarding the date of construction of the telecommunications tower have been provided in previous heritage studies for the site. The following historical information for the subject site has been extracted from the Heritage Impact Statement report prepared by City Plan in March 2020:

The Waverley Radio Telephone Tower was originally constructed in 1945 and has existed on the site in varied forms to current times. The following narrative has been quoted from the preliminary assessment of the site by Archaeological management & Consulting Group.²

Title records indicate the land in question was built upon after 1914 and three weather board cottages occupied the site by 1959. At least two date from c1914. Several outbuildings are also shown. The existing Telstra tower and associated tanks (utilised in conjunction with the tower) are not shown in a 1959 plan and archaeologist Matthew Kelly who passed the site constantly between 1970 and 1977, witnessed its construction. Thus, it is unlikely that despite being heritage listed the tower and tanks (not listed) are not subject to the Heritage Act. As to why the heritage listing indicates a date of 1941 to 1991 no basis for this is given. Title records clearly indicate that the current property was acquired in two portions in 1960 and 1967 by the Commonwealth, providing a terminus post quem for the towers construction.³

Heritage 21 has undertaken a study of the various historical aerial imagery for the subject site to better understand the evolution of the site. As seen in Figure 3 and Figure 4 below, three residential dwellings with multiple outbuildings are seen located within the eastern portions of the subject site. Council Street has not been fully formed during this time. A 1904 certificate of title for a portion of land located within the original crown grant of 60 acres to Barnett Levey, shows the above-mentioned residential buildings (refer to Figure 8 below).⁴ It is also noted that the earliest built developments between 1904 to 1955 appear to be concentrated within the eastern side. No driveways or developments are noted to the western portions of the existing site.

The above extract from the preliminary assessment report prepared by Archaeological management & Consulting Group identifies that the subject site was acquired by the crown in two portions in 1960 and 1967. This suggests that the existing site was previously subdivided and amalgamated post 1960s. The two-storey post war building is constructed in c.1970 and the telecommunications tower first seen in the 1975 aerial image (refer to Figure 6).

³ City Plan Heritage Pty Ltd, *Heritage Impact Statement – 50 Botany Street, Bondi Junction*, Statement of Heritage Impact, Issue 02 Final, (Sydney: City Plan Heritage Pty Ltd, 11 March 2020), 20.

⁴ NSW Land Registry Services, *Historical Land Records Viewer*, Vol. 1565 Fol. 195, <https://hlrv.nswlrs.com.au/>, accessed February 2023.

Unless otherwise stated, the images below have been sourced from the NSW Government's Historical Imagery Viewer and annotated by Heritage 21.



Figure 3. 1943 aerial view. The current extent of the subject site is outlined in red. Note the 3 residential cottages that occupied the portion of the existing site, presenting to Council Street.



Figure 4. 1955 aerial view. The approximate location of the subject site is outline in red.



Figure 5. 1970 aerial view of the subject site, which is outline in red. The telecommunications tower is not noted to be built at this point.



Figure 6. 1975 aerial view of the subject site after the installation of the telecommunication tower and tanks.



Figure 7. 1998 aerial view of the subject site.

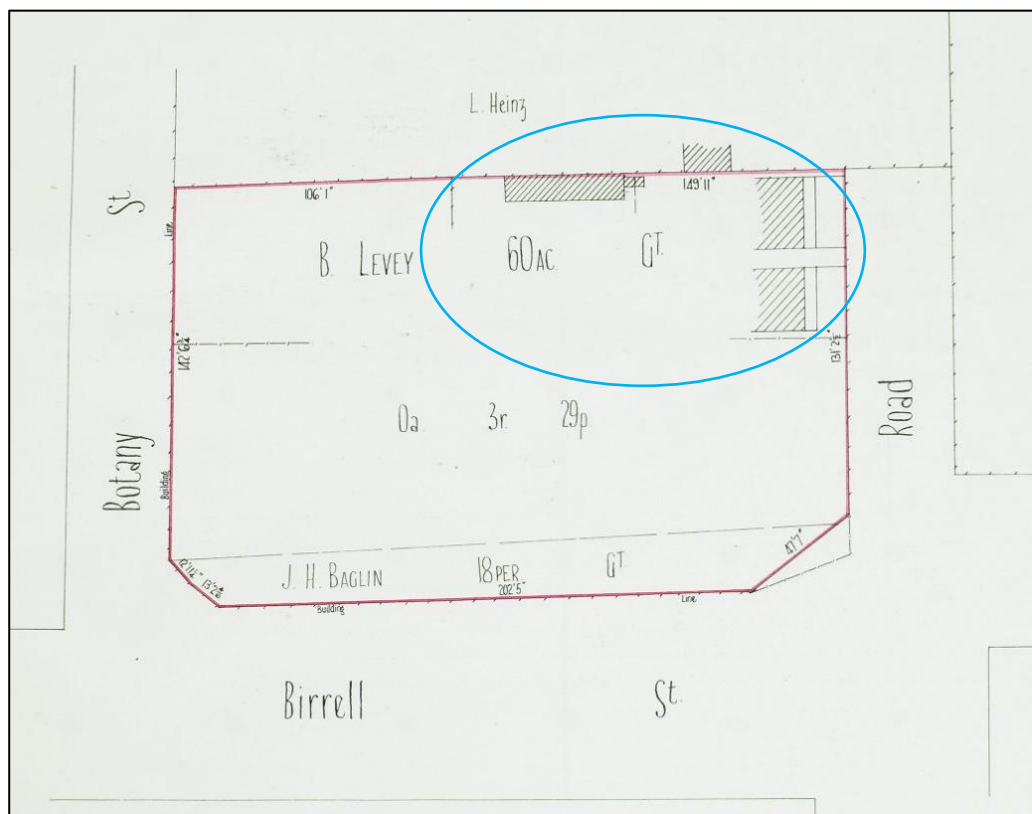


Figure 8. Certificate of Title plan Vol. 1565, Fol. 195, showing the buildings (circled in blue) located within a portion of the subject site in 1904 (Source: NSW Land Registry Services, *Historical Land Records Viewer*, <https://hlrv.nswlrs.com.au/>, accessed February 2023, annotated by Heritage 21).

3.0 PHYSICAL EVIDENCE

3.1 The Setting

The site is located at 50 Botany Street, Bondi Junction. Bondi Junction is an eastern suburb of Sydney and is located 6 kilometres east of the Sydney Central Business District.

It is largely a commercial area with many major developments in the 20th century including large scale residential and commercial developments within the area. Botany Street is a residential street within Bondi Junction extending between Birrell Street in the south and Waverley Street in the north. The streetscape is defined by varied architectural styles ranging from Victorian terrace rows, federation dwellings, Inter-War flat buildings and some contemporary infill sites.

3.2 Physical Description

The subject site is situated on the eastern side of Botany Street and is bound by Council Street at its rear. Access into the site is gained from both streets. A two storey Post War building is located near the western boundary of the site, with primary presentation along Botany Street. A large telecommunications tower occupies the eastern portion of the site. This steel framed lattice structure is unusual within the residential neighbourhood and has a dominating presence within the streetscape.

3.3 Condition and Integrity

The tower appears to be in good condition. The current form of the accompanying building has retained legibility of the original scale and character of the site. However, a general lack of maintenance internally has overtime affected the interiors of the building, causing peeling paint, lifted carpets and mould. Overall the subject site is in fair condition.

3.4 Images

The following photographs have been taken by Heritage 21 at the site inspection undertaken on 17 October 2023, unless stated otherwise.



Figure 9. Exterior view of the telecommunications tower.



Figure 10. Exterior view of the Telstra building.



Figure 11. Exterior view of the base of the telecommunications tower.



Figure 12. Exterior view of the entry area to the Telstra building.



Figure 13. Interior view of the ground floor plant room.

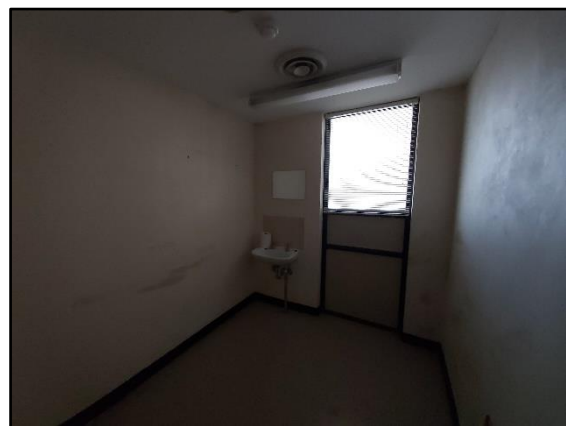


Figure 14. Interior view of a ground floor office space.



Figure 15. Interior view of the stairway.



Figure 16. Interior view of the first floor plant room.



Figure 17. Interior view of the first floor office space.



Figure 18. Interior view of the first floor office space.

4.0 HERITAGE SIGNIFICANCE

In order to assess the impact of the proposed works on the heritage significance of the subject site, the Botany Street HCA (in which the subject site is located), and heritage items in the vicinity of the site, it is necessary to first ascertain the heritage significance of these places. Accordingly, Statements of Significance for the subject site (refer to Section 4.1.1), the Botany Street HCA (refer to Section 4.1.2), and items I145, I163, I505, and I228 (refer to Sections 4.1.3 to 4.1.6) are provided below. The significance of these places will form part of our considerations in the assessment of heritage impact, undertaken in Section 6.0 below.

4.1 Established Significance

4.1.1 The Subject Site (Item I166)

The following Statement of Significance is available for the site on the State Heritage Inventory:

Telecom Australia radio telephone terminal, said to be located on the highest point of the municipality, and a major landmark. Significant technologically and a symbol of Waverley's place in the communications network. The tower is 82m high and supports radio systems for telephone, television and data services.⁵

4.1.2 The Botany Street HCA

The following physical description for the Heritage Conservation Area has been extracted from Waverley Council's website:

The urban form of the Botany Street Heritage Conservation Area is result of late 19th and early 20th Century subdivision of remaining open lands to the eastern periphery of Bondi Junction. The building streetscape is diverse and although buildings are not consistent to adjoining developments, they form a cohesive streetscape combining a variety of styles, materials and distribution of buildings along the street. The range and compatible residential types from 1890's to 1940's records the consolidation of open lands about Bondi Junction following the establishment of regular tram services. The conservation area includes representative examples of varied styles from Victorian filigree through the Inter War Art Deco. The area retains notable streetscapes, characterised by the width of road easements and the quality of residential groupings.

The Conservation Area includes notable listed buildings, including the Porter Terraces, the Congregational Church (1-3 Botany Street) and the Italianate Community Health Centre in 26 Llandaff Street.⁶

⁵ Heritage NSW, "Telecommunication tower," State Heritage Inventory, Heritage Item ID: 2620425, accessed 26 October 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2620425>.

⁶ Waverley Council, "Botany Street Urban Conservation Area," Waverley Council, accessed 27 October 2023, https://www.waverley.nsw.gov.au/__data/assets/pdf_file/0006/163599/C.03_Botany_Street_Conservation_Area.pdf.

