

SPECIAL CAP MEETING – 4 December 2024

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DEVELOPMENT NO.:	22007004
APPLICANT:	Luxury Lodge Group
NATURE OF DEVELOPMENT:	Tourist accommodation comprising 20 units with ancillary lodge and shop (personal services establishment in the form of a day spa), water tanks, access road and associated earthworks
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 - Medium Risk) • Heritage Adjacency • 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:	9 March 2022
RELEVANT AUTHORITY:	Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.4 - 3 March 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes 09 February to 01 March 2023
RECOMMENDING OFFICER:	Brendan Fewster – Consultant Planner / James Booker Team Leader Statutory Planning
REFERRALS STATUTORY:	Environment Protection Authority
REFERRALS NON-STATUTORY:	Engineering Environmental Health

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DETAILED DESCRIPTION OF PROPOSAL:

The application is proposing a tourist accommodation facility comprising 20 accommodation units and a day spa (a lodge and shop in the form of a personal services establishment), rainwater tanks, a driveway access road and associated earthworks and landscaping.

The following is a more detailed overview of the proposal:

- Accommodation units - construction of 20 tourist accommodation units on vacant land on the south-western side of the Lane winery/vineyard site. There are three accommodation types/designs; all of which comprise a simple modern form with a suspended floor and light weight construction. A feature of the design is the suspended floor that 'floats' above the natural ground level to provide elevated views from a timber deck and living space.

The single room units (Type 01 and 02) have a floor area of 75m² and a maximum roof height of approximately 7 metres above natural ground level. These smaller units have an open plan bedroom, bathroom and living area and accommodate a maximum of two guests. The proposal includes 11 x Type 01 units and 5 x Type 02 units.

The two bed units (Type 03) have a floor area of 127m², a roof height of 3.5 metres and a maximum height above natural ground level of approximately 6 metres (varies from 3m/to 6m considering the slope of the land). These larger units have 2 bedrooms, 2 bathrooms, a kitchen and living area, and a terrace for a maximum of four guests. The proposal includes 4 x Type 03 units.

- Day spa building (personal services establishment) – the lodge building is located adjacent to the accommodation units. The building has a similar modern design to that of the units with light weight construction that includes standing seam Colorbond (light grey) and timber (Charcoal) wall cladding and aluminium frame windows and doors. The building has a floor area of 415m², a roof height of 7 metres that increases to approximately 9 metres above natural ground level due to the slope of the land. Internally, the building has a reception area, kitchen and bar, dining area and several treatment rooms.
- The Day spa is intended for both guests of the accommodation and the general public.
- Guest and staff numbers – a maximum of 48 overnight guests within the proposed accommodation and four staff during peak times.
- Vehicle access and car parking – new internal driveways with a compacted gravel surface are to be provided that connect into the existing access arrangements of the winery cellar door and restaurant. Guests will enter from the existing main entrance on Ravenswood Lane and egress via an existing access on Paech Brothers Road. A new 15 space car park will be provided adjacent to the day spa facility for guests and staff while the proposed plans also show parallel spaces along the circulating roadway for the accommodation units.
- Ancillary structures and activities – 2 x 150KL rainwater tanks are to be provided for firefighting. The proposal does not include any rainwater tanks for the accommodation buildings. A new stormwater detention basin and wastewater Rhizopod system with soakage areas are to be located to the south of the accommodation units adjacent to Paech Brothers Road.
- Earthworks – Earthworks are proposed in order to accommodate the proposed service road. The submitted "Concept Grading Plan" demonstrates earthworks and batter around the road in order to keep the gradient of the road at 20% or lower. The proposed tourist accommodation units require little earthworks considering their cantilevered design.

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- Landscaping - the proposal includes a detailed landscaping design comprising a comprehensive mix of native species (large trees, shrubs and ground covers) that are to be planted on the site adjacent to property boundaries, internal roads and to stabilise and screen the stormwater detention basin and wastewater soakage area.
- The applicant has not provided a Management Plan for the proposed accommodation units and Day Spa. Minimal details have provided with respect to 'house rules', customer access and check-in/check-out arrangements, maximum occupancy and duration of overnight stays, waste management, cleaning arrangements and staff supervisory.

