



NSLPP MEETING HELD ON 02/06/2021

Attachments:
1. Architectural Plans

ADDRESS/WARD: 79 Willoughby Road, Crows Nest

APPLICATION No: DA 86/21

PROPOSAL: Construction of a shade structure within an existing outdoor dining bay on Council's footpath fronting Willoughby Road.

PLANS REF:

Plan No.	Issue	Dated	Title	Drawn by	Received
DA-01	B	8.2.2021	21015 Plan B Crows Nest Site Plan and Elevation	Alfresco Shade	31 March 2021

OWNER: North Sydney Council
200 Miller Street
NORTH SYDNEY NSW 2060

APPLICANT: Jacob Tanous
Yeah Nah JTAA Pty Ltd

AUTHOR: Hugh Shouldice, Development Assessment Officer

DATE OF REPORT: 19 May 2021

DATE LODGED: 31 March 2021

SUBMISSIONS: Nil (0)

RECOMMENDATION Approval

EXECUTIVE SUMMARY

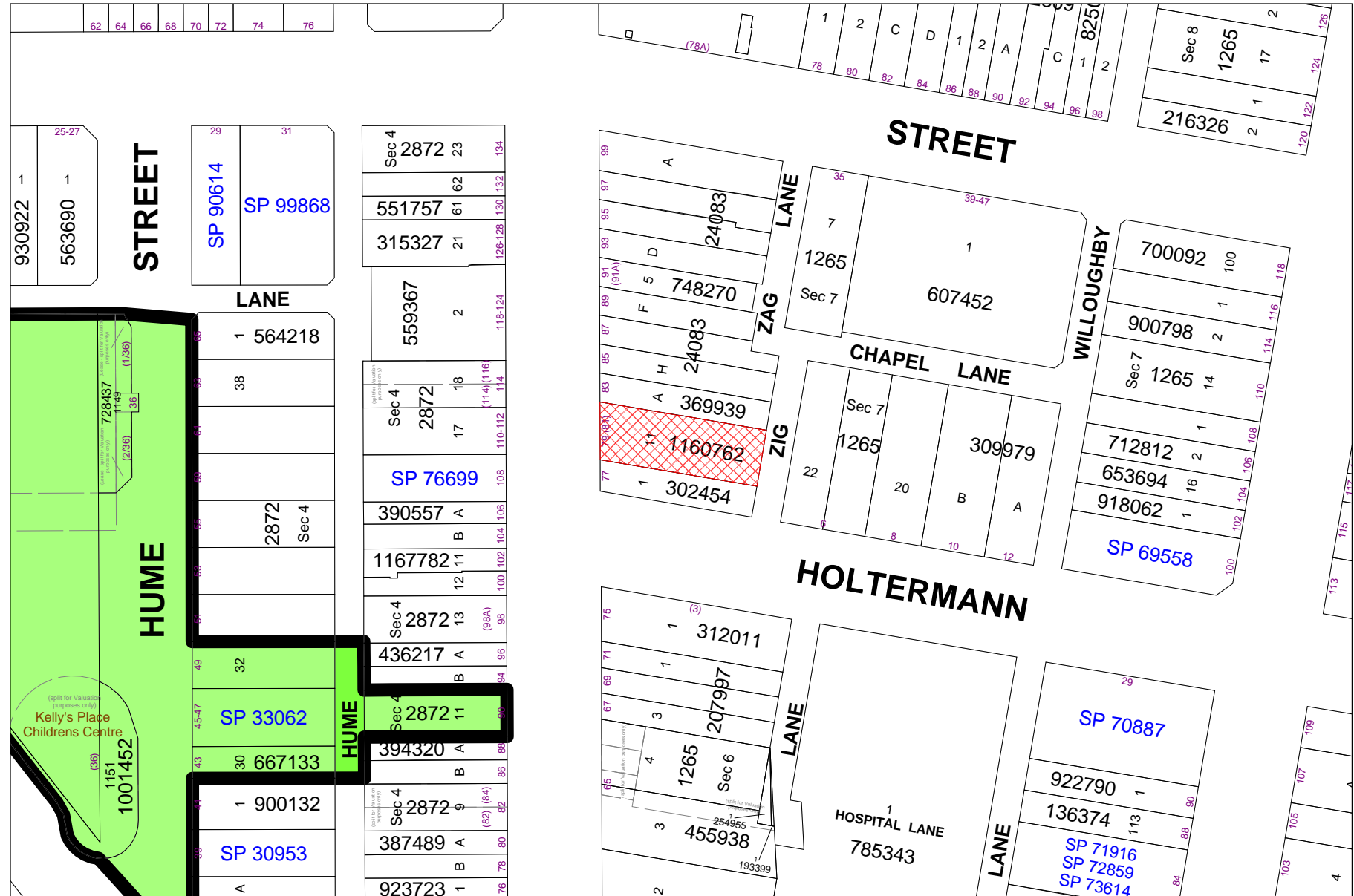
This development application seeks Council's approval to construct a permanent shading structure on Council's footpath. An outdoor dining area has been previously approved under DA 431/99. The premise at No. 79 Willoughby Road, Crows Nest is currently operating as a food and drink premise with approved operating hours from 7.00am – 10.00pm Monday to Sunday.