4.1.3 Two storey terrace row (Item I145)

The following Statement of Significance is available for the site on the State Heritage Inventory:

Despite alterations this is one of the Waverley Council area's best surviving terraces. A good, twentieth century example of the stylistic transition from the Victorian to the Federation period. Major streetscape contribution on an important thoroughfare. Local significance.⁷

4.1.4 Semi-detached dwellings (Item I163)

The following Statement of Significance is available for the site on the State Heritage Inventory:

Fine example of a decorative Late Victorian Italianate house. One of the better surviving examples in the Bondi Junction area, despite unsympathetic re-roofing. Local significance.⁸

4.1.5 St Mary's Anglican Church and grounds (Item I505)

The following Statement of Significance is available for the site on the State Heritage Inventory:

One of Edmund Blacket's earlier churches. Both modest and attractive, and essentially intact. Of considerable historical interest. One of the oldest buildings in the Waverley Council area. Notable for its association with Bishop Barker and important local families. Sited on the highest point in Waverley and set in attractive garden surrounds. Local significance.⁹

4.1.6 Two storey terrace row (Item I228)

The following Statement of Significance is available for the site on the State Heritage Inventory:

Good Late Victorian terrace despite alterations. Of special interest for the return verandah and side elevation to one end. Considerable historical interest. Associated with former soapworks. Local significance.¹⁰

⁷ Heritage NSW, "Item," State Heritage Inventory, Heritage Item ID: 2620030, accessed 27 October 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2620030>.

⁸ Heritage NSW, "St Mary's Anglican Church and grounds," State Heritage Inventory, Heritage Item ID: 2620371, accessed 27 October 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2620371>.

⁹ Heritage NSW, "Semi-detached dwellings," State Heritage Inventory, Heritage Item ID: 2620068, accessed 1 November 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2620068>.

¹⁰ Heritage NSW, "Two storey terrace row," State Heritage Inventory, Heritage Item ID: 2620253, accessed 1 November 2023, <https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=2620253>.

5.0 WORKS PROPOSED

5.1 Proposal Description

The planning proposal would include:

- Change of land use zone of the subject site to R3 Medium Density Residential.
- Implementation of a minimum lot size of 232m².
- Delisting of a heritage item at 50 Botany Street, Bondi Junction.
- Potential future construction of a townhouse development.

5.2 Background

5.2.1 Pre-lodgement Consultation

Heritage 21 understands that the client has conducted a pre-planning proposal meeting with Timothy Williams at Waverley Council, dated 28 June 2023. What was discussed by council in relation to heritage has been extracted and included below:

6. Heritage

It is noted that the site is an existing local heritage item, I166 Telecommunication Tower. The listing relates to the lattice telecommunications tower, which has received approval for demolition. The DA also specifies the requirement for heritage interpretation to be included on the site that reflects the significance of the tower and the site. Accordingly, a planning proposal may seek to delist the site, or if seeking to subdivide the site, to maintain the heritage listing to the eastern portion of the site.

It is also noted that the site is located within the Botany Heritage Conservation Area (HCA) and adjacent to other heritage items of state and local significance. Accordingly, in any planning proposal, consideration of the curtilage of these Items and appropriateness of any potential development within the HCA should be considered in a supporting urban design study.

Heritage 21 also provided a preliminary heritage advice report to the client, outlining design recommendations for a potential future townhouse development on the site. Heritage 21 recommended that a future proposed townhouse development should incorporate dark red bricks, off-form concrete and steel framed windows in order to acknowledge the existing materials and colours of the existing heritage item. Heritage 21 recommended that an interpretation plan should be prepared as part of any future development at the site.

5.3 Drawings

Our assessment of the proposal is based on the following drawings by Smith and Tzannes Architecture dated 19 September 2023 and received by Heritage 21 on 28 September 2023. These are reproduced below for reference only; the full set of drawings accompanying the development application should be referred to for any details.



Figure 19. Introduction Slide of Planning Proposal.

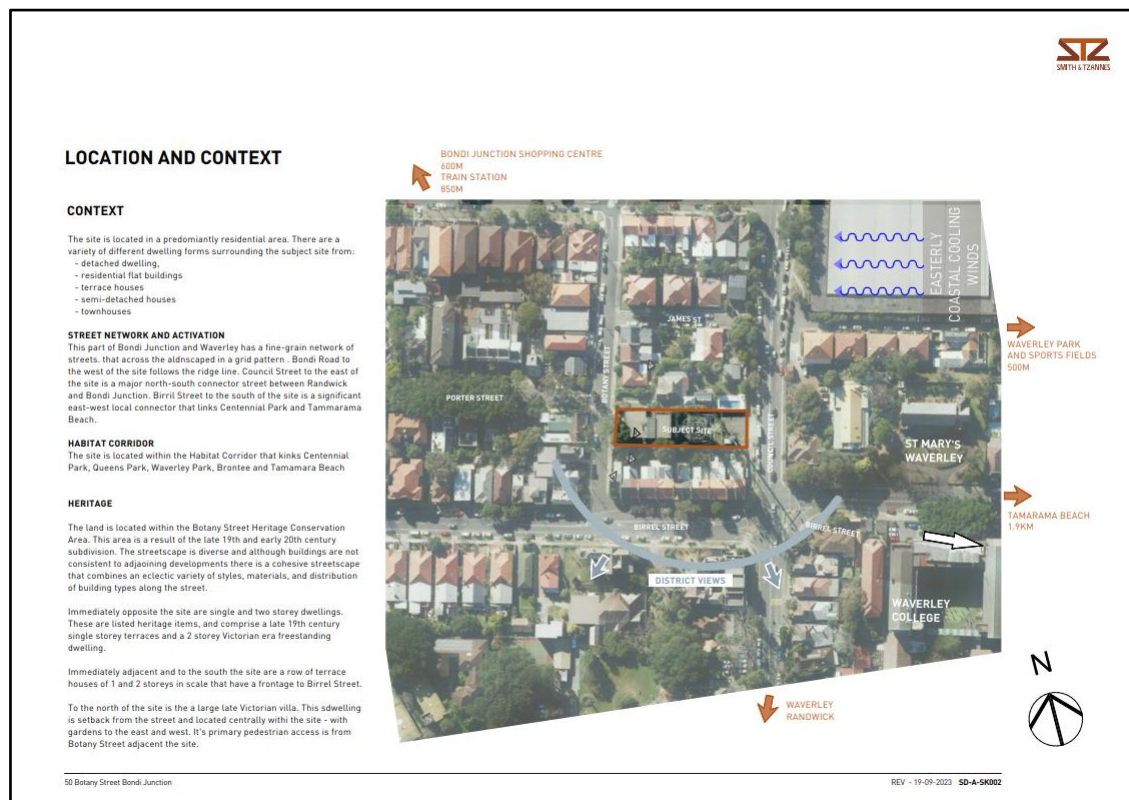


Figure 20. Proposed Location and Context Slide.

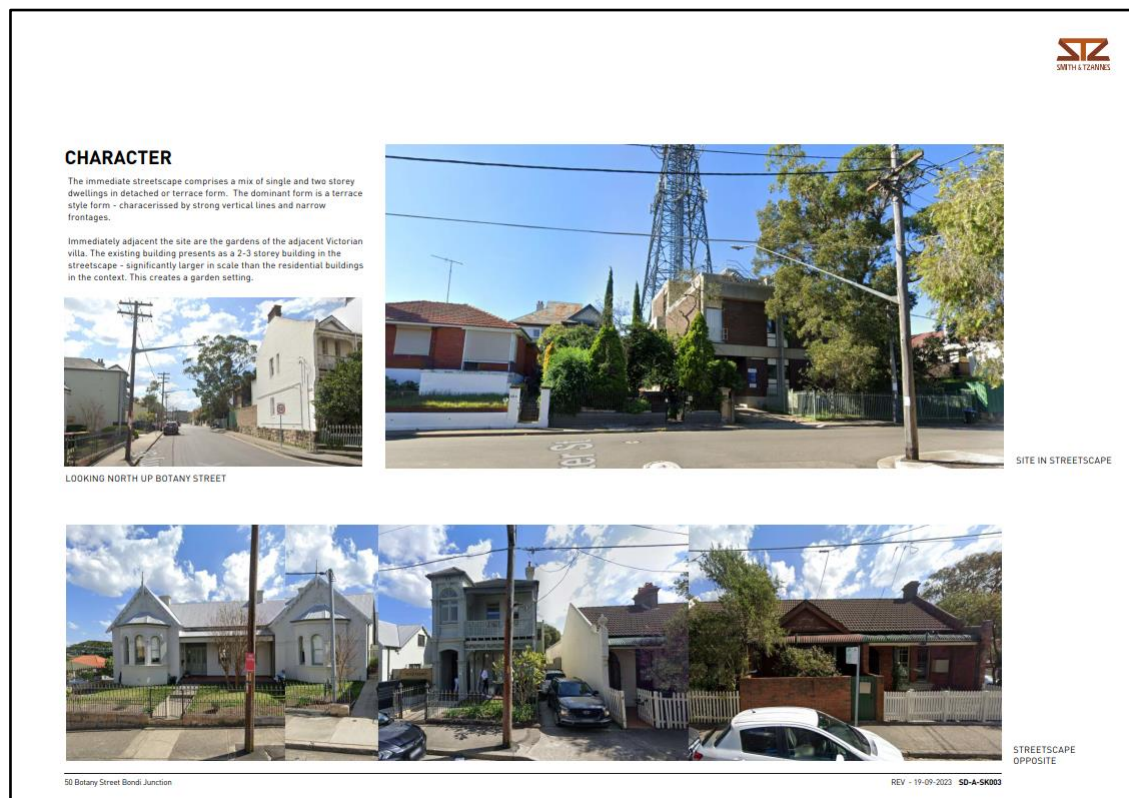


Figure 21. Existing Surrounding Character Slide.

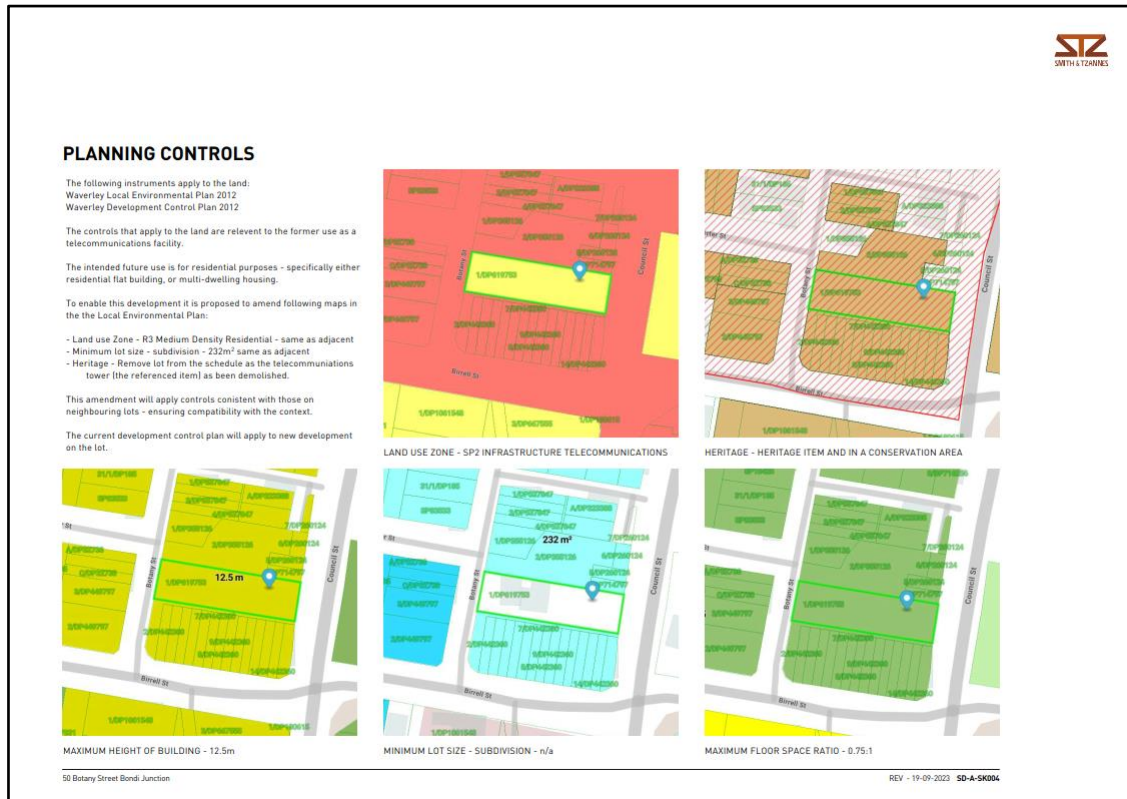


Figure 22. Proposed Planning Controls Slide.

