

AGENDA ITEM NO.: 10.1
TO: Council on 19 January 2021
DIRECTOR: Simon Bradley, Director Infrastructure and Environment
REPORT AUTHOR: Vincent Cammell, Manager Infrastructure and Assets
SUBJECT: Request of Right of Way over Prospect Estate

1. EXECUTIVE SUMMARY

At the Councillor Information and Workshop Session held on 1 December 2020, Susan and Tom Pierce (Eminent Homes) and Greg Vincent (Master Plan) presented on their proposed development to occur on land at 408 and 410 Regency Road and 282 and 284 Prospect Road, located on the north western corner of Prospect and Regency Road.

As vehicle access to the future development site will be constrained due to its location near a signalised intersection (Prospect and Regency Road Intersection) and the natural gradient of the land, Eminent Homes has requested Council to grant it an easement (Right of Way) through the adjoining carpark which forms part of the Prospect Estate Reserve. The easement would not affect the total number of carparks currently available on the site, however, would cause the movement and reconstruction of the existing toilet block, some gradient changes and some relocation of carparks.

Eminent Homes has requested that Council consider its request for a right of way over the carpark, subject to Eminent Homes agreeing, as a form of compensation, to construct a new toilet block to Council's specification, undertake various landscaping works and reconstructing as necessary the existing carpark to meet the adjoining development and Council requirements.

Council Administration recommends that it undertakes community consultation on the request for an Easement (Right of Way) over the portions of carpark and that following this community consultation, a further report will be presented to Council on the outcomes of the consultation.

2. RECOMMENDATION

- (1) Council having considered Item 10.1 Request of Right of Way over Prospect Estate receive and note the report.**
- (2) Council undertakes community consultation on the request for an Easement (Right of Way) over the portions of Prospect Estate carpark as detailed in Attachment 1-3: Plan of Area.**
- (3) That Council acknowledge that the offered compensation for the granting of the Easement (Right of Way) would include:**

- a. **Construction of a new toilet block in a location within Prospect Estate and to a specification of Council's specification.**
 - b. **Landscaping of the greater car parking area.**
 - c. **Reconstruction of the carpark and surroundings as required to achieve the required levels (level plan still to be provided).**
- (4) That a further Report is presented to Council on the outcomes of the community consultation on the request for an Easement (Right of Way) over the portions of Prospect Estate carpark.**
-

3. DISCUSSION

Background

Prospect Estate Reserve

Prospect Estate Reserve (Prospect Estate) is located at 286 Prospect Road and is 6,500 square metres in size. The reserve is classified as a 'Neighbourhood Park' (Open Space Strategy) and features a grassed open space play area, an artificially watered creek with bridges, bbqs, public toilets, and a carpark.

Council's Open Space Strategy recommends the reserve be upgrade as a "medium" priority (6-10 years) and to include:

- Implement proposed masterplan based on Community Engagement undertaken in 2017 (i.e. develop as an entrance point into the linear park; highlight creek and water features in a more natural environment, review pedestrian and bike connectivity; and redesign quality spaces to include natural features and unstructured playspace)

Council has received a request from Eminent Homes for a right of way over the carpark in Prospect Estate Reserve (Prospect Estate), subject to Eminent Homes agreeing to construct a new toilet block to Council's specification, undertake various landscaping works and reconstructing as necessary the existing carpark to meet the adjoining development and Council requirements (refer **Attachment 1-3 and 4-6**).

Consideration of Options

The granting of a Right of Way over a portion of the carpark that supports Prospect Estate Reserve, will not have an impact on the total number of carparks (16) currently available or the general use, access and enjoyment of the area by the public. The Right of Way will increase the number of vehicles who traverse the area daily, however, this will be at low speeds, which can be ensured further through the application of traffic calming devices.

The Right of Way will give the adjoining Eminent Homes development free and unrestricted right to cross over the land. It will not grant rights for the storage of goods, unloading of deliveries or any other matter that is not already allowed in a public carpark.

The Right of Way would be in the form of an enduring easement and would limit Council's ability to alter or move the carpark as part of future developments if deemed warranted.

The Right of Way will support the development of the adjoining land holdings in a unified manner that maximises frontage to Prospect and Regency Roads.

The terms of the Right of Way, design requirements for the toilet block and carpark and any other required works would only be pursued on Council's direction once it has formally considered the outcomes of the community consultation process.

