

Council Assessment Panel of City of Prospect

(Presiding Member: Mr David Cooke)

The meeting of the Council Assessment Panel will be held in the Prospect Town Hall, 126 Prospect Road, Prospect **on Monday 9 April 2018 at 5.30pm.**



Nathan Cunningham
Director Community & Planning

Members: Mr David Cooke, Ms Alison De Backer, Mr Rob Gagetti, Mr Sam Green, Mr Julian Rutt

A G E N D A

1. **On Leave** - Nil
2. **Apologies** - Nil
3. **Confirmation of the Minutes of the Development Assessment Panel held on 5 March 2018.**
4. **Protocol**
 - 4.1 The Panel has adopted the protocol that only those agenda items on the Panel reports reserved by Members on a callover by the Presiding Member will be debated and the recommendations of all other items will be adopted without further discussion.

5. New Development Applications for Decision

- 5.1 225 Prospect Road, Prospect - Three Storey Residential Flat Building comprising 17 Dwellings with associated Retaining Walls, Fencing and Landscaping (DA 050/287/2017)

(Pages 1-14, Recommendation page 13)

- 5.2 33 California Street, Nailsworth - Removal of a Significant Tree (Lemon Scented Gum) (DA 050/534/2017)

(Pages 70-78, Recommendation page 77)

- 5.3 32-36 Main North Road, Prospect - Four Storey Mixed Use Building, including 23 Dwellings and a Ground Floor Commercial Tenancy, with associated Basement Car Parking, a Communal Roof Terrace and Landscaping (DA 050/310/2017)

(Pages 157-174, Recommendation page 170)

6. Deferred or Varied Development Applications for Decision

- 6.1 119 Churchill Road, Prospect - Three Storey Residential Flat Building Comprising Seven Dwellings with associated Driveway, Fencing and Landscaping (DA 050/178/2017)

(Pages 252-257, Recommendation page 254)

7. Information Reports

- 7.1 Summary of State Commission Assessment Panel (SCAP) Decisions and Proposals Greater than \$3 Million called in by the Coordinator-General

(Page 272)

8. Matters Before the Environment, Resources and Development Court

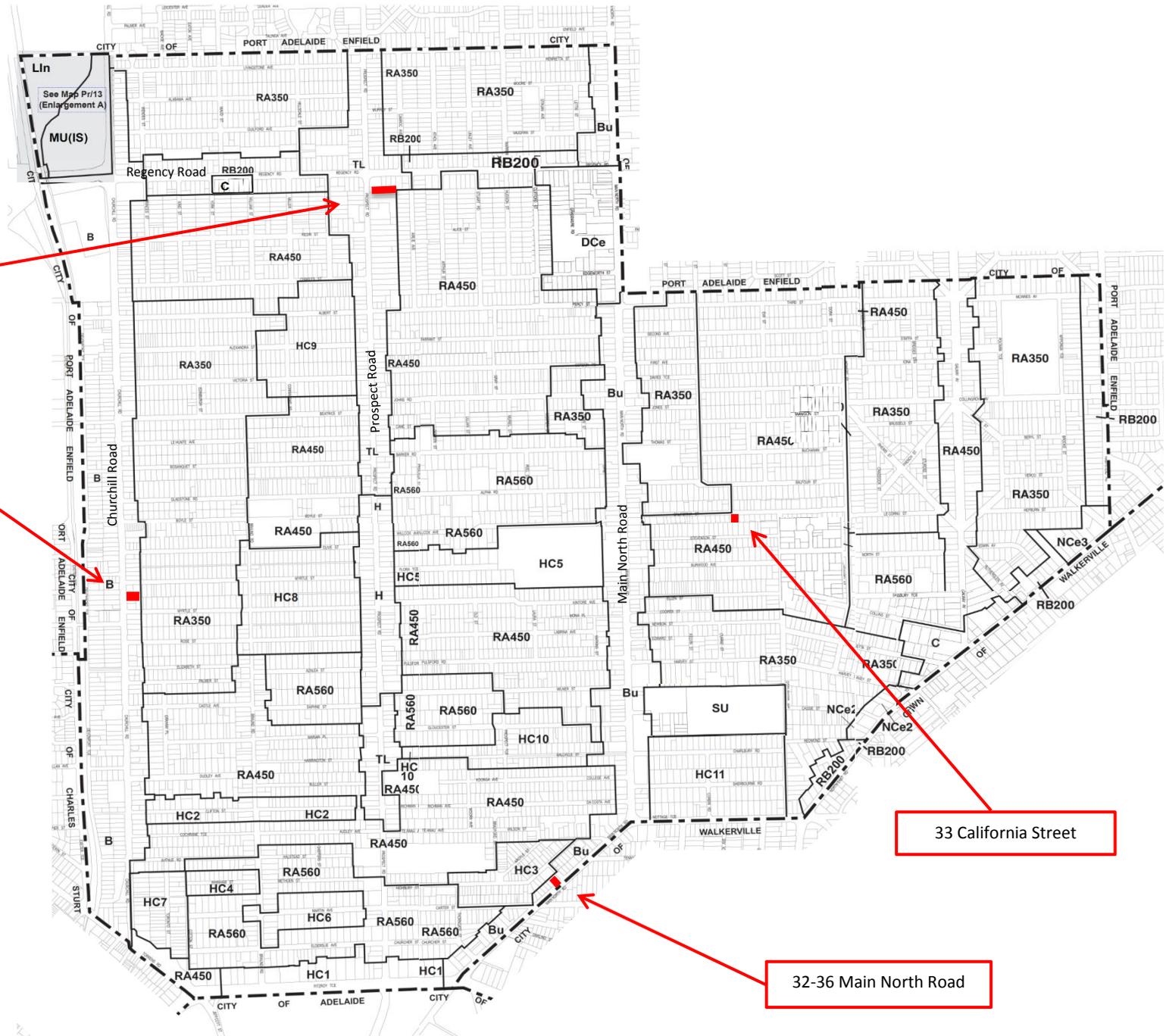
- 8.1 Summary of Court Appeals

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9. Time, date and place of next meeting

5.30pm Monday 14 May 2018 – Prospect Town Hall, 126 Prospect Road, Prospect

10. Closure



225 Prospect Road

119 Churchill Road

33 California Street

32-36 Main North Road

Zones and Policy Areas

- B:** Urban Corridor Zone Boulevard Policy Area
- Bu:** Urban Corridor Zone Business Policy Area
- C:** Commercial Zone
- DCe:** District Centre Zone
- H:** Urban Corridor Zone High Street Policy Area
- HC1:** Historic Conservation Zone Policy Area H1
- HC2:** Historic Conservation Zone Policy Area H2
- HC3:** Historic Conservation Zone Policy Area H3
- HC4:** Historic Conservation Zone Policy Area H4
- HC5:** Historic Conservation Zone Policy Area H5
- HC6:** Historic Conservation Zone Policy Area H6
- HC7:** Historic Conservation Zone Policy Area H7
- HC8:** Historic Conservation Zone Policy Area H8
- HC9:** Historic Conservation Zone Policy Area H9
- HC10:** Historic Conservation Zone Policy Area H10
- HC11:** Historic Conservation Zone Policy Area H11
- Lin:** Light Industry Zone
- MU(IS):** Mixed Use (Islington) Zone
- NCe2:** Neighbourhood Centre Zone Policy Area NCe2
- NCe3:** Neighbourhood Centre Zone Policy Area Nce3
- RA350:** Residential Zone Policy Area A350
- RA450:** Residential Zone Policy Area A450
- RA560:** Residential Zone Policy Area A560
- RB200:** Residential Zone Policy Area B200
- SU:** Special Uses Zone
- TL:** Urban Corridor Zone Transit Living Policy Area

AGENDA ITEM: 5.1

To: Council Assessment Panel (CAP) on 9 April 2018

From: Scott McLuskey, Senior Development Officer, Planning

Proposal: Three Storey Residential Flat Building comprising 17 Dwellings with associated Retaining Walls, Fencing and Landscaping (DA 050/287/2017)

Address: 225 Prospect Road, Prospect (CTs 6104/694, 6104/695, 6104/696, 6104/697 and 6104/698)

SUMMARY:

Applicant: Steven Vacca

Owner: Angelo Properties (No 12) Pty Ltd

Planning Authority: Council

Mandatory Referrals: Department of Planning, Transport and Infrastructure

Independent Advice: Design Review by Jenny Newman

Public Notification: Category 2

Representations: Three:
Alison Murray
Jacek Zbik (to be heard)
Travis Algate (to be heard)

Respondent: Greg Vincent of Masterplan

Development Plan Version: Consolidated 30 May 2017

Zone and Policy Area: Urban Corridor Zone (Transit Living Policy Area)

Key Considerations: Design and Appearance, Private Open Space, Landscaping, Setbacks and Building Separation, Occupant Amenity, Car Parking, Building Envelope

Recommendation: **Refusal**

ATTACHMENTS:

<u>Attachment 1</u>	Development Application Form
<u>Attachments 2-3</u>	Site and Locality Plans
<u>Attachments 4-6</u>	Proposal Plans
<u>Attachments 7-10</u>	DPTI Comments
<u>Attachments 11-17</u>	Design Review Comments
<u>Attachments 18-27</u>	Representations
<u>Attachments 28-33</u>	Response to Representations
<u>Attachment 34</u>	Superseded Proposal Plan
<u>Attachments 35-55</u>	Supporting Statement

1. **EXECUTIVE SUMMARY**

- 1.1 The proposal is for the demolition of an existing dwelling and associated outbuildings, and the construction of a three storey residential flat building comprising 17 dwellings with associated retaining walls, fencing and landscaping. The development is proposed on one allotment within the Transit Living Policy Area of the Urban Corridor Zone.
- 1.2 The proposal was referred to the Department for Planning, Transport and Infrastructure, who indicated broad support for the proposal following the provision of amended plans. The application was for a Category 2 form of development, and thus public consultation was undertaken. Three representations were received, one of which supported the proposal and two of which were opposed to it.
- 1.3 The proposal was also referred to Jenny Newman (an independent architectural adviser) for design review, who did not support the design quality of the proposal. Jenny recommended that alterations should be made, including a decrease in dwelling density proposed, to address a range of aesthetic, occupant amenity and social design concerns observed. Amended plans were provided by the applicant responding to some of these matters. Limited alterations overall were proposed in comparison to the original proposal plans.
- 1.4 The proposal would fail to achieve the relevant provisions relating to setbacks, building separation, car parking, landscaping, private open space, the zone interface and the presentation of the building within the streetscape. It is considered that several of these departures are so substantial as to be fatal to the application in isolation, with the cumulative effect of these departures amplifying potential impacts to occupants of the proposed building and adjoining properties.
- 1.5 In the context of these departures it is considered that the proposal does not demonstrate sufficient merit to warrant approval, and should thus be refused.

2. **LOCALITY AND SUBJECT LAND**

2.1 **Locality**

- 2.1.1 The locality comprises a mix of residential and commercial land uses incorporating dwellings, warehousing, offices, shops and a reserve to the north-west of the subject land. It is noted that the Prospect Road locality comprises mainly commercial uses, while Regency Road features a balanced mix of commercial and residential properties.
- 2.1.2 Residential development within the nearby area features a mix of original, low density dwellings and newer medium density dwellings of two storey construction. The site is located at the intersection of two substantial arterial roads, resulting in considerable noise intrusion from vehicles.
- 2.1.3 The broader locality, indicating the location of the subject land within the relevant Zone and Policy Area as described in Council's Development Plan, is described in **Attachment 2**.

2.2 **Subject Land**

- 2.2.1 The subject land is located immediately south of the intersection of Prospect Road and Regency Road. The land is regularly shaped and comprises one allotment with a total area of 1,561m², with a frontage of 18.2m to Prospect Road

and a depth of 85.3m. There are no regulated or significant trees that would be affected by the proposal.

2.2.2 The land slopes substantially from east to west to a difference of approximately 6 metres in height and has been cleared of previously existing buildings. It is noteworthy that the usable depth of the land is reduced by 4.5m as a result of road widening requirements imposed by the Department of Planning, Transport and Infrastructure (DPTI). The subject land is illustrated on **Attachment 3**.

3. PROPOSAL

- 3.1 The proposal comprises excavation of the existing site and the construction of a three storey residential flat building comprising 17 dwellings with associated retaining walls, fencing and landscaping.
- 3.2 Retaining walls are required due to excavation which would establish finished floor levels below the current natural ground level. Retaining walls are proposed on the northern boundary, as well as towards the eastern and southern boundaries of the site but set wholly within the subject land (i.e. not on the common boundary). Retaining walls would be a maximum of 1.5m in height towards the eastern property boundary, and would vary in height in relation to the northern and southern boundaries from 0.7m to approximately 1.5m. Fencing of 1.8m in height would be constructed atop these retaining walls. Landscaping would be located to the front and rear of the site. Waste storage areas would be located forward of the proposed building.
- 3.3 No other works are proposed. The proposal plans are attached (refer **Attachments 4-5**), as is a siteworks plan (refer **Attachment 6**), and a supporting statement (refer **Attachments 35-55**).

4. BACKGROUND

- 4.1 A proposal for two, five storey residential flat buildings comprising 32 apartments was previously approved (on 12 May 2016) by the Inner Metropolitan Development Assessment Commission. That approval has subsequently lapsed, and it is understood that this proposal is intended to be pursued in lieu of that approval.

5. REFERRALS

5.1 Internal (Advisory) Referrals

5.1.1 An emphasis on high quality building and landscape design, with consideration of urban design principles is a fundamental component of any new development within the Urban Corridor. Accordingly, the proposal were referred to Ms Jenny Newman (an independent architectural adviser) for informal design review in accordance with Council's Design Review Process for Higher Density Development.

5.1.2 Briefly, the review (refer **Attachments 11-17**) identified the following:

- As a result of a number of identified concerns, the proposal is not supported from a design quality perspective.
- The density of dwellings should be reduced to enable the development to address other concerns appropriately.
- Departures from side and rear setback provisions will have the potential to negatively impact on the privacy, outlook and natural light available to future residents. These setback distances should be increased.

- A combination of limited landscaping, the position of the bin store forward of the building line, tall, solid fencing forward of the building line, the use of predominantly lightweight building materials and limited design treatment to building form results in an unconvincing streetscape presentation to Prospect Road, particularly at ground level, and to adjoining properties. A revised material palette, landscaping solution, bin store location, fencing height and/or permeability, as well as the modulation of the overall built form in plan and section should be considered to address the proposal's aesthetics. Detail should also be provided regarding the building's eastern elevation.
- There is little variation in dwelling size or configuration. Consideration should be given to the future adaptability of dwellings to meet occupant's changing future needs, as well as the provision of some dwellings with ground floor habitable rooms.
- While the dual aspect of dwellings is supported from an occupant amenity perspective, it is noted that most glazing, as well as living and balcony areas, are south-facing. Dwelling orientation should be reconfigured such that living and private open space areas face north, while setback distances and balcony dimensions should be considered so as to resolve visual privacy between future occupants of this building and the adjoining approved building.
- It should be ensured that sufficient storage space is available within each dwelling. Consideration should be given to under stair and in roof storage to ensure that this is provided.
- Particularly given the low levels of private open space available to future occupants, a communal open space area should be provided, ideally towards the centre of the development, in addition to increasing generally the area available for soft landscaping.
- Noting the above, it is considered that the density of dwellings should be decreased in order to enable the development to successfully resolve the identified concerns.

5.1.3 In response to the Design Review advice, amended plans (refer **Attachments 4-6**) were provided which addressed:

- A reduction in the number of dwellings proposed by one.
- An additional soft landscaping being provided forward of the building, including four trees.
- The introduction of modulation in roof form via raked rooves to eight of the dwellings.
- A 'feature brick' material is now applied to the ground level of the Prospect Road façade, and vertically to the ground and first floor levels of the building's northern façade. The 'feature brick' material is also applied vertically to the ground, first and second floor levels of the building's eastern facade.
- Six, 6m height landscaped arbours are proposed over the common driveway.
- Privacy screening has been provided to first and second floor level windows facing north, while the size of first floor level windows has been increased.
- The depth of each dwelling has been increased, such that 16 of the dwellings would now include an additional bedroom (each therefore having three bedrooms in total).

5.2 External (Legislated) Referrals

5.2.1 The proposal was referred to the Department for Planning, Transport and Infrastructure as required by Schedule 8 of the Development Regulations 2008. Pursuant to this Schedule, DPTI has the ability to direct Council in relation to some elements and the ability to make comment in regard to other elements. Their response is attached (**Attachments 7-08**), as are the original plans considered by the DPTI (**Attachments 34**).

5.2.2 The DPTI have indicated that they are not opposed to the proposal in its amended form. The DPTI have directed that Council impose certain conditions if approval is granted and have recommended the imposition of others.

5.2.3 No other consultation with agencies was required.

6. PUBLIC NOTIFICATION

6.1 The application is a Category 2 form of development pursuant to Section 38 of the Development Act 1993, Schedule 9 of the Development Regulations 2008 and Urban Corridor Zone Principle of Development Control 24.

6.2 A residential flat building is a Category 1 development unless it is located on land adjacent to the Residential Zone or Historic (Conservation) Zone and if it would be three or more storeys, or 11.5 metres or more in height, and would exceed the 'Building Envelope - Interface Height Provisions' (UCZ PDC 24).

6.3 The subject land is located adjacent the Residential Zone. Further, the proposed building is three storeys in height and would exceed the prescribed building envelope. Consequently, the application is a Category 2 form of development.

6.4 The public notification period ended with three representations received. One representor supported the development and do not wish to be heard by the Panel. The remaining two were against the proposal and do wish to be heard by the Panel in support of their representation. The following concerns were raised (refer **Attachments 18-27**):

- The proposed building would not be setback appropriately from the northern property boundary.
- The unbroken, continuous form of the building is of substantial bulk and scale.
- Proposed excavation works adjacent the northern property boundary is expected to cause impacts to soil stability towards the rear of adjoining allotments.
- The height of retaining walls and associated fencing is not specified in the proposal plans.
- North-facing windows and south-facing balconies would be the cause of visual privacy intrusion into adjoining properties, and should be screened to prevent unreasonable overlooking. These overlooking issues are exacerbated by the north-south orientation of each dwelling.
- The proposal presents poorly to Prospect Road, includes little activation at ground level and its most prominent feature is the bin storage area.
- Insufficient detail has been provided to enable either representors or the Council Assessment Panel to reasonably understand the proposal or its potential impacts.
- The proximity of the subject site to the Prospect Road / Regency Road intersection, coupled with the density of dwellings proposed, may give rise to unsafe traffic conditions and congestion.

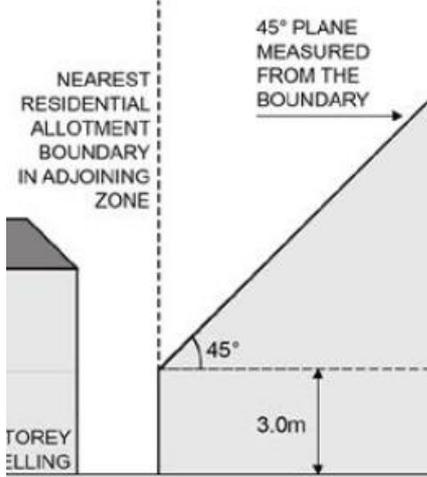
6.5 The representation and submission were forwarded to the applicant for consideration. In response, the applicant provided a final version of the plans which addressed (refer **Attachment 28-33**):

- The proposal is considered to give sufficient regard to the relevant setback provisions.
- While the proposed development would result in overshadowing of the properties to the south, the extent of overshadowing is not considered to be unreasonable given the existing two storey development located on the adjoining property.
- Additional information is now provided regarding fencing and retaining walls, privacy screening and overshadowing. It is common to prepare further detailed engineering documentation at the building rules consent stage. Fencing is proposed to be 1.8m in height above retaining walls, and of colours to complement the proposed building.
- Fixed screening is proposed to all upper level windows and balconies. It should be noted that the existing, adjoining two storey development features balconies with free and unrestricted views into properties to the north and south.
- In the context of the planning policy, the previous approval for five storey residential flat buildings, proposed landscaping, improvements to the roof form, materials and finished of the building, and views available from balconies of Dwelling 1 facing Prospect Road, the built form is considered to have appropriate regard to the relevant policy provisions.
- It is considered that sufficient parking spaces have been provided, and the internal driveway is of sufficient dimension to allow vehicles to enter and exit the site in a forward direction.

7. **PLANNING ASSESSMENT**

7.1 **Quantitative Assessment**

DEVELOPMENT PLAN PROVISIONS	STANDARD	ASSESSMENT
DWELLING DENSITY	45 dw / ha net Minimum of 10 dwellings required for subject site	17 dwellings proposed Satisfies
BUILDING HEIGHT	Minimum: 3 Storey Maximum: 4 Storey (or 15m)	3 storey proposed Satisfies
FRONT SETBACK	0m (in addition to 4.5m Road Widening requirement)	8.9m setback proposed Satisfies

<p>SIDE/REAR SETBACKS</p>	<p>Side Ground Level: 0m Above Ground Level: 2m</p> <p>Rear 6m</p>	<p>Ground Level: 900mm (min.) First Floor Level: 900mm (min.) Second Floor Level: 2m (min.)</p> <p>Does not Satisfy</p> <p>2.5m</p> <p>Does not Satisfy</p>
<p>BUILDING SEPARATION</p>	<p>3m from Balcony or Window to boundary</p>	<p>Northern Façade First Floor Windows: 900mm Second Floor Windows: 2m</p> <p>Does not Satisfy</p> <p>Southern Façade First Floor Balcony: 3.9m Second Floor Balcony: 4.6m</p> <p>Satisfies</p>
<p>BUILDING ENVELOPE</p> <p>LEGEND</p> <p> BUILDING ENVELOPE</p>		<p>Rear wall proposed at 9m above Natural Ground Level. Setback Distance of 2.5m proposed (6m required).</p> <p>Does not Satisfy</p>
<p>PRIVATE OPEN SPACE</p>	<p>24m² with up to 8m² comprising a balcony; provided they have a dimension of 2m and are accessible from an internal living area.</p>	<p>Dwelling 1: 25m² (8.8m² on balcony)</p> <p>Satisfies</p> <p>Dwelling 2: 8.8m² Dwelling 3: 8.8m² Dwelling 4: 8.8m²</p>

		<p>Dwelling 5: 8.8m² Dwelling 6: 8.8m² Dwelling 7: 8.8m² Dwelling 8: 8.8m² Dwelling 9: 8.8m² Dwelling 10: 8.8m² Dwelling 11: 8.8m² Dwelling 12: 8.8m² Dwelling 13: 8.8m² Dwelling 14: 8.8m² Dwelling 15: 8.8m² Dwelling 16: 8.8m² Dwelling 17: 8.8m²</p> <p>Does not Satisfy</p>
LANDSCAPING	<p>Deep Soil Zones: 7% of Site Area with minimum dimension of 6m 1 Large Tree per 60m² Deep Soil required <i>(Should not located on land required for Road Widening – CW PDC 237)</i></p> <p>Site Area 1,561m² = 109m² DSZ Required</p>	<p>Deep Soil Zone: 0m² (in accordance with relevant provisions) Large Trees Proposed: 0</p> <p>Does not Satisfy</p>
CAR AND BICYCLE PARKING	<p>Car Parking 2 Bedroom Dwellings: 1 Occupant + 0.25 Visitor 3 Bedroom Dwellings: 1.25 Occupant + 0.25 Visitor</p> <p>Bicycle Parking Occupant: 1 / 4 Dwellings Visitor: 1 / 10 Dwellings</p> <p>Total for 17 Dwellings: 5 Occupant and 2 Visitor</p>	<p>Car Parking 2 Bedroom Dwelling: 1 Occupant and 0 Visitor 3 Bedroom Dwellings: 1 Occupant and 1 Visitor</p> <p>Does not Satisfy</p> <p>Bicycle Parking 8 Bicycle Parking Spaces provided</p> <p>Satisfies</p>

7.2 Design and Appearance

7.2.1 It is anticipated that development within the Urban Corridor Zone would achieve a high standard of architectural design that responds carefully to its context and to the Desired Character of each policy area. The design of building facades should use articulation and fenestration to all visible sides, include active frontages at

ground level, and use natural, durable and contextually appropriate materials and finishes. Architectural expressions should be contemporary, but nonetheless complement the traditional built form of the area (UCZ and TLPA Desired Character Statement).

- 7.2.2 It is also noted that the proposal is located within Concept Plan UrC/4, within which building heights should be taller than typical of the Transit Living Policy Area, while front setbacks should typically be less than that of the Transit Living Policy Area, resulting in buildings with a taller street edge and more active street frontages nearby the Prospect Road / Regency Road intersection.
- 7.2.3 Consistent with the conclusion of Council's independent architectural advisor, it is considered that the proposal does not achieve the high standard of architectural design sought within the zone and policy area. While the introduction of some face brick material is supported (though the precise material or colour is not described in the proposal plans); its vertical application typically reinforces the bulky nature of the building's rectilinear form, would be largely inconspicuous from Prospect Road due to the use of tall, solid fencing to forward of the building, and does not resolve concerns that the majority of the building is comprised of lightweight materials in textures and colours that do not relate to the existing or likely future context surrounding the subject site.
- 7.2.4 The presentation of the bin storage area forward of the building results in a recessive and inactive street edge, whereby Dwelling 1 is setback further from the front property boundary (both now and following any future road widening activities) than Dwelling 17 would be setback from the zone interface. Further, future road widening activities would involve the removal of all landscaping forward of the proposed solid fencing and bin storage screening.
- 7.2.5 Highlighting the concerns identified through the independent design review process, and in the context of future development within Concept Plan UrC/4 and future road widening activities, it is considered that the proposal would not satisfy the relevant Development Plan provisions relating to design quality. It is considered that the proposal's design quality shortcomings, particularly relating to the street and northern facades of the building, speak strongly to the refusal of the proposal.

7.3 Setbacks

- 7.3.1 Consistent with the qualitative assessment table, the proposed setbacks do not achieve the desired minimum requirements in relation to the northern or eastern boundaries of the site. The northern boundary is adjacent to an approved apartment building with south-facing balconies, and the eastern boundary is (in part) an interface with the Residential Zone. The impact of departures from setback provisions to these boundaries is amplified as a result of this context.
- 7.3.2 While a failure to achieve a quantitative provision of the Development Plan is not, of itself, sufficient to demonstrate that a proposal does not merit approval, the frequency and extent of the departures is substantial. Noting the adjoining approved development and the zone interface at the eastern boundary of the site, it is considered that the potential impacts arising from the proposal are inappropriate.
- 7.3.3 It is therefore considered that the siting of the building fails to achieve the relevant Development Plan provisions, that the extent and potential impacts of this failure are substantial, and that these features speak strongly to the refusal of the proposal.

7.4 Private Open Space

- 7.4.1 Consistent with the quantitative assessment table, it is highlighted that the proposal departs substantially from the desired minimum areas of private open space. 16 of the 17 dwellings would have no ground level private open space access. These dwellings would have balconies of 8.8m² in size, which departs substantially from the desired minimum 24m².
- 7.4.2 Further, each of the proposed balconies would be south-facing, enclosed on three sides and include 1.5m screening to the fourth side, resulting in a relatively low degree of occupant amenity to each balcony.
- 7.4.3 A failure to achieve a quantitative provision of the Development Plan is not, of itself, sufficient to demonstrate that a proposal does not merit approval. It is considered however that the substantial extent of the departure for 16 of the 17 dwellings, combined with the low occupant amenity offered within the proposed balconies, together result in private open space areas that are of low merit. This feature of the proposal speaks strongly to the refusal of the proposal.

7.5 Car and Bicycle Parking

- 7.5.1 Council's Development Plan expressly provides that where more than one car park is required for a dwelling, it may be provided in a stacked formation. It is also highlighted that there is no provision of the Development Plan that requires visitor parking to be grouped into common areas.
- 7.5.2 In this context, it is considered that Dwellings 2 to 17 provide greater than the required number of car parking spaces to cater for occupant and visitor demand. No visitor parking however is provided in relation to Dwelling 1.
- 7.5.3 It is of concern that no manoeuvring area is provided within the site, such that if a visitor was unable to park on the site they may be forced to reverse onto Prospect Road in order to exit the site. To this end, it should be noted that the cars outlined on the proposal plans are substantially smaller than the B85 vehicle of the Australian Standard (which is a standard sized sedan as in 2004).
- 7.5.4 It is noted that the volume of bicycle parking spaces provided is anticipated to achieve likely occupant and visitor demand, and that these spaces are sited in a conveniently accessible location.
- 7.5.5 It is considered that the failure to provide visitor parking for Dwelling 1 and manoeuvring areas for visitors generally speak to the refusal of the proposal.

7.6 Traffic and Vehicular Movements

- 7.6.1 The common driveway area would be 5.7m in width from the internal face of the landscaping bed to the rear of each visitor parking space, which will allow vehicles to pass each other within the site, and to enter and exit each garage and visitor parking space safely and conveniently.
- 7.6.2 The existing crossover would be closed, with a new 6m wide crossover proposed towards the southern boundary of the site. While this crossover would require the removal of a mature street tree, which is less than desirable, it is greatly desirable from a traffic safety perspective that the crossover be set as far away from the Prospect Road / Regency Road intersection as possible. This is reinforced within the DPTI commentary.

7.6.3 Consistent with the DPTI commentary, it is considered that the overall approach to ingress and egress from the subject land is supported.