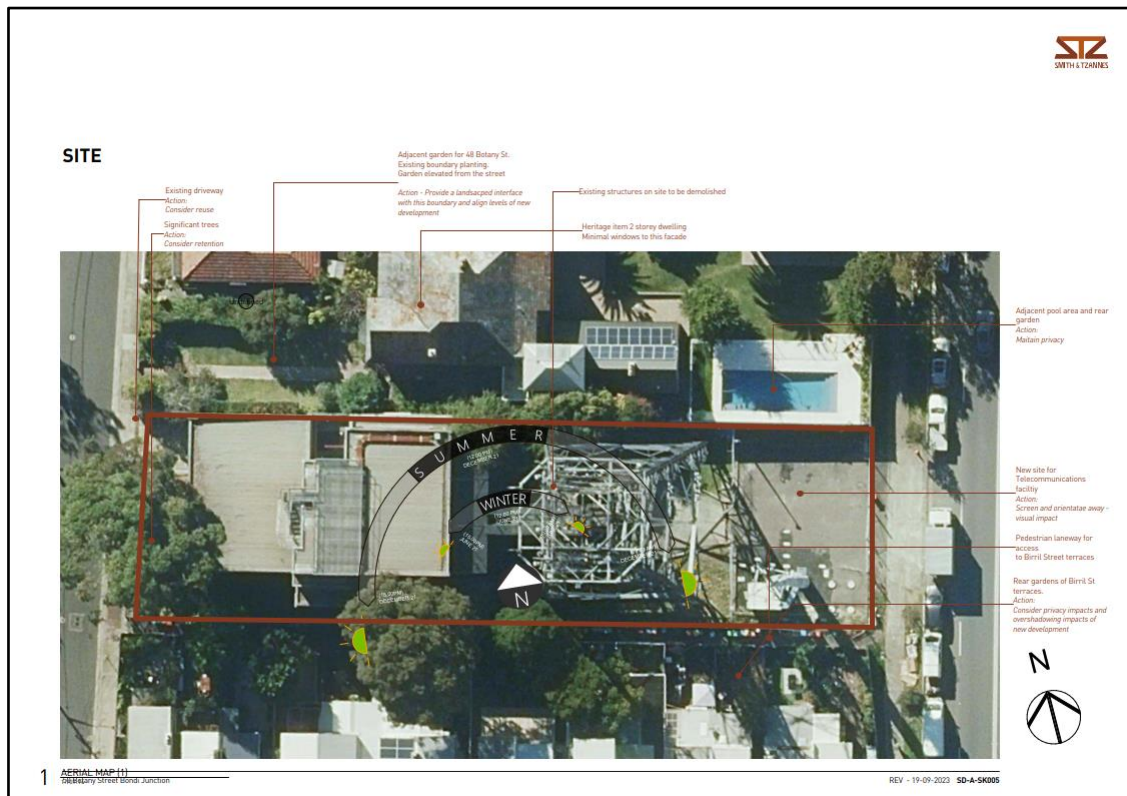


Figure 23. Proposed Site Plan.

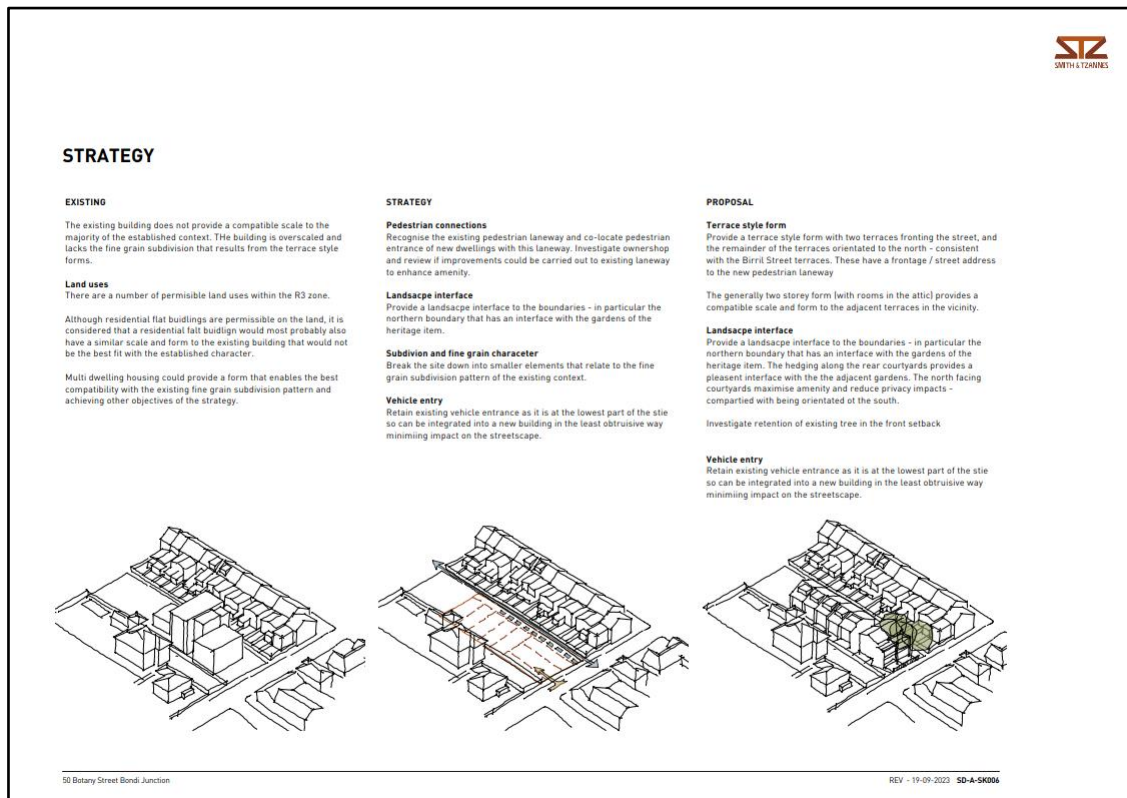


Figure 24. Proposed Strategy.

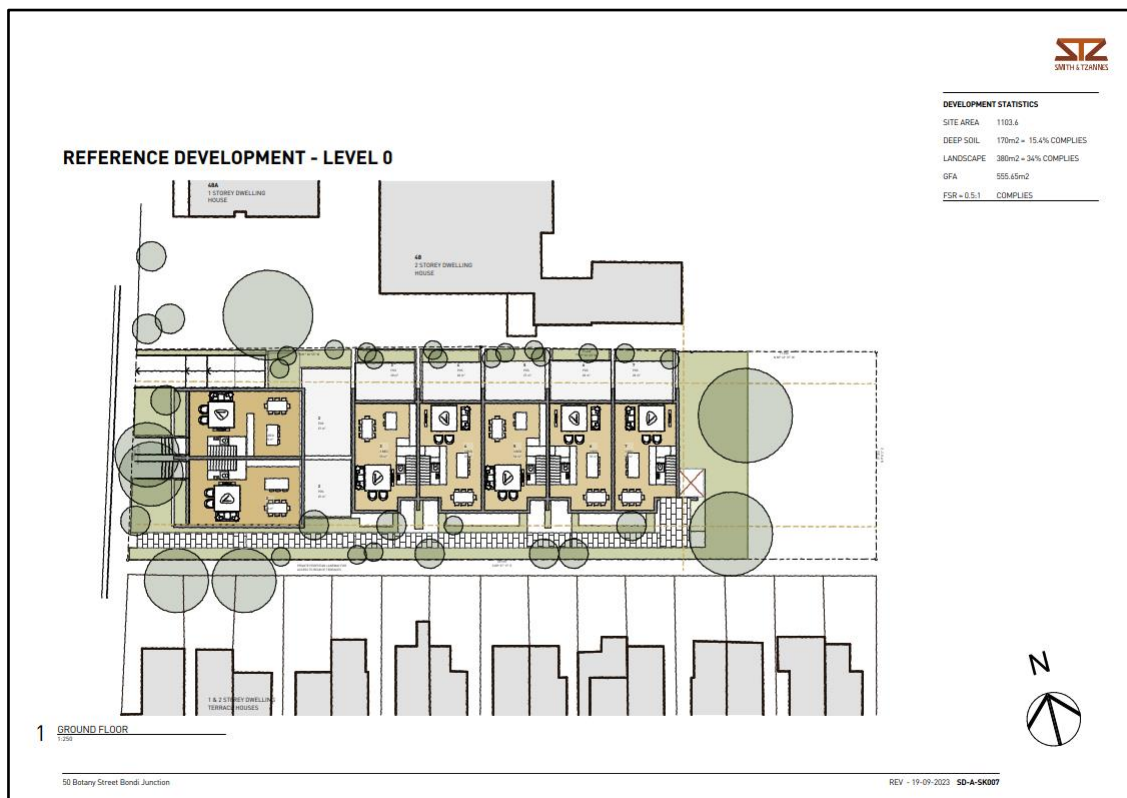


Figure 25. Proposed Ground Floor Plan.

