

# Minutes of the Meeting of the Council Assessment Panel

Held on Monday, 28 June 2021, at 5.30 pm

Colonel Light Room, Town Hall, Adelaide

**Present –** Presiding Member – Mr Mark Adcock  
 Panel Member – Councillor Arman Abrahamzadeh  
 Specialist Members – Mr Marc Duncan, Ms Colleen Dunn &  
 Prof Mads Gaardboe

## Opening and Acknowledgment of Country

At the opening of the Panel Meeting, the Presiding Member stated:

‘The City of Adelaide Council Assessment Panel acknowledges that we are meeting on traditional Country of the Kaurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kaurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.’

## Confirmation of Minutes

### Item 1 – Confirmation of Minutes – 24 May 2021 [CAP]

#### Decision

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 24 May 2021, be taken as read and be confirmed as an accurate record of proceedings.

## Declaration of Conflict of Interest

DA/516/2020 – Ms Colleen Dunn

## Applications assessed under Development Act 1993 (SA) with Representations [Two]

### Item 3.1 – 135-137 MacKinnon Parade, North Adelaide SA 5006, DA/516/2020 [DA] (SG) [CAP]

#### DA/516/2020 - Declaration of Conflict of Interest

Ms Colleen Dunn disclosed a pecuniary interest in DA/516/2020 – 135-137 MacKinnon Parade, North Adelaide SA 5006, as the applicant has been a conveyancing client for some years and therefore also familiar with the property, left the meeting held in the Colonel Light Room at 5.33pm and did not take part in any hearings, deliberations or decision of the Panel on the matter.

### Representations Listed to be Heard

Representors:

Ms Diane Slattery – 4/125 MacKinnon Parade, North Adelaide *[Not Attending]*

Applicant:

Mr David Burton of Williams Burton Leopardi on behalf of the applicant

### Decision

That the development, the subject of the application from Mr M H Hender for demolition of existing building and construction of two level dwelling with basement and roof terrace at 135-137 MacKinnon Parade, North Adelaide as shown on plans designated DA/516/2020:

1. Is not seriously at variance with the provisions of the Development Plan and
2. Be GRANTED Development Plan Consent, subject to the following conditions and advisory notes:

### Conditions

1. **The Development shall be undertaken in accordance with the plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent as listed below:**

**Drawings prepared by Williams Burton Leopardi as follows:**

- 4.1 Site Plan, dated 14 December 2020
- 4.2 Street Elevation, dated 14 December 2020
- 4.4 Ground Floor Plan, dated 14 December 2020
- 4.4 First Floor Plan, dated 14 December 2020
- 4.4 Roof Terrace Plan, dated 14 December 2020
- 4.4 Basement Plan, dated 14 December 2020
- 4.5 Front Façade View 1, dated 14 December 2020
- 4.5 Front Façade View 2, dated 14 December 2020
- 4.5 Front Façade View 3, dated 14 December 2020
- 4.6 North and South Elevation, dated 14 December 2020
- 4.6 East and West Elevation, dated 14 December 2020
- 5.4 Stormwater Drainage, dated 14 December 2020
- 5.5 Ground Floor Landscape Plan, dated 14 December 2020
- 5.5 First Floor Landscape Plan, dated 14 December 2020
- 5.5 Roof Terrace Landscape Plan, dated 14 December 2020

**to the reasonable satisfaction of the Council except where varied by conditions below.**

**Reason:** *To ensure that the Development is undertaken in accordance with the plans and details submitted.*

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2. **External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the Council.**

**Reason:** *To ensure a high standard of materials and finishes used in the finished presentation of the Development.*

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3. **The landscaping depicted on the plans shall be maintained in good health and condition at all times to the reasonable satisfaction of the Council. Any dead or diseased plants or trees shall be replaced forthwith to the reasonable satisfaction of the Council.**

**Reason:** *To provide amenity for the occupants of buildings and those of adjacent buildings through the provision of landscaping as part of the Development.*

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4. **The applicant or the person having the benefit of this consent shall ensure that all storm water run-off from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run-off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Council.**

**Reason:** *To ensure that stormwater runoff does not have an adverse impact upon the public realm.*

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5. **The obscured glazing/screening on the east, west and north elevations depicted on the plans granted consent described as 4.6 North & South Elevation and 4.6 East & West Elevation, dated 14 December 2020, shall be installed prior to the occupation or use of the development and thereafter shall be maintained to the reasonable satisfaction of the Council at all times.**

**Reason:** *To ensure that the Development does not unreasonably diminish the privacy of residents in adjoining properties.*

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### **Advisory Notes**

#### **1. Building Consent for Approval**

Development Approval will not be granted until Building Rules Consent has been obtained. A separate application must be submitted for such consent. No building work or change of classification is permitted until the Development Approval has been obtained.

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## 2. Expiration Time of Approval

Pursuant to the provisions of Regulation 48 under the Development Act 1993, this consent / approval will lapse at the expiration of 24 months from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 24 months, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

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## 3. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

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## 4. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria).

Please visit <https://www.cityofadelaide.com.au/transport-parking/parking/residential-parking/> or contact the Customer Centre on 8203 7203 for further information.

