

LORD HOWE ISLAND BOARD

BOARD MEETING AGENDA

MEETING DATE:	MEETING LOCATION:	MEETING TIME:
Monday 7 December 2020	Public Hall, Lord Howe Island	Planning Session 9:00 am to 1:00 pm
Monday 7 December 2020	Public Hall, Lord Howe Island	Closed Session: 1:30 pm to 4:30 pm
Tuesday 8 December 2020	Public Hall, Lord Howe Island	Open Session: 9:00 am to 12:30 pm

Preparer	Presenter	ITEM		OPEN (O)	CLOSED (C)	ACTION Note/Decide
na	AL	1	CONFLICT OF INTEREST DECLARATIONS			
LS	PA	2	MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION	O		Note
LS	PA	3	OUT OF SESSION MATTERS – STATUS REPORT	O		Note
JvG	PA	4	ACTIONS FROM PREVIOUS MEETINGS – STATUS REPORT	O		Note
PA	PA	5	CHIEF EXECUTIVE OFFICER’S REPORT	O		Note
LS	PA	6	MOTOR VEHICLE IMPORTATION OR TRANSFER – STATUS REPORT	O		Note
		7	BUDGET ADJUSTMENTS			
JvG	JvG	(i)	Finance Report	O		Note
		8	DEVELOPMENT APPLICATIONS			
LS	JS	(i)	Owner Consent approved under Delegated Authority	O		Note
LS	JS	(ii)	DAs Determined Under Delegated Authority	O		Note
AAP	AAP	(iii)	DA 2020.12 – Three lot subdivision, Lot 285 DP 48687 L & E Wilson	O		Decide
AAP	AAP	(iv)	OC2020.10 and DA2020.13 – Alterations and Additions to Existing Garage to create a Studio – Chris and Rosalind Wade	O		Decide
		9	POLICY AND STRATEGY			
		(i)	Vehicle Importation, Transfer and Use Policy - Review	O		Decide
		(ii)	Electoral Districts Redistribution Report	O		Decide

Preparer	Presenter	ITEM		OPEN (O)	CLOSED (C)	ACTION Note/Decide
		10	LEASING AND LAND ADMINISTRATION			
JS	JS	(i)	Lord Howe Island Land Allocation Review – Implementation Update	O		Note
JS	JS	(ii)	Creation of Special Lease – Therese Turner – December 2020	O		Decide
JS	JS	(iii)	Creation of Special Lease – Thornleigh - Robert Jeremy – December 2020 – Open	O		Decide
JS	JS	(iv)	Transfer of Perpetual Lease 1954.31 to Branko Pavlica	O		Decide
JS	JS	(v)	Update on Category B Special Lease Restitution	O		Note
JS	JS	(vi)	Modification of Perpetual Lease Conditions for 2016.03 to provide easement access	O		Decide
						Decide
		11	GOVERNANCE			
JvG	JvG	(i)	Audit and Risk Committee Report	O	C	Note
PA	PA	(ii)	Operations Plan Mid-term Review	O		Note
		12	OPERATIONS AND SERVICES			
DM	DM	(i)	Biosecurity Update			
		13	WH&S AND PUBLIC RISK MANAGEMENT			
JSp	PA	(i)	WH&S and Public Risk Management Update	O	C	Note
		14	INTERVIEWS			
			LHI Tourism Association			
		15	GENERAL BUSINESS AND QUESTIONS ON NOTICE			

Board Meeting: December 2020	Agenda Number: 2	Record: ED20/10300
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Adoption of Minutes of Previous Meeting.

RECOMMENDATION

Submitted for the Board's information.

BACKGROUND

The adopted process for distributing Board minutes from the previous meeting is:

- Draft minutes will be produced within five working days of a Board meeting, and posted 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 on a pro forma document provided by the Administration no later than seven working days after date of posting.
- Seven working days after date of posting, 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.

CURRENT POSITION

Minutes of the September 2020 meeting were distributed to each Board member and have been endorsed through the above process.

A copy of the endorsed Minutes is attached.