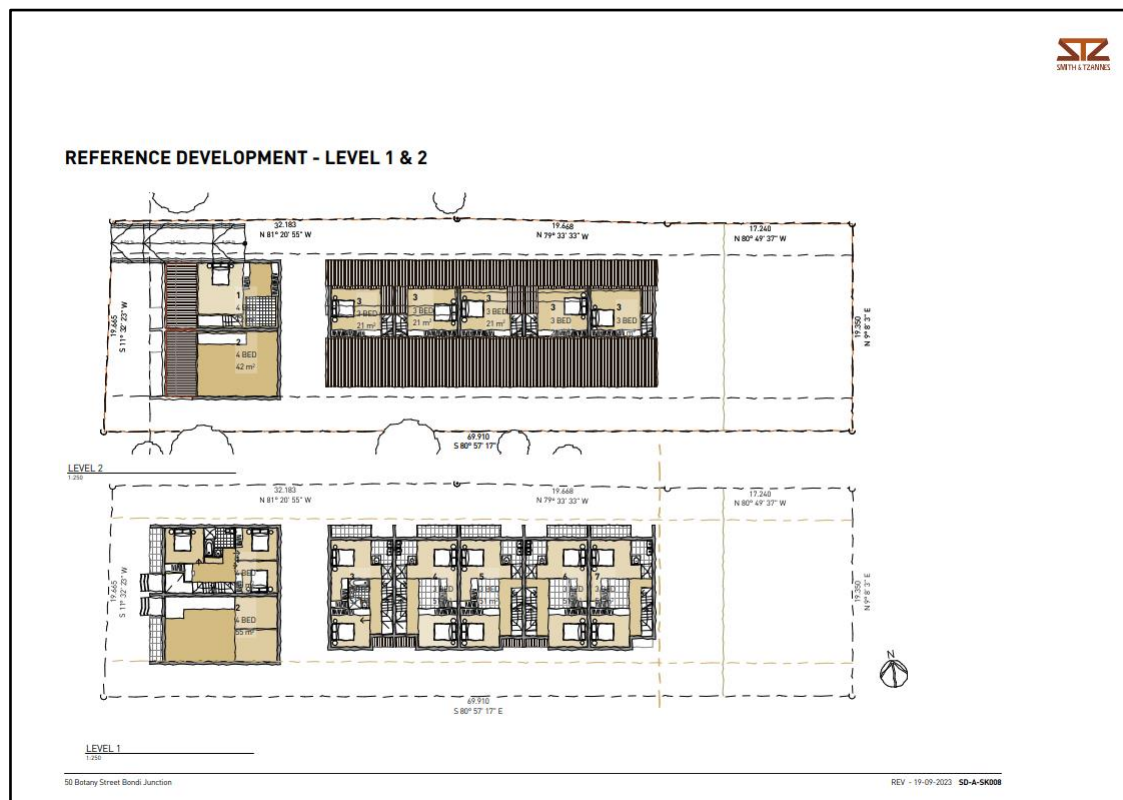


Figure 26. Proposed Level 1 and 2 Floor Plan.

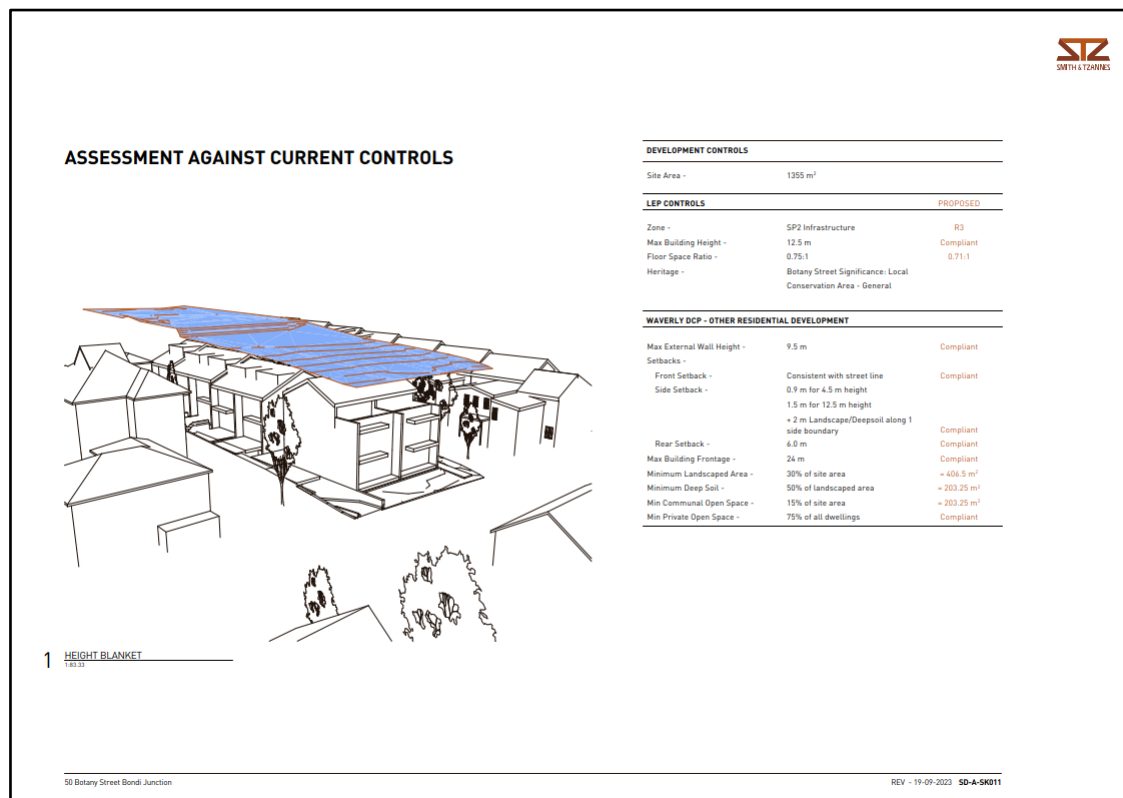


Figure 27. Proposed Assessment Against Current Controls Slide.

6.0 ASSESSMENT OF HERITAGE IMPACT

6.1 Heritage Management Framework

Below we outline the heritage-related statutory and non-statutory constraints applicable to the subject site including the objectives, controls and considerations which are relevant to the proposed development as described in Section 5.0 above. These constraints and requirements form the basis of this Heritage Impact Assessment.

6.1.1 Waverley Local Environmental Plan 2012

The statutory heritage conservation requirements contained in Section 5.10 of the *Waverley Local Environmental Plan 2012* (“WLEP”) are pertinent to any heritage impact assessment for future development on the subject site. The relevant clauses for the site and proposal are outlined below:

- (1) Objectives*
- (2) Requirement for consent*
- (4) Effect of proposed development on heritage significance*
- (5) Heritage assessment*

6.1.2 Waverley Development Control Plan 2022

Our assessment of heritage impact also considers the heritage-related sections of the Waverley Development Control Plan 2022 (“WDCP”) that are pertinent to the subject site and proposed development. These include:

Part B – General Provisions

B8 – Heritage

- 8.2 – Demolition and Excavation*
- 8.4 – Heritage Conservation Areas*
- 8.6 – Character and Streetscape*
- 8.7 – Siting*
- 8.8 – Scale and Proportion*
- 8.9 – Architectural Style*
- 8.10 – Materials and Colour*
- 8.11 – Roofs and Chimneys*
- 8.14 – Garden Elements*
- 8.15 – Building Facades*

6.1.3 Recommended Management

The following recommended management has been extracted from the NSW State Heritage Inventory Form for the Botany Street Urban Conservation Area, available on Waverley Council's website:

The contained nature of the conservation area lends itself to conservation whilst maintaining development opportunities that are compatible with the amenity and significance of existing buildings. The conservation and enhancement of buildings of architectural significance to be undertaken. Infill development to be compatible with the character of the area. Statements of heritage impacts are to be prepared for proposed development in the conservation area.¹¹

6.1.4 NSW Department of Planning and Environment Guidelines

In its guidelines for the preparation of Statements of Heritage Impact, the NSW Department of Planning and Environment provides a list of considerations in the form of questions aiming at directing and triggering heritage impact assessments.¹² These are divided into sections to match the different types of proposals that may occur on a heritage item, item in a heritage conservation area or in the vicinity of heritage. Below are listed the considerations which are most relevant to the proposed development as outlined in Section 5.0 of this report.

Demolition of a heritage item

- *If demolition is proposed, why is it necessary?*
- *Have options for retention and adaptive re-use been explored? If yes, set out why these options have been discarded?*
- *Has technical advice for demolition been obtained?*
- *Identify and include advice about how significant elements, if removed by the proposal, will be salvaged and reused.*

Change of use

- *Does the existing use contribute to the significance of the heritage item? Why is the change of use proposed?*
- *Will the change of use have an impact on the significance of the heritage item?*
- *Will the change of use require changes to the fabric or significant elements? How does that impact significance of the heritage item?*
- *Do the proposed works impact views to, from and within adjacent heritage items?*

¹¹ https://www.waverley.nsw.gov.au/__data/assets/pdf_file/0006/163599/C.03_Botany_Street_Conservation_Area.pdf

¹² Department of Planning and Environment, *Guidelines for preparing a statement of heritage impact* (Paramatta: Department of Planning and Environment, NSW Government, 2023), <https://www.environment.nsw.gov.au/research-and-publications/publications-search/statements-of-heritage-impact>.

Works adjacent to a heritage item or within the heritage conservation area (listed on an LEP)

- Will the proposed works affect the heritage significance of the adjacent heritage item or the heritage conservation area?
- Will the proposed works affect views to, and from, the heritage item? If yes, how will the impact be mitigated?
- Will the proposed works impact on the integrity or the streetscape of the heritage conservation area?

6.2 Heritage Impact Assessment

Below we assess the impact that the proposed development would have upon the subject site, the Botany Street Heritage Conservation Area in which it is located, and the heritage items in the vicinity. This assessment is based upon the Historical Context (refer to Section 2.0), the Physical Evidence (refer to Section 3.0), Heritage Significance (refer to Section 4.0) the Proposal (refer to Section 5.0), a review of the Heritage Management Framework (refer to Section 6.1) and the impact of the proposal on the relevant heritage items situated in the vicinity of the site (refer to Sections 1.3 and 3.4).

6.2.1 Impact Assessment Against the WLEP 2012

The statutory heritage conservation requirements contained in Section 5.10 of the *Waverley LEP 2012* are pertinent to any heritage impact assessment for future development on the subject site. We assess the proposal against the relevant clauses below.

CLAUSE	ASSESSMENT
(1) Objectives	The proposed would entail the delisting of a site currently listed as a heritage item under Schedule 5 of the <i>Waverley LEP 2012</i> . It is our general assessment that the telecommunications tower has been approved for demolition as per DA-79/2020. As such, the significance of the subject site is associated with the tower and its approved demolition would result in the loss of its significance. Heritage 21 is therefore of the opinion that the planning proposal for the delisting of the site and the changing of the Land Use Zoning to R3, would engender a neutral heritage impact to the heritage significance of the Botany Street HCA and would ensure that a future development would be sympathetic to the existing and desired future character of the Botany Street HCA.
(2) Requirement for consent	This planning proposal is lodged to Waverley Council to gain consent for the proposed zone change and delisting of the telecommunications tower included in the <i>Waverley LEP 2012</i> .
(4) Effect of proposed development on heritage significance	This Statement of Heritage Impact accompanies the planning proposal in order to enable Waverley Council, as the consent authority, to ascertain the extent to which the proposal would affect the heritage significance of the subject site, heritage items located in the vicinity of the site and the Botany Street HCA in which it is located.
(5) Heritage assessment	

6.2.2 Impact Assessment Against the WDCP 2022

Part B – General Provisions	
B8 – Heritage	
8.2 – Demolition and Excavation	
Objectives	Assessment
<p><i>(a) To ensure both listed items and buildings which contribute to the significance and character of Heritage Conservation Areas are conserved.</i></p> <p><i>(b) To discourage demolition so as to preserve the value of heritage items and Heritage Conservation Areas for the local community.</i></p> <p><i>(c) That replacement development enhances the character of the conservation area.</i></p>	<p>The planning proposal would rezone the subject site from SP2 to R3, which would reflect the current zoning for the residences located within the Botany Street HCA. The concept drawings for a potential future development at the site should the zoning be changed as part of the planning proposal, would, in Heritage 21's opinion, adopt a form, scale and materiality that would be in-keeping with the generality of terrace style and semi-detached housing evident in the nearby heritage items, and Botany Street HCA.</p> <p>As per Appendix A of this report, the existing telecommunications tower has been approved for demolition by the Waverley Local Planning Panel as part of DA-79/2020. Heritage 21 is of the opinion that including interpretative media as part of any future proposal would ensure that the heritage significance of the telecommunications tower would be acknowledged within the subject site. Further, including materials and colours that link the future development with the existing heritage fabric of the site would, in Heritage 21's opinion, ensure that future development would be sympathetic to the HCA while acknowledging the heritage item.</p>
8.4 – Heritage Conservation Areas	
Objectives	Assessment
<p><i>(a) To promote high quality design that respects and enhances the heritage significance of the conservation area.</i></p> <p><i>(b) To ensure that development respects the original built form, architectural style and character of the conservation area.</i></p> <p><i>(c) To ensure that contributory items are retained and improved.</i></p> <p><i>(d) To promote development that will remove uncharacteristic items or reduce the extent of their intrusion.</i></p>	<p>As shown in Section 5.3 above, the concept drawings for a potential future development at the site have been designed to ensure that the Victorian style, terraced built forms that are predominant along Botany Street and within the HCA would be reinterpreted and respected. The proposed new R3 zoning would correspond with the existing zoning predominant throughout the HCA and would encourage sympathetic infill development that adopts a terrace-style built form, with contemporary materials and colours to assist in clearly articulating the future development from the existing heritage significant built form.</p>

