

Council Assessment Panel Agenda & Reports

15 July 2024

Our Vision

*A City which values its heritage, cultural diversity,
sense of place and natural environment.*

*A progressive City which is prosperous, sustainable
and socially cohesive, with a strong community spirit.*

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

Telephone 8366 4555
Email townhall@npsp.sa.gov.au
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City of
Norwood
Payneham
& St Peters

10 July 2024

To all Members of the Council Assessment Panel:

- Mr Stephen Smith (Presiding Member)
- Mr Julian Rutt
- Cr Christel Mex
- Mr Paul Mickan (Deputy Member)
- Mr Mark Adcock
- Mr Ross Bateup
- Cr Kester Moorhouse (Deputy Member)

NOTICE OF MEETING

I wish to advise that pursuant to Clause 1.5 of the Meeting Procedures, the next Ordinary Meeting of the Norwood Payneham & St Peters Council Assessment Panel, will be held in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood, on:

Monday 15 July 2024, commencing at 7.00pm.

Please advise Tala Aslat on 8366 4530 or email taslat@npsp.sa.gov.au if you are unable to attend this meeting or will be late.

Yours faithfully



Geoff Parsons
ASSESSMENT MANAGER

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

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City of
**Norwood
Payneham
& St Peters**

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VENUE Council Chambers, Norwood Town Hall

HOUR

PRESENT

Panel Members

Staff

APOLOGIES Mr Julian Rutt

ABSENT

1. **COMMENCEMENT AND WELCOME**
2. **APOLOGIES**
3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 17 JUNE 2024**
4. **DECLARATION OF INTERESTS**
5. **DEVELOPMENT APPLICATIONS – PDI ACT**
6. **DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**

7. REVIEW OF ASSESSMENT MANAGER DECISION

**7.1 DEVELOPMENT NUMBER 23012613 - NICCI AND ANDREW VAN DE VEN
 – UNIT 6 AND UNIT 7, 72-74 QUEEN STREET NORWOOD**

DEVELOPMENT NO.:	23012613
APPLICANT:	Nicci and Andrew Van de Ven
ADDRESS:	Unit 6 and Unit 7, 72-74 Queen St, NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Removal of Significant Tree and Construction of Carport (Replacement)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Urban Tree Canopy • Stormwater Management • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m) • Minimum Site Area (Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	4 May 2023
RELEVANT AUTHORITY:	Original Decision – Assessment Manager at City of Norwood Payneham & St Peters Review of AM Decision – Council Assessment Panel at City of Norwood Payneham & St Peters
PLANNING & DESIGN CODE VERSION:	Version applicable at lodgement – 4 May 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Geoff Parsons - Assessment Manager
REFERRALS STATUTORY:	None required
REFERRALS NON-STATUTORY:	Mathew Cole – City Arborist

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Delegated Planning Assessment Report
ATTACHMENT 1:	Council Assessment Panel Review of Decisions of the Assessment Manager Policy	ATTACHMENT 5:	Application Documents
		ATTACHMENT 6:	Applicant Responses
ATTACHMENT 2:	Application to Assessment Panel and accompanying correspondence		
ATTACHMENT 3:	Decision Notification Form		

INTRODUCTION

Section 202(1)(b)(i)(A) of the *Planning, Development & Infrastructure Act 2016* provides an applicant with a right to apply to the Council Assessment Panel for a review of the Assessment Manager's decision relating to a prescribed matter.

A prescribed matter is defined as follows:

Prescribed matter, in relation to an application for a development authorisation, means -

- (a) any assessment, request, decision, direction or act of a relevant authority under this Act that is relevant to any aspect of the determination of the application; or
- (b) A decision to refuse to grant the authorisation; or
- (c) The imposition of conditions in relation to the authorisation; or
- (d) Subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of a relevant authority under this Act in relation to the authorisation.

To assist with undertaking a review under Sections 201-203 of the *Planning, Development & Infrastructure Act 2016*, the Council Assessment Panel adopted a procedure to guide the consideration of an application for such at its meeting held on 10 February 2021. A copy of that Policy is provided in **Attachment 1**.

It is noted that the attached Policy was due for review in February 2023. A review of the Council Assessment Panel *Terms of Reference* and *Meeting Procedures* has been completed. The review of the attached Policy has commenced.

The Panel should also be aware that the South Australian Government made changes to the *Planning, Development & Infrastructure (General) Regulations 2017* on 25 May 2023. An amended regulation was introduced which states:

- (2) An applicant to an assessment panel for a review of a prescribed matter must be given an opportunity to provide the assessment panel with the applicant's submissions in relation to the review (and, if the assessment panel determines to hold a hearing, must be given written notice of the date of the hearing and an opportunity to appear and make submissions at the hearing in person)

Council (together with the rest of the local government sector) has received advice in relation to the new regulation and such advice confirms that an Applicant should be provided with the right to make submissions (both written and verbal). Accordingly, the Applicant's written submission has been provided in **Attachment 2** (together with the request for the review) and the Presiding Member and Assessment Manager have agreed it is reasonable for both the Applicant and Assessment Manager to address the Panel verbally for five (5) minutes each, as per the Panel's normal processes for a hearing of representations.

DETAILED DESCRIPTION OF PROPOSAL:

The Application to which the review relates is Development Application 23012613. This Application sought Planning Consent to undertake a tree damaging activity in the form of removal of a significant tree and the construction of a new carport to replace an existing carport. The nature of development was formally described as:

Removal of Significant Tree and Construction of Carport (Replacement)

The replacement carport which is proposed is similar in form to what currently exists on site. Its more specific elements can be described as:

- Siting across two (2) strata allotments, essentially providing one (1) undercover parking space to Unit 7 and one (1) undercover parking space to Unit 6;
- A length of approximately 5.2 metres and a width of approximately 5.4 metres (measured “post to post” with a slightly larger roof);
- Post and roller doors to match the existing carport, colour coated steel sheeting for the roof, and eaves and gutters to match the existing carport.

The extent of tree damaging activity to be undertaken on site essentially involves the removal of the significant tree.

Development Application 23012613 was refused Planning Consent under delegation from the Assessment Manager. It is that determination that is the subject of this review.

Clause 6 in the *Council Assessment Panel Review of Decisions of the Assessment Manager Policy* stipulates that the Panel may:

- Affirm the Assessment Manager’s decision on the Prescribed Matter;
- Vary the Assessment Manager’s decision on the Prescribed Matter; or
- Set aside the Assessment Manager’s decision on the Prescribed Matter and substitute its own decision.

In addition, the Council Assessment Panel may defer its decision in accordance with clauses 5.6 and 5.7 of the *Council Assessment Panel Review of the Assessment Manager Policy*.

Draft resolutions for each option have been included at the appropriate point within this report.

BACKGROUND:

Development Application 23012613 was submitted on 2 May 2023 and lodged on 4 May 2023. Following a detailed assessment, on 22 May 2023, Council’s administration raised concerns that all reasonable development options and design solutions had not been considered to prevent a substantial tree damaging activity from occurring.

Administration requested the Applicant consider approaching the strata corporation (the site / allotment is in a strata title arrangement) to determine if other sites within the land could be considered for the location of an undercover parking space for the exclusive use of Unit 6.

The Applicant responded noting the strata corporation had resolved not to support an alternate location for the carport (and providing other supporting arguments). Council’s administration subsequently responded on 1 December 2023 noting that regardless, it was still considered that other development options and design alternatives exist, and that support could not be provided to the proposal.

The Applicant then made further submissions on 22 March 2024, which were reviewed and considered, but did not satisfactorily address the concerns that had been raised (in the view of the administration).

The Application was subsequently refused on 6 May 2024.

SUBJECT LAND & LOCALITY:

Development Location(s)

UNIT 6 72-74 QUEEN ST NORWOOD SA 5067

Title and Parcel

Title Ref: CT 5021/227 **Plan Parcel:** S5240 UN6 **Additional Location Information: Council:** The City Of Norwood Payneham & St Peters

72-74 QUEEN ST NORWOOD SA 5067

Title and Parcel

Title Ref: CT 5021/230 **Plan Parcel:** S5240 UCCP **Additional Location Information: Council:** The City Of Norwood Payneham And St Peters

UNIT 7 72-74 QUEEN ST NORWOOD SA 5067

Title and Parcel

Title Ref: CT 5021/228 **Plan Parcel:** S5240 UN7 **Additional Location Information: Council:** The City Of Norwood Payneham And St Peters

The entirety of 72-74 Queen Street, Norwood is a rectangular land parcel of approximately 1,820 square metres – however as described elsewhere in this report that land parcel is further divided into eight (8) strata allotments with common property.

Each of the strata lots contains a dwelling (in various forms and scale), and the common property principally comprises land used for parking, accessibility and manoeuvrability, letter boxes and landscaping.

The subject units and specific portion of the land containing the subject tree are located at the “rear” of the strata development, some 35 metres (approx.) from the Queen Street road frontage.

The land is relatively flat / level with a slight fall towards Queen Street. There is extensive landscaping on site although it requires maintenance, and areas for vehicle manoeuvrability are paved. The buildings on site show a level of maturity consistent with those constructed several decades ago.

Locality

The locality is almost exclusively residential in nature. It contains dwellings in various formats, but primarily detached dwellings and to a lesser extent group dwellings / residential flat buildings.

The wider locality contains two major urban transport routes being Portrush Road (which carries high amounts of traffic) and The Parade (a premier retail strip).

Dwelling stock is in varying ages and condition, and the area is subject to the re-development of older housing stock.

Queen Street contains a number of large street trees providing extensive canopy cover and most properties have some form of masonry and metal infill front fencing. On-street parking is commonplace and footpaths are provided on both sides of the road.

The area enjoys a high level of amenity.

PROCEDURAL MATTERS

The Application was performance assessed and did not require public notification.

AGENCY REFERRALS

No agency referrals were required.

INTERNAL REFERRALS

An internal referral was undertaken to Council's City Arborist – Mr Matthew Cole. The comments received are outlined in italics below:

I have been to the site today to view the tree, one of the best I've seen for the species and potentially one of the oldest (and healthiest) trees in the suburb of Norwood if not the entire Council area.

I agree with the Arborman report that the tree has good health and structure, a long useful life expectancy and a high retention rating. The tree being situated along or nearby the original First Creek orientation satisfies PO 1.2. retention criteria (a) through (f) as much as any metropolitan tree could. My interpretation of tree protection law is that it is designed to protect trees such as the subject tree here.

On reading the documents contained within the DA, I would like to make the following points-

- 1. The tree at an approximate range of 150-250 years of age (possible more) could live this time again, and then some, with the right approach and is therefore likely to see many carports come and go should the owner wish to continue building them in this location.*
- 2. The carport is not considered a building of value. Tree valuation methodology places the tree at somewhere between 10-20 times the value of the carport.*
- 3. Considering the size and age of the tree, it is not expected to drastically increase in size (including tree roots) when compared to the expected lifespan of the adjacent dwelling and carport overall (for the suburb of Norwood, by average).*
- 4. The suggestion that the ground level of the carport requires raising by 500mm due to expected root growth is unsubstantiated and seems over estimated, without damage roots will increase in girth radially and not in one area (of the root), to provide this rate of growth to the tree as a whole reveals the method (of estimation) here may be flawed*
- 5. The exposed part of the tree root could be built into the carport surface using pavers that can be removed to allow for root growth as it occurs, however-*

When considering the value of the tree (using PO 1.2. and tree valuation methodology) against the value of the carport I am of the opinion the following options are considered reasonable-

- Completely reconstruct the carport with a raised surface (would not need to be 500mm above the current 'top' of the root)*
- Remove the carport and ramp over the tree root with modern paving techniques to alleviate ceiling height concerns*

DOCUMENTS FOR REVIEW

In accordance with clause 4 of the *Council Assessment Panel Review of Decisions of the Assessment Manager* a number of different materials have been included as attachments to this agenda, as follows:

- Attachment 1 – Council Assessment Panel Review of Decisions of the Assessment Manager Policy
- Attachment 2 – Application to Assessment Panel and accompanying correspondence
- Attachment 3 – Decision Notification Form – DA 23012613
- Attachment 4 – Delegated Assessment Report – DA 23012613
- Attachment 5 – Application Documentation – DA 23012613
- Attachment 6 – Applicant Responses – DA 23012613

REVIEW OF ASSESSMENT MANAGER DECISION

The applicant, via the correspondence provided for in **Attachment 2**, has provided a valid and clear argument as to why the decision of the Assessment Manager (namely, the refusal of DA 23012613) should be set aside.

To assist the Panel in their consideration of this matter, and in accordance with clause 4.1.3 of the Council Assessment Panel Review of Decisions of the Assessment Manager Policy I have set out the rationale for the Assessment Manager's decision below.

Development Application 23012613 sought the replacement of an existing carport and the removal of a significant tree.

The replacement of the carport in isolation (i.e. without the associated element of tree damaging activity) would be reasonable and comply with a majority of the relevant provisions of the *Planning & Design Code*. Accordingly, it is not necessary to comment further on this aspect of the Application.

The removal of a significant tree, in the view of the Assessment Manager, essentially requires a two-step test. First, whether the tree is worthy of retention in accordance with the criteria outlined in Performance Outcome 1.2 of the Regulated and Significant Tree Overlay and, if so, whether it accommodates the reasonable development of the land and all reasonable development options and design solutions have been considered to prevent the tree damaging activity in accordance with Performance Outcome 1.4 of the Regulated and Significant Tree Overlay.

Performance Outcome 1.2 of the Regulated and Significant Tree Overlay states:

PO 1.2

Significant trees are retained where they:

- (a) Make an important contribution to the character or amenity of the local area*
- (b) Are indigenous to the local area and are listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species*
- (c) Represent an important habitat for native fauna*
- (d) Are part of a wildlife corridor or a remnant area of native vegetation*
- (e) Are important to the maintenance of biodiversity in the local environment, and/ or*
- (f) Form a notable visual element to the landscape of the local area.*

The Arborist Report submitted by the Applicant as part of their Application, notes that “*the subject tree is considered to be suitable for retention as it achieved a High Retention Rating indicating it meets one or more criteria within the PDI Act 2016 that warrant its retention as an important tree*”.

In addition, the Council's City Arborist agreed that the tree was worthy of retention and highlighted its importance (from an arboricultural perspective) as one of the oldest and most impressive trees within the Norwood area.

It is also considered that *Eucalyptus camaldulensis* provide an important biodiversity contribution, being an endemic species and providing valuable habitat for native fauna. A Council Officer undertaking an inspection of the site noticed many Rainbow Lorikeets in the tree, which supports its biodiversity value.

Accordingly, while Council's Planning Staff considered the visual impact of the tree to be less significant given its setback from the public realm, there has been a high level of agreement that the tree meets the retention criteria outlined in Performance Outcome 1.2 of the Regulated and Significant Tree Overlay.

Performance Outcome 1.4 of the Regulated and Significant Tree Overlay states:

PO 1.4

A tree-damaging activity in connection with other development satisfies all the following:

- (a) It accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
- (b) In the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*

The Assessment Manager acknowledges that the development / replacement of a carport on the land is a reasonable development of the land. This is not disputed between the parties.

However, the Assessment Manager maintains the view that all reasonable development options and design solutions have not been satisfactorily considered or explored to prevent substantial tree-damaging activity from occurring. This is the point of dispute between the parties.

The Assessment Manager prefers a broader interpretation of the words "all reasonable development options and design solutions".

Whilst acknowledging it would be inappropriate for the Assessment Manager to maintain a view that "forced" a developer to use land in different ownership for a development where such development rights could not be negotiated, it is not considered unreasonable for adjacent land (particularly where the Applicant enjoys a share of the ownership) to be used for car parking purposes.

In addition, regardless of the policy content of the *Planning & Design Code*, it is not considered unreasonable to not have an undercover car parking space on site, having regard to the facts and circumstances of the matter (bearing in mind, the *Planning & Design Code* is not to be read as a set of hard and fast rules, and more so as a framework against which development must be considered and a weighting and balancing exercise undertaken having regard to relevant individual facts and circumstances).

In forming the view to refuse Planning Consent to DA 23012613, the Assessment Manager considered the following:

- The tree meets a majority of the retention criteria outlined in Performance Outcome 1.2 of the Regulated and Significant Tree Overlay. It was identified by the Council's City Arborist as being an impressive and notable specimen with good form and structure, providing a good habitat for wildlife and making an important contribution to the amenity of the area.
- The affected unit is provided with a dedicated parking space (for visitors) along the southern boundary of the land which is signed for that purpose (noting this space is not undercover).

(To provide further clarity, the parking spaces provided for each unit under the carports are not the only spaces allocated to each unit. Each unit is provided with a space on the common property {signed to associate a space with each unit} which is understood to be used for visitor parking for each unit. Accordingly, each unit has a designated space on the common property at this point already and while its use for the occupants would limit visitor parking availability, that is not considered to be unreasonable in the context of the retention of a significant tree).

- On-street parking is available in the locality, and the property would qualify under the Council's *On-Street Parking Policy* for the granting of a residential permit depending on the restrictions in place along this applicable section of Queen Street.

A narrow interpretation of Performance Outcome 1.4 of the Regulated and Significant Tree Overlay could be used to justify tree damaging activity, and it is acknowledged that the Applicant has dedicated some resources to exploring alternate design solutions (including ramps etc.).

The Assessment Manager however prefers a broader interpretation of Performance Outcome 1.4 of the Regulated and Significant Tree Overlay and notes this policy must be balanced and weighted against the other relevant policies in the *Planning & Design Code*.

It is not unreasonable for an Applicant to consider *all reasonable development options and design solutions* (my emphasis). Reasonable options include (in the view of the Assessment Manager) using the on-site visitor park dedicated to this unit for parking for the occupants and using the on-street parking which is available and can be secured via permit providing the on-street conditions comply with the *On Street Parking Policy* (which they are understood to do).

“Development options” should not be interpreted so narrowly so as to only consider options for the carport structure itself but should also consider more broader development options which deliver the desired outcome (i.e. parking in close proximity to the unit) which also result in the retention of a significant tree which the *Planning & Design Code* notes should be retained.

For these reasons the Assessment Manager concluded that Development Application 23012613 could not be supported and refused Planning Consent.

As the Council Assessment Panel now has before it the rationale for the review as provided by the Applicant, and justification for the decision as provided by the Assessment Manager, the Panel must now consider this matter afresh taking into consideration all relevant factors.

CONCLUSION

This report outlines the rationale for the decision of the Assessment Manager, as required by clause 4.1.3 of the *Council Assessment Panel Review of Decisions of the Assessment Manager Policy*. The attachments provide all of the other relevant information and details as required by clause 4.1.

The Council Assessment Panel must determine whether to affirm the decision of the Assessment Manager, vary it, set it aside and substitute its own decision or defer consideration of the matter for more information.

Relevant options for the consideration of the Panel are outlined below.

RESOLUTION OPTIONS

Resolution to affirm the decision of the Assessment Manager

The Council Assessment Panel resolves to affirm the decision of the Assessment Manager that Development Application 23012613 is not seriously at variance with the Planning and Design Code, but that it does not warrant Planning Consent for the following reasons:

1. *The proposed development fails to accord with Regulated and Significant Tree Overlay Performance Outcome 1.4, in that reasonable alternatives to the proposed development do exist.*

Resolution to vary a decision of the Assessment Manager

The Council Assessment Panel resolves to vary the decision of the Assessment Manager in relation to Development Application 23012613 by including the following reasons for refusal:

- *[insert additional / alternate reasons]*

Resolution to set aside a decision of the Assessment Manager

The Council Assessment Panel resolves to set aside the decision of the Assessment Manager to refuse Planning Consent to Development Application 23012613 and substitute the following decision:

- *Development Application 23012613 is not seriously at variance with the Planning and Design Code and Planning Consent is granted to the application subject to the following conditions and notes:*

CONDITIONS

Condition 1

The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

Condition 2

All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.

Condition 3

Payment of an amount calculated in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019 be made into the relevant urban trees fund (or if an urban trees fund has not been established for the area where the relevant tree is situated, or the relevant authority is the Commission or an assessment panel appointment by the Minister or a joint planning board, the Planning and Development Fund) in lieu of planting 1 or more replacement trees. Payment must be made prior to the undertaking of development on the land.

Condition 4

The carport shall be clad in non-reflective colours and materials of a neutral tone. The final colour schedule shall be submitted to the Assessment Manager for agreement prior to construction commencing.

ADVISORY NOTES

Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;

Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;

Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Note 3

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Note 4

The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA.

Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Note 6

The Applicant is advised that construction noise is not allowed:

- *on any Sunday or public holiday; or*
- *after 7pm or before 7am on any other day*

Note 7

The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council pursuant to the Local Government Act 1999 prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Note 8

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Note 10

The Applicant is advised that the property is located within an Historic Overlay area and that Approval must be obtained for most works involving the construction, demolition, removal, conversion, alteration or addition to any building and/or structure (including fencing between the building and a street).

Resolution to defer review hearing

The Council Assessment Panel resolves to defer its decision in relation to its review of the decision of the Assessment Manager to refuse Planning Consent to Development Application 23012613 until:

- *The next ordinary meeting of the Panel;*
- *The next ordinary meeting of the Panel after [insert additional information which has been requested by the Panel] is provided;*
- *Until the next ordinary meeting of the Panel after [insert date (i.e. giving an applicant 2 months to provide information)].*

Recommendations to Allow Consideration of the Matter in Confidence Following the Hearing

That pursuant to Regulation 13(2)(a)(ix) and Regulation 13(2)(b) of the Planning Development & Infrastructure (General) Regulations 2017, together with clause 5.5 of the Council Assessment Panel Review of Decisions of the Assessment Manager, the Council Assessment Panel orders that the public, with the exception of the Council's Senior Urban Planner and Planning Assistant, be excluded from the meeting.

That the public be allowed to return to the meeting and that pursuant to Regulation 14(4) of the Planning, Development & Infrastructure (General) Regulations 2017 and clause 5.5 of the Council Assessment Panel Review of Decisions of the Assessment Manager Policy, the discussion shall remain confidential.

72-74 QUEEN ST NORWOOD SA 5067

Address:

Click to view a detailed interactive [SAILIS](#) in SAILIS

To view a detailed interactive property map in SAPPa click on the map below



Property Zoning Details

Zone

Established Neighbourhood

Overlay

Airport Building Heights (Regulated) (All structures over 45 metres)

Prescribed Wells Area

Regulated and Significant Tree

Stormwater Management

Traffic Generating Development

Urban Tree Canopy

Local Variation (TNV)

Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m)

Minimum Site Area (Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm)

Maximum Building Height (Levels) (Maximum building height is 2 levels)

Selected Development(s)

Tree-damaging activity

This development may be subject to multiple assessment pathways. Please review the document below to determine which pathway may be applicable based on the proposed development compliances to standards.

If no assessment pathway is shown this mean the proposed development will default to performance assessed. Please contact your local council in this instance. Refer to Part 1 - Rules of Interpretation - Determination of Classes of Development

Property Policy Information for above selection

Tree-damaging activity - Code Assessed - Performance Assessed

Part 2 - Zones and Sub Zones

Established Neighbourhood Zone

Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	A neighbourhood that includes a range of housing types, with new buildings sympathetic to the predominant built form character and development patterns.
DO 2	Maintain the predominant streetscape character, having regard to key features such as roadside plantings, footpaths, front yards, and space between crossovers.

Table 5 - Procedural Matters (PM) - Notification

The following table identifies, pursuant to section 107(6) of the *Planning, Development and Infrastructure Act 2016*, classes of performance assessed development that are excluded from notification. The table also identifies any exemptions to the placement of notices when notification is required.

Interpretation

Notification tables exclude the classes of development listed in Column A from notification provided that they do not fall within a corresponding exclusion prescribed in Column B.

Where a development or an element of a development falls within more than one class of development listed in Column A, it will be excluded from notification if it is excluded (in its entirety) under any of those classes of development. It need not be excluded under all applicable classes of development.

Where a development involves multiple performance assessed elements, all performance assessed elements will require notification (regardless of whether one or more elements are excluded in the applicable notification table) unless every performance assessed element of the application is excluded in the applicable notification table, in which case the application will not require notification.

Class of Development (Column A)	Exceptions (Column B)
1. Development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.	None specified.

<p>2. All development undertaken by:</p> <ul style="list-style-type: none"> (a) the South Australian Housing Trust either individually or jointly with other persons or bodies or (b) a provider registered under the Community Housing National Law participating in a program relating to the renewal of housing endorsed by the South Australian Housing Trust. 	<p>Except development involving any of the following:</p> <ul style="list-style-type: none"> 1. residential flat building(s) of 3 or more building levels 2. the demolition of a State or Local Heritage Place 3. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
<p>3. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) air handling unit, air conditioning system or exhaust fan (b) ancillary accommodation (c) building work on railway land (d) carport (e) deck (f) dwelling (g) dwelling addition (h) fence (i) outbuilding (j) pergola (k) private bushfire shelter (l) residential flat building (m) retaining wall (n) shade sail (o) solar photovoltaic panels (roof mounted) (p) swimming pool or spa pool (q) verandah (r) water tank. 	<p>Except development that:</p> <ul style="list-style-type: none"> 1. exceeds the maximum building height specified in Established Neighbourhood Zone DTS/DPF 4.1 or 2. involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and: <ul style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 8m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or (b) the height of the proposed wall (or post height) exceeds 3.2m measured from the lower of the natural or finished ground level (other than where the proposed wall abuts an existing wall or structure of greater height on the adjoining allotment).
<p>4. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) consulting room (b) office (c) shop. 	<p>Except development that:</p> <ul style="list-style-type: none"> 1. does not satisfy Established Neighbourhood Zone DTS/DPF 1.2 or 2. exceeds the maximum building height specified in Established Neighbourhood Zone DTS/DPF 4.1 or 3. involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and: <ul style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 8m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or (b) the height of the proposed wall (or post height) exceeds 3.2m measured from the lower of the natural or finished ground level (other than where the proposed wall abuts an existing wall or structure of greater height on the adjoining allotment).

<p>5. Any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) internal building works (b) land division (c) recreation area (d) replacement building (e) temporary accommodation in an area affected by bushfire (f) tree damaging activity. 	<p>None specified.</p>
<p>6. Demolition.</p>	<p>Except any of the following:</p> <ul style="list-style-type: none"> 1. the demolition of a State or Local Heritage Place 2. the demolition of a building (except an ancillary building) in a Historic Area Overlay.

Placement of Notices - Exemptions for Performance Assessed Development

None specified.

Placement of Notices - Exemptions for Restricted Development

None specified.

Part 3 - Overlays

Regulated and Significant Tree Overlay

Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Tree Retention and Health	
<p>PO 1.1</p> <p>Regulated trees are retained where they:</p>	<p>DTS/DPF 1.1</p> <p>None are applicable.</p>

<ul style="list-style-type: none"> (a) make an important visual contribution to local character and amenity (b) are indigenous to the local area and listed under the <i>National Parks and Wildlife Act 1972</i> as a rare or endangered native species and / or (c) provide an important habitat for native fauna. 	
<p>PO 1.2</p> <p>Significant trees are retained where they:</p> <ul style="list-style-type: none"> (a) make an important contribution to the character or amenity of the local area (b) are indigenous to the local area and are listed under the <i>National Parks and Wildlife Act 1972</i> as a rare or endangered native species (c) represent an important habitat for native fauna (d) are part of a wildlife corridor of a remnant area of native vegetation (e) are important to the maintenance of biodiversity in the local environment and / or (f) form a notable visual element to the landscape of the local area. 	<p>DTS/DPF 1.2</p> <p>None are applicable.</p>
<p>PO 1.3</p> <p>A tree damaging activity not in connection with other development satisfies (a) and (b):</p> <ul style="list-style-type: none"> (a) tree damaging activity is only undertaken to: <ul style="list-style-type: none"> (i) remove a diseased tree where its life expectancy is short (ii) mitigate an unacceptable risk to public or private safety due to limb drop or the like (iii) rectify or prevent extensive damage to a building of value as comprising any of the following: <ul style="list-style-type: none"> A. a Local Heritage Place B. a State Heritage Place C. a substantial building of value <p>and there is no reasonable alternative to rectify or prevent such damage other than to undertake a tree damaging activity</p> (iv) reduce an unacceptable hazard associated with a tree within 20m of an existing residential, tourist accommodation or other habitable building from bushfire (v) treat disease or otherwise in the general interests of the health of the tree and / or (vi) maintain the aesthetic appearance and structural integrity of the tree <p>(b) in relation to a significant tree, tree-damaging activity is avoided unless all reasonable remedial treatments and measures have been determined to be ineffective.</p>	<p>DTS/DPF 1.3</p> <p>None are applicable.</p>
<p>PO 1.4</p>	<p>DTS/DPF 1.4</p>

<p>A tree-damaging activity in connection with other development satisfies all the following:</p> <p>(a) it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible</p> <p>(b) in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.</p>	None are applicable.
Ground work affecting trees	
<p>PO 2.1</p> <p>Regulated and significant trees, including their root systems, are not unduly compromised by excavation and / or filling of land, or the sealing of surfaces within the vicinity of the tree to support their retention and health.</p>	<p>DTS/DPF 2.1</p> <p>None are applicable.</p>
Land Division	
<p>PO 3.1</p> <p>Land division results in an allotment configuration that enables its subsequent development and the retention of regulated and significant trees as far as is reasonably practicable.</p>	<p>DTS/DPF 3.1</p> <p>Land division where:</p> <p>(a) there are no regulated or significant trees located within or adjacent to the plan of division</p> <p>or</p> <p>(b) the application demonstrates that an area exists to accommodate subsequent development of proposed allotments after an allowance has been made for a tree protection zone around any regulated tree within and adjacent to the plan of division.</p>

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
None	None	None	None

UNIT 6 72-74 QUEEN ST NORWOOD SA 5067

Address:

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Property Zoning Details

Zone

Established Neighbourhood

Overlay

Airport Building Heights (Regulated) (*All structures over 45 metres*)

Prescribed Wells Area

Regulated and Significant Tree

Stormwater Management

Traffic Generating Development

Urban Tree Canopy

Local Variation (TNV)

Minimum Frontage (*Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m*)

Minimum Site Area (*Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm*)

Maximum Building Height (Levels) (*Maximum building height is 2 levels*)

Selected Development(s)

Carport

This development may be subject to multiple assessment pathways. Please review the document below to determine which pathway may be applicable based on the proposed development compliances to standards.

If no assessment pathway is shown this mean the proposed development will default to performance assessed. Please contact your local council in this instance. Refer to Part 1 - Rules of Interpretation - Determination of Classes of Development

Property Policy Information for above selection

Carport - Code Assessed - Deemed to Satisfy

Part 2 - Zones and Sub Zones

Established Neighbourhood Zone

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Deemed to Satisfy	
Site coverage	
DTS/DPF 3.1	<p>Development does not result in site coverage exceeding:</p> <p>In instances where:</p> <ul style="list-style-type: none"> (a) no value is returned (i.e. there is a blank field), then a maximum 50% site coverage applies (b) more than one value is returned in the same field, refer to the Site Coverage Technical and Numeric Variation layer in the SA planning database to determine the applicable value relevant to the site of the proposed development.
Appearance	
DTS/DPF 10.1	<p>Garages and carports facing a street (other than an access lane way):</p> <ul style="list-style-type: none"> (a) are set back at least 0.5m behind the building line of the associated dwelling (b) are set back at least 5.5m from the boundary of the primary street (c) have a total garage door / opening width not exceeding 30% of the allotment or site frontage, to a maximum width of 7m.
Ancillary buildings and structures	
DTS/DPF 11.1	<p>Ancillary buildings and structures:</p> <ul style="list-style-type: none"> (a) are ancillary to a dwelling erected on the same site (b) have a floor area not exceeding 60m² (c) are constructed, added to or altered so that they are situated at least <ul style="list-style-type: none"> (i) 500mm behind the building line of the dwelling to which they are ancillary or (ii) 900mm from a boundary of the allotment with a secondary street (if the land has boundaries on two or more roads) (d) in the case of a garage or carport, the garage or carport: <ul style="list-style-type: none"> (i) is set back at least 5.5m from the boundary of the primary street (ii) when facing a primary street or secondary street has a total door/opening not exceeding 7m or 30% of the site frontage (whichever is the lesser) when facing a primary street or secondary street

- (e) if situated on a boundary (not being a boundary with a primary street or secondary street), a length not exceeding 8m unless:
- (i) a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary and
 - (ii) the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent
- (f) if situated on a boundary of the allotment (not being a boundary with a primary street or secondary street), all walls or structures on the boundary not exceeding 45% of the length of that boundary
- (g) will not be located within 3m of any other wall along the same boundary unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut the proposed wall or structure
- (h) have a wall height or post height not exceeding 3m above natural ground level (and not including a gable end), and where located to the side of the associated dwelling, have a wall height or post height no higher than the wall height of the associated dwelling
- (i) have a roof height where no part of the roof is more than 5m above the natural ground level
- (j) if clad in sheet metal, are pre-colour treated or painted in a non-reflective colour.
- (k) retains a total area of soft landscaping in accordance with (i) or (ii), whichever is less:
- (i) a total area as determined by the following table:

Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site
<150	10%
150-200	15%
201-450	20%
>450	25%

- (ii) the amount of existing soft landscaping prior to the development occurring.

DTS/DPF 11.2

Ancillary buildings and structures do not result in:

- (a) less private open space than specified in Design in Urban Areas Table 1 - Private Open Space
- (b) less on-site car parking than specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas.

Part 3 - Overlays

Airport Building Heights (Regulated) Overlay

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

Built Form

DTS/DPF 1.1

Buildings are located outside the area identified as 'All structures' (no height limit is prescribed) and do not exceed the height specified in the Airport Building Heights (Regulated) Overlay which applies to the subject site as shown on the SA Property and Planning Atlas.

In instances where more than one value applies to the site, the lowest value relevant to the site of the proposed development is applicable.

Part 4 - General Development Policies

Clearance from Overhead Powerlines

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

DTS/DPF 1.1

One of the following is satisfied:

- (a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the *Electricity Act 1996*
- (b) there are no aboveground powerlines adjoining the site that are the subject of the proposed development.

Design in Urban Areas

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

All Development

Earthworks and sloping land

DTS/DPF 8.1

Development does not involve any of the following:

- (a) excavation exceeding a vertical height of 1m
- (b) filling exceeding a vertical height of 1m
- (c) a total combined excavation and filling vertical height of 2m or more.

Residential Development - Low Rise

Car parking, access and manoeuvrability

DTS/DPF 23.3

Driveways and access points satisfy (a) or (b):

- (a) sites with a frontage to a public road of 10m or less, have a width between 3.0 and 3.2 metres measured at the property boundary and are the only access point provided on the site
- (b) sites with a frontage to a public road greater than 10m:
 - (i) have a maximum width of 5m measured at the property boundary and are the only access point provided on the site;
 - (ii) have a width between 3.0 metres and 3.2 metres measured at the property boundary and no more than two access points are provided on site, separated by no less than 1m.

DTS/DPF 23.4

Vehicle access to designated car parking spaces satisfy (a) or (b):

- (a) is provided via a lawfully existing or authorised access point or an access point for which consent has been granted as part of an application for the division of land
- (b) where newly proposed, is set back:
 - (i) 0.5m or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the asset owner
 - (ii) 2m or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance
 - (iii) 6m or more from the tangent point of an intersection of 2 or more roads
 - (iv) outside of the marked lines or infrastructure dedicating a pedestrian crossing.

DTS/DPF 23.5

Driveways are designed and sited so that:

- (a) the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the garage or carport is not steeper than 1-in-4 on average
- (b) they are aligned relative to the street so that there is no more than a 20 degree deviation from 90 degrees between the centreline of any dedicated car parking space to which it provides access (measured from the front of that space) and the road boundary.
- (c) if located so as to provide access from an alley, lane or right of way - the alley, lane or right of way is at least 6.2m wide along the boundary of the allotment / site

Infrastructure and Renewable Energy Facilities

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

Wastewater Services

DTS/DPF 12.2

Development is not built on, or encroaches within, an area that is, or will be, required for a sewerage system or waste control system.

UNIT 7 72-74 QUEEN ST NORWOOD SA 5067

Address:

Click to view a detailed interactive [SAILIS](#) in SAILIS

To view a detailed interactive property map in SAPPa click on the map below



Property Zoning Details

Zone

Established Neighbourhood

Overlay

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Prescribed Wells Area

Regulated and Significant Tree

Stormwater Management

Traffic Generating Development

Urban Tree Canopy

Local Variation (TNV)

Minimum Frontage (*Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m*)

Minimum Site Area (*Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm*)

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Selected Development(s)

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This development may be subject to multiple assessment pathways. Please review the document below to determine which pathway may be applicable based on the proposed development compliances to standards.