It is important to note that the Development Application for any proposed development at 408 and 410 Regency Road and 282 and 284 Prospect Road is a separate process to the Right of Way discussed in this report and makes no commitment to any planning decision.

Community Consultation

Council Administration recommends that it undertakes community consultation on the request for an Easement (Right of Way) over the portions of carpark. The purpose of the community consultation is to inform the community of the request received by Council for an Easement (Right of Way) over the portions of Prospect Estate carpark and invite participants to provide feedback on components of the request to ensure that it meets community expectations.

It is envisaged that the required community consultation will detail the areas affected by the Right of Way, the intended use of the Right of Way, limitations on the carpark as a result of the Right of Way, the extent of rights for the owner of the Right of Way and the extent of compensation offered for acquiring the Right of Way.

The proposed level of engagement, in accordance with Council's Community Engagement and Consultation Policy, is Level 2 'Consult and Involve'. The consultation period will be for 21 days. The consultation process would include:

- Letters being sent to owners and residents within a 200m radius of Prospect Estate that provides an overview of the request, inviting participation in the engagement process and provides details for consultation;
- Corflute signage at visible locations throughout the reserve;
- Promotion of the request consultation via Council's website and social media; and
- Providing the opportunity for community members to provide feedback via Council's Community Engagement Hub via an online survey.

Following the community consultation, a further report will be presented to Council on the outcomes of the consultation.

Implications, Related Questions and Further Information

It is considered that each party would cover their own costs in relation to negotiating a long form easement depending on Council's future direction. The developer would meet all costs for the implementation of any easement approved in the future and all associated infrastructure costs.

Relevance to Core Strategies / Policy

- *Local Government Act 1999*
- Community Land Management Plans
- Open Space Strategy

Strategic Plan to 2020 Theme 1 – People “Know, empower, celebrate, educate and activate our community”

Strategy 1.1 Know our community

Strategic Plan to 2020 Theme 2 – Place “Loved heritage, leafy streets, fabulous places”

Strategy 2.2 Loved parks and places

Strategy 2.3 An accessible City

Strategic Plan to 2020 Theme 3 – Prosperity “More jobs, more investment, more activity, more vibrancy”

Strategy 3.1 A stronger local economy

Strategy 3.2 A more vibrant night-time

Strategic Plan to 2020 Theme 4 – Services “Leaders of the sector providing efficient, responsive, accessible services”

