



SORELL PLANNING AUTHORITY (SPA) AGENDA

28 MAY 2024

COUNCIL CHAMBERS

COMMUNITY ADMINISTRATION CENTRE (CAC)

NOTICE OF MEETING

Notice is hereby given that the next meeting of the Sorell Planning Authority (SPA) will be held at the Community Administration Centre (CAC), 47 Cole Street, Sorell on Tuesday, 28 May 2024 commencing at 4:30 pm.

C E R T I F I C A T I O N

I, Robert Higgins, General Manager of the Sorell Council, hereby certify that in accordance with Section 65 of the *Local Government Act 1993*, the reports in this Agenda have been prepared by persons who have the qualifications and experience necessary to give such advice. Information and recommendations or such advice was obtained and taken into account in providing general advice contained within the Agenda.

ROBERT HIGGINS
GENERAL MANAGER
22 MAY 2024



AGENDA

FOR THE SORELL PLANNING AUTHORITY (SPA) MEETING TO BE HELD AT THE
COMMUNITY ADMINISTRATION CENTRE (CAC), 47 COLE STREET, SORELL ON
TUESDAY 28 MAY 2024

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1.0 ATTENDANCE

^

Deputy Mayor C Wooley
Councillor B Nichols
Councillor S Campbell
Councillor J Gatehouse
Councillor M Miro Quesada Le Roux
Councillor M Reed
Councillor N Reynolds
Councillor C Torenus
Robert Higgins, General Manager

2.0 APOLOGIES

3.0 CONFIRMATION OF THE MINUTES OF 14 MAY 2024

RECOMMENDATION

“That the Minutes of the Sorell Planning Authority (SPA) Meeting held on 14 May 2024 be confirmed.”

4.0 DECLARATIONS OF PECUNIARY INTEREST



In considering the following land use planning matters the Sorell Planning Authority intends to act as a planning authority under the *Land Use Planning and Approvals Act 1993*.

5.0 LAND USE PLANNING

5.1 DEVELOPMENT APPLICATION NO. DA 2024 / 33 - 1

| | |
|--------------------------------|---|
| Applicant: | Orani Pty Ltd |
| Proposal: | Solar Lights, Gazebos, Huts & Decorative Windmill |
| Site Address: | 394 Arthur Highway, Sorell (CT 185533/1) |
| Planning Scheme: | <i>Tasmanian Planning Scheme (Sorell LPS)</i> |
| Application Status | Discretionary |
| Relevant Legislation: | Section 57 of the <i>Land Use Planning and Approvals Act 1993 (LUPAA)</i> |
| Reason for SPA meeting: | Four (4) objections received |

| | |
|--------------------------------|--|
| Relevant Zone: | Agriculture |
| Proposed Use: | Visitor Accommodation |
| Applicable Overlay(s): | Waterway and Coastal Protection Area Scenic Protection Area |
| Applicable Codes(s): | Nil |
| Valid Application Date: | 22 February 2024 |
| Decision Due: | 4 June 2024 |
| Discretion(s): | 1 C7.6.1 Natural Assets Code - Development 2 Standards for Buildings and Works. |
| Representation(s): | Four (4) objections received |

RECOMMENDATION

That pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993* Council resolve that Planning Application 5.2024.33.1 for Solar Lights & Decorative Windmill at 394 Arthur Highway, Sorell be approved, subject to the following conditions:

1. Except where modified by a condition of this permit, the use and development must be substantially in accordance with the endorsed plans and documents:
 - P3 Planning Submission from All Urban Planning dated 19 April 2024
 - P2 Site Plan undated received on 12 March 2024
 - P2 Photos of gazebo's received on 12 March 2024
2. A 150mm deep directional shroud must be installed on each of the free standing pedestrian solar trail lights to direct light downwards and mitigate light spill or glare impacts beyond the site.



NOTE: THE FOLLOWING ADVICE APPLIES TO THIS PERMIT

Legal

- The permit does not take effect until 15 days after the date that this permit was served on you as the applicant and each representor provided that no appeal is lodged as provided by s53 of the Land Use Planning and Approvals Act 1993.
- This planning approval shall lapse at the expiration of two (2) years from the date on which this permit became valid, if the permit is not substantially commenced. At the discretion of the Planning Authority, the expiration date may be extended for a further two (2) years on two separate occasions for a total of six (6) years. Once lapsed, a new application will be required.

Asset Protection

- In accordance with the *Local Highway Bylaw 2 of 2015*, the owner is required to repair any damage to any Council infrastructure caused during construction.
- Council recommends contacting Dial-Before-You-Dig (phone 1100 or www.1100.com.au) before undertaking any works.

Other Approvals

- All stormwater management measures and designs on the endorsed plans and documents, together with any related permit condition, constitutes General Managers consent under section 14 of the *Urban Drainage Act 2013*.
- This permit does not imply that any other approval required under any other by-law or legislation has been granted.
- Separate building and plumbing approval may be required prior to the commencement of the development/use.

You may appeal against the above conditions, any such appeal must be lodged within fourteen (14) days of service of this notice to TASCAT, 38 Barrack Street Hobart 7000 Ph: (03) 6165 6790 or email resourceplanning@tascat.tas.gov.au

Executive Summary

Retrospective (existing) application is made for solar lights, garden gazebo, garden huts & a decorative windmill at 394 Arthur Highway, Sorell. This property is zoned 21.0 Agriculture and is located adjacent the Forcett Rivulet and foreshore of Iron Creek Bay.