RECOMMENDATION

Submitted for the Board's information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Attachment:

Attachment A: ED20/10300.01 – Minutes – Board Meeting – September 2020 – Open

Board Meeting: December 2020	Agenda Number: 3	Record: ED20/10302
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Out of Session Matters Status Report

RECOMMENDATION

Submitted for the Board's information.

CURRENT POSITION

Since the last Board Meeting in September 2020, one matter was considered out of session.

RECOMMENDATION

Submitted for the Board's information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Attachment:

Attachment A: Out of Session Result Summary Sheet – Open

OUT OF SESSION RESULT SUMMARY SHEET

OPEN SESSION				
No.	Date	Application	Vote	Comment
September 2020				
	Nil			
October 2020				
	Nil			
November 2020				
1	4/11/2020	Planning Assessment Report – Christ Church Wastewater – DA2020.07 and OC2020.06	Supported: GC, DK, RP, TT, CW, RP No response MR and AL	RP requested condition 8c be reworded – Result summary approved 17/11/2020

Board Meeting: December 2020	Agenda Item: 4	Record Number: ED20/10248
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Actions from Previous Meeting – Status Report

RECOMMENDATION

Submitted for the Board's information.

BACKGROUND

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.

CURRENT POSITION

A list of actions from decisions of the September 2020 Board meeting, and previous meetings, is attached for the Board's information.

RECOMMENDATION

Submitted for the Board's information.

Prepared: John van Gaalen, Manager Business and Corporate Services

Endorsed: Peter Adams, Chief Executive Officer

Attachments:

Attachment A (included): Action Sheet from the September 2020 Board Meeting and Previous Meetings

LORD HOWE ISLAND BOARD

Action Sheet from September 2020 Board Meeting and Previous Meetings

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
7 (iii) March 2017	OC2017-07 Shearwater Cottage (Owens)	Complete a market demand study on staff and residential accommodation on behalf of the Board.	December 2021	MECS	Proposed to form part of greater LEP Phase 2	
10 (iv) March 2017	Review of Boatshed Foreshore Encroachments	<ol style="list-style-type: none"> 1. Review and adjust rentals where there has been, or will be, an approved increase in the footprint area of fixed improvements. 2. Follow up anomalies identified in the assessment. 	<p>Ongoing</p> <p>October 2018</p>	<p>MECS/MBCS</p> <p>MECS</p>	Project on hold until resources become available.	
8 (i) May 2018	Development of a 10- Year Community Strategic Plan	Plan to be completed in April 2019 in order to inform the FY 2019/20 budget.	April 2019	MECS	Ongoing – staff resource currently allocated to Biosecurity.	
3 September 2018	Actions from Previous Meetings	Prepare an out of session paper on funding options and reprioritisation options after PA has met with the planning consultants.	October 2018	CEO	Funding not available from LEP planning review fund. Stage 1 Gateway approval achieved. Exhibition and referral process to begin following Gateway determination. Stage 2 LEP review is a major exercise requiring significant funds. Stage 2 not yet funded.	

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
12 (iii) September 2018	Airport Runway Feasibility Study	Form a high level working group, comprised of all relevant stakeholders.	April 2020	CEO	Meetings with Transport for NSW held. Review of Feasibility Study with TfNSW and multi-agency Working Group not yet reinstated. New contract to secure weekly flights during COVID-19 negotiated and agreed with NSW Gov funding. Qantas have stood down most staff and NSW Gov staff diverted to COVID and bushfire response. Expected Working Group may be able to be formed in first quarter 2021.	
12 (iv) September 2018	Location of Public Fuel Sales	<ol style="list-style-type: none"> 1. Rezone the land so that it can be operated by a private entity. 2. Submit a DA. 	<p>June 2021</p> <p>June 2021</p>	<p>MECS</p> <p>MIES</p>	<p>Planning Proposal, including rezoning recently placed on exhibition. Will be reported to Board at March 2021 Board meeting for review. Design and work towards DA will resume in coming months. Date extended as progress has been on hold.</p>	
24 September 2019	Motor Vehicle	Review Motor Vehicle Policy – Preferred vehicles	March 2020	CEO	Underway. Report this Meeting	

