

DEVELOPMENT NO.:	21027089
APPLICANT:	Telstra Corporation Ltd
ADDRESS:	1-5 HARTLEY RD BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Construct a telecommunications facility consisting of a 30m-tall monopole, panel antennas and equipment shelter
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Activity Centre <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Advertising Near Signalised Intersections • Hazards (Flooding - General) • Local Heritage Place • Major Urban Transport Routes • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) • Interface Height
LODGEMENT DATE:	13 Sep 2021
RELEVANT AUTHORITY:	Assessment Panel City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	2021.13
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Michael Gates Development Services (Planning and Building) Lead
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	None

CONTENTS:

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- Attachment 1: Relevant P&D Code Policies**
 - Attachment 2: Application Documents**
 - Attachment 3: Representations**
 - Attachment 4: Response to Representations**
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DETAILED DESCRIPTION OF PROPOSAL:

This application is for the construction of a telecommunications facility consisting of a 30m-tall monopole, panel antennas and equipment shelter. The monopole will be constructed in the south-eastern corner of the allotment that fronts onto Hartley Road. The monopole will be set 4 metres in from the southern boundary, with a small equipment shelter of 5sqm floor area located to the east of the monopole. Plans for the proposal are contained in **Attachment 2**.

BACKGROUND:

The applicant has stated that the proposed development is to replace an existing telecommunications facilities at 530 Brighton Road on the Coastlands Christian Centre building. That site is being decommissioned as it currently provides for 3G and 4G services at a height of only 14 metres and is not suitable for 5G services.

Several of the representations received made mention of the possibility using, or refusal by Council to allow a telecommunications tower as part of the Brighton Oval development. There was initially discussion several years ago between Council and Telstra about a possible location of a tower, integrated into a light pole. The concept was approved by Council, but a lease never eventuated, so despite being supported by Council the facility was never constructed or finalised. That facility was to be for 4G services and therefore is no longer relevant.

**SUBJECT LAND & LOCALITY:****Site Description:**

Location reference: 1-5 HARTLEY RD BRIGHTON SA 5048

Title ref.: CT 5395/876 **Plan Parcel:** F20754 AL184 **Council:** CITY OF HOLDFAST BAY

The subject land is a large, irregularly-shaped allotment fronting Hartley Road at Brighton, just to the west of Brighton Road. The land has a 65-metre frontage to Hartley Road and an area of around 2700 sqm. The subject land is shown in Figure 3 below, with the proposed facility's location marked in the rear of the yard.

The land is currently used by Telstra as its local telephone exchange, which consists of three buildings, all fronting Hartley Road. The original exchange building is located in the north-eastern corner of the land and is listed as a Local Heritage place. A later addition to the original building adjoins directly to the west, with a third and separate building constructed to the west of the existing driveway, which now operates as the main exchange building.

The rear of the property functions as a parking and storage area and provides emergency access to the main exchange building. The proposed facility will be located in the rear, south-eastern corner of the subject land, placing it well clear of exchange operations and having no material impact on the availability of space for parking or storage.

The subject land is located within the Suburban Activity Centre Zone pursuant to the Planning and Design Code.

