

24 March 2021

ENQUIRIES: Miss G Pham on 9725 0319

Willowtree Planning
Suite 7 Level 7
100 Walker Street
NORTH SYDNEY NSW 2060

Dear Sir/Madam,

**NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO. 62.1/2021
PAN-71957
“DEFERRED COMMENCEMENT”
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

You are advised that the subject development application has been granted a “**DEFERRED COMMENCEMENT**” consent pursuant to Section 4.16 (3) of the Environmental Planning and Assessment Act, 1979.

Property Description: Lots 1, 2, 3 & 4 DP: 781975, No. 250 Victoria Street, Wetherill Park
Description of Development: Demolition of existing industrial buildings and associated structures, removal of existing landscaping, earthworks and construction of retaining walls in order to create a level building platform for future development
Date of Determination: 23 March 2021
Date to satisfy Schedule “A”: 23 March 2023

The consent does not become operative until you have satisfied the deferred commencement conditions in Schedule “A”. If they are not satisfied by 24 March 2023 the consent lapses. If the conditions are satisfied prior to or by 24 March 2023 the consent will then become operative and the proposed development must be physically commenced within five (5) years from the date these conditions are satisfied.

The condition/s of **Schedule “A”** are set out as follows:

1. **Site Contamination Investigation**

The services of a suitably qualified and experienced consultant shall be engaged to conduct a site contamination investigation. The investigation shall be carried out in accordance with the SEPP 55, National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 (April 2013), and Environment Protection Authority Guidelines and shall clearly indicate the degree and source of contaminants present on the site.

Note: Council may request an audit of the validation by a site auditor if required.

2. **Remediation Action Plan**

If required Remediation Action Plan (RAP) shall be prepared by a suitably qualified contaminated land consultant and be provided to Fairfield City Council for review.

All remediation work shall be carried out in accordance with the SEPP 55, National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 (April 2013), and Environment Protection Authority Guidelines and shall clearly indicate the degree and source of contaminants present on the site.

The conditions of **Schedule “B”** are set out as follows:

APPROVED PLANS

1. **Compliance with Plans**

The development shall take place in accordance with the approved:

- Development Plans as prepared by Costin Roe Consulting, dated 10 February, 2021.

Drawing No.	Issue	Sheet No.	Drawing No.	Issue	Sheet No.
CO13738.01-EW10	B	1 of 14	CO13738.01-EW36	B	8 of 14
CO13738.01-EW20	A	2 of 14	CO13738.01-EW60	A	9 of 14
CO13738.01-EW21	B	3 of 14	CO13738.01-EW61	B	10 of 14
CO13738.01-EW25	B	4 of 14	CO13738.01-EW62	A	11 of 14
CO13738.01-EW30	B	5 of 14	CO13738.01-EW65	B	12 of 14
CO13738.01-EW31	B	6 of 14	CO13738.01-EW68	A	13 of 14
CO13738.01-EW35	B	7 of 14	CO13738.01-EW69	A	14 of 14

- Demolition Plan as prepared by Watson Young, Job Number 19276, Drawing Number DA03, Rev A, Dated 8-2-21;
- Statement of Environmental Effects as prepared by Willowtree Planning, Reference No. WTJ20_162, Dated Feb 2021;
- Acoustic Report as prepared by Renzo Tonin & Associates, Dated 15/2/2021;
- Construction Traffic Management Plan as prepared by Colston Budd Rogers & Kafes Pty Ltd, Dated Feb 2021;
- Construction Management Plan as prepared by Root Partnerships, Dated 5 Feb 2021;
- Civil Engineering Report as prepared by Costin Roe Consulting, Rev A, Dated 11 Feb 2021, and
- Aboriginal Heritage Due Diligence Assessment as prepared by Artefact dated 15 December 2020.

except as modified in red by Council and/or any conditions of this consent.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a Construction Certificate by a Certifier. The Certifier can be either Fairfield City Council or an Accredited Certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a Construction Certificate.

2. Long Service Levy Fee

Prior to the issue of a Construction Certificate, a receipt for payment of the Long Service Levy (in accordance with the Building and Construction Industry Long Service Levy Payments Act 1986) shall be submitted to the Certifier.