8.6 – Character and Streetscape	
Objectives	Assessment
<p><i>(a) To reinforce the existing street character, through appropriate dwelling facades, building setbacks, fence and landscaping.</i></p> <p><i>(b) To ensure that alterations and additions to the external appearance of heritage items and contributory buildings respect the contributory features and characteristics of the existing building and streetscape.</i></p> <p><i>(c) To allow infill development that respects and complements the existing character of the area.</i></p> <p><i>(d) To reinforce existing views along streets and from the public domain.</i></p>	<p>The proposed delisting of the telecommunications tower from Schedule 5 of the <i>WLEP 2012</i> and rezoning of the site to R3, would, in Heritage 21's opinion, provide the opportunity for new residential development that is sympathetic to the existing character of development along Botany Street. The planning proposal would provide opportunity for a future development that would reflect the Victorian style terrace housing that is characteristic of the HCA, while being clearly articulated as a contemporary infill development.</p>
8.7 – Siting	
Objectives	Assessment
<p><i>(a) To ensure that the existing heritage character of the streetscape including setbacks, siting and landscaping is maintained.</i></p> <p><i>(b) To maintain the general pattern of setbacks within a street.</i></p> <p><i>(c) To ensure that adequate curtilage and landscape setting is provided.</i></p> <p><i>(d) To ensure that the siting of alterations and additions to existing and new buildings retains the integrity of the heritage item, its setting, and the conservation area.</i></p>	<p>As shown in Section 5.3 of this report, a potential new development would be designed to reflect the established setbacks from Botany Street. the siting of the potential new residential development would also be sited within the subject site so as to minimise potential impacts to the nearby heritage items. The proposed terrace style development would tastefully integrate within the existing pattern of Victorian style development evident throughout the HCA and characteristic of nearby heritage items.</p>
8.8 – Scale and Proportion	
Objectives	Assessment
<p><i>(a) To ensure that alterations and additions to heritage item and contributory building are consistent with the scale and proportion of the item and/or streetscape.</i></p> <p><i>(b) To encourage infill development that recognises the predominant scale and proportion of the setting and responds sympathetically.</i></p>	<p>As per Appendix A, the existing telecommunications tower is approved for demolition. The proposed rezoning of the subject site to R3 zoning would provide the opportunity for a future development at the site to incorporate a bulk, scale and proportion that respects the built character of the HCA. As shown in Section 5.3 of this report, the concept townhouse development drawings would, in Heritage 21's opinion, result in a sympathetic infill development which respects the built pattern and forms of nearby Victorian style heritage items and the Botany Street Heritage Conservation Area. The height and scale of the proposed residential</p>

<i>(c) To promote development that is respectful of the scale of the surrounding buildings and area.</i>	development would not overpower the nearby heritage items and would reflect the existing scale of the built form within the HCA.
8.9 – Architectural Style	
Objectives	Assessment
<p><i>(a) To reinforce the various established architectural styles of dwellings through sensitive alterations and additions and appropriate new developments.</i></p> <p><i>(b) To emphasise balance and symmetry in alterations and additions to detached, semi-detached and attached dwellings.</i></p> <p><i>(c) To reinforce the existing pitched roofscape as the desired character of conservation areas and promote consistency in roofing materials.</i></p>	<p>It is our general assessment that the telecommunications tower has been approved for demolition as per DA-79/2020. As such, the significance of the subject site is associated with the tower and its approved demolition would result in the loss of its significance. Heritage 21 is therefore of the opinion that the planning proposal for the delisting of the site and the changing of the Land Use Zoning to R3, would engender a neutral heritage impact to the heritage significance of the Botany Street HCA and would ensure that a future development would be sympathetic to the existing and desired future character of the Botany Street HCA. As shown in Section 5.3 above, a potential future development at the site would include gable roof forms, rear service wings and two-storey form which would reflect the pattern of nearby Victorian style heritage items.</p>
8.10 – Materials and Colour	
Objectives	Assessment
<p><i>(a) To ensure that the selection of materials and colours is harmonious with the item or conservation area.</i></p> <p><i>(b) To ensure infill development considers the materials and colours characteristic of the conservation area.</i></p> <p><i>(c) To ensure that detailing and decoration is provided in consistent materials, finishes and colours to listed heritage items and identified conservation areas (refer to Annexure B8-1).</i></p>	<p>Heritage 21 recommends that a potential future townhouse development within the proposed R3 zoning should incorporate dark red bricks, off-form concrete and steel framed windows. These design elements would acknowledge the heritage significance of the site, including the telecommunications tower, while retaining a sympathetic built form that reflects traditional patterns of Victorian style terraces along Botany Street and throughout the HCA.</p>
8.11 – Roofs and Chimneys	
Objectives	Assessment
<p><i>(a) To retain and maintain the characteristic roof forms, finishes and chimneys of heritage items and conservation areas.</i></p> <p><i>(b) To ensure new roof profiles are consistent with the established skyline profiles of the conservation area.</i></p>	<p>As shown in Section 5.3 of this report, the proposed rezoning of the site to R3 would provide the opportunity for a sympathetic terrace-style development within the lot, which would include gable roof forms and rear service wing additions which would reflect the pattern of nearby Victorian style heritage items.</p>

8.15 – Building Facades	
Objectives	Assessment
<i>(a) To retain the existing façades of original heritage items, contributory buildings or buildings consistent with the character of the area.</i>	The existing buildings on the subject site consist of a Telstra communication building and a steel-framed telecommunications tower. Heritage 21 understands that these buildings have been approved for demolition as per decision by the Waverley Local Planning Panel attached in Appendix A of this report. The proposed rezoning of the site from SP2 to R3 would, in Heritage 21's opinion, ensure that a future infill development at the site would incorporate a form, bulk, scale and detail that not only reflects the generality of Victorian style architectural forms evident within the HCA, but also, would include materials and colours that acknowledge the existing heritage fabric of the subject site.

6.2.3 Recommended Management

The planning proposal would rezone the subject site from SP2 to R3, which would reflect the current zoning for the residences located within the Botany Street HCA. The concept drawings for a potential future development at the site should the zoning be changed as part of the planning proposal, would, in Heritage 21's opinion, adopt a form, scale and materiality that would be in-keeping with the generality of terrace style and semi-detached housing evident in the nearby heritage items, and Botany Street HCA.

As per Appendix A of this report, the existing telecommunications tower has been recommended for demolition by the Waverley Local Planning Panel as part of DA-79/2020. Heritage 21 is of the opinion that including interpretative panelling as part of any future proposal would ensure that the heritage significance of the telecommunications tower would be acknowledged. Further, including materials and colours that link the future development with the existing heritage fabric of the site would, in Heritage 21's opinion, ensure that future development would be sympathetic to the HCA while acknowledging the heritage item.

6.2.4 Impact Assessment Against the NSW Department of Planning and Environment Guidelines

As acknowledged in Section 6.1.4, the NSW Department of Planning and Environment has identified a list of considerations in the form of questions aiming at directing and triggering heritage impact assessment. Below, we assess the proposal against the most pertinent of these questions.

Question	Assessment
Demolition of a heritage item	
<i>If demolition is proposed, why is it necessary?</i>	As per Appendix A, the Waverley Local Planning Panel has approved the demolition of the existing telecommunications tower and associated structures. This planning proposal would seek to delist the telecommunications tower from Schedule 5 of the <i>WLEP 2012</i> . Heritage 21 is supportive of the proposed rezoning of the subject site from SP2 to R3, as well as the adoption of the heritage recommendations provided by the Waverley Local Planning Panel in order to mitigate the heritage impact of the telecommunications tower demolition as much as possible. The proposed rezoning of the site from SP2 to R3 would, in Heritage 21's opinion, provide the opportunity for a sympathetic infill townhouse development that responds to the established built forms evident throughout the Botany Street HCA, while including interpretation panelling and a schedule of materials and colours that acknowledges the heritage significance of the telecommunications tower.
<i>Have options for retention and adaptive re-use been explored? If yes, set out why these options have been discarded?</i>	The planning proposal would seek to change the zoning, lot size and delist the telecommunications tower from Schedule 5 of the <i>WLEP 2012</i> . The existing fabric contained on the site would, in Heritage 21's opinion, not be suitable for the proposed R3 zoning. As such, options for the adaptive reuse of the telecommunications tower has not been considered as part of the proposal.
<i>Has technical advice for demolition been obtained?</i>	Heritage 21 was not involved in the proposal for the demolition of the telecommunications tower and associated buildings.
<i>Identify and include advice about how significant elements, if removed by the proposal, will be salvaged and reused.</i>	As a c.1970s construction, the proposal would not seek to salvage and reuse the existing telecommunications tower and associated building as part of a future development. However, as per the heritage recommendations provided by both the Waverley Local Planning Panel and Heritage 21, an interpretation plan should accompany any future residential development at the site. Also, any future development should also include a schedule of materials and colours that acknowledges the built fabric of the telecommunications tower, including steel, dark red bricks and off-form concrete.

