

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **23 JUNE 2021**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **A STAMATOPOULOS**
DEVELOPMENT OFFICER - PLANNING

ATTACHMENTS:

- 1. LOCALITY MAP**
- 2. TREE LOCATION**
- 3. COUNCIL ARBORIST REPORT**
- 4. APPLICANT'S ARBORIST REPORT**
- 5. SUPPORTING LETTER BY BOTTEN LEVINSON LAWYERS**

DA NO.	:	<u>110/00175/21</u>
APPLICANT	:	<u>THE EXECUTORS OF THE ESTATE OF LLORA SHIRLEY LE CORNU</u>
LOCATION	:	<u>28 STURT ROAD, BRIGHTON</u>
DEVELOPMENT PLAN	:	<u>CONSOLIDATED 2 JUNE 2016</u>
ZONE AND POLICY AREA	:	<u>RESIDENTIAL ZONE</u>
NATURE OF DEVELOPMENT:		<u>MERIT</u>
PROPOSAL	:	<u>REMOVAL OF FIVE SIGNIFICANT AND ONE REGULATED TREE</u>
REFERRALS	:	<u>ARBORIST</u>
CATEGORY	:	<u>ONE</u>
RECOMMENDATION	:	<u>DEVELOPMENT PLAN CONSENT</u>

1. Background

A land division is lodged on the subject site, DA 110/00535/20, which proposes 20 allotments from 2. This application was lodged to the Council on the 20 July 2020 and is currently on hold subject to matters relating to the regulated and significant trees being resolved. When the land division application was lodged the Council engaged an arborist to survey the site to identify the trees that are exempt from requiring approval to be removed and identify those subject to planning controls.

The arborist report identified eight trees worthy of retention, and the remainder as being exempt from requiring approval to be removed or considered to have a poor structure or declining health and warranted consent for removal. The applicant has subsequently lodged separate applications to apply to remove the trees that were recommended to be retained. A demolition application was also lodged and approved by the Council on the 29 September which seeks to demolish the existing dwelling and ancillary structures.

2. Site and Locality

The subject site measures 9,460m² in total area located over two allotments with a 93.5m primary frontage to Sturt Road. The subject site currently houses a detached dwelling along with ancillary structures in the form of outbuildings. The site is heavily vegetated with various trees primarily located to the perimeter of the site and is dominated by soft landscaped grass areas. The surrounding locality is dominated by single-storey detached dwellings.

3. Proposed Development

The applicant seeks to removal of a regulated Eucalyptus Cladocalyx, four significant Eucalyptus Cladocalyx trees and a significant Callistemon Viminalis. The arborist report produced when the site was initially surveyed by Council's consulting arborist Sam Cassar is attached to this report which provides an assessment of the trees proposed to be removed. The trees have been referenced with different identification numbers from both arborists. The table shown below in section four of this report provides clarification on their identification.

4. Development Data

TREE DATA	
Aspect	
Arborman Identification Number	S3
Symatree Identification Number	14
Species	Eucalyptus Caldocalyx
Tree Height	Greater than 20 metres
Tree Health	Good
Structure	Poor
Circumference	4.01m
Recommendation	Removal
TREE DATA	
Aspect	
Arborman Identification Number	S4
Symatree Identification Number	13
Species	Eucalyptus Caldocalyx
Tree Height	Greater than 20 metres
Tree Health	Poor
Structure	Poor
Circumference	4.89m
Recommendation	Removal

TREE DATA	
Aspect	
Arborman Identification Number	R6
Symatree Identification Number	11
Species	Eucalyptus Caldocalyx
Tree Height	10-20 metres
Tree Health	Poor
Structure	Poor
Circumference	2.98m
Recommendation	Removal
TREE DATA	
Aspect	
Arborman Identification Number	S7
Symatree Identification Number	10
Species	Eucalyptus Caldocalyx
Tree Height	10-20 metres
Tree Health	Fair
Structure	Poor
Circumference	3.1m
Recommendation	Removal

TREE DATA	
Aspect	
Arborman Identification Number	S8
Symatree Identification Number	9
Species	Eucalyptus Caldocalyx
Tree Height	10-20 metres
Tree Health	Poor
Structure	Poor
Circumference	3m+
Recommendation	Removal

TREE DATA	
Aspect	
Arborman Identification Number	S15
Symatree Identification Number	16
Species	Callistemon 'harkness'
Tree Height	5-10 metres
Tree Health	Poor
Structure	Poor
Circumference	2.98m
Recommendation	Removal

5. Procedural Matters

The application is a category one development subject to Schedule 9 Part 13 of the Development Regulations. The development does not fall within clause 25 of Schedule as it is not a tree located on Council owned land.

Part 1—Category 1 development

13 Except where the development falls within clause 25 of this Schedule, any development which comprises a tree-damaging activity in relation to a regulated tree.

6. Development Plan Provisions

HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – GENERAL SECTION – REGULATED TREES

REGULATED TREES	
Objectives	
1. The conservation of regulated trees that provide important aesthetic and/or environmental benefit.	The tree does not provide important aesthetic and/or environmental benefits
2. Development in balance with preserving regulated trees that demonstrate one or more of the following attributes: (a) significantly contributes to the character or visual amenity of the locality (b) indigenous to the locality (c) a rare or endangered species (d) an important habitat for native fauna.	<ul style="list-style-type: none"> (a) The tree does not contribute to the character and visual amenity of the locality (b) The Eucalyptus cladocalyx trees is indigenous to the locality (c) The trees are not a rare or endangered species (d) The tree does not contain hollows or nesting sites indicating an important habitat for native fauna.