BACKGROUND:

- The proposal has been varied since public notification as described below:
 - A reconfiguration of the accommodation units to achieve a minimum 20m setback from site boundaries;
 - Removal of access stairs for villas;
 - Removal of carports from villas as parking is to be accommodated within the road;
 - Retention of existing pine trees adjacent to the proposed lodge building;
 - Revised stormwater management plan; and
 - Revised wastewater system.



Image 1: Superseded proposal

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Image 2: Amended proposal

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
24 November 2022	22024886	Variation of DA 18/657/473 (Alteration of Conditions 7, 8, 9 and 10)
27 March 2019	18/657/473	Addition to cellar door (verandah) & winery building (toilet block), conversion of approved car parking area to licenced outdoor area (varies DA 473/963/12) & special events (12 per year) associated with the existing mixed use development (restaurant, cellar door & winery), replacement car parking area, retaining walls (maximum height 1m) & associated earthworks
LAPSED	19/373/473	Alterations & additions to existing winery & restaurant
17 July 2013	12/963/473	Alterations and additions to existing restaurant and cellar door – to relocate cellar door
23 December 1992	563/5-375/90	Dwelling

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REFUSED	563/5-347/91	Dwelling
27 September 1976	3580	Hay shed
27 June 1983	563/0201/83	Clearance of vegetation
22 December 1988	563/D-058/88	Land Division
21 December 2006	06/744/473	Alterations and additions to existing farm buildings for a change of use to winery with a crush of 499 tonnes per annum, cellar door and 75 seat restaurant facility with deck, associated waste water treatment tanks and car parking.

Summary of current hours of operation

Restaurant: 10am – 4pm Monday to Thursday

10am – 11:30pm Friday to Saturday

10am – 10:30pm Sunday and Public Holidays

Cellar Door: 10am – 4pm Monday to Thursday

10am – 5pm Friday to Sunday and Public Holidays

Functions: 9am – 11:30pm on Friday, Saturday and Public Holidays

9am – 10:30pm on Sunday

SUBJECT LAND & LOCALITY:

Location reference: 5 RAVENSWOOD LANE BALHANNAH SA 5242

Title ref.: CT 6060/311 **Plan Parcel:** D83760 AL36 **Council:** ADELAIDE HILLS COUNCIL

Site Description

The subject land comprises a rural allotment of approximately 36 hectares located at 5 Ravenswood Lane, Balhannah.

The land comprises a single allotment that is formally described as Allotment 36 in Deposited Plan 83760, Certificate of Title Volume 6060 Folio 311. The Certificate of Title indicates there are several easements for service infrastructure. There are no other registered interests on the land title.

The land is irregular in shape with a frontage of nearly 800 metres to Ravenswood Lane and a secondary frontage of 570 metres to Paech Brothers Road. Located centrally on the site is The Lane winery, cellar door and restaurant and there is also a single storey dwelling in amongst existing trees that is a short distance from the cellar door and restaurant. Established vineyards surround the cellar door and restaurant and cover most of the land.

The site of the proposed development is a small vacant paddock on the south-western part of the subject land. The paddock is approximately 3.5 hectares in area and is devoid of vegetation. The land has a sloping topography with a steep crossfall of around 36 metres (approximately 1 in 7 grade) in a southerly direction.

This part of the subject land is accessed via an internal driveway from the cellar door and restaurant and there is also an existing access on Paech Brothers Road where vehicles from the cellar door and restaurant can currently exit.

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Locality

The locality has a distinctive rural character with mostly vineyards and grazing/cropping activities and some rural living properties.

Allotments are typically 20 hectares or more in area and support 'productive' primary production, particularly horticultural activities and small-scale farming.

Buildings comprise mostly farmhouses and agricultural buildings that are small-scale and inconspicuous.

The open and undulating land topography, scattered areas of native vegetation and expansive rural views are notable features of the locality. These rural and scenic qualities contribute to a rural landscape character of high amenity.

The townships of Balhannah and Hahndorf are around 2 kilometres to the north and south-west respectively.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Water tanks (above ground): Code Assessed - Performance Assessed
Tourist accommodation: Code Assessed - Performance Assessed
Shop: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- Yes
- **REASON**
The proposed tourist accommodation does not satisfy DPF 6.3 and 6.4 of the Productive Rural Landscape Zone. Tourist accommodation floor areas exceed 100m² and the new tourist accommodation buildings are not setback from all property boundaries by 40m. The public notification period for this application was undertaken from 09 February to 01 March 2023
- **LIST OF REPRESENTATIONS**
73 representations were received during the notification period, with 72 representations opposing the development and 1 representation in support. 43 representations have requested to be heard by the Panel.