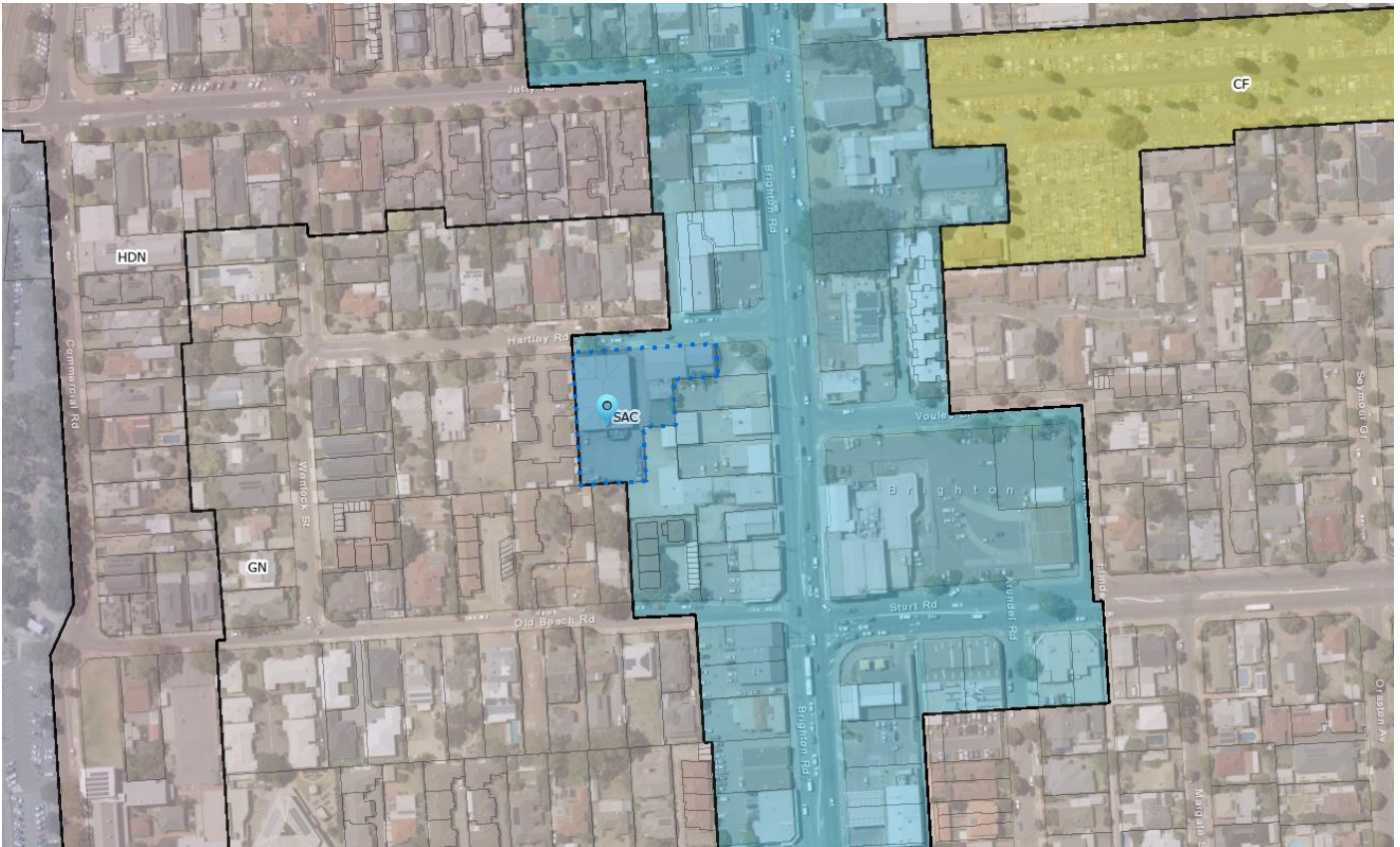


Locality

The subject site is located in the Suburban Activity Centre, and is adjacent the General Neighbourhood Zone to the west. Just to the north of the site is the Housing Diversity Zone along Jetty Road Brighton and Commercial Road.

As the subject site is on the boundary between a Neighbourhood and an Activity Centre, the locality has a clear division between residential use to the west, and commercial uses to the east. The Neighbourhood Zone is split with detached dwellings to the north and south of the site, whilst to the east is predominately residential flat buildings, with the locality comprising mostly single storey buildings.

The commercial uses within the locality comprise mostly small shops and offices, with some cafes and the Brighton Metro Hotel on the corner of Sturt Road and Brighton Road.

**CONSENT TYPE REQUIRED:**

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Telecommunications facility: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION**REASON FOR NOTIFICATION**

The proposed telecommunications tower is not listed as a type of development in the Planning and Design Code as being exempt from notification, and it is considered not to be of a minor nature. Therefore public notification was required. A copy of the representations received is contained in **Attachment 3**.