The application is reported to the North Sydney Local Planning Panel (NSLPP) because North Sydney Council is the owner of the footpath upon which the permanent shading structure is to be erected. The Ministers directions of 30 June 2020 require all such applications to be referred to the Local Planning Panel for determination.

Council's notification of the proposal has attracted nil (0) submissions.

The assessment has considered the performance of the proposal against Council's planning requirements. Following this assessment the development application is considered to be reasonable in the circumstances and is recommended for **approval**.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The proposal is to construct a permanent shading structure on Council's footpath.

An outdoor dining area has been previously approved under DA 431/99. The premise at No. 79 Willoughby Road, Crows Nest is currently operating as a food and drink premise with approved operating hours from 7.00am – 10.00pm Monday to Sunday.

The proposal is for a permanent market style shading structure located over the outdoor dining area.

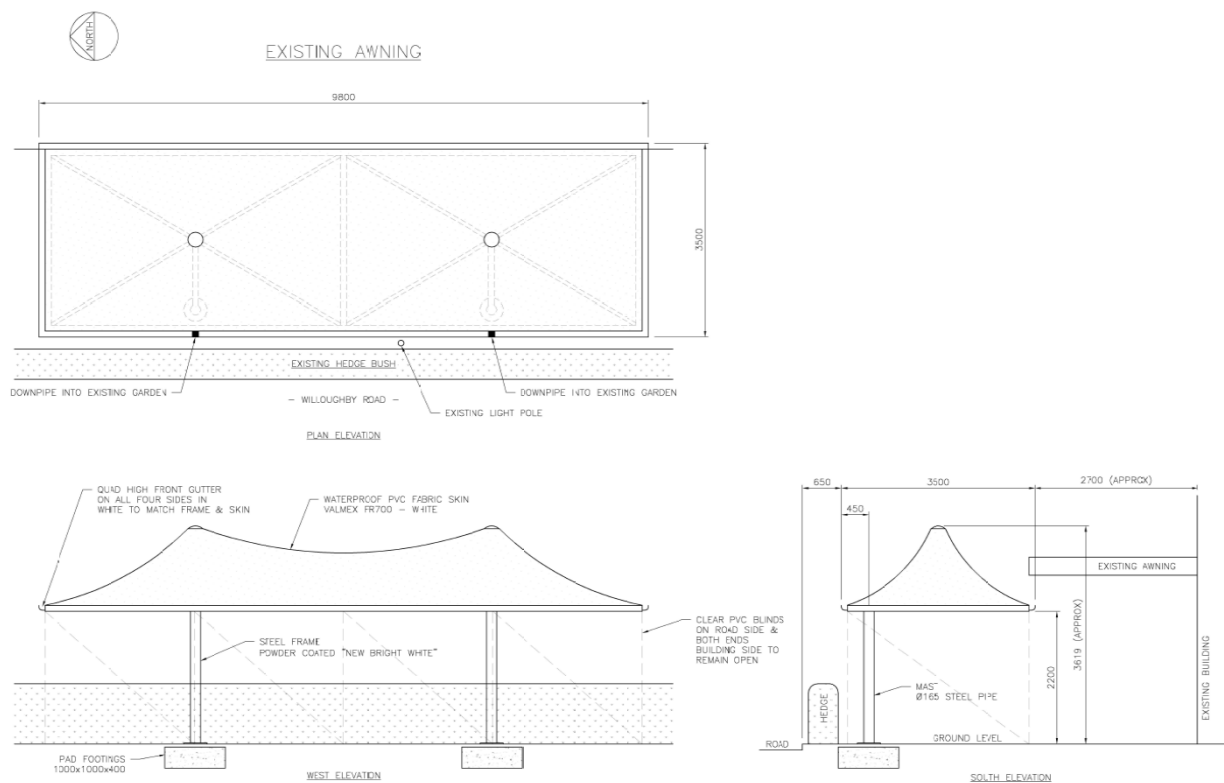


Figure 1 – Proposed Shading Structure on Council's Footpath along Willoughby Road.



Figure 2 – Existing Umbrella on the subject site



Figure 3 – Existing shadowing structures located along Willoughby Road

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B4 Mixed Use
- Item of Heritage - No
- In Vicinity of Item of Heritage – No

- Conservation Area - No
- Environmental Planning & Assessment Act 1979 (as amended)
Roads Act 1993
SEPP 55 and Contaminated Land Management Issues
SREP (Sydney Harbour Catchment) 2005 (deemed SEPP) & DCP
Local Development
National Construction Code (NCC)

POLICY CONTROLS

NSDCP 2013

DESCRIPTION OF LOCALITY

The subject site is known as Lot 11 in DP 1160762. It is located on the eastern side of Willoughby Road and has approval for outdoor dining on the footpath in front of a food and drink premise known as Plan B.

The site is located within the Crows Nest Town Centre. Surrounding development comprises mixed use buildings with ground floor retail and restaurant/café uses, together with commercial buildings generally comprising ground floor retail and business uses with offices above.

RELEVANT HISTORY

Previous Development Application History:

DA 431/99 was granted Consent at Council's meeting on the 22 February 1999 for the provision of outdoor (footpath) seating to existing restaurants/cafes for the following addresses:

No.13,16, 18, 19, 38, 41, 43, 46, 47, 48, 49, 52-54, 55, 56, 57, 58, 64, 65, 67, 69, 71, 77 (rear), 78, 79, 82, 85, 87, 88, 94, 97, 104, 108, 114, 116 & 126 Willoughby Rd, 449 Pacific Hwy and No.6 Willoughby Rd, 7 Burlington Street, 2 Clarke Street and the rear 376 Pacific Highway, Crows Nest (W)

