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Lodged via Plan SA

Louth Island – Tourist Accommodation – Variation to “Site 1”

Introduction and Background

Ika Shima Pty Ltd (Trading as Rumi on Louth) has engaged URPS regarding its developments on Louth Island.

Louth Island is approximately 17.5km's northeast of Port Lincoln. It is about 135.16ha's in area, irregular in shape and comprises three privately owned allotments (plus an allotment owned by the Crown), known specifically as:

- CT 5428/104.
- CT 5428/105.
- CT 5427/858.
- CR 5768/510.

On 12 February 2025, Ika Shima Pty Ltd received Planning Consent for Development Application Number 22043281. This was for tourist accomodation resort comprising:

- 26 individual single bed villas
- Day Spa
- Desalination plant
- Ground mounted solar panels.
- Access tracks
- Ancillary outdoor recreation facilities including a tennis court, outdoor gym, yoga/meditation area and outdoor hot tubs/spa.
- Revegetation and landscaping.

The applicant now seeks to vary this Planning Consent as explained below.

Proposed Variations

The variations only affects the accommodation authorised in “Site 1”, with the remainder of the development remaining unchanged. The variations include:

- Replacing 4 villas with 22 smaller cabins.
- Providing 4 timber decks with associated spas.
- Reducing excavation and fill, in favour of a design that sits more lightly on the land.
- Reducing native vegetation clearance.

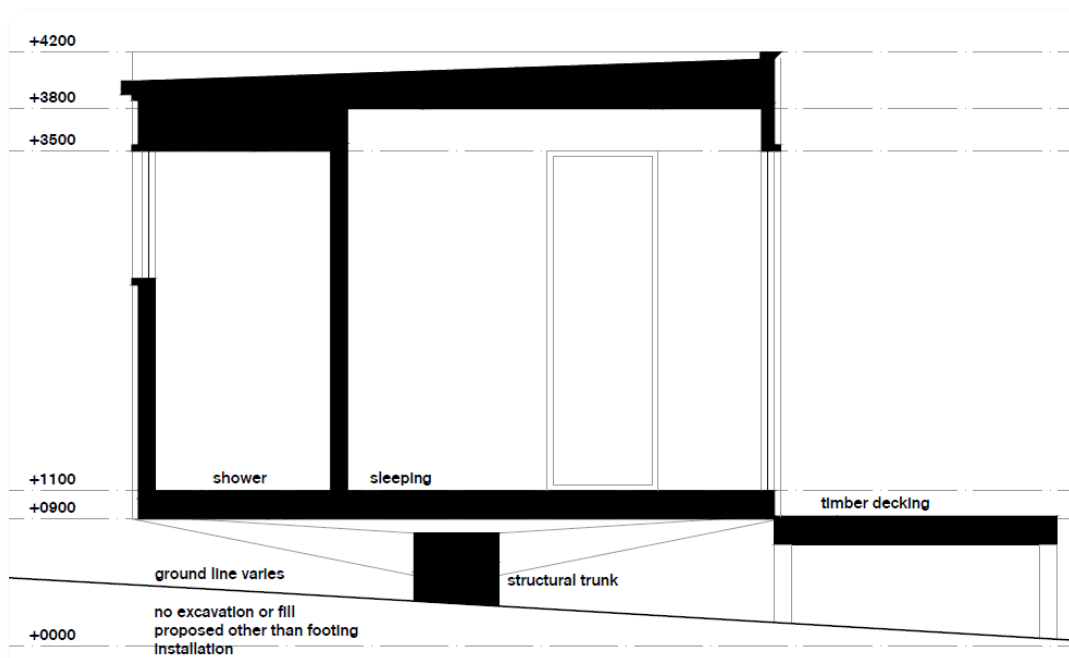
The variations are presented within the attached plans by Archaea.

Each cabin will accommodate a maximum of 2 guests at once. Additional staff are not required to manage the increased total number of guests.

The proposed cabins will have a footprint of 20m² each, meaning a combined footprint of 440m² across the 22 cabins (ie 22 cabins x 20m²).

The newly proposed cabins, along with associated infrastructure such as cart parks and access tracks impact a total of 0.26 ha of native vegetation, which is much smaller than 0.84ha impact previously approved for the villas.

The proposed cabins will be elevated above the ground level upon a central pier/footing, which minimises earthworks and impacts on the natural landform. The design approach is shown in the section drawing below.



The variation will:

- Improve the variety of accommodation available on the island.
- Improve the ‘accessibility’ of the resort, as the proposed cabins will be more cost effective than the villas and offered at a lower price point.
- Improve construction times, as the cabins can be constructed quicker than the Site 1 villas, many of which will still be developed elsewhere on the island.
- Enhance the financial success of the development, by increasing both the number of guests that can stay at the resort and increasing the market it caters to.
- Soften the impact upon the landscape.

The variation does not include any changes to the authorised desalination plant or solar arrays. These elements provide adequate water and electrical capacity to service the island, including the proposed variation herein.

The proposal will comply with the coastal flooding and hazard risk requirements of Coast Protection Board.