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
24 September 2019	Policy & Strategy	Timber from Camphor Laurel trees be auctioned to Islanders	January 2020	MECS/ MWH	After camphors removed. Delay due to Uesi & COVID travel restrictions.	
24 September 2019	Land Administration	Review of Suspension of Residency Policy	November 2019	MECS	In progress.	
9 (i) 10 December 2019	Policy & Strategy Biosecurity	The ECS team to prioritise the seeking of external funding to cover biosecurity costs to LHI.	June 2020	MECS	Biosecurity funding proposal submitted to Treasury. Outcome not known. Funding request submitted to Environmental Trust – outcome not known. Discussion initiated with Commonwealth.	
9 (ii) 10 December 2019	Policy & Strategy Cities Power Partnership	Report be prepared nominating the 5 pledges selected and identifying how delivery of these pledges would be resourced.	March 2020	MECS	Not yet commenced. Low priority project.	
9 (iii) 10 December 2019	Policy & Strategy Captive Management Facility (CMF)	<ul style="list-style-type: none"> ➤ Leave the CMF temporarily in place and implement an annual maintenance program ➤ Release an Expression of Interest to the LHI community to garner interest in the use of the CMF / site in its current or modified form. ➤ Further investigate other reuses described in Options 1 and 2 ➤ Have A Status Report at the March 2020 Board meeting 	December 2020	MECS	Business Paper submitted to December Board Meeting	
23 Sept 2019 & 9 (v) 10 Dec 2019	Aged Care	<ul style="list-style-type: none"> ➤ An Issues Paper be prepared by January 2020 to enable the taskforce to meet before the next Board meeting in March 2020 ➤ An on-island aged-care working group be established to inform the mainland taskforce. 	May 2020	CEO	Working group not progressed because opportunities have emerged and Chair role in gov has changed. Liaison with Adventist Care underway as proposed home care services provider. Progress	

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
					being made on aged care needs and provision of services.	
10 (i) 10 December 2019	Leasing & Land Administration Land Allocation Review	The Chair write to the Minister asking that the required legislative changes be expedited.	April 2020	Chair	Not yet undertaken. Changes in staff and crisis across NSW has put legislative changes on hold. Process being discussed with Government currently re Act & Reg.	
10 December 2019	Rodent Eradication Project – Budget Shortfall Update	<ul style="list-style-type: none"> ➤ Put Project Management protocols into place ➤ Consider options on how to fund shortfall ➤ Support funding applications to various outside funding bodies 	June 2020	CEO	Funding proposals completed. Some proposals progressing to Treasury. Related ET grants being requested. Some FAME funding achieved.	
12 (ii) 29 April 2020	Revegetation of Blackburn Island	<ul style="list-style-type: none"> ➤ Provide an acknowledgement that there has been work done and that mistakes were made regarding the timing, so that people have some confidence, in that lessons have been learned and things will improve from here on. 	May 2020	MECS/ MEWH	Public acknowledgement completed.	June 2020
10 (i) May 2020	Surrender of Perpetual Lease 2015.02 and the creation of two new Perpetual leases over Lot 1 and PT2 respectively DP1261010	<ul style="list-style-type: none"> ➤ The Board recommend to the Minister to accept transfer of a portion Lot 2 in DP1261010 in Perpetual Lease 2015.02 from Dianne Ellen Owens to Fletcher Chase Owens. ➤ The Board recommend to the Minister to accept application to surrender Perpetual Lease 2015.02 as requested by the current lease holder Di Owens. ➤ The Board recommend to the Minister to grant a lease in perpetuity for the purpose of a residence over Lot 1 DP1261010 to Dianne Owens. The terms of the lease are to be as set out in Attachment B. ➤ The Board recommend to the Minister to grant a lease in perpetuity for the purpose of a residence over Lot 2 DP1261010 to Fletcher 	June 2020	MECS	Ministerial briefing notes requesting transfer to be prepared and submitted.	October 2020