- **LIST OF REPRESENTATIONS** (* notes representors wishes to be heard in support of their representation)

Oppose

- *Judith Blackstone – Unit 6 / Hartley Road, Brighton
- *Sarah Farrugia – 8/2 Old Beach Road, Brighton
- *Jonathon Millar - unit 7, 2 Old Beach Road, Brighton
- *Kali Karayannis – 459 Brighton Road, Brighton
- *Karen Hammersley - 14 Old Beach Road, Brighton
- *Judith Virgo - 14 Hartley Road, Brighton
- *Val Marchesi - Unit 6 2 Old Beach Road, Brighton
- *Olegario and Maria de Souza - 5 Wenlock Street, Brighton
- *Andrew Kirwan - 12 Hartley Road, Brighton

Kerry Hugo – 8 Old Beach Road, Brighton
Michael and Margie Mercuri – U1 7 Hartley Road Brighton
Rosemary Druce – Unit 2 7 Hartley Road, Brighton
Greg McCloud – 1a Old Beach Road, Brighton
Layla Pagax – 40 Balmoral Ave North, Brighton
David McNabb – Unit 4 / 8 Old Beach Road, Brighton
Diane Downward - 20 Hulbert Street, Hove

Support

Tiaharn de Bruin - 1/2 Old Beach Road, Brighton

SUMMARY

- Maintenance of existing buildings
- Health problems associated with close proximity of telecommunications tower to residential areas
- Visual impacts
- Noise from air conditioners
- Overshadowing
- Not an appropriate site
- If Brighton Oval was inappropriate, this site should be
- Proximity to schools and child care facilities

The applicant has provided a response to concerns raised by the representors, see **Attachment 4**. Notably the applicant has provided reference to previous ERD case law of telecommunication towers. This documentation shows how the ERD court has dealt with similar proposals in regards to lose of amenity and health impacts from radio waves.

As the applicant has outlined in the response to representations, the Planning and Design Code cannot take potential, or perceived loss of house value into consideration.

With respect to the planning application, in Council's determination of the planning application before it, it is worthy of note the Environment, Resources and Development Court (ERDC) has examined the issue of telecommunication facility EME in detail, most notably in the matter of *Optus v City of Kensington and Norwood and Frost* (ERDC 344/97).

In its judgment, the Court stated:

"We acknowledge the desirability of adopting a precautionary approach to the assessment of risk to humans of new land uses, but we are satisfied that the Australian and New Zealand standard referred to above embraces the precautionary approach and that RFR levels are well within the standard."

The Court went on to address the issue of perceived amenity, both in relation to the visual impact of the tower and the health implications, and stated:

"thus we do not accept that it is reasonable for the residents to perceive that the amenity of the locality would be affected by the proposed development."

In more recent times, the ERD Court has again had cause to consider the perception of health impacts from mobile phone towers. In *Foresto & Ors v DAC & Ors*¹, the Court stated:

"It is not sufficient to simply raise personal concerns or to rely on general material published in various media. This issue and concern has previously been dealt with by this Court and others in Australia, it is regulated by the Commonwealth Government and there has been no finding that I am aware of to reject a telecommunications

¹ [2005] SAERDC 45

AGENCY REFERRALS

No referrals required

INTERNAL REFERRALS

No referrals required

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

Land Use

The land is currently used by Telstra as its local telephone exchange, which consists of three buildings, all fronting Hartley Road. The original exchange building is located in the north-eastern corner of the land and is listed as a Local

Heritage place. A later addition to the original building adjoins directly to the west, with a third and separate building constructed to the west of the existing driveway, which now operates as the main exchange building.

The proposed development is in association with the existing use of the site, which is considered to be relatively consistent with the desired uses for the Zone.

Building Height

The planning and Design Code does not specify any prescribed maximum height for telecommunication monopoles. It is worth noting that previously, the Development Plan stated a maximum height of 30 metres for such developments. This proposal has a maximum height of 30 metres, which means that the proposal does not require any referrals on the basis of its height.

Location of Tower

Telecommunication Facilities	
<p>PO 6.1</p> <p>The proliferation of telecommunications facilities in the form of towers/monopoles in any one locality is managed, where technically feasible, by co-locating a facility with other communications facilities to mitigate impacts from clutter on visual amenity.</p>	<p>DTS/DPF 6.1</p> <p>None are applicable.</p>

PO 6.1 seeks to minimise the proliferations of telecommunications facilities by either co-locating or attaching to another structure. Whilst the proposal is for a new tower, the site is already used for telecommunications purposes and therefore the proposal is considered to satisfy PO 6.1 and therefore the location is considered suitable in this instance.