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Sandra and John Tarrant	1/14 Braun Drive, Hahndorf	No	No
Rachel Rudiger	PO Box 59, Hahndorf	No	No

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Johnathan Nitschke	PO Box 473, Hahndorf	Yes	Self
Sandra Nitschke	PO Box 473, Hahndorf	Yes	Self
Carl Nitschke	PO Box 473, Hahndorf	Yes	Self
Cathryn Nitschke	PO Box 4, Hahndorf	Yes	Self
John Nitschke	PO Box 4, Hahndorf	Yes	Self
Lyn Nitschke	PO Box 4, Hahndorf	Yes	Self
Dave Cal	4/581 Portrush Road, Glenunga	No	No
Nicol Morrison	PO Box 105, Balhannah	Yes	Self
Jo Marsh	Unit 2, 2 Johnston St, Stirling	No	No
Jody Rowe	22 Swift St, Dulwich	No	No
Tim Davis	PO Box 665, Hahndorf	No	No
Nelson Green	PO Box 168, Hahndorf	No	No
Deborah Warland	PO Box 44, Balhannah	Yes	Self
Steve Noske	PO Box 1157, Mount Barker	No	No
Greg Jamieson	PO Box 258, Hahndorf	Yes	Self
Deb Crawford	PO Box 572, Littlehampston	No	No
Simone McClure	44 Lynton Avenue, Gilles Plains	No	No
Brenton Kelly	PO Box 45, Kent Town	Yes	Self
Anna Crowley	PO Box 401, North Adelaide	No	No
Elizabeth Kirkby	PO Box 225, Hahndorf	Yes	Self
Grant Coleman	PO Box 132, Balhannah	Yes	Self
Jason White	PO Box 297, Hahndorf	No	No
Tracy Hogan	PO Box 219, Hahndorf	No	No
Valentina Zaytseva	1 Hawke Street, Ridgehaven	Yes	Self
Meegan Pezzotta	28A Karawirra Avenue, Rostrevor	Yes	Self
Richard Shipman	29A Leonard Road, Hahndorf	Yes	Self
Nicholas Baranikow	PO Box 56, Glenside	No	No
Noel & Patricia Halloran	PO Box 361, Balhannah	No	No
Andrew Webber	PO Box 158, Hahndorf	Yes	Self
Alister Haigh	37 Wellington Square, North Adelaide	Yes	Self
Susan Haigh	PO Box 161, Balhannah	Yes	Self
Stephen Symons	26 Ravenswood Lane, Balhannah	Yes	Self
Belinda Symons	26 Ravenswood Lane, Balhannah	Yes	Self
Carolyn Symons	26 Ravenswood Lane, Balhannah	Yes	Self
Georgina Symons	26 Ravenswood Lane, Balhannah	Yes	Self

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Sandra Loveband	7 Avenue Road, Highgate	Yes	Self
David Loveband	7 Avenue Road, Highgate	Yes	Self
Merrilyn Hein	PO Box 409, Hahndorf	No	No
Pauline Willy	20 Wood Road, Paradise	Yes	Self
Luke Rudiger	PO Box 59, Hahndorf	No	No
Ethel Stanton	PO Box 491, Hahndorf	Yes	Self
Kathleen Smith	PO Box 512, Hahndorf	No	No
Anthony Smith	PO Box 512, Hahndorf	No	No
Joshua Silwood	53 Hurling Drive, Mount Barker	Yes	Self
Perry Kelly	14A Hooking Avenue Royston Park	Yes	Self
Marge Kelly	14A Hooking Avenue Royston Park	Yes	Self
Tom Gilbert	PO Box 76, Mount Barker	No	No
Kylie Hewitt	5 Corbusier Drive, St Agnes	Yes	Self
Scott Crawford	PO Box 572, Littlehampton	No	No
Richard Harris	PO Box 732, Hahndorf	Yes	Self
Valerie Harris	PO Box 732, Hahndorf	Yes	Self
Rosslyn Hendrick	141 Birchmore Road, Hahndorf	No	No
Christie Rogers	35 English Street, Hahndorf	No	No
Christine Reed	8 Paech Brothers Road, Hahndorf	Yes	Not specified
Daniel Rossouw	PO Box 267, Balhannah	No	No
Michael Cornish	47 Orontes Avenue, Bridgewater	No	No
Jo Christie	18 Walker Street, Macclesfield	No	No
Geoff Fisher	3 Albert Avenue, Crafers West	No	No
John Koumi	97-99 Glen Osmond Road, Eastwood	No	No
Jillian Awerbuch	32 Bradshaw Avenue, Crafers	No	No
Debby Nulty	PO Box 343, Hahndorf	Yes	Self
Chris McMichael	PO Box 91, Balhannah	Yes	Self
Matt Kelly	23 Paech Brothers Road, Hahndorf	Yes	Self
Teneal Elliot	19 Bligh Avenue, Panorama	Yes	Self
Jo Marshall	PO Box 654, Hahndorf	No	No
Kerry Martin	9 Wallace Court, Mitchell Park	No	No
Katrina Pollard	PO Box, Hahndorf	Yes	Self
Crystal Bihun	PO 380, Woodside	Yes	Self
Sam Underwood	PO Box 136, Hahndorf	Yes	Self
Austen Oxlade	40 Jones Road, Balhannah	Yes	Self
Darren Kelly	PO Box 530, Hahndorf	Yes	Greg Vincent (Masterplan)

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SUMMARY

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

- Visual impacts
- Loss of rural character, identity and scenic qualities
- Excessive scale and intensity
- Inappropriateness of Day Spa facilities
- Loss of productive land
- Excessive earthworks and erosion
- Impact on local wildlife
- Traffic impacts
- Increased bushfire risk
- Inadequate stormwater and wastewater management
- Noise from Helicopter flights
- Increased noise and disturbance
- Inadequate supporting information
- Biosecurity impacts
- Impact on privacy of surrounding land
- Lack of infrastructure

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 (EPA):

The application has been referred to the EPA pursuant to Schedule 9 (3)(9) of the Planning, Development and Infrastructure (General) Regulations 2017 - Activities of Environmental significance, or development in Mount Lofty Ranges, River Murray Flood Plain or Water Protection Areas.

Provided the wastewater disposal system and the stormwater runoff measures are implemented in accordance with the plans provided in the application, the EPA considers that the proposal would have a neutral or beneficial effect on water quality.

The EPA have no objection to the proposal with three (3) conditions of consent (Refer **Attachment 6 – EPA Referral Response**)

INTERNAL REFERRALS

Environmental Health Department:

The EPA requested the applicant propose a system that will allow reduced nitrogen load to demonstrate neutral/beneficial effect on the environment. Intermittent sand filter is proposed that is not in SA Health approved wastewater product list, therefore the waste application was referred to Department of Health.

The waste system proposed was subsequently changed to a Rhizopod system, Waste Application WWI-11354 was approved by the SA Health on 30 October 2024

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Engineering Department:

Council's Engineering Department reviewed the stormwater management plans submitted by the applicant. Council Engineering requested clarification on a number of matters, the majority of matters were resolved. Council Engineering are generally supportive of the overall scheme however stormwater calculations for one area of the site have not been satisfied. This matter remains outstanding and of concern to Council Engineering.

Final Comments from Engineer

"I have reviewed the documents provided dated 28th May 2024 and have noted the previous request to review of missing catchment area below Cat_2B has not been addressed. Please provide detailed calculations outlining the volume of stormwater runoff generated from this area and where it is to be directed without causing nuisance to neighbouring properties. Please see the highlighted area of concern."



Image 3 – Area of catchment which has not been addressed

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.

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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**.

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, 6.3, 6.4 and 11.1	
DPFs: 1.1, 2.1, 2.2, 6.3 and 6.4	

The subject land is a rural allotment of approximately 36 hectares that is used for viticulture and contains 'The Lane' Winery, Cellar Door and Restaurant. The proposal is seeking to use a vacant paddock of approximately 3.5 hectares on the south-western side of the subject land for a tourist accommodation and spa facility.

The subject land is situated within the Productive Rural Landscape Zone of the Planning and Design Code. DO 1 and DO 2 and PO 1.1 of the Productive Rural Landscape Zone are seeking a diverse range of land uses that promote primary production activities and associated value adding uses, such as tourism development. DPF 1.1 identifies 'tourist accommodation' and shop as envisaged land uses within the Zone.

While tourist accommodation is generally supported within the zone, the scale and intensity of such value-adding activities should be such that "the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape" are conserved. This Desired Outcome is supported by PO 6.3 and 6.4 of the zone, which provide guidance on the preferred nature, size and scale and the siting of tourist accommodation.

The proposed tourist accommodation facility will comprise 20 accommodation units and a lodge building containing a Day Spa (personal services establishment). The accommodation will cater for a maximum of 48 overnight guests.

DPF 6.3 and 6.4 of the zone are seeking tourist accommodation that:

- a. is associated with the primary use of the land for primary production to enhance and provide authentic visitor experiences.
- b. does not exceed a cumulative total floor area of 100m²
- c. does not result in more than one tourist accommodation facility being located on the same allotment.
- d. is setback from all property boundaries by at least 40m.
- e. has a building height that does not exceed 7m above natural ground level.

The lodge includes a kitchen and bar, dining area and several treatment rooms for the day spa within a large building of 415m². Add in reference to value adding industry and services to visitors

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While such Designated Performance Features are one way of meeting the Performance Outcome (noting there may be another way), the above DPF's provide quantifiable guidance that is helpful in determining the suitability of the proposed development, particularly from a scale and intensity perspective.

The proposed development is considered to depart significantly from PO 6.3 and 6.4 and the corresponding DPF's for the following reasons:

- While the subject land is used for primary production and contains 'The Lane' Winery, Cellar Door and Restaurant, the proposed tourist accommodation facility is not associated with the existing vineyards and the applicant has confirmed that the facility will likely be operated by a third party.
- The proposed accommodation units have a cumulative floor area of over 1700m², which is 17 times the DPF standard.
- The proposed Day Spa building has a large floor area of 415m² and further intensifies the use of the land.
- The southern-most accommodation units are sited within 20 metres of the nearest boundaries, which is significantly less than the minimum setback of 40 metres.
- While the height of the accommodation units does not appear to exceed 7 metres (noting that the proposal plans do not accurately show the height of buildings above natural ground level), the Day Spa building is approximately 9 metres above natural ground level due to the slope of the land and is of significant size, and in an elevated position on the site.

Furthermore, the proposed buildings are not designed and sited to maintain a pleasant natural and rural character and amenity as sought by PO 6.4 and 11.1. While the suspended floor designs are commended, the building facades are dominated by blank walling and flat roofs that have minimal regard for the natural landform and rural character. More concerning is the large number of buildings clustered together and perched high on the downslope, which are considered to visually overwhelm the outlook of neighbouring land to the south and west and views from Paech Brothers Road, thus diminishing the existing rural character and amenity.

The earthworks required for the internal road network and the larger accommodation units and Day Spa building will also result in significant disruption to the natural landform. As the land has a gradient of around 1 in 7 and the proposal will result in earthworks greater than 1.5 metres from the natural ground level, the proposal is at variance to PO 2.2 of the zone. The submitted "Concept Grading Plan" show the required earthworks to accommodate the road however the extent of earthworks required to accommodate the tourist accommodation units is not shown.

For the above reasons, the proposed development is of a design, siting, scale and intensity that would detract significantly from the rural character and scenic qualities of the surrounding landscape. The proposal is therefore at partial variance to DO 1 and PO 1.1 in terms of impact to rural character and scenic quality of surrounding landscape. It is also at variance with, PO 2.2 in terms of earthworks, POs 6.1 and 6.3 due to its loose association with the primary use of the land, POs 6.2 and 6.4 as the proposal fails to maintain a pleasant rural character and amenity and 11.1 in terms of built form and character.

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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	

The site of the proposed development is a small vacant paddock of approximately 3.5 hectares. Given the small size of the land, the loss of productive land as a result of the proposed development will be negligible.

The proposal will not undermine DO 1 of the Overlay.

Hazards (Bushfire- Medium Risk) Overlay

Desired Outcomes	
DO2	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, 2.2, 5.1 and 5.3	
DPFs: 2.2 and 5.1	

The subject land is with the Hazards (Bushfire – Medium Risk) Overlay.

As required by the Overlay, the proposal includes the following bushfire safety measures:

- A water supply of at 300KL for firefighting that satisfies the *Ministerial Building Standard MBS 008 - Designated bushfire prone areas - additional requirements*;
- Buildings are sited approximately 15m – 20m from the existing stand of pine trees;
- The new vehicle access and internal driveway is designed with a formed all-weather surface and a with gradient, dimension and turning areas that would generally facilitate safe and convenient access for fire fighting vehicles (note: the existing section of driveway would need to be upgraded); and
- Clear and unobstructed pedestrian pathways.

The cantilevered design of accommodation units Type 1 and 2 however do appear to be at odds with PO 2.1 which seeks to built form to reduce the potential for burning debris to become trapped underneath the ground and floor level. However, if the application were to be successful the development would be required to meet the standard of the National Construction Code for the assigned Bushfire Attack Level.

The bushfire risks have been adequately considered by the applicant with measures put in place that generally accord with the requirements of the Hazards (Bushfire – Medium Risk) Overlay.

No bushfire survival plan has been submitted in relation to fire danger days. The lodge is intended to be utilised as a place of last resort in the event of guests cannot leave the site.

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Heritage Adjacency Overlay

Desired Outcomes	
DO1	Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1	

The nearest heritage place is approximately one kilometre to the east of the development site. The setting of this State Heritage Place would not be impacted by the proposed development given the significant separation distance.

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	
POs: 1.1, 1.2, 2.5, 3.2, 3.3 and 4.1	
DPFs: 1.2, and 2.5	

DO 1 of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay is seeking the protection of public water supply in the Watershed area.

The application has been referred to the Environment Protection Authority (EPA) as the proposal involves an activity that will generate wastewater, which has the potential to pollute the catchment (i.e. an activity of environmental significance). The EPA is satisfied with the proposed wastewater system.

Given the suitability of the wastewater system, the proposal will not result in any negative impacts on the water quality within the catchment area. The proposal is therefore consistent with DO 1 and the relevant POs of the Mount Lofty Ranges Water Supply Catchment (Area 2) 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	
DPFs: 1.1	

This proposal does not include the removal of any native vegetation as the development site is devoid of vegetation.

The applicant has also provided a Native Vegetation Declaration advising that the proposal will not impact on vegetation. The proposal is therefore consistent with DO 1 and PO 1.1.

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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.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 1.5 and 1.7	
DPFs: 1.5	

There are no watercourses affecting the subject land and the proposal includes a suitably design wastewater system that has been approved by The Department of Health and is supported by the EPA.

The proposal is therefore consistent with the Water Resources Overlay.

General Development Policies

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 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 visitorsc) 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: 3.1, 5.1, 6.1, 8.1, 10.1, 10.2, 20.1, 31.1 and 31.2	
DPFs: 6.1, 8.1, 10.1 and 10.2	

The proposal includes 20 accommodation units and a Day Spa building clustered together on the south-western side of the subject land. The proposed buildings are setback at least 150 metres from Paech Brothers Road and are within 20 metres of the nearest side boundary.

As considered within the zone section above, the collective number of buildings proposed, the height of the Day Spa building, elevated positioning and siting of buildings close to boundaries, and minimal articulation results in a large-scale development that does not respond to its natural surroundings or built environment or positively contribute to the character of the immediate area. The proposal is not consistent with DO 1 (Design).

A new wastewater system is to be provided for accommodation units and Day Spa that includes an irrigation area on the southern side of the development. The new system has been supported by the EPA and will not conflict with any driveways or car parking areas. PO/DPF 6.1 (Design) is satisfied.

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As the site is naturally sloping with a relatively steep fall toward the southern-most boundary, a significant amount of earthworks will be required to provide a bench surface for the internal driveways and some of the accommodation units. The applicant has provided a 'Concept Grading Plan' that shows existing and proposed ground level and gradients for the driveways however there is limited details on the height and location of earthen batters and retaining. The proposed landscaping will provide some stabilisation and visual screening however the proposed earthworks are considered to result in significant disturbance and scarring of the natural topography. PO/DPF 8.1 (Design) has not been satisfied.

The proposal includes a detailed landscaping design comprising a comprehensive mix of native species (large trees, shrubs and ground covers) that are to be planted on the site adjacent to property boundaries, internal roads and to stabilise and screen the stormwater detention basin and wastewater soakage area. The proposed landscaping will assist in minimising heat loads, maximising stormwater infiltration, provide some visual screening on the low side of the site and contribute to on-site biodiversity, as sought by PO 3.1 (Design).

The owners of 23 Paech Brothers Road are concerned that their privacy will be impacted as the accommodation units are orientated toward their land and are elevated. While noted that there will be a perception of overlooking, the separation distances and proposed landscaping would adequately mitigate direct overlooking from upper-level windows and decks. On balance, PO 10.1 and 10.2 (Design) are reasonably satisfied.

For a development of this nature and intensity, a waste management ideally should be provided to demonstrated how waste is to be stored and removed from the site. In the absence any waste management details, it has not been demonstrated that the PO 20.1 is satisfied.

In terms of stormwater management, the proposal includes 2 x 150KL rainwater tanks for firefighting however there are no rainwater tanks have been indicated to be provide for the accommodation buildings. A new stormwater detention basin is to be located south of the accommodation units adjacent to Paech Brothers Road. Council's Engineer is not fully satisfied with the current civil design and has requested further calculations outlining the volume of stormwater runoff generated from catchment area 2_B and how the runoff will be directed without causing nuisance to neighbouring properties. The current civil stormwater design is therefore at variance to PO 31.1 and 31.2.

Should the Panel be minded to approve the application, a Reserved Matter should be included to address the deficiencies with the civil stormwater design.

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: 1.2, 2.1, 3.1, 3.2, 4.1, 4.2, 6.1, 6.2, 9.1, 9.2 and 9.7	
DPFs: 2.1, 3.1, 3.2, 4.1	

DO1 (Interface between Land Uses) seek to ensure that new development is operated in a manner that adequately protects the amenity of the locality.

The representors are concerned that their amenity will be adversely impacted by the development due to the number of guests to occupy the site, increased traffic and associated dust and noise, and a loss of privacy as the accommodation units are elevated above surrounding land.

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The proposed tourist accommodation will have capacity for up to 48 overnight guests. Although limited details have been provided by the applicant with respect to the operation of the Day Spa, it is likely that this facility will accommodate both guests of the accommodation who are already staying on-site and the general public. While the proposed accommodation is akin to a residential land use, the traffic generation and the frequency of people movement from the number of guests may be significant enough to unreasonably impact the amenity of nearby sensitive receivers. Given the scale and intensity of the development and the siting of the accommodation so close to a neighbouring residence (23 Paech Brothers Road) the proposal is considered to be at odds with PO 1.2 of the Interface between Land Uses module.

In the absence of an acoustic assessment, and in light of scale and intensity of the development, it is highly likely that the amenity and enjoyment of existing properties in the locality will be detrimentally impacted, particularly the neighbouring property at 23 Paech Brothers Road.

Accordingly, it is considered that the proposal would adversely impact upon the amenity of nearby sensitive uses by way of noise, traffic and a loss of outlook. The proposal is therefore at variance to DO 1 and PO 1.2 and 2.1 (Interface between Land 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	
POs: 1.1	
DPFs: 1.1	

Practice Direction 14 – Site Contamination Assessment lists residential land uses as the highest on the Land Use Sensitivity Hierarchy while tourist accommodation is listed on level 4 on the table. As the subject land contains accommodates an existing dwelling, a Preliminary Site Investigation was not required in this instance. As such DO 1 and PO 1.1 (Site Contamination) are reasonably addressed.

Tourist 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	
POs: 1.1 and 1.2	
DPFs:	

While the proposed tourist accommodation facility will cater to the needs of visitors and contribute positively to the local tourism economy, it will not contribute positively to the area's natural, cultural or historical context by virtue of its scale, intensity and significant external impacts.

The clustering of the accommodation units and Day Spa is supported by PO 1.2, however the development has not been designed to "minimise environmental and contextual impact" considering its scale and intensity and its impact to the existing character of the locality.

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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	
POs: 1.1, 2.1, 1.4, 3.1, 3.3, 3.4, 3.5, 3.8, 3.9, 4.1, 5.1, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6 and 6.7	
DPFs: 1.4, 3.1, 3.5, 5.1, 6.1 and 6.6	

New internal driveways with a compacted gravel surface are to be provided that connect into the existing access arrangements of the winery, cellar door and restaurant. Guests will enter from the existing main entrance on Ravenswood Lane and egress via an existing access on Paech Brothers Road. A new 15 space car park will be provided adjacent to the day spa facility for guests while the proposal plans show parallel spaces along the circulating roadway for the accommodation units.

Table 1 - General Off-Street Car Parking Requirements prescribes a parking rate of 1 space per tourist accommodation unit or guest room. Although not the proposal plans do not clearly show parking for the accommodation units, there appears to be adequate area within the internal roadway for at least one car park for the one-bed units and two parks for the two-bed units. Although Table 1 does not prescribe a car parking rate for a personal services establishment, the new 15 space car park will adequately accommodate the anticipated parking demand as it is expected that the Day Spa will be used mostly by accommodation guests. PO/DPF 5.1 (Traffic, Access and Parking) is reasonably satisfied.

The applicant has provided a brief letter from Empirical Traffic Advisory Pty Ltd, which provides some general observations of the development with respect to the proposed access arrangements and car parking and driveway layouts. This traffic advice does not provide an assessment of car parking demands, traffic generation or the adequacy of the existing road network.

It has been reasonably demonstrated that the new internal roadway can cater for safe and convenient access for guests and CFS vehicles, this access will then connect to the existing driveway which utilises for access from Ravenswood Lane.

For these reasons, it has not been demonstrated that safe and convenient access is to be provided or that the proposal would not lead to conditions detrimental to the free flow and safety of vehicular traffic on the surrounding road network. In its current form, the proposal is at variance to DO 1 and PO 1.1, 1.4, 3.1, 3.3, 3.8 and 3.9 (Transport, Access and Parking)

CONSIDERATION OF SERIOUSLY AT VARIANCE

Having considered the proposal against the relevant provisions of the Planning and Design Code version 2022.4 3 March 2022, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code for the following reasons:

- Tourist accommodation and shop are contemplated forms of development in the Productive Rural Landscape.
- The nature and location of the proposed tourist accommodation facility and shop is unlikely to undermine desirable uses in the Zone.
- The proposed tourist accommodation facility and shop will cater to visitors and contribute positively to the local economy.

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CONCLUSION

The proposal is for a tourist accommodation facility comprising 20 accommodation units and a Day Spa (personal services establishment). While tourist accommodation and shop is contemplated within the Productive Rural Landscape Zone, the design, siting, scale and intensity of the development is such that it would not maintain a pleasant natural and rural character and amenity. In particular, the collective number of buildings proposed, their elevated positioning and siting close to boundaries, and minimal articulation result in a large-scale development that does not respond to its natural surroundings or built environment or positively contribute to the character of the immediate area.

Similarly, it has not been demonstrated that the amenity of surrounding land would be maintained, as the impacts of noise and disturbance from guests occupying the site and increased activity are likely to be significant.

The proposed earthworks will also result in significant disturbance and scarring of the natural topography.

For these reasons, the proposal is significantly at variance to the Desired and Performance Outcomes for the Productive Rural Landscape Zone, the relevant Overlays and General Provisions of the Code and does not warrant 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 21019844 by Luxury Lodge Group for tourist accommodation comprising 20 units with ancillary lodge and shop (personal services establishment in the form of a day spa), water tanks, access road and associated earthworks at 5 Ravenswood Lane, Balhannah is REFUSED Planning Consent for the following reasons:**
 1. The proposed development is of a design, siting, scale and intensity that would detract significantly from the rural character and scenic qualities of the surrounding landscape, contrary to PO 1.1, 2.2, 6.1, 6.2, 6.3, 6.4 and 11.1 of the Productive Rural Landscape Zone.
 2. The proposal will not contribute positively to the area's natural, cultural or historical context by virtue of its scale, intensity and significant external impacts, contrary to PO 1.1 and 1.2 of the General Policies (Tourism Development).
 3. The proposed development would adversely impact upon the amenity of nearby sensitive uses by way of its intensity and a loss of outlook, contrary to PO 1.2, 2.1 of the General Policies (Interface between Land Uses).
 4. The proposed earthworks associated with the development are considered to result in significant disturbance and scarring of the natural topography, contrary to PO 8.1 and 8.3 of the General Policies (Design).

ADVISORY NOTES

- 1) 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.**

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OFFICER MAKING RECOMMENDATION

Name: James Booker

Title: Team Leader Statutory Planning