

REPORT

PD/5.2/25.03



Subject: Planning Proposal - 50 Botany Street, Bondi Junction - Post-Exhibition

TRIM No: PP-2/2024

Manager: George Bramis, Executive Manager, Urban Planning

Director: Fletcher Rayner, Director, Planning, Sustainability and Compliance

RECOMMENDATION:

That Council:

1. Exercises the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* to finalise the planning proposal relating to 50 Botany Street, Bondi Junction, attached to the report (Attachment 1) to amend the *Waverley Local Environmental Plan 2012*.
2. Writes to all those who made submissions advising them of Council's decision.

1. Executive Summary

A planning proposal was prepared by Willowtree Planning Pty Ltd on behalf of Bondi Exchange Pty Ltd (the proponent) and submitted to Council as the planning proposal authority in support of a site-specific planning proposal at 50 Botany Street, Bondi Junction (the subject site) in January 2024.

The planning proposal seeks to amend the following controls in the *Waverley Local Environmental Plan 2012* (WLEP 2012) as it applies to the subject site:

- ☐ Rezone part of the subject site to R3 Medium Density Residential.
- ☐ Introduce a minimum lot size of 232 m2.
- ☐ Remove the heritage listing.

The planning proposal also seeks to provide a contribution for affordable housing.

Following the receipt of a Gateway determination, the planning proposal was placed on public exhibition from 5 November 2024 to 5 December 2024 and is recommended to proceed to finalisation, with no changes post-exhibition.

2. Introduction/Background

The subject site is located at 50 Botany Street, Bondi Junction, has a land area of approximately 1,132 m2 (residual lot post-subdivision) with a 20 m frontage to Botany Street and is zoned SP2 Infrastructure (Telecommunications) in accordance with the WLEP 2012.



The site has previously had development consent granted for the removal of the larger tower structure and erection of a smaller ‘monopole’ telecommunications structure (DA-79/2020/A) and separately for Torrens title subdivision of one lot into two (DA-62/2023). The site was previously owned by Telstra, which sold the site to the new owner in 2023. The monopole telecommunications structure has been erected, and the telecommunications tower has been removed in early 2024. All that remains on the site aside from the new structure, which will be subject to a future subdivision, is a defunct building associated with the site’s former use, a small Ausgrid substation (to be removed) along with some existing trees and vegetation. The subdivision that forms part of the previous approvals has not yet occurred and therefore the subject site remains as one lot.

The site is subject to a planning proposal which was submitted to Council in January 2024 seeking to rezone part of the site, remove the heritage listing and introduce a minimum lot size. The planning proposal did not seek to alter the principal development standards relating to height and floor space.

Following a resolution of Council to submit the planning proposal to the Department of Planning, Housing and Infrastructure in August 2024, a Gateway determination (Attachment 2) was received in October 2024. Public exhibition of the planning proposal occurred shortly thereafter from 5 November 2024 to 5 December 2024.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 20 August 2024	CM/7.3/24.08	<p>That Council:</p> <ol style="list-style-type: none"> Forwards the planning proposal attached to the report (Attachment 1) on 50 Botany Street, Bondi Junction, to the Department of Planning, Housing and Infrastructure (DPHI) for Gateway determination for the purposes of public exhibition, with the proposal seeking to: <ol style="list-style-type: none"> Rezone part of the site from SP2 Telecommunications to R3 Medium Density Residential. Provide a contribution towards affordable housing in line with Council's Affordable Housing Contribution Scheme. Introduce a minimum lot size to part of the site. Remove the heritage listing across the site. Publicly exhibits the planning proposal in accordance with any conditions of the Gateway determination or amendments requested by the DPHI. Requests and accepts, if offered, the role of the Local Plan Making Authority from the DPHI to exercise the delegations issued by the Minister under section 3.36 of the Environmental Planning and Assessment Act 1979 to amend the Waverley Local Environmental Plan 2012.

4. Discussion

Consultation

Public exhibition of the planning proposal occurred from 5 November 2024 to 5 December 2024. Notification included properties in the surrounding area with the planning proposal made available on Council's Have Your Say page and promoted via the relevant Have Your Say online newsletters.

Agency submissions

In line with the Gateway determination, the following agencies were notified and provided a copy of the planning proposal:

- ☐ Telstra.
- ☐ Sydney Water.
- ☐ Ausgrid.

Feedback was received from all agencies with no major issues provided relevant to the planning proposal stage. All comments provided relate to further considerations for the proponent as part of the detailed design related to any possible future development application.

Community submissions

Five submissions were received from the community. Issues raised are summarised below in Table 1.

Table 1. Submissions and responses.

Issue	Response
Objection to R3 zoning as it is not in character with the surrounding area.	The submission author believed the surrounding area was zoned R2 due to low-rise character and scale. However, the subject site is already located within an R3 area with R3 zoning also predominant in the broader area. As such, R3 zoning is considered an appropriate zone for the subject site. In addition, the site is also located in a heritage conservation area which will help to ensure any new development is designed in a way that is sympathetic to the surrounding area and existing character.
Council or Homes NSW should purchase the site for affordable housing.	This is unlikely to occur given it has already been purchased by a private party. However, it is something Council or Homes NSW could consider if interested. In addition, the proposed contribution towards Council's affordable housing program will assist in providing a similar outcome as suggested.
Not enough parking provided/traffic concerns.	The proposed rezoning is consistent with surrounding zoning and the increase in traffic volume is likely to be minor in nature. Any traffic and parking impacts will be reviewed in further detail as part of any development application.
Minor errors in supporting consultant's report.	It is noted there were some minor errors in the consultant reports provided by the applicant (i.e. street names copied from another report, incorrect local government

	area referenced). This can often occur with consultants using templates to complete reports and sometimes errors do not get picked up prior to submission.
Concerns over impacts on large, mature tree at a property adjacent on Birrell Street.	Submission author has concern about potential impact of demolition on their tree which overhangs the subject site. This feedback has been passed onto the proponent for consideration. In addition, demolition of the existing former Telstra building will require a development application (DA) due to its presence in a Heritage Conservation Area. As such any proposed impacts on the subject tree will be considered in the DA assessment process. The neighbour has also been advised they can consider nominating the tree for the significant tree register.
Questions regarding the time of the year that the shadow diagrams illustrate.	As is standard practice, the shadow diagrams provided are based on the shortest day of the year, during winter solstice (20 or 21 June).
General concerns over potential impacts of any proposed development.	A site visit was undertaken with the residents who provided this submission and many of the concerns were allayed once the documentation and proposal were discussed in more detail. In addition, it was noted that these types of concerns would also be considered as part of any future development application.

Proponent response to submissions

The proponent was provided with the opportunity to review and provide a response to the issues raised in the submissions. No response was required or provided.

Strategic and site-specific merit

There have been no changes to the assessment of the strategic and site-specific merit of the planning proposal. As discussed in the pre-exhibition Council report and Council's planning proposal (Attachment 1), the planning proposal is considered to have strategic and site-specific merit. The matter relating to the affordable housing contribution is of relevance to the strategic merit of the proposal, as discussed further in the next section of the report.

Affordable housing contribution

The Waverley Local Strategic Planning Statement sets out a few priorities and planning principles relevant to the planning proposal and in particular a monetary contribution for affordable housing.

Specifically, this includes:

- ② Housing Priority H3 - Increase the amount of affordable rental housing and social housing.
- ② Planning principle - Grow and improve the provision of social and affordable housing.
- ② Action - Review planning controls to support the delivery of affordable housing.

In addition, the Waverley Local Housing Strategy (LHS) speaks to Council's intent to implement targets on 'uplift' sites in section 7.3 (Affordable Housing Target). The site is considered to receive a value 'uplift' from the proposed rezoning from a non-residential use to a residential use, despite no increases to development standards. This is consistent with how uplift is defined in the Greater Sydney Region Plan, which speaks to 'the uplift in land value created as a result of a rezoning decision', as well as 'uplift' in the Department's guidelines for the preparation of affordable housing contribution schemes which also refers to the objectives of the Region Plan.

Waverley Council Affordable Housing Contribution Scheme

The first iteration of Council's Affordable Housing Scheme (AHCS) policy document was adopted by Council in April 2021. The adoption of the scheme included a resolution to prepare and implement the scheme via a planning proposal to amend the *Waverley Local Environment Plan* to facilitate the collection of contributions as part of development applications and, relevant to this report, planning proposals.

Following a rigorous review process by the DPHI, the AHCS implementation planning proposal was finalised and gazetted in June 2024.

The finalisation of the scheme included:

- ② The introduction of a 1% levy on the total gross floor area of residential development that includes residential flat buildings, shop top housing, seniors housing and multi-dwelling housing. This contribution is levied by way of clause 6.17 in the WLEP 2012.
- ② The deferral (under section 3.36 (3) in the *Environmental Planning and Assessment Act 1979*) of a provision in the WLEP 2012 to levy contributions on planning proposal sites. The proposed clause was to be deferred until such a time as there is planning proposal land to list in the WLEP 2012 (such as the subject planning proposal).

Process to determine feasible amount

The planning proposal was submitted by the proponent with the objective that a contribution toward affordable housing formed part of the proposal. No monetary value was intimated at the time of lodgement, nor was the mechanism in which this contribution would be levied/paid.

Council officers outlined to the proponent and team that officers would consider any contribution proposed, but that appropriate justification and feasibility for any contribution would need to be provided.

Despite interest in progressing the planning proposal in an expedient manner, no information was provided to Council officers regarding any contribution until 66 days after lodgement of the proposal. A letter of offer to the value of \$100,000 was provided with no further supporting information.

Subsequently, Council officers commissioned a feasibility study by qualified consultants Hill PDA to determine a feasible contribution amount, with inputs provided by a suitably qualified quantity surveyor. The proponent was invited to provide feedback and input into the process and was regularly updated by Council officers.

Upon receipt of the initial draft of the feasibility study and during associated discussions, the proponent provided a verbal (one-time) increased offer of \$500,000 (again with no supporting

information or justification). Council officers advised that this could not be accepted without any supporting information and the offer was subsequently retracted.

In response to the feasibility study as progressed, the proponent commissioned a valuer to review the Hill PDA report and provide a peer review. The proponent report suggested that no amount of contribution is feasible whatsoever, contradicting the previously provided offers of \$100,000 and \$500,000 respectively. This undermines a large portion of the argument and opposition the proponent has to the proposed contribution.

Unsuccessful appeal by proponent

After lodging the planning proposal with the DPHI on 22 August 2024, Council received approval in the form of a Gateway determination on 11 August 2024. In their assessment, the DPHI reviewed the affordable housing calculation to ensure the method was consistent with their Guideline. Shortly after in December 2024, the proponent submitted a request for a Gateway review to the DPHI. A Gateway review seeks to alter the contents of a Gateway determination.

The basis of the request was that the proponent did not agree with the feasibility analysis undertaken as part of the planning proposal process by Hill PDA, which was commissioned by Council, and the proposed mechanism in which the contribution would be applied—via inclusion in a future schedule in the WLEP.

In January 2025, the DPHI decided to uphold the Gateway determination, and that the planning proposal was not eligible for review, nor adequately justified. This further cements Council officers' assessment that the feasibility analysis undertaken has been done in an appropriate manner, in accordance with the DPHI Guideline for Developing an Affordable Housing Contribution Scheme and the requirements and expectations set by the DPHI during the progression and finalisation of the Waverley Affordable Housing Contribution Scheme implementation planning proposal.

Proposed final affordable housing contribution amount

The proposed final affordable housing contribution amount has remained unchanged from the figure determined viable in the pre-exhibition feasibility and Council report. There has been no change in inputs or circumstances to justify any changes to the contribution amount.

The proposed final contribution amount is \$1,652,738 or a 6.75% contribution rate based on the final sales rates (\$28,839/sqm) adopted by Hill PDA for the concept scheme. In other words, \$1,652,738 divided by \$28,839/sqm is 6.75%.

The contribution percentage detailed in the WLEP must align with Waverley's published AHCS rates. To equate the viable contribution (of \$1,652,738) to our published AHCS rates of \$21,000/sqm for Bondi Junction, the contribution translates to 9.27% of total gross floor area (\$1.65m/ \$21,000). This means that 9.27% of total gross floor area is to be dedicated to affordable housing as part of any future development application as in-kind floor space or as a monetary contribution. This is explained in Table 2 below, with further details and specifics explained in the attached feasibility study.

Table 2. Contribution translation with AHCS benchmark rates.

		Concept scheme (sales rate of \$28,839 sqm)	AHCS benchmark rates of \$21,000 sqm for Bondi Junction
A	Viable contribution (\$)	\$1,652,738	\$1,652,738
B	Adopted Sales rate (sqm)	\$28,839	\$21,000
C	Amount of affordable housing (<i>A divided by B</i>)	57.31	78.70
D	Total GFA	849	849
E	AH % of total development (<i>C divided by D</i>)	6.75%	9.27%

It should be noted that any in-kind or physical contribution would not be payable by the applicant until occupation certificate stage.

Time frame

If Council resolves to finalise the planning proposal, the Gateway determination requires finalisation to occur by 31 July 2025. Any finalisation is subject to drafting and liaison with Parliamentary Counsel, but it is anticipated the planning proposal will be finalised before this date.

5. Financial Impact

There are no negative financial impacts anticipated with the finalisation of the planning proposal. All associated costs have been funded by existing budgets, incorporating the fees paid by the proponent as part of the planning proposal process. If finalised as recommended, a financial contribution toward Council's affordable housing program will have a positive financial impact in enabling an increase in the provision of social and affordable housing in the Waverley local government area.

