

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **27 MARCH 2019**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **A STAMATOPOULOS**
DEVELOPMENT OFFICER - PLANNING

ATTACHMENTS: **1. LOCALITY MAP**
2. SYMATREE ARBORIST REPORT ON BEHALF OF COUNCIL
3. LETTER OF SUPPORT PROVIDED BY ACCESS PLANNING
4. ARBORIST BY DEAN NICOLLE ON BEHALF OF APPLICANT

HEARING OF REPRESENTORS: **NIL**
 HEARING OF APPLICANT: **NIL**

DA NO.	:	<u>110/00053/19</u>
APPLICANT	:	<u>K.E & C.D WALTER PTY LTD</u>
LOCATION	:	<u>262-268 BRIGHTON ROAD SOMERTON PARK</u>
DEVELOPMENT PLAN	:	<u>CONSOLIDATED 2 JUNE 2016</u>
ZONE AND POLICY AREA	:	<u>LIGHT INDUSTRY ZONE</u>
NATURE OF DEVELOPMENT	:	<u>MERIT</u>
PROPOSAL	:	<u>REMOVAL OF SIGNIFICANT RIVER RED GUM</u>
REFERRALS	:	<u>ARBORIST</u>
CATEGORY	:	<u>ONE</u>
RECOMMENDATION	:	<u>DEVELOPMENT PLAN REFUSAL</u>

1. Proposed Development and Background

An application was lodged to the council on the 16th of January 2019 to remove the significant River Red Gum located in the car park of the associated commercial properties. The application is a Category 1 development under Schedule 9 Part 1 clause 13 of the Development Regulations. Currently, another application is lodged with Council on the subject land, DA 110/00130/19, which proposes a change in use of land from retail showroom and warehouse to a restaurant including the demolition of existing buildings and construction of new building and associated advertising displays with integral drive through, car parking and landscaping. This is a non-complying form of development which will be presented to the Council Assessment Panel for a decision to proceed.

2. Site and Locality

The subject site is located on the corner of Brighton Road and Seaforth Avenue Somerton Park. The frontage to Brighton Road is 47.24m and 56.69m along Seaforth Avenue. The tree is found in the carpark of the site adjacent to Brighton Road which services a plumbing showroom. The subject land is located in the Light Industry Zone which is characterised by commercial and light industrial uses along Brighton Road and Seaforth Avenue including a car showroom to the south, a metal fabrication business to the north and warehousing to the east.

Refer to Attachment 1

3. Tree Characteristics

Species: Eucalyptus camaldulensis (River Red Gum)

Crown Attributes (approximations)

Height (clinometer): 22.2 metres

Width (canopy diameter): 8.5 metres to the east, 5.5 metres to the west, 12.3 metres to the south and 11.5 metres to the north.

Circumference at One metre above Natural Ground: 4.22 metres

The subject tree consists of a single near vertical trunk that divides into two main leaders at 4.5 metres from ground level to form the upright crown that has been heavily modified due to past heavy pruning. The trunk appears sound, stable with no cavities, scarring or evidence of internal decay.

The crown is in good health with average foliage density and vigour throughout. The tree is free from notable pests and diseases. Moderate volumes of dead wood are noted at various points throughout the crown, the largest of which is approximately 120mm in diameter.

5. Development Plan Provisions

HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – SIGNIFICANT TREES – COUNCIL WIDE – PRINCIPLES OF DEVELOPMENT CONTROL

SIGNIFICANT TREES	
Objectives	
1. The conservation of significant trees, in Metropolitan Adelaide, that provide important aesthetic and environmental benefit.	Does not comply
2. The conservation of significant trees in balance with achieving appropriate development.	N/A - No development is proposed in this current application.
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	Does not comply. The River Red Gum is an iconic tree that is notable in the locality and has high amenity and character value.