7.7 Landscaping

7.7.1 Two deep soil areas are proposed in relation to the development, both of which are less than 6 metres in minimum dimension and are located entirely within an area set aside for future road widening. As a result of this, the proposal would provide no deep soil areas that achieve the relevant policy provisions. Consistent with discussion in the 'Setback' section of this report, the proposed rear setback is insufficient to allow for the planting of medium to large trees in accordance with the relevant zone interface provision.

7.7.2 While it appears that four trees are shown within the deep soil areas on **Attachment 4**, there is no species described for these trees. The tallest trees described by the site plan are small trees (in height), rather than the medium/large trees required by the relevant provision of Council's Development Plan. It is also noted that all four of the tree plantings are within an area set aside for future road widening.

7.7.3 The proposed landscaping would not achieve any of the relevant provisions of Council's Development Plan that were inserted through the interim operation policy amendment processes. The failure to achieve any of these provisions speaks strongly to the refusal of the proposal.

7.8 Visual Privacy

7.8.1 Except for buildings of 3 or more storeys in the Urban Corridor Zone, the location of any windows and balconies shall be such as to prevent overlooking to adjacent useable private open spaces or adjoining windows. In relation to buildings that are 3 or more storeys in height, it is anticipated that windows and balconies shall be design with adequate separation and screening to provide visual and acoustic privacy. As the proposed building is 3 storeys in height and within the Urban Corridor Zone, it is noted that Council Wide PDC 90 is not applicable to this proposal.

7.8.2 Where the separation distance from a boundary is less than 3 metres, alternative design solutions should be applied to achieve an appropriate level of visual and acoustic privacy while ensuring that appropriate light access, ventilation and outlook is maintained. Any such design solutions should be integrated into the overall building design (Council Wide PDCs 89, 90, 91, 140 and 171).

7.8.3 It is considered that the visual privacy treatments proposed to north-facing windows and south-facing balconies are sufficient to achieve the relevant policy intent in relation to visual privacy. It is considered however that these treatments respond poorly to the natural light, ventilation and outlook policy provisions of Council's Development Plan, largely as the combined result of departures from relevant setback provisions and poor dwelling orientation.

7.8.4 While the proposed screening treatments are considered to address issues of visual privacy in isolation, it is considered that they do so at the expense of future occupant amenity. It is considered that the inability to appropriately balance these competing issues arises from fundamental shortcomings in dwelling orientation and building setbacks. To this end, the visual privacy treatments are considered to demonstrate that the proposed development does not sufficiently address the relevant provisions of Council's Development Plan in its current form.

7.9 Energy Conservation Measures

- 7.9.1 It is desired that all dwellings provide adequate thermal comfort for occupants through passive design features such as orientation of windows, living areas and private open space, and cross-ventilation (Council Wide PDC 79).
- 7.9.2 Each living area and bedroom within the proposed building would have direct external access to natural light and ventilation, though this access is compromised by the need to maintain visual privacy to adjoining properties due to the orientation and siting of dwellings. Opportunities for cross ventilation within each dwelling, as a result of their dual aspect, are considered to be generally positive though also compromised by limited window sizes and privacy treatments.
- 7.9.3 No information is provided regarding solar energy capture, energy efficiency within each dwelling, or any capture and re-use of rainwater beyond the minimum required to achieve the Building Code of Australia.
- 7.9.4 It is considered that the proposal responds poorly to the relevant energy conservation provisions of Council's Development Plan.

7.10 Stormwater Management

- 7.10.1 The provisions of Council's Development Plan suggest that site drainage should be designed to safely direct surplus flows to a public street without causing harm to adjoining properties (Council Wide PDC 97) and that all proposed developments should be designed to retain as much stormwater as possible, minimising the overflow to the kerb and water table (Council Wide PDC 98).
- 7.10.2 A civil engineering plan has been provided, demonstrating the intended configuration of the stormwater system. 1,000L rainwater tanks are proposed to the rear of each dwelling that would collect water from each dwelling roof in accordance with the Building Code of Australia. It is noted that this does not agree with the floor plans provided, which show the location of the rainwater tank within the garage of dwellings 2-17.
- 7.10.3 Noting this discrepancy and given that the proposal would result in an increase in stormwater run-off from common driveway areas, it is fundamental that Council receive and assess a detailed plan including the details of the post-development outflow rates, though it is considered that opportunities for any necessary detention on-site are readily available within the common driveway.
- 7.10.4 It is therefore recommended that the consideration of the stormwater design could be reasonably reserved for further assessment and approval by Council should development plan consent be granted.

7.11 Waste Management

- 7.11.1 Council's Development Plan outlines that new development should incorporate opportunities for minimising waste and enable waste management options that provide adequate storage while screening these areas from public view (Council Wide PDC 147).
- 7.11.2 With reference to the Zero Waste South Australian *Better Practice Guide – Waste Management in Residential or Mixed Use Developments*; anticipated waste demand rates associated with the proposal are calculated at 1,750L for general waste, 1,500L for recyclable waste and 500L for green organic waste per week.

7.11.3 The proposal would provide 2,200L of general, 2,200L of recyclable and 1,100L of green organic waste storage within a communal storage facility forward of the building. It is proposed that these bins would be collected on the subject land, with a waste collection vehicle reversing onto the subject land and exiting onto Prospect Road in a forward direction. The location and appearance of the waste storage area is discussed in further detail in the 'Design and Appearance' section of this report.

7.11.4 It is considered that the approach to waste management would achieve the anticipated waste demand rates for future occupants and, subject to conditions, could be safely and conveniently collected, and is thus appropriate.

7.12 Overshadowing

7.12.1 The subject site, along with properties located to the north and south, are located within the Urban Corridor Zone and are anticipated to be developed at a greater intensity. It is apparent that shadows would be cast East over the rear yards of adjoining properties within the Residential Zone to the East.

7.12.2 The relevant provisions of Council's Development Plan anticipate that developments may result in some overshadowing, and provide guidance as to the extent of overshadowing that is and is not considered to be inappropriate. It is noted that, as a result of the orientation of the subject land, the extent of overshadowing caused to adjoining properties to the East of the subject land is not considered to be inappropriate.

7.12.3 In this context, the shadow impact is considered acceptable.

7.13 Noise Attenuation

7.13.1 The subject land is identified within Map Pr/1 (Overlay 5) for the purpose of noise and air emissions. Principle of Development Control 1 of the Noise and Air Emissions Overlay outlines that sensitive development located adjacent to high noise and/or air pollution sources should be appropriately shielded away from the emissions. Residential development on sites abutting roads with traffic volumes exceeding 3000 vehicles per day should be sited and designed to reduce the impact of traffic noise on occupants (Council Wide PDC 111).

7.13.2 The proposal must comply with the Ministers Specification SA78B – Construction requirements for the control of external sound. Compliance with the Minister's Specification would be required as part of the Building Code of Australia (BCA), and it is considered that such compliance would suitably address the relevant provisions of the Development Plan.

8. CONCLUSION AND RECOMMENDATION

8.1 The proposal seeks to establish a medium-high density residential land use on the subject land. At three storeys, the buildings would achieve the minimum height anticipated within Concept Plan UrC/4 of the Transit Living Policy Area.

8.2 Consistent with the design review advice, it is considered that the proposal is not of an appropriate standard of design quality. Further, the proposal would not achieve the relevant setbacks, landscaping, private open space, car parking, building separation, occupant amenity or zone interface provisions of Council's Development Plan.

8.3 Given the above, it is considered that the application is inconsistent with the relevant provisions of the Prospect (City) Development Plan, and thus does not warrant the granting of development plan consent.

It is recommended:

That with reference to the relevant provisions of the Prospect (City) Development Plan, the zoning of the land within which the proposed development is situated and the locality within which the land is situated, the Panel resolves that development application 050/287/2017 is not seriously at variance with the Development Plan and as such a decision shall be made on the merits of the application; and

That pursuant to the *Development Act 1993*, as amended, Development Plan Consent be refused to DA 050/287/2017 from Steven Vacca on behalf of Angelo Properties (No 12) Pty Ltd for the Three Storey Residential Flat Building comprising 17 Dwellings with associated Retaining Walls, Fencing and Landscaping at 225 Prospect Road, Prospect (CTs 6104/694, 6104/695, 6104/696, 6104/697 and 6104/698), as the proposal would fail to achieve:

- The design quality anticipated within the policy area, resulting in a building that would detract from the desired character of the locality;
- Relevant private open space provisions, resulting in unreasonable occupant amenity impacts;
- Relevant landscaping provisions, resulting in greater occupant amenity impacts to adjoining properties and contributing to a poor streetscape relationship;
- Relevant car parking provisions, resulting in difficulties for visitors to access the subject land that is compounded by the site's close proximity to a major arterial road intersection;
- Relevant building separation provisions, resulting in low levels of natural light, ventilation and outlook that are of unreasonable occupant amenity impact; and
- Relevant zone interface provisions, resulting in greater amenity impacts to adjoining residential properties beyond that anticipated by the Development Plan.

Advisory Notes:

- (1) Pursuant to Section 86(1)(a) of the Development Act, 1993, you have the right of appeal to the Environment, Resources and Development Court against either 1) a refusal of consent or 2) any condition(s) which have been imposed on a consent. Any such appeal must be lodged with the Court within two (2) months from the day on which you receive this notification or such longer period as may be allowed by the Court.

The Environment, Resources and Development Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide SA 5000 (Postal Address: GPO Box 2465, Adelaide SA 5001).



**CITY OF PROSPECT
Development Services**

128 Prospect Road, Prospect SA 5082
Telephone (08) 8269 5355 Facsimile (08) 8269 5834

Development Application Form

Application No.: 050 / 281 / 2017 (Office Use Only)

1. Application Type (select one)

- Development Plan Consent only** (Planning Only) **Building Rules Consent only** (Building Only) **Development Approval** (Planning and Building)

2. Location of Proposed Development

Unit #: _____ House #: 225 Street: PROSPECT ROAD
Suburb: PROSPECT Postcode: 5082 CT Volume and Folio: _____

3. Details of Parties

Applicant

Name: STEVEN VACCA Address: PO Box 2693, KENT TOWN SA 5071
Contact No.: 0411 028 780 Email: steven@urban/pd.com.au

Owner as applicant

Name: _____ Address: _____
Contact No.: _____ Email: _____

Builder owner builder as applicant to be advised other

Name: _____ Address: _____
Contact No.: _____ Email: _____

Builders Licence No. _____

4. Proposal Details

Description of Proposal: CONSTRUCTION OF 18 THREE LEVEL DWELLINGS

Existing Use of Property: VACANT

Estimated Cost of Development: \$ 2,700,000.00

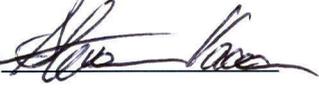
5. Declarations

- Building Rules Classification sought: _____ Present Class: _____
- Proposed number of employees (for Class 5, 6, 7, 8 or 9): _____
- Proposed number of persons for whom accommodation is provided (Class 9a only): _____
- Proposed number of occupants on the premises (Class 9b only): _____
- Does Schedule 21 or Schedule 22 of the Development Regulations 2008 apply (activities of environmental or major environmental significance)? yes no
- Has the Construction Industry Training Board (CITB) levy been paid? yes no

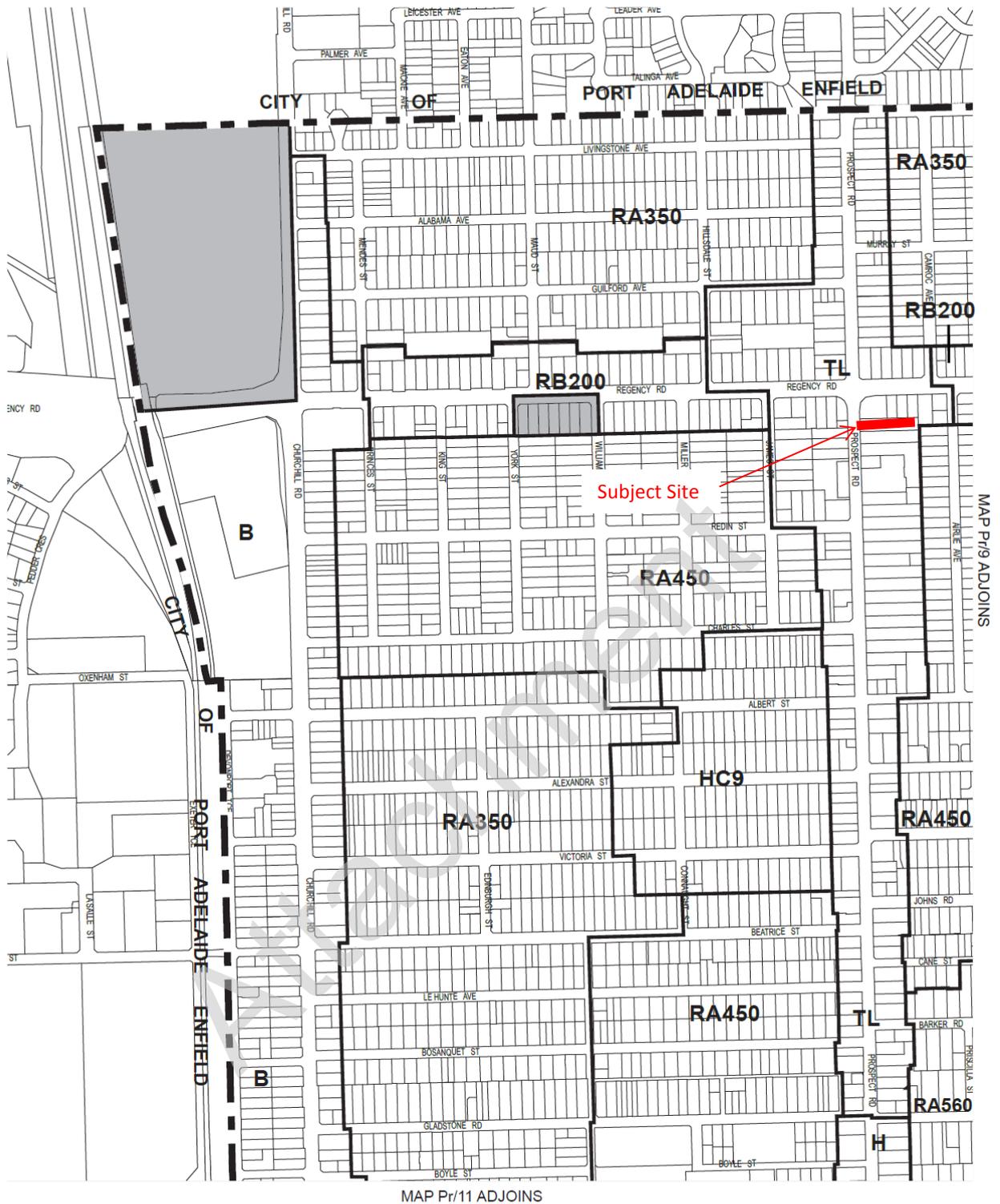
I acknowledge that Council may make copies of this application and documentation in accordance with the *Development Regulations 2008* and *Development Act 1993*. Details forming part of the application may be included in a Development Assessment Panel agenda published on Council's website.

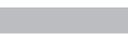
If published, I request that Council obscures my telephone number and email address. yes no

I have sought permission from the architect/engineer to allow reproduction of the application documents for provision to third parties. yes no

Name: STEVEN VACCA Signature:  Date: 14.07.17

Applicant Owner Builder



- RA560** Residential Policy Area A650
- RA450** Residential Policy Area A450
- RA350** Residential Policy Area A350
- RB200** Residential Policy Area B200
- TL** Transit Living Policy Area
- B** Boulevard Policy Area
- H** High Street Policy Area
- HC9** Historic Conservation Area 9 Policy Area
-  Policy Area Boundary
-  Development Plan Boundary
-  Area not covered by Policy



PROSPECT COUNCIL POLICY AREAS MAP Pr/8

Consolidated - 30 May 2017

PLANNING DRAWINGS



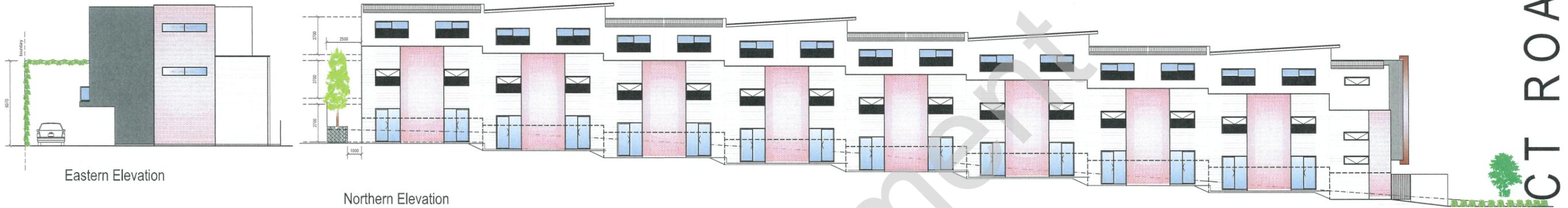
Western Elevation

Southern Elevation

Eastern Elevation

Northern Elevation

225 PROSPECT ROAD



LANDSCAPING BOTANICAL NAME

- TREES**
 - 1. **WILLOW** - *Salix*
 - 2. **PLUM** - *Prunus*
 - 3. **APPLE** - *Malus*
 - 4. **PEAR** - *Pyrus*
 - 5. **CHERRY** - *Cerasus*
 - 6. **DOGWOOD** - *Cornus*
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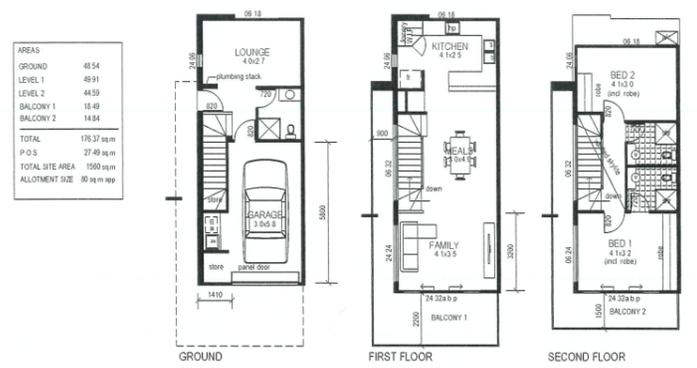
COLOUR/MATERIALS SCHEDULE

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EXISTING BUILDING OCCUPIED

DP 2039

Dwellings 1

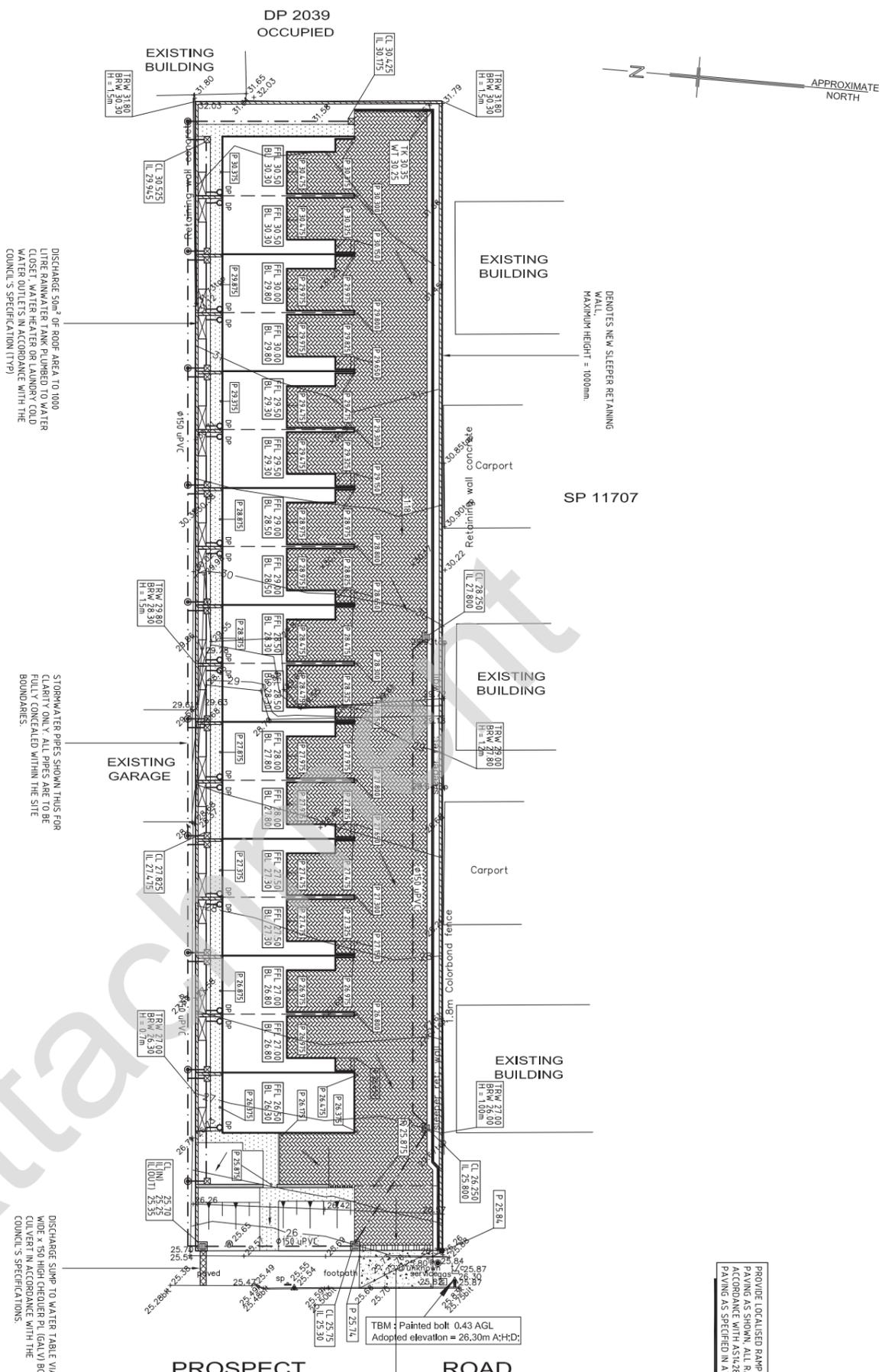


Dwellings 2-17



Southern Elevation

AMENDED PLANS



DISCHARGE 50m² OF ROOF AREA TO 1000 LITRE RAINWATER TANK PLUMBED TO WATER CLOSET, WATER HEATER OR LAUNDRY COLD WATER OUTLETS IN ACCORDANCE WITH THE COUNCIL'S SPECIFICATION (TYP)

STORMWATER PIPES SHOWN THIS FOR CLARITY ONLY. ALL PIPES ARE TO BE FULLY CONCEALED WITHIN THE SITE BOUNDARIES.

DISCHARGE SUMP TO WATER TABLE VIA 300 WIDE x 150 HIGH CHEQUER PLUG VALVE BOX CULVERT IN ACCORDANCE WITH THE COUNCIL'S SPECIFICATIONS.

PROVIDE LOCALISED RAMPS TO ALL DOORWAYS IN PAVING AS SHOWN. ALL RAMPS ARE TO BE IN ACCORDANCE WITH AS1428. PROVIDE CROSS FALLS TO PAVING AS SPECIFIED IN ATTACHMENT FRS.

PROVIDE NEW CROSSOVER IN ACCORDANCE WITH THE COUNCIL'S SPECIFICATIONS

TBM Painted bolt 0.43 AGL
Adopted elevation = 26.30m A@H.D.

LEGEND

- PERIMETER PAVING (REFER TO ATTACHMENT SD3)
- CONCRETE PAVING (MIN. FALL 1:200)
- BRICK/BLOCK PAVING (MIN. FALL 1:50)
- BITUMEN PAVING (MIN. FALL 1:100)
- GRASSSED AREA
- LANDSCAPED AREA
- EMBANKMENT/BATTER (MAX. FALL 1:2)
- EXISTING SPOT LEVEL
- +99.99
- EXISTING CONTOUR
- LINED SPOON DRAIN
- UNLINED SPOON DRAIN
- 100 HIGH CONCRETE KERB
- 100 HIGH CONCRETE KERB & GUTTER
- Ø100 P.V.C. STORMWATER PIPE - UNO (MIN. FALL 1:100 - UNO)
- SEWER PIPE (MIN. FALL 1:50)
- GATED SUMP - DOMESTIC (Ø300x50 UNO)
- GATED SUMP (Ø51.45x50 - UNO)
- TRENCHED GRATE
- INSPECTION OPENING
- Ø150 GATED INLET
- DOWNPIPE
- ONE 3-MODULE RETENTION TANK (1000L CAPACITY)
- RETAINING WALL
- DESIGN LEVEL
- FINISHED FLOOR LEVEL
- BENCH LEVEL
- COVER LEVEL
- INVERT LEVEL
- PAVING LEVEL
- TOP-OF-KERB
- WATER TABLE
- GROUND LEVEL

- GENERAL NOTES:**
- ALL AREAS TO BE FILLED SHALL BE COMPLETELY CLEARED OF ALL MATERIALS INCLUDING TREES, ROOTS AND ALL OTHER DELAYED VEGETATION.
 - PRIOR TO THE COMMENCEMENT OF ANY WORKS WITHIN THE SITE BOUNDARIES, THE ENTIRE SITE IS TO BE COMPACTED AND TESTED IN ACCORDANCE WITH AS1289.5.11/AS1289.5.12. THE FREQUENCY OF THE TESTS SHALL BE IN ACCORDANCE WITH AS3798-1996. TESTING SHALL BE EVENLY SPACED OVER THE ENTIRE SITE AT RANDOM LOCATIONS. TEST RESULTS SHALL BE FORWARDED TO THE ENGINEER FOR APPROVAL PRIOR TO THE COMMENCEMENT OF ANY WORKS.
 - ALL NEW FILL MATERIAL SHALL BE COMPACTED IN ACCORDANCE WITH AS1289.5.11 TO PROVIDE 98% STANDARD COMPACTION. THE LOOSE THICKNESS OF EACH LAYER BEFORE COMPACTION SHOULD NOT EXCEED 200mm. PROVIDE COMPACTION TESTS FOR THE NEW FILL AS PER NOTE 2.
- GENERAL COMPACTION NOTES:**
- ALL AREAS TO BE FILLED SHALL BE COMPLETELY CLEARED OF ALL MATERIALS INCLUDING TREES, ROOTS AND ALL OTHER DELAYED VEGETATION.
 - PRIOR TO THE COMMENCEMENT OF ANY WORKS WITHIN THE SITE BOUNDARIES, THE ENTIRE SITE IS TO BE COMPACTED AND TESTED IN ACCORDANCE WITH AS1289.5.11/AS1289.5.12. THE FREQUENCY OF THE TESTS SHALL BE IN ACCORDANCE WITH AS3798-1996. TESTING SHALL BE EVENLY SPACED OVER THE ENTIRE SITE AT RANDOM LOCATIONS. TEST RESULTS SHALL BE FORWARDED TO THE ENGINEER FOR APPROVAL PRIOR TO THE COMMENCEMENT OF ANY WORKS.
 - ALL DIMENSIONS IN MM UNLESS OTHERWISE SPECIFIED.
 - ALL DIMENSIONS IN MM UNLESS OTHERWISE SPECIFIED.
 - ADDITIONS AND SUBSTITUTIONS SHALL ONLY BE MADE WITH THE ENGINEER'S PRIOR KNOWLEDGE AND APPROVAL.
 - FLEXIBLE CONNECTIONS FOR SEWER AND STORMWATER PIPES ARE REQUIRED FOR THIS SITE. REFER TO ATTACHMENT SDS.

ISSUE	DATE	AMENDMENT	APPROVED
P4	24.01.18	FOR PLANNING APPROVAL ONLY - FLOOR LEVELS ADJUSTED	MZ
P3	24.01.18	FOR PLANNING APPROVAL ONLY - FLOOR LEVELS ADJUSTED	MZ
P2	22.01.18	FOR PLANNING APPROVAL ONLY - FLOOR LEVELS ADJUSTED	MZ
P1	21.06.17	FOR PLANNING APPROVAL ONLY	MZ

PROJECT
PROPOSED RESIDENCES
 AT: **225 PROSPECT ROAD**
 PROSPECT
 FOR: **S. VACCA**

336 GOODWOOD ROAD
 CLARENCE PARK SA 5034
 T : 08 8373 0966
 F : 08 8373 1966
 E : admin@mqz.com.au



DRAWING TITLE
DRAINAGE PLAN

DATE	BY OTHERS	SHEET SIZE	ISSUE
JUNE 2017		A1	P4

STATUS
FOR PLANNING APPROVAL

In reply please quote 2017/01916/01, Process ID: 492354
 Enquiries to Vittorio Varricchio
 Telephone (08) 8226 8393
 Facsimile (08) 8226 8330
 E-mail dpti.luc@sa.gov.au



Government of South Australia

Department of Planning,
 Transport and Infrastructure

16/03/2018

Mr Scott McLuskey
 City of Prospect
 PO Box 171
 PROSPECT SA 5082

**SAFETY AND SERVICE –
 Traffic Operations**

GPO Box 1533
 Adelaide SA 5001

Telephone: 61 8 8226 8222
 Facsimile: 61 8 8226 8330

ABN 92 366 288 135

Dear Mr McLuskey,

SCHEDULE 8 - REFERRAL RESPONSE

Development No.	050/287/17
Applicant	Steven Vacca
Location	225 Prospect Road, Prospect
Proposal	Construction of 17 Dwellings

I refer to the above development application forwarded to the Safety and Service Division of the Department of Planning, Transport and Infrastructure (DPTI) in accordance with Section 37 of the *Development Act 1993*. The proposed development involves development adjacent a main road as described above.

