



**Policy Owner:** Director Open Space & Infrastructure

**Category:** Operational

**Direction:** Our Built Infrastructure

## 1. STATEMENT OF INTENT

1.1 The purpose of this Policy is to:

- a) to provide a standard procedure for the management of work activities undertaken on public land within the North Sydney Local Government Area (LGA), affecting areas such as roads, footpaths, parks, plazas, and reserves, under the provisions of the *Local Government Act 1993* and Regulations, sections of the *Roads Act 1993* as amended, the *Environmental Planning and Assessment Act 1979*, and *Work Health and Safety Act 2011* and Regulations.
- b) specifically address the process of controlling work activities to standards on Council public land areas, and to provide a system for ensuring that Council and community interests are protected as far as possible, for safety, amenity, and financial repair responsibilities.
- c) provide guidance to the implementation of Council's objectives by specifying the manner and standards to which authorised entities who are entitled to work on public land, such as utility authorities placing or maintaining services in, on or over public land can undertake.

1.2 The objectives of this Policy are:

- a) to ensure the protection and proper repair of Council's public infrastructure and natural assets, providing ongoing community accessibility and safety with long term sustainable public infrastructure, and natural amenity - roads, footpaths, drainage, plazas, parks and open space areas.
- b) to promote an integrated framework with all parties dealing with works and activities affecting public land areas.
- c) to minimise Council's risk exposure and limit damage to Council's assets, whilst preserving and maximising the remaining life of our existing assets.
- d) to ensure consistency and fairness in the manner in which Council deals with works and activities affecting public areas.
- e) to make Council's requirements for works and activities affecting public areas readily accessible and understandable to the public.

## 2. ELIGIBILITY

- 2.1 This Policy applies to all works including non-destructive works (e.g. investigations), done anywhere on public land in the North Sydney LGA, by public utility authorities, developers and their contractors, land owners engaging their contractors such as plumbers, electricians etc, and to any other entity involved in similar work.

## 3. DEFINITIONS

- 3.1 Street Opening - an opening or any works done on a road pavement, footpath, nature strip, park or open space for new installations, connection, repair or access to a public utility (gas, electricity, telecommunications, sewerage, water installation), or repair of property stormwater drainage, investigations or other similar work.
- 3.2 Notification of Work - The announcement and description of works, duration and times, provided with the required warning period. Usually in the form of a letter and other customer service liaison methods. Also involves updating those effected along the duration of the works.
- 3.3 Condition of Street Opening Permit and Restoration Works on Public Land Guidelines - General conditions and guidelines which are connected and needs to be read with each street/footpath/public land opening permit application.
- 3.4 Permit Holder - An individual or company who is the applicant of the street/footpath/public land opening permit, who accepts full responsibility for all requirements and payments. The permit holders name will appear on any receipts issued by Council and will also be the only entity to receive restoration invoices and/or refunds associated with these works. Permit holder must be either the developer or their head contractor, the landowner or the authorised service utility representative.
- 3.5 DA - Development Application.
- 3.6 VPA - Voluntary Planning Agreement due to development.
- 3.7 CC - Construction Certificate.
- 3.8 OC - Occupancy Certificate.
- 3.9 Development Associated Work - work that is incidental and related to the adjustment of services and/or utilities required to provide for development under construction that requires work in the road reserve.

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## 4. PROVISIONS

- 4.1 Council has a responsibility to the community to ensure that it provides and maintains Council's assets such as roads, pathways and public reserves to an appropriate approved standard within the limits of the available budget.
- 4.2 Council also has a responsibility to ensure that when others wish to carry out works or activities on public land, the works are not to detract from the condition or function of Council's assets, such as to reduce the life of the asset or create additional risks and limit accessibility for Council and the community.
- 4.3 Under the provisions of *Local Government Act 1993* and Regulations, sections of the *Roads Act 1993* as amended, the *Environmental Planning and Assessment Act 1979*, and *Work Health and Safety Act 2011* and Regulations, Council is the road authority responsible for managing street openings undertaken within the North Sydney LGA.
- 4.4 Other than emergency works, the *Street/Footpath/Public Land Opening Application Form* must be used to apply for a permit from Council to carry out any works whether destructive or non-destructive on public land within the LGA.
- 4.5 Service utilities, developers, head contractors or the street opening permit holder must undertake to reimburse Council for the cost of repair of any damage caused to public land as a result of the work activities associated with street opening approvals and or developments, unless another arrangement is approved by Council.
- 4.6 Council is entitled to recover the costs incurred in rectifying or repairing any work which does not fully satisfy the standard conditions of approval for street/footpath/public land opening works.
- 4.7 Service utilities, developers, head contractor or the street opening permit holder is responsible for the proper placement of the temporary restorations and for the regular checking and maintenance in a manner that always ensures safety of the site for pedestrian and vehicular traffic until the final restoration is undertaken.
- 4.8 The holder of this approval shall indemnify and keep Council indemnified against all claims, demands, suits, action damages and costs incurred by or charges made against Council in respect to death or injury to any person or damage in any way arising from this approval.
- 4.9 The Utility or Permit Holder undertaking the work is responsible for coordinating with Council for determining the final restoration scope as soon as practicable,

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within 21 calendar days from completion date of works, including the temporary restoration.