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
		<p>Owens the terms of the lease are to be set out in Attachment C.</p> <ul style="list-style-type: none"> ➤ Prior to the submission of the above recommendations to the Minister the prospective lease holders of Lot 1 and Lot 2 Applicants must evidence to the satisfaction of the Board Administration of a letter of agreement between Lot 1 and Lot 2 detailing obligations and liabilities for the maintenance of the joint waste water and treatment system. 				
15 (ii) May 2020	General Business	<ul style="list-style-type: none"> ➤ Administration staff prepare a list of priority projects that could be used for any grant opportunities as they arise and provide the list to the Board for consideration and confirmation. 	December 2020	CEO	Roadwork projects identified. Other projects understood. Consolidated list not commenced.	January 2020

Note: Action Items submitted to a Board meeting showing an 'Actual Completion Date' entered, are removed from the following Board Meeting Action List to be concise and ensure clarity for ease of review.

Infrastructure and Engineering Services (IES) Report

September to November 2020

Roads, parks and visitor facilities

- Maintenance continues to public areas, parks and gardens to achieve and maintain a high standard of presentation for reopening of the Island.
- Pothole road repairs are being carried out weekly.
- 6 tonnes (6 bulker bags) of bio blend cold mix used for road repairs has been found to be defective. Enquiries with the supplier found there had been an error in the product formula which causes a soft and sticky product. The supplier has replaced the product with a satisfactory batch at no cost to the Board. The supplier has advised that the defective product is effective however curing time is significantly longer than normal. The works team have been periodically applying sand in affected areas to assist curing times and continues to monitor the areas where the product has been used. Further application of the defective product is on hold, pending advice on whether it can be modified for regular use.
- Work is underway developing a scope of works for a road remediation program. This will utilise Roads to Recovery funding as well as Board funds to patch sections of road which are in poor conditions. Various delivery models are being assessed.

Marine and coastal

- A fender was repaired on the jetty during October, after it sustained damage while the Island Trader was berthing.
- Jetty stairs and boat ramp pressure cleaned in November.
- Repairs to the jetty landing (which have been on hold due to COVID-19) are booked for end of November.

General maintenance, operations and mechanical

- Replaced timber stairs beach at Neds Beach.
- New picnic tables constructed and installed at North Bay and outside the Museum.
- Building repairs to nurses' flats, hospital, jetty shed, public toilets, Board houses.
- New headstone slab at the cemetery.
- Concrete underpinning works to foreshore boat shed.
- Remedial works after small fire at hospital.
- Mechanical programmed and breakdown maintenance and workshop services continue as usual.
- Crane Safe inspection completed on Kobelco mobile crane.
- Works staff receiving training to attain forklift licence, crane licence, dogman licence, white card construction induction and first aid certificates. Training has utilised shared opportunities with SES and Marine Rescue NSW.
- The Board ran a tender process to seek cleaning services for Board buildings. The 2 year cleaning contract was awarded to two local businesses following a competitive selection process.
- LHIB staff continue to monitor mosquito larvae species as per the Lord Howe Island Mosquito Surveillance and Vector Monitoring Programme. This programme is part of a

National scheme run by the Commonwealth Department of Agriculture, Water and the Environment.

Electrical

- All programmed maintenance and safety checks completed.
- Electrical service rules updated and published on LHIB web site.
- Energy demand for the reporting period (1/9/20 to 23/11/20) was 421 000 kWh.
- Fuel consumption for this reporting period was 100 300 litres.
- Fuel energy efficiency for this reporting period was 4.19 kWh/L.
- There are currently 294 customers connected to the electrical supply system, with an increase of 2 new customers for the reporting period.
- There were 4 planned supply interruptions to the distribution system during the period. These affected all customers and varied in duration from 30 – 90 minutes. These interruptions allowed the connection and commissioning of the new BESS (battery energy storage system). As a result of these connection and commissioning works electrical supply to the island was generated for a period of 10 days by the standby generator located in the southern quarry area of the island. A “planned supply interruption” is defined as all affected customers being given at least 4 business days’ notice prior to the planned interruption.
- There was 1 unplanned supply interruption to the distribution system during the period. This resulted in a loss of supply to all customers for approximately 45 minutes. The interruption was the result of a faulty emergency stop switch on the standby generator.
- The Board electrical team has been closely involved with the commissioning of the renewable energy system and has used this opportunity to become familiar with the operation of the system. The team has also been monitoring system performance and working with the contractor Photon Energy to address any minor problems with operation.
- Since the commissioning of some of the solar energy system on 4/11/2020, fuel consumption figures are averaging around 850 litres of fuel per day. This represents a daily reduction of around 500 litres per day compared to pre-solar levels. Additionally the total daily engine run hours have fallen from around 33 hours to 18 hours. Both fuel consumption and engine run hour figures are expected to reduce further once all solar panels are installed and commissioned.