The proposal relates to the existing farm stay and restaurant use on the site.

The key planning considerations relate to the building and works within a Waterway and Coastal Protection area or a Future Coastal Refugia Area as administered under the Natural Assets Code of the Scheme.

The Natural Assets Code does not relate to existing use.

The majority of the lights, the windmill and all but one (1) of the gazebos are located outside Waterway and Coastal Protection Area areas including the 100m buffer from the tidal waters of the RAMSAR site.

The approximately thirty (30) lights and one (1) gazebo located within the identified Waterway and Coastal Protection area will not have an unnecessary or unacceptable impact on natural assets.

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme (Sorell LPS)* and is recommended for conditional approval.

Relevance to Council Plans & Policies

| | |
|---|--|
| Strategic Plan 2019-2029 | Objective 1: To Facilitate Regional Growth Objective 2: Responsible Stewardship and a Sustainable Organisation Objective 3: To Ensure a Liveable and Inclusive Community |
| Asset Management Strategy 2018 | The proposal has no significant implications for asset management. |
| Risk Management Strategy 2018 | In its capacity as a Planning Authority, Council must determine this application. Due diligence has been exercised in preparing this report and there are no predicted risks from a determination of this application. |
| Financial Implications | No financial implications are anticipated unless the decision is appealed to TASCAT. In such instances, legal counsel is typically required. |
| Open Space Strategy 2020 and Public Open Space Policy | The proposal has no significant implications for open space management. |
| Enforcement Policy | The application is retrospective as a result of Enforcement Notice (Ref # 30.2023.34.1). Council's policy applies the principles of proportionality, consistency and transparency and sets out what type of action may be taken and how decisions regarding action should be determined. In this instance, officers received complaints regarding the lighting |

| | |
|-------------------------------------|--|
| | and windmill and advised the owner of their obligations under LUPPA. As no immediate response or action was undertaken by the owner the matter escalated to an enforcement notice that required either retrospective applications to be made or for the works to be removed. |
| Environmental Sustainability Policy | There are no environmental implications associated with the proposal. |

Legislation

- This report details the reasons for the officer recommendation.
- Broadly, the planning authority can either adopt or change the recommendation by adding, modifying or removing conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- The planning authority has a specific role in LUPAA. As noted by the Tribunal:

The role of the Council in relation to planning matters is, in very broad terms, to uphold its planning scheme. In that context it is in a sense, blind to everything but the terms of the Scheme. It cannot put economic advantage or perceived community benefits over the terms of the Scheme. And in the context of enforcement proceedings unless expressly authorised to do so, it may not take any approach which is inconsistent with the terms of its Scheme.

Planning Scheme Operation – for Zones, Codes and site specific provisions

- Clause 5.6.1 requires that each applicable standard is complied with if an application is to be approved.
- Clause 5.6.2, in turn, outlines that an applicable standard is any standard that deals with a matter that could affect, or could be affected by, the proposal.
- A standard can be met by either complying with an acceptable solution or satisfying the performance criteria, which are equally valid ways to comply with the standard.
- An acceptable solution will specify a measurable outcome. Performance criteria require judgement as to whether or not the proposal reasonably satisfies the criteria.
- Clause 6.10 outlines the matters that must be considered by a planning authority in determining applications. Clause 6.11 outlines the type of conditions and restrictions that can be specified in a conditional approval.

Referrals

| Agency / Dept. | Referred? | Response? | Conditions? | Comments |
|-------------------------|-----------|-----------|-------------|----------|
| Development Engineering | Yes | Yes | Nil | Nil |
| Environmental Health | No | No | N/A | N/A |
| Plumbing | No | No | N/A | N/A |
| NRM | Yes | Yes | No | No |
| TasWater | No | No | N/A | N/A |
| TasNetworks | No | No | N/A | N/A |
| State Growth | No | No | N/A | N/A |

Report

Description of Proposal

Respective planning approval is sought for:

- 140 solar powered downlights sited at 10m spacing along the pedestrian trails around the property. The lights are solar powered and will run from sunset until their stored solar power runs out. Six of the gazebo structures are sited around the developed areas of the site with two others sited adjacent to the freshwater dam towards the eastern side of the site;
- Six 3.35m x 3.35m gazebo shelter structures;
- Two 4m x 9m gazebo shelter structures; and
- One 7m high decorative windmill building to be sited adjacent to the children's playground and restaurant building. The windmill measures 3m x 3m at its base. The windmill building is non-habitable and is for decorative purposes only.

There is an additional existing decorative windmill structure located at the southern end of the site closer to the water that will be removed from the site.



Figure 1 - Solar Powered Down Lights



GRAVEL GUEST CARPARK

GUEST LAUNDRY

CARPARK 1

CARPARK 2 [LARGE]



Figure 2 – Gazebo Structures



Figure 3 – Decorative Windmill Structure (7 metres in height)

The application is supported by:

- a planning letter / report from All Urban Planning;
- certificate of title;
- relevant photographs; and
- site plan.

Description of Site

The site is located on the western side of the Arthur Highway, around one kilometre to the north of Lewisham Road and four kilometres to the east of Sorell.

Adjoining land consists predominantly of rural properties with some scattered residential development and is zoned Agriculture. The site shares a foreshore with the Pitt Water-Orielton lagoon, which is a Ramsar wetland as identified by the Department of Climate Change, Energy, the Environment and Water.