Strategy 4.1 Excellence in Infrastructure

Strategy 4.2 Sound Financial Management

Strategy 4.4 Accountable and people-focused services

ATTACHMENTS

Attachments 1-3: Plan of Area

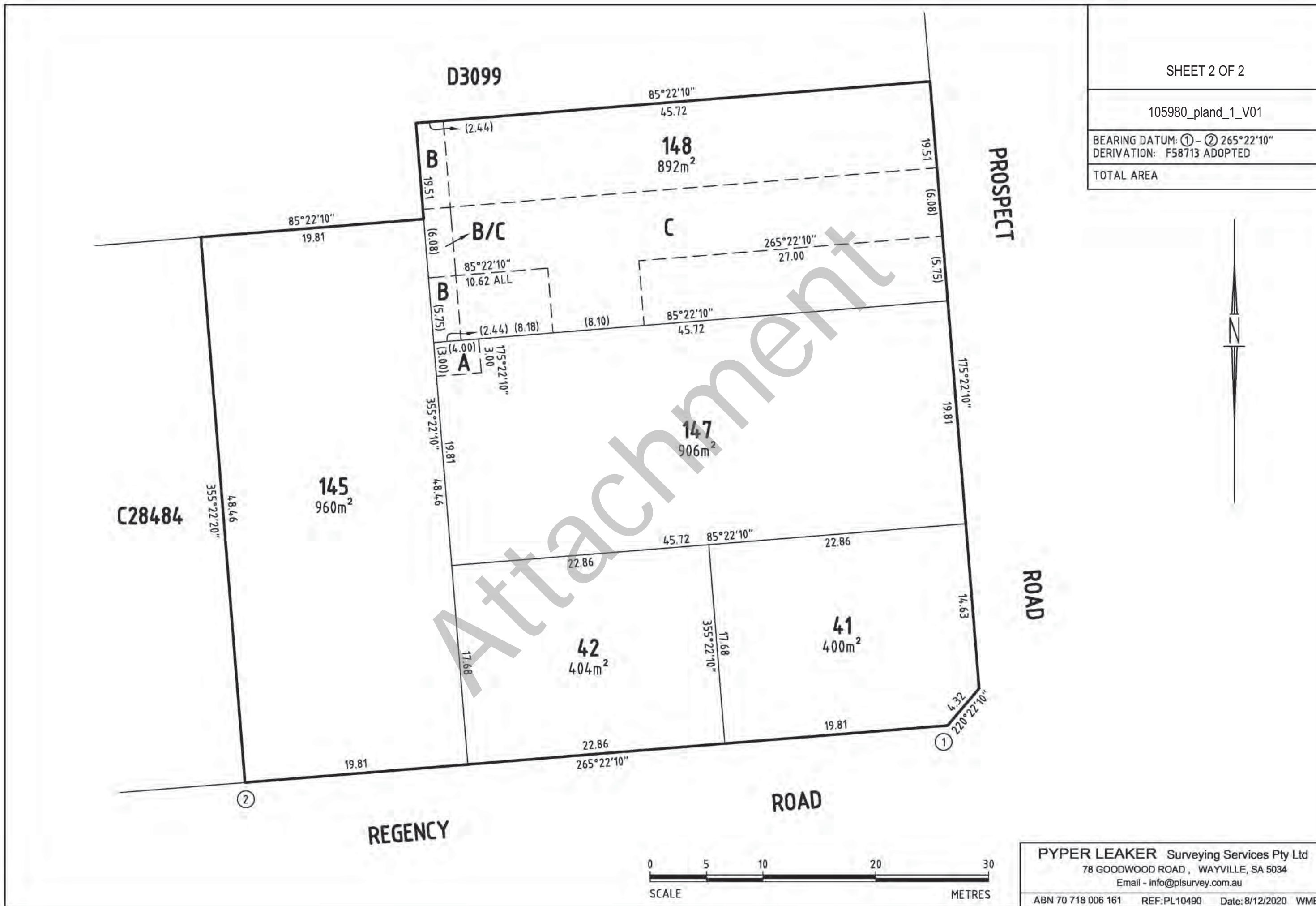
Attachments 4-6: Letter from Masterplan

SHEET 2 OF 2

105980_pland_1_V01

BEARING DATUM: ① - ② 265°22'10"
DERIVATION: F58713 ADOPTED

TOTAL AREA

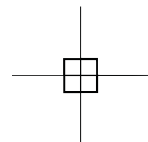
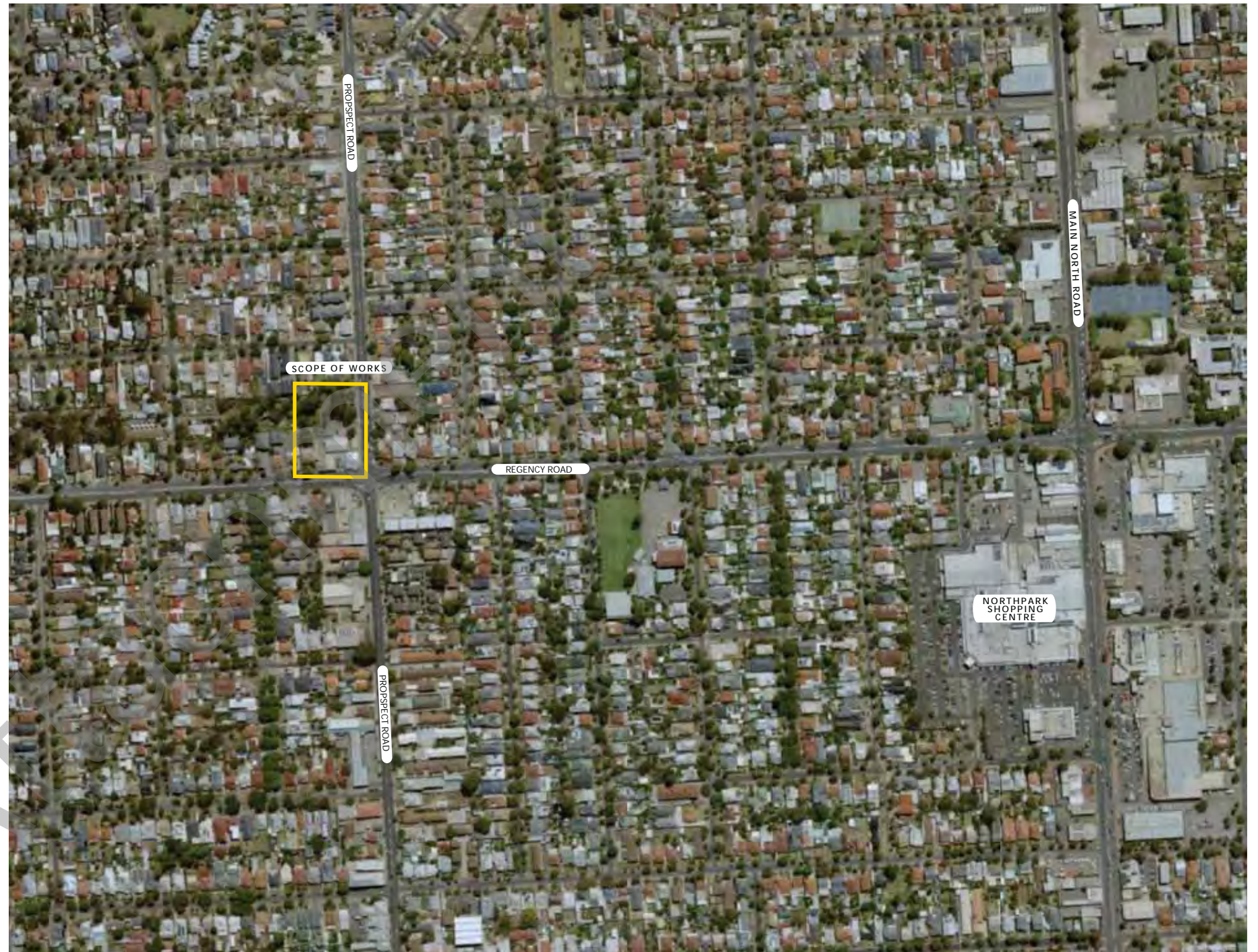


PYPER LEAKER Surveying Services Pty Ltd
78 GOODWOOD ROAD, WAYVILLE, SA 5034
Email - info@pysurvey.com.au
ABN 70 718 006 161 REF:PL10490 Date: 8/12/2020 WMB

284 PROSPECT EMINENT HOMES











26 NOVEMBER 2020

- 20046 SK001 LANDSCAPE CONCEPT PLAN - LOWER GROUND
- 20046 SK002 LANDSCAPE CONCEPT PLAN - UPPER GROUND
- 20046 SK003 MATERIALS AND PLANTING PALETTE





LEGEND

-  Existing turf
-  Existing and expanded car park
-  Proposed Garden Bed
-  Existing Trees To Be Retained
-  Existing Paved Path To Be Retained
-  Existing Garden Bed
-  Existing Irrigation Controller
-  Existing Retaining Wall
-  Proposed Extended Retaining Wall
-  Site Boundary Line

- ① Proposed Public Exeloo Toilet
- ② Existing Bus Shelter to be Retained
- ③ Existing Council Park to be Retained
- ④ Existing Section of Paved Path to be Removed
- ⑤ Proposed Garden Bed
- ⑥ Proposed Extension of Retaining Wall to Match Existing
- ⑦ Proposed Car Park Expansion and Removal of Public Toilet
- ⑧ Proposed Building
- ⑨ Proposed New Retaining Walls
- ⑩ Existing Garden Bed to be Retained

PLANTING SCHEDULE

AB.	SPECIES	NAME
PLANTING BED		
Ae	Aspidistra elatior	Cast Iron Plant
Cr	Cycas revoluta	Sago Palm
Dr	Dichondra repens	Silver Falls
Lit	Lomandra 'Lime Tuff'	Mat Rush
Lm	Liriope muscari	Lily Turf
Px	Philodendron xanadu	Xanadu
Rsm	Rhaphiolepis 'Snow Maiden'	Indian Hawthorn
Zf	Zamia furfuracea	Cardboard Palm
TREES		
Li	Lagerstroemia indica 'Lipan'	Crepe Myrtle
Po	Platanus occidentalis	Plane Tree
Up	Ulmus parvifolia	Lacebark Elm



16 December 2020

Chief Executive Officer
City of Prospect
128 Prospect Road
PROSPECT SA 5082

Attention: Mr Nigel McBride

Dear Mr McBride

**Re: 284 Prospect Road
Request for Right of Way to be Granted over Council Car Park**

Eminent Homes has contracted to purchase the site at 408, 410 Regency Road and 282-284 Prospect Road located on the north-western corner of Prospect and Regency Road. Eminent Homes plan to consolidate the four existing land parcels to facilitate a coordinated development of a consolidated land parcel with frontage to Prospect Road, Regency Road and Prospect Estate Reserve.

