

CAP MEETING – 12 APRIL 2023**ITEM 8.1**

DEVELOPMENT NO.:	22028767
APPLICANT:	Damian Stam Linda Stam
ADDRESS:	35 JACOBS LANE MYLOR SA 5153 CT 5690/430
NATURE OF DEVELOPMENT:	Change of use to include tourist accommodation comprising one self-contained unit
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <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 • Scenic Quality • Water Resources
LODGEMENT DATE:	30 Aug 2022
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2022.15
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes Notification period from 16 November 2022 to 6 December 2022
RECOMMENDING OFFICER:	Marie Molinaro Statutory Planner
REFERRALS STATUTORY:	Environment Protection Authority South Australian Country Fire Service
REFERRALS NON-STATUTORY:	Council Engineering Council Environmental Health

CONTENTS:**ATTACHMENT 1: Application Documents****ATTACHMENT 6: Referral Responses****ATTACHMENT 2: Subject Land/Representation Map****ATTACHMENT 7: Relevant P&D Code Policies****ATTACHMENT 3: Zoning Map****ATTACHMENT 4: Representations****ATTACHMENT 5: Response to Representations**

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is to establish a tourist accommodation use. The subject land contains a dwelling and associated outbuildings which are to remain. The occupant-owners of the dwelling are intending to operate the tourist accommodation.

The proposal consists of the following:

- One self-contained tourist accommodation building, comprising:
 - Single bedroom
 - Bathroom
 - Open plan lounge room and kitchen
 - Attached deck
 - Rear verandah and ramp access
- The dimensions of the tourist accommodation building are 13.2m x 6.4m. The total floor area including the attached deck is 84 square metres.
- The walls of the tourist accommodation building will be a mixture of Weathertex weatherboard-like material in dark grey colour and Colorbond cladding in 'Monument' (amended after public notification from Colorbond 'Basalt' or 'Woodland Grey').
- The roof of the tourist accommodation buildings will be Colorbond 'Monument' (amended after public notification from Colorbond 'Basalt' or 'Woodland Grey').
- The tourist accommodation building will be flat roof in design with a maximum height of 2.7m.
- The tourist accommodation building is located approximately 165 m north of the dwelling on the land and 20m from the Jacobs Lane boundary.
- The tourist accommodation building will be served by a new cross-over and internal compacted rubble driveway from Jacobs Lane.
- The tourist accommodation building will be provided with space adjacent for the parking of one (1) car. The car-parking space is not covered.
- Stormwater will be managed on-site.
- Wastewater will also be managed on-site, with the tourist accommodation unit gaining approval for a waste control system that is independent of the dwelling.
- Landscaping will be planted around the building in accordance with the landscaping plan included with the application.
- Indicative signage detail has been provided, but full details are being determined by the applicant. A separate development approval will be required for future signage.

The plans and application information are included in ***Attachment 1 – Application Documents***.

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BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
14 February 1977	18867	Domestic garage for storage
22 December 1977	11610	Brick veneer dwelling
13 November 1981	14180/1850	Timber frame horse stable

SUBJECT LAND & LOCALITY:

Site Description:

Location Reference: 35 JACOBS LANE, MYLOR SA 5153

Title ref.: CT 5960/430 **Plan Parcel:** F159288 AL11

The subject land is irregular in shape with an area of 10.38Ha. The land has a primary street frontage to Jacobs Lane on the west and secondary street frontage to Bradbury Road to the north. Jacobs Road is a no-through unsealed road.

The land contains a dwelling and associated outbuildings which are clustered near the south-western portion of the land.

The land is within a valley and is dissected by a watercourse which flows through the centre of the land.

The locality is rural residential in nature, with the subject land being one of the larger allotments in the locality.

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:**

Tourist accommodation: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

The proposal is not listed as Accepted, Deemed to Satisfy or Restricted in the Planning & Design Code, so it defaults to being a Performance Assessed type of development.

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PUBLIC NOTIFICATION

- **REASON**

As per Table 5 procedural matters of the Productive Rural Landscape Zone tourist accommodation is exempt from public notification provided DTS/DPF6.3 & DTS/DPF6.4 are met. The proposal fails to meet all of the criteria of DTS/DPF6.3 & DTS/DPF6.4 so public notification was required.

- **LIST OF REPRESENTATIONS**

One (1) supporting and two (2) opposing representations were received during the public notification period. One of the opposing representors wishes to be heard in support of their written representation.