Airport

- Following design and engineering, an order has been placed for 3 new windsock poles. These will replace the primary windsock on the airport grounds as well as the Windy Point and Blinky dune windsocks. Installation is to occur in early 2021.
- Board staff worked with Marine Rescue NSW, Karera Communications and CASA to support the installation of the Intermediate Hill radio repeater. The radio mast infringes the obstacle limitation surface around the airport, and required assessment by CASA then liaison to devise a suitable obstacle lighting arrangement.
- In October the Board engaged an aviation wildlife specialist to reassess the Lord Howe Island Aerodrome bird risk. As part of this contract, Board staff received training on managing bird hazards at the Aerodrome.
- Aerodrome management has been working closely with the Biosecurity team to improve processes and operations for biosecurity at the Aerodrome.
- An order has been placed to renew the Aerodrome emergency lighting. The existing lights are at end of service life and spare parts are no longer available from the manufacturer. Delivery is expected late 2020 or early 2021.

- A specialist contractor has been engaged to rewrite the Lord Howe Island Aerodrome Manual, as required by changes to federal aviation safety legislation.
- Aerodrome maintenance including mowing, weed control, repainting markings and tarmac repairs continues.

Island Trader

- IES continues to support the Board Biosecurity team in working with Birdon to implement biosecurity initiatives.
- Process has commenced to assess and manage the effect on the shipping services contract of the reduced diesel consumption arising from the solar project. A trigger level in reduction in the volume of diesel purchased by the Board from Birdon will cause a renegotiation of the contract rates for diesel purchased by the Board. The Board is working with Birdon to quantify the effect and explore options for achieving economies or offsets where possible.

Emergency Management

- The LHI Local Emergency Management Committee met on Thursday 12 November 2020. Main points of discussion were the current COVID environment plus updates to the walking track maps. Members are preparing for a full review of the LHI Emergency Plan and associated Consequence Management Guides.
- Annual fire safety checks were carried out by a specialist contractor for all applicable Board buildings and vehicles. The Board facilitated access to this specialist (on a cost basis) for businesses on the island which require fire safety inspections.
- A small fire occurred at the hospital on 28/10/20. The fire occurred in a light fitting on the ceiling and was extinguished by hospital staff.
- Vehicle fire occurred 18/11/20. Fire appliance responded however blaze was extinguished by owner. Cab of truck completely destroyed.
- A new UHF radio has been installed outside front door of hospital to enhance after hours contact with medical staff. This work included removing the old Clear Networks receiver from the aerial pole and replacing with the UHF aerial, via crane and work cage. New instructions have been posted adjacent to UHF hand piece.
- Marine Rescue VHF radio repeater installation on Intermediate Hill completed. All excess material and waste removed via helicopter.
- Visit by Marine Rescue NSW mid-November to assess progress of unit establishment and projects. Deputy Commissioner Alex Barrell and Training Director Chris Butler in attendance.

Waste management facility

- Remaining stockpile of mixed waste from Island Clean-up has been removed.
- Work continuing to remove stockpile of grade 3 waste glass to mainland for disposal.
- Backlog of liquid waste largely removed.
- Changes to service operations to meet COVID-19 safety requirements.
- Preparation of sampling plans and supporting information is underway to extend the scope of the crushed glass resource recovery order/exemption.