The existing land accommodates four single-storey buildings including a detached dwelling and several small-scale businesses in commercial premises.

The land is subject to Department for infrastructure and Transport DPTI road widening requirements and is zoned Urban Corridor Transit Living.

Vehicle access to future development of the land is constrained due to the location of the signalised Prospect Road/Regency Road intersection and the natural gradient of the land.

The existing Council owned car park servicing the adjacent Prospect Estate Reserve, provides an opportunity to consolidate vehicle access points along Prospect Road and facilitate an optimum development of our client's land which will result in a significantly improved built form outcome on the corner land and provide benefits to the community through improved provision of services within the locality and landscape upgrades of the adjacent reserve.

To facilitate the consolidated vehicle access points to the development site, Eminent Homes seeks Council's consideration of granting a free and unrestricted right-of-way over the existing Council car park land, providing vehicle access to the northern boundary of Lot 147 (284 Prospect Road) and the eastern body of Lot 145 (408 Regency Road).

The Council car park provides parking to service Prospect Estate Reserve, which forms part of an identified Urban Green Link Corridor linking Prospect Estate Reserve, Railway Park Reserve and Irish Hard Reserve.





Council prepared a landscape concept for the Urban Green Link Corridor in February 2017 and conducted community engagement in March 2017 on the Landscape Master Plan.

From the consultation, we note some specific community suggestions and comments in respect to Prospect Estate Reserve, which included:

- lighting to detract anti-social behaviour;
- facilitation of a café/coffee area for Prospect Road end; and
- incorporation of car parking spaces.

To provide return benefit to the community as an offset for granting a right-of-way over the car park land, Eminent Homes would commit to facilitate investment in a landscape upgrade of the interface between Prospect Estate Reserve and the subject land, consistent with the Urban Green Link Corridor Master Plan, including:

1. Replacement and relocation of the existing public toilets to a safe and convenient location in the reserve in consultation with Council.
2. Upgrade of the car park as necessary to maintain 16 parking spaces as identified on the **attached** Concept Plan while facilitating the vehicle access to the development site, noting that there will be the need for some change to the levels at the western end of the car park and in the location of the existing toilet to facilitate the desired access points.
3. Installing replacement landscaping where necessary to complement the existing landscape setting at the interface of the development site/car park.

In addition to the above physical improvements to the reserve, the proposed development would seek to deliver:

- ground floor commercial tenancies to Prospect Road with shop front returning along the reserve frontage to facilitate a café/coffee shop in response to the community feedback comments;
- upper Level residential floor levels with apartments overlooking the reserve promoting a high degree of passive surveillance to detract anti-social behaviour; and
- a high-quality architectural built form to a prominent corner site within the Council area.

Existing, site specific benefits from consolidating access to the development site via a right-of-way over the Council car park land include closure of existing vehicle crossing places to Prospect and Regency Road, specifically:

- closure of the vehicle access to 284 Prospect Road; and
- closure of the Regency Road access points to 282 Prospect Road and 410 Regency Road.



Further to the briefing of Council on this matter we acknowledge that any in principle agreement that Council may endorse will be the subject to the following:

- entering into an infrastructure agreement with Council, specifying an agreed detailed scope of works addressing items 1, 2 and 3 listed above; and
- the public consultation outcomes from Council's consultation in accordance with the requirements under the *Local Government Act, 1999* and Council's Public Consultation Charter.

On behalf of our client, we look forward to the favourable consideration of the above request.

Yours sincerely

Greg Vincent
MasterPlan SA Pty Ltd

enc: Draft File Plan identifying the proposed Right of Way.
Indicative Landscape concepts.

cc: Mr Nathan Cunningham, Director Community & Planning.
Mr Simon Bradley, Director Infrastructure & Environment.