## 5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Council's Traffic & Transport Operations Department is responsible for administering and processing the street/footpath/land opening permit applications.
- 5.2 Council's Works Engineering Department is responsible for the follow-up and management of final restoration with the Permit Holder, including inspections to ensure compliance to standards for those entities who are approved to do their own final permanent restorations.
- 5.3 Council's Ranger & Parking Services Department is responsible for enforcement of permits, including issuing penalty notices if contractors are found doing works on public land without utility accreditation evidence or holding a valid Council Permit.
- 5.4 Council's Development Services Department is responsible for managing infrastructure work on public land associated with DA's, VPA's and Section 138 permits issued under the *Roads Act 1993* that is associated with development applications.

Such works include the creation of public spaces in accordance with Council's *Public Domain Style Manual* and connections to Council's stormwater system.

Development consents also provide for 'Development Associated Work' which includes the adjustment of utilities including water, sewer, gas, electricity and communications, which often require separate road opening permit to be issued by Council and restoration on public land due to the development.

- 5.5 In case of a major development, it is the Developer's Lead Contractor's responsibility to co-ordinate with Council the required final restoration of Council's infrastructure on public land, and it cannot be transferred onto their subcontractors undertaking the works on behalf of the Lead Contractor with or without a Street Opening Permit.
- 5.6 Development requiring work to be done on public land, will likely also require needing a Street Opening Permit from Council for development associated works including service extensions. The Developer's Lead Contractor as the applicant takes on full responsibility for ensuring compliance and the required payments to Council in accordance with Council's *Fees and Charges Schedule*.

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Council's Development Engineers are responsible for ensuring that public domain work, road works and drainage work is carried out in accordance with Council specifications. This work is generally limited to the area of the public domain located immediately adjacent to the site frontage within the road reserve, with some extension into the road reserve. The area of work is subject to the discretion of the development engineers and the particular design requirements of the development. Some provision is made for works in kind where such work is appropriate, and Council has made such arrangement prior to the commencement of work.

- 5.7 Those developments without Street Opening Permits in place, will be limited to restore public property to the building footpath frontage from kerb to building boundary. All other restorations required from dilapidation reports and on-site inspections will be through payment to Council via the Street Opening Permit process. Final complying restorations needed on public land due to development works, can be done by the developer or their contractors, only with prior Council approval or with DA conditions in place. Final restorations needed on public land due to development works are to be fully funded by the developer or their Lead Contractor and cannot be transferred onto their sub-contractors.

In accordance with DA Standard Condition of Consent G1, Council's Development Services Department shall ensure that developers complete all restoration or other arrangements made with Council, including:

- a) cross checking quality and scope of works completed on public land, including a handover site meeting with key stakeholders from Council's Open Space & Infrastructure Division, prior to the issue of development compliance and or occupation certificates;
- b) Cross-checking with developer's dilapidation reports and ensure that full payment has been received to make good any development induced defects on public land prior to issuing the occupancy certificate; and
- c) checking in with Council's Works Engineering Department to confirm that any final restorations done by the developers' head contractor has been compliant to Council standards during and at completion of works, prior to the issue of the occupation certificate.

## 5.8 **Bonds**

Council's Development Services Department is responsible for managing bonds associated with development applications.

Council standard development consent conditions require payment of a security deposit or bank guarantee which must be provided and held by Council for the payment of cost for any or all of the following:

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- 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; or
  - c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required 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 domain work required to be completed (whichever is the latest) but only upon inspection and release by Council's Development Engineers or Manager Development Services.

5.9 In accordance with Council conditions, Council has the authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- a) where the damage constitutes a hazard in which case Council may make use of the security immediately;
- b) 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;
- c) works in the public road associated with the development are to an unacceptable quality; and
- d) the Certifying Authority must ensure that security is provided to Council prior to issue of any Construction Certificate.

## **6 RELATED POLICIES/DOCUMENTS/LEGISLATION**

The Policy should be read in conjunction with the following Council policies and documents:

- Standard Development Conditions
- Compliance and Enforcement Policy
- Development Control Plan
- Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works
- Public Domain Style Manual
- Restoration Works on Public Land Guidelines
- Street/Footpath/Land Opening Permit Application Form

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The Policy must be read in conjunction with the following documents/legislation:

- AUSPEC Specifications for Road Openings and Restorations; Service Conduits, and Trenchless Conduit Installations
- Australian Standard 1742 Part 3
- Environmental Planning and Assessment Act 1979
- Local Government Act 1993
- Road Act 1993
- SOOC Guide to Codes & Practices for Street Opening 2018
- SOOC Model Agreement for Local Councils and Utility Service Providers
- Traffic Control at Work Sites - Technical Manual 2022
- TfNSW Specification M209 - Road Openings and Restoration
- Work Health and Safety Act 2011

<b>Version</b>	<b>Date Approved</b>	<b>Approved by</b>	<b>Resolution No.</b>	<b>Review Date</b>
1	30 November 2020	Council	203	2021/22
2	12 September 2022	Council	273	2024/25