The following response is provided in accordance with Section 37(4)(b) of the *Development Act 1993* and Schedule 8 of the *Development Regulations 2008*.

THE PROPOSAL

The application proposes to construct a total of 18 dwellings upon the site. DPTI has previously provided comments in a letter dated 15/09/2017, which included a request to investigate the potential to create a vehicular connection with the proposed development at 415-417 Regency Road.

CONSIDERATION

The subject site abuts Prospect Road, an arterial road under the care, control and management of the DPTI. Prospect Road is identified as a Major Cycling Route, Priority Pedestrian Area and a Standard Frequency Public Transport Corridor under DPTI's '*A Functional Hierarchy for South Australia's Land Transport Network*'. This section of Prospect Road has an AADT of 16,100 vehicles per day (5.0% commercial vehicles) and a posted speed limit of 50 km/h.

Metropolitan Adelaide Road Widening Plan

The Metropolitan Adelaide Road Widening Plan shows that the subject land is affected by a possible requirement for a strip of land up to 4.5 metres in width from the Prospect Road frontage of the site for the future upgrading of the Prospect Road / Regency Road intersection. The consent of the Commissioner of Highways under the Metropolitan

Adelaide Road Widening Plan Act is required to all building works on or within 6.0 metres of the possible requirement. Amended plans provided to DPTI show that all development has been located outside of the above requirement. However, given that development would be proposed within the consent area, consent will be required.

Additionally, on 6 July 2015, the Minister for Transport and Infrastructure released the revised Integrated Transport and Land Use Plan (ITLUP). The Plan is designed to guide private, Federal, State and Local Government investments into the transport system for the next 30 years, and play a key role in ensuring this is fully integrated with land use and strategic infrastructure planning. The Plan identifies ProspectLINK (a tram line running from the City, along O'Connell Street and Prospect Road) as a medium to long term project. The exact timing of this project has yet to be determined and details of the road and tram track layout along Prospect Road will be subject to further investigations and consultation. Subsequently, a number of potential access impacts for Prospect Road and therefore the subject site may occur.

Access and road safety

It is DPTI policy to minimise the number of access points on the arterial road network in the interests of road safety. Although it is DPTI's preference that vehicular access to/from the site and 415-417 Regency Road be shared with a driveway connection between Regency Road and Prospect Road, DPTI has been informed that an agreement between both parties could not be reached. Accordingly, the use of a single shared access point to/from Prospect Road is supported in-principle.

The location of the access adjacent the southern property boundary also maximises the separation between the access and the Prospect Road/Regency Road signalised intersection. Plans provided to DPTI show that the access is 6.0 metres wide at the Prospect Road property boundary to accommodate simultaneous two-way vehicular movements and extends at this width into the site for at least 10.5 metres to allow vehicles to store off-street while waiting for a vehicle to enter/exit the site.

It is noted that amended plans provided to DPTI show that all development is located at least 4.5 metres from the Prospect Road property boundary and that the garage associated with Dwelling 1 has been relocated 10.5 metres from the Prospect Road property boundary. Accordingly, DPTI is satisfied that the development would not negatively impact on the access functionality post-widening.

Given the priority of pedestrian activity within the area, it is recommended that no vegetation or low level vegetation be located adjacent the access in order to maximise driver sightlines at the access and reduce the likelihood of vehicular/pedestrian conflict adjacent the access. It should also be ensured that the access complies with AS/NZS 2890.1:2004, Figure 3.3.

It is also DPTI policy that vehicles enter and exit arterial roads in a forward direction. Turn paths produced by DPTI show that this can be achieved for passenger vehicles.

Integrated Development and Waste Management

The department generally requires all vehicles, including service vehicles, to enter and exit in a forward direction in order to minimise conflict on the arterial road network. However, DPTI has been informed that waste collection would be undertaken by private contractor and that refuse vehicles would be required to reverse from Prospect Road in order to access the site and exit the site in a forward direction. DPTI has been informed that this arrangement has been previously approved for a similar development upon the site and for developments within vicinity of the subject site. Whilst DPTI would prefer service vehicles to enter and exit the site

in a forward direction, the department is prepared to accept this arrangement, with a preference that all waste collection is completed outside of peak hours (i.e. before 6:30am and after 7:30pm) in order to reduce the potential risks associated with these movements on Prospect Road.

Vehicle Parking

Council should be satisfied that the proposed development provides sufficient on-site car parking designed in accordance with AS/NZS 2890.1:2004. It should also be noted that parking on Prospect Road adjacent the site is restricted and that the Department does not guarantee it to remain in the future.

CONCLUSION

DPTI does not object in-principle to the proposal, subject to the below conditions.

ADVICE

The planning authority is directed to attach the following conditions to any approval:

1. All development, including services infrastructure (e.g. meters) shall be located outside of the 4.5 metre road widening requirement.

The planning authority is advised to attach the following conditions to any approval:

2. The site shall be served by a single vehicular access point to/from Prospect Road located adjacent the southern property boundary.
3. The shared access shall be a minimum of 6.0 metres in width at the Prospect Road property boundary and extend into the site at that width for a minimum of 10.5 metres.
4. The access point shall comply with Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' as defined in AS/NZS 2890.1:2004.
5. Refuse collection shall be undertaken on-site between the hours of 7:30pm and 6:30am.
6. The largest vehicle permitted on site shall be a 6.5 metre Small Rigid Vehicle (SRV).
7. The Common Property and shared manoeuvring areas shall be kept clear of any impediments to vehicle manoeuvring (including meters, vegetation, parked vehicles etc.).
8. All light vehicles shall enter and exit the site in a forward direction.
9. Stormwater run-off shall be collected on-site and discharged without jeopardising the integrity and safety of Prospect Road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost

The following notes provide important information for the benefit of the applicant and are required to be included in any approval:

- The Metropolitan Adelaide Road Widening Plan shows that the subject land is affected by a possible requirement for a strip of land up to 4.5 metres in width from the Prospect Road frontage of the site for the future upgrading of the Prospect Road

/ Regency Road intersection. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act is required to all building works on or within 6.0 metres of the possible requirement.

As part of the development falls within the consent area, consent will be required in this instance. The applicant should forward the attached form, along with three copies of the approved plan to DPTI for consent purposes.

- On 6 July 2015, the Minister for Transport and Infrastructure released the revised Integrated Transport and Land Use Plan (ITLUP). The Plan is designed to guide private, Federal, State and Local Government investments into the transport system for the next 30 years, and play a key role in ensuring this is fully integrated with land use and strategic infrastructure planning. The Plan identifies ProspectLINK (a tram line running from the City, along O'Connell Street and Prospect Road) as a medium to long term project. The exact timing of this project has yet to be determined and details of the road and tram track layout along Prospect Road will be subject to further investigations and consultation. Subsequently, a number of potential access impacts for Prospect Road and therefore the subject site may occur.

Yours sincerely,



MANAGER, TRANSPORT ASSESSMENT AND POLICY REFORM

For **COMMISSIONER OF HIGHWAYS**

A copy of the decision notification form should be forwarded to dpti.developmentapplications@sa.gov.au

24th August 2017

City of Prospect
Development Services
128 Prospect Road
Prospect SA 5082

Attention: Rebecca Cawte

Dear Rebecca

DESIGN REVIEW ADVICE: 225 Prospect Road, Prospect

This Design Review has been prepared following an observational site visit undertaken from the street and detailed analysis of the drawing supplied. Comments made relate to design quality in the context of the ten criteria outlined by the City of Prospect Council. It is within this framework that I offer the following comments:

Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

The proposed development is situated on the eastern side of Prospect Road close to the intersection with Regency Road with largely commercial uses opposite and residential properties to the immediate south and east. The vacant site to the north has approval for a four storey apartment building. The character of the built form in the immediate vicinity is varied and predominantly one and two storeys in height with the residential properties displaying relatively large front setbacks which are well landscaped. Also worthy of note is the slope of the land which falls from higher in the east to lower in the west.

Although the height of the development at three storeys is at odds with the height of existing buildings, it responds positively to the desired character, the anticipated building height for this site and the four storey proposal which has been approved immediately to the north. Furthermore considering the commercial tenancies opposite which have no setback to the street and incorporate canopies which project over the footpath, it is my view that the proposed townhouses will not dominate the built environment.

There is no drawn evidence that context has been considered with an absence of contextual streetscape elevations and no adjacent buildings detailed on the drawings. Also lacking is any reference to the existing context in general – the adjacent built form, heights, setbacks, landscaping, boundary conditions, colours, materials and roof pitches etc. Generally, although it is my view that the development will not dominate excessively in the street, it is recommended that some measures are undertaken or investigated further to ensure the most appropriate contextual design response is achieved including: the presentation to the street at ground level; the roof form; the design of the smaller scaled architectural elements (such as entrances, windows, eaves and balconies) particularly those on the northern elevation; and the selection of contextual materials which also respond to the requirements

of the Development Plan seeking natural self-finished or pre-finished materials which are durable such as brick, stone and render.

Scale

Good design provides an appropriate scale in terms of building height relative to width of the street and height of surrounding buildings.

Whilst the three storey nature of the development results in a scale which could be argued to be at odds with the immediate built context, it responds positively to the intentions of the Development Plan. For sites abutting Prospect Road and for this site in particular which is near to the Regency Road / Prospect Road junction, where zero front setbacks are permitted and 3 - 4 storeys are anticipated, higher built forms are clearly contemplated.

In addition it is noted that the site to the east is also within the Transit Living Policy Area of the Urban Corridor where one would expect 3 – 4 storeys and higher dwelling densities.

However, it is my view that it is important for developments to employ techniques which assist in reducing the impact of their mass and scale so that whilst the transformation and revitalisation of these areas occur, the buildings do not appear “out of place” or dominate in the environment. Such techniques might include varying the roof form, breaking up the building in plan, using smaller building components to introduce texture and fine grain, or proposing well resolved architectural detailing. Landscaping, textured materials and articulation of the facades and form can also be incorporated to further reduce the sense of scale of a new development.

Built Form

Good design achieves an appropriate built form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

The built form is simple and consists of a single, flat roofed, rectilinear block which steps down with the slope of the land from the east to the west. There is little additional planar modulation (particularly on the north) and minimal articulation through material application. The form is not typical of the area and whilst one would not expect existing built form and setbacks to be replicated, a more varied form evident both in plan and section would offer a more successful design outcome.

In addressing this aspect of the design, there is the opportunity to propose a more varied roof form along the length of the proposal and/or to break up the length of the form (which appears to be in excess of 80m) by, for example, providing some central communal space which would also improve the design outcome by offering greater amenity and social benefits for future residents.

It is noted that the Development Plan seeks forms which establish, “... *greatest height, mass and intensity of development at the main road frontages...*” and anticipates forms which are built to the side boundaries for the first 18m of the site stepping away from the side boundaries at this point by a minimum of 3m. The form proposed, whilst functional, does not attempt to follow this guide and displays reduced rear and northern side setbacks.

Density

Good design has a density appropriate for a site and its context in terms of dwelling yields (or number of units or residents).

The Development Plan seeks a minimum density of 45 dwellings per hectare for the Transit Living Policy Area and this is achieved. Seven dwellings would be expected as a minimum for this site and eighteen dwellings are proposed. However it is my view, considering the proportions of the allotment and the form proposed, that the proposed relatively high density is contributing to some of the less successful design outcomes.

By reducing the number of dwellings, the minimum densities could still easily be met and the design substantially improved. The applicant could better address side and rear setback minimum distances and provide communal space, substantial landscaping and a more contextual form.

Resource, Energy and Water Efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

No specific information has been supplied regarding the sustainability of materials proposed, energy use or generation and other sustainable initiatives.

It is noted that all townhouses are dual aspect which allows for easy cross ventilation (subject to the windows in the kitchen being openable) and no internal rooms are proposed (except bathrooms).

However the largest areas of glazing on the two upper floors face south and the main aspect for the living/dining areas and associated balconies is also south. These are seen as negative aspects of the proposal which will also affect future residents' amenity.

In addition the applicant is encouraged to consider providing shading or awnings to northern facing windows and consider the eastern elevation which is currently not included in the documentation issued. Furthermore in reconsidering the material selection to respond to the requirements of proposing durable and contextual materials, the applicant is encouraged to consider sustainable building materials and other sustainable initiatives such as the specification of energy use and generation systems and water re-use.

Landscape

Good design recognises that together landscape and buildings operate as integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

The landscaping proposed is limited, does not promote street activation and does little to respond to the intention of the Plan which seeks landscaped areas which, *"...will be exclusive of on-site services and will enhance the built form, contribute to a pleasant pedestrian environment and provide an attractive transition between the public and private realms."*

The presentation of the bin store forward of the building line, minimal area for bike parking, lack of information detailing the location of on-site services, design of the front fencing,

minimal landscaping strip widths throughout and absence of deep root zones or communal landscaped spaces are all seen as negative aspects of the scheme.

The design could be substantially improved by accommodating areas for street activation and interest such as outdoor seating and landscaping in deep root zones as well as sheltered pedestrian zones. Furthermore the applicant is encouraged to develop the detailed design of the 0.5m wide landscaping strip along the driveway (introducing variety and depth), provide additional green space generally across the scheme (either on roofs, in planters, vertically or as a ground level communal space), provide details of the hard landscaped areas including the finishes of the driveway (and the permeability of the paving). It is therefore recommended that the site planning and landscape design is reconsidered to address the concerns raised and it is acknowledged that this may impact on the yield.

Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development

The dwelling sizes are modest and the spaces arranged simply over three levels with the living/dining areas provided with the opportunity for cross ventilation. This is supported.

There are however a number of aspects of the design which the applicant is encouraged to investigate to further improve the amenity for future residents including the following: reorientating the living areas so that their main aspect is north (providing balconies with a northern orientation whilst also considering the implications of overlooking of adjacent sites); increasing the main balcony dimensions to incorporate a depth of 2.2m¹ at least in part to provide a useable space directly accessible from the living area; providing sufficient storage space in each dwelling; incorporating noise attenuation measures for dwelling 1 which fronts Prospect Road including appropriate glazing and seals to windows and doors and wall insulation exceeding BCA requirements; and ensuring outlook is offered from the upper levels (considering the privacy of adjacent residents).

Furthermore although the Development Plan requires side walls which are further than 18m from the front boundary to be a minimum of 2m from the side boundaries, PDC 171 requires windows and balconies to be a minimum of 3m from the side boundaries. Whilst not explicitly noted on the drawings, the side setbacks to the balconies appear to be in the order of 1.2m – 1.5m and it is suggested these setbacks are significantly increased. The reduced side and rear setbacks proposed will have the potential to negatively impact on the privacy, outlook and natural light for existing and future residents.

Safety and Security

Good design optimises safety and security both internal to the development and for the public domain.

Passive surveillance is encouraged as part of good safety design and in this proposal surveillance of the street is provided from dwelling 1 and surveillance of the driveway is provided from dwellings 2 – 18 (assuming clear glass to the bifold doors). In addition it appears that glass is proposed in the entries enabling passive surveillance to occur at ground

¹ ODASA Draft Design Guidelines (Design Quality and Housing Choice) recommend a minimum width of balconies to be 2.2m to allow sufficient space to manoeuvre around a table.

level which not only provides natural light but also enables occupants to view visitors as they approach the front door. These are seen as positive aspects of the scheme.

To further enhance the proposal, it is recommended that good lighting levels be provided to the driveway for increased safety and that a change in hard surface treatment is incorporated to clearly delineate a path from the residents' front doors to the street.

It is worthy to note that clearly defined private ownership helps reinforce the impression that greater effort is needed to commit a crime. In this proposal the design of the front fencing is important in adding to the success of this aspect of safety in design and the incorporation of low height and/or visually permeable fencing as well as individualising of dwelling entries along the driveway will assist in improving the safety of the development.

Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities.

The Policy Zone encourages mixed use developments and whilst it is not vital that every development offers a range of uses, a variety of residential products is encouraged. There is no variation in dwelling size across the eighteen dwellings and little possibility for flexibility in the plan. It is therefore recommended that the applicant consider reconfiguring the proposal to offer a range of dwelling sizes.

In addition it is suggested that the applicant consider designing some or all of the homes as "Livable Homes"² and/or universally designed homes which are suitable for everyone and demonstrate how the dwellings might be adapted and changed as occupants age and their needs change long term. The applicant might consider providing increased clearances (for corridors, bathrooms and in staircases for mobility aids etc), possible future lift provision and general flexibility and adaptability of plan.

The inclusion of a communal space is strongly recommended as it is important in helping to establish and maintain a sense of community as well as contributing to delivering a safe and connected environment. It is particularly important where private open space areas are limited as they are here.

Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.

The narrow proportions of the site and proposed long and continuous stepping built form combined with the proposed (mostly) lightweight materials and lack of landscaping results in a proposal which fails to convince aesthetically. A more contextual response with high quality durable self-finished materials, greater roof and northern façade articulation and modulation of side setbacks or built form would all assist. Furthermore due to the depth of the site, providing variation in the design should also be considered whether that be by reinforcing important corners or the "ends" of the development or whether the applicant

² Livable Housing Australia, 2nd Edition, (2012), Livable Housing Design Guidelines
<https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/government-international/national-disability-strategy-initiatives/livable-housing-design/livable-housing-design-guidelines>

consider individualising the homes (by, for example, subtly changing dwellings entries, balcony treatments, garage doors, roof pitches etc).

By adopting some of the suggestions previously outlined in the report the applicant would be able to demonstrate a commitment to high quality aesthetics and a more convincing design solution. These might include the introduction of a communal space, innovative sustainable solutions, an extensive and varied landscaping scheme and a variety of different dwelling types which in turn would create variety, complexity and individualism in the development.

As well as these inclusions, establishing a palette of complementary contextual materials is vital and it is suggested that the applicant adopt a variety of soft complementary colours and materials to reduce the impact of the development and create a more residential feel. The Pantone colour proposed for the Scyon cladding on the northern wall appears to be a dominant and bright blue colour which is neither contextual nor residential and is not supported.

In conclusion whilst the provision of dwellings in this location is supported, there are a number of issues which the applicant is encouraged to consider. As described in the report above, these include:

- the provision of a communal open space
- a reduction in dwelling density (to enable the development address other concerns satisfactorily)
- an increase in side and rear setbacks
- a better presentation to the street at ground level considering the location of the bin store, space available for bike parking, location of on-site services and incorporation of low height and/or visually permeable front fencing
- the provision of a variety of dwelling sizes including providing some dwellings with a ground floor room (considering universal housing design)
- an indication of the potential adaptability and flexibility of the dwellings as future occupants' needs change
- the modulation of the overall built form in plan and section (considering the roof form, providing a break in the building, the inclusion of smaller scale architectural elements, articulation of the northern elevation and individualising the dwellings)
- reselecting and establishing a sustainable, durable and contextual palette of building materials
- providing shading and/or awnings to the northern windows
- designing the main aspect for living/dining areas and balconies to face north and increasing balcony dimensions
- adopting sustainable building products and initiatives
- providing details of the eastern elevation and appropriate articulation and shading
- increasing the area available for soft landscaping and providing details of the hard and soft landscaping scheme ensuring the proposal offers variation and visual interest
- the incorporation of sound attenuation measures to dwelling 1
- providing sufficient storage space in each dwelling (minimum 8 cubic meters excluding built in wardrobe space) and consider under stair and in roof storage
- providing high lighting levels to the driveway (without introducing glare issues)

Having reviewed the drawings and assessed the architectural merits of the proposal against the parameters of Council's design review policy, I would be unwilling to support the design quality of the proposal in its current form. I would recommend that the proposal be further improved through the design amendments as outlined above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Newman', with a stylized, cursive script.

Jenny Newman
BA (Hons) Dip Arch (dist) MA SCert(Ag)

Drawings Reviewed:

Prepared by Dimension Design Studio

- 886.17 Plans and elevations

Attachment

STATEMENT OF REPRESENTATION

Pursuant to Section 38 of the Development Act 1993

Ref. 050/287/2017

City of Prospect
21 DEC 2017
Received

TO: City of Prospect
128 Prospect Road
PROSPECT SA 5082

NAME OF REPRESENTOR(S): ALISON MURRAY

RESIDENTIAL/BUSINESS ADDRESS: 46 AIRLIE AVE PROSPECT (EASTERN BOUNDARY

POSTAL ADDRESS: AS ABOVE RESIDENCE)

MY REPRESENTATION IS IN REGARD TO THE PROPOSED DEVELOPMENT AT:

225 Prospect Road PROSPECT

THIS REPRESENTATION IS (please tick one of the following):

- In favour of the application
- Against the application
- Neither for nor against the application

MY COMMENTS ARE AS FOLLOWS (if space is insufficient, attach additional pages):

• WHEN DID WE STOP USING BROOM CUPBOARDS ?

• BUT NO CONCERNS AT THIS STAGE

Please indicate below whether or not you wish to be heard by the Development Assessment Panel in support of your submission:

- I do not wish to be heard
- I wish to be heard personally
- I will be represented by

SIGNED:  DATED: 21.12.17

For a representation to be valid, it must:

- Be submitted before the end of the notification period;
- Include your name and address;
- Set out the reasons for your representation;
- Indicate whether or not you wish to be heard by Council's Development Assessment Panel; and
- If being made by 2 or more persons, nominate a person who will be taken to be making the representation.

STATEMENT OF REPRESENTATION
Pursuant to Section 38 of the Development Act 1993
Ref. 050/287/2017



TO: City of Prospect
128 Prospect Road
PROSPECT SA 5082

NAME OF REPRESENTOR(S): Jacek Zbik

RESIDENTIAL/BUSINESS ADDRESS: 413 Regency Road, Prospect, SA, 5082

POSTAL ADDRESS: 69 Livingstone Ave, Prospect SA, 5082

MY REPRESENTATION IS IN REGARD TO THE PROPOSED DEVELOPMENT AT:

225 Prospect Road PROSPECT

THIS REPRESENTATION IS (please tick one of the following):

- In favour of the application
- Against the application
- Neither for nor against the application

MY COMMENTS ARE AS FOLLOWS (if space is insufficient, attach additional pages):

See attached sheet.

Attachment

Please indicate below whether or not you wish to be heard by the Development Assessment Panel in support of your submission:

- I do not wish to be heard
- I wish to be heard personally
- I will be represented by

SIGNED: [Signature] DATED: 14 DEC 17

For a representation to be valid, it must:

- Be submitted before the end of the notification period;
- Include your name and address;
- Set out the reasons for your representation;
- Indicate whether or not you wish to be heard by Council's Development Assessment Panel; and
- If being made by 2 or more persons, nominate a person who will be taken to be making the representation.

Points that need to be addressed by the proposed development at 225 Prospect Road.

I am the owner of a neighbouring property at 413 Regency Road, Prospect SA 5082 and the proposed development at 225 Prospect Road presents some points of concern:

1. There is inadequate setback from the side boundary. Current plan gives 900 mm setback on the N side of the development at more than 18 m from the main frontage. According to Prospect City Development plan (PCDP) "Urban Corridor Zone" section 16 (Other Setbacks) such setback should be more than 2 m for structures over 1 storey high. However, if that section is considered to be a rear of the property, which in this case all town houses are to have back walls to the N, then under the same section the setback needs to be 6 m.
2. The side boundary of the plot of the land is the rear side of the proposed structures resulting in the confusion over setbacks.
3. The structure creates an unbroken, continuous monolith blocking breeze. This is against Objective 7 of the PCDP "Urban Corridor Zone" and "Desired Character" section (d) and (e).
4. The excavations breach my property's underground envelope under Regulation 75 (1) of the Development Regulations 2008 under the Development Act 1993. The liability for any future damage from a non-complying development may have to be borne by the approving authority.
5. The fence height is unknown and not specified in the plan.
6. Rear facing windows are overlooking my back yard. They should be required to be frosted over.

I would be very appreciative if the above points were taken into deliberation when you make your decision.

Yours Sincerely

Jacek Zbik



Attachment

20th December, 2017

FROM: Mr Travis Algate
Presiding Officer
Strata Corporation 11707 Inc.
PO Box 792
Prospect East, SA, 5082

TO: City of Prospect
128 Prospect Road,
Prospect, SA, 5082

ATTENTION: DAP – Development Assessment Panel

RE: DEVELOPMENT APPLICATION 050/287/2017
PROPOSED CATEGORY 2 DEVELOPMENT @ 225 PROSPECT ROAD, PROSPECT

Dear Development Assessment Panel Members,

Thank you for the opportunity to make comment on the proposed development at 225 Prospect Road, as referenced above.

At this time, I, and those I represent, **OPPOSE** the presently proposed construction, and are hopeful that the DAP will act appropriately to **REJECT THE CURRENT APPLICATION**.

I take this opportunity to provide feedback in relation to the proposal, herein attached.

I trust that this submission will be afforded serious review and consideration in respect of your decision as to whether or not to approve the proposed development.

Should you have any queries, or require any further information, please do not hesitate to contact me.

Kind Regards
Travis Algate
PO Box 792
Prospect East, SA, 5082
Mob: 0419 848 982
Email: banana-one@hotmail.com

1. Introduction

My name is Travis Algate. I reside at Unit #6, 223 Prospect Road, Prospect. My property bounds the site of the proposed development, situated on the southern side. I am therefore directly affected by the proposed development.

In addition to my rights and opinions as an affected resident and private citizen, I also act as Presiding Officer of the Strata Corporation 11707 Inc, representing ALL SIX ALLOTMENTS of the neighbouring property located at 223 Prospect Road, adjacent the proposed development site, directly affected by the proposal.

I therefore voice the unanimous communal concerns on behalf of the Strata Corporation and ALL of its members.

Signatory members, in full agreement with the enclosed objections to the proposed development include the following owners/occupiers:

Name	Address	Phone	Email
Joseph Stecassi	1/223 Prospect Road, Prospect, SA, 5082		
Trudi Mercurio	2/223 Prospect Road, Prospect, SA, 5082		
Maxine Baldry	3/223 Prospect Road, Prospect, SA, 5082		
Jai Potts	4/223 Prospect Road, Prospect, SA, 5082		
Hong Thi Thu Nguyen	5/223 Prospect Road, Prospect, SA, 5082		
Travis Algate	6/223 Prospect Road, Prospect, SA, 5082		

Members of our Strata Corporation have nominated myself to represent their interests, and to speak on their behalf should the opportunity arise.

We OPPOSE the proposed development in it's present form, and request that the Application be REJECTED accordingly.

Please note that we believe that it is ultimately in our best interests to see the property developed – PROVIDED THAT SUCH DEVELOPMENT IS SENSIBLE AND APPROPRIATE.

It is our view that the present design is extremely poor. The orientation of the buildings, facing south and directly overlooking the adjacent properties (OUR properties), represents an extreme and inappropriate invasion of our privacy, severely impacting our amenity. Furthermore, the use of the boundary fence as a de-facto building frontage is not only offensive, but fails to meet the requirements of "Good Design" and "Desired Character" as prescribed by the Development Plan. There is almost ZERO activation at street level, presenting as (the side of) a brick from the roadside, where the most prominent feature at the front of the property is a rubbish bin storage area! Far from adding value to the area, we feel that this design proposal is likely to detract from the appeal of our neighbourhood, and de-value properties in the area.

We therefore seek for the developer to consider alternate designs, and/or amend the present proposal to ensure that any such development is of good quality design, scaled appropriately to suit the area, with minimal impact to neighbouring properties, and in full compliance with the requirements of the Development Plan (Prospect City).

2. Grounds for Objection

2.1 Insufficient Detail Contained within the Application

Having attended to Prospect Council to sight the plans submitted for the proposed development, I was somewhat shocked to find that the whole of the Application is based upon a single piece of paper!!

The Application appears to contain grossly insufficient detail to gain a proper understanding of the proposal. There is very little design detail, no disclosure of material selection, no disclosure of any measures designed to mitigate (for example) overlooking and intrusion to neighbouring properties, no shadow maps, no noise impact analysis, no traffic safety analysis, no disclosure of any storm water drainage facilities, no plan for waste collection, little or no landscaping detail, no plant and equipment location or noise detail etc.

In fact, the Application provides so little detail that it is impossible to gain proper understanding of the proposal, much less undertake a proper review of any issues that may (or may not) affect our neighbouring properties.

We therefore believe that it would be neither possible nor appropriate for the DAP to approve the development application in its present form. The developer would need to supply a much more substantive and meaningful amount of detail associated with the design in order that a proper review be undertaken.

Upon provision of more detailed information, it would also be appropriate at that time for further notification to be given to neighbouring properties, along with a proper consultation period and opportunity to raise any objections or concerns based on the actual detail which is (as at the date of close of public consultation) sadly not available!

(Honestly! How can it be appropriate for public notification consultation to even go ahead with this embarrassingly small amount of detail??? How can it be possible for us to raise sensible objections with ALMOST NO DETAIL upon which to base those objections????????? Once detail becomes available, we would welcome a second round of proper public notification and consultation to be initiated!)

2.2 Serious Impingement of Privacy for Neighbouring Properties

In the present Development Application, the proposed design incorporates a substantial number of balconies, all of which directly overlook the private open spaces of neighbouring properties.

The balconies appear to make NO CONSIDERATION for the privacy of neighbouring residents, and represent a serious invasion of privacy.