REGULATED TREES (Cont)	
Principles of Development Control	
1 Development should have minimum adverse effects on regulated trees.	Not applicable
2. A regulated 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 (b) the tree represents an unacceptable risk to public or private safety (c) the tree is causing damage to a substantial building or structure of value (d) development that is reasonable and expected would not otherwise be possible (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.	(a) The trees are not considered to be in a good state of health (b) The trees contain poor structural integrity (c) The trees are not causing damage to a substantial building or structure of value (d) The trees are worthy for removal (e) Not applicable
3. Tree damaging activity other than removal should seek to maintain the health, aesthetic appearance and structural integrity of the tree.	Not applicable

HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – GENERAL SECTION – SIGNIFICANT TREES

SIGNIFICANT TREES	
Objectives	
1. The conservation of significant trees, in Metropolitan Adelaide, that provide important aesthetic and environmental benefit.	The trees do not provide important aesthetic and/or environmental benefits
Principles of Development Control	
1. Development should preserve the following attributes where a significant tree demonstrates at least one of the following attributes: (a) makes an important contribution to the character or amenity of the local area; or (b) is indigenous to the local area and its species is listed under the <i>National Parks and Wildlife Act 1972</i> as a rare or endangered native species (c) represents an important habitat for native fauna (d) is part of a wildlife corridor of a remnant area of native vegetation (e) is important to the maintenance of biodiversity in the local environment (f) forms a notable visual element to the landscape of the local area.	(a) The trees do not make an important contribution to the character or amenity of the local area (b) The trees are indigenous to the area however are not a rare or endangered native species (c) The trees do not represent an important habitat for native fauna (d) The trees are not part of a wildlife corridor (e) The trees are not important to the maintenance of biodiversity in the local environment (f) The trees do not form a notable visual element to the landscape of the local area.
3. Significant trees should be preserved, and tree-damaging activity should not be undertaken, unless: (a) in the case of tree removal, where at least one of the following apply: (i) the tree is diseased and its life expectancy is short (ii) the tree represents an unacceptable risk to public or private safety (iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area (b) the tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value (c) all other reasonable remedial treatments and measures have been determined to be ineffective (d) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring (e) in any other case, any of the following circumstances apply: (i) 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 (ii) the work is required due to unacceptable risk to public or private safety	(a) The trees contain a short life expectancy (b) The trees are not causing damage to structures of value (c) Remedial measures are not viable options (d) N/A (e) N/A

SIGNIFICANT TREES (Cont)	
Principles of Development Control	
(iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area (iv) the tree is shown to be causing or threatening to cause damage to a substantial building or structure of value (v) the aesthetic appearance and structural integrity of the tree is maintained (vi) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.	

7. Summary of Assessment

The trees proposed to be removed are recommended to be removed by both the Council and consulting arborist report provided by the applicant. A summary of the reasons for removal for each of the trees by Council's consulting arborist is shown below:

Tree ID	Comment	Recommendation
Symatree ID 10 Arborman ID S7	Bifurcation primary union, bark inclusion present, history of large diameter branch failure, crown bias towards the north.	Removal
Symatree ID 13 Arborman ID S4	Bark inclusions at primary union, history of ongoing branch failure, some medium diameter deadwood, poor form overextension end weight issues apparent.	Removal
Symatree ID 11 Arborman ID R6	Basal wound western side, trunk swelling indicating internal, western leader is dead, history of branch failure, overall poor form, with end weight and overextension issues apparent.	Removal
Symatree ID 16 Arborman ID S15	Separation of primary union northern and southern side. Upper canopy dieback, history of branch failure.	Removal
Symatree ID 14 Arborman ID S3	Central leader failure, central leader is now dead, evidence of central decay, termite damage, crown top heavy, history of branch failure, inclusion primary union, cambium damage first attachment northern leader.	Removal
Symatree ID 9 Arborman ID S8	Extensive Die back main trunk. Crown lopped 8 metres	Removal

This recommendation is made on the basis of the following information:

- The poor structure and /or health of the trees;
- The on-going history of small to medium diameter branch failures;
- The lack of pruning and other hazard reduction techniques to adequately address the risks associated with future branch failure, and allow long term tree retention;
- The material/unacceptable risks these trees would pose to future uses of the subject land; and
- Development proposed that would be considered reasonable and expected would not otherwise be possible.

8. Conclusion

When assessed against the relevant provisions of the Development Plan it is considered that the proposal on balance satisfies the policies for tree removal. It is evident that the trees are in a poor state of health and do not contribute to the amenity of the locality and therefore warrant removal. Accordingly, the proposal warrants Development Plan Consent subject to conditions.

9. RECOMMENDATION

1. The proposed development is NOT seriously at variance with the policies in the Development Plan.
2. Following a detailed assessment of the proposal against the provisions of the Holdfast Bay (City) Development Plan, the Development Assessment Panel resolves to grant Development Plan Consent to Development Application 110/00175/21 subject to the following conditions:

PLANNING CONDITIONS

1. That the tree removal shall be as shown on the plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein.
2. The removal of the regulated tree shall be subject to the planting of two replacement trees and the removal of a significant tree in a suitable position greater than 10 metres distance from any existing dwelling or in-ground swimming pool. The replacement trees must be indigenous to the local area, not be an exempt species listed under regulation 6A clause (5)(b) of the Development Regulations 2008, or a tree belonging to a class of plant declared by the Minister under Chapter 8 Part 1 of the Natural Resources Management Act 2004. The trees shall be planted within three months of the substantial removal of the regulated/significant tree and shall be maintained in good condition at all times and replaced if necessary.

Or payment of \$96.00 per tree not planted as a replacement is payable within one month of the tree removal being undertaken.

NOTE: Council shall be given at least one (1) business days notice prior to the commencement of tree removal works on site.