

Board Meeting - February /March 2023

Location: Lord Howe Island Community Hall



Chairperson: Atticus Fleming AM, Acting Coordinator General, DPE

Board Member: Bruce Baird AM, Appointed Member (Tourism)

Board Member: Chris Bath, Appointed Member (Conservation)

Board Member: Gary Crombie, Elected Member

Board Member: James Lonergan, Elected Member

Board Member: Matthew Retmock, Elected Member

Board Member: Therese Turner, Elected Member (Deputy Chair)

Attendee: Suzie Christenen, Chief Executive Officer

Attendee: Paula Pollock, Senior Manager Environment and Community Services

Attendee: Debbie Johnsen, Senior Manager Business and Corporate Services

Attendee: Bradley Josephs, Acting Senior Manager Infrastructure and Engineering Services

Minutes: Belinda Panckhurst, Administration Officer

28 February 2023 2:30 PM - 6:00 PM

01 March 2023 9:00 AM - 1:00 PM

Tuesday, February 28, 2023

Agenda Topic	Presenter	Time	Page
In-Camera Session (Board Members Only)		2:30 PM-3:30 PM	
3:30PM - CLOSED SESSION COMMENCES			
1. CONFLICT OF INTEREST DECLARATIONS	Atticus Fleming	3:30 PM-3:35 PM	
2. WH&S AND RISK MANAGEMENT		3:35 PM-3:40 PM	4
2.1 WH&S and Risk Management Update	Suzie Christensen		4
3. FINANCE AND BUSINESS MANAGEMENT		3:40 PM-4:00 PM	16
3.1 Financial Status Update	Debbie Johnsen		16
3.2 Financial Support for the LHI Tourism Association	Debbie Johnsen		21
4. OPERATIONS AND SERVICES		4:00 PM-5:30 PM	28

4.1	Long-term Marine / Waste Facility Strategy (Verbal Update)	Rose Ung		
4.2	Long Term Marine Strategy - Procurement Update	Suzie Christensen		28
4.3	Asset Management Plan	Mat Greski		42
4.4	Waste Management Facility Strategy	Brad Josephs		88
4.5	Rat Genetics Analysis and Report	Paula Pollock		125
5.	LEASING AND LAND ADMINISTRATION		5:30 PM-5:50 PM	171
5.1	Process for Dwelling Allocation	Paula Pollock		171
5.2	Suspension of Conditions of Residency - Stokes	Paula Pollock		175
5.3	Cancellation of Permissive Occupancies - Deceased Estates	Paula Pollock		192
6.	POLICY AND STRATEGY		5:50 PM-6:00 PM	209
6.1	Dog Imporation Application - Alexander and Jessica Jones	Paula Pollock		209

6:00PM - CLOSED SESSION CONCLUDES

6:30pm - Dinner (Details TBC)

OPEN SESSION COMMENCES

Wednesday, March 1, 2023

Agenda Topic	Presenter	Time	Page
7. MINUTES OF PREVIOUS MEETING - NOTICE OF ADOPTION	Suzie Christensen	9:00 AM-9:05 AM	215
8. OUT OF SESSION MATTERS REPORT	Suzie Christensen	9:05 AM-9:10 AM	231
9. ACTIONS FROM PREVIOUS MEETING STATUS REPORT	Suzie Christensen	9:10 AM-9:15 AM	234
10. CHIEF EXECUTIVE OFFICERS REPORT	Suzie Christensen	9:15 AM-9:30 AM	241
11. FINANCE AND BUSINESS MANAGEMENT		9:30 AM-10:00 AM	
11.1 Financial Status Update (Verbal Update Only)	Debbie Johnsen		

MORNING TEA		10:00 AM-10:30 AM	
12.	DEVELOPMENT APPLICATIONS	10:30 AM-10:35 AM	258
12.1	Owner Consent Approved Under Delegated Authority Status Report	Paula Pollock	258
12.2	Development Applications Approved Under Delegated Authority Status Report	Paula Pollock	259
13.	POLICY AND STRATEGY	10:35 AM-10:45 AM	260
13.1	Motor Vehicle Importation or Transfer Status Report	Suzie Christensen	260
13.2	Adoption of Vehicle Importation, Transfer and Use Policy (Post Public Notice)	Suzie Christensen	264
13.3	Application to transfer a private use boat trailer from Hank Bower to Suzie Christensen	Paula Pollock	289
14.	LEASING AND LAND ADMINISTRATION	10:45 AM-11:45 AM	314
14.1	Status of Public Accommodation Licence Transfer Applications	Paula Pollock	314
14.2	Current Status of Public Accommodation Licence Holders	Paula Pollock	323
14.3	Application to Transfer % of Lease - Thompson	Paula Pollock	325
14.4	Creation of Special Lease - Fitzgerald	Paula Pollock	328
15.	BUSINESS ARISING FROM PREVIOUS MEETING		
	Nil		
16.	GENERAL BUSINESS AND QUESTIONS ON NOTICE		
	12:00PM - OPEN SESSION CONCLUDES		
17.	12:15 MEETING WITH SUPERINTENDANT SHANE CRIBB		

NEXT MEETING: 9 and 10 May 2023

Board Meeting: February 2023	Agenda Number: 6	Record Number: ED23/938
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Adoption of minutes of previous meeting.

Recommendations

1. **Endorse** the December 2022 board meeting minutes.

Current position

Process for Distribution of Board Meeting Minutes

The Board updated the adopted process for distributing Board minutes at the March 2022 Board meeting as follows:

- Draft minutes will be produced within five working days of a Board meeting, and distributed to Board members on the sixth working day, unless delayed for a valid reason agreed to between the Chief Executive Officer and the Chairperson.
- Board members are to return their endorsement, or otherwise, of minutes in writing no later than 10 working days after date of posting distribution.
- 10 working days after date of posting distribution, the Board will deem the minutes of the meeting to be endorsed, subject to any amendments which were received prior to that date, and agreed for inclusion by the Chairperson.

Endorsement of Board Meeting Minutes

Minutes of the December 2022 meeting were distributed to each Board member and were endorsed as per the above process.

A copy of the amended draft minutes is attached.

Attachments

Attachment	Title
A	Board Meeting Minutes – December 2022 – CLOSED

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Belinda Panckhurst	Administration Officer

Board Meeting: February 2023	Agenda Number: 7	Record Number: ED23/939
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Out of Session matters status report.

Recommendations

1. **Note** the information provided in this report.

Current position

Since the last Board Meeting in December 2022, one matter was considered out of session with two matters being closed items.

Results of the 'Out of Session' papers since the last Board meeting are shown on the attached result summary sheet.

Attachments

Attachment	Title
A	Result Summary Sheet – Open
B	Result Summary Sheet – Closed

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Belinda Panckhurst	Administration Officer

Board Meeting: February 2023 Agenda Number: 8 Rec No: ED23/939.01 OPEN Attachment: A

OUT OF SESSION RESULT SUMMARY SHEET

OPEN SESSION				
No.	Date	Application	Vote	Comment
December 2022				
Nil				
January 2023				
Nil				
February 2023				
Nil				

Board Meeting: February 2023	Agenda Number: 9	Record Number: ED23/940
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Actions from previous meeting – status report.

Recommendations

1. **Note** the information provided in this report.

Current position

As a matter of process and procedure, a list of actions is prepared after each Board meeting to ensure that the Board's resolutions are systematically carried out by staff. Those actions reported as complete are deleted from the Action List at the subsequent Board meeting.

A list of actions from decisions of the December 2022 Board meeting, and previous meetings, is attached for the Board's information.

Attachments

Attachment	Title
A	Action sheet from previous Board meetings – CLOSED

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Belinda Panckhurst	Administration Officer

Board Meeting: February 2023	Agenda Number: 10	Record Number: ED23/941
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Chief Executive Officer's report 14th September 22 – 25 November 25

Recommendations

1. **Note** the Chief Executive Officer's report including attachments

Current position

The following briefing provides an overview of highlights, risks and opportunities during the reporting period. It is reported under the six themes of the Board's Strategic Plan, and supported by detailed reports from the three business unit Senior Managers.

Effective Leadership and Governance

The Senior Leadership Team capacity has been bolstered with the commencement of a new Senior Manager of Environment and Community Services, and appointment of an Acting Senior Manager Infrastructure and Engineering Services. However, our wonderful Senior Manager Business and Corporate Services (MBCS) Debbie Johnsen's secondment has come to end. Deb will stay on with us for 2 days per week while the recruitment process is underway, focussed solely on financial management and reporting, and operating from the mainland. Her expertise and contribution have been greatly appreciated.

Recruitment continues, with most positions filled. Ensuring service delivery capacity remains a challenge, exacerbated by accommodation availability, internal resourcing and lack of IT systems. These are being addressed through the implementation of the EER recommendations, but take time. A dedicated project office has been created internally to provide focus on transformation and improvement, and to clear

IT Update

Phase one of the discovery process for our IT systems review has been completed. Phase two involves transition to the future state.

Part 1 of the future state relates to cyber security, a critical issue identified in successive audits. Funding has been allocated by DRF to the LHIB cyber uplift to address these issues in relation to LHIB ICT landscape. A business case has been submitted to DPE corporate Systems (\$385k) to secure the funding.

Part 2 requires a decision and budget – approx. \$1 Million and ongoing costs.

Sound Infrastructure and Services

The major road upgrade tender has been closed out, and was been unsuccessful in securing a viable contractor. Discussions have been held with TNSW as the funder to negotiate amendments to the agreements, and direct negotiation has commenced due to the market failure experienced.

Two prevention notices have been received from EPA in relation to upgrade of the chemical storage facility, and bunding for the fuel handling operations at the jetty. Minor capital works are required for rectification of both and planning has commenced.

A third more critical EPA matter relates to the upgrade of the Waste Management Facility (WMF), with a strong expectation from them as regulator that government will commit to this essential work. Funding bids have been submitted to secure the necessary investment in both the WMF and shipping service.

Outstanding Environment

A strategic focus is being brought to the Environment portfolio with the appointment of a very experienced Senior Manager, Paula Pollock and Team Leaders for Flora and World Heritage Ongoing biosecurity monitoring and surveillance continues, with a full complement of officers now on board. Dog handling and other training has commenced, and contract dg teams continue to support six-weekly checks. Progressing improvements to secure mainland facilities is being negotiated with Birdon. Adherence to a Biosecurity Management plan will be a cornerstone of the renewed contract with our current shipping provider, and agreement on the detail is being reached.

Unfortunately, Myrtle Rust has been detected on the Island, last eradicated in 2017. Swift action has been taken and a response plan enacted. The situation is being monitored very closely and the response will be escalated if required.

Weeding work continues, however Heliops planned for February has been cancelled due to the risk of spreading Myrtle Rust. Short term contractors are being used to meet targets.

Monitoring of ecological response across invasive and native and endemic species is vital post rodent eradication, for biodiversity benefits and in order to respond to unintended consequences. This work is being drawn together in a monitoring plan that will be in place and activated before the end of the financial year.

The December 22 woodhen survey reported record numbers again of 1147 birds, 400 more than in March 22 and double the previous year. Promoting the Island's recovery post rodent eradication is a major upside risk to capitalise on going forward.

Responsible Land Management

Downer's, project managers for Telstra have been advised of the need to seek CASA, and Air Services Australia approval, and undertake an impact assessment in relation to World Heritage Values before consideration of the Owner's Consent application can be made.

Funding (\$875K) has been received through Regional NSW to undertake planning for and implementation of an improved telecommunications network for the island. The planning phase is being scoped and potential providers have been identified. This work will help inform the Board and the community of the options in relation to additional or alternative coverage for mobile phones.

Strong and Sustainable Economy

An internal project is underway to align business and liquor licenses and commercial leases, along with bed licenses and appropriate insurance, including an audit and reconciliation of records. Many of the relevant records are paper based, and require digitisation to minimise the risks associated with conflicting and dated information.

Support a Strong and Engaged Community

Funding received to facilitate recovery and community connection post Covid is being used for a new event, the Lord Howe Island Festival, which commences on Discovery Day. Lord Howe Island is honoured to have the Governor of NSW attending for the Discovery Day events. Meetings have been arranged with key stakeholders, and experiences arranged in the field to highlight the Islands values.

Attachments

Attachment	Title
A	IES report
B	ECS report
C	Biosecurity Compliance

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Suzie Christensen	Chief Executive Officer

CEO BOARD REPORT

INFRASTRUCTURE AND ENGINEERING SERVICES

OPEN SESSION

Item

This report is a brief summary of IES activities and issues covering the period December to February 2023.

Core Service Streams

1. Aerodrome Operations
2. WMF Operations
3. Electricity Generation and Distribution Operations

Major Projects, Major Maintenance Items and Procurements

4. Asset Management Plan
5. Environmental Protection Agency Visit – Outcomes
6. Roads

Summary of Activities and Issues

1. Aerodrome Operations

Maintenance and operations of the assets has continued over the period with no major interruptions encountered because of a need to deliver reactive maintenance at the site. Commercial operators have continued to utilise the airstrip without experiencing interruptions from airstrip availability.

Jasko Airport Services were engaged to provide Airport Reporting Officer (ARO) training to additional staff. training enabling more ARO to provide adequate coverage for leave periods, weekends and across the roster. As such 6 new ARO's are currently in training with majority coming from the biosecurity team.

The Aerodrome has continued to support a number RAAF training exercises, however due to weather RAAF have had to reschedule their planned operations for this period. Though RAAF's continued requests results in a requirement by LHIB to make staff available outside of their usual bandwidth hours in low-light or no-light conditions at pay rates above normative at cost and risk to LHIB. RAAF have improved their communications with LHIB staff to roster necessary biosecurity checks when disembarking.

2. WMF Operations

Operations have continued at the WMF. Expressions of interest for IES Field Officers were filled meaning that WMF staffing is back at a reasonable level.. To boost the capacity and competency across the IES team, a trial of rotating roster allowing previously trained staff to spend more time at the WMF to gain a better insight to the operations conducted.

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The WMF Upgrade report conducted by MRA Consulting group has been submitted to and accepted by the Environmental Protection Agency (EPA), thus achieving the PRP that was required.

Though there were many logistical issues, compost sampling has begun at the WMF to hopefully supply the public with compost. The WMF coordinator has expressed concerns with the amount of microplastics contained within the compost, with the last sample which seemed clean to the touch showing results of 0.17mg/kg. The EPA requires a result <0.05mg/kg. Tests have showed a spike in Cadmium of 1.1mg/kg which will need to be followed up by the MIES and WMF coordinator to investigate the possible contamination source. Results also showed a high ammonium/nitrate ratio and as such WMF staff have had to change methodology to address the issue.

EPA has advised the LHIB that in the future there will be PFAS testing required for compost. Due to the islands past with PFAS this pathogen has been added to the testing regime. At this current point the LHIB can only monitor the data until the EPA releases their report. Treating or removing PFAS is not an option for the LHIB due to the heavy costs involved.

3. Electricity Generation and Distribution Operations

The total energy demand for this reporting period was 481200kWH with Diesel generation totalling 97300kWH and Solar generation totalling 409500. Fuel consumption for the reporting period was 26800 litres which is a difference of 300 litres for the same reporting period last year. This indicates that the island has returned to near normal operation since COVID.

There were 8 days of diesel free generation during the reporting period with the longest run of diesel free generation this reporting period being 2 days and an overall fuel energy efficiency of 17.95 kWh/L.

There are currently 295 customers connected to the electrical supply system.

There was one **unplanned** customer supply interruptions to the distribution system during the period. This outage was the result of localised customer overloading. There were two **planned** supply interruption to the distribution system during the period. These outages were to carry out equipment upgrade works on Substation No.3 and 9.

Powerhouse staff undertook the replacement of the Main Circuit Breaker in inverter No.6 combiner box on the HYBRID solar system. This is was due to intermittent circuit breaker failures on multiple inverters due to increased temperature in the combiner boxes. The circuit breaker was changed to a different brand which has a better temperature curve. Since the installation of the new circuit breaker there has been no intermittent failures on invert No.6, ongoing temperature monitoring is being undertaken in all inverter combiner boxes.

Powerhouse staff are pleased to report that up to the current reporting period there has been no Island wide loss of supply due to generation plant failure on either the HYBRID solar system or diesel generator system for a total of 23 months.

4. Asset Management Plan

Matthew Greskie has completed the draft AMP for the LHIB. The AMP has highlighted a major shortfall of budget after 2031, mainly due to major assets needing renewal such as electrical

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generation assets, boundary fence permanent park reserve, wharf superstructure and airport runway asphalt surface.

Parts of the AMP are now currently being implemented; IES is currently focusing on disposal of unused assets that are currently losing value and the procurement and disposal of assets that are up for renewal according to AMP. IES is also focusing on the maintenance of current assets implementing procedures that will extend the life and resale value of board assets in the future.

5. Environmental Protection Agency Visit - Outcomes

The Environmental Protection Agency (EPA) visited Lord Howe Island from Tuesday 22nd November – Thursday 24th November. The EPA issued 2 prevention notices to the Lord Howe Island Board

Prevention Notice 3504289 – The EPA identified that pesticides and other chemicals are not being stored by such practical means as may be necessary to prevent, control or minimise a pollution incident from occurring.

Currently A/MIES has ordered all new materials required for compliance of new shed. Shed is on track to finish end of March – mid April.

