



A D D E N D U M

ADDENDUM TO REPORT OF GEORGE YOUHANNA – EXECUTIVE PLANNER DATED 2 JULY 2021

SUBJECT: LPP01: 68 ALFRED STREET, MILSONS POINT -
Additional conditions related to awning and owners
consent information.

APPLICATION NO. DA 43/21

AUTHOR: GEORGE YOUHANNA, EXECUTIVE PLANNER

DATE: 5 July 2021

Attachment: Lot 18 Owner's Consent

SUMMARY

This addendum report should be read in conjunction with the agenda item LPP01 concerning a proposal for alterations and additions to a commercial building at 68 Alfred Street, Milsons Point.

Additional conditions of consent have been recommended by Council's Property Officer, as follows:

Awning Condition regarding Required Lease.

- C39
1. The applicant and Council must enter into a Heads of Agreement prior to the issue of a Construction Certificate, agreeing to the formalisation of a Lease over the encroachment of the proposed awning which will extend over Council's footpath.
 2. The applicant is to agree in writing to enter into a Lease Agreement with Council in accordance with Clause 4.2.3.5(i)(a) of the Encroachment Management Policy.
 3. The rental will be determined by a registered valuer and the 'area' used to assess the rental must be supplied in writing by a registered surveyor or architect. A final survey plan is to be submitted to Council upon completion of the development with the total 'area' of the encroachment noted. If the 'area' differs upon completion of the project, the rental will be reviewed at the cost of the lessee.
 4. The commencement date of the lease shall be the Date of the first occupation certificate.
 5. A bond of \$20,000 must be lodged to cover all costs associated with the preparation and negotiation of the lease documents, and the drawing of the stratum subdivision plan of the airspace encroachment. The bond is to be accompanied with a letter of authorisation from the property owner granting Council permission to draw on the bond. A further amount is to be lodged if the bond is proved to be insufficient.
 6. The lessee will be responsible for all maintenance and insurance.

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7. If the applicant does not agree to entering into a lease, the applicant may lodge a Section 4.55 Application to modify the conditions prior to the Construction Certificate being issued.
8. The encroachment will be notated on a Section 10.7 Certificate.

(Reason: To appropriately regulate the construction of an awning that encroaches over Council property)

Details of Insurance and Maintenance

115. In the event that part of the proposed development encroaches upon or over Council land, the land owner must defend and hold harmless, indemnify and keep indemnified, Council and its employees, officers, agents and contractors from and against all claims, expenses, losses including consequential losses, damages and costs (including costs on a solicitor and client basis and whether incurred by or awarded against Council) that Council may sustain or incur as a result, whether directly or indirectly, of the encroachment by the proposed development on Council land, including:

- (a) any injury or death to any person including any injury or death to the general public, employees, officers, agents and contractors, or invitees, or other entity of the Council; or
- (b) damage to or loss of any property; and
- (c) arising out of performance by the landowner of its obligations under the Conditions of Consent including claims by a person who is not a party to this development, except to the extent caused or contributed to by Council, its contractors, employees and agents.

The landowner must provide Council with a copy of its Certificate of Insurance on an annual basis so that Council can satisfy itself that the landowner holds adequate public liability insurance in relation to the development that encroaches on Council land.

The encroaching owner is required to maintain public liability insurance of \$20 million, noting Council's interest on the Certificate of Currency.

(Reason: To appropriately regulate the insurance requirement for an awning that encroaches over Council property)

Maintenance Responsibility

116. The Lessee is responsible for the maintenance, repair and upkeep of the encroaching structures.
 - (i) Owners Consent is required to undertake any additional works, other than general maintenance, to the encroaching structures.

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Ongoing Costs

117. All ongoing associated costs in relation to the encroachment will be borne by the property owners of 68 Alfred Street South.

All other terms and conditions are to be in accordance with the Encroachment Management Policy.

(Reason: To appropriately clarify the cost implications for an awning that encroaches over Council property)

Owners Consent

As highlighted in the primary report a technical issue regarding the granting of owner's consent existed.

This has now been received and is attached for information.

It is now open for the Panel to determine the application without the need to delegate that final decision to the Manager of Development Services subject to the receipt of acceptable owner's consent.

RECOMMENDATION:

- 1. THAT** the North Sydney Local Planning Panel note this addendum.
- 2. THAT** the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Department of Planning Industry and the Environment and invoke the provisions of CL 4.6 of NSLEP 2013 with regard to the proposals breach of Cl 4.3 (Building Height) and grant consent to Development Application No. 43/21 subject to the conditions recommended in the report of Executive Planner George Youhanna dated 18 June 2021 and additional conditions as conveyed by this addendum dated 2 July 2021.

SIGNED

George Youhanna, Executive Planner

Stephen Beattie, Manager Development Services

25 June 2021

North Sydney Council
200 Miller Street
North Sydney, NSW 2060

To Whom it May Concern,

Re: DA43/21, 68 Alfred Street, Milsons Point

I, Zhu Yi, am the director of Shanghai Textiles Import and Export Corporation. Shanghai Textiles Import and Export Corporation is the owner of Lot 18, SP56293.

I confirm my authorisation to A+ Design Group to lodge a development application for the address at 68 Alfred Street, Milsons Point.

Yours faithfully,



Zhu Yi
Director