Change of use	
<i>Does the existing use contribute to the significance of the heritage item? Why is the change of use proposed?</i>	Yes, the current SP2 zoning corresponds with the significance of the telecommunications tower as a piece of infrastructure. The proposed changing of the zoning to R3 would provide the opportunity for sympathetic, infill development at the site to reflect the current R3 zoning of the Botany HCA and nearby heritage items.
<i>Will the change of use have an impact on the significance of the heritage item?</i>	As per Appendix A, Heritage 21 notes that the telecommunications tower has been approved for demolition. As such, Heritage 21 would recommend that the proposed changing of the SP2 zoning to R3 would provide the opportunity for a future residential development that would be sympathetic to the heritage significance of the Botany Street HCA and nearby heritage items.
<i>Will the change of use require changes to the fabric or significant elements? How does that impact significance of the heritage item?</i>	It is our general assessment that the telecommunications tower has been approved for demolition as per DA-79/2020. As such, the significance of the subject site is associated with the tower and its approved demolition would result in the loss of its significance. Heritage 21 is therefore of the opinion that the planning proposal for the delisting of the site and the changing of the Land Use Zoning to R3, would engender a neutral heritage impact to the heritage significance of the Botany Street HCA and would ensure that a future development would be sympathetic to the existing and desired future character of the Botany Street HCA. As shown in Section 5.3 above, a potential future development at the site would include gable roof forms and rear service wing additions which would reflect the pattern of nearby Victorian style heritage items.
Works adjacent to a heritage item or within the heritage conservation area (listed on an LEP)	
<i>Will the proposed works affect the heritage significance of the adjacent heritage item or the heritage conservation area?</i>	The planning proposal for the delisting of the site and the changing of the Land Use Zoning to R3, would, in Heritage 21's opinion, engender a neutral heritage impact to the heritage significance of the Botany Street HCA and would ensure that a future development would be sympathetic to the existing and desired future character of the Botany Street HCA. The proposed rezoning of the site from SP2 to R3 would, in Heritage 21's opinion, provide the opportunity for a sympathetic infill townhouse development that responds to the established built forms evident throughout the Botany Street HCA, while including interpretation media and a schedule of materials and colours that acknowledges the heritage significance of the telecommunications tower.
<i>Will the proposed works affect views to, and from, the heritage item? If yes, how will the impact be mitigated?</i>	The planning proposal would rezone the subject site from SP2 to R3, which would reflect the current zoning for the residences located within the Botany Street HCA. The concept drawings for a potential future development at the site should the zoning be changed as part of the planning proposal, would, in Heritage 21's opinion, adopt a form, scale and materiality that would be in-

	keeping with the generality of terrace style and semi-detached housing evident in the nearby heritage items, and Botany Street HCA.
<i>Will the proposed works impact on the integrity or the streetscape of the heritage conservation area?</i>	As per Appendix A of this report, the existing telecommunications tower has been recommended for demolition by the Waverley Local Planning Panel as part of DA-79/2020. Heritage 21 is of the opinion that including interpretative media as part of any future proposal would ensure that the heritage significance of the telecommunications tower would be acknowledged. Further, including materials and colours that link the future development with the existing heritage fabric of the site would, in Heritage 21's opinion, ensure that future development would be sympathetic to the HCA while acknowledging the heritage item.

7.0 CONCLUSION & RECOMMENDATIONS

7.1 Impact Summary

The NSW Department of Planning and Environment's guidelines require the following aspects of the proposal to be summarised.¹³

7.1.1 Aspects of the proposal which respect or enhance heritage significance

In our view, the following aspects of the proposal would respect the heritage significance of the subject site, the Botany Street HCA and heritage items in the vicinity:

- The planning proposal would engender a neutral heritage impact to the heritage significance of the Botany Street HCA and would ensure that a future development would be sympathetic to the existing and desired future character of the Botany Street HCA.
- The concept drawings for a potential future development at the site would adopt a form, scale and materiality that would be in-keeping with the generality of terrace style and semi-detached housing evident in the nearby heritage items, and Botany Street HCA.
- The proposed changing of the zoning to R3 would provide the opportunity for sympathetic, infill development at the site to reflect the current R3 zoning of the Botany HCA and nearby heritage items.
- Materials and colours that link the future development with the existing heritage fabric of the site would, in Heritage 21's opinion, ensure that future development would be sympathetic to the HCA while acknowledging the heritage item.

¹³ Department of Planning and Environment, *Guidelines for preparing a statement of heritage impact*.

7.2 Mitigation Measures

To ensure maximum conservation of the significance of the subject site, heritage conservation area and heritage items in the vicinity, Heritage 21 also recommends the following:

- Photographic Archival Recording.

A Photographic Archival Recording (PAR) should be prepared by a suitably qualified Heritage Consultant prior to any development being carried out on the site.

The report must consist of an archival standard photographic record of the site and buildings externally including the existing character of the streetscape and the views to and from the subject site and heritage items in the vicinity, exteriors and interiors, landscape and curtilage area and general views to and from the site.

The recording shall be undertaken in accordance with the guidelines for Photographic Recording of Heritage Items Using Film or Digital Capture (2006)" prepared by the NSW Office of Environment & Heritage and copies should be retained in Council's Archives and Local Studies.

- Heritage 21 recommends that the townhouse proposal should incorporate dark red bricks, off-form concrete and steel framed windows. Heritage 21 is of the opinion that these design elements would acknowledge the heritage significance of the site, while retaining a sympathetic built form that reflects traditional patterns of development along Botany Street and throughout the HCA.
- Heritage 21 recommends that an Interpretation Plan should be prepared as part of any future development at the site. This would ensure that the heritage significance of the telecommunications tower is acknowledged within the new development.

7.3 General Conclusion

Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would engender a neutral impact on the heritage significance of the subject site, the Botany Street HCA and heritage items in the vicinity. We therefore recommend that Waverley Council view the planning proposal favourably on heritage grounds.

8.0 SOURCES

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**APPENDIX A – REPORT TO THE WAVERLEY LOCAL PLANNING PANEL –
DA-79/2020**



Report to the Waverley Local Planning Panel

Application number	DA-79/2020
Site address	50 Botany Street, BONDI JUNCTION
Proposal	Demolition of existing telecommunications tower and construction of a new telecommunications tower (monopole) and ancillary equipment.
Date of lodgement	18 March 2020
Owner	Telstra Corporation Limited
Applicant	Service Stream Mobile Communications
Submissions	15 unique submissions (14 objections, 1 in support)
Cost of works	\$495,000
Issues	Height, safety
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 8 May 2020.

The site is identified as Lot 1 in DP 619753, known as 50 Botany Street, BONDI JUNCTION. It is rectangular in shape with an area of 1350.9sqm. It has a west boundary to Botany Street and an east boundary to Council Street, each measuring 18m. The side boundaries (north and south) measure 68m. The site is located close to the intersection of Council Street and Birrell Street.

The site is occupied by a two storey administration building fronting Botany Street and a telecommunications tower to the rear closer to Council Street. The existing tower, known as a “lattice tower”, is 53.37m in height and accommodates antennas at several different locations.

The site is listed as heritage item #166 *Telecommunications Tower* and located in the Botany Street Heritage Conservation Area (C3) under WLEP 2012 Schedule 5.

The locality is characterised by a variety of residential development, including single dwellings and residential flat buildings. A row of 15 terrace dwellings fronting Birrell Street have rear yards that adjoin the southern boundary of the subject site. Across the road on Council Street is St Mary’s Anglican Church and childcare centre. Further to the south and south west on the opposite side of Birrell Street is the Uniting War Memorial Hospital Aged Care facility and Waverley College.



Figure 1: Aerial view of subject site (source: SIXmaps)

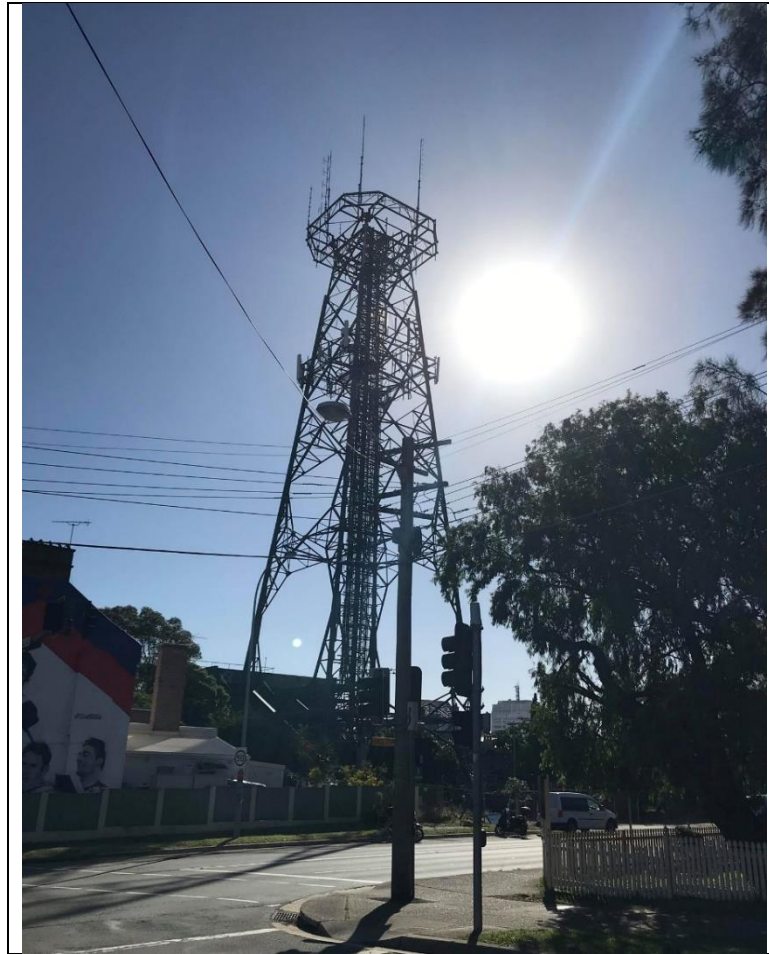


Figure 2: Subject site viewed from the corner of Council Street and Birrell Street

1.2 Relevant History

PD-35/2019 was lodged for the site seeking pre-DA advice on the proposal to which the subject application relates. A Pre-DA meeting was held at Council Chambers on 17 October 2019 and a letter provided to the applicant on 4 November 2019. At the time of providing Pre-DA advice to the applicant, the proposal was also discussed with the DBU.

In summary, the Pre-DA advice provided by Council officers included:

Issue	Advice provided	Comments
Permissibility of use	A telecommunications facility is permissible in the SP2 Infrastructure Zone.	Noted.
Height	In determining whether WLEP 2012 Clause 4.3 <i>Height of Buildings</i> is applicable to the telecommunications facility, the definition of <i>building height</i> and <i>building</i> in WLEP 2012 were considered. The telecommunications facility is a type of structure. The definition of a <i>building</i> includes any structure or part of a structure. Therefore, Clause 4.3 <i>Height of Buildings</i> does apply to the proposed development. Given the existing and proposed structures exceed the maximum building height development standard, a written	The DA is accompanied by a Clause 4.6 request.

	request under WLEP 2012 Clause 4.6 will be required with a future development application.	
Heritage	Given the site is heritage listed and within a heritage conservation area, it is recommended that any future development application be accompanied by a Heritage Impact Statement.	The development application is accompanied by a Heritage Impact Statement.
Hazardous Materials	The deconstruction of the existing lattice structure raises concern about methodology and potentially hazardous materials, such as lead paint and asbestos. It is recommended that any future development application be accompanied by a report or statement by a qualified professional outlining the method of demolition and a schedule of hazardous materials and how they will be managed.	A method of demolition schedule and a lead paint test schedule has been submitted with the DA.
Biodiversity	The site lies within a habitat corridor. It is noted that the preliminary plans submitted do not include landscaping for the proposed development. Should there be an opportunity for planting, in particular shrubs, Section 3.2(a) of WDCP 2012 should be considered.	Landscaping is not able to be provided onsite.
Preferred planning approval pathway	It was discussed at the meeting the possibility of lodging two separate development applications, one to obtain consent for the construction of the monopole and one to obtain consent for the demolition of the existing lattice structure. It is Council's preferred option that a single development application be lodged for all proposed works on site. This will enable an all-encompassing assessment, as well as provide clarity for Council staff, Councillors and the local community.	The subject DA to include both demolition of the existing tower and construction of the new monopole.

1.3 Proposal

The application seeks consent for decommission and demolition of the existing lattice tower telecommunications facility and construction of a new monopole telecommunications facility. The proposed monopole measures 45m in height accommodating 15 panel antennas attached to two triangular headframes at elevations of 40 and 45 metres. The total height including antennas mounted atop the structure will be 49.2m.

Two equipment shelters are also proposed to house the necessary electronic equipment required to operate the base station.