Specifically:

- The balconies are positioned on the south facing side of the buildings (rather than the east and west sides facing the street front as required by the Development Plan).
- As such they are directly overlooking the private open spaces of neighbouring properties;
- The balconies are effectively utilising the property boundary as a de-facto building frontage!
- (From what little detail is contained within the proposal) The balconies appear to provide no screening of any kind, such as fixed mechanical barriers, or frosted glass panels of prescribed height, that may serve to protect and preserve the privacy of neighbouring properties

We strongly object to this aspect of the proposed development, believing it to be a serious invasion of our privacy.

We can find no evidence that the developer has made any significant effort to minimise impact to privacy, nor protect and preserve such privacy as is required in common law, and by the relevant clauses of the Development Plan.

We would suggest the following measures in order to protect and preserve our privacy:

- The buildings should be redesigned such that all balconies are re-oriented so that they face east-west (facing the street), as required by the Development Plan;
- The adjoining properties sides should not be used as de-facto building frontage;
- Balconies on the property should not face south (as required by the Development Plan for environmental reasons);
- Fixed mechanical barriers, such as frosted glass panels should be installed appropriately to ensure that views are restricted to the north and south of the property;

Given the requirements of the Development Plan, the impact to privacy, AND the potential for the above measures to positively impact other issues identified in this document (eg noise, light pollution), we believe that these changes should greatly improve any future Application.

3.1 Serious Impingement of Amenity for Neighbouring Properties

We believe that the proposed development presents an unnecessary, unfair and unreasonable negative impact to the amenity of neighbouring properties.

Specifically the proposal may potentially create:

- A reduction of access to natural sunlight
- A reduction of access to natural air flows
- Restricted access to views
- Removal of all privacy
- Possible exposure to noise
- Possible exposure to light pollution
- Possible exposure to noxious odours
- Traffic congestion close to a major intersection
- Potentially dangerously unsafe traffic conditions entering/egressing the property

(Note: At this stage, owing to a total lack of design detail provided with the application we can only speculate in respect to some of the above "potential impacts"...)

Of particular concern are the balconies, which in all instances directly overlook private open spaces of neighbouring properties. A serious invasion of privacy will result, and such impact will kill any ability that we have to enjoy any of our outdoor spaces without fear that we are being watched.

We do not believe that it is fair or reasonable to subject existing neighbouring properties to such impacts, **especially in such circumstances where many of the impacts may be minimised or eliminated by better design.**

For example:

- Provision of privacy screening such as fixed mechanical barriers, or frosted glass of prescribed height may serve to minimise (without removing) some of the privacy concerns, in reducing the extent of permissible overlooking into neighbouring private open spaces.
- Re-orientation of balconies such that they face east-west instead of north-south (ie so that they face the street frontage as required by the Development Plan, rather than using the side boundary facing neighbouring properties as a de-facto building frontage!). This may serve to reduce or eliminate many of the privacy issues for neighbouring properties, reduce the amount of noise, move such noise further away from main living areas/bedrooms, and reduce impacts of light pollution. Such change may also provide better access to natural light to the neighbouring properties (between buildings).

We believe that the developer has an absolute obligation to ensure that the design proposed serves to minimise or eliminate negative impacts to amenity on neighbouring properties. As can be seen from the two examples above, IT IS POSSIBLE, and we therefore we would strongly encourage the developer to reconsider the proposal accordingly.

3. Further Opportunity for Representation

As noted, there is very little detail disclosed in the current proposal. We request further notification and opportunity for public consultation as the proposal evolves.

In particular, any significant changes likely to impact neighbouring properties are of significant interest and concern to us, as we are directly affected.

As detail comes to light, we would like to reserve the right to comment further (positively or negatively) on any issue that either changes significantly, or otherwise cannot be foreseen at this time owing to a lack of detail disclosed in the proposal to date.

4. Conclusions & Recommendations

For the reasons documented in this submission, we have concluded that the current development proposal :

- Does not comply with the requirements of the Development Plan
- Will have a substantially negative impact to neighbouring properties
- Should be REJECTED / NOT APPROVED by the DAP accordingly.

We believe that the concerns highlighted herein may be largely mitigated or resolved by a more suitable design. We recommend working with the developer to alter the development proposed in order to address the issues raised.

We recommend a further period of public notification and consultation as the proposal evolves and/or more specific design detail becomes available.



31 January 2018

Scott McLuskey – Senior Development Officer
 Email: Scott.mcluskey@prospect.sa.gov.au

Dear Mr McLuskey,

**RE: Response to Representation for DA 050/287/2017 at
 225 Prospect Road, Prospect**

MasterPlan SA Pty. Ltd. have been engaged by Angelo Properties ('our client') to review and prepare a response to Category 2 representations made during the ten business day notification period for DA 050/287/17 located at 225 Prospect Road, Prospect ('the subject site').

Detailed below is a description of further information and amended plans, a summary of the representations made opposing the development and our response to the representations. This is to be read in conjunction with amended plans **attached** to this submission.

1.0 AMENDED PLANS

In response to concerns raised by Council and the representors amended plans and further information has been prepared and is attached to this submission. In summary, they include the following:

- 1.5 metre high frosted glass balustrading to all south (side) facing upper level balconies to minimise direct overlooking to adjacent properties private open space and/or habitable room windows;
- detailed fencing and retaining wall elevations;
- additional site/floor plans that illustrates the boundary setbacks of each level;
- details of the driveway gradient in response to the Department of Planning, Transport and Infrastructure (DPTI) comments; and
- overshadowing diagrams.

In addition to the above and the comments provided by the Department for Planning Transport and Infrastructure, we confirm that a waste collection vehicle can readily either reverse into the driveway to collect the stored refuse or park at the front of property outside of peak traffic hours to collect and wheel the bins from the storage location for collection on street.



2.0 REPRESENTATIONS

The application was placed on Category 2 public notification and received three representations during the ten business day notification period, as detailed below:

- 46 Airlie Avenue, Prospect (support);
- 413 Regency Road, Prospect (oppose); and
- 6/223 Prospect Road, Prospect (oppose).

A summary of the main planning concerns is provided in the table below.

413 REGENCY ROAD, PROSPECT (OPPOSE)
Inadequate setback from the side boundary.
Confusion over where setbacks are taken from.
Proposal will block breeze/airflow.
The excavations will breach my properties underground building envelope.
The fence height is unknown.
Rear facing windows are overlooking my backyard and should be frosted over.

6/223 PROSPECT ROAD, PROSPECT (OPPOSE)
Insufficient details and information.
Impact of privacy of neighbouring properties from balconies.
Impact on the amenity from neighbouring properties.
Access to natural light and air flows.
Traffic congestion and safety concerns with entering and egressing from property.



3.0 RESPONSE TO REPRESENTATIONS

In response to the representations received during the Category 2 public notification process, our client has provided additional information and amended the plans, as detailed in **Section 1.0** of this report and attached to this submission. Having regard to the amended plans and additional information, we provide the following response to the representors key concerns.

3.1 Boundary Setbacks

Firstly, it is important to clarify that the boundary setbacks referred to in our report relate to the subject site, not the orientation of the built form. Secondly the proposed development does have regard to Council Wide Principle of Development Control 18 of the Urban Corridor Zone as the second storey component is setback 2.0 metres from the northern (side) boundary, as illustrated in the site and floor plans attached.

3.2 Natural Light and Air-flow

The proposed development will not result in any overshadowing to the properties immediately to the north (side) given the orientation of the proposed development and the natural movement of the sun, east to west.

The proposed development will result in shadow to the properties located immediately to the south (side), however is not considered to be within unreasonable levels for the following reasons:

- the adjacent property to the south (side) comprises two carport structures to the common boundary, which result in overshadowing of their adjacent private open space living areas;
- the existing double storey units on the property to the south (side) currently result in overshadowing of their main private open space living areas;
- all dwellings on the properties to the south will have direct access to eastern and western sun; and
- the proposed development will not inhibit airflows, or restrict access to the cooling southern breezes given the orientation of the subject site in relation to the adjacent properties to the south (side).

3.3 Inadequate Information

Firstly, it should be acknowledged that our client has responded to and provided all requests for additional information made by Council and the Department of Planning, Transport and Infrastructure (DPTI).



Secondly, additional information has been provided by our client in response to the representations made during the public notification period, including additional fencing/retaining wall details, additional screening to the upper level balconies and overshadowing diagrams.

Thirdly, it is common practice for more detailed documentation involving engineering and stormwater to be provided at building rules consent stage as this documentation comes at substantial expense to the applicant with the uncertainty of obtaining an approval. Relevant Authorities, in this instance Council, will likely place a condition on any consent granted seeking additional details for stormwater runoff and location of services, as these elements quite often do not require Development Approval.

3.4 Overlooking

Amended plans have been provided which provide fixed obscured screening to all upper level balconies, to a height of 1.5 metres, which coupled with the arbours adjacent the common driveway will substantially restrict direct views of adjacent properties habitable room windows and/or private open space as envisaged in Council Wide Principle of Development Control (PDC 140) of the Development Plan.

The proposed development is considered to have further consideration to Council Wide PDC 140 and 141, which relates to visual privacy associated with development within the Urban Corridor Zone, in the following manner:

- as detailed within our planning report, views of adjacent properties habitable room windows and/or private open space areas are already restricted, with carport structures built to common boundary and no upper level habitable room windows orientated towards the subject site;
- it should also be noted that the upper level balconies of the adjacent units do not comprise any form of screening device and have free and unrestricted views of adjacent properties to the north and south; and
- as detailed above, amended plans have been provided that illustrate the provision of fixed obscure screening to all upper level balconies, which are considered to integrate into the overall building design, and will have minimal negative impact on the amenity of adjoining properties.

3.5 Amenity Impacts

Firstly, it should be acknowledged that a previous approval for the subject site allowed for a five storey residential flat building to be constructed, which would have resulted in a substantially greater visual impact than the proposed development.



Secondly, both the Urban Corridor Zone and Transit Living Policy Area provisions envisage medium density residential development, such as proposed, up to four storeys in height as illustrated in **Figure 1** below, only three storeys is being proposed. Whilst the proposed development may result in a substantial change from the current vacant block, this form of development is envisaged and by its very nature will result in a built form of a size and scale that will be visible from adjacent properties.



Figure 1: Concept Plan Figure UrC/4 illustrates a 3-4 storey maximum building height for the subject site.

Having regard to this, it is then important that the built form been designed and constructed in a manner that has appropriate regard to the relevant Objectives, Desired Character and Principles of Development Control (PDC) relating to built-form character, we believe the proposed development achieves this in the following manner:

- the subject site sits adjacent land within the Urban Corridor Zone to both the north, south and east, which envisage heights such as proposed;
- the proposal provides sufficient space within the front setback for mature vegetation, with vegetated arbour structures to sit over the common driveway, resulting in a softening of the built form when viewed from both the street and adjacent properties to the south (side);
- the eastern side of Prospect Road, does not comprise a consistent or prominent built form character or palate of external materials and finishes, however a contemporary mixture of materials and finishes is proposed which is considered to compliment the changing character of the locality;
- the proposal seeks variations to roof forms and materials and finishes to break the building bulk and scale up when viewed from both the street and adjacent properties; and



- the development addresses the primary street, with upper level balconies associated with Dwelling 1 having direct views towards Prospect Road, allowing for passive surveillance of the area.

3.6 Traffic Congestion and Access

As detailed in **Section 6.3.2** of the planning report submitted with the development application, the proposed development is considered to satisfy the relevant Development Plan requirements relating to the provision of on-site resident and visitor parking in the following manner:

- Table 3 of Table Pr/5 states a requirement for one vehicle parking space per two-bedroom dwelling, 1.25 vehicle parking spaces per three (plus) bedroom dwelling with an additional 0.25 per dwelling for visitor parking;
- Dwelling 1 is only a two-bedroom apartment and therefore requires the provision of one space, which is provided in the form of a garage;
- all other dwellings comprise one dedicated space in the form of a garage and one visitor space which sits in-front of each dwellings garage;
- having regard to the above provisions, the proposed development should provide a total of 25 off-street vehicle parks, a total of 34 off-street vehicle parks are proposed; and
- it should also be noted that all vehicles can enter and exit the subject site in a forward direction with sufficient internal driveway widths allowing for the required three point turning manoeuvre to be completed on the subject site.

4.0 CONCLUSION

In summary, we form the view that in conjunction with amended plans and documentation attached to this submission, that the proposed development has appropriate regard to the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) of the Prospect (City) Development Plan and will not have unreasonable impacts on adjacent property owners / occupiers and therefore warrants the granting of Development Plan Consent.

Yours sincerely,

Greg Vincent
MasterPlan SA Pty Ltd

enc: An amended plan as detailed above.

PLANNING DRAWINGS



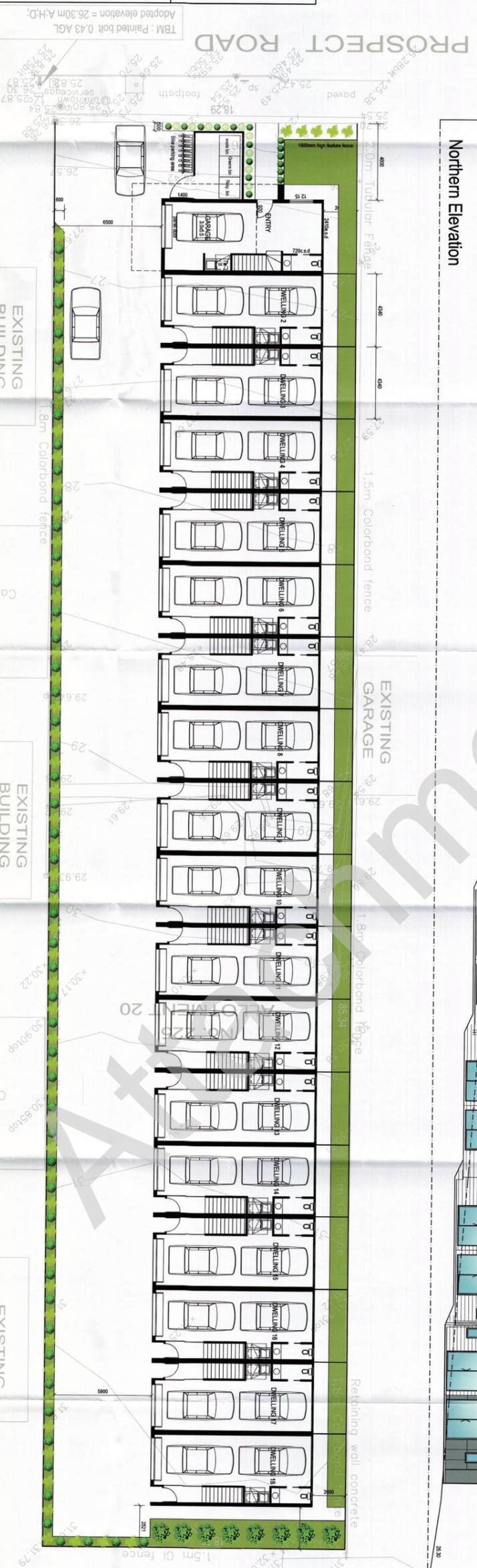
Western Elevation

Southern Elevation



Northern Elevation

Attachment 34

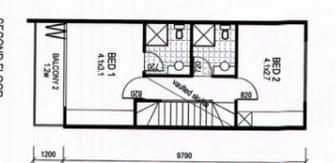
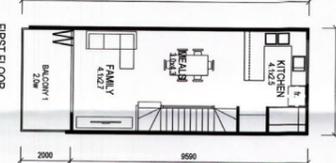
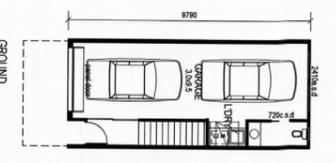
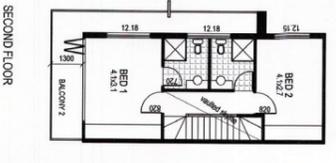
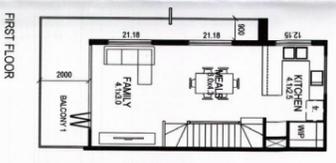
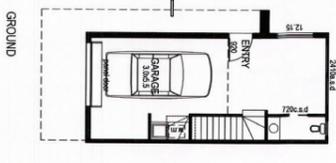


Dwellings 1

Dwellings 2-18

AREAS	AREA
GROUND	42.4
LEVEL 1	41.6
BALCONY 1	1.8
BALCONY 2	1.4
TOTAL	197.2
GROUND	303.0
TOTAL SITE AREA	198.8
ALLOTMENT SIZE	89.9

AREAS	AREA
GROUND	42.4
LEVEL 1	41.6
BALCONY 1	1.8
BALCONY 2	1.4
TOTAL	197.2
GROUND	303.0
TOTAL SITE AREA	221.4
ALLOTMENT SIZE	89.9



225 PROSPECT ROAD

SUPERSEDED PLANS

CONCRETE MATERIALS SCHEDULE

- Concrete: 20 MPa
- Reinforcement: 300 MPa
- Formwork: 15 MPa
- Grout: 20 MPa
- Joint Compound: 10 MPa
- Sealant: 10 MPa
- Paint: 10 MPa
- Cladding: 10 MPa
- Roofing: 10 MPa
- Insulation: 10 MPa
- Glazing: 10 MPa
- Handrails: 10 MPa
- Staircases: 10 MPa
- Lighting: 10 MPa
- Electrical: 10 MPa
- Plumbing: 10 MPa
- Gas: 10 MPa
- Fire: 10 MPa
- Security: 10 MPa
- Other: 10 MPa

LANDSCAPE

- Planting: 10 MPa
- Grass: 10 MPa
- Pathways: 10 MPa
- Drainage: 10 MPa
- Retaining: 10 MPa
- Other: 10 MPa

PROSPECT ROAD

Adopted elevation = 26.30m A.H.D.

TBM: Painted bolt 0.43 AGL

PROSPECT ROAD PROJECT

PLANNING REPORT

Three-Storey Residential Flat Building Comprising 17 Residential Dwellings

225 Prospect Road, Prospect
Angelo Properties



Attachment

Prepared by
MasterPlan SA Pty Ltd
ABN 30 007 755 277, ISO 9001:2015 Certified
33 Carrington Street, Adelaide SA 5000
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November 2017



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1.0 INTRODUCTION

MasterPlan SA Pty. Ltd. have been engaged by Angelo Properties ('our client') to review and prepare documentation for a development which seeks the construction of a three-storey residential flat building comprising a total of 17 units at land located at 225 Prospect Road, Prospect ('the subject site').

Detailed within this report is a description of the subject site, locality, nature of the proposed development and an assessment against the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) associated with the Prospect (City) Development Plan (consolidated on 30 May 2017). This report is to be read in conjunction with the following documentation:

- a Certificate of Title attached as **Appendix A**; and
- a full set of plans attached as **Appendix B**.

2.0 PLANNING BACKGROUND

Planning Consent 050/M005/15 was granted by the Development Assessment Commission (DAC) on 10 November 2015 and allowed our client to undertake the *construction of a five-level residential flat building including under-croft car parking, site works and landscaping*.

3.0 SUBJECT SITE

The subject site is located on the eastern side of Prospect Road on the section of road located between Regency Road to the north and Redin Street to the south. Currently the site is vacant, with vehicle access gained via an existing crossover in the north-western corner. A site inspection confirmed there are no regulated/significant trees located on or adjacent the subject site that would impact on the proposal.

The subject site comprises four community title allotments, which are as direct result of Land Division approval 050/164/2010, therefore the subject site is formally referred to as:

- Lots 1-5: Community Plan 27564, Hundred of Yatala, Volume 6104 Folio 694 (refer to **Appendix A** for further details).

4.0 LOCALITY

All land directly adjacent the subject site is located within the Urban Corridor Zone, Transit Living Policy Area, except for a small section of boundary in the south-eastern (rear) corner, which sits adjacent land within the Residential A450 Zone of the Development Plan.



North (towards Regency Road):

- Land Division approval 050/26/2016 was approved by Prospect Council on 1 February 2016 for land directly adjacent the subject sites northern (side) boundary (227 Prospect Road), allowing for the division of land into 24 community titled allotments;
- sites adjacent the eastern section of the northern boundary, are single storey, detached dwellings, with frontages to Regency Road; and
- several garages/outbuildings associated with these dwellings abut, or are located within close proximity to the subject sites property boundary.

South (side):

- immediately adjacent the subject sites southern (side) boundary is a series of six double storey group dwellings, with vehicle access gained via a dual access way off Prospect Road;
- the dwellings are setback approximately 7.0 metres from the Prospect Road frontage;
- none of the dwellings have upper level windows oriented towards the subject site;
- carport structures associated with the dwellings abut the subject site; and
- south of this property is a series of three double storey cream brick residential flat buildings comprising a total of 14 residential units.

East (rear):

- a series of single and double storey detached dwellings with frontages to either Regency Road and Airlie Avenue;
- the adjacent property to the south-east, which shares approximately 6.0 metres of the subject sites eastern (rear) boundary, is located within the Residential A450 Zone; and
- the dwelling associated with this allotment is located approximately 14 metres to the east of the boundary.

West (opposing side of Prospect Road):

- a series of single storey buildings, which accommodate a number of small business, including shops, retail showroom and offices; and
- vehicle parking associated with these premises is located to the rear, and accessed via an existing crossover off Regency Road.



5.0 NATURE OF PROPOSED DEVELOPMENT

5.1 Land Use

The proposed development seeks to construct a three-storey residential flat building comprising a total 17 residential units. The proposed land use is therefore residential, in the form of a residential flat building, with communal driveways, waste storage and letterbox facilities.

5.2 Built Form

The proposed development seeks the construction of a three-storey residential flat building comprising a total 17 units. A description of the built form has been broken up into several components, as detailed below:

5.2.1 Boundary Setbacks

Table 1: Proposed Boundary Setbacks

BOUNDARY	GROUND FLOOR	FIRST FLOOR	SECOND FLOOR
North (side)	0.9 metres	0.9 metres	2.0 metres
South (side)	6.41 metres	3.9 metres	3.2 metres
East (rear)	2.503 metres	2.503 metres	2.503 metres
West (front)	8.94 metres	7.94 metres	7.94 metres

* setbacks in **bold** do not meet relevant Development Plan requirements.

5.2.2 Building Height

The proposed building will measure a maximum 10.9 metres when measured from natural ground level (N.G.L) to the top most point of the roof.

5.2.3 Site Coverage and Floor Space Ratio

The proposed development will result in site coverage of 64 percent.

5.2.4 Private Open Space

Private open space associated with all 17 units will be in the form of upper level balconies located on the first and second floors and will comprise the following measurements:



Table 2: Private Open Space

LEVEL	DWELLING 1	DWELLING'S 2-17
First floor	18.49 square metres	9.19 square metres per dwelling
Second floor	14.84 square metres	6.27 square metres per dwelling.

5.2.5 Vehicle Access and Parking

The proposed development seeks to remove and reinstate the existing vehicle access point in the north-western corner of the site to kerb and gutter and create a new dual access-way in the south-western corner of the site. This will service all garaging and visitor spaces associated with the development.

All dwellings will have exclusive access to a single lock up garage, with all dwellings except for Dwelling 1 (front) to have space in-front of the garaging for the provision of a visitor space. All vehicles entering and existing the subject site/development will be able to do so in a forward direction given the proposed isle width of 6.0 metres, this will be reiterated and discussed later in the report.

5.3 Type of Development

The 'Procedural Matters' section of the Development Plan outlines forms of development that are considered 'complying' or 'non-complying', the proposed development of a three-storey residential flat building does not sit within either of these tables and is therefore to undergo a 'merit' based assessment.

5.4 Statutory (external) Referrals

Section 3, Schedule 8 of the *Development Regulations, 2008* states the following:

Development which in the opinion of the relevant authority is likely to—

- (a) **alter an existing access; or**
- (b) **change the nature of movement through an existing access; or**
- (c) **create a new access; or**
- (d) **encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972,**

in relation to an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, or within 25 metres of a junction with an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, (as delineated in the relevant Development Plan), other than (unless an access certificate is required for complying development) complying development in respect of the relevant Development Plan.



The proposed development seeks to reinstate the existing crossover located in the north-western corner back to kerb and gutter, and create a new dual access point in the south-western corner off Prospect Road – therefore a referral to the Department of Planning, Transport and Infrastructure (DPTI) is required.

This referral has already been undertaken, with formal comments received by Council on **15 September 2017**. Amended plans attached to this report are considered to address the concerns in the following manner:

- all development (including services) is located outside the road widening requirement of 4.5 metres;
- the proposed access will conform to AS/NZS 2890.1:2004 and provide a clear 6.0 metres by 6.0 metres access way post widening; and
- vehicle parking and garaging has been setback a minimum 10.5 metres from the Prospect Road property boundary.

6.0 DEVELOPMENT PLAN ASSESSMENT

The subject site is located within the Urban Corridor Zone, Transit Living Policy Area of the Prospect (City) Development Plan (consolidated on 30 May 2017). An assessment against the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) is provided below.

6.1 Land Use

The proposed development seeks to intensify the existing residential land use in the form of a three-storey residential flat building comprising a total of 17 units. This is considered to have appropriate regard to the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) in the following manner:

- the Desired Character of the Zone seeks to accommodate residential land uses that provide a diversity in the housing stock, including residential flat buildings;
- PDC 1 of the Zone envisages *residential flat buildings* within the Urban Corridor Zone;
- PDC 2 of the Zone seeks to avoid development that is listed as non-complying, the proposed land use and form of development is not listed as non-complying;
- Objective 1 of the Policy Area seeks medium density residential development; and
- the Desired Character for the Policy Area seeks residential development to take place a medium to high densities, such as proposed.



6.2 Built Form

The proposed development seeks the construction of a three-storey residential flat building, which is considered to have appropriate regard to the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) of the Development Plan in the following manner:

6.2.1 Design and Appearance

Amended plans, described in **Section 5** of this report and attached as **Appendix B**, are considered to appropriately respond to both concerns raised by *Jenny Newman*, dated 24 August 2017 and the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control in the following manner:

- increased modulation of the built form, through the introduction of varied roof forms (flat and skillion) help 'break' the bulk and scale of the development when viewed from adjacent properties and the public realm;
- all external materials and finishes, which include rendered hebel cladding and scyon matrix cladding, are considered sustainable and durable and relate to the changing built form character of Prospect Road;
- the front of the building faces the primary street frontage;
- the amended plans have ensured that extensive areas of uninterrupted walling facing areas exposed to the public are minimised through the introduction of a more diverse materials and finishes palette and the introduction of more substantial landscaping;
- the proposed external materials and finishes are not highly reflective and will not result in glare to neighbouring properties, drivers or cyclists as per the intent of Council Wide PDC 134;
- the amended plans provide some variation to the otherwise repetitive nature of residential flat building developments, through the introduction of pitched roof elements and use of different external materials and finishes as sought by Council Wide PDC 159;
- the proposed building is considered to provide visual interest through the use of varied materials and finishes, substantial landscaping within the front setback and the introduction of a vegetated arbour that will sit over the proposed common driveway, which is speaks to the intent of PDC 7 of the Zone; and
- the increased front setback to Prospect Road provides sufficient space for substantial landscaping and will provide an attractive transition between the public and private realm, as sought within the Desired Character statement within the Transit Policy Area.



6.2.2 Boundary Setbacks

Zone PDC 14 seeks development to achieve a minimum setback from the primary road frontage, within the Transit Living Policy Area, of 3.0 metres, the proposed building seeks a setback of 8.94 metres.

Zone PDC 16 seeks the following building setbacks:

Table 3 – Boundary Setbacks

DESIGNATE POLICY AREA	MINIMUM SETBACK FROM REAR ALLOTMENT BOUNDARY WITHIN URBAN CORRIDOR ZONE	MINIMUM SETBACK FROM REAR ALLOTMENT BOUNDARY ON A ZONE BOUNDARY	MINIMUM SETBACK FROM SIDE BOUNDARIES (WHERE NOT ON A STREET OR DIFFERENT ZONE BOUNDARY)
Transit Living	3.0 metres	<p>3.0 metres if closest portion of building is two storeys or less.</p> <p>6.0 metres where:</p> <p>a) the closest portion of building is more than two storeys</p> <p>b) the closest portion of the building is two storeys or less and increases in height to three storeys or more storeys within 6.0 metres of the boundary</p>	<p>Irrespective of height, no minimum on boundary, within 18 metres from the front property boundary.</p> <p>No minimum for remaining length for the ground level only.</p> <p>More than 18 metres from the front property boundary, 1st level and above (ie above ground level) should be setback 2.0 metres).</p>

Firstly, it should be acknowledged the proposed development does not seek to construct any wall to common boundary, and will be setback a minimum 8.94 metres from the primary frontage of Prospect Road.

Secondly, the subject site currently accommodates an approval for a four-storey building of significantly greater bulk with reduced setbacks to the side boundaries.

It is acknowledged that the upper level setbacks to the northern (side) and eastern (rear) boundary do not satisfy the requirements outlined above, however are considered appropriate for the following reasons:

- the reduced setbacks to the north and east will still allow for sufficient access to natural light for both habitable room windows and private open space areas of adjacent properties;
- the bulk and scale of the proposed development has been broken up through greater modulation and articulation of the building, by reducing the extent of uninterrupted/exposed external walls;
- the setback to the southern boundary significantly exceeds the minimum setbacks (with a proposed 3.9 metres to the balcony and 5.9 metres to the southern façade of the building) where the greatest benefit is derived from balancing the setbacks in the configuration of the site;



- the adjacent property on the south-eastern corner of Prospect Road and Regency Road is currently vacant; and
- adjacent dwellings to the north (side) and east (rear) are set well back from the common boundary, minimising visual impact from habitable room windows and spaces.

