

CAP MEETING – 10 September 2025**ITEM 8.1**

DEVELOPMENT NO.:	24028014
APPLICANT:	Planning Studio Pty Ltd David Bowley
ADDRESS:	589 CUDLEE CREEK RD CUDLEE CREEK SA 5232
NATURE OF DEVELOPMENT:	Variation to Development Application 21027668 - Alteration to capacity and hours of operation, change of use to include the hosting of functions (limited to 12 functions per annum) in association with an existing shop for the sale and tasting of wine
ZONING INFORMATION:	Zones: <ul style="list-style-type: none">• Productive Rural Landscape Overlays: <ul style="list-style-type: none">• Environment and Food Production Area• Hazards (Bushfire - High Risk)• Hazards (Flooding - Evidence Required)• Limited Land Division• Mount Lofty Ranges Water Supply Catchment (Area 2)• Native Vegetation• Prescribed Water Resources Area• Traffic Generating Development• Urban Transport Routes• Water Resources
LODGEMENT DATE:	19 Sept 2024
RELEVANT AUTHORITY:	Adelaide Hills Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.17 12/9/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Tim Mason Statutory Planner
REFERRALS STATUTORY:	Environment Protection Authority
REFERRALS NON-STATUTORY:	Environmental Health Unit

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the alteration to the maximum capacity and operating hours of an existing shop in the form of a cellar door as well as the commencement of the additional use of hosting functions on the subject land.

The existing shop includes a maximum capacity of 40 people at any time as well as the following operating hours:

- 11:00am to 5:00pm any day.

The proposal initially sought an increase to the maximum capacity of the shop to 100 people at any time as well as the following operating hours:

- Monday – Wednesday: 11:00am – 5:00pm;
- Thursday - Sunday (and public holidays) 11:00am – 11:00pm;

The proposal also included the commencement of hosting 12 functions on an annual basis including a maximum capacity of 150 people with operating hours of 11:00am – 11:00pm which would have operated during the Thursday to Sunday Cellar Door operating hours. The shop was not permitted to host any functions when initially granted Development Approval as part of Development Application 21027668.

As a response to representations received during Public Notification, the application now seeks to increase the maximum capacity of the shop from 40 to 90 as well as amending operating hours to 11:00am – 6:00pm any day.

The proposed hosting of functions will retain the initially proposed 12 functions per annum at a maximum capacity of 90. The hosting of functions land use proposes to include a maximum operating time of 11:00pm on days undertaking this activity.

The proposal consists of the following:

- The application does not include any internal modifications to existing buildings to establish a commercial kitchen, with all functions to be supported by external catering. As a result, the application seeks the removal of condition 11 which limits alcoholic beverages to the licensee's own product as well as amendment to condition 16 which limits the sale of any individual meals beyond light snacks during the function venue use.
- Wastewater alterations have been proposed to upgrade the existing on-site wastewater management system to support the additional patronage.
- A designated overflow parking area has been proposed immediately east of the existing parking area, with access to be achieved by a crossover approximately 163m east of the existing parking access.
- No alterations are proposed to the existing structure or any additional signage.

The application documents are included as **Attachment 1 – Application Documents**.

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BACKGROUND

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
19 October 1998	473/970/98	Vineyard
3 August 2012	11/487/473	Change of land use to include horticulture (strawberry plantation – 10 hectares & cherry orchard 2 hectares) & conversion of dairy into shop (cellar door sales), verandah, decking (maximum height 900mm) & outdoor area & two advertising displays Stage 1 only – change of land use to include horticulture (strawberry plantation – 10 hectares & cherry orchard – 2 hectares)
6 May 2020	20/371/473	Replacement Farm Building
12 January 2022	21027668	Convert former dwelling to shop for the sale and tasting of wine with associated building alterations & additions, associated car-parking and landscaping

SUBJECT LAND & LOCALITY:

Location reference: 589 CUDLEE CREEK RD CUDLEE CREEK SA 5232

Title ref.: CT 5946/767

Plan Parcel: F155936 AL21

Council: ADELAIDE HILLS COUNCIL

Site Description:

The subject land is an irregular shaped allotment with an area of 29.38 hectares.

Built form on the land comprises a recently developed shop and a cluster of outbuildings, all located in the south-western corner of the property. The existing shop is the result of the adaptive reuse of a former dwelling which was substantially ruined as a result of the 2019 Cudlee Creek Bushfire. The shop is set back approximately 13 metres from the Cudlee Creek Road frontage.

The land has a primary frontage to Cudlee Creek Road and a secondary frontage to Berry Hill Road. The land is on the eastern side of Cudlee Creek Road and northern side of Berry Hill Road.

Cudlee Creek Road is a sealed arterial roadway with no existing access to the allotment. Access to the land is achieved via Berry Hill Road. Berry Hill Road is only sealed to approximately 44m from the intersection with Cudlee Creek Road. The access to the primary carparking on the subject land is received from the sealed portion of Berry Hill Road. Overflow parking is received from the unsealed portion of the road, approximately 163m further east.

Most of the land is planted as a vineyard, with a dam on the northern part of the land. The land is steeply sloping, and the buildings are located on the highest part of the land.

The land is approximately 1.7 kilometres north-west as the crow-flies from the Lobethal township.

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There are no easements or other restrictions listed on the Certificate of Title.

Locality

The locality predominantly consists of large allotments used for grazing and rural residential purposes. The existing shop building is approximately 83m from the nearest dwelling not on the subject land. This is the dwelling on the opposite/western side of Cudlee Creek Road at 363 Neudorf Road, Cudlee Creek.

The subject land is identified on **Attachment 2 – Subject Land/Representation Map**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
other - Commercial/Industrial - Hosting of functions: Code Assessed - Performance Assessed
Shop: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The Productive Rural Landscape Zone does not provide an 'Accepted' or 'Deemed to Satisfy' pathway for the hosting of functions, nor is the proposal listed as 'Restricted' under Table 4 of the Zone. A shop is listed as Performance Assessed in accordance with Table 3 - Applicable Policies for Performance Assessed Development as per the Productive Rural Landscape Zone. Therefore, as per sections 105 (b) and 107 of the Planning Development & Infrastructure Act 2016, the development is categorised as Code Assessed – Performance Assessed.

PUBLIC NOTIFICATION

- **REASON**
Class of Development 6 (Function venue) does not satisfy Productive Rural Landscape Zone DTS/DPF 6.6 and Class of Development 10 (Shop) does not satisfy Productive Rural Landscape Zone DTS/DPF 6.1

Public Notification period – 27 Sept 2024 - 21 Oct 2024

- **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Andrew Watts	PO Box 309, Lobethal SA 5241	Yes	Self
Erin Hoklas	PO Box 309, Lobethal SA 5241	Yes	Self and Partner Andrew Watts

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Janet Bouwmeester	PO Box 169, Lobethal SA 5241	No	N/A
Jason Draper; Tamara Mieglich	632 Cudlee Creek Road, Lobethal SA 5241	Yes	Self
Michelle Markham	PO Box 112, Lobethal SA 5241	No	N/A
Roger Moreton	PO Box 112, Lobethal SA 5241	Yes	Self and Michael Wohlstadt

• SUMMARY

The issues contained in the representations can be briefly summarised as follows:

- Amenity impacts
 - Behaviour from customers – loud and disruptive
 - Noise – no acoustic report was initially provided
 - Loss of privacy resulting from increased visitors to the locality
 - Concerns regarding intensity of associated lighting
 - Concerns the proposal will not maintain the rural character and amenity
 - Conflicts with existing land uses surrounding the subject land
 - Traffic nuisance, including noise and lights
- Traffic Concerns
 - Safety and intensity at this intersection, including limited visibility given the crest
 - Parking Capacity, concerns raised that this may be insufficient for the number of customers
 - Parking in the road reserve
 - Bus parking on road reserve used during unauthorised event
 - Transport concerns for catering deliveries
- Increased in the capacity of the shop to 100 people as well as the capacity of the Function Venue at 150 people – Unreasonable intensity on the land, including insufficient facilities to house these operations
- Operating hours beyond 5pm
- Additional signage for overflow parking not mentioned during application, however this was used during event
- Number of functions is considered inappropriate
- Risk of fire from customers – concerns around lack of information regarding emergency management and safety
- Insufficient information presented given the scale of the proposal, additional information requested
- An unauthorised function was held on 19th August 2024

A copy of the representations is included as **Attachment 4 – Representations** and the applicant's response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

Environment Protection Authority

Referred in accordance with the Procedural Matters of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay for a function venue with a capacity greater than 75. This referral has since been returned to Council, without objection, including relevant conditions (refer Recommended Condition 7).

INTERNAL REFERRALS

Environmental Health Unit

Endorsement received from the Council Environmental Health Unit for alterations to the on-site wastewater management system previously approved as per Wastewater Works Application 473/W241/21.

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 6 – Relevant P & D Code Policies**.

Zone:

Productive Rural Landscape Zone:

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 2.1, 2.2, 6.1, 6.2, 6.5, 6.6, 8.1, 11.1, 15.1	
DPF: 1.1, 2.1, 2.2, 6.1, 6.2, 6.5, 6.6, 8.1, 11.1, 15.1	

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The proposal is for a value-adding activity that will support the on-going use of the land for primary production (viticulture) as desired in the Zone. A shop is listed as an envisaged land use as per DPF/DTS 1.1, and will continue to accommodate the sale and tasting of wine produced on-site. The hosting of functions land use is not listed as an envisaged use, however, it is considered to be of an ancillary nature, being proposed in addition to the existing shop and will include a maximum 12 functions per year, as well as remaining a minor portion of activities undertaken on site. Primarily being the existing horticulture and sale of wine.

The proposal does not seek to modify or introduce any new buildings. As such, the built form provisions are not considered to be relevant to the nature of this application.

There will be no removal of vineyard plantings to accommodate the proposed alteration to land use undertaken at the subject land or the additional overflow carpark.

PO 6.1 & DTS/DPF 6.1 relate directly to the shop development. This provision supports shops of an appropriate scale which are ancillary to genuine primary production undertaken on the subject land and allow for local and regional products to be showcased.

It is noted that the existing shop satisfies all of the criteria outlined in the associated DTS/DPF 6.1 and a condition had been imposed on the development to ensure that sales undertaken on the subject land were produced on-site as outlined in the provision. However, as the proposed hosting of functions does not include a commercial kitchen, the proposal will rely on external catering to be available to assist with functions. As such, the application is accompanied by a relevant condition (Condition 4), which permits catering for functions only, and not during regular shop activities, in order to maintain the nature of that land use.