Prevention Notice 3504335 - The EPA reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at the Premises by Lord Howe Island Board in that:

This prevention notice was in response to the diesel spill that occurred whilst BIRDON was refuelling machinery. LHIB has engaged NSW public Works to supply a proposal to include a detailed design for hardstand bunded area, minor works contract development and Review of Environmental Factors.

6. Roads

As per the out of session paper endorsed by the Board, the tender process for our major road upgrade has been closed without awarding a successful contract. Procurement is now occurring by direct negotiation, compliant with DPE procurement policy and endorsed by the Director of Procurement. Stage one, repair of the section of lagoon road that has been ripped and rolled will commence in the coming weeks. Variation deeds are being finalised with the funding agency to address priority roads with the available funds, and an application will be made in Round 5 (currently open, funds available end July) that should see the remainder of the roads brought up to standard. Beyond that, a return to a regular annual maintenance and reseal program will ensure the standards are maintained into the future.

Attachments

Attachment	Title
Nil	

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Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Brad Josephs	A/ Manager Infrastructure and Engineering Services

CEO BOARD REPORT

ENVIRONMENT AND COMMUNITY SERVICES

OPEN SESSION

Item

This report is a brief summary of ECS activities and issues covering the period December 22 to February 2023.

Core Service Streams

1. Biodiversity Management
2. Biosecurity
3. Weed Management
4. Threatened Plants
5. Visitor Infrastructure
6. Marine Management / Moorings
7. Environmental Assessment
8. Environmental Health Assessment
9. Land Administration
10. Development Assessment and Land Use Planning
11. Spatial and data

Summary of Activities and Issues

1. Biodiversity Management

Operations

Woodhen survey December 2022

The LHIB Woodhen survey was conducted in December 2022 in the Settlement Area, Far Flats (i.e. Little Island track), Rocky Run/Boat Harbour/Muttonbird Point, and Mt Gower. A record number of woodhens were recorded (1147) and the population continues to increase and expand in range. Remarkably, 538 new birds were caught and banded, showing that breeding success has been very high since the previous March 2022 surveys.

The survey results were reported to the Chair via a briefing note on 13 January 2023, and to the community via the Signal that was published on 23 January.

Myrtle rust detection February 2023

On Friday 3rd February 2023 the exotic fungus Myrtle Rust was rediscovered on Lord Howe Island. The presence of Myrtle Rust was reported by a resident and confirmed by LHIB staff. This is the first time the fungus has been detected since it was thought to be eradicated in 2016.

Within hours of receiving the report and a location:

1. The site was quarantined, neighbouring leaseholders advised and a rapid screen of all susceptible plants in the vicinity conducted.
2. A householder was issued, alerting the community to the occurrence, providing information on the fungus and requesting assistance with reporting sightings.

Within one week:

1. A Myrtle Rust Emergency Response Plan was developed to
 - a) support rapid response to this biosecurity incident, and
 - b) inform the action of LHIB staff, and
 - c) contain, treat, and ultimately eradicate Myrtle Rust from the island.The Plan was reviewed by various experts from the DPI, DPE, DAF, and tertiary institutions, and implementation commenced immediately.
2. The initial site was treated, with all myrtaceous species in the immediate vicinity given a preventative spray.
3. Contact with all leaseholders was made and permissions sought to conduct site visits, with over 2300 trees inspected and mapped across the entire settlement. Teams mobilised rapidly to undertake inspections, with Myrtle Rust detected and treated at only one other site. At the initial site, Myrtle Rust is affecting two introduced species, a Bottle Brush (*Callistemon sp.*) and a Pōhutukawa/New Zealand Christmas Bush (*Metrosideros excelsa*). At the second site, Myrtle Rust was only affecting one species, a Bottle Brush (*Callistemon sp.*). No native species have been found to be affected by the rust so far.
4. Samples were collected in accordance with hygiene protocols to be sent for DNA analysis. Results are expected to be delivered in 8 weeks.

Staff have responded efficiently, effectively, safely and in a coordinated manner to address this serious risk to LHI flora. Further treatments and monitoring will be implemented in coming weeks in accordance with the Myrtle Rust Emergency Response Plan.

Phasmids

Two new enclosures have been constructed to house the on-island captive population of phasmids with funding provided by the Melbourne Zoo. Environment staff tend the insects weekly and have been storing eggs under the guidance of Scientists from the Melbourne Zoo in preparation for a future release.

An article on a new testing method developed by researchers to detect pathogenic bacteria in phasmids was published in the January 2023 issue of the Signal.

Biodiversity Benefits Monitoring Project

Several of the Biodiversity Benefits Monitoring Projects are commencing in the next month, including invertebrates, vegetation, little shearwaters, and food web analysis. The Board has partnered with scientists in the Department of Planning and Environment to complete the work so that we can understand how the environment is responding to the absence of rodents.

Planning and Strategic

Risk assessment

A comprehensive risk assessment of activities conducted on Mt Gower has commenced with a focus on hiking and management actions. Discussion with National Parks and Wildlife Staff managing similar wild walks has informed the approach and consultation with both tour operators currently providing visitor experience on the mountain will also assist. The risk assessment will be reported to the May Board meeting.

Biodiversity Management Plan and Permanent Park Preserve Plan of Management

The Permanent Park Preserve Plan of Management has been reviewed by the Community Advisory Committee. LHIB staff are currently collating all of the feedback and will be responding to the committee members shortly before recommending the plan be formally exhibited.

The Biodiversity Management Plan is due to be updated to capture the goals and biodiversity objectives now being sought in an environment without rodents. This is a priority for the ECS unit, as well as the development of a Monitoring and Evaluation Plan to help determine how we are tracking against our objectives.

Training

- Lhib staff are currently being trained on the maintenance and operation of song meters that are set up across the settlement and Permanent Park Preserve to assist with detecting and locating any remaining introduced barn owls on the island.
- ECS, IES, BCS and Health and Emergency Services all received training on the new radios and system that was recently put in place to improve communication amongst staff while performing their duties across the island.
- ECS staff received remote first aid training from TacMed in November 2022
- Safety Access and Rescue's Bill Proctor will provide a five day nationally recognised Rope Access for Natural Surfaces training & Certification and Height Safety for Natural Surfaces Training & Certification for staff from across the ECS and IES units.

Infrastructure

A rope audit of Mount Gower was conducted by Lhib Ranger on 14 September 2022. The audit involved examining 27 ropes and assessed their condition, length and width, and their suitability for providing safe assistance to walkers. As a result of the audit, two of the ropes on the lower road were repaired in November. The Environment Team continues to work with tour operators to monitor rope condition.

Following on from this primary audit, a comprehensive inspection of Mount Gower anchor points has now been commissioned. Additionally, installation of anchor points on Balls Pyramid will occur before June 30, to provide safe access for weeding and phasmid monitoring.

The Goat House Walking Track remediation work commenced in late October and is now complete, with new steps and ropes installed next to the landslip and a new track across the landslip, in line with recommendations from the geotechnician and in accordance with the NPWS – Parks and Facilities Manual 5 – Tracks and Related Structures manual. A retaining wall was most recently built leading up to the landslip along a steep section that was beginning to erode.

Resourcing and recruitment

- A temporary Ranger position has been recruited to assist with management of the World Heritage area. Thomas Nixon from Victoria will join the ESC team from early March through to August 2023.
- Team Leader Environment and World Heritage is currently serviced on a short-term contract until 30 June, 2023. This role will be recruited more securely in the near future.

2. Biosecurity

Operations

- See business papers.
 - Chief Executive Officers Report – February 2023 Attachment C
 - Rat genetics analysis and report

Success check

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Operational planning will commence in the coming months for the Success Check to be conducted later this year. This is a significant undertaking and an important milestone in the LHI Rodent Eradication Project.

Dogs kennels

Construction of new temporary dog kennels to comfortably house the Boards critical assets has commenced near the nursery. The expected completion date is the end of February.

Birdons 3-year contract

The A/Team Leader Biosecurity has been actively engaged with Birdon shipping to provide feedback on the developing Biosecurity Management Plan that will underpin Birdon's biosecurity operations. Input has also been provided on key performance indicators and contingency planning to be incorporated in the 3-year contract.

Resourcing and recruitment

- Team Leader Biosecurity is currently being recruited. This pivotal role will coordinate and anchor biosecurity operations through to June 2026.
- Biosecurity consultant Graeme Beech has provided valued support and leadership to the biosecurity team over the past month while the Team leader role remains vacant, and has focused on delivering priority work.
- Grant Harper (contractor) has been engaged for 4 weeks from mid-March to provide biosecurity advisory services and assist with success check preparations.
- Rita Santos has joined the Biosecurity Team for 3 months to assist with conservation detection dog work; specifically with Island Trader and aircraft biosecurity checks.
- Matt Van Van Gelderen has been recruited to a Biosecurity Officer role and commenced in February.
- Ryan Tate and Sam Dalton (contractors) have been engaged through to 30 June 23 to provide biosecurity services at Birdon's port facility and Eastern Air hangar in Port Macquarie.

3. Weed Management

Operations

The LHI Weed Eradication Program dashboard updates for this financial year include 5166 hours of effort across 125.4 hectares from both LHIB staff and contract labour.

Grid search efforts have largely been in the south of the island, with a focus on Intermediate Hill, Mt Gower & Mt Lidgbird. Blocks are currently being prioritised on the basis of when they were last completed to ensure no areas have been missed in search efforts.

Control of Blue Morning Glory (*Ipomea indica*) has commenced in the settlement. This species is currently only found at two locations within the northern settlement. It is a highly invasive species that smothers native vegetation, from the forest floor to canopy. Lease holders have been consulted and are very supportive of removing this plant, with consistent work needed to ensure this species is suppressed.

Heliops

Helicopter winch operations planned for February March will no longer go ahead, due to the risk of spreading Myrtle Rust. Two operations will occur in November then February 2023, allowing sufficient time to ensure the eradication of Myrtle rust.

Resourcing and recruitment

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- The Bush Regeneration & Weed Eradication Supervisor was recruited in early February. Jae De Clouett has been appointed to the position in a temporary full-time capacity. Jae has been working on the program since 2015 and brings a wealth of industry and technical knowledge to the team.
- Two contract teams have been engaged over January and February to increase hectares covered while recruitment for field staff is still underway. The combination of these two contracts will provide a total of 87 person days of labour.
- Recruitment for additional Bush Regenerators is almost complete, with a full team expected to be operating from March.

4. Threatened plants

Operations

In conjunction with the SOS Project 3, threatened plant surveys were conducted throughout December. A total of 11 surveys were conducted with SOS contractors, LHIB staff and volunteers. The data collected during these surveys is still being analysed, but the results seem overly positive. Increases in vegetation cover was recorded, and plants were seen to be fruiting and flowering in quantities never seen before.

Threatened plant recovery actions continue to be implemented according to the LHI Saving Our Species (SOS) program; now running a five-year contract period, with funding availability subject to yearly reporting.

5. Environmental Assessment

Operations

See business papers.

Resourcing and recruitment

- The Team Leader World Heritage continues to provide basic environmental assessment service for low impact development proposals.
- A review of the Boards tree risk assessment procedures is required, including provision of basic training for all staff involved in this activity. National Parks and Wildlife Service will be approached to provide an in-house online session on Tree Risk Management Procedures and dynamic tree risk assessment. Further to this, investigations on availability and suitability of formal training (industry recognised certification) are underway, with the aim of ensuring that the Board has access to suitably qualified tree management expertise for higher-risk management responses.

6. Land Administration

Operations

See business papers.

Resourcing and recruitment

- An officer from the National Parks and Wildlife Service will attend the Island from 15 April to 23 April 2023 under a secondment agreement. Aaron Clifford will undertake environmental health officer duties as follows:
 - food safety assessments for registered food businesses regulated by the Food Act 2003 and premises inspections for a skin penetration business regulated by the Public Health Act 2010;

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- prepare reports to business operators and the Board following inspections
- following up with business operators (once only) about providing evidence of having fulfilled high risk non-compliances, in the reports on or after the due dates provided within the reports.

7. Development Assessment and Land Use planning

Operations

See business papers.

Resourcing and recruitment

- The LHIB contract for statutory planning services with All About Planning has expired. A procurement process to identify a service provider for statutory planning functions is urgently required. Prior to going to tender, the Manager Environment and Community Services will re-commence discussions with Port Macquarie Hastings Council on a potential co-contribution opportunity for in-demand planning resource.
- There have been challenges accessing a building certifier to provide assessment against the Building Code of Australia, specifically whether submitted development proposals achieve compliance and or present a non-compliance, as well as advice on appropriate Performance Solutions. Two service providers have offered assistance to respond to immediate needs, and while a longer-term solution is secured.

8. Spatial and data management

Operations

Preparations have commenced to draft the LHI Boards first spatial and data strategy. This piece of work will construct a framework to support operations across business units and provide an implementation roadmap to guide data collection and management actions, improve access to quality assured data and realise efficiencies in reporting.

The Strategy aims to deliver:

- Trusted spatial data that supports confident decision making
- Spatial technology that is simple to use and integrated in the business
- People who are empowered and supported in using spatial information
- Consistent spatial information processes and templates
- An organisation that treats spatial data as an asset

The spatial and data strategy will align with the Department of Planning and Environments Spatial Information Strategy and data management principles.

An audit is underway of hardware, software, data and systems, and a high-level user needs analysis has been conducted, including reporting requirements. ESRI licence requirements are also under review, with the aim of shaping an affordable, fit for purpose GIS package to support our work.

Resourcing and recruitment

Sophie Powell commenced in the role of GIS & Data Management Officer in January. Dion Fabbro, who has built many of the Boards spatial systems and applications, will visit the Island in March to transfer knowledge and to work with Sophie on some key work tasks.

Attachments

Attachment	Title
Nil	

Board Meeting: February 2023 **Agenda Number:** 10 **Rec No:** ED23/941.02 OPEN Attachment: B

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Paula Pollock	Senior Manager Environment and Community Services

LORD HOWE ISLAND BIOSECURITY UPDATE 28 FEB - 1 MAR 2023 BOARD MEETING

Lord Howe Island Biosecurity Update 1 Nov 2022 to 9 Feb 2023.

Background

Routine plane and vessel checks at Port Macquarie (PMQ) and Lord Howe Island (LHI), rodent monitoring and six weekly checks remain critical tasks for the Biosecurity Team. Other key priorities progressed in this period have included improving biosecurity facilities and procedures at Port Macquarie points of departure, staff establishment and training and working closely with Birdon Shipping on refining biosecurity planning and procedures.

Biosecurity Inspection and Reporting Details

1. Rodent Report

Most recent confirmed rodent sign 12 August 2021.

Rat on a Rodent (ROAR) Notifications

Months	Reports	Investigations	Outcome
1 Nov 22 - 9 Feb 23	2	2	No rodent evidence at either site

All reports are investigated intensively over a 7-day period.

Aircraft (other than the Island Trader) and Vessels Report

All vessels and aircraft arriving at Lord Howe Island were inspected.

Period	Aircraft			Vessels	
	Qantas	Private	Eastern	Private	Commercial
1 Nov 22 – 9 Feb 23	203	25	145	28	
% Met	100%	100%	100%	100%	

Island Trader Report

Six voyages occurred during this period. All voyages at both PMQ and LHI were thoroughly checked by the biosecurity team during loading and unloading activities.

Period	PMQ Inspections	LHI Inspections
1 Nov 22 – 9 Feb 23	6	6
% Met	100%	100%

Inspections at the PMQ Birdon site include inside and outside cargo storage areas and surrounds. The Island Trader is inspected both inside and outside the hold. A range of biosecurity risk materials continue to be identified and treated at PMQ. The most significant identifications during this period have included a green tree frog, spiders, Asian house

gecko, cicada, water dragon, various scats and organic matter. The ongoing identification of biosecurity risk material at this site demonstrates a high risk and substantiates the efforts working with Birdon to attempt to reduce the risk of pest incursion on LHI.

Inspections on arrival at LHI are conducted on the jetty and surrounding cargo storage areas. Due to the high standard of inspections at PMQ by Tate Animals, limited biosecurity risk materials were detected on arrival. Of significance however was the detection of a wolf spider, caterpillar, beetles and organic matter.

During this period unapproved items detected were 2 bunches of flowers (Qantas passenger), 2 plants (Qantas passenger), micro greens (Eastern Air) and sugar can mulch (Island Trader).

2. Key Biosecurity Actions Report

- Authorized Officer and Dog Handler training has continued for staff
- Tim Solomon was recruited into the Senior Biosecurity Officer position
- Chris Birmingham left the Biosecurity Team Leader position, and it has now been advertised for longer term filling. Graeme Beech is currently acting in the position for 6 weeks
- Rita Santos an experienced dog handler from Portugal has been engaged to assist the biosecurity team for 3 months
- Cocker Spaniel Willow is now in active detection service
- Cocker Spaniel Emma from Austins Dog Training has supplemented the dog team for a 3 month period
- A young cocker spaniel named Pepper, purchased by LHIB and named by the LHI school children is under training at Austins Dog Training
- Temporary kennel construction at the nursery has commenced
- Two island wide 6-weekly rodent property searches were conducted (3 properties remain in 2nd search scheduled to be completed by 14 February). No rodent detections were reported.
- Monthly monitoring has been undertaken (no rodent detections reported)
- Improvement works at Birdon Shipping and Eastern Air Services are progressing
- Liaison on the Birdon Biosecurity Management Plan and associated procedures is well underway

3. Biosecurity monitoring

Table 1 below provides a status update of the rodent biosecurity monitoring effort undertaken to date against the monitoring frequency set out in the Surveillance Plan used by Bode and Brown in their efficacy modelling of the surveillance network.

The camera array and static monitoring components have been fully active over the reporting period. The static monitoring network consists of two distinct networks of passive monitoring devices. The first network located around the Jetty and Airport is monitored on a weekly basis, whilst a second more geographically spread monitoring network is checked on a monthly basis. Dog searches have been occurring though not completely within a 6 weekly cycle. Best practice indicates a 6-10 weekly search is adequate, and contract dog teams continue to be used aimed at meeting the six weekly goal.

Device	Number of devices	Check frequency target	Status	Comments – Including Actual checks completed or status
Camera array	129	Monthly	Met	Images analysed by eVorta AI software (and human) <ul style="list-style-type: none"> • September 67,610 • October 34,727 • November 153,117 • December 103,612 • January 147,236 • February TBC No rodents seen.
Static monitoring devices (kill traps, wax tags, bait stations, chew cards, tracking tunnels)	177	Monthly	Met	
Airport and Jetty static monitoring devices (kill traps, wax tags, bait stations, chew cards, tracking tunnels)	37	Weekly	Partially Met	Every 7 -14 days. If not weekly, then clustered around ship movements.
Dog searches	Full sweep of the settlement	Six weekly	Met	Searches completed as follows: 2022 <ul style="list-style-type: none"> • September 2 – October 7 • October 12 – 25 • December 13 – 24 2023 <ul style="list-style-type: none"> • January 11 – February 10 • March - scheduled for 1 – 20 (occasional properties are missed in sweep – eg due to illness - but are followed up as soon as possible)

Table 1: Rodent biosecurity monitoring effort – September 2022 to February 2023.

Prepared: Graeme Beech, A/ Team Leader Biosecurity

Board Meeting: February 2023	Agenda Number: 12.1	Record Number: ED23/418
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Owner Consents approved under Delegated Authority status report.

Recommendations

1. **Note** the information provided in this report

Current position

The Minister for the Environment has approved delegated authority regarding the issuing of owner consents by the CEO providing:

1. The development value is not more than \$2 million,
2. Does not relate to development for the purpose of a new dwelling, and
3. Complies with any planning instrument in force relating to the Island.

No Owner Consent Applications were determined by the CEO since the last Board meeting.

Attachments

Attachment	Title
Nil	

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

Board Meeting: February 2023	Agenda Number: 12.2	Record Number: ED23/419
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Development Applications approved under Delegated Authority status report.

Recommendations

1. **Note** the information provided in this report.

Current position

The Minister for the Environment, under section 80(1) of the Environmental Planning & Assessment Act, issued authority to the CEO to determine development applications providing:

1. The development value is not more than \$150,000;
2. No more than 3 written objections are received within the exhibition period; and
3. The application has not been called up for full Board determination by any Board Member. (All Lord Howe Island Board development applications are to be determined by the full Board).

No development applications have been determined by the CEO since the last Board meeting.

Attachments

Attachment	Title
Nil	

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

Board Meeting: February 2023	Agenda Number: 13.1	Record Number: ED22/6360
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Motor vehicle importation or transfer status report.

Recommendations

1. **Note** the information provided in this report.

Current position

Since the last Board meeting, fifteen (15) vehicle applications to import or transfer were determined by the Chief Executive Officer under the 'Vehicle Importation, Transfer and Use Policy'.

The table below shows the vehicle applications determined since the December 2022 Board meeting.

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation to Applicant	Comment
Campbell Wilson	Subaru Forester	N	Private	0	Approved 18/11/2022 - Replacement
Matthew Turner	Mitsubishi Triton	N	Commercial	1	Approved under exceptional circumstances 18/11/2022
Kevin Wilson	Boat Trailer	N	Private	1	Approved 20/11/2022
Terrance Wilson	Toyota Twin Cab Ute	N	Private	0	Approved 25/11/2022 - Replacement
Ben Ohlback, Benny's Fish Truck	Food Trailer	N	Commercial	1	Approved 25/11/2022
Therese Turner	Sea Trail Boat Trailer	N	Private	1	Approved 8/12/2022
Keith Galloway	Redco Boat Trailer	N	Private	0	Retrospective approval 8/12/2022
Keith Galloway	Toyota Hilux Ute	N	Private	0	Retrospective approval 8/12/2022
Scott Wilson - Tukula Fishing	Mitsubishi Triton	N	Commercial	0	Approved 8/12/2022 - Change of use from Private to Commercial

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation to Applicant	Comment
Fletcher Owens – Lorhiti	Box Trailer with Tipper	N	Commercial	1	Approved 14/12/2022 – transferred from Diane Owens Lorhiti
Lynda Shick	Suzuki Jimny	N	Commercial	0	Approved 7/12/2022 – Change of use from Private to Commercial
Daryl Shick	Yamaha XT2500A	N	Private	0	Approved 7/12/2022 – Change of allocation to primary dwelling
Luke Phillipps-Page	Nissan T3003A	N	Private	1	Approved 16/12/2022 – transferred from Greg Whitfield
Diane Owens – Frangipani Beach House LHI	Toyota Hilux Ute	N	Commercial	0	Approved 26/01/2023 – transferred from Diane Owens Lorhiti
D & R Hiscox LHI Environmental Tours	Boat Trailer	N	Commercial	0	Approved 05/02/2023 - replacement

NOTE: Variation column relates to the applicant and not the increase of vehicles to the island.

As at 8 February 2023

Registered Road Vehicles						
Essential	Commercial	Private	Hire	Plant & Equipment	Imported without approval	Total
34	119	178	8	26	61	426

At the May 2010 meeting it was requested that further differentiation in the vehicle statistics to identify motor vehicles and motor cycles / scooters and trucks separately be presented. This information is presented below.

Registered Road Vehicles						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
195	31	38	14	42	106	426

At the June 2016 meeting it was requested that future reports include trends in regards to vehicles imported without approval and clarification that these are vehicles which pre-date the Board approval and monitoring process. There remains a total of 61 vehicles imported without approval prior to the current policy:

- 54 vehicles were imported without approval prior to and in 2014. The majority of these vehicles were trailers.
- 1 vehicle, a boat trailer, was imported without approval in 2015.
- 4 vehicles, all boat trailers, were imported without approval in 2016.
- 1 vehicle, a mower was imported without approval in 2019.
- 1 vehicle, a mobility scooter was imported without approval in 2020.
- 7 vehicles have been replaced and are awaiting removal.

The following table shows further differentiation in the vehicle statistics to identify the types of vehicles that have been imported without written approval.

Vehicles Imported Without Approval – By Type						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
4	0	7	4	6	40	61

COMPLIANCE AUDIT

In February 2023, the CEO requested that an audit of the vehicle register be undertaken to investigate any outstanding compliance issues.

There is a total of 46 vehicles awaiting removal. The replacements have been imported, however, the condition to remove the replaced vehicle has not been adhered to by the applicant.

Vehicles due for removal – By Type						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
19	0	9	1	6	11	46

A number of other compliance issues were identified:-

- Owners – deceased;
- Owners - left island;
- Owners - moved premises;
- Others – such as non-removal of bull bar.

The Board has eight (8) vehicles due for removal which are Included in the above total, being one (1) truck, four (4) plant & equipment and three (3) trailers.

It is intended to have a plan in place for the removal of Board vehicles and to commence actioning that plan prior to :-

- A householder being issued to the community reminding vehicle owners of their obligations.
- Compliance letters to be issued to the vehicle owners in breach of their conditions of approval.

Process improvements are in development and will be implemented to ensure stronger compliance with the Vehicle Importation, Transfer and Use Policy in the future.

Attachments

Attachment	Title
	Nil Attachments

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

Board Meeting: February 2023	Agenda Number: 13.02	Record Number: ED23/420
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Adoption of Vehicle Importation, Transfer and Use Policy (post-public notice)

Recommendations

1. **Adopt** the reviewed and exhibited Vehicle Importation, Transfer and Use Policy (Attachment A to this report).

Current position

The current version of the Vehicle Importation, Transfer and Use Policy was adopted at the September 2022 Board Meeting.

At the December 2022 Board Meeting, further changes were made to the Vehicle Importation, Transfer and Use Policy and the Board resolved to:-

- Approve the inclusion of TfNSW Maritime to the Schedule of Essential Services with an allocation of one (1) fuel trailer to be used by LHI Port Operations and NSW Police as per their current approval.
- Approve the application from TfNSW Maritime for the inclusion of one (1) boat trailer to the Schedule of Essential Service vehicles.
- Refuse the application from TfNSW Maritime for the inclusion of one (1) 4 x 4 utility to the Schedule of Essential Service vehicles.
- Approve that the Board advise TfNSW Maritime to explore other options to meet their needs for a vehicle that align with the policy intent of limit vehicles on LHI.

A copy of the policy was placed on public exhibition for a period of 28 days from 11/01/2023 to 17/02/2023.

Summary of proposed changes

- The inclusion of Transport for NSW Maritime to the Schedule of Essential Services with an allocation of one (1) fuel trailer to be used by LHI Port Operations and NSW Police as per their current approval.
- The inclusion of Transport for NSW Maritime to the Schedule of Essential Services with an allocation of one (1) boat trailer.

Submissions

No submissions were received.

It is recommended that the exhibited amendments to the Policy be adopted.

Attachments

Attachment	Title
A	Draft Vehicle Importation, Transfer and Use Policy – February - Open

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

LORD HOWE ISLAND BOARD POLICY

TITLE	Vehicle Importation, Transfer and Use Policy		
DATE ADOPTED	December 2006	AGENDA ITEM	8 (ii) December 2006
CURRENT VERSION	February September 2023	AGENDA ITEM	13.2 September 2022 <u>13.02</u> <u>February</u> 2023
REVIEW	Biannually	RECORD NUMBER	ED17/765
ASSOCIATED LEGISLATION	<i>Lord Howe Island Act 1953 (NSW)</i> <i>Lord Howe Island Regulation 2014 (NSW)</i> <i>Local Government Act 1993</i>		
ASSOCIATED POLICIES	N/A		

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1 Policy Overview

The aim of this policy is to limit the overall number and impact of vehicle movements on the island's road system, with a particular focus on the types of vehicles driven on the island. The vision is for the Island's fleet to consist of a limited number of low impact vehicles, with electric vehicles being encouraged.

The Board has developed this policy to guide management of vehicles on the island, in accordance with the provisions of the Lord Howe Island Regulation 2014. The policy is to guide the Board's use of the powers provided for under the Regulation regarding motor vehicles so that vehicle and traffic management is aligned with the expectations and aspirations of the community, and with the island's environment and economy.

The Board will determine whether the importation of a vehicle is in the public interest and consider the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts on the island. Unless otherwise provided for under this policy, no entitlement to import or use a vehicle is provided for. All applications to import or transfer and use a vehicle will need to demonstrate a genuine need for the import or transfer, use of a vehicle, and for the vehicle selected.

In particular, the Board will manage vehicle importation to limit the number of vehicles on the island, and the frequency and intensity of their use, to ensure that the impacts of vehicles and traffic on the island are minimised.

The Board recognises that the frequency and intensity of vehicle use are major influences on road safety, aesthetics and ambience of the island and where possible should be kept to a minimum.

The Board will continue to review and develop the policy, and associated programs and initiatives. These reviews will occur biannually.

2 Legislative Framework

The Board's power to regulate motor vehicles on Lord Howe Island is established under Part 6 of the *Lord Howe Island Regulation 2014*, in particular clauses 84, 86 and 87. Essentially, the Board's approval is required for any importation of a vehicle to the island (c 84), hire of motor vehicles (c86) and for any use of that vehicle on the island, including how a vehicle is used (c 87).

84 Approval to import motor vehicles

(1) A person must not, except in accordance with the approval of the Board, bring a motor vehicle onto the Island.

Maximum penalty: 50 penalty units.

(2) An application for approval to bring a motor vehicle onto the Island must relate to one vehicle only.

86 Hire of motor vehicles

(1) A person must not, except in accordance with the approval of the Board, hire or offer for hire a motor vehicle to any other person for use on the Island.

Maximum penalty: 50 penalty units.

(2) This clause applies whether or not the person from whom the motor vehicle is or is to be hired, or any employee or agent of that person, is to drive or ride the motor vehicle.

87 Use of motor vehicles

(1) A person must not drive or ride a motor vehicle on the Island unless the Board has given its

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approval to the use of that vehicle on the Island.

- (2) *A person who has obtained the approval of the Board under this clause may drive or ride the motor vehicle concerned only in accordance with that approval.*

2.1 Relevant Legislative Provisions Relating To Approvals:

Under Part 1, clause 4 (2) of the *Lord Howe Island Regulation 2014*, any approval given by the Board is subject to Chapter 7, Part 1, Division 3 of the Local Government Act 1993. This part of the Local Government Act (LG Act) specifies how approvals are to be applied for, made, amended and terminated. In particular, under Section 94 of the LG Act, the Board may apply conditions to any approval, and may apply a time limit on any approval. Under Section 103 of the LG Act, an approval, unless otherwise specified, lapses by default after five (5) years.

3 Definitions

3.1 Motor Vehicle (from here on referred to as a “vehicle”):

As defined under the *Lord Howe Island Regulation 2014* (c 83):

A motor vehicle means a vehicle (other than an aircraft or a vessel) propelled by volatile spirit, steam, gas, oil or electricity and includes:

- (a) An incomplete or partially constructed motor vehicle; or*
- (b) The chassis, body, frame or remains of a motor vehicle; or*
- (c) A trailer or caravan.*

Note: For the purpose of this policy, the above definition includes motor vehicles, motorbikes, mopeds (pedal assisted or non pedal assisted), motor scooters, mini bikes, quad bikes, trikes etc whether the motor is a permanent or temporary fixture and regardless of whether a motor vehicle licence or registration is required. A Power Assisted Pedal Cycle as defined by the NSW Roads and Maritime Services (RMS) is not considered a Motor Vehicle under this Policy.

3.2 Reside

As defined under the *Lord Howe Island Act 1953*.

3.3 Dwelling

As defined under the *Lord Howe Island Local Environment Plan 2010* and the Board’s policy definition of a Separate Domicile, but not including Staff Accommodation as defined under *Lord Howe Island LEP 2010*.

3.4 Tenant

A person who lawfully occupies an approved dwelling on the island under a tenancy arrangement in accordance with the *NSW Residential Tenancy Act*.

3.5 Essential Services

Essential services for the purpose of this policy are set out in the Schedule of Essential Services

3.6 Vehicle Hire

To hire, attempt to hire, expose for hire or solicit for hire any vehicle on the island, to any person, for

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money or other consideration of any kind.

3.7 Vehicles for Private Use

For the purpose of this policy, any lawful use of a vehicle, including activities approved in a business licence issued under clause 49 of the *Lord Howe Island Regulation 2014*, but not including vehicle hire.

As a result of community concern over road safety, the Board has introduced maximum size of a vehicle for private use permissible on the island is:

- a) Length 5330 mm (not including tow ball);
- b) Width 1855 mm (not including side mirrors); and
- c) Height 1815 mm (not including roof racks or roll bars or headboard on the tray).

Note: this maximum size requirement does not apply to vehicles previously approved, nor boat trailers designed specifically to accommodate the length and width of the associated boat.

3.8 Vehicles for Commercial Use

For the purpose of this policy, any vehicle which has been specifically applied for and approved under the policy provisions relating to Commercial Vehicles.

As a result of community concern over the number of oversized vehicles, the Board has introduced a maximum size of a standard vehicle for commercial use permissible on the island, which is based on the current model of a 2 wheel drive Toyota Hilux utility, which in 2020 was:

- a) Length 5330mm (not including tow ball);
- b) Width 1855mm (not including side mirrors); and
- c) Height 1815 mm (not including roof racks, roll bars or headboard on the tray).

Note: this maximum size requirement does not apply to vehicles previously approved, nor boat trailers designed specifically to accommodate the length and width of the associated boat.

Where a vehicle with different dimensions to the standard is required for specialised work, the case must be made as to why a non-standard vehicle should be approved.

3.9 Commercial Use

To sell or hire, attempt to sell or hire, expose for sale, hire or profit or solicit for sale, hire or profit any article, thing or service to any person, or conduct, or assist in the conduct of, any amusement, entertainment, instruction, performance or activity for money or other consideration of any kind.

3.10 Power Assisted Pedal Cycle

A Power-Assisted Pedal Cycle under this policy is defined by the NSW RMS.

A Power-Assisted Pedal Cycle is designed to be propelled solely by human power and has one or more auxiliary (electric) propulsion motors attached to assist the rider. This means that it must be possible to propel the bicycle only by the rider pedalling it. The primary driving force should be the rider, and the motor is only intended to help the rider, such as when going uphill or cycling into a headwind, or to cycle at a speed they cannot maintain solely by pedalling.

Power Assisted Pedal Cycles are to meet NSW RMS vehicle standards and it is noted that they not be

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permitted to propel the bicycle when the rider is not pedalling (an optional low-speed start-up mode that allows the motor to power the cycle up to 6 km/h).

3.11 Motorised wheelchairs and mobility scooters

A motorised wheelchair under this policy is defined by Transport for NSW.

Motorised wheelchairs are mobility aids with two or more wheels and have a top speed of 10km/h on level ground. Mobility scooters or 'gophers' are classified as motorised wheelchairs. A motorised wheelchair does not include a wheeled recreational device such as a motor scooter, pram, stroller, trolley or any other motor-assisted machine.

Motorised wheelchairs are only permitted for private use without approval. They are not allowed to be used for Hire purposes unless approval has been granted by the LHI Board.