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## 5. Damage to Council's Footpath/Kerbing/Road Pavement

Section 779 of the Local Government Act provides that where damage to Council footpath / kerbing / road pavement / verge occurs as a result of the development, the owner / applicant shall be responsible for the cost of Council repairing the damage.

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## 6. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval.

The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at [www.cityofadelaide.com.au/business/permits-licences/city-works/](http://www.cityofadelaide.com.au/business/permits-licences/city-works/)

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.);
- Description of equipment to be used;
- A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.

Applications will require a minimum notice period of two to five business days, depending on the nature of work, and can be lodged online via <https://www.cityofadelaide.com.au/business/permits-licences/city-works/>

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Ms Colleen Dunn re-entered the Colonel Light Room at 5.37pm

**Item 3.2 – 157-159 Barnard Street, North Adelaide SA 5006, DA/157/2021 [DA] (PC) [CAP]**  
**Representations Heard / Listed to be Heard**

Representors:

Mr Tom Game (Botten Levinson Lawyers) on behalf of Ms. Patricia Sourdin and Mr. Richard Pomfret – 30 Gibbon Lane, North Adelaide  
Dr. Kar Wah Ng and Mrs. Latrina Ng – 149-155 Barnard Street, North Adelaide  
*[Not Attending]*

Applicant:

Ms. Rebecca Rutschack of URPS and Mr. Chris Dimond on behalf of Genworth Group

The Presiding Member acknowledged correspondence from Botten Levinson Lawyers acting for Ms. Patricia Sourdin and Mr Richard Pomfret was provided under separate e-mail to Panel Members prior to the meeting.

**Decision**

That the development, the subject of the application from Genworth Group to construct a two storey detached dwelling with basement and swimming pool at 157-159 Barnard Street, North Adelaide SA 5006 as shown on plans designated DA/157/2021:

1. Is not seriously at variance with the provisions of the Development Plan and
2. Be GRANTED Development Plan Consent, subject to the following conditions and advisory notes:

**Conditions**

1. **The Development shall be undertaken in accordance with the plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent as listed below:**
  - **Drawings prepared by Genworth Group – Job No. 3357 – Revision C as follows:**
    - **Site Plan, dated 11 June 2021**
    - **Ground Floor Plan, dated 11 June 2021**
    - **First Floor Plan, dated 11 June 2021**
    - **Basement Plan, dated 11 June 2021**
    - **Landscape Plan, dated 11 June 2021**
    - **Elevations 1, dated 11 June 2021**
    - **Elevations 2, dated 11 June 2021**
    - **Fence Elevations 1, dated 11 June 2021**
    - **Fence Elevations 2, dated 11 June 2021**

- **The Acoustic Box Pty Ltd – Ventilated Acoustic Enclosure – Noise Emission Assessment – received 11 June 2021**

to the reasonable satisfaction of the Council except where varied by conditions below.

**Reason:** *To ensure that the Development is undertaken in accordance with the plans and details submitted.*

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2. **External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the Council.**

**Reason:** *To ensure a high standard of materials and finishes used in the finished presentation of the Development.*

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3. **The applicant or the person having the benefit of this consent shall ensure that all storm water run-off from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run-off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Council.**

**Reason:** *To ensure that stormwater runoff does not have an adverse impact upon the public realm.*

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4. **The opaque glazing on the east, south and west elevations depicted on the plans granted consent described as Elevations 1 and Elevations 2 shall be installed prior to the occupation or use of the development and thereafter shall be maintained to the reasonable satisfaction of the Council at all times.**

**Reason:** *To ensure that the Development does not unreasonably diminish the privacy of residents in adjoining properties.*

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5. **All pool plant shall be contained in an acoustic enclosure as described in the ventilated acoustic enclosure – noise emission assessment and to reasonable satisfaction of Council.**

**Reason:** *To ensure that the Development does not unreasonably diminish the visual and acoustic amenity of residents in adjoining properties.*

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### **Advisory Notes**

#### **1. Building Consent for Approval**

Development Approval will not be granted until Building Rules Consent has been obtained. A separate application must be submitted for such consent. No building work or change of classification is permitted until the Development Approval has been obtained.

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## 2. Expiration Time of Approval

Pursuant to the provisions of Regulation 48 under the Development Act 1993, this consent / approval will lapse at the expiration of 24 months from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 24 months, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

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## 3. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

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## 4. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria).

Please visit <https://www.cityofadelaide.com.au/transport-parking/parking/residential-parking/> or contact the Customer Centre on 8203 7203 for further information.

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## 5. Damage to Council's Footpath/Kerbing/Road Pavement

Section 779 of the Local Government Act provides that where damage to Council footpath / kerbing / road pavement / verge occurs as a result of the development, the owner / applicant shall be responsible for the cost of Council repairing the damage.

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## 6. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval.

The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at [www.cityofadelaide.com.au/business/permits-licences/city-works/](http://www.cityofadelaide.com.au/business/permits-licences/city-works/)

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.);
- Description of equipment to be used;
- A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.