The approved use of the site is set out under planning permit DA 2018/154 – 1 issued 24 August 2018 and includes: Visitor accommodation, resource

development and resource processing (orchards, vineyard), Food Services (Restaurant and Café), and General retail and hire (Farm gate shop).



Figure 4. Subject site.

Planning Assessment

Zone

Clause 21.0 - Agricultural Zone

The proposal containing the visitor accommodation use, while listed as discretionary, does not establish a new use or substantially intensify the existing use and is therefore considered to have permitted use status pursuant to clause 7.2.1.

Clause 7.2.1 states:

Notwithstanding clause 6.8.1 of this planning scheme, proposals for development (excluding subdivision), associated with a Use Class specified in an applicable Use Table, as a Discretionary use, must be considered as if that Use Class had Permitted status in that Use Table, where the proposal for development does not establish a new use, or substantially intensify the existing use.

Clause 20.4 Development Standards for Building and Works

| Applicable zone standards | | |
|---------------------------|--------------------------|---|
| Clause | Matter | Complies with acceptable solution? |
| 24.4.1 A1 | Building Height | Complies – Building Height is less than 12m. |
| 24.4.2 A1 & A2 | Setbacks | Complies – All setbacks from the property boundaries are greater than 5m. The proposed building and works are not considered to be a sensitive use. |
| 24.4.3 | Access for new dwellings | Not applicable – No new dwellings are proposed. |

Code(s)

C7.0 Natural Assets Code

| Applicable Code Standards | | |
|---------------------------|---|---|
| Clause | Matter | Complies with acceptable solution? |
| C7.6.1 A1 | Buildings and works within a waterway and coastal protection area | Does not comply as works are within a waterway and coastal protection area and not: <ul style="list-style-type: none"> (a) within a building area on a sealed plan approved under this planning scheme; (b) in relation to a Class 4 watercourse, be for a crossing or bridge not more than 5m in width; or (c) if within the spatial extent of tidal waters, be an extension to an existing boat ramp, car park, jetty, marina, marine farming shore facility or slipway that is not more than 20% of the area of the facility existing at the effective date. <p>Refer to performance criteria assessment below.</p> |
| C7.6.1 A2 | Buildings and works within a future coastal refugia area | Not Applicable – the building and works are not within the Future Refugia Area Map |
| C7.6.1 A3 | new stormwater point discharge into a watercourse, wetland or lake. | Not Applicable – The development within a waterway and coastal protection area or a future coastal refugia area does not involve a new stormwater point discharge into a watercourse, wetland or lake. |
| C7.6.1 A4 | Dredging or reclamation | Not applicable – The building and works do not result in dredging or reclamation within a waterway and coastal protection area or a future coastal refugia area. |

| | | |
|-----------|--------------------------|--|
| C7.6.1 A5 | Coastal protection works | Not applicable – The building and works do not result in coastal protection works or watercourse erosion or inundation protection works within a waterway and coastal protection area or a future coastal refugia area |
|-----------|--------------------------|--|

Performance Criteria Assessment 1 – Clause 7.6.1 P1.1 Works within a waterway and coastal protect area

Buildings and works within a waterway and coastal protection area must avoid or minimise adverse impacts on natural assets, having regard to:

- (a) impacts caused by erosion, siltation, sedimentation and runoff;*
- (b) impacts on riparian or littoral vegetation;*
- (c) maintaining natural streambank and streambed condition, where it exists;*
- (d) impacts on in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;*
- (e) the need to avoid significantly impeding natural flow and drainage;*
- (f) the need to maintain fish passage, where known to exist;*
- (g) the need to avoid land filling of wetlands;*
- (h) the need to group new facilities with existing facilities, where reasonably practical;*
- (i) minimising cut and fill;*
- (j) building design that responds to the particular size, shape, contours or slope of the land;*
- (k) minimising impacts on coastal processes, including sand movement and wave action;*
- (l) minimising the need for future works for the protection of natural assets, infrastructure and property;*
- (m) the environmental best practice guidelines in the Wetlands and Waterways Works Manual; and*
- (n) the guidelines in the Tasmanian Coastal Works Manual.*

One of the gazebos and some of the lights are located within a waterway and coastal protection area, however, the proposal is considered to avoid adverse impacts on natural assets and to satisfy the *performance criteria* given:

- The structures are modest in size and scale and result in negligible site coverage and natural land disturbance in both the construction process and in situ in perpetuity.
- All sites of development are clear of natural streambanks and do not impact riparian vegetation.
- The works do not involve filling of wetlands.
- The development does not involve cut and fill.

- The approximately 30 lights and one (1) gazebo within the mapped waterway and coastal protection area are considered clear of high water mark and therefore will not impact on coastal processes.
- The development does not impact fish passage.
- The gazebos and lights are unlikely to need future works for the protection of natural assets, infrastructure and the property.
- Any permit issued is proposed to be conditioned for a directional shroud to be installed to each of the lights, to direct light downwards and mitigate light spill or glare impacts. This is consistent with correspondence from the applicant post public-exhibition.

Note: The majority of the lights, the windmill and all but one of the gazebos are located outside Waterway and Coastal Protection Area areas including the 100m buffer from the tidal waters of the RAMSAR site. The provisions of the Natural Assets Code are therefore not relevant to the majority of the proposal.