Additionally, this change of use increases the maximum capacity of the shop from the 40 to 90. While this does not satisfy the DTS/DPF provisions, it is not considered to detract from the associated PO, given the facilities do not require alterations to the existing productive nature of the allotment in order to facilitate the increased intensity of visitors to the subject land. Furthermore, this will allow for additional customers to experience produce grown on-site, which directly responds to this outcome. Finally, this PO does not require shops associated with primary production to be small-scale or ancillary to the on-site productive land uses.

As for the hosting of functions, PO 6.5 and DTS/DPF 6.5 outline that that function venues should include a maximum capacity of 75, which this proposal exceeds by 20% with a maximum of 90 customers. While this is considered to be a substantial deviation from the quantitative provision, it is not expected to detract from the existing primary production undertaken on site. The associated PO requires function venues in the Zone to be associated with primary production undertaken on the subject land. In this instance, there is genuine primary production undertaken, with the proposal not requiring any existing horticulture to be reduced to facilitate the proposed additional use. Therefore, the proposal is not considered to be of an unreasonable scale.

Additionally, the proposed hosting of functions will utilise an existing structure on-site to facilitate this change of land use. It is however noted that the proposed hosting of functions would be undertaken in a structure which does not satisfy the quantitative provisions of DTS/DPF 6.6, being located within 100m of a single sensitive receiver on another allotment. This structure is setback approximately 82m from the closest dwelling. It is noted that the proposal has been accompanied by an associated acoustic report, in response to representations, which determines that the noise produced by this venue would not result in unreasonable disturbance to surrounding sensitive receivers. This is discussed in greater detail further in the report.

As a result, the proposal is considered to be consistent with the relevant Desired Outcomes, Performance Outcomes and Designated Performance Features of the Zone.

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Overlays

Environment and Food Production Areas Overlay

Desired Outcomes	
DO1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

As the proposal does not relate to the subdivision of land in the Environment and Food Production Areas, the provisions of the Overlay are not considered to be applicable.

Hazards (Bushfire – High Risk) Overlay

Desired Outcomes	
DO1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ul style="list-style-type: none">a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate changeb) high levels and exposure to ember attackc) impact from burning debrisd) radiant heate) likelihood and direct exposure to flames from a fire front.
DO2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk
DO3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 2.1, 3.1, 3.2, 6.1, 6.2, 6.3	
DPF: 1.1, 2.1, 3.1, 3.2, 6.1, 6.2, 6.3	

The proposal is considered to substantially increase the number of visitors to the site. However, the subject land is serviced by sealed roadways and is approximately 1.7 kilometres as the crow-flies from Lobethal township, which is designated on the SA CFS website as a Bushfire Safer Place.

In the planning report accompanying the application it is noted that the shop will be closed on designated Catastrophic Bushfire Risk days, or if there is a known bushfire within the local area.

The Procedural Matters of the Hazards (Bushfire – High Risk) Overlay include referrals for habitable buildings and educational facilities to the SA CFS. As such, this proposal did not satisfy the trigger and notification was not required.

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Hazards (Flooding – Evidence Required) Overlay

Desired Outcomes	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1 DPF: 1.1	

The existing shop is located at the highest point on the subject land, with no water courses within close proximity. Given this, the risk of flooding is considered low.

Limited Land Division Overlay

Desired Outcomes	
DO1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

This Overlay is not relevant to the proposal as it relates to the division of land which results in the fragmentation of land envisaged for primary production.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 2.1, 2.3, 2.4, 2.5, 3.1, 3.2, 3.3, 3.9, 4.1 DPF: 1.1, 2.1, 2.3, 2.4, 2.5, 3.1, 3.2, 3.3, 3.9, 4.1	

Wastewater and stormwater will be managed on-site.

In terms of wastewater, the application has been accompanied by an amended Site and Soil Report prepared by RFE Consulting which assesses the suitability of the upgraded on-site waste management system to be constructed in support of the existing shop.

The existing on-site wastewater management system associated with the existing shop was approved as per Wastewater Works Application WWA 473/w241/21. The submitted report was subsequently endorsed by the Council Environmental Health Unit on 03/09/2024.

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In addition, the amended proposal was referred to the Environment Protection Authority as per the Procedural Matters of the Overlay, with the application seeking a Function Venue with a capacity greater than 75 people. This referral was returned without objection, including relevant conditions. It is noted that this proposal has since been amended since this referral was returned. However, this is not considered to warrant a re-referral given the application has been reduced in intensity, with a maximum 90-person capacity.

In terms of stormwater, the proposal does not seek any amendments to existing structures on-site which would result in changes to the existing management of stormwater. Additionally, there is considered to be adequate land on-site to facilitate any incidental changes to stormwater resulting from alterations to parking provisions, including the overflow parking.

The proposal is consistent with the Desired Outcomes, Performance Outcomes and Designated Performance Features of the Overlay.

Native Vegetation Overlay

Desired Outcomes	
DO1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 1.2, 1.4 DPF: 1.1, 1.2, 1.4	

The development area, including the shop building, car-park area and waste control and stormwater disposal areas, is clear of native vegetation.

Prescribed Water Resources Overlay

Desired Outcomes	
DO1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

The proposal does not require additional water use for which a licence would be required under the Landscape South Australia Act 2019.

The proposal is considered to be consistent with the Prescribed Water Resources Overlay.

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Traffic Generating Development Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 1.2, 1.3	
DPF: 1.1, 1.2, 1.3	

This overlay is not considered to be directly relevant to the proposal as the DTS/DPF criteria relate to large scale land division, large commercial and education facility type developments.

Urban Transport Routes Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from Urban Transport Routes
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 2.1, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 9.1, 10.1	
DPF: 1.1, 2.1, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 9.1, 10.1	

Access will be via the existing access point from Berry Hill Road. The access point is approximately 36m from the intersection with Cudlee Creek Road, the state-maintained road. Due to this separation distance, a referral to the Commissioner of Highways is not required in accordance with the Procedural Matters of the Overlay.

It is noted that access to the overflow parking is setback 206m from the intersection with the state-maintained road, and is accordingly, not expected to modify the existing movement of traffic through this intersection. Additionally, the inclusion of the additional overflow carpark will maintain the capacity and functionality of the existing car park located within proximity to the intersection of Berry Hill Road and Cudlee Creek Road.

During the assessment of Development Application 21027668 for the shop, Council Engineering have advised that there is already a warning sign of the intersection on the Cudlee Creek Road reserve. It is Council Engineering's position that there many roads with limited sightlines within the Council area, and it is the responsibility of road users to proceed with caution.

While the proposal is expected to increase the volume of traffic using the intersection of Berry Hill Road and Cudlee Creek Road, the application is not considered to change the nature of vehicle movements between this site and the adjoining intersection.

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Water Resources Overlay

Desired Outcomes	
DO1	Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 1.2, 1.5, 1.6, 1.7, 1.8	
DPF: 1.1, 1.2, 1.5, 1.6, 1.7, 1.8	

The proposal does not increase the proximity of any structures on-site to any surrounding water resources, the proposal is not expected to result in damage or modification to these resources.

General Development Policies

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1	
DPF: 1.1	

The applicant has declared, under Clause 6(1) of Schedule 8 of the Planning, Development and Infrastructure (General) Regulations 2017, that the proposed development will involve the construction of a building which would, if constructed in accordance with the plans submitted, not be contrary to regulations prescribed for the purposes of section 86 of the Electricity Act 1996.

Design

Desired Outcomes	
DO1	<p>Development is:</p> <ul style="list-style-type: none">a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areab) durable - fit for purpose, adaptable and long lastingc) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitorsd) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.

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Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.4, 1.5, 6.1, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7	
DPF: 1.4, 1.5, 6.1, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7	

The proposed change of use does not result in any alterations to the built form of the existing shop. Therefore, provisions relating to built form are not considered to be applicable to the proposed development.

As previously discussed, the application has been accompanied by a relevant Wastewater Works Application for the additional use of the on-site wastewater management system. This has been endorsed by the Council Environmental Health Unit.

The existing carpark is not considered to dominate the site and provides a clear point of entry to the site as well as to the existing building. The proposed overflow parking is substantially separated by the building and is not considered to be visually dominant when viewed from the adjoining road, surrounding allotments or on-site.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 11.1, 12.1, 12.2	
DPF: 11.1, 12.1, 12.2	

The subject land is not connected to mains water, instead the proposed shop and function venue will be reliant on on-site water storage.

The waste system will be wholly contained within the boundaries of the subject land, and it will comply with the requirements of the Public Health Act 2011 as approval for the wastewater system has been granted by Council Environmental Health and endorsed by the Environment Protection Authority via a referral.

Interface Between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 2.1, 4.1, 4.2, 4.5, 4.6, 5.2, 6.2	
DPF: 2.1, 4.1, 4.2, 4.5, 4.6, 5.2, 6.2	

The Interface between Land Uses General Development Policies supports development which minimise impacts on surrounding sensitive receivers.

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Given the proximity of the existing shop and increased intensity of the existing shop to surrounding sensitive receivers, the primary concern of the application was the level of noise that this change of land use would generate during operation. The quantitative provisions of PO 4.1 states that development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) and DPF 4.6 outlines that any Music Noise Level should be less than 8dB above the level of background noise (L90,15min) in any octave band of the sound spectrum.

In support of the application, the applicant engaged Sonus to prepare an Environmental Noise Assessment for the proposed hosting of functions and increased intensity of the shop. This included a survey of background noise levels at the site and predictions of maximum noise generated at the venue to ensure that the surrounding sensitive receivers did not experience noise generated from the venue beyond the background level during operation.

Resultantly, Sonus has provided recommendations which will reduce noise at this site as to ensure that the proposal is consistent with the quantitative provisions of the Planning and Design Code. Recommendations have been conditioned as recommended by the assessing officer. This includes a maximum volume of music inside the venue of 82 dB(A) (L10,15min), including times when doors are to remain open. As a result, music from loud bands or DJs would not be suitable at this venue in order to satisfy the maximum noise level.

Additionally, the extended operating hours are not expected to cause noise nuisance to adjoining sensitive receivers on the basis that the venue operates in accordance with the acoustic report. Furthermore, the adjoining arterial road is considered to accommodate high intensity traffic leaving the venue once events are complete. The main carpark also includes a crossover to the public road within closer proximity to the intersection with Cudlee Creek Road, allowing for patrons to leave the subject land without passing adjoining sensitive receivers.

Furthermore, no changes to overshadowing of surrounding allotments are expected given the application does not result in any changes to the built form of structures on-site.