COVID-19

- Frequency of cleaning increased to daily for airport terminal and public toilets.
- Changes to operations at the Waste Management Facility to maintain social distancing and other COVID safety measures.
- Hand sanitiser stations and COVID signs deployed as required in public places.
- LHIB workplaces implemented COVID safety plans, with measures including the issue of reusable cloth masks to all staff, room number limits, screens at customer service points, sign-in registers, hand sanitiser and increased cleaning.

Projects

Aviation fuel shed

A building certifier has been engaged. As part of the certification process a fire engineering assessment is required. A fire engineer inspected the site and has produced a draft report. Liaison is underway with the NSW Rural Fire Service to complete the fire assessment required to obtain the construction certificate. This project is delayed due to this fire assessment process. Construction is currently scheduled for early 2021.

Stronger Country Community Fund Grants

Round 1 – Old Powerhouse Site Remediation – SCCF1B-0032

The final variations for this project have been submitted. There was a small amount of funds remaining in this grant. IES explored the possibility of transferring these funds to another SCCF project, but this was not permitted by the funding body, so these funds will be used to purchase picnic tables to be positioned at the Old Powerhouse Site. This will utilise all remaining funds, and the grant will then be finalised and acquitted.

Round 2 – Stevens Reserve Walking Track – SCCF2-0165

The grant only partially covers the estimates gathered in 2017/18. The Significant Native Vegetation and path meandering over private land presents challenges. Further analysis has indicated that the original project scope is not compatible with local planning controls. Work is underway to re-scope the project within planning and funding limitations.

Round 2 – Lord Howe Island Skate Park – SCCF2-0536

This project presents a number of risks in both delivery and budget that require the project scope and costings to be reviewed. The Board is looking forward to meeting with the Skate Park Committee and to utilising the experience of the NSW Government Public Works Department to conduct a Project Health Check. This work is planned to take place in late 2020/early 2021.

Round 2 – Lagoon Foreshore Fitness Trail – SCCF2-0537

Project delivery work is complete. Project close out is underway with the SCCF office. The SCCF office agreed that the small amount of remaining funds from this project would be transferred to the Bowling Club amenities upgrade. This funds transfer met the SCCF requirements for transferring funds between projects from the same round, with similar expenditure schedules. This will utilise all remaining funds, and the grant will then be finalised and acquitted.

Round 2 – Upgrade amenities at Bowling Club – SCCF2-0541

The interior works for the kitchen and amenities upgrade are complete, and the Bowling Club bistro is open for business. The sub-contract arrangement between the Board and Bowling Club allowed for streamlined project delivery by the Bowling Club Committee. Margaret and Grant Devine have led a highly organised effort to see this portion of the work completed in an incredibly challenging logistical environment. Further work is planned to use remaining grant funds to improve the waste water treatment system. This will utilise all remaining funds, and the grant will then be finalised and acquitted.

Round 3 – Upgrade Aquatic Club building and storage and purchase new sailing / water sport equipment – SCCF3-1557

The Board is working to establish a sub-contract arrangement similar to the Bowling Club to allow for delivery of the project by the Aquatic Club Committee.

Round 3 – Community Playground Upgrade – SCCF3-1561

The funding deed has been executed and the first instalment has been received by the Board. The Board is seeking advice from NSW Mid North Coast local councils on the best avenues for streamlined procurement to speed up project delivery.

Round 3 – CBD public amenities and wastewater system – SCCF3-1720

As per the report to the September Board meeting:

The CBD amenities project requires detailed planning and community consultation to ensure the constraints and opportunities of the CBD area are understood to provide additional toilet facilities in the centre of town. That planning phase will influence the scope and ultimately the budget. Given the project is grant funded, budget is currently constrained to the amount provided by SCCF. This will need to be a consideration in planning what can be delivered within the grant timeframe. The Old Powerhouse site has a number of buried cables creating constraints around where construction can occur and there is an existing limitation on the catchment of rainwater collected to support the provision of amenities. Wastewater system capacity and catchment will also influence the design. The project has the opportunity to continue the revitalisation of the CBD area and stimulate economic activity in the town centre.