6. Risks/Issues

There are minimal risks associated with the finalisation of the planning proposal. As discussed above, a previous appeal from the proponent to request a Gateway review was denied by the DPHI and all steps have been completed in accordance with the Gateway determination issued by the Department of Planning, Housing and Infrastructure. If approved, Council can exercise its role as Local Plan Making Authority to finalise the planning proposal.

7. Attachments

1. Council planning proposal [↓](#)
2. Gateway determination [↓](#)



WAVERLEY
COUNCIL

PLANNING PROPOSAL

50 Botany Street, Bondi Junction
PP-2/2024

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Planning Proposal Information

Table 1 – Council Versions

No.	Date	Version
1.	20 June 2024	Waverley Local Planning Panel for advice.
2.	13 August 2024	Report to Council
3.	4 November 2024	Public exhibition
4.	17 February 2024	Post-Exhibition

EXECUTIVE SUMMARY

A Planning Proposal was prepared by Willowtree Planning Pty Ltd on behalf of Bondi Exchange Pty Ltd (the Proponent) and submitted to Waverley Council (the Council) as the Planning Proposal Authority in support of a site-specific Planning Proposal at 50 Botany Street, Bondi Junction (the subject site). This report has been prepared which provides a council officer assessment of the Planning Proposal, as well as provides an explanation of the proposed provisions and mapping changes.

The Planning Proposal seeks to amend the following controls in the Waverley Local Environmental Plan 2012 (WLEP2012) as it applies to the subject site:

- rezone part of the subject site to R3 Medium Density Residential;
- introduce a minimum lot size of 232m²; and
- remove the heritage listing from the site.

The proposal also seeks to provide a contribution for affordable housing with the proposed mechanism as outlined in this Planning Proposal via clause in the Waverley Local Environmental Plan (WLEP).

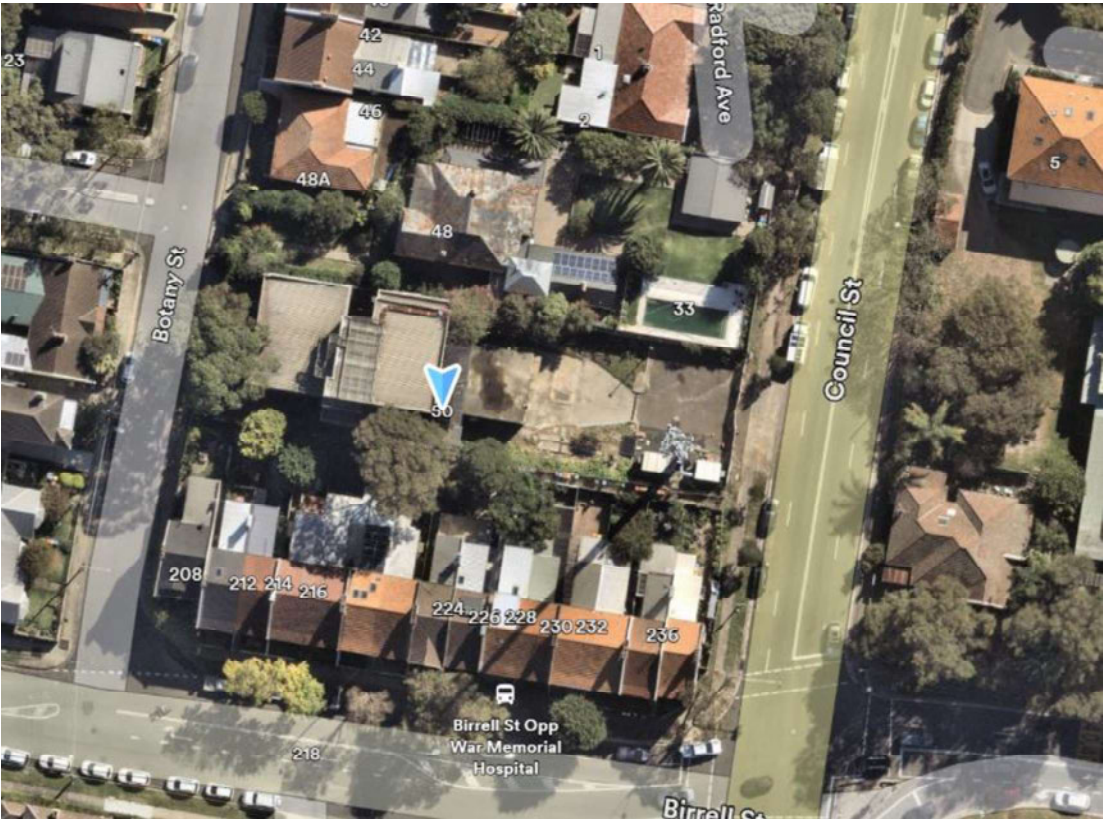
The proposal – subject to a number of key considerations discussed in this report – is considered to have strategic and site-specific merit and is recommended to be supported to finalisation.

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

1.1 Description of the site

The subject site is located at 50 Botany Street, Bondi Junction, Lot 1 DP619753 and is approximately 400m from the Bondi Junction Commercial centre as the crow flies. The site has long been used for telecommunications purposes and was previously owned by Telstra having been recently sold to the Proponent of the subject Planning Proposal. The site has previously had development consent granted for the removal of the larger tower structure and erection of a smaller ‘monopole’ telecommunications structure (DA-79/2020/A) and separately for Torrens title subdivision of one lot into two (DA-62/2023). The site was previously owned by Telstra, who sold the site to the new owner (the Proponent) in 2023. The monopole telecommunications structure has been erected and the telecommunications tower has been removed in early 2024. All that remains on the site aside from the new structure which will be subject to a future subdivision is a defunct building associated with the sites former use, a small Ausgrid substation (to be removed) along with some existing trees and vegetation. The formal subdivision which forms part of one of the previous approvals has not yet occurred and therefore the subject site remains as one lot.

Figure 1 Aerial view of subject site in 2024 (with former large telecommunications tower removed)



The site is currently zoned SP2- Infrastructure, has a maximum Floor Space Ratio (FSR) of 0.75:1 and a maximum building height of 12.5m and contains a heritage listing related to a (removed) telecommunications tower and is located in the Botany Street Heritage Conservation Area.

Figure 2 Existing zoning of the site.