6.2.3 *Building Height*

Concept Plan Fig UrC/4 of the Development Plan (as illustrated below) demonstrates that development located on the subject site (circled in red) can measure three to four storeys in building height. The proposed development seeks the construction of a three-storey building.



Figure 1: Concept Plan Fig UrC/4 of the Development Plan.

Additionally, PDC 11 of the zone states the following:

POLICY AREA	MINIMUM BUILDING HEIGHT	MAXIMUM BUILDING HEIGHT
Transit Living	One storey	Three storeys and up to 11.5 metres

The proposed development seeks the construction of a three-storey building, located within the Transit Living Zone and therefore has appropriate regard to both the Concept Plan (figure 1) and PDC 11 of the Urban Corridor Zone.

6.2.4 *Private Open Space*

All dwellings will comprise private open space areas in the forms of upper level balconies on both the first and second floors, as detailed in **Table 2** of this report. This is considered to have appropriate regard to the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) associated with the provision of private open space, in the following manner:



- Council Wide PDC 149 seeks to ensure private open space areas have been designed and sited to ensure they are functional and serviceable to the likely needs of the occupants, the proposed private open space areas are considered to achieve these requirements in the following manner:
 - the first-floor balconies, which is the largest of the two, will be directly linked to the open plan living areas of each dwelling;
 - Dwelling 1 and 17 will have access to ground level private open space, with all other dwellings having access to a service yard area adjacent the northern (side) boundary;
 - the balconies will be shaded from the summer sun given their southern orientation, which will also allow for sea breezes to cool the main living areas;
 - given the balconies are orientated away from the main road, impacts with regards to air quality and noise are not considered detrimental; and
 - the balconies are of a sufficient area and shape to be functional and would comfortably allow for tables and chairs.
- Council Wide PDC 151 seeks to ensure private open space areas do not include driveways, effluent drainage areas, rubbish bin storage, rain water tanks or other utility areas – the proposed private open spaces do not include any of those elements;
- Council Wide PDC 153 states a minimum 15 square metres of private open space should be provided for three-bedroom dwellings, where located above ground level – the proposed development seeks to provide a total of 15.89 square metres in the form of two upper level balconies, one of which has direct linkage to the main open plan living space; and
- Council Wide PDC 154 seeks a minimum dimension of 2.0 metres, the first floor balcony will have a minimum dimension of 2.2 metres.

6.2.5 Visual Privacy

Council Wide PDC 140 of the Development Plan states the following:

Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as:

- (a) **appropriate site layout and building orientation**
- (b) **off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct to avoid direct line of sight**
- (c) **building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms**
- (d) **screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on resident's or neighbour's amenity.**



Having regard to the above, the proposed development seeks to provide fixed obscure glazing and/or sill heights to 1.7 metres to all upper level windows along the northern (side) and eastern (rear) elevations. Upper level balconies, which sit on the southern (side) of the building, will have restricted views of the adjacent property for the following reasons:

- the orientation of the dwellings on the adjacent property, as illustrated in the image below, are as such that no habitable room windows are directly orientated towards the subject site;
- the carport structures associated with the adjacent dwellings abut the common boundary, and substantially restrict views of private and communal open space areas;
- the upper level balconies of the adjacent properties do not comprise any form of external screening or glazing and therefore have unrestricted views of adjacent properties, including the subject site; and
- the proposed development seeks to erect a total of six arbours, which over time will be vegetated, providing a 'green screen' for both users of the proposed balconies, but also residents of adjacent properties.



6.2.6 *Overshadowing*

Given the orientation of the proposed development no overshadowing will occur to adjacent residential properties north (side) of the subject site and minimal shadowing to residential properties to the east (rear). Overshadowing to the residential properties immediately south of the subject site is not considered detrimental for the following reasons:

- the external walls associated with the building will be setback 5.9 metres from the southern (side) boundary;



- no habitable room windows are orientated towards the subject site, which is particularly important as they would be north-facing;
- two free standing carport structures directly about the common boundary further minimising the potentially affected areas; and
- ground level open space associated with the adjacent properties are already primarily covered by verandah/pergola structures or sheds, and are located between a two-storey built form on one side and a carport structure to the other.

Having regard to the above, the proposed development will not result in unreasonable levels of overshadowing to adjacent properties habitable room windows and/or private open space.

6.2.7 *Dwelling Configuration and Adaptability*

Council Wide PDC 173-175 seek variety of dwelling sizes and ranges in number of bedrooms for development proposing 10 or more dwellings. The proposed development seeks to provide 17 dwellings, and is considered to satisfy the intent of these provisions in the following manner:

- Dwelling 1 fronts the primary street, Prospect Road, with ground level habitable room windows orientated towards the street; and
- all dwellings are proposed to be two-bedroom only, however all dwellings have access to a spare lounge area or study, which could be readily used as a third bedroom.

6.2.8 *Landscaping and Deep Soil Zones*

The proposed development incorporates areas for substantial landscaping within the front setback of the proposed development, as well as along the southern (side) boundary and eastern (rear). The proposed level of landscaping is considered to have appropriate regard to the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) associated with landscaping and deep soil zones in the following manner:

- Council Wide PDC 165(b)(Street Interface) seeks to ensure well landscaped areas that contain deep soil space for medium to large trees, forward of the building. The proposed development provides two (2) separate spaces forward of the dwelling for the planting of mature vegetation;
- Council Wide PDC 180 (Environmental) seeks the provision of deep soil zones to provide areas that can accommodate new deep root vegetation. This policy is targeted towards residential flat buildings where basement car parking may preclude ground level landscaping. The proposed development provides approximately 45 square metres of deep rooted soil zones within the front setback which has been set aside for landscaping and can accommodate one small and one medium tree, in accordance with the applicable table;



- the landscaping strip along the western (rear) boundary has been extended, and whilst doesn't measure 3.0 metres in width provides deep soil zones that are of sufficient space to accommodate several small trees, which would measure up to 6.0 metres in height;
- Council Wide PDC 181 (Environmental) seeks to ensure deep soil zones have adequate access to natural light, which the proposed deep soil zones will, given they sit west of the subject site, and have access to northern light;
- Council Wide PDC 348 (Landscaping) seeks to ensure development is landscaped in a manner that enhances the character and amenity of the development and locality, the proposal seeks to achieve this as follows:
 - the introduction of arbours over the common driveway will work two-fold by screening the upper level component from adjacent properties to the south (side), whilst also softening the visual appearance of the building when viewed from the street;
 - the arbours will enhance the visual privacy of adjacent properties to the south (side); and
 - the deep soil zones to the west of the proposed building are able to accommodate mature vegetation that will help screen and shade west facing windows of Residence 1.

6.2.9 Waste Management

The proposed development seeks the addition of 17 residential dwellings to be contained within a three-storey residential flat building. The proposed development is considered to have appropriate regard to the relevant Council Wide provisions relating to waste management in the following manner:

- the proposed development will be connected to the mains sewer;
- Council Wide PDC 276 seeks to ensure appropriately sized areas to facilitate the storage of receptacles (containers) that will enable the efficient recycling of waste. Table 4 below provides the waste calculations for bin storage requirements for waste generation associated with medium density development with no gardens in accordance with the 'Better Practice Guide Waste Management', prepared by Zero Waste.



Table 4: Waste Storage

WASTE TYPE AND GENERATION RATE	# BEDROOMS	REQUIRED VOLUME (LITRES)	BIN TYPE/SIZE	PROPOSED VOLUME (LITRES)
General Waste¹ (@ 35 Litres per Bedroom)	50	1,750	2 x 1,100 Litre	2,200
Recycling (@ 30 Litres per Bedroom)	50	1,500	2 x 1,100 Litre	2,200
Green Organics² (@ 10 Litres per Bedroom)	50	500	1 x 1,100 Litre	1,100

- as evidence by the table above, the proposed development provides sufficient storage facilities for all forms of waste, which will be managed by a private contractor;
- Council Wide PDC 277 seeks to ensure the bin storage areas are appropriately located and screened, the proposed location forward of the main building is considered to satisfy these provisions in the following manner:
 - the bin storage area will be screened from the street and common driveway by a 1.8 metre high solid fence;
 - the storage and location of the waste will not contaminate stormwater; and
 - the bin storage area is located well within the subject site.

6.3 Vehicle Access and Parking

6.3.1 Vehicle Access

The proposed development seeks to reinstate the existing vehicle access in the north-western corner back to kerb and gutter and create a new dual vehicle access point in the south-western corner, which will service all dwellings associated with the proposed development. This approach was generally supported by the Department of Planning, Transport and Infrastructure (DPTI) in their referral comments dated 15 September 2017, subject to adjustments to building setbacks to future proof the site from road widening requirements. Plans have since been amended to respond to these concerns.

¹ General Waste and Comingled Recycling to be collected weekly by private contractor

² Green Organics to be Collected Fortnightly by private contractor



6.3.2 Vehicle Parking

The proposed development proposes to provide one on-site vehicle park per dwelling in the form of a lock up garage, as described in **section 5.2.5** of this report. Additionally, aside from Dwelling 1, all dwellings will have sufficient space forward of the garage for one on-site visitor space. Having regard to this, the proposed on-site vehicle parking arrangements are considered to have appropriate regard to relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) in the following manner:

- Table 3 of Table Pr/5 states a requirement for 1.25 vehicle parking spaces per three (plus) bedroom dwelling with an additional 0.25 per dwelling for visitor parking;
- having regard to the above, Dwelling 1 comprises two bedrooms while Dwellings 2-17 comprise three bedrooms, and provide one vehicle parking space, in the form of an enclosed garage with a minimum internal dimension of 5.8 metres in length by in excess of 3.0 metres in width, per dwelling;
- visitor parking is also provided, with one space per dwelling provided, this will be located in-front of the garaging with a minimum clear dimension of 5.4 metres clear of the 6.0 metres wide vehicle access aisle, and therefore improving the security and safety of both residents and visitors, as sought by Council Wide Objective 20 (Medium and High-Rise Development);
- all vehicles will be able to enter and exit the subject site in a forward direction;
- each dwelling will be able to provide bike 'parking' either in the rear service yard or attach a wall hanging device for the garage; and
- having regard to the above, the proposed development satisfies the requirements for provision of on-site vehicle parking for residents, and exceeds the requirements for visitor parking.

7.0 CONCLUSIONS

In summary the proposed development, which will comprise the construction of a three-storey residential flat building comprising a total of 17 residential units, is considered an appropriate form of development when assessed against the relevant Council Wide and Zone Objectives, Desired Character and Principles of Development Control (PDC) associated with the Prospect (City) Development Plan (consolidated on 30 May 2017) in the following manner:

- PDC 1 of the Urban Corridor Zone envisages residential flat buildings such as proposed;
- PDC 4 of the Zone seeks to ensure development has regard to Concept Plan UrC/4 with regards to minimum and maximum number of stories – the proposed development is three-storey;



- PDC 6 seeks to ensure vehicle parking is not visible from the public realm, which is achieved with all access and spaces provided along the southern (side) elevation;
- the proposed development will not result in unreasonable levels of overshadowing to adjacent habitable room windows and/or private open space;
- the proposed development has been designed and sited to minimise direct views of adjacent properties habitable room windows and/or private open space through the use of fixed obscure glazing to the north (side) and east (rear) and the construction of six vegetated arbours attached to the southern side of the building;
- all dwellings have access to sufficient and functional private open space areas;
- all dwellings will have access to sufficient on-site vehicle parking for both residents and visitors; and
- all vehicles will be able to enter and exit the subject site in a forward direction.

We therefore form the opinion that the proposed development, subject to statutory referrals and public notification, presents substantial planning merit to warrant the issue of Development Plan Consent.

Greg Vincent MPIA
B/A in Planning

20 November 2017

APPENDIX A

Attachment

REAL PROPERTY ACT, 1886



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 6104 Folio 694

Parent Title(s)	CT 5791/950			
Creating Dealing(s)	ACT 11855551			
Title Issued	18/12/2012	Edition	2	Edition Issued 12/08/2015

Estate Type

FEE SIMPLE

Registered Proprietor

ANGELO PROPERTIES (NO 12) PTY. LTD. (ACN: 603 344 154)
OF 8A WEST THEBARTON ROAD THEBARTON SA 5031

Description of Land

LOT 1 PRIMARY COMMUNITY PLAN 27564
IN THE AREA NAMED PROSPECT
HUNDRED OF YATALA

Easements

NIL

Schedule of Dealings

NIL

Notations

Dealings Affecting Title NIL

Priority Notices NIL

Notations on Plan

Lodgement Date	Dealing Number	Description	Status
28/11/2012	11855552	BY-LAWS	Filed

Registrar-General's Notes NIL

Administrative Interests NIL

APPENDIX B

Attachment

PLANNING DRAWINGS

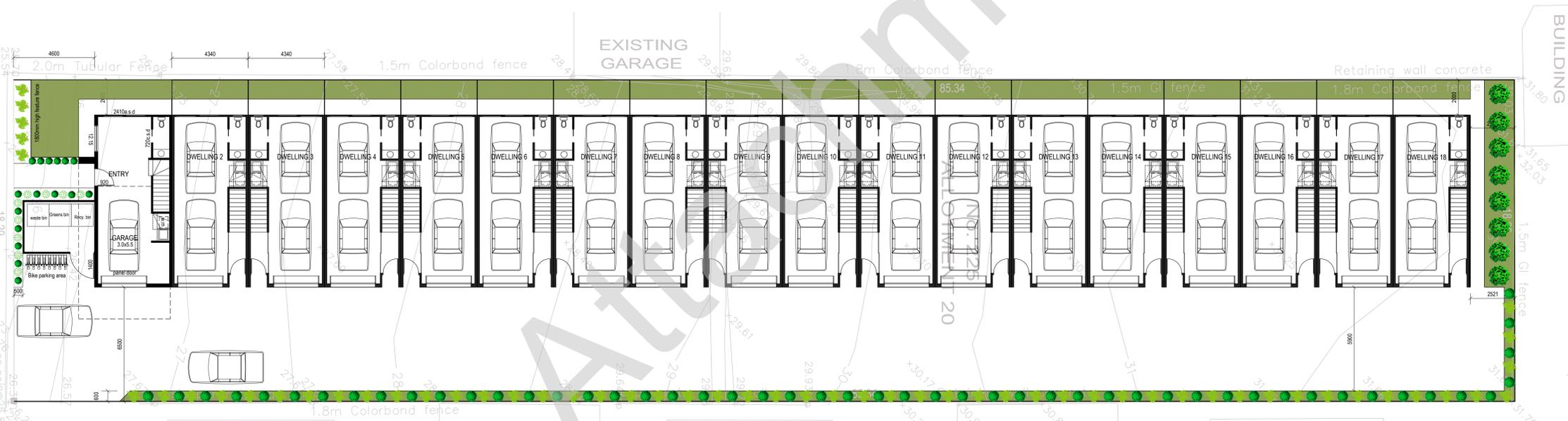


Western Elevation

Southern Elevation

Northern Elevation

225 PROSPECT ROAD



LANDSCAPING BOTANICAL NAME

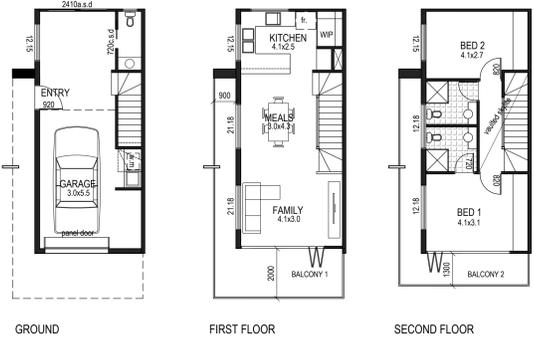
- Trees: 0m - 10m high
- Shrubs: 1m - 2m high
- Ground cover: 1m - 2m high

COLOUR / MATERIALS SCHEDULE

- Walls: Painted - Monochrome or similar
- Fences: Painted - Monochrome or similar
- Roofs: Aluminium windows - Colour - PVC Black

Dwellings 1

AREAS:	
GROUND	42.48
LEVEL 1	41.45
LEVEL 2	42.49
BALCONY 1	16.92
BALCONY 2	13.43
TOTAL	156.77 sq m
P.O.S	39.03 sq m
TOTAL SITE AREA	1500 sq m
ALLOTMENT SIZE	80 sq m app



Dwellings 2-18

AREAS:	
GROUND	42.48
LEVEL 1	41.45
LEVEL 2	42.49
BALCONY 1	8.16
BALCONY 2	5.10
TOTAL	139.68 sq m
P.O.S	22.14 sq m
TOTAL SITE AREA	1500 sq m
ALLOTMENT SIZE	80 sq m app



Project No: 88617
 Drawing Type: PRELIM PLANS
 Scale: 1:100_A0
 DATE: 12/07/17
 TYPE: PLANNING
 NOTE: ALL SURVEY DETAILS ARE PROVIDED. ALL BOUNDARIES ARE TO BE CONFIRMED BY A LICENSED SURVEYOR PRIOR TO COMMENCEMENT. PLANS MAY BE SUBJECT TO CHANGE AT CLIENT'S COST.
 THIS SITE PLAN IS SUBJECT TO WRITTEN CONFIRMATION FROM COUNCIL AND ANY INFRASTRUCTURE LOCATION ON OR NEAR THE PROPOSED SITE.
 Dimension Energy Services
 224-460-48 (C) copyright 2017
 PROPOSED RESIDENCE FOR: STEVE VACCA
 AT: 225 PROSPECT RD PROSPECT

AGENDA ITEM: 5.2

To: Council Assessment Panel (CAP) on 9 April 2018

From: Scott McLuskey, Senior Development Officer, Planning

Proposal: Removal of a Significant Tree (Lemon Scented Gum) (DA 050/534/2017)

Address: 33 California Street, Nailsworth (CT 5326/247)

SUMMARY:

Applicant: Steven Henwood

Owner: Greg and Joan Reimann

Planning Authority: Council

Mandatory Referrals: Nil

Internal Referrals: Consulting Arborist

Public Notification: Category 1

Presentations: Requests to be heard received from applicant and owner

Development Plan Version: Consolidated 21st April 2016

Zone and Policy Area: Residential Zone, A450 Policy Area

Issues: Contribution to Locality, Tree Health, Safety Risks

Recommendation: **Approval**

ATTACHMENTS:

Attachment 1 Development Application Form

Attachment 2 Locality Plan

Attachment 3 Subject Land

Attachment 4 Site Plan

Attachments 5-19 Arborist Report

Attachments 20-32 Arborist Report

Attachments 33-55 Supporting Statement from Applicant

Attachments 56-63 Supporting Statements from Owners

Attachments 64-78 Arborist Report for Previous Pruning Works

1. EXECUTIVE SUMMARY

- 1.1 The proposal is for the removal of a lemon scented gum tree, that is significant as a result of its listing within Council's Development Plan (i.e. its removal would not require approval if not for its listing). The tree is located in the front yard of an existing dwelling at 33 California Street, immediately adjoining the boundary of 31 California Street.
- 1.2 The provisions of the Development Plan seek the retention of significant trees where they contribute one or more identified positive aesthetic or environmental attributes. Where a tree achieves one or more of these attributes, the Development Plan anticipates that it should only be removed under limited circumstances relating to unacceptably high safety risks or damage to substantial buildings.
- 1.3 Council's consulting arborist identifies that the tree is in good health and is likely to have a long life expectancy. The tree is also identified as one of the largest trees within the locality, and thus significantly contributes to the character and visual amenity of the local area. Based on a visual inspection of the tree, a detailed risk analysis was undertaken which noted that while failures were possible (and could cause severe harm to users of the footpath, front yards or driveways), such failures were unlikely to occur.
- 1.4 Against this however, it is noted that the tree has demonstrated a history of small and medium branch failures despite significant previous maintenance pruning works being undertaken. It is apparent that the extent of previous failures was not evident during the inspection of the tree's canopy by Council's consulting arborist, due to maintenance works undertaken in 2016 that tidied up failure points. The arborist report associated with these maintenance works, as well as the supporting photographs, demonstrate the number of failures that have occurred despite multiple, substantial pruning activities having been performed upon the tree's canopy.
- 1.5 Given the high level of harm identified by both arborists if further branch failures occurred, and in the context of the tree's history of limb failures and poor response to pruning works in the past, it is considered that the proposal should be approved.

2. LOCALITY AND SUBJECT LAND

2.1 Locality

- 2.1.1 The locality is residential in nature with dwellings in the locality consisting of single and two storey detached dwellings, many of which remain original to the division of the area. Street trees within the locality are a mix of mature and semi-mature ages. Largely as a result of pruning associated with overhead powerlines, but also as a result of the species planted, mature trees are typically of limited height, though feature broad canopies that contribute positively to streetscape amenity. Private landscaping is typically comprised of ground covers, shrubs and juvenile trees of maximum 3-5m in height.
- 2.1.2 The broader locality, indicating the location of the subject land within the relevant Zone and Policy Area as described in Council's Development Plan, is described in **Attachment 2**.

2.2 Subject Land

- 2.2.1 The subject land is located on the southern side of California Street, opposite the intersection of Rolfe Street and Meredith Street. The land comprises one allotment with a total area of approximately 590m². The subject tree is located adjacent the boundary of the subject land with California Street and the adjoining dwelling at 31 California Street as illustrated below:



2.2.2 Existing site improvements comprise a two storey semi-detached dwelling, with a paved driveway adjacent the subject tree. The adjoining property comprises a single storey detached dwelling with a concrete driveway adjacent the subject tree. No other significant trees are present on the subject land.

2.2.3 The subject land is illustrated on **Attachment 3**.

3. PROPOSAL

3.1 The proposal is for the removal of a listed significant tree, a Lemon Scented Gum.

3.2 The tree is listed in Table Pr/4 of the Prospect (City) Development Plan, and was listed on the basis of its contribution to the amenity of the locality. The tree is approximately 2.6 metres in circumference when measured at 1 metre above the natural ground level, and is approximately 7m from the existing dwelling at 33 California Street. Ordinarily, a tree of this species that is within 10m of an existing dwelling would be exempt from requiring development approval to remove. As a result of its listing however, the tree is defined as a significant tree pursuant to the *Development Act 1993*, and thus development approval is required.

3.3 The applicant is a neighbouring resident of the tree, who has provided a site plan showing the tree's location in relation to nearby dwellings and site features (refer **Attachment 4**) as well as a supporting statement (refer **Attachments 33-55** including a substantial number of photographs and audio clips demonstrating the concerns that lead to the lodgement of the application. An arborist report (refer **Attachments 20-32**) and several supporting statements from the tree owners (refer **Attachments 56-63**) have also been provided.

4. BACKGROUND

4.1 Relevant to the context of this application is the history of approvals granted for pruning works to be undertaken to the subject tree. Such approvals were granted in 2011; for relatively significant pruning works to manage risks associated with tree canopy adjacent

power lines and above the adjoining dwellings, and again in 2016; for maintenance and reduction pruning to reduce the risks of limb failure and tidy up previous failure stubs.

- 4.2 A suitably qualified and experienced arborist, who also undertook the actual pruning works, submitted these applications on behalf of the tree owner. Each application was supported by detailed arboricultural reports demonstrating the existing condition of the tree and the intended pruning works. The report associated with the 2016 application has been provided in conjunction with the owner's supporting statements (refer **Attachments 64-78**).

5. REFERRALS

5.1 Internal (Advisory) Referrals

- 3.1.1 Council staff sought a report from an independent consulting arborist to confirm the health, life expectancy and risks associated with the tree, particularly in the context of the safety risks and amenity impacts highlighted by the applicant. This report, prepared by Mr Sam Cassar of Symatree Pty Ltd, is attached (refer **Attachments 5-19**). Mr Cassar's findings are considered in detail later in this report.

5.2 External (Legislated) Referrals

- 5.2.1 No external referral was required.

6. PUBLIC NOTIFICATION

- 6.1 The application is a Category 1 form of development pursuant to Section 38 of the *Development Act 1993* and Schedule 9 of the *Development Regulations 2008* as it involves a tree-damaging activity on private land. As such, no general public notification was undertaken.
- 6.2 As mentioned earlier in this report, the tree owner has submitted a statement supporting this application.

7. PLANNING COMMENTARY

- 7.1 Numerous cases before the Environment, Resources and Development (ERD) Court have established the process by which significant trees should be assessed against the provisions of the Development Plan, noting that these provisions are common throughout Metropolitan Adelaide (as a result of the various policies being created through a Ministerial Development Plan Amendment).
- 7.2 The matter of *Summers v City of Unley* [2002] SAERDC 113 is regularly referenced with respect to assessment process, in which the Court expressed that three key considerations are required:
1. Does the subject tree achieve one (or more) of the positive attributes of Council Wide PDC 346?
 2. If so, does it fulfil one of the removal criteria set out by Council Wide PDC 349?
 3. If so, has it been demonstrated that all other reasonable remedial treatments will be ineffective?
- 7.3 Importantly, this means that if a tree does not meet any of the positive attribute tests set out by Council Wide PDC 346, it follows that the removal of the tree should be approved. Further, if the tree does achieve any of the positive attribute tests, its removal should only be approved if it fulfils one of the removal criteria of Council Wide PDC 349 and it is demonstrated that remedial measures will be ineffective.

8. PLANNING ASSESSMENT

8.1 Desirable Positive Attributes

8.1.1 The provisions of Council's Development Plan anticipate the preservation of significant trees which provide important aesthetic and environmental benefits. The circumstances by which a tree is of important aesthetic or environmental benefit is provided by Council Wide PDC 361. A summary of the relevant elements of that provision in relation to the tree is provided below:

Provision	Standard	Assessment Note
PDC 361(a)	Does the tree make an important contribution to the character of amenity of the local area?	Yes (In the opinion of Council Staff and both consulting arborists)
PDC 361(b)	Is the tree indigenous to the local area, or an endangered native species?	No
PDC 361(c)	Is the tree an important habitat for native fauna?	No (Neither arborist observed any indication of nesting)
PDC 361(d)	Is the tree part of a wildlife corridor or native vegetation?	No
PDC 361(e)	Is the tree important in the maintenance of local biodiversity?	No
PDC 361(f)	Is the tree a notable visual element in the landscape of the local area?	Yes (In the opinion of Council Staff and the consulting arborist)

8.1.2 It is the opinion of Mr Cassar that the subject tree remains a prominent, notable feature of the locality. The tree's height, canopy, location and the limited number of substantial trees within the locality are said to contribute to this prominence. This opinion is shared by Council staff.

8.1.3 The ERD Court has placed significant weight on achieving a threshold level of importance or notability in its past judgements relating to desirable positive aesthetic tree attributes. It is considered that the tree achieves this threshold level and as such demonstrates sufficient aesthetic contribution so as to warrant its retention.

8.2 Removal Criteria

8.2.1 Certain circumstances exist by which a tree that is of important aesthetic or environmental benefit may be removed, which are provided by Council Wide PDC 364. A summary of the relevant elements of that provision in relation to the tree is provided below:

Provision	Standard	Assessment Note
PDC 364(a)(1)(i)	Is the tree diseased and its life expectancy short?	No (In the opinion of both consulting arborists)
PDC 364(a)(1)(ii)	Does the tree represent an unacceptable risk to public or private safety?	(The advice of the arborists differs on this point)
PDC 364(a)(1)(iii)	Is the tree within a Bushfire Prone Area and within 20m of a habitable building?	No
PDC 364(a)(1)(iv)	Has the tree been shown to be the cause, or is the tree threatening to cause, substantial damage to a	Unable to be determined (No supporting advice from a suitably qualified structural

	substantial building?	engineer has been received).
PDC 364(a)(1)	Have all reasonable remedial treatments and measures been determined to be ineffective?	(The advice of the arborists differs on this point)

- 8.2.2 The approach taken by the arborists in considering the level risk posed by the tree differs substantially. Mr Schultz has approached this question generally, noting the presence of sensitive targets in close proximity to the tree and in the context of its past failures. Mr Cassar has applied an internationally supported risk assessment tool in reaching a conclusion that the tree ultimately has a low risk rating. It is noted that this assessment assumes that the tree has no history of medium or large branch failures, and that tree pruning would maintain risk at acceptable levels.
- 8.2.3 Council staff have reservations with the approaches of both arborists. Mr Schultz's report does not consider the impacts or likelihood of tree failure, nor the potential for pruning or other treatments to ameliorate the identified risks.
- 8.2.4 Against this, Mr Cassar's report has not identified the medium sized branch failures that have occurred (which is likely to be a result of the 2016 maintenance works that tidied up these failure stubs), which are clearly relevant factors in the consideration of the capacity for pruning works to maintain an appropriate level of risk. Further, given that pruning works in 2016 tidied up any failure stubs present, any observable failure stubs represent failures that have occurred within a 2 year period of reasonably substantial pruning works.
- 8.2.5 Additional to this, it is noted that the medium sized branch failure observed by the arborist within the 2016 pruning application occurred approximately 4 years after what were described as very substantial pruning works were undertaken. It is considered that this history suggests that the tree has continued to experience small to medium branch failures despite regular pruning by qualified arborists.
- 8.2.6 Both arborists observe that the area below the tree canopy is regularly used by cars and people and that the consequences of a small to medium branch failure would be severe. In particular, Council's consulting arborist identifies that a branch of 50mm to 80mm in diameter could, if it failed, cause severe harm to passing pedestrians or people using the front garden of either home. As described by the preceding paragraphs, and as shown in the images below, the tree has demonstrated a propensity to drop limbs of this size or larger despite pruning works intended to minimise the risk of this occurrence.