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Property Policy Information for above selection

Carport - Code Assessed - Deemed to Satisfy

Part 2 - Zones and Sub Zones

Established Neighbourhood Zone

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Deemed to Satisfy	
Site coverage	
DTS/DPF 3.1	<p>Development does not result in site coverage exceeding:</p> <p>In instances where:</p> <ul style="list-style-type: none"> (a) no value is returned (i.e. there is a blank field), then a maximum 50% site coverage applies (b) more than one value is returned in the same field, refer to the Site Coverage Technical and Numeric Variation layer in the SA planning database to determine the applicable value relevant to the site of the proposed development.
Appearance	
DTS/DPF 10.1	<p>Garages and carports facing a street (other than an access lane way):</p> <ul style="list-style-type: none"> (a) are set back at least 0.5m behind the building line of the associated dwelling (b) are set back at least 5.5m from the boundary of the primary street (c) have a total garage door / opening width not exceeding 30% of the allotment or site frontage, to a maximum width of 7m.
Ancillary buildings and structures	
DTS/DPF 11.1	<p>Ancillary buildings and structures:</p> <ul style="list-style-type: none"> (a) are ancillary to a dwelling erected on the same site (b) have a floor area not exceeding 60m² (c) are constructed, added to or altered so that they are situated at least <ul style="list-style-type: none"> (i) 500mm behind the building line of the dwelling to which they are ancillary or (ii) 900mm from a boundary of the allotment with a secondary street (if the land has boundaries on two or more roads) (d) in the case of a garage or carport, the garage or carport: <ul style="list-style-type: none"> (i) is set back at least 5.5m from the boundary of the primary street (ii) when facing a primary street or secondary street has a total door/opening not exceeding 7m or 30% of the site frontage (whichever is the lesser) when facing a primary street or secondary street

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- (f) if situated on a boundary of the allotment (not being a boundary with a primary street or secondary street), all walls or structures on the boundary not exceeding 45% of the length of that boundary
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 - (j) if clad in sheet metal, are pre-colour treated or painted in a non-reflective colour.
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 - (i) a total area as determined by the following table:

Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site
<150	10%
150-200	15%
201-450	20%
>450	25%

- (ii) the amount of existing soft landscaping prior to the development occurring.

DTS/DPF 11.2

Ancillary buildings and structures do not result in:

- (a) less private open space than specified in Design in Urban Areas Table 1 - Private Open Space
- (b) less on-site car parking than specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas.

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Airport Building Heights (Regulated) Overlay

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

Built Form

DTS/DPF 1.1

Buildings are located outside the area identified as 'All structures' (no height limit is prescribed) and do not exceed the height specified in the Airport Building Heights (Regulated) Overlay which applies to the subject site as shown on the SA Property and Planning Atlas.

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Part 4 - General Development Policies

Clearance from Overhead Powerlines

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

DTS/DPF 1.1

One of the following is satisfied:

- (a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the *Electricity Act 1996*
- (b) there are no aboveground powerlines adjoining the site that are the subject of the proposed development.

Design in Urban Areas

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

All Development

Earthworks and sloping land

DTS/DPF 8.1

Development does not involve any of the following:

- (a) excavation exceeding a vertical height of 1m
- (b) filling exceeding a vertical height of 1m
- (c) a total combined excavation and filling vertical height of 2m or more.

Residential Development - Low Rise

Car parking, access and manoeuvrability

DTS/DPF 23.3

Driveways and access points satisfy (a) or (b):

- (a) sites with a frontage to a public road of 10m or less, have a width between 3.0 and 3.2 metres measured at the property boundary and are the only access point provided on the site
- (b) sites with a frontage to a public road greater than 10m:
 - (i) have a maximum width of 5m measured at the property boundary and are the only access point provided on the site;
 - (ii) have a width between 3.0 metres and 3.2 metres measured at the property boundary and no more than two access points are provided on site, separated by no less than 1m.

DTS/DPF 23.4

Vehicle access to designated car parking spaces satisfy (a) or (b):

- (a) is provided via a lawfully existing or authorised access point or an access point for which consent has been granted as part of an application for the division of land
- (b) where newly proposed, is set back:
 - (i) 0.5m or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the asset owner
 - (ii) 2m or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance
 - (iii) 6m or more from the tangent point of an intersection of 2 or more roads
 - (iv) outside of the marked lines or infrastructure dedicating a pedestrian crossing.

DTS/DPF 23.5

Driveways are designed and sited so that:

- (a) the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the garage or carport is not steeper than 1-in-4 on average
- (b) they are aligned relative to the street so that there is no more than a 20 degree deviation from 90 degrees between the centreline of any dedicated car parking space to which it provides access (measured from the front of that space) and the road boundary.
- (c) if located so as to provide access from an alley, lane or right of way - the alley, lane or right of way is at least 6.2m wide along the boundary of the allotment / site

Infrastructure and Renewable Energy Facilities

Assessment Provisions (AP)

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Deemed to Satisfy

Wastewater Services

DTS/DPF 12.2

Development is not built on, or encroaches within, an area that is, or will be, required for a sewerage system or waste control system.



NAME OF POLICY: Council Assessment Panel Review of Decisions of the Assessment Manager

POLICY MANUAL: Governance

BACKGROUND

The *Planning Development and Infrastructure Act 2016* (the Act) provides that where an application for development is made to an Assessment Manager, a person who has applied for the development authorisation may apply to the Council Assessment Panel for a review of a prescribed matter.

DISCUSSION

The Council Assessment Panel (CAP) has endorsed the following Policy.

KEY PRINCIPLES

The Policy has been prepared to provide clear guidance on the procedures involved in the CAP's review of an Assessment Manager's decision.

POLICY

1. Introduction

- 1.1 Section 202 (Rights of Review & Appeal) of the *Planning, Development & Infrastructure Act 2016* (PDI Act) allows an applicant who has received a determination from a relevant authority, including the Council Assessment Panel or Assessment Manager, regarding a Development Application, the right to seek a review of the decision.
- 1.2 Where such a decision has been made by the Assessment Manager (or his or her delegate), Section 202 (1)(b)(i)(A) permits the applicant to apply to the Council Assessment Panel (CAP) to review the decision regarding a Prescribed Matter.
- 1.3 Section 203(2)(a) of the PDI Act states that CAP may adopt a procedure for the consideration of such review requests as it thinks fit. This Policy has been formulated to accord with Section 203 of the PDI Act.
- 1.4 This Policy outlines the process to be followed by an applicant when lodging such a request for review and how the matter will be considered by CAP.
- 1.5 This Policy applies in addition to the statutory requirements for the review by the Council Assessment Panel (CAP) of a decision of an Assessment Manager as set out in Part 16, Division 1 of the PDI Act.

2. Definitions & interpretation

- 2.1 “**applicant**” in this instance refers to the person or entity named as such on the Development Application form who sought the development authorisation in question and who may or may not be the owner of the land on which the development is to occur.
- 2.2 “**Assessment Manager**” in this instance includes his or her delegate

Attachment 1

- 2.3 “**business day**” means any day except— (a) Saturday, Sunday or a public holiday; or (b) any other day which falls between 25 December in any year and 1 January in the following year;
- 2.4 “**next available meeting**” is not necessarily the next in-time CAP meeting (which could be a matter of days away) as the agenda for the next meeting may have closed or is full, or there may be insufficient time for the CAP members to consider the information provided to them, it is intended that the review would be assigned to and be heard at, the meeting after the next in time CAP meeting.
- 2.5 A “**Prescribed Matter**” means:
- 2.5.1 any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the development application, or
 - 2.5.2 a decision to refuse to grant development authorisation to the application, or
 - 2.5.3 the imposition of conditions in relation to a grant of development authorisation, or
 - 2.5.4 subject to any exclusion prescribed by the *Planning, Development and Infrastructure (General) Regulations 2017*, any other assessment, request, decision, direction or act of the Assessment Manager under the PDI Act in relation to the granting of a development authorisation.

3. Commencing a review

- 3.1 An application for review in relation to a development application or development authorisation may only be commenced by the applicant for the development authorisation.
- 3.2 An application for review must relate to a Prescribed Matter in relation to which the Assessment Manager was the relevant authority.
- 3.3 An application for review must be:
- 3.3.1 made using the Application to Assessment Panel for Assessment Manager’s Decision Review form (the Form - for ease of reference, a copy of the current Application to CAP Form is attached to this Policy).
 - 3.3.2 lodged in a manner identified on the Form, and
 - 3.3.3 lodged within one (1) month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member, in his or her discretion, grants an extension of time.
- 3.4 In determining whether to grant an extension of time, the Presiding Member may consider:
- 3.4.1 the reason for the delay;
 - 3.4.2 the length of the delay;
 - 3.4.3 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 3.4.4 the interests of justice;
 - 3.4.5 whether the applicant has, or is within time to, appeal the Prescribed Matter to the ERD Court, and
 - 3.4.6 any other matters the Presiding Member considers relevant.
- 3.5 An application for review should, upon receipt by the CAP, be notified to the Assessment Manager within five (5) business days.

4. Materials for review hearing

- 4.1 Within the time prescribed in Clause 4.2, the Assessment Manager shall collate for the Panel:
- 4.1.1 all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:

Attachment 1

- 4.1.1.1 application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
- 4.1.1.2 internal and/or external referral responses, and
- 4.1.1.3 any report from Council staff or an external planning consultant written for the Assessment Manager;
- 4.1.2 any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
- 4.1.3 a report prepared by the Assessment Manager (or delegate) setting out the details of the relevant development application; the Prescribed Matter; and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter; and
- 4.1.4 any further information requested by the Presiding Member or CAP.
- 4.2 The CAP will not consider any additional information that was not before the Assessment Manager at the time of the decision on the Prescribed Matter.
- 4.3 After the completion of the requirements in Clause 4.1, the Assessment Manager should assign the review application to the next available Panel meeting.
- 4.4 The documents identified in Clause 4.1 will be included as Attachments to the agenda item.
- 4.5 The Assessment Manager should advise the applicant in writing of the time and date of the Panel meeting at which the review application will be heard not less than five (5) business days before the meeting.

5. Review hearing

- 5.1 On review, the CAP will consider the Prescribed Matter afresh.
- 5.2 The CAP will not receive submissions or hear addresses from any party.
- 5.3 The Assessment Manager should be present at the CAP meeting to respond to any questions or requests for clarification from the CAP.
- 5.4 The Presiding Member will invite all CAP Members to speak on any matter relevant to the review and ask questions of the applicant and/or Assessment Manager.
- 5.5 During the review hearing the Panel may ask questions of staff and the applicant in public, however the Panel's deliberation and final determination will be conducted in private, with the applicant and public gallery excluded.
- 5.6 The CAP may resolve to defer its decision if it considers it requires additional information from the applicant or the Assessment Manager (including legal or other professional advice), to make its decision.
- 5.7 The deferral will be to the next ordinary meeting of the CAP, or such longer period of time as is determined by the CAP and/or the Presiding Member in consultation with the Assessment Manager to enable the information sought to be obtained and considered.
- 5.8 Where an Assessment Manager is to provide further information to the CAP pursuant to Clause 5.6, a copy of the information must also be provided to the applicant not less than five (5) business days before the meeting at which it will be considered by the Panel.

6. Outcome on review hearing

- 6.1 The CAP may, on a review:
 - 6.1.1 affirm the Assessment Manager's decision on the Prescribed Matter;
 - 6.1.2 vary the Assessment Manager's decision on the Prescribed Matter; or
 - 6.1.3 set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.

- 6.2 An applicant should be advised in writing of the CAP's decision by the Assessment Manager (or delegate) within two (2) business days of the Panel's decision.

7. Draft resolutions

The draft resolutions below are intended to provide guidance to the CAP as to how it might word resolutions to give effect to the decisions it makes on review. CAP may adopt this wording, or amend it as appropriate.

7.1 Resolution to affirm a decision of the Assessment Manager:

The Council Assessment Panel resolves to affirm the decision of the Assessment Manager [insert description of decision, for example:]

- *that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent be granted to DA No [insert] for [insert nature of development] subject to the [insert number] of conditions imposed by the Assessment Manager*
- *that DA No [insert] is classified as code assessed (performance assessed) development*
- *that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations), but that DA No. [insert] does not warrant planning consent for the following reasons:*

7.2 Resolution to vary a decision of the Assessment Manager:

The Council Assessment Panel resolves to vary the decision of the Assessment Manager in relation to DA No [insert] by deleting condition [insert number] of planning consent and replacing it with the following condition:

[insert varied condition]

7.3 Resolution to set aside a decision of the Assessment Manager:

The Council Assessment Panel resolves to set aside the decision of the Assessment Manager to [insert description of decision being reversed, for example, refuse planning consent to DA No [insert]] and substitute the following decision:

- *DA No [insert] is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent is granted to the application subject to the following conditions:*

7.4 Resolution to defer review hearing:

The Council Assessment Panel resolves to defer its decision in relation to its review of the decision of the Assessment Manager to [insert description of the decision] in relation to DA No [insert] until:

- *the next ordinary meeting of the Panel;*
- *the next ordinary meeting of the Panel after [insert additional information which has been requested by the Panel] is provided*
- *until the next ordinary meeting of the Panel after [insert date (i.e. giving an applicant 2 months to provide information)] (etc).*

REVIEW PROCESS

The Council Assessment Panel will review this Policy within two (2) years of the adoption date of the Policy.

INFORMATION

The contact officer for further information at the City of Norwood Payneham & St Peters is the Council's General Manager, Urban Planning & Environment, telephone 8366 4501.

ADOPTION OF THE POLICY

This Policy was adopted by the Council Assessment Panel on 10 February 2021.

TO BE REVIEWED

This Policy will be reviewed in February 2023.

Our ref: SM/224032

30 May 2024

Mr Stephen Smith
Presiding Member
City of Norwood Payneham & St Peters
PO Box 204
KENT TOWN SA 5067

By email: townhall@npsp.sa.gov.au

Dear Presiding Member

DA No. 23012613 - Proposed construction of a replacement carport and removal of significant tree – Unit 6, 72 Queen Street, Norwood

This firm acts for Nicci and Andrew Van de Ven, the owners of Unit 6, 72-74 Queen Street, Norwood.

By DA No. 23012613 our clients sought planning consent for the construction of a replacement carport at units 6 and 7, 72-74 Queen Street, Norwood and the consequential removal of an adjacent significant tree (**proposed development**).

On 30 April 2024, the Council's Assessment Manager determined to refuse planning consent to the proposed development (**the decision**) for the following reason:

The proposed development fails to accord with Regulated and Significant Tree Overlay Performance Outcome 1.4, in that reasonable alternatives to the proposed development do exist.

Please find **enclosed**¹ an application to the Assessment Panel for review of the decision pursuant to section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*.

Background

1. Our clients' own unit 6, 72-74 Queen Street (**Unit 6**), being a unit within Strata Plan 5240 (**the Strata Plan**). A copy of the Strata Plan, being a plan deposited in around 1982, is **enclosed**.²

¹ See Enc. 1

² See Enc. 2

2. The Strata Plan is located within the Established Neighbourhood Zone and the Regulated and Significant Tree Overlay under the Planning and Design Code (**the Code**).
3. The Strata Plan comprises:
 - 3.1 8 units, including unit subsidiaries; and
 - 3.2 common property.
4. Unit 6 comprises:
 - 4.1 a two-storey, 3-bedroom group dwelling; and
 - 4.2 includes a unit subsidiary (**the Unit Subsidiary**), being an area for the separate and exclusive use of the owners of Unit 6.³
5. The Unit Subsidiary is for the exclusive use of the owners/occupiers of Unit 6 and, like the other unit subsidiaries within the Strata Plan, comprises an existing single-car covered carport (**the Carport**).
6. The Carport is the only covered carpark for the 3-bedroom group dwelling on Unit 6. It has a length of approximately 5.2m, a width of approximately 2.9m, a roller door of approximately 2.5m in width, and an original minimum internal (vertical clearance) of approximately 2.6m.
7. The roof of the Carport also extends to the north over the abutting carport on the unit subsidiary for unit 7, 72-74 Queen Street. Accordingly, the replacement of the Unit 6 carport necessitates the need for the entire Unit 6 and unit 7 carport structure to be replaced.
8. The common property of the Strata Plan is held/owned by the “strata corporation” in trust for all the unit owners. The “strata corporation” is a body corporate which, pursuant to the *Strata Titles Act 1988*, was created on the deposit of the Strata Plan in around 1982.
9. The common property of the Strata Plan includes the driveway which provides vehicular access to the Carport and a significant tree to the south of Unit 6 (**the Tree**).
10. The roots of the Tree extend into the Carport and presently heave by approximately 270mm.
11. The roots of the Tree have caused severe cracking to the concrete floor of the Carport as well as damage to the Carport’s roller door rendering the Carport unsafe and unusable for both vehicular and pedestrian access and vehicular parking.
12. A qualified and experienced arborist, Marcus Lodge of Arborman, predicts that a further 300mm increase in the ‘heave’ of the roots will occur over the next 30 years.
13. We understand that it is accepted that the Tree will need to be removed to facilitate the construction of the replacement carport as proposed.

³ See section 5(4)(e) of the *Strata Titles Act 1988* (SA)

-
14. In an attempt to retain the Tree, the following development options and design solutions for the Carport have been considered:
- 14.1 incorporating a gradient platform which extends over the Tree's roots for purposes of step and ramp access entirely within the Unit Subsidiary (**Option A**);
 - 14.2 incorporating a 5.5m long section of ramp grading within the common property driveway in order to meet the proposed car parking space level. Such proposed ramp includes 2m long, 1:8 (12.5%) transitions either side of a 1.5m long, 1:4 (25%) section of ramp to comply with AS/NZS 2890.1:2004 (**Option B**);
 - 14.3 relocation of the Carport to a portion of the common property (**Option C**); and
 - 14.4 on the basis that Option B was pursued, removal of the roof for the Carport merely leaving an uncovered parking space for Unit 6 (**Option D**).
15. Advice from a qualified and experienced traffic engineer, Mr Phil Weaver⁴, provides that:
- 15.1 "Option A would not be physically accessible by passenger cars and is considered to be significantly at variance with AS/NZS 2890.1:2004"; and
 - 15.2 "Option B would therefore require increased overhead clearances to be compliant with AS/NZS 2890.1:2004 for Unit 6. However ramping of the common driveway would result in severe accessibility issues for existing adjoining users, particularly Units 1, 7, and 8".
16. Options B, C and D were considered by the owner of the common property, the Strata Corporation, at its 21 November 2023 meeting.⁵ The owner of the common property is **not** prepared to give its consent to Options B, C or D.
17. On 30 April 2024, the Council's Assessment Manager determined to refuse planning consent to the proposed development (the decision) for the following reason:

The proposed development fails to accord with Regulated and Significant Tree Overlay Performance Outcome 1.4, in that reasonable alternatives to the proposed development do exist.

Reasons for review

Our clients seek a review of the decision for at least the following reasons:

- 1. The Assessment Manager has erred in respect of the "tree removal test" to be applied to the proposed development.
 - 1.1 Regulated and Significant Tree Overlay PO 1.4 provides that:

⁴ Mr Weaver's advice is set out in a letter dated 1 August 2023 – **enclosed** (see Enc. 3).

⁵ The Minutes of the Strata Corporation's meeting are **enclosed** (see Enc. 4).

A tree-damaging activity in connection with other development satisfies all the following:

- (a) *it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
- (b) *in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*

- 1.2 The only ground of refusal states that the proposed development fails to achieve Regulated and Significant Tree Overlay PO 1.4 on the basis that “*reasonable alternatives to the proposed development ... exist.*”
- 1.3 Whether or not there might be other reasonable alternatives in the Assessment Manager’s opinion (we note, for example, that one alternative proffered by Council staff was the provision of an on-street parking permit) is, with respect, **not** the test established by PO 1.4.
- 1.4 The terms of PO 1.4 make it clear that the relevant “tree removal test” for proposed removals in connection with other development (assuming for the moment that the Tree is the kind which the Code intends to retain – we make no comment about this) is as follows:
 - 1.4.1 whether the proposed tree removal would accommodate “*reasonable development*” (i.e. in this case, the replacement carport); and, if it does,
 - 1.4.2 whether *all reasonable development options and design solutions for the reasonable development* (once again, the carport) have been considered to prevent removal of the tree.
- 2. Further, if it is suggested that the Assessment Manager’s reference in the ground of refusal to “*reasonable alternatives to the proposed development*” is a reference to all *reasonable development options and design solutions* for the proposed carport, they have, with respect, erred in the application of the “tree removal test” to the proposed development.
 - 2.1 The application of the correct “tree removal test” to the proposed development requires our clients to demonstrate that:
 - 2.1.1 the proposed replacement carport is *a reasonable development of land in accordance with the relevant zone*. We understand that this is accepted by the Assessment Manager. It is undeniable that the development of a single covered carparking space in the form of a carport for a 3-bedroom group dwelling is a “reasonable development”. Provision for undercover car parking is an integral element of residential development which is envisaged in the Code. Indeed, it would result in a completely unsatisfactory planning outcome if the occupiers of Unit 6 did not have an on-site covered carpark;

-
- 2.1.2 the proposed development might not otherwise be possible without the removal of the Tree. We understand that this is also accepted by the Assessment Manager; and
- 2.1.3 all reasonable development options and design solutions for the proposed replacement carport have been considered to prevent the Tree's removal.
- 2.2 We understand that during the course of the assessment of the proposed development, Council staff suggested that reasonable development options/design solutions for the purpose of PO 1.4(b) includes the construction of a carport, or a portion of the carport, over the common property of the Strata Plan. Respectfully, this suggestion is misconceived for the following reasons:
- 2.2.1 The very nature of common property as per the *Strata Titles Act 1988* is that "*an equitable share in the common property attaches to each unit and cannot be alienated or dealt with separately from the unit.*" The common property is shared property which is **not** in the ownership or at the disposal of the owners of units 6 and 7. For this reason, in the absence of the agreement by the owner of the common property, no alternative design/development which requires works on the common property can be lawfully implemented.
- 2.2.2 The phrase "*all reasonable development options and design solutions*" in Regulated and Significant Trees Overlay PO 1.4 is confined to construction of the replacement carport entirely within the bounds of Units 6 and 7. To assert otherwise would lead to the illogical outcome of a landowner needing to do the following to satisfy PO 1.4 in the unique factual circumstances this matter gives rise to:
- (a) consider development alternatives/design solutions which included land in different ownership; and
 - (b) obtain the consent of such different owner/s to undertake works on their land.

That is not the intend of PO 1.4(b).

3. The reality is that the proposed development presents a very unique set of facts, including:
- 3.1 the Carport is the only covered carpark for a 3-bedroom group dwelling;
- 3.2 the Tree has caused severe cracking to the concrete floor of the Carport as well as damage to the Carport's roller door rendering the Carport unsafe and unusable for vehicular access and parking and even pedestrian access;
- 3.3 the only location for a carport within the Unit 6 land is that area of land the subject of the Unit Subsidiary (once again, the Unit Subsidiary forms part of Unit 6);

- 3.4 the Tree will need to be removed to facilitate the construction of the replacement carport as proposed; and
 - 3.5 the owner of the common property will not provide their consent for works to be undertaken on the common property to facilitate the construction of a carport and retention of the Tree.
4. In all the circumstances and having regard to the relevant provisions of the Planning and Design Code the proposed development warranted planning consent.

Nature of review

Pursuant to the Panel's Policy for review of Assessment Manager decisions, the Panel will consider the matter afresh.

The Panel may confirm the refusal or alternatively set aside the refusal and grant planning consent to the application.

The nature of a review is that it is conducted by an independent decision maker in accordance with the principles of procedural fairness and natural justice.

Procedural fairness requests

We wish to be heard by the Assessment Panel in relation to this application for review and would be grateful if you would please advise us of the date and time of the relevant meeting.

Further, in respect of the right to a fair hearing, we request that we be provided with a copy of any report prepared for the Assessment Panel by staff, and that we be given an opportunity to respond to that report.

Yours faithfully




Syd McDonald
BOTTEN LEVINSON
Mob: 0411 554 253
Email: sm@bllawyers.com.au

Enc.

APPLICATION TO ASSESSMENT PANEL¹

Decision Review Request

Prescribed form pursuant to section 203(1) for review of a decision of an Assessment Manager under section 202(1)(b)(i)A) of the *Planning, Development and Infrastructure Act 2016* (Act)

Applicant details:	Name: Nicci and Andrew Van de Ven Phone: c/- Botten Levinson Lawyers – (08) 8212 9777 Email: sm@bllawyers.com.au Postal address: GPO Box 1042, Adelaide SA 5001
Development Application Number:	23012613
Subject Land:	Units 6 and 7, 72-74 Queen Street, Norwood, SA 5067 Certificates of Title 5021/227, 5021/228 and 5021/230.
Date of decision of the Assessment Manager:	30 April 2024
Decision (prescribed matter²) for review by Assessment Panel:	A decision to refuse to grant of planning consent to DA No. 23012613.
Reason for review:	Please see attached letter from Botten Levinson Lawyers dated 30 May 2024.
Do you wish to be heard by the Assessment Panel?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date:	30 May 2024
Signature:	 <input checked="" type="checkbox"/> If being lodged electronically please tick to indicate agreement to this declaration.

¹ This application must be made through the relevant facility on the SA planning portal. To the extent that the SA planning portal does not have the necessary facilities to lodge this form, the application may be lodged—

- (i) by email, using the main email address of the relevant assessment panel; or
- (ii) by delivering the application to the principal office or address of the relevant assessment panel.

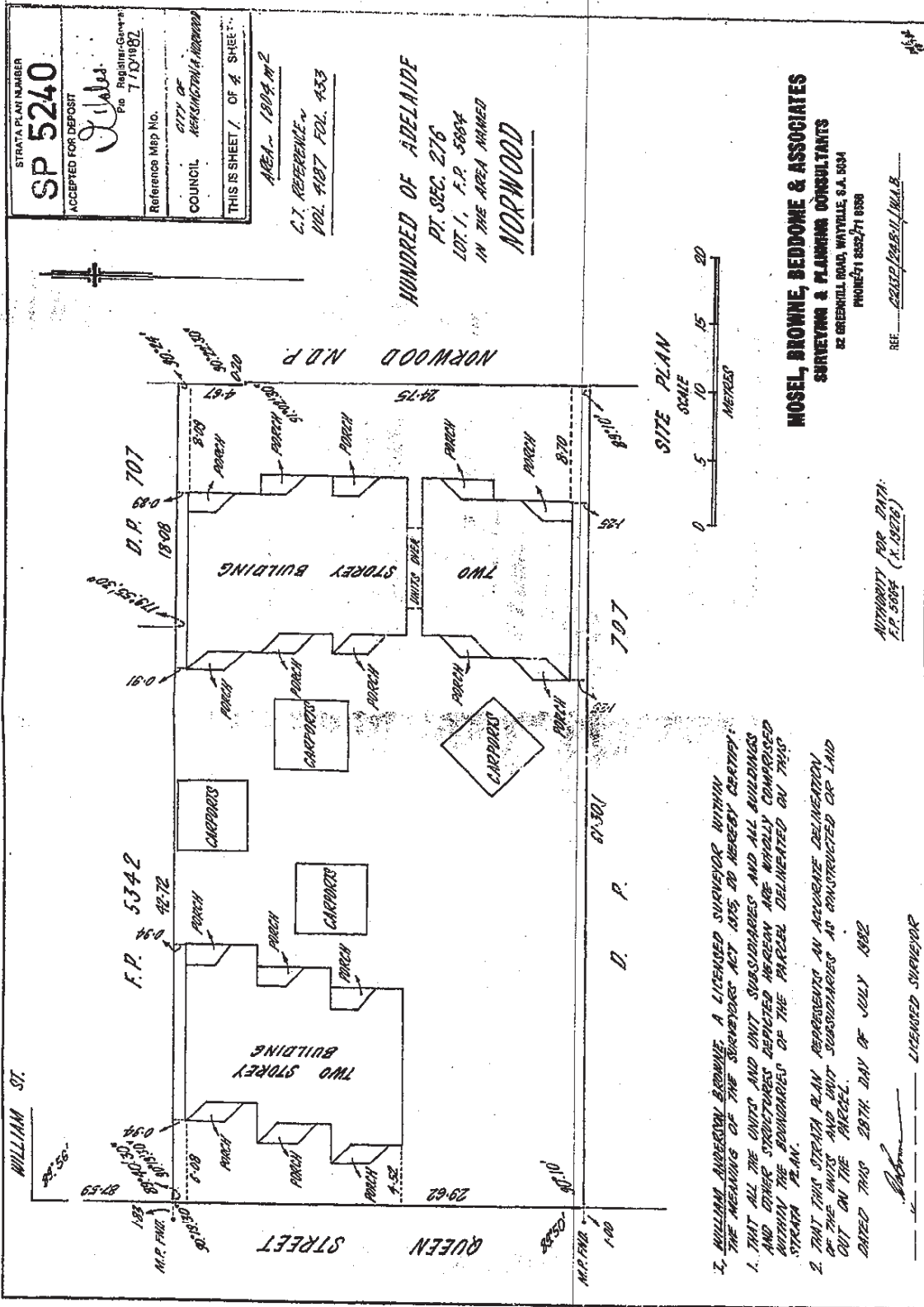
² **Prescribed matter**, in relation to an application for a development authorisation, means—

- (a) any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the application; or
- (b) a decision to refuse to grant the authorisation; or
- (c) the imposition of conditions in relation to the authorisation; or
- (d) subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of the assessment manager under the Act in relation to the authorisation.

This form constitutes the form of an application to an assessment panel under section 202(1)(b)(i)A) of the *Planning, Development and Infrastructure Act 2016*, determined by the Minister for Planning and Local Government, pursuant to regulation 116 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Last amended: 31 July 2020



Government of South Australia
Attorney-General's Department



STRATA PLAN NUMBER
SP 5240
ACCEPTED FOR DEPOSIT
17/01/1982

REGISTER-GUYER
Wales

Reference Map No.
CITY OF
KENSINGTON/NORWOOD

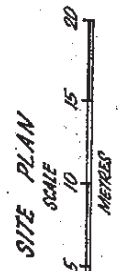
THIS IS SHEET 1 OF 4 SHEETS

AREA - 1804 M²

C.T. REFERENCE
VOL. 4187 FOL. 453

HUNDRED OF ADELAIDE
PT. SEC. 276
LOT. 1, F.P. 5684
IN THE AREA NAMED
NORWOOD

MOSEL, BROWNE, BEDDOME & ASSOCIATES
SURVEYING & PLANNING CONSULTANTS
82 GREENHILL ROAD, WYTHVILLE, S.A. 5034
PHONE 51 852/71 8598



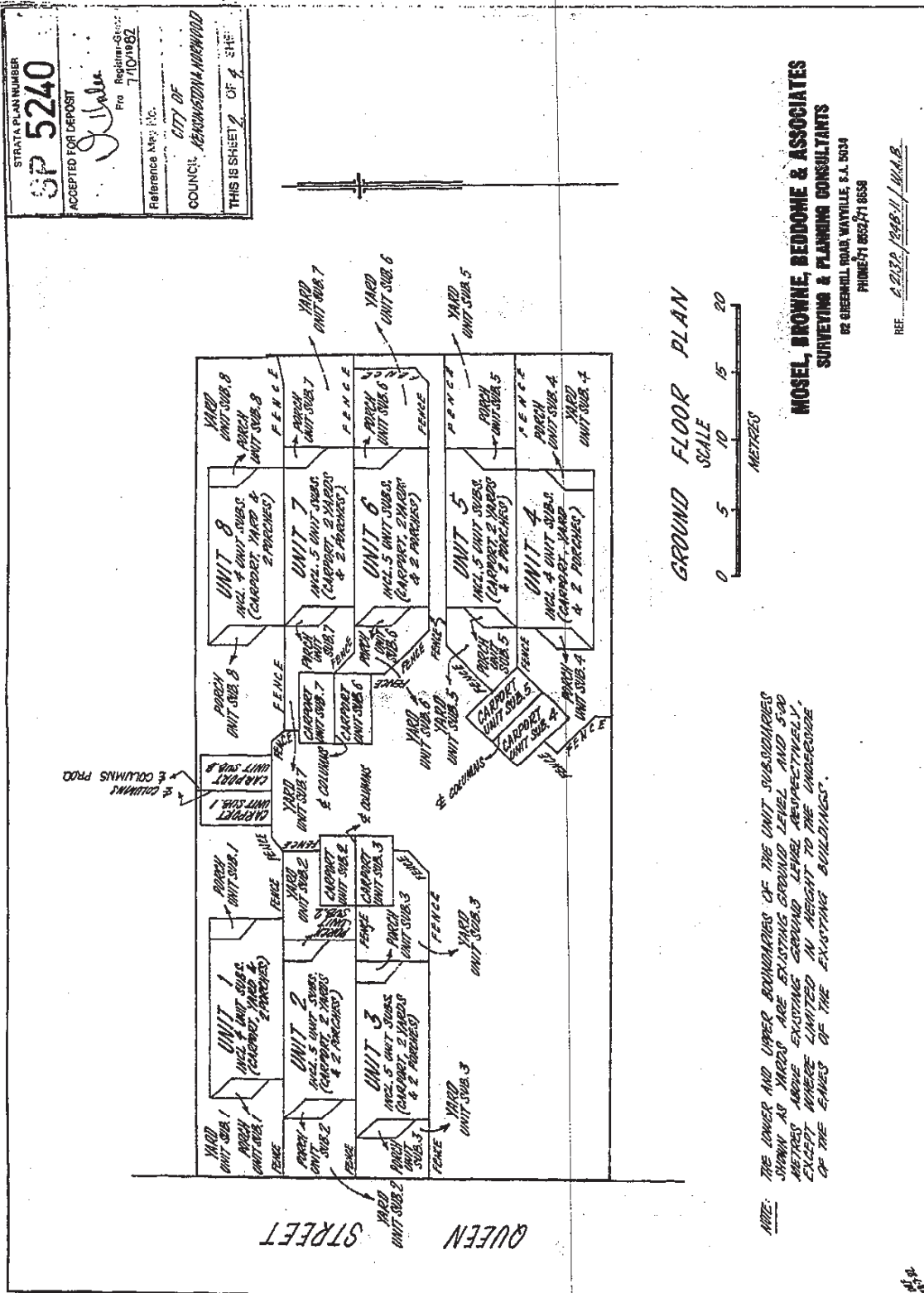
I, WILLIAM ANDERSON BEDDOME, A LICENSED SURVEYOR WITHIN THE MEANING OF THE SURVEYORS ACT 1975, DO HEREBY CERTIFY:


1. THAT ALL THE UNITS AND UNIT SUBDIVISIONS AND ALL BUILDINGS AND OTHER STRUCTURES DEPICTED HEREON ARE WHOLLY COMPRISED WITHIN THE BOUNDARIES OF THE PARCEL DELINEATED ON THIS STRATA PLAN.
2. THAT THIS STRATA PLAN REPRESENTS AN ACCURATE DELINEATION OF THE UNITS AND UNIT SUBDIVISIONS AS CONSTRUCTED OR LAID OUT ON THE PARCEL.

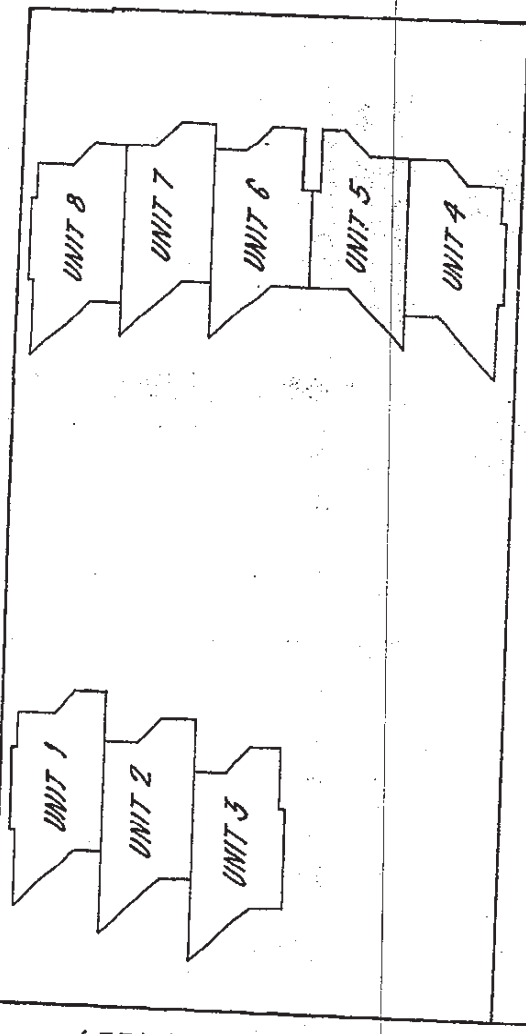
DATED THIS 28TH DAY OF JULY 1982

AUTHORITY FOR DATA:
F.P. 5684 (A.1976)

[Signature]
LICENSED SURVEYOR



STH PLAN NUMBER
SP 5240
 ACCEPTED FOR DEPOSIT

 Registrar
 No. 7/10/1982
 Reference Map No.
 CITY OF
 COUNCIL MEMBERS: STEVEN H. HARRIS, J. J. HALE, J. J. HARRIS, J. J. HARRIS, J. J. HARRIS
 THIS IS SHEET 3 OF 4 SHEETS



QUEEN STREET

FIRST FLOOR PLAN




MOSEL, BROWNE, BEDDOME & ASSOCIATES
 SURVEYING & PLANNING CONSULTANTS
 82 GREENHILL ROAD, WAYVILLE, S.A. 5034
 PHONE 81 852 81 8588

REF: E-213 P / 24 B-1 / W.O.B.

NOTE: ALL UNITS ARE
 SHOWN AT GROUND
 FLOOR LEVEL AND
 PARTLY AT FIRST
 FLOOR LEVEL.

STRATA PLAN NUMBER
SP 5240
Authenticated vide
Application No. 494637B
and Accepted for Deposit



pro Registrar-General
7/10/1982

THIS IS SHEET 4 OF 4 SHEETS

SCHEDULE OF UNIT ENTITLEMENT						
UNIT NO	UNIT ENTITLEMENT	UNIT NO	UNIT ENTITLEMENT	UNIT NO	UNIT ENTITLEMENT	UNIT ENTITLEMENT
1	1					
2	1					
3	1					
4	1					
5	1					
6	1					
7	1					
8	1					
AGGREGATE	8			AGGREGATE		
						AGGREGATE
						AGGREGATE
						AGGREGATE

Consultant Traffic Engineers
ABN 67 093 665 680

204 Young Street
Unley SA 5061

P: 08 8271 5999

E: mail@philweaver.com.au

File: 23-109

1 August 2023

Mr Garth Heynen
Heynen Planning Consultants

By email: garth@heynenplanning.com.au

Dear Garth,

ASSESSMENT OF CARPORT AND ASSOCIATED DRIVEWAY GRADE ALTERATION OPTIONS – 6/72 QUEEN STREET, NORWOOD

We refer to our previous discussions with respect to the above matter. We understand that there is a tree root issue associated with the significant tree located to the immediate south of the subject carport (Unit 6) and that options are being explored in relation to raising the level of the Unit 6 car parking space 300mm above the existing ground level.