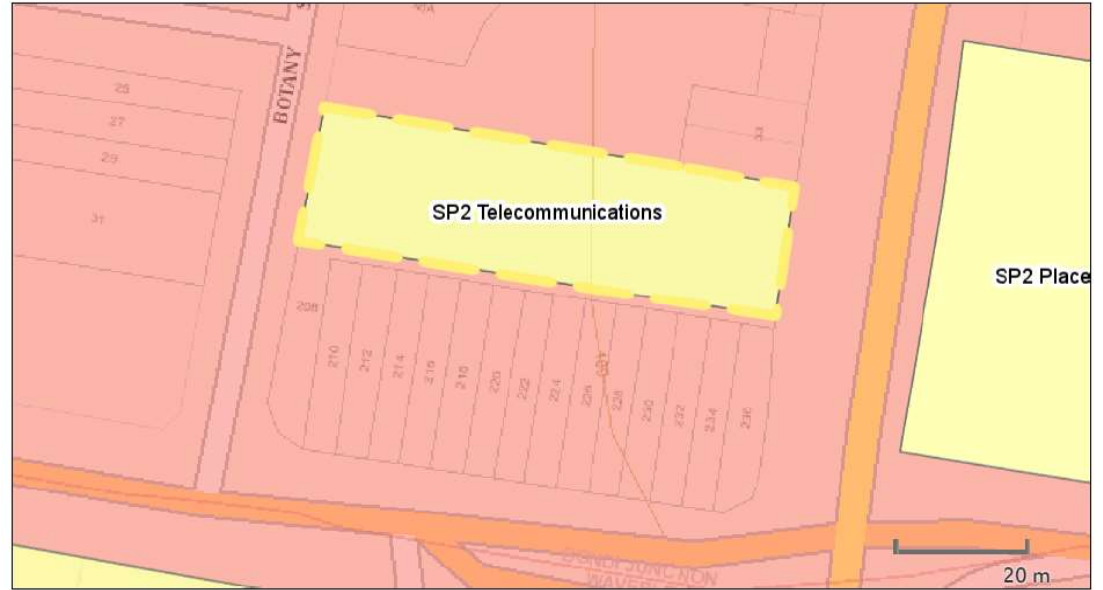


Figure 3 Existing FSR of the site



Figure 4 Existing height of buildings of the site.

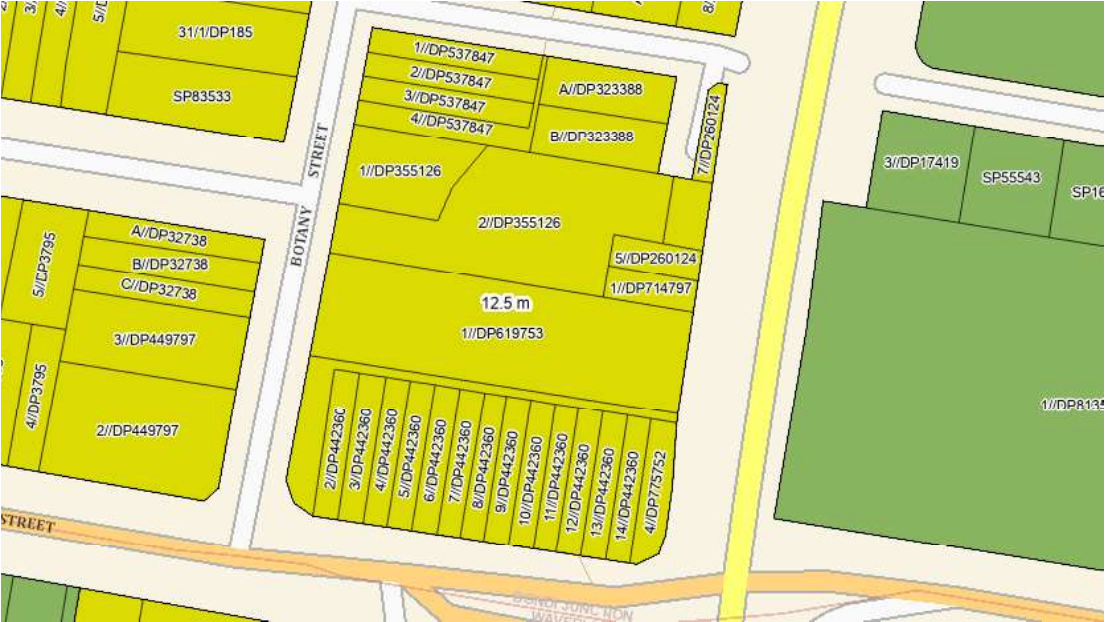
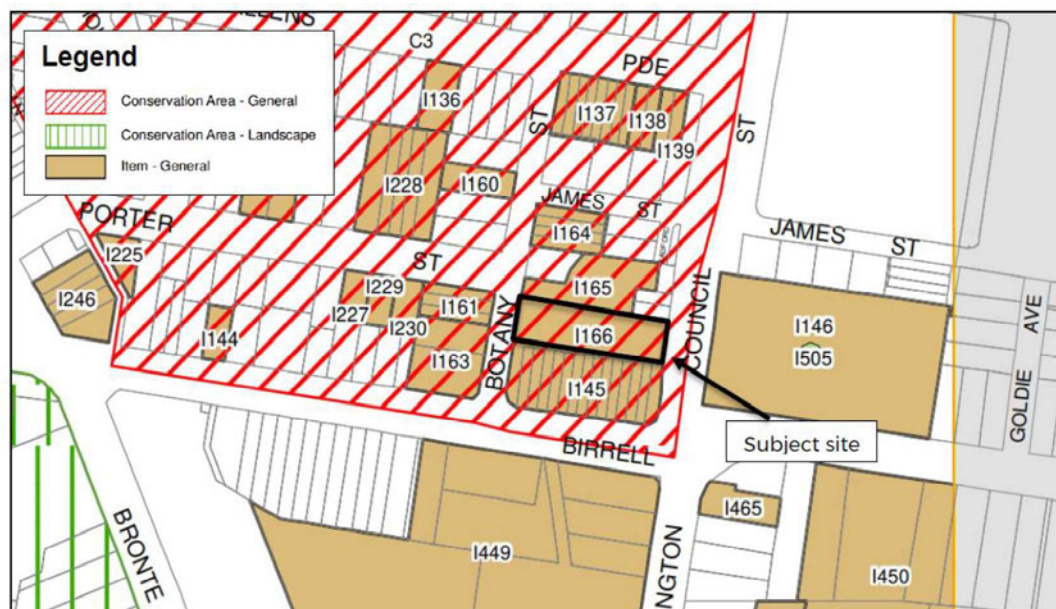


Figure 5 Existing heritage considerations



1.2 Objectives and intended outcomes

This Planning Proposal seeks to amend the WLEP 2012 as per Part 2.1 of this report to:

- Facilitate urban renewal of the land that is no longer required for SP2 Infrastructure (Telecommunications) purposes;
- Minimise land use conflicts by permitting land uses that are sympathetic to the existing residential character of the area;
- Deliver new housing supply and improve dwelling diversity in the local area by providing appropriate housing typologies that without compromising the environmental or heritage significance of the area;
- Make a financial contribution to the provision of affordable housing; and
- Remove a redundant heritage listing.