The Long Service Levy is calculated at 0.35% of the value of building works, as is in force at the date of this consent. The rate of calculation is subject to change and should be verified (and adjusted) at the date of payment. Payment can be made to Fairfield City Council or direct to the Long Service Levy Corporation.

3. Section 7.12 Levy Development Contributions

Prior to the issue of a Construction Certificate, a receipt for the payment to Fairfield City Council of Section 7.12 Levy Contributions shall be submitted to the Certifier.

The Section 7.12 Levy as determined at the date of this consent is **\$59,730.00**.

The contribution amount payable may be adjusted at the date of payment. Any unpaid contributions will be adjusted on a quarterly basis to account for movements in the Australian Bureau of Statistics, Producer Price Index – Building Construction (New South Wales).

PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. A Certifier can either be Fairfield City Council or an accredited certifier. All of these conditions are to be complied with prior to the commencement of any works on site.

4. Pre-Dilapidation Survey

A pre-development dilapidation survey shall be submitted to Council prior to commencement of any works on site. The survey shall include photographic evidence of any damage to Council's road pavement, kerb and gutter and footpath area from Hassall Street and Walter Street to the subject site. The survey shall be carried out by a suitably qualified person.

5. Road Dilapidation Security Bond

The payment to Council of \$40,000 road dilapidation Security Bond, to cover any damage that may be caused to Redfern Street, in association with the earthworks.

The road damage bond will be returned on submission of the Post Dilapidation Survey and completion of a satisfactory final inspection. If it is found that rectification works are required to Redfern Street due to the earthworks, and the works have not been

rectified within the specific period Council indicates, then Council will rectify the works identified in the final Inspection.

Please note, any additional costs incurred to Council to remediate the identified rectification works will be at the expense of the Applicant/Owner.

6. **Construction Certificate Required**

Prior to the commencement of any building and construction works, a Construction Certificate is required to be issued by a Certifier.

Enquiries regarding the issue of a Construction Certificate can be made to Council's Customer Service Centre on 9725 0222.

7. **Appointment of a Principal Certifier**

Prior to the commencement of any construction works, the person having benefit of a Development Consent, must:

- a. appoint a Principal Certifier; and
- b. notify Council of the appointment.

8. **Notify Council of Intention to Commence Works**

The applicant must notify Council, **in writing** of the intention to commence works at least two (2) days prior to the commencement of any construction works on site.

9. **Road Reserve Dilapidation Report**

Prior to the commencement of any works on the site, the applicant shall submit a dilapidation report for the road reserve area to Council detailing the existence of, and the condition of any foot paving, kerb & gutter and any assets provided along the site for checking against Council records. Damage to Councils road reserve and general streetscape will be restored at the developer's expense. A copy of a template report can be found on Councils web site.

10. **Kerb and Gutter Protection**

Prior to the commencement of any construction works on site, the developer shall provide adequate footpath, kerb and gutter protection at all points of entry to the site in accordance with Council's Code of Protection of Footpaths and Erection of Hoardings. This protection shall be maintained in good condition throughout the course of construction.

11. **Erosion and Sedimentation Control**

Prior to the commencement of any construction works on site, controls in accordance with **Chapter 3.12 of the Fairfield City Wide DCP 2013** shall be implemented prior to clearing of any site vegetation, to ensure the maintenance of the environment and to contain soil erosion and sediment on the property. Erosion and sediment controls shall be maintained until all construction works are completed and all disturbed areas are restored by turfing, paving and revegetation.

The documented erosion and sediment control plan shall be available on-site for inspection by Council Officers and all contractors undertaking works on the site.

Note: On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement without any further notification or warning.

12. Toilet Facility

Prior to the commencement of any construction works on site, a flushing toilet facility is to be provided on site. The toilet must be connected to either a public sewer, or an accredited sewage management facility or to an alternative sewage management facility (chemical closet) approved by Fairfield City Council.

13. Site During Construction

Prior to the commencement of works, a sign must be erected in a prominent position on site during construction:

- a. Stating that unauthorised entry to the work site is prohibited;
- b. Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours; and
- c. Showing the name, address and a telephone number of the Principal Certifier for the development.

A \$600 on the spot fine may be issued for non-compliance with this condition.
(Environmental Planning & Assessment Regulation 2000 Section 98A).

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an Occupation Certificate by the Principal Certifier.