This significant body of work will need for the decks to be cleared a little of the existing grant reporting and project load, but it is hoped that will occur to commence planning work after Christmas. After planning and design work, development consent will be required before

procurement making the delivery timeframe for this project quite lengthy. Current estimates are that this project will take over 2 years to deliver. Additional project stages may arise from the early planning and consultation work.

Windy Point Coastal Remediation

- Program of sand nourishment works has been developed in consultation with DPIE Coastal Section and LHI Marine Parks. Marine Parks permit has been approved for this work. The desired shape of the beach has been modelled and the required volume of sand calculated.
- IES provided coordination and support for Pinetrees and their contractor to complete removal of the old Pinetrees Boatshed from the top of the dune. Removal of the concrete slab and below ground infrastructure was challenging due to the large amount of concrete, the limited space and the proximity of sensitive habitat. The work was achieved successfully. The hole left by the slab has been filled with sand and Pinetrees will begin landscaping and revegetation works in due course.
- IES is in the process of engaging a contractor to commence the next phase of work; removal of the concrete blocks from the base of the dune. Once this is complete the sand nourishment and removal of sandbag wall will commence.

Hybrid Renewable Energy Project Status Update

The Lord Howe Island Hybrid Renewable Energy Project (HREP) Project Status Report is attached for the information of the Board.

Solid progress has been made during September, October and November despite wet weather. Island-wide shut-downs allowed for the Island electricity network to be isolated from the Powerhouse and powered by the southern stand-by generator on two occasions for a total of 11 days. This allowed for the eastern and central arrays to be connected to the HREP distribution board and to the battery storage system, and for the diesel Powerhouse to also be connected to the battery storage system. Testing was completed and whilst not yet operating as designed (due to being only partially installed), the Island is being powered by solar and battery when solar penetration permits.

The delays in project delivery of the western array have pushed it in to the Christmas holiday period which forces demobilisation of the crew due to a lack of accommodation. Efforts to regain Island accommodation are underway, and remobilisation to the Island is hoped to be complete in early February 2021. Milestone 11, which represents Practical Completion of the solar PV and battery storage system has a contractual completion date of 30 November 2020. That Milestone completion date has been extended due to wet weather until 02 December 2020. Despite this, the western array which will double the solar PV generation capacity of the system is now forecast to be complete by 15 March 2021.

The input of solar and battery to the Island can be monitored by Board staff using the Tesla Powerhub tool. The graphical display of a typical day is shown in Figure 1, with yellow denoting solar PV input to the network, blue showing the battery storage (below the line) or discharge (above the line), and green being the diesel generators carrying the evening load.



Figure 1 – Electricity generation for Lord Howe Island on 11 November 2020 (a typical day)

Value-add initiatives have been included through the course of the project. The first of these was the consolidation of the arrays on to Lot 230 which reduced the overall land area required for the installation. The Valuer General Compensation Determination process has been completed and closed out to the satisfaction of all parties. Initiatives to reduce ongoing maintenance include using pavers to reduce grass growth under the inverters, the intention to allow sheep to graze around the arrays, and future-proofing of the site by installing a pit, conduits and pull lines for the distribution board panel that is reserved for future growth of alternative energy sources on the Island.

In parallel to the Solar PV and battery storage contract, additional quotes will be sought for the composting toilet to be constructed by appropriately qualified builders, and road works will be packaged with other roads projects to create an economy of scale with the aim of attracting competitive pricing with a volume of work. These project elements can be delivered in parallel or after the completion and connection of the western array.

ARENA have been kept apprised of project progress and eagerly anticipate the Knowledge Sharing deliverables that will start to be developed by the Board as we progress towards practical completion and full operation of the system.

Prepared: David Waterhouse, Manger Infrastructure and Engineering Services

Endorsed: Peter Adams, Chief Executive Officer

CEO Board Report

Business and Corporate Services

ISSUE	STATUS	ACTION REQUIRED BY THE BOARD AT THIS MEETING
Actions from Previous Meetings – Status Report	In progress	For the information of the Board. Agenda item 4
CEO Report - BCS	Complete	For the information of the Board. Agenda item 5 Attach B
Financial Report	Complete	For the consