

Notice of Council Assessment Panel Meeting



MEMBERSHIP

Mr M Adcock	Independent Member (Presiding Member)
Mr J Rutt	Independent Member
Mr A Mackenzie	Independent Member
Ms B Merrigan	Independent Member
Ms N Taylor	Deputy Independent Member
Mr D Wyld	Elected Member

NOTICE is given pursuant to Sections 87 and 88 of the Local Government Act 1999 that the next **COUNCIL ASSESSMENT PANEL MEETING** will be held in the Council Chambers, 571 Montague Road, Modbury on **TUESDAY 19 SEPTEMBER 2023** commencing at **10.00am**

A copy of the Agenda for the above meeting is supplied.

Members of the community are welcome to attend the meeting.

RYAN MCMAHON
CHIEF EXECUTIVE OFFICER

Dated: 13 September 2023

CITY OF TEA TREE GULLY

COUNCIL ASSESSMENT PANEL MEETING 19 SEPTEMBER 2023

AGENDA

1. Attendance Record:

- 1.1 Present
- 1.2 Apologies
 - Ms B Merrigan

2. Minutes of Previous Meeting

That the Minutes of the Council Assessment Panel Meeting held on 15 August 2023 be confirmed as a true and accurate record of proceedings.

3. Business Arising from Previous Minutes - Nil

4. Reports and Recommendations

- 4.1 CAP. 23018419** - Significant Council tree removal (Eucalyptus Camaldulensis - River Red Gum) on the Council verge in front of 4 Beryl Court, Modbury **3**

Recommended to Grant Planning Consent

5. Other Business

5.1 E.R.D. Court Matters Pending - Nil

5.2 Council Assessment Panel - Updated Delegation Changes to Instrument C 53

5.3 Planning Policy Considerations

Planning Policy Considerations will be recorded in the minutes following discussion by members.

6. Information Reports - Nil

7. Date of Next Meeting

17 October 2023

REPORT NO: CAP.23018419

RECORD NO: D23/67030

TO: COUNCIL ASSESSMENT PANEL MEETING - 19 SEPTEMBER 2023

FROM: Justine Perry
Senior Planning Officer

SUBJECT: SIGNIFICANT COUNCIL TREE REMOVAL (EUCALYPTUS CAMALDULENSIS - RIVER RED GUM) ON THE COUNCIL VERGE IN FRONT OF 4 BERYL COURT, MODBURY - 23018419

SUMMARY

DEVELOPMENT NO.	23018419
APPLICANT	Mr Roderick Shearing
ADDRESS	3 and 4 Beryl Court, Modbury (in verge in front of 4 Beryl Court)
NATURE OF DEVELOPMENT	Removal of a Significant Council street tree (Eucalyptus Camaldulensis – River Red Gum) on the Council road verge
ZONING INFORMATION	<p>Zones:</p> <p>General Neighbourhood Zone</p> <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights • Affordable Housing • Building near airfields • Defence Aviation Area • Hazards (flooding – Evidence required) • Prescribed Wells Area • Regulated and Significant Trees • Stormwater Management • Traffic Generating Development • Urban Tree Canopy
LODGEMENT DATE	27 June 2023

RELEVANT AUTHORITY	Council Assessment Panel on behalf of Assessment Manager at City of Tea Tree Gully
PLANNING & DESIGN CODE VERSION	2023.8 (June 2023)
CODE RULES APPLICABLE AT LODGEMENT	Code Rules at Assessment Start - 23018419
CATEGORY OF DEVELOPMENT	Code Assessed - Performance Assessed
NOTIFICATION	No
NUMBER OF PROPERTIES NOTIFIED	n/a
REPRESENTATIONS RECEIVED	n/a
REPRESENTATIONS TO BE HEARD	n/a
RECOMMENDING OFFICER:	Justine Perry
REFERRALS STATUTORY	No agency referrals required
REFERRALS NON-STATUTORY:	Councils Arborist External Consultant Structural Engineer
RECOMMENDATION	Grant Planning Consent

1. DETAILED DESCRIPTION OF PROPOSAL

Removal of a Significant Eucalyptus Camaldulensis (River Red Gum) tree from the road verge in front of No.4 Beryl Court, Modbury.

2. BACKGROUND

The relevant authority for this type of application would typically be the Assessment Manager, however in this case the Assessment Manager will delegated his authority to the Councils Assessment Panel under Section 100 (1) of the Planning, Development and Infrastructure Act 2016 (“the Act”) as the tree is located on Council land.

In January of 2023 the owners of 3, 4 and 5 Beryl Court contacted Council, SA Water and Local MP Olivia Savvas expressing concerns over the Significant tree, requesting its removal. The tree is located on Council land in front of the properties and has been there for some 50 years. For 10 years or so the tree is said to be causing damage to the sewer pipes, road and driveway.

Council's record system shows internal correspondence with advice from Councils City Arborist. The following summary from January 2023 was noted and sent to the residents of Beryl Court;

*The public tree is identified as Eucalyptus camaldulensis: River Red Gum.
When inspected the tree was considered as being in good health, providing a notable visual element to the landscape and having a trunk circumference of greater than 2m when measured at 1 meter from ground level.*

The tree has been inspected by Council on a number of occasions and remedial pruning was undertaken earlier this year to limit the impact of limb failure. Further correspondence between Council and the residents shows a request for the tree to be removed.

The following concerns have been highlighted by the residents;

- No. 3 Beryl Court have paid in excess of \$13,000 to have the sewer pipes replaced that were destroyed by the roots of the gum tree. In addition, ongoing damage being caused to the pipes including the adjoining neighbours and the financial impact to all residents;
- Concerns that the tree is touching the electricity cables; and
- Fear that the tree will fall.

The Council response to this request was that when considered against Councils Tree Management Policy the tree does not warrant removal.

In regards to the concerns raised relating to damage of sewer infrastructure (both on private and public land) Council advised that it was necessary for the residents to provide evidence that the Council tree is the cause of damage before tree removal can be considered.

In resolving the above enquiry, the residents were advised to lodge a formal application under the Planning, Design and Infrastructure Act 2016 ('the Act') requesting the tree be removed.

3. SUBJECT LAND & LOCALITY

3.1 Site Description:

Location reference: On the road verge in front of 4 Beryl Court, Modbury

Title Reference:
5576/479

Plan Parcel:
D9495 AL43

Council:
CITY OF TEA TREE GULLY



The application has been lodged on both 3 and 4 Beryl Court through the PlanSA Portal, however for the purposes of this assessment the description of the site refers to 4 Beryl Court only as it is located within the verge of No. 4.

The site is an irregular shaped allotment approximately 670m² in size, with a larger rear boundary (approximately 27.5m) relative to the front boundary (approximately 15m), flaring out through the length of the allotment.

A single storey seventies-style dwelling is located on the site along with some secondary structures to the side and rear. The site is located in the General neighbourhood Zone.

Existing landscaping takes up the remainder of the allotment, along with the large significant gum tree located in the road verge.

3.2 Locality



The locality is made up of residential properties and a large central portion of community land, known as Bendigo Reserve. The dwellings are predominantly single storey in nature, with large front yards that are well landscaped. The residential allotments also contain a range of single storey ancillary outbuildings and structures.

The immediate locality includes the five residential allotments in the Beryl Court cul-de-sac and the Bendigo Reserve located to the eastern side of the street. The wider locality includes the dwellings fronting Bendigo Crescent.

A number of gum trees are scattered throughout the area, including in Bendigo Reserve, however none are as large as this tree under assessment. Bendigo Reserve plays a big part in the locality, setting the scene with a large open green space.

The street trees within the locality additionally contribute to the green space, with avenue-style planting found throughout the locality.

