

WITHOUT PREJUDICE – RAILCORP RESPONSE TO DRAFT CONDITIONS

- Condition 1:** Agreed.
- Condition 2:** Agreed, subject to the inclusion of the words '*Compliance with relevant legislation so there is*' at the beginning of the condition.
- Condition 3:** Agreed.
- Condition 4:** Agreed, subject to the condition including the words:
- "Consent is not required for the removal of all other trees from the site".*
- This is to make it clear that all trees can be removed from the site.
- Condition 5:** Not Agreed.
- This condition relates to the future development of the site. RailCorp is not proposing to develop the site under this development application and as such is not proposing the adjustment or augmentation of any services prior to occupation. RailCorp requests that this condition be deleted.
- Condition 6:** Not Agreed.
- RailCorp is not proposing any building works under this development application. RailCorp requests that this condition be deleted.
- Condition 7:** Agreed
- Condition 8:** Agreed, subject to the deletion of the words '*for approval*'. As RailCorp is required to prepare the archival recording in accordance with Heritage Office requirements then the need for further Council approval is superfluous and not warranted, and would provide a lack of finality to the condition.
- Condition 9:** Agreed, subject to the deletion of condition 9(a). RailCorp, as a Crown Authority, is not required to obtain a PCA for the works.
- Condition 10:** Agreed.

Condition 11: Not Agreed.

RailCorp requests that this condition be revised to reflect the Tree Protection Zones (TPZ) recommended in the Arborist Report (AR).

The AR recommends the following Tree Protection Zones (from the centre of the trees): Tree 22 - 1.56 m; and Tree 23 - 1.68 m.

The AR states that the TPZ is the recommended area which should be left undisturbed prior to and during works. The TPZ was calculated to ensure the Structural Root Zone (SRZ) of trees retained would not be adversely impacted. The AR recommends (Section 6.2) that fencing should be erected in accordance with their calculated TPZ listed.

The set back distance required by Council is greater than the TPZ advice provided in the AR. The 3m set back can be achieved during the demolition works to protect the tree canopy, however, as detailed in the submitted Remediation Action Plan (RAP) remediation works are required to extend right up to the site boundary. As such Council's 3m setback requirement will need to be encroached within the site boundary to ensure all of the contaminated materials are removed in these locations.

It is therefore proposed that during the remediation works the setback distance is modified to the AR recommended TPZ to allow contaminated soil removal up to the site boundary, with due care taken to avoid any machinery contact with the tree canopy.

Condition 12: Agreed, subject to the deletion of item (e) as RailCorp, as a Crown Authority, is not required to engage a PCA. RailCorp will agree to this condition being amended to require the submittal of the arborist's report to Council for information.

Condition 13: Not Agreed.

RailCorp, as a Crown Authority, is not required to engage a PCA and as such it is requested that this condition be deleted.

Condition 14: Not Agreed.

RailCorp is not proposing any drainage works as part of this development application. The imposition of this condition is more appropriate once a development application for the development of the site is lodged. RailCorp requests that this condition be deleted.

Conditions 15-16: Not Agreed.

RailCorp is not proposing any of the works specified in this condition as part of this development application. The imposition of this condition is more appropriate once a development application for the development of the site is lodged. RailCorp requests that this condition be deleted.

Condition 17: Agreed, subject to the replacement of the words *'the existing trees and the damaged vehicular crossing'* with the words *'the existing trees that were located within the site and the vehicular crossing should it sustain further damage as a result of the works'*.

This is to ensure that RailCorp is not rectifying damage by Council's street trees and damaged caused by these works.

Condition 18-19: Agreed.

Condition 20: Not Agreed.

RailCorp is not proposing any building works under this development application. Further, given conditions 17 and 21 which require either the rectification of damaged footpaths, the payment of a security deposit and recover of costs through a Court, the further written undertaking is superfluous. RailCorp requests that this condition be deleted.

Condition 21-22: Agreed.

Condition 23: Not Agreed.

This condition has no nexus with the proposed works. The drainage requirements for Wright Street, the existing drainage easement and pipe located within the easement are the total responsibility of Council and not RailCorp. Should the current pipe or drainage situation in Wright Street be inadequate then this is a matter for Council to resolve. It is RailCorp's position that this condition is trying to solve an existing situation which is unrelated to RailCorp's property and/or proposed works. RailCorp requests that this condition be deleted.

Condition 24: Agreed, subject to the following amendments:

- replacement of the words '*submitted to and accepted by the PCA*' with '*submitted to Council for information*'.
- Deletion of the words '*A copy of this document shall be submitted to and accepted by PCA before work commences*'.

RailCorp, as a Crown Authority, is not required to use a PCA for the works.

Condition 25-26: Agreed.

Condition 27: Agreed, subject to the deletion of the words '*before work commences*'.

The disconnection of any services is not required prior to the commencement of works such as tree removal and/or remediation. Some services, such as the sewer (to provide sanitary facilities as per condition 25) and water (to wash down trucks) may need to be active until the completion of works.

Condition 28: Agreed.

Condition 29: Agreed, subject to the deletion of item (a).

RailCorp, as a Crown Authority, is not required to engage a PCA.

Condition 30: Not Agreed.

There are only 2 street trees adjacent to the site, which are already covered by Condition 11 above. This condition is considered to be superfluous and it is requested that it be deleted.

Condition 31: Not Agreed.

The subject matters are already covered by Conditions 11 and 28 and therefore this condition is superfluous. RailCorp requests that it be deleted.

Condition 32-33: Agreed.

Condition 34: Not Agreed.

RailCorp is not proposing any building work as part of this development application. Further, it is unclear to which "area" Council is referring to and as such this condition provides no certainty as to its full extent.

Condition 35-38: Agreed.

Condition 39: Agreed, subject to the addition of a third method, being:

“c) imported fill should be Certified VENM”

Condition 40-42: Agreed.

Condition 43: Agreed, subject to the amendment of the condition to allow the remediation activities to the extent of the site boundary (outside the nominated TPZ).

Condition 44: Agreed.

Condition 45: Not Agreed.

This condition requires the planting of trees in Burrows Avenue. There is very little space between the road verge and site boundary to plant trees to Council's specifications without restricting pedestrian access. Further as the site may be developed in the future to take advantage of the proposed R3 zoning the trees may restrict where vehicular entrances can be provided and the trees may need to be removed. RailCorp requests the flexibility to plant these trees in an alternate location or make an equivalent contribution to Council for the provision of trees in the Sydenham area.

Condition 46-47: Not Agreed.

The items provided for in this condition are already covered by other conditions and therefore seem to be a duplication. Therefore this condition is considered to be superfluous and it is requested that it be deleted.

Condition 48: Agreed, subject to the deletion of item (c). RailCorp is not proposing the removal of any street trees.

Condition 49: Agreed.

Condition 50: Not Agreed.

RailCorp, as a Crown Authority, will not be engaging a PCA for the works. As such RailCorp requests that this condition be deleted.