6 April 2021	Council's Director of Engineering and Property Services signed a memorandum granting consent for a covered structure to be erected on Council's footpath at 79 Willoughby Road, Crows Nest.
7 April 2021	The owners of adjoining properties and the Lavender Bay Precinct were notified of the proposal between 16 April 2021 and 30 April 2021. The notification has attracted nil (0) submissions.

REFERRALS

Internal Referrals

Engineering Infrastructure

Council's Director for Engineering and Property services granted land owners consent for works to be conducted on Council land in the form of memorandum dated 6 April 2021 and signed off on the 3 May 2021.

External Referrals

No external referrals were required.

Integrated Referrals

No integrated referrals were required.

SUBMISSIONS

The owners of adjoining properties were notified of the proposed development and the application placed on notification from 16 May 2021 to 30 April 2021. The notification resulted in **nil (0) submissions**.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

The application has been assessed against the relevant numeric controls in NSLEP 2013 and DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

SEPP 55 and Contaminated Land Management Issues

Due to the recent development history of the site, it is considered unlikely there would be any issue of soil contamination that would require remediation. The site is therefore considered to be satisfactory under Clause 7 of SEPP 55.

SREP (Sydney Harbour Catchment) 2005 (deemed SEPP) & DCP

The proposed development is considered satisfactory with regards to the provisions contained within this policy in this regard in that it will maintain the visual amenity of the catchment of Sydney Harbour and have no negative impacts on water quality within the harbour.

NSLEP 2013

The proposed development relates to construct a shading structure on council's footpath and as such, no development standards under the NSLEP 2013 apply to the application.

Permissibility within the zone

The site is within B4 Mixed Use zone under the provisions of NSLEP 2013. Development for the purpose ancillary development to a "food and drink premise" is permissible with development consent within this zone.

Zone objectives

The particular objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses on the lower levels and residential uses above those levels.*

The proposed outdoor shading structure is considered to be consistent with objectives of the zone in that it will create an interesting and vibrant area. The proposal is considered to be consistent with the objectives of the zone.

Building Height

The proposed outdoor seating does not increase the height of the building.

Floor Space Ratio

The proposed outdoor seating does not increase the floor space of the building.

Heritage Conservation

The site is not within a heritage conservation area, is not in the vicinity of a heritage item, and does not contain a heritage item.

Earthworks

No earthworks are proposed.

Suspensions of Covenants, agreements and instruments

Council is unaware of any covenants, easement and the like which would impact upon the proposed development.

DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013 - Commercial and mixed use development		
	<i>Complies</i>	<i>Comments</i>
2.2 Function		
Diversity of activities, facilities, opportunities and services	Yes	The use of the footpath for outdoor seating will provide an active use that will contribute positively to economic and social vitality.
Maximum use of public transport	Yes	The site is well served by public transport services, with Pacific Highway being a major bus route approximately 200m from the site.
2.3 Environmental Criteria		
Clean Air	Yes	No change is proposed to the bars existing mechanical ventilation system. The food service will be similar to existing.
Artificial illumination	Yes	The additional hour of morning service is unlikely to result in unreasonable levels of glare.
Views	Yes	The proposal has not impact on public or private views.
Visual privacy	Yes	The proposal does not result in overlooking of residential properties.
2.4 Quality built form		
Context	Yes	The outdoor seating is appropriate in the context of enhancing the liveliness of the Crows Nest Town Centre
Streetscape	Yes	The proposed shading structure will sit comfortably within the streetscape.
Entrances and exits	Yes	The outdoor seating area is accessible.
Public spaces and facilities	Yes	The outdoor seating will sit comfortably within the public space.
2.5 Quality urban environment		
Accessibility	Yes	The outdoor seating area is accessible.
Safety and security	Yes	The proposal will not impact public safety.
Illumination	Yes	The proposal is not illuminated.
2.7 Public domain		
Street furniture, landscaping works, utilities and equipment	Yes	The seating provides an adequate pedestrian passageway in accordance with Council's policy.
Public entertainment and expression	Yes	No public entertainment is proposed.

DEVELOPMENT CONTROL PLAN 2013		
Section 8 - Outdoor dining and display of foods on the footpath		
	<i>Complies</i>	<i>Comments</i>
8.3 Function		
Location	Yes	The outdoor seating area has been located to minimize impacts. The location of shade structure does not obstruct vehicular traffic or road signage.
8.4 Social amenity		
Noise	Yes	As noted above, the proposal does not result in noise nuisance.
Lighting	Yes	There is no additional lighting proposed.
Solar access	Yes	The area faces west and receives adequate solar access without blocking sunlight to other areas.
Weather protection	Yes	The proposal includes a permanent shading structure for weather protection. The proposal is considered to be acceptable in this regard, subject to conditions.
Cleaning	Yes	This matter could be addressed by an appropriate condition of consent.
Views	Yes	The outdoor shading structure does not obscure shop entrances or any public or private views.
8.5 Built form		
Structures and designated areas	Yes	The area proposed for seating has been designated as an outdoor service area and is subject to an approved outdoor dining permit granted by Council (see relevant history).
Layout and dimensions	Yes	The proposed permanent shading structure is 3.61m in height, 9.8m in width and 3.5m in depth. A 2.7m wide pedestrian access is maintained which is appropriate for a medium to low traffic risk area.
Furniture and equipment <i>P3 All structures, equipment and materials associated with the outdoor dining or goods display must be removed from the footpath at the end of each day's trading (includes tables, chairs, display stands and the like, but excludes fixed umbrellas or required markers/planter boxes which has prior approval).</i>	No (Merit Assessment)	The proposal is for a permanent structure. Details have been provided regarding dimensions and location. The proposal is noncompliant with provision 3, however the proposal is consistent with objective 1 in Section 8.5 of Structures and Designed Areas.
Advertising	Yes	The applicant has not applied for any advertising. This matter could be addressed by a condition of consent.

DEVELOPMENT CONTROL PLAN 2013

Crows Nest Town Centre

The application has been assessed against the relevant controls for the Crows Nest Town Centre in the NSDCP 2013. The proposal is consistent with the objectives, provisions and desired future character for the area. The proposal is considered to be acceptable in this regard.