4. CATEGORY OF DEVELOPMENT

PER ELEMENT

Significant tree removal – Performance Assessed

OVERALL APPLICATION CATEGORY

Code Assessed - Performance Assessed

REASON

Planning and Design Code

5. PUBLIC NOTIFICATION

REASON

No public notification was required as part of this assessment as Table 5 (5) (q) lists tree damaging activity as exempt from public notification.

6. AGENCY REFERRALS

No agency referrals required

7. INTERNAL REFERRALS

7.1 Council Arborist

Summary of internal referral response:

- The tree had extensive pruning works done by Councils contractors in May 2023. Pruning included 30% crown reduction including reduction of horizontal branch extension and branch leverage. The pruning should reduce the likelihood of future branch failures.
- The tree is healthy and appears structurally sound.
- Council has previously refused requests via exchange of letters for the tree to be removed.
- The issue of tree roots on private property has been resolved by the owner of No.3. Once pipes have been repaired professionally it is rare for further issues to occur.
- The issue with the SA Water pipe infrastructure is generally old pipes that need replacement due to age and movement, however this is costly. SA Water have not contacted Council with any concerns over the tree.
- The tree does not meet the criteria for removal against Councils Tree Management Policy.

7.2 External Consultant Structural Engineer

Summary of Conceptio Engineers report (see attachment 5 for full report);

- The report cannot directly quantify that the tree has caused any damage to buildings. The area has highly reflective soil however it is not possible to apportion how much movement is tree or soil related.
- The tree is damaging the driveway of number 4 and the gutter line to the verge. If the tree were to remain this would likely worsen over time. The amenity of No. 4 is detrimentally impacted by the tree.
- 3, 4 and 5 Beryl Courts sewer systems/ the SA Water infrastructure is being damaged by the roots of the tree (7 major call outs have been recorded since 2019 with damage worsening over time).

- The tree is unique to the street and provides a contribution to local character.
- The tree poses a potential risk to power supply and is potentially a fire hazard.
- The removal of the tree is recommended.

8. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Section 10 of this report, and are available on Council's website as a supplementary document.

8.1 Consideration of tree and amenity

The following table identifies the tree specifications relevant to the consideration of this tree removal;

Tree Species	Eucalyptus Camaldulensis – River Red Gum
Trunk Circumference	3.1m at 1.0m above natural ground level, therefore significant
Height	16.2m
Canopy	18-20m wide spread
Age	Approximately 50 years old (planted early 1970)
Distance from dwellings	9.2m from No.4 12.1m from No.3 13m from No.5

The River Red Gum tree is the only example of a significant tree in the locality, and is considered to make an important contribution to local amenity.

Located in an area with predominantly single storey dwellings, the tree is quite visible above the roof tops when viewed from the surrounding locality.

A number of trees have been planted in Bendigo Reserve (the reserve adjoining Beryl Court) however this tree is still the most prominent landscape feature in the locality despite the nearby reserve. This highlights the trees amenity value in that it still takes the focus when viewed against the reserve backdrop.

Beryl Court, Bendigo Crescent and Bendigo Reserve all demonstrate good examples of street tree planting within the Council area, with deliberate avenue planting playing an important part in locality contribution. The avenue planting along the street is matched in Bendigo Reserve with plants in pairs opposite each other.

The subject significant River Red gum tree within Beryl Court is the exception to the rule, being a large standalone tree. As such, the tree does not contribute to the overall landscape character of the locality.

Regulated and Significant trees overlay DO1 seeks the conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.

This provision is further informed by the Performance Outcomes which is considered in section 8.3 of this report.

While the Planning and Design Code is clear in its desire to retain regulated and significant trees of aesthetic benefit, it does preface with allowing removal to be considered on balance of retention value.

The tree undoubtedly contributes to amenity, with the tree being a good example of a significant tree with high amenity value.

8.2 Damage

The applicant's correspondence, their Arborist report, along with the Structural Engineers report and SA Water letter all outline the damage being caused to the properties within Beryl Court. In particular, the following damage has been identified;

- Extensive repair works for SA Water, as it is unlikely that SA Water pipes will be upgraded to PVC, however it is noted that No. 5 has PVC pipes and this has not prevented damage.
- Concrete driveway at No.4 has been extensively damaged as a result of tree roots.
- Beryl Court gutters to roadway lifted and broken as a result of tree roots.
- Tree poses a risk to powerline disruption and / or fire.
- No direct quantifiable evidence that the tree has resulted in damage to the buildings (dwellings).
- History of and potential for further limb failure.

The letter from SA Water to the resident summarizes 7 call outs since July of 2019 which have been deemed major faults and resulted in the need for repairs on each of the properties over multiple occasions;

- Choke connection – tree roots in connection pipes
- Waste water gravity main – tree roots in main and pipe broken

It is noted in the internal referral response from Councils City Arborist that SA Water have not contacted Council regarding the tree and damage to the infrastructure. As such, the level of detail provided from SA Water was limited, with only work order detail and call out logs.

On the basis of the information supplied by the applicant, including their arborist report, suggests insufficient information exists to determine if the likely cause of damage is as a result of the significant tree and its roots. Without any arboricultural justification for the removal, it was determined that the only way to proceed with the application was to seek the advice of a structural engineer.

Council engaged Peter Graham from Conceptio Engineers to inspect the tree and site, and provide a brief report to assist Council staff in determining if the tree is the likely cause of damage to the driveway, road, kerb, sewerage pipes and external cracking to the dwelling at No. 4. The engineer was provided with a copy of all lodgement documents including the applicant's arborist report. Their inspection was limited to the site and tree, and did not include the internal inspection of any nearby dwellings.

The dwellings at No. 3 and No. 4 were constructed in the mid 1970's with solid masonry and likely strip footings to support timber floors. The sewer connections for these dwellings are likely terracotta pipework.

The dwelling at No. 5 is a much newer build, having completed construction in early 2019. This dwelling was constructed with concrete raft slab footings and brick veneer walls. It is worth noting that the Australian Standard AS2870-2011 footing type takes into consideration the impact of large trees on soil movement for the purposes of footing design. The sewer pipes for this dwelling would have been constructed with PVC pipes which can be sealed, however even these pipes have had root blockage issues.

8.3 Consideration against removal criteria

Regulated and Significant trees overlay PO 1.2 *seeks significant trees are retained where they;*

(a) Make an important contribution to the character of the local area

Having regard to the size and location of the tree in this locality, it is considered to make an important contribution to the character of the local area.

This is supported by both Council's City Arborist (Attachment 6) and the applicant's Arborist (Attachment 3).

The tree therefore meets PO 1.2(a) as a tree worthy of retention.

(b) Are indigenous to the local area and are listed as rare or endangered

The tree is not indigenous to the local area, not listed as rare or endangered. The tree was planted in approximately 1970.

(c) Represent an important habitat for native fauna

No hollows or nesting sites noted through the trees canopy to indicate that the tree is an important habitat for native fauna.

(d) Are part of a wildlife corridor of native vegetation

The tree is not part of a wildlife corridor of native vegetation, the tree is a planted tree and is a singular River Red gum.

(e) Are important to the maintenance of biodiversity in the local environment

The independent report indicates that this tree would be used by birds for nesting. Additionally, all trees are considered to play a role in maintaining biodiversity however on balance the loss of this one tree would not be detrimental to biodiversity.

(f) Form a notable visual element

The tree makes a notable visual element in the area surrounding the site in the wider Modbury locality, along with in the street itself, achieving the intent of PO 1.2(f).

In light of the above, the tree has been assessed as worthy of retention with respect to its contribution to the character of the local area and its notability having regard to PO 1.2.

Regulated and Significant Trees overlay PO 1.3 *supports tree damaging activity not in connection with other development providing the following is satisfied;*

(a) Tree damaging activity is only undertaken to:

i. Remove a diseased tree where its life expectancy is short

The tree is not diseased, nor does it have a life expectancy. The tree is anticipated to have a life expectancy for greater than 20 years.

ii. Mitigate an unacceptable risk to public or private safety due to limb drop or alike

The applicant and their arborist have raised safety concerns regarding the tree, including a limb failure which occurred earlier this year. Since the reported limb failure, extensive pruning work has already been undertaken by a Council contractor, including 30% reduction of the crown and horizontal branch extensions pruned to reduce branch leverage.

Conceptio Engineers report also identifies that the tree poses a potential risk to power supply and a potential fire hazard in relation to the location of the tree relative to powerlines.

While a limb failure could result in a fire hazard with trees in close proximity to powerlines generally speaking pruning is used to mitigate the risk. That being said it would not be considered as an unacceptable risk, rather a potential risk.

Based on the above, there is concern that the tree poses a risk to safety however evidence provided has not deemed the risk to be unacceptable, thus not meeting PO 1.3(a)(ii).

iii. Rectify or prevent extensive damage to a building of value as comprising the following;

- a. A local heritage place*
- b. A state heritage place*
- c. A substantial building of value*

And there is no reasonable alternative to rectify or prevent such damage other than to undertake a tree damaging activity.

Dot point c is the only relevant clause in this case as the development does not relate to a local or state heritage place.

The structural engineers report advises that no quantifiable evidence exists to confirm that the tree is causing damages to the dwellings. However, the report does highlight the following damage being caused by the tree roots;

- Damaging the driveway of No.4
- The gutter line of the verge
- SA Water Infrastructure, damaging pipework, blocking the pipes with roots.

Typically speaking Council would not consider damage to a driveway as damaging a substantial building of value. However, in this case the driveway is just one element with the impact extending to sewer infrastructure as well as the road. The scale of the damage being caused by the tree is sufficient enough to consider it as being substantial.

The above works are considered to fall within the intent of the above clause PO 1.3(a)(iii) as the tree is causing substantial damage to a large area of infrastructure.

- iv. *Reduce an unacceptable hazard associated with a tree within 20m of an existing residential, tourist accommodation or other habitable building from bushfire*

The area is an excluded bushfire area; therefore, this provision is not relevant.

- v. *Treat disease or otherwise in the general interest of the health of the tree*

The tree does not have any known disease that needs treatment. It is noted that termite treatment has occurred at some point.

- vi. *Maintain the aesthetic appearance and structural integrity of the tree*

The application proposes the removal of the tree therefore the works proposed would not maintain the aesthetic appearance, nor structural integrity of the tree.

- (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.*

Remedial treatments have already been undertaken by Council, with 30% of the trees crown reduced. The pruning of this tree earlier in the year has not resulted in the mitigation of issues with the trees roots.

Recommendations from both the applicant's arborist and consultant structural engineer has been for complete removal of the tree as there are no other alternatives.

9. CONCLUSION

On balance taking into consideration the advice provided by the respective arborists and a structural engineer, the tree undoubtedly makes an important contribution to the amenity of the locality, however the impact that the tree is having on infrastructure, a driveway and the road/ kerb warrants the removal of this tree.

The removal of the tree will ensure that repairs to infrastructure can occur, if needed, without unnecessary cost of those repairs being undone by damage from the tree roots. As the tree is located on land not owned by the applicant, any consent for removal would be subject to payment into the Urban Tree Fund, as recommended below and consent from the Chief Executive Officer in accordance with Councils Tree Policy.

10. PLANNING AND DESIGN CODE POLICIES

General Neighbourhood Zone
DO1

Regulated and Significant Trees overlay
DO1
PO 1.2, 1.3

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- A. 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
- B. Development Application Number 23018419 by Rod Shearing is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS

- 1. The development must be undertaken, completed and maintained in accordance with the plan(s) and information details in Application No. 23018419 except where varied by any condition(s) listed below.

2. In lieu of planting three replacement trees \$468 (\$156 per tree) must be paid into the City of Tea Tree Gully Urban Tree Fund within one month of the tree(s) being removed.
Payment may be made in person at the Civic Centre or by completing the 'Credit Card Authorisation' form <http://cttg.sa.gov.au/development and posting to PO.Box 571 MODBURY SA 5092>.
Reason: To ensure compliance with the legislative requirement for the planting of replacement trees, pursuant to Section 1274 of the Planning, Development and Infrastructure Act 2016.

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. 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).

PLANNING CONSENT NOTES

1. The cost of rectifying any damage or conflict with any existing services or infrastructure arising out of this development will be borne by the applicant.
2. This consent does not obviate the need to obtain any other necessary approvals from any/ all parties with an interest in the land.

Attachments

1.	Aerial Photograph	17
2.	Application Snapshot.....	18
3.	Arborist Report.....	22
4.	SA Water call out report.....	37
5.	Structural Engineers Report	39
6.	Council Arborist Referral Response.....	52

Report Authorisers

Justine Perry Senior Planning Officer	8397 7361
Nathan Grainger Manager City Development	8397 7200
Michael Pereira General Manager Community Services	8397 7377

23018419 - 3 & 4 Beryl Court Modbury

**Contact Details**

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Development Locations

Location 1

Location reference

3 BERYL CT MODBURY SA 5092

Title Ref

CT 5172/109

Plan Parcel

D9495 AL44

Additional Location Information**Council**

CITY OF TEA TREE GULLY

Zone Overlays

Zones

- General Neighbourhood

Sub-zones

(None)

Overlays

- Airport Building Heights (Regulated)
- Affordable Housing
- Building Near Airfields
- Defence Aviation Area
- Hazards (Flooding - Evidence Required)
- Prescribed Wells Area
- Regulated and Significant Tree
- Stormwater Management
- Traffic Generating Development
- Urban Tree Canopy

Variations

(None)

Application Contacts

Applicant(s)

Stakeholder info

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Invoice Contact

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Invoice sector type

Land owners

Stakeholder info

Mr David Bowden
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SA
5092
Tel. 0407391727
dgbowden@outlook.com

Nature Of Development

Nature of development

Removal of Tree opposite No 3 Beryl Court

Development Details

Current Use

Residential

Proposed Use

Residential

Development Cost

\$1.00

Proposed Development Details

Removal of Tree opposite No 3 Beryl Court

Element Details

You have selected the following elements

Tree-damaging activity - \$0.00

Removal or damage of a tree

Are any trees to be damaged or removed classed as regulated or significant?

Yes

Number of Regulated trees to be removed or damaged

1

Number of Significant trees to be removed or damaged

1

Certificate of Title information submitted by applicant

Does the Certificate of Title (CT) have one or more constraints registered over the property?

Unsure

Consent Details

Consent list:

- Planning Consent

Have any of the required consents for this development already been granted using a different system?

Planning Consent

Apply Now?

Yes

Who should assess your planning consent?

Assessment panel/Assessment manager at City of Tea Tree Gully

If public notification is required for your planning consent, who would you like to erect the public notification sign on the land?

Applicant

Consent Order

Recommended order of consent assessments

1. Planning Consent

Do you have a pre-lodgement agreement?

No

Declarations

Electricity Declaration

If determined by the Relevant Authority that a Power Line Clearance Declaration is required, this application will be referred to the Office of the Technical Regulator.

Submission Declaration

All documents attached to this application have been uploaded with the permission of the relevant rights holders. It has been acknowledged that copies of this application and supporting documentation may be provided to interested persons in accordance with the Act and Regulations.

Documents

Document	Document Type	Date Created
Sewer Tree Report 210623 Beryl Crt Modbury 2023 t o share.pdf	Technical Report - Other	25 Jun 2023 12:08 PM
Sewer Tree gas services.pdf	Engineering Structural	25 Jun 2023 12:08 PM
Sewer Tree water and waste services.pdf	Mechanical Services	25 Jun 2023 12:08 PM

Application Created User and Date/Time

Created User

roderick.shearing

Created Date/Time

25 Jun 2023 12:08 PM

Item 4.1

Attachment 2

Comphort Technical Services

Bob Amezdroz Diploma of Horticulture and Arboriculture
Wk. 0427012755

Tree assessment at, 3/4/5 Beryl Court, Modbury on 2023-06-19

The purpose of this report is to identify potential impacts this tree may have on adjacent properties and persons using the area within the vicinity.

The opinions and recommendations are based on a visual inspection from the ground and no increment boring to identify if internal decay was present.

Report was requested by Rob and Pat Shearing, owners of 3 Beryl Court, to assess the condition of the tree.

Brief

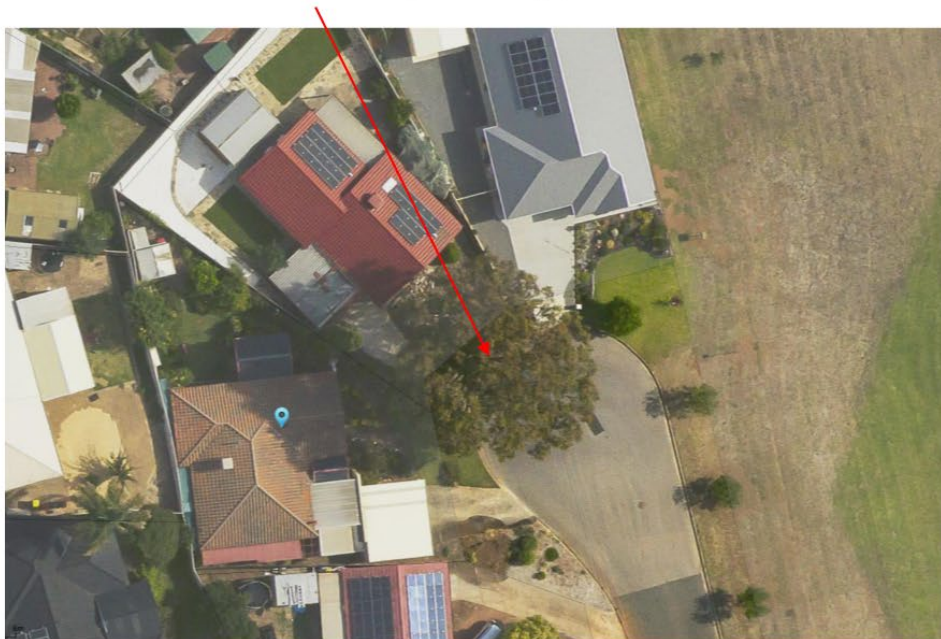
Comphort Technical Services was engaged to assess 1 Eucalyptus camaldulensis (River Red Gum) at the front of the property at 4 Beryl Court, Modbury and provide information in relation to the following points:-

- Assess the health and structure of the tree.*
- Consequence and risk rating.*
- Provide any additional relevant information*

Tree species: *Eucalyptus camaldulensis* (River Red Gum)



Location of tree: Front of allotment (council verge).



Current condition: This Eucalypt is in a healthy condition with recent trimming and healthy foliage.

Circumference of tree (1m above ground level): 3.01m (Significant tree)

Height of the tree: 16.2m

Age: Possibly 50 years old. (Planted early 1970's)

Trunk integrity: The trunk is in a healthy condition sound testing indicated no decay or basal rot but there was plugs around the lower trunk indicating possible termite treatment. Integrity would be good.



chemicals

Tree plug for

Branch integrity: The majority of branches are in a good condition but one branch has fallen and there has been recent trimming. There is minor included bark unions that should be monitored for their structural integrity. Integrity would be average to good.



Branch failure

Presence of dead wood, describe: Minor deadwood throughout canopy.

Presence of swollen areas: None.

Signs of environmental damage: All 3 houses at number 3, 4 and 5 have had extensive damage to the sewer system affecting all houses. SA Water (attached reference CN:001832455), since 2019 SA Water have attended 7 times to faults caused by this trees root system, blocking and damaging pipes.

The owner at number 3 Beryl Court have paid over \$10,000 fixing their pipes as the tree at fault is owned by the council under common law the council should be liable for the damaged occurred and continuing.

A substantial branch fell onto the driveway at 4 Beryl Court worrying the owner as they had a young child playing beneath the tree earlier in the day.

Driveway, kerbing and roadway are being damaged by the tree with its aggressive roots.

There is cracking above the front windows at number 4 Beryl Court but I could not identify if the tree was the problem (may require a structural engineer to verify).

Trees

The law about neighbours' rights and responsibilities for trees is covered by the *common law* of nuisance. Where the branch or root of a tree comes onto a neighbour's land, a nuisance situation exists. The law of nuisance may provide several remedies depending on whether the tree has caused, or is likely to cause, actual damage or loss. In most instances, and unless the tree is a *significant tree*, the neighbour can remove the encroaching roots or branches. This would usually be at his or her own cost, as the cost of removing the branch or roots *cannot* be claimed unless the work is necessary to minimise damage which is already occurring or is likely to occur. The neighbour cannot go onto the tree owner's land and cannot remove any part of the root or branch that is not on his or her property. The branches and roots are technically the property of the tree owner and can be placed back over the fence, taking care not to cause any damage.

If the intruding roots or branches have caused damage to the neighbour's property (for example, roots cracking pipes or branches damaging gutters or poisoning animals) the neighbour can ask the tree owner to pay the cost of repairs or compensation. If the tree owner is unwilling to pay, the neighbour can apply to the Minor Civil Actions division of the Magistrates Court for a court order that the owner pay. In some circumstances a court might order that the owner remove the root or branch or perhaps the whole tree. Advice should be sought.

Problems often arise when tree branches fall, causing damage. The owner's responsibility in these situations depend on whether the tree was overhanging the boundary. Where an overhanging tree or branch falls, the tree owner would be liable if the damage caused was reasonably foreseeable. To hold the owner responsible for a tree that was not previously overhanging the boundary or where the tree was overhanging public land such as a road it is necessary to show that the owner knew or should have known that the tree or branch was in a dangerous condition and that it might fall and cause damage.

A neighbour who is aware that a tree near the boundary is in a dangerous condition, or belongs to a species which is known to 'drop' branches, should draw this to the tree owner's attention in writing and keep a copy of the letter. If damage occurs later, this will assist to establish that the tree owner was aware of the problem and failed to take reasonable and appropriate precautions. If, however, a strong, healthy tree blows down across the fence in a storm, this is considered to be an 'act of God' for which there is no *liability*. Nor is there liability for leaves, needles, nuts or twigs which are blown into the neighbour's property by the wind unless, perhaps, they were known to be highly toxic and attractive to animals or children.



Driveway, kerb and roadway cracking



Cracking at number 4

Signs of girdling roots: None.

Presence of bark bleeding extent: Minor on trunk and branches.

Any curious growth forms: None.

Any visible disease symptoms: None.

Presence of cankers: None.

Presence of fungi: None.

Distance to House: 9.2m to number 4 and 12.1m to number 3.

Presence of borer holes: None.

Condition of leaf material: Heathy.

Overall trees appearance: Average condition with die-back, major spitting and decaying trunk.

Trunk characteristics – narrow or open cracks, cavities present: None.

Native wildlife habitat: None could be seen on the day of inspection.

Native vegetation: This species of Eucalypt would not be classified as Native Vegetation as it was planted.

Regulated and Significant Tree Overlay of the Planning and Design Code

PO 1.2 Significant trees are retained where they:

- (a) Make an important contribution to the character of the local area

As this tree is only tree and in a healthy condition and located at the front of the properties it does make a major contribution to 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

This tree does not come under the Native Vegetation Act or Regulations as it was planted and is not listed as rare or endangered native species.

- (c) Represent an important habitat for native fauna

There is no hollows throughout the canopy or nesting sites.

- (c) Are part of a wildlife corridor of a remnant area of native vegetation

This tree is not a part of a wildlife corridor of remnant native vegetation.

- (d) Are important to the maintenance of biodiversity in the local environment and/or

Birds would only use this tree for resting.

- (e) Form a notable visual element to the landscape of the local area.

This tree does make a notable visual element around the area in Modbury

(a) Tree damaging activity is only undertaken to:

- (i) Remove a diseased tree where its life expectancy is short

This tree is not diseased and will live for more than 20 years.

- (ii) Mitigate an unacceptable risk to public or private safety due to limb drop or the like

This tree has dropped one branch and the removal of roots in pipes can cause the tree to stress and possibly have more branch failures.

- (iii) Rectify or prevent extensive damage to a building of the value as comprising any of the following:

- A. A local heritage place
- B. A state heritage place
- C. A substantial building of value

and there is no reasonable alternative to rectify or prevent such damage other than to undertake a tree damaging activity

Unknown if the cracking to house number 4 Beryl Court is caused by the tree as a structural engineer would have to assess that. To stop the roots from this tree breaking and entering the sewer pipes again would mean replacing all pipes and having a means to stopping the roots damaging them.

- (iv) Reduce an unacceptable hazard associated with a tree within 20m of an existing residential, tourist accommodation or other habitable building from bushfire

Non bushfire risk area.

- (v) Treat disease or otherwise in the general interests of the health of the tree and/or

There has been termite treatment and no evidence could be found of any.

- (vi) Maintain the aesthetic appearance and structural integrity of the tree

The tree has an aesthetic appearance but if roots especially structural roots are damaged or removed the structural integrity of the tree would be compromised.

- (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.

As I'm an arborist and not a plumber I don't know if there is any reasonable treatments and as the council is the owner of the tree they should see if there are any remedial treatments.

Recommendation:

This tree is structurally sound at present, above ground, as I cannot verify below the ground level as I assume there has been damage to the roots zone to an unknown level with the clearing of pipes on numerous occasions and possibly more into the future.

The tree has shown it represents a material risk to private safety with one branch recent failure.

It is unknown if the tree is causing damage to the houses.

At the present, it is not possible to predict failure or mitigate risk.

The only recommendation I can see is to remove the whole tree, to removal all liabilities for the council and adjacent land owners.

Descriptors referred to the Tree Risk Assessment Form

Target number—many trees have multiple targets within the target zone; the target number is provided to list individual targets and to facilitate inclusion of this number in the Risk Categorization chart so that the target description does not need to be rewritten.

Target description—brief description such as “people near tree” “house,” “play area,” or “high-traffic street.” Location of the target can be noted by checking one of the distance boxes to the right of the description.

Target zone—identify where the targets are in relation to the tree or tree part:

Target protection—note any significant factors that could protect the target

Within drip line—target is underneath the canopy of the tree.

Within 1 × Ht—target is within striking distance if the trunk or root system of the tree fails (1 times the height of the tree).

Within 1.5 × Ht—target is within striking distance if the trunk or root system of the tree fails and there are dead or brittle branches that could shatter and fly from the failed tree.

Occupancy rate—an estimated amount of time the target is within the target zone. Use corresponding numbered codes (1–4):

Crown and Branches

Vigor—an assessment of overall tree health; classify as low, normal, or high:

Chlorotic—yellowish-green to yellow.

Necrotic—dead foliage in part of or the entire crown

Codominant—branches of nearly equal diameter arising from a common junction and lacking a normal branch union.

Included bark—bark that becomes embedded in a union between branch and trunk, or between codominant stems, causing a weak structure.

Weak attachments—branches that are codominant or that have included bark or splits at or below the junctions. **Reduced**—pruning to decrease tree height or spread by cutting to lateral branches.

Crown cleaned—pruning of dead, dying, diseased, and broken branches from the tree crown.

Cavity/Nest hole—openings from the outside into the heart-wood area of the tree; record the percentage of the branch circumference that has missing wood.

Canker—localized diseased areas on the branch; often sunken or discoloured.

Gall—abnormal swellings of tissue caused by pests; may or may not be a defect.

Sapwood damage/decay—check box if there is mechanical or fungal damage in the sapwood that may weaken the branch, or decay of dead or dying branches

Load on defect—a consideration of how much loading is expected on the tree part of concern.

Likelihood of failure—the rating (*improbable, possible, probable, or imminent*) for the crown and branches of greatest concern.

Consequence

The potential consequence in the event of the tree (or an identified tree part) failing.

Catastrophic (1)	The tree is located in an area that attracts a high frequency of people and/or may cause in excess of \$250,000 (AUD) damage to a fixed asset.
Major (2)	A potential failure may result in fatality or serious injury and/or may cause damage to fixed or mobile assets.
Moderate (3)	A potential failure may result in fatality or serious injury but is unlikely to and/or may cause damage to fixed or mobile assets but is unlikely to.
Minor (4)	The tree is located in an area that is unlikely to attract people or mobile assets with no fixed assets in the impact zone.
Inconsequential (5)	The tree is located in an area that is not typically accessed by people or mobile assets.

I would expect the potential consequence to be Moderate (3).

Risk Rating

The risk rating of the tree as determined by the risk matrix and the recommended course of action.

Immediate	The tree must be isolated from people and action taken immediately to control the identified hazard. The arborist (or nominated person) shall not leave the area until the identified hazard has been controlled.
Severe	The tree must be isolated from people and action taken to control the identified hazard as soon as possible.
High	Action should be taken to mitigate the risk within one month.
Medium	Action should be taken to mitigate the risk within twelve months.
Low	Action should be taken to mitigate the risk at the custodian's discretion.

I would expect the Risk Rating to be Low at present but may escalate if the root zone keeps on being damaged as it gets into the pipework below the ground.

- The Planning, Development and Infrastructure Act 2016. This Act controls 'tree damaging activity' in relation to 'significant' trees by declaring it to be 'Development.' Trees 3m or greater in circumference measured 1m above natural ground level within the local council area are deemed as 'significant trees' Where trees have multiple stems they must have an average >625mm. 'Tree damaging activity' includes tree removal, damage to the root system, or pruning that will adversely affect the tree health. Council approval is required prior to any of these activities occurring. Breaches of the act are subject to fines of up to \$120,000.

Consultants Liability and Limitations:

All tree assessments are visual inspections and comment on the tree species, that can be seen, touched or inferred from the ground and covers what could reasonably be assessed and available to the assessor at the time of inspection.

The Tree Audit Register (TAR) and recommendations made in this report associated with the project are made in good faith on the basis of the information available to the consultant at the time of the inspection therefore the author accepts no liability for any recommendations made.

The inspection period to which the report applies is two months from the date of the report.

Achievement of objectives set out in such reports will depend among other things on the actions of the client, contractor(s), council, environment and the tree(s), over which the consultant has no control before, during and after the audit has been conducted.

Information contained in this report covers only the tree(s) that were examined and reflects the condition of the tree(s) at the time of inspection. There is no warranty or guarantee, expressed or implied; that problems or deficiencies of the subject tree(s) may not arise in the future.

Care has been taken to obtain all information from reliable sources. All data has been verified in so far as possible; however, the author can neither guarantee nor be responsible for the accuracy of information provided by others.

The author remains the sole beneficiary of this report until due payment is made to the author.

If you require any further clarification or information, please contact me on the number provided.

Bob Amezdroz
Comphort Technical Services
Consulting Arborist for MJS Tree and Stump
Dip of Hort, Dip of Arboriculture
TRAQ qualified
0427012755





CN:001832455 is your SA Water reference

Fri 13/1/23 12:01pm

SA Water Reference: CN:001832455

Hello Rod Shearing,

Thank you for your correspondence dated 12 Jan 2023 regarding the tree on Beryl Ct.

Below is a list of the dates that we have been out to attend to faults that were related to roots found in the sewer system.

3 beryl ct

Work Order Number: 08712024

Report Date: 21/09/2022

Problem: Connection Choke (including partial chokes causing slow drainage)

Cause: Tree roots in connection pipe and main

Work Order Number: 08152753

Report Date: 20/08/2021

Problem: Connection Choke (including partial chokes causing slow drainage)

Cause: Tree roots in connection pipe

Work Order Number: 07456504

Report Date: 12/05/2020

Problem: Connection Choke (including partial chokes causing slow drainage)

Cause: Tree roots in connection pipe

4 beryl ct

Work Order Number: 08697504

Report Date: 10/09/2022

Problem: Connection Choke (including partial chokes causing slow drainage)

Cause: Tree roots in connection pipe

5 beryl ct

Work Order Number: 08712023

Report Date: 21/09/2022

Problem: Wastewater Gravity Main Choke

Cause: Tree roots in main

Work Order Number: 08079341

Report Date: 04/07/2021

Problem: Wastewater Gravity Main Choke

Cause: Tree roots in main, Pipe is broken

Work Order Number: 07041431

Report Date: 21/07/2019

Problem: Wastewater Gravity Main Choke

Cause: Tree roots in main, Pipe is broken

I trust this information is helpful, however please do not hesitate to contact us for further assistance.

Yours Sincerely,

Josh

Customer Care Centre Officer

SA Water

T 1300 729 283

F 08 7003 3329

E customercare@sawater.com.au



sawater.com.au





Conceptio Pty Ltd
Structural & Forensic Engineering

8 Springton Lane
Greenwith, SA
5125

Phone 0414 978 762
Email conceptio@bigpond.com
ABN 44 767 796 825

August 28th, 2023

CITY of TEA TREE GULLY
CIVIC CENTRE
571 MONTAGUE ROAD
MODBURY SA 5092

ATTN: Justine Perry
Senior Planning Officer

**RE: REVIEW OF REQUEST FOR REMOVAL OF TREE ON COUNCIL
MANAGED VERGE – 4 BERYL COURT, MODBURY**

Dear Justine,

As per your request, I attended the above site on 9th August 2023 in order to provide an assessment/opinion from a structural perspective in relation to a requested removal of a tree located on the Council managed verge. The tree is located on 4 Beryl Court, Modbury. The owner of the property engaged Comphort Technical Services (Mr. Bob Amezdroz – Arborist) to undertake a health check of the tree and provide relevant comments. A copy of the arborist report has been provided to this office and was considered thorough and comprehensive.

Due to the proximity of the tree to the neighboring properties, namely 3 and 5 Beryl Court, observations were made in relation to the tree impact to these properties as well. Internal access into the properties at 3, 4, and 5 was not undertaken at this stage, but external observations of the dwellings were noted.

This brief report will discuss the various issues related to the tree and dwelling(s) in question and impact on infrastructure such as roads and gutters.

BACKGROUND DETAILS (Tree)

The tree in question is a *Eucalyptus Camaldulensis* commonly referred to as a River Red Gum. The *Eucalyptus Camaldulensis* can achieve height of 25-40m and is a large, long lived species endemic to South Australia. The tree is estimated to be around 17m high with a 18-20m open canopy and in healthy condition as confirmed by the arborist report. A site measurement taken 1.0m from the ground gives a circumference of around 3020mm which would classify the tree as 'significant'. A 'Regulated' tree has a trunk circumference of 2.0m or more measured 1.0m above natural ground level and a 'Significant' tree has a trunk circumference of 3.0m or more measured 1.0m above natural ground level. In general, *Camaldulensis* species do not form part of the City of Tea Tree Gully exemptions list. The *Eucalyptus Camaldulensis* is located approximately 9.5m to the closest part of dwelling number 4, 12.5m to dwelling number 3 and 13.0m to

dwelling number 5 from the centreline of the tree trunk. An ETSA utility pole is located approximately 4.5m to the north on the boundary of 4 and 5 Beryl Court.

DWELLING DETAILS

The dwelling at 4 Beryl Court was constructed in 1975 and is of solid masonry construction presumably on perimeter strip footings and internal dwarf walls supporting a timber floor. The roof consists of concrete tiles with timber fascia and barge boards likely supported on a conventionally pitched Oregon timber roof frame. The front elevation is constructed using arched windows.

The dwelling at 3 Beryl Court is of similar age and construction to No.4 including arch windows to the front elevation.

The dwelling at 5 Beryl Court is a much more recent construction (estimated at being approximately 10 years old) – the original building was demolished. Consequently, the building would be constructed with a concrete raft slab footing (to AS2870-2011) with brick veneer walling (steel or timber studwork) and a corrugated sheet metal roof. The Australian Standard AS2870-2011 Residential Footings takes into consideration the impact of large trees on soil movement for the purpose of footing design. Therefore, the dwelling at No.5 should be less susceptible to building movement from soil and tree effects.

DISCUSSION

There are a number of observations/items that require discussion, refer also to the photographs in Appendix A for additional comments:

1. At the outset it should be stated that the soil classification around this area of Modbury often falls in the H-E/D category. This indicates the potential for high(H)-to-extreme(E) soil shrink-swell movements to depth (D). The influence of trees on the soil reactivity was probably not taken into consideration in the design of footings in 1975 – AS2870 was first published in 1988. The impact of the inclusion of trees in the AS2870-2011 Residential Footings Standard has generally resulted in larger footing sizes being required. The importance of highlighting this fact is that there is no simple way to allocate what part, if any, building movement that is a result of the tree vs building movement that is a result of the high soil reactivity.
2. The tree was likely planted at a similar time as the construction of the dwelling and therefore has developed a gradual long-term and increasing influence on the soil moisture content. The soil around and under the dwelling has had time to adjust/accommodate to the ever-increasing influence of the tree root system, at least in part. Some of this adjustment may be in the form of gradual building movement. Consequently, it should be noted that removal of the tree at this mature stage can also have a significant impact on the soil moisture content (by not removing excess moisture) resulting in significant soil swelling over a much shorter time. In some cases, tree removal can result in subsidence when root systems die off and collapse; however, it is unlikely in this instance as the tree is positioned far enough away from the dwelling.

3. It should be mentioned that the tree is the only significant tree to the whole length of Beryl Court and provides a significant contribution to the local character.
4. The tree has caused extensive works for SA Water in clearing sewer pipes impacted by the ingress of roots, which affects the amenity of the residents in No.3, 4, and 5 Beryl Court. The roots have damaged the SA Water infrastructure by cracking the sewer pipes (as noted in their maintenance report). The pipework, due to its age, is likely segmented terracotta pipework from the dwelling(s) through to the main service points in the middle of the Cul-de-sac. This pipework will present an ongoing issue regarding tree root blockages. The newer dwelling at No.5 would have been constructed with PVC sewer pipes which can be sealed; however, even No.5 has had root blockage issues which has occurred at some point after the PVC has terminated (near the road gutterline).
5. The concrete driveway to No.4 has been extensively damaged as a result of the tree roots – refer to attached photographs.
6. The gutter to the roadway directly adjacent to the tree has been lifted and broken as a direct result of the tree roots – refer to photographs.
7. The tree does pose an issue for the power lines running from the utility pole on the boundary of No.4 and 5. Although there is no evidence of power lines being impacted by the tree, it should be noted that a falling branch could easily come into contact with the power lines and cause a fire hazard or disruption to power supply. This would affect the amenity of No.4 and 5 as a minimum.

CONCLUSION

To conclude:

1. There is no direct or quantifiable evidence that the tree has resulted in damage to the buildings. The highly reactive soil in the area will often give rise to cracking in buildings; however, it is not possible to apportion how much movement is tree related or soil related.
2. The tree has had a direct impact on damaging the driveway to No.4 and the adjacent gutterline to the verge. These will likely worsen over time if the tree remains. The amenity of No.4 has been detrimentally impacted by the tree.
3. The tree has had a direct impact on the SA Water infrastructure by damaging the pipework and blocking the pipework with roots affecting the amenity of No.3, 4 and 5. This root problem has been addressed many times over the last few years - 7 call-outs since late 2019. This will continue to be an ongoing problem and will worsen as the pipework becomes increasingly damaged with every successive visit.
4. The tree is unique to the street and provides a contribution to the local character.
5. The tree poses a potential risk to power supply and a potential fire hazard.

It is not commonplace for this office to recommend the removal of trees (based on the merits of each site investigated); however, the removal of the tree in this instance is recommended. Although the tree is significant to the character of the street and is basically healthy in nature, the owners of No.3, 4 and 5 have suffered ongoing loss of

important amenity (a properly functioning sewer system) for an extended period. In addition, No.4 has a loss of amenity with a poor condition driveway and street kerbing that has been impacted directly by the tree in question. It is unlikely that SA Water is going to upgrade their sewer to a fully sealed PVC system in the near future, so the source of damage (tree) will need to be removed.

It should be noted that the removal of trees can also have an impact on soil movement by eliminating the sources that remove soil moisture. Consequently, soil may 'wet up' more than it has in some time and thus soil heave can result. The owner must be made aware of this fact and any building movement that may result after tree removal is not the responsibility of the Local Council Authority.

If you have any further queries or some points need clarification, please contact me on mobile 0414 978 762 or email conceptio@bigpond.com.

Yours Sincerely,

PETER GRAHAM B.App.Sc (Bldg) B.E. (Civil)(Hons) MIEAust BLD 184619



DIRECTOR
CONCEPTIO Pty. Ltd.

APPENDIX A



PHOTO 1 – View of River Red Gum on council verge adjacent 4 Beryl Court, Modbury. The tree is approximately 17m high with a 20m diameter canopy and has a circumference of 3020mm measured 1000mm from the base. The zone of root influence would likely impact the dwellings at 3, 4, and 5 Beryl Court.



PHOTO 2 – Closer view of tree base. Notice the cracking to the driveway at No.4.

APPENDIX A



PHOTO 3 – View of canopy showing the utility pole in the background. Any potential falling branches are not going to make any significant contact with any of the dwellings; however, the power lines are potentially at risk of falling branches.



PHOTO 4 – There is localised heave to the gutter and roadway adjacent to No.4 which appears to be as a direct result of the tree and has not been repeated elsewhere on the cul-de-sac – refer to photograph 9. The cracking in the bitumen propagates from the gutterline out towards the water/sewer service points (Gatic covers) in the roadway – refer to photographs 6, 7, and 8.

APPENDIX A



PHOTO 5 – A sideview of the propagating crack shown in photograph 4. There is heave in the road and gutter at this location.



PHOTO 6 – The cracking in the bitumen extends to the SA Water sewer inspection point. There has been extensive callouts for SA Water (particularly over the last 3 years) for No. 3, 4, and 5 Beryl Court, due to tree roots blocking and clogging drains. It has also been noted by SA Water that broken pipework was discovered; however, it is unclear whether this has been repaired.

APPENDIX A



PHOTO 7 – Further cracking to the road propagating from the direction of the tree towards the road service points. The remaining road surface is uncracked. It was indicated that both the connection points and the main pipework for the sewer had been impacted by tree roots at some stage. The cracking to the road could be a direct result of roots that are relatively close to the surface.



PHOTO 8 – The patches to the road indicate access to underground services for some form of maintenance or repair – details were not stated on the SA Water maintenance schedule.

APPENDIX A



PHOTO 9 – Another SA Water inspection point further down Beryl Court which appears in good condition with no localised cracking evident. This inspection point is positioned away from the zone of tree root influence and there are no significant trees located within close proximity. Part of Beryl Court has had the bitumen redone as per the colour contrast.



PHOTO 10 – A large section of the bitumen towards the end of Beryl Court appears to have been cut out and replaced – time frame and reason not known. Generally, the bitumen covering appears to have functioned satisfactorily without any cracking or settling etc. The gutters to the cul-de-sac appear to be the original gutters.

APPENDIX A



PHOTO 11 – The concrete driveway to No.4 has been severely broken immediately adjacent to the tree. As you move further away from the tree the condition of the concrete driveway improves. Refer also to photograph 2.



PHOTO 12 – Crossover at No.4 Beryl Court. The last panel of the driveway doesn't even discharge rainfall runoff adequately to the road due to a backfall.

APPENDIX A



PHOTO 13 – The driveway to No.3 Beryl Court is in good condition generally. It is not known whether this is the original driveway; however, it is certainly an old driveway, that is, not recently laid. Moving further away from the tree has had a noticeable impact on the state of the driveway.



PHOTO 14 – View of the kerbing between No.3 and No.4. Although some cracking exists in the gutter (not uncommon) there hasn't been much by way of vertical displacement of the gutter.

APPENDIX A



PHOTO 15 – The driveway to No.5 is quite new in comparison and has not suffered any noticeable movement. The crossover is in reasonably good condition also with only some minor cracks.



PHOTO 16 – A view of No.5 dwelling which is substantially newer than No.3 and No.4. It is estimated that the dwelling is somewhere around 10 years old. If this is the case the raft footing would have been designed to AS2870-2011 Residential Footings which takes into consideration the influence of large trees on soil movement with regards to the raft slab footing design.

APPENDIX A



PHOTO 17 – The dwelling at No.4 was constructed in 1975. Although not inspected internally it is likely to be solid masonry construction, with strip footings and timber floors and a concrete tiled roof. Externally the dwelling demonstrates minimal movement given its age, and the roof lines and gutter lines do not indicate any building undulations.



PHOTO 18 – The dwelling at No.3 was likely built around the mid 1970's and reflects a similar construction approach to No.4 including the use of arches. Arches tend to be susceptible to cracking at the apex if the building undergoes reasonable movement – there was no distinct cracking noted. The roof lines and gutter lines appeared in good condition with no building undulations noted.

08/09/2023, 13:56 Planning Consent - 23018419: 3 Beryl Ct Modbury SA 5092 + 1 more location(s) - Development Application Processing

Planning Consent - 23018419: 3 Beryl Ct Modbury SA 5092 + 1 more location(s)

- Summary
- Documents
- Fees
- RFIs
- Referrals
- Public Notification
- Planning Info
- Conditions and Notes
- Clocks
- Decision
- Appeals
- Related Actions

Help for this section

< Development application 23018419

Internal Referrals

Requested By	Referral Type	Requested Date	Respondee	Response Date	Status	Actions
Justine Perry	Arboriculture – Street Tree	07/07/2023	Tony Hall	10/07/2023	Responded	View

Response Details

Request:
Hi Tony
Could you please take a look at this application for me.
The plans propose to remove a significant street tree. A report has been provided, please review and provide comment whether Council could support the removal of this tree.

Please note the file note that Felicity Birch and Ryan McMahon have been involved in this one (sounds like its potentially quite political).

Thanks

Justine

Response:
Hi Justine, I have read the report as requested. The tree has had extensive pruning works done using one of Council's contractors 31/5/2023 in line with a recent complaint from No.4 Beryl Ct where the tree removal was refused. The tree has had a 30% crown reduction and was pruned to reduce horizontal branch extension, this will reduce branch leverage and should reduce the likelihood of future branch failures. This tree is healthy and appears structurally sound after pruning. The roots issue on private property has been repaired by the property owner (No.3). Once pipes are repaired professionally it is rare there are further issues as the leaking water/ nutrient source dries up and vegetation roots can no longer proliferate in these areas.
The issue with the SA Water infrastructure is generally old pipes that are in need of replacement due to age and ground movement. However it is more cost effective for Sa Water to flush the pipes as a temporary solution rather than repair them. My understanding is Council has not been approached by SA Water stating there are to many issues in line with this Council owned tree, nor have they requested its removal.
The tree does not meet the criteria for removal against Councils tree management policy.

Regards Tony Hall
Acting City Arborist
Diploma of Arboriculture

10/07/2023

Close

REPORT NO: CAP.Changes to Delegations/2022

RECORD NO: D23/73808

TO: COUNCIL ASSESSMENT PANEL MEETING - 19 SEPTEMBER 2023

FROM: Deana Taglierini
Governance Advisor

SUBJECT: COUNCIL ASSESSMENT PANEL - UPDATED DELEGATION CHANGES TO INSTRUMENT C

SUMMARY

Under the Planning Development and Infrastructure Act 2016 (PDI Act), the Council Assessment Panel (CAP) as a relevant authority will need to set delegations in relation to daily administrative tasks.

This report allows the Panel to consider an updated list of matters that require delegation to ensure the timely processing of matters under the PDI Act.

1. BACKGROUND

The review is being undertaken from legislative amendments and reviewing of current delegations.

This instrument of delegation from CAP to the Assessment Manager is known as Instrument C.

The delegations set out in Instrument C have since been updated to include minor alterations following further review by the Local Government Association (LGA) and Norman Waterhouse Lawyers as well as some new delegations as part of legislative amendments. The proposed changes to the template can be found in Attachment 1.

2. DELEGATIONS

CAP as Relevant Authority

As Panel Members would be aware, The Act provides that an Assessment Panel will be a relevant authority (planning and building) in relation to a proposed development that is to be undertaken within the area of a council, unless another authority is prescribed by the Act or Regulations (section 93 of the Act).

The Assessment Panel is designated the relevant authority for:

- Performance assessed development under section 107 of the Act where notice of the application must be given under section 107(3) of the Act.
- Development which involves the assessment of the Building Rules under section 99 of the Act where a building certifier has not been nominated.

3. CONCLUSION

These minor amendments will ensure all functions of the CAP under the PDI Act are captured under the recently approved delegation framework, and it is recommended that CAP endorse the delegations as put forward by the LGA in order to ensure timely and legally compliant processing of applications under the PDI Act.

4. RECOMMENDATION

- A. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed update to the Instrument of Delegation contained in Attachment 1 of the report titled “Council Assessment Panel - Updated Delegation Changes to Instrument C” and dated 19 September 2023 to the person(s) occupying the positions of Assessment Manager (or person(s) ‘acting’ in the above mentioned positions) except where otherwise indicated in the Attachment, subject to the conditions and/or limitations, if any, specified herein.
- B. Such powers and functions may be further delegated by the Assessment Manager (or persons occupying the positions) in accordance with Section 100(2)(c) of the Planning Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.

Attachments

1. Instrument C – Instrument of Delegation under the Planning Development and Infrastructure Act 2016 - August 2023.....56

Report Authorisers

Deana Taglierini Coordinator, Governance	8397 7263
Nathan Grainger Manager City Development	8397 7200
Michael Pereira General Manager Community Services	8397 7377

City of Tea Tree Gully

NEW Provisions

#	Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
682442	Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning and Design Code and Practice and Directions of Powers of an Assessment Panel (Instrument C)	s128(1) and (2)	17. Variation of Authorisation 17.1 The power pursuant to Sections 128(1) and (2) of the PDI Act to determine an application seeking the variations of a development authorisation previously given under the PDI Act (including an application seeking the variation of a condition imposed with respect to the development authorisation).	Development Services Administration Officer, Development Services Officer, Graduate Planning Officer, Development Compliance Officer, General Manager City Operations, General Manager Corporate Services, Building Officer, Graduate Building Officer, Senior Planning Officer, Assessment Manager (under PDI Act 2016), Team Leader Planning, Team Leader Building and Compliance, Trainee Building Officer, General Manager Community Services, Planning Consultant, Chief Executive Officer, Manager City Development, Senior Building Officer, General Manager Strategy & Finance, Planning Officer	_____
682446	Planning and Design Code	PD Code	54. Administrative Terms and Definition 54.1 The power pursuant to and in accordance with Part 8 of the PD Code to for the purposes of Table 5 – Procedural Matters (PM) – Notification and the definition of 'Excluded Building', form the opinion that: 54.1.1 the building, structure or landscape feature (or	Development Services Administration Officer, Development Services Officer, Graduate Planning Officer, General Manager City Operations, General Manager Corporate Services, Senior Planning Officer, Assessment Manager (under PDI Act 2016), Team Leader	_____

City of Tea Tree Gully

#	Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
			part thereof) does not contribute to the building or features of identified heritage value within the State Heritage Area; 54.1.2the building (or part thereof) does not demonstrate the historic characteristics as expressed in the Historic Area Statement.	Planning, Trainee Building Officer, General Manager Community Services, Planning Consultant, Chief Executive Officer, Manager City Development, General Manager Strategy & Finance , Planning Officer	
682443	Planning and Design Code	PD Code	52.Procedural Matter 52.2The power pursuant to and in accordance with the PD Code to determine that the variation to one or more corresponding exclusions prescribed in Column B is minor in nature and does not require notification.	Development Services Administration Officer, Development Services Officer, Graduate Planning Officer, General Manager City Operations, General Manager Corporate Services, Senior Planning Officer, Assessment Manager (under PDI Act 2016), Team Leader Planning, Trainee Building Officer, General Manager Community Services, Planning Consultant, Chief Executive Officer, Manager City Development, General Manager Strategy & Finance , Planning Officer	
682445	Planning and Design Code	PD Code	53. Procedural Referrals 53.9 The power pursuant to and in accordance with the PD Code to form the opinion development materially affects the context within which the State Heritage Place is situated.	Development Services Administration Officer, Development Services Officer, Graduate Planning Officer, General Manager City Operations, General Manager Corporate Services, Senior Planning Officer, Assessment Manager (under PDI Act 2016), Team Leader Planning, Trainee Building Officer, General	

Page 2 of 3

07 August 2023

City of Tea Tree Gully

#	Delegation Source	Provision	Item Delegated	Delegate	Conditions & Limitations
				Manager Community Services, Planning Consultant, Chief Executive Officer, Manager City Development, General Manager Strategy & Finance , Planning Officer	
682444	Planning and Design Code	PD Code	53. Procedural Referrals 53.8 The power pursuant to and in accordance with the PD Code to form the opinion the variation to an application is minor in nature or would not warrant a referral when considering the purpose of the referral.	Development Services Administration Officer, Development Services Officer, Graduate Planning Officer, General Manager City Operations, General Manager Corporate Services, Senior Planning Officer, Assessment Manager (under PDI Act 2016), Team Leader Planning, Trainee Building Officer, General Manager Community Services, Planning Consultant, Chief Executive Officer, Manager City Development, General Manager Strategy & Finance , Planning Officer	