(Photograph of branch failure, approximately 140mm diameter, 19 December 2015
Source: Applicant's Supporting Statement)



(Photograph of 50mm-80mm sized branch failure, 6 December 2015 Source: Applicant's Supporting Statement)

8.2.7 Council staff consider that sufficient evidence, in the form of the applicant's supporting statement and the arborist reports presented in the 2011 and 2016 pruning applications, has been provided to demonstrate that remedial treatments have been ineffective in preventing the failure of small to medium branches.

8.2.8 Given this, it is concluded that the subject tree does fulfil one of the removal criteria prescribed by Council Wide PDC 364.

9. CONCLUSION

9.1 Council Wide Principle of Development Control 361 of Council's Development Plan suggests that it is desirable for a significant tree to be retained if it makes an important contribution to the character or amenity of the area. If a significant tree does make an important contribution, it should only be removed if it fulfils the removal criteria set out by Council Wide Principle of Development Control 364.

9.2 The subject Lemon Scented Gum tree is considered to be a prominent visual element within the landscape of the local area and as such, makes a notable positive contribution to the amenity of the locality. It is considered that the tree's contribution achieves the threshold level of contribution described by PDC 361 and should thus be retained.

9.3 Both consulting arborists have concluded that the tree is in good health, is expected to have a long life expectancy, and is not within a Bushfire Prone Area. Insufficient evidence has been provided to determine whether the tree is causing, or threatening to cause, substantial damage to a building.

9.4 Council staff consider, having analysed the arborist reports received in relation to this application and in relation to a history of other relevant applications, that the tree does represent an unacceptable risk to public and/or private safety. Further, and via this same analysis, Council staff consider that remedial treatments have been undertaken and have been demonstrated to be ineffective in appropriately mitigating these risks. As such, it is considered that the tree does fulfil the removal criteria set out by PDC 364.

9.5 The application is therefore considered to be consistent with the relevant provisions of the Prospect (City) Development Plan and warrants the granting of development plan consent.

10. RECOMMENDATION

It is recommended:

That with reference to the relevant provisions of the Prospect (City) Development Plan, the zoning of the land within which the proposed development is situated and the locality within which the land is situated, the Panel resolves that development application 050/471/2016 is not seriously at variance with the Development Plan and as such a decision shall be made on the merits of the application; and

That pursuant to the *Development Act 1993*, as amended, Development Plan Consent be granted to DA 050/471/2016 for Removal of a Significant Tree (Lemon Scented Gum) at 33 California Street, Nailsworth (CT 5326/247), subject to the following conditions and advisory notes:

1. The Significant Tree approved herein for removal shall be replaced with three (3) trees, which must be planted and maintained to the satisfaction of the Council. The replacement trees cannot be of an exempt species as described in Regulation 6A(5) of the *Development Regulations 2008*, nor shall they be planted within 10 metres of an existing dwelling or swimming pool. A site plan showing the location and species of the

replacement trees shall be provided to the Council. If replacement trees are not able to be provided, then a payment of \$256.50 (or 33% of this amount if the owner of the land is a pensioner) must be paid to the Planning and Development Fund.

Advisory Notes:

- (1) Upon granting of development approval, the development must be:
- a) Substantially commenced within twelve (12) months from the date of the decision of this Approval, otherwise this Approval will lapse at the expiration of twelve (12) months from this date (unless Council extends this period); and
 - b) Fully completed within three (3) years from the date of the decision of this Approval, otherwise this Approval will lapse at the expiration of three (3) years from this date (unless Council extends this period) and a new development application shall be required.

Any request for an extension of the operative period of this approval must be submitted to Council in writing, accompanied by the applicable fee.

- (2) Pursuant to Section 86(1)(a) of the Development Act, 1993, you have the right of appeal to the Environment, Resources and Development Court against either 1) a refusal of consent or 2) any condition(s) which have been imposed on a consent. Any such appeal must be lodged with the Court within two (2) months from the day on which you receive this notification or such longer period as may be allowed by the Court.

The Environment, Resources and Development Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide SA 5000 (Postal Address: GPO Box 2465, Adelaide SA 5001).

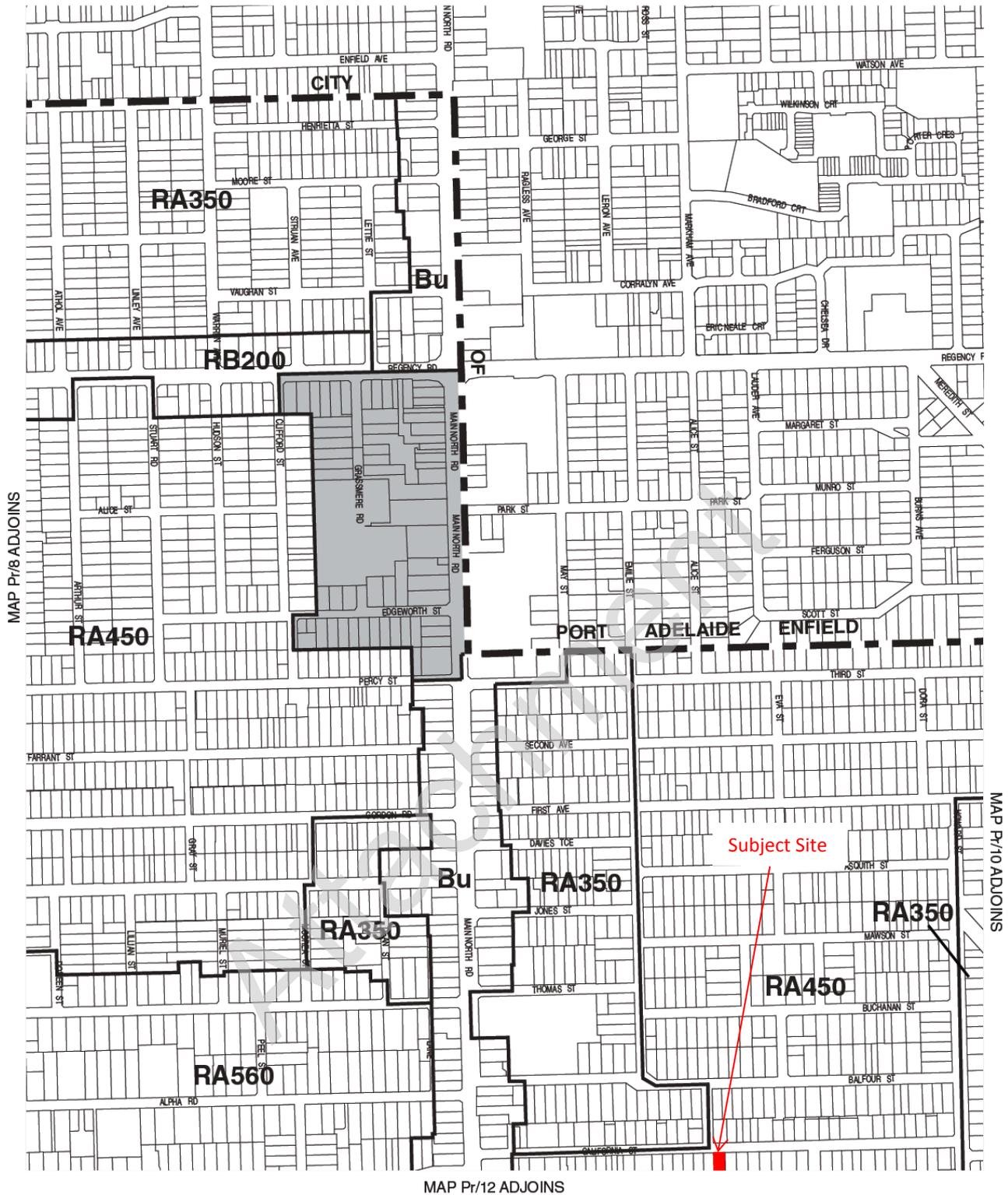
- (3) At all times during the progress of removal work:
- a) Any area where it is possible that a person could be injured by falling or rebounding branches or limbs, should be fenced or barricaded to prevent people entering the area.
 - b) Clearly legible notices, warning people of the danger of removing the tree, should be affixed in places where they will be readily visible to anyone approaching the area.
 - c) Temporary structures should be provided as necessary to ensure stability of any remaining part of the tree during removal work.
 - d) There shall be no burning of the tree on the site.
 - e) Any footway, nature strip or road, is not to be obstructed or rendered inconvenient or dangerous during removal work.



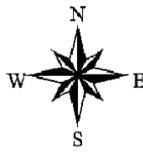
CITY OF PROSPECT
Development Services
 128 Prospect Road, Prospect SA 5082
 Telephone (08) 8269 5355 Facsimile (08) 8269 5834

Development Application Form

Application No.: 050 / 471 / 2016 (Office Use Only)		
1. Application Type (select one)		
<input type="checkbox"/> Development Plan Consent only (Planning Only)	<input type="checkbox"/> Building Rules Consent only (Building Only)	<input type="checkbox"/> Development Approval (Planning and Building)
2. Location of Proposed Development		
Unit #:	House #: 33	Street: California street
Suburb: Nailsworth	Postcode: 5083	CT Volume and Folio: CT5326/247
3. Details of Parties		
Applicant		
Name: Steven Henwood	Address: 31 California St, Nailsworth SA 5083	
Contact No.:	Email:	
Owner <input checked="" type="checkbox"/> as applicant		
Name: Mr Greg Reimann	Address: 33 California Street, Nailsworth SA 5083	
Contact No.:	Email:	
Builder <input type="checkbox"/> owner builder <input type="checkbox"/> as applicant <input type="checkbox"/> to be advised <input type="checkbox"/> other		
Name: Tempest's Arborist Service	Address: PO Box 53, Park Holme, SA 5083	
Contact No.:	Email:	
Builders Licence No.		
4. Proposal Details		
Description of Proposal: Complete tree removal of lemon scented gum tree situated in front of 33 California Street Nailsworth SA 5083		
Existing Use of Property: Residential		
Estimated Cost of Development: \$ 8,500		
5. Declarations		
• Building Rules Classification sought:		Present Class:
• Proposed number of employees (for Class 5, 6, 7, 8 or 9):		
• Proposed number of persons for whom accommodation is provided (Class 9a only):		
• Proposed number of occupants on the premises (Class 9b only):		
• Does Schedule 21 or Schedule 22 of the Development Regulations 2008 apply (activities of environmental or major environmental significance)? <input type="checkbox"/> yes <input type="checkbox"/> no		
• Has the Construction Industry Training Board (CITB) levy been paid? <input type="checkbox"/> yes <input type="checkbox"/> no		
<p>I acknowledge that Council may make copies of this application and documentation in accordance with the <i>Development Regulations 2008</i> and <i>Development Act 1993</i>. Details forming part of the application may be included in a Development Assessment Panel agenda published on Council's website.</p> <p>If published, I request that Council obscures my telephone number and email address. <input checked="" type="checkbox"/> yes <input type="checkbox"/> no</p> <p>I have sought permission from the architect/engineer to allow reproduction of the application documents for provision to third parties. <input type="checkbox"/> yes <input type="checkbox"/> no</p>		
Name: Steven Henwood	Signature: S. Henwood	Date: 13/12/2016
<input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> Builder		



- RA560** Residential Policy Area A560
 - RA450** Residential Policy Area A450
 - RA350** Residential Policy Area A350
 - RB200** Residential Policy Area B200
 - Bu** Business
-
- Policy Area Boundary
 - Development Plan Boundary
 - Area not covered by Policy



PROSPECT COUNCIL POLICY AREAS MAP Pr/9



Civic Centre
 128 Prospect Road
 Prospect SA 5082 AUSTRALIA
 Telephone: 08 8269 5355
 Email: admin@prospect.sa.gov.au

Subject Land and Locality



Notes
 33 California Street, Nailsworth

Disclaimer
 This map is a representation of the information currently held by the City of Prospect. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated.

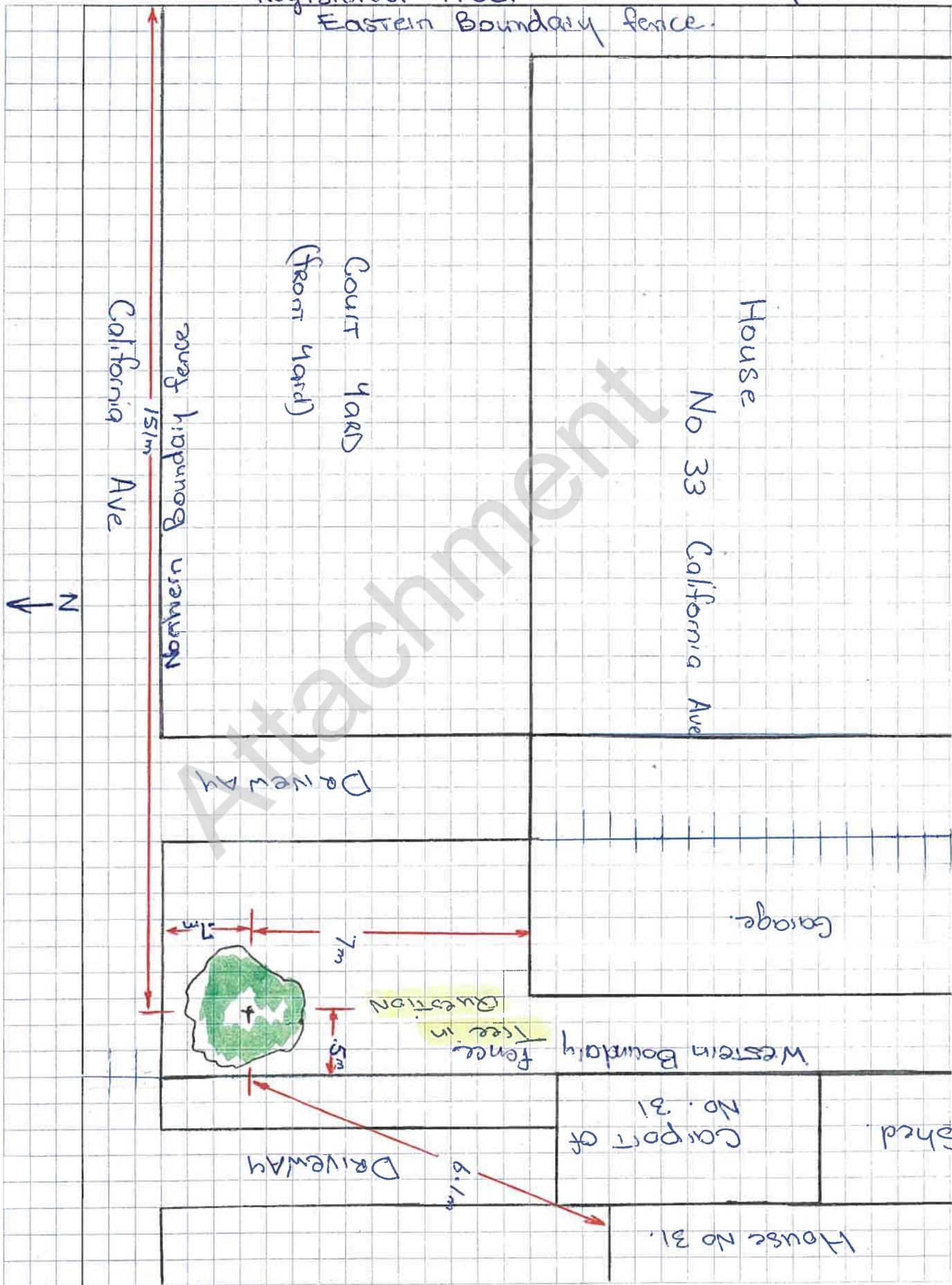
JOB Mr and Mrs Gregory and Joan

Sheet1..... of1.....

Reimann Significant Tree as part of Council Registered Tree.

Calculator Bob Schultz

Date 14/12/17



SYMATREE



Tree Assessment 33 California Street Nailsworth

File No. DA 050/471/2016

Report prepared for

Scott McLuskey
Senior Development Officer, Planning
City of Prospect
February 2018

Report prepared by

Sam Cassar

Cert.3 (Hort), Dip. (Hort 5), Dip. (Arb 5), B.App. Sc (Hort), Grad. Dip. Design (Land.)
Member Australian Arboriculture

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Introduction

Instructions

I was instructed by Council to reassess a mature Lemon Scent Gum located in the front yard of 33 California Street. My brief was to undertake the following:

- Assess tree health and structural condition.
- Assess the tree against the relevant provisions of the Development Act 1993.
- Recommend appropriate actions.

Site Visit

I carried out a follow up inspection on the on the 19 February 2018. The initial inspection was conducted on the 16 January 2017.

Limitations

This report is limited to the time and method of inspection. The tree was inspected from ground level only. Neither a climbing inspection or a below-ground investigation was performed. No soil or plant material samples were taken for laboratory analysis.

This report reflects the state of the tree as found on the day. Any changes to site conditions or surrounds, such as construction works undertaken after the inspection, may alter the findings of the report.

The inspection period to which this report applies is three months from the date of the site visit, on the basis that current site conditions remain unchanged.

Information Provided by Council

Tree report Mr Schultz December 2017
Statement from the applicant.

Date of Report

This report was written on the 19 February 2018.

Observations



Figure 1. Subject Tree, viewed from the north-east (taken February 2018)

Location of tree

The tree is located within the front yard, north-western corner of 33 California Street. The trunk centre is 0.5 metres from the western boundary fence and 7.4 metres from the dwelling at 33 California Street (refer Figure 1).

The subject trees' approximate location is identified on the aerial image provided in Appendix A.

Species

Corymbia citriodora commonly referred to as a Lemon Scent Gum.

Observations (cont)

Crown attributes

Height: 22 metres (clinometer)

Width (from trunk measured out): south 7.5 metres, north 8.1 metres, west 7.1 metres and to the east 10 metres (visual estimate).

Circumference at one metre above natural ground level

Single trunk: 2.55 metres.

The tree is a mature specimen that qualifies as a Significant tree given the tree has been identified in Table Pr/4 of the Council's Development Plan (April 2016).

Structure/Condition

The subject tree consists of a single vertical trunk to a height of approximately 4.2 metres at which point two main leaders arises to form a relatively upright crown that has a slight bias towards the south. Main leaders are held centrally and to the south-east.

The trunk is still stable with no evidence of termites or borer activity.

The canopy is still in good health with foliage density and vigour normal and typical of the species. All leaders and lateral branches are healthy and actively growing. The canopy is free from notable pests and diseases. A small quantity of small diameter dead wood is present at various points throughout the crown.

The primary branch unions appear well formed; although a scar consistent with bird damage is noted, upper face south-eastern leader. Secondary branch unions also appear to be sound and free of any recognizable significant structural flaws or weaknesses that can be observed from ground.

A number of pruning scars are evident throughout the lower to mid crown. This pruning has occurred over a number of pruning events to manage the crown. No pruning appears to have occurred within the last 12 months. No significant decay altered wood or termite damage was observed within the face of these pruning scars.

As previously observed the tree does not display a history of significant branch failure. However evidence of branch failures (diameters less than 50mm approximately) were noted (refer Figure 2). No additional significant branch failures have occurred since the tree was assessed 12 months ago. Some end weight and descending branching characteristics are apparent particularly on the upper north-eastern and south-eastern sides of the tree.

Property Damage

No significant damage to private property or Council infrastructure that can be attributed to the subject tree was observed. Some heaving to the concrete paved driveway of 33 California Street was observed when the tree was assessed.

Observations (cont)



Figure 2. Branch failures, circled in red (taken January 2017).

Appraisal

The subject tree is considered significant under the current provisions of the Development Act, 1993 and in my opinion possesses attributes worthy of retention.

This tree has a strong visual presence/appeal within the locality and is a prominent feature in the landscape. The subject tree has a high aesthetic value and makes an important contribution to the landscape character and amenity of the local area.

I note evidence of branch failure\ provided by the applicant all occurred during extreme storm events, January 2017, December 2015 and July 2010. During these storm events no significant branch failures occurred (i.e. branches with diameters greater than 100mm). The tree was able to withstand some of the strongest storms ever experienced in the Adelaide metro area. It is not unusual during strong wind events that poorly formed branches fail due to excessive wind loading.

Comments provided by the applicant's arborist claims no pruning options are available to reduce the risk of future branch failure. This is incorrect given the subject tree has a relatively good branching structure. I note he described the tree's crown as being dense and formative. General pruning specifications have been provided in a subsequent section of this report.

The applicant's arborist claims the tree has collar rot which is incorrect, he claims my initial report did not identify the tree had history of branch failure, this was also incorrect. My initial report identified a history of minor branch failure. As previously stated no significant branch failure has occurred since the tree was initially inspected Mr Shultz also claims the subject tree is prone to sudden branch failure during warm weather; there is no evidence this has occurred in the past or will occur in the future.

Appraisal (cont)

He incorrectly identified Compartmentalisation, a dynamic defence and protection process used by trees as Decommartmentalisation. He also incorrectly interpreted the risk assessment model applied in my initial report, included as part of this report.

I observed no recent excavation adjacent to the subject tree or obvious root damage. Excavation by the NBN typically occurs via hydrovac, a tree sensitive construction techniques.

As previously stated the subject tree is still in good health with no additional significant branch failures occurring since the tree was assessed 12 months ago, is not causing any obvious damage to a building or property of significant value. The subject tree is expected to offer a reasonably long useful life expectancy of approximately 50 plus year. However, this is subject to being maintained and management by a qualified arborist on a regular basis.

Risk Assessment

An updated risk assessment of the subject tree has been provided using the *International Society of Arboriculture* tree risk assessment method. The same method applied in my initial report.

The method calculates risk in two steps; the likelihood of a failure occurring and the likelihood of the failure impacting a target. The matrixes determine the likelihood of the possible failing part or parts impacting a target.

I am qualified to use the 'International Society of Arboriculture tree risk assessment method'. More information about this method can be found in the American Standard ANSI A300 Part 9: - Tree Shrub and other woody plant management – Standard Practices and Tree Risk Assessment Manual by International Society of Arboriculture 2013.

Factors taken into account during a risk assessment include history of branch failure, likelihood of failure, tree age health and vigour, level of previous maintenance performed, current defects, species characteristics, surrounding site factors, potential targets and occupancy rates.

Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of Impacting Target			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Matrix 2 Risk rating matrix

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very Likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat Likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low

Appraisal (cont)

In this tree risk assessment, I have considered the following specific factors in the likelihood matrix:

- The site appears to be stable for the last few years with no obvious significant changes to the root growing environment.
- This tree has no history of notable branch failure.
- I found no evidence of internal hollowing/decay or other significant defects within the branching structure and the tree overall is in good health.
- The tree displays a branching framework that offers pruning options to continue maintaining risk at acceptable levels.
- The likelihood of whole tree failure and main leader failure under normal weather conditions in the coming two years is considered to be improbable.
- The likelihood of a small to medium sized live branch failure within the coming two years is considered to be possible.

Target Assessment

The following assessment is based upon existing site use under normal seasonal weather conditions. An approximation of the likely occupancy of the targets identified has also been provided.

The potential targets that would be impacted if branch failure were to occur include:

Potential Targets	Likelihood of Impacting the Target
People and vehicles using and occupying the driveway of 33 California Street. Usual occupancy would occur on an infrequent/ occasional basis.	Medium
People occupying the front garden, 33 California Street. Usual occupancy would occur on an infrequent basis.	Low
Small trellis/ pergola, front of dwelling at 33 California Street. Constant Target	Medium
People and vehicles using and occupying the driveway of 31 California Street. Usual occupancy would occur on an infrequent/ occasional basis.	Medium
People occupying the front garden, 31 California Street. Usual occupancy would occur on an infrequent basis.	Low
People occupying the footpath. Usual occupancy would occur on an infrequent/ occasional basis.	Low
Vehicles occupying California Street. Only a small section of California Street is located under the tree's crown. Potential occupancy rate is occasional.	Low
Boundary fencing. Constant Target	High
Overhead powerlines, Low and High conductors. Constant Target	High

- Only very minor overhang exists over the dwellings at 31 and 33 California Street (habitable) targets such as a dwelling are located under the canopy of the subject tree.

Appraisal (cont)

Likelihood of failure

I consider the likelihood of a part failing from the subject tree is possible. This determination is based upon the following assumptions:

- The crown does display overall canopy form typical of the species.
- The tree has an ongoing history of pruning to manage the crown.
- The live branch failures likely to occur are between 50 to 80mm in diameter.

Consequences of failure

The consequences of a branch of this size (i.e. 50mm to 80mm) impacting the potential targets are as follows:

Potential Targets	Consequences of failure
People and vehicles occupying the driveway of 33 & 31 California Street.	Severe harm to persons and minor damage to vehicles
People occupying the garden areas of 33 & 31 California Street.	Severe harm to garden users
People occupying the footpath.	Severe harm to pedestrians
Vehicles occupying California Street.	Minor damage to the vehicles
Boundary fencing.	Minor damage
Overhead conductors.	Minor damage

Appraisal (cont)

Failure Rating

The failure rating for each of the identified potential targets are as follows:

Potential Targets	Failure Rating
People and vehicles occupying the driveway of 33 & 31 California Street.	Low
People occupying the garden areas of 33 & 31 California Street.	Low
People occupying the footpath.	Low
Vehicles occupying California Street.	Low
Boundary fencing.	Low
Overhead conductors.	Low

The result of this risk assessment for the subject tree was an overall **low risk rating.**

Appraisal (cont)

Pruning Requirements

Specific pruning requirements for the subject tree are beyond the scope of this report. However, the tree does display defective branches that if left unmanaged are likely to fail in the future during strong wind/storm events and pruning should be implemented in the next 12 months to maintain risks to acceptable levels.

In general, the following pruning guidelines are recommended to address defects within the crown of the subject tree:

- Prune the over-extended lateral branches in accordance with the reduction pruning method as defined under Australian Standard, AS 4373-2007 *Pruning of Amenity Trees*. The term over-extended branches refers to those secondary lateral branches that protrude from the general outer canopy and overly exposed to excessive wind forces. Pruning of these branches is intended to reduce their length to that of the surrounding canopy.
- Reduction pruning should be restricted to within the outer third of lateral branch extensions. Assess each lateral branch and prune to reduce over-extension growth and prune back to suitable reduction points. Pruning should be performed to encourage good quality branch structure and maintain or enhance the tree's natural habit.
- Thinning/reduce crown areas with excessive end weight, particularly those branches that are descending/horizontal in orientation. Each area is to be assessed and selectively remove or reduce branches to manage load distribution and thin branch density thereby reducing the level of loading.
- Remove dead branches over 30mm in diameter, excess epicormic growth particularly from the inner crown, branch stubs from previous failures or poorly pruned branches.
- Climbing spurs or spikes are not to be used, unless being used for an emergency aerial rescue.
- Avoid splitting or tearing the bark on the trunk or parent branch by pre-cutting limbs that are too heavy to support with one hand.
- Remove cut limbs from the crown of the tree upon completion of pruning.
- No limbs or stems are to be lopped.
- All broken, cracked or severely damaged branches should be removed.
- All pruning must be in accordance with Australian Standard, AS 4373-2007 *Pruning of Amenity Trees* and completed by a suitably qualified Arborist (minimum Level 5). The pruning specified should be carried out under the supervision of the project arborist.

Also it is recommended to monitor tree health and safety. An assessment by a qualified Arborist should be conducted in 18 to 24 months, subject to growth rates.

Objectives and Principles of Development Control

The subject tree has been identified as Significant. The following comments have been made in regards to the relevant Objectives and Principles of Council's Development Plan (February 2018):

Principle 361

- (a) Does the Significant Tree make an important contribution to the character or amenity of the local area?

Yes: The tree's location, height and spread of crown gives it a strong visual presence within the immediate locality. It is a large, mature tree, making it a prominent feature in the landscape.

- (b) Is the Significant Tree indigenous to the local area and is its species listed under the National Parks and Wildlife Act as a rare or endangered native species?

No: The tree is not indigenous to the local area or listed under the National Parks and Wildlife Act as a rare or endangered native species.

- (c) Does the Significant Tree represent an important habitat for native fauna?

Yes: The subject tree would not be considered an important habitat for native fauna. No hollows suitable for nesting are present within the crown of the subject tree.

- (d) Is the Significant Tree part of a wildlife corridor or remnant area of native vegetation?

No: There is no visual evidence to indicate the tree is part of a wildlife corridor or part of an area of remnant native vegetation.

- (e) Is the Significant Tree important to the maintenance of biodiversity in the local environment?

No: The tree is not important to the maintenance of biodiversity in the local environment as it is not a local indigenous native species. But the tree does indirectly represent part of the maintenance of biodiversity in the local environment given its age and size.

- (f) Does the Significant Tree form a notable visual element to the landscape of the local area?

Yes: The tree can be viewed from a number of vantage points from within the locality. The subject tree forms a notable visual element in the landscape of the local area, it is clearly visible from the street and surrounding properties for some distance as one travels from any direction away from the subject tree. It would be one of the largest trees within the locality.

Objectives and Principles of Development Control (cont)

Principle 364 (a)

Significant trees should be preserved and tree damaging activity should not be undertaken unless one or more of the following applies:

(1)(i) Is the Significant Tree diseased and its life expectancy short?

No: The tree is not diseased and it is expected to have a relatively long useful life expectancy under existing environmental and site conditions and with the on-going management and maintenance by a qualified arborist.

(1)(ii) Does the Significant Tree represent an unacceptable risk to public or private safety?