Applications will require a minimum notice period of two to five business days, depending on the nature of work, and can be lodged online via <https://www.cityofadelaide.com.au/business/permits-licences/city-works/>

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#### Applications assessed under PDI Act 2016 (SA) with Representations

Nil

Mr Marc Duncan left the Colonel Light Room at 6.13pm

#### Applications assessed under Development Act 1993 (SA) without Representations [One] Representation Request Granted and Heard

Representors:

Ms Wendy Bell of 46 MacKinnon Parade, North Adelaide

Applicant:

Mr Jaak Oks – 48 MacKinnon Parade, North Adelaide [*Not Attending*]

#### **Item 5.1 – 48 MacKinnon Parade, North Adelaide SA 5006, DA/431/2020 [DA] (PC) [CAP]**

##### **Decision**

That the development, the subject of the application from Mr J Oks for Internal and external alterations including construction of ground and first floor additions at front of existing dwelling, first floor rear balcony and detached two storey addition at rear at 48 MacKinnon Parade, North Adelaide SA 5006 as shown on plans designated DA/431/2020:

1. Is not seriously at variance with the provisions of the Development Plan and
  2. Be REFUSED Development Plan Consent for the following reasons:
    - The scale, area, height and appearance of the proposed carport will detract from the character of the streetscape and is not in accordance with Council Wide PDC 41(a)(c)(d)
    - Landscaped Open Space does not achieve the requirement outlined in PDC 6 of Kentish Arms Policy Area 11
    - Overlooking does not satisfy Council Wide PDCs 35 and 36
    - Inadequate and contradictory information on proposal plans.
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#### Applications assessed under PDI Act 2016 (SA) without Representations

Nil

#### Other Applications

Nil



## Council Assessment Panel – Meeting Minutes



Other Business listed in Agenda

Nil

Other Business raised at Panel Meeting

Nil

Next Meeting

Monday 26 July 2021

Closure

The meeting closed at 6.55 pm.

**Mr Mark Adcock**  
**Presiding Member**  
**City of Adelaide Council Assessment Panel**

Documents attached for reference.

Item 3.2 – DA/157/2021 - 157-159 Barnard Street, North Adelaide SA 5006 – Correspondence distributed separately.

Our ref: JRB/221176

23 June 2021

Mr P Chrysostomou  
Planner - Development Assessment  
City of Adelaide  
GPO Box 2252  
ADELAIDE SA 5001

**By email: p.chrysostomou@cityofadelaide.com.au**

Dear Phil

**DA157/2021 - 157 Barnard Street, North Adelaide**

We confirm that our firm acts for Patricia Sourdin and Richard Pomfret in relation to the abovementioned development application (**the DA**).

As you know, our clients (in their capacity as the owners and occupiers of the local heritage place listed residence situated at 30-32 Gibbon Lane, North Adelaide) lodged a representation objecting to the proposed development in the form lodged with the DA.

To be clear, our clients are not opposed in principle to the construction of a dwelling on the land situated at 157 Barnard Street, North Adelaide (**the subject land**). They are, however, opposed to the proposed development in the form proposed in the DA.

In an endeavour to better outline their concerns to the applicant, our clients have met with the applicant's architect on a number of occasions since lodging their representation, including at our clients' land and at the subject land. Those meetings have been held in good spirit and faith and, relevantly, have been productive in reducing the extent of our clients' concerns.

The purpose of this letter is to advise you in advance of the Council Assessment Panel (**CAP**) meeting scheduled for 28 June 2021 about:

- what my clients understand has been agreed with the applicant (which, they understand will be reflected in amended plans to be lodged with the Council); and
- what remains of concern to my clients about the proposed development.

**1. Agreed amendments**

**1.1 The existing brick wall**

It has, we understand, been agreed between our clients and the applicant, that the proposed development seeks the retention of:

Level 1 Darling Building  
28 Franklin Street, Adelaide  
GPO Box 1042, Adelaide SA 5001  
t. 08 8212 9777  
e. info@bllawyers.com.au  
[www.bllawyers.com.au](http://www.bllawyers.com.au)

- the existing brick wall located towards the rear of the western boundary of the subject land. That brick wall is more particularly shown on the drawing titled "Fence Elevations 2" (being Job No. 3357; Drawing No. SK11 dated 11 June 2021) (**the existing brick wall**).
- the associated retaining wall on the subject land running parallel and close to the brick wall (**the existing retaining wall**);
- the retention of the timber screen that presently sits on top of the existing brick wall and runs for its entire length (**the existing timber screen**).

The existing retaining wall is shown on proposal plan titled "Retaining Fence", (being Job No. 3357' drawing no. SK17 dated 18 June 2021);

The existing timber screen is shown on the abovementioned drawing titled "Fence Elevations 2".

The location of the existing brick wall is, in our view, not clearly shown on the drawing titled "Site Plan" (being Job No. 3357; Drawing No. SK02 dated 11 June 2021). The existing brick wall appears there to be described (in the Fence Schedule) as "Fence 1" and described as "existing fence maintained". However, when one looks to the site plan itself, it is unclear where Fence 1 begins and where Fence 2 ends. It could also be better described in the Fence Schedule as "existing brick wall maintained (together with existing timber screen)".