Out of Activity Centre Development

Desired Outcomes	
DO1	The role of Activity Centres in contributing to the form and pattern of development and enabling equitable and convenient access to a range of shopping, administrative, cultural, entertainment and other facilities in a single trip is maintained and reinforced
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1, 1.2	
DPF: 1.1, 1.2	

The proposal relates to an existing non-residential development located outside an activity centre. This location is considered appropriate given the nature of the application, which involves alterations to the use of an existing shop and the commencement of a function venue, both associated with an existing productive use. As these land uses are required to be located in conjunction with productive land, it is not considered reasonable to expect this proposal to be situated within an activity centre.

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Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1, 6.6, 10.1	
DPF: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1, 6.6, 10.1	

The parking rates outlined in *Table 1 General Off-Street Car Parking Requirements* for a shop without a commercial kitchen equate to 5.5 spaces per 100m² of gross leasable floor. As a result, the increased intensity of activity at the existing shop would not warrant additional parking as the proposal does not increase the floor area of the structure. As gross leasable floor area does not include non-roofed areas, the 212m² building would require 11.7 on-site parking spaces. As a result, the existing 26 on-site parking spaces are adequate to satisfy this provision.

However, this table does not outline a minimum parking rate for a function venue. Given the extended-stay nature of a function venue, it is considered that this land use would more closely align to the parking rate outlined for a shop (in the form of a restaurant or involving a commercial kitchen). This rate equates to 0.4 spaces per seat. In this instance, the requirement would be 36 parking spaces.

As a result, there would be a shortfall of existing parking spaces of 10 when the site is to be used for functions. The applicant has instead nominated an additional portion of the allotment which is to be used for overflow parking where required. This is considered to be adequate to support the addition 10 parking spaces where required during functions. However, a reserved matter has been included for approval for the works in the road reserve required to consolidate access to the overflow parking as per Section 221 of the *Local Government Act 1999*.

Finally, the applicant has advised signage may be erected to assist with directing patrons to the overflow parking. While it has been raised during Public Notification that there is an existing display located in the road reserve for direction, this has not been approved as per a relevant Section 221 Application in accordance with the *Local Government Act 1999*. The applicant has agreed to have this sign removed from the road reserve and has been advised that signage may require separate development approval depending on the size and location.

CONSIDERATION OF SERIOUSLY AT VARIANCE

Having considered the proposal against the relevant provisions of the Planning and Design Code Version 2024.11 20/06/2024, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code for the following reasons:

- The proposed hosting of functions and land use alterations to the existing shop are considered to be a complementary to the existing productive land uses undertaken on-site, and are of a scale which is compatible with the Productive Rural Landscape Zone.
- The proposed intensity of development is considered to be reasonable when considering the existing intensity of the shop and the scale of the associated primary production.
- The proposed operating hours are considered reasonable and are not expected to detract from the flow of traffic to the adjoining state-maintained road or introduce undue congestion to the primary street or at the adjoining intersection.
- The proposal does not result in changes to the built form of structure on the subject land.
- It has been reasonably demonstrated that the proposal would not adversely impact upon the amenity of nearby sensitive uses.

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- The development includes safe and convenient access and adequate car parking.

Accordingly, the proposal is not considered to be seriously at variance with the intentions of the Planning and Design Code.

CONCLUSION

The proposal is for the change of use of an existing shop, in the form of a cellar door, to increase capacity and operating hours as well as the commencement of the hosting of functions, both in association with existing primary production undertaken on-site.

The proposed land uses are supported by the zone where associated with existing primary production. The proposal does not seek alterations to the built form of any structures on-site, nor does the application seek to reduce or modify productive activities on-site to facilitate the proposal.

Concerns raised during public notification have been addressed by the applicant through a reduction in proposed hours and capacity, as well as the submission of an acoustic report to respond to potential amenity impacts. Representor concern regarding possible negative customer behaviour is noted, with this considered to be outside the scope of the planning system to regulate. However, the Applicant has agreed to advise customers, in the form of internal signage, to leave the subject land with consideration to surrounding residents.

When assessed against the relevant zone policies, overlays and general development policies for developments of a similar nature, the proposal is considered to generally address those criteria. As such, the proposal warrants planning consent being granted.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 24028014 by Planning Studio Pty Ltd and David Bowley for a Variation to Development Application 21027668 - Alteration to capacity and hours of operation, change of use to include the hosting of functions (limited to 12 functions per annum) in association with an existing shop for the sale and tasting of wine at 589 Cudlee Creek Road, Cudlee Creek is granted Planning Consent subject to the following conditions and reserved matters:**

RESERVED MATTERS

- 1) Pursuant to section 102 (3) of the Planning, Development and Infrastructure Act of 2016, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval:**

The applicant shall lodge and have approved an associated Section 221 Application for the works proposed and required to facilitate a crossover to the public road for the overflow parking area. Approval of the associated Section 221 Application is to be granted prior to Development Approval being granted.

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
- 2) At any one time, the overall capacity of the shop shall be limited to a maximum of 90 people. This includes any associated outdoor areas.**
- 3) The maximum allowable internal music noise level for any function must not exceed 82 dB(A) when measured as a reverberant sound pressure level not closer than 3m to any speaker as outlined in the associated Environmental Noise Assessment (dated July 2025) prepared by Sonus Pty Ltd.**
- 4) Food may be provided at pre-booked functions. Individual meals may not be offered to patrons at other times, with the exception of light snacks such as platters.**
- 5) At any one time, the overall function capacity of the premises shall be limited to 12 functions per calendar year with a maximum capacity of 90 people for each function. .**
- 6) The shop opening hours shall not exceed 11:00am to 6:00pm any day with the exception of pre-booked functions as defined in Condition 5. On these occasions opening hours shall be permitted between 11:00am and 11:00pm.**
- 7) A register of functions shall be kept of all pre-booked functions for each calendar year and made available for inspection by the Council upon request.**

Conditions imposed by Environment Protection Authority under Section 122 of the Act

- 8) The on-site wastewater system must be installed in accordance with the Site and Soil Assessment report by RFE Consulting, dated 12 August 2024, and include:**
 - a. the installation of two Ozzi Kleen RP10 systems**
 - b. the establishment of a 1,120 m² irrigation area, to be located more than 50 metres from the nearest watercourse, dam or bore, more than 1.2 metres from the seasonal groundwater table, on a slope less than 20% and not in the 10% AEP flood zone**
 - c. vegetating the irrigation area with shrubs and some trees**
 - d. bunding to direct surface runoff away from the irrigation area and creating a bund downhill to prevent any runoff, from over-irrigation, moving off site, and**
 - e. a high-level alarm for the balance tank.**

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.**

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- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act

- 5) The applicant/owner/operator is reminded of the general environmental duty, as required by section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- 6) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

OFFICER MAKING RECOMMENDATION

Name: Tim Mason
Title: Statutory Planner

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DEVELOPMENT NO.:	25012307
APPLICANT:	Pavilions At Lenswood
ADDRESS:	747 SWAMP RD LENSWOOD SA 5240 CT6146/165 D94407 QP10
NATURE OF DEVELOPMENT:	Day Spa and Wellness Centre (Personal Services Establishment) with swimming pool, advertisement, associated earthworks, landscaping, and carparking in association with existing Tourist Accommodation premises
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Productive Rural Landscape Overlays: <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Water Resources
LODGEMENT DATE:	12 May 2025
RELEVANT AUTHORITY:	Adelaide Hills Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2025.8 01/05/2025
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Blake O'Neil Senior Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Civil Assets Team Environmental Health Team

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Relevant P & D Code Policies
ATTACHMENT 2:	Subject Land Map/Representation Map		
ATTACHMENT 3:	Zoning Map		
ATTACHMENT 4:	Representations		
ATTACHMENT 5:	Response to Representations		

DETAILED DESCRIPTION OF PROPOSAL:

The application proposes a personal services establishment in the form of a Day Spa and Wellness Centre, on an allotment used for tourist accommodation at Lenswood. The subject land is located in the Productive Rural Landscape Zone. The proposal comprises eight treatment rooms with associated offices, toilets, staff room and laundry. The treatment rooms include traditional massage and retreat rooms as well as pools, sauna and, a snow room. The application includes documents to support the snow room that show a detached built form, the proposal is located internally within the main building. The development is single storey, split level design to follow the contours of the land and minimise earthworks. The building utilises varied materials to add to the visual amenity. The main material for the walls and roof is Colourbond in 'monument' colour with stone and wood to provide a contrast. The Colourbond is a mix of corrugated and a seamed variety.

A carpark is located forward of the Personal Services Establishment providing 35 car parking spaces. Access will be provided from an existing crossover on Leslie Road. No retaining walls above one metre in height are proposed with cut and fill being managed by batter in the most part. Stormwater will be captured in three tanks to the side of the building, one of which is for fire-fighting purposes. The overflow is directed to a soakage pit and on to the watercourse. A new wastewater application has been approved comprising a septic tank and two soakage trenches on the south western side of the building to maintain watercourse and boundary setbacks.

A landscaping plan has been provided with hedging forward of the carpark to screen the proposed retaining walls. Trees will frame the entrance to the site of the development and a post and rail fence will clearly define the site area and provide a cohesive appearance to the existing development which uses the same style of fencing. Deciduous vegetation will serve to break up the bulk and scale of the development and add to the visual amenity of the proposal.

The proposal is intended to be open to the public and ancillary and value adding to the existing Tourist Accommodation on the allotment. The subject land has some cows on site and the surrounding allotments have primary production activities. The opening hours are Wednesday to Monday 10:00am to 6:00pm with one staff member opening and closing one hour either side. Staff will also be onsite Tuesdays to facilitate bookings and housekeeping.

There will be a crossover of staff from the Tourist Accommodation utilising the same grounds, housekeeping and guest services staff. At the peak times on the weekend a total of 5.2FTE over 5 positions will be required supplemented by additional casual massage therapists when needed for bookings. The capacity will be capped at 64 patrons per day with a total of 8 patrons per hour. The number of patrons includes those from the Tourist Accommodation on site.

A dwelling has Planning Consent on the parcel in a similar location to the proposal, the applicant has stated they will not proceed with the dwelling application.

The advertisement is visible from the façade of the building and is attached to a blade wall that will also serve to screen the courtyard and provide privacy. The advertisement consists of branding and a brief description of the business. No illumination has been nominated, and it is fixed in place. The colours chosen to provide a cohesive appearance with the building.

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APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
26 April 2019	16/447/473	Application for Tourist accommodation facility comprised of 2 separate self-contained villas, masonry walls (maximum height 900mm), landscaping & associated earthworks
17 June 2020	19/1002/473	Outbuilding associated with tourist accommodation facility and associated earthworks
15 October 2021	21030551	Expansion to existing tourist accommodation facility - construction of four additional accommodation units (six units in total), masonry walls with attached signage (maximum height 900mm) & associated earthworks (non-complying) - MINOR VARIATION - Amendment to Villa 6 – additional 16.368sqm to increase size of bathroom and add a disabled bathroom.
16 May 2022	22011558	Ground mounted solar array
16 June 2022	21040509	Two above ground swimming pools & one spa pool (hot tub) with associated safety barriers including decks and privacy screening associated with tourist accommodation facility - units 3, 5 & 6
1 September 2022	22029294	Storage Shed
7 October 2022	22025576	Deck & pergola attached to tourist accommodation unit (unit 5) & re-location of approved spa pool (hot tub) with associated safety barriers
30 April 2024 (Planning Consent only)	23012316	Single storey dwelling & water storage tanks (maximum capacity 50,000L)

SUBJECT LAND & LOCALITY:

Location reference: 747 SWAMP ROAD LENSWOOD SA 5240

Title ref.: CT6146/165 **Plan Parcel:** D94407 QP10

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Site Description

The allotment comprises two pieces of land divided by Leslie Road with a total area of 6.86ha and frontages to both Swamp Road and Leslie Road. The application proposes development on piece 10, the parcel to the south of Leslie Road comprising 3.7ha. The land slopes up to the rear and a watercourse runs north/south across the site at approximately the mid-point. There are four Tourist Accommodation units located between the front boundary and the watercourse and outbuildings close to the northern and southern boundary of piece 10 to the west of the watercourse. There is no dwelling on the land.

To the north of Leslie Road is piece 9. This has a total area of 3.2ha with a primary frontage to Swamp Road and a secondary frontage to Leslie Road. The land has an irregular shape with two watercourses from the west and east crossing to the southern boundary and continuing to piece 10. The land slopes up from each watercourse with a gentle rise to Range Road and a steep rise to the north. Two tourist accommodation units with ancillary structures are located on the eastern portion of the land.

Each piece has an existing access to Swamp Road with the subject piece also having access from Leslie Road. The tourist accommodation on each piece is known as Pavilions at Lenswood. An internal bridge has been constructed over the watercourse on the subject parcel to allow utility vehicles access to both sides of the subject land for deliveries, waste collection and people movement without having to exit the site. A dam is located on the site to the south of the Tourist Accommodation.

Locality

The locality comprises two patterns of development. The land fronting Swamp Road has varied allotment sizes ranging from 4000 -5000m² containing a dwelling and ancillary structures. The land away from Swamp Road comprises larger allotments over 5ha in size with primary production land uses. These have single dwellings with outbuildings and agricultural buildings.

The township of Lenswood is located 1.5 kilometres to the north and Woodside is 5 kilometres to the east. The nearest suburbs of metropolitan Adelaide are Magill and Burnside being a 20-kilometre drive or 25 minutes. Various wineries, cellar doors and other attractions are located within 5 kilometres of the subject land.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Shop: Code Assessed - Performance Assessed
 - Advertisement: Code Assessed – Deemed to Satisfy
 - Swimming pool or spa pool and associated swimming pool safety features – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed
- **REASON**
 - P&D Code; Not Restricted. Performance Assessed on merit only pathway.

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The Planning and Design Code does not provide an 'Accepted' or a 'Deemed to Satisfy' pathway for the shop swimming pool or spa elements. They are also not listed as being 'Restricted' forms of development under Table 4 of the Productive Rural Landscape Zone. Therefore, it is considered that as per Sections 105 (b) and 107 of the PDI Act, 2016, that the proposal be assessed as 'Performance Assessed' development with the exception of the advertisement, which meets the Deemed to Satisfy criteria.

PUBLIC NOTIFICATION

- **REASON**

Advertisement meets the Deemed to Satisfy criteria and does not require Public Notification.

Shop is a listed Element in Column A of Table 5 in the Productive Rural Landscape Zone. Column B lists exceptions for development that does not meet Zone DFP 6.1 and DPF 6.2. The Gross Leasable Floor Area exceeds 100sqm (DPF6.1) and Setbacks from boundaries are less than 20m (DPF6.2).

Public Notification period – 20 June – 10 July 2025

- **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Joel Taggart	25 Albert Street, Gumeracha SA, Australia GUMERACHA SA, 5233	No	
Konrad Romaniuk	PO BOX 4 CRAFTERS SA, 5152	Yes	Konrad Romaniuk

- **SUMMARY**

The issues contained in the representations can be briefly summarised as follows:

- Stormwater
- Traffic Safety Issues

A copy of the representations is included as **Attachment 4 – Representations** and the applicant's response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

No Agency referrals.

INTERNAL REFERRALS

Civil Assets Team

Stormwater and car parking reviewed. Changes to notations for the GPT were required, gradients for the disability car parking space were added and modification to the parking in front of retaining walls for safety were required. All items were resolved, and the current plans are acceptable.

Environmental Health Team

A new wastewater system has been approved with a septic tank to the south side of the building and trenches to the rear. The wastewater did not trigger a referral to the EPA.

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 6 – Relevant P & D Code Policies**.

Zone:

Productive Rural Landscape Zone:

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 2.2, 6.1, 6.2, 11.1	
DPFs: 1.1, 2.1, 2.2, 6.1, 6.2, 11.1	

The subject land is located within the Productive Rural Landscape Zone which supports a range of land uses that capitalise on the proximity to the metropolitan area and supports new investment that can coexist with adjoining activities and mitigate land use conflicts. The proposal meets the definition of a Personal Services Establishment as defined in Part 7 of the Code which is included in the definition of 'Shop'. Zone DPF 1.1 provides a list of expressly envisaged land uses including a 'shop' as proposed in this application. The associated PO1.1 seeks development including tourism. The proposal seeks to add value to the existing Tourist Accommodation and encourage visitation from the locality and the broader area.

The proposal meets Zone PO 2.1 as it is serviced by a secondary frontage to an all-weather road, being Leslie Road to the north of the development, while the allotment also has primary access to Swamp Road. The site of the development has a slope of 1:4.5 or 20% which exceeds the DPF provisions of 10% and the proposal has cut and fill that exceeds 1.5m. The flatter portion of the allotment is to the eastern side of the watercourse and is where the Tourist Accommodation is located. The subject site is the flatter portion of remaining land while maintaining setbacks from the watercourse.

PO 6.1 provides *Shops are associated with an existing primary production or primary production related value adding industry to support diversification of employment, provide services to visitors and showcase local and regional products*. The Personal Services Establishment is established with an existing Tourist Accommodation land use and is designed to be complementary and to provide a diversification of employment and provide services to visitors, but it is not associated with primary production. The Tourist Accommodation comprises 6 units of one to two bedrooms and the proximity to the metropolitan area and townships will allow for visitors outside of the locality.

Elements of the proposal do not meet DPF 6.1 notably the floor area stipulation of 100m². The proposal has an area of 583m² and the site coverage is 0.8% when calculated on the allotment at 6.86ha. The DPF does not consider the existing land use or allotment size where the Zone can have allotments varying from less than 1ha to more than 100ha. In this instance when considering the size of the site the floor area is considered an acceptable departure to the DPF and that the proposal does meet PO 6.1 despite this, by providing diversification of employment and services to visitors of both the existing tourist accommodation and the wider community.

The proposal has a minimum setback to the secondary frontage of 11 metres with the remaining setbacks exceeding the 20 metres of DPF 6.2. The site of the development is over 100m from the nearest sensitive receiver and has a building height of less than 9m. The associated PO refers to development that *maintains a pleasant rural character and amenity*. As viewed from the secondary frontage the narrow end of the building faces the street with a vegetation buffer to the street. The hours of operation are limited to 10am to 6pm six days a week and the type of development is not anticipated to produce excessive noise or traffic. The proposal is considered to meet PO 6.2.

As discussed above the building floor area is considered to be large when compared with DPF 6.1 criteria. To further mitigate the potential for impact in accordance with PO 11.1 the building is located below the ridge line and uses low reflective materials that will assist to blend with the landscape such as Colourbond 'monument' and stonework. The setback to the primary frontage of Range Road will be over 150 metres. Tall vegetation and the tourist accommodation will further screen the subject building.

Overlays

Hazards (Bushfire- High Risk) Overlay

Desired Outcomes	
DO 1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: (a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change (b) high levels and exposure to ember attack

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	(c) impact from burning debris (d) radiant heat (e) likelihood and direct exposure to flames from a fire front.
DO 2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO 3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 3.1, 6.2, 6.2 DPFs: 1.1, 2.1, 3.1, 6.2, 6.3	

The provisions of the Hazards (Bushfire – High Risk) Overlay are focused on habitable buildings and not land uses such as shops or personal services establishments. The location of the building is away from areas that pose an unacceptable bushfire risk with minimal vegetation to satisfy PO 2.1.

A comprehensive Emergency Evacuation Plan has been provided. The plan includes closing the facility when there is a bushfire threat with advance notice and the facility may close on catastrophic fire days. Monitoring of fire danger will occur on lower fire danger days. The allotment allows for 2 exits and then travel direction to the north, south and east providing options to move away from the locality on sealed roads if the need to evacuate should arise.

Hazards (Flooding - Evidence Required) Overlay

Desired Outcomes	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs: 1.1	

The proposal is located above the top of kerb to meet DPF 1.1 and the location minimises the risk of flood waters entering the building from the road. The FFL of the building is proposed to be over 10 metres above the watercourse and is not considered to be at risk of flooding from the watercourse. The proposal meets the provisions of the Overlay.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 2.4, 2.5, 3.1, 3.2, 3.3, 3.9, 4.1 DPFs: 1.1, 2.1, 2.4, 2.5, 3.1, 3.2, 3.3, 3.9, 4.1	

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The application includes an approved wastewater system that was assessed by Council's Environmental Health Team to meet the Public Health Act and is in keeping with PO 2.1 and PO 2.3. The wastewater system includes a 11kl septic tank to the south side of the building situated over 50m from the watercourse and two irrigation trenches to the rear of the building. The distance of the wastewater system from the watercourse meets DPF 2.5 and the slope is also acceptable to protect the groundwater and surface water from wastewater pollution to satisfy PO2.5. The system has been designed with a total daily flow of 2520 litres per day; this does not the criteria in Table 5 of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay where 6000 litres per day would require referral.

The stormwater system has been designed by Harnett Engineering and reviewed by Councils Civil Assets Team. The plans have changed as the result of a representation that was received. The applicant has offered to work with the representor to revise the system further to resolve any concerns. The system provides pre and post development flows that are consistent with PO 3.1 The application also includes a Gross Pollutant trap to capture sediments and other gross pollutants prior to dispersal in keeping with PO 3.2 and PO3.3. The stormwater system includes 50kl of capacity for roof capture and a swale for collection from the carpark, these both have an overflow discharge to the watercourse. The design is intended to minimise potential impact on water quality to the catchments of the Mount Lofty Ranges and is considered to satisfy the Overlay provisions.

Native Vegetation Overlay

Desired Outcomes	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs: 1.1	

The proposal does not seek to remove any Native Vegetation or undertake development that would affect Native Vegetation. The applicant has also provided a declaration in accordance with DPF 1.1 of the overlay. The proposal is considered to meet PO 1.1 and the Overlay.

Water Resources Overlay

Desired Outcomes	
DO1	Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Pos: 1.1, 1.2 DPFs: 1.1, 1.2	

As discussed in the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay the stormwater system has been designed to discharge the overflow to the watercourse. The headwall design will be from Infrastructure Guidelines (SA) -Natural Look Concrete and Boulder Headwall with a copy of the drawing provided in the stormwater management system design. The plan provides for the dispersal of stormwater in a controlled manner to minimise the impact to the watercourse and has been considered by Council Civil Assets team who consider it satisfactory.

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General Development Policies

Advertisements

Desired Outcomes	
DO1	Advertisements and advertising hoardings are appropriate to context, efficient and effective in communicating with the public, limited in number to avoid clutter, and do not create hazard.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.3, 2.1, 2.3, 3.1, 5.2, 5.3, 5.4, 5.5 DPFs: 1.1, 1.3, 2.1, 2.3, 3.1, 5.2, 5.3, 5.4, 5.5	

The application includes Advertisements to the eastern side of the building and flush with the blade wall to meet DPF1.1. The sign is considered to be integrated with the design of the building and meets PO1.1 and is not located on public land as stipulated in PO1.3.

The signage only relates to the proposed business and does not cause visual clutter in keeping with PO 2.1 and PO 2.3. The signs are designed to identify the business and provide details of the land use consistent with PO 3.1.

The signage will be 36 metres from the nearest road to meet PO 5.4, PO 5.5 and PO 5.6 with no illumination or changing display proposed.

Design

Desired Outcomes	
DO1	Development is: <ul style="list-style-type: none">a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areab) durable - fit for purpose, adaptable and long lastingc) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitorsd) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.5, 6.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 13.3 DPFs: 1.5, 6.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 13.3	

To meet PO 1.5 onsite waste will be stored in an existing facility on the southern boundary that is also used for the Tourist Accommodation. The is screened from the road and is currently collected by a private contractor, this is also the location for deliveries for the proposal.

As noted in previous sections the on-site effluent disposal areas are located to the rear of the building and are not co-located with car parking or driveways to meet PO 6.1.

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The carparking design has 34 car parking spaces including one disability parking space. Retaining walls are required to provide a level surface that is acceptable for vehicles. A ramp has been provided for wheelchair access and stairs are also available to provide legible and safe access to the building and meet PO 7.3. The sections of parking allow for tree planting and soft landscaping to both provide shade and improve the visual appearance meeting PO 7.4, PO 7.5 and PO 7.6. Hedges have also been provided in the landscaping plan to screen the retaining walls.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 11.1, 12.1, 12.2 DPFs: 11.1, 12.1, 12.2	

The allotment has access to SA Water main water supply from Swamp Road to meet PO 11.1. No common wastewater service is available for the allotment. As previously discussed, the on-site wastewater has been reviewed and approved by Council's Environmental Health team. The system is located within the allotment and will not be encroached by the development to meet PO 12.1 and PO 12.2.

Interface between land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 2.1, 4.1, 4.2, 6.1 DPFs: 2.1, 4.1, 4.2, 6.1	

The hours of operation are proposed to be 10:00am to 6:00pm from Wednesday to Monday. One staff member will be required to be on-site for one additional hour before and after opening and closing. These hours reduce impact to sensitive receivers in the locality when combined with the operation not considered to produce noise and meets PO 2.1 and PO 4.1.

Delivery and waste vehicles will go to an existing area located adjacent to the tourist accommodation. Pool equipment is located within the building and over 170m from the nearest sensitive receiver to meet PO 13.3. The proposal is considered to meet PO 4.2. There is no music or external lighting proposed as part of the development.

Out of Activity Centre Development

Desired Outcomes	
DO1	The role of Activity Centres in contributing to the form and pattern of development and enabling equitable and convenient access to a range of shopping, administrative, cultural, entertainment and other facilities in a single trip is maintained and reinforced.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2 DPFs: 1.1, 1.2	

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The proposed land use is a form of shop, a land use which usually has a predominately retail purpose. In this case the land use can be further defined as personal services establishment. This type of land use and what is proposed is a day spa and wellness services. Development of this nature is best located outside of activity centres to provide a more relaxing and natural environment to contribute to the proposal. This proposal would not ordinarily be considered in an activity centre or township type zone and does not diminish the role of activity centres in keeping with PO1.1.

The Personal Services Establishment is of a scale to serve both visitors to the tourist accommodation on-site and also those external to the site. This includes visitors and residents in the local townships and from the Adelaide metropolitan area to satisfy PO 1.2.

Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1, 6.6	
DPFs: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1, 6.6	

All traffic movements can occur within the allotment and will not require queuing over pedestrian paths or public roads and meet PO 1.4. Access will be from a lawfully existing access on Leslie Road that meets DPF 3.1 and is not considered to impact the road to meet PO 3.1 and PO 3.2.

The car park has universal access parking area for persons with a disability close to the entrance of the building and access can be made via a ramp or stairs as required providing a safe and convenient access for people with impaired mobility in keeping with PO 4.1.

The carparking rates in Table 5 stipulate 5.5 spaces per 100m² of gross leasable floor area. This works out to be 32 spaces where 32 spaces have been provided to meet Table 1 of Transport, Access and Parking in the General Section.

CONSIDERATION OF SERIOUSLY AT VARIANCE

Having considered the proposal against the relevant provisions of the Planning and Design Code version P&D Code version 2025.8 dated 01 May 2025 the proposal is considered to not be seriously at variance with the Code. Shop is an envisaged form of development in DPF1.1. As discussed in the assessment, the proposed Personal Services Establishment represents a low impact land used that aligns with the policy of the Productive Rural Landscape Zone and the Code more broadly.

The Desired Outcomes of the Zone will be achieved in promoting value adding opportunities and tourist development that will expand the economic base of the area while conserving the rural character and scenic qualities of the landscape.

CONCLUSION

When considering the proposal against the provisions of the Planning and Design Code it can be determined that that proposal is not seriously at variance with the Planning and Design Code.

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The scale of the development exceeds Designated Performance Feature 6.1 of the Zone that when considered on balance is acceptable and the floor area and general scale and intensity of the development is considered to meet the corresponding Performance Outcome by providing a diversification of employment and providing services to visitors. The parking arrangements and separate area for deliveries and waste will maintain the amenity of the locality and is not considered to have noise impacts for nearby properties.

The applicant has modified the stormwater plans to address the concerns of the representor and the updated plans have been supplied to the representor.

The proposal is considered to achieve the Desired and Performance outcomes of the Productive Rural Landscape Zone, the relevant Overlays and General Provisions of the Code and warrants the granting of Planning Consent.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 25012307 by Pavilions At Lenswood for Day Spa and Wellness Centre (Personal Services Establishment) with swimming pool, associated earthworks, landscaping, advertisements and carparking in association with existing Tourist Accommodation premises at 747 Swamp Rd Lenswood is GRANTED Planning Consent subject to the following conditions:**

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
- 2) The external finishes to the Personal Services Establishment herein approved shall be as follows.
WALLS: Colorbond 'Monument' with stonework and Aliwood features or, similar
ROOF: Colorbond 'Monument' or, similar**
- 3) All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and delineated in accordance with Australian Standard AS 2890.1:2004. Delineation and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to occupation and maintained in good condition at all times to the reasonable satisfaction of the Council.**
- 4) One car parking space in the car park shall be designated as space for people with a disability and designed in accordance with Australian Standard 2890.1:2004.**
- 5) All materials and goods shall be loaded and unloaded within the confines of the subject land at all times. Materials and goods shall be stored on the land in a tidy manner and shall not be located in areas delineated for use as car parking.**

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6) The opening hours of the personal services establishment shall be 10:00am to 6:00pm from Wednesday to Monday inclusive.

- 7) All exposed excavations and fill as shown on the site plan shall be:
- rounded off and battered to match and blend with the natural contours of the land;
 - covered with approximately 100mm of topsoil;
 - seeded to avoid erosion and visual concerns ; and
 - screened with trees, shrubs and ground covers

All works must be completed prior to occupation of the approved development to the reasonable satisfaction of Council.

8) Prior to commencement of work and at all times during construction the elements of the Soil Erosion and Drainage Management Plan drawn by Harnett Engineering, Sheet 1 of 1 Revision C are to be completed to prevent soil moving off the site.

9) Landscaping detailed in the landscaping plan shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when, it dies or becomes seriously diseased.

- 10) A supply of water independent of reticulated mains supply shall be available at all times for firefighting purposes:
- a minimum supply of 2,000 (two thousand) litres of water shall be available for fighting purposes at all times; and
 - the water supply shall be located such that it provides the required water; and
 - the water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and
 - the water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and
 - a water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and
 - where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.

11) All roof runoff generated by the development hereby approved shall be managed on-site to the satisfaction of Council within one month of the roof cladding being installed. All Stormwater Infrastructure shall be installed prior to occupation in accordance with the Civil Plan Sheet 01 of 01 Revision H prepared by Harnett Engineering and dated 11 June 2025 so as to not permit trespass into the effluent disposal area and avoid stormwater trespass onto adjoining properties.

12) All solid waste including food, leaves, papers, cartons, boxes and scrap material of any kind shall be stored in a closed container having a close-fitting lid. The container shall be stored in a screened area so that it is not visible from the public realm and/or neighbouring properties.

13) All waste shall be removed from the subject land at least once a week. Collection of waste shall be carried out only between the hours of 7am to 6pm on any day.

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ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 5) No spillage of waste shall occur from the storage or use of pool chemicals. Disposal of any chemicals shall only occur at the EPA Household Hazardous Waste Depot (Ph 8204 1947) or through a licensed waste contractor.
- 6) New pools or spas may only be filled under the authority of a permit from SA Water. The applicant is advised to obtain a permit to fill the pool with water from SA Water before proceeding with the installation of the swimming pool.

SA Water advises that a permit will not be granted unless proof is provided that a cover has been purchased to prevent water loss through evaporation.

- 7) The applicant is reminded of their general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

OFFICER MAKING RECOMMENDATION

Name: Blake Oneil
Title: Senior Statutory Planner

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DEVELOPMENT NO.:	24042562
APPLICANT:	Justin Scott
ADDRESS:	1108 MONTACUTE RD MONTACUTE SA 5134
NATURE OF DEVELOPMENT:	Tourist accommodation and deck
ZONING INFORMATION:	Zones: <ul style="list-style-type: none">• Hills Face Overlays: <ul style="list-style-type: none">• Environment and Food Production Area• Hazards (Bushfire - High Risk)• Hazards (Flooding - Evidence Required)• Mount Lofty Ranges Water Supply Catchment (Area 1)• Native Vegetation• Prescribed Wells Area• Regulated and Significant Tree• Water Resources
LODGEMENT DATE:	4 Mar 2025
RELEVANT AUTHORITY:	Adelaide Hills Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2025.4 27/2/2025
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Chandhini Kumar Statutory Planner
REFERRALS STATUTORY:	Environment Protection Authority South Australian Country Fire Service
REFERRALS NON-STATUTORY:	Environmental Health Unit

CONTENTS:**ATTACHMENT 1: Application Documents****ATTACHMENT 4: Referral Responses****ATTACHMENT 2: Subject Land Map****ATTACHMENT 5: Relevant P & D Code Policies****ATTACHMENT 3: Zoning Map**

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal involves the construction of a single tourist accommodation unit as an ancillary structure to the existing dwelling on the same allotment, located within the Hills Face Zone. The existing residence and associated ancillary buildings will be retained as part of the development.

The proposed tourist accommodation will be 10m in length and 3m in width, with a total floor area of 30sqm. An ancillary deck will be attached to the unit, measuring 6m in length and 2m in width. The tourist accommodation will be an open plan unit consisting of a living area, bed, kitchen, walk in robes and bathroom. It will have a wall height of 2.4m and a total roof height of 2.7m.

The proposed unit will be sited:

- 326 m from the front (north-eastern) boundary,
- 77.1 m from the side (south-eastern) boundary,
- 253.8 m from the rear (south-western) boundary,
- 44 m from the side (north-western) boundary.
- 59.28m south-west of the existing dwelling.

The proposed tourist accommodation unit is intended to accommodate a maximum of two (2) guests at any given time. The length of stay will be limited to a maximum ninety days within a twelve-month period, although shorter-term stays are indicated to be preferred by the proponents. The ninety day maximum is reinforced via recommended Condition 2.

No excavation or fill is proposed as part of the development. The accommodation unit is designed to be installed on adjustable elevated posts, allowing for minimal disturbance to the natural ground levels.

The roof profile will be Colorbond cooldeck profile with Colorbond monument finish. The walls and gutter will match the roof with same finish.

Application documents are provided at **Attachment 1**.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
19/08/2021	21003264	Outbuilding
14/01/2008	2007/769	Verandah attached to existing dwelling
1/10/2008	2006/566	Filling of land - approximately 756m3 of fill to a maximum height of

SUBJECT LAND & LOCALITY:

Site Description:

1108 MONTACUTE RD MONTACUTE SA 5134

Title Ref: CT 5195/498

Plan Parcel: F108965 AL6

Council: Adelaide Hills Council

The subject site comprises a regular-shaped allotment with dual road frontages, Montacute Road to the south-east and Institute Road to the north-west. The total site area is approximately 6.83 hectares. Vehicular access is currently gained from Montacute Road, with no formal access observed from Institute Road.

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The site includes a moderate slope, ascending from the south-western boundary towards the centrally located dwelling. The gradient has been calculated to be approximately 1:2.87, indicating a steady incline across the site.

A watercourse runs through the land towards the front of the site.

The land is currently used for residential purposes.

Locality

The subject site is situated within a locality characterised predominantly by rural residential allotments, which are generously sized and have extensive native vegetation coverage. The built form within the area is generally low-density, with dwellings typically positioned towards the front of the allotments, in closer proximity to the public roads. This siting pattern is considered to contribute to a semi-rural character and maintains natural landscape.

Zoning transitions from the Hills Face Zone on the south-western side of Montacute Road to the Productive Rural Landscape Zone on the north-eastern side.

The adjoining property at 1132 Montacute Road contains a small-scale vineyard, however this vineyard is not associated with a commercial winery. The nearest winery is located approximately 4.5 km from the subject site at 288 Colonial Dr, Norton Summit.

In terms of notable landmarks, Morialta Falls, a popular recreational and conservation area, is located approximately 9.4 km from the site, contributing to the broader tourism context of the locality.

Additionally, a State Heritage Place is located at 115 Institute Road, Montacute (1km proximity to the subject site), identified as a prefabricated 'Manning' house.

A Locality Plan is provided at **Attachment 2**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Tourist accommodation: Code Assessed - Performance Assessed
Deck: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; Both the elements are not a restricted form of development within the zone and no other pathway is available. As such, it is Code Assessed - Performance Assessed.

PUBLIC NOTIFICATION

- **REASON**
The proposed tourist accommodation is not listed under Table 5 – which lists classes performance assessed development that are excluded from notification for the Hills Face Zone. Additionally, it is not considered to be a development of a minor nature. As such, the application was publicly notified.

Public Notification period – 21 July 2025 - 8 August 2025

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- **LIST OF REPRESENTATIONS**

Nil representations were received during the notification period.

- **REASON FOR COUNCIL ASSESSMENT PANEL AS RELEVANT AUTHORITY**

One of the landowners of the subject land is a Council staff member. In accordance with Council Delegation Instrument D, the Assessment Manager has determined that delegation to the Council Assessment Panel be exercised.

AGENCY REFERRALS

- **Environment Protection Authority:**

No objection, with one (1) condition of consent (Refer recommended condition 12).

- **South Australian Country Fire Service:**

No objection, with four (4) conditions of consent (Refer recommended condition 8-11).

INTERNAL REFERRALS

- Environmental Health Unit: Wastewater works approval has been granted as per 25/W037/473.

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 6 – Relevant P & D Code Policies**.

Zone:

Hills Face Zone

Desired Outcomes	
DO1	To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to: provide a natural backdrop to the Adelaide Plain and a contrast to the urban area

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	<p>preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide</p> <p>provide for passive recreation in an area of natural character close to the metropolitan area</p> <p>provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges.</p> <p>‘Natural character’ refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.</p>
DO2	Development ensures that the community is not required to bear the cost of providing services to and within the Zone.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 3.1, 3.2, 7.1, 8.1, 8.2, 10.1, 10.2, 10.4, 10.7, 11.1, 11.2 and 11.3	
DPFs: 2.2, 3.1 and 8.2	

The subject site currently includes a dwelling and associated ancillary structures on the allotment. The allotment is 6.83ha, situated between two allotments within the same zone and separated from the Productive Rural Landscape Zone (PURL) by Montacute Road. The existing dwelling is oriented along a north-east to south-west axis within the site.

The proposal is seeking to use the land for low-scale tourist accommodation comprising of one unit with open living design and a maximum occupancy of two guests at any given time.

While tourist accommodation is not explicitly anticipated within the zone, the zone includes supporting provisions to allow for low-intensity activities and low scale tourist developments.

PO 7.1 of the zone envisages that tourist facilities are of a low intensity and low scale and are sited unobtrusively. The proposal is considered to meet this outcome given that it is limited to a single storey structure with a floor area of 30sq.m and 2.7m total building height. The use is limited to a maximum of two guests at any time, consistent with the low-intensity nature of the prescribed policy.

The proposed tourist accommodation unit will be located to the rear of the existing dwelling, at a lower topographic level. The siting is approximately 5m below Montacute Road in topography, resulting in the unit being almost entirely obscured from view at the public road.

The proposed tourist accommodation unit is positioned on an area of the site that is already cleared, thereby avoiding the need for additional native vegetation clearance. The separation between the existing dwelling and the proposed unit is considered appropriate, given the siting avoids impact on vegetated areas.

Topographic analysis indicates that the proposed site has limited visibility from the Adelaide Plains due to higher elevations along Moores Road, including areas adjacent to the Heysen Trail. These elevated landforms act as a natural screen, reducing the extent of views toward the development from public viewpoints.

No excavation or fill is proposed as part of the development. The accommodation unit is designed to be installed on adjustable elevated posts, assisting in minimising disturbance to the natural ground levels.

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Overlays

Hazards (Bushfire - High Risk) Overlay

Desired Outcomes	
DO1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ul style="list-style-type: none">a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate changeb) high levels and exposure to ember attackc) impact from burning debrisd) radiant heate) likelihood and direct exposure to flames from a fire front.
DO2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO 3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 3.1, 4.1, 4.2, 4.3, 6.1 and 6.2	
DPFs: 4.2, 6.1 and 6.2	

In accordance with the Procedural Matters of the Hazards (Bushfire - High Risk) Overlay, a referral to the South Australian Country Fire Service (SA CFS) was required.

The SA CFS has assessed the application and have no objections to the proposed tourist accommodation. Four (4) conditions (refer recommended conditions 8-11) and three (3) advisory notes have been directed as part of this referral which also includes the required BAL rating of the development.

The proposal is to be supported by a designated 5,000L water tank in addition to the existing water tanks for firefighting purposes which has been accepted by the SA CFS.

An Asset Protection Zone of 33m radius around the house has been indicated to manage vegetation around the tourist accommodation unit.

Passing bay, turn around for fire trucks and hardstand area have been provided in accordance with PO/DPF 6.2, which has also been conditioned as part of the CFS requirements for access in condition 9.

Hazards (Flooding - Evidence Required) Overlay

Desired Outcomes	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1	
DPF 1.1	

There is currently no flood mapping available for the subject land or the surrounding locality. Additionally, the slope of the allotment is expected to minimise the risk of pooling of flood waters around the tourist accommodation.

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Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay

Desired Outcomes	
DO1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from primary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 4.1	
DPFs: 1.2, 2.1, 2.2, 2.3, 4.2, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 4.1	

The property is not currently connected to SA water and sewer mains.

In accordance with the Procedural Matters of the Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay, the application was referred to Environment Protection Authority (EPA) for direction.

A new wastewater system is proposed to service both the existing four-bedroom dwelling and the proposed tourist accommodation unit. The EPA has reviewed the proposal and is satisfied that the system does not pose any potential adverse impact on the quality of water draining from the site by granting no objection for the development with one (1) Condition (refer recommended condition 12) and two (2) Advisory notes.

Additionally, all stormwater collected from the proposed building is indicated to be connected to the rainwater tank.

The proposed development is not located within 50m of the small watercourse that runs through the site, is not located on a slope exceeding 20% and includes a new rainwater tank with a capacity of 5000L.

As such it is considered to satisfy the provisions of Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay.

Native Vegetation Overlay

Desired Outcomes	
DO1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2 and 1.4	
DPF: 1.1	

The application includes a supporting Native Vegetation – Data Report prepared by Dr. Kathryn Hill from DeBill Environmental. The report confirms that the proposed development avoids any clearance of native vegetation or impact from the placement of this building and associated infrastructure.

It is noted that Dr Kathryn Hill is listed as an Accredited Consultant as per [Native Vegetation Council Accredited Consultants 2025](#), as such the proposal is considered to satisfy the provisions of the Native Vegetation Overlay.

Prescribed Wells Area Overlay

Desired Outcomes	
DO1	Sustainable water use in prescribed wells areas.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1	
DPF: 1.1	

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The property currently relies on water tanks for its water supply. There are no existing bores present on the site, and no bores are proposed as part of this development.

Regulated and Significant Tree Overlay

Desired Outcomes	
DO1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 1.3 and 1.4	

The proposed development does not include any tree damaging activities.

Water Resources Overlay

Desired Outcomes	
DO1	Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO 2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 1.5 and 1.7 DPF: 1.5	

The proposed tourist accommodation unit will be located approximately 198m from the existing small watercourse that flows through the site. Additionally, the proposal does not adversely impact on the existing native vegetation, specifically around the watercourse. As such, it is considered to satisfy the provisions of the Water Resources Overlay.

General Development Policies

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1 DPF: 1.1	

The application includes a declaration confirming that the proposed development is not contrary to the regulations prescribed under Section 86 of the Electricity Act 1996. Based on this declaration, the proposal is considered to satisfy the Clearance from Overhead Powerlines provisions.

Design

Desired Outcomes	
DO1	Development is: <ul style="list-style-type: none">a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areab) durable - fit for purpose, adaptable and long lasting

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	<ul style="list-style-type: none">c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitorsd) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 6.1, 8.1, 8.2, 8.3, 8.4, 8.5, 13.1, 21.1, 33.1 and 33.2	
DPFs: 8.1, 8.2, 13.1, 21.1, 33.1 and 33.2	

The proposed tourist accommodation unit will be almost completely screened from the primary street and neighbouring allotments by the large setbacks, existing natural native vegetation and topography of the site.

The proposed effluent disposal areas do not encroach onto existing private open space area, driveways or onsite car parking spaces.

No excavation or fill is proposed, given the unit will be installed on elevated adjustable post footings. Apart from some minor alterations to the natural topography for the provision of the new internal driveway and CFS hardstand area, as such no major earthworks is anticipated.

The proposed tourist accommodation will be ancillary to the existing dwelling on the site. It will be located behind the dwelling's building line and will have a floor area of 30 sqm and a building height of 2.7m. The external finishes will be 'Colorbond Monument' or similar. The proposal does not result in any reduction to the existing dwelling's private open space or car parking spaces.

PO 21.1 addresses the appearance of transportable buildings, particularly the treatment of the sub-floor space. While the proposal is silent on satisfying this provision, the impact is considered insignificant given the tourist accommodation unit will be located at least 300 metres from the primary street and will not affect neighbouring allotments due to large setbacks and existing vegetation.

The deck's substructure is proposed to be enclosed with wood composite panels, which meet the requirements of PO 21.1 under the Design provisions and PO 3.1 of the Hazards (Bushfire – High Risk) Overlay. While the design for the tourist accommodation does not specifically address treatment of the sub-floor area, the SA CFS has not raised any concerns regarding the potential for burning debris to accumulate underneath the structure. However, Condition 6 has been included to ensure the prevention of [potential ember accumulation in the event of a bushfire during the event of a bushfire.

The proposed ancillary deck will be attached to the tourist accommodation unit and will have a floor area of 12 sqm. Its finished floor level will be 600 mm above the natural ground level, aligning with that of the tourist accommodation unit. The deck will be fully screened from the primary street and located more than 15m from any property boundary, thereby avoiding any direct overlooking impacts.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally

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	sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 12.2 DPF: 12.2	

The proposed development will not intrude into the on-site waste disposal area. The approved wastewater works plan shows the location of the septic tank and the irrigation areas located away from the dwelling and tourist accommodation.

Interface between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2 and 6.1	

PO 1.1 and PO 1.2 seek to ensure that the proposed development is established in a manner that avoids any unreasonable impacts on the surrounding locality, specifically between transitioning land uses.

The proposed tourist accommodation will consist of a single room, indicating a maximum capacity for two guests at any given time. It is considered to be low-scale and is expected to have minimal impact on the amenity of adjoining residential properties. While the proposal may result in a slight increase in traffic to/from the site, the limited bed capacity indicates that no more than two additional vehicles would be accessing the property.

The anticipated increase in traffic is considered minor and of a residential scale. Additionally, the setback and siting of the unit are considered adequate to ensure that the amenity of adjoining properties remains uncompromised.

Given, the development is a low scale/low-intensity operation, it is expected to have same impact as that of a residential land use and would not adversely impact on the amenity of nearby sensitive uses.

Site Contamination

Desired Outcomes	
DO1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1 DPF: 1.1	

The subject site is currently used for residential purposes, and the proposal does not involve a change to a more sensitive land use as per Table 1: Land Use Sensitivity Hierarchy within Practice Direction 14 - Site Contamination Assessment 2021.

As such, the proposal does not require a Preliminary Site Investigation Report and ensures that the subject land is suitable for the proposed use.

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Tourism Development

Desired Outcomes	
DO1	Tourism development is built in locations that cater to the needs of visitors and positively contributes to South Australia's visitor economy.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO: 1.1	

As identified in the Locality section of this report:

- The proposed tourist accommodation is located approximately 4.5 km from an existing winery.
- Morialta Falls, a popular recreational and conservation area, is located approximately 9.4 km from the site.
- A State Heritage Place, identified as a prefabricated 'Manning' house, is located at 115 Institute Road, within 1km proximity to the subject site.

Given the context, the location of the proposed tourist accommodation is considered to complement and contribute to the natural, cultural, and historical character of the wider locality, while supporting the local tourism industry.

Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 3.1, 5.1 and 6.1	
DPFs: 5.1, 6.1 and 6.2	

Access to the proposed ancillary tourist accommodation will be via an existing crossover on Montacute Road.

An on-site vehicle turning area will enable vehicles to enter and exit the site in a forward direction, promoting safe and efficient movement.

Table 1 - General Off-Street Car Parking Requirements stipulates car parking rate of one (1) car parking space per tourist accommodation unit. Two designated off-street car parks will be provided, satisfying the requirements of Table 1.

The anticipated traffic increase is considered minor due to the limited scale and occupancy of the accommodation. Accordingly, the proposal is considered to meet the intent of the Transport, Access and Parking General Development Policies, ensuring appropriate access and parking arrangements are available.

CONSIDERATION OF SERIOUSLY AT VARIANCE

The proposal is not considered to be seriously at variance with the provisions of the P&D Code Version 2025.4 27/2/2025 for the following reasons:

- Although the Hills Face Zone does not specifically address tourist accommodation as an envisaged land use and does not explicitly support it, the zone also does not contain policies that restrict such development.
- The proposal is akin to a residential development in terms of its scale and anticipated impact on existing infrastructure.
- There will be no visual impact on views of the hills from the Adelaide Plains.

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- The proposed tourist accommodation unit, being of low scale and intensity, is not expected to adversely impact existing or future land uses within the Zone.
- Safe and convenient access and car parking spaces have been provided for visitors.
- The location of the proposed tourist accommodation is considered to effectively complement the natural, cultural and historic character of the wider locality.
- The proposal aims to use the existing infrastructure available on site avoiding any adverse impacts on the services of the neighbouring allotments.
- The proposal avoids any major need for earthworks, ensuring minimal disturbance to the natural topography.

CONCLUSION

The subject site is a semi-rural residential allotment within Hills Face Zone. The proposed tourist accommodation is not a restricted form of development within the Zone. Given its low scale nature, the development it is considered to be sensitively designed and sited with minimal earthworks and limited impact on the visual amenity of the allotment.

The built form incorporates design elements that integrate the proposal into the existing landscape while preserving the predominant native vegetation. Large setbacks from surrounding allotments and the primary road help to mitigate potential amenity impacts on sensitive receivers.

The broader locality includes established tourism activities, and the proposed development will contribute positively and appropriately to this existing context.

The proposal demonstrates that adequate provisions have been made for vehicle access and car parking, wastewater management, and bushfire safety, with no significant impacts anticipated on the amenity of surrounding properties

Overall, the proposed development is not considered to be seriously at variance with the provisions of the Planning and Design Code and is considered to align with the intent of these provisions.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 24042562 by Mr Justin Scott for Tourist accommodation and deck at 1108 Montacute Rd Montacute SA 5134 is granted Planning Consent subject to the following conditions:**

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
- 2) The person(s) having the benefit of this consent shall refrain from permitting the use of the building (or any part thereof) for provision of long-term accommodation or as a separate dwelling. The tourist accommodation**

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shall be used and operated on a short-term rental arrangement with a maximum of a ninety (90) day stay in a 12-month period, per occupancy.

A logbook shall be kept of all occupancies for each calendar year and made available for inspection by the Council upon request.

- 3) The applicant, owner and/or other person(s) making use of the subject land shall maintain the site in good condition at all times, including all buildings and structures, car parking areas, driveways and landscaping, and ensure that all activities on the site are in accordance with the approved documentation to the reasonable satisfaction of Council.
- 4) The tourist accommodation approved herein and any associated activities shall be managed and conducted at all times in a manner as to cause no undue nuisance or adverse effect to any neighbouring landowners or to other land uses within the locality.
- 5) All roof runoff generated by the development hereby approved shall be managed on-site to the satisfaction of Council within one month of the roof cladding being installed using design techniques such as:
 - Rainwater tanks
 - Grassed swales
 - Stone filled trenches
 - Small infiltration basinsStormwater overflow management shall be designed so as to not permit trespass into the effluent disposal area. All stormwater including hard surface runoff shall be managed on site with no stormwater to trespass onto adjoining properties.
- 6) The subfloor area of the tourist accommodation must be appropriately treated or enclosed to minimise the risk of accumulation of burning debris underneath the structure, to the reasonable satisfaction of Council.
- 7) All external materials and finishes shall be of subdued colours and of a low-light reflective nature which blend with the natural features of the landscape.

NOTE: browns, greys, greens and beige are suitable and galvanised iron and zincalume are not suitable.

Conditions imposed by South Australian Country Fire Service under Section 122 of the Act

8) SITING (ANCILLARY STRUCTURES)

The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 3.2) details the mandatory requirements for extensions to buildings, outbuildings and other ancillary structures are sited and constructed using materials to minimise the threat of fire spread to residential and tourist accommodation (including boarding houses, hostels, dormitory style accommodation, student accommodation and workers' accommodation) in the event of bushfire.

Outbuildings and other ancillary structures shall be sited no closer than 6m from the habitable building, unless built to relevant building standards for associated structures in Bushfire Prone Areas. This includes existing and future structures which may or may not require planning and/or building consent including (but not limited to) garden sheds, animal shelters and cubby houses.

9) ACCESS TO HABITABLE BUILDING

The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 6.2) details the mandatory requirements for 'Private' roads and driveways to facilitate safe and effective use, operation and evacuation for firefighting and emergency personnel and evacuation of residents, occupants and visitors where

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required. These requirements apply when the furthest point of the building is more than 60m from the nearest public road.

SA CFS has no objection to the proposed access driveway as detailed on drawing named SITE PLAN dated at last revision 01/07/2025, with the following conditions:

The driveway shall be connected to a formed, all-weather public road with the transition area between the road and driveway having a gradient of not more than 7 degrees (1-in-8).

Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles, to within 60m of the furthest point of the building. Where the gradient of the driveway is steeper than 12 degrees (1-in-4.5) the minimum formed road surface shall be 4 metres.

The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either –

A loop road around the building, OR

A turning area with a minimum radius of 12.5 metres, OR

A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres (for each 'leg') and minimum internal radii of 9.5 metres OR

A 'U' shaped 'drive-through' option.

Private access shall have minimum internal radii of 9.5 metres on all bends.

Private access shall provide overhead clearances of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.

Vegetation to be established along the access road shall be carefully selected and designed in accordance with the following:

No understorey vegetation shall be established either side of the access road (understorey is defined as plants and bushes up to 2 metres in height),

Grasses shall be reduced to a maximum height of 10cm for a distance of 3 metres (or to the property boundary, whichever comes first).

Mature trees with a single stem habit, are permitted within this fuel reduced zone, providing they are maintained to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.

The all-weather road shall incorporate passing bays. The combined width of the passing bay and access track shall be 6 metres, and a minimum formed length of 17 metres. The passing bays should be constructed at 200 metre intervals along the road or driveway. Where it is necessary to provide adequate visibility, such as the nearest point to the public road or other passing bay, passing bays may be required at intervals of less than 200 metres.

The gradient of the access road shall not exceed 16 degrees (1-in-3.5) at any point along the driveway. In steep terrain exceeding 10 degrees (1-in-5.5) the surface should be sealed.

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The cross fall of the driveway shall be not more than 6 degrees (1-in-9.5) at any point along the driveway. In steep terrain roads shall be widened and appropriate guard rails and visibility markers should be installed on sides where an edge drop is present.

The all-weather road is to be constructed such that it is protected from water erosion of the traffic surface. The road surface shall be profiled to manage storm water run-off to appropriate drains, at one or both sides of the traffic surface. The accumulated volumes of water shall be directed via:

open drains; or

culverts and pipes under the traffic surface, and / or away from same, without causing further soil erosion, silting of adjacent areas or water courses or instability of any embankment or cutting.

Solid crossings over waterways shall be provided to withstand the weight of large bushfire appliances (GVM 21 tonnes).

10) WATER SUPPLY & ACCESS (to dedicated water supply)

Ministerial Building Standard MBS008 “Designated bushfire prone areas - additional requirements” 2020, as published under the Planning, Development and Infrastructure Act 2016, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with MBS008.

The ‘Planning and Design Code’ Hazards (Bushfire – High Risk) Overlay (Performance Outcome 4.3) details the mandatory requirements for the site to provide a dedicated hardstand area in a location that allows fire fighting vehicles to safely access the dedicated water supply.

SA CFS has no objection to the proposed location for the dedicated water supply as detailed on drawing named FLOOR PLAN and SITE PLAN dated at last revision 01/07/2025, providing the outlet is positioned to comply with the following conditions:

The water supply outlet shall be easily accessible and clearly identifiable from the access way and is no greater than 60m path of travel to the furthestmost point of the building, to enable fire services to reach all parts of the building with no more than two lengths of hose from the hardstand area.

The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering “FIRE WATER”).

Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.

Provision shall be made adjacent the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.

SA CFS appliance’s inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.

A gravity fed water supply outlet may be remotely located from the above ground tank to provide adequate access.

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All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for firefighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.

All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.

The minimum water supply required may be combined with domestic use, providing the outlet for domestic use is located above the dedicated fire water supply (in order for it to remain as a dedicated supply).

Access via a removable inspection opening is permissible if the following can be achieved:

Provision shall be made adjacent to the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes), that is:

a distance equal to or less than 3m to edge of the tank; and

the opening is a minimum of 200mm wide and is not more than 1.5m above ground level and no lower than 5m to the lowest point of the water source; and

access to the opening is unobstructed by associated landscaping and barriers.

11) MAINTAIN AN ASSET PROTECTION ZONE (APZ) - VEGETATION MANAGEMENT

The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 4.2) details the mandatory requirements to establish and maintain an asset protection zone. As such, landscaping shall include bushfire protection features that will prevent or inhibit the spread of bushfires and minimise the risk to life and/or damage to buildings and property and maintain a fuel reduced zone for safe movement of occupants and fire fighters.

SA CFS has no objection to the location and extent of the asset protection zone as detailed on drawing named SITE PLAN dated at last revision 01/07/2025, providing it complies with the following conditions:

Vegetation management shall be established and maintained within 33 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:

The number of trees and understorey plants existing and to be established within the APZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous and not within 5 metres of surrounding hazardous vegetation. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.

Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.

Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.

Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.

Shrubs must not be planted under trees or must be separated by at least 1.5 times their mature height from the trees' lowest branches.

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Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.

No understorey vegetation shall be established within 2 metres of the habitable building (understorey is defined as plants and bushes up to 2 metres in height).

Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves

The APZ shall be maintained to be free of accumulated dead vegetation.

A single row of trees or shrubs are permitted closer to the building than their mature height for screening purposes, providing they are not connected to other hazardous vegetation, are not within close proximity of timber building elements, windows and doors and do not touch or overhang any part of the building. Screening plants should have low flammability characteristics, be kept in optimum health, pruned regularly and any dead vegetation removed.

Conditions imposed by Environment Protection Authority under Section 122 of the Act

- 12) The on-site wastewater system must be installed in accordance with that proposed in the Site and Soil Assessment report, prepared by SEED Enterprises, dated 6 May 2025 and must include:
- a. installation of an OzziKleen RP10 system.
 - b. construction of an irrigation area, at least 223m² in size, located more than 50m from the nearest watercourse, dam or bore, more than 1.2m from the seasonal groundwater table, on a slope less than 20% and not in the 10% AEP flood zone.
 - c. bunding that directs surface runoff away from the irrigation area.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 5) This consent is strictly limited to works on the subject land. This consent does not permit any alteration to road verge. Works including tree pruning/removal, earthworks, kerbing, storage of material or any alteration to the verge or a reserve requires a separate approval under Section 221 of the Local Government Act 1999. For more

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information regarding this process please visit: <https://www.ahc.sa.gov.au/development/roads-andconstruction/authorisation-to-alter-a-public-road>

- 6) The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information please refer to the Native Vegetation Council website. Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council on 8303 9777.

Advisory Notes imposed by South Australian Country Fire Service under Section 122 of the Act

7) **BUILDING CONSIDERATIONS**

Ministerial Building Standard MBS008 “Designated bushfire prone areas - additional requirements” 2020, as published under the Planning, Development and Infrastructure Act 2016 applies to this site.

Please refer to the National Construction Code (NCC), relevant standards and state provisions for construction requirements and performance provisions.

A site Bushfire Attack Level (BAL) assessment was conducted in accordance with the NCC and Australian Standard™3959 (AS3959) “Construction of Buildings in Bushfire Prone Areas”.

Category of Bushfire Attack Level: BAL 29

This BAL rating is conditional upon the establishment and maintenance of a 20 metre Asset Protection Zone (or to the property boundaries – whichever comes first), in accordance with the Asset Protection Zone – Vegetation Management condition of consent placed on the planning consent with the same application reference.

This result is considered relevant at the date of assessment with respect to the elevations detailed on proposed Site Plan, dated 01/07/2025 and shall not be considered as SA CFS endorsement of any subsequent development.

8) **TOURIST ACCOMMODATION - BUSHFIRE SURVIVAL PLAN**

CFS further recommends:

- The applicants to prepare and display a BUSHFIRE SURVIVAL PLAN (BSP) designed specifically for the purpose of any guests that may be in residence during a bushfire event, especially during the Fire Danger Season. The BSP:
 - 1) should provide clear directions to persons that may be unfamiliar with the area/locality and unfamiliar with what protective actions they may need to take to protect their lives during a bushfire event, including when to take such protective actions; and
 - 2) should address the possibility that the owners may not be present at the time of the bushfire event; and
 - 3) should not expect guests to be involved in fire-fighting operations.The SA CFS ‘Bushfire Safety Guide For Business’ document (refer to CFS website) should be utilised as a basis for information and the drafting of the (GUEST) BSP.
The applicant should consider reducing operating hours and restrictions on days of heightened bushfire danger and/or bushfire events and consider including any alterations to bookings and services offered due to actual or predicted conditions during the Fire Danger Season in any booking/refund policy.

9) **MANIFEST BOX (or similar)**

Given the complexities that the subject site presents, SA CFS further recommends the installation of a Manifest Box at the entrance of the property. This box (which looks a bit like a small meter box), should be red with white writing ‘Fire Protection system’ or similar, and clearly visible to fire crews as they access the property. Information contained should include, but is not limited to, a list of emergency contact phone numbers and a site plan highlighting vehicle access, turning ability, building location, water i.e. fill locations, all fire protection equipment, and any on-site hazards or storage of dangerous materials i.e. LPG, fuels or chemicals.

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Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act

- 10) The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- 11) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

OFFICER MAKING RECOMMENDATION

Name: Chandhini Kumar
Title: Statutory Planner