The representors are detailed below:

Representor Name	Representor's Property Address	Wishes to be Heard	Nominated Speaker (if relevant)
Kevin Brogan	10 Jacobs Lane, Mylor	Yes	TBA
Robert Burgess	142 Ridge Road, Mylor	No	
Judith McKinnon	168 Cyanide Road, Mount Torrens	No	

- **SUMMARY**

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

Supporting representation

- The Adelaide Hills needs more tourist accommodation.

Opposing representations

- Water quality concerns re on-site wastewater management.
- Adverse residential amenity impacts.
- Negative visual amenity impacts resulting from the design and siting of the tourist accommodation building.
- The proposal is at variance with the Planning & Design Code.

A copy of the representations is included in **Attachment 4 – Representations** and the response to the representations is included in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

- Environment Protection Authority

The EPA referral response is discussed in the Planning Assessment Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay section of the report.

- South Australian Country Fire Service

The CFS referral response is discussed in the Planning Assessment Hazards (Bushfire – High Risk) Overlay section of the report.

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INTERNAL REFERRALS

- Council Engineering
- Council Environmental Health

The referral responses are contained in **Attachment 6 – Referral Responses**.

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.

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 7 – Relevant P&D Code Policies**.

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	The creation of local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use and Intensity PO1.1 & DTS/DPF1.1	
Siting and Design PO2.1 & DTS/DPF2.1, PO2.2 & DTS/DPF2.2	

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Shops, Tourism and Function Centres PO6.3 & DTS/DPF6.3, PO6.4 & DTS/DPF6.4
Built Form and Character PO11.1

The Desired Outcomes for the Zone seek and promote amongst other uses tourist accommodation. However, it is also desired that such activity should be undertaken in balance with conserving the natural and rural character, sensitive environmental areas and scenic qualities of the landscape.

The proposed tourist accommodation building is of a modest size and height, well below the maximum height and floor area desired for tourist accommodation as per DPF6.3 & 6.4. DPF 6.3 seeks for tourist accommodation in a new building to not exceed a floor area of 100 square metres and DPF6.4 seeks for tourist accommodation in new buildings to have a building height not exceeding 7m above natural ground level.

The tourist accommodation building is well setback from the site boundaries, achieving a minimum 20m setback from the Jacobs Lane boundary and being approximately 75m upslope of the watercourse. DPF 6.4 part a) does seek for tourist accommodation in new buildings to be setback at least 40m from all property boundaries. The proposal does not achieve this at its setback of 20m from the front boundary; however, the setback shortfall is only to the Jacobs Lane boundary. Nonetheless, the small scale of the building, its low profile, and finish in dark non-reflective materials means that the corresponding performance outcome is not offended in that the pleasant rural character and amenity will be maintained. The building has not been sited further from the Jacobs Lane boundary as this would require more earthworks and shaping of the land to provide the internal driveway.

The desired 40m setback also needs to be considered in the context that this same setback also applies to new dwellings in the Zone, which are much larger and visually obtrusive than this small 70 square metre singular tourist accommodation unit.

Despite the benefits of the siting of the tourist accommodation, it's is not clustered with existing buildings on the land and will be visible from Jacobs Lane and adjacent rural residential properties on the western side of this roadway.

The siting of the tourist accommodation away from other buildings on the land has been chosen to provide the best scenic views across the land and to maintain the privacy of the dwelling on the land. The building faces internally so as not overlook the nearest adjacent rural residential properties on the western side of Jacobs Lane. These properties are in any event on a higher elevation.

As the building design is on stumps there are minimal earthworks proposed, so as to help assist maintain the natural landform. There will be some earthworks associated with the internal driveway extension, but these will be modest and not requiring significant re-shaping of the land or retaining. The internal driveway extension will be finished in compacted gravel to blend with the natural surrounds.

PO6.3, DPF6.3 and PO6.4 relate directly to tourism development.

PO6.3 seeks for tourist accommodation to be associated with the primary use of the land for primary production or a primary production related value adding industry and to provide authentic visitor experiences.

Part a) of DPF6.3 seeks for tourist accommodation to be ancillary to and located on the same allotment, or adjoining allotment used for primary production or primary production related value adding industry.

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The subject land is one of the larger allotments in the locality and, as per the advice in the response to representations, has historically been used for low-scale grazing. Whilst this activity is currently not occurring on the land it is the applicants' intention to return sheep to the land. Grazing is a form of primary production and it is the applicants' intention to market the accommodation as a boutique farm stay to provide an authentic visitor experience. In addition, it is the applicants' intention to promote local produce to visitors to support primary production in the broader area.

Regarding the representations, the inclusion of additional tourist accommodation units would require separate Council development approval. This current application needs to be assessed on its merits as being for the one tourist accommodation unit.

Further, it is not a feature of the planning system to question the economic need for development as it relates to representor concern; especially as the proposed use is desired in the Zone.

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">• Potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change• High levels and exposure to ember attack• Impact from burning debris• Radiant heat• 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 area 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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Siting PO2.1	
Built Form PO3.1	
Habitable Buildings PO4.1 PO4.2 & DTS/DPF4.2, PO4.3	
Vehicle Access – Roads, Driveways and Fire Trucks PO6.2 DTS/DPF6.2 & PO6.3	

As per the Overlay procedural matters a referral to the Country Fire Service (CFS) was required. The CFS has no objections to the proposal, and directed conditions regarding access, water supply and vegetation management. The CFS conditions are included as conditions eight (8) to eleven (11).

As the CFS has no objections to the proposal, it is considered the proposal will satisfy the relevant Hazards (Bushfire – High Risk) Overlay Desired Outcomes and Performance Objectives subject to compliance with the directed conditions.

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Hazards (Flooding) Overlay

Desired Outcomes	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment through the appropriate siting and design of development.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Flood Resilience	
PO1.1 & DTS/DPF1.1	

The tourist accommodation building is approximately 75m above the mapped watercourse flowing through the centre of the land. On this basis, flood risk 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.

This overlay is not relevant to the proposal as it is not for a land division.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO1	Safeguard 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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Quality	
PO1.1	
Wastewater	
PO2.1 & DTS/DPF2.1, PO2.4 & DTS/DPF2.4, PO2.5 & DTS/DPF2.5	
Stormwater	
PO3.1, PO3.2, PO3.9 & DTS/DPF3.9	
Landscapes and Natural Features	
PO4.1	

In accordance with the Overlay procedural matters a referral to the Environment Protection Authority (EPA) was required.

The EPA has no objections to the proposal, and has directed a condition regarding the wastewater system. The EPA condition is included as condition seven (7).

As the EPA has no objections to the proposal, it is considered the proposal will satisfy the relevant Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay Desired Outcomes and Performance Objectives subject to compliance with the directed condition.

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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, ecosystems services, carbon storage and amenity values.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO1.1 & DTS/DPF1.1	

The development area is clear of native vegetation and the applicant has signed the native vegetation declaration, which complies with DPF1.1.

Scenic Quality Overlay

Desired Outcomes	
DO1	Development complements natural and rural character, and areas of scenic value.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use and Intensity PO1.1	
Built Form and Character PO2.1	
Landscaping PO3.1 & DTS/DPF3.1	
Earthworks PO4.1 & DTS/DPF4.1	

With regard to land use and intensity, small-scale tourist accommodation is a desired use in the rural setting of the Productive Rural Landscape Zone in which the subject land is located.

The development is considered to complement rural character as the building itself has a small footprint, modest height and is finished in dark non-reflective materials. It is sited on the low side of the road in a cleared portion of the land and built on stumps to limit the extent of earthworks. The internal driveway will be finished in compacted gravel so as to blend with the natural surrounds.

Landscaping comprising natural plant species is proposed by the applicant and recommended condition six (6) enforces a timeframe for planting.

The proposed building will not be visible from Bradbury Road to the north.

The proposal is consistent with the Scenic Quality Overlay Desired Outcome and Performance Objectives.

Water Resources Overlay

Desired Outcomes	
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Catchment PO1.1 & PO1.5 & DTS/DPF1.5	

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The proposed building works and driveway areas are clear of the watercourse.

DPF1.5 seeks a 20m strip of land from the banks of a watercourse to be free from development. The tourist accommodation building is approximately 70m upslope of the watercourse.

The proposal is consistent with the Water Resources Overlay Desired Outcome and Performance Objectives.

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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 & DTS/DPF1.1	

The applicant has signed the building safety near powerlines declaration, which complies with DPF1.1.

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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
On-Site Waste Treatment Systems PO6.1 & DTS/DPF6.1	
Earthworks and Sloping Land PO8.1 & DTS/DPF8.1	

With regard to DO1 part a) on balance the proposal is considered to respond positively to the natural surrounds and contribute positively to the character of the area.

The appearance of the building is of that of a small outbuilding, noting that outbuildings are also an anticipated form of development in the Zone.

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The location of the tourist accommodation building is on a cleared and relatively level area of the site which is above the watercourse. The positioning takes advantage of scenic views across the subject land without overlooking adjoining rural residential properties. The building is on stumps so as to minimise earthworks and modification to the landscape.

Regarding representor concern re universal access, this is a Building Consent assessment matter. A change from stairs to a ramp if required can be made as a minor variation during the Building Rules assessment if the Panel resolves to grant Planning Consent.

It is also considered likely that it will be of importance to the owner-operators to maintain the site to a high standard to appeal to visiting guests helping to further positively contribute to the amenity of the locality.

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.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Supply PO 11. & DTS/DPF 11.1	
Wastewater Services PO 12.1 & DTS/DPF 12.1	

PO11. & DTS/DPF11.1 relate to water supply. The tourist accommodation building will be connected to a new water storage tank for the potable water supply. Council Environmental Health have advised that mains connection is preferable, but that ultimately the operators will need to comply with SA Health legislation regarding this matter. The applicant is aware of this, and recommended note six (6) also highlights this.

PO 12.1, DPF 12.1 & PO 12.2 & DPF12.2 relate to wastewater service.

PO 12.1 seeks for development to be connected to a common wastewater disposal service such as sewer or CWMS. This is not available to the subject land, so wastewater will be managed on-site. The new 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.

The proposed building works do not encroach upon the existing waste control system servicing the dwelling.

Electricity supply to the tourist accommodation building will be via an existing bore, with supply line trenched underground to the building.

For hard waste management, the accommodation unit will be provided with an internal bin which will be emptied into a larger bin for collection by Council waste contractor East Waste.

The proposal is consistent with the Infrastructure and Renewable Energy Facilities policies.

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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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Hours of Operation PO2.1	
Light Spill PO6.1	

PO2.1 seeks for non-residential development to not unreasonably impact the amenity of sensitive receivers through its hours of operation with regard to the nature of the development, measures to mitigate off-site impacts and the extent to which the development is desired in the Zone.

The proposed check-in and check-out times are considered to be fairly standard for tourist accommodation, and the proposal is small in scale, accommodating a maximum of two (2) guests at any one time. Tourist accommodation is desired in the Productive Rural Landscape Zone.

Re light spill, recommended condition four (4) ensures an obligation on the owner-operator that external lighting be managed to not cause nuisance to adjacent residential uses.

The proposal is considered consistent with the Interface Between Land Uses policies.

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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 & DTS/DPF1.1	

The proposal is for a change of use to include tourist accommodation. However, tourist accommodation is not more sensitive than the existing residential use. Therefore DPF1.1 part b) is met and no site investigations were required.

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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
General PO1.1 & PO1.2	

Tourist accommodation is a desired use in the Productive Rural Landscape Zone in which the subject land is situated.

The proposal is consistent with the Tourism Development policies.

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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 & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Vehicle Access PO3.1 & DTS/DPF3.1	
Vehicle Parking Rages PO5.1 & DTS/DPF5.1	

Access to the proposed tourist accommodation building will be via a new cross-over to Jacobs Lane, which Council Engineering have accepted.

There is no impact on the existing vehicle parking arrangement for the dwelling on the land.

The tourist accommodation building will be provided with one (1) uncovered space adjacent for vehicle parking. This complies with Table 1 – General Off-Street Car Parking Requirements of the Planning & Design Code. Table 1 does not seek for the parking space to be covered.

Representor concern was raised regarding increased traffic movements associated with the proposal. Council Engineering has raised no concern with this. Also as noted above in the report, vehicle movements are expected to be infrequent due to the nature of the proposal. It is anticipated with tourist accommodation that guests will mostly be out during the day reducing vehicle movements relative to, or in comparison with residential development types.

The proposal is consistent with the Transport, Access and Parking policies.

CONCLUSION

The proposal is for the construction of one tourist accommodation building on a rural residential allotment in the Productive Rural Landscape Zone.

Tourism development is encouraged in the Zone, but particularly where it is associated with, and ancillary to primary production occurring on the same or adjoining land to provide an authentic visitor experience.

The applicant intends to re-introduce a grazing use to the land and will promote local produce to guests to promote an authentic boutique farm-stay visitor experience.

The proposal required referral to the Environment Protection Authority and SA Country Fire Service. Both referral agencies were satisfied with the proposal, subject to directed conditions and advisory notes.

Subject to conditions relating to building appearance and landscaping the proposal is considered to maintain a pleasant scenic landscape quality as desired in the Productive Rural Landscape Zone.

The proposal is sufficiently consistent with the relevant provisions of the Planning & Design Code.

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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 22028767 by Damian Stam and Linda Stam for change of use to include tourist accommodation comprising one self-contained unit at 35 Jacobs Lane, Mylor 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.
- 2) The person(s) having the benefit of this consent shall refrain from permitting the use of the tourist accommodation building for provision of long-term accommodation or as a separate dwelling. The tourist accommodation unit shall be used and operated on a short-term rental arrangement with a maximum of a one (1) month stay 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) External colours and materials shall be as follows:

ROOF: Colorbond 'Monument' or similar

WALLS: Weathertex cladding in Colorbond 'Monument' colour or similar

- 4) All external light shall be directed away from residential development and shielded if necessary to prevent light spill causing nuisance to the occupiers of adjacent residential properties.
- 5) The vehicle access point and cross over shall be constructed in accordance with Adelaide Hills Council standard engineering detail SD24 – piped entrance prior to occupation/use of the development. The newly constructed access must not alter road stormwater flow or path.
- 6) Landscaping detailed in the landscaping plan shall be planted in the next available planting season following completion of the tourist accommodation unit 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.

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

- 7) Prior to occupation, the on-site wastewater system must be installed in accordance with the "*Aerobic with Surface Sprays for Proposed Accommodation Area Report 2032 35 Jacobs Lane Mylor*", prepared by Archer Environmental, dated 2 August 2022, and include:
 - a. The installation of an Ozzi Kleen RP10 system.
 - b. The construction of an 80m² irrigation area which is:

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- i. located more than 50m from the nearest watercourse, dam or bore; and
 - ii. more than 1.2m from the seasonal groundwater table; and
 - iii. on a slope less than 20%; and
 - iv. not in the 10% annual exceedance probability flood zone.
- c. Vegetating the irrigation area with a woodlot.
- 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.

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

- 8) 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.

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

A clear and unobstructed vehicle or pedestrian pathway shall be provided; no greater than 60 metres in length between the most distant part of the habitable building and the nearest part of the formed public access way.

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.

Please note that where the water supply is an above-ground water tank, the tank (including any support structure) should be constructed of non-combustible material, such as concrete or metal.

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 SERVICES PLAN dated at last revision 07/02/2023, 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.

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- 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.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) 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).
- Where access to the habitable building is not required due to proximity to the public road, but the hardstand adjacent the outlet is located more than 6m within the boundary of the allotment, the access to the outlet shall:
 - be connected to a formed, all-weather public road; and
 - have a gradient of not more than 16 degrees (1-in-3.5) at any point; and
 - provide overhead clearance of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including building and/or structures; and
 - shall not include guest car parking space/s within the minimum dimensions.
- The all-weather access to the hardstand 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.

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 PLANTING ZONES dated at last revision 01/02/2023, providing it complies with the following conditions:

- Vegetation management shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:
 1. 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. 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%’.

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2. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
3. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
4. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
5. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
6. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
7. 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).
8. 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.
9. The APZ shall be maintained to be free of accumulated dead vegetation.

ADVISORY NOTES

Planning Consent

- 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) Separate Development approval is required for any signs or advertisements associated with the development herein approved.
- 6) The operators shall follow the advice of SA Health regarding the Safe Drinking Water Act (2011) requirements for potable water supply to the tourist accommodation units. An exemption may be required from SA Health to provide water via the existing water storage tank.

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

- 7) The applicant is 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.
- 8) The applicant is advised that, during construction, appropriate measures should be put in place to ensure that no soil transport occurs during rain events. This could include using silt fences on the downhill side of the exposed area to capture any soil runoff, and appropriately managing any soil stockpiles kept on site with silt fencing, or through temporary coverage with matting or hydroseeding. Further guidance may be sought from the EPA's *Stormwater pollution prevention code of practice for the building and construction industry* found at: https://www.epa.sa.gov.au/files/47790_bccop1.pdf

More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au.

Advisory notes imposed by the South Australian Country Fire Service Under Section 122 of the Act

BUILDING CONSIDERATIONS

- 9) Ministerial Building Standard MBS 008, Designated bushfire prone areas – additional requirements, July 2020, as published under the *Planning, Development and Infrastructure Act 2016*, applies to this site.

Please refer to the 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 BAL 19.

OFFICER MAKING RECOMMENDATION

Name: Marie Molinaro
Title: Statutory Planner