As requested, we have undertaken the following design reviews of Options 'A' and 'B' provided to this office on a series of plans (Job Mo. 610-22, Rev C, Sheets 1 to 4) dated 31 July 2023, attached as an appendix to this letter.

EXISTING SITUATION

The subject site is located on the western side of Queen Street, Norwood, in an *Established Neighbourhood Zone* within the City of Norwood Payneham and St Peters.

Vehicular site access is currently provided via a crossover to the immediate south of Unit 3. This access point links to an internal east-west oriented common driveway with uncovered 90-degree car parking located on the southern side of the driveway before meeting a north-south section of driveway from which the various single-vehicle carports associated with each unit on the subject land are accessed.

Based on the contours provided on the Site Plan, there is an existing grade of approximately 4% across the subject north-south section of driveway, resulting in a slight grade up from the Lot 3 carport to the Lot 6 carport.

We understand that the existing carport has a length of approximately 5.2m, a width of approximately 2.9m, a roller door of approximately 2.5m in width, and an original minimum internal height (vertical clearance) of approximately 2.6m.

We also understand that tree roots associated with the significant tree located to the south have raised the existing Unit 6 carport pavement level by approximately 270mm. Subsequently a suspended parking space with 300mm of clearance above the existing raised pavement level and 100mm of thickness is being considered in order to maintain long-term clearance for the subject car parking space above the expanding tree root.

OPTION A

Option A is identified in the Section View on Sheet 4 of the provided plans.

This option identifies a ramp grading at 1:3.43 for the first 2.3m into the carport providing access to the raised platform. This option would be non-compliant with *AS/NZS 2890.1:2004* in various respects, including:

- 1) The maximum allowable change of grade is 1:8 (12.5%) over 2m of travel. The identified 1:3.43 (29%) change of grade would therefore significantly exceed this maximum and would subsequently not be traversable by passenger vehicles,
- 2) The maximum allowable domestic driveway grade at any point is 1:4, i.e., 1:3.43 would be too steep even if transitions were introduced,
- 3) The remaining flat section of the proposed car parking space would not be long enough to accommodate a parked car (5.4m required), i.e., a car would have to straddle the 1:3.43 (29%) ramp. The maximum longitudinal grade of a car parking space is 1:20 (5%), i.e., the position of a parked vehicle in this carport would therefore invariably be parked on too steep of a grade to meet the requirements of the relevant off-street parking standard, and
- 4) The minimum required overhead clearance above a car parking space is 2.2m, i.e., the 1.9m vertical clearance which could be provided would be insufficient.

Option A would not be physically accessible by passenger cars and is considered to be significantly at variance with *AS/NZS 2890.1:2004*.

OPTION B

Option B is identified both in plan view (Sheet 3) and in section view (Sheet 4) of the provided plans.

This option identifies a 5.5m long section of ramp grading within the common driveway in order to meet the proposed car parking space level. This ramp includes (*AS/NZS 2890.1:2004* compliant) 2m long 1:8 (12.5%) transitions either side of a 1.5m long 1:4 (25%) section of ramp.

The carports 1.88m overhead clearance and 1.73m roller door clearance identified in Section Option B would be insufficient, with minimum overhead clearance requirements of 2.2m.

Furthermore, this option would have severe impacts in terms of maintaining appropriate accessibility to the adjoining carports, namely:

- 1) The Unit 7 carport is located directly adjacent to the Unit 6 carport and would therefore be inaccessible at its current level with the proposed increases in the grades of the adjoining driveway,
- 2) There is an approximately 4.0m offset between the northern edge of the Unit 6 carport and the frontage of the Units 1 and 8 carports. As such, there would be insufficient distance to ramp back down (approximately 5.5m required) from the new Unit 6 carport level to the existing Unit 8 carport level. This is notwithstanding the Unit 7 accessibility impacts, and
- 3) Drivers associated with all remaining units (1 to 5, 7, and 8) would, to different extents, be required to travel transversally across the ramp, at crossfalls of up to 1:4 (25%). *AS/NZS 2890.1:2004* does not specify maximum driveway crossfalls however in our experience such a crossfall would be far too steep. For example, the *Hazards (Bushfire) Overlays* of the *Planning and Design Code* identify maximum driveway crossfalls of 1:9.5 (10.5%), less than half that identified in this option.

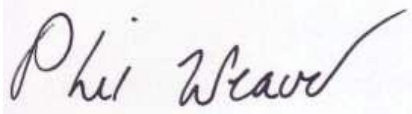
Option B would therefore require increased overhead clearances to be compliant with *AS/NZS 2890.1:2004* for Unit 6. However ramping of the common driveway would result in severe accessibility issues for existing adjoining users, particularly Units 1, 7, and 8.

SUMMARY

In summary, we consider that:

- Option A is unfeasible, being significantly at variance with the design requirements of the relevant Australian off-street car parking standard for the carport of Unit 6, and
- Option B is also unfeasible being at variance with the relevant Australian off-street car parking standard for Unit 6, and resulting in inappropriate level differences for the Unit 1, 7, and 8 carports, and inappropriate driveway crossfalls for the majority of users of the adjoining section of driveway.

Yours sincerely,

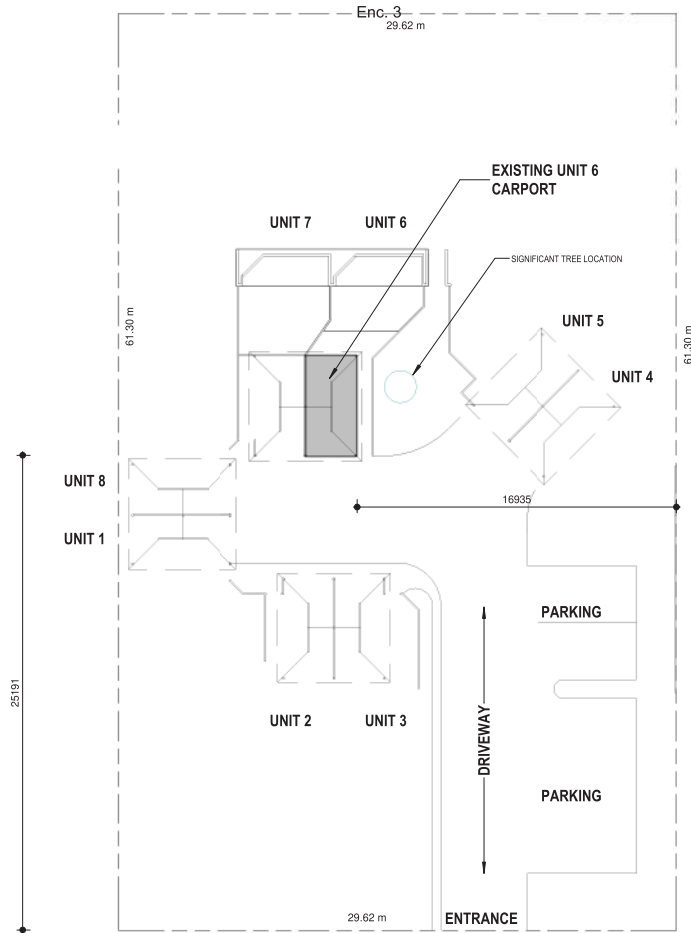


Phil Weaver
Phil Weaver and Associates Pty Ltd

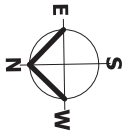
Enc: Provided Plans

SITE LEGEND

- DP 90mm DOWN PIPE SEaled TO UNDER SIDE OF GUTTER
- IP INSPECTION POINT
- 300x300x300 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER
- 600x600x600 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER WITH TOP OF WATER LEVEL TO BE MIN 65mm BELOW FINISHED SURROUNDING LEVEL
- NEW SPOT LEVEL
- EXISTING SPOT LEVEL
- TK TOP OF KURB
- WT WATER TABLE
- TBM TEMPORARY BENCH MARK
- TRW TOP OF RETAINING WALL
- APX APPROXIMATE
- FL: TOP OF SLAB (FLOOR LEVEL)
- BL: UNDERSIDE OF RUBBLE BASE (BENCH LEVEL)
- GL: DIRT SURFACE (GROUND LEVEL)
- C.O.S. CHECK ON SITE



PART SITE PLAN
1 : 200



72 QUEEN ST



3D View 1

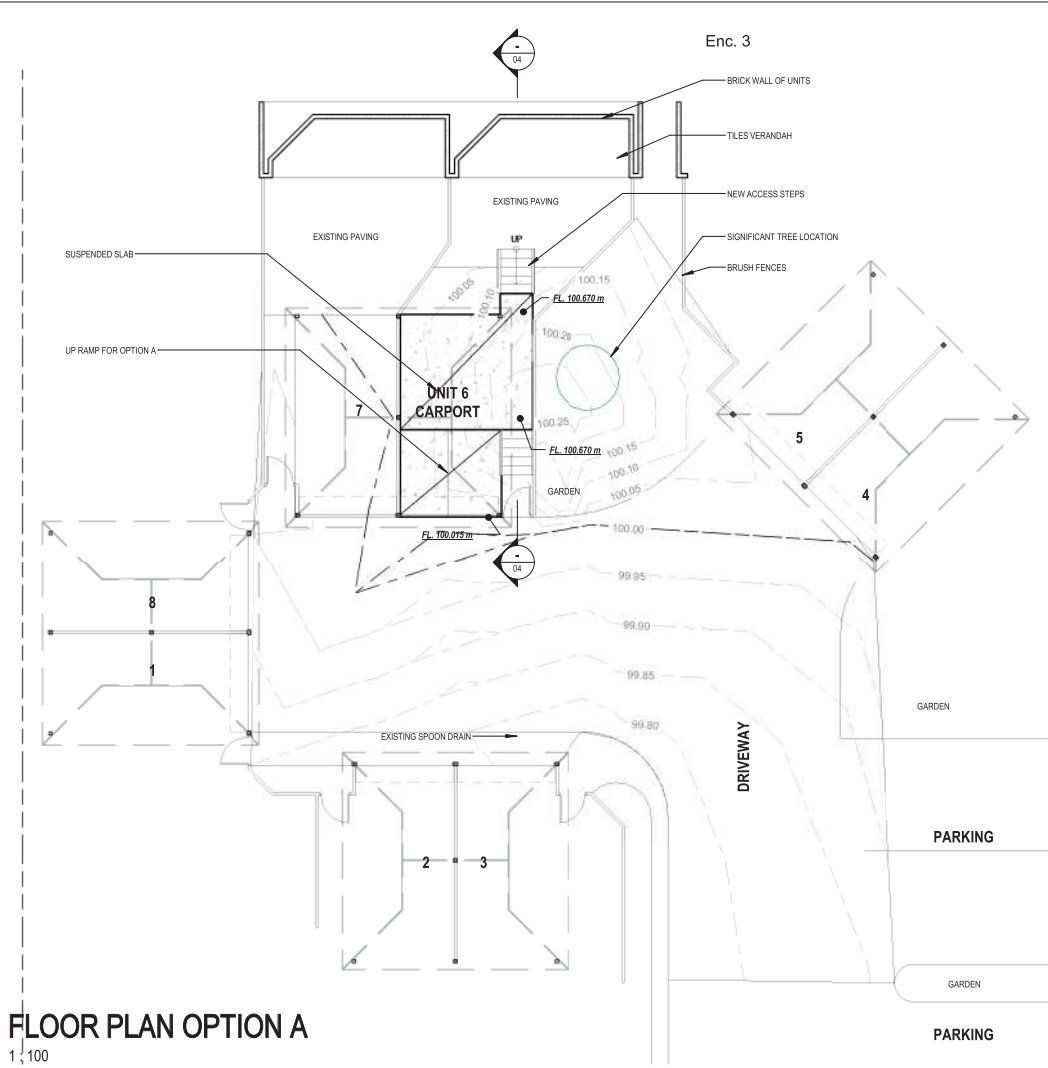
Attachment 2

UNIT 6 CARPORT

FOR PLANNING ONLY

REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON	
		As indicated	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SITE PLAN		Job No. 610-22	Issue
		Sheet No. 01	Rev C

ANY DISCREPANCIES MUST BE REPORTED TO THE DESIGNER.
ALL DRAWINGS ARE COPYRIGHT PROTECTED. DO NOT SCALE DRAWINGS.
CONTRACTORS/BUILDER TO VERIFY DIMENSIONS ON SITE PRIOR TO FABRICATION.



FLOOR PLAN OPTION A

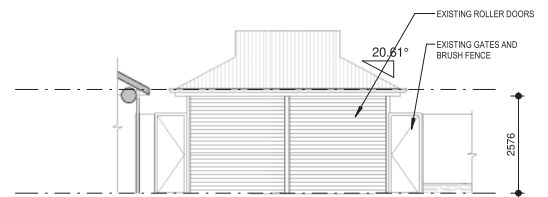
1:100

FOR PLANNING ONLY

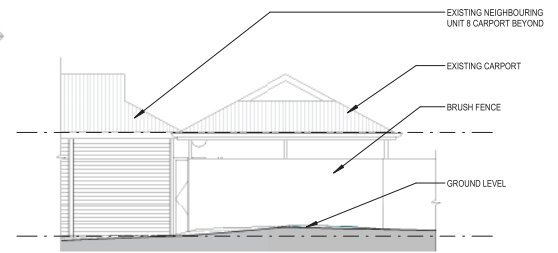
REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON 1:100	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION A PLANS		Job No. 610-22	Issue
		Sheet No. 02	Rev C

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Attachment 2



WEST ELEVATION
1:100

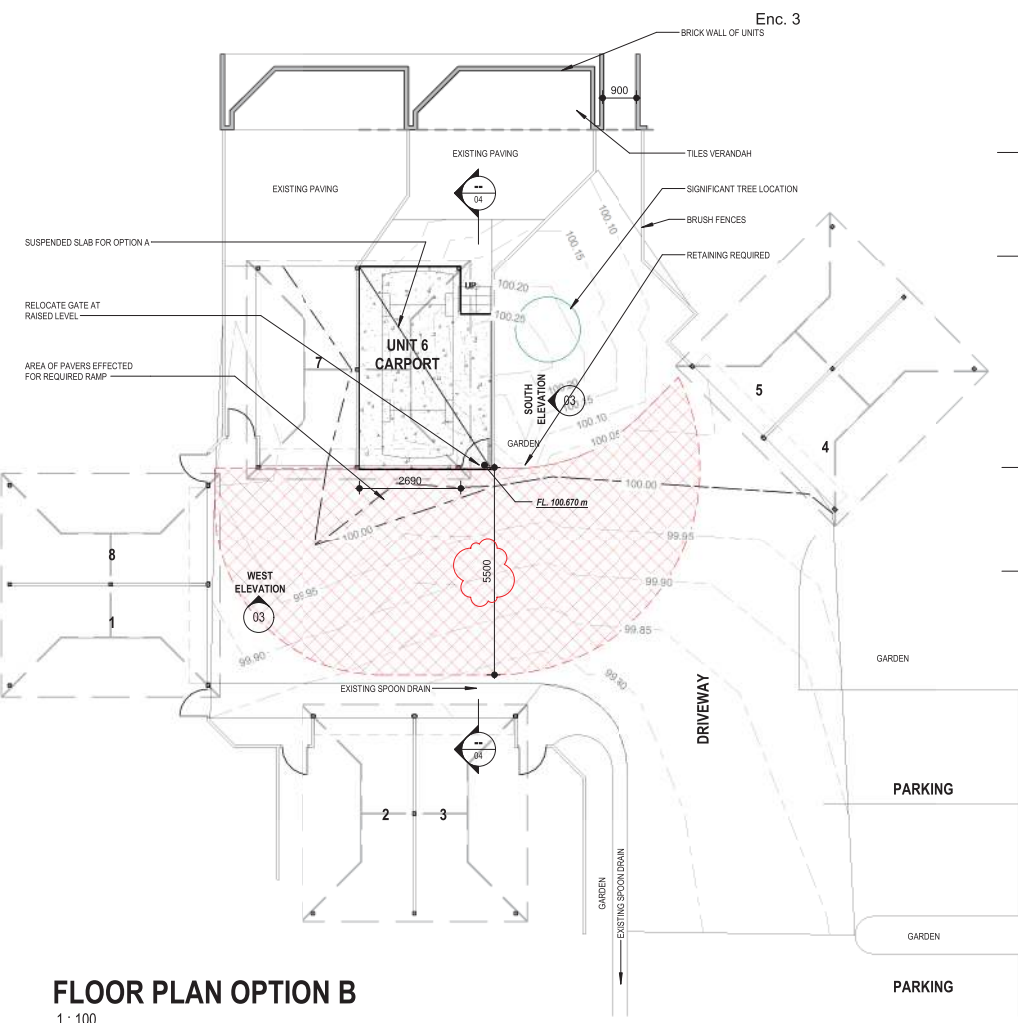


SOUTH ELEVATION
1:100

FOR PLANNING ONLY

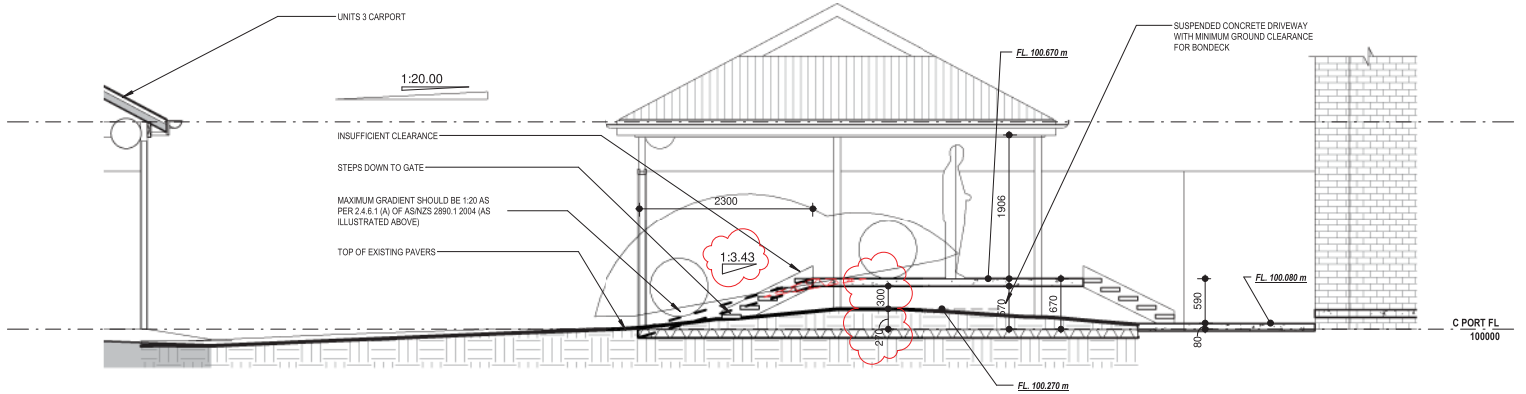
REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON 1:100	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION B PLANS		Job No. 610-22	Issue
		Sheet No. 03	Rev C

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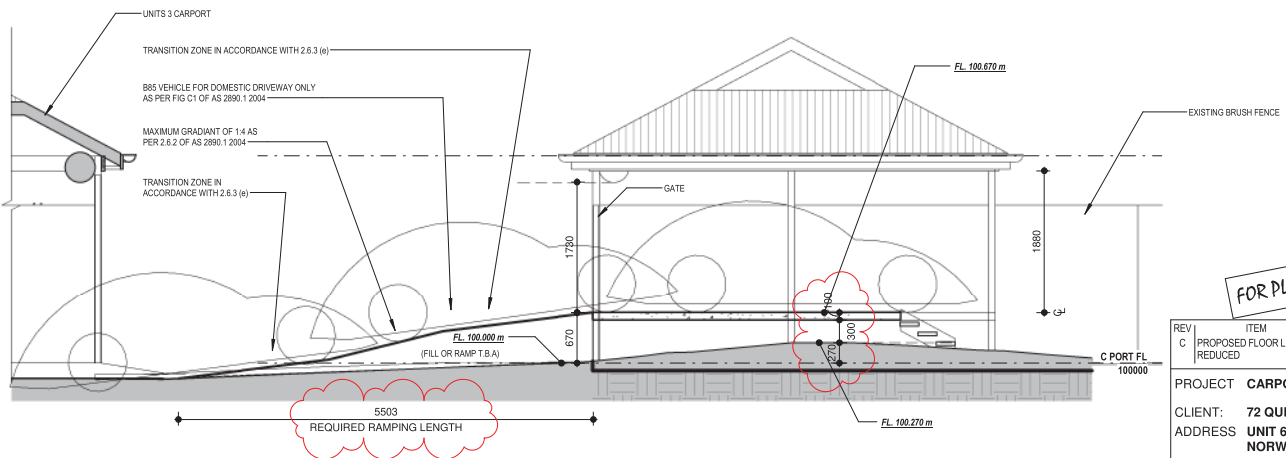


FLOOR PLAN OPTION B
1:100

Enc. 3



SECTION OPTION A
1 : 50



SECTION OPTION B
1 : 50

FOR PLANNING ONLY

REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23

SCALE ON 1 : 50

PROJECT **CARPORT CAR PARK**
 CLIENT: **72 QUEEN STREET STRATA**
 ADDRESS **UNIT 6, 72 QUEEN ST NORWOOD, SA 5067**

SECTIONS	Job No. 610-22	Issue
	Sheet No. 04	Rev C

ANY DISCREPANCIES MUST BE REPORTED TO THE DESIGNER.
 ALL DRAWINGS ARE COPYRIGHT PROTECTED. DO NOT SCALE DRAWINGS.
 CONTRACTORS/BUILDER TO VERIFY DIMENSIONS ON SITE PRIOR TO FABRICATION.

Minutes of Annual General Meeting

**Strata Corporation No 5240 Inc.
72 Queen Street Norwood 5067**

**Held at Online or by Phone (GoToMeeting)
On
Monday 18 September 2023 at 5:00pm**

Removal of Gum Tree

Ms M Gristwood provided an update on the status of council approval for the removal of the red gum tree, necessitated by the issues caused in particular to the carport and car parking of adjoining unit 6. Council has indicated it would not consider the removal of the tree until the Corporation had explored and exhausted possibilities for keeping the tree. Detailed plans were circulated to all property owners, prior to the meeting, outlining four options for consideration.

Option A puts forth the concept of a gradient platform to be manufactured and installed, extending over the tree's roots, providing steps and ramp access to unit 6's carport. Option B presents an engineered ramp leading to the carport, extending out into the Corporation's driveway. In addition to these options, the Corporation had two other alternatives on the table: Option C, involving the relocation of unit 6's carport to a different section of Corporation property, and Option D, the removal of the carport roof for unit 6, resulting in an open paved area.

In a comprehensive discussion, property owners thoroughly examined each of these options.

The Manager clarified that Options B and C necessitated a unanimous decision from all owners for approval, as they entailed the use of Corporation property. Option C would increase the unit 6 entitlement, hence making portion of property ownership inequitable. However, owners were not in favour of these options, primarily due to concerns about their potential impact on property values.

Similar concerns surfaced regarding Options A and D, as these alternatives would disrupt the uniformity and aesthetics of the units, potentially affecting not just the value of the affected unit, but property values for the entire complex as well. It was noted that Option A did "not achieve compliance with the relevant Australian Standard", and Option D did not solely affect unit 6 as would also remove a covered carport for unit 7.

Moreover, the Manager underscored that the tree would continue to be a persistent source of problems for the Corporation. These ongoing complications may encompass further issues to plumbing works and property damage resulting from climate-related events. Additionally, it is important to highlight the possibility of new disturbances affecting other carports, as well as the unacceptable safety risks posed to residents when navigating the path obstructed by tree roots leading to their properties. These problems cannot be pre-empted and/or addressed by any proposed options put forward today and would undoubtedly and inevitably escalate the cost of living within the strata complex and create an unsustainable financial burden for all residents.

Given these extensive deliberations, it was resoundingly agreed that the Corporation unequivocally reject all four options, as none of them presented a favorable, nor enduring, outcome for Corporation 5240 and its residents at 72 Queen Street Norwood.

DECISION NOTIFICATION FORM

Section 126(1) of the Planning, Development and Infrastructure Act 2016

TO THE APPLICANT(S):

Name: Nicci and Andrew Van de Ven
Postal address: UNIT 6 72-74 QUEEN STREET NORWOOD SA 5067
Email: [REDACTED]

IN REGARD TO:

Development application no.: 23012613	Lodged on: 4 May 2023
Nature of proposed development: Removal of Significant Tree and Construction of Carport (Replacement)	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: UNIT 6 72-74 QUEEN ST NORWOOD SA 5067		
Title ref.: CT 5021/227	Plan Parcel: S5240 UN6	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Location reference: 72-74 QUEEN ST NORWOOD SA 5067		
Title ref.: CT 5021/230	Plan Parcel: S5240 UCCP	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Location reference: UNIT 7 72-74 QUEEN ST NORWOOD SA 5067		
Title ref.: CT 5021/228	Plan Parcel: S5240 UN7	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Refused	30 Apr 2024			Assessment Manager at City of Norwood, Payneham and St. Peters
Building Consent					To be Determined
Development Approval - Planning Consent; Building Consent					City of Norwood, Payneham and St. Peters

FROM THE RELEVANT AUTHORITY: Assessment Manager - Section 96 - Performance Assessed at City of Norwood, Payneham and St. Peters
Date: 6 May 2024



REFUSAL REASONS

Planning Consent

The proposed development fails to accord with Regulated and Significant Tree Overlay Performance Outcome 1.4, in that reasonable alternatives to the proposed development do exist.

ADVISORY NOTES

Planning Consent

Advisory Note 1

The Applicant is reminded of its responsibilities under the *Environment Protection Act 1993*, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA.

Advisory Note 2

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 4

The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections), or works that require the closure of the footpath and / or road to undertake works on the development site, will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 5

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 6

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 7

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 8

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 9

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: City of Norwood, Payneham and St. Peters	Type of consent: Planning
Telephone: 0883664530	Email: developmentassessment@npsp.sa.gov.au
Postal address: PO Box 204, Kent Town SA 5071	

ASSESSMENT REPORT

DEVELOPMENT NO.:	23012613
APPLICANT:	Nicci and Andrew Van de Ven
NATURE OF DEVELOPMENT:	Removal of Significant Tree and Construction of Carport (Replacement)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m) • Minimum Site Area (Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	4 May 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	

DETAILED DESCRIPTION OF PROPOSAL:

Removal of Significant Tree and Construction of Carport (Replacement)

LOCATION OF DEVELOPMENT:

Location reference: UNIT 6 72-74 QUEEN ST NORWOOD SA 5067

Title ref.: CT
5021/227

Plan Parcel:
S5240 UN6

Council: THE CITY OF NORWOOD PAYNEHAM
AND ST PETERS

Location reference: 72-74 QUEEN ST NORWOOD SA 5067

Title ref.: CT
5021/230

Plan Parcel: S5240
UCCP

Council: THE CITY OF NORWOOD PAYNEHAM
AND ST PETERS

Location reference: UNIT 7 72-74 QUEEN ST NORWOOD SA 5067

Title ref.: CT
5021/228

Plan Parcel:
S5240 UN7

Council: THE CITY OF NORWOOD PAYNEHAM
AND ST PETERS

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Carport or garage
Carport: Code Assessed - Deemed to Satisfy
Tree-damaging activity: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; Tree damaging activity has no other pathway provided. Carport on its own would be DTS (but would result in tree damaging activity, therefore making it performance assessed)

PUBLIC NOTIFICATION

No

- **REASON**
N/A

AGENCY REFERRALS**INTERNAL REFERRALS**

- Matthew Cole

PLANNING & DESIGN CODE POLICIES

Regulated and Significant Tree Overlay PO 1.2 and 1.4. Further commentary on applicable policies is provided below.

PLANNING ASSESSMENT

This application has proven quite complex, with many competing considerations which have proven difficult to weigh up.

The tree is a river red gum with a circumference well in excess of 3m. It proved difficult to measure given the location of fencing and other vegetation, but there is no question that it is significant, and no question that the works to construct a new carport would be in the structural root zone of the tree.

Please note that the unit complex was approved under C.U. 493 in 1981. Condition 9 of that DA states:

“That no existing trees on the land shall be removed without the written approval of Council.”

The “written approval of Council” does not necessarily require a variation to that DA with respect of this condition.

Having inspected the site, the tree is distant from the street and does not have such a notable visual impact as may be expected for a tree of its size, because it is so far back and there are other trees around. However, on that visit there were many rainbow lorikeets inhabiting the tree, so I formed the view that it formed an “important habitat for native fauna” in accordance with RSTO PO 1.2 and therefore warranted retention. Later visits showed less signs of bird life in the tree, however this could be the result of a suspected poisoning, given our arborist found evidence of a borehole in the tree, and a decline in health. Nonetheless, the tree has survived and is recovering.

I note firstly that the carport is not considered to be a “substantial building of value”, so removal is not justified under RSTO PO 1.3.

The applicant contends that the roots of the tree have “heaved” such that the carport and the parking space are no longer usable. The carport does appear to have a “lean” to it, which may make the roller door inoperable. Additionally, though the owner has removed the paving for the floor of the carport, it is clear that the root has heaved to a notable degree.

RSTO PO 1.4 relates to trees preventing the “reasonable development” of the land. There is some question in my mind as to whether or not this test is really applicable:

1. The construction of the carport (which is the “development”) would likely be possible without fatal harm to the tree.
2. The issue at hand is actually the functionality of a parking space, which is not necessarily “development”
3. Therefore, can the tree be said to be obstructing “development”?

Nonetheless, I shall consider the matter from a more practical perspective, and the following is based on an assumption that the attainment of a functional parking space is “reasonable development”. I note that the unit in question has three bedrooms, and as such, TAP Table 1 would seek for it to have two on-site parking spaces, one of which is covered. I refer to PO 5.1

“Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as: ...”

The preservation of a significant tree is not one of the listed factors, but that list is not exhaustive and it is open to the Relevant Authority to consider other reasons to justify a reduced rate. I believe that preserving a significant tree is indeed justification for a reduced provision of on-site parking, and what would effectively constitute the removal of an on-site parking space, is acceptable in its planning implications.

An arborist’s report was provided from Marcus Lodge which suggested that the tree was healthy but had caused root heave. This recommended a “bridge” be built over the root to enable vehicle parking and prevent damage to the tree. A traffic report was also provided, demonstrating that the slopes involved would not comply with relevant standards.

My initial review of the documentation focused on concern that the traffic report had “overcompensated” for root heave, having suggested 500mm be allowed for as an arbitrary figure. I put this concern to the Mr Heynen, who asked Mr Lodge for his view on a suitable allowance for future heave, which was determined at 300mm to allow for 30 years of growth. An updated traffic report was provided, which again demonstrated that this would not comply with relevant standards. In applying a “planning lens” to the advice provided by Mr Weaver, while some of the objections he raises could easily be overcome, I am satisfied that, regardless of the Australian Standards, the proposed access would be unsuitable. The proposed “Option B” which involved ramping the common driveway, might be suitable if appropriate amendments can be made to adjoining carports.

Some discussion was had with Council’s Traffic Engineer and Manager, Traffic & Integrated Transport, who provided no written comment to contradict this, other than suggesting that amendments could be made to other carports in the complex. Verbal conversations suggested that they agreed that it would not be viable, and they provided no additional suggestions other than on-street parking or utilising a visitor space.

Given that the tree is on common land, I am of the view that it would be reasonable to explore remedial treatments on common land. However, design solutions within the separately owned land of each unit are more questionable.

In a site meeting with Mr Heynen, I suggested that the option of assigning one of the “visitor” car parks to that unit could be explored. This was rejected by the strata corporation, which the applicant contends is sufficient reason that this is not possible. I noted on a more recent visit that what I had supposed were visitor spaces, all have signs showing they are “reserved for Unit X” i.e. while not on their land specifically, the unit would still have an on-site parking space available for use.

It is my view that at the very least, parking on-street (noting that the owner would be eligible for a permit which would exempt them from the 2-hour time limit) is a “reasonable development option [or] design solution” as per RSTO PO 1.4, and therefore that removal of the tree is not justified.

RECOMMENDATION

REFUSE PLANNING CONSENT

Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code.

REASONS FOR REFUSAL

The proposed development fails to accord with Regulated and Significant Tree Overlay Performance Outcome 1.4, in that reasonable alternatives to the proposed development do exist.

OFFICER MAKING RECOMMENDATION

Name: Edmund Feary

Title: Senior Urban Planner

Date: 30 April 2024

DECISION AUTHORITY

Relevant Authority: Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters

Consent: Planning Consent

Date: 30 April 2024

Delegation Policy: NPSP Delegations

Delegate Name: Edmund Feary

Delegate Title: Senior Urban Planner



2 May 2023

Norwood, Payneham & St Peters Council
ATT: Planning Department

By Upload

To the Assessment Manager

RE: UNITS 6 AND 7, 72 QUEEN STREET, NORWOOD

I confirm that I have been engaged to consider the planning merit of the proposed construction of a replacement carport and removal of a significant tree on the land at 72 Queen Street, Norwood.

In being asked to consider the planning merit of the development, I have been provided with the following documents:

- (a) Replacement Carport Plans and Elevation, prepared by Royal GreenHouse, Job No. 610-22, Rev B, date 22/3/23, 3 sheets;
- (b) Carport Car Park drawings, prepared by Royal GreenHouse, Job No. 610-22, Rev B, date 22/3/23, 4 sheets;
- (c) Arboricultural Impact Assessment and Development Impact Report, prepared by Arborman Tree Solutions, date 23 June 2022;
- (d) Report for Tree Protection and Carport Modification, prepared by Matthew Jansen, structural engineer, date 15th March 2023; and
- (e) Advice from Phil Weaver Traffic Engineer, dated 21 April 2023.

In forming my opinion on the proposed development I confirm that I have viewed the site and locality on two occasions, assessed the Planning and Design Code (the Code) and considered case law. I have formed the opinion that the removal of the significant tree is warranted and that the proposed carport is in accordance with the provisions of the Code.

Background

The subject land accommodates 8 “townhouses”, each with carports that are accessed via an “L” shaped common driveway. The subject land exhibits mature vegetation, including a significant tree located in a common garden bed area positioned approximately 650 mm from the Strata Title boundary of Unit 6 and approximately 1.3 m from the existing Unit 6 carport.

From the Arborman report, the significant tree is described as follows (page 1 of 8, para 2):

“The assessment considered one tree which is identified as a mature *Eucalyptus camaldulensis* (River Red Gum) that is considered to be in good overall condition. There is significant structural root growth within the adjacent unit that has disturbed the levels to the point where it cannot be used as designed.”

I understand and have been advised that the owners of Units 6 and 7, 72 Queen Street, Norwood have been increasingly aware of the growth of the significant tree and the subsequent impacts on the use and enjoyment of their land. These include:

Unit 6 - Carport

The root growth has resulted in “heaving” of the land adjoining and adjacent the carport and its associated walkway such that:

- the paved surface of this area has been removed as it was so unlevel so as to become a significant trip hazard;
- the carport has been twisted such that it is no longer “square” and the roller door is not operational; and
- a vehicle can no longer be parked under the carport.

Unit 7 - Carport

This carport is attached to the Unit 6 carport such that it shares a common Dutch gable roof and associated roof structure. The warping of the Unit 7 carport is affecting the roller door such that it can only be operated by manual force (i.e. the automatic motorised function is no longer possible).

Inspection by Matthew Jansen (structural engineer) confirmed the following observation (page 1, para 2):

“From our site meeting of 31/8/22, the problem is understood to be an unusable carport. The surface is lifting and heaving. Cars and pedestrians cannot safely enter. Car door swings are impractical. The brush fence’s footings have also been damaged. The cause of these is clearly growth of tree roots. The problem has developed over several years and is expected to continue.”

The applicant seeks to ensure that the covered car parking associated with Units 6 and 7 remain available as intended and as designed.

Arborman Advice

On review of the Arborman report the following comment is noted at page 1 of 8, para 4:

“As this tree has a High Retention Rating and displays attributes that indicate it should be protected, it is recommended that alternative construction methods be considered to prevent substantial tree damage. If alternative construction methods are not available or reasonable, tree removal may need to be considered.”

And at page 5 of 8, para 1:

“The purpose of the Arboricultural Impact Assessment and Development Impact Report is to identify potential impacts the proposed development will have on the trees and provide mitigation strategies to minimise impact where appropriate. The proposal involves the reconstruction of the removed pedestrian access and driveway adjacent to the tree.”

And, also at page 6 of 8, para 2:

“The area of the required work is within the SRZ and is therefore classified as a ‘Major Encroachment’ as defined in AS4970-2009. Severance or damage to roots in the SRZ can cause instability and increase the likelihood of whole tree failure. AS4970-2009 also identifies relevant factors that should be considered when

determining the ‘impact’ of encroachments such as this; these considerations are listed under section 3.3.4 TPZ encroachment considerations. When considering these factors, the proposed work could be redesigned to minimise the impact on the roots such that it is unlikely to result in tree damaging activity that will result in the decline, death or failure of the tree.”

Finally, Arborman concluded as follows (page 7 of 8, para 2 and 3):

“There are no surface roots in the actual driveway section and as such this area could be replaced with a similar surface to the one that was removed without causing damage to the tree. However there are large diameter and important roots in the area of the pedestrian access. Given the site constraints there are no realistic opportunities to provide pedestrian access in another location and therefore reconstruction of the new access has to consider the existing tree roots.

The preservation of the exposed roots is important to the health and stability of the tree and therefore they need to be retained and protected. The only realistic way this can be achieved is to build a bridge over the Structural Root Zone that allows clearance above the root such that root expansion will not impact the bridge for a reasonable period of time. There may be other requirements for this type of structure, as it is raised above the natural ground it may need a handrail and there may also be a requirement for it to be Disability Access Compliant.”

The Current Circumstance

The exposed roots of the significant tree and the resultant displaced ground rises 270 mm above the unaffected ground (original existing) level. The radial displacement of the ground level occurs from the approximate mid-point of the Unit 6 carport and the walkway along the southern side.

The displacement of the ground level and the root system have resulted in the finished levels of the carport and walkway areas, along with the “pressure” on the carport structure, have resulted in this area being (a) unsuitable for vehicle parking and (b) one in which great care needs to be taken by pedestrians to avoid trip hazards.

The Suggested Bridge Over the Structural Root Zone

Before considering the bridge over the Structural Root Zone (SRZ) I first note the following existing characteristics of the Unit 6 car parking area:

- a maximum length of 6.6m (noting the angled Strata Title boundary east of this area);
- a maximum width of 3.57 m;
- a carport width of 2.69 m;
- a walkway width of 880 mm;
- two post construction along the southern open side of the carport;
- three post construction along the northern side of the carport; and
- a brush fence “enclosing” the northern side of the carport.

The width of the carport area is such that the open southern side of the carport is required to allow sufficient “door swing” for a driver to align the vehicle.

Returning to the Arborman report the SRZ is defined as having a radius of 4.14 m. Noting the position of the tree from the Strata Title boundary (650 mm), the SRZ encroaches into approximately two thirds of the car parking space and walkway area.

As a consequence, the bridge referred to by Arborman would need to be elevated alongside the majority of the car parking space. Noting that the tree root projects 270 mm above ground level, and that some allowance is required for future root growth (say 500 mm) the height of the bridge would have the effect of forming a physical barrier that would not allow the driver sufficient space to open the vehicle door to alight the vehicle.

In this regard the bridge would render the 2.69 m wide parking space as having “closings” on both sides and in which case the parking space would not satisfy AS/NZS 2890.1-2004.

Put another way, the bridge, without raising the finished level of the parking space for the vehicle would continue to render Unit 6 without a “compliant” parking space.

The Mitigation Strategies

The Jansen report suggests that the parking level should be “elevated slightly off the ground by approximately 500 mm”. Research undertaken by the applicant indicates that a “Bondeck” structure could be used for the elevated parking deck. I have been advised that a minimum 80 mm clearance above ground level is required for this material.

So as to avoid the elevated deck construction occurring again in the foreseeable future it is considered that a 420 mm clearance above the tree root and an 80 mm allowance for the Bondeck is appropriate (i.e. thereby achieving 500 mm clearance from the exposed roots at their highest point). The resultant finished level of the deck would be 100.87, with the exposed root level being measured at 100.27 (noting that the Bondeck is 100 mm “thick”).

The above combination has put aside how the deck would be suspended, noting for example that additional posts or support structures may be required with the SRZ or Tree Protection Zone (TPZ). That said, further investigation of these aspects of the building work would potentially create further encroachments within the SRZ and TPZ.

The “Carport Car Park” drawings prepared by Royal GreenHouse apply the above parameters and illustrate:

“Option A” – a raised deck for a vehicle with a ramp contained entirely on the land associated with Unit 6 (per the Strata Title), a walkway with matching floor level (i.e. 100.87) and steps at the eastern end of the walkway.

“Option B” – a raised deck for a vehicle with a ramp located within the common driveway area associated with the Strata Title, a walkway with matching floor level (i.e. 100.87) and steps inset from the eastern end of the walkway.

The Traffic Advice

The advice of Mr Weaver considers the Option A and Option B arrangements with respect to AS/NZS 2890.1:2004. For the reasons listed for Option A, page 2 Points 1, 2, 3 and 4 of his advice concludes:

“Option A would not be physically accessible by passenger cars and is considered to be significantly at variance with AS/NZS 2890.1:2004.”

The assessment of Option B by Mr Weaver concludes (for numerous reasons expressed at page 2 of his advice) that this option “would require increased overhead clearances to be compliant with AS/NZS 2890.1:2004 for Unit 6.” It was also concluded that “...ramping of the common driveway would result in severe accessibility issues for adjoining users, particularly Units 1, 7, and 8.”

Put another way, to create suitable access and car parking for Unit 6, the issues created by driveway grades and crossfalls result in Units 1, 7 and 8 having severe access issues. This is clearly not a sensible outcome, and for that and other reasons I have been advised by Strata Corporation 5240 Inc that permission will not be granted for works on the common driveway area.

Essentially Option B is not an option supported by Strata Corporation 5240 Inc and is not able to be lawfully acted upon.

Accordingly, the advice of Mr Weaver and the position of Strata Corporation 5240 Inc is such that reasonable and sensible options to construct a carport and elevated parking space for Unit 6 are not available.

The Planning Impact

The continuation of existing scenario whereby Unit 6 cannot safely and practically provide a dedicated and covered occupant parking space for the dwelling does not satisfy the provisions of the Planning and Design Code (the Code)¹:

Part 4: Transport, Access and Parking

PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:...

DTS/DPF 5.1 Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:

- (a) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements...

Additionally, in my opinion, it is entirely reasonable for the occupants of Unit 6 to expect that a covered parking space continue to be provided in the designated unit carport subsidiary. It is also reasonable, in my opinion, that the automated operation of Unit 7 carport roller door should be able to function as intended.

To ensure that car parking is provided in accordance with the Code removal of the significant tree is proposed, in addition to the proposed "replacement carport" for Units 6 and 7.

In relation to the removal of the significant tree, the Code guides as follows (my underlining added):

Regulated and Significant Tree Overlay

DO 1 Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.

PO 1.4 A tree-damaging activity in connection with other development satisfies all the following:

- (a) it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible
- (b) in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.

¹ In my opinion, the existing and future parking supply can reasonably rely upon the Planning and Design Code as a guide to the prerequisite standard for the existing residence

From the documents prepared and forming part of the development application, it is clear that the applicant has sought to mitigate tree loss by considering and preparing alternate designs (i.e. Option A and Option B) that attempt to not “unduly compromise” the structural roots of the significant tree.²

The assessment by Mr Weaver confirms that Option A and Option B do not create covered parking spaces that comply with AS/NZS 2890.1:2004 and/or create severe impacts on access to other unit subsidiary parking spaces.

Given the confines and character of the subject land and the proximity and size of the significant tree, no other options or strategies appear available to (a) mitigate the impact on the significant tree and (b) satisfy the reasonable demand for a dedicated on-site parking space for Unit 6.

Conclusion

In my opinion, the proposed development (and the applicant) has:

1. accurately determined the extent of the SRZ associated with the significant tree;
2. sought advice from an arborist as to the means by which to mitigate the impact on the SRZ and the tree more generally;
3. sought advice from an engineer with respect to the general design and form of the “bridge” solution recommended by the arborist;
4. illustrated and accurately designed two further design options to avoid damage to structural roots; and
5. sought advice from a traffic and parking engineer to determine whether two design options comply with AS/NZS 2890.1:2004.

The advice with respect to Option A and Option B confirms that neither mitigation option complies with the relevant standards.

The Unit 6 residence rightfully should be provided with a designated and covering car parking space.

The proposed development has considered “all reasonable development options and design solutions... to prevent substantial tree-damaging activity occurring”.

In my opinion, the proposed removal of the significant tree and construction of the replacement carport for Unit 6 and Unit 7 displays substantial planning merit.

Finally, I note that the Planning, Development and Infrastructure (General) Regulations 2017 prescribes:

Division 5—Conditions

59—Regulated and significant trees

- (1) For the purposes of section 127(4) of the Act, the prescribed number of trees is—...
- (b) if the development authorisation relates to a significant tree—3 trees to replace the significant tree.

That said, the Planning, Development and Infrastructure Act 2016 also prescribes:

² In accordance with Regulated and Significant Tree Overlay PO 2.1

127—Conditions

(5) A tree planted under subsection (4) must satisfy any criteria prescribed by the regulations (which may include criteria that require that any such tree not be of a species prescribed by the regulations).

(6) The relevant authority may, on the application of the applicant, determine that a payment of an amount calculated in accordance with the regulations be made into the relevant fund in lieu of planting 1 or more replacement trees under subsection (4) (and the requirements under subsection (4) will then be adjusted accordingly).

On my review it is the case that the replacement trees cannot be planted so as to be greater than 10 m from an existing dwelling. Accordingly, I have been requested by the applicant that a payment be made in lieu of tree planting (per s(127)(6)).

Additionally, the applicant has requested that I confirm that a landscaping plan can be provided to Council (either as part of the assessment or via a condition of consent) with respect to the garden bed area currently consumed by the significant tree.

Should you have any queries please contact me at your convenience.

Yours faithfully









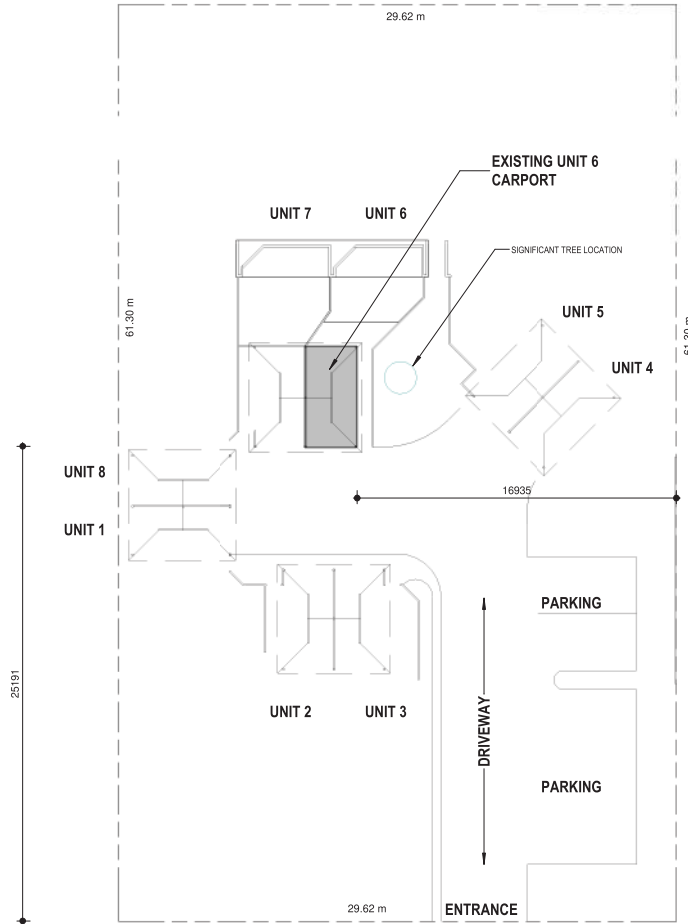
Garth Heynen, MPIA

BA Planning, Grad Dip Regional & Urban Planning, Grad Dip Property

cc. Ms M Gristwood, by email

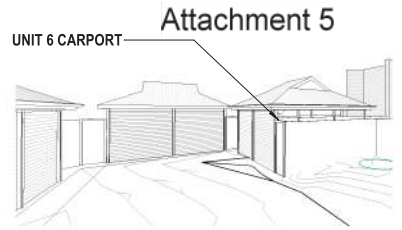
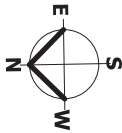
SITE LEGEND

- DP  90mm DOWN PIPE SEALED TO UNDER SIDE OF GUTTER
- IP  INSPECTION POINT
-  300x300x300 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER
-  600x600x600 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER WITH TOP OF WATER LEVEL TO BE MIN 65mm BELOW FINISHED SURROUNDING LEVEL
-  NEW SPOT LEVEL
-  EXISTING SPOT LEVEL
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- C.O.S. CHECK ON SITE



PART SITE PLAN
1 : 200

72 QUEEN ST



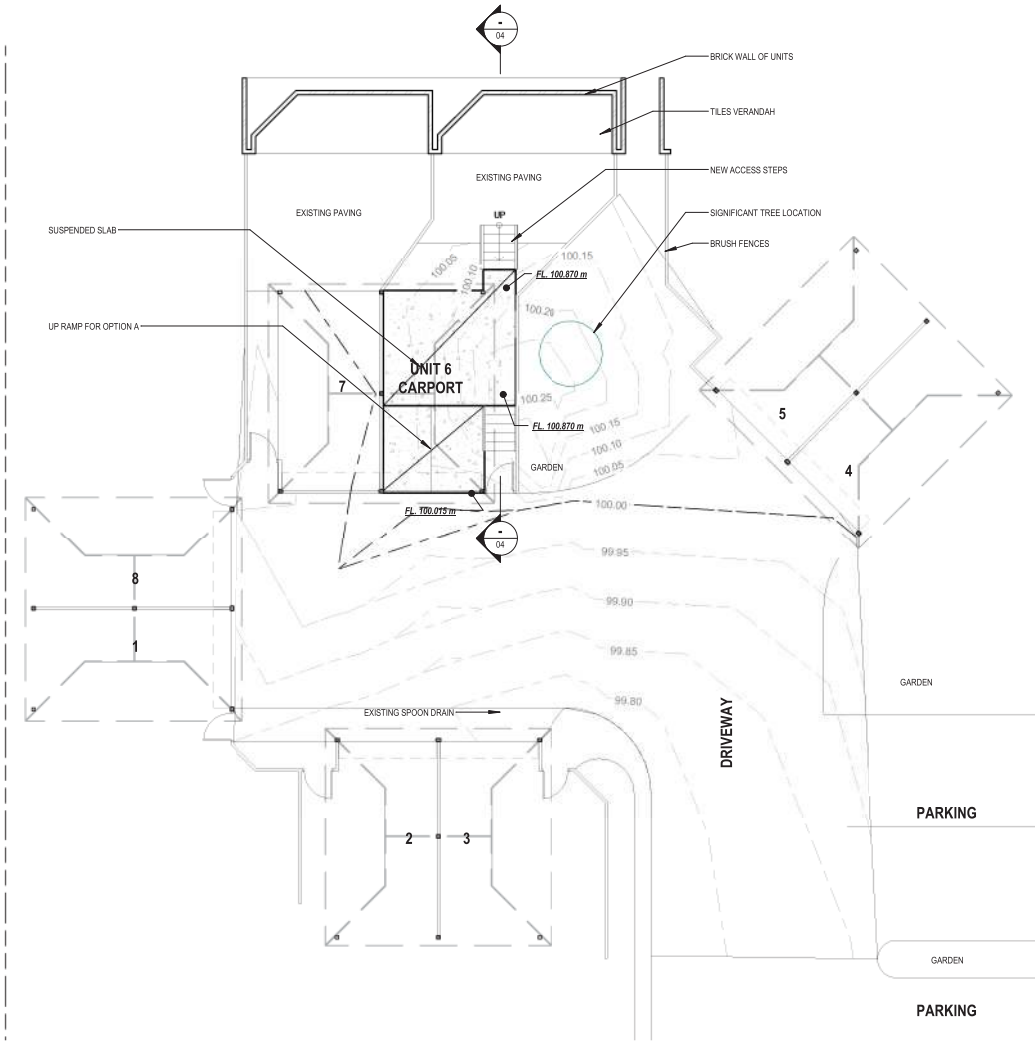
3D View 1

FOR PLANNING ONLY

REV	ITEM	DATE	DATE
B	SECOND ISSUE	22/3/23	22/3/23
		SCALE ON As indicated	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SITE PLAN		Job No. 610-22	Issue
		Sheet No. 01	Rev B

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Attachment 5

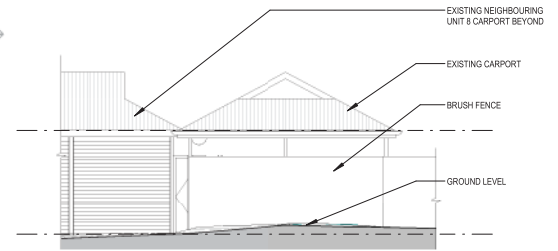
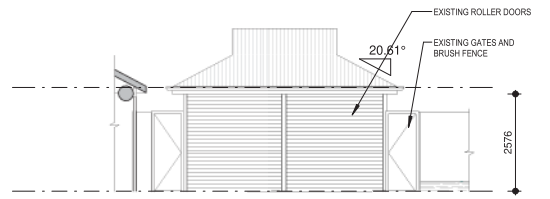
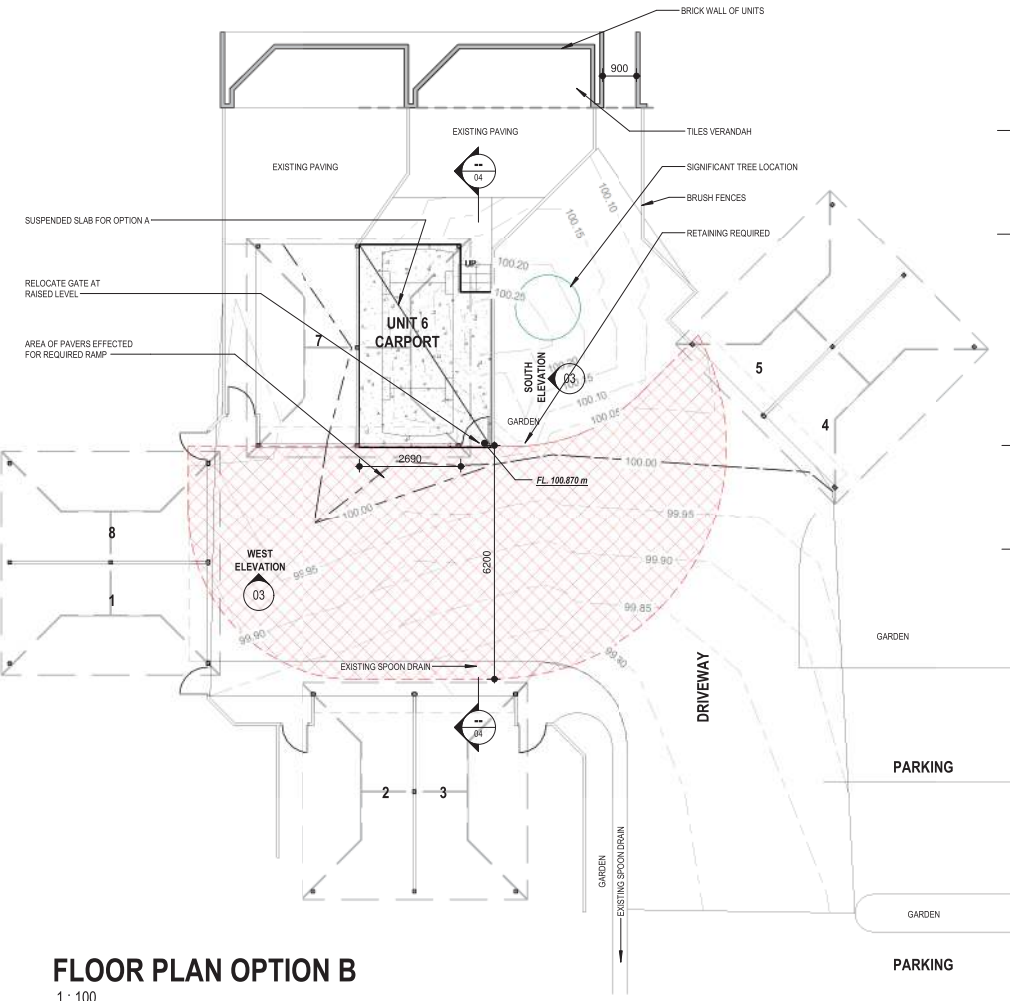


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PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION A PLANS		Job No. 610-22	Issue
		Sheet No. 02	Rev B

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Attachment 5

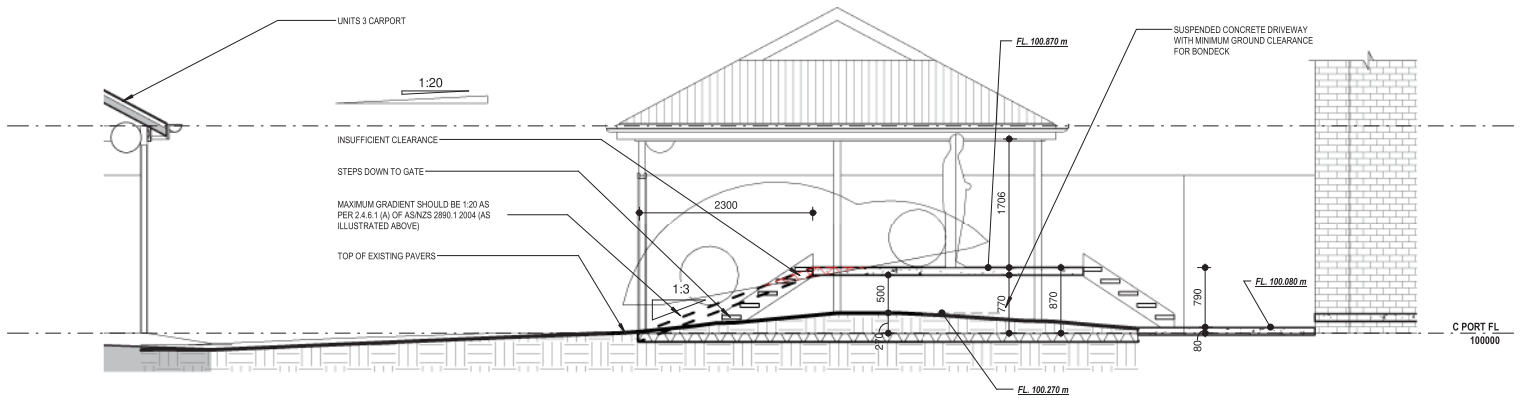


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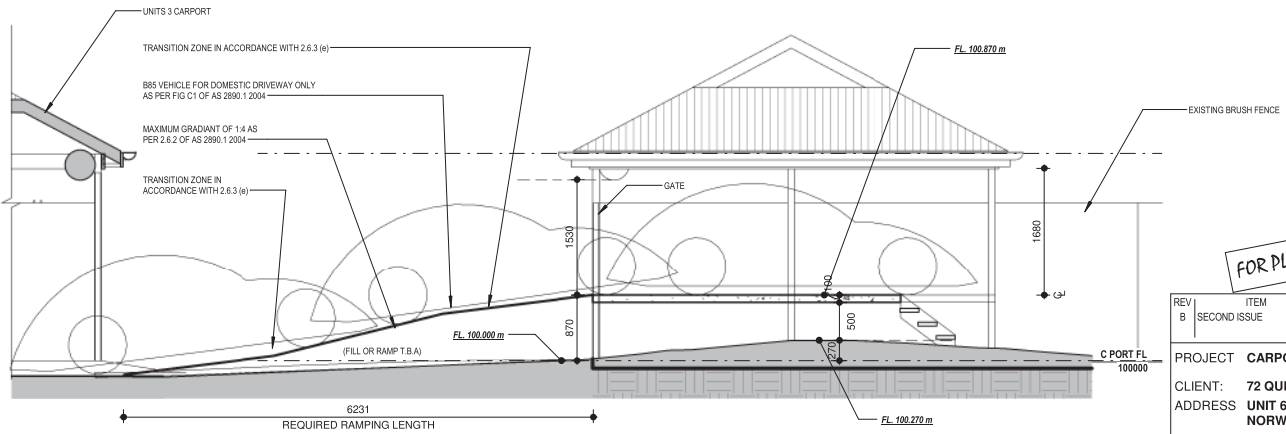
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PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION B PLANS		Job No. 610-22	Issue
		Sheet No. 03	Rev B

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Attachment 5



SECTION OPTION A
1 : 50



SECTION OPTION B
1 : 50

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REV	ITEM	DATE	DATE
B	SECOND ISSUE	22/3/23	22/3/23
		SCALE ON 1 : 50	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SECTIONS		Job No. 610-22	Issue
		Sheet No. 04	Rev B

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Consultant Traffic Engineers
ABN 67 093 665 680

204 Young Street
Unley SA 5061

P: 08 8271 5999
E: mail@philweaver.com.au

File: 23-109

21 April 2023

Mr Garth Heynen
Heynen Planning Consultants

By email: garth@heynenplanning.com.au

Dear Garth,

ASSESSMENT OF CARPORT AND ASSOCIATED DRIVEWAY GRADE ALTERATION OPTIONS – 6/72 QUEEN STREET, NORWOOD

We refer to our recent discussions with respect to the above matter. We understand that there is a tree root issue associated with the significant tree located to the immediate south of the subject carport (Unit 6) and that options are being explored in relation to raising the level of the Unit 6 car parking space 500mm above the existing ground level.

As requested, we have undertaken the following design reviews of Options 'A' and 'B' provided to this office on a series of plans (Job Mo. 610-22, Rev B, Sheets 1 to 4) dated 22 March 2023, attached as an appendix to this letter.

EXISTING SITUATION

The subject site is located on the western side of Queen Street, Norwood, in an *Established Neighbourhood Zone* within the City of Norwood Payneham and St Peters.

Vehicular site access is currently provided via a crossover to the immediate south of Unit 3. This access point links to an internal east-west oriented common driveway with uncovered 90-degree car parking located on the southern side of the driveway before meeting a north-south section of driveway from which the various single-vehicle carports associated with each unit on the subject land are accessed.

Based on the contours provided on the Site Plan, there is an existing grade of approximately 4% across the subject north-south section of driveway, resulting in a slight grade up from the Lot 3 carport to the Lot 6 carport.

We understand that the existing carport has a length of approximately 5.2m, a width of approximately 2.9m, a roller door of approximately 2.5m in width, and an original minimum internal height (vertical clearance) of approximately 2.6m.

We also understand that tree roots associated with the significant tree located to the south have raised the existing Unit 6 carport pavement level by approximately 270mm. Subsequently a suspended parking space with 500mm of clearance above the existing raised pavement level is being considered in order to maintain long-term clearance for the subject car parking space above the expanding tree root.

OPTION A

Option A is identified in the section view on Sheet 4 of the provided plans.

This option identifies a ramp grading at 1:3 for the first 2.3m into the carport providing access to the raised platform. This option would be non-compliant with *AS/NZS 2890.1:2004* in various respects, including:

- 1) The maximum allowable change of grade is 1:8 (12.5%) over 2m of travel. The identified 1:3 (33%) change of grade would therefore significantly exceed this maximum and would subsequently not be traversable by passenger vehicles,
- 2) The maximum allowable domestic driveway grade at any point is 1:4, i.e., 1:3 would be too steep even if transitions were introduced,
- 3) The remaining flat section of the proposed car parking space would not be long enough to accommodate a parked car (5.4m required), i.e., a car would have to straddle the 1:3 (33%) ramp. The maximum longitudinal grade of a car parking space is 1:20 (5%), i.e., the position of a parked vehicle in this carport would therefore invariably be parked on too steep of a grade to meet the requirements of the relevant off-street parking is standard, and
- 4) The minimum required overhead clearance above a car parking space is 2.2m, i.e., the 1.7m vertical clearance which could be provided would be insufficient.

Option A would not be physically accessible by passenger cars and is considered to be significantly at variance with *AS/NZS 2890.1:2004*.

OPTION B

Option B is identified both in plan view (Sheet 3) and in section view (Sheet 4) of the provided plans.

This option identifies a 6.231m long section of ramp grading within the common driveway in order to meet the proposed car parking space level. This ramp includes 2m long 1:8 (12.5%) transitions either side of a 2.231m long 1:4 (25%) section of ramp. These grades are compliant with *AS/NZS 2890.1:2004*, noting that the sag transition grade could theoretically be increased to 1:6.7 (15%), which could reduce the overall length of the ramp marginally by 0.2m.

However, it is noted that the carports 1.68m overhead clearance and 1.53m roller door clearance identified in Section Option B would be insufficient, with minimum overhead clearance requirements of 2.2m.

Furthermore, this option would have severe impacts in terms of maintaining appropriate accessibility to the adjoining carports, namely:

- 1) The Unit 7 carport is located directly adjacent to the Unit 6 carport and would therefore be inaccessible at its current level with the proposed increases in the grades of the adjoining driveway,
- 2) There is an approximately 4.0m offset between the northern edge of the Unit 6 carport and the frontage of the Units 1 and 8 carports. As such, there would be insufficient distance (approximately 6.2m required) to ramp back down from the new Unit 6 carport level to the existing Unit 8 carport level. This is notwithstanding the Unit 7 accessibility impacts, and
- 3) Drivers associated with all remaining units (1 to 5, 7, and 8) would, to different extents, be required to travel transversally across the ramp, at crossfalls of up to 1:4 (25%). *AS/NZS 2890.1:2004* does not specify maximum driveway crossfalls however in our experience such a crossfall would be far too steep. For example, the *Hazards (Bushfire) Overlays* of the *Planning and Design Code* identify maximum driveway crossfalls of 1:9.5 (10.5%), less than half that identified in this option.

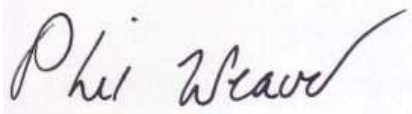
Option B would therefore require increased overhead clearances to be compliant with *AS/NZS 2890.1:2004* for Unit 6. However ramping of the common driveway would result in severe accessibility issues for adjoining users, particularly Units 1, 7, and 8.

SUMMARY

In summary, we consider that:

- Option A is unfeasible, being significantly at variance with the design requirements of the relevant Australian off-street car parking standard for the carport of Unit 6, and
- Option B is also unfeasible, being at variance with the relevant Australian off-street car parking standard for Unit 6, and resulting in considerably inappropriate level differences for the Unit 1, 7, and 8 carports, and inappropriate driveway crossfalls for the majority of users of the adjoining section of driveway.

Yours sincerely,

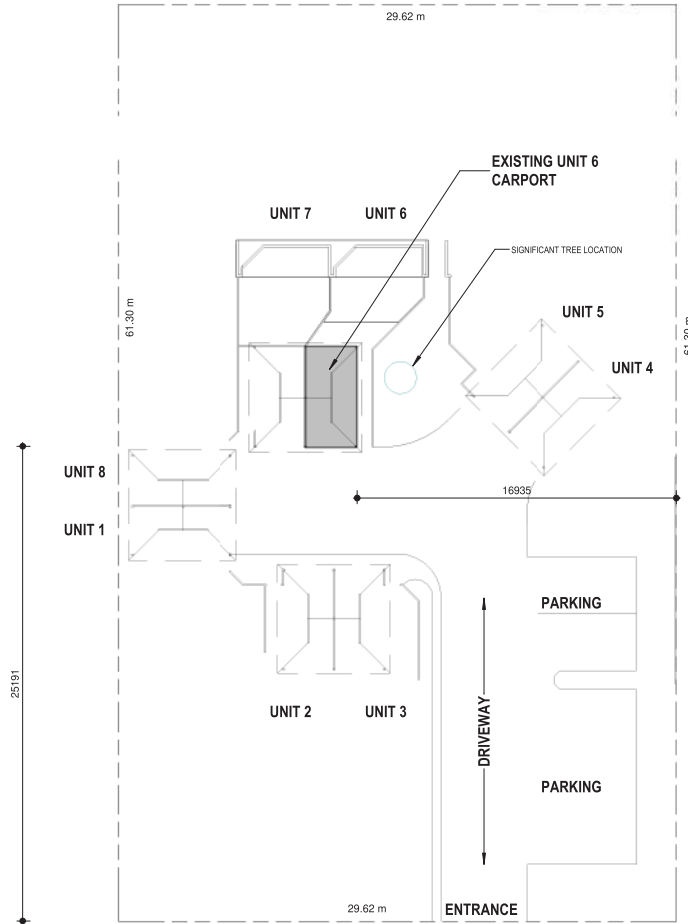


Phil Weaver
Phil Weaver and Associates Pty Ltd

Enc: Provided Plans

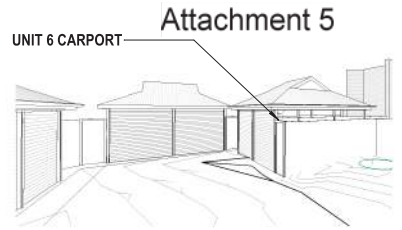
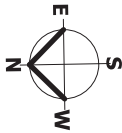
SITE LEGEND

- DP 90mm DOWN PIPE SEaled TO UNDER SIDE OF GUTTER
- IP INSPECTION POINT
- 300x300x300 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER
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- GL: DIRT SURFACE (GROUND LEVEL)
- C.O.S. CHECK ON SITE



PART SITE PLAN
1 : 200

72 QUEEN ST



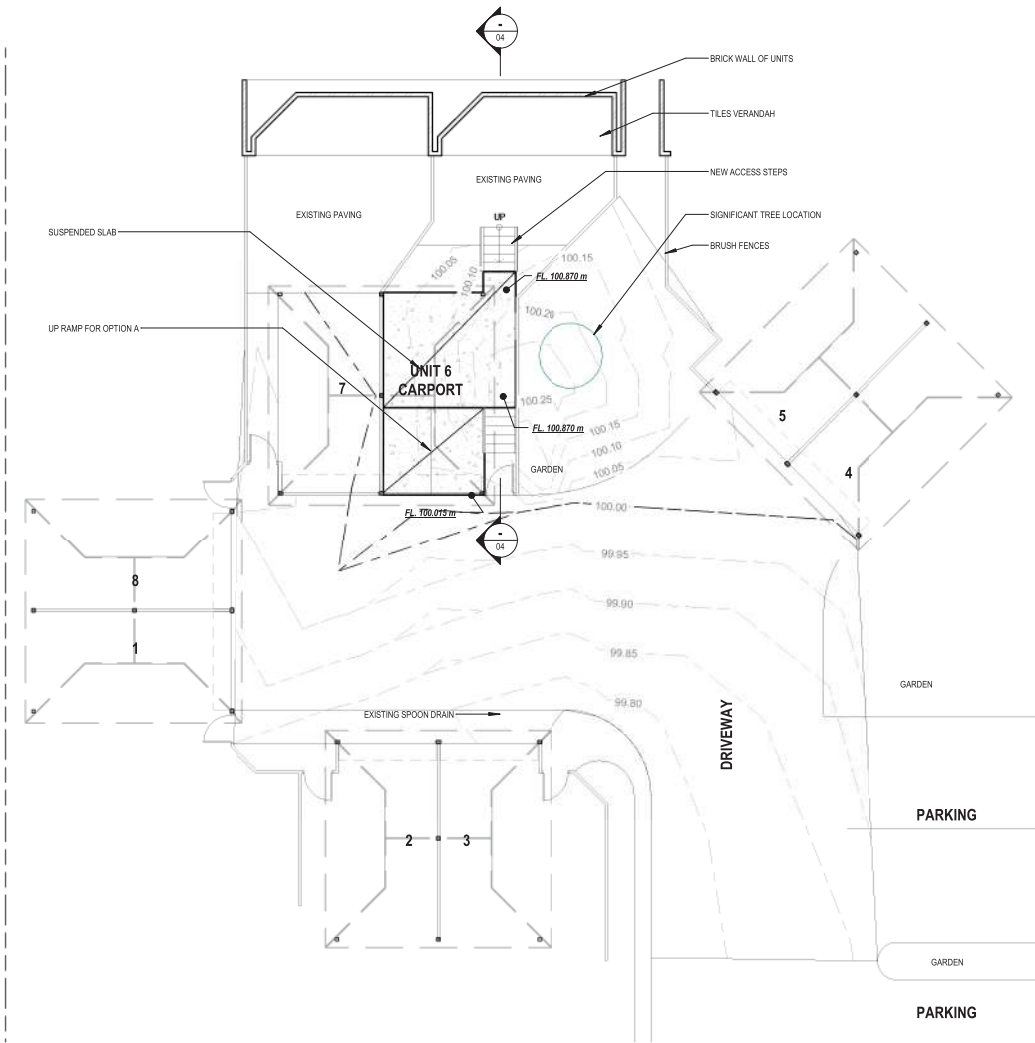
3D View 1

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ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SITE PLAN		Job No. 610-22	Issue
		Sheet No. 01	Rev B

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Attachment 5

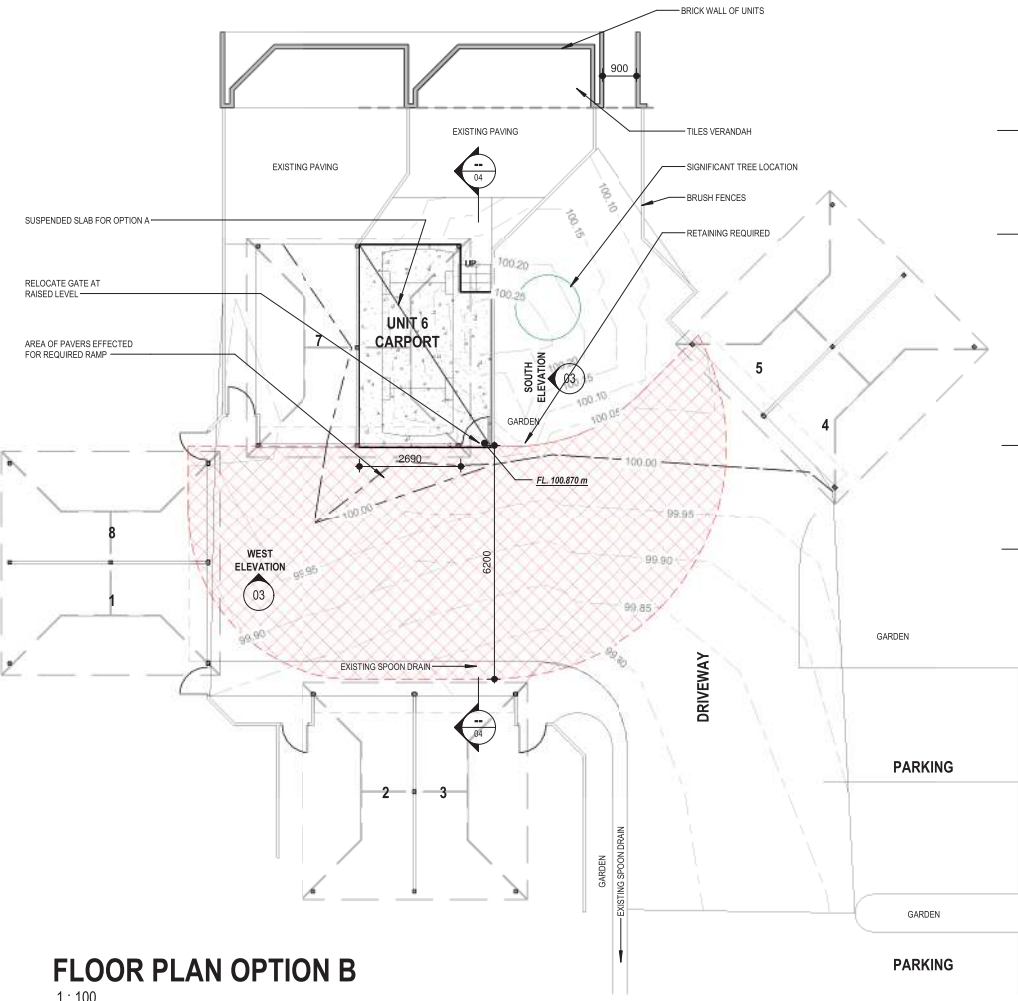


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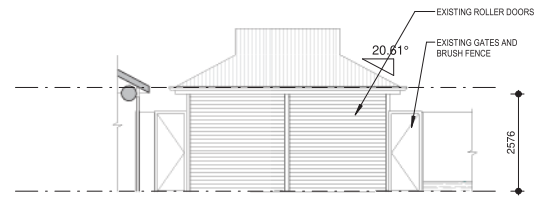
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PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION A PLANS		Job No. 610-22	Issue
		Sheet No. 02	Rev B

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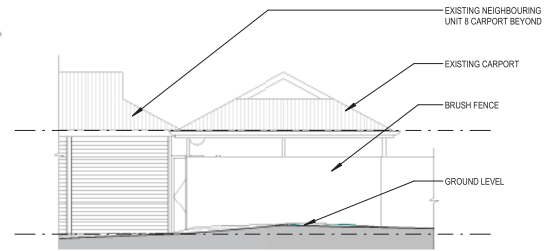
Attachment 5



FLOOR PLAN OPTION B
1 : 100



WEST ELEVATION
1 : 100



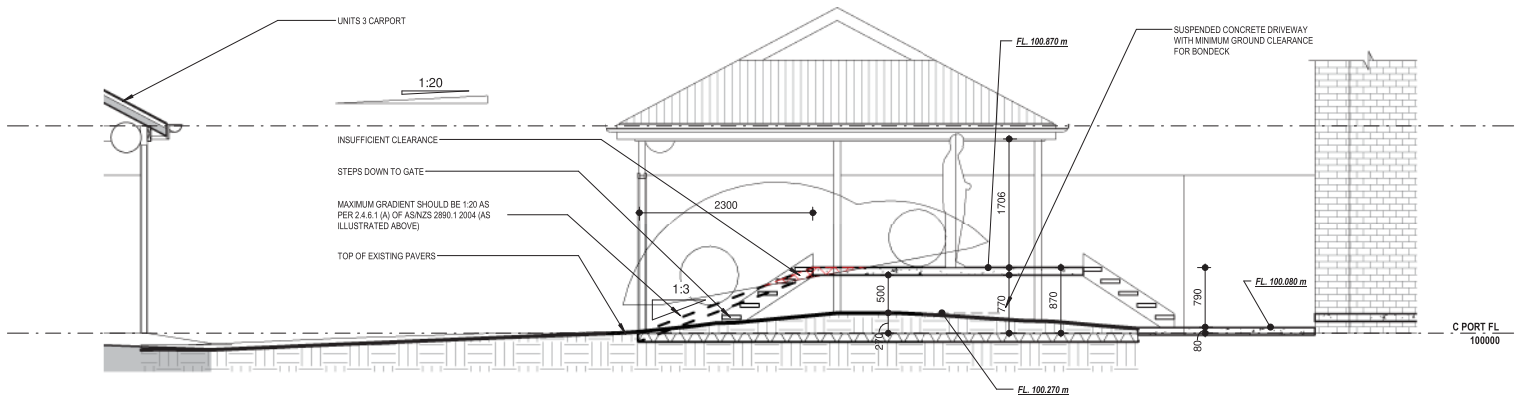
SOUTH ELEVATION
1 : 100

FOR PLANNING ONLY

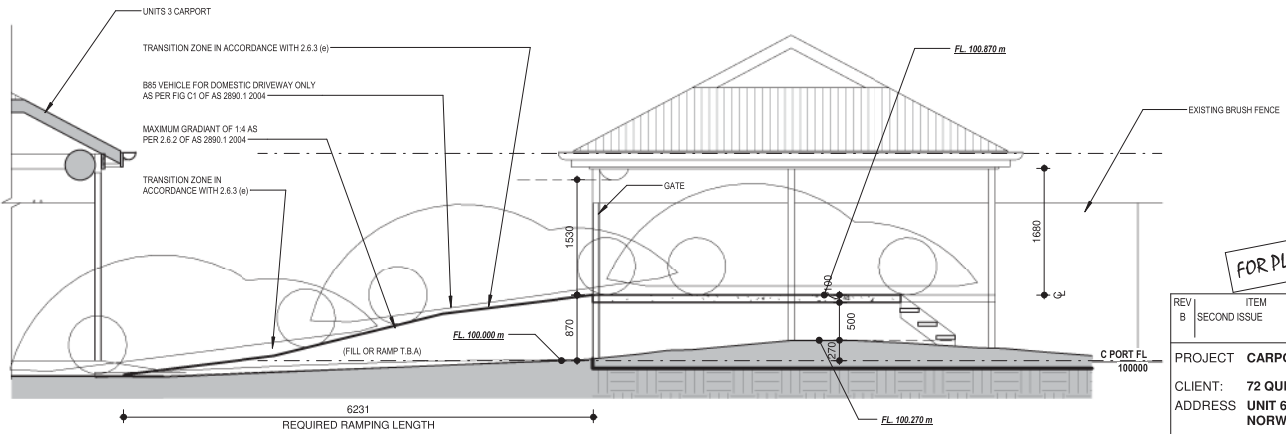
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NORWOOD, SA 5067			
OPTION B PLANS		Job No. 610-22	Issue
		Sheet No. 03	Rev B

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Attachment 5



SECTION OPTION A
1 : 50

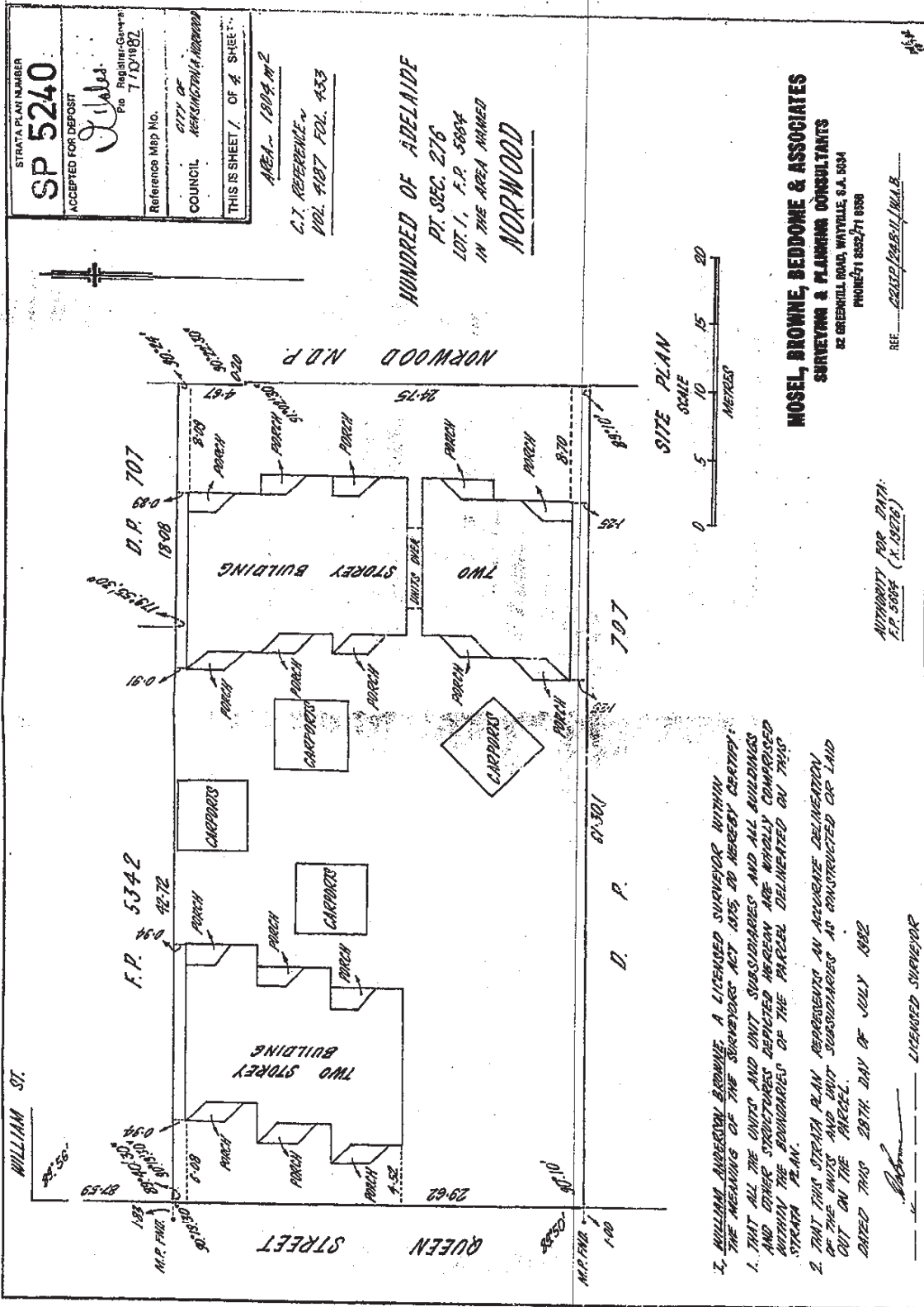


SECTION OPTION B
1 : 50

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STRATA PLAN NUMBER
SP 5240
ACCEPTED FOR DEPOSIT
17/01/1982

Reference Map No. **707**

CITY OF **WARRINGTON**

COUNCIL **WARRINGTON**

THIS IS SHEET 1 OF 2 SHEETS

AREA - 1804 m²

C.T. REFERENCE - **POB. 4187 FOL. 453**

HUNDRED OF ADELAIDE
PT. SEC. 276
LOT 1, F.P. 5884
IN THE AREA NAMED
NORWOOD

MOSEL, BROWNE, BEDDOME & ASSOCIATES
SURVEYING & PLANNING CONSULTANTS
22 GREENHILL ROAD, WYTHILLE, S.A. 5034
PHONE 51 852/71 8598

SITE PLAN
SCALE
0 5 10 15 20
METRES

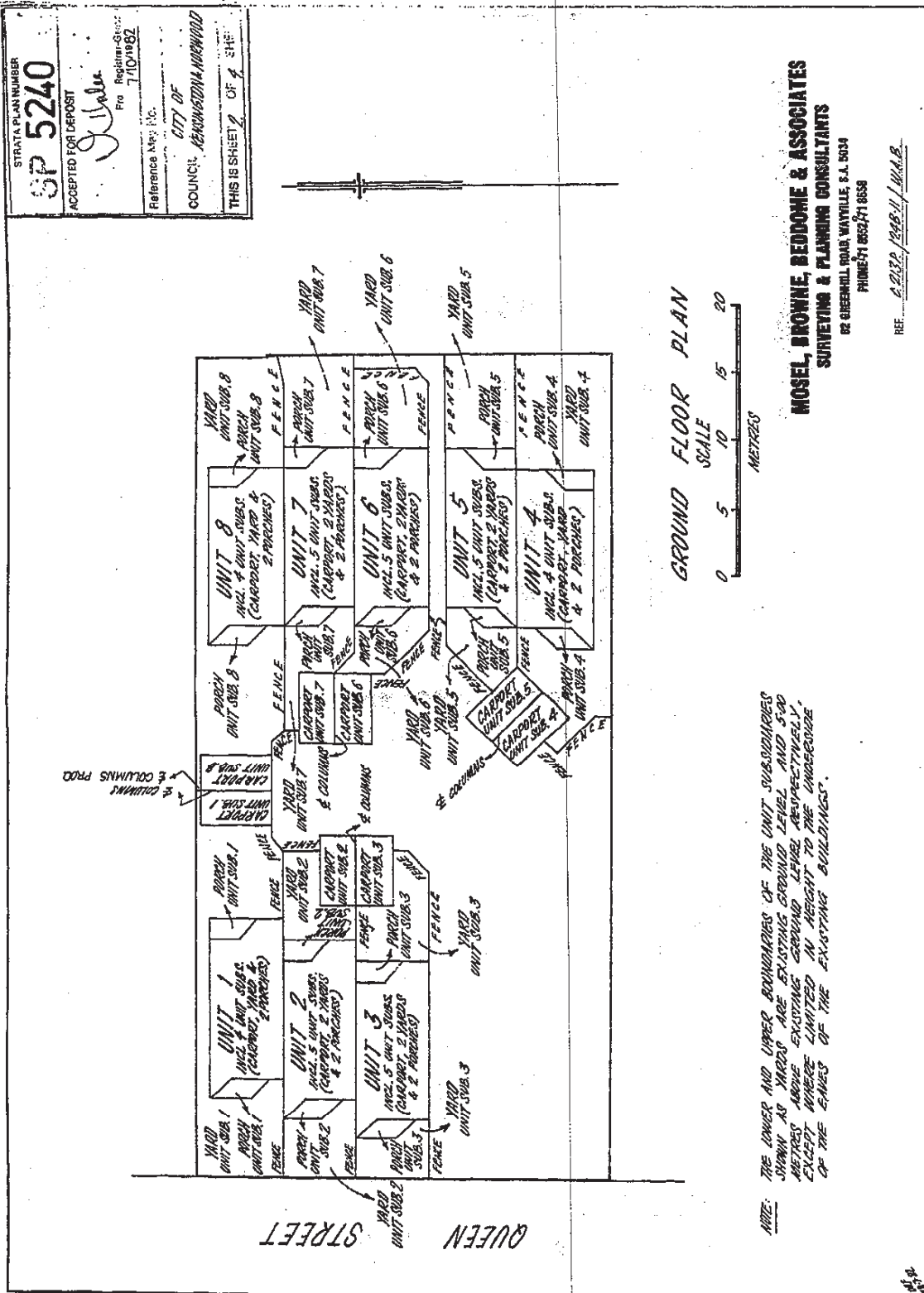
AUTHORITY FOR DATA:
F.P. 5884 (A.1978)


I, WILLIAM ANDERSON BEDDOME, A LICENSED SURVEYOR WITHIN THE MEANING OF THE SURVEYORS ACT 1975, DO HEREBY CERTIFY:

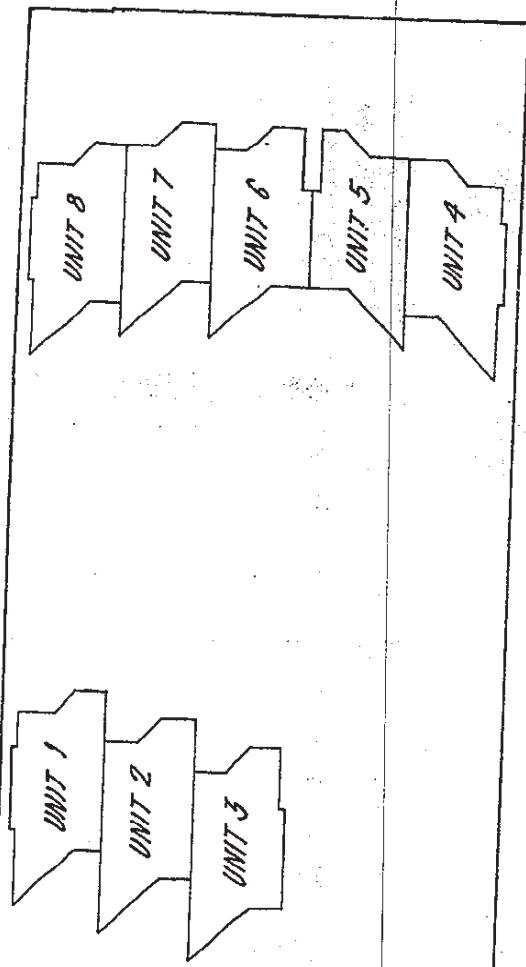
1. THAT ALL THE UNITS AND UNIT SUBDIVISIONS AND ALL BUILDINGS AND OTHER STRUCTURES DEPICTED HEREON ARE WHOLLY COMPRISED WITHIN THE BOUNDARIES OF THE PARCEL DELINEATED ON THIS STRATA PLAN.
2. THAT THIS STRATA PLAN REPRESENTS AN ACCURATE DELINEATION OF THE UNITS AND UNIT SUBDIVISIONS AS CONSTRUCTED OR LAID OUT ON THE PARCEL.

DATED THIS 28TH DAY OF JULY 1982

[Signature]
LICENSED SURVEYOR



STH PLAN NUMBER
SP 5240
 ACCEPTED FOR DEPOSIT

 Registrar
 No. 7/10/1982
 Reference Map No.
 CITY OF
 COUNCIL MEMBERS: STEVENSON & HODGKINS
 THIS IS SHEET 3 OF 4 SHEETS



QUEEN STREET

FIRST FLOOR PLAN



NOTE: ALL UNITS ARE
 SHOWN AT GROUND
 FLOOR LEVEL AND
 PARTLY AT FIRST
 FLOOR LEVEL.

MOSEL, BROWNE, BEDDOME & ASSOCIATES
 SURVEYING & PLANNING CONSULTANTS
 82 GREENHILL ROAD, WATVILLE, S.A. 5034
 PHONE 81 852 81 8588

REF: E-213 P / 24 B-1 / W.O.B.

MATTHEW JANSEN

PROJECT MANAGER, STRUCTURAL ENGINEER

MICHELLE GRISTWOOD

6/72 Queen St
Norwood SA 5067
15th March 2023

CONTACT

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E: matt.jansen@tpg.com.au
A: PO Box 414 Modbury North SA 5092
ABN: 21 415 006 805

TREE PROTECTION AND CARPORT MODIFICATION

Dear Michelle,

This office has assessed the interaction of the carport and the nearby significant tree at this address. This report briefly summarises the problem and recommends actions.

From our site meeting of 31/8/22, the problem is understood to be an unusable carport. The surface is lifting and heaving. Cars and pedestrians cannot safely enter. Car door swings are impractical. The brush fence's footings have also been damaged. The cause of these is clearly growth of tree roots. The problem has developed over several years and is expected to continue.

For the owner, the suggested main objectives are to:

1. Modify the carport to provide normal, unhindered car parking.
2. Provide a straight and level pedestrian path.
3. Protect the significant tree.
4. Protect the fence and carport from further damage.

To achieve these, the following concept is proposed.

The existing carport requires demolition and rebuilding. The new carport's main feature would be a raised parking space, elevated slightly off the ground by approximately 500mm. A small ramp would be part of this, allowing cars to climb from driveway level up and into the carport.

The raised parking space allows for cars to park above the tree roots, without contact or damage.

Similarly, a raised pedestrian path could be built alongside the parking space. This would allow pedestrians to freely enter and cross over the tree roots to the dwelling.

The damaged fence can be retained in part. The damaged concrete footing would be rebuilt to 'bridge' over the tree roots, similar to the parking space and pedestrian path.

Further desired features are briefly described below:

- The shared driveway would not need modifying. The paving level would remain as is.
- The significant tree would not require cutting or trimming of roots.
- Design of the carport and space would be in accordance with the relevant Australian Standard, being AS2890 (Off street parking facilities).
- The raised parking space could incorporate a mechanical ramp to assist with parking.
- Otherwise, a static ramp and space is possible.
- Using a static ramp, the parking space would be slightly tilted.
- The raised parking space would work for 85% of all car shapes and sizes.
- Car door swing paths would be unrestricted.
- Carport footings must be designed to avoid damage to tree roots. The likely choice would be deep bored piers or slender piles.
- The carport's ceiling and roof heights would increase by approximately 700mm.

- The carport of neighbouring unit #7 would probably be rebuilt simultaneously, although with a normal parking space.
- Steps or a small ramp are required to serve the pedestrian path.

The design life of the carport would be recommended as 15-20 years. During this time the tree roots would probably out-grow the carport again. After this, there may be further options that consider parking technology, car technology, tree survival, land re-development etc.

The raised parking space concept is a medium term solution only, with objectives of normal car parking and no damage to the tree for 15-20 years.

From this, the following actions are recommended:

1. The above concept is considered with relevant stakeholders, being Owners, Strata, Council etc.
2. If this concept is desired, then a design professional be engaged and a formal design project initiated.
3. If desired, investigate further alternative options for tree protection and vehicle parking.
4. Tree removal be considered only upon exhaustion of this concept and further options.

Further inquiry to this office is welcome at any time.

Yours sincerely,



B.E (Civ), Dip Proj Mgt, PE0001255 (Victoria – CAV)
15th March 2023



Arboricultural Impact Assessment and Development Impact Report

Site: 72 Queen Street, Norwood

Date: Thursday, 23 June 2022

ATS6831-072QueStDIR

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Appendix B - Tree Assessment Findings

Appendix C - Mapping

Appendix D - Tree Assessment Summary

Appendix E - Tree Protection Zone Guidelines

Report Reference Number: ATS6831-072QueStDIR

Report prepared for
Michelle Gristwood

Author
Marcus Lodge, Consulting Arborist, Arborman Tree Solutions Pty Ltd

Executive Summary

Arborman Tree Solutions has assessed the Significant Tree in the common area garden bed in the centre of the dwelling complex at 72 Queen Street, Norwood. The assessment has identified the potential impacts to the trees from the proposed development and supporting infrastructure and recommended mitigation strategies where appropriate. The proposal involves the reconstruction of the removed pedestrian access and driveway adjacent to the tree. This assessment provides recommendations in accordance with Australian Standard AS4970-2009 *Protection of trees on development sites* (AS4970-2009).

The assessment considered one tree which is identified as a mature *Eucalyptus camaldulensis* (River Red Gum) that is considered to be in good overall condition. There is significant structural root growth within the adjacent unit that has disturbed the levels to the point where it cannot be used as designed.

The assessment has identified the subject tree as a Significant Tree as defined in the *PDI Act 2016* and the *Planning and Design Code (Regulated and Significant Tree Overlay)*. Significant and Regulated Trees should be preserved if they meet aesthetic and/or environmental criteria as described in the *Planning and Design Code (Regulated and Significant Tree Overlay)*. When assessed against the relevant 'Desired Outcomes', 'Performance Outcomes' and 'Designated Performance Features' this tree is considered to provide 'important' aesthetic and/or environmental benefit. Additionally, this tree does not display factors that indicate its removal is warranted and reasonable.

The Arboricultural Impact Assessment has identified the Significant Tree in the area of the proposed works is likely to be negatively impacted by the proposed works and require removal if they were to be carried out using standard techniques. As this tree has a High Retention Rating and displays attributes that indicate it should be protected, it is recommended that alternative construction methods be considered to prevent substantial tree damage. If alternative construction methods are not available or reasonable, tree removal may need to be considered.

Brief

Arborman Tree Solutions was engaged by Michelle Gristwood to undertake an Arboricultural Impact Assessment and provide a Development Impact Report for the identified tree at 72 Queen Street, Norwood. The purpose of the Arboricultural Impact Assessment and Development Impact Report is to identify potential impacts the proposed development will have on the tree and provide mitigation strategies to minimise the impact where appropriate.

The proposed development includes the reconstruction of the removed pedestrian access and driveway adjacent to the tree. This assessment will determine the potential impacts the proposal may have on the tree and recommend impact mitigation strategies in accordance with Australian Standard AS4970-2009 *Protection of trees on development sites* (AS4970-2009) for trees to be retained.

In accordance with section 2.2 of the AS4970-2009 the following information is provided:

- Assessment of the general condition and structure of the subject tree.
- Identification of the legislative status of tree on site as defined in the *Planning, Development and Infrastructure Act 2016 (PDI Act 2016)*.
- Identify and define the Tree Protection Zone and Structural Root Zone for the tree.
- Identify potential impacts the development may have on tree health and/or stability.
- Recommend impact mitigation strategies in accordance with AS4970-2009.
- Provide information in relation to the management of trees.

Documents and Information Provided

The following information was provided for the preparation of this assessment

- Discussion on site regarding the Scope of Works

Site Location

The tree is located in the common area garden of in the centre of the dwelling complex at 72 Queen Street, Norwood.



Figure 1: Site location – 72 Queen Street, Norwood

Methodology

The potential impact of the proposed works on tree condition is considered in accordance with the guidelines in AS4970-2009 *Protection of trees on development sites* (AS4970-2009). When determining potential impacts of an encroachment into a Tree Protection Zone (TPZ), the following should be considered as outlined in AS4970-2009 section 3.3.4 *TPZ encroachment considerations*:-

- a) Location of roots and root development.
- b) The potential loss of root mass from the encroachment.
- c) Tree species and tolerance to root disturbance.
- d) Age, vigour and size of the tree.
- e) Lean and stability of the tree.
- f) Soil characteristics and volume, topography, and drainage.
- g) The presence of existing or past structures or obstacles affecting root growth.
- h) Design factors.

The impacts on a tree can be varied and are not necessarily consistent with or directly correlated to a particular level of encroachment, to assist in providing consistency the levels of impact have been classified into the following categories:-

- No Impact - no encroachment into the TPZ has been identified.
- Low <10% - the identified encroachment is less than 10% of the TPZ area and not expected to impact tree viability.
- Low >10% - the identified encroachment is greater than 10% of the TPZ area however there are factors that indicate the proposed development will not negatively impact tree viability.
- High >10% - the identified encroachment is greater than 10% of the TPZ area and factors are present that indicate the proposed development will negatively impact tree viability. The impact is likely to lead to the long-term decline of the tree however it is unlikely to impact on its short-term stability.
- Conflicted - the identified encroachment is greater than 10% of the TPZ area and in most cases will also impact the SRZ and/or the trunk. There are factors present that indicate the proposed development will negatively impact tree viability to the point where its removal is required as part of the development.

Trees with calculated encroachments greater than 10% and with an Impact identified as 'Low' have features or considerations identified in clauses in AS4970-2009 3.3.4 *TPZ encroachment considerations* which indicate these trees will be sustainable.

Trees with calculated encroachments greater than 10% and with an Impact identified as 'High' do not have any features or considerations identified in clauses in AS4970-2009 3.3.4 and therefore alternative design solutions, additional root investigations and/or tree sensitive construction measures are required if the tree is to be retained. Where alternative protection methodologies are not available tree removal may be required to accommodate the development.

Trees with an Impact identified as 'Conflicted' are impacted over the majority of their root zone and/or over the SRZ or on the trunk, additional root investigations or tree sensitive construction measures are not available, and the only option is alternative designs or tree removal.

Regulatory Status, Tree Protection Zones and Development Impacts are shown in Appendix B.

Assessment

Arborman Tree Solutions was engaged by Michelle Gristwood to undertake an Arboricultural Impact Assessment and provide a Development Impact Report for the Significant Tree in the common area garden bed in the centre of the dwelling complex at 72 Queen Street, Norwood. The purpose of the Arboricultural Impact Assessment and Development Impact Report is to identify potential impacts the proposed development will have on the trees and provide mitigation strategies to minimise impact where appropriate. The proposal involves the reconstruction of the removed pedestrian access and driveway adjacent to the tree. This assessment provides recommendations in accordance with Australian Standard AS4970-2009 *Protection of trees on development sites (AS4970-2009)*.

Tree Assessment

The assessment considered one tree which is identified as a mature *Eucalyptus camaldulensis* (River Red Gum) that is considered to be in good overall condition. There is significant structural root growth within the adjacent unit that has disturbed the levels to the point where it cannot be used as designed.

Findings on individual tree health and condition are presented in Appendix B - Tree Assessment Findings.

Eucalyptus camaldulensis (River Red Gum) is a large tree reaching 25-35 metres in height with a broad spreading crown, as the tree matures it can develop buttress roots from its very thick trunk. This species is the most widespread and best known of the Australian eucalypts. As the common name would suggest it is generally found along waterways and on floodplains, despite this it is a very adaptable tree and will grow in a wide variety of soils and conditions. An advantage of this species heritage as a floodplain tree for the urban environment is that it is able to adapt to changes in soil levels and moisture content to a much greater extent than many other eucalypts being able to withstand changes in soil level, drought and water logging for extended periods. This is at least partially due to the species characteristic of deep sinker roots within two to three metres of the trunk that can extend considerable depths into the soil to areas of permanent water.

Legislative Assessment

The assessment has identified the subject tree as a Significant Tree as defined in the *PDI Act 2016* and the *Planning and Design Code (Regulated and Significant Tree Overlay)*. Significant and Regulated Trees should be preserved if they meet aesthetic and/or environmental criteria as described in the *Planning and Design Code (Regulated and Significant Tree Overlay)*. When assessed against the relevant 'Desired Outcomes', 'Performance Outcomes' and 'Designated Performance Features' this tree is considered to provide 'important' aesthetic and/or environmental benefit. Additionally, this tree does not display factors that indicate its removal is warranted and reasonable.

Retention Assessment

Trees that provide important environmental and/or aesthetic contribution to the area, are in good condition scored a High or Moderate Retention Rating and conservation of these trees is encouraged. Trees identified as not suitable for retention or attained a low Tree Retention Rating, displayed one or a number of the following attributes:

- a) provide limited environmental/aesthetic benefit,
- b) short lived species,
- c) represent a material risk to persons or property,
- d) identified as causing or threatening to cause substantial damage to a structure of value,
- e) limited Useful Life Expectancy.
- f) young and easily replaced.

The subject tree is considered to be suitable for retention as it achieved a High Retention Rating indicating it meets one or more criteria within the *PDI Act 2016* that warrant its retention as an important tree.

Encroachment and Impact Assessment

Within AS4970-2009 relevant information is provided to assist with determining the impact on trees when developing in close proximity to them. Any tree that requires protection should be retained whilst remaining viable during and post development. Further guidance on how to suitably manage any proposed or encountered encroachments is identified in AS4970-2009. When assessing potential impacts, a Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) are the principle means of protecting a tree and are provided in accordance with AS4970-2009 section 1.4.5 and 3.2. This standard has been applied to ensure trees identified for retention remain viable and the redevelopment is achievable.

The area of the required work is within the SRZ and is therefore classified as a 'Major Encroachment' as defined in AS4970-2009. Severance or damage to roots in the SRZ can cause instability and increase the likelihood of whole tree failure. AS4970-2009 also identifies relevant factors that should be considered when determining the 'impact' of encroachments such as this; these considerations are listed under section 3.3.4 *TPZ encroachment considerations*. When considering these factors, the proposed work could be redesigned to minimise the impact on the roots such that it is unlikely to result in tree damaging activity that will result in the decline, death or failure of the tree.

Conclusion

The Arboricultural Impact Assessment has identified the Significant Tree in the area of the proposed works is likely to be negatively impacted by the proposed works and require removal if they were to be carried out using standard techniques. As this tree has a High Retention Rating and displays attributes that indicate it should be protected, it is recommended that alternative construction methods be considered to prevent substantial tree damage. If alternative construction methods are not available or reasonable, tree removal may need to be considered.

Recommendation

There are no surface roots in the actual driveway section and as such this area could be replaced with a similar surface to the one that was removed without causing damage to the tree. However there are large diameter and important roots in the area of the pedestrian access. Given the site constraints there are no realistic opportunities to provide pedestrian access in another location and therefore reconstruction of the new access has to consider the existing tree roots.

The preservation of the exposed roots is important to the health and stability of the tree and therefore they need to be retained and protected. The only realistic way this can be achieved is to build a bridge over the Structural Root Zone that allows clearance above the root such that root expansion will not impact the bridge for a reasonable period of time. There may be other requirements for this type of structure, as it is raised above the natural ground it may need a handrail and there may also be a requirement for it to be Disability Access Compliant.

The alternatives to building a structure over the root system are to

1. remove the tree roots in the area of the pedestrian access, this is not recommended as it will impact the health of the tree and increase the likelihood of whole tree failure, or
2. apply to remove the tree on the grounds it is causing damage that is unreasonable to repair without damaging the tree and/or that the tree is causing a nuisance, I am not sure this type of application will be successful, but it should be considered.

Thank you for the opportunity to provide this report. Should you have any questions or require further information, please contact me and I will be happy to be of assistance.

Yours sincerely,



MARCUS LODGE

Senior Consulting Arboriculturist

Institute of Australian Consulting Arboriculturists – Accredited Consultant

Australian Arborist License AL11

Diploma in Arboriculture

International Society of Arboriculture – Tree Risk Assessment

VALID Tree Risk Assessment (VALID) – 2018 and 2021

Native Vegetation Council Trained Arborist 2019



Definitions

Circumference:	trunk circumference measured at one metre above ground level. This measurement is used to determine the status of the tree in relation to the <i>Planning, Development and Infrastructure Act 2016 (PDI Act 2016)</i> .
Diameter at Breast Height:	trunk diameter measured at 1.4 metres above ground level used to determine the Tree Protection Zone as described in Australian Standard AS4970-2009 <i>Protection of trees on development sites</i> .
Diameter at Root Buttress:	trunk diameter measured just above the root buttress as described in Australian Standard AS4970-2009 <i>Protection of trees on development sites</i> and is used to determine the Structural Root Zone.
Tree Damaging Activity	Tree damaging activity includes those activities described within the <i>Planning, Development and Infrastructure Act 2016 (PDI Act 2016)</i> , such as removal, killing, lopping, ringbarking or topping or any other substantial damage such as mechanical or chemical damage, filling or cutting of soil within the TPZ. Can also include forms of pruning above and below the ground.
Tree Protection Zone:	area of root zone that should be protected to prevent substantial damage to the tree's health.
Structural Root Zone:	calculated area within the tree's root zone that is considered essential to maintain tree stability.
Project Arborist	a person with the responsibility for conducting a tree assessment, report preparation, consultation with designers, specifying tree protection measures, monitoring and certification. The Project Arborist must be competent in arboriculture, having acquired through training, minimum Australian Qualification Framework (AQTF) Level 5, Diploma of Horticulture (Arboriculture) and/or equivalent experience, the knowledge and skills enabling that person to perform the tasks required by this standard.
Encroachment:	the area of a Tree Protection Zone that is within the proposed development area.
Impact:	the effect on tree health, structure and/or viability as a result of required works associated with the proposed development within the TPZ or the vicinity of the tree(s).

References

Australian Standard AS4970–2009 *Protection of trees on development sites*: Standards Australia.

Matheny N. Clark J. 1998: *Trees and Development a Technical Guide to Preservation of Trees During Land Development*: International Society of Arboriculture, Champaign, Illinois, USA.

Appendix A - Tree Assessment Methodology

Tree Assessment Form (TAF©)

Record	Description
Tree	In botanical science, a tree is a perennial plant which consists of one or multiple trunks which supports branches and leaves. Trees are generally taller than 5 metres and will live for more than ten seasons, with some species living for hundreds or thousands of seasons.
Genus and Species	Botanical taxonomy of trees uses the binominal system of a genus and species, often there are subspecies and subgenus as well as cultivars. When identifying tree species, identification techniques such as assessing the tree's form, flower, stem, fruit and location are used. Identifying the right species is critical in assessing the tree's legalisation and environmental benefit. All efforts are made to correctly identify each tree to species level, where possible. Genus is the broader group to which the tree belongs e.g. <i>Eucalyptus</i> , <i>Fraxinus</i> and <i>Melaleuca</i> . Species identifies the specific tree within the genus e.g. <i>Eucalyptus camaldulensis</i> , <i>Fraxinus griffithi</i> or <i>Melaleuca styphelioides</i> . Trees will also be assigned the most commonly used Common Name. Common Names are not generally used for identification due to their nonspecific use, i.e. <i>Melia azedarach</i> is commonly known as White Cedar in South Australia but is also called Chinaberry Tree, Pride of India, Bead-tree, Cape Lilac, Syringa Berrytree, Persian Lilac, and Indian Lilac; equally similar common names can refer to trees from completely different Genus e.g. Swamp Oak, Tasmanian Oak and English Oak are from the <i>Casuarina</i> , <i>Eucalyptus</i> and <i>Quercus</i> genus's respectively.
Height	Tree height is estimated by the arborist at the time of assessment. Tree height is observed and recorded in the following ranges; <5m, 5-10m, 10-15m and >20m.
Spread	Tree crown spread is estimated by the arborist at the time of assessment and recorded in the following ranges <5m, 5-10m, 10-15m, 15-20m, >20m.
Health	Tree health is assessed using the Arborman Tree Solutions - Tree Health Assessment Method that is based on international best practice.
Structure	Tree structure is assessed using Arborman Tree Solutions - Tree Structure Assessment Method that is based on international best practice.
Tree Risk Assessment	Tree Risk is assessed using Tree Risk Assessment methodology. The person conducting the assessment has been trained in the International Society of Arboriculture Tree Risk Assessment Qualification (TRAQ), Quantified Tree Risk Assessment (QTRA) and/or VALID Tree Risk Assessment (VALID). Refer to the Methodology within the report for additional information.
Legislative Status	Legislation status is identified through the interpretation of the <i>Development Act 1993</i> , the <i>Natural Resource Management Act 2004</i> , the <i>Native Vegetation Act 1991</i> and/or any other legislation that may apply.
Mitigation	Measures to reduce tree risk, improve tree condition, remove structural flaws, manage other conditions as appropriate may be recommended in the form of pruning and is listed in the Tree Assessment Findings (Appendix B). Tree pruning is recommended in accordance with AS4373-2007 <i>Pruning amenity trees</i> where practicable. Where measures to mitigate risk is not possible and the risk is unacceptable, then tree removal or further investigation is recommended.

Useful Life Expectancy (ULE)

ULE Rating	Definition
Surpassed	The tree has surpassed its Useful Life Expectancy. Trees that achieve a surpassed ULE may do so due to poor health, structure or form. Additionally, trees that are poorly located such as under high voltage powerlines or too close to structures may also achieve a surpassed ULE. Trees that achieve this status will be recommended for removal as there are no reasonable options to retain them.
<10 years	The tree displays either or both Poor Health and/or Structure and is considered to have a short Useful Life Expectancy of less than ten years. Some short-lived species such as <i>Acacia sp.</i> may naturally achieve a short ULE.
>10 years	The tree displays Fair Health or Structure and Good Health or Structure and is considered to have a Useful Life Expectancy of ten years or more. Trees identified as having a ULE of >10, will require mitigation such as pruning, stem injections or soil amelioration to increase their ULE.
>20 years	The tree displays Good Health and Structure and is considered to have an extended Useful Life Expectancy of more than twenty years.

Maturity (Age)

Age Class	Definition
Senescent	The tree has surpassed its optimum growing period and is declining and/or reducing in size. May be considered as a veteran in relation to its ongoing management. Tree will have generally reached greater than 80% of its expected life expectancy.
Mature	A mature tree is one that has reached its expected overall size, although the tree's trunk is still expected to continue growing. Tree maturity is also assessed based on species; as some trees are much longer lived than others. Tree will have generally reached 20-80% of its expected life expectancy.
Semi Mature	A tree which has established but has not yet reached maturity. Normally tree establishment practices such as watering will have ceased. Tree will generally not have reached 20% of its expected life expectancy.
Juvenile	A newly planted tree or one which is not yet established in the landscape. Tree establishment practices such as regular watering will still be in place. Tree will generally be a newly planted specimen up to five years old; this may be species dependant.

Tree Health Assessment (THA©)

Category	Description
Good	Tree displays normal vigour, uniform leaf colour, no or minor dieback (<5%), crown density (>90%). When a tree is deciduous, healthy axillary buds and typical internode length is used to determine its health. A tree with good health would show no sign of disease and no or minor pest infestation was identified. The tree has little to no pest and/or disease infestation.
Fair	Tree displays reduced vigour abnormal leaf colour, a moderate level of dieback (<15%), crown density (>70%) and in deciduous trees, reduced axillary buds and internode length. Minor pest and/or disease infestation potentially impacting on tree health. Trees with fair health have the potential to recover with reasonable remedial treatments.
Poor	Tree displays an advanced state of decline with low or no vigour, chlorotic or dull leaf colour, with high crown dieback (>15%), low crown density (<70%) and/or in deciduous trees, few or small axillary buds and shortened internode length. Pest and or disease infestation is evident and/or widespread. Trees with poor health are highly unlikely to recover with any remedial treatments; these trees have declined beyond the point of reversal.
Dead	The tree has died and has no opportunity for recovery.

Tree Structural Assessment (TSA©)

Category	Description
Good	Little to no branch failure observed within the crown, well-formed unions, no included bark, good branch and trunk taper present, root buttressing and root plate are typical. Trees that are identified as having good health display expected condition for their age, species and location.
Fair	The tree may display one or more of the following a history of minor branch failure, included bark unions may be present however, are stable at this time, acceptable branch and trunk taper present, root buttressing and root plate are typical. Trees with fair structure will generally require reasonable remediation methods to ensure the tree's structure remains viable.
Poor	History of significant branch failure observed in the crown, poorly formed unions, unstable included bark unions present, branch and/or trunk taper is abnormal, root buttressing and/or root plate are atypical.
Failed	The structure of the tree has or is in the process of collapsing.

Tree Form Assessment (TFA©)

Category	Description
Good	Form is typical of the species and has not been altered by structures, the environment or other trees.
Fair	The form has minor impacts from structures, the environment or adjacent trees which has altered its shape. There may be slight phototropic response noted or moderate pruning which has altered the tree's form.
Poor	The tree's form has been substantially impacted by structures, the environment, pruning or other trees. Phototropic response is evident and unlikely to be corrected.
Atypical	Tree form is highly irregular due to structures or other trees impacting its ability to correctly mature. Extreme phototropic response is evident; or the tree has had a substantially failure resulting in its poor condition, or extensive pruning has altered the tree's form irreversibly.

Priority

Category	Description
Low	Identified works within this priority should be carried out within 12 months.
Medium	Identified works within this priority should be carried out within 6 months.
High	Identified works within this priority should be carried out within 3 months.
Urgent	Identified works within this priority should be carried out immediately. Works within this priority rating will be brought to attention of the responsible person at the time of assessment.

Tree Retention Rating (TRR)

The Tree Retention Rating is based on a number of factors that are identified as part of the standard tree assessment criteria including Condition, Size, Environmental, Amenity and Special Values. These factors are combined in a number of matrices to provide a Preliminary Tree Retention Rating and a Tree Retention Rating Modifier which combine to provide a Tree Retention Rating that is measurable, consistent and repeatable.

Preliminary Tree Retention Rating

The Preliminary Tree Retention Rating is conducted assessing Tree Health and Structure to give an overall Condition Rating and Height and Spread to give an overall Size Rating. The following matrices identify how these are derived.

Condition Matrix				
Structure	Health			
	Good	Fair	Poor	Dead
Good	C1	C2	C3	C4
Fair	C2	C2	C3	C4
Poor	C3	C3	C4	C4
Failed	C4	C4	C4	C4

Size Matrix					
Spread	Height				
	>20	15-20	10-15	5-10	<5
>20	S1	S1	S1	S2	S3
15-20	S1	S1	S2	S3	S3
10-15	S1	S2	S2	S3	S4
5-10	S2	S3	S3	S4	S5
<5	S3	S3	S4	S5	S5

The results from the Condition and Size Matrices are then placed in the Preliminary Tree Retention Rating Matrix.

Preliminary Tree Retention Rating				
Size	Condition			
	C1	C2	C3	C4
S1	High	Moderate	Low	Low
S2	Moderate	Moderate	Low	Low
S3	Moderate	Moderate	Low	Low
S4	Moderate	Moderate	Low	Low
S5	Low	Low	Low	Low

The Preliminary Tree Retention Rating gives a base rating for all trees regardless of other environmental and/or amenity factors and any Special Value considerations. The Preliminary Tree Retention Rating can only be modified if these factors are considered to be of high or low enough importance to warrant increasing or, in a few cases, lowering the original rating.

Tree Retention Rating Modifier

The Preliminary Tree Retention Rating is then qualified against the recognised Environmental and Amenity benefits that trees present to the community thereby providing a quantitative measure to determine the overall Tree Retention Rating. Data is collected in relation to Environmental and Amenity attributes which are compared through a set of matrices to produce a Tree Retention Rating Modifier.

Environmental Matrix				
Origin	Habitat			
	Active	Inactive	Potential	No Habitat
Indigenous	E1	E1	E2	E3
Native	E1	E2	E3	E3
Exotic	E2	E3	E3	E4
Weed	E3	E3	E4	E4

Amenity Matrix				
Character	Aesthetics			
	High	Moderate	Low	None
Important	P1	P1	P2	P3
Moderate	P1	P2	P3	P3
Low	P2	P3	P3	P4
None	P3	P3	P4	P4

Tree Retention Rating Modifier				
Amenity	Environment			
	E1	E2	E3	E4
P1	High	High	Moderate	Moderate
P2	High	Moderate	Moderate	Moderate
P3	Moderate	Moderate	Moderate	Moderate
P4	Moderate	Moderate	Moderate	Low

Tree Retention Rating

The results of the Preliminary Tree Retention Rating and the Tree Retention Rating Modifier matrices are combined in a final matrix to give the actual Tree Retention Rating.

Tree Retention Rating Matrix			
Tree Retention Rating Modifier	Preliminary Tree Retention Rating		
	High	Moderate	Low
High	Important	High	Moderate
Moderate	High	Moderate	Low
Low	Moderate	Low	Low

Special Value Trees

There are potentially trees that have Special Value for reasons outside of normal Arboricultural assessment protocols and therefore would not have been considered in the assessment to this point; to allow for this a Special Value characteristic that can override the Tree Retention Rating can be selected. Special Value characteristics that could override the Tree Retention Rating would include factors such as the following:

Cultural Values

Memorial Trees, Avenue of Honour Trees, Aboriginal Heritage Trees, Trees planted by Dignitaries and various other potential categories.

Environmental Values

Rare or Endangered species, Remnant Vegetation, Important Habitat for rare or endangered wildlife, substantial habitat value in an important biodiversity area and various other potential categories.

Where a tree achieves one or more Special Value characteristics the Tree Retention Rating will automatically be overridden and assigned the value of Important.

Tree Retention Rating Definitions

Important These trees are considered to be important and will in almost all instances be required to be retained within any future development/redevelopment. It is highly unlikely that trees that achieve this rating would be approved for removal or any other tree damaging activity. Protection of these trees should as a minimum be consistent with Australian Standard AS4970-2009 *Protection of trees on development sites* however given the level of importance additional considerations may be required.

High These trees are considered to be important and will in most instances be required to be retained within any future development/redevelopment. It is unlikely that trees that achieve this rating would be approved for removal or any other tree damaging activity. Protection of these trees should be consistent with Australian Standard AS4970-2009 *Protection of trees on development sites*.

Moderate These trees are considered to be suitable for retention however they achieve less positive attributes than the trees rated as Important or High and as such their removal or other tree damaging activity is more likely to be considered to be acceptable in an otherwise reasonable and expected development. The design process should where possible look to retain trees with a Moderate Retention Rating. Protection of these trees, where they are identified to be retained, should be consistent with Australian Standard AS4970-2009 *Protection of trees on development sites*.

Low These trees are not considered to be suitable for retention in any future development/redevelopment; trees in this category do not warrant special works or design modifications to allow for their retention. Trees in this category are likely to be approved for removal and/or other tree damaging activity in an otherwise reasonable and expected development. Protection of these trees, where they are identified to be retained, should be consistent with Australian Standard AS4970-2009 *Protection of trees on development sites*.

Development Impact Assessment

Potential development impacts were determined in accordance with Australian Standard 4970-2009 *Protection of trees on development sites*. The identification of the impact of development considers a number of factors including the following:

- a. The extent of encroachment into a tree's Tree Protection Zone by the proposed development as a percentage of the area.
- b. Results of any non-destructive exploratory investigations that may have occurred to determine root activity.
- c. Any required pruning that may be needed to accommodate the proposed development.
- d. Tree species and tolerance to root disturbance.
- e. Age, vigour and size of the tree.
- f. Lean and stability of the tree.
- g. Soil characteristics and volume, topography and drainage.
- h. The presence of existing or past structures or obstacles potentially affecting root growth.
- i. Design factors incorporated into the proposed development to minimise impact.

The impacts on a tree can be varied and are not necessarily consistent with or directly correlated to a particular level of encroachment, to assist in providing consistency the levels of impact have been classified into the following categories: -

- No Impact - no encroachment into the TPZ has been identified.
- Low <10% - the identified encroachment is less than 10% of the TPZ area and not expected to impact tree viability.
- Low >10% - the identified encroachment is greater than 10% of the TPZ area however there are factors that indicate the proposed development will not negatively impact tree viability.
- High >10% - the identified encroachment is greater than 10% of the TPZ area and factors are present that indicate the proposed development will negatively impact tree viability. The impact is likely to lead to the long-term decline of the tree however it is unlikely to impact on its short-term stability.
- Conflicted - the identified encroachment is greater than 10% of the TPZ area and in most cases will also impact the SRZ and/or the trunk. There are factors present that indicate the proposed development will negatively impact tree viability to the point where its removal is required as part of the development.

Trees with calculated encroachments greater than 10% and with an Impact identified as 'Low' have features or considerations identified in clauses in AS4970-2009 3.3.4 *TPZ encroachment considerations* which indicate these trees should be sustainable.

Trees with calculated encroachments greater than 10% and with an Impact identified as 'High' do not have any features or considerations identified in clauses in AS4970-2009 3.3.4 and therefore alternative design solutions, additional root investigations and/or tree sensitive construction measures are required if the tree is to be retained. Where alternative protection methodologies are not available tree removal may be required to accommodate the development.

Trees with an Impact identified as 'Conflicted' are impacted over the majority of their root zone and/or over the SRZ or on the trunk, additional root investigations or tree sensitive construction measures are not available and the only option is alternative designs or tree removal.

Appendix B - Tree Assessment Findings

River Red Gum

Inspected:	18 May 2022
Height:	>20 metres
Spread:	>20 metres
Health:	Good
Structure:	Good
Form:	Good
Trunk Circumference:	>3 metres
Useful Life Expectancy:	>20 years
Tree Protection Zone:	15.00 metres
Structural Root Zone:	4.14 metres





Observations

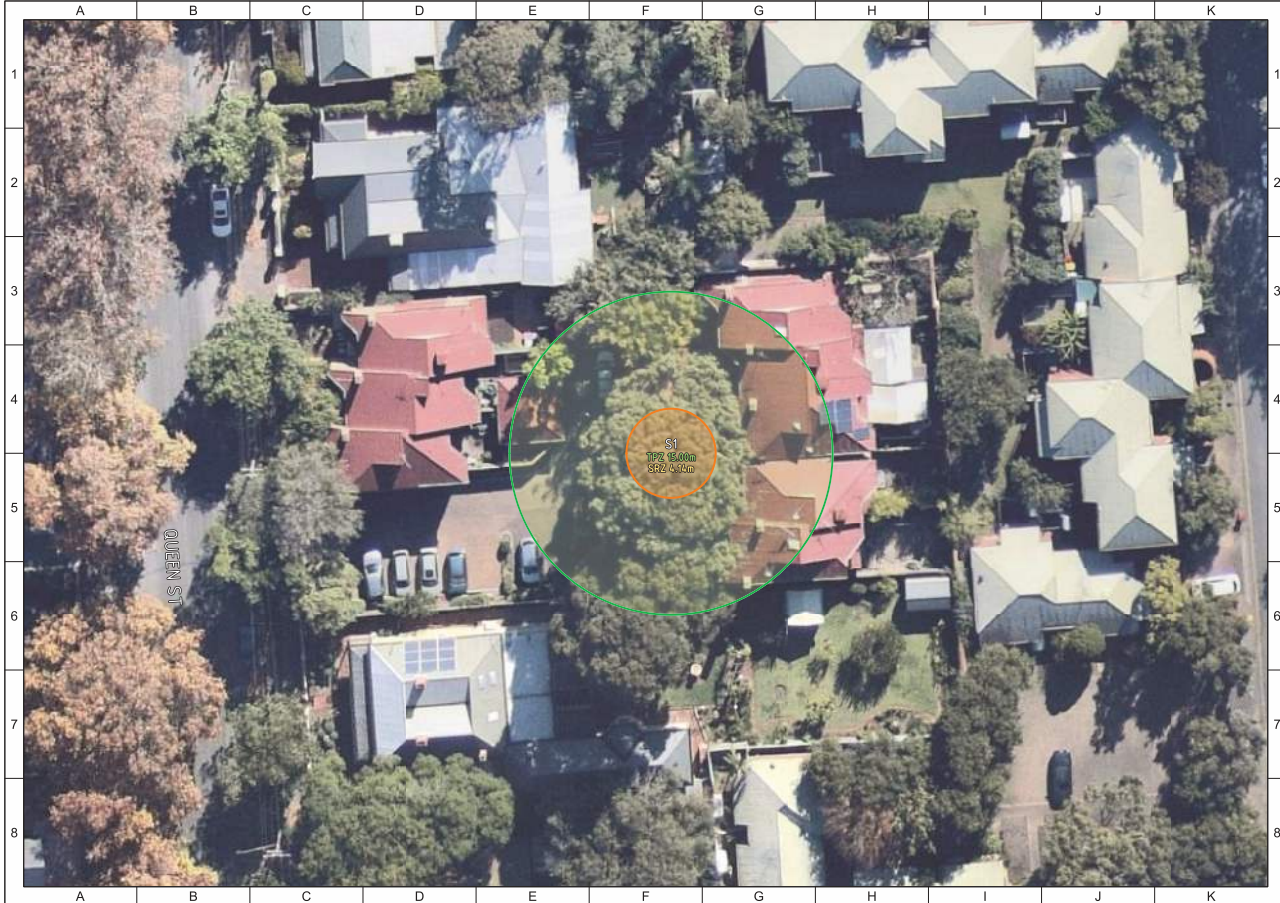
The health and structure of this tree indicate it is in good overall condition and has adapted to its local environment. There is significant structural root growth within the adjacent unit that has disturbed the levels to the point where it cannot be used as designed.

Legislative Status	Significant
This tree has a trunk circumference greater than three metres and is not subject to any exemption from regulation and therefore it is identified as a Significant Tree as defined in the Planning, Development and Infrastructure Act 2016.	
Retention Rating	High
This tree has a High Retention Rating and all reasonable design considerations should be employed to retain it wherever possible. It is unlikely that tree damaging activity, including removal, will be approved in relation to the management of this tree.	
Development Impact	Conflicted
The identified encroachment impacts the Structural Root Zone and if standard construction methods were to be used the tree will be compromised.	
Action	Specialised Construction
Low impact construction methods are recommended to be incorporated into the design to minimise any impact on the tree.	

Appendix C - Mapping

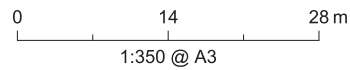


Legend	
	TPZ
	SRZ
Legislative Status	
S	Significant
R	Regulated
U	Unregulated
E	Exempt



Date: 26/05/2022
 Ref: ATS6831-072QueSIDIR
 Arborman Tree Solutions
 23 Aberdeen Street
 Port Adelaide SA 5015
 0418 812 967
www.arborman.com.au

TPZ Location Map
 72 Queen Street, Norwood



Appendix D - Tree Assessment Summary



Tree Assessment Summary

Tree No.	Botanic Name	Legislative Status	Retention Rating	Development Impact	TPZ Radius	Observations	Action
1	<i>Eucalyptus camaldulensis</i>	Significant	High	Conflicted	15.00 metres	The health and structure of this tree indicate it is in good overall condition and has adapted to its local environment. There is significant structural root growth within the adjacent unit that has disturbed the levels to the point where it cannot be used as designed.	Specialised Construction

Appendix E - Tree Protection Zone Guidelines

Tree Protection Zone General Specifications and Guidelines

The Tree Protection Zone(s) is identified on the site plan. The TPZ is an area where construction activities are regulated for the purposes of protecting tree viability. The TPZ should be established so that it clearly identifies and precludes development/construction activities including personnel.

If development activities are required within the TPZ then these activities must be reviewed and approved by the Project Arborist. Prior to approval, the Project Arborist must be certain that the tree(s) will remain viable as a result of this activity.

Work Activities Excluded from the Tree Protection Zone:

- a) Machine excavation including trenching;
- b) Excavation for silt fencing;
- c) Cultivation;
- d) Storage;
- e) Preparation of chemicals, including preparation of cement products;
- f) Parking of vehicles and plant;
- g) Refuelling;
- h) Dumping of waste;
- i) Wash down and cleaning of equipment;
- j) Placement of fill;
- k) Lighting of fires;
- l) Soil level changes;
- m) Temporary or permanent installation of utilities and signs, and
- n) Physical damage to the tree.

Protective Fencing

Protective fencing must be installed around the identified Tree Protection Zone (See Figure1). The fencing should be chain wire panels and compliant with AS4687 - 2007 *Temporary fencing and hoardings*. Shade cloth or similar material should be attached around the fence to reduce dust, other particulates and liquids entering the protected area.

Temporary fencing on 28kg bases are recommended for use as this eliminates any excavation requirements to install fencing. Excavation increase the likelihood of root damage therefore should be avoided where possible throughout the project.

Existing perimeter fencing and other structures may be utilised as part of the protective fencing.

Any permanent fencing should be post and rail with the set out determined in consultation with the Project Arborist.

Where the erection of the fence is not practical the Project Arborist is to approve alternative measures.

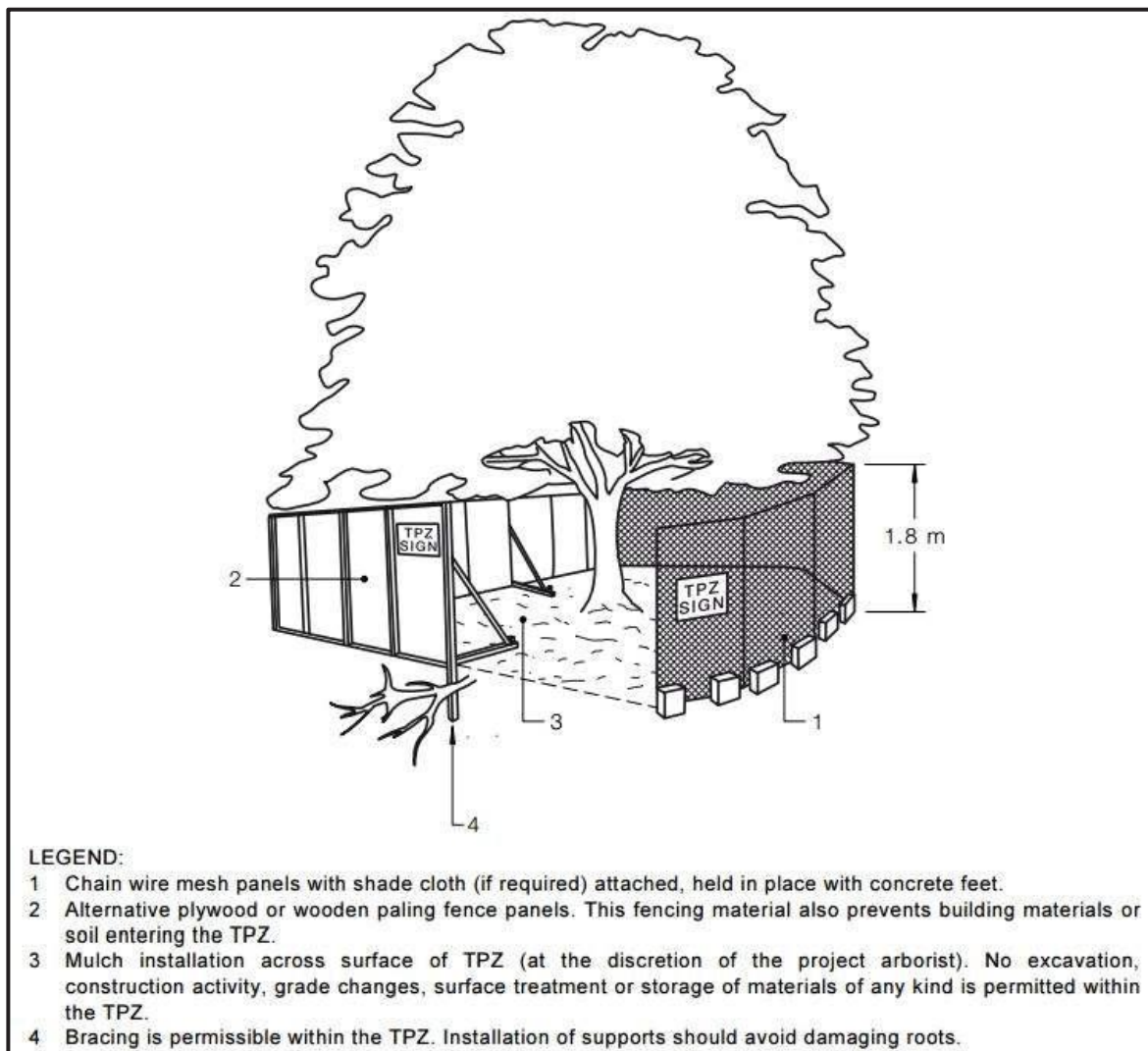


Figure 1 Showing example of protection fencing measures suitable.

Other Protection Measures

General

When a TPZ exclusion area cannot be established due to practical reasons or the area needs to be entered to undertake construction activities then additional tree protection measures may need to be adopted. Protection measures should be compliant with AS4970-2009 and approved by the Project Arborist

Installation of Scaffolding within Tree Protection Area.

Where scaffolding is required within the TPZ branch removal should be minimised. Any branch removal required should be approved by the Project Arborist and performed by a certified Arborist and performed in accordance with AS4373-2007. Approval to prune branches must be documented and maintained.

Ground below scaffold should be protected by boarding (e.g. scaffold board or plywood sheeting) as shown in Figure below. The boarding should be left in place until scaffolding is removed.

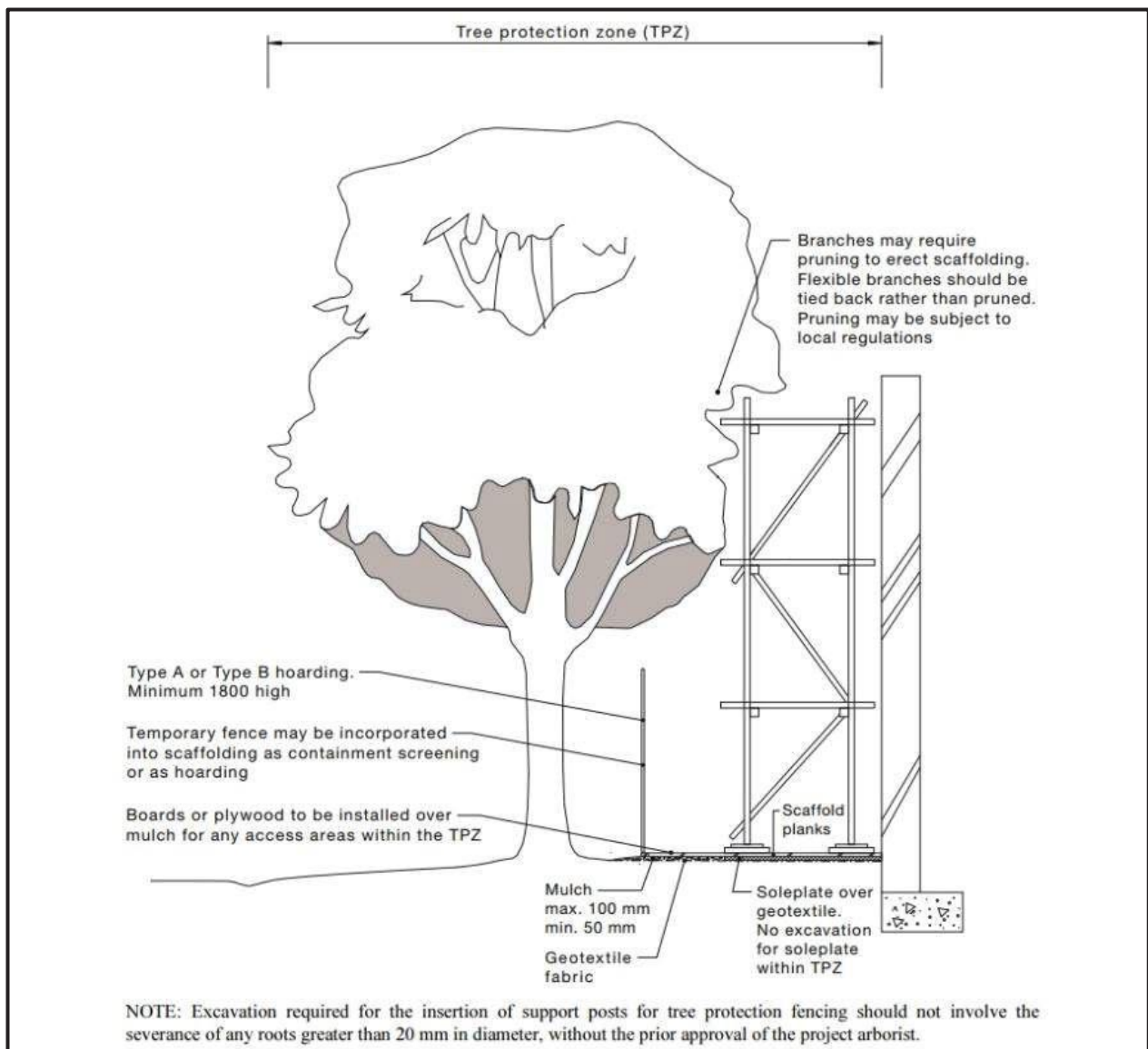


Figure 2 – Showing scaffold constructed within TPZ.

Ground Protection

Where access is required within the TPZ ground protection measures are required. Ground protection is to be designed to prevent both damage to the roots and soil compaction.

Ground protection methods include the placement of a permeable membrane beneath a layer of non-compactable material such as mulch or a no fines gravel which is in turn covered with rumble boards or steel plates.

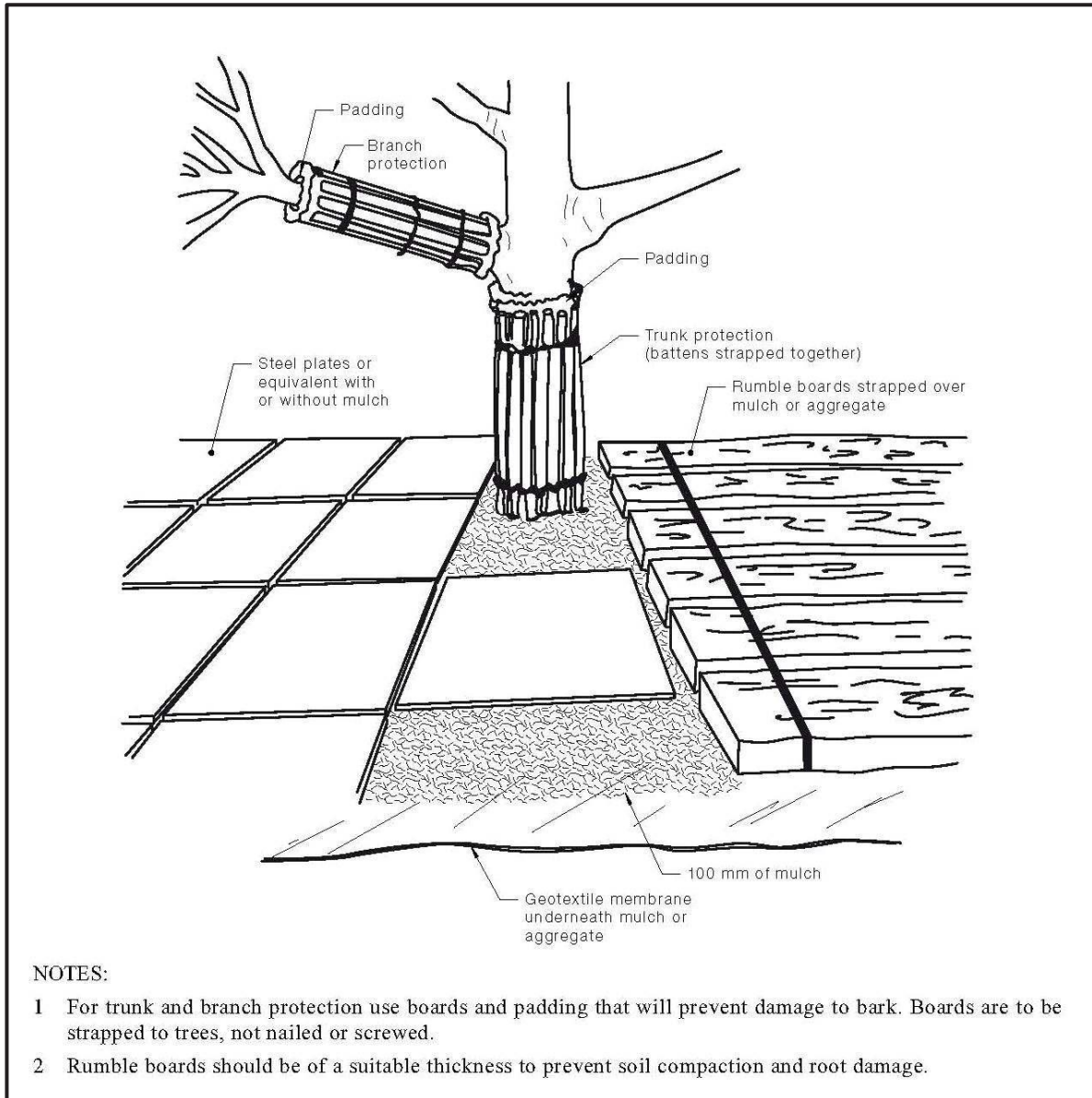


Figure 3 – Ground protection methods.

Document Source:

Diagrams in this document are sourced from AS4970-2009 Protection of trees on development sites. Further information and guidelines are available in within that document.

Paving Construction within a Tree Protection Zone

Paving within any Tree Protection Zone (TPZ) must be carried out above natural ground level unless it can be shown with non-destructive excavation (AirSpade® or similar) that no or insignificant root growth occupies the proposed construction area.

Due to the adverse effect filling over a Tree Protection Zone (TPZ) can have on tree health; alternative mediums other than soil must be used. Available alternative mediums include structural soils or the use of a cellular confinement system such as *Ecocell*®.

Ecocell®

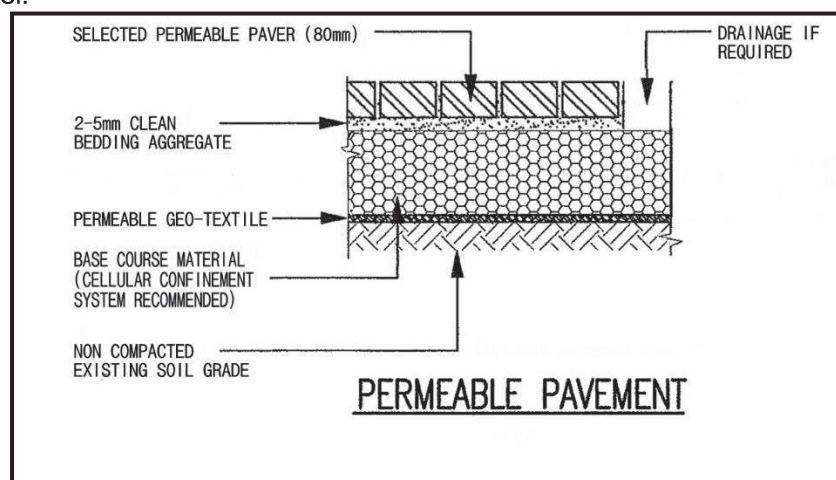
Ecocell® systems are a cellular confinement system that can be filled with large particle sized gravels as a sub-base for paving systems to reduce compaction to the existing grade.

Site preparation

- Clearly outline to all contracting staff entering the site the purpose of the TPZ's and the contractors' responsibilities. No fence is to be moved and no person or machinery is to access the TPZ's without consent from the local council and/or the Project Arborist.
- Fence off the unaffected area of the TPZ with a temporary fence leaving a 1.5 metre gap between the work area and the fence; this will prevent machinery access to the remaining root zone.

Installation of Ecocell® and EcoTrihex Paving®

- Install a non-woven geotextile fabric for drainage and separation from sub base with a minimum of 600mm overlap on all fabric seams as required.
- Add Ecocell®, fill compartments with gravel and compact to desired compaction rate.
- If excessive groundwater is expected incorporate an appropriate drainage system within the bedding sand level.
- Add paving sand to required depth and compact to paving manufacturer's specifications.
- Lay EcoTrihex Paving® as per manufactures specifications and fill gaps between pavers with no fines gravel.
- Remove all debris, vegetation cover and unacceptable in-situ soils. No excavation or soil level change of the sub base is allowable for the installation of the paving.
- Where the finished soil level is uneven, gullies shall be filled with 20 millimetre coarse gravel to achieve the desired level.



This construction method if implemented correctly can significantly reduce and potentially eliminated the risk of tree decline and/or structural failure and effectively increase the size of the Tree Protection Zone to include the area of the paving.

Certificates of Control

Stage in development	Tree management process	
	Matters for consideration	Actions and certification
Development submission	Identify trees for retention through comprehensive arboricultural impact assessment of proposed construction. Determine tree protection measures Landscape design	Provide arboricultural impact assessment including tree protection plan (drawing) and specification
Development approval	Development controls Conditions of consent	Review consent conditions relating to trees
Pre-construction (Sections 4 and 5)		
Initial site preparation	State based OHS requirements for tree work Approved retention/removal Refer to AS 4373 for the requirements on the pruning of amenity trees Specifications for tree protection measures	Compliance with conditions of consent Tree removal/tree retention/transplanting Tree pruning Certification of tree removal and pruning Establish/delineate TPZ Install protective measures Certification of tree protection measures
Construction (Sections 4 and 5)		
Site establishment	Temporary infrastructure Demolition, bulk earthworks, hydrology	Locate temporary infrastructure to minimize impact on retained trees Maintain protective measures Certification of tree protection measures
Construction work	Liaison with site manager, compliance Deviation from approved plan	Maintain or amend protective measures Supervision and monitoring
Implement hard and soft landscape works	Installation of irrigation services Control of compaction work Installation of pavement and retaining walls	Remove selected protective measures as necessary Remedial tree works Supervision and monitoring
Practical completion	Tree vigour and structure	Remove all remaining tree protection measures Certification of tree protection
Post construction (Section 5)		
Defects liability/ maintenance period	Tree vigour and structure	Maintenance and monitoring Final remedial tree works Final certification of tree condition

Document Source:

This table has been sourced from AS4970-2009 Protection of trees on development sites. Further information and guidelines are available in within that document.

Tree Protection Zone



NO ACCESS

Contact: Arborman Tree Solutions

Ph. 8240 5555

m: 0418 812 967

e: arborman@arborman.com.au



Ned Feary

From: Ned Feary
Sent: Monday, 22 May 2023 4:46 PM
To: 'garth@heyneplanning.com.au'
Subject: Development Application- 72-74 Queen St, Norwood

Hi Garth,

I have now received advice from our City Arborist relating to this application and having considered this advice, cannot support this application.

I consider that the tree is particularly significant, and is worthy of retention under points (a), (c), (e) and (f) of PO 1.2 of the Regulated and Significant Trees Overlay. Nonetheless, PO 1.4 of the Overlay is particularly instructive:

A tree-damaging activity in connection with other development satisfies all the following:

- a) it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
- b) in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*

Your report indicates that the "heave" of the roots at present is 270mm, and then you appear to have allowed for an additional 500mm of future growth. It is not clear to me where this 500mm comes from.

The report from our City Arborist notes the following:

- 1. The tree at an approximate range of 150-250 years of age (possible more) could live this time again, and is therefore likely to outlive the existing and indeed proposed built form*
- 2. The carport is not considered a building of value. Tree valuation methodology places the tree at somewhere between 10-20 times the value of the carport*
- 3. Considering the size and age of the tree, it is not expected to drastically increase in size (including tree roots) when compared to the expected lifespan of the adjacent dwelling and carport overall (for the suburb of Norwood, by average)*
- 4. The suggestion that the ground level of the carport requires raising by 500mm due to expected root growth is unsubstantiated and seems over estimated, without damage roots will increase in girth radially and not in one area (of the root), to provide this rate of growth to the tree as a whole reveals the method (of estimation) here may be flawed*
- 5. The exposed part of the tree root could be built into the carport surface using pavers that can be removed to allow for root growth as it occurs, however-*

When considering the value of the tree (using PO 1.2. and tree valuation methodology) against the value of the carport I am of the opinion the following options are considered reasonable-

- Completely reconstruct the carport with a raised surface (would not need to be 500mm above the current 'top' of the root)*
- Remove the carport and ramp over the tree root with modern paving techniques to alleviate ceiling height concerns*

In agreeing with this view, I consider that the proposed development does not meet with PO 1.4 (b) above, in that it has not suitably demonstrated that all reasonable alternative design solutions have been considered. Notwithstanding this, I also consider that a carport may not be sufficient to achieve point (a) of the same PO, in the context of the value of the tree. I am, of course, supportive of any form of carport (within reason of course!) that does not damage the tree, but in my view, the carport is not necessarily an integral part of the "reasonable" development of the land.

I will place the application on hold while you consider whether you wish to amend the proposal. However, should you wish for me to issue my decision (for refusal), please let me know.

Thanks,
 Ned Feary
URBAN PLANNER

City of Norwood Payneham & St Peters
 175 The Parade, Norwood SA 5067
 Telephone 8366 4531

Email NFeary@npsp.sa.gov.au
Website www.npsp.sa.gov.au

Community Well-being is...
Social Equity
Economic Prosperity
Cultural Vitality
Environmental Sustainability





Attachment 6

HEYNEN
PLANNING CONSULTANTS

T 08 8271 7944
Suite 15, 198 Greenhill Road
EASTWOOD SA 5063

ABN 54 159 265 022
ACN 159 265 022

21 November 2023

Norwood, Payneham & St Peters Council
ATT: Ned Feary

By Email

Dear Ned

RE: 23012613 – UNITS 6 AND 7, 72 QUEEN STREET, NORWOOD

Thank you for your patience and placing the application on hold until this point. The applicant has now had time to consider your email of 22 May 2023. I will provide a response below hereafter.

Before doing so however, I request, from an administrative perspective, that you alter the applicant details from those uploaded to the following:

Applicant and Land Owner Name:	Andrew Van de Ven
Applicant and Land Owner Address:	Unit 6, 72-74 Queen Street NORWOOD SA 5067
Email Address:	garth@heynenplanning.com.au

Likewise, the Invoice Contact should also be amended to reflect the above details.

Apologies for the inconvenience, however it is an important technical amendment. Also, can you please remove the “hold” currently placed on DA 23012613 and upload the information referenced herein.

Returning to Councils email of 22 May 2023, I note that initially Council queried as follows:

Your report indicates that the “heave” of the roots at present is 270mm, and then you appear to have allowed for an additional 500mm of future growth. It is not clear to me where this 500mm comes from.

I have sought specific advice from Marcus Lodge of Arborman in this respect and I attach his email of 16 June 2023 (“response from arborist”.pdf). His advice is to allow for “300 mm clearance above the root zone that will give clearance that will last at least 30 years”.

As a consequence, the 300 mm clearance has been incorporated into amended planning drawings, as prepared by Royal GreenHouse, dated 31/7/23, Revision C (also hereby attached).

You will note again, the planning drawings illustrate the ramp option on the land lawfully associated with Unit 6 (Option A) and the flat parking platform and the graded common driveway beyond the Unit 6 land (Option B).

I have subsequently sought advice from Phil Weaver (herein attached and dated 1 August 2023) and his advice is as follows (paraphrased and as per page 2):

Option A would not be physically accessible by passenger cars and is considered to be significantly at variance with AS/NZS 2890.1:2004.

And:

Option B would therefore require increased overhead clearances to be compliant with AS/NZS 2890.1:2004 for Unit 6. However ramping of the common driveway would result in severe accessibility issues for existing adjoining users, particularly Units 1, 7, and 8

Put simply, these “options” do not provide a functional parking space for Unit 6, noting that a parking space for this residence is a normal prerequisite sought by the Planning and Design Code (the Code), and also a reasonable expectation given that a parking space has been provided since the construction of the residence and the subsequent occupation of the residence.

I am also mindful that the suspended car park “alternative” was suggested by Mr Lodge noting the following:

Arborman report, page 1 of 8, para 4:

“As this tree has a High Retention Rating and displays attributes that indicate it should be protected, it is recommended that alternative construction methods be considered to prevent substantial tree damage. If alternative construction methods are not available or reasonable, tree removal may need to be considered.”

And, at page 6 of 8, para 2:

“The area of the required work is within the SRZ and is therefore classified as a ‘Major Encroachment’ as defined in AS4970-2009. Severance or damage to roots in the SRZ can cause instability and increase the likelihood of whole tree failure. AS4970-2009 also identifies relevant factors that should be considered when determining the ‘impact’ of encroachments such as this; these considerations are listed under section 3.3.4 TPZ encroachment considerations. When considering these factors, the proposed work could be redesigned to minimise the impact on the roots such that it is unlikely to result in tree damaging activity that will result in the decline, death or failure of the tree.”

As a consequence of the advice of Mr Weaver and Mr Lodge, I confirm that Strata Corporation No 5240 Inc (72 Queen Street, Norwood) met on 18 September 2023 to consider further alternative options (see “Strata Corp Minutes 18 9 23”.pdf). At the meeting, the following options were considered (in addition to Option A):

- Option B as it relates to the ramped area on the common property (shared driveway);
- New Option C involving the relocation of the Unit 6 carport into a different section of Corporation property; and
- New Option D, removal of the carport roof, resulting in an open paved area.

For brevity I will not repeat the Minutes, however after “extensive deliberations” and for, in my opinion, valid reasons Strata Corporation 5240 rejected Options A and B as prepared by Royal GreenHouse and new Options C and D.

You will recall from our site meeting of 6 June 2023 that we discussed Options C and D as possible alternatives.

I return now to the Code and note that a replacement carport and parking space cannot safely and practically be provided for Unit 6, In my opinion, the provision of a covered car park is entirely reasonable and appropriate having to the provisions of the Code¹:

Part 4: Transport, Access and Parking

PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:...

DTS/DPF 5.1 Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:

- (a) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements...

Again, it is entirely reasonable for the occupants of Unit 6 to expect that a covered parking space continues to be provided in the designated unit carport area, as has always been the case.

In relation to the removal of the significant tree, the Code guides as follows (my emphasis added):

Regulated and Significant Tree Overlay

~~DO 1—Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.~~

PO 1.4 A tree-damaging activity in connection with other development satisfies all the following:

- (a) it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible
- (b) in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.

Since the lodgement of the development the judgement in the matter of *Geber Super Pty Ltd v The Barossa Assessment Panel* [2023] SASC 154 clearly states in relation to Desired Outcomes the following:

87 The desired outcomes assist in the interpretation of the performance outcomes. They are not policies in their own right. However, they set a general policy agenda for a zone. This policy agenda informs policies comprised by the performance outcomes.

Put another way. DO 1 mentioned above cannot be a reason for refusal with respect to a development application.

The correct “policy test” for the proposed development (i.e. the construction of a carport and removal of the significant tree) is found within PO 1.4 above.

¹ In my opinion, the existing and future parking supply can reasonably rely upon the Planning and Design Code as a guide to the prerequisite standard for the existing residence

It is clear that the replacement of a longstanding carport is “reasonable development of the land” per PO 1.4(a).

In relation to PO 1.4(b) no other options or strategies appear available and it is clear that “all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring”.

Finally, and respectfully, I recall per Councils email of 22 May 2023 mention was made by Councils arborist of the carport not being “considered a building of value” and the “tree valuation methodology plac[ing] the tree at somewhere between 10-20 times the value of the carport”.

Furthermore, Councils arborist states:

“When considering the value of the tree (using PO 1.2. and tree valuation methodology) against the value of the carport I am of the opinion the following options are considered reasonable-

- Completely reconstruct the carport with a raised surface (would not need to be 500mm above the current ‘top’ of the root)
- Remove the carport and ramp over the tree root with modern paving techniques to alleviate ceiling height concerns”

Respectfully PO 1.2 of the Regulated and Significant Tree Overlay does not mention in any way the value of the tree. Furthermore, the only reference in the Code to the value of a building is found per PO 1.3 of the Overlay. This provision is however only relevant to “a tree damaging activity not in connection with other development...”. This is not the case in relation to the development application.

It is clearly not relevant as to the value of the carport versus the value of the tree. What is relevant, is the reasonableness of the proposed development, and in my opinion the replacement of the carport and the supply of a covered parking space is reasonable and reasonably contemplated and sought per the Code.

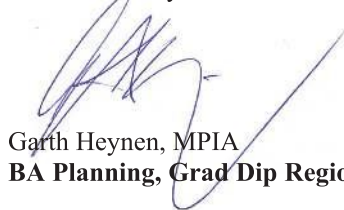
Accordingly, the proposed development has considered “all reasonable development options and design solutions... to prevent substantial tree-damaging activity occurring”.

In my opinion, the proposed removal of the significant tree and construction of the replacement carport displays substantial planning merit.

In relation to regulation 59 of the Planning, Development and Infrastructure (General) Regulations 2017 and the section 127 of the Planning, Development and Infrastructure Act 2016 the applicant requests that a payment be made in lieu of tree planting (per s(127)(6)).

Should you have any queries please contact me at your convenience.

Yours faithfully



Garth Heynen, MPIA
BA Planning, Grad Dip Regional & Urban Planning, Grad Dip Property

Minutes of Annual General Meeting

**Strata Corporation No 5240 Inc.
72 Queen Street Norwood 5067**

**Held at Online or by Phone (GoToMeeting)
On
Monday 18 September 2023 at 5:00pm**

Removal of Gum Tree

Ms M Gristwood provided an update on the status of council approval for the removal of the red gum tree, necessitated by the issues caused in particular to the carport and car parking of adjoining unit 6. Council has indicated it would not consider the removal of the tree until the Corporation had explored and exhausted possibilities for keeping the tree. Detailed plans were circulated to all property owners, prior to the meeting, outlining four options for consideration.

Option A puts forth the concept of a gradient platform to be manufactured and installed, extending over the tree's roots, providing steps and ramp access to unit 6's carport. Option B presents an engineered ramp leading to the carport, extending out into the Corporation's driveway. In addition to these options, the Corporation had two other alternatives on the table: Option C, involving the relocation of unit 6's carport to a different section of Corporation property, and Option D, the removal of the carport roof for unit 6, resulting in an open paved area.

In a comprehensive discussion, property owners thoroughly examined each of these options.

The Manager clarified that Options B and C necessitated a unanimous decision from all owners for approval, as they entailed the use of Corporation property. Option C would increase the unit 6 entitlement, hence making portion of property ownership inequitable. However, owners were not in favour of these options, primarily due to concerns about their potential impact on property values.

Similar concerns surfaced regarding Options A and D, as these alternatives would disrupt the uniformity and aesthetics of the units, potentially affecting not just the value of the affected unit, but property values for the entire complex as well. It was noted that Option A did "not achieve compliance with the relevant Australian Standard", and Option D did not solely affect unit 6 as would also remove a covered carport for unit 7.

Moreover, the Manager underscored that the tree would continue to be a persistent source of problems for the Corporation. These ongoing complications may encompass further issues to plumbing works and property damage resulting from climate-related events. Additionally, it is important to highlight the possibility of new disturbances affecting other carports, as well as the unacceptable safety risks posed to residents when navigating the path obstructed by tree roots leading to their properties. These problems cannot be pre-empted and/or addressed by any proposed options put forward today and would undoubtedly and inevitably escalate the cost of living within the strata complex and create an unsustainable financial burden for all residents.

Given these extensive deliberations, it was resoundingly agreed that the Corporation unequivocally reject all four options, as none of them presented a favorable, nor enduring, outcome for Corporation 5240 and its residents at 72 Queen Street Norwood.

Garth Heynen

From: Mandy Graetz - Arborman <admin@arborman.com.au>
Sent: Friday, 16 June 2023 1:43 PM
To: Garth Heynen
Cc: [REDACTED]
Subject: RE: 72 Queen Street, Norwood

Hi Garth

If you could maintain a 300 mm clearance above the root zone that will give clearance that will last at least 30 years.

Regards

Marcus Lodge
Director and Consulting Arborist



23 Aberdeen Street Port Adelaide SA 5015

Mobile: 0439 840 287
Email: marcusl@arborman.com.au
Website: www.arborman.com.au

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From: Garth Heynen <garth@heyneplanning.com.au>
Sent: Friday, June 2, 2023 8:49 AM
To: Mandy Graetz - Arborman <admin@arborman.com.au>
Cc: Michelle G <michellegristwood@hotmail.com>
Subject: 72 Queen Street, Norwood

Hi Marcus

I trust this email finds you well.

I am now working with Michelle Gristwood in relation to the abovementioned site and significant tree.

I am investigating the design and practicality of the elevated car parking space and associated "bridge" over the exposed roots at 72 Queen Street Norwood.

Can you please confirm what clearance allowance/height I should maintain from the exposed roots and/or ground level to manage future growth and the life of the tree and/or the life of the dwelling?

Regards

Garth Heynen

Heynen Planning Consultants

Suite 15, 198 Greenhill Road







EASTWOOD SA 5063

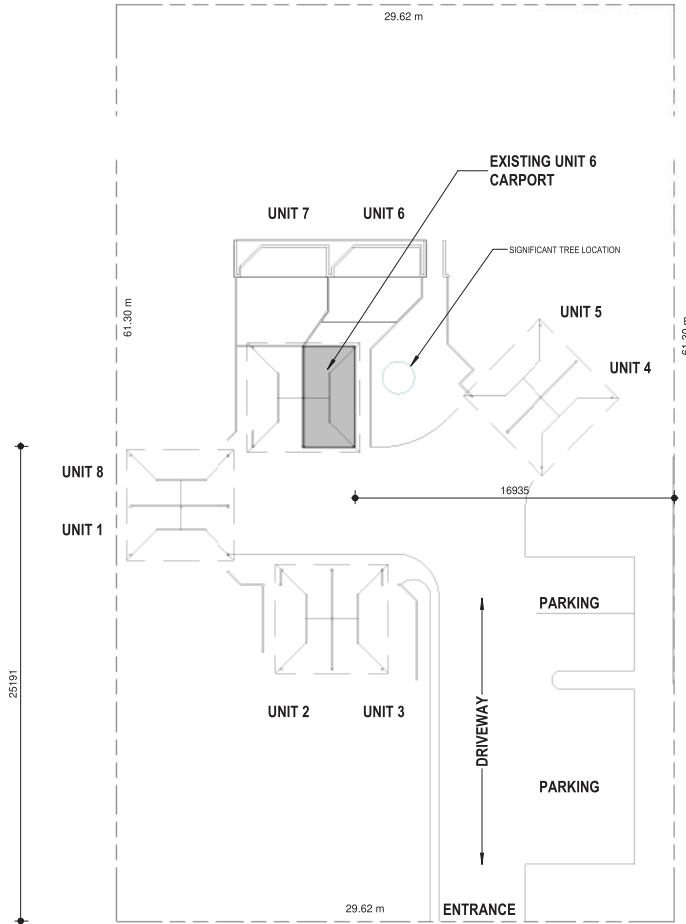
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SITE LEGEND

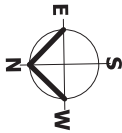
- DP  90mm DOWN PIPE SEALED TO UNDER SIDE OF GUTTER
- IP  INSPECTION POINT
-  300x300x300 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER
-  600x600x600 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER WITH TOP OF WATER LEVEL TO BE MIN 65mm BELOW FINISHED SURROUNDING LEVEL
-  NEW SPOT LEVEL
-  EXISTING SPOT LEVEL
- TK TOP OF KURB
- WT WATER TABLE
- TBM TEMPORARY BENCH MARK
- TRW TOP OF RETAINING WALL
- APX APPROXIMATE
- FL: TOP OF SLAB (FLOOR LEVEL)
- BL: UNDERSIDE OF RUBBLE BASE (BENCH LEVEL)
- GL: DIRT SURFACE (GROUND LEVEL)
- C.O.S. CHECK ON SITE



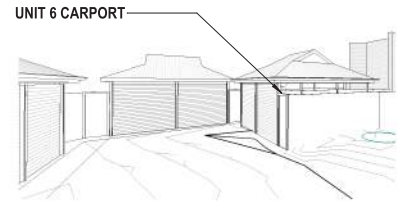
PART SITE PLAN

1 : 200

72 QUEEN ST



Attachment 6

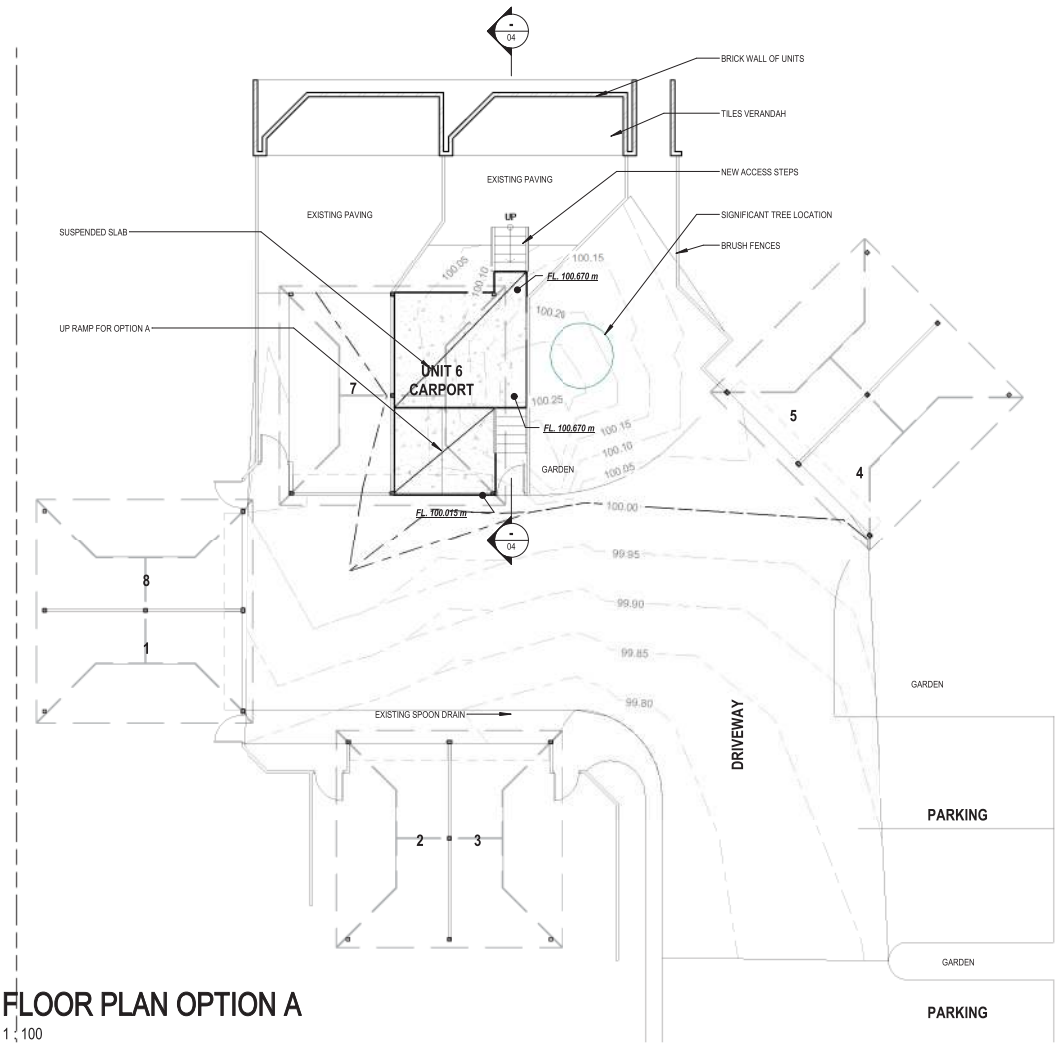


3D View 1

FOR PLANNING ONLY

REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON	
		As indicated	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SITE PLAN		Job No. 610-22	Issue
		Sheet No. 01	Rev C

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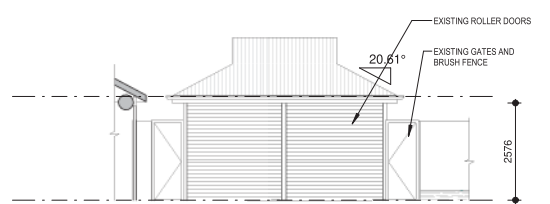
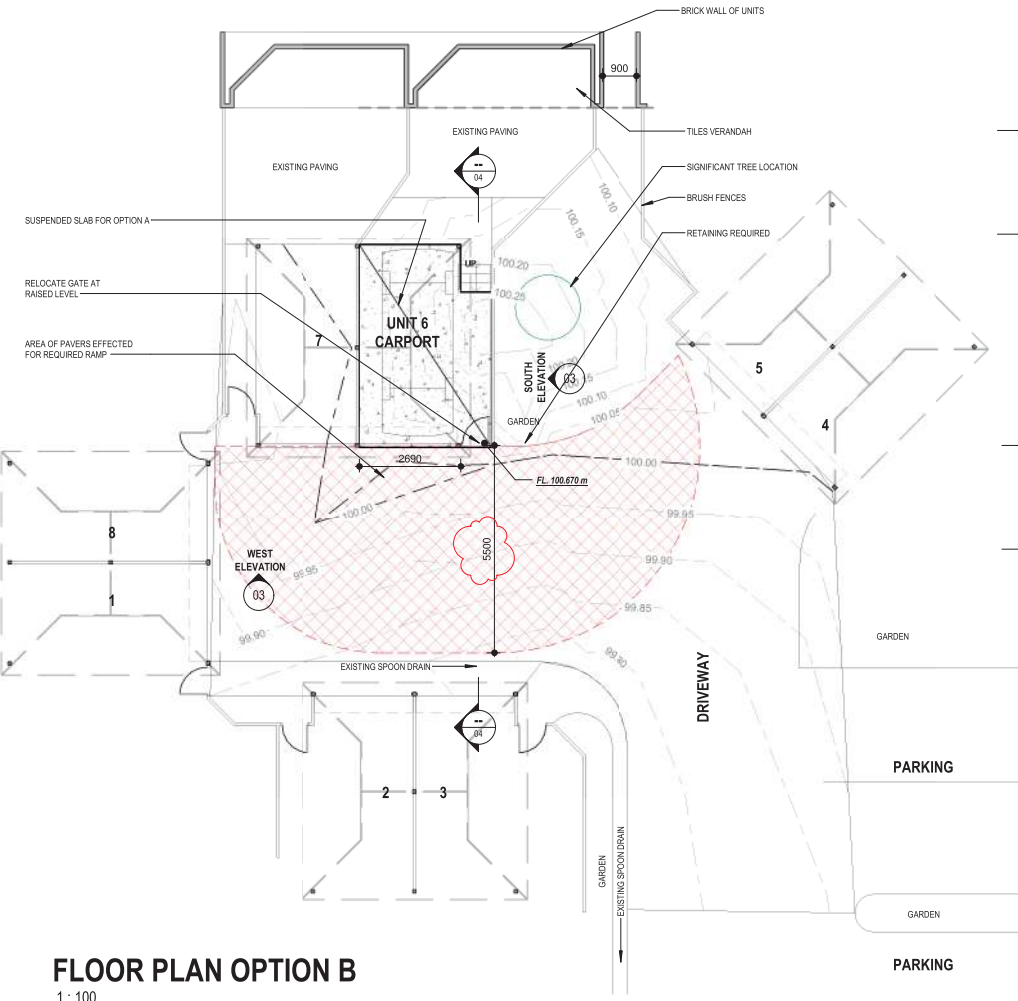
FLOOR PLAN OPTION A
1:100

FOR PLANNING ONLY

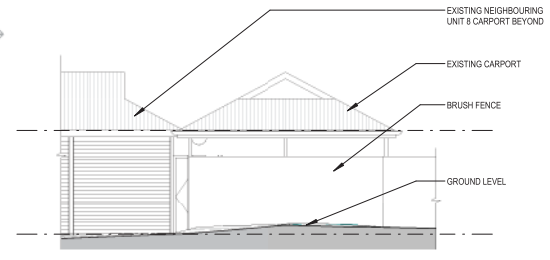
REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON 1:100	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION A PLANS		Job No. 610-22	Issue
		Sheet No. 02	Rev C

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Attachment 6



WEST ELEVATION
1 : 100



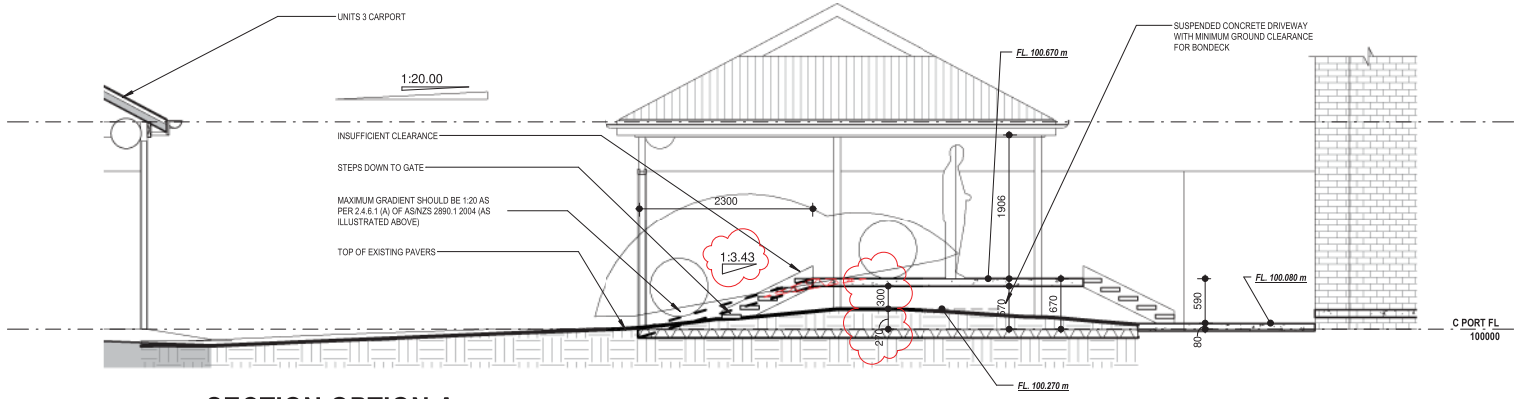
SOUTH ELEVATION
1 : 100

FOR PLANNING ONLY

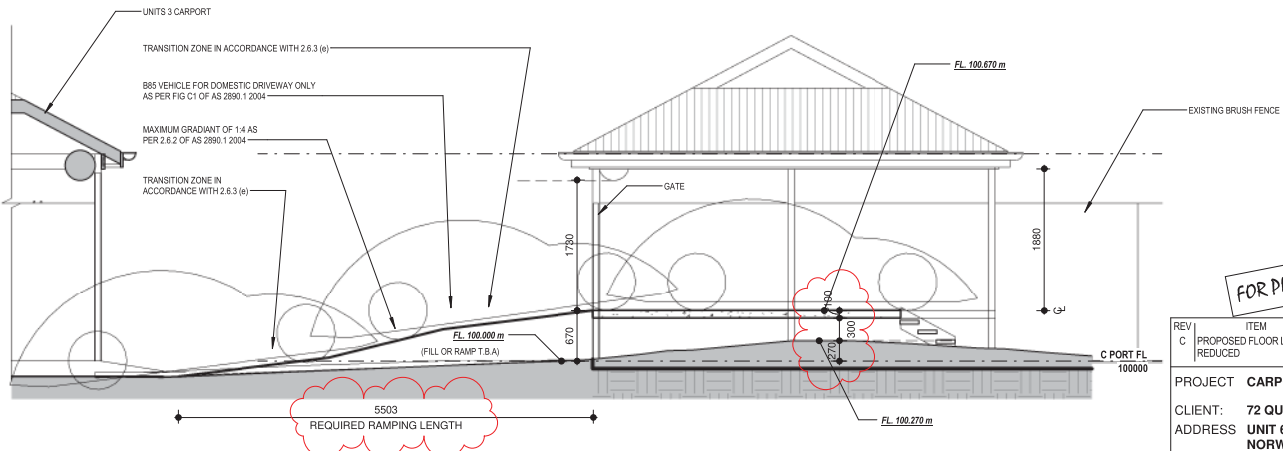
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C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON 1 : 100	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION B PLANS		Job No. 610-22	Issue
		Sheet No. 03	Rev C

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Attachment 6



SECTION OPTION A
1 : 50



SECTION OPTION B
1 : 50

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REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23

SCALE ON 1 : 50

PROJECT **CARPORT CAR PARK**
 CLIENT: **72 QUEEN STREET STRATA**
 ADDRESS **UNIT 6, 72 QUEEN ST NORWOOD, SA 5067**

SECTIONS	Job No. 610-22	Issue
	Sheet No. 04	Rev C

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Consultant Traffic Engineers
ABN 67 093 665 680

204 Young Street
Unley SA 5061

P: 08 8271 5999
E: mail@philweaver.com.au

File: 23-109

1 August 2023

Mr Garth Heynen
Heynen Planning Consultants

By email: garth@heynenplanning.com.au

Dear Garth,

ASSESSMENT OF CARPORT AND ASSOCIATED DRIVEWAY GRADE ALTERATION OPTIONS – 6/72 QUEEN STREET, NORWOOD

We refer to our previous discussions with respect to the above matter. We understand that there is a tree root issue associated with the significant tree located to the immediate south of the subject carport (Unit 6) and that options are being explored in relation to raising the level of the Unit 6 car parking space 300mm above the existing ground level.

As requested, we have undertaken the following design reviews of Options 'A' and 'B' provided to this office on a series of plans (Job Mo. 610-22, Rev C, Sheets 1 to 4) dated 31 July 2023, attached as an appendix to this letter.

EXISTING SITUATION

The subject site is located on the western side of Queen Street, Norwood, in an *Established Neighbourhood Zone* within the City of Norwood Payneham and St Peters.

Vehicular site access is currently provided via a crossover to the immediate south of Unit 3. This access point links to an internal east-west oriented common driveway with uncovered 90-degree car parking located on the southern side of the driveway before meeting a north-south section of driveway from which the various single-vehicle carports associated with each unit on the subject land are accessed.

Based on the contours provided on the Site Plan, there is an existing grade of approximately 4% across the subject north-south section of driveway, resulting in a slight grade up from the Lot 3 carport to the Lot 6 carport.

We understand that the existing carport has a length of approximately 5.2m, a width of approximately 2.9m, a roller door of approximately 2.5m in width, and an original minimum internal height (vertical clearance) of approximately 2.6m.

We also understand that tree roots associated with the significant tree located to the south have raised the existing Unit 6 carport pavement level by approximately 270mm. Subsequently a suspended parking space with 300mm of clearance above the existing raised pavement level and 100mm of thickness is being considered in order to maintain long-term clearance for the subject car parking space above the expanding tree root.

OPTION A

Option A is identified in the Section View on Sheet 4 of the provided plans.

This option identifies a ramp grading at 1:3.43 for the first 2.3m into the carport providing access to the raised platform. This option would be non-compliant with *AS/NZS 2890.1:2004* in various respects, including:

- 1) The maximum allowable change of grade is 1:8 (12.5%) over 2m of travel. The identified 1:3.43 (29%) change of grade would therefore significantly exceed this maximum and would subsequently not be traversable by passenger vehicles,
- 2) The maximum allowable domestic driveway grade at any point is 1:4, i.e., 1:3.43 would be too steep even if transitions were introduced,
- 3) The remaining flat section of the proposed car parking space would not be long enough to accommodate a parked car (5.4m required), i.e., a car would have to straddle the 1:3.43 (29%) ramp. The maximum longitudinal grade of a car parking space is 1:20 (5%), i.e., the position of a parked vehicle in this carport would therefore invariably be parked on too steep of a grade to meet the requirements of the relevant off-street parking standard, and
- 4) The minimum required overhead clearance above a car parking space is 2.2m, i.e., the 1.9m vertical clearance which could be provided would be insufficient.

Option A would not be physically accessible by passenger cars and is considered to be significantly at variance with *AS/NZS 2890.1:2004*.

OPTION B

Option B is identified both in plan view (Sheet 3) and in section view (Sheet 4) of the provided plans.

This option identifies a 5.5m long section of ramp grading within the common driveway in order to meet the proposed car parking space level. This ramp includes (*AS/NZS 2890.1:2004* compliant) 2m long 1:8 (12.5%) transitions either side of a 1.5m long 1:4 (25%) section of ramp.

The carports 1.88m overhead clearance and 1.73m roller door clearance identified in Section Option B would be insufficient, with minimum overhead clearance requirements of 2.2m.

Furthermore, this option would have severe impacts in terms of maintaining appropriate accessibility to the adjoining carports, namely:

- 1) The Unit 7 carport is located directly adjacent to the Unit 6 carport and would therefore be inaccessible at its current level with the proposed increases in the grades of the adjoining driveway,
- 2) There is an approximately 4.0m offset between the northern edge of the Unit 6 carport and the frontage of the Units 1 and 8 carports. As such, there would be insufficient distance to ramp back down (approximately 5.5m required) from the new Unit 6 carport level to the existing Unit 8 carport level. This is notwithstanding the Unit 7 accessibility impacts, and
- 3) Drivers associated with all remaining units (1 to 5, 7, and 8) would, to different extents, be required to travel transversally across the ramp, at crossfalls of up to 1:4 (25%). *AS/NZS 2890.1:2004* does not specify maximum driveway crossfalls however in our experience such a crossfall would be far too steep. For example, the *Hazards (Bushfire) Overlays* of the *Planning and Design Code* identify maximum driveway crossfalls of 1:9.5 (10.5%), less than half that identified in this option.

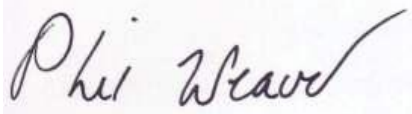
Option B would therefore require increased overhead clearances to be compliant with *AS/NZS 2890.1:2004* for Unit 6. However ramping of the common driveway would result in severe accessibility issues for existing adjoining users, particularly Units 1, 7, and 8.

SUMMARY

In summary, we consider that:

- Option A is unfeasible, being significantly at variance with the design requirements of the relevant Australian off-street car parking standard for the carport of Unit 6, and
- Option B is also unfeasible being at variance with the relevant Australian off-street car parking standard for Unit 6, and resulting in inappropriate level differences for the Unit 1, 7, and 8 carports, and inappropriate driveway crossfalls for the majority of users of the adjoining section of driveway.