14. Validation Report

Prior to the issue of an Occupation Certificate, a validation report shall be prepared by a suitably qualified contaminated land consultant and be provided to Fairfield City Council for review no later than sixty (60) days after the remediation is completed. The Validation Report shall be prepared in accordance with SEPP 55, National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 (April 2013), and Environment Protection Authority Guidelines.

15. Environmental Reports Certification

Prior to the issue of an Occupation Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifier and Fairfield City Council, stating that all works/methods/procedures/control measures / recommendations approved by Fairfield City Council's Environmental Health Officer and the following reports have been completed:

- Demolition Plan as prepared by Watson Young, Job Number 19276, Drawing Number DA03, Rev A, Dated 8-2-21;
- Statement of Environmental Effects as prepared by Willowtree Planning, Reference No. WTJ20_162, Dated Feb 2021;
- Acoustic Report as prepared by Renzo Tonin & Associates, Dated 15/2/2021;
- Construction Traffic Management Plan as prepared by Colston Budd Rogers & Kafes Pty Ltd, Dated Feb 2021;

- Construction Management Plan as prepared by Root Partnerships, Dated 5 Feb 2021; and
- Civil Engineering Report as prepared by Costin Roe Consulting, Rev A, Dated 11 Feb 2021,

16. Retaining Walls Structural Certification

Prior to the issue of an Occupational Certificate, a satisfactory final inspection, a certificate from a practising structural engineer certifying that the retaining walls has been constructed in accordance with the design, shall be submitted to Council.

GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land. A Principal Certifier can either be Fairfield City Council or an accredited certifier.

17. Post-Dilapidation Survey

A post development dilapidation survey shall be submitted to Council on completion of all works required under this consent. The survey shall include any damage to Redfern Street that may have caused from the earthworks. The survey shall be carried out by a suitably qualified person.

18. Shoring and Adequacy of Adjoining Property Due to Excavation Works

If the development involves an excavation below the level of the base of the footings of a building on adjoining, the person having the benefit of the development consent must, at the person's own expense:

- Protect and support the adjoining premises from possible damage from the excavation, and
- Where necessary, underpin the adjoining premises to prevent any such damage.

19. Excavation and Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.

20. Wheel Wash Facility

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council roads. In order to achieve this, a wheel wash facility shall be constructed prior to any truck movements occurring. A plan and operational guidelines for the wheel wash facility shall be submitted for approval prior to the commencement of the removal of fill material from the site. Any direction of Council with regard to cleansing trucks or the clean-up of road pavements adjoining the site shall be complied with immediately.

21. Monitoring of State of Roadways

The applicant shall monitor the state of roadways leading to and from the site and shall take all necessary steps to clean up any adversely impacted road pavements as directed by Council.

22. Control of Truck Traffic

The applicant shall be responsible for maintaining a daily log of trucks involved in the fill material process. The number of loads per day shall not exceed 30 vehicles.

23. Dust Suppression

Automatic sprinkler systems shall be set up on the site. Details of the sprinkler systems should be provided to the Environmental Management section at Fairfield City Council, prior to the commencement of operations.

The applicant shall provide appropriate dust monitoring systems during the operation. The applicant should provide to Council, prior to commencement of the soil transfer operation, a monitoring protocol and performance criteria or dust monitoring. Reporting of dust suppression should be provided in progress reports.

24. Unreasonable Noise and Vibration

The bulk earthworks, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

25. Compaction Requirements

- a. Any filling carried out in accordance with this consent shall maintain a minimum requirement of 95% standard compaction.

Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300mm rise in vertical height. Test sites shall be located randomly across the fill site with 1 test per 500m² (min 1 test per 300mm layer) certified by a qualified geotechnical engineer.

- b. Filling operations shall be in accordance with Appendix B of AS 3798-996 "Guidelines on Earthworks for Commercial and Residential Developments" of which Level 1 Testing will be adopted for this development due to the quantity of fill. Level 1 Testing will require full time inspection and testing service by the Geotechnical Testing Authority of the site stripping, proof rolling, placement and compaction of the fill, with the location of tests being at the discretion of the Geotechnical Testing Authority.

The fill shall be compacted to a minimum density ratio of 95% standard compaction.

26. **Fill Validation Report**

Prior to the importation of any landfill material onto the site, a validation report prepared in accordance with the Environment Protection Authority's '*Guidelines for Consultants Reporting on Contaminated Sites*', 2011, shall be submitted to Council for approval. The validation report shall state in an end statement that the fill material is suitable for the proposed use on the land.

27. **Chain of Custody Documentation**

'Chain of Custody' documentation shall be kept for the transport of the validated fill material from the source site, to the subject premises. A record of 'Chain of Custody' shall be submitted to Council within 7 days of the fill material being moved to or from the subject site.

28. **Satisfactory Access to the Site**

The provision of satisfactory access to and from the site shall be provided during the approved works at all times. In this regard, all access to and from the site shall be via Redfern Street only and shall not be from Victoria Street at any time. The appropriate signage and vehicular access site construction points shall be implemented.

29. **Sedimentation Basin**

The sedimentation basin shall be constructed in accordance with the approved plans. The sedimentation basin shall be certified by a qualified practising person on completion, including the volume of storage is in accordance with the design.

30. **Works as Executed Drawings**

Following completion of the works the applicant shall provide a detailed "work as executed" drawing signed by a registered surveyor showing the finished surface levels of the access, road shoulder, driveway, inter-allotment drainage and any lot filling, carried out under this consent.

Council will not accept "work as executed" plans with coloured highlighter markings on the plans. All dimensions and levels are to be handwritten in blue or red pen only.

31. **Earthworks Volumes & Storage**

All stockpiling of materials, soil excavation and fill shall be contained wholly within the subject site at all times.

The earthworks volumes shall be in accordance with the table below as prescribed in the Statement of Environmental Effects prepared by Willow Tree Planning, dated February 2021.

Earthworks Volumes	
Cut	-98, 200m ³
Fill	+107, 500m ³
Balance	9, 300m ³ imported
Top Soil Strip	-17, 200m ³ (200ml over site area of 8.6ha)

32. Demolition, Building and other Works

When demolition, building and other works are being undertaken on site:

- a. A trade waste service must be provided so as to ensure that all debris and waste material is removed from the site; and
- b. Plant equipment, fencing or other materials of any kind must not be placed or stored upon any public footpath or roadway; and
- c. Such works must only be carried out within the following hours:

Monday – Friday:	7:00am – 6:00pm
Saturday:	7:00am – 4:00pm and
Sunday/Public Holidays:	No work.

Note: Council may issue a penalty infringement notice for the amount imposed under the *Environmental Planning and Assessment Act 1979*, for any non-compliance with this Development Consent.

33. Waste Receipts

A permanent record of receipts for the removal of both liquid and solid waste from the site shall be kept and maintained up to date at all times. Such records are to be made available to Council's Officers, upon request.

34. NSW Protection of the Environment Operations Act 1997

The use of the premises shall operate in accordance with the *Protection of the Environment Operations Act (POEO) 1997*. All activities and operations carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*.

35. Site Management

The following conditions shall be complied with at all times to ensure that the site is managed in a satisfactory manner during the demolition and earth works.

- a) The applicant shall ensure that during the earthworks and any dormant periods, the earthworks site is adequately maintained at all times.
- b) Erosion and sediment control measures shall be established before work begins and maintained throughout the duration of the development until the site has been stabilised to prevent off-site transport of eroded sediments.
- c) The location and management of any soil stockpiles generated by the earthworks are to be limited to cleared areas and the applicant shall ensure that any stockpiles are managed to prevent dust, erosion and sediment runoff.
- d) The applicant shall provide permanent security fencing around the construction earthworks zone. Fencing shall be in accordance with the Australian Standard.
- e) The applicant shall ensure that stormwater runoff is managed during and after the completion of the earthworks.

36. Management of Vehicle Movement

The following conditions shall be complied with at all times:

- All vehicles must enter and exit the site in a forward direction. Any reversing movements at the site must be managed by the Roads and Maritime Services (RMS) Accredited Traffic Controller(s);
- Roads and Maritime Services RMS Accredited Traffic Controllers shall be present on-site to manage vehicles entering and exiting the site and pedestrian movements when required;
- The largest construction vehicles travelling to and from the site shall be restricted to 20m long trucks;
- Truck movements shall be spread out throughout the day to minimise vehicles queuing on the adjoining road network. Deliveries shall be co-ordinated to ensure a consistent and minimum number of trucks travelling to and from the site at any one time;
- All loading and unloading activities associated with construction must be accommodated on-site. All activities, including the delivery of materials shall not impede traffic flow on the surrounding road network;
- All parking and loading/unloading activities associated with demolition and construction must be accommodated on-site;
- Safe access to adjoining properties shall be maintained at all times. Adequate pedestrian access at/near the nearby intersections to be maintained at all times;

37. Vehicle Access Restrictions

The following conditions shall be complied with at all times:

- Construction vehicles shall not use the intersections of Victoria Street/Walter Street when travelling to and from the site;
- Construction vehicles are not permitted to use the section of The Horsley Drive, between Cumberland Highway and Elizabeth Street which is currently signposted with 5-tonne load limit restrictions.

38. Protection of Council's Assets

The following conditions shall be complied with at all times:

- In the event that any vehicle associated with the development damages Council's assets or infrastructure, Council's Traffic & Transport or Council's City Assets Branches shall be notified immediately;
- The applicant shall comply with the reasonable directives of Council's Regulatory Services Branch; and
- Council shall be notified of any disruptions to roadways and footpaths as a result of the demolition and construction works.

39. Waste Receipts

A permanent record of receipts for the removal of both liquid and solid waste from the site shall be kept and maintained up to date at all times. Such records are to be made available to Council's Officers, upon request.

40. **NSW Protection of the Environment Operations Act 1997**

The use of the premises shall operate in accordance with the *Protection of the Environment Operations Act (POEO) 1997*. All activities and operations carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*.

41. **Indigenous Heritage**

In accordance with Council's Aboriginal Heritage Study, any objects of potential indigenous significance are to be protected. Such objects are not specifically protected by the relic's provision as outlined by the NSW Heritage Council.

The National Parks & Wildlife Act (1974) provides statutory protection for all Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) under Section 90 of the Act, and for 'Aboriginal Places' (areas of cultural significance to the Aboriginal community) under Section 84. It is an offence to harm either an Aboriginal object or Aboriginal Place in NSW. The Act defines an Aboriginal 'object' as:

'any deposit, object or material evidence (not being a handicraft for sale) relating to indigenous and non-European habitation of the area that comprises New South Wales, being habitation before or concurrent with the occupation of that area by persons of non-Aboriginal European extraction, and includes Aboriginal remains'.

Works must be stopped in the instance where there is a suspected discovery of an 'object' in accordance with the above definition and a valid and applicable Aboriginal Heritage Impact Permit be obtained under Section 90 of the NPW Act.

42. **Transport for NSW (TfNSW)**

The following TfNSW conditions as outlined below shall be complied with at all times:

- i. It is noted all access is to be via local road network, not from Victoria Street. Access across the Victoria Street boundary would require concurrence from TfNSW.
- ii. Any structures (including signage and retaining walls) integral to the future use of the site, are to be wholly within the freehold property (unlimited height or depth) along the Victoria Street boundary.
- iii. Detailed design plans and hydraulic calculations of any changes to TfNSW stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with other relevant Council policy(s) and any other relevant requirements. A Principal Certifying Authority can either be Fairfield City Council or an accredited certifier.

- **Covenants which may Affect this Proposal**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

- **Buried Waste**

Should buried materials/wastes or the like be uncovered during the excavation of footings or trenches on site works, Council's Environmental Management Section is to be contacted immediately for advice on the treatment/removal methods required to be implemented.

Pursuant to Section 4.53 of the Environmental Planning and Assessment Act, 1979 physical commencement of construction works/use of the land, building or work is required within a five (5) year period from the 'OPERATIVE' date of consent after which time the approval will lapse.

Pursuant to Division 8.2 of the Environmental Planning and Assessment Act, 1979 an applicant who is dissatisfied with the determination with respect to the matters relating to the EP & A Act, may within a six (6) month period from the date of determination, request Council, in writing, to review the determination.

Pursuant to Section 8.10 of the Environmental Planning and Assessment Act, 1979 an applicant may seek a Right of Appeal to the Land and Environment Court within six (6) months from the date of consent if they are dissatisfied with the determination by the consent authority.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'L. Hawke', with a stylized flourish at the end.

LIAM HAWKE
COORDINATOR DEVELOPMENT PLANNING