We believe the proposal plans need to be amended to "tidy up" the abovementioned ambiguities. Further, should the proposed development be approved by the CAP, we believe it important that the CAP impose, as a specific condition of development plan consent, a condition requiring the retention of the existing brick fence, the existing timber screen and the existing retaining wall.

## 1.2 Fence 2

The applicant has agreed that our clients' existing iron fence and ivy, which runs from the northern end of the existing red brick wall in a northerly direction, is to be retained. On the subject land, adjacent our client's existing iron fence, the applicant has agreed to install a new 1.8m Colorbond fence atop the existing retaining wall at ground level. Our clients request that the plans be updated to incorporate this amendment and that a notation to this effect be added to the proposal plans comprised in drawing titled "Site Plan" (being Job No. 3357; drawing No. SK02 dated 11 June 2021).

## 1.3 The roof pitch

The pitch of the proposed roof has been modified, and that modified roof pitch (i.e., as it relates to the central western elevation) has changed from 40 degrees to 15 degrees. That modification is referenced in the drawings titled "Elevations 2" (being Job No. 3357; drawing No. SK09 dated 11 June 2021) and drawing titled "Fence Elevations 1" (being Job No. 3357; drawing No. SK10 dated 11 June 2021).

#### 1.4 Sun shade canopies

The applicant has agreed to incorporate into the proposal plans shading canopies/awnings to the upper level west facing windows. A notation to that effect has been added to the proposal plans comprised in drawings titled "Elevations 2" (being job No. 3357; drawing SK09 dated 11 June 2021), and drawing titled "First Floor" (being job No. 3357; drawing SK04 dated 11 June 2021). Our client believes the applicant should, as part of the proposal plans, provide a detail plan of the proposed sun shade canopies/awnings.

#### 1.5 Visibility of the solar panels

In the original plans, the proposed solar panels were, we understand, not visible (when viewed from the west looking east) because of the pitch of the roof of the central western elevation (namely, 40 degrees). However, with the reduction in the pitch for that element of the proposed building to 15 degrees, our clients became concerned about the solar panels being visible from their land. Following a recent meeting between our clients and the applicant's architect, the applicant's architect has produced a further plan, titled "Rain Water Tanks, Solar, Sight lines" (being job No. 3357; drawing No. SK18 dated 18 June 2021) that, amongst other things, provides a detail relating to visibility of the solar panels. We can advise that our clients, based on this particular detail, are satisfied that solar panels will not unreasonably impact on their amenity.

#### 1.6 Visibility of the rain water tanks

The proposed development proposes the location of four rainwater tanks near to the western boundary of the subject land. Those tanks are, for example, depicted on the proposal plan titled "Elevations 2".

As with the issue of the visibility of the solar panels, the applicant's architect has, on the abovementioned plan titled "Tanks, Solar and Sight lines" provided a detail of the visibility of the rainwater tanks from our clients' land. We can advise that our clients are satisfied, based on that detail, that the rainwater tanks will not be inappropriately visible from their clients' land.

#### 1.7 Overlooking from the lower level west facing dining room windows of the proposed development.

Our clients also had concerns about this issue. Again, the applicant's architect has, in the plan titled "Tanks, Solar, Sight lines", provided a detail of the impact of the lower level dining room windows.

We can advise that our clients are satisfied, based on this detail, that there will be no unacceptable overlooking of their land from the lower level dining room windows of the proposed development.

## 2. Other concerns

### 2.1 The golden elm tree and the footings design

When considered in isolation of other matters, our clients welcome the redesign of the footing for the rear portion of the proposed residence for the purposes of ensuring that the proposed residence does not de-stabilise the existing brick wall (refer the plan titled "Retaining and Fence" (being job No. 3357; drawing No. SK17 dated 18 June 2021). However, our clients are concerned about the impact of the construction of the proposed residence (including earth works associated with that construction) on the health of the golden elm tree situated towards the rear of the property at 28 Gibbon Lane, North Adelaide (**the elm**). The elm tree is a substantial (and healthy) tree that provides significant amenity value to the locality including, in particular, the occupants of the property at 28 Gibbon Lane, our clients at 30-32 Gibbon Lane and the subject land itself at 157 Barnard Street, North Adelaide.

The elm is not, for technical reasons, a "significant tree" or a "regulated tree". That is because it is located within 10m of an existing dwelling. That it is not a regulated tree or a significant tree does **not** mean that whether it will be impacted adversely by the proposed development is not a relevant town planning consideration. It, in our submission, is clearly a relevant town planning consideration. The Development Plan places, unsurprisingly, value on the retention of mature vegetation (and the establishment of new vegetation). For example, Objective 2 for the North Adelaide Historic (Conservation) Zone provides (amongst other things) that:

*Development compatible with the heritage values and historic character of the Zone achieved by:*

.....

- (b) ***maintaining a regular allotment pattern and orientation of buildings to public roads and incorporates high standards of design, building materials and landscaping to complement the:***
- (iv) ***established environmental quality of public and private landscaped open spaces and the adjacent Park Lands; (our emphasis)***

In short, trees are an important part of the character of an area. For this reason, it is strongly contended that it is necessary for the CAP to turn its mind to the question of whether the proposed development will adversely impact on such an important tree.

