

DEVELOPMENT NO.:	23001870
APPLICANT:	Andrew Taplin
ADDRESS:	28 STURT RD BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Variation to application 22009838 - Variation to Condition 2 to remove three significant trees and one regulated tree, trees numbered 3, 4, 8 and 16
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • General Neighbourhood Overlays: <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Hazards (Flooding) • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Transport Routes • Urban Tree Canopy
LODGEMENT DATE:	31 Jan 2023
RELEVANT AUTHORITY:	Council Assessment panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	2023.1
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Michael Gates Development Services (Planning and Building) Lead
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	Arborist

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 1:	Application Documents

DETAILED DESCRIPTION OF PROPOSAL:

The application is for a variation of a previous application for land division and construction of dwellings. That application was determined by the Council Assessment Panel, who resolved to approve the development, subject to conditions, several of which were for the retention of trees. This application is for the removal of several trees.

BACKGROUND:

A proposal was lodged several years ago for the division of land and removal of regulated trees, which was refused by the Council Assessment Panel as it was at odds with the requirements of the Development Plan. This proposal has been lodged by a different application, and as such the previous application is considered to have no relevance to this proposal. It is also noted that one of the trees conditioned to be retained recently had a substantial failure resulting in significant damage to a neighbouring property. Tree 7 was the tree that had the branch failure.

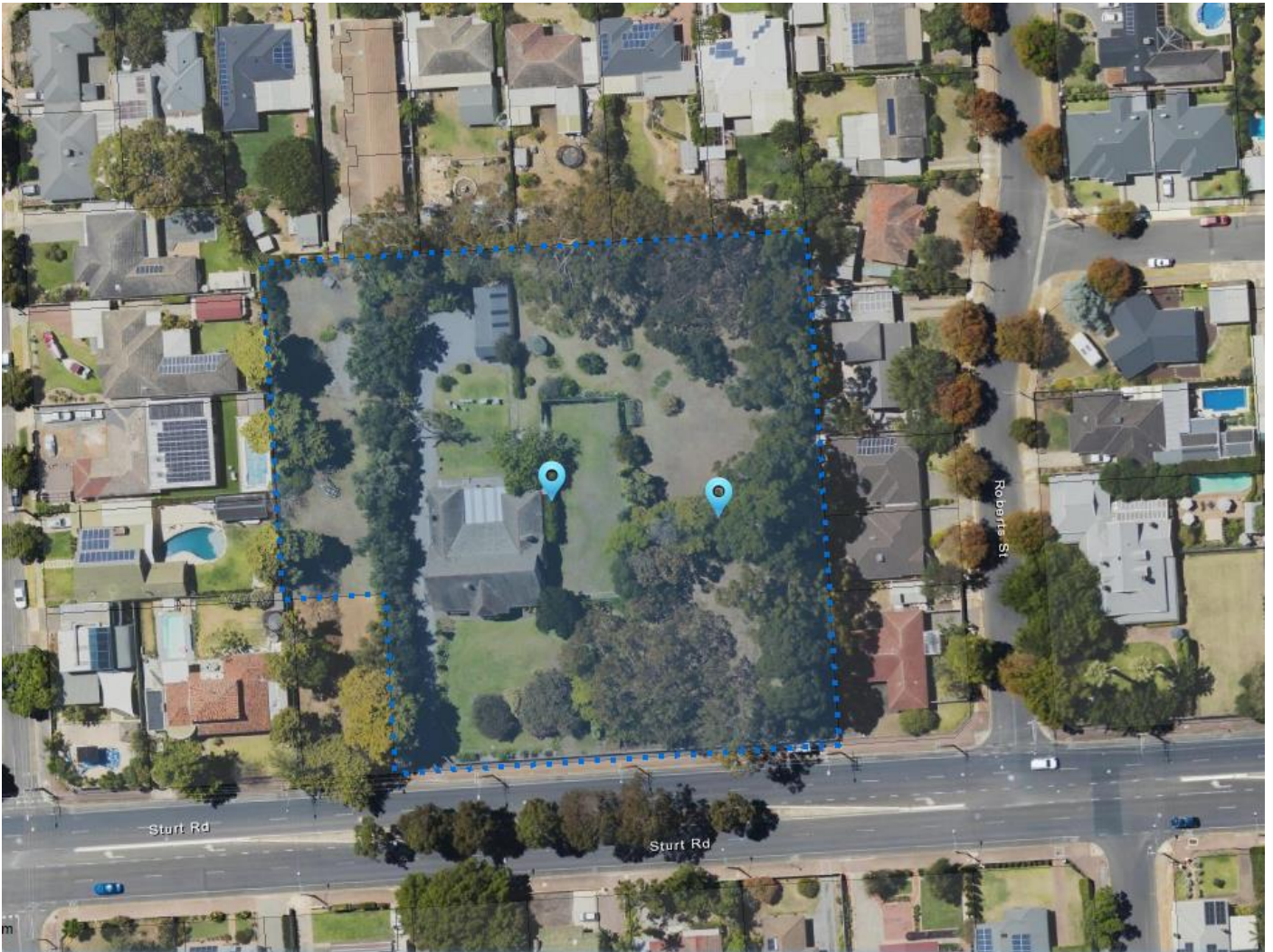
SUBJECT LAND & LOCALITY:**Site Description:**

Location reference: 28 STURT RD BRIGHTON SA 5048

Title ref.: CT 5564/106 **Plan Parcel:** F145176 AL48 **Council:** CITY OF HOLDFAST BAY

The subject site is located on the northern side of Sturt Road, in between Seymour Grove and Roberts Street. The site is located entirely within the General Neighbourhood Zone. The site comprises two titles, one small allotment in the southwestern corner, and the other allotment comprises the remainder of the site. The site is relatively flat and has a frontage of 99 metres to Sturt Road, and a total area of 9,370 square metres. Up until recently there was a detached dwelling on the site, but this has been demolished to make way for development of the site. The site also included a number of large trees that have been removed as they were not regulated trees due to their size, or being a species that is exempt from being classified as a regulated tree.

The site is relatively flat and is surrounded by detached on three sides that don't front Sturt Road.



Aerial image of the site



Aerial map showing location of the trees.

Locality

The locality is predominately residential, with some commercial development to the west of the site where Sturt Road intersects with Brighton Road, which is located in the Suburban Activity Centre. Residential development in the locality comprises mostly detached dwellings of one and two, with a few residential flat buildings. There is also a cemetery and school to the north of the site. The locality has a reasonable level of amenity, but the amenity is impacted by the amount of vehicle traffic along Sturt Road.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Tree-damaging activity: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed

- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Tree damaging activity is exempt from notification

AGENCY REFERRALS

No agency referrals

INTERNAL REFERRALS

The application has been referred to Council's Arborist who support the removal of all four tree as they are all considered to have poor structure and short useful life expectancy with probability of ongoing failures.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

Quantitative Provisions

Performance Outcome 1.3 of the Regulated and Significant Tree Overlay outlines the policy for which tree damaging activity may be approved.

<p>PO 1.3</p> <p>A tree damaging activity not in connection with other development satisfies (a) and (b):</p> <p>(a) tree damaging activity is only undertaken to:</p> <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> <ul style="list-style-type: none"> (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>
---	--



Figure 1. Subject tree, indicated in red, viewed from the northwest.



Figure 7. Subject tree, viewed from the southwest.



Figure 4. Subject tree, viewed from the northwest.



Figure 10. Subject tree, viewed from the northwest.

Trees shown above are, Figure 1 Tree 3, Figure 4 tree 4, Figure 7 tree 8, and Figure 10 tree 16.

The arborist advice from the applicant, and Council's Arborist are both consistent in that they agree that the trees are of poor structure, have a limited life and a high probability of branch failure. Given that a similar tree failed recently and caused significant damage to a two storey dwelling, it is considered that these trees could present a similar risk. Council's Arborist has outlined that the application satisfies PO 1.3 it is considered that the proposal warrants Development Approval. See attached Arborist report for further analysis.

CONCLUSION

On balance the proposal is considered to reasonably accord with the relevant policies within the Planning and Design Code. The original development application for the land division proposed retention of all of these trees.

Unfortunately a severe failure required further analysis of the trees and the risks they proposed. It is considered that the four trees here considered for removal are not worthy of retention due to the risk of failure given the poor health and structure of the trees. Therefore, the proposal is supported subject to the payment into the Urban tree fund.

Given the future development of site which is part of the original application, replacement trees are not able to be planted in accordance with the requirements of the Regulations. A payment of \$1,716.00 into the Urban Tree is required.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. 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; and
2. Development Application Number 23001870, by Andrew Taplin is granted Development Approval subject to the following conditions:
 1. The development granted approval shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

ADVISORY NOTES

Planning Consent

ADVISORY NOTES

General Notes

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.
2. 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.
3. This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
4. Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
5. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

OFFICER MAKING RECOMMENDATION

Name: Michael Gates

Title: Development Services (Planning and Building) Lead

Date: 2 March 2023