Performance Criteria Assessment: Clause 7.6.1 P1.2 – Works within a waterway and coastal protect area

Buildings and works within the spatial extent of tidal waters must be for a use that relies upon a coastal location to fulfil its purpose, having regard to:

- (a) the need to access a specific resource in a coastal location;*
- (b) the need to operate a marine farming shore facility;*
- (c) the need to access infrastructure available in a coastal location;*
- (d) the need to service a marine or coastal related activity;*
- (e) provision of essential utility or marine infrastructure; or*
- (f) provisions of open space or for marine-related educational, research, or recreational facilities.*

The proposal is considered to avoid adverse impacts on natural assets and is consistent with the performance criteria as it relates to an existing use on the subject site and therefore must be located on the subject site.

C8.6 Scenic Protection Overlay Code

The proposed development is sited on the low side of the Arthur Highway below the 40m contour and well below the ridgeline of Mount Elizabeth to the east that has a ridgeline that ranges from approximately 160m to 220m.

Having regard to this siting the proposal complies with A1 in that the land is more than 50m below the skyline and the 140 lights, gazebo structures, plus the windmill structure will not occupy more than 500m² (allowing conservatively for 1m² per light plus 9m² for the windmill, six 11.2m² gazebo structures and two 36m² gazebo structures)

Development within a Scenic Road Corridor (C.8.6.2). The site is not within a Scenic Road Corridor. This standard does not apply.

C13.0 Bushfire-Prone Areas Code

As the proposal is not a vulnerable or hazardous use (as defined by the Code), the provisions of the Code do not apply.

C16.0 Safeguarding of Airports Code

The proposal does not involve development above the AHD height specified for development in this obstacle limitation area and is therefore exempt from this Code under C16.4.1 (a).

Representations

Clause 6.10.1 of the planning scheme requires the consideration of any representation received but ‘only insofar as each such matter is relevant to the particular discretion being exercised’.


Four (4) representations have been received, which are addressed in the following table.

| Issue | Relevant Clause | Response |
|--|---|---|
| <p>This Planning Application fetters agricultural land and associated ecosystems. The proposal further unsatisfactorily intensifies the use of the site.</p> | <p><i>Clause 21.3.1 Discretionary uses - P2</i> A use listed as Discretionary, excluding Residential, must minimise the conversion of agricultural land to non-agricultural use, having regard to: a) the area of land being converted to non-agricultural use; b) whether the use precludes the land from being returned to an agricultural use; c) whether the use confines or restrains existing or potential agricultural use</p> | <p>The Visitor Accommodation use is already approved, and the application is limited to small-scale building and works, such as lighting, gazebos, and a decorative windmill. The minor building and works are appropriate in context to the approved use and do not intensify it. Therefore, clause 7.2.1 applies and the application has permitted status in the use table and the issue of whether or not it satisfies the discretionary use clauses is not invoked.</p> |



| | | |
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| | on the site or adjoining sites. | |
| The proposal confines or restrains neighbouring agricultural Land. | <p><i>Clause 21.3.1 Discretionary uses - P2</i></p> <p>A use listed as Discretionary, excluding Residential, must minimise the conversion of agricultural land to non-agricultural use, having regard to:</p> <ul style="list-style-type: none"> d) the area of land being converted to non-agricultural use; e) whether the use precludes the land from being returned to an agricultural use; f) whether the use confines or restrains existing or potential agricultural use on the site or adjoining sites. | The Visitor Accommodation use is already approved, and the application is limited to small-scale building and works, such as lighting, gazebos, and a decorative windmill. The minor building and works are appropriate in context to the approved use and do not intensify it. Therefore, clause 7.2.1 applies and the application has permitted status in the use table and the issue of whether or not it satisfies the discretionary use clauses is not invoked. |
| The lighting is excessive and detrimental to adjoining properties and the natural environment, to quote the Australian Government: "Inappropriate, excessive and poorly designed artificial lighting is spreading to unwanted places and disrupts the health and | C7.6.1 P1.1 Buildings and works within a waterway and coastal protection area | <p>The proposed solar powered downlights sited at 10m spacings along the pedestrian trails around the property are considered appropriate onsite infrastructure. However, it is acknowledged that some appropriate measures, such as shrouding, are warranted.</p> <p>The proponent has expressed their understanding of the concerns regarding dark sky impacts and their commitment to mitigating them. They propose the addition of a directional shroud to each light, as shown below, which will effectively direct light downwards and prevent any light spill</p> |



| | | |
|--|--|--|
| <p>wellbeing of humans, farm life and wildlife.”</p> <p>Impacts on insect beneficiaries, animals (domestic and wild, including bats) and the impact on shorebirds, especially migratory birds.</p> | | <p>or glare from extending beyond the site.</p> <p>As noted above, the application is considered to satisfy the relevant performance criteria.</p>  <p>Considering the above, it is recommended that shrouds be installed as a condition of approval on any permit granted.</p> |
|--|--|--|

Conclusion

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme (Sorell LPS)* and is recommended for conditional approval.

Shannon McCaughey
SENIOR PLANNER

Attachments:

- Proposal Plans
- Representations x 4
- Applicant Response to Representations





19 April 2024

Shane Wells
Senior Planner
Sorell Council
PO Box 126
SORELL 7172

 **Sorell Council**
 Development Application: Response to Request for Information - 394 Arthur Highway, Sorell.pdf
 Plans Reference: P3
 Date Received: 19/04/2024

Dear Shane,

Planning Application 5.0224.33.1 for a Planning Permit – Solar lights, gazebos and decorative windmill building – Iron Creek Estate, 394 Arthur Highway Sorell

This letter has been updated in response to Council’s request 6 March 2024 and now includes the 8 x gazebo structures as part of the application as well as an assessment of the proposal in relation to the waterway and coastal protection area.