SECTION 7.11/7.12 CONTRIBUTIONS

No section 7.11/7.12 are not required for the proposed development.

APPLICABLE REGULATIONS

There are no applicable Regulations.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	NA
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMISSIONS

Council received Nil (0) submissions during the notification period.

CONCLUSION

The proposed permanent shading structure has been assessed against the relevant provisions and objectives of NSLEP 2013 and NSDCP 2013. The proposal does not obstruct foot traffic down Willoughby Road and provides weather protection for customers being served by the premise at No. 79 Willoughby Road.

As such, the proposed development is considered to satisfy the objectives of the B4 Mixed Use zone under the NSLEP 2013 and it is recommended for approval.

Having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended), the application is considered to be satisfactory and is therefore recommended for approval.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, under the directions of the Minister exercise the powers as the consent authority and grant consent to Development Application No. 86/21 for the installation of a shade structure on the Council's footpath located on land also known as No. 79 Willoughby Road, Crows Nest, subject to the following conditions:

HUGH SHOULDICE
DEVELOPMENT ASSESSMENT OFFICER

DAVID HOY
TEAM LEADER (ASSESSMENTS)

GAVIN MCCONNELL
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
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A. Conditions that Identify Approved Plans

Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Dated	Title	Drawn By	Received
DA-01	B	8 February 2021	21015 Plan B rows Nest Site Plan and Elevation	Alfresco Shade	31 March 2021

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

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Terms of Consent

- A4. The proposed shading structure must be located entirely within the area that was approved for the outdoor dining area. No consent is given for the shading structure to project into Willoughby Road or adjoining sites.

The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To clarify the terms of this consent and ensure the development does not encroach into adjoining properties or Willoughby Road.)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated).***Waste Management Plan**

- C1. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Work Zone

- C2. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

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Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C3. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$1,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and

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- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Security Deposit/ Guarantee Schedule

- C4. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Infrastructure Damage Bond	\$1,000.00
TOTAL BONDS	\$1,000.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

D. Prior to the Commencement of any Works (and continuing where indicated)

Public Liability Insurance – Works on Public Land

- D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note, and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

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Commencement of Works Notice

- D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work**Parking Restrictions**

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

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Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E5. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E6. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

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Developer's Cost of Work on Council Property

- E7. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

Special Permits

- E8. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours notice is required for any permit: -

1) **On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

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3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours (Commercial Core & Mixed Use Zones)

E9. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
B3 Commercial Core B4 Mixed Use	Monday – Friday	7.00am – 7.00pm
	Saturday	8.00am – 1.00pm
	Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP & A Act 1979 and in accordance with Council's adopted Compliance & Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

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Out of Hours Work Permits

E10. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which can not be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include;
 - extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Health and Safety

E11. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

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Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

E12. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant & Equipment Kept Within Site

E13. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

E14. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

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Home Building Act

- F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act* 1989 requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:
- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

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Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Commencement of Works

- F6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Protection of Public Places

- F7. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

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Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F8. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

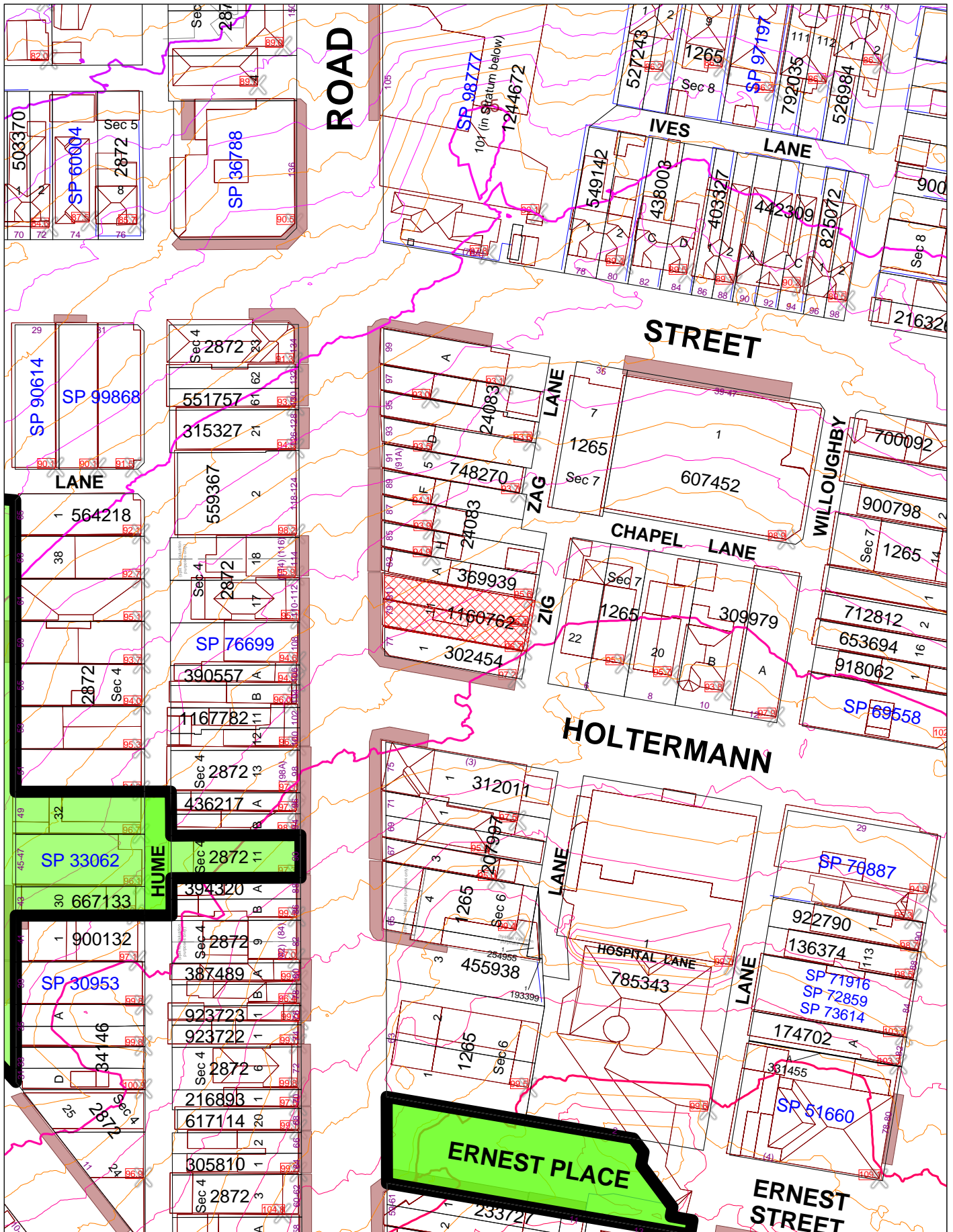
G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