Because our clients are concerned to ensure that the proposed development not impact adversely on the elm, they sought, and have obtained, advice from an expert arborist and botanist, namely Michael Palamountain of Adelaide ARB Consultants. His initial advice is set out in the form of an email and an associated report to our client, Patricia Sourdin, dated 16 June 2021 and then, following some feedback from the applicant's architect, in a further email from him to our client, Patricia Sourdin, dated 19 June 2021. For your information, and consideration, I **attach** copies of those two emails and the report referred to in the first of the two emails. Relevantly, you will note from reading and considering both of the two pieces of advice from Michael Palamountain that he considers the proposed footprint of the proposed residence will encroach into the

structural root zone of the elm tree and that, accordingly, the proposed development needs to be modified such that the proposed building footprint is completely outside of the structural root zone (meaning no earthworks, trenching or grade changes within the structural root zone).

It follows that unless such an adjustment is made to the proposed development, the elm tree will be adversely impacted by the proposed dwelling and, should that occur, serious consequences could follow.

In the event that the CAP is not persuaded to adopt the recommendation of Michael Palamountain that the footprint of the proposed residence be modified to avoid any encroachment into the structural root zone, we urge the CAP to adopt all other recommendation of Michael Palamountain contained in his 2 emails and report concerning the proposed works.

## 2.2 A footing design

The applicant has, in the abovementioned "Retaining and Fence" drawing depicted, at a general level, the type of footing proposed for the rear of the proposed residence. If despite our submissions above relating to the need to modify the footprint of the residence to safeguard the health of the elm, the CAP decides not to act on the recommendations of our clients' arborist, we believe the precise design of the proposed footing is critical. In the circumstances, we urge that the applicant be required to submit a detailed footing design of the relevant section of the proposed residence at this stage of the process (and for that design to be made the subject of a condition of development plan consent so that the building rules consent stage there is absolute clarity regarding what is required).

## 2.3 The visual bulk of the central west facing elevation of the proposed residence

The central west facing elevation of the proposed residence takes the form of a large two-storey building that is, but for the proposed incorporation of the awnings and the proposed location of a number of windows, largely unbroken in its mass. Put differently, there is not much articulation in the design.

Our clients' house (and internal floor plan) is orientated in such a fashion that it enjoys a very pleasant outlook to the east. That outlook now, with the proposed residence in its present form and at its proposed height, will have a serious impact on our clients' amenity. The proposed building (in the central western elevation) will have a height, when measured from the finished ground floor level to the upper floor ceiling, of 6.840m. That is a substantial height in itself. However, that height (and consequential mass) will be exacerbated by the fact that it appears from the proposal plans that the finished ground floor will sit above the ground level of the subject land by approximately 260mm, meaning the height from ground level to the upper ceiling is approximately 7.1m. Then, to compound the impact of the mass of the proposed building, my clients' land sits approximately 1.2m below the ground level of the subject land. That means the upper ceiling of the proposal sits approximately 8.3m above our clients' ground level. To complete the "picture" the height of the central western elevation of the building when measured from the roof ridge to our clients' ground level is



9.1m high. The height of the front western elevation of the building from ground level on the subject land to roof ridge is 8.8 metres high. If the ground level of adjoining property in that section is also about 1.2m lower, then the height of the building at that point is approximately 9.9m high.

As noted, the subject land (and our clients' land) are located in the North Adelaide (Historic) Conservation Zone. They are both, more particularly, located in the Hill Street Policy Area 1 of that Zone.

The provisions of the Zone and the Policy Area are instructive and decisive on the matter of height. Relevantly Zone PDC 7 provides:

*Development should **not** exceed the height prescribed for each Policy Area. The height of new buildings, including the floor to ceiling clearances of each level, should take reference from the prevailing building heights within the locality, with particular reference to adjacent Heritage Places. (our emphasis)*

PDC3 for the Policy area provides:

*Development should **not** exceed 2 building levels or locate a ceiling more than 6 metres above the median natural or finished ground level at any point or any part of a building (except for land identified as the Calvary Hospital site on Fig HS/1, the St Dominic's Priory College site on Fig HS/2 and the Helping Hand Aged Care site on Fig HS/3). (our emphasis)*

## Summary

Our clients are not opposed to the construction of a dwelling on the subject land. Despite good progress being made with some adjustments to the proposed development since our clients lodged their representation, there remains a number of significant concerns for our clients. In its present form, our clients are opposed to the proposal. In the circumstances, our clients, to be clear, maintain their opposition to the proposed development and, via their representative, will be speaking at the forthcoming CAP meeting.

We will provide a copy of this letter to the applicant's architect for his information.

Yours faithfully



**Jamie Botten**

**BOTTEN LEVINSON**

Mob: 0419 816 598

Email: [jrb@bllawyers.com.au](mailto:jrb@bllawyers.com.au)

From: Michael Palamountain [michaelp@adelaidearb.com.au](mailto:michaelp@adelaidearb.com.au)  
 Subject: Arboricultural Impact Assessment - tree at 28 Gibbon Lane, North Adelaide  
 Date: 17 June 2021 at 5:20 pm  
 To: Patricia Sourdin [patricia.sourdin@gmail.com](mailto:patricia.sourdin@gmail.com)

Patricia, Robert, and Christine

Following my assessment of the Golden Elm in the rear yard of 28 Gibbon Lane, North Adelaide, I have prepared some preliminary information for you (attached).

1. J196 - Tree Plotter Report 28 Gibbon Lane North Adelaide – this was generated by the data I entered into the Tree Plotter software while I was on site. This provides details on my observations of the tree and the information provided to me.
2. J196 - 28 Gibbon Lane Arb Impact Assessment – This is a CAD drawing where I use the base plan provided to me and determine the levels of encroachment into the Tree Protection Zone and Structural Root Zone for this tree.

Here is a summary of the key points.

- The tree in question is a Golden Elm located in the rear garden of 28 Gibbon Lane.
- The tree currently provides high levels of amenity, screening, shading and privacy to 28 and 30 Gibbon Lane.
- The tree has the potential to provide high levels of amenity, screening and shading from the hot afternoon summer sun to a portion of the dwelling and rear garden at 157-159 Barnard St.
- The preservation of this tree and the benefits it provides is in the interests of all surrounding property owners.
- The tree is not controlled as a regulated tree under the *Development Act 1993* or the *Planning, Development and Infrastructure Act 2016*.
- The tree does not appear in the register of Significant Trees prepared by the City of Adelaide in their *Development Plan* (under the Development Act 1993), or in the *Planning and Design Code* (Planning, Development and Infrastructure Act).
- I carried out an Arboricultural Impact Assessment of the proposed development on the subject tree in accordance with Australian Standard AS 4970 *Protection of trees on development sites*.
  - This assessment indicates that building encroachment forms 11% of the TPZ but is within the Structural Root Zone. This has taken into account the increased footing dimensions required to protect the retaining wall and common boundary fence as indicated on the *Retaining and Fence* drawing prepared by Genworth Group (SK17).
  - Additional paving works encroach further into the Tree Protection Zone by another 9.6%.
  - The total level of encroachment into the tree protection zone is 20.6%. This is expected to have a moderate impact on tree health.
  - As building works are within the structural root zone, tree stability may be compromised.
- Modifications to the proposal are recommended in an effort to preserve tree health, stability and the benefits the tree provides to surrounding landowners.
  - Modify building footprint to be outside SRZ. The larger footing system required to protect and retain the existing retaining wall would be acceptable in this scenario.
  - No earthworks, trenching or grade changes within SRZ.

- o Encroachment into TPZ should aim to be no more than 10-15% of TPZ area.
- o The rear garden should be landscaped to provide suitable growing conditions for tree and maintain existing levels.
- o Paving works should be installed above grade to reduce disturbance within TPZ.

Regards

**Michael Palamountain**  
**Senior Consulting Arborist**  
**B.Science, Dip.Hort.(Arboriculture)**  
**ISA Certified Arborist (AU0007A)**



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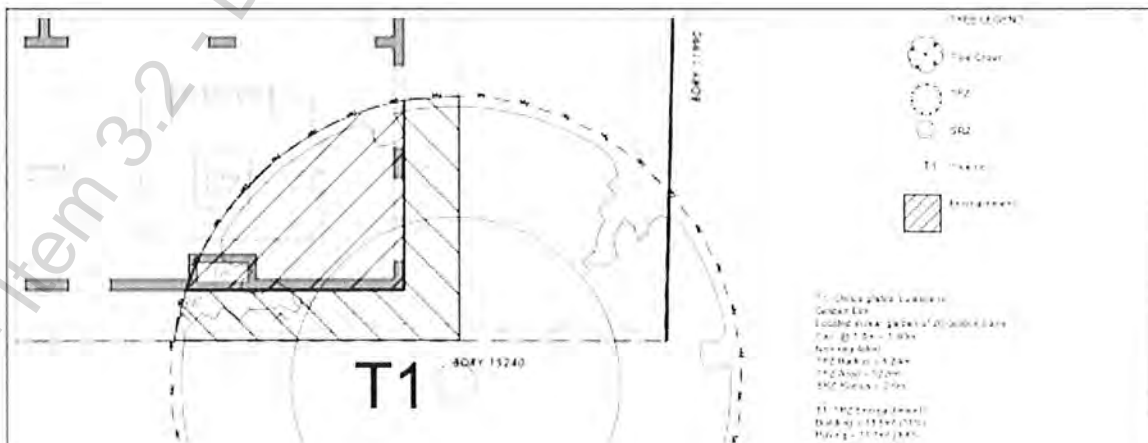
Please note – Michael works Mon-Tue-Wed.