All Urban Planning Pty Ltd has been engaged by the property owner to prepare the following planning assessment to accompany a new application for a planning permit for solar lights, gazebo shelters and a decorative windmill building at the above site.



Figure 1– Site Plan (source annotated from theList)



The Proposal

Approval is sought for:

- 140x solar powered downlights sited at 10m spacings along the pedestrian trails around the property as shown on the attached plan;
- 6 x 3.35m x 3.35m gazebo shelter structures;
- 2 x 4m x 9m gazebo shelter structures; and
- A 7m high decorative windmill building to be sited adjacent to the children's playground and restaurant building. The windmill measures 3m x 3m at its base.

The windmill building is non-habitable and is for decorative purposes only.

The lights are solar powered and will run from sunset until their stored solar power runs out.

Six of the gazebo structures are sited around the developed areas of the site with two others sited adjacent to the freshwater dam towards the eastern side of the site.

There is an additional existing decorative windmill building located at the southern end of the site closer to the water that will be removed from the site and does not form part of this application.

The Planning Scheme

The site is zoned Agriculture under the Sorell Local Provisions Schedule of the Tasmanian Planning Scheme (planning scheme). The proposal relates to the existing farm stay and restaurant use on the site.

The proposal does not establish a new use or substantially intensify the existing farm stay or restaurant use. In accordance with Clause 7.2, the proposal is therefore to be treated as development for a Permitted Use.

Development Standards

Height (21.4.1)- the lights, gazebos and windmill building comfortably comply with the 12m permitted height under A1.

Setbacks (21.4.2) – the proposed lights are not buildings and this standard does not apply to these features. The windmill building is sited 7.4m from the side boundary and the gazebos are all sited well clear of boundaries. The proposal therefore complies with the 5m permitted standard under A1(a).

The proposal does not involve buildings for a sensitive use. A2/P2 does not apply.

Codes

Natural Assets Code

One of the gazebos and some of the lights are located within a waterway and coastal protection area. Clause C7.6.1 therefore applies. The proposal is considered to avoid adverse impacts on natural assets and to satisfy P1.1 of that standard in that the modest structures:

- are sited clear of natural streambanks will not impact riparian vegetation

- will not involve filling of wetlands
- involve minimal cut and fill
- are sited well clear of high water mark and therefore will not impact on coastal processes
- will not impact fish passage.

Scenic Protection Code

Development within a scenic protection area (C8.6.1) -

The proposed development is sited on the low side of the Arthur Highway below the 40m contour and well below the ridgeline of Mount Elizabeth to the east that has a ridgeline that ranges from approximately 160m to 220m (see Figure 2).

Having regard to this siting the proposal complies with A1 in that the land is more than 50m below the skyline and the 140 lights, gazebo structures, plus the windmill structure will not occupy more than 500m² (allowing conservatively for 1m² per light plus 9m² for the windmill, 6 11.2m² gazebo structures and 2 x 36m² gazebo structures).

Development within a Scenic Road Corridor (C.8.6.2)

The site is not within a Scenic Road Corridor. This standard does not apply.



Figure 2 – site location relative to the skyline.

Safeguarding of Airports Code

The proposal does not involve development above the AHD height specified for development in this obstacle limitation area and is therefore exempt from this Code under C16.4.1 (a).

Summary

The proposed lights, gazebos and windmill building relate to the approved use of the site and will not change or substantially intensify these approved uses.

The proposal also complies with the permitted development standards for the Agricultural Zone and the Scenic Protection Code. To the extent that the proposal is located within a waterway and coastal protection area, the proposal will avoid or minimise impacts of natural assets and is considered to comply with P1.1 of Clause C7.6.1.

The proposal is recommended for approval as a Section 57 application for the purposes of the Act. I would be pleased to discuss as necessary.

Yours sincerely,

Frazer Read
Principal
All Urban Planning Pty Ltd





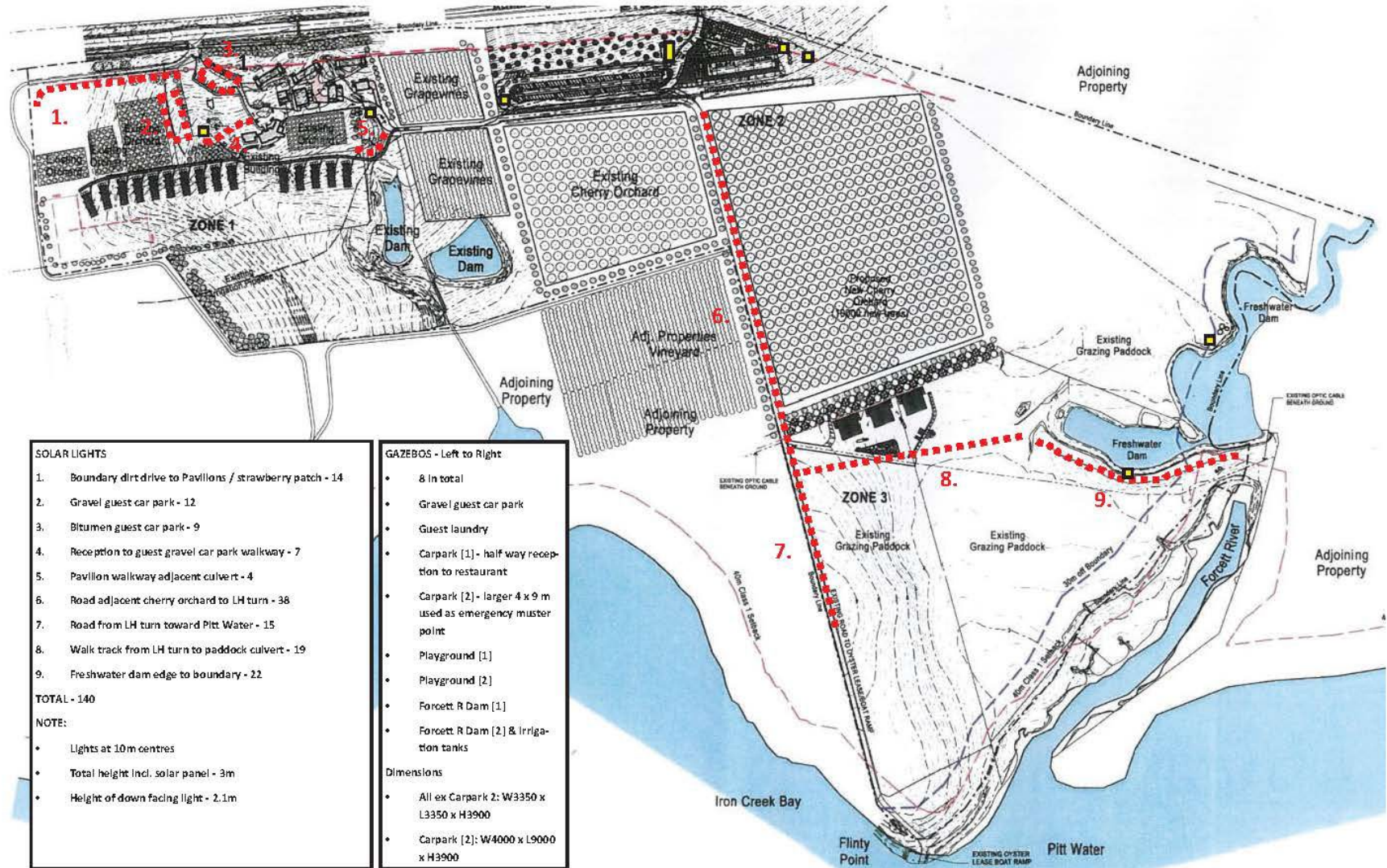
Solar lights – 3m high including an internal downlight sited 2.1m above ground

 **Sorell Council**
Development Application: Development
Application - 304 Arthur Highway, Sorell-pd
Place Reference: P1
Date Received: 19/02/2024



Decorative windmill building

 **Sorell Council**
Development Application: Development
Application - 394 Arthur Highway, Sorell.pdf
Plan: Reference P1
Date Received: 10/03/2024



- SOLAR LIGHTS**
1. Boundary dirt drive to Pavilions / strawberry patch - 14
 2. Gravel guest car park - 12
 3. Bitumen guest car park - 9
 4. Reception to guest gravel car park walkway - 7
 5. Pavilion walkway adjacent culvert - 4
 6. Road adjacent cherry orchard to LH turn - 38
 7. Road from LH turn toward Pitt Water - 15
 8. Walk track from LH turn to paddock culvert - 19
 9. Freshwater dam edge to boundary - 22
- TOTAL - 140**
- NOTE:**
- Lights at 10m centres
 - Total height incl. solar panel - 3m
 - Height of down facing light - 2.1m

- GAZEBOS - Left to Right**
- 8 in total
 - Gravel guest car park
 - Guest laundry
 - Carpark [1] - half way reception to restaurant
 - Carpark [2] - larger 4 x 9 m used as emergency muster point
 - Playground [1]
 - Playground [2]
 - Forcett R Dam [1]
 - Forcett R Dam [2] & Irrigation tanks
- Dimensions**
- All ex Carpark 2: W3350 x L3350 x H3900
 - Carpark [2]: W4000 x L9000 x H3900

Sorell Council
 Development Application; Response to Request for Information - 394 Arthur Highway, Sorell.pdf
 Plans Reference: P2
 Date received: 12/03/2024





GRAVEL GUEST CARPARK



GUEST LAUNDRY



CARPARK 1



CARPARK 2 [LARGE]



PLAYGROUND 1



PLAYGROUND 2



FORCETT R DAM 1



FORCETT R DAM 2

GAZEBO NOTES

- SAFETY AND COMFORT AMENITY FOR CURRENT GUESTS WALKING BETWEEN OR TO CURRENT STRUCTURE OR ACTIVITY
- NON POWERED, NO LIGHTING
- ALL EX, CARPARK 2, DAM 1 & 2, HAVE GRAVEL BASE. CARPARK 2, DAM 1 & 2, HAVE CONCRETE SLAB AS BASE

 **Sorell Council**
 Development Application: Response to
 Request for Information - 394 Arthur Highway,
 Sorell.pdf
 Plans Reference: P2
 Date received: 12/03/2024



Sent: Wednesday, 1 May 2024 8:46 AM

To:

Subject: 394 Arthur Highway Application (Retrospective)

Dear Robert,

Thankyou for working hard for our community; for caring as much as we do about the health of the precious and irreplaceable animals and plants who work tirelessly to keep our landscape healthy and habitable.