<p>PO 6.2</p> <p>Telecommunications antennae are located as close as practicable to support structures to manage overall bulk and mitigate impacts on visual amenity.</p>	<p>DTS/DPF 6.2</p> <p>None are applicable.</p>
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The support structures are located at the base of the antennae and therefore satisfies PO 6.2

<p>PO 6.3</p> <p>Telecommunications facilities, particularly towers/monopoles, are located and sized to mitigate visual impacts by the following methods:</p> <p>(a) where technically feasible, incorporating the facility within an existing structure that may serve another purpose</p> <p>or all of the following:</p> <p>(b) using existing buildings and landscape features to obscure or interrupt views of a facility from nearby public roads, residential areas and places of high public amenity to the extent practical without unduly hindering the effective provision of telecommunications services</p> <p>(c) using materials and finishes that complement the environment</p> <p>(d) screening using landscaping and vegetation, particularly for equipment shelters and huts.</p>	<p>DTS/DPF 6.3</p> <p>None are applicable.</p>
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As previously mentioned, the site is currently used for telecommunications purposes. The applicant has stated that they are happy for an approval to be conditioned with the structure to be painted in a N53 blue-grey colour. This is considered to be a suitable condition to minimise the visual impact of the structure. Therefore, the proposal is considered to satisfy PO 6.3.

Setbacks, Design & Appearance

There are no setback provision in the Planning and Design Code relevant to this application.

Heritage

The subject site is listed as a local heritage place as the exchange building on Hartley Road is listed heritage place. The built form of the equipment shelter is considered to be relatively minor and will not unreasonably impact on the heritage character of the exchange building.

The monopole is a form of development that is reasonably anticipated in this zone, on a site that is currently operated by a telecommunications company. The relatively slim line nature of the pole, and that it is consistent with the historic use of the heritage building and therefore it is considered not to impact on the character of the heritage listed building.

Traffic Impact, Access and Parking

The proposal is considered not to have any traffic or access implications, and the changes to parking will be relatively minor, and will not unreasonably impact on the amenity of the locality.

Environmental Factors (Noise Emissions)

The proposal includes air conditioning units to maintain an operating temperature of the equipment in the shed. To minimise impact to adjacent properties, a condition of approval is recommended to ensure that the units operate in accordance with the EPA standards. The painting of the monopole in a blue-grey colour will minimise the visual impact of the structure in the locality.

Signage

No signage proposed as part of this application.

Flooding

The subject site is located in a Flooding General overlay. As the site does not propose any habitable buildings and are of a relatively small area, the proposal is considered not to impact on the water flow in the locality.

CONCLUSION

It is acknowledged that telecommunications infrastructure can cause significant concern for nearby residents, when located in adjacent a Neighbourhood type Zone. In this instance the proposal is to be located in a Suburban Activity Centre, next a General Neighbourhood Zone. The applicant has demonstrated that the infrastructure is required for the locality, and given that the site is already used for telecommunications purposes, the site is considered

reasonable for the infrastructure. The structure will have a minor impact in regards to visual intrusion or overshadowing. Therefore the proposal is considered to warrant Planning Consent to be Granted.

RECOMMENDATION

It is recommended that the Council Assessment Panel/SCAP resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21027089, by Telstra Corporation Ltd is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS

Planning Consent

1. The development granted approval shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. The monopole is to be painted in a N53 blue-grey colour.
3. That all mechanical plant and equipment, including air conditioners, should be selected, designed, and installed to comply with the following mandatory criteria:
 - (a) Noise level not to exceed 52dB(A) between the hours of 7am and 10pm when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (b) Noise level not to exceed 45dB(A) between the hours of 10pm and 7am when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (c) Where marked with an * the above noise levels must include a penalty for each characteristic where tonal/modulating/impulsive/low frequency characteristics are present in accordance with the Environment Protection (Noise) Policy 2007.

ADVISORY NOTES**General Notes**

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

OFFICER MAKING RECOMMENDATION**Name:** Michael Gates**Title:** Development Services (Planning and Building) Lead**Date:** 6 January 2022