The proposal is intended to maintain network coverage and capacity in the areas of Bondi Junction and Waverley ensuring reliable telecommunications services are not lost. The existing lattice tower is nearing the end of its functional life and has become structurally unsafe, worsened by the corrosive environment.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.2 SEPP (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 Division 21 relates to *Telecommunications and other communication facilities*. Under this section, specifically Clause 116(1) permits development carried out by or on behalf of any person on land in connection with a telecommunication facility as exempt development, if it is for the purposes specified in Part 1 of Schedule 3A.

Part 1 of Schedule 3A *Exempt and complying development in relation to telecommunication facilities* Item 8 outlines development standards for Replacement of a tower. Item 8.3 notes that the replacement tower must be similar in appearance to the original tower, except that a lattice tower may be replaced by a monopole tower. Item 8.4 notes that the original tower must be decommissioned and removed within 12 weeks of the telecommunication equipment on the replacement tower being commissioned.

It is noted that the proposed development meets the development standards for exempt development in Part 1 of Schedule 3A. However, SEPP (Infrastructure) 2007 Clause 20 *General requirements for exempt development* Clause (2)(e1) states that to be exempt development, the development “must not involve the demolition of a building or work that is, or is part of, a State or local heritage item”. Given the site is listed as heritage item #166 *Telecommunications Tower* under WLEP 2012 Schedule 5, the development is not considered exempt development and the subject DA has been lodged.

2.1.3 Telecommunications Act 1997

The Telecommunications Act 1997 provides framework for regulating the actions of telecommunications carriers and service providers. Telstra is a licensed carrier under the Telecommunications Act 1997. Schedule 3 specifies ‘authorised activities’ that may be carried out by carriers without approval under NSW legislation. Under this clause, a carrier may install a telecommunications facility subject to that facility being a ‘low impact facility (as defined by the Telecommunications (Low-Impact Facilities) Determination 1997 (as amended)). In this case, the proposal involves the installation of a new monopole structure, and therefore does not constitute a low-impact facility under the Telecommunications (Low-Impact Facilities) Determination 1997 (as amended). Therefore, Telstra is not empowered to undertake the proposed works without approval under NSW State Legislation.

As discussed above, given the site is listed as a local heritage item, the proposed works are also not specified as exempt development under SEPP (Infrastructure) 2007 and development consent must be obtained from Waverley Council as the consent authority.

2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the Aims of the Plan.
Part 2 Permitted or prohibited development		
Land Use Table SP2 Infrastructure Zone	Yes	The proposal is defined as a telecommunications facility, which is permitted with consent in the SP2 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 12.5m 	No	The existing tower to be demolished measures 53.3m, which is a 40.8m or 326.4% variation. The proposed monopole measures 45m, which is a 32.5m or 260% variation.
4.4 Floor space ratio <ul style="list-style-type: none"> 0.75:1 	N/A	The proposal does not include any gross floor area and therefore does not impact the FSR of the site.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site is listed as heritage item #166 <i>Telecommunications Tower</i> and located in the Botany Street Heritage Conservation Area (C3) under WLEP 2012 Schedule 5. The proposal was discussed with Council's Heritage Advisor who supported the proposal subject to conditions of consent relating to an interpretation panel. This is discussed in further detail in the referrals section below.
Part 6 Additional local provisions		
6.2 Earthworks	N/A	The proposal does not include excavation or earth works

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the height of buildings development standard in Clause 4.3.

The site is subject to a maximum height control of 12.5m. The proposed development seeks to demolish the existing tower which has a height of 53.3m, exceeding the standard by 40.8m equating to a 326.4% variation. The new monopole tower to be constructed has a height of 45m, exceeding the standard by 32.5m equating to a 260% variation. It is noted that antennas mounted atop the structure will have a height of 49.2m, however these are not included in the definition of building height.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 2012 seeking to justify the contravention of the development standard by demonstrating:

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

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) *The proposal is intended to replace an existing lattice tower telecommunication facility on the same property. The existing Waverley telecommunications lattice tower structure is 53.37m, and including the equipment mounted atop it has an overall height of approximately 60m, around 10m taller than the proposal. The existing lattice tower structure exceeds the height standard by 40.8m and has been present in its general form for over 5 decades, providing acceptable communications and mobile coverage to Bondi Junction and Waverley. In addition, prior to the tower reduction undertaken in 2015 the Waverley tower was 81.88m which exceed the height limit by 69.38m. It is clear with regards to the proposed monopole that compliance with Clause 4.3 is unreasonable and unnecessary considering it has been exceeded by the original facility.*
 - (ii) *By their nature, telecommunications facilities are unable to comply with prescriptive height restrictions because, to function they must protrude above the surrounding area including topographical features, buildings and vegetation. A 12.5m monopole would not adequately project above surrounding buildings and structures and thus would not achieve the required radio frequency coverage thereby defeating its purpose. With increasing demand for mobile services and the multiple uses of mobile devices brought about by access to the latest technologies, mobile facilities have now become an essential part of infrastructure. Their ability to function is reliant on their line of sight to the devices they service. In order to provide mobile coverage in the Bondi Junction and Waverley area, the*

facilities must be tall therefore compliance with Clause 4.3 is unreasonable and unnecessary.

- (iii) The WLEP 2012 building height definition excludes communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues etc.*
 - (iv) The object of the height of buildings standard is to prevent detrimental impact on views, solar access, streetscape, neighbours and maintain a consistent bulk and scale. The proposed monopole is of a streamlined design and despite penetrating the height restriction it will not create a significant visual disturbance. It will not result in loss of views, decreased solar access and will not considerably alter the scale of development in the area.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposal is consistent with the objectives of the SP2 Infrastructure zone as the telecommunications facility is considered a critical infrastructure.*
 - (ii) The proposal does not significantly impact the amenity of the area. The slimline monopole does not increase shadowing on neighbouring properties or disrupt views.*
 - (iii) The proposed design is sympathetic to its surroundings resulting in minimal bulk that does not negatively affect the desired future character of the locality. The proposal will also be finished in a recessive colour that blends in with the background.*
 - (iv) The additional height will cause minor visual impacts on the surrounding heritage conservation area due to the minimal bulk from the monopole design. However, these impacts are considered acceptable and efforts have been made to mitigate them through recessive colouring.*
 - (v) Compared to a habitable structure which fills up significantly more space, the proposed structure has a very small (almost insignificant) envelope which results in minimal overshadowing to dwellings in the area.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*

- b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Does the written request adequately address those issues at clause 4.6(3)(b)?

The written request has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard as objectives of the standard are achieved despite the non-compliance in reference to one of the justifications/tests arising from *Wehbe v Pittwater Council* [2007] 156 LGERA 446.

The written request has outlined the minimal consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape has sufficiently argues that these consequences are reasonable. The written request has also highlighted the fundamental requirement of the structure to be at a height above the surrounding buildings, vegetation and topography in order to adequately achieve the required radio frequency coverage. Considering the site is located in the SP2 Infrastructure zone, strict compliance would be burdensome and not allow the site to accommodate infrastructure which is contrary to the objectives of the zone. Discussion below justifies how the development achieves the objectives of the development standard and the zone objectives despite the non-compliance with the development standard.

Is the development in the public interest?

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

Clause 2.1 – Land use zone – Zone SP2 Infrastructure (Telecommunications Facility)

- To provide for infrastructure and related services*
- To prevent development that is not compatible with or that may detract from the provision of infrastructure*

The proposal is consistent with the objectives of the SP2 zoning as it provides infrastructure and related services in the form of a replacement telecommunications tower to ensure network coverage and capacity meets the telecommunication needs of the local area are maintained.

Clause 4.3 Height of Buildings

Note: Objective (b) and (c) do not apply as they relate only to land in Bondi Junction centre.

(a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views

In assessing the breach, consideration needs to be given as to whether the overall height of the development preserves the environmental amenity of neighbouring properties. The proposed structure has such a minimal envelope that it can be demonstrated that it does not have an impact on adjoining properties in terms of overshadowing and view loss. Following construction of the new monopole, the development application proposes decommission and demolition of the existing lattice structure which is taller and has a much larger envelope. As such, not only does the proposed development preserve the environmental amenity of neighbouring properties, it improves the amenity in terms of overshadowing and view loss.

In terms of impacts from the actual telecommunications radiation, conditions are recommended to ensure these meet standard safety standards.

The proposed development is considered to be consistent with objective (a) of the height development standard.

(d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space

The height of the proposed monopole is compatible with the existing site, in that it is smaller in scale than the existing structure. While it does not necessarily contribute to the physical definition of the street, the monopole is an improvement on the streetscape impact of the existing lattice tower on site. The telecommunications facility provides required infrastructure within the locality.

The proposed development is considered to be consistent with objective (d) of the height development standard.

Conclusion

For the reasons provided above the requested variation to the height is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Height development standard and the SP2 Infrastructure zone.

2.1.5 Waverley Development Control Plan 2012 - Amendment No 7 (Waverley DCP 2012) – Effective 2 March 2020

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site.

Development Control	Compliance	Comment
2. Ecologically sustainable Development	Yes	Given the scale of the development, the proposal is considered to adequately consider the objectives of this section.
3. Landscaping and Biodiversity	Yes	Landscaping is not provided on site. At Pre-DA stage it was recommended that landscaping be included onsite, if possible. The applicant has not provided landscaping onsite. It is desirable to have some native landscaping on site in accordance with WDCP 2012, however it is acknowledged that access to the telecommunications structure needs to be maintained. A condition of consent has been included requiring native landscaping to be planted on-site in accordance with WDCP 2012 Section B3.
7. Accessibility and adaptability	N/A	The site does not provide access to the public.
8. Transport	Yes	Private vehicular access is provided off Council Street.
9. Heritage	Yes	The proposed development is in a Heritage Conservation Area or a Heritage item and follows the guidance of this part of the DCP. Council's Heritage Architect has reviewed the proposal and raised no issues with the proposal, subject to conditions of consent.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP. Notwithstanding this, having regard to this site being an infrastructure service, it is recommended that adequate fencing and CCTV be maintained around the perimeter of the site.

16.1 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

16.2 Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

16.3 Any Submissions

The application was notified for 21 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

15 unique submissions were received, 14 objections and 1 in support. The issues raised in the submissions are summarised and discussed below.

Table 3: Summary of property addresses that lodged a submission

Property
232 Birrell Street, BONDI JUNCTION (2 submissions from this address)
190 Birrell Street, BONDI JUNCTION
10 Allens Parade, BONDI JUNCTION (2 submissions from this address)
10A Allens Parade, BONDI JUNCTION (3 submissions from this address)
39 Allens Parade, BONDI JUNCTION
Allens Parade, BONDI JUNCTION (no street address)
15 Porter Street, BONDI JUNCTION
37 Paul Street, BONDI JUNCTION
205/150 Bronte Road, WAVERLEY
20 Cuthbert Street, QUEENS PARK
55/107 Macpherson Street, BRONTE
11 Pacific Street, BRONTE (in support)
9/152 Brook Street, COOGEE
49 Cascade Street, SYDNEY
No address provided

Issue: Many submissions raised concerns about 5G technology and human safety concerns. Also, concern was raised that the new structure will have increased EME (electromagnetic energy) levels. There are fears this will impact long term health and the value of surrounding homes.

