AGENDA

FOR THE

COUNCIL ASSESSMENT PANEL

TO BE HELD ON

THURSDAY 4 JUNE 2020

COMMENCING AT 5.30PM

Due to the current restrictions on public gatherings as a result of COVID19 the public will not be able to attend the meeting of the Full Council at the Council Chambers. The public are invited to observe the non-confidential agenda items electronically via the online meeting provider, Zoom. Access to the meeting can be obtained through the following web address (https://us02web.zoom.us/j/85014311122). If you have any problems accessing the meeting, please contact the Council Office on (08) 8372 8811.
COUNCIL ASSESSMENT PANEL

AGENDA 2 APRIL 2020

MEETING OF THE COUNCIL ASSESSMENT PANEL TO BE HELD IN THE VIRTUAL MEETING ROOM OF COUNCIL CHAMBERS, 131 BELAIRE ROAD, TORRENS PARK ON THURSDAY, 4 JUNE 2020 AT 5.30PM.

MEMBERSHIP: David Billington (Presiding Member), Steve Hooper, Michael Osborn and Rebecca Rutschack

CR: Andrew Tilley  CR: Yvonne Todd (Deputy for Cr Tilley)

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TIM PRIDE - ASSESSMENT MANAGER
MEETING OF THE COUNCIL ASSESSMENT PANEL TO BE HELD IN COUNCIL CHAMBERS, 131 BELAIR ROAD, TORRENS PARK ON THURSDAY, 4 JUNE 2020 AT 5.30PM.

**MEMBERSHIP:**  David Billington (Presiding Member), Steve Hooper, Michael Osborn and Rebecca Rutschack

**CR:** Andrew Tilley  **CR:** Yvonne Todd (Deputy for Cr Tilley)

1. PRESENT

2. APOLOGIES

3. ABSENT

4. CONFIRMATION OF MINUTES

That the Minutes of the Council Assessment Panel Meeting held on 7 May 2020 be confirmed.

5. DISCLOSURE OF PECUNIARY INTERESTS

6. DISCLOSURE OF INTERESTS

7. CATEGORY 3 NOTIFIED APPLICATIONS

   Nil

8. CATEGORY 2 NOTIFIED APPLICATIONS

   Nil
9. DEFERRED ITEMS (FROM PREVIOUS MEETING)

9.1 12 RIVIERA COURT PASADENA

1. Snapshot

<table>
<thead>
<tr>
<th>Author:</th>
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<td>Consolidated 20 February 2018</td>
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<tr>
<td>Recommendation:</td>
<td>To Grant Development Plan Consent subject to conditions</td>
</tr>
</tbody>
</table>

2. Background

The deferred proposal was considered at the Council Assessment Panel Meeting on 2 April 2020 at which time it was deferred for the following reasons:

“…to enable the applicant an opportunity to consider the amendment of the proposed plans, specifically the following:

a. A reduction in size;
b. A reduction in height so that all except 1 or 2 under deck supports do not exceed 1.5 metres in height; and
c. A provision of accurately dimensioned plans”

A copy of the previous assessment and plans are contained within Attachment B.

The application is being presented to the Panel for a third time.

3. Amended Proposal

In response to the reasons for deferral the applicant has provided amended plans that detail the following:

- A reduced total floor area from 91.1 square metres to 76 square metres. The site plan details the amended size (highlighted in green) compared to previous iterations (highlighted in blue).
A reduced deck length at the northern side from 6.45 metres to 3.9 metres.
An angled western edge to reflect the reduced length on the northern side.
Length of northern privacy screen reduced to reflect changes above.

The height and finished floor level of the proposed deck, as well as the associated privacy screen and balustrade remains the same.

The highest post for the deck is 2.1 metres, located on the northern side of the deck.

4. Assessment

4.1 Total Floor Area

The reduced total floor area now proposed is intended to minimise the visual bulk and scale impacts upon the private open space areas of 10 Riviera Court which has a lower natural ground level when compared to the subject land.

As explained below, the reduced total floor area is considered to sufficiently minimise neighbour impact without compromising privacy between properties.

4.2 Bulk and Scale

Given the sloping nature of the site the only perceived bulk, scale and visual impacts are upon 10 Riviera Court which comprises a two-storey dwelling with upper level rear balcony which forms the primary entertaining area for the occupants. This is shown in Figures 1, 2 and 3 below.

Figure 1: View north from deck towards 10 Riviera Court
Figure 2: View from lower level of 10 Riviera Court towards deck.

Figure 3: View from balcony of 10 Riviera Court towards deck.
As pictured in Figures 4 and 5 below, the applicant now proposes to reduce the length of the deck adjacent the northern boundary and 10 Riviera Court. In turn, this also reduces the length of the privacy screen.

Together, these changes preserve a broader view of the sky and tree canopy when viewed from 10 Riviera Court.

The angled western edge of the balcony also now better aligns with the existing slope of the land and the reduced length of the privacy screen from 4.8 metres to 2.2 metres substantially improves the proposal and minimises visual impact.

Together, these changes vastly reduce the visual bulk and scale of the proposal.
5. Conclusion

It is recognised that the deck will do little to enhance the natural character of the area. However, the locality is predominantly residential and somewhat out of context with the Hills Face Zone. Therefore, it reasonable to apply some leniency when assessing how the deck preserves and enhances the natural character.

The deck will not alter the existing slope of the land, and the amended proposal substantially reduces the visual bulk and scale impacts upon neighbouring amenity.

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the amended proposal suitably accords with the relevant provisions of the Development Plan. The proposal is sufficiently consistent with the Desired Character and will not detrimentally impact on the amenity of adjoining properties and the locality exhibiting sufficient merit to warrant consent.

6. Recommendation

That pursuant to the authority delegated to the Council Assessment Panel by the Council, it is recommended that the Council Assessment Panel:

1. DETERMINES that the proposed development is not seriously at variance with the policies in the City of Mitcham Development Plan; and

2. GRANTS Development Plan Consent to the application by Hills Design & Drafting to construct an Attached Deck & Privacy Screen (Retrospective) at 12 Riviera Court PASADENA, as detailed in Development Application No. 080/1071/19 subject to the following conditions and advisory notes:

Development Plan consent Conditions:

1. The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 080/1071/19 and more specifically the following plans:

   - Email from David Marafioti of Hills Design & Drafting – detailing earthworks and slat gap sizes – sent 18 September 2019.

   Except where varied by any condition(s) listed below:

   Reason: To ensure the proposal is established in accordance with the plans and details submitted

2. The privacy screen along the northern side of the deck is to be installed prior to the use of the herein approved deck and shall be maintained in good condition at all times to the satisfaction of Council.
Reason: To minimise the impact on privacy to the residents of adjacent dwellings

Attachments:

A. Amended Plans & Documents
B. Previous Reports & Agendas
FLOOR FRAME PLAN

SCALE 1:100

Note: Building contractor to ensure no hazardous areas are greater than 0.3m that may be used as a foothold or handhold to enter the pool area.

FLOOR PLAN LEGEND:
- SP = STEEL POST = 89x89 SWS d=50
- FJ = FLOOR JOIST = 90x45 MGP10 at max. 450MM centres
- T = TIMBER POST = 100x100 F7 50MM H4
- DE = BEARER = 57/50x45 MGP10
- ST = STRINGER = 150x45 MGP10
- WP = WALL PLATE BEARER = 90x45 MGP10

TIMBER SIZES & FINISH:
in accordance with AS 1684.2

GENERAL NOTES:
- All aluminium 8.5m hinged windows & doors to be installed as per manufacturer's instructions.
- All windows & door glazing to comply with FN 12088 & AS 2208.
- A feature baffle is to be provided with internal ventilation (arrowed) & an acoustic window 93.5% of the BCA.
- Refer to engineers drawings for central post location.
- All building works to be in accordance with all local authorities requirements & the building code of Australia.
- These drawings to be read in conjunction with all other relevant documentation, plans, schedules, consultants & authorities reports.
- All levels to be checked on site prior to excavation, any discrepancies to be reported to Engineer immediately, where a cut & fill situation arises, the Engineer to inspect site prior to pouring of slab.
- Instructions to verify all plans & dimensions in site prior to commencement of any works or order of materials, any discrepancies to be reported to the draughtsperson, written dimensions take preference over scale, subject to site variations.
- Do NOT SCALE FROM THIS DRAWING.
- E.C. doors to have 1st stiff hinges.
- Where an external wall is to be built on the boundary, it is the builder's responsibility to verify boundary location during subcontractor set-out.
- Protection of the new building against damage from tampering to be one of the acceptable methods as listed in AS 1660.1
- Lifter wall framing, roof framing & stairway to comply with AS 1684.1 type & size as specified by Engineer & lift suppliers.
- Brickwork to comply with AS 3793 - use header code.
- Roof decking to comply with AS 1522 - design & installation of metal roofing.
- All measurements in millimetres unless noted otherwise.
- Roof decking to comply with AS 1522 - design & installation of metal roofing.
- Electrical plants to comply with BCA 54 C1.
- Connect to 240V power supply with
- 30 Amp battery back-up mounted to building.

EXISTING DWELLING

AMENDED PLANS
03.05.18 - ISSUE NO. EX.01 REVISED

PROPOSED DECk

PROPOSED TOTAL AREA: 75.1m²

D. CRAWFORD

P.O. Box 652 Littlehampton S.A. 5250
Mobile: 0413 215 099
Email: david@hillsdesigndrafting.com
www.hillsdesigndrafting.com

PROPOSED (revised) DECK
AT 12 RIVIERA CRT, PASADENA.

DRAFTSMAN:

1 OF 4

COUNCIL ASSESSMENT PANEL
AGENDA

PAGE 9
4 JUNE 2020
ITEM 9.1 - ATTACHMENT A
Hi Sean, please see below

Regards,

David Marafioti

Hills Design & Drafting

Mobile: 0412 515 008
Email: david@hillsdesigndrafting.com
Postal: P.O. Box 552 Littlehampton S.A. 5250
Web: www.hillsdesigndrafting.com

From: Sean Elliott [mailto:sean@itcham.council.ca.gov.au]
Sent: Tuesday, 17 September 2019 4:24 PM
To: david@hillsdesigndrafting.com,
Cc: darylcrawford@gmail.com
Subject: Acknowledgement and Invoice - 12 Riviera Court Pasadena

Good afternoon,

Please find attached the acknowledgement letter and invoice for your application at 12 Riviera Court, Pasadena.

Further to the attached can you please confirm:

- Is there any earthworks proposed?  - NO

- What is the gap size between the slats for the privacy screening? 5.10mm

Can you also please advise of when you are available to meet on site to discuss the application. I need to ascertain what sort of impact the structure will have on the adjoining properties.

If you have any questions please don’t hesitate to ask.
9. DEFERRED ITEMS (FROM PREVIOUS MEETING)

9.1 12 RIVIERA COURT PASADENA

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2. Background

The proposal was considered at the Council Assessment Panel Meeting on 5 December 2019 at which time it was deferred for the following reasons:

"...to enable the applicant an opportunity to consider the amendment of the proposed plans, specifically the following:

a. Reduction in total floor area.
b. Reduce bulk and scale (particularly height above existing ground level)

A copy of the previous assessment and plans are contained within Attachment B[1]

3. Amended Proposal

In response to the reasons for deferral the applicant has provided amended plans that detail the following:

- A reduced total floor area from 110 square metres to 91.1 square metres.
- A reduced deck length at the northern side from 10 metres to 6.45 metres.
- An angled western edge to reflect the reduced length on the northern side.
- Length of northern privacy screen reduced to reflect changes above.
The height and finished floor level of the proposed deck, as well as the associated privacy screen and balustrade remains the same.

For reference, the deck will begin to angle back from where the existing privacy screen on the northern side as already constructed ends.

4. Assessment

4.1 Total Floor Area

The reduced total floor area now proposed is intended to minimise the visual bulk and scale impacts upon the private open space areas of 10 Riviera Court which has a lower natural ground level when compared to the subject land.

As explained below, the reduced total floor area is considered to sufficiently minimise neighbour impact without compromising privacy between properties.

4.2 Bulk and Scale

Given the sloping nature of the site the only perceived bulk, scale and visual impacts are upon 10 Riviera Court which comprises a two-storey dwelling with upper level rear balcony which forms the primary entertaining area for the occupants. This is shown in Figures 1, 2 and 3 below.

Figure 1: View north from deck towards 10 Riviera Court
Figure 2 View from lower level of 10 Riviera Court towards deck.

Figure 3: View from balcony of 10 Riviera Court towards deck.
As pictured in Figures 4 and 5 below, the applicant now proposes to reduce the length of the deck adjacent the northern boundary and 10 Riviera Court. In turn, this also reduces the length of the privacy screen.

![Figure 4: Deferred Proposal](image1)

![Figure 5: Amended Proposal](image2)

Together, these changes preserve a broader view of the sky and tree canopy when viewed from 10 Riviera Court.

The angled western edge of the balcony also now better aligns with the existing slope of the land and the reduced length of the privacy screen from 8.4 metres to 4.8 metres substantially improves the proposal and minimises visual impact.

Together, these changes vastly reduce the visual bulk and scale of the proposal.
5. Conclusion

It is recognised that the deck will do little to enhance the natural character of the area, with the exception of screen vegetation. However, the locality is predominantly residential and somewhat out of context with the Hills Face Zone. Therefore, it reasonable to apply some leniency when assessing how the deck preserves and enhances the natural character.

The deck will not alter the existing slope of the land, and the amended proposal substantially reduces the visual bulk and scale impacts upon neighbouring amenity.

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the amended proposal suitably accords with the relevant provisions of the Development Plan. The proposal is sufficiently consistent with the Desired Character and will not detrimentally impact on the amenity of adjoining properties and the locality exhibiting sufficient merit to warrant consent.

6. Recommendation

That pursuant to the authority delegated to the Council Assessment Panel by the Council, it is recommended that the Council Assessment Panel:

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Development Plan consent Conditions:

1. The development must be undertaken completed and maintained in accordance with the plan(s) and information detailed in Application No. 080/1071/19 and more specifically the following plans;

   - Email from David Marafioti of Hills Design & Drafting – detailing earthworks and slat gap sizes – sent 18 September 2019.

Except where varied by any condition(s) listed below:

Reason: To ensure the proposal is established in accordance with the plans and details submitted
2. The proposed landscaping must be established on the site in accordance with the approved plan, within 6 months of the date of Development Approval and must be maintained in good condition at all times to the reasonable satisfaction of Council. Any dead or diseased plants or trees shall be replaced forthwith to the reasonable satisfaction of Council.

   *Reason: To maintain and enhance the visual amenity of the locality in which the subject land is situated*

3. The privacy screen along the northern side of the deck is to be installed within 8 weeks of the date of full development approval being issued and maintained in good condition at all times to the satisfaction of Council.

   *Reason: To minimise the impact on privacy to the residents of adjacent dwellings*

**Attachments:**

A. Amended Plans and Documents  
B. Previous Report and Agenda
GENERAL NOTES:
- All window & door glazing to comply with AS1288.1 & 1288.2
- All bathroom, ensuite & laundry to be provided with 1500mm x 900mm shower recess
- Refer to engineer’s drawings for control joint locations
- All building works to be in accordance with all local authorities requirements & the building code of Australia
- These drawings to be read in conjunction with all other relevant documentation, specs., schedules, consultants & authorities reports
- All levels to be checked on site prior to excavation, and any discrepancies to be reported to engineer immediately
- Where a cut & fill situation arises, the engineer is to inspect site prior to pouring of slab
- Contractors to verify all plans & dimensions for any work of any order of magnitude, any discrepancies to be reported to the draftsperson
- All dimensions take precedence over scale, subject to site variations

DO NOT SCALE FROM THIS DRAWING.

1. a. d. to be cut off figure
2. Where an external wall is to be built on the boundary, it is the builder’s responsibility to verify boundary location during subcontractor set out
3. Protection of the new building against damage from terraces is to be one of the acceptable methods as listed in AS 3365.1
4. Timber wall framing, roof framing & trusses to comply with AS 1684.1
5. Site to comply with AS 1684.1
6. Structural design to comply with AS 3700 - reinforced concrete
7. Roof design to comply with AS 1684.2
8. Design & installation of metal roofing & all materials to be supplied by the builder & comply with BCA SA-ELT
9. One 240V power supply with emergency back-up switch

D. CRAWFORD

PROPOSED (retrospective) DECK AT 12 RIVIERA CRT, PASADENA

AMENDED PLANS

Page: 19

4 JUNE 2020

ITEM 9.1 - ATTACHMENT B
Hi Sean please see below

Regards,

David Marsfio

Hills Design & Drafting

Mobile: 0412 515 008

Email: david@hillsdesigndrafting.com

Postal: P.O. Box 552 LIttlehampton S.A. 5250

Web: www.hillsdesigndrafting.com

From: Sean Elliott [mailto:seanelliot@thecouncil.sa.gov.au]
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To: david@hillsdesigndrafting.com
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Further to the attached can you please confirm:

- Is there any earthworks proposed? - NO
- What is the gap size between the slats for the privacy screening? 5-10mm

Can you also please advise if when you are available to meet on site to discuss the application. I need to ascertain what sort of impact the structure will have on the adjoining properties.

If you have any questions please don’t hesitate to ask.

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7. CATEGORY 3 NOTIFIED APPLICATIONS

7.1 12 RIVIERA COURT PASADENA

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2. Background

A complaint was made by a resident regarding the construction of a deck at 12 Riviera Court, Pasadena. Council’s Compliance Officer attended the site and observed an unlawful structure (deck) being construction. A warning letter was sent to the owner giving them an opportunity to remedy the breach prior to Council undertaking enforcement action. The letter instructed the owner to either remove the unlawful structure or lodge a retrospective development application.

3. The Subject Land

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<tr>
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<td>State / Local Heritage:</td>
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<td>Bushfire Prone Area:</td>
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There is currently a split level detached dwelling on the land, exhibiting a relatively conventional design. The dwelling is setback approximately 17 metres from the front property boundary.
From the street, there is a substantial slope to the rear of the site. In the area of the proposed development, the slope falls downwards across the site from the south east to the north west corner of the site.

There is an encumbrance on the land to the City of Mitcham. The encumbrance seeks to:
- Restrict any brightly coloured or reflective material; and
- Ensure all proposed development is accompanied by a landscaping plan which depicts any proposed and existing trees and bushes over 3 metres in height.

The proposed development is not at odds with the encumbrance.

An easement for sewerage purposes is located at the rear of the subject site.

4. The Locality

Extent of Locality

The locality comprises of a mixture of residential development and open space/reserve areas.
The residential development consists of large allotments accommodating detached dwellings on undulating land. There is a mixture of single storey, two-storey and split level dwellings, with no particular form dominating the locality.

Due to the sloping nature, usable private open space to the rear of the dwellings particularly those located on the western side of Riviera Court is limited. This has resulted in rear deck structures and flattened areas being constructed.

Saddle Hill Reserve to the west of the subject site represents a predominant feature of locality incorporating an extensive area of open space and mature vegetation.

5. **The Proposal**

The proposed development is for the construction of a deck and privacy screen to the rear of the existing dwelling.

The deck will have an area of 110 square metres and range in height from 0.2 metres to 3 metres above the natural ground level. The deck will be setback 5.4 metres from the rear boundary and 1.8 metres from the northern side boundary.

A 1.8 metre high timber slat screen is proposed along the full length of the northern side of the deck. The gaps between the slats range in size between 5 and 10 millimetres.

Four Syzygium (Lilly Pilly) trees are proposed to be planted adjacent the northern boundary between the structure and boundary fence.

There is no alteration to the existing ground level.

6. **Procedural Matters**

6.1 **Classification**

The elements of the proposal are not listed as a *complying* or *non-complying* form of development in Council's Development Plan or in the Development Regulations.

As such the proposal has been determined to be a *merit* form of development.

6.2 **Public Notification**

The application is a Category 3 form of development pursuant to Section 38 and Schedule 9 of the *Development Act and Regulations*.

Three representations were received during the public notification period. One in support, one in support with concerns and one opposing the proposed development.
Location of Representors

A summary of concerns is detailed in the below table.

<table>
<thead>
<tr>
<th>Representor Address</th>
<th>Support / Oppose</th>
<th>Request to be heard (y/n/ns)</th>
<th>Concerns</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 Riviera Court, Pasadena</td>
<td>Support</td>
<td>No</td>
<td>Screen to be extended to edge of deck</td>
</tr>
<tr>
<td>11 Riviera Court, Pasadena</td>
<td>Support with Concerns</td>
<td>No</td>
<td>Compliance with BAL requirements. Compliance with the BCA requirements. Privacy and setbacks.</td>
</tr>
<tr>
<td>14 Riviera Court, Pasadena</td>
<td>Oppose</td>
<td>Yes</td>
<td>Bulk and scale and visual impact to adjoining properties. Privacy. Not in keeping with slope, diminishing the natural character.</td>
</tr>
</tbody>
</table>

The applicant’s response to the representations can be found in Attachment C.

It is noted that compliance with the Bushfire Attack Level (BAL) requirements and compliance with the Building Code of Australia (BCA) requirements are not determined at the Planning Consent stage. Rather, they are assessed as part of a Building Rules Assessment. As a result, they will not be discussed further in the body of the report.
7. Key Issues

The following matters are considered pertinent in reaching a recommendation for the proposal:

- Impact on natural character of the Hills Face Zone;
- Bulk, scale and visual impacts of the proposed deck; and
- Privacy impacts

8. Assessment

8.1 Seriously at Variance

Pursuant to Section 35(2) of the Development Act, 1993 the proposal is not seriously at variance with the Mitcham (City) Development Plan.

8.2 Impact on Natural Character

It is recognised that the residential development along Riviera Court is suburban in character and as such does little to attribute to the natural character of the Hills Face Zone. Further, the area of the site where the deck is locality doesn’t reflect the natural character of the Hills Face Zone as it is sparsely vegetated.

Nevertheless, the Hills Face Zone specifies that previous development should not be seen as setting a precedent when assessing the impact of a proposed development. Rather, it should be assessed on the extent to which is preserves and enhances the nature character.

The deck offers a more useable private open space area without altering the slope of the land. This preserves the natural form of the land consistent with Zone Principle of Development Control 2. Vegetation is proposed along the northern boundary, and whilst limited, this will help enhance the natural character.

Given the existing character, the size of the subject site and the distinctly suburban character of Riviera Court, it is considered unlikely the site will be used for anything other than residential development.

Zone Principle of Development Control 1 states:

*Development should not be undertaken unless:*

(a) it is associated with a low-intensity agricultural activity, a public open space area or a private use of an open character, or is a detached single-storey dwelling, including outbuildings and structures normally associated with such dwellings, on a single allotment;

It is deemed that a deck is a structure normally associated with a dwelling, particularly in the locality. Therefore, it is deemed reasonable to apply some leniency when assessing how the structure preserves and enhances the natural character. Especially given the nature of the area in that there is no change to the existing ground levels and limited bulk and scale impacts as discussed further below.
8.3 **Bulk, scale and visual impacts**

Given the sloping nature of the site the only perceived bulk, scale and visual impacts are to the property to the north at 10 Riviera Court. Nevertheless, such impacts are not considered to be adverse.

The dwelling located at 10 Riviera Court is two storeys in height, with the upper-storey level including rear balcony level with the proposed deck which forms their primary entertaining area, as demonstrated in the below photo.

![Image of house with deck](image)

*Figure 1. View north from deck towards 10 Riviera Court.*

The bulk and scale impacts are limited to the lower storey and rear yard space of 10 Riviera Court, as demonstrated in the below photos.
Figure 2. View from lower level of 10 Riviera Court towards deck.

Figure 3. View from balcony of 10 Riviera Court towards deck.

Any structure adjacent the northern boundary of the subject site will result in bulk and scale impacts due to the level of the subject site being substantially higher
than the property to the north. Similarly to how the dwelling at 14 Riviera Court is readily visible from the subject site due to being on higher ground.

The deck height adjacent the northern boundary ranges from 1.5 metres to 3 metres. The 3 metre high portion is adjacent the rear of 10 Riviera Court, away from the more useable private open space areas.

The total deck height including the screen is considered to maintain a single-storey profile consistent with Zone Principle of Development Control 13. The landscaping proposed will help provide separation between the fence and the structure decreasing the bulk and scale impacts. Whilst it won’t totally shield the structure it will shield the posts which accentuate the height.

Further, the main views enjoyed by 10 Riviera to the north and west are not impeded from the proposed structure.

There are limited views of the rear of the site from Metropolitan Adelaide, with the mature vegetation of the reserve assisting in restricting views to the site, consistent with Zone PDC 7(g).

8.4 Privacy

The proposed deck is to incorporate a 1.8 metre high timber slat privacy screen along the northern side. The screen is considered to appropriately mitigate overlooking from the deck in line with Council Wide Principle of Development Control 61.

There is no perceived privacy impact to the property to the south at 14 Riviera Court. 14 Riviera Court has views directly in to the subject site as demonstrated in the below photo.
Figure 4. View from deck to 14 Riviera Court.

It is unreasonable to expect the applicant to protect the privacy of 14 Riviera when they are overlooking the subject site. The sloping nature of the locality means that overlooking will always be present. It is up to individual property owners to protect their privacy to a level they desire.

9. Conclusion

It is recognised that the deck will do little to enhance the nature character of the area, with the exception of screen vegetation. However, the locality is predominantly residential and out of context with the Hills Face Zone. Therefore, it reasonable to apply some leniency when assessing how the deck preserves and enhances the nature character.

The deck will not alter the existing slope of the land, nor is it considered to result in any adverse bulk and scale and privacy impacts.

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal suitably accords with the relevant provisions of the Development Plan. The proposal is consistent with the Desired Character and will not detrimentally impact on the amenity of adjoining properties and the locality exhibiting sufficient merit to warrant consent.

10. Recommendation

That pursuant to the authority delegated to the Council Assessment Panel by the Council, it is recommended that the Council Assessment Panel:
1. DETERMINES that the proposed development is not seriously at variance with the policies in the City of Mitcham Development Plan; and

2. GRANTS Development Plan Consent to the application by Hills Design & Drafting to construct an Attached Deck & Privacy Screen (Retrospective) at 12 Riviera Court PASADENA, as detailed in Development Application No. 080/1071/19 subject to the following conditions and advisory notes:

Development Plan consent Conditions:

1. The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 080/1071/19 and more specifically the following plans;
   - Site Plan – Hills Design & Drafting — Drawing No. RIV12 – Sheet 3 of 4 – September 19
   - Site Plan with landscaping detail— Hills Design & Drafting — Drawing No. RIV12 – Sheet 3 of 4 – September 19
   - Elevations – Hills Design & Drafting — Drawing No. RIV12 – Sheet 2 of 4 – September 19
   - Email from David Marafioti of Hills Design & Drafting – detailing earthworks and slat gap sizes – sent 18 September 2019.

   Except where varied by any condition(s) listed below:

   Reason: To ensure the proposal is established in accordance with the plans and details submitted

2. The proposed landscaping must be established on the site in accordance with the approved plan, within 6 months of the date of Development Approval and must be maintained in good condition at all times to the reasonable satisfaction of Council. Any dead or diseased plants or trees shall be replaced forthwith to the reasonable satisfaction of Council.

   Reason: To maintain and enhance the visual amenity of the locality in which the subject land is situated

3. The privacy screen along the northern side of the deck is to be installed within 8 weeks of the date of full development approval being issued and maintained in good condition at all times to the satisfaction of Council.

   Reason: To minimise the impact on privacy to the residents of adjacent dwellings

Attachments:

A. CT, Encumbrance & Plans
B. Representations and Response to Representations
C. Site Visit Photos
Certificate of Title - Volume 5653 Folio 270

Parent Title(s)  CT 4252/78
Creating Dealing(s)  CONVERTED TITLE
Title Issued  14/05/1999  Edition 2  Edition Issued 15/02/2018

Estate Type  FEE SIMPLE

Registered Proprietor
DARYL JON CRAWFORD-MARSHALL
BELINDA NICOLE CRAWFORD-MARSHALL
OF 12 RIVIERA COURT PASADENA SA 5042
AS JOINT TENANTS

Description of Land
ALLOTMENT 109 DEPOSITED PLAN 11357
IN THE AREA NAMED PASADENA
HUNDRED OF ADELAIDE

Easements
SUBJECT TO SERVICE EASEMENT(S) OVER THE LAND MARKED B FOR SEWERAGE PURPOSES TO SOUTH AUSTRALIAN WATER CORPORATION (223LG RPA)

Schedule of Dealings
Dealing Number  Description
6119985  ENCUMBRANCE TO CITY OF MITCHAM (SINGLE COPY ONLY)
12866600  MORTGAGE TO WESTPAC BANKING CORPORATION (ACN. 007 457 141)

Notations
Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General’s Notes
AMENDMENT TO DIAGRAM VIDE 10295828
Administrative Interests  NIL
Sean Elliott

From: Hills Design & Drafting <david@hillsdesigndrafting.com>
Sent: Wednesday, 18 September 2019 9:48 AM
To: Sean Elliott
c: darylcrawford@gmail.com; 'All Decked Out'
Subject: RE: Acknowledgement and Invoice - 12 Riviera Court Pasadena

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Sean please see below

Regards,
David Marafioti

Hills Design & Drafting

Mobile: 0412 515 008
Email: david@hillsdesigndrafting.com
Postal: P.O. Box 662 Littlehampton S.A. 5250
Web: www.hillsdesigndrafting.com

From: Sean Elliott [mailto:seanelliott@mitchamcouncil.sa.gov.au]
Sent: Tuesday, 17 September 2019 4:24 PM
To: david@hillsdesigndrafting.com
c: darylcrawford@gmail.com
Subject: Acknowledgement and Invoice - 12 Riviera Court Pasadena

Good afternoon,

Please find attached the acknowledgement letter and invoice for your application at 12 Riviera Court, Pasadena.

Further to the attached can you please confirm:

- Is there any earthworks proposed? - NO
- What is the gap size between the slats for the privacy screening? 5-10mm

Can you also please advise of when you are available to meet on site to discuss the application. I need to ascertain what sort of impact the structure will have on the adjoining properties.

If you have any questions please don't hesitate to ask.
DEVELOPMENT ACT, 1993

STATEMENT OF REPRESENTATION - CATEGORY 3

This sheet provides you with the opportunity to make comments in relation to the proposed development.

To: Chief Executive Officer - City of Mitcham
via email: mitcham@mitchamcouncil.sa.gov.au
via post: PO Box 21 Mitcham Shopping Centre TORRENS PARK SA 5062
Attention: Sean Elliott – 8372 8807

Development No: 080/1071/19 - 12 Riviera Court PASADENA SA 5042
Closes: 8 November 2019

Your details

Name: Sin T Chai

Address: 10 RIVIERA CT, PASADENA

Email: sinchaisfhigweibrary.com Phone: 0417800611

Nature of interest affected by development (e.g. adjoining resident, owner of land or an organisation or company):
Adjoining Resident

Please indicate in the appropriate box below whether or not you wish to be heard by Council in respect to this submission (this will be at the discretion of the Chairperson).

<table>
<thead>
<tr>
<th>I / we: (tick one option below)</th>
<th>I / we: (tick one option below)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Support Proposed Development</td>
<td>☑ I DO NOT wish to be heard</td>
</tr>
<tr>
<td>☐ Support Proposed Development with some concerns</td>
<td>☐ I desire to be heard by the Council Assessment Panel* personally/or I will be represented by:</td>
</tr>
<tr>
<td>☐ Oppose Proposed Development</td>
<td></td>
</tr>
</tbody>
</table>

Reasons for comment: (attach additional page(s) if required)

Would be good if the privacy screen can be extended to the edge of the deck.

My concerns would be overcome by (state action sought):

Please note that a copy of this objection will be forwarded to the applicant.

You may have a right under Section 88(1)(f) of the Development Act 1993 to apply to a court to review the Council's decisions as to the nature of the development, whether the development is seriously at variance, the status of the development (complying, meet, or non-complying), and the category of the development (1, 2A, 2, 3, or no category), and any other decision that is relevant to Section 35 of the Development Act 1993. These rights of review are subject to quite short time limits.

The Council cannot advise you as to your rights nor court processes; and recommends that you promptly seek professional advice from a town planning consultant or lawyer experienced in such matters if you are interested in exercising any right of review.

SIGNED:  

DATE: 4/11/2019

Action - DA – Statement of Representation
COUNCIL ASSESSMENT PANEL
AGENDA

DEVELOPMENT ACT, 1993

STATEMENT OF REPRESENTATION - CATEGORY 3

This sheet provides you with the opportunity to make comments in relation to the proposed development.

To: Chief Executive Officer - City of Mitcham
via email: mitcham@mitchamcouncil.sa.gov.au
via post: PO Box 21 Mitcham Shopping Centre TORRENS PARK SA 5042
Attention: Sean Elliott – 8372 8807

Development No: 080/1071/19 - 12 Riviera Court PASADENA SA 5042
Closes: 8 November 2019

Your details
Name: Angus Clark & Adam Barnsiaj
Address: 14 Riviera Ct, Pasadena
Email: adam.barnsiaj@outlook.com Phone: 0400 002 265

Nature of interest affected by development (e.g. adjoining resident, owner of land or an organisation or company):

Please indicate in the appropriate box below whether or not you wish to be heard by Council in respect of this submission (this will be at the discretion of the chairperson).

<table>
<thead>
<tr>
<th>I wish: (tick one option below)</th>
<th>I wish: (tick one option below)</th>
</tr>
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<tbody>
<tr>
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<td>[ ] I DO NOT wish to be heard</td>
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</tr>
<tr>
<td>[x] Oppose Proposed Development</td>
<td></td>
</tr>
</tbody>
</table>

*The Council Assessment Panel meeting is held on the first Thursday of every month

Reasons for comment: (attach additional page(s) if required)

Please see attached document

My concerns would be overcome by (state action sought):

as above

Please note that a copy of this objection will be forwarded to the applicant.

You may have a right under Section 86(1)(f) of the Development Act 1993 to apply to a court to review the Council’s decisions as to the nature of the development, whether the development is seriously at variance, the status of the development (complying, merit, or non-complying), and the category of the development (1, 2A, 2, 3, or no category), and any other decision that is relevant to Section 35 of the Development Act 1993. These rights of review are subject to quite short time limits.

The Council cannot advise you as to your rights nor court processes, and recommends that you promptly seek professional advice from a town planning consultant or lawyer experienced in such matters if you are interested in exercising any right of review.

SIGNED: __________________________________________ DATE: 5 Nov 19

Action - DA – Statement of Representation
Reasons for comment:

- Proposed development is obtrusive, bulky and of high visual impact to adjoining properties and nearby walking and cycling paths.
- Proposed development significantly compromises the privacy of adjoining dwellings by providing open line of sight and sound to living areas and bedrooms.
- Proposed development is not in keeping with the slope of the land and diminishes the natural character by placing a large artificial structure over previous open ground.

Concerns would be overcome by:

- Significant reduction in length/width/protrusion of proposed deck.
- Screening and/or roof coverage to prevent visual and acoustic disturbance to adjoining properties.
DEVELOPMENT ACT, 1993

STATEMENT OF REPRESENTATION - CATEGORY 3

This sheet provides you with the opportunity to make comments in relation to the proposed development.

To: Chief Executive Officer - City of Mitcham
   via email: mitcham@mitchamcouncil.sa.gov.au
   via post: PO Box 21 Mitcham Shopping Centre TORRENS PARK SA 5062
   Attention: Sean Elliott – 8372 8807

Development No: 080/1071/19 - 12 Riviera Court PASADENA SA 5042
Closes: 8 November 2019

Your details

Name: Mr. Geoffrey Bell
Address: 11 Riviera Court, Pasadena
Email: geoffreycull10@gmail.com Phone: 0411 899 544
Nature of interest affected by development (e.g. adjoining resident, owner of land or an organisation or company):

Please indicate in the appropriate box below whether or not you wish to be heard by Council in respect to this submission (this will be at the discretion of the chairperson).

<table>
<thead>
<tr>
<th>I wish to be heard</th>
<th>I wish to be represented by</th>
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<td>☐ I desire to be heard by the Council Assessment Panel* personally/or I will be represented by:</td>
</tr>
<tr>
<td>☐ Oppose Proposed Development</td>
<td></td>
</tr>
</tbody>
</table>

Reasons for comment: (attach additional page(s) if required)

Note: the development complies with: (IAA 1984) - (BCA 1996).

Other notes (example: setback requirements, any other development code requirements met?)

My concerns would be overcome by (state action sought):

*The Council Assessment Panel meeting is held on the first Thursday of every month

Please note that a copy of this objection will be forwarded to the applicant.

You may have a right under Section 86(1)(b) of the Development Act 1993 to apply to a court to review the Council's decision as to the nature of the development, whether the development is seriously at variance, the status of the development (complying, not complying, or non-complying), and the category of the development (1, 2A, 2, 3, or no category), and any other decision that is relevant to Section 35 of the Development Act 1993. These rights of review are subject to quite short time limits.

The Council cannot advise you as to your rights nor court processes, and recommends that you promptly seek professional advice from a town planning consultant or lawyer experienced in such matters if you are interested in exercising any right of review.

Signed: [Signature]
Date: 3/11/19

Action - DA - Statement of Representation
Sean Elliott

From: Daryl Crawford-Marshall <darylcrawford@gmail.com>
Sent: Friday, 15 November 2019 10:42 AM
To: Sean Elliott
Subject: 12 Riviera Ct - responses for Panel discussion.

Follow Up Flag: Follow up
Flag Status: Flagged

12 Rivera court - Notes in responce to summery of representations. Deck application.

Responses below.

Regarding the aesthetics and integrity of the structure, (11 Riviera Ct)

Please note that visiting Mitcham council workers and engineers have all made comments stating that the deck is extremely aesthetically pleasing and well built. Practically, all building works have been and are reviewed separately by an independent engineering firm to ensure that both safety and Australian building standards are upheld. All details of this are held by council within application.

Regarding the visual impact to those walking and/or riding in the reserve, (14 Riviera Ct)

The structure is not within a direct view from the tracks due to both the angle/slope of reserve from rear of property, the distance of deck from these and the position of structure. Aesthetically the colour of the deck is far less contrary to surroundings than other existing structures that can be seen from the track. It is constructed from spotted gum and fits well with the surrounds and was deliberately chosen for this purpose.

Please note: This truth of information stated above is immediately apparent upon real-time viewing of the area/s.

Line of site from number 12 Riviera Ct (14 Riviera Ct)

It must be noted that visibility into the neighbours windows, which run over two stories above the deck, and at least 40ft in distance away has not been improved. The reason for this is because the line of site always existed prior to the building of the deck, but we have always had no ability to see into the property due to the angle, height and reflective nature of windows. This has not been altered. Therefore, there is not any better visual access into property.

All these factors are immediately evident upon site visit.

No further privacy will be offered to neighbours beyond the screen which will run the length of the side closest to 10 Riviera court which is listed in application plans already. In the case of 14 Riviera Court we will not offer other solution as it is unfair and unwarranted. Again upon a site visit the true viewing status between number 12 and both adjoining neighbours can be easily ascertained.
**Site Visit Photos**

1. View towards rear of deck from reserve to the rear of the Subject Site.
2. View towards rear of deck from reserve to the rear of the Subject Site.
3. View of northern side of deck from Subject Site adjacent northern boundary.

4. View from deck towards 10 Riviera Court where access stairway to deck is located – no screen proposed here.
5. View from southern side of deck towards 14 Riviera Court.

6. View from middle of deck towards 14 Riviera Court.
7. View from deck (standing closer to existing house on Subject Title) towards 14 Riviera Court.
8. View from northern side of deck towards 10 Riviera Court. Beyond existing screen.

9. View from deck down into 10 Riviera Court beyond the existing screen. To be covered by proposed screen.
10. View of deck towards 10 Riviera Court showing extent of existing screen.

11. View out from deck towards city and bay.
Photo legend – photos 12 to 18

12. View of deck from south western corner of 10 Riviera Court.
13. View of deck from rear yard of 10 Riviera Court.

15. View towards rear of deck from 10 Riviera Court standing at boundary fence.

16. View of deck from top of staircase of 10 Riviera Court to upper storey balcony adjacent boundary.
17. View of deck from 10 Riviera Court upper-storey balcony.

18. View of deck from 10 Riviera Court upper-storey balcony. Taken from the northern end of the balcony.
10. CATEGORY 1 APPLICATIONS

10.1 30 CLIFTON STREET, HAWTHORN

1. Snapshot

<table>
<thead>
<tr>
<th>Author:</th>
<th>Jorina Robbertse</th>
</tr>
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<tbody>
<tr>
<td>Proposal:</td>
<td>Remove One Regulated Tree</td>
</tr>
<tr>
<td>Development Number:</td>
<td>080/0328/20</td>
</tr>
<tr>
<td>Date of Lodgement:</td>
<td>01/04/2020</td>
</tr>
<tr>
<td>Owner:</td>
<td>Ms Y Wang</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Yuanyuan Wang</td>
</tr>
<tr>
<td>Location:</td>
<td>30 Clifton Street HAWTHORN SA 5062</td>
</tr>
<tr>
<td>Zone:</td>
<td>Residential (Central Plains) [Mit/4] Policy Area 9 [Mit/28]</td>
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<td>Application type:</td>
<td>Merit</td>
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<td>Public Notification Category:</td>
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<td>Internal Referrals:</td>
<td>Horticulture</td>
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<td>External Referrals:</td>
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<tr>
<td>Development Plan:</td>
<td>Consolidated 20 February 2020</td>
</tr>
<tr>
<td>Delegation:</td>
<td>Council Assessment Panel – Applications recommended for refusal</td>
</tr>
<tr>
<td>Recommendation:</td>
<td>To Refuse Development Plan Consent</td>
</tr>
</tbody>
</table>

2. Background

The application was originally lodged for the removal of two trees, a River Red Gum and a Lemon Scented Gum. On inspection of the trees by Council’s Horticultural Section, it was determined that the Lemon Scented Gum was within 10 metres of dwelling or an inground swimming pool, and therefore does not require Development Approval for its removal. The application is therefore for the removal of one tree.

With the imminent future removal of one of the trees, the contribution of the subject tree has therefore been assessed with this context in mind.

3. The Subject Land

The subject land is located on the Western side of Clifton Street approximately 60 metres North of Devonshire Street. The subject land is a regular shaped allotment with a frontage of 15.24 metres and depth of 51.81m. The land contains an existing detached dwelling and associated residential structures. The dwelling had extensive alterations and additions in 2019.

The subject tree is situated at the rear of 30 Clifton Street and adjacent to the southern boundary. The tree is one of the largest in the area and contributes to the amenity of the locality.
4. **The Locality**

The locality is residential in nature. The distinctive character of the area is defined predominantly by single storey detached dwellings with landscaped front yards and high private open space to build form ratio.

A variety of mature and young trees exist in the locality and contributes to its character.

---

5. **The Proposal**

The proposed development is for the removal of one regulated tree situated to the rear of the subject site.

The tree has been identified as a River Red Gum (Eucalyptus camaldulensis) and has a trunk circumference between two and three metres when measured at one metre above ground level.

The applicant seeks the removal of the tree because of the potential for limb failure and the perceived risk the tree poses to public and private safety.
6. Procedural Matters

6.1 Classification

The elements of the proposal are not listed as a complying or non-complying form of development in Council's Development Plan or in the Development Regulations 2008.

As such the proposal was determined to be assessed on merit.

6.2 Public Notification

The application is a Category 1 form of development pursuant to Section 38 of the Development Act 1993 and Schedule 9 - Part 1, 13 of the Development Regulations 2008.

6.3 Referrals

6.3.1 Internal

The application was referred to Council's horticultural department for comment.

The key comments attained from the report includes:

• The River Red Gum is in reasonable health and does not display a notable history of limb failure.

• No evidence was provided to indicate the River Red Gum is diseased or have a short life expectancy.

6.3.2 External

Nil.

7. Key Issues

The following matters are considered pertinent in reaching a recommendation for the proposal:

• Is the tree diseased and its life expectancy is short?
• Does the tree represent a material risk to public and private safety?
• Is the tree causing damage to a building?

8. Assessment

8.1 Seriously at Variance

Pursuant to Section 35(2) of the Development Act, 1993 the proposal is not seriously at variance with the Mitcham (City) Development Plan.
8.2 Assessment against Council Wide PDC 226

The applicant has not provided a report or comments from a qualified Arborist that provides an assessment and opinion on the subject tree and the assessment criteria listed under Council Wide PDC 228. As such, this report has relied on the assessment of the tree by Council’s own Horticultural Sections staff.

Is the tree diseased and its life expectancy short?

Council Wide Principle of Development Control 226 (a) stipulates that a regulated tree should not be removed unless the tree is diseased, and its life expectancy is short.

As such Council’s Arborist comments are the only professional and qualified assessment on this matter. Council’s Arborist has stated that in their opinion through a visual inspection of the tree, that the tree does not appear to be suffering from any disease. The tree is considered to have a reasonable useful life expectancy that would warrant its retention.

Does the tree represent a material risk to public and private safety?

Council Wide PDC 226 (b) specifies that a regulated tree should not be removed unless it represents a material risk to public and private safety.

Council’s arborist could not find any signs of a history of limb failure. No risk rating assessment has been undertaken or supplied, though the lack of limb failure is considered to mean that a low risk exists. Therefore, based on this limited assessment, the tree is not considered to pose a material risk to private public safety.

Is the tree causing damage to a building?

Council Wide PDC 226 (c) specifies that a regulated tree should not be removed unless it can be proven that the tree is causing damage to a building of value. No evidence has been provided by the applicant that suggests that the tree is causing damage to a building of value.

Based on the above assessment of the three relevant considerations of Council Wide PDC 226, removal of the subject tree is not supported by this assessment framework. Council Wide PDC 226 states that where a tree does not meet the above assessment criteria, the tree must not be removed and must be maintained.

Council Wide Objectives 37 & 38 state that regulated trees with both aesthetic benefits and contributes significantly to the character or visual amenity of the area should be retained.

Council’s arborist also stated that the tree is considered to significantly contribute to the character and visual amenity of the local area.

For these reasons, the subject tree is worthy of retention.
9. Conclusion

The Development Plan aims to preserve regulated trees unless it can be demonstrated that its removal is seriously required.

The subject tree was found to be of reasonable health with no notable signs of significant limb failure or a shortened life expectancy.

No evidence was provided to justify the removal of the tree.

10. Recommendation

That pursuant to the authority delegated to the Council Assessment Panel by the Council, it is recommended that the Council Assessment Panel:

1. DETERMINES that the proposed development is not seriously at variance with the policies in the City of Mitcham Development Plan; and

2. REFUSES Development Plan Consent to the application by Ms. Yuan Yuan Wang to remove one regulated tree at 30 Clifton Street, Hawthorn as detailed in Application No. 080/0328/20 on the following grounds:

Reasons for Refusal:

1. The proposal does not meet Council Wide, Regulated Trees Objective 37 as it will not conserve trees that provide an important aesthetic benefit.

2. The proposal does not meet Council Wide, Regulated Trees Objective 38 in that the proposal would not preserve regulated trees which significantly contribute to the character and visual amenity of the area.

3. The proposal does not satisfy Council Wide, Regulated Trees Principles 225 in that the development would have an adverse effect on a regulated tree.

4. The applicant has not sufficiently demonstrated that removal of the regulated tree is warranted in accordance with Council Wide, Regulated Trees Principles 226 (a), (b) & (c).

Attachments:

A. CT, Application Forms and Plans
B. Letter of Support from Owner
C. Internal Referral - Horticulture
Certificate of Title - Volume 5123 Folio 258

Parent Title(s)       CT 3665/17
Creating Dealing(s)  CONVERTED TITLE
Title Issued          24/05/1993
Edition 4
Edition Issued        15/08/2017

Estate Type
FEE SIMPLE

Registered Proprietor
YUANYUAN WANG
OF 2 HILDA TERRACE HAWTHORN SA 5062

Description of Land
ALLOTMENT 345 FILED PLAN 13814
IN THE AREA NAMED HAWTHORN
HUNDRED OF ADELAIDE

Easements
NIL

Schedule of Dealings
Dealing Number        Description
12772900              MORTGAGE TO WESTPAC BANKING CORPORATION (ACN: 007 457 141)

Notations
Dealings Affecting Title  NIL
Priority Notices            NIL
Notations on Plan           NIL
Registrar-General's Notes   NIL
Administrative Interests    NIL
TREE REMOVAL/PRUNING DEVELOPMENT APPLICATION FORM

Please send all correspondence to: development@mitchamcouncil.sa.gov.au
Please note that a fee invoice will be sent at a later point in time and all payments can be made online at www.mitchamcouncil.sa.gov.au. Do not attach or enclose cheques or cash payments to your application.

Invoice fees to (tick one):
☐ Applicant / ☐ Owner

CONTACT DETAILS

Please Note: The applicant will be Council’s contact person for further information requests and receipt of decision documents.

APPLICANT: 
Contact Person (if applicant a business):
Phone No: (h) (w) (m) 0433 426 632
Email Address: thecliffon17@gmail.com

OWNER:
Phone No: (h) (w) (m) 0433 426 022
Email Address:

ARBORIST: AUSTRAL TREE SERVICES
Phone No: (h) (w) (m) 0427 977 847
Email Address:

LOCATION OF TREE(S)

HOUSE NO: 30 (or LOT:) STREET: CLIFTON ST
SUBURB: HAWTHORN POSTCODE: 5062

APPLICATION DETAILS

DESCRIPTION OF PROPOSAL: Removal of 2 (two) regulated trees.
(i.e. remove one regulated tree; prune two regulated trees)

TREE REMOVAL/PRUNING COST (quote for tree removal/pruning) $8,000

I acknowledge that copies of this application and supporting documentation may be provided to interested persons in accordance with the Development Regulations 1993

SIGNATURE:.................................................DATED: 19/03/2020
**REGULATED/SIGNIFICANT TREE PROPOSAL**

To be accompanied by:
- Tree Removal Application form
- Certificate of Title
- Site Plan to scale (1:200) showing location of tree(s)
- Photographs
- Any relevant advice that has been obtained in regards to issues of tree health and safety that have been prepared by qualified arboriculturists, botanists or horticulturists.

### Location of Tree(s)

<table>
<thead>
<tr>
<th>House No:</th>
<th>30</th>
<th>Lot:</th>
<th>Street:</th>
<th>CLIFTON ST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suburb:</td>
<td>HAWTHORN</td>
<td></td>
<td>Postcode:</td>
<td>5062</td>
</tr>
</tbody>
</table>

### Details of Tree(s)

<table>
<thead>
<tr>
<th>Type of tree:</th>
<th>GUMTREE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Girth of trunk 1m above ground level:</td>
<td></td>
</tr>
<tr>
<td>Height of tree:</td>
<td></td>
</tr>
<tr>
<td>Spread of tree:</td>
<td></td>
</tr>
</tbody>
</table>

Is the tree showing signs of disease that may affect its life expectancy? If so, please provide details.

No, according to arborist.

Does the tree represent an unacceptable risk to public or private safety? Please provide relevant details.

Yes, branches have been dropping. Big enough to damage property. Definitely possible to cause significant harm to people.

Is the tree shown to be causing or threatening to cause substantial damage to a substantial building or structure of value? If so, please provide details and any specialist advice that has been provided.

Yes, it has already caused damages to my neighbour’s property.

Details of the proposed work you want to undertake affecting a regulated tree.

Removal of 2 regulated trees.

May 2019
Description
Front yard - Removal of small tree located on the edge of the driveway to ground level and grinding of stump.

Back yard - Large Red Gum tree in the back yard. Pruned tree to remove deadwood from tree, pruned branches back from the concrete slab and reduced large leader heading towards back fence back to upright.

- Large Lemon Scented tree in the back corner. Pruned limbs heading towards house back upright or to union, removed deadwood, stubs and reduced weight of the large leader heading over the back fence.

- Removed and chipped small pile of branches already on the ground.

- Removed Melaleuca tree to ground level and grinding of stump.

Thank you for choosing Austral.

Please email your remittance advice to stephanie@australtree.com.au

How To Pay

Mail
Detach this section and mail cheque to:
Austral Tree Services Pty Ltd
25-27 Ceafield Road
Para Hills West  SA  5096

Direct Deposit
Bank: Bank SA
Acc. Name: Austral Tree Services Pty Ltd
BSB: 105-152
Acc. No. 027839640

Credit Card (MasterCard or Visa)
Visa and Mastercard accepted

DUE DATE: 16/08/2019 AMOUNT DUE: $3520.00
To Whom it May Concern,

I am writing this letter to kindly request the permission for the removal of two large gum trees in our backyard at the address 30 Clifton Street, Hawthorn SA 5062.

It has been a hazard for quite some time now to our neighbours living next door, while our house is being constructed, and also to the previous tenants, to the point of them being afraid to even do laundry in the backyard. The trees have been dropping some quantities of branches on a regular basis, and quite a number of those branches are large enough to cause damage to property and harm to people. Because of this we have employed the services of arborists to assess the situation, resulting in the pruning of said trees at our expense $3520 (Invoice attached). However, it is now a matter of urgency because as of 7th of January 2020, a large branch fell from one of the trees onto the tennis court of our neighbour, damaging their fence in the process (photo attached). Arrangements have been made to repair that fence at the cost ($2000) of insurances and both parties, which affects upcoming premiums.

We are tenants about to move in with a toddler and a baby, I would not be a responsible parent if I felt comfortable residing at a premise that poses a hazard to the children. As a result to the large gum trees being removed, we are willing to plant a number of smaller trees as compensation.

So we sincerely hope that the council views this issue as an urgent matter and will be attended to with efficiency and haste.

Thank You.

Please find attached documents for the application.
If there’s anything else you need please let me know.

Kind Regards
Yuanyuan (Alinda) Wang
MEMORANDUM

TO: Jorina Robbertse – Development Officer Planning
FROM: Chris Tozer
SUBJECT: Application 080/0328/20
APPLICANT: Yuanyuan Wang
PROPOSAL: Remove Two Regulated Trees
ADDRESS: 30 Clifton Street HAWTHORN SA 5062 - LOT 346 TYP FP SEC 235 PLN 13814 C/T 8123/259
DATE: 1 April 2020

PROPOSAL:
The proposal is to remove two regulated trees.

ASSESSMENT:
I attended the site on 7 April 2020 to assess the
trees detailed in the application.

The dwelling has recently undergone a rear
extension in the vicinity of the two large trees
subject to the application.

The trees were identified as being:

Tree 1 a River Red Gum (Eucalyptus caneldulensis)

Tree 2 a Lemon Scented Gum (Corymbia citriodora)

Tree 2 was measured to be within 10 metres of the
rear of dwelling within No.30 Clifton Street and
within 10 metres of the inground swimming pool
located on the side boundary within No. 32 Clifton
Street. Identified as a Corymbia and therefore not a
Eucalypt and being within 10 metres of an existing
dwelling and inground swimming pool, the tree is
exempt from protection and does not require
development approval to be removed.
Tree 1 the River Red Gum (*Eucalyptus camaldulensis*) has a trunk circumference of between 2 & 3 metres measured at 1m above ground level and is considered a regulated tree.

As mentioned, the tree is one of two mature trees of the same species located at the rear of the property.

The two trees have grown in relatively close proximity to one another as a result their canopies have developed somewhat biased form due to competition for light and space. It is Tree 1, the river red gum that has developed to poorer formed canopy of the two trees and this has been exacerbated by additional pruning of the northern canopy to reduce overhang to the neighbouring property No.28 Clifton Street. The tree however is in reasonable health and does not display a notable history of limb failure. The application requests the removal of both trees however it is Tree 2 the non-protected tree that has recently dropped limbs causing damage to the neighbours fence. No evidence has been provided that Tree 1 has done the same.

**Legislative Assessment:**

**Objective 37:** The conservation of regulated trees that provide important aesthetic and/or environmental benefit.

**Objective 38:** Development in balance with preserving regulated trees that demonstrate one or more of the following attributes:

Assessed against the relevant criteria, the tree:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) significantly contributes to the character and visual amenity of the local area</td>
<td>NO Tree 1 is visible from the street and from a number of neighbouring properties and can be considered to significantly contribute to the character and visual amenity of the local area.</td>
</tr>
<tr>
<td>(b) indigenous to the local area</td>
<td>YES The tree is a local indigenous species.</td>
</tr>
<tr>
<td>(c) rare or endangered species</td>
<td>NO The tree is not a rare or endangered species</td>
</tr>
<tr>
<td>(d) an important habitat for native fauna</td>
<td>No nesting sites or hollows were noted.</td>
</tr>
</tbody>
</table>
Justification
226 A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply:

<table>
<thead>
<tr>
<th>Condition</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The tree is diseased and its life expectancy is short;</td>
<td>NO</td>
</tr>
<tr>
<td>(b) The tree represents a material risk to public or private safety;</td>
<td>NO</td>
</tr>
<tr>
<td>(c) The tree is causing damage to a building;</td>
<td>NO</td>
</tr>
<tr>
<td>(d) Development that is reasonable and expected would not otherwise be possible</td>
<td>N/A</td>
</tr>
<tr>
<td>(d) The work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree</td>
<td>N/A</td>
</tr>
</tbody>
</table>

CONCLUSION:

Tree 1 The subject tree is considered to meet aesthetic or environmental criteria identifying it as a regulated tree warranting retention under the Act. Additionally no strong evidence was provided to support its removal.

Tree 2 Development Regulations 2008 includes an exemption for all trees within 10 metres of an existing dwelling, or an existing in-ground swimming pool (except if the tree is either a Willow Myrtle or a Eucalypt) Lemon Scented Gum's (Corymbia citriodora) are not Eucalypts therefore I can confirm that under the current provisions of the Development Act, it does not warrant protection and can be removed without Council planning approval.

RECOMMENDATION:
It is recommended that application to remove one regulated tree (Tree 1) be refused.

Chris Tozer
Arboricultural Officer
11. CONFIDENTIAL ITEMS

Nil
12. **APPEALS UPDATE**

12.1 **PENDING APPEALS UPDATE AS AT 28 MAY 2020**

**PROPOSAL**

To inform Panel Members of the status of outstanding appeals.

**RECOMMENDATION – ITEM 12.1**

That the report be received for information only.

**Attachments:**

A. Appeals Update
<table>
<thead>
<tr>
<th>No</th>
<th>ERD No</th>
<th>App’n No</th>
<th>NAME</th>
<th>ADDRESS OF APPLICATION</th>
<th>APPEAL LODGED</th>
<th>DESCRIPTION</th>
<th>PLANNER’S RECOMMENDATION</th>
<th>CAP DECISION</th>
<th>ERD COURT PROGRESS</th>
</tr>
</thead>
</table>
13. OTHER BUSINESS

14. ASSESSMENT MANAGER REPORT
   
   Nil

15. STRATEGY AND POLICY CONSIDERATIONS

16. CLOSE