Yours sincerely,

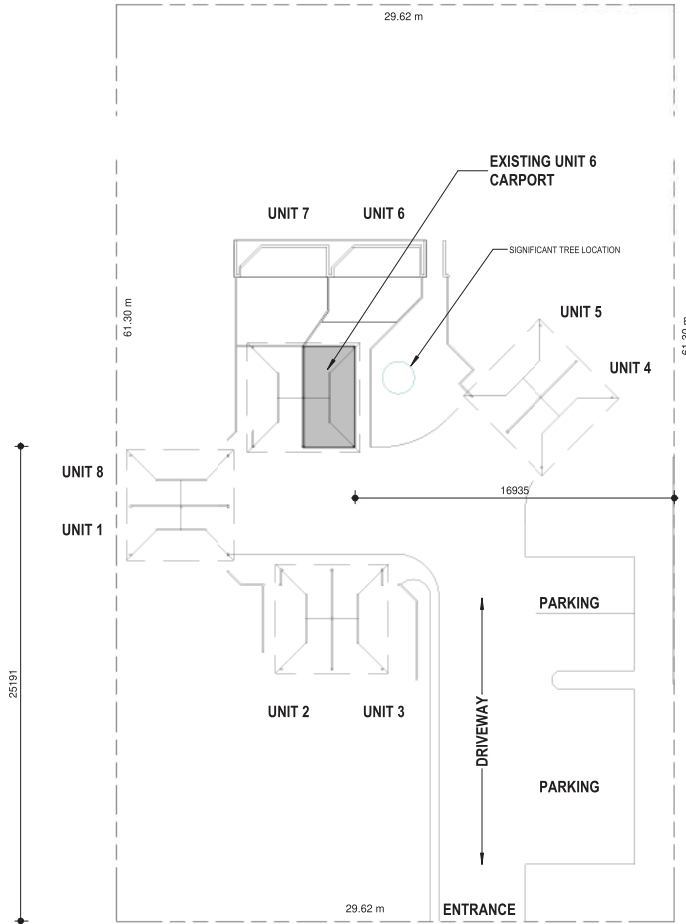


Phil Weaver
Phil Weaver and Associates Pty Ltd

Enc: Provided Plans

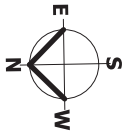
SITE LEGEND

- DP 90mm DOWN PIPE SEALED TO UNDER SIDE OF GUTTER
- IP INSPECTION POINT
- 300x300x300 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER
- 600x600x600 PRECAST ENTRY SUMP WITH HOT DIP GALV GRATE OVER WITH TOP OF WATER LEVEL TO BE MIN 65mm BELOW FINISHED SURROUNDING LEVEL
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- C.O.S. CHECK ON SITE

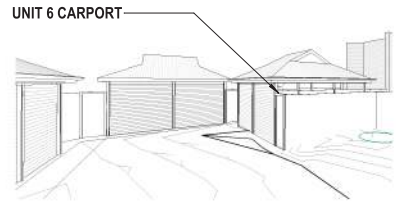


PART SITE PLAN
1 : 200

72 QUEEN ST



Attachment 6

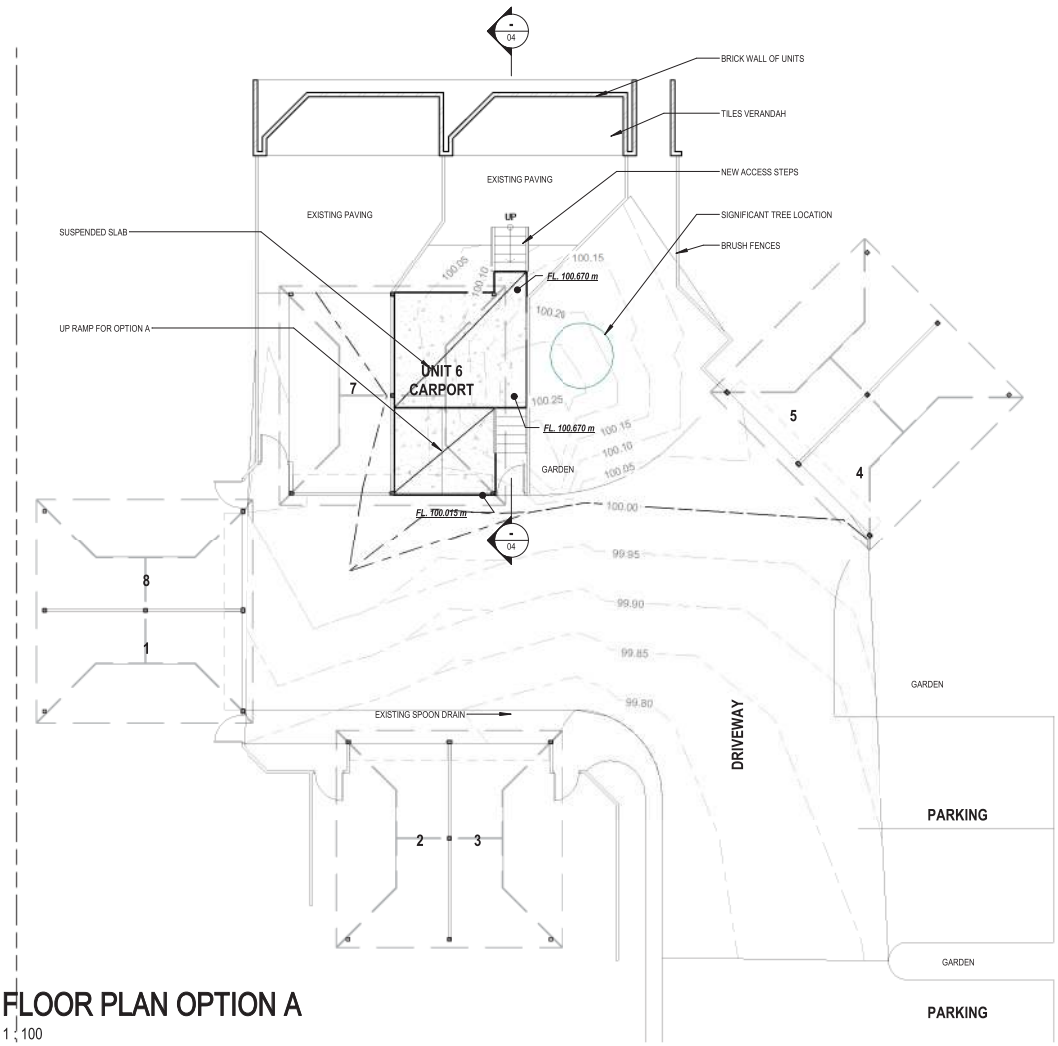


3D View 1

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REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON	
		As indicated	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SITE PLAN		Job No. 610-22	Issue
		Sheet No. 01	Rev C

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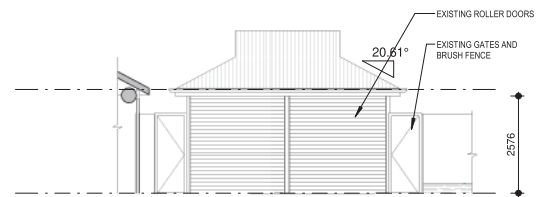
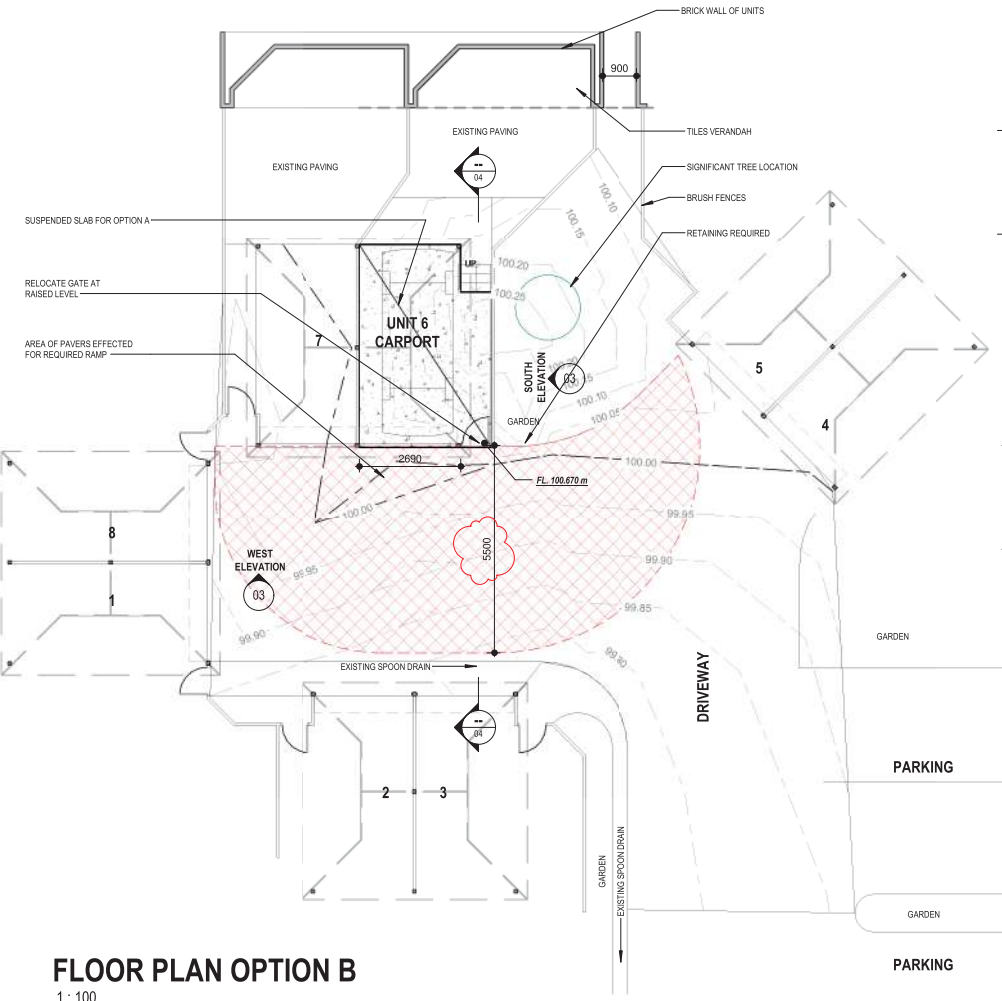
FLOOR PLAN OPTION A
1:100

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REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON 1:100	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION A PLANS		Job No. 610-22	Issue
		Sheet No. 02	Rev C

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Attachment 6

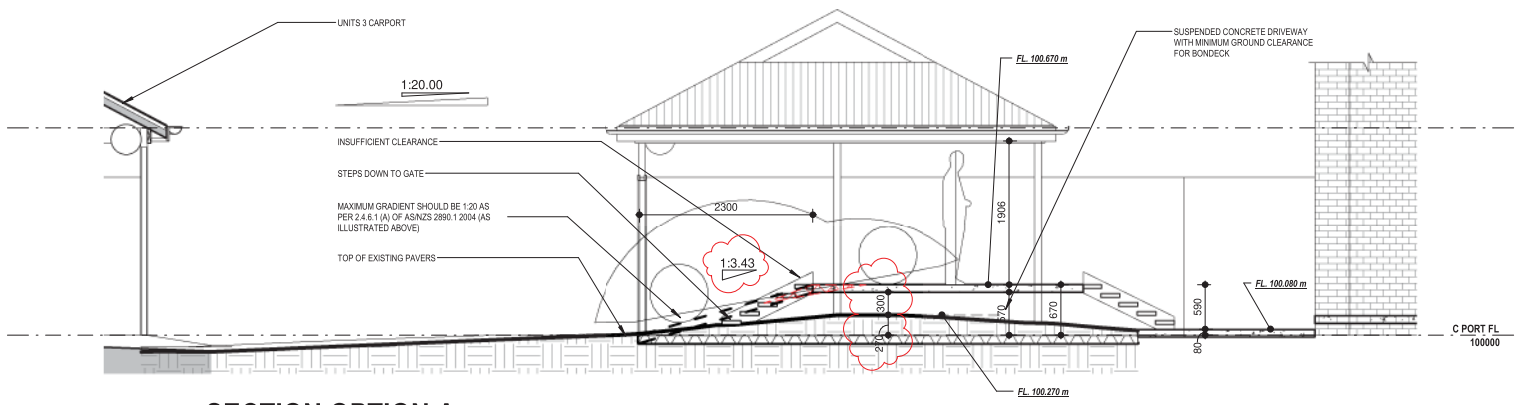


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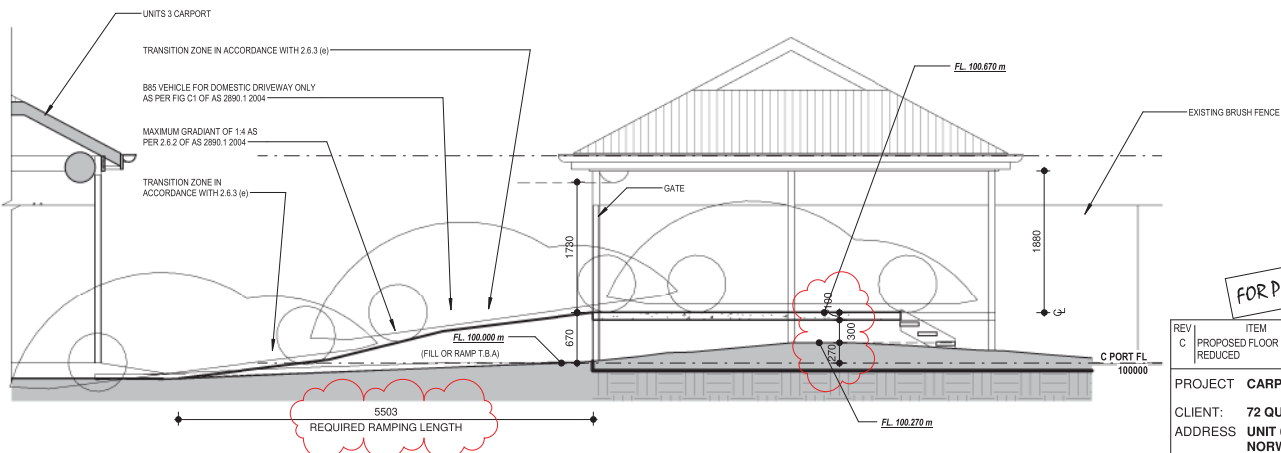
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PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
OPTION B PLANS		Job No. 610-22	Issue
		Sheet No. 03	Rev C

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Attachment 6



SECTION OPTION A
1 : 50



SECTION OPTION B
1 : 50

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REV	ITEM	DATE	DATE
C	PROPOSED FLOOR LEVEL REDUCED	31/7/23	31/7/23
		SCALE ON 1:50	
PROJECT CARPORT CAR PARK			
CLIENT: 72 QUEEN STREET STRATA			
ADDRESS UNIT 6, 72 QUEEN ST NORWOOD, SA 5067			
SECTIONS		Job No. 610-22	Issue
		Sheet No. 04	Rev C

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Ned Feary

From: Ned Feary
Sent: Friday, 1 December 2023 2:10 PM
To: 'Garth Heynen'
Subject: RE: Development Application- 72-74 Queen St, Norwood

Hi Garth,

I have now reached my decision on this application, and have concluded that I still cannot support it.

You are welcome to submit additional information / justification if you think it would assist, however at this point there is nothing further I can think of which would change my view.

To explain my position, I refer to PO 1.4 of the Regulated and Significant Trees Overlay:

A tree-damaging activity in connection with other development satisfies all the following:

- a) it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
- b) in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*

There is a question in my mind of whether this really constitutes "development" since it is really about the useability of a car parking space, which is not development in its own right. Indeed, this being the case, it would be a question of whether it was necessary to "rectify or prevent extensive damage to a building of value" under PO 1.3 (a) (iii), which I do not believe this would satisfy. For the sake of full disclosure, I have not sought legal advice on this point and my view does not rest on this argument.

Regardless, I believe that there are nonetheless reasonable design alternatives and I therefore refer primarily to part (b) of the PO above. I refer again to the use of the common parking area or on-street parking. I acknowledge that the construction of a carport for unit 6 in the common area has been rejected by the Strata Corporation, but I have turned my mind to whether this is actually sufficient to satisfy part (b) or not. I conclude that it is for the Relevant Authority to determine what is or is not "reasonable" as an alternative, and therefore despite the Strata Corporation's ruling, I believe that this option is reasonable and therefore justifies the retention of the tree. I also note the relatively low value garden bed on the western side of the shared parking area, which appears large enough to accommodate an additional parking space if needed. We would be happy to support the removal of this garden bed to accommodate a new parking space (on the assumption that this may require a variation to the original approval for the units). I also note that the owners of unit 6 would qualify for a residential parking permit allowing for on-street parking without the limitation of hours which otherwise applies on Queen St.

As there is nothing further which I believe could change my view of the application, it is my intent to recommend refusal to Geoff as the Assessment Manager. He has stated that he agrees with the decision and would endorse that. Unless you object, I will issue that decision via the portal, in order to give you the opportunity to review or appeal this decision as you may wish.

I trust that this makes our position sufficiently clear, but if you would like any further clarification, please let me know.

Thanks,
 Ned Feary
Senior Urban Planner

City of Norwood Payneham & St Peters

175 The Parade, Norwood SA 5067

Telephone 8366 4531

Email nfeary@npsp.sa.gov.au

Website www.npsp.sa.gov.au

From: Garth Heynen <garth@heyneplanning.com.au>
Sent: Friday, November 24, 2023 8:09 AM
To: Ned Feary <NFeary@npsp.sa.gov.au>
Subject: RE: Development Application- 72-74 Queen St, Norwood

Hi Ned

I have been advised that the carport floor was concrete before it was removed due to the cracked and unsafe nature of the surface.

The common driveway is surfaced with brick.

Regards

Garth Heynen
Heynen Planning Consultants
Suite 15, 198 Greenhill Road
EASTWOOD SA 5063
Celebrating 29 years of independent consulting

M 0417 848 061

T 8271 7944

From: Ned Feary <NFeary@npsp.sa.gov.au>
Sent: Thursday, November 23, 2023 9:05 AM
To: Garth Heynen <garth@heyneenplanning.com.au>
Subject: RE: Development Application- 72-74 Queen St, Norwood

Thanks Garth,

I'm hoping you can provide some clarification for me on this line from Marcus' report:
"There are no surface roots in the actual driveway section and as such this area could be replaced with a similar surface to the one that was removed without causing damage to the tree."

What was the surface that was removed? Has this situation changed at all since this report was written?

Thanks,
Ned Feary
Senior Urban Planner

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067
Telephone 8366 4531
Email nfeary@npsp.sa.gov.au
Website www.npsp.sa.gov.au

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Our ref: SM/224032

22 March 2024

Mr Ned Feary
Senior Urban Planner
City of Norwood, Payneham and St Peters
175 The Parade
NORWOOD SA 5067

By email: nfeary@npsp.sa.gov.au

Dear Ned

DA No. 23012613 - Proposed construction of a replacement carport and removal of significant tree – Unit 6, 72 Queen Street, Norwood

This firm acts for Nicci and Andrew Van de Ven, the proponents of Development Application No. 23012613 for the construction of a replacement carport at unit 6, 72-74 Queen Street, Norwood and the consequential removal of an adjacent significant tree (**Proposal**).

We have received the **enclosed** email from the Council dated 1 December 2023 setting out its concerns with the Proposal. The concerns relate to (i) the application of Regulated and Significant Trees Overlay (**RST Overlay**) POs 1.3 and 1.4, and (ii) the Proposal's achievement of RST Overlay PO 1.4.

For the reasons that follow, RST Overlay PO 1.4 is the relevant provision against which the Proposal is to be assessed (i.e. not PO 1.3) and PO 1.4 is achieved.

Background

1. Our clients own unit 6, 72-74 Queen Street (**Unit 6**), being a unit within Strata Plan 5240 (**the Strata Plan**).
2. The Strata Plan comprises 8 units, unit subsidiaries and common property.
3. Unit 6 includes a unit subsidiary (**the Unit Subsidiary**).
4. The Unit Subsidiary is for the exclusive use of the occupiers of Unit 6 and, like the other unit subsidiaries within the Strata Plan, comprises an existing single-car covered carport (**the Carport**).
5. The Carport is the only covered carpark for Unit 6. It has a length of approximately 5.2m, a width of approximately 2.9m, a roller door of approximately 2.5m in width, and an original minimum internal (vertical clearance) of approximately 2.6m.

Level 1 Darling Building
28 Franklin Street, Adelaide
GPO Box 1042, Adelaide SA 5001
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-
6. The Land is located within the Established Neighbourhood Zone and the RST Overlay under the Planning and Design Code (**the Code**).
 7. The common property of the Strata Plan is held by the “strata corporation”¹ in trust for all the unit owners.
 8. The common property of the Strata Plan includes the driveway which provides vehicular access to the Carport.
 9. A significant tree is located to the south of Unit 6, and on the common property (**the Tree**).
 10. The roots of the Tree extend into the Carport and presently heave by approximately 270mm.
 11. A qualified and experienced arborist, Marcus Lodge of Arborman, predicts that a further 300mm increase in the ‘heave’ of the roots will occur over the next 30 years.
 12. The roots of the Tree have caused severe cracking to the concrete floor of the Carport as well as damage to the Carport’s roller door rendering the Carport unsafe for vehicular access and parking.
 13. The replacement Carport is proposed to be located wholly within Unit 6.
 14. We understand that it is accepted that the Tree will need to be removed to facilitate the construction of the replacement carport as proposed.
 15. In an attempt to retain the Tree, the following development options and design solutions for the Carport have been considered:
 - 15.1 incorporating a gradient platform which extends over the Tree’s roots for purposes of step and ramp access entirely within the Unit Subsidiary (**Option A**);
 - 15.2 incorporating a 5.5m long section of ramp grading within the common property driveway in order to meet the proposed car parking space level. Such proposed ramp includes 2m long, 1:8 (12.5%) transitions either side of a 1.5m long, 1:4 (25%) section of ramp to comply with AS/NZS 2890.1:2004 (**Option B**);
 - 15.3 relocation of the Carport to a portion of the common property (**Option C**); and
 - 15.4 on the basis that Option B was pursued, removal of the roof for the Carport merely leaving an uncovered parking space for Unit 6 (**Option D**).

¹ Defined in the *Strata Titles Act 1988* to mean “a body corporate created under this Act on the deposit of a strata plan”

16. Advice from a qualified and experienced traffic engineer, Mr Phil Weaver², provides that:
- 16.1 “Options A would not be physically accessible by passenger cars and is considered to be significantly at variance with AS/NZS 2890.1:2004”; and
- 16.2 “Option B would therefore require increased overhead clearances to be compliant with AS/NZS 2890.1:2004 for Unit 6. However ramping of the common driveway would result in severe accessibility issues for existing adjoining users, particularly Units 1, 7, and 8”.
17. Options B, C and D were considered by the Strata Corporation at its 21 November 2023 meeting.³ The Strata Corporation is not prepared to give its consent to Options B, C or D.
18. The enclosed correspondence from the Council of 1 December 2023:
- 18.1 queries the applicability of RST Overlay PO 1.4 on the basis that the proposed replacement carport may not constitute “development”; and
- 18.2 asserts that, even if RST Overlay PO 1.4 is relevant, the PO has not been satisfied on the basis that:
- 18.2.1 there are reasonable design alternatives which utilise the common property or on-street parking; and
- 18.2.2 it is irrelevant, for the purposes of determining compliance with PO 1.4, that the Strata Corporation does not consent to alternate development options/design solutions which involve land owned by it (i.e. the common property).

The proposed replacement carport constitutes “development”

19. The definition of “development” in the *Planning, Development and Infrastructure Act 2016 (the Act)* includes “building work”. Building work is defined as:⁴

...work or activity in the nature of—

- (a) the construction, demolition or removal of a building (including any incidental excavation or filling of land); or
- (b) any other prescribed work or activity,

but does not include any work or activity that is excluded by regulation from the ambit of this definition...

² Mr Weaver’s advice is set out in a letter dated 1 August 2023 which has been provided to the Council.

³ The Minutes of the Strata Corporation’s meeting were provided to the Council via letter from Heynen Planning Consultants dated 21 November 2023

⁴ *Planning, Development and Infrastructure Act 2016* s 3(1).

-
20. The proposed replacement carport is not excluded from this definition.⁵ The replacement carport therefore comprises “building work” and, as such, is “*development*” for purposes of the Act.
 21. It follows that the proposed removal of the Tree is in connection with other development. On this basis, RST Overlay PO 1.3 is wholly irrelevant to the assessment of the Proposal.
 22. RST Overlay PO 1.4 is the relevant provision against which the proposed Tree removal must be assessed.

The relevant test for Tree removal under the Code

23. RST Overlay PO 1.4 provides that:

A tree-damaging activity in connection with other development satisfies all the following:

- (a) *it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
 - (b) *in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*
24. Put simply, PO 1.4 sets out a two-step test which can be framed as follows in the context of the Proposal (assuming for the moment that the Tree is the kind which the Code intends to retain – we make no comment about this):
 - 24.1 whether the proposed tree removal would accommodate “*reasonable development*” on Unit 6 (in this case, the proposed development is the Carport); and, if it does,
 - 24.2 whether “*all reasonable development options and design solutions*” for construction of the Carport have been considered to prevent removal of the Tree.

Reasonable development?

25. The Established Neighbourhood Zone envisages “*predominantly residential development with complementary non-residential activities compatible with the established development pattern of the neighbourhood*”⁶ (our underlining).
26. Residential development necessarily requires particular provision for off-street car parking, and such development would need to provide car parking in accordance with Transport Access and Parking Table 1 – General Off-Street Car Parking Requirements.
27. The residential units in the Strata Plan are in a “group dwelling” arrangement. Unit 6 comprises 3 bedrooms (including rooms capable of being used as a bedroom). The Transport Access and Parking Table 1 – General Off-Street Car Parking

⁵ PDI Regs Sch 4(1)(a) does not apply.

⁶ PO 1.1

Requirements relevantly provides that group dwellings with 3 or more bedrooms (including rooms capable of being used as a bedroom) require 2 spaces per dwelling, 1 of which is to be covered.

28. Having regard to the above, the proposed replacement of the Carport is, on any reasonable view, “reasonable development”. It would result in a completely unsatisfactory planning outcome if the occupiers of Unit 6 did not have an on-site covered carpark. Provision for car parking is an integral element of residential development which is envisaged in the Code and the locality.
29. We also make the obvious observation that, in circumstances where each unit within the Strata Plan has had a covered carpark for its exclusive use since the construction of the units around 40 years ago, it is reasonable for the owners and occupiers of those units to expect the same will occur into the future.
30. Plainly, the proposed replacement carport is a “reasonable development” of the Land in accordance with the relevant provisions of the EN Zone for purposes of PO 1.4(a) of the RST Overlay.

All reasonable development options/design solutions considered?

31. The phrase “all reasonable development options and design solutions”:
 - 31.1 is, in the context of this matter, confined to construction of the replacement carport entirely within the bounds of Unit 6; and
 - 31.2 must also be considered in light of the existing circumstances and other requirements of the relevant policies of the Code and other building code standards.
32. Respectfully, any suggestion that “*reasonable development options and design solutions*” in the context of this matter extends to land in different ownership is misconceived. Indeed, it would be illogical if the planning system prevented a land owner from reasonably developing their land in circumstances where they were first required to (i) consider development alternatives/design solutions which included land in different ownership, and (ii) obtain the consent of such different owner/s to undertake works on their land. This is the effect of what the Council is asserting at present noting that the very nature of common property as per the *Strata Titles Act 1988* is that “*an equitable share in the common property attaches to each unit and cannot be alienated or dealt with separately from the unit.*” The common property is shared property which is not solely at the disposal of any one unit holder. For this reason, in the absence of the agreement by the Strata Corporation, Options B, C and D cannot lawfully be implemented.
33. Option A appears to be the only reasonable development option/design solution which will not require consent from another land owner (i.e. the Strata Corporation). As per above, Option A fails to comply with a relevant Australian Standard on the basis that the gradient of the ramp would be too steep. Option A also would not allow the required space on the remaining flat for purposes of parking a car, nor would it achieve the minimum 2.2m overhead clearance.
34. Having regard to the above, all reasonable development options and design solutions for the proposed carport, being a “reasonable development”, have been

considered to prevent the Tree's removal. As such, RST Overlay PO 1.4 is satisfactorily achieved.

Summary

35. This matter involves a very unique set of facts. The reality is that if the Tree cannot be removed, the occupiers of Unit 6 will be without an on-site covered car park for their exclusive use. There is simply no other location on the Unit 6 land where a Carport can be located.
36. The proposed removal of the Tree is necessitated by the need for an on-site covered carpark for a 3 bedroom dwelling. The carport is plainly a "reasonable development" within the context of RST Overlay PO 1.4(a).
37. All reasonable development options and design solutions have been considered to prevent the Tree's removal.
38. RST Overlay PO 1.4 is achieved.
39. There is no reasonable basis for the Proposal to be refused.

Please contact me if you have any queries or wish to discuss.

Yours faithfully



Syd McDonald

BOTTEN LEVINSON

Mob: 0411 554 253

Email: sm@bllawyers.com.au

From: Ned Feary <NFeary@npsp.sa.gov.au>
Sent: Friday, 1 December 2023 2:10 PM
To: Garth Heynen <garth@heynenplanning.com.au>
Subject: RE: Development Application- 72-74 Queen St, Norwood

Hi Garth,

I have now reached my decision on this application, and have concluded that I still cannot support it.

You are welcome to submit additional information / justification if you think it would assist, however at this point there is nothing further I can think of which would change my view.

To explain my position, I refer to PO 1.4 of the Regulated and Significant Trees Overlay:
A tree-damaging activity in connection with other development satisfies all the following:

- a) it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
- b) in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*

There is a question in my mind of whether this really constitutes “development” since it is really about the useability of a car parking space, which is not development in its own right. Indeed, this being the case, it would be a question of whether it was necessary to “rectify or prevent extensive damage to a building of value” under PO 1.3 (a) (iii), which I do not believe this would satisfy. For the sake of full disclosure, I have not sought legal advice on this point and my view does not rest on this argument.

Regardless, I believe that there are nonetheless reasonable design alternatives and I therefore refer primarily to part (b) of the PO above. I refer again to the use of the common parking area or on-street parking. I acknowledge that the construction of a carport for unit 6 in the common area has been rejected by the Strata Corporation, but I have turned my mind to whether this is actually sufficient to satisfy part (b) or not. I conclude that it is for the Relevant Authority to determine what is or is not “reasonable” as an alternative, and therefore despite the Strata Corporation’s ruling, I believe that this option is reasonable and therefore justifies the retention of the tree. I also note the relatively low value garden bed on the western side of the shared parking area, which appears large enough to accommodate an additional parking space if needed. We would be happy to support the removal of this garden bed to accommodate a new parking space (on the assumption that this may require a variation to the original approval for the units). I also note that the owners of unit 6 would qualify for a residential parking permit allowing for on-street parking without the limitation of hours which otherwise applies on Queen St.

As there is nothing further which I believe could change my view of the application, it is my intent to recommend refusal to Geoff as the Assessment Manager. He has stated that he agrees with the decision and would endorse that. Unless you object, I will issue that decision via the portal, in order to give you the opportunity to review or appeal this decision as you may wish.

I trust that this makes our position sufficiently clear, but if you would like any further clarification, please let me know.

Thanks,
Ned Feary
Senior Urban Planner

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067
Telephone 8366 4531
Email nfeary@npsp.sa.gov.au
Website www.npsp.sa.gov.au

Community Well-being is...
Social Equity
Economic Prosperity
Cultural Vitality
Environmental Sustainability



Think before you print.

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Ned Feary

From: Ned Feary
Sent: Friday, 5 April 2024 10:12 AM
To: 'Syd McDonald'
Cc: 'Garth Heynen'
Subject: RE: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)

Hi Syd and Garth,

Having now conducted that site visit, I can confirm that our decision will be for refusal. However, I want to resolve the situation of who the applicant is before issuing that decision.

Is it possible to get written consent from the original applicant for transferring it to the new owner? If we can get that, then I am happy to do it, but without it I would be quite concerned.

Thanks,
 Ned Feary
Senior Urban Planner

City of Norwood Payneham & St Peters
 175 The Parade, Norwood SA 5067
Telephone 8366 4531
Email nfeary@npsp.sa.gov.au
Website www.npsp.sa.gov.au

From: Ned Feary <nfeary@npsp.sa.gov.au>
Sent: Thursday, March 28, 2024 12:53 PM
To: 'Syd McDonald' <sm@bllawyers.com.au>
Cc: Garth Heynen <garth@heyneplanning.com.au>
Subject: RE: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)

Dear Syd and Garth,

Thank you for your emails and letter. I have been off with covid so have only now read through them.

While naturally I respect the opinions put forward, I disagree with your conclusions. It is my view that, at the very least, on-street parking is a reasonable alternative. That said, I have discussed the matter with Geoff to confirm whether he, as the Assessment Manager, agrees with that view- however he wants to visit the site before making that call. I don't believe anyone else needs to attend that so we will do that on our own next week. I will let you know before any decision is issued. Are you happy for it to remain on hold until those discussions have taken place?

Regarding changing the landowner, invoice contact etc, my understand was that, Garth, you should be able to change those things on your end in the portal. Is that not the case? I am slightly hesitant to change the applicant at least, but can definitely change the land owner and invoice contact if you cannot change it on your end.

Thanks,
 Ned Feary
Senior Urban Planner

City of Norwood Payneham & St Peters
 175 The Parade, Norwood SA 5067
Telephone 8366 4531
Email nfeary@npsp.sa.gov.au
Website www.npsp.sa.gov.au

From: Syd McDonald <sm@bllawyers.com.au>
Sent: Friday, March 22, 2024 5:21 PM

To: Ned Feary <nfeary@npsp.sa.gov.au>

Subject: RE: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)

Dear Ned,

Apologies but the letter attached to my below email omitted its enclosure. I **attach** the letter again with its enclosure.

Regards,

Syd



Syd McDonald
Principal

e. sm@bllawyers.com.au

t. 8212 9777 | m. 0411 554 253

Botten Levinson Lawyers | Level 1, 28 Franklin Street, Adelaide SA 5000

www.bllawyers.com.au

Please notify us immediately if this communication has been sent to you by mistake.
If it has, client legal privilege is not waived or lost and you are not entitled to use it in any way.

From: Syd McDonald

Sent: Friday, 22 March 2024 12:51 PM

To: 'nfeary@npsp.sa.gov.au' <nfeary@npsp.sa.gov.au>

Cc: Garth Heynen <garth@heyneplanning.com.au>; Lucy Dillon <ltd@bllawyers.com.au>

Subject: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)

Dear Ned,

This firm acts for Nicci and Andrew Van de Ven regarding above development application.

Please find **attached** letter for your attention.

Yours faithfully,

Syd



HEYNEN
PLANNING CONSULTANTS

T 08 8271 7944
Suite 15, 198 Greenhill Road
EASTWOOD SA 5063

ABN 54 159 265 022
ACN 159 265 022

26 April 2024

Norwood, Payneham & St Peters Council
ATT: Ned Feary

By Email

Dear Ned

RE: 23012613 – UNITS 6 AND 7, 72 QUEEN STREET, NORWOOD

As requested per your email of 5 April 2024, please find attached email confirmation from Michelle Gristwood confirming that the correct applicant and land owner associated with DA 23012613 is Nicci and Andrew Van de Ven of Unit 6, 72-74 Queen Street NORWOOD SA 5067. The contact email address is [REDACTED]

For completeness, can you please also change the Invoice Contact to reflect the above details.

I have also been requested by the applicant to provide current images of the state of the subject land and the impact of the significant tree (see Appendix 1). Can you please include this correspondence as part of the application documents when you remove the “hold” from the development application.

Should you have any queries please contact me at your convenience.

Yours faithfully

Garth Heynen, MPIA
BA Planning, Grad Dip Regional & Urban Planning, Grad Dip Property

cc. Botten Levinson, by email
Nicci and Andrew Van de Ven, by email

APPENDIX 1: Images of the Site as at 1 April 2024







From: [REDACTED]
To: Garth Heynen
Cc: [REDACTED]
Subject: Re: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)
Date: Sunday, 14 April 2024 9:54:54 AM
Attachments: [npsbanner_659a6ce1-9dc7-45af-9510-cf43dee94ee3.png](#)

Hi Garth

I confirm that I am not the applicant for tree removal and the applicant is Nicci and Andrew Van de Ven of Unit 6, 72-74 Qreen Street NORWOOD SA 5067.

Regards
Michelle Gristwood

From: Garth Heynen <garth@heyneplanning.com.au>
Sent: Thursday, 11 April 2024 10:30 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)

Hi Michelle

Please see below (in red) from the Council planner.

Can you please provide me with an email response requesting the change of applicant details to Nicci and Andrew Van de Ven of Unit 6, 72-74 Green Street NORWOOD SA 5067.

Regards

Garth Heynen
Heynen Planning Consultants
Suite 15, 198 Greenhill Road
EASTWOOD SA 5063
Celebrating 29 years of independent consulting

M 0417 848 061
T 8271 7944

From: Ned Feary <NFeary@nps.sa.gov.au>
Sent: Friday, April 5, 2024 10:12 AM
To: 'Syd McDonald' <sm@bllawyers.com.au>
Cc: Garth Heynen <garth@heyneplanning.com.au>
Subject: RE: DA No. 23012613 - Proposed construction of a replacement carport and removal (BLL 224032)

Hi Syd and Garth,

Having now conducted that site visit, I can confirm that our decision will be for refusal. However, I want to resolve the situation of who the applicant is before issuing that decision.

Is it possible to get written consent from the original applicant for transferring it to the new owner? If we can get that, then I am happy to do it, but without it I would be quite concerned.

Thanks,
Ned Feary
Senior Urban Planner

8. **ERD COURT APPEALS**

9. **OTHER BUSINESS**
(Of an urgent nature only)

10. **CONFIDENTIAL REPORTS**

11. **CLOSURE**