Site 1 is located well outside Wedge-Tailed Eagle protection areas identified within Development Application Number 22043281.

The proposal will not affect the revegetation commitments previously made by the applicant.

Planning and Design Code

The land is situated within the **Coastal Waters and Offshore Island Zone** (the Zone) and is subject to the following Overlays identified within the Code.

- Coastal Areas.
- Hazards (Bushfire – Outback).
- Native Vegetation.

Procedural Matters

Relevant Authority

The State Planning Commission is the relevant assessment authority as the land is not situated within a Council area. This is the same “relevant authority” for Development Application Number 22043281.

Assessment Pathway

The proposal is not an “Accepted”, “Deemed-to-Satisfy” or “Restricted” form of development according to Tables 1, 2 and 4 of the Zone. The proposal therefore represents a “Code Assessed - Performance Assessed” form of development.

Referrals

No referrals are required under the Hazards (Bushfire – Outback) Overlay.

The land is situated within the Native Vegetation Overlay. A referral to the Native Vegetation is not required as the proposal does not increase any clearance of native vegetation beyond that authorised within Development Application Number 22043281. Please refer to the attached letter by Succession Ecology dated 22 May 2025.

The land is situated within the Coastal Area Overlay which seeks a referral to the Coast Protection Board for tourist accommodation, “Except where the development is... minor in nature and would not warrant a referral when considering the purpose of the referral”.

The proposed variations will replace the Site 1 villas authorised within Development Application Number 22043281. They will be in a similar location and the cabins will also have a floor level which is raised much more than 0.9m above the surrounding ground level.

We see reasonable grounds to dispense with the CPB referral as:

- The proposal satisfies Coastal Area Overlay DTS/DPF 2.2 as the proposed floor levels are elevated well above sea level.
- The risk to development from current and future coastal hazards (including sea-level rise, coastal flooding, erosion, dune drift and acid sulfate soils) is the same as, or less than, the originally approved villas in Site 1 – given the site of the proposal is substantially the same as the original approval, while its physical footprint is less than the original approval.
- The development does not involve, or require, coast protection works.
- The development does not involve any variations or changes to public access and the coastal environment (including important coastal features).

On this basis, the relevant authority could reasonably decide that the proposed variation is minor in nature when considering the purpose of a referral to the Coast Protection Board.

Public Notification

We contend that public notification is not required, for either of the following reasons.

The development is minor and low impact per Zone Table 5

Table 5 of the Zone excludes elements of development from public notification. The proposal does not involve a form of development that is expressly excluded from public notification.

Table 5 also allows the relevant authority to determine that a form of development is of a minor nature and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.

I form the view that the proposal is of a minor nature and will not unreasonably impact owners/occupiers in the locality:

- There are no adjacent occupiers in the locality. The island is a significant distance from the mainland or occupied land.
- The variation is small scale in the overall context of the original approval.
- The variations will not have a visual impact upon anyone.
- The variations will have a lesser environmental impact on the land, particularly in relation to excavation, fill and native vegetation.

The development should not be notified accordingly.

Alternatively, as a matter of proper process, the application cannot be published online, as there are no parties to notify

In essence, a Performance Assessed application should only be published online, in order to allow the *notified parties* to view the plans. In this case, there are no notified parties, because there are no adjacent owners or occupiers, and signage on the land is not required in this zone. I expand on this below.

Section 107(3)(a) deals with the notification of Performance Assessed development. It says:

If a proposed development is to be assessed under this section— subject to a decision of a relevant authority made in accordance with a practice direction, notice of the application for planning consent must be given, in accordance with the regulations, to—

- (i) *an owner or occupier of each piece of adjacent land; and*
- (ii) *members of the public by notice placed on the relevant land; and*

Based on the above, “members of the public” are only notified of a Performance Assessed development “by notice placed on the relevant land”. In this case, a sign on the land is not required per Zone Table 5, or alternatively because the land is outside of a Council Area per Reg 48(6)(b). Members of the public are not notified.

In addition, adjacent owners and occupiers are notified “in writing sent to the address of the land (or to another address used by the owner or occupier known to the relevant authority”, per Reg 47(1)(a). In this case, there are no adjacent owners or occupiers of this development, noting that the crown land encircling the island forms part of the original development site – the cabins and resort are accessed via the crown land; and timber boardwalk and desalination pipework were approved over the crown land.

Further, Practice Direction 3 (Notification of Performance Assessed Development Applications) sets out the circumstances in which plans are made available online for viewing. It says:

11 – Availability of plans

The relevant authority must ensure that the application plans required to be available for inspection in accordance the Regulations are available to view via the SA planning portal during the notification period. Access to those plans shall be made available via a unique URL or QR Code listed on both the letters to adjacent land owners/occupiers and the notice on the relevant land.

In my view, there are no “application plans required to be available for inspection”, as there are no parties which are to be notified by this development, for the reasons explained above.

My position is reinforced by the Practice Direction where it states the plans will be made available via a URL or QR Code listed on the letters or signage - there will be no letters or signage in this case.