3.12 Bull bars/Roo bars/Nudge bars

Bull bars/roo bars etc are not permitted to be imported on a vehicle or added to a vehicle on LHI unless approval is given by the CEO of the Board. The CEO may only grant approval for a request for a bull bar/roo bar if it includes a winch and if it can be satisfactorily demonstrated that the winch is essential to the vehicle's use.

Where it can be demonstrated that vehicles come standard with a 'nudge bar' the CEO of the Board will take this into consideration when assessing a request to import a vehicle.

Second-hand vehicles with a bull bar already attached will be required to have the bull bar/roo bar removed prior to importation to island.

Note: this item does not apply to vehicles which have bull bars/roo bars and have previously been approved for importation to the Island .

It is noted that all vehicles must comply with Australian Design Rules to ensure they are safe. Therefore when a bullbar is removed from a vehicle it must be restored to a compliant condition including replacing any body or bumper panels to ensure pedestrian and occupant safety.

4 Vehicle Types

Any vehicle which is approved by the Board for importation and use on the islands roads, other than plant and equipment, or motor assisted pedal bicycles, unless required by law, must be registrable and registered in the State of NSW in the name of the applicant.

4.1 Preferred Vehicles

The Board will give preference, by way of incentives, to the importation and use of small and low impact vehicles which are either:

- a) A motor vehicle meeting the following requirements:
 - i. Have a Vehicle Kerb weight\mass of less than 1154kg; and
 - ii. Generate noise less than 82 dba (data on noise emissions provided in green vehicle guide www.greenvehicleguide.gov.au); and
 - iii. Have vehicle size "footprint"
 - Length 4000 mm (max)
 - Width 1700 mm (max)

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- Height 1720 mm (max)
- b) Electric Vehicles:
 - i. Electric vehicles include any vehicle that has battery storage and has an electricity plug-in recharge capacity. These vehicles (or the batteries for these vehicles) must have the ability to be plugged into an electricity power point connected to the LHI Grid.
 - ii. Hybrid electric vehicles that do not have a plug in recharge capacity are not deemed electric vehicles for the purpose of this policy.
 - iii. Electric vehicles for private use must not exceed the maximum vehicle footprint as defined under Section 3.
- c) Motor Scooters:
 - i. 4 stroke motor scooters with a maximum capacity of 250cc.

4.2 Other Vehicles

Any other vehicle may be imported subject to this policy. The Board will retain absolute discretion in determining an application and will consider whether the importation of a vehicle is in the public interest and the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts on the island.

4.3 Boat Trailers

Approval to import and use boat trailers will be at the discretion of the Board subject to application on the prescribed form. Boat trailers must only be used to transport and store boats belonging to residents.

4.4 Box Trailers

Approval to import and use box trailers will be at the discretion of the Board subject to application on the prescribed form.

4.5 Caravans

The importation of caravans is prohibited under this policy.

4.6 Specialist / Other Trailers

Approval to import and use will be at the discretion of the Board and subject to application on the prescribed form.

4.7 Plant and Equipment

Plant and Equipment – being any conditionally registered or non-registrable vehicles such as tractors, forklifts, excavators, backhoes etc. Approval to import and use will be at the discretion of the Board and subject to written application in accordance with this Policy.

This provisions of this Policy do not relate to:

- a) Ride-on Lawn Mowers, Dingo Diggers and similar plant. Importation and use of such plant by an eligible person will be deemed to be approved by the Board.

5 Fees

5.1 Importation or Transfer

- a) Vehicles meeting the Board's Preferred Vehicle criteria will be exempt from the importation application fee.
- b) A non-refundable application fee (as listed in the LHIB Fees and Charges) per vehicle will apply to all applications for the importation or transfer of vehicles which do not meet the Board's Preferred Vehicle criteria.
- c) A non-refundable application fee (as listed in the LHIB Fees and Charges) per vehicle will apply to all applications to renew a commercial vehicle or hire vehicle approval.
- d) Box trailers will be exempt from the above fee.
- e) Boat trailers will be exempt from the above fee.

6 Incentives

- a) Vehicles meeting the Board's Preferred Vehicle criteria will be exempt from the Board's wharfage fee for the vehicle.
- b) Box trailers will be exempt from the wharfage fee for the vehicle (limit of one exemption per lease).

7 Eligibility to Import and Use

Unless otherwise provided for under this policy, no entitlement to import or use a vehicle is provided for. All applications to import or transfer and use a vehicle, including boat trailers and box trailers, will need to demonstrate a genuine need for the import or transfer, use of a vehicle, and for the vehicle selected.

The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle.

An application to import or transfer and use a vehicle must be made on the prescribed form and include any additional information as the Board may require or the applicant wishes to provide.

7.1 Eligibility

The following persons will be eligible to apply to import or transfer a vehicle:

7.1.1 Vehicles for Private Use

- 1) A person who resides in an approved dwelling on a Perpetual Lease, either as: the holder, owner, or sub-lessee of the lease or; as the owner-occupant of a multiple occupancy or ; by way of a current tenancy agreement under the *NSW Residential Tenancy Act 1987* and
 - a) has resided on the island for a continuous period of 24 months at time of application. (Proof of Tenancy will be required and should be supplied with application); and
 - b) has no existing approval for a commercial vehicle which is suitable for private use; and
 - c) does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.
- 2) An employee of an Essential Service provider (other than the Board) who does not have access to the private use of a vehicle provided by the Essential Service may apply to import or transfer a preferred vehicle if they can demonstrate to the Board a genuine need for the vehicle. This

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will only apply where the employee will occupy the position for a period greater than 12 months and is subject to any specification set out in the schedule of Essential Service entitlements. Any approval will be in accordance with this policy. Approval under this clause will be terminated at the cessation of employment with the Essential Service provider.

- 3) Lord Howe Island Board employees other than a person described in a), may after 12 months service staff apply to import a preferred vehicle in accordance with the Board's vehicle importation and use policy. Applications must demonstrate need for vehicle in accordance with this policy. Any approval will be in accordance with this policy. Approval to import vehicle will result in termination of private use rights of LHI Board vehicle. Approval under this clause will be terminated at the cessation of employment with the Board.
- 4) A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. In such cases, the Board may exercise discretion, provided that the applicant has demonstrated that no viable alternative to the importation and use of a vehicle exists.

7.1.2 Vehicles for Commercial Use

A person as per 1) under **Private Use Eligibility** who operates an approved business on the island and can demonstrate to the satisfaction of the Board that the business requires the use of a vehicle and that the business need cannot be met from the existing island fleet.

Note: In general, the Board will only consider approval for a commercial vehicle for businesses which need to transport clients and guests and/or goods and equipment and then only when the business need cannot be serviced from an existing allocation within the island's fleet.

7.1.3 Vehicles for Essential Services

Any authorised officer of an approved Essential Service, as set out in the Schedule of Essential Services in this Policy.

7.1.4 Vehicles for Hire

- a) Any person eligible under this policy who is also eligible to hold a business licence under clause 49 of the *Lord Howe Island Regulation 2014*.
- b) The Board may from time to time hire out vehicles from its existing fleet where the proposed hire arrangement does not replicate or compete with an arrangement which could be provided by an approved hire vehicle operator as per a).

7.2 Use

Any person who is lawfully entitled to do so, may use a vehicle on the island, and such persons will be deemed to have the approval of the Board to do so, subject to that use complying with this policy, and any conditions applying to any approval given under this policy.

All vehicles will be used on the island in accordance with all relevant State and Commonwealth legislation, policies and procedures.

7.3 Private and Commercial Use

Unless otherwise provided for in this policy, vehicles approved for private and/or commercial use may be used for any lawful purpose, including commercial use, except hire of the vehicle, provided that any commercial use is associated with an approved business on the island.

Where a person has approval for a private use vehicle and a commercial use vehicle, the commercial

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use vehicle cannot be used for private use.

7.4 Essential Services

Vehicles approved for essential services are to be used exclusively by the essential service provider and its employees or agents for its official business. Board approval is required for Private Use of Essential Service vehicles. Private use will be limited to transferred officers of the Essential Service where the Essential Service provider has a documented policy applying to its employees or agents which allows for other uses.

Use restrictions will be set out as conditions of approval.

7.5 Hire Vehicle Use

Hire vehicles may be used for any lawful purpose, including commercial activity provided that the commercial activity is associated with an approved business on the island. Any hiring of a vehicle on the island will be subject to a lawful and documented hire agreement between the approved person (the hirer) and a person who has entered into such an agreement with the hirer (the hiree).

8 Allocations

The Board may approve up to the following allocations to eligible persons (refer to Eligibility provision), subject to demonstrated need.

8.1 Private Use

One (1) vehicle per approved dwelling.

8.2 Commercial Use

One (1) vehicle per approved business licence. Where a person holds multiple business licences, additional vehicles will only be considered where there is a demonstrated need. Access to private use vehicles will be considered when assessing need.

8.3 Essential Services Allocation

Essential Services will be eligible to import vehicles as follows:

8.4 Schedule of Essential Services

ESSENTIAL SERVICE	VEHICLE ALLOCATION
Lord Howe Island Board	A fleet comprising of all vehicle types, being the minimum number of vehicles required to ensure the safe, effective and efficient delivery of the Board's charter, to a maximum of 13 road going vehicles.
NSW Police	1 Vehicle
NSW MPA	1 Vehicle
Bureau of Meteorology	1 Vehicle
NSW Education	1 Vehicle
NSW Health	1 Vehicle – Ambulance
Doctor (GP)	1 Vehicle
NSW RFS	1 Vehicle – Fire Engine

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NSW SES	1 Vehicle – Emergency Response Vehicle
NSW Marine Rescue	1 boat trailer (with RIB)
<u>Transport for NSW Maritime (for use by LHI Port Operations and NSW Police)</u>	<u>1 fuel trailer</u>
<u>Transport for NSW Maritime</u>	<u>1 boat trailer</u>

8.5 Additional Vehicle Allocation for Hire Car Use

The *Lord Howe Island Regulation 2014* requires a separate approval for the use of a motor vehicle as a hire vehicle.

Clause 86 of that Regulation states that:

(1) A person must not, except in accordance with the approval of the Board, hire or offer for hire a motor vehicle to any other person for use on the Island.

(2) This clause applies whether or not the person from whom the motor vehicle is or is to be hired, or any employee or agent of that person, is to drive or ride the motor vehicle.

In addition to any other allocation:

- a) The Board may approve up to (8) additional vehicles on the island for use as hire vehicles. The Board reserves the right to revise this quota at any time subject to a demonstrated business need.
- b) The Board will review on an annual basis the fee charged for approval to use a car as a hire vehicle.
- c) Hire Car approvals are not transferable without the written approval of the Board.
- d) In addition to any fee applied for approval to hire a car on the island, the Board reserves the right to apply a transfer fee to any transfer of a hire car approval.
- e) Up to 4 vehicles may be allocated per applicant, to an island total of 8 hire cars.
- f) Vehicles are to be Preferred Vehicles unless otherwise agreed to by the Board.

9 Review of Applications

In determining any application to import or transfer a vehicle, where the application is proposed to be refused, or where the CEO believes that the application will prove controversial, the CEO will consult with, and document the majority view of the elected members regarding the application.

Where the CEO intends determining the application contrary to the majority view of the elected members, the CEO will document the reasons for doing so and provide a written briefing to the Chairperson, who will determine the matter in consultation with the Board.

10 Approval Periods – Importation and Use

10.1 Private Use Approval Period

Approval to import a vehicle for Private Use will be six (6) months. If the vehicle is not imported within that time, the approval to import will lapse and a new application must be made.

10.2 Commercial Approval Period

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- a) Approval to import a vehicle for Commercial Use will be three (3) months. If the vehicle is not imported within that time, the approval to import will lapse and a new application must be made.
- b) Approval to use a commercial vehicle on the island will cease when the business ceases, as evidenced by termination of a business licence.
- c) A commercial vehicle cannot be used for private use where a person also has approval for a private vehicle (other than when the private use vehicle is a motor bike, motor scooter etc).

10.3 Hire Vehicle Approval Period

- a) Approval to import a vehicle under Hire Vehicle allocation will be six (6) months. If the vehicle is not imported within that time, the approval to import will lapse and a new application must be made.
- b) Approval to use a Hire Vehicle on the island will, unless otherwise varied at the discretion of the Board, be for five (5) years, subject to annual review. At the end of the approval period, the owner of the vehicle must reapply to retain and use the vehicle on the island, based on a demonstrated business need. Note renewal fees apply.

11 Approval Conditions

The Board may apply such conditions as it deems necessary to any approval to import and/or use a vehicle on the island. In particular, the Board will apply conditions to safeguard the public interest and to minimise the impacts of vehicle use on the natural, built, social and economic environment of the island.

For any vehicle (including a trailer, plant and equipment) to be imported, the importer must provide a statutory declaration stating that the vehicle has been inspected and cleaned with a high pressure hose to ensure that no weeds, seeds, insects, spiders, etc. are transported to the island. Such a declaration is required to be submitted to the Board prior to the vehicle leaving the mainland.

Approvals to import a vehicle for private use will be specific for the applicant and a dwelling. The approval will include details of the dwelling where the vehicles are allocated.

Where the circumstances of the owner of an approved private vehicle change resulting in a new place of residence (approved dwelling) on Lord Howe Island, the vehicle approval is terminated. The owner of the vehicle must reapply under the conditions of this policy. The vehicle owners' circumstances will be considered when assessing this new application and special consideration may be given.

Where the owner of a private use vehicle leaves the island the vehicle must be garaged at the approved dwelling and the approval to use the vehicle is suspended until the owner returns to the island. In circumstances where the vehicle is used by a family member who normally resides with the vehicle owner and does not have access to another private use vehicle, the family member may continue to use the vehicle during the period of owner absence.

In the case of deceased estates, where a private use vehicle is attached to the dwelling of the deceased, the vehicle must remain garaged at the approved dwelling and its use suspended until the administration of the estate has been completed. Where the executor or a caretaker living on the estate does not have access to another private use vehicle, these persons may use the vehicle during the period of administration.

In determining any development consent in its role as a Consent Authority under the *NSW Planning and Assessment Act 1979*, or application for a Business Licence under clause 49 of the *Lord Howe Island Regulation 2014*, the Board will consider: whether the development and/or activity will require

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the importation and use of vehicles additional to those provided for under the **Private Use Allocation** and the potential impact of the importation and use of the vehicle/s including whether it is in the public interest and whether the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island.

11.1 Breach of Approval

Failure to comply with the conditions of approval will be deemed a breach of the Board's approval and may result in that approval being withdrawn and the vehicle being removed from the island.

Where the Board believes a Breach of the approval has occurred, the Board's Administration will write to the vehicle owner advising them of the alleged breach and asking them to respond to the allegation and justify as to why their approval should not be revoked. Vehicle owners will have 14 calendar days to respond. Failure to respond within the prescribed timeframe will result in immediate revocation of approval.

Following termination of approval the Board's Administration will write to the vehicle owner of this revocation of approval instructing the vehicle owner to not use the vehicle and remove the vehicle from the island within 60 days.

Vehicle Owners may reapply to the Board for approval. Until approval has been granted the vehicle is not to be used.

12 Vehicle Replacement

Unless a case for exceptional circumstances can be established to the satisfaction of the Board, replacement of vehicles will be on a 'one on – one off' basis,

Where the applicant has another vehicle (commercial or private use) that is suitable for use, the applicant must demonstrate the need to replace the vehicle.

13 Vehicle Transfers

Vehicle approvals will not be transferable without the written approval of the Board. Prior to granting an approval, the Board needs to be satisfied that there is a demonstrated need for the transfer. Failure to demonstrate that need will result in approval not being granted.

Applications to transfer will be made on the prescribed form and will be determined in accordance with this policy.

In addition to any fee applied for lodging an application seeking approval of a vehicle on the island, the Board reserves the right to apply a transfer application fee to any request to transfer any vehicle.

In the case of a private vehicle, the transfer fee will be the equivalent of the appropriate importation fee.

14 Delegations

The Chief Executive Officer of the Board is delegated to determine any application made under this policy, provided that the application complies with this policy.

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The Chief Executive Officer of the Board is delegated to suspend or withdraw any approval given under this policy where it can be established to the satisfaction of that officer that a significant breach of the conditions of approval has occurred.

In determining any application to import or transfer a vehicle, where the application is proposed to be refused, or where the CEO believes that the application will prove controversial, the CEO will consult with, and document the majority view of the elected members regarding the application.

Where the CEO intends determining the application contrary to the majority view of the elected members, the CEO will document the reasons for doing so and provide a written briefing to the Chairperson, who will determine the matter in consultation with the Board.

15 Reporting and Monitoring

The Lord Howe Island Board will maintain a Vehicle Approvals Register, which will include:

- a) The names, addresses and number and type of vehicles of persons approved to import and use a vehicle;
- b) Category of Approval (Private, Commercial, Hire etc);
- c) Conditions of Approval;
- d) Approval Period;
- e) Types of Vehicles Held; and
- f) Registration Details of all Vehicles Held.

The Chief Executive Officer of the Board will provide to the Board at each meeting, a report on:

- a) Vehicle applications approved or rejected since the last meeting and a statement detailing the reasons for approval or rejection addressing the matters required to be considered in the Policy and any alternatives to the importation and use of the vehicle;
- b) Cumulative total of vehicles on the island at the time of the report, including a breakdown of vehicle types and use (ie essential, commercial, private, hire etc).

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16 Attachment: Application to Import a Vehicle

DRAFT

Board Meeting: February 2023 Agenda Number: 13.02 Rec No: ED23/420.01 OPEN Attachment: A

LORD HOWE ISLAND BOARD

APPLICATION TO IMPORT A VEHICLE

Under Clauses 84 and 87 of the *Lord Howe Island Regulation 2014*

Approval to import and use a vehicle on the island will be subject to the provisions of the *Lord Howe Island Board Vehicle Importation, Transfer and Use Policy* (the Policy). Please read this policy prior to completing this form. No entitlement to import or use a vehicle is provided for under this policy. All applications to import and use a vehicle will need to demonstrate a genuine need for the importation and use of a vehicle, and for the vehicle selected. The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle.

Please note that a non-refundable application fee (as listed in the Board’s annual fees and charges) applies to the importation of a motor vehicle.

APPLICATION FEE		
Total fees lodged:	Receipt No.:	Receiving Officer:

APPLICANT DETAILS

Name:

Email: Phone:

Portion/Lot and Plan/DP number: Perpetual Lease No:

Type of Approved dwelling (house, flat, staff accommodation):

Is this vehicle application for (please select one option):

- Private Use Commercial Use Essential Service Hire Use

On what basis are you eligible to apply for the importation and use of a vehicle under the policy? Please complete the Private, Commercial, Essential or Hire section below:

- Private Use** Note: Refer section 7.1.1 and 8.1 of the policy.
Please indicate which of the following a,b,c,d or e private use descriptions apply to you:
- a. Is a person who resides in an approved dwelling on Perpetual Lease as either:
 - i. the holder/owner OR
 - ii. sub-lessee of the lease OR
 - iii. as the owner-occupant of a multiple occupancy OR
 - iv. by way of a current tenancy agreement under the NSW Residential Tenancy Act 1987
 - AND Has resided on the island for a continuous period of 24 months at time of application. Proof of Tenancy will be required and should be supplied with application. OR
 - b. An employee of an Essential Service provider (for more information refer to the Policy) OR
 - c. Lord Howe Island Board employees other than a person described in a) (for more information refer to the Policy) OR
 - d. A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. Application demonstrates that there is no viable alternative to the importation and use of a vehicle as attached. OR
 - e. A person as per a) under Private Use Eligibility who:
 - i. has no existing approval for a commercial vehicle which is suitable for private use

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- ii. Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.

Commercial Note: Refer section 7.1.2 and 8.2 the policy.

A person who meets the private use eligibility (also complete private use section a – e above), who operates an approved business on the island and can demonstrate to the satisfaction of the Board that the business requires the use of a vehicle and that the business need cannot be met from the existing island fleet.

Name of approved business:

Essential Note: Refer section 7.1.3 and 8.4 the policy.

Name of essential service provider as per Schedule of Essential Services in the policy:

Hire Note: Refer section 7.1.4, 7.5 and 8.5 the policy.

Name of business licence and approved hire car permit holder:

VEHICLE TO BE IMPORTED

Make: Model:

Engine Capacity: No. of Cylinders:

Body Type (e.g. Hatch, Station wagon, Utility):

Unladen Weight (in Tonnes or Kgs):

4WD or 2WD: Registration No.:

Fuel Type (e.g. Petrol, Diesel, Electric):

Dimensions of vehicle: See maximum vehicle size limits in section 3.7 and 3.8 of this policy.

Length (mm): Width (mm): Height (mm):

Is this vehicle a preferred vehicle as per section 4.1 of the Vehicle, Importation, Transfer and Use policy?

- a) A motor vehicle meeting the requirements as per 4.1 (a) of the policy?
- b) Electric Vehicle meeting the requirements as per 4.1 (b) of the policy?
- c) Motor Scooters meeting the requirements as per 4.1 (c) of the policy?

If the vehicle applied for meets the Board’s preferred vehicle criteria, the Board will give preference, by way of incentives, to the importation and use of small and low impact vehicles (see section 5.1 (a) and 6 (a) of the policy). To receive the incentives, please provide a copy of your vehicle’s registration paper and wharfage invoice on importation of your vehicle and a short letter or email requesting reimbursement of the incentives.

Is this vehicle electric or hybrid?

Yes No

Is a Bull bars/Roo bars/Nudge bar fitted? Refer section 3.12 of the policy and demonstrate that the winch is essential to the vehicle’s use.

Yes No

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Do you own or have use of other vehicles on the island?

Yes No

NOTE: 'Vehicle' includes a road registered/registrable motorcycle or scooter.

If yes, please specify:

MAKE	MODEL	REGISTRATION	APPROVED USE e.g. Private, Commercial, Essential

Will the vehicle to be imported replace one of the above vehicles?

Yes No

If yes, which vehicle is being replaced?

NOTE: Unless otherwise approved by the Board, the vehicle being replaced must be removed from the island within the timeframe specified by the Board.

Please provide a detailed justification of why you require a vehicle and the specific vehicle applied for:

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NOTE: Please attach an additional sheet if space is inadequate.

Please state whether you considered alternatives to the vehicle selected, including an alternative form of transport:

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NOTE: Please attach an additional sheet if space is inadequate.

APPLICANT'S DECLARATION

I being the applicant, hereby declare that the information provided above is true and accurate and make application to import a vehicle in accordance with the above.

Signature: Date:

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17 Attachment: Application to Transfer a Vehicle

DRAFT

LORD HOWE ISLAND BOARD

APPLICATION TO TRANSFER A VEHICLE

Under Clauses 84 and 87 of the *Lord Howe Island Regulation 2014*

Approval to transfer and use a vehicle on the island will be subject to the provisions of the *Lord Howe Island Board Vehicle Importation, Transfer and Use Policy* (the Policy). Please read this policy prior to completing this form. No entitlement to transfer or use a vehicle is provided for under this policy. All applications to transfer and use a vehicle will need to demonstrate a genuine need for the transfer and use of a vehicle, and for the vehicle selected. The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle.

Please note that a non-refundable application fee (as listed in the Board’s annual fees and charges) applies to the transfer of a motor vehicle.

NOTE: In the case of a commercial vehicle, including a private vehicle which is transferred as a commercial vehicle, the Board will require the transferor and the proposed transferee to provide a Statutory Declaration stating that the proposed price to be paid between those parties regarding the transfer of the vehicle is no greater than current market value of the vehicle, plus freight and wharfage costs. The Board will levy a non-refundable application fee of no greater than 10% of that amount.

APPLICATION FEE
Total fees lodged: Receipt No.: Receiving Officer:

TRANSFEROR DETAILS (Person selling vehicle)

Name:

Email: Phone:

Portion/Lot and Plan/DP Number: Perpetual Lease No:

TRANSFEEE DETAILS (Person buying vehicle)

Name:

Email: Phone:

Portion/Lot and Plan/DP Number: Perpetual Lease No:

Type of Approved Dwelling (house, flat, staff accommodation):

Is this vehicle application for (please select one option):

- Private Use Commercial Use Essential Service Hire Use

On what basis are you eligible to apply for the importation and use of a vehicle under the policy? Please complete the Private, Commercial, Essential or Hire section below:

- Private Use** Note: Refer section 7.1.1 and 8.1 of the policy.
Please indicate which of the following a,b,c,d or e private use descriptions apply to you:
a. Is a person who resides in an approved dwelling on Perpetual Lease as either:

Lord Howe Island Board Vehicle Importation, Transfer and Use Policy

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- i. the holder/owner OR
- ii. sub-lessee of the lease OR
- iii. as the owner-occupant of a multiple occupancy OR
- iv. by way of a current tenancy agreement under the NSW Residential Tenancy Act 1987

AND Has resided on the island for a continuous period of 24 months at time of application. Proof of Tenancy will be required and should be supplied with application. OR

- b. An employee of an Essential Service provider (for more information refer to the Policy) OR
- c. Lord Howe Island Board employees other than a person described in a) (for more information refer to the Policy) OR
- d. A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. Application demonstrates that there is no viable alternative to the importation and use of a vehicle as attached. OR
- e. A person as per a) under Private Use Eligibility who:
 - i. has no existing approval for a commercial vehicle which is suitable for private use
 - ii. Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.

Commercial Note: Refer section 7.1.2 and 8.2 the policy.

A person who meets the private use eligibility (also complete private use section a – e above), who operates an approved business on the island and can demonstrate to the satisfaction of the Board that the business requires the use of a vehicle and that the business need cannot be met from the existing island fleet.

Name of approved business:

Essential Note: Refer section 7.1.3 and 8.4 the policy.

Name of essential service provider as per Schedule of Essential Services in the policy:

Hire Note: Refer section 7.1.4, 7.5 and 8.5 the policy.

Name of business licence and approved hire car permit holder:

VEHICLE TO BE IMPORTED

Make: Model:

Engine Capacity: No. of Cylinders:

Body Type (e.g. Hatch, Station wagon, Utility):

Unladen Weight (in Tonnes or Kgs):

4WD or 2WD: Registration No.:

Fuel Type (e.g. Petrol, Diesel, Electric):

Dimensions of vehicle: See maximum vehicle size limits in section 3.7 and 3.8 of this policy.

Length (mm): Width (mm): Height (mm):

Is this vehicle a preferred vehicle as per section 4.1 of the Vehicle, Importation, Transfer and Use policy?

- a) A motor vehicle meeting the requirements as per 4.1 (a) of the policy?
- b) Electric Vehicle meeting the requirements as per 4.1 (b) of the policy?
- c) Motor Scooters meeting the requirements as per 4.1 (c) of the policy?

If the vehicle applied for meets the Board’s preferred vehicle criteria, the Board will give preference, by way of incentives, to the importation and use of small and low impact vehicles (see section 5.1 (a) and 6 (a) of the policy). To receive the Lord Howe Island Board Vehicle Importation, Transfer and Use Policy

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incentives, please provide a copy of your vehicle’s registration paper and wharfage invoice on importation of your vehicle and a short letter or email requesting reimbursement of the incentives.

Is this vehicle electric or hybrid?

Yes No

Is a Bull bars/Roo bars/Nudge bar fitted? Refer section 3.12 of the policy and demonstrate the essential use below.

Yes No

.....

Do you own or have use of other vehicles on the island?

Yes No

NOTE: ‘Vehicle’ includes a road registered/registrable motorcycle or scooter.

If yes, please specify:

MAKE	MODEL	REGISTRATION	APPROVED USE e.g. Private, Commercial, Essential

Will the vehicle to be imported replace one of the above vehicles?

Yes No

If yes, which vehicle is being replaced?

NOTE: Unless otherwise approved by the Board, the vehicle being replaced must be removed from the island within the timeframe specified by the Board.

Please provide a detailed justification of why you require a vehicle and the specific vehicle applied for:

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NOTE: Please attach an additional sheet if space is inadequate.

Please state whether you considered alternatives to the vehicle selected, including an alternative form of transport:

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NOTE: Please attach an additional sheet if space is inadequate.

TRANSFEROR'S DECLARATION

I being the transferor, hereby declare that the information provided above is true and accurate and make application to transfer a vehicle in accordance with the above.

Signature: Date:

TRANSFeree'S DECLARATION

I being the transferee, hereby declare that the information provided above is true and accurate and make application to transfer a vehicle in accordance with the above.

Signature: Date:

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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Application to transfer of a private use boat trailer from Hank Bower to Suzie Christensen

Recommendations

1. **Approve** the transfer of a private use boat trailer from Hank Bower to Suzie Christensen.
2. **Approve** an additional condition - Approval will be terminated at the cessation of employment with the Lord Howe Island Board.

Current position

On 10 January 2023 Hank Bower applied to transfer a private use boat trailer to Suzie Christensen. Ms Christensen meets the private use eligibility criteria under *Section 7.1.1(3)* of the Vehicle Importation, Transfer and Use Policy (Attachment A).

- Ms Christensen is a current Lord Howe Island Board employee with over 12 months service;
- Ms Christensen resides in an approved dwelling at Government House;
- Ms Christensen has a current tenancy agreement from 05/12/2021 to 4/12/2023;
- Ms Christensen's demonstrated need for the vehicle includes the transport and storage of her boat.
- The maximum size requirements for private use vehicles do not apply to boat trailers as they are designed specifically to accommodate the length and width of the associated boat (*Section 3.7* of the Policy).

Conclusion

The policy is silent in relation to who has delegation to determine vehicle applications where the applicant is the Chief Executive Officer (CEO) of the Lord Howe Island Board. *Section 9* of the Policy details the referral of vehicle applications by the CEO to the Chairperson, who will determine the matter in consultation with the Board.

It is recommended that the Board approve the application with an additional condition detailed in Recommendation 2 above.

Attachments

Attachment	Title
A	Policy - Vehicle Importation Transfer and Use - Open

Approval and contact

Approver	Position
Paula Pollock	Senior Manager Environment & Community Services
Preparer	Position
Lynda Shick	Land & Property Officer

LORD HOWE ISLAND BOARD POLICY

TITLE	Vehicle Importation, Transfer and Use Policy		
DATE ADOPTED	December 2006	AGENDA ITEM	8 (ii) December 2006
CURRENT VERSION	September 2022	AGENDA ITEM	13.2 September 2022
REVIEW	Biannually	RECORD NUMBER	ED17/765
ASSOCIATED LEGISLATION	<i>Lord Howe Island Act 1953 (NSW)</i> <i>Lord Howe Island Regulation 2014 (NSW)</i> <i>Local Government Act 1993</i>		
ASSOCIATED POLICIES	N/A		

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1 Policy Overview

The aim of this policy is to limit the overall number and impact of vehicle movements on the island's road system, with a particular focus on the types of vehicles driven on the island. The vision is for the Island's fleet to consist of a limited number of low impact vehicles, with electric vehicles being encouraged.

The Board has developed this policy to guide management of vehicles on the island, in accordance with the provisions of the Lord Howe Island Regulation 2014. The policy is to guide the Board's use of the powers provided for under the Regulation regarding motor vehicles so that vehicle and traffic management is aligned with the expectations and aspirations of the community, and with the island's environment and economy.

The Board will determine whether the importation of a vehicle is in the public interest and consider the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts on the island. Unless otherwise provided for under this policy, no entitlement to import or use a vehicle is provided for. All applications to import or transfer and use a vehicle will need to demonstrate a genuine need for the import or transfer, use of a vehicle, and for the vehicle selected.

In particular, the Board will manage vehicle importation to limit the number of vehicles on the island, and the frequency and intensity of their use, to ensure that the impacts of vehicles and traffic on the island are minimised.

The Board recognises that the frequency and intensity of vehicle use are major influences on road safety, aesthetics and ambience of the island and where possible should be kept to a minimum.

The Board will continue to review and develop the policy, and associated programs and initiatives. These reviews will occur biannually.

2 Legislative Framework

The Board's power to regulate motor vehicles on Lord Howe Island is established under Part 6 of the *Lord Howe Island Regulation 2014*, in particular clauses 84, 86 and 87. Essentially, the Board's approval is required for any importation of a vehicle to the island (c 84), hire of motor vehicles (c86) and for any use of that vehicle on the island, including how a vehicle is used (c 87).

84 Approval to import motor vehicles

(1) A person must not, except in accordance with the approval of the Board, bring a motor vehicle onto the Island.

Maximum penalty: 50 penalty units.

(2) An application for approval to bring a motor vehicle onto the Island must relate to one vehicle only.

86 Hire of motor vehicles

(1) A person must not, except in accordance with the approval of the Board, hire or offer for hire a motor vehicle to any other person for use on the Island.

Maximum penalty: 50 penalty units.

(2) This clause applies whether or not the person from whom the motor vehicle is or is to be hired, or any employee or agent of that person, is to drive or ride the motor vehicle.

87 Use of motor vehicles

(1) A person must not drive or ride a motor vehicle on the Island unless the Board has given its

approval to the use of that vehicle on the Island.

(2) A person who has obtained the approval of the Board under this clause may drive or ride the motor vehicle concerned only in accordance with that approval.

2.1 Relevant Legislative Provisions Relating To Approvals:

Under Part 1, clause 4 (2) of the *Lord Howe Island Regulation 2014*, any approval given by the Board is subject to Chapter 7, Part 1, Division 3 of the Local Government Act 1993. This part of the Local Government Act (LG Act) specifies how approvals are to be applied for, made, amended and terminated. In particular, under Section 94 of the LG Act, the Board may apply conditions to any approval, and may apply a time limit on any approval. Under Section 103 of the LG Act, an approval, unless otherwise specified, lapses by default after five (5) years.

3 Definitions

3.1 Motor Vehicle (from here on referred to as a “vehicle”):

As defined under the *Lord Howe Island Regulation 2014* (c 83):

A motor vehicle means a vehicle (other than an aircraft or a vessel) propelled by volatile spirit, steam, gas, oil or electricity and includes:

- (a) An incomplete or partially constructed motor vehicle; or*
- (b) The chassis, body, frame or remains of a motor vehicle; or*
- (c) A trailer or caravan.*

Note: For the purpose of this policy, the above definition includes motor vehicles, motorbikes, mopeds (pedal assisted or non pedal assisted), motor scooters, mini bikes, quad bikes, trikes etc whether the motor is a permanent or temporary fixture and regardless of whether a motor vehicle licence or registration is required. A Power Assisted Pedal Cycle as defined by the NSW Roads and Maritime Services (RMS) is not considered a Motor Vehicle under this Policy.

3.2 Reside

As defined under the *Lord Howe Island Act 1953*.

3.3 Dwelling

As defined under the *Lord Howe Island Local Environment Plan 2010* and the Board’s policy definition of a Separate Domicile, but not including Staff Accommodation as defined under *Lord Howe Island LEP 2010*.

3.4 Tenant

A person who lawfully occupies an approved dwelling on the island under a tenancy arrangement in accordance with the *NSW Residential Tenancy Act*.

3.5 Essential Services

Essential services for the purpose of this policy are set out in the Schedule of Essential Services

3.6 Vehicle Hire

To hire, attempt to hire, expose for hire or solicit for hire any vehicle on the island, to any person, for

money or other consideration of any kind.

3.7 Vehicles for Private Use

For the purpose of this policy, any lawful use of a vehicle, including activities approved in a business licence issued under clause 49 of the *Lord Howe Island Regulation 2014*, but not including vehicle hire.

As a result of community concern over road safety, the Board has introduced maximum size of a vehicle for private use permissible on the island is:

- a) Length 5330 mm (not including tow ball);
- b) Width 1855 mm (not including side mirrors); and
- c) Height 1815 mm (not including roof racks or roll bars or headboard on the tray).

Note: this maximum size requirement does not apply to vehicles previously approved, nor boat trailers designed specifically to accommodate the length and width of the associated boat.

3.8 Vehicles for Commercial Use

For the purpose of this policy, any vehicle which has been specifically applied for and approved under the policy provisions relating to Commercial Vehicles.

As a result of community concern over the number of oversized vehicles, the Board has introduced a maximum size of a standard vehicle for commercial use permissible on the island, which is based on the current model of a 2 wheel drive Toyota Hilux utility, which in 2020 was:

- a) Length 5330mm (not including tow ball);
- b) Width 1855mm (not including side mirrors); and
- c) Height 1815 mm (not including roof racks, roll bars or headboard on the tray).

Note: this maximum size requirement does not apply to vehicles previously approved, nor boat trailers designed specifically to accommodate the length and width of the associated boat.

Where a vehicle with different dimensions to the standard is required for specialised work, the case must be made as to why a non-standard vehicle should be approved.

3.9 Commercial Use

To sell or hire, attempt to sell or hire, expose for sale, hire or profit or solicit for sale, hire or profit any article, thing or service to any person, or conduct, or assist in the conduct of, any amusement, entertainment, instruction, performance or activity for money or other consideration of any kind.

3.10 Power Assisted Pedal Cycle

A Power-Assisted Pedal Cycle under this policy is defined by the NSW RMS.

A Power-Assisted Pedal Cycle is designed to be propelled solely by human power and has one or more auxiliary (electric) propulsion motors attached to assist the rider. This means that it must be possible to propel the bicycle only by the rider pedalling it. The primary driving force should be the rider, and the motor is only intended to help the rider, such as when going uphill or cycling into a headwind, or to cycle at a speed they cannot maintain solely by pedalling.

Power Assisted Pedal Cycles are to meet NSW RMS vehicle standards and it is noted that they not be

permitted to propel the bicycle when the rider is not pedalling (an optional low-speed start-up mode that allows the motor to power the cycle up to 6 km/h).

3.11 Motorised wheelchairs and mobility scooters

A motorised wheelchair under this policy is defined by Transport for NSW.

Motorised wheelchairs are mobility aids with two or more wheels and have a top speed of 10km/h on level ground. Mobility scooters or 'gophers' are classified as motorised wheelchairs. A motorised wheelchair does not include a wheeled recreational device such as a motor scooter, pram, stroller, trolley or any other motor-assisted machine.

Motorised wheelchairs are only permitted for private use without approval. They are not allowed to be used for Hire purposes unless approval has been granted by the LHI Board.

3.12 Bull bars/Roo bars/Nudge bars

Bull bars/roo bars etc are not permitted to be imported on a vehicle or added to a vehicle on LHI unless approval is given by the CEO of the Board. The CEO may only grant approval for a request for a bull bar/roo bar if it includes a winch and if it can be satisfactorily demonstrated that the winch is essential to the vehicle's use.

Where it can be demonstrated that vehicles come standard with a 'nudge bar' the CEO of the Board will take this into consideration when assessing a request to import a vehicle.

Second-hand vehicles with a bull bar already attached will be required to have the bull bar/roo bar removed prior to importation to island.

Note: this item does not apply to vehicles which have bull bars/roo bars and have previously been approved for importation to the Island .

It is noted that all vehicles must comply with Australian Design Rules to ensure they are safe. Therefore when a bullbar is removed from a vehicle it must be restored to a compliant condition including replacing any body or bumper panels to ensure pedestrian and occupant safety.

4 Vehicle Types

Any vehicle which is approved by the Board for importation and use on the islands roads, other than plant and equipment, or motor assisted pedal bicycles, unless required by law, must be registrable and registered in the State of NSW in the name of the applicant.

4.1 Preferred Vehicles

The Board will give preference, by way of incentives, to the importation and use of small and low impact vehicles which are either:

- a) A motor vehicle meeting the following requirements:
 - i. Have a Vehicle Kerb weight\mass of less than 1154kg; and
 - ii. Generate noise less than 82 dba (data on noise emissions provided in green vehicle guide www.greenvehicleguide.gov.au); and
 - iii. Have vehicle size "footprint"
 - Length 4000 mm (max)
 - Width 1700 mm (max)

- Height 1720 mm (max)
- b) Electric Vehicles:
 - i. Electric vehicles include any vehicle that has battery storage and has an electricity plug-in recharge capacity. These vehicles (or the batteries for these vehicles) must have the ability to be plugged into an electricity power point connected to the LHI Grid.
 - ii. Hybrid electric vehicles that do not have a plug in recharge capacity are not deemed electric vehicles for the purpose of this policy.
 - iii. Electric vehicles for private use must not exceed the maximum vehicle footprint as defined under Section 3.
- c) Motor Scooters:
 - i. 4 stroke motor scooters with a maximum capacity of 250cc.

4.2 Other Vehicles

Any other vehicle may be imported subject to this policy. The Board will retain absolute discretion in determining an application and will consider whether the importation of a vehicle is in the public interest and the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts on the island.

4.3 Boat Trailers

Approval to import and use boat trailers will be at the discretion of the Board subject to application on the prescribed form. Boat trailers must only be used to transport and store boats belonging to residents.

4.4 Box Trailers

Approval to import and use box trailers will be at the discretion of the Board subject to application on the prescribed form.

4.5 Caravans

The importation of caravans is prohibited under this policy.

4.6 Specialist / Other Trailers

Approval to import and use will be at the discretion of the Board and subject to application on the prescribed form.

4.7 Plant and Equipment

Plant and Equipment – being any conditionally registered or non-registrable vehicles such as tractors, forklifts, excavators, backhoes etc. Approval to import and use will be at the discretion of the Board and subject to written application in accordance with this Policy.

This provisions of this Policy do not relate to:

- a) Ride-on Lawn Mowers, Dingo Diggers and similar plant. Importation and use of such plant by an eligible person will be deemed to be approved by the Board.

5 Fees

5.1 Importation or Transfer

- a) Vehicles meeting the Board's Preferred Vehicle criteria will be exempt from the importation application fee.
- b) A non-refundable application fee (as listed in the LHIB Fees and Charges) per vehicle will apply to all applications for the importation or transfer of vehicles which do not meet the Board's Preferred Vehicle criteria.
- c) A non-refundable application fee (as listed in the LHIB Fees and Charges) per vehicle will apply to all applications to renew a commercial vehicle or hire vehicle approval.
- d) Box trailers will be exempt from the above fee.
- e) Boat trailers will be exempt from the above fee.

6 Incentives

- a) Vehicles meeting the Board's Preferred Vehicle criteria will be exempt from the Board's wharfage fee for the vehicle.
- b) Box trailers will be exempt from the wharfage fee for the vehicle (limit of one exemption per lease).

7 Eligibility to Import and Use

Unless otherwise provided for under this policy, no entitlement to import or use a vehicle is provided for. All applications to import or transfer and use a vehicle, including boat trailers and box trailers, will need to demonstrate a genuine need for the import or transfer, use of a vehicle, and for the vehicle selected.

The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle.

An application to import or transfer and use a vehicle must be made on the prescribed form and include any additional information as the Board may require or the applicant wishes to provide.

7.1 Eligibility

The following persons will be eligible to apply to import or transfer a vehicle:

7.1.1 Vehicles for Private Use

- 1) A person who resides in an approved dwelling on a Perpetual Lease, either as: the holder, owner, or sub-lessee of the lease or; as the owner-occupant of a multiple occupancy or ; by way of a current tenancy agreement under the *NSW Residential Tenancy Act 1987* and
 - a) has resided on the island for a continuous period of 24 months at time of application. (Proof of Tenancy will be required and should be supplied with application); and
 - b) has no existing approval for a commercial vehicle which is suitable for private use; and
 - c) does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.
- 2) An employee of an Essential Service provider (other than the Board) who does not have access to the private use of a vehicle provided by the Essential Service may apply to import or transfer a preferred vehicle if they can demonstrate to the Board a genuine need for the vehicle. This

will only apply where the employee will occupy the position for a period greater than 12 months and is subject to any specification set out in the schedule of Essential Service entitlements. Any approval will be in accordance with this policy. Approval under this clause will be terminated at the cessation of employment with the Essential Service provider.

- 3) Lord Howe Island Board employees other than a person described in a), may after 12 months service staff apply to import a preferred vehicle in accordance with the Board's vehicle importation and use policy. Applications must demonstrate need for vehicle in accordance with this policy. Any approval will be in accordance with this policy. Approval to import vehicle will result in termination of private use rights of LHI Board vehicle. Approval under this clause will be terminated at the cessation of employment with the Board.
- 4) A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. In such cases, the Board may exercise discretion, provided that the applicant has demonstrated that no viable alternative to the importation and use of a vehicle exists.

7.1.2 Vehicles for Commercial Use

A person as per 1) under **Private Use Eligibility** who operates an approved business on the island and can demonstrate to the satisfaction of the Board that the business requires the use of a vehicle and that the business need cannot be met from the existing island fleet.

Note: In general, the Board will only consider approval for a commercial vehicle for businesses which need to transport clients and guests and/or goods and equipment and then only when the business need cannot be serviced from an existing allocation within the island's fleet.

7.1.3 Vehicles for Essential Services

Any authorised officer of an approved Essential Service, as set out in the Schedule of Essential Services in this Policy.

7.1.4 Vehicles for Hire

- a) Any person eligible under this policy who is also eligible to hold a business licence under clause 49 of the *Lord Howe Island Regulation 2014*.
- b) The Board may from time to time hire out vehicles from its existing fleet where the proposed hire arrangement does not replicate or compete with an arrangement which could be provided by an approved hire vehicle operator as per **a**).

7.2 Use

Any person who is lawfully entitled to do so, may use a vehicle on the island, and such persons will be deemed to have the approval of the Board to do so, subject to that use complying with this policy, and any conditions applying to any approval given under this policy.

All vehicles will be used on the island in accordance with all relevant State and Commonwealth legislation, policies and procedures.

7.3 Private and Commercial Use

Unless otherwise provided for in this policy, vehicles approved for private and/or commercial use may be used for any lawful purpose, including commercial use, except hire of the vehicle, provided that any commercial use is associated with an approved business on the island.

Where a person has approval for a private use vehicle and a commercial use vehicle, the commercial

use vehicle cannot be used for private use.

7.4 Essential Services

Vehicles approved for essential services are to be used exclusively by the essential service provider and its employees or agents for its official business. Board approval is required for Private Use of Essential Service vehicles. Private use will be limited to transferred officers of the Essential Service where the Essential Service provider has a documented policy applying to its employees or agents which allows for other uses.

Use restrictions will be set out as conditions of approval.

7.5 Hire Vehicle Use

Hire vehicles may be used for any lawful purpose, including commercial activity provided that the commercial activity is associated with an approved business on the island. Any hiring of a vehicle on the island will be subject to a lawful and documented hire agreement between the approved person (the hirer) and a person who has entered into such an agreement with the hirer (the hiree).

8 Allocations

The Board may approve up to the following allocations to eligible persons (refer to Eligibility provision), subject to demonstrated need.

8.1 Private Use

One (1) vehicle per approved dwelling.

8.2 Commercial Use

One (1) vehicle per approved business licence. Where a person holds multiple business licences, additional vehicles will only be considered where there is a demonstrated need. Access to private use vehicles will be considered when assessing need.

8.3 Essential Services Allocation

Essential Services will be eligible to import vehicles as follows:

8.4 Schedule of Essential Services

ESSENTIAL SERVICE	VEHICLE ALLOCATION
Lord Howe Island Board	A fleet comprising of all vehicle types, being the minimum number of vehicles required to ensure the safe, effective and efficient delivery of the Board's charter, to a maximum of 13 road going vehicles.
NSW Police	1 Vehicle
NSW MPA	1 Vehicle
Bureau of Meteorology	1 Vehicle
NSW Education	1 Vehicle
NSW Health	1 Vehicle – Ambulance
Doctor (GP)	1 Vehicle
NSW RFS	1 Vehicle – Fire Engine

NSW SES	1 Vehicle – Emergency Response Vehicle
NSW Marine Rescue	1 boat trailer (with RIB)

8.5 Additional Vehicle Allocation for Hire Car Use

The *Lord Howe Island Regulation 2014* requires a separate approval for the use of a motor vehicle as a hire vehicle.

Clause 86 of that Regulation states that:

(1) A person must not, except in accordance with the approval of the Board, hire or offer for hire a motor vehicle to any other person for use on the Island.

(2) This clause applies whether or not the person from whom the motor vehicle is or is to be hired, or any employee or agent of that person, is to drive or ride the motor vehicle.

In addition to any other allocation:

- a) The Board may approve up to (8) additional vehicles on the island for use as hire vehicles. The Board reserves the right to revise this quota at any time subject to a demonstrated business need.
- b) The Board will review on an annual basis the fee charged for approval to use a car as a hire vehicle.
- c) Hire Car approvals are not transferable without the written approval of the Board.
- d) In addition to any fee applied for approval to hire a car on the island, the Board reserves the right to apply a transfer fee to any transfer of a hire car approval.
- e) Up to 4 vehicles may be allocated per applicant, to an island total of 8 hire cars.
- f) Vehicles are to be Preferred Vehicles unless otherwise agreed to by the Board.

9 Review of Applications

In determining any application to import or transfer a vehicle, where the application is proposed to be refused, or where the CEO believes that the application will prove controversial, the CEO will consult with, and document the majority view of the elected members regarding the application.

Where the CEO intends determining the application contrary to the majority view of the elected members, the CEO will document the reasons for doing so and provide a written briefing to the Chairperson, who will determine the matter in consultation with the Board.

10 Approval Periods – Importation and Use

10.1 Private Use Approval Period

Approval to import a vehicle for Private Use will be six (6) months. If the vehicle is not imported within that time, the approval to import will lapse and a new application must be made.

10.2 Commercial Approval Period

- a) Approval to import a vehicle for Commercial Use will be three (3) months. If the vehicle is not imported within that time, the approval to import will lapse and a new application must be made.
- b) Approval to use a commercial vehicle on the island will cease when the business ceases, as evidenced by termination of a business licence.

- c) A commercial vehicle cannot be used for private use where a person also has approval for a private vehicle (other than when the private use vehicle is a motor bike, motor scooter etc).

10.3 Hire Vehicle Approval Period

- a) Approval to import a vehicle under Hire Vehicle allocation will be six (6) months. If the vehicle is not imported within that time, the approval to import will lapse and a new application must be made.
- b) Approval to use a Hire Vehicle on the island will, unless otherwise varied at the discretion of the Board, be for five (5) years, subject to annual review. At the end of the approval period, the owner of the vehicle must reapply to retain and use the vehicle on the island, based on a demonstrated business need. Note renewal fees apply.

11 Approval Conditions

The Board may apply such conditions as it deems necessary to any approval to import and/or use a vehicle on the island. In particular, the Board will apply conditions to safeguard the public interest and to minimise the impacts of vehicle use on the natural, built, social and economic environment of the island.

For any vehicle (including a trailer, plant and equipment) to be imported, the importer must provide a statutory declaration stating that the vehicle has been inspected and cleaned with a high pressure hose to ensure that no weeds, seeds, insects, spiders, etc. are transported to the island. Such a declaration is required to be submitted to the Board prior to the vehicle leaving the mainland.

Approvals to import a vehicle for private use will be specific for the applicant and a dwelling. The approval will include details of the dwelling where the vehicles are allocated.

Where the circumstances of the owner of an approved private vehicle change resulting in a new place of residence (approved dwelling) on Lord Howe Island, the vehicle approval is terminated. The owner of the vehicle must reapply under the conditions of this policy. The vehicle owners' circumstances will be considered when assessing this new application and special consideration may be given.

Where the owner of a private use vehicle leaves the island the vehicle must be garaged at the approved dwelling and the approval to use the vehicle is suspended until the owner returns to the island. In circumstances where the vehicle is used by a family member who normally resides with the vehicle owner and does not have access to another private use vehicle, the family member may continue to use the vehicle during the period of owner absence.

In the case of deceased estates, where a private use vehicle is attached to the dwelling of the deceased, the vehicle must remain garaged at the approved dwelling and its use suspended until the administration of the estate has been completed. Where the executor or a caretaker living on the estate does not have access to another private use vehicle, these persons may use the vehicle during the period of administration.

In determining any development consent in its role as a Consent Authority under the *NSW Planning and Assessment Act 1979*, or application for a Business Licence under clause 49 of the *Lord Howe Island Regulation 2014*, the Board will consider: whether the development and/or activity will require the importation and use of vehicles additional to those provided for under the **Private Use Allocation** and the potential impact of the importation and use of the vehicle/s including whether it is in the public interest and whether the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island.

11.1 Breach of Approval

Failure to comply with the conditions of approval will be deemed a breach of the Board's approval and may result in that approval being withdrawn and the vehicle being removed from the island.

Where the Board believes a Breach of the approval has occurred, the Board's Administration will write to the vehicle owner advising them of the alleged breach and asking them to respond to the allegation and justify as to why their approval should not be revoked. Vehicle owners will have 14 calendar days to respond. Failure to respond within the prescribed timeframe will result in immediate revocation of approval.

Following termination of approval the Board's Administration will write to the vehicle owner of this revocation of approval instructing the vehicle owner to not use the vehicle and remove the vehicle from the island within 60 days.

Vehicle Owners may reapply to the Board for approval. Until approval has been granted the vehicle is not to be used.

12 Vehicle Replacement

Unless a case for exceptional circumstances can be established to the satisfaction of the Board, replacement of vehicles will be on a 'one on – one off' basis,

Where the applicant has another vehicle (commercial or private use) that is suitable for use, the applicant must demonstrate the need to replace the vehicle.

13 Vehicle Transfers

Vehicle approvals will not be transferable without the written approval of the Board. Prior to granting an approval, the Board needs to be satisfied that there is a demonstrated need for the transfer. Failure to demonstrate that need will result in approval not being granted.

Applications to transfer will be made on the prescribed form and will be determined in accordance with this policy.

In addition to any fee applied for lodging an application seeking approval of a vehicle on the island, the Board reserves the right to apply a transfer application fee to any request to transfer any vehicle.

In the case of a private vehicle, the transfer fee will be the equivalent of the appropriate importation fee.

14 Delegations

The Chief Executive Officer of the Board is delegated to determine any application made under this policy, provided that the application complies with this policy.

The Chief Executive Officer of the Board is delegated to suspend or withdraw any approval given under this policy where it can be established to the satisfaction of that officer that a significant breach of the conditions of approval has occurred.

In determining any application to import or transfer a vehicle, where the application is proposed to be refused, or where the CEO believes that the application will prove controversial, the CEO will consult with, and document the majority view of the elected members regarding the application.

Where the CEO intends determining the application contrary to the majority view of the elected members, the CEO will document the reasons for doing so and provide a written briefing to the Chairperson, who will determine the matter in consultation with the Board.

15 Reporting and Monitoring

The Lord Howe Island Board will maintain a Vehicle Approvals Register, which will include:

- a) The names, addresses and number and type of vehicles of persons approved to import and use a vehicle;
- b) Category of Approval (Private, Commercial, Hire etc);
- c) Conditions of Approval;
- d) Approval Period;
- e) Types of Vehicles Held; and
- f) Registration Details of all Vehicles Held.

The Chief Executive Officer of the Board will provide to the Board at each meeting, a report on:

- a) Vehicle applications approved or rejected since the last meeting and a statement detailing the reasons for approval or rejection addressing the matters required to be considered in the Policy and any alternatives to the importation and use of the vehicle;
- b) Cumulative total of vehicles on the island at the time of the report, including a breakdown of vehicle types and use (ie essential, commercial, private, hire etc).

16 Attachment: Application to Import a Vehicle

LORD HOWE ISLAND BOARD

APPLICATION TO IMPORT A VEHICLE

Under Clauses 84 and 87 of the *Lord Howe Island Regulation 2014*

Approval to import and use a vehicle on the island will be subject to the provisions of the *Lord Howe Island Board Vehicle Importation, Transfer and Use Policy* (the Policy). Please read this policy prior to completing this form. No entitlement to import or use a vehicle is provided for under this policy. All applications to import and use a vehicle will need to demonstrate a genuine need for the importation and use of a vehicle, and for the vehicle selected. The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle.

Please note that a non-refundable application fee (as listed in the Board's annual fees and charges) applies to the importation of a motor vehicle.

APPLICATION FEE

Total fees lodged: Receipt No.: Receiving Officer:

APPLICANT DETAILS

Name:

Email: Phone:

Portion/Lot and Plan/DP number: Perpetual Lease No:

Type of Approved dwelling (house, flat, staff accommodation):

Is this vehicle application for (please select one option):

Private Use Commercial Use Essential Service Hire Use

On what basis are you eligible to apply for the importation and use of a vehicle under the policy? Please complete the Private, Commercial, Essential or Hire section below:

Private Use Note: Refer section 7.1.1 and 8.1 of the policy.

Please indicate which of the following a,b,c,d or e private use descriptions apply to you:

- a. Is a person who resides in an approved dwelling on Perpetual Lease as either:
 - i. the holder/owner OR
 - ii. sub-lessee of the lease OR
 - iii. as the owner-occupant of a multiple occupancy OR
 - iv. by way of a current tenancy agreement under the NSW Residential Tenancy Act 1987

AND Has resided on the island for a continuous period of 24 months at time of application. Proof of Tenancy will be required and should be supplied with application. OR
- b. An employee of an Essential Service provider (for more information refer to the Policy) OR
- c. Lord Howe Island Board employees other than a person described in a) (for more information refer to the Policy) OR
- d. A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. Application demonstrates that there is no viable alternative to the importation and use of a vehicle as attached. OR
- e. A person as per a) under Private Use Eligibility who:
 - i. has no existing approval for a commercial vehicle which is suitable for private use

- ii. Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.

Commercial Note: Refer section 7.1.2 and 8.2 the policy.

A person who meets the private use eligibility (also complete private use section a – e above), who operates an approved business on the island and can demonstrate to the satisfaction of the Board that the business requires the use of a vehicle and that the business need cannot be met from the existing island fleet.

Name of approved business:.....

Essential Note: Refer section 7.1.3 and 8.4 the policy.

Name of essential service provider as per Schedule of Essential Services in the policy:

Hire Note: Refer section 7.1.4, 7.5 and 8.5 the policy.

Name of business licence and approved hire car permit holder:

VEHICLE TO BE IMPORTED

Make: Model:

Engine Capacity: No. of Cylinders:

Body Type (e.g. Hatch, Station wagon, Utility):

Unladen Weight (in Tonnes or Kgs):

4WD or 2WD: Registration No.:

Fuel Type (e.g. Petrol, Diesel, Electric):

Dimensions of vehicle: See maximum vehicle size limits in section 3.7 and 3.8 of this policy.

Length (mm): Width (mm): Height (mm):

Is this vehicle a preferred vehicle as per section 4.1 of the Vehicle, Importation, Transfer and Use policy?

- a) A motor vehicle meeting the requirements as per 4.1 (a) of the policy?
- b) Electric Vehicle meeting the requirements as per 4.1 (b) of the policy?
- c) Motor Scooters meeting the requirements as per 4.1 (c) of the policy?

If the vehicle applied for meets the Board’s preferred vehicle criteria, the Board will give preference, by way of incentives, to the importation and use of small and low impact vehicles (see section 5.1 (a) and 6 (a) of the policy). To receive the incentives, please provide a copy of your vehicle’s registration paper and wharfage invoice on importation of your vehicle and a short letter or email requesting reimbursement of the incentives.

Is this vehicle electric or hybrid?

Yes No

Is a Bull bars/Roo bars/Nudge bar fitted? Refer section 3.12 of the policy and demonstrate that the winch is essential to the vehicle’s use.

Yes No

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Do you own or have use of other vehicles on the island?

Yes No

NOTE: 'Vehicle' includes a road registered/registrable motorcycle or scooter.

If yes, please specify:

MAKE	MODEL	REGISTRATION	APPROVED USE e.g. Private, Commercial, Essential

Will the vehicle to be imported replace one of the above vehicles?

Yes No

If yes, which vehicle is being replaced?

NOTE: Unless otherwise approved by the Board, the vehicle being replaced must be removed from the island within the timeframe specified by the Board.

Please provide a detailed justification of why you require a vehicle and the specific vehicle applied for:

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NOTE: Please attach an additional sheet if space is inadequate.

Please state whether you considered alternatives to the vehicle selected, including an alternative form of transport:

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NOTE: Please attach an additional sheet if space is inadequate.

APPLICANT'S DECLARATION

I being the applicant, hereby declare that the information provided above is true and accurate and make application to import a vehicle in accordance with the above.

Signature: Date:

17 Attachment: Application to Transfer a Vehicle

LORD HOWE ISLAND BOARD

APPLICATION TO TRANSFER A VEHICLE

Under Clauses 84 and 87 of the *Lord Howe Island Regulation 2014*

Approval to transfer and use a vehicle on the island will be subject to the provisions of the *Lord Howe Island Board Vehicle Importation, Transfer and Use Policy* (the Policy). Please read this policy prior to completing this form. No entitlement to transfer or use a vehicle is provided for under this policy. All applications to transfer and use a vehicle will need to demonstrate a genuine need for the transfer and use of a vehicle, and for the vehicle selected. The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle.

Please note that a non-refundable application fee (as listed in the Board's annual fees and charges) applies to the transfer of a motor vehicle.

NOTE: In the case of a commercial vehicle, including a private vehicle which is transferred as a commercial vehicle, the Board will require the transferor and the proposed transferee to provide a Statutory Declaration stating that the proposed price to be paid between those parties regarding the transfer of the vehicle is no greater than current market value of the vehicle, plus freight and wharfage costs. The Board will levy a non-refundable application fee of no greater than 10% of that amount.

APPLICATION FEE

Total fees lodged: Receipt No.: Receiving Officer:

TRANSFEROR DETAILS (Person selling vehicle)

Name:

Email: Phone:

Portion/Lot and Plan/DP Number: Perpetual Lease No:

TRANSFEEE DETAILS (Person buying vehicle)

Name:

Email: Phone:

Portion/Lot and Plan/DP Number: Perpetual Lease No:

Type of Approved Dwelling (house, flat, staff accommodation):

Is this vehicle application for (please select one option):

Private Use Commercial Use Essential Service Hire Use

On what basis are you eligible to apply for the importation and use of a vehicle under the policy? Please complete the Private, Commercial, Essential or Hire section below:

Private Use Note: Refer section 7.1.1 and 8.1 of the policy.

Please indicate which of the following a,b,c,d or e private use descriptions apply to you:

- a. Is a person who resides in an approved dwelling on Perpetual Lease as either:

- i. the holder/owner OR
- ii. sub-lessee of the lease OR
- iii. as the owner-occupant of a multiple occupancy OR
- iv. by way of a current tenancy agreement under the NSW Residential Tenancy Act 1987

AND Has resided on the island for a continuous period of 24 months at time of application. Proof of Tenancy will be required and should be supplied with application. OR

- b. An employee of an Essential Service provider (for more information refer to the Policy) OR
- c. Lord Howe Island Board employees other than a person described in a) (for more information refer to the Policy) OR
- d. A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. Application demonstrates that there is no viable alternative to the importation and use of a vehicle as attached. OR
- e. A person as per a) under Private Use Eligibility who:
 - i. has no existing approval for a commercial vehicle which is suitable for private use
 - ii. Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.

Commercial Note: Refer section 7.1.2 and 8.2 the policy.

A person who meets the private use eligibility (also complete private use section a – e above), who operates an approved business on the island and can demonstrate to the satisfaction of the Board that the business requires the use of a vehicle and that the business need cannot be met from the existing island fleet.

Name of approved business:.....

Essential Note: Refer section 7.1.3 and 8.4 the policy.

Name of essential service provider as per Schedule of Essential Services in the policy:

Hire Note: Refer section 7.1.4, 7.5 and 8.5 the policy.

Name of business licence and approved hire car permit holder:

VEHICLE TO BE IMPORTED

Make: Model:

Engine Capacity: No. of Cylinders:

Body Type (e.g. Hatch, Station wagon, Utility):

Unladen Weight (in Tonnes or Kgs):

4WD or 2WD: Registration No.:

Fuel Type (e.g. Petrol, Diesel, Electric):

Dimensions of vehicle: See maximum vehicle size limits in section 3.7 and 3.8 of this policy.

Length (mm): Width (mm): Height (mm):

Is this vehicle a preferred vehicle as per section 4.1 of the Vehicle, Importation, Transfer and Use policy?

- a) A motor vehicle meeting the requirements as per 4.1 (a) of the policy?
- b) Electric Vehicle meeting the requirements as per 4.1 (b) of the policy?
- c) Motor Scooters meeting the requirements as per 4.1 (c) of the policy?

If the vehicle applied for meets the Board’s preferred vehicle criteria, the Board will give preference, by way of incentives, to the importation and use of small and low impact vehicles (see section 5.1 (a) and 6 (a) of the policy). To receive the

incentives, please provide a copy of your vehicle’s registration paper and wharfage invoice on importation of your vehicle and a short letter or email requesting reimbursement of the incentives.

Is this vehicle electric or hybrid?

Yes No

Is a Bull bars/Roo bars/Nudge bar fitted? Refer section 3.12 of the policy and demonstrate the essential use below.

Yes No

.....

Do you own or have use of other vehicles on the island?

Yes No

NOTE: ‘Vehicle’ includes a road registered/registrable motorcycle or scooter.

If yes, please specify:

MAKE	MODEL	REGISTRATION	APPROVED USE e.g. Private, Commercial, Essential

Will the vehicle to be imported replace one of the above vehicles?

Yes No

If yes, which vehicle is being replaced?

NOTE: Unless otherwise approved by the Board, the vehicle being replaced must be removed from the island within the timeframe specified by the Board.

Please provide a detailed justification of why you require a vehicle and the specific vehicle applied for:

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NOTE: Please attach an additional sheet if space is inadequate.

Please state whether you considered alternatives to the vehicle selected, including an alternative form of transport:

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NOTE: Please attach an additional sheet if space is inadequate.

TRANSFEROR'S DECLARATION

I being the transferor, hereby declare that the information provided above is true and accurate and make application to transfer a vehicle in accordance with the above.

Signature: Date:

TRANSFEEE'S DECLARATION

I being the transferee, hereby declare that the information provided above is true and accurate and make application to transfer a vehicle in accordance with the above.

Signature: Date:

Board Meeting: February 2023	Agenda Number: 14.01	Record Number: ED23/417
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Status of public accommodation licence transfer applications

Recommendations

1. **Note** the quarterly report on status of public accommodation transfer applications approved at the December 2022 Board Meeting (Attachment A to this report).

Current position

At the December Board Meeting, the Board approved three (3) public accommodation licence transfer applications as follows:-

- Transfer of two licences from Kevin Wilson (Ocean View Apartments) to Ian Hutton;
- Transfer of four licences from Lisa Makiiti and Rod Oxley (Lagoon Landing) to Kylie Owens and Rahnie Owens (Lagoon Landing);
- Transfer of twelve licences from Diane Owens (Lorhiti) to Diane Owens, Fletcher Owens (Lorhiti) and Jessica Owens.

The Board Members requested that management provide a quarterly report on the status of each of the public accommodation licence transfer applications, including an update on the decommissioning of accommodation units where relevant.

Attachments

Attachment	Title
A	Report – Quarterly - Status of public accommodation licence transfer applications – Closed

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

Board Meeting: February 2023	Agenda Number: 14.02	Record Number: ED23/416
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Current status of public accommodation licence holders

Recommendations

1. **Note** the current register of public accommodation licence holders.

Current position

At the December 2022 Board Meeting the Board requested that management provide a report on the current status of public accommodation licence holders.

Register of current licence holders

Licensee/s	Lodge	Lease No.	Maximum PAX
S & G Krick	Admiralty Apartments Neds Beach	1985.02	4
W & J Shead	Arajilla Retreat	1954.01	22
Gary Payten	Beachcomber Lodge LHI Pty Ltd	1971.11	15
Des, Rodney & Estate of Barry Thompson	Blue Lagoon Lodge	1954.10	32
Lisa Makiiti	Bowker Beach House	2021.05	2
J & H Baillie	Capella Lodge	1959.01	22
J Green	Earls Anchorage	1954.45	20
Julie Brettnall	Ebbtide Apartments	1968.01	9
Valerie Turk	Hideaway Apartments	1954.30	9
T & A Kennedy	Howeana Apartments	1990.06	4
Judith Riddle & Andrew Wilson	Leanda-Lei Pty Ltd	1954.27	40
Fletcher Owens	Lorhiti Apartments	2021.02	8
Jessica Owens	TBA (not operating)	1954.37	2
Kylie & Rahnne Owens	Lagoon Landing	2021.06	4
Brian & Annette Young	Milky Way Villas	1954.02	18
Kevin Wilson	Ocean View Apartments	2022.03	35
Michael Maxwell	Island House	1954.18	8
Dani Rourke	Pinetrees Lodge Pty Ltd	1954.33	75
Gai Wilson	Somerset Apartments	1954.12	49
Barbara Ardill	The Broken Banyan	1954.19	12
Louise Wilson	The Treehouse LHI Pty Ltd	1990.05	2
Sharon & Peter van Gelderen	Waimarie Apartments	2016.06	4
	Unit 2 at Lorhiti - until construction of Diane Owens' own tourist accommodation apartment is complete on Lot 1 of DP1261010. At this time Unit 2 Lorhiti will be decommissioned in accordance with the submitted DA2022.6.1	2021.01	2
Diane Owens			
Ian Hutton	TBA (not operating)	2022.04	2
Total Licences			400

All licences expire on 30/06/2023 and administration will initiate the renewal process over the coming months.

Attachments

Attachment	Title
Nil	

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

Board Meeting: February 2023	Agenda Number: 13.3	Record Number: ED23/17
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Application for consent to transfer by way of sublease a 17% share of PL1954.09 from Jasmine Peace Thompson to Debra Lynn Thompson for a period of 5 years

Recommendations

1. **The Board recommend** to the Minister to approve the transfer of a 17% share of PL1954.09 by way of sublease from Jasmine Peace Thompson to Debra Lynn Thompson for a period of 5 years to 13 December 2027

Current position

Under the *Lord Howe Island Act 1953* (the Act), the holder of a Perpetual Lease must reside on their lease.

Section 21(7) states:

Subject to this subsection and subsections (7A) and (7B), a condition of residence on the lease shall attach thereto in perpetuity, and shall be performed by the holder or sublessee thereof for the time being, and residence shall commence within six months after the granting of the application or such further period as the Minister on the recommendation of the Board may approve....

Where a leaseholder does not reside on their lease they can apply for the Board to consider making a recommendation to the Minister to grant consent to sublease. Usually the request to sublease will be made for an Islander to take up the sublease, therefore upholding the requirement under the Act for an Islander to reside on the respective Perpetual lease.

Section 23(2) of the Act sets out how the Board must receive the application to transfer a lease and the requirement for Minister's consent to sub-lease:

- (2) *Application for consent to transfer, except:*
 - (a) *by way of discharge of mortgage, or*
 - (b) *to the Board by way of mortgage as security for an advance under s12(A),*

Or to sublet a lease under this Act shall be made in the prescribed form and manner, and such transfer or subletting shall not be effected, or if effected shall not be valid, unless the consent thereto of the Minister, and in the case of a transfer (not being a transfer by way of mortgage) or subletting to a person other than an Islander, the approval of the Governor, has been obtained.

Page 1 of 3

(3) *The Minister may consent to the transfer (not being a transfer referred to in paragraph (a) or (b) of subsection (2)) or subletting if the Board so recommends, or the Minister may at his or her discretion refuse consent.*

The Board has absolute discretion to recommend the granting or refusal of this application. to the Minister. However, in doing so, the Board must give consideration to the Islander status of the person it is proposed to sublet to:

(4) *The Board shall have an absolute discretion to recommend the granting or refusal of any application for consent under this section, but shall not recommend the granting of consent to a transfer or subletting to any person other than an Islander unless satisfied that there is no Islander who desires and is in a position to take transfer or sublease, as the case may be, of the lease.*

The Act does not give any further guidance as to what matters the Board should take into consideration when determining to accept or reject an application. The Board's Transfer of Perpetual Lease Policy adopted in March 2014 does not give any specific policy guidance other than to state in 6.1:

"The Board will consider the application in accordance with the Act"

It is at the Minister's discretion to accept or reject an application to sublease. If at any point the Minister declines to approve a sublet application, the requirement to reside on the lease remains with the leaseholder. A failure to reside on the lease may render the lease liable to forfeiture.

The application for a sublease must be made in the prescribed manner as set out in the regulations – specifically Form 5.

Background

PL1954.09, being Lot 199 of DP39755, is held by the following leaseholders as tenants in common:-

- Debra Lynn Thompson – 33% share;
- Nathan John Chase Thompson – 33% share;
- Blake Desmond Thompson – 17% share;
- Jasmine Peace Thompson – 17% share.

Debra Lynn Thompson and Blake Desmond Thompson currently reside on their perpetual lease PL1954.09.

Nathan John Chase Thompson has an approved suspension of residency under section 21(7) of the LHI Act for a period of 3 years to 11 May 2025.

Jasmine Peace Thompson has stated her reason for subleasing her 17% share of PL1954.09 on the Form 5, Schedule 2.2 as follows:-

- *I am currently living off the island to further my career.*

The proposed transfer of Ms Thompson's share of PL1954.09 by way of sublease is consistent with the Act:-

Page 2 of 3

- The application is made in the prescribed manner.
- Debra Lynn Thompson satisfies the definition of an Islander under the LHI Act, and currently resides on the said lease, PL1954.09;
- By subleasing to her mother, Ms Thompson is able to satisfy the requirement that an Islander resides on her lease until she returns to the island.

There is otherwise no known objection to approval of this application

Attachments

Attachment	Title
Nil	

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer

Board Meeting: February 2023	Agenda Number: 14.04	Record Number: ED22/7856
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Creation of a Special Lease – Mavis Fitzgerald

Recommendations

1. **The Board to recommend** to the Minister that a Special Lease over part Portion 110, Plan LHI 74 be granted to Mavis Fitzgerald
2. **That the** lease conditions be as set out in Attachment A;
3. **That the** expiry date for the Special Lease be set in line with the expiry of all other special leases 31 December 2023;
4. **Following adoption of Recommendation 1, the Board to recommend** to the Minister that the Special Lease over part Portion 110, LHI 74 be transferred from Mavis Fitzgerald to her daughter Sharon van Gelderen and son Ian James Fitzgerald as equal shares tenants in common

Current position

Recommendation 9 of the final *Handley Review of Land Allocation on Lord Howe Island* (“the Handley Review”) stated that:

“There should be no more Category B allotments, and the 3 existing ones should revert to special lease land where substantial restitution by both parties is practicable and the former leaseholder agrees. Where restitution is not practicable or the former leaseholder does not agree, the allotment or allotments should be allocated by a revised ballot process open to Islanders deemed eligible.”

This recommendation was supported with amendment by Government as follows:

Given the extent of community concern with how the Category B process was instigated, the Government supports the three existing category B lots reverting to their original lease type if restitution can be achieved within a fixed timeframe (3 months). This process should be supported by an independent mediator. However, if restitution is not possible, the allotments should remain as Category B and be allocated via a new ballot process with revised criteria.

At the September 2018 Board meeting the Board resolved to accept the mediated outcomes and restore the following special leases to the Thompson Brothers, Payten/Turner and Fitzgerald. Since this time, the impacted lease holders have continued to occupy the leases free of any lease fees, and although inconvenienced by uncertainty of tenure, they have not been materially disadvantaged by the delay in restitution of these leases.

The Board now seeks to reinstate the special lease to Mavis Fitzgerald.

Background

At the time of the September 2018 Board Meeting, the zoning of Portion 110 (Environmental) prohibited the use of the land for agricultural purposes. As such, a special lease could not be granted until a rezoning process was completed.

In May 2019, a planning proposal was submitted to NSW Planning, detailing a number of housekeeping amendments to the Lord Howe Island Local Environment Plan (LEP) and including the re-zoning of Portion 110 from Environmental Protection to Rural.

After completion of the Gateway assessment process, including community consultation, NSW Planning approved the amendments.

A subdivision and registration of a new plan will now be undertaken to create the special lease lot and to rectify boundary and identification anomalies affecting portion 110, refer figure 1 of Attachment A.

Creation of a Special Lease to Fitzgerald

Section 22 of the *Lord Howe Island Act (1953)* (the Act) requires that a Special Lease holder meet the following criteria:

- be granted to a holder of a Perpetual lease.
- be made in the prescribed form by submitting Form 3.
- be used for cultivation or grazing or cultivation and grazing or for such other purposes as the Minister on the recommendation of the Board may approve.

Mavis Fitzgerald is the holder of Perpetual Lease 2016.05 and has submitted the prescribed paperwork (Form 3) and a property management plan. Ms Fitzgerald meets the criteria for holding a special lease.

Transfer of Special Lease to Fitzgerald and van Gelderen

Ms Fitzgerald has also submitted a Form 5 – Application to transfer the new special lease to her daughter, Sharon van Gelderen and son, Ian Fitzgerald as equal shares tenants in common.

Mrs Sharon van Gelderen and Ian Fitzgerald also meet the criteria for holding a special lease:-

- Sharon van Gelderen is the holder of Perpetual Lease 2016.06;
- Ian Fitzgerald is the holder of Perpetual Lease 1990.02;
- Sharon van Gelderen and Ian Fitzgerald have applied for a special lease on the prescribed Form 3;
- Sharon van Gelderen and Ian Fitzgerald have submitted a management plan proposing to use the land for grazing.

Conclusion

This paper proposes that the Board recommend to the Minister that a Special Lease over part portion 110 of LHI 74 be granted to Mavis Fitzgerald subject to the lease conditions and management plan set out in Attachment A. The proposed expiry date for this lease is 31 December 2023, to coincide with the expiry date of other special leases.

Following the Board's adoption of Recommendation 1 proposes the Board recommend to the Minister that a Special Lease over part portion 110 of LHI 74 be transferred from Mavis Fitzgerald to her children, Sharon van Gelderen and Ian Fitzgerald as equal shares tenants in common.

Attachments

Attachment	Title
A	Special Lease Conditions – Mavis Grace Fitzgerald - Open

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Paula Pollock	Manager Environment and Community Services

Board Meeting: February 2023 Agenda Number: 13.04 Rec No: ED22/7856.01 OPEN Attachment: A

SPECIAL LEASE – PART PORTION 110, PLAN LHI 74



Figure 1: Zoning Map dated 4 February 2022, Part Portion 110, Zoned 1 Rural, currently has no portion/lot number assigned, rather Portion 110 now only comprises of Zone 7, Environmental Protection.

Legend

- | | |
|--------------------------------------|---|
| Zones | General |
| Zone No. 1 - Rural | Land Referred to in Clause 37 |
| Zone No. 2 - Settlement | Foreshore Building Line |
| Zone No. 5 - Special Uses | Cadastral |
| Zone No. 6 - Recreation | Cadastral 29/07/2021 © Spatial Services |
| Zone No. 7 - Environment Protection | |
| Zone No. 8 - Permanent Park Preserve | |
| Zone No. 9 - Marine Park | |

 Planning, Industry & Environment
Environmental Planning and Assessment Act 1979

Lord Howe Island Local Environmental Plan 2010

Sheet 2 of 4 Sheets

PROPERTY MANAGEMENT PLAN

Special Lease No: To be confirmed
Portion/Lot No: Part Portion 110

Board Meeting: February 2023 Agenda Number: 13.04 Rec No: ED22/7856.01 OPEN Attachment: A

Leaseholder: **Mavis Grace Fitzgerald**

Site description	Cleared pasture, zoned 1 – Rural
Existing and proposed land use	Agriculture, grazing sheep and cattle
Management priorities and responsibilities and timeframes.	<ul style="list-style-type: none"> • Maintain lease in accordance with LHIB lease conditions, particularly for the control of pests, declared noxious weeds and other weeds identified under the LHI Weed Management Strategy 2016 to 2024 • Implement appropriate livestock management practices
Issues/Threats	Invasive weed invasion

LORD HOWE ISLAND BOARD
SPECIAL LEASE CONDITIONS

The Lease conditions set out below shall apply to all Special Leases entered into under Section 22 of the Lord Howe Island Act 1953.

1. In these conditions the "Board" means the Lord Howe Island Board ; the Minister means the Minister administering the Lord Howe Island Act 1953 ; the Act means the Lord Howe Island Act 1953.
2. The rent for each year shall be paid in advance to the Board, on or before the 31st December of the year preceding that for which it is due.
3. The land leased is inclusive of any roads within its boundaries.
4. The land leased shall be used only for the purposes for which the lease is granted.
5. The lessee shall, within one (1) year from the date of notification in the Gazette of the granting of the lease, unless otherwise stated in the Property Management Plan (PMP), enclose the land leased, either separately or conjointly with other lands held in the same interest, with a substantial fence, and shall maintain such fence in efficient repair throughout the currency of the lease, unless it can be shown to the satisfaction of the Board that the requirements of adequate conservation and protection of timber cover, scrub and palms, or the regeneration thereof, are satisfactorily provided for on the land leased. The lessee shall when fencing the land leased and at any future time when required by the Board, provide and subsequently maintain convenient gates of access for the use of persons authorized to obtain timber or other material from such land. Unless otherwise stated in the PMP gates shall be erected on roads within the land leased when and where directed by the Board for public use and together with approaches thereto shall be maintained in good order to the satisfaction of the Board. A turnstile shall be erected by the lessee at any point where a fence (constructed or to be constructed) crosses a pedestrian pathway on or within the boundaries of the land leased. Such turnstile shall be erected and maintained to the satisfaction of the Board.
6. The lessee shall hold and use the land leased bona fide in his or her own interest and shall not transfer (except by way of release of mortgage) sublet or otherwise in any way deal with the lease or any part thereof except with the consent in writing of the Minister first obtained.
7. Any improvements to the property of the Crown upon the land leased shall be kept in good repair throughout the currency of the lease, reasonable wear and tear excepted.
8. Rights conferred upon the public in terms of any reservation in regard to the land leased are reserved.

Board Meeting: February 2023 Agenda Number: 13.04 Rec No: ED22/7856.01 OPEN Attachment: A

9. The public shall have unrestricted right to the use of any defined or designed road, track or pedestrian pathway within the land leased and such use shall not be interfered with by the lessee.

10. The lessee shall throughout the currency of the lease effectually destroy or cause to be destroyed all noxious and environmental weeds as may from time to time be required to be destroyed by direction of the Board.

11. No building or structure shall be erected, nor shall any building or structure be altered, without the approval of the Board first obtained. All buildings or structures upon the land leased shall be maintained in good order and condition throughout the currency of the lease to the satisfaction of the Board.

12. No structure, except such gates as may be authorized, shall be erected or work undertaken on public roads within the land leased. Such roads shall not be cultivated or used for any purpose not compatible with the use of the road by the Public

13. The right is reserved to the Board or any body or person authorized by it to enter upon the land leased with any material and equipment at any time and from time to time for the purpose of constructing and maintaining authorized works without interference or annoyance by the lessee.

14. The lessee shall not erect or effect within the site of any defined or designated easement any buildings, excavations or other works which shall interfere with the erection and maintenance of works envisaged in accordance with the purpose of such easement and compatible with the object thereof.

15. The lessee shall indemnify and keep indemnified the Crown from and against all actions, suits, claims and demands of whatsoever nature and all costs, charges and expenses which may be brought against him/her which he/she may incur in respect of any accident or injury to any person or property which may arise out of his/her negligence in relation to the construction and maintenance of authorized works, except where the conditions of this lease shall in all respects have been observed by the lessee or where any such accident or injury shall arise from an act or thing which he may be licensed or compelled to do thereunder.

16. No bush, timber, trees, palms or vegetative material shall be interfered with by ring barking, cutting or otherwise cleared, unless under authority of the Board.

17. Notwithstanding the provisions of any other condition attached to the lease the lessee shall, unless authorized or otherwise directed, carefully preserve all bush, timber, trees, palms and vegetative material (excepting environmental weeds) on the land leased, and shall, if grazing of stock is conducted on the land leased (as provided in the PMP) within one (1) year from the date of notification in the Gazette of the granting of the lease or within such further period and under such conditions as may be approved by the Board, erect a substantial stock-proof fence so as to separate the

Board Meeting: February 2023 Agenda Number: 13.04 Rec No: ED22/7856.01 OPEN Attachment: A

cleared part or parts from the remainder of the land leased. Such fence shall be erected and maintained to the satisfaction of the Board and the lessee shall take all reasonable steps to prevent stock gaining access to the part or parts of the land leased which are covered by bush, timber, trees and palms.

18. No burning off shall be carried out except with the consent of and subject to such conditions as may be imposed by the Board.

19. The lessee shall not overstock the land leased either wholly or in part, the decision as to whether overstocking is occurring rests with the Board. Should the Board deem it necessary, at any time during the currency of this lease, to maintenance of pasture or preservation of the fertility of such land or for the prevention of erosion thereon, it may determine the maximum number of stock that may be pastured on such land or any specified part of such land and the lessee shall not permit this number to be exceeded.

20. The lessee shall, if and when directed by the Board, adopt and maintain on the land leased or any part or parts of it, such agricultural or pastoral practices and/or install such soil erosion control structures as it may specify in the interests of soil conservation and the mitigation or prevention of erosion.

21. The lessee shall refrain from agricultural and/or pastoral practices on the land leased or any part or parts of it, if and when directed by the Board in the interests of soil conservation and the mitigation or prevention of erosion.

22. The lessee shall at all times manage and use the land in accordance with the Property Management Plan for the leased area, as attached to this lease.

23. All minerals which the land contains are reserved and excepted to the Crown and such minerals and any stone, gravel, clay, shells or other material shall not be removed from the land leased except by the holder of a permit issued under authority of the Minister but the lessee may, with the approval of the Board, take from the land such stone, gravel, clay, shells or other material, for building or other purposes upon such land as may be required by him as lessee.

24. The right of entry by Commonwealth Authorities, their agents, servants, workmen and invitees at all times by day or by night to go, return, pass and repass on foot along over and upon any part of the land leased on which an electricity transmission line is now or may be constructed, is reserved for all purposes connected with effecting any necessary repair and maintenance for supply of electricity.

25. The right is reserved to the Board or persons authorized by the Board to enter upon the land leased for the purpose of carrying out any work on the area covered by the reservation for access, shelter, foreshore improvement and re-vegetation without interference or annoyance by the lessee.

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26. The lessee shall not conduct upon the land leased any trade or activity which in the opinion of the Board is offensive or which may endanger the public health.

27. Any of these conditions may, on application by the lessee in the prescribed manner, and on the recommendation of the Board, be varied, modified or revoked by the Minister.

28. A material breach of any of these conditions which is not remedied on reasonable notice will render the lease liable to forfeiture.