Principles of Development Control (Cont'd)	
<p>(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.</p>	
<p>2. Development should be undertaken so that it has a minimum adverse effect on the health of a significant tree.</p>	N/A - No development is proposed in this current application.
<p>3. Significant trees should be preserved, and tree-damaging activity should not be undertaken, unless:</p> <p>(a) in the case of tree removal, where at least one of the following apply:</p> <ul style="list-style-type: none"> (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 <p>(b) the tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value</p> <p>(c) all other reasonable remedial treatments and measures have been determined to be ineffective</p> <p>(d) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.</p> <p>(e) in any other case, any of the following circumstances apply:</p> <ul style="list-style-type: none"> (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 (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. 	<p>Does not comply.</p> <p>The tree is not diseased nor is it considered to have a short life expectancy.</p>
SIGNIFICANT TREES	
Principles of Development Control (Cont'd)	
<p>4. Development involving ground work activities such as excavation, filling, and sealing of surrounding surfaces (whether such work takes place on the site of a significant tree or otherwise) should only be undertaken where the aesthetic appearance, health and integrity of a significant tree, including its root system, will not be adversely affected.</p>	N/A - No development is proposed in this current application.
<p>5. Land should not be divided or developed where the division or development would be likely to result in a substantial tree-damaging activity occurring to a significant tree.</p>	N/A - No development is proposed in this current application.

7. Summary of Assessment

The tree is a mature specimen in good health with no notable defects that would justify its removal at the time of assessment. The river red gum has a high aesthetic value and makes an essential contribution to the landscape character and amenity of the local area. The tree is also considered a local indigenous species to the greater Adelaide Plains.

The arborist report produced by Mr Cassar recommended that the tree is retained as it was considered to be healthy with high aesthetic value and minimal risk of limb failure. Taking into account the feedback from Mr Cassar and assessing that feedback with the relevant policies of the Holdfast Bay Development Plan, removal is not considered to be warranted.

Mr Cassar concluded that:

“The subject tree, a River Red Gum, is in good health with no notable structural defects that indicate it poses an unacceptable risk to public or private safety at this time. Applying the International Society of Arboriculture tree risk assessment method a low risk rating was determined.

In addition, the subject tree provides a high level of amenity to the locality and pruning options are available to maintain risks to acceptable levels.

I therefore advise that the subject tree does not meet any of the relevant criteria under Principle of the City of Holdfast’s Development Plan that would justify its removal at this time.”

An Arborist report prepared by Dean Nicolle was provided by the applicant. The report prepared by Mr Nicolle supported removal of the tree on the basis that it presented an unacceptable and unmanageable risk to public safety and the commercial property on site.

Specifically, Mr Nicolle stated that:

“I am supportive of tree removal in this case, due to the unacceptable and unmanageable risk that the tree represents to safety and to property. This unacceptable and unmanageable risk is primarily due to the increased and increasing likelihood of branch failure from the tree and the significantly amplified consequence of any branch failure events due to the large canopy-to-ground distance and the high under-canopy use of the site.

The only way I could support the retention of the tree is if the target area on the site (approximately 12 metres radius from the centre of the tree) is significantly modified to be low use, or if under-canopy, overhead protective structures are constructed over the target area. Both of these alternative solutions are likely to be non-practical considering the existing site constraints.”

There is a conflict of opinions from both arborists regarding the likelihood of limb failure. Mr Cassar conducted his assessment using International Society of Arboriculture tree risk assessment method and took into account the history of branch failure, the 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. The assessment determined branch failure to be of low risk.

Mr Nicole conducted an assessment focussing on the retention value of the tree taking into consideration a range of factors. The assessment resulted in a score of 9 and is therefore considered to be of no retention value (attachment 4.10).

While the risk of the tree is inconclusive due to varying opinions, it must be noted that the health of the tree is not considered to be in a state in decline which is acknowledged by both arborists. This paired with the fact that the River Red Gum is an iconic tree that is notable in the locality and has high amenity and character value, retention is warranted.

Conclusion

The subject tree in question is considered to contain a high amenity value and is not in a declining state of health. The outcome of the tree assessment against the relevant provisions of the Holdfast Bay Development Plan shows that the tree is not worthy for removal. The tree is considered to be a notable visual providing amenity to the immediate locality and should be retained.

8. 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 considers that the proposed development is sufficiently at variance with the Development Plan and that Development Application 110/00053/19 be refused Development Plan Consent for the reason that it is contrary to Significant Trees Objectives 1 and Principles 1 (a), (f) and 3 (a) (i), (ii), (iii), b, and c.**

More specifically, the application does not meet the intent of the Development Plan in relation to:

- Removal of a healthy and notable significant tree that will adversely impact the amenity and character of the locality.**