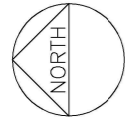


North Sydney Council

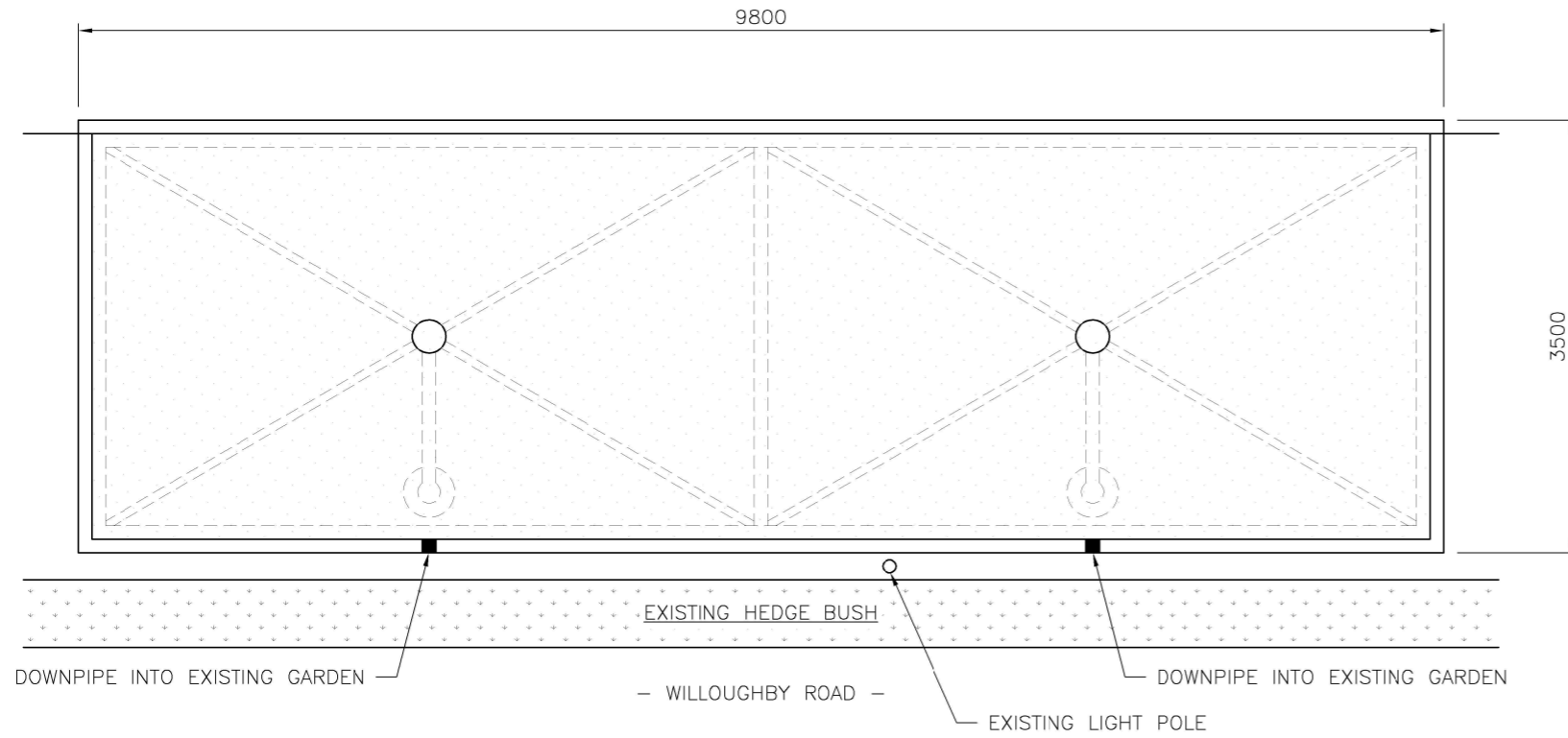
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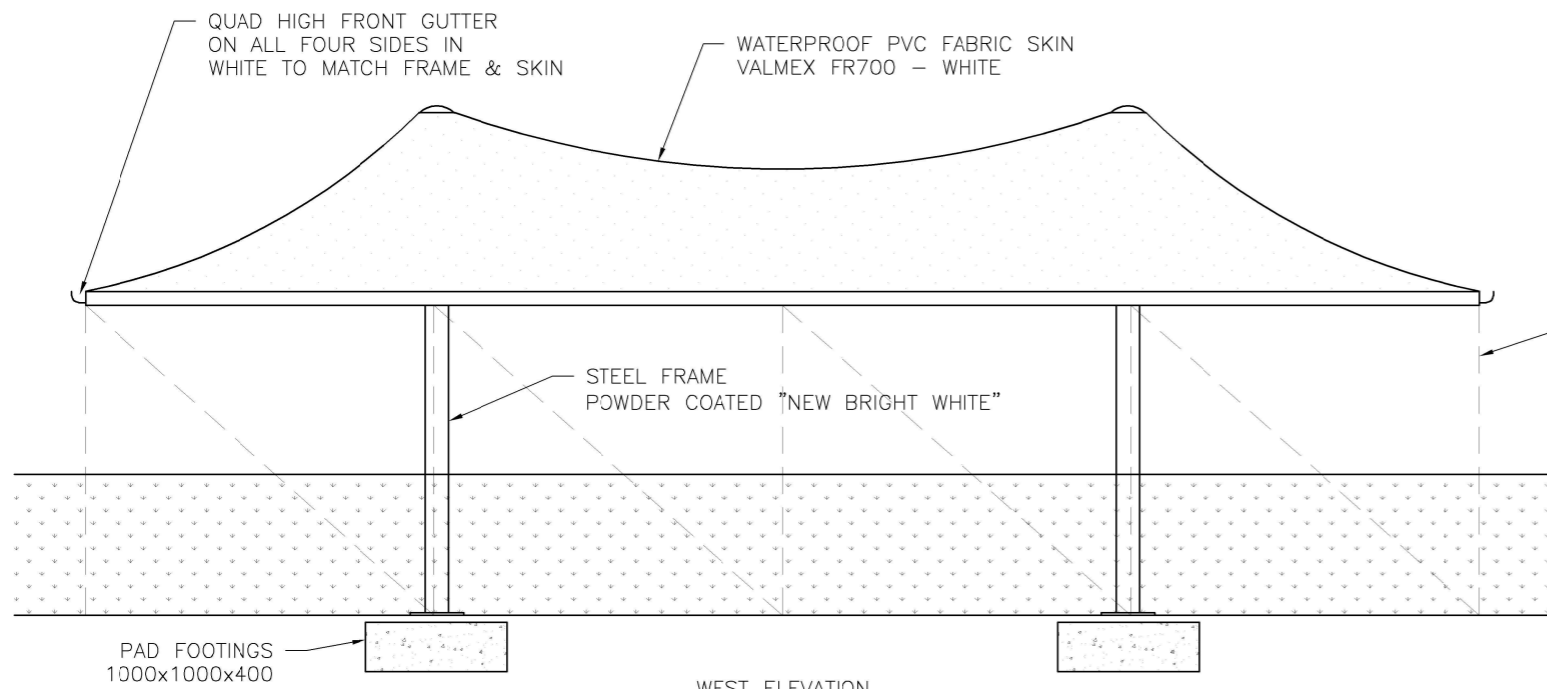