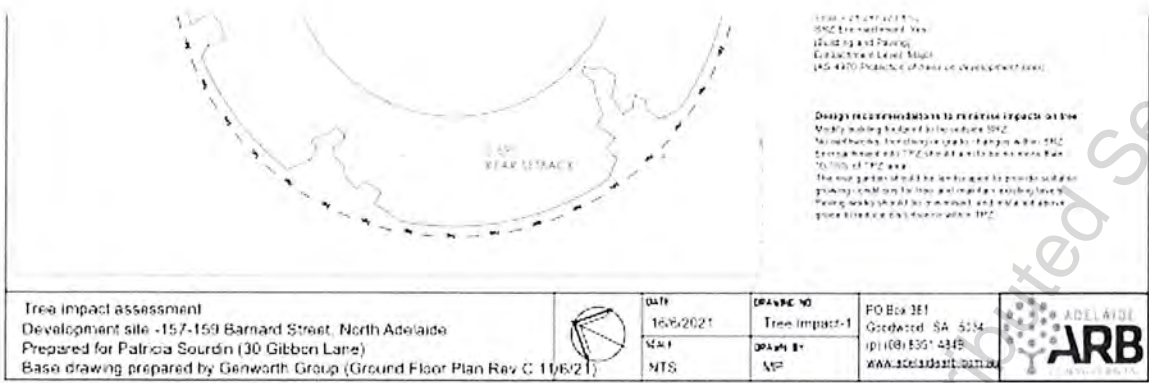
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J196-Tree  
 Plotter...MP.pdf





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Circumference 2:	
Circumference 3:	
Circumference 4:	
Circumference 5:	
Circumference 6:	160
Circumference Sum:	160
Number of Stems (Multi Calc):	52
DBH [cm]:	
DBH [cm] Stem 1:	
DBH [cm] Stem 2:	
DBH [cm] Stem 3:	
DBH [cm] Stem 4:	
DBH [cm] Stem 5:	
DBH [cm] Stem 6:	
Diameter at Root Flare (DRF) [cm]:	56

<b>Risk Assessment</b>	
Assessed Tree Part:	Branch
Tree part Assessed Description:	Possible
Likelihood of Failure:	Building, Ornamental Garden
Noted Targets:	
Add Targets:	
Likelihood of Impacting Target:	Low
Likelihood:	Unlikely
Consequence of Failure:	Significant
Risk Rating:	Low





**Construction**

Tree Protection Zone (TPZ) [m]: 6.24

Structural Root Zone (SRZ) [m]: 2.59

TPZ Area: 122.32

TPZ Protection:

**Detailed Observations**

This tree is located in the rear courtyard garden of 28 Gibbon Lane, North Adelaide. It is located in a raised garden bed approximately 350mm high. The centre of the trunk is 82cm from the rear brick wall, and another 8cm to the common boundary line, placing the centre of the trunk 0.9m from the common boundary line to the east. The centre of the trunk is 1.5 m from the side boundary to the north. The crown of the tree overhangs the following areas. The rear garden of the adjoining property to the north at 30 Gibbon Lane. The rear garden of the property where the tree is located at 28 Gibbon Lane to the south west. The vacant land to the east at 157 Barnard Street (site of proposed development).

Tree Location:

Root Zone Description:

This tree has good form, consisting of a single trunk with primary branches from approximately 2m to form a broad

Tree Form Description:

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Map



spreading, vase-shaped crown with a moderate density of branches.

This tree is currently in its autumnal phase with a low level of retained foliage remaining in the crown. Bud density at branch extremities appears to be normal. I found no evidence of notable dead branches, or any notable pest or disease issues. There is some evidence of elm leaf beetle activity in the tree, which is to be expected for this species in Adelaide.

The structure of this tree is good. It has a single trunk with primary branches from approximately 2m that form a well balanced vase-shaped crown. Primary and secondary branches are well attached and free of bark inclusions or any other notable defects. There are very few notable dead branches in the crown. There is evidence of minor pruning to manage the crown mainly to remove larger dead branches and to provide clearance to the two storey dwellings to the west. This pruning has generally been of a good quality. Additional pruning has occurred in the past to provide clearance to the former building to the east in approximately 2007.

Tree Structure Attributes:

Christine has owned and lived in the property at 28 Gibbon Lane since 1996. The tree was well established at that point in time. I was advised that the garden and

Additional Notes:

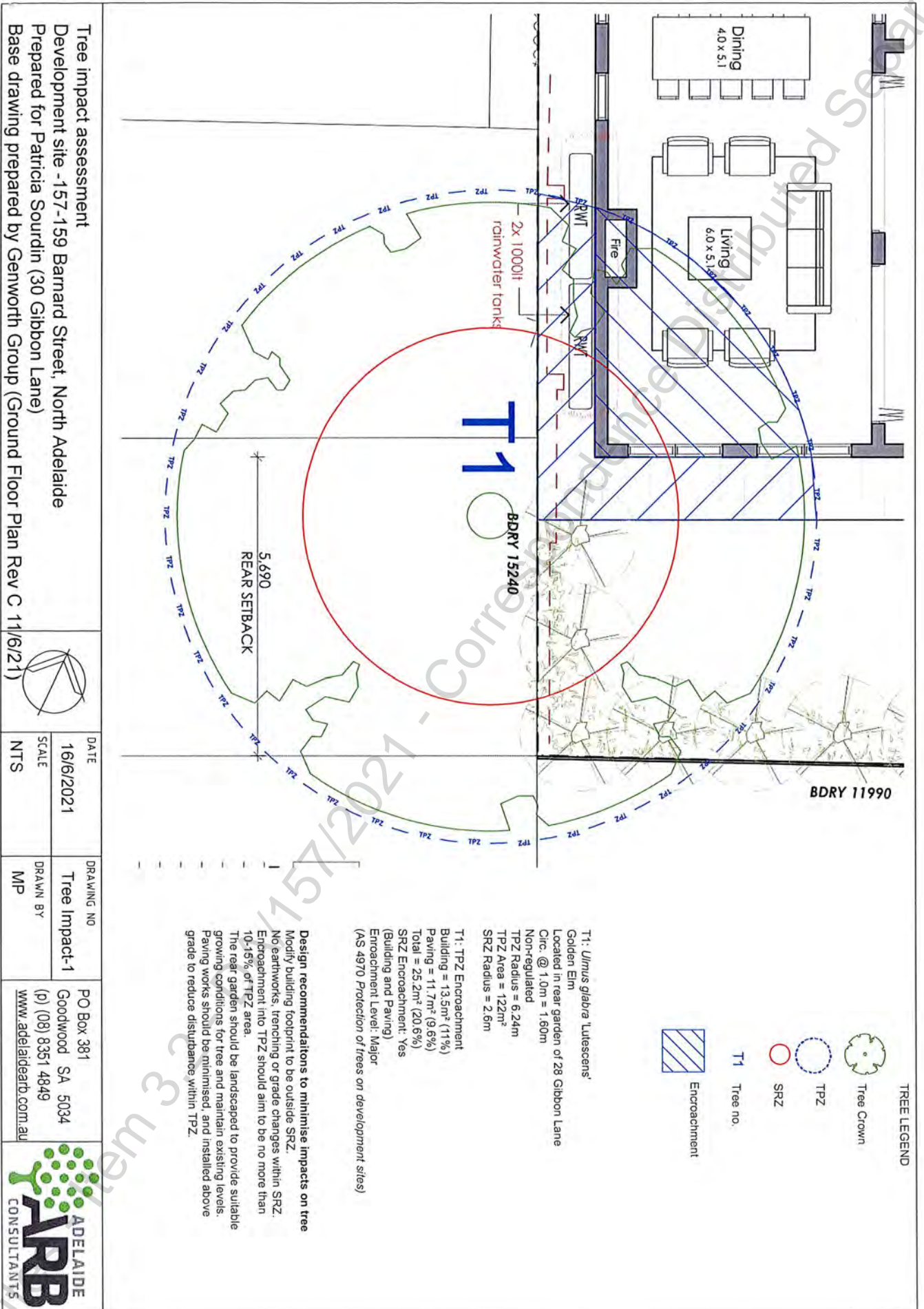
property at 28 Gibbon Lane was upgraded approximately 40 years ago and it is possible the tree with planted at that point in time. The tree has been pruned on several occasions in the past. Christine engages an arborist to undertake minor pruning on the western side to provide clearance to the roof and wall of the building. Pruning also occurred on the eastern side (approximately 2007) to provide clearance to the former building at the site (Channel 10 building). Christine has the tree treated on a regular basis for Elm Leaf Beetle. Christine values the tree due to its aesthetics, the shading it provides and the screening to the east from summer sunrises.

Location	
Client Site:	Adelaide Arb Consultants
Address:	28 Gibbon Lane
City:	North Adelaide

Report Prepared: June 16, 2021

Correspondence Distributed Separately





From: Michael Palamountain michael.p@adelaidearb.com.au  
 Subject: Additional comments regarding fill material  
 Date: 19 June 2021 at 8:43 am  
 To: Patricia Sourdin patricia.sourdin@gmail.com

Thanks Patricia for the additional comments from the architect working on this project. I note his comments below:

***“ It is good to read the arborists advice of your neighbour's tree. It is noted that the tree is neither regulated or significant. The tree is of great value to all the surrounding properties and our client is also looking forward to the many benefits of having this beautiful tree in place. We do not propose any invasive works that will threaten this tree. Your arborist does not make mention of the approximately 1.2m of fill that was added on top of the root zone of this tree in his report.”***

I acknowledge that subsequent to the demolition of the Channel Ten site, some fill material in the order of 1.2m was placed on top of natural ground level. I am unsure as to the exact timing of the placement of this fill.

Here are my comments in the fill material in relation to the proposed dwelling next door:

- Based on my observations of Google aerial imagery at the site, the Channel 10 structure was in place in August 2007.
- The structure was no longer in place in February 2008.
- The site has been vacant up until this point in time.
- Fill material was placed there in the order of 1.2m on top of the existing soil levels in the vicinity of the subject tree.
- Tree roots typically grow in the upper 0.5 – 1.0m of the soil profile. The depth of root development varies between soil types and soil bulk density.
- The roots from this tree will have colonised the fill material to a moderate extent in the years that the fill has been in place, so roots can be expected to be found within the original soil level and within the fill material.
- The proposed footing for the building penetrates both the fill material and the original soil levels below, as indicated in image 4 Proposed Solution – Retain and Protect Red Brick Fence in the drawing *Retaining and Fence* prepared by Genworth Group. The excavations required to install this footing is likely to encounter tree roots in both soil layers.
- Therefore, my recommendations to minimise root disturbance to this tree remain the same as previously outlined.

Regards

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