PART 2 – EXPLANATION OF PROVISIONS

2.1 Intended Provisions

This Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 as follows:

- Rezone a portion of the site from SP2 – Infrastructure to R3 Medium Density Residential.
- Remove the heritage listing.
- Introduce a minimum lot size of 232 square metres (consistent with surrounding).

In addition, the Proposal seeks to activate a provision deferred as part of the finalisation Waverley Affordable Housing Contribution Scheme Implementation Planning Proposal.

2.1.1 How the affordable housing contribution will apply

In order to levy a contribution for affordable housing that is consistent with the Waverley Affordable Housing Contribution Scheme, the Planning Proposal will introduce an additional clause and schedule into the Waverley Local Environmental Plan 2012. The contribution can be provided as a monetary contribution or as a physical contribution as part of any development, dedicated to Council in perpetuity (forever).

The draft clause and schedule (the mechanism to levy the contribution) has been supported by the DPHI.

An example provision to be included in the Waverley Local Environmental Plan 2012 is provided as follows, noting that the final wording will be subject to Parliamentary Counsel drafting.

6.XX Affordable housing contribution on Planning Proposal sites

(1) This clause applies to development on land identified in Schedule 7.

(2) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring an affordable housing levy contribution equivalent to the contribution specified for the land in Schedule 7 (the contribution).

(3) A condition imposed under this clause must satisfy the affordable housing levy contribution

(a) by way of a monetary contribution to the Council that is the per square metre value calculated in accordance with subclause (4), or

(b) by way of a dedication in favour of the Council of land comprising 1 or more complete dwellings (each having a total gross floor area of no less than 50 square metres).

(4) For the purposes of this clause, the per square metre monetary value is to be calculated in accordance with the Waverley Affordable Housing Contributions Scheme.

(5) This clause does not apply to development for the purposes of any of the following –

(a) development for the purposes of residential accommodation that is used to provide affordable housing or social housing

(b) development for the sole purposes of generating employment.

(c) The demolition of a building, or a change in the use of land, does not give rise to a claim for a refund of a contribution.

Schedule 7 Planning Proposal Land

Planning Proposal Land	Contribution requirement
50 Botany St, Bondi Junction, Lot 1 DP619753	9.27% of the total floor area of all buildings —the contribution applying to the development under clause 6.XX.

PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

This section details the reasons for the proposed LEP amendment and is based on a series of questions and matters for consideration as outlined in the LEP Making Guidelines (August 2023). The issues to be addressed include the strategic planning context of the amendments, Strategic Merit, Site-Specific Merit, potential State and Commonwealth agency interests, and environmental, social and economic impacts.

Strategic merit

Table 2 – Assessment of Proposal against Strategic Merit Test

a) Does the proposal:	
Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or a corridor/precinct plan applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct including any draft place strategy; or	Yes, the proposal is consistent with the Greater Sydney Regional Plan and Eastern City District Plan as discussed later this in this report.
Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan; or	Yes, subject to a number of considerations discussed further below and under 3.1.
Respond to a change in circumstances that has not been recognised by the existing planning framework. Factors that lead to responding to a change in circumstances may include, but not exclusively relate to: <ul style="list-style-type: none">• Key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework• Response to key Government priorities – Premier’s Priorities, climate change, or a shift in government policy (e.g. NSW Government’s Net Zero Plan)• Changes to population and demographic trends and associated needs such as housing or jobs.	Yes. The closure of the now redundant exchange building and removal of the large tower, replaced with a monopole.

3.1 Is the Planning Proposal a result of any strategic study or report?

No, the Planning Proposal is not a result of any strategic study or report.

3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the objectives or intended outcomes. An amendment to the WLEP is required to achieve the change of zone, remove the heritage listing and introduce the minimum lot size. The inclusion of a site-specific clause for the contribution for affordable housing is also seen as the best way to apply such a contribution and provides most certain for Council and the Proponent and is less onerous financially for the Proponent than having to enter into a Voluntary Planning Agreement prior to the gazettal of the Planning Proposal.

3.3 Will the Planning Proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The proposal is consistent with the objectives of a Metropolis of Three Cities Region Plan and the Eastern City District Plan as it is consistent with the applicable objectives and planning priorities as per the following tables.

Table 3 – Metropolis of Three Cities

Relevant Objectives	Comment
Objective 10 – Greater housing supply	The proposal will contribute toward greater housing supply by changing the existing zoning to allow for residential development.
Objective 11 Housing is more diverse and affordable.	The proposal will rezone the site to permit residential development which increases the opportunities for different types of housing to be provided on the site which may contribute toward housing diversity. In addition, the affordable housing contribution will assist in the provision of affordable housing in the Waverley LGA.
Objective 13 – Environmental heritage is identified, conserved and enhanced	There is no impact to environmental heritage as the existing heritage listing is now defunct. The removal of the heritage listing is seen as a housekeeping change in nature to reflect this change.
Objective 14 – A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities.	The rezoning of the site to residential will allow for an appropriate land use in the subject location, given its close proximity to jobs, services and transport.

Table 4 – Eastern City District Plan

Relevant Planning Priorities	Comment
Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport	The proposal will enable residential development as a permissible use on, enabling the potential for housing to be delivered on the site which is within close proximity to jobs, services and public transport in Bondi Junction. The affordable housing contribution will contribute towards Council's affordable housing program which helps to provide affordable housing to reduce displacement from the Waverley LGA

Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage	There is no impact to environmental heritage as the existing heritage listing is now defunct. The removal of the heritage listing is seen as a housekeeping change in nature to reflect this change.
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3.4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

The Planning Proposal is consistent with applicable local strategies and plans, as per the following tables.

Table 5 - Waverley Local Environmental Plan 2012

Relevant Aims Cl 1.2	Comment
to provide for a range of residential densities and range of housing types to meet the changing housing needs of the community,	The proposal will enable residential development as a permissible use on, enabling the potential for a range of different types of housing within the relevant zone to meet the changing house needs of the community.
To encourage the development of a variety of housing on land close to public transport, essential goods and services and open space,	The proposal will enable residential development as a permissible use on, enabling the potential for housing to be delivered on the site which is within proximity to jobs, services and public transport in Bondi Junction.
to provide an appropriate transition in building scale around the edge of centres to protect the amenity of surrounding residential areas,	The proposal will adopt the same development standards as the immediate surrounding area which have been calibrated to allow an appropriate transition around the edge of the Bondi Junction centre.
To identify, conserve and enhance the cultural, environmental, natural, aesthetic, social and built heritage, and existing scenic and cultural landscapes of Waverley, including the curtilage of Centennial Park, for current and future generations,	There is no impact to environmental heritage as the existing heritage listing is now defunct. The removal of the heritage listing is seen as a housekeeping change in nature to reflect this change.

Table 6 – Waverley Local Strategic Planning Statement (March 2020)

Relevant Planning Priorities	Comment
6. Facilitate a range of housing opportunities in the right places to support and retain a diverse community.	<p>The proposal will enable residential development as a permissible use on the site, enabling the potential for housing to be delivered on the site which is within close proximity to jobs, services and public transport in Bondi Junction.</p> <p>The affordable housing contribution will contribute towards Council's affordable housing program which helps to provide affordable housing to reduce displacement from the Waverley LGA</p>

In addition, when inclusive of an appropriate contribution toward affordable housing, the proposal is also considered to align with the following considerations in the Waverley LSPS:

- Planning Principle – Grow and improve the provision of social and affordable housing.
- Action - Review planning controls to support the delivery of affordable housing.

Table 7 – Waverley Local Housing Strategy

Relevant Priorities	Comment
H1. Manage housing growth sustainably and in the right locations	The proposal will facilitate modest development which is consistent with the surrounding areas. The subject site is in a good location, within close proximity to jobs, services and public transport.
H3 Increase the amount of affordable rental housing and social housing.	The proposal, when inclusive of an appropriate affordable housing contribution will help to increase the amount of affordable rental housing and social housing.
H5 Ensure new development is consistent with desired future character	The proposal does not propose to increase the development standards for the site beyond what is present on the site and in the immediate surrounding area. This will help to ensure new development is consistent with desired future character.

In addition to the discussion provided in tables 6 and 7, the Planning Proposal is considered to be consistent with the Waverley LSPS and LHS subject to the following considerations.

Contribution toward affordable housing

Throughout the Planning Proposal submitted by the Proponent is reference to the provision of a contribution for affordable housing, it is considered as one of the objectives of the proposal and is considered to form part of the planning proposal itself. In the assessment Council Officers have undertaken, this is a key component to the proposal demonstrating strategic merit and support for the Planning Proposal to proceed.

The Waverley LSPS sets out a number of priorities and planning principles relevant to the planning proposal and in particular a monetary contribution for affordable housing.

Specifically, this includes:

- Housing Priority H3 Increase the amount of affordable rental housing and social housing.
- Planning Principle – Grow and improve the provision of social and affordable housing.
- Action - Review planning controls to support the delivery of affordable housing.

In addition, the Waverley Local Housing Strategy (LHS) speaks to Councils intent to implement targets on ‘uplift’ sites in section 7.3 *Affordable Housing Target*. This is implemented through Council’s Affordable Housing Contribution Scheme which was initially adopted in 2020 and has gone through a number of revisions since. The site is considered to receive a value ‘uplift’ from the proposed rezoning from a non-residential use to a residential one, despite no increases to development standards. This is consistent with how uplift is defined in the Greater Sydney Region Plan which speaks to “the uplift in land value created as a result of a rezoning decision, which should be measured using a consistent viability test and core assumptions” as well as ‘uplift’ in the Department’s guidelines for the

preparation of affordable housing contribution schemes which also refers to the objectives of the Region Plan.

The scheme set a 10% contribution as a 'target' in Council's AHCS with feasibility testing undertaken to determine the appropriate amount for this planning proposal. This is in line with the requirements set by the DPHI for Waverley's AHCS, where a 'case by case' feasibility analysis is required to be undertaken for each planning proposal, to determine the appropriate contribution amount. This is also in line with guidelines on how to determine a viable affordable housing contribution rate as set out in the DPHI *Guideline for Developing an Affordable Housing Contribution Scheme* set out in Appendix 2 of the guidelines.

This feasibility study was undertaken and is provided an attachment. The feasible amount equates to a contribution amount of 9.27% in line with Council's AHCS or the value of \$1,652,738.

Waverley Council position on SP2 – Infrastructure zoning

It should be noted that Waverley Council has a long-standing policy position of retaining its SP2 - Infrastructure zoning. This first occurred when Council moved to the standard instrument LEP in 2012 with the gazettal of the Waverley Local Environmental Plan 2012 and was reiterated in the adoption of the Waverley Local Strategic Planning Statement 2020-2036 (LSPS). Important in this context is that the retention of these zones only specifically relates for the purposes of social infrastructure. Council has maintained this position in the refusal of a previously lodged planning proposal at 34 Flood Street, Bondi, which proposed to rezone the site from SP2 – Place of Public Worship to R3 Medium Density Residential.

Notwithstanding, the subject site, contains telecommunications infrastructure – rather than social infrastructure, such as a health, school or public place of worship venue – and consequently this is not seen as a barrier to the site being rezoned particularly given some SP2 zoning will be retained to ensure the on-going telecommunications needs continue to be fulfilled.

Table 8 – Waverley Community Strategic Plan 2022-2032

Relevant Direction or Strategy	Comment
1.7.3. Grow the provision of social and affordable housing.	The proposal when inclusive of a contribution for affordable housing will help to grow the provision of affordable housing. A further discussion relating to the contribution amount is provided below.
1.7.4. Manage housing supply, choice and affordability with access to jobs, services and public transport.	The proposal will help to contribute to housing supply and choice with access to jobs, services, and public transport. The contribution toward affordable housing will help grow the provision of affordable housing.
2.6.2. Ensure new development provides high standard of design quality and does not adversely impact the amenity of neighbours or the wider community.	The proposal to retain the existing development standards will ensure that any new development does not adversely impact the amenity of neighbours or the wider community.
2.6.6. Celebrate the heritage and character of our centres and heritage sites, and protect and enhance their character.	The existing heritage listing is now redundant. Therefore the proposal will not impact existing heritage by removing the existing heritage listing.

3.5 Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

There are no other relevant State or regional studies or strategies.

3.6 Is the Planning Proposal consistent with applicable SEPPs?

This Planning Proposal is consistent with applicable State Environmental Planning Policies. Assessed the Planning Proposal against the State Environmental Planning Policies SEPPs:

Table 9 – Assessment of Proposal against the SEPPs

Title	Applicable	Comment
Housing SEPP	Yes	The Planning Proposal is consistent with the SEPP.
Design Quality of Residential Apartment Development – SEPP 65	N/A	The Planning Proposal is consistent with the SEPP.
Exempt and Complying Development Codes SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Transport and Infrastructure SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Primary Production SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Biodiversity and Conservation SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Resilience and Hazards SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Industry and Employment SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Resources and Energy SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Planning Systems SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Sustainable Buildings SEPP	N/A	The Planning Proposal is consistent with the SEPP.
Precincts SEPPs: Eastern Harbour City SEPP, Western Parkland City SEPP, Central River City SEPP and Regional SEPP	N/A	The Planning Proposal is consistent with the SEPP.

3.7 Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

The proposal is consistent with applicable Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 as outlined in the below table.

Table 10 – Assessment of Proposal against relevant Ministerial Directions.

Ministerial Direction	Relevance	Consistency
1.4 Site Specific Provisions	<p>1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p>	The Planning Proposal is inconsistent with this Ministerial Direction as it does seek to impose a requirement (in relation to affordable housing) not

	<p>(b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.</p>	<p>already contained in the environmental planning instrument (WLEP).</p> <p>This is considered acceptable as this is the best means to impose a site-specific affordable housing contribution requirement in line with Council's AHCS, which has been supported by the DPHI.</p> <p>It should also be noted Council has previously implemented an affordable housing requirement which was inconsistent with this Ministerial Direction as part of the Planning Proposal at 99-117 Birrell Street, Waverley, finalised in 2022.</p> <p>Precedent also exists relating to site-specific requirements and provisions for affordable housing in many other Local Environment Plans in New South Wales as this is an appropriate means to levy contributions through the planning process.</p>
3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	<p>The proposal will not impact environmental conservation as the proposed removal of the heritage listing relates to a heritage listing which is now redundant due to the removal of the former telecommunications tower subject to the listing. Any new proposed development resulting from the rezoning will need to be sympathetic to the surrounding heritage items and heritage conservation areas.</p>

4.4 Remediation of Contaminated Land	<p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning proposal authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose. In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <p>(2) Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p>	<p>A Preliminary Site Investigation (PSI) was provided with the proponent submission of documentation.</p> <p>The PSI concluded the land is likely to be suitable for the proposed use and recommends further investigation to occur as part of any proposed development. The findings of the PSI are sufficient for the planning proposal stage.</p>
6.1 Residential Zones	<p>A Planning Proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> • Broaden the choice of building types and locations available in the housing market, • Make more efficient use of existing infrastructure and services, and • Reduce the consumption of land for housing and associated urban development on the urban fringe and • Be of good design. 	<p>The proposal is consistent with the objectives of this direction as it seems to encourage residential development through the change of zone. The proposed inclusion of a site-specific clause related to the provision of affordable housing will also help to broaden the availability of affordable housing in the Waverley LGA.</p>

Site-specific Merit

Table 11 – Assessment of Proposal against Site Specific Merit Test

b) Does the proposal have site-specific merit, having regard to the following:	
The natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards).	It is not anticipated the proposal will have an impact on the natural environment on the site. The concept scheme provided shows the retention of a number of mature trees on site and the remainder of the site where the majority of development is likely to occur already contains existing built form or hard impermeable surfaces. Landscaping accompanying

	any future development on the site may also assist to enhance the ecological value of the site.
Existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates	The proposal aligns with the existing uses surrounding the site as it proposes to adopt the same zoning and by retaining the development standards, will have the same development standards.
Services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.	The proposal will not result in any additional use of or need for infrastructure given the relatively minor nature and yield of new dwellings it may enable. It is well located within Bondi Junction, a major public transport interchange.

3.8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No, there are not expected to be any adverse impacts on critical habitat or threatened species, populations, or ecological communities.

3.9 Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?

Is it not anticipated there will be any likely environmental effects of the planning proposal that cannot be managed at the development application stage.

The site forms part of Council's habitat corridor and has no trees listed on the significant tree register. An Arboricultural Impact Assessment (AIA) was submitted as part of the planning proposal. A site visit was undertaken by Council's Tree Management Officer who also reviewed the AIA and the health and status of the existing trees and trees on site. In their review, the Tree Management Officer supported the retention of the trees listed for retention as well as the proposed removal of five smaller trees, all of which were either identified as being suppressed by the building and other trees or self-sown.

3.10 Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal has not identified any social and economic effects. A social impact assessment was undertaken in line with Council's requirements as this issue relates to planning proposals. The document was peer reviewed, with some minor clarifications and improvements requirements. A supplementary updated report was submitted and deemed to be appropriate. This is provided as part of the attachments.

In addition, the provision of a contribution toward Council's affordable housing program, in line with Council's Affordable Housing Contribution Scheme (AHCS) ensures the benefits of the financial value uplift of the size, resulting from the rezoning are shared and ultimately provide a public benefit.

3.11 Is there adequate public infrastructure for the Planning Proposal?

The subject site is within close, walkable proximity to Bondi Junction train station and bus interchange. A well serviced and well-connected transport hub.

The change in the zone may result in a future redevelopment or the intensification of the current development, which may result in an increase in traffic arising from increased density. A Parking and Traffic Assessment was submitted with the planning proposal based on the concept scheme provided

which concludes that the projected increase in traffic activity as a consequence of the development proposal is minimal and won't result in any unacceptable traffic implications for the surrounding road network capacity.

Given the proposal seeks to adopt the same zoning and development standards as the properties which surround it, the conclusion of the report is generally agreeable. A review of the proposed concept scheme and Parking and Traffic Assessment was undertaken by Council's Traffic Engineer and did not identify any issues requiring resolution as part as part of the planning proposal stage.

3.12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

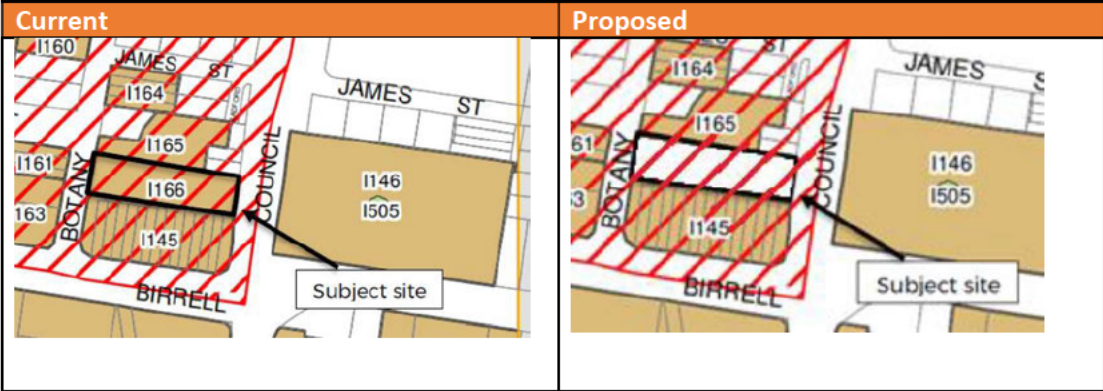
Feedback was received from all three consulted public authorities—Telstra, Ausgrid and Sydney Water. No issues or objections were raised relevant to the planning proposal stage and relevant information relating to any future development application has been provided to the Proponent for review and future consideration.