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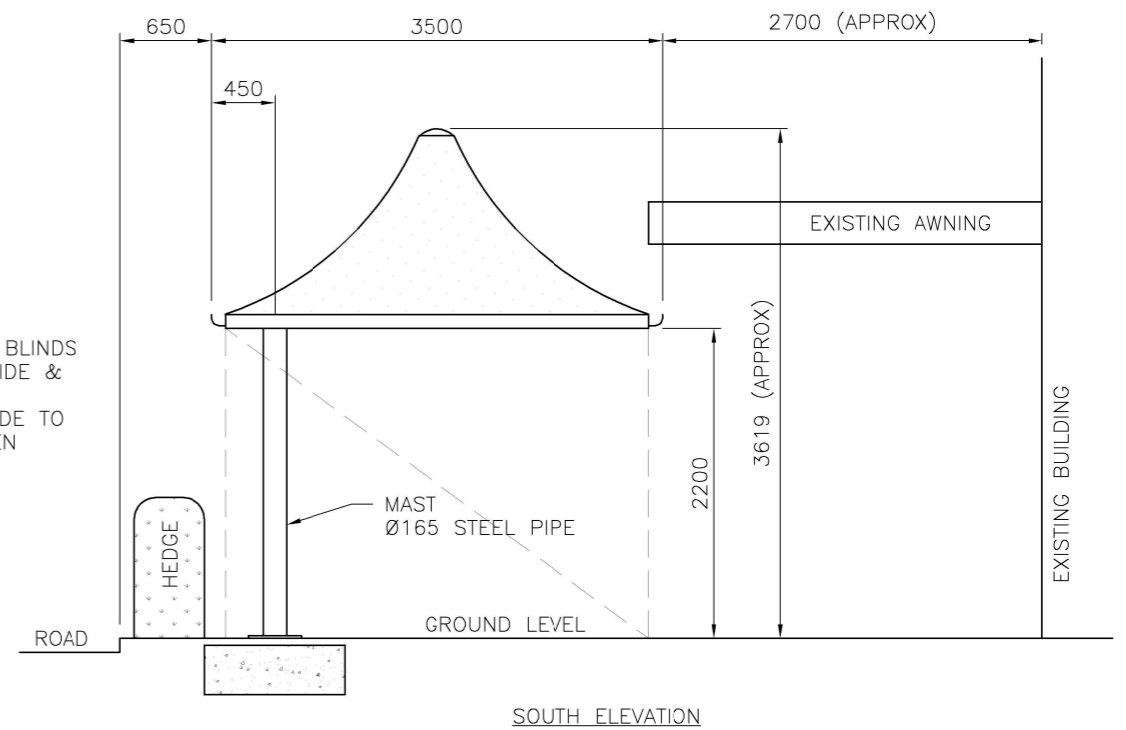
EXISTING AWNING



PLAN ELEVATION



WEST ELEVATION



SOUTH ELEVATION