This is quite different to the notification of Restricted Development, where Regulation 47(8) states:

A notice to the public generally must also be given by publishing a notice on the SA planning portal.

In summary, publishing the application documents online would prejudice the applicant, as it would enable the public generally to make a submission, when the public is not entitled to make a submission per Reg 47(6).

Planning Assessment

I have provided an assessment of the key planning considerations under the headings below.

Appropriateness of Land Use

The Zone features two Desired Outcomes (DO) which illustrate the intent of the Zone. These DO's provide:

- DO 1** ***Protection and enhancement of the natural marine and coastal environment and recognition of it as an important ecological, commercial, tourism and recreational resource and passage for safe watercraft navigation.***
- DO 2** ***A limited number of small-scale, low-impact developments supporting conservation, navigation, science, recreation, tourism, aquaculture or carbon storage.***

This desire is expressed through the following Performance Outcome (PO):

- PO 1.1** ***Small-scale, low-impact development for the purpose of conservation, navigation, science, recreation, tourism or aquaculture.***

It has been confirmed that tourist accommodation is an appropriate land use in the Zone, and specifically referenced in DO's 1 and 2 above.

The proposal will replace some of the authorised tourist accommodation within Development Application Number 22043281.

While the replacement accommodation will comprise more rooms, it will have a similar or lesser footprint when compared to the authorised earth berms/mounding.

The newly proposed cabins will have a lower impact upon the surrounding environment when acknowledging the following:

- Each of the cabins will have a very small footprint of 20m².
- Significantly less earthworks, and less native vegetation clearance, will be required than originally approved.
- Floating floor levels with a single point of ground connection will minimise disturbance to the natural landform.
- There will be a reduced impact upon native vegetation, as confirmed by Succession Ecology in its letter dated 22 May 2025.

As such, the variation remains to be small scale and low-impact development with a focus on conservation as sought by the Zone.

Design and Appearance

PO 4.1 of the Zone states:

PO 4.1 *Development on offshore islands is sited and designed unobtrusively to minimise the visual impact on the natural environment by:*

- a) using low-reflective materials and finishes that blend with, and colours that complement, the surrounding landscape*
- b) being located below hilltops and ridgelines*
- c) being screened by existing vegetation.*

The proposal satisfies PO 4.1 as:

- All materials and finishes will be low-reflective and blend with the natural colours of the landscape. The applicant is willing to accept a condition to this effect.
- No part of the proposal will be situated on a ridgeline, and in fact the earth naturally rises behind each cabin.
- Existing vegetation will be retained wherever possible. As above, the variation will have a reduced impact upon native vegetation as confirmed by Succession Ecology. Please refer to their attached letter dated 22 May 2025.

In addition, the new design will require less alteration to the natural landform given the cabins will not feature earth berms.

Interface between land uses

Given the nature of the subject land and its separation from adjoining allotments, the proposal will not impact on adjoining land uses or sensitive receivers under separate ownership.

The internal interface between the proposed cabins will be managed by the applicant. A suitable interface is achieved through the careful placement and orientation of the cabins which emphasises ocean views while maintaining the privacy of individual cabin occupants.

Likewise, the use of the spas and communal decks will also be managed by the resort to ensure no disruption to other guests.

It is in the applicant's own best interest to ensure an appropriate interface between the cabins.

Wastewater

The original approval included a wastewater system shown within the architectural plans. Each cluster of villas was shown connected to a FujiClean ACE1200 anaerobic wastewater treatment system with an associated irrigation area.

The applicant will engage with engineering experts to determine the final design for the system, and will seek consent under the *South Australian Public Health Act 2011*.

The proposed cabins will continue to rely on shared FujiClean systems, on higher ground than the cabins, as indicated in the Archae plans. The wastewater system (as varied) can achieve the SA Health requirements including:

- Setbacks from buildings of 3m for the FujiClean Units and 1.5m for irrigation sprinklers.
- FujiClean units and irrigation sprinklers set back 50m from watercourses, wells, bores and dams.
- FujiClean units and irrigation sprinklers set back 100m from the high-water mark,

Section 102(3)(c) of the *Planning, Development and Infrastructure Act 2016* permits the use of a reserved matter until a consent or approval under another Act is obtained. If necessary, the applicant agrees to the inclusion of a reserved matter requiring them to obtain any necessary wastewater disposal approvals under the *South Australian Public Health Act 2011* before Development Approval is granted.

Conclusion

In summary:

- The proposed variation is in keeping with the intent of the zone to accommodate tourism development.
- The proposed use remains small scale and low impact.
- The proposed cabins are of a modest scale, of a non-reflective nature and will not detract from the appearance of the land.
- The proposal will not impact upon the amenity of adjoining properties or land uses.
- The land can readily accommodate the provision of a wastewater system to service the proposed development.

The relevant performance outcomes of the Code are achieved by the proposal and the application warrants support accordingly.

I would be pleased to discuss this matter on 8333 7999.

Yours sincerely



Phil Harnett
Associate Director