In that vein, I object strongly to the excessive solar lighting at 394 Arthur Highway. The consequences of light pollution are becoming increasingly clear: widespread insect decline, the disruption of breeding cycles and bird migration. Situated, as we are, on the edge of a Ramsar wetland, I believe we have a moral obligation to ensure the health of that wetland and all its many inhabitants.

Please do what you can to reduce the light pollution emitted from this development.

Sincere regards from

1 May 2024

Mr Robert Higgins
General Manager
Sorell Council
sorell.council@sorell.tas.gov.au

Dear General Manager

Re: 394 Arthur Highway 5.2024.33.1 – Objection to Development Application Solar lights, Decorative Windmill and Gazebos (retrospective).

I write to object to the proposed development as above and as advertised in the Mercury Saturday 27 April 2024.

The proposed development does not fully consider the natural values of this sensitive area against the criteria of the Natural Values Asset Code 'waterway and coastal protection areas', 'future coastal refugia areas' or 'priority vegetation areas. Additionally, the proposed development does not consider the impacts to the night sky for visitors and residents of the area.

It is critically important that these impacts are thoroughly considered as the proposed development is situated alongside the waterways and wetlands critical to the Pitt Water-Orielton Lagoon Ramsar Site. *Coastal Saltmarsh Futures A Preliminary Strategic Assessment 2013*, by Vishnu Prahalad well respected Tasmanian saltmarsh expert, and Jill Pearson identifies the values and vulnerably of these important ecosystems.

It is evident drawing on expertise as mentioned that the natural environment (marine and terrestrial species, shorebirds, and native fauna) is being impacted by the solar powered downlights already sited around the said property.

It is unnecessary and harmful to light up the night sky to the extent proposed in the development application.

Yours sincerely



8 May 2024

Mr Robert Higgins
General Manager
Sorell Council
sorell.council@sorell.tas.gov.au

Re: 394 Arthur Highway 5.2024.33.1 – Objection to Development Application Solar lights, Decorative Windmill and Gazebos (retrospective).

I write to express my objection to the above development application (retrospective) as advertised in The *Mercury* newspaper on Saturday 27 April 2024 and made available on the Sorell Council website.

I am concerned that the extensive lighting that has been installed represents a serious threat to numerous species. I am particularly concerned about the impact of the lighting on shore breeding and shore feeding birds and the species they feed and depend on. The Iron Creek development directly impacts the ecological communities protected by the declaration of the globally significant Pitt Water - Orielson Lagoon RAMSAR site. The proponents fail to even mention the Ramsar site or the impact on the species it is intended to protect.

Light pollution impacts whole ecological communities, disrupting food webs, fragmenting habitats and benefiting invasive species. Detailed information describing these impacts is summarised in an Australian Government publication available via this link:
<https://www.dcceew.gov.au/campaign/light-pollution/ecological-communities>

I am also concerned about the impact of the lighting on the enjoyment of the night sky. It is a privilege to live in a place with fabulous views of the night sky over the Southern Ocean and the real possibility of seeing the Southern Aurora. Visitors to our coast appreciate it too.

The application should be refused. The extensive lighting that has been installed is unnecessary and demonstrably harmful and should not have been installed without the proper approvals.

Yours sincerely.



9th May 2024

**Representation to proposal 5.2024.33.1
Notice of Proposed Development: Solar Lights, Decorative Windmill & Gazebos
(Retrospective)**

Robert Higgins
General Manager, Sorell Council
Sorell.Council@sorell.tas.gov.au

Dear Robert,

The Iron Creek Bay Development at 394 Arthur Highway currently consists of:

- DA 2018 00154-1 approved on 21st August 2018
- DA 2019 / 386-1 approved 21st January 2020
- DA 2019 / 386-2 approved 4th October 2022
- DA 2022 / 237 -1 approved 4th October 2022

with all of their respective premises and conditions.

This Planning Application 5.2024.33.1 is additional and fetters agricultural land and associated ecosystems. Collectively they substantially intensify the use of the site.

Australia was a contracting party to the RAMSAR convention in 1974, local council are guided and mandated by international agreements and Australian Laws. This application may hence cause conflict with the RAMSAR convention, the EPBC Act 1999 and the Water Act 2007 given the proximity of lights to the Iron Creek Bay.

Prior Assertions

The developer made undertakings to us, given our bio security concerns, that tourists would not roam outside of the main development footprint, this planning application creates a clash between agriculture and non-agriculture uses.

In previous submissions the ICB developer has asserted to council that

"The development site is well screened with the majority of the buildings separated a considerable distance from neighbouring properties. Given the scale of development and the way that it has been positioned on site, it is considered unlikely that there will be noise and light pollution from the development to adjoining properties"

Further, in the minutes of the 4th October 2022 DASC meeting Council's response stated *"No change to external lighting is proposed"*

Alignment with current conditions at ICB

The proposal with external 140 individual solar lights does not indicate how the applicant plans to adhere to their current operating hours of 9am to 4pm and 12 noon to 10pm with reference to original planning scheme:

- E6.7.7e "appropriate to hours of use";
- E6.7.7d "prevent unreasonable light overspill impacts"
- SAZ 27.1.1 - purpose statements.

The proposal also fails to indicate how expanded pedestrian trails for tourist access will not fetter adjoining agricultural user rights. Explicitly with firearm vermin control and crop spraying that are obvious conflicts of use and an intensification of the use of the land.