Response: The concerns raised in submissions were relayed to the applicant who provided a response along with documentation by national and internationally accepted bodies. The applicant notes that all Telstra mobile network facilities are compliant with the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) standards. As such, the Radiofrequency (RF) Electromagnetic Energy (EME) levels are well within the allowable public exposure levels.

The applicant also noted that the proposed replacement tower is currently planned for 3G and 4G technology, which is the technology on the existing tower. However, as part of Telstra's long term modernisation program, 5G technologies will be added to the facility in the future.

Issue: The tower should be away from residential properties, schools, childcare centres and hospitals.

Response: The telecommunications tower has been in this location since 1970 to provide reception and mobile data to the Waverley and Bondi Junction area. If moved, it defeats the purpose of providing telecommunications infrastructure to the area. The site is zoned SP2 Infrastructure and is considered suitable for the existing and proposed towers.

Issue: Concerns about transparency, fairness, corruption and ‘pushing this through’ during this time of lockdown procedures for COVID-19. No doubt that these matters can be ventilated in the Land and Environment Court when an injunction is sought to stop the proposal.

Response: Allegations of corruption are a serious matter. Submissions to development applications are on the public record. Council staff do not take to them lightly and particularly in cases where they are purely false or misleading, they can be deemed offensive. Should there be any evidence to indicate that corruption of any sorts has occurred, the objector should contact Council’s Auditor to investigate such allegations.

In response to concern raised about timing, as part of Council’s business continuity planning, the development assessment functions in Council were able to continue during the restrictions imposed by the NSW Government in response to the COVID-19 pandemic. Telstra Corporation Limited owns the site and Service Stream Mobile Communications lodged this development application on Telstra’s behalf on 18 March 2020. In accordance with the WDCP 2012 Part A2, the application was notified for a 3 week period from 20 March to 10 April and a site notice erected on site.

It is also noted that the proposed development meets the development standards for exempt development in Part 1 of Schedule 3A under SEPP (Infrastructure) 2007. However, the local heritage listing of this site required a development application to be lodged.

Issue: Council should consult with Waverley Residents on any proposed implementation of 5G technology

Response: Waverley Council is not implementing 5G technology. This site is owned and managed by Telstra Corporation Limited. As the consent authority, Waverley Council has notified surrounding residents of this development application.

Issue: Not enough people in the area have been notified. Many units are renters and renters don’t care so will not pass on the information to owners who are more impacted.

Response: The application was been notified in accordance with WDCP 2012 Part A2 Section 2.3 and 2.4. In this instance, *owners* and *occupiers* of all properties adjoining the site and opposite the site were notified of this development application. Furthermore, a site notice was erected on site and the development application details and documentation made public on Council’s website.

Issue: Object to the removal of trees

Response: The proposal does not include the removal of trees.

Issue: A historic home will be destroyed in the interest of profit and they will rob us of our trees. We are losing our heritage and medium density ending up with a high densely populated suburb.

Response: The proposal does not include the demolition of any houses or removal of trees.

16.4 Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

3.1 Heritage

The application was referred to Council's Heritage Advisor who noted that the tower is considered to have been associated with broadcast images from the first moon landing in 1969 although the current tower is now considered to date from 1970 with later additions. The tower has been progressively modified in response to technology and maintenance requirements over time. It is noted that the tower has a specific and viable use, it will progressively deteriorate to a point of structural instability. In terms of design, the slender form of the new monopole will remove the prominence of the structure, which also reduces the incongruity of the current tower within the immediate setting.

To acknowledge the heritage significance of the existing communications tower, the recommendation provided in the applicant's heritage report are supported as follows:

1. A digital photographic archival record of the tower and setting is to be provided in accordance with guidelines of the NSW heritage office. The record is to be provided to Council prior to any works on site.
2. Interpretation panels are to be located on the public boundary of the site, the panels illustrating the tower and its known history.

4. SUMMARY

The application seeks consent for construction of a new monopole telecommunications facility and decommissioning and demolition of the existing lattice tower. The proposed development meets the development standards for exempt development in Part 1 of Schedule 3A under SEPP (Infrastructure) 2007. However, the local heritage listing of this site required a development application to be lodged.

The site is zoned SP2 Infrastructure Zone and has a height development standard of 12.5m.

When providing Pre-DA advice to the applicant and during assessment of the subject DA, Development Assessment staff discussed whether WLEP 2012 Clause 4.3 *Height of Buildings* is applicable to the telecommunications facility, the definition of *building height* and *building* in WLEP 2012 were considered. The telecommunications facility is a type of structure. The definition of a *building* includes any structure or part of a structure. During assessment of this application, Council obtained legal advice on the matter. Council's solicitors concurred with Council's position that WLEP 2012 Clause 4.3 Height of Buildings does apply.

The existing tower to be demolished has a height of 53.3m, which is a 40.8m or 326.4% variation. The proposed monopole has a height of 45m, which is a 32.5m or 260% variation. The applicant provided an amended written request during the assessment period which adequately addresses the matters required to be addressed by cl. 4.6 of WLEP 2012.

15 unique submissions were received (14 objections and 1 in support). A Councillor submission was not received. The application form does not indicate a conflict of interest.

It is recommended that the application be approved, subject to conditions.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 21 April 2020 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: M Reid, A Rossi, B McNamara, B Matlawski, E Finnegan

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

Report prepared by:



Emma Finnegan
Senior Development Assessment Planner

Date: 10 June 2020

**Application reviewed and agreed on behalf of
the Development and Building Unit by:**



Angela Rossi
Manager, Development Assessment (Central)

Date: 12 June 2020

Reason for referral:

- 2 Contentious development (10 or more objections)
- 3 Departure from any development standard in an EPI by more than 10%
- 4(c) Sensitive development – demolition of a heritage item

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by Service Stream including the following:

Plan and Issue Number	Plan description	Plan Date	Date received by Council
N20122 Sheet S1 Issue 6	Site access and locality plan	13 March 2020	18 March 2020
N20122 Sheet S1-3 Issue 1	Proposed site layout	13 March 2020	18 March 2020
N20122 Sheet S1-4 Issue 1	Antenna layout	13 March 2020	18 March 2020
N20122 Sheet S3 Issue 13	South elevation sheet 1 of 2	13 March 2020	18 March 2020
N20122 Sheet S3-1 Issue 5	South elevation sheet 2 of 2	13 March 2020	18 March 2020
N20122 Sheet S3-2 Issue 1	Antenna configuration table	13 March 2020	18 March 2020

- (b) Heritage Impact Statement prepared by City Plan, dated March 2020 and received by Council on 18 March 2020.

- (c) Demolition Plan prepared by One Com Nation Pty Ltd received by Council on 18 March 2020.

- (d) The Site Waste and Recycling Management Plan (SWRMP) Part 1

Except where amended by the following conditions of consent.

2. HERITAGE INTERPRETATION PANELS

- (a) To acknowledge the heritage significance of the existing communications tower, interpretation panels are to be located on the public boundary of the site (both Council Street and Botany Street frontages), illustrating the tower and its known history.
- (b) Details of the location and contents of the interpretation panel are to be submitted to and approved by Council's Heritage Advisor prior to the issue of the relevant Construction Certificate.
- (c) The approved interpretation panels must be installed prior to the issue of any Occupation Certificate.

3. LANDSCAPE WORKS IN A HABITAT CORRIDOR

Landscaping is to be provided on site, including around the Heritage Interpretation Panel required under Condition 2. A landscape plan is to be submitted to and approved by Council prior to the issue of the relevant Construction Certificate. The landscape plan is to include a plant species list that includes a minimum of 50% of the proposed plantings (not including turfed areas) to be indigenous or local native plants as listed in Annexure B2 - 1 of the *Waverley Development Control Plan 2012*.

4. MATERIALS AND FINISHES

The new telecommunications tower (monopole) shall be neutral in colour and of low reflectivity.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

5. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

6. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
 - (i) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (ii) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
 - (i) A development valued at \$100,000 or less will be exempt from the levy.
 - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
 - (iii) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

7. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$10,577.50 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

8. LONG SERVICE LEVY

A long service levy, as required under Section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

9. ARCHIVAL RECORDING

An archival record shall be prepared of the site for deposit in Waverley Council's Archive. This record must be carried out prior to the removal of any significant fabric from the site and must be submitted to Council prior to the commencement of any work. The record is to comply with the NSW Heritage Office Guidelines for digital archival recording.

Two physical copies and one digital copy are to be submitted to Council's Heritage Officer.

10. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

11. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

12. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

13. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

14. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent

15. STORMWATER MANAGEMENT

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of the relevant Construction Certificate.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

16. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

17. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

18. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency

particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

19. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays;
- (b) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

20. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

21. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

22. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans.

23. TREE PROTECTION

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

24. WORKS ON PUBLIC ROADS

Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road/Footpath Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

25. HERITAGE INTERPRETATION PANEL TO BE INSTALLED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

Prior to the issue of an Occupation Certificate, the interpretation panels approved by Council's Heritage Advisor (required under Condition 2) are to be installed onsite.

26. CERTIFICATION OF LANDSCAPING

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established.

27. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

28. NOISE – PLANT AND EQUIPMENT

A Certificate is to be submitted to Council at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Consultant. The Certificate is to certify all plant and equipment comply with the terms of approval in relation to noise.

29. REMOVAL OF INFRASTRUCTURE

Infrastructure including the decommission of the existing tower must be removed when no longer in use at the Owner's expense.

30. REMOVAL OF INFRASTRUCTURE

All redundant telecommunication equipment following the decommission of the existing tower must be removed when no longer in use at the Owner's expense.

31. SIGNAGE TO BE DISPLAYED

- (a) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position on both the Botany Street and Council Street frontages of the site that identifies the name and contact details of the operator or site manager.
- (b) The signage shall be permanent, legible and waterproof.
- (c) Signage specified in sub clauses (a) and (b) is to be erected prior to the issue of an Occupation Certificate.

E. OPERATIONAL MATTERS

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

32. INSTALLATION AND OPERATION OF INFRASTRUCTURE

- (a) The Owner is responsible for any adverse impacts derived from the installation and operation of the infrastructure and is required to notify the relevant government authorities should the Owner become aware of such adverse impacts.
- (b) The installation and operation of all infrastructure services on-site shall comply with the relevant legislations and standards at all times.

33. AIR EMISSIONS

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997.

34. NOISE EMISSIONS

The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.

35. NOISE - MECHANICAL PLANT

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy.
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (a) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

36. SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES

The Owner must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- (a) It must record continuously each day (that is, 24hours, 7 days a week),
- (b) It must record in digital format and at a minimum of 15 frames per second,
- (c) Any recorded image must specify the time and date of the image;
- (d) The system's cameras must cover:

- i. all entry and exit points of the site,
 - ii. the footpath immediately adjacent to the site.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.
- (h) Provide any recordings made by the system to an Authorised Council or Police Officer within 24 hours of any request by an Authorised Council or Police Officer to provide such recordings.

The CCTV system shall be installed and operational prior to the issue of an Occupation Certificate.

37. SECURITY / BOUNDARY FENCING

Security / boundary fencing shall be maintained along all perimeters of the site, at all times.

38. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.

ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

AD1.SYDNEY WATER REQUIREMENTS

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

AD2.DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

AD3.TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

AD4.EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

AD5.SEPARATE APPLICATION FOR SIGNAGE

No signage has been proposed in this application, therefore any advertising or signage requires the separate approval from Council, unless deemed Exempt Development under Division 2 of the SEPP (Exempt and Complying Development) 2008.

AD6.TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

AD7.WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.