

Original signed by Geoff Mossemenear on 18/11/2020

Date determined: 18/11/2020

Date operates: 18/11/2020

Date lapses: 18/11/2025

Bianca Pupovac
Willowtree Planning (NSW) Pty Ltd
Suite 4, Level 7, 100 Walker Street
NORTH SYDNEY NSW 2060

D205/20
GM (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Approval**

Development Application Number: 205/20

Land to which this applies: 1 Denison Street, North Sydney
Lot No.: 2, DP: 1078998

Applicant: Bianca Pupovac

Proposal: Roof mounted broadcast equipment including antennas
and related equipment.

Determination of Development Application: Subject to the provisions of Section 4.17 of the
Environmental Planning and Assessment Act 1979,
approval has been granted subject to conditions in the
notice of determination.

Date of Determination: 18 November 2020

The development application has been assessed against all applicable environmental planning instruments and was found to be generally satisfactory, including in relation to the North Sydney LEP 2013 and North Sydney DCP 2013.

Reason for approval:

The development application will not result in any unreasonable adverse effect on the local built and natural environment and will not result in any unreasonable adverse social or economic impact.

The development application would promote the orderly and economic use and development of land and its approval is in the public interest.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved.

Consent to operate from: 18 November 2020

Consent will lapse on: 18 November 2025

Period of Consent Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite by 18 November 2025.

How community views were taken into account: The subject application was notified to adjoining properties and the Central Business District Precinct inviting comment between 18 September and 2 October 2020. There were no submissions.

Review of determination and right of appeal: Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Plans endorsed by the consent authority – please refer to condition A1.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act* 1989.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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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	Description	Prepared by	Received
794-10.10	6	9 Technology	YSQUARED Architects	4/09/2020
794-10.11	1	Roof - site plan	YSQUARED Architects	4/09/2020
794-20.01	1	East Elevation	YSQUARED Architects	4/09/2020

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

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)

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

Applicant's Cost of Work on Council Property

- E1. 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

- E2. 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**

E.g. 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)

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

E3. Building construction and works must be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) "Excavation work" means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

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

Out of Hours Work Permits

E4. 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 cannot 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

- E5. 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.

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

- E6. 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

- E7. 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)

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)

Appointment of a Principal Certifying Authority (PCA)

- F2. 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)

Construction Certificate

- F3. 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

- F4. 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)

Critical Stage Inspections

- F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(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)

G. *Prior to the Issue of an Occupation Certificate*

Electromagnetic Radiation Survey

- G1. For assuring a safe exclusion zone distance away from the antennas, particularly due a number of factors such as the significant amount of transmit power, side lobe emissions and differences in the actual installation, an electromagnetic radiation survey shall be conducted when the antennas are being commissioned prior to the issue of an Occupation Certificate.

Should there be significant change or alteration, to the proposed antennas or any additional wireless installations on the roof top, the electromagnetic field environment shall be re-assessed for health & safety compliance and assurance purposes.

(Reason: Safety)

I. *On-Going / Operational Conditions*

Roof Top Access

- I1. Access to the roof top of the building needs shall be restricted to occupational personnel that are appropriately trained.

When the antennas are operational, access to the roof top shall be restricted by a key locked door, and non-ionizing radiation warning signage erected at the entry point and at the exclusion zone boundary adjacent to the antennas, or at the base of the tower.

A site radiation folder shall be established for assuring the safety of persons accessing the roof top.

(Reason: Safety)

Signage

I2. The radiation warning sign shall be exhibited at the entrance point and on the boundary of the enclosure which contains a Radiofrequency Hazard.

This sign shall use the international symbol for identification of an area containing a non-ionising radiation hazard and is used to mark all areas which are:

- a) A 'General Public' exclusion zone
- b) An 'Occupational' exclusion zone
- c) An antenna or radio frequency device around which a General Public or Occupational hazard/zone exists which includes the floor directly below the antennas
- d) An antenna or radio frequency device which may produce a radiofrequency burn or shock if contacted

Details of the nature of the risk hazard should be referenced or included on the sign but always available at the site of the hazard. The risk areas defined must be accessible only to RF workers or Aware persons as defined in ARPANSA RPS3.

(Reason: Safety)

Compliance with Relevant Australian Standards for Emissions

I3. The telecommunications infrastructure must at all times operate in accordance with the requirements of Australian Standard RPS 3, developed by ARPANSA (Australian Radiation Protection and Nuclear Safety Agency), called Radiocommunications (Electromagnetic Radiation - Human Exposure) Standard 2003 as amended from time to time.

(Reason: To ensure safe ongoing operation)

L. General terms of approval pursuant to Section 91A of the Environmental Planning and Assessment Act 1979, (as amended)

General Terms of Approval - Airports (Protection of Airspace)

L1. 1) The communications tower must not exceed a maximum height of 220.8 metres AHD.

- 2) The Proponent must ensure the highest point of the communications tower is obstacle lit with a medium intensity flashing red light during the hours of darkness. The obstacle lights must be arranged to ensure the lighting can be observed in a 360 degree radius as per section 9.33 of the Civil Aviation Safety Regulations 1998 - Part 139 (Aerodromes) Manual of Standards 2019 (the MOS). Characteristics for medium intensity lights are described in subsection 9.33 of the MOS.
 - If the communications tower is obstacle lit effectively, there is no requirement for the building roof or the track mounted twin crane to be lit.
- 3) The Proponent must ensure the obstacle lighting has a remote monitoring capability. For detailed requirements for the monitoring of obstacle lights within the aerodrome's OLS refer to section 9.36 of the MOS.
 - The proposed obstacle lighting system must incorporate an alarm system that will provide remote monitoring to notify the person responsible for the maintenance of the obstacle lighting. The designated person must be available 24 hours per day, 7 days per week. Action must be taken to repair the obstacle lighting within 12 hours of the light not operating. The contact details of the person must be available 24 hours per day, 7 days per week. Action must be taken to repair the obstacle lighting within 12 hours of the light not operating. The contact details of the person responsible for the monitoring of the obstacle lighting must be sent to Sydney Airport prior to the obstacle lights operating and must be kept up to date. In the event of the obstacle lighting being inoperable, the person responsible for maintenance of the obstacle lighting must immediately contact the Sydney Airport Airfield Supervisor on 0419 278 208 or 9667 9824. Once the obstacle lighting is working again, the person responsible for the maintenance of the obstacle lighting must notify the Sydney Airport Airfield Operations Supervisor.
- 4) Following completion of the communications tower, the Proponent must advise SACL in writing:
 - a) that any future owner(s)/manager(s) of the communications tower have been informed of their obligation to maintain the obstacle lighting in accordance with conditions of this approval; and
 - b) the contact details of the person/position responsible for the maintenance of the obstacle lighting. At the time of granting this approval, the Broadcast Duty Master Control Operator, on 9596 4200, is the primary contact. These details must be reviewed regularly and kept up to date.
- 5) The proponent must obtain separate approval under the Regulations for any equipment (i.e. cranes) required to construct the communications tower. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.

- 6) The proponent must advise Airservices Australia at least three business days prior to controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA-371.
- 7) The proponent must report all permanent obstacles 100 metres or more above ground level or that penetrate the OLS to the Aeronautical Information Service provider, Airservices Australia, by emailing vod@airservicesaustralia.com or telephoning (02) 6268 5622.
- 8) On completion of the construction of the communications tower, the Proponent must provide the airfield design manager at Sydney Airport with a written report from a certified surveyor on the finished height of the communications tower.

Breaches of approval conditions are subject to significant penalties under Section 185 and 187 of the Act.