Impact



The lighting is excessive and detrimental to our property and the natural environment, to quote the Australian Government: *"Inappropriate, excessive and poorly designed artificial lighting is spreading to unwanted places and disrupts the health and wellbeing of humans, farm life and wildlife."*

As this is a retrospective application, I can advise the current impact as 3 owls no longer visit our property, one being an endangered masked owl. I can also advise we have observed a notable increase in insects, which indicates a decrease in bats. We are concerned that Council does not understand the ecosystem issues and by approving this is damaging the natural environment. We believe it will be detrimental with impact on insect beneficiaries, impact on animals (domestic and wild, including bats) and impact on shorebirds, especially migratory birds.

Request for Conditions

If Council again accepts the contempt the Developer shows for council process by not adhering to the established systems and process by seeking forgiveness after (eg. building different buildings to the DA, fitting out cool rooms with the look and feel of function room), then we would ask for the following conditions by Council as a minimum:

- Remove and limit the lighting along Flinty Point (6, 7, 8 and 9 on the applicants plan) that is away from the main development
- Ensure solar sensors only allow enough light storage to 10pm to align with operating hours and add timers to ensure they turn off. (Currently they run all night in Summer).
- Establish a process, for advising ICB of firearm vermin control. Our understanding is the Firearm Legislation does not cover the situation of a tourist wandering in the dark on an agricultural property that does not have any sensitive use.
- Reduce the wattage of the lights and add domed cones
- Conduct an environmental impact assessment to identify light pollution impacts and solutions.
- Independent, ongoing monitoring at the developers cost of installed artificial lighting and impact on animal behaviour.

We make note of the 6 best practice lighting principles to protect wildlife per the Australian Government.

1. Start with natural darkness and only add light for a specific purpose
2. Use adaptive light controls to manage the timing, intensity and colour of light
3. Light only the area needed
4. Use low intensity lighting and keep it close to the ground
5. Use non-reflective, dark coloured surfaces near lighting fixtures
6. Avoid white lights – use amber (low CCT) lighting with little or no blue wavelength.

In conclusion I would like to bring the attention to page 7 of the original DA:

"All development associated with the Farm Stay facilities will be contained within CT 112592-1 as detailed by the Site Plan (drawing numbers DA04-DA17)."

This planning application renders, yet again, that statement as inaccurate. We strongly urge Council to consider the extensive and consistent scope creep. Consider and define how much development is allowed in agriculture to retain the true intent of the Agricultural Zone? We consider it Council's duty to consider any subsequent modifications through the lens **"if this was included in the original DA would Council have granted a discretionary permit"**

Regards

Hi Shayla and Shannon,

Thank you for sending through these representations and the opportunity to provide a response.

Natural Asset Code

The proposed lights or gazebos are not located within a Priority Vegetation Area or Future Coastal Refugia area.

The majority of the lights, the windmill and all but one of the gazebos are located outside Waterway and Coastal Protection Area areas including the 100m buffer from the tidal waters of the RAMSAR site. I note that the Natural Assets Code does not relate to use.

The provisions of the Natural Assets Code are therefore not relevant to the majority of the proposal.

Clause C7.6.1 Buildings and works within a waterway and coastal protection area applies to one of the gazebo structures and approximately 30 lights that are located along the southern side of the dam in the south east corner of the site. These parts of the proposed development within the Waterway and Coastal Protection Area are to be assessed under the following performance criteria P1 of C7.6.1:

Buildings and works within a waterway and coastal protection area must avoid or minimise adverse impacts on natural assets, having regard to:

- (a) impacts caused by erosion, siltation, sedimentation and runoff;*
- (b) impacts on riparian or littoral vegetation;*
- (c) maintaining natural streambank and streambed condition, where it exists;*
- (d) impacts on in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;*
- (e) the need to avoid significantly impeding natural flow and drainage;*
- (f) the need to maintain fish passage, where known to exist;*
- (g) the need to avoid land filling of wetlands;*
- (h) the need to group new facilities with existing facilities, where reasonably practical;*
- (i) minimising cut and fill;*
- (j) building design that responds to the particular size, shape, contours or slope of the land;*
- (k) minimising impacts on coastal processes, including sand movement and wave action;*
- (l) minimising the need for future works for the protection of natural assets, infrastructure and property;*
- (m) the environmental best practice guidelines in the Wetlands and Waterways Works Manual; and*
- (n) the guidelines in the Tasmanian Coastal Works Manual.*

The proposal will avoid or mitigate impacts erosion, siltation, runoff, vegetation, streambank condition and will not impede natural flow or fish passage and satisfies all of these criteria to the extent that they apply. The Wetlands and Waterways Works Manual and Tasmanian Coastal Works Manual relate to the impacts of works only.

It is noted that the Standard does not require an assessment of impacts on avian fauna.

The proposal complies with all provisions of the Natural Assets Code to the extent that they apply.

Pitt Water-Orielton Lagoon Ramsar site

Having regard to the above, the proposal complies with the provisions of the planning scheme to the extent that they are relevant to the Ramsar listed Pitt Water- Orielton Lagoon.

Consideration of Conditions

The proponent is sympathetic to the concerns regarding dark sky impacts and would agree to the addition of a directional shroud to each of the lights as indicated below to direct light downwards and mitigate light spill or glare impacts beyond the site. The applicant would be happy to install these shrouds as a condition of approval.

Existing Directional shroud to be added as a condition of approval



The solar lights are freestanding units that do not operate on a circuit. It is not possible to time or switch the lights on or off.

I trust that this response will assist Council with its assessment of the application.

I would be pleased to discuss as necessary.

Thank you

Regards