PART 4 – MAPPING

The following mapping changes are proposed under this Planning Proposal:

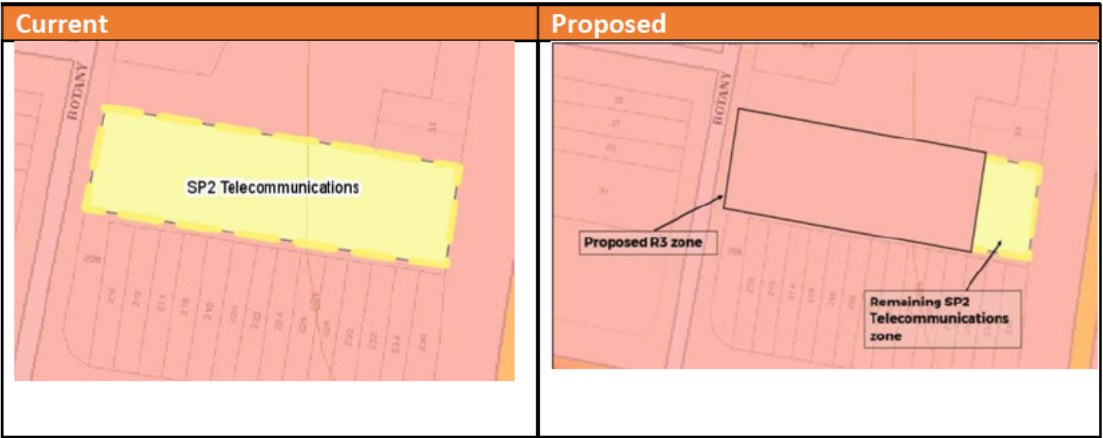
Heritage Map

Updating the Heritage Map to remove the redundant heritage listing.



Land Zone Map

It is proposed to update the Land Zone Map to rezone part of the site from SP2 – Infrastructure to R3 Medium Density Residential.



Lot Size Map

It is proposed to update the lot size map to introduce a minimum lot size to the western portion of the site, consistent with the surrounding lots.



PART 5 – COMMUNITY CONSULTATION

The Gateway determination set out the following conditions prior to public exhibition of the planning proposal:

1. *Prior to exhibition, the proposal is required to be updated to:*
 - (a) *Provide a plain English explanation of how the affordable housing contribution additional local provision will apply to the site and include a disclaimer that final wording will be subject to Parliamentary Counsel drafting.*
2. *Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:*
 - (a) *the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and*
 - (b) *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023).*
3. *Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:*
 - (a) *Telstra*
 - (b) *Relevant utility providers, including Ausgrid and Sydney Water.*
4. *Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.*
5. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*

All relevant Gateway conditions were satisfied prior to exhibition, and the planning proposal was publicly exhibited for a period of 30 days from 5 November 2024 – 5 December 2024.

A total of 5 submissions were received from the community, issues raised in the submissions are summarised in the below table.

Table 12 - Submissions and responses

Issue	Response
Objection to R3 zoning as it is not in character with the surrounding area	The person providing the submission believed the surrounding area was zoned R2 due to low-rise character and scale, however subject site is already located within an R3 area with R3 zoning also predominant in the broader area. As such R3 zoning is considered an appropriate zone for the subject site. In addition, the site is located in a heritage conservation area which will help to ensure any new development is designed in a way that is sympathetic to the surrounding area and existing character.
Council or Homes NSW should purchase the site for affordable housing	This is unlikely to occur given it has already been purchased by a private party. It is something however Council or Homes NSW could consider if interested. In addition, the proposed contribution towards Council's affordable housing program will assist in providing a similar outcome as suggested.
Not enough parking provided/traffic concerns	The proposed rezoning is consistent with surrounding zoning and the increase in traffic volume is likely to be minor in nature. Any traffic and parking impacts will be reviewed in further detail as part of any development application.
Minor errors in supporting consultant's report	It is noted there were some minor errors in the consultant reports provided by the applicant (i.e. street names copied from another report). This is can often occur with consultants often using templates to complete reports and sometimes errors do not get picked up prior to submission.
Concerns over impacts on large, mature tree at a property adjacent on Birrell Street	Feedback has been passed onto the Proponent. In addition, demolition of the existing former Telstra building will require a Development Application due to its presence in a Heritage Conservation Area. As such any proposed impacts on the subject tree will be considered.

Questions regarding the time of the year that shadow diagrams illustrate	As is standard practice, the shadow diagrams provided are based on the shortest day of the year, during winter solstice (the 20 th or 21 st of June).
General concerns over potential impacts of any proposed development	A site visit was undertaken with the residents who provided this submission and many of the concerns were allayed once the documentation and proposal was discussed in more detail. In addition it was noted these types of concerns would also be considered as part of any future development application.

PART 6 – PROJECT TIMELINE

The following indicative project timeline will assist with tracking the progress of the Planning Proposal through its various stages of consultation and approval. It is estimated that this amendment to WLEP will be completed by mid-2025, in line with the Gateway Determination.

Table 13 – Indicative project timeline

Tasks	Timeframe and/or date
Gateway Determination	October 2024
Pre-exhibition	October 2024
Commencement and completion of public exhibition period	November 2024 – December 2024
Consideration of submissions and post-exhibition review	December 2024 – February 2025
Post-Gateway Council decision	March 2025
Gazettal of LEP amendment	May 2025 (subject to PCO timing).



Department of Planning, Housing and Infrastructure

Gateway Determination

Planning proposal (Department Ref: PP-2024-104): to amend the *Waverley Local Environmental Plan 2012* to rezone a portion of the site at 50 Botany Street, Bondi Junction, from SP2 Infrastructure (Telecommunications) to R3 Medium Density Residential; introduce a minimum lot size control of 232m²; remove a redundant local heritage listing from the site; and permit the collection of affordable housing contributions.

I, the Director, Local Planning (North, East and Central Coast) at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Waverley Local Environmental Plan 2012 to rezone a portion of the site at 50 Botany Street, Bondi Junction, from SP2 Infrastructure (Telecommunications) to R3 Medium Density Residential; introduce a minimum lot size control of 232m²; remove a redundant local heritage listing from the site; and permit the collection of affordable housing contributions, should proceed subject to the following:

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed on or before 31 July 2025.

Gateway Conditions

1. Prior to exhibition, the proposal is required to be updated to:
 - (a) Provide a plain English explanation of how the affordable housing contribution additional local provision will apply to the site and include a disclaimer that final wording will be subject to Parliamentary Counsel drafting.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

PP-2024-104 (IRF24/2220)

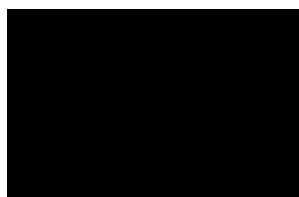
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:

- a) Telstra
- b) Relevant utility providers, including Ausgrid and Sydney Water.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 11 October 2024



Jazmin van Veen
Director, Local Planning (North, East and
Central Coast)
Planning, Land Use Strategy, Housing and
Infrastructure
Department of Planning, Housing and
Infrastructure

Delegate of the Minister for Planning and
Public Spaces

PP-2024-104 (IRF24/2220)