No: The tree currently represents a low risk to private and public safety at this time. It is my view, with on-going management and maintenance by a qualified arborist and ongoing monitoring, the likelihood of future branch failure is considered acceptable at this time.

(1)(iii) Is the Significant Tree within 20 metres of a residential, tourist accommodation or habitable building and is it a bushfire hazard within a Bushfire Prone Area?

Not applicable

(1)(iv) Is the Significant Tree shown to be causing or threatening to cause substantial damage to a substantial building or structure of value?

No: No visual evidence exists this tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value.

(2) Have all other reasonable remedial treatments and measures have been determined to be ineffective?

No: Pruning options and on-going management and maintenance by a qualified arborist (with recognised level 5 or greater qualifications) including ongoing monitoring are available to maintain the risks associated with future branch failure to acceptable levels.

Conclusion

The subject tree is a mature *Corymbia citriodora* is considered to be 'significant' under the Development (Regulated Trees Variation) Regulations 2011 given the tree has been identified in Table Pr/4 of the Council's Development Plan.

This tree continues to provide a high level of amenity to the locality and significantly contributes to the character and visual amenity of the local area.

The tree is still in good health and structure with no notable defects to justify removal at this time. When the *International Society of Arboriculture* tree risk assessment method was reapplied an overall low risk rating was still determined.

On the basis of the factors outlined, I still consider the subject tree is **worthy of retention**.

I wish to stress that trees are natural living organisms and it would not be professional or prudent to guarantee the absolute safety of any tree. This is not possible unless trees were made from inert substances and most reasonable people would not make that choice.

Even with appropriate canopy management, I cannot give an absolute guarantee that branch failure will not occur in the future. However, it is my view with on-going management and maintenance by a qualified arborist, the likelihood of future branch failure for the subject tree is considered acceptable at this time.

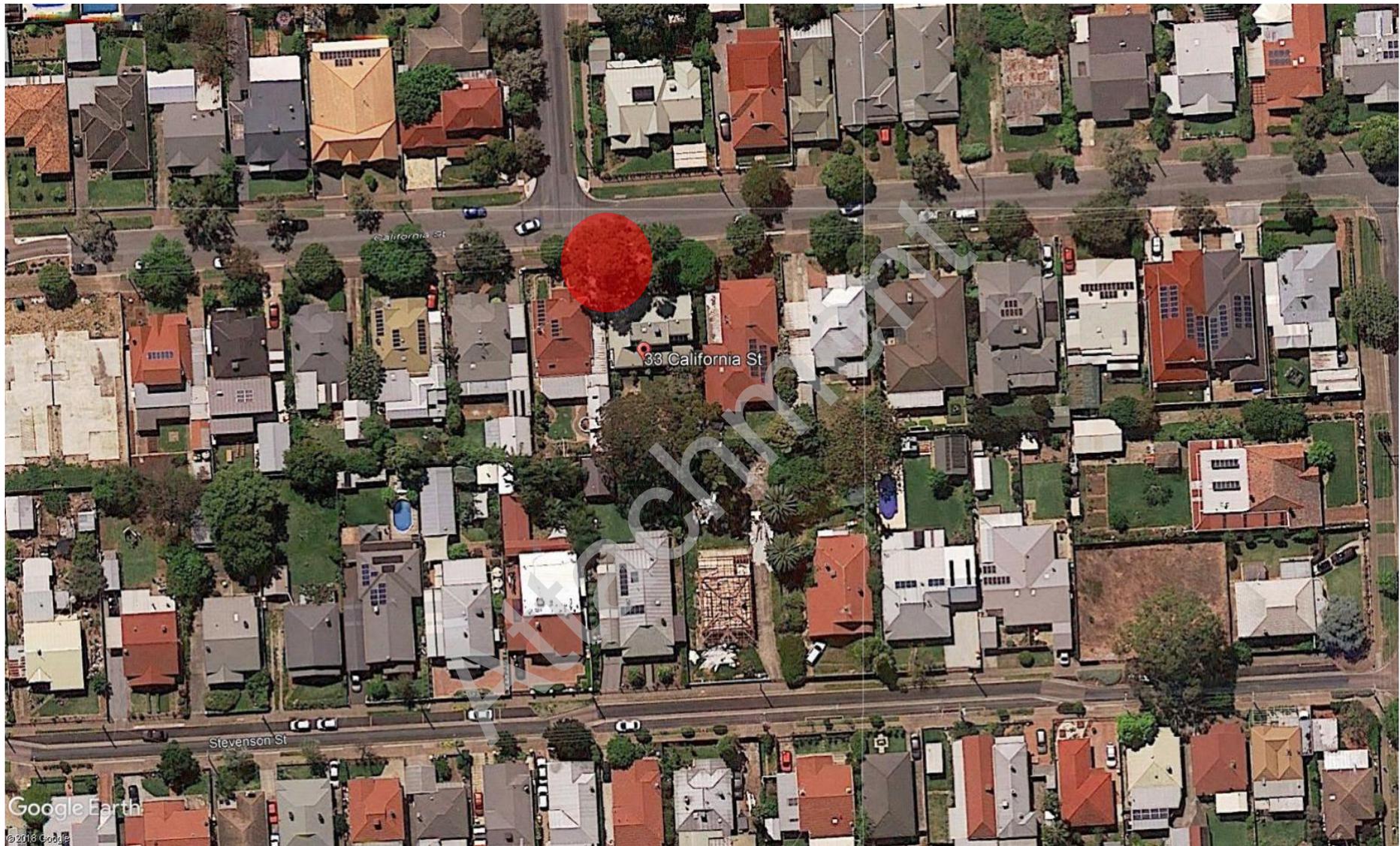
Thank you for the opportunity to provide this report. Should you have any questions or require further information, please do not hesitate to contact me.



Sam Cassar

Appendix A Aerial Image

Attachment



Tree Report for the City of Prospect

C/O Planning Office

14/12/17

**On Behalf of Mr Steven Henwood – Neighbour at 31 California ST.
0430719403 – e email - stevenh@adam.com.au**

(Owner of the property – Mr and Mrs Joan and Gregory Riemann) 0438132732

33 California Street,

Nailsworth, Sth Aust. 5083. – Email: Joan.Reimann@bigpond.com

**Location of Tree - (address as above) in the front yard of property at No.33
California St, Nailsworth**

Species Name – Common Name – Lemon Scented Gum

Botanical Name – Corymbia citriodora

**Measurements – (1 Significant Tree) - see photo 1 – under the councils - Bi Law
(Development Plans).**

**Circumference – 2.57m Regulated Tree under the Significant Tree Act and
Regulation**

Height =19.8m

Crown = 17m

Measured by a True Pulse Laser

Approx. age of tree 45-50 years old

History of Tree

I was asked by Mr Henwood and his neighbours' Mr and Mrs Joan and Gregory Reimann to investigate their Lemon Scented Gum Tree as it is constantly failing. Both people are concerned because it has been dropping limbs and damaging Mr Henwood's roof, Mrs Riemann's house and pergola **see photo 3**. Also it taken the area off power many times and will only be a matter of time before charges are made to recover costs for SA Power Networks especially if council knock back this report and the tree remains. They have now put insulated covering on the High Voltage lines to stop this but the outages are still occurring as this doesn't stop the lines from falling- **see photo 2**

The neighbour next door, Mr Henwood often has his friends over to visit and just recently a large limb dropped from the gum just missing his friend's daughter. The young girl was very frightened and her father was very upset due to this failure.

There has been several reports written on this tree, a report written on this gum in January 2017 by councils arborist (Symatree) states that this gum has had no failures and has done no known damage, this is incorrect as this tree has had many failures and has done extensive damage. It also demonstrates that this gum with the risk assessment is unlikely to cause failures and the consequences of failures are low - this also incorrect as **we have photos of failures, dates when these occurred and the damaged which occurred, this included in this report**

Mr Henwood states that during the Summer Months during very hot weather, this tree constantly drops gum nuts on his roof and is very loud. He is unable to sleep at nights and is a serious problem with his job as it involves driving large cranes and Elevated Platform Vehicles. He requires constant concentration and because of his lack of sleep he finds this constant problem interfering badly with the safety of his job and he takes his job very seriously and the only way this can be resolved this is by having the tree removed, **there is a disk supplied by Mr Henwood in this report**

The owners of this tree agree with Mr Henwood's request as they want this tree removed before any more damage occurs to buildings, cars or someone gets hurt.

There have been concerns raised from United Water who have been out to Mr Henwood property due to his blocked toilet and the Reimanns because the blockages were in the street in the main sewage pipes because of this tree.

Health of Tree

After investigating this gum it appears on face value that the gum is in good health. It has no visible disease, no termites or Longicorn Borer which is often the case of many gums during hot weather.

The tree is a mature species which qualifies as a significant tree in the Councils Development Plan - April 2016.

The tree is a single vertical trunk which at 4.1m it divides into two main leaders, then dividing into a dense formative crown area.

This species of tree normally only fails during hot weather and is prone to a phenomenon called Sudden Limb Failure and most failures occur from long horizontal limbs or sometimes called overextended limbs which this tree has many of such limbs. There has been extensive research into this type of limb failure and it is also called Decommatalisation – which means that when a species such as the Lemon Scented Gum or the Sugar Gum is put under stress such as usually lack of water during very hot days the gum shuts down a section of the tree and the limb fails. This because the tree needs a large amount of water to feed into the leaves to create sugars and nutrients to survive during these very hot days.

These branches are very prone to dropping limbs when the tree has been trimmed extensively and is also prone to open extensive hot winds which dry out the leaves faster than the tree can produce the water. If a gum such as this is not pruned the tree creates its own protective canopy and shades the tree from these drying winds.

Because these gums have a very open crown area and the limbs are usually very long and horizontal when further limbs are removed or extensive failures occur like this gum has experienced it further opens the crown to further destruction and the failures keep occurring and there is no known remedy but to remove the tree concerned **see photo 6**

There is 1 limb which is starting to form Collar Rot and this branch over time will also fail- **see photo 4**

I also believe NBN were installing the internet cables and went through the roots of this tree in 2016 and this is when the tree started to fail badly, Primary roots were damaged badly according to the owner Mrs Riemann and they had dug down 800mm deep trench work.

Safety Issues and Risk Rating of this Gum

This Lemon Scented Gum is a very **High Risk** Rating due to the issues below – and as discussed previously in the health of this tree.

- Main points:

1. This gum due to the unstable main limbs which are over extended lean towards the neighbour's property on the Western Side it is a severe safety issue with this neighbour and their driveway.
2. The owner of this property is very concerned with the safety of this gum over the council roadway and footpath and doesn't want any pedestrians becoming hurt or vehicles becoming damaged as there is a school nearby and the children often walk under this tree to school.
3. The owner Mr Reimann is very worried about the root system causing structural damage to the inside of their house as the floor and the walls are cracking badly as a result of this tree- **see photo - 5- showing hallway cracked badly.**
4. There is also a major safety issue of the footpath lifting on the council verge and if someone becomes hurt as a result of this tree Mr and Mrs Reimann will not take any further responsibility because they have informed council many times – **see photo 7.**
5. There is also the issue of constant limb failure damaging cars parked in Mr Henswood driveway and under his carport. He had to pay the access money for the damage caused to his work car which his boss was upset about. His girlfriend has had her car damaged several times.
6. During a severe storm in December 24 2016 a car was dumped in front of Mrs Reimanns property and the tree failed causing extensive damage and had to be towed away.
7. Mr Henwood has constant Health Issues with his toilet being blocked and has to always employ a plumber to clean the roots from the pipes and is an ongoing large costs which he can't afford.

Public Amenities of this Tree

Tree Rating – with a rating of 1-10

This South Australian Gum Tree would rate with a score of 5/10 which relates to: -

1. This tree is in only very average health due to the many failures and the pruning which has been tried as a preventative maintenance which has only further increased the possibilities of further failures as discussed in the health of the tree.
2. This tree is not a native of South Australia, and found mainly in Subtropical Queensland between Mackay and Maryborough along the coast to 300kms inland. It is an adaptable large ornamental tree – but as stated in a guide to Eucalypts by Ivan Holiday – a prominent tree expert it also stated these trees drop branches without warning during strong wind storms.
3. This tree does offers a reasonable attractiveness to native bird life as there is usually a large amount of white and reasonably prominent flowers which occur from Winter to Summer months but there is no visible signs of nesting present.
4. This Gum is in a front yard of the property and does offer an attractiveness to the street scope currently as it can be seen easily by residents in the street but the gum is a dangerous safety risk to all vehicles and especially children who often walk under this tree to school.
5. The tree has some major negative scoring issues due to the many safety issues, especially over the neighbour's side fence and the safety of people traveling by car on the council roadway and the footpath and the owner's front yard and the neighbour's yard.

Recommendations

So for mainly safety issues discussed and the trees constant limb failures I **would strongly suggest council give serious consideration for this gum to be removed** because it is only a matter of time before someone becomes seriously hurt or a fatality occurs and the owners will not take any responsibility if council refuses this removal as part of this regulation within the Signiant Tree Act and Regulation.

There has been 2 report written on this tree for removal and 1 negative in response to council by Symatree so this surely must qualified to council for this tree to be removed. Failing this removal there is a possibility legal action will be sort.

I also state as a disclaimer-that this tree was in only average condition at the time of inspection and I hold no claim of responsibility to other failures which may occur after the time of such inspections, which may occur in the form of further storm damage or unpredictable weather or act of god, especially if the council declines this report and the tree stays. **- By Bob Schultz**

I hope this Assessment meets with your approval

This Assessment was made by Mr Bob Schultz
6 Valour Court,
Golden Grove 5125 - Mob 0403582239

Qualified and Certified Arborist-

- Level 4 certificate in Arboriculture(The Advanced Certificate)
- Associate Diploma in Horticulture (level 5).
- Level 4 qualification in Environment studies.
- Level 4 Work Place Training and Development – Train councils and general tree contractors in level 3 and 4 Arb used to work as a qualified trainer for Civil Train.



Photo 1 – Shows the height and size of the crown area.

Red arrows High Voltage lines, Blue Lv lines, green covering on HV

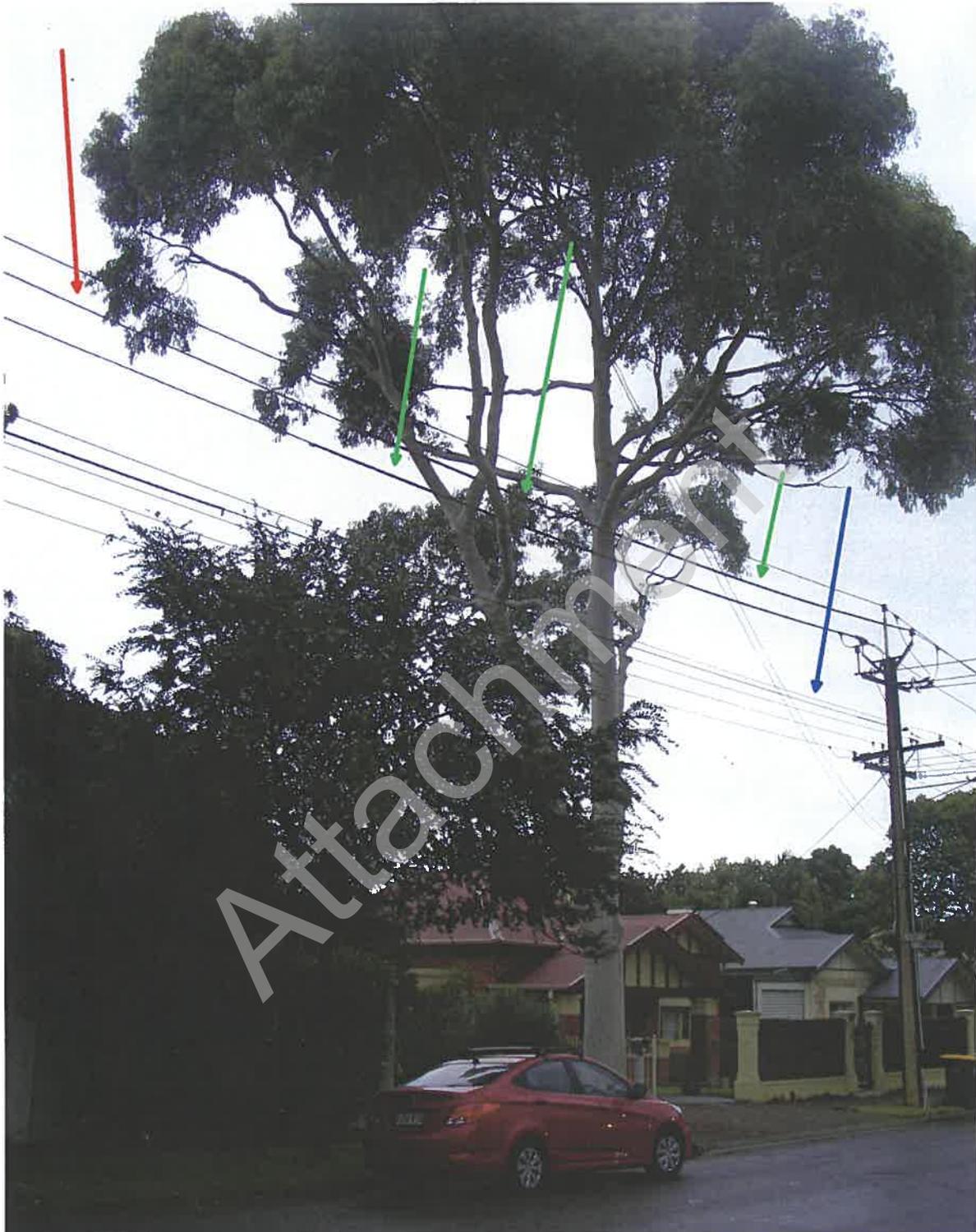


Photo 2 – Shows Red arrows High Voltage lines, Blue arrows shows Low Voltage lines and the green arrows show the covering SA Power Networks put on the High Voltage because the tree constantly drops limbs on the high voltage and shuts down the whole area. This wide spread outages has happened several times because of this tree.

This tree has caused extensive damage to the owners pergola making the brick work dangerous.



Photo 3 – This photo shows the pergola of the owner of the tree. This tree has had many failures and this failure has caused the pergola to become badly damaged and dislodging the pillar support.

Collar Rot starting to appear at the base of this branch which will also fail from this tree.



Photo 4 - Shows another branch with Collar rot forming and this branch will eventually fail

Area of cracking in the hallway of 33 California Street due to the root zone of Lemon Scented Gum



Photo 5 – Showing the large amount of cracking of the hallway due to the root zone of the Lemon Scented Gum

Arrows show small tapered limbs which normally fail on this species of tree in windy conditions



Photo 6 – Shows small long tapered limbs which often fail in this species of tree in hot windy conditions without any warning, which has been often the case of this particular gum.

Roots have caused the driveway to lift and the footpath- a severe tripping hazard



Photo 7 – Shows the driveway pavers and the footpath lifting because of the root zone of this tree and the safety issues it presents with a tripping hazard.

9th December 2016

Dear Sir/Madam,

My Name is Steven Henwood I Live at 31 California Street Nailsworth. I am writing as I have Safety and Nuisance concerns about the Gumtree at the front of 33 California Street Nailsworth. The tree in concern is a Lemon Scented Gumtree (*Corymbia citriodora*) and is considered "Significant" by the council. I have contacted via telephone your council office on several occasions about this tree raising safety concerns about dropping trunks/branches on and around my house. In the last 13 months this tree has made living in my property at Nailsworth very unpleasant and uncomfortable and is gradually getting worse for me. On windy days I dread going home after work, I am worried to step out my front door and struggle to get any sleep some nights. Along with this letter I have prepared a PowerPoint presentation to give a visual aid, and some audio files so the council can see/hear what I have to live with.

Recently the Neighbour that owns the tree has had the tree pruned back away from their house, this has had minimal effect to the amount of branches that drop on my side and the public's side.

I have contacted my neighbours about my intentions with the tree and they are in support of my Development plan and have supplied me with documentation of the damage it is causing to their property as the tree is causing them concerns.

Pruning was done just before I had taken ownership of the property. But on my first day arriving at the house a branch fell on the Power cable to my house which I had to call ETSA (at the time) to remove and repair the damage, I spoke to the neighbour that day and he said he gets it trimmed back every 4-5 years away from the houses.

The purpose of this letter is to highlight to the council that I have safety and nuisance concerns about this tree as it is hanging over my house and one day it will drop a branch that will cause major damage to my house and potentially a death. I want this tree removed. I am hoping the council will take a proactive approach with this tree and not a reactive approach and get something done about it before it causes injury to someone or a death. (Which it has come very close to doing so)

I have multiple nuisance and safety concerns:

1. Potential for a branch to hit myself, my family, visitors, neighbours and other public members causing serious injury up to and including death.
2. Damage to my building/structures from falling branches (refer Power Point photos).
3. Tree roots grow into my sewer drain blocking it, which in turn I have to get the Plumber out 2/3 times a year to clean out the tree roots (I have receipts for evidence if required).
4. Blocking my stormwater drains with leaves/twigs going down drains (I have had to have gutter guard fitted everywhere)

5. Issues with branches/twigs/gumnuts that land on my house roof and carport creating very loud noises. When it is a windy night I fail to get any sleep due to these dropping on my roof every 10-30 seconds. This happens about 2-3 times a fortnight, sometimes more. (I have multiple audio files of what it is like next to my bedroom wall which I will pass onto the council). I have tried earplugs to sleep but it does not help. This reduces my quality of life dramatically to the point I go to work with sleep deprivation.
6. I cannot park my car in my drive way in front of my house without it getting damaged. But the bigger issue is my cars are now getting damage underneath my carport from branches and gumnuts bouncing off neighbour's roof and hitting my car (refer PowerPoint photos of damage and where they drop).
7. I am constantly cleaning up branches from the tree in my yard, to the point when most weeks 1 bin is not enough to fit them all in.

The tree has been assessed by an Arborist and is classified as healthy, The Arborist is supporting me with my Development plan for the removal of the tree as he has examined the tree and the evidence provided to him and is in support that the tree is a Safety risk to people and property. He will be supplying me with an Arborist report early 2017.

I myself have no doubt it is healthy, but this doesn't stop the fact that it still drops what I consider large or "significant" branches onto my house or in my yard (over 50kg from over 8 metre height, refer Power Point presentation), I consider this a major safety concern. It is also a tree that is "known" to drop large branches. I want this tree removed before it causes any more damage to my or other people's property, or even worse cause's serious injury or a death. This tree is classified as a "significant" tree by the council Development Plan but I believe it to be exempt from the Ruling/approval due to being within 10 metres (5.6 metres by tape measure from centre of the tree to my structure/dwelling foundation). Refer to Development Regulations 2008 Part 2, 6A- sub regulation (5). (I have supplied a copy of this with the letter and Presentation). Also the fact that it is damaging my building/structure, my neighbours building/structure, my sewer system and my vehicles.

I will be looking forward to a response from the council and feel free to contact me to discuss this matter further.

Yours Sincerely

 9/12/2016.

Steven Henwood, 31 California Street Nailsworth.

stevenh@adam.com.au

0430 719 403

23-10-2016 – The Gumtree in question located in the front of 33 California Street Nailsworth

Lemon Scented Gumtree – My house is on the right of the tree.



The extent the tree overhangs my house.



Attachment

1/6/2014 – After a night with winds on and off. Winds not severe, have more photos if required.

Drive way – outward view



Drive way – inward view



6/12/2015 – After a windy night, large branches in front of Drive way and multiple branches everywhere

Drive way



Front Porch



6/12/2015 – After a windy night continued

Front of House



Front of House



19/12/2015 – After a calm night a “significant” branch hit my house, weighed over 50 kgs. About 10pm at night (photos taken next morning)

Attachment 39

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Front Porch – Note: I had visitors leaving my house they were extremely lucky they were at the front door under porch, if I did not have a porch they would have been struck by this branch.

Front of House next morning



Attachment 40 118
19/12/2015 – After a calm night a “significant” branch hit house – continued, damage to house

Where Tree clipped house



Damage to roof – Fortunately just clipped house



30/9/2016 – After a windy night, examples of branches dropping.

Drive way – after branch landed on house roof and fell off.



Carport



14/10/2016 – Damage to car after branches/gumnuts fly off neighbours roof, 2 examples only – have more if required.

Damage to car paintwork

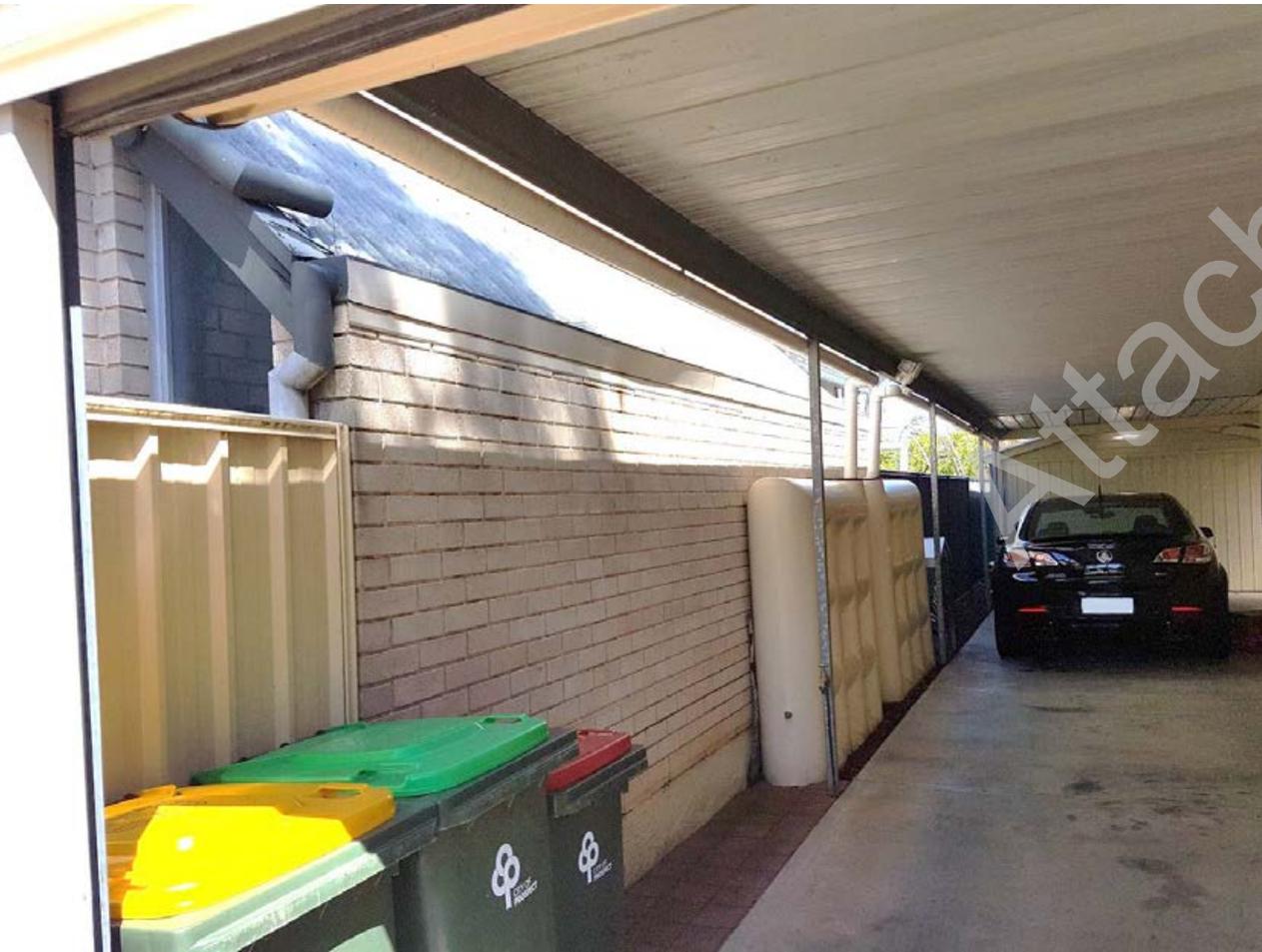


Damage to car paintwork



15/10/2016 – Where car parks and example of what drops.

Drive way – 2 cars park in there



Example of branches that drop



19/10/2016 – This is an example of what drops on roof, this is side opposite side of the Gumtree, also this was cleaned on 16-9-2016.



20/10/2016 – More examples of what drops in a single day when its windy.

Branch landed on roof then dropped onto driveway



Same branch-Different view



Another branch landed in driveway



20/10/2016 – More examples of what drops in a single day when its windy hitting cars and causing damage. I have more photos if required

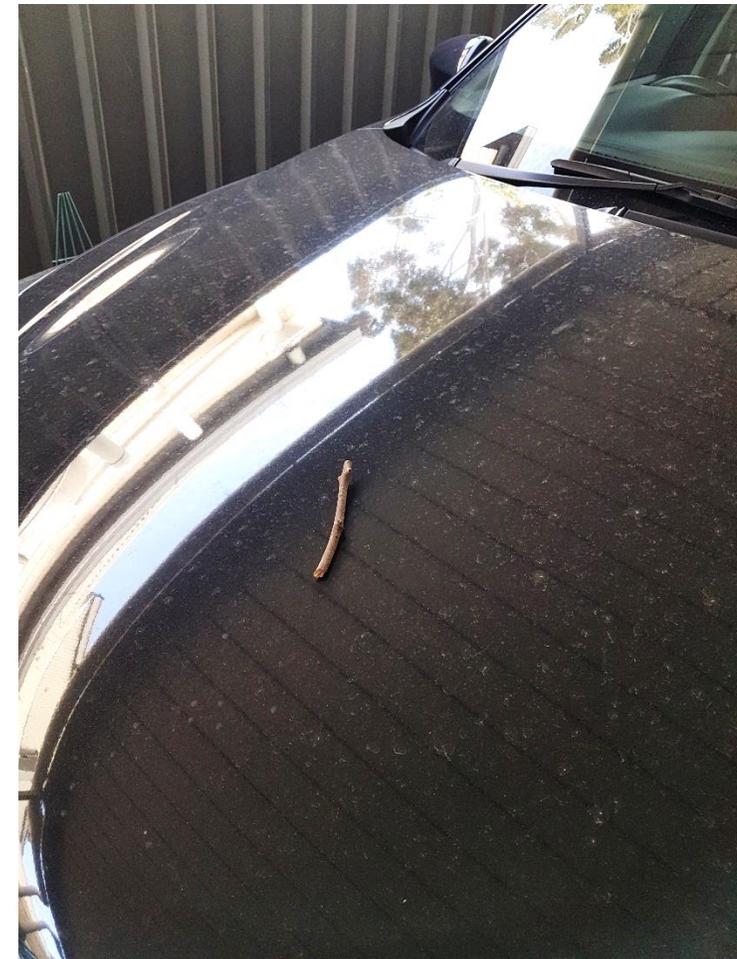
Example of branches that drop



Scale of branches, Note these are small to what generally drops.



Branches breaking when hitting cars and causing damage to paintwork



29/10/2016 – More examples of what drops in drive way and front porch.

Drive way



Front Porch



Attachment

30/10/2016 – Damage to car in carport due to falling branches

Branch Struck car in driveway



Branches blow from tree and damage cars



Attachment

30/10/2016 – Damage to car in carport due to falling branches

Damage to car



Examples of Audio recordings of branches and gumnuts, inside my bedroom with window open. **NOTE: The Recordings were taken 8 metres away from the centre of the tree, whilst my dwelling is 5.6 metres**

Attachment 50

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19/1/2017



19/1/2017



17/1/2017



Attachment

Examples of Audio recordings of branches and gumnuts, some taken about midnight and 6am in the morning, taken under carport next to bedrooms.

NOTE: The Recordings were taken 9 metres away from the centre of the tree, whilst my dwelling is 5.6 metres

9/10/2016



9/10/2016



9/10/2016



9/10/2016



9/10/2016



20/10/2016



Attachment

31/12/2016 – Photos from what was on roof from Adelaide storm 28/12/2016, I was in Melbourne at the time so I had no photos of what was left in the yard, they were large enough for 1 person not being able to carry out I was told.



31/12/2016 – Photos from what was on roof from Adelaide storm 28/12/2016, I was in Melbourne at the time so I had no photos of what was left in the yard, they were large enough for 1 person not being able to carry out I was told.



Far side of my roof and even branches on far neighbours carport from Gumtree



15/2/2017 – Twigs/branches that fall on my roof all the time, this was at 1:15am on a calm night, made a loud bang, thought it was a burglar.



Branch from 5-2-17 dropped on roof then landed on drive way



18/4/2017 – Branches that have caused more damage to one of my cars, deep chips out of paint.



Scott McLuskey
Acting Manager – Development Services
Prospect Council
15th January 2017

Re: Lemon Scented Gum at 33 California St (DA 050/471/2016)

Scott,

Thank you for the letter, dated 5th January, that you sent in relation to this request.

Our neighbour Steve has provided us with a copy of the letter he sent to council and discussed our attitude to the Lemon Scented Gum that is the focus of his request. Joan and I support Steve's proposal to have the tree removed.

If the tree was located in a large park it would be magnificent. Unfortunately it is located close to both of our houses, right over both of our driveways and also over the footpath. In windy conditions the tree is a real danger and we advise our guests not to park under it.

As the tree has grown the risk it poses has also grown. It is now out of scale with the street scape and we believe that the time has come for it to be removed.

Sincerely,

Greg & Joan Reimann
33 California St
Nailsworth

Attachment

33 California St – Lemon Scented Gum Liability

Background

The Lemon Scented Gum is located at 33 California St right on the boundary with 31 California St and the footpath. This tree is about 40 years old and towers over the high voltage powerlines. Prospect Council has registered this tree as a significant neighbourhood tree.

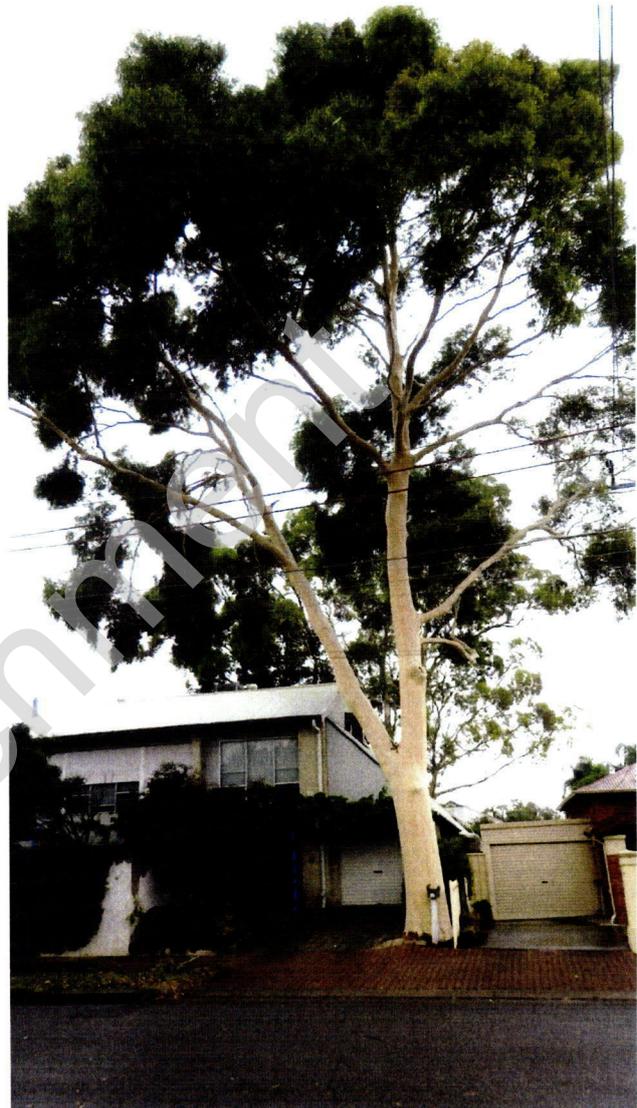
The tree is definitely a feature of this section of California St but as it has grown it is now beginning to present an increased liability risk.

High Voltage Power Lines

The photo clearly shows how the Lemon Scented Gum has the majority of its foliage significantly higher than the 33,000V power lines that run down California St.

During storms small branches regularly fall onto the high voltage lines. In previous years this triggered power outages so often that SA Power Networks has responded by "Sheathing" the power lines to stop short circuits from fallen branches.

Prior to Sheathing neighbours once called out the Fire Brigade when a large branch on top of the high voltage lines was on fire.



Storm Events

Storm 10th July 2010

A storm in 2010 caused a large amount of relatively small debris to fall from the tree. However one branch that landed in the neighbour's driveway was certainly large enough to be dangerous.



Storm 20th Dec 2015

Following four 40c days a cool change was accompanied by a storm. The Lemon Scented Gum had just started flowering so branches were weighed down with flower buds and the tree had been stressed by the heat wave.



At about 1:30am guests were leaving 31 California St (neighbour's house) when they heard a snap and a branch came crashing down 2m from where they were standing. Luckily they were standing under the veranda and as the branch fell it clipped the veranda gable, causing minor damage.

This branch weighed about 100kg and had the potential for a tragic outcome had anybody been hit.

Our neighbour is very understanding but we are now all becoming concerned with the risk that this tree brings.

33 California St. Building Damage

Pergola Damage

Almost every time there are strong winds branches break and fall onto the pergola at the front of the house. The impact of branches falling is clearly seen in the photo. A sheer in the brickwork has destabilised the pergola. The wires are no longer taut and the pergola wires sag across the length of the pergola which spans the front of the house. A broken wire resulted from one such incident. The pergola vine combination is an integral element to the passive solar nature of this home.



Window Damage

The stem of a fallen branch pierced the flyscreen of the upstairs bedroom. This could easily have resulted in a broken window.

Internal

The wall crack recent the invasive

The size and the recent



wall Damage

shown in the photo appeared during the most drought period with little doubt it was caused by root structure of the Lemon Scented Gum.

direction these roots head was very evident when NBN line was laid to the house.

Joan and Greg Reimann
33 California St,
Nailsworth
9th March 2018

Attention: Scott McLuskey
Senior Development Officer, Planning
Prospect City Council

Dear Scott,

This letter is in response to:

Tree Assessment, 33 California St, Nailsworth. File number DA
050/471/2016 Dated February 2018

We wish to express our disappointment and frustration with what we deem to be a somewhat unfair and inaccurate assessment, by Sam Cassar of this tree. Given that at no time has he afforded us the common courtesy of informing us that he is conducting such an assessment and checking some of the data that has been presented by us, we find it hard to accept some of his comments because they do not reflect the nature, behaviour and history of this tree.

We agree that this tree 'has a strong visual presence/appeal within the locality and is a prominent feature in the landscape.' However, there is a big difference between enjoying this tree from a distance knowing you carry no liability or responsibility for it, and living with it located on your property with the risk to persons, property, legal liability and the ongoing maintenance and associated costs.

Sam reported inaccurately that the tree 'is not causing any obvious damage to a building or property of significant value.' This suggests he did not conduct a thorough investigation or he would have noted the damage to the pillar by the garage door, the result of branches of varying sizes falling on the pergola over many years. Nor did he note the damage to our neighbour's roof line caused by a falling branch. If Sam had made contact with us these points could have been clarified and internal damage to our home pointed out. The statement also implies our homes (buildings) are not considered to have 'significant value.'

Sam's comment about the NBN connection to our property was also inaccurate. The spiel the NBN gives to the community and local government may be one of the use of 'a tree sensitive construction technique,' the reality of our experience was far from this. We were both

present as the NBN did our connection and observed the installers drilling through the root. To say this did not occur is accusing us of lying and we find this offensive.

Risk assessment

We are concerned that little emphasis has been given to the true nature and behaviour of **our** tree. It is all very well to base comments on what can be observed from ground level in a couple of random visits, together with the use of the International Society of Arboriculture tree risk assessment method. Try living with this tree and you would soon realise just how often branches of varying sizes and other debris fall from this tree. This is not reflected in this report. Storms, gusty weather and even mild to moderate wind conditions nearly always result in falls. The limbs are very brittle and for much of the year are heavy with blossom and maturing gum nuts. These can and do snap, falling from the canopy 20metres up. Similar size debris has fallen on hot still nights. It is ludicrous to think this poses little risk to persons and property.

Appraisal

According to Sam this tree has no history of notable failure. Given the tree is less than 40 years old it is not surprising that it does not display wounds of large failures. However this does not mean significant failures have not occurred. Growth of the tree together with skilled and careful pruning over the years has removed evidence of branch failure. Whilst we do not have documentary evidence to support the following events in the earlier history of the tree, there have been 2 notable incidents prior to Steve's occupancy of 31 California Street.

1. Returning from a stormy October long weekend away we found a large branch with a stem diameter of 100mm x 4m had fallen onto our driveway clipping the pergola.
2. The previous owners of 31 California St. were constantly badgering us to have the tree removed because of debris falling in their yard. When a significant branch fell and rolled under the roof of their carport onto their new car they decided enough is enough and sold up. Conversations with them were often around the fear that either of their 2 young children could be hurt by falling debris.

Sam states that the 'likelihood of a small to medium live branch failure within the coming 2 years is considered to be possible.' Given this occurred 2 nights ago on March 7th (See photo) it is no longer "possible" but has occurred within a month of his appraisal and



is typical of the behaviour of this tree. Even a branch of this size could cause a person significant injury. Hence we cannot place a lot of faith in this report.

Potential Target Assessment

The assessment that people and vehicles using our driveway are only medium potential targets is misleading. Given that we recognise the high risk of becoming a target, we avoid parking vehicles or spending significant time in our driveway. We recommend visitors park their vehicles on the street which comes with its own risks.

The assessment of the potential target risk to people occupying the front garden is way off. As we are both retired and are passionate gardeners we spend considerable time in the front yard. We include our front courtyard in this category with as much debris falling inside the courtyard as in the driveway. The courtyard includes an outdoor dining area which unfortunately we cannot use as often as we would like due to falling debris, which at one particular time of the year includes the caps popping off the flower buds and then later gumnuts causing great discomfort.

While the report considers 'only very minor overhang exists over the dwellings at 31 and 33 California St,' the impact on stormy nights is very disturbing. The constant bangs and crashes of debris falling on the roofs is scary, as we know it is only a matter of time before something of significance impacts either dwelling. Given that the master bedrooms of both dwellings are on the corner closest to the tree it should not be surprising that we feel threatened. We challenge Sam Cassar and or Scott McLuskey to spend a stormy night with us before passing judgement.

Pruning Requirements

Sam stated 'the tree does display defective branches that if left unmanaged are likely to fail in the future during strong wind/storm events and pruning should be implemented in the next 12 months.' Quite frankly this is an unachievable and unrealistic expectation given the cost of employing an arborist to undertake this task but more importantly that it is only 18 months since we last undertook a major pruning operation on this tree. As retirees we cannot afford to prune this tree this regularly. When we approached the council for assistance, we were told in no uncertain terms that the Prospect City Council does not assist with the cost or maintenance of trees they have labelled 'Significant Local Neighbourhood Trees.'

As you would be aware, we have taken great care to maintain this tree over the years. A number of applications, together with Arboricultural Reports by qualified arborists have been submitted to the Prospect City Council by us and the recommended maintenance undertaken. Keeping the tree healthy and free of hazardous material has been paramount in order to protect ourselves against liability. Experience with this tree has taught us to expect tree failures at any time. And it is only a matter of time before a major incident occurs in which an individual is seriously injured by falling material.

At this stage we have growing concerns that this tree has realistically become too big, unmanageable and an increasing risk to persons and property with its location, of 7m from the centre of the tree to our house and 6.1m to our neighbour's (Steven Hendwood). This is why we feel it is necessary to support Steve's application to have the tree removed.

Given the Prospect City Council is overriding our control of this tree, we can no longer accept sole responsibility and liability knowing the risks associated with it. Therefore if the application to remove this tree is unsuccessful, we will initiate legal action to transfer full legal liability of this tree to the Prospect City Council.

Sincerely,

Joan and Greg Reimann

Author:
Phone:
Address:
Email:

Duncan McGregor
0416929717
9 Armiger Court Holden Hill SA 5088
consultant@treevision.com.au

Arboricultural Assessment



Prepared for: Mr Greg Reimann
Issue Location: 33 California Street, Nailsworth SA 5083
Council Area: City of Prospect

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Attachment

Summary & Recommendations:

This report describes and provides qualified arboricultural recommendations following a visual arboricultural inspection of two 'Regulated trees' and one 'Significant Tree' located at 33 California Street, Nailsworth. Mr Greg Reimann requested a visual arboricultural inspection be carried out and professional recommendations be made in the interests of best managing the subject trees.

The subject trees have been identified as one *Eucalyptus leucoxylon* (SA Blue Gum), one *Eucalyptus cladocaylx* (Sugar Gum) and one *Corymbia citriodora* (Lemon Scented Gum) and further as average representatives of their species. This document and the information contained herein support the retention of these trees and make recommendations for the ongoing management of the trees.

The following deductions and recommendations are made following the above-mentioned assessment of the subject trees:

Tree 1: - *Eucalyptus leucoxylon*

- i. The *Eucalyptus leucoxylon* in this case is in a fair condition in terms of its general health and vigour. It is considered to be in fair physiological and sound structural condition. The tree does not display any major structural defects.
- ii. The tree in this instance has a union at approximately 2m above ground, with a limb to the south. This limb has a tight fork at approximately 3m above ground level from which two secondary limbs form the lower crown of the tree. At present the principle bifurcation at 5 metres above ground level appears sound.
- iii. There is a hung up branch at approximately 12m above ground level in the North West section of the crown. From discussions with the owners it appears this is historic. It is recommended this be removed.
- iv. A horizontal branch at approximately 13m above ground level in the central section of the crown appears to have a poor attachment with the main stem. This attachment point is adjacent to the failure point of the hung up branch discussed above.
- v. The tree has a minor crown bias to the west partly has a result of the neighbouring tree number 2, *Eucalyptus cladocaylx*. Two lateral limbs that overhanging the neighbouring property to the west are starting to become overextended and are spreading out further than the rest of the crown.
- vi. It is recommended that the tree is the subject of a maintenance prune to remove deadwood and crossing and rubbing branches. It is recommended that the horizontal branch at 13m be removed. The two secondary limbs from the tight fork at 3m are to be reduced by approximately 1-2m back to suitable growth points over the rear garden and neighbouring property to the rear. It is further recommended that the two extending lateral limbs to the west over the neighbouring property are reduced back by approximately 2-3m back to suitable growth points.

Summary & Recommendations continued:

Tree 2: - Eucalyptus cladocaylx

- i. The *Eucalyptus cladocaylx* in this case is in a fair condition in terms of its general health and vigour. It is considered to be in fair a physiological and a relatively sound structural condition.
- ii. The principle union in the tree has developed a significant area of decay. The decay appears to have formed following the removal of two previous limbs at approximately 3m above ground level. The tree forks into three main stems from this union. The area of wounding extends vertically for approximately 1.5m.
- iii. From discussions with the owners the northern most stem of the three main stems has grown since the previous two limbs were removed. The extent of growth observed indicates good vigour present in the tree and this is further confirmed by the wound wood development around the decayed area.
- iv. The decay extends through to the south side of the tree at approximately 3m above ground level. With the decay extending through the eastern most stem this represents a structurally weak point in the tree.
- v. The tree has a crown bias and slight lean to the north east over the roof of the neighbouring house, partly due to the tree being suppressed by the adjacent tree number 1, *Eucalyptus leucoxylon*.
- vi. A recent failure stub was observed at approximately 3.5m on the northern stem. The owners have confirmed this was shed by the tree within the last two months.
- vii. It is recommended that the tree is the subject of a reduction prune to reduce the height and spread by approximately 5m back to suitable growth points. It is further recommended that the existing large diameter deadwood be removed.

Summary & Recommendations continued:

Tree 3: - *Corymbia citriodora*

- i. The *Corymbia citriodora* in this case is in a fair condition in terms of its general health and vigour. It is considered to be in good physiological and sound structural condition.
- ii. The bifurcation at approximately 3m above ground level appears sound. There is some minor damage on the eastern stem in the union which appears to be possible historic bird damage.
- iii. Recent branch failures have occurred and this is evident by the failure stubs at approximately 10m above ground level. The owners confirmed the recent timing of these failures.
- iv. The tree is located at the front of the property almost in the street and immediately adjacent to HV and LV overhead power lines. As a result the tree has been heavily pruned to maintain clearance next to the power lines. The crown of the tree has developed in response to the pruning and to the close proximity to the owner's house.
- v. Previous pruning works, over and above the pruning for clearance around the power lines, were completed on the tree approximately 5 years ago to crown thin and reduction prune those limbs over hanging the house. At the same time a limb was also removed that was growing west over the neighbouring property.
- vi. It is recommended that the tree is the subject of a maintenance prune to crown thin by 20% and to reduction prune the north east growing out over the power lines by 2-3 m back to suitable growth points. It is further recommended that those limbs over hanging the house also the subject of a reduction prune by approximately 2-3m back to suitable growth points.

Finally, the recommended works to tree numbers 1 and 3 do not require the submission of a development application under the terms of the SA Development Act 1993. However, it is considered that the recommended works to tree number 2 do require the prior, express permission of the City of Prospect Council and as such a development application will require to be submitted.

Caveat:

This report makes recommendations based on information provided and recommendations made are limited to the day (9 March 2016) on which the inspection was carried out.

When trees are subject to inspection it is important to note that all arboricultural species are living organisms and can therefore be highly unpredictable by nature. Thus an attempt is made in all circumstances to minimise the risk associated with all trees to a manageable or “acceptable” level, which is highly variable depending on the scenario.

Issue Location:



Figure 1 – Showing geographical location of the three subject trees at 33 California Street, Nailsworth in relation to buildings and surrounding vegetation.

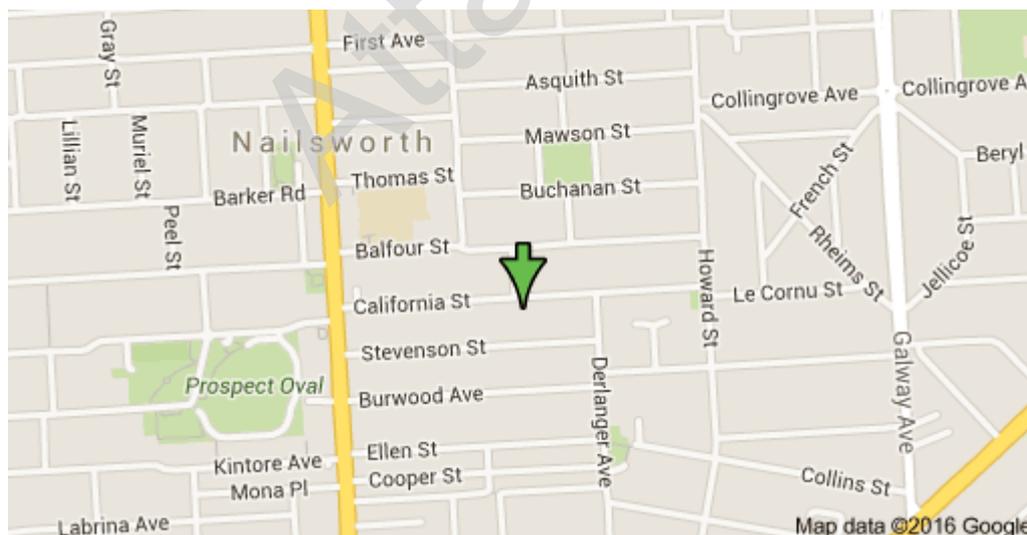


Figure 2 – showing site location in relation to major arterial, residential roads.

Tree Inspection: Tree number 1 - *Eucalyptus leucoxylon*

The tree in question has been identified as a *Eucalyptus leucoxylon* (SA Blue Gum). It is a single-stemmed specimen up to a height of approximately 2 metres with a limb union. It has a stem circumference greater than 2.0 metres at 1m above natural ground level making it a 'Regulated Tree' under the terms and definitions set by the SA Development Act 1993. It has an estimated height of 18m and a spread at its widest point of 18 metres.



The images above show the tree as a mature specimen in its location at the rear of the property.



The images above show the lower main bole of the tree. The image on the right above shows the first union in the tree at 2m and the tight fork in the southern limb (indicated by the red arrow).

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The image above shows the crown of the tree. The over extending lateral limbs to the west over the neighbouring property can be seen in this image. The horizontal branch with a poor attachment point at approximately 13m is indicated by the red arrow.

Attachment

Tree Inspection: Tree number 2 - *Eucalyptus cladocaylx*

The tree in question has been identified as a *Eucalyptus cladocaylx* (Sugar Gum). It is a single-stemmed specimen up to a height of approximately 2.5 metres with a principle union. It has a stem circumference greater than 3.0 metres at 1m above natural ground level making it a 'Significant Tree' under the terms and definitions set by the SA Development Act 1993. It has an estimated height of 14m and a spread at its widest point of 16 metres.



The images above show the tree as a mature specimen in its location at the rear of the property on the south eastern corner. The suppressed form of the tree can clearly be seen in these images.



The images show the principle union at approximately 2.5m above ground level. The image on the left above clearly shows the extensive decay and exposed underlying wood present. The image on the right further shows the same section from a different angle.



The images above further show a close up of the principle area of concern within tree number 2. The image on the right further shows the extent of underlying wood that has become exposed and the stubs from the previous limb removals can also be seen in this image. The image on the right above shows the south side of the principle area of concern on the main stem at approximately 2.5m above ground level. Decay has extended through the south eastern stem at this main union.



It is proposed to reduction prune the tree by approximately 5m back to suitable growth points as approximately indicated by the red lines in the above image. This is to reduce the strain on the main union and ensure a more stable structure.

Tree Inspection: Tree number 3 – *Corymbia citriodora*

The tree in question has been identified as a *Corymbia citriodora* (Lemon Scented Gum). It is a single-stemmed specimen up to a height of approximately 3 metres where it bifurcates. It has a stem circumference greater than 2.0 metres at 1m above natural ground level. Under the terms and definitions set by the SA Development Act 1993 it is not considered a 'Regulated Tree' because it is within 10metres of the owner's property. However, the tree appears in the City of Prospect Development Plan, listed as a 'Significant Tree' and as such has the same level of protection. The tree is listed due to the 'important contribution to the character of the local area' and 'is a notable visual element to the landscape of the local area'. It has an estimated height of 17m and a spread at its widest point of 21 metres.



The images above show tree number 3 as a mature specimen in its location at the front of the property. It is clear from these images that the tree has been extensively pruned to maintain clearance next to the power lines.



The image above shows the upper crown of the tree. The extending lateral limb to the north east can be seen to the left of the image. The image also shows the extent of the crown starting to overhang the house.



The image above shows a close up of the central crown and two failure stubs can be seen towards the centre of the image. It is recommended that these stubs be tidied up and pruned back to appropriate growth points at the main stem.

Final Recommendations:

It is recommended that the following tree works be completed: -

- Tree number 1 – Eucalyptus leucoxylon – Maintenance prune to remove deadwood and crossing and rubbing branches. It is recommended that the horizontal branch at approximately 13m above ground level be removed. Two secondary limbs emanating from the tight fork at 3m be reduction pruned by approximately 1-2m back to suitable growth points over the garden and neighbours property to rear. Two extending laterals limbs over hanging the neighbour's property to the west are reduction pruned by approximately 2-3m back to suitable growth points.
- Tree Number 2 – Eucalyptus cladocaylx - Reduction prune entire crown to reduce the height and spread by approximately 5m back to suitable growth points and remove the large diameter deadwood.
- Tree Number 3 – Corymbia citriodora – Maintenance prune to crown thin by 20% and reduction prune north east limb growing out over power lines by 2-3m back to suitable growth points. Reduction prune those limbs growing over the owners house by 2-3m back to suitable growth points.

The works to tree number 2 will require the submission of a development application to the City of Prospect Council and this Arboricultural Assessment can be used in support of that application. An assessment of the proposed works have been made against the principles of development control relating to Significant and Regulated trees and this can be found at the end of this document.

A recommended time frame for these works to be completed is within the next 3-6 months. These trees are the subject of regular formal inspection by a competent and qualified Arborist approximately every 2 to 3 years.

Thank you for the opportunity of preparing this assessment, and I hope it meets your requirements. Please feel free to contact me with any questions or require further clarification.

Sincerely,



Duncan McGregor

Principles of Development Control: *Significant & Regulated Trees*

City of Prospect Development Plan Consolidated -3rd March 2016

The *Eucalyptus cladocaylx* (Sugar Gum) in question has a total stem circumference >3.0m making it 'Significant' under the SA Development Act 1993. The tree is located <10m from a 'dwelling' and it is not listed as a species individually exempt from legislative protection, and therefore the tree still qualifies for protection under all recent amendments to the Regulated and Significant tree legislation.

Response to Legislative Objectives: *Eucalyptus cladocaylx*

1. The conservation of significant trees that provide important aesthetic and/or environmental benefit.
2. Development in balance with preserving significant trees that demonstrate one or more of the following attributes:
 - a) Significantly contributes to the character or visual amenity of the locality;

The tree in question does contribute to the visual amenity of the locality; however this contribution is limited because the tree is located to the rear of the property.

- b) Indigenous to the locality;

Yes, it is locally indigenous and is often found all over temperate Australia.

- c) A rare or endangered species;

No, the tree is not a rare or endangered species. The tree is very commonly cultivated, naturally occurring and found in numerous locations through Greater Metropolitan Adelaide.

- d) An important habitat for native fauna.

No, but the tree does have some limited potential to provide suitable habitat for local indigenous fauna but due to the risks posed to people and property it should be the subject of remedial arboricultural works.

Response to Principles of Development Control: *Eucalyptus cladocaylx*

1. Development should have minimum adverse effects on significant trees.
2. A significant tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply:
 - a) The tree is diseased and its life expectancy is short;

The tree in question does not appear diseased, however its structure is deteriorating and from this it suggests its life expectancy is reduced.

- b) the tree represents a material risk to public or private safety;

Yes, the tree represents a material threat to private safety given the nature of the structural complications identified and the close proximity of the tree to the neighbouring house.

- c) the tree is causing damage to a building;

During the inspection no damage to the adjacent buildings was observed, however, due to the close proximity of the tree to adjacent buildings damage may occur in the future.

- d) development that is reasonable and expected would not otherwise be possible;

The tree in this instance does not appear to be precluding development that is reasonable and expected.

- e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.

The recommended remedial arboricultural works are in the interests of the sustainable safe retention of the tree and for the removal of deadwood.

3. Tree damaging activity other than removal should seek to maintain the health, aesthetic appearance and structural integrity of the tree.

The recommended remedial arboricultural works are in the interests of retaining a healthy tree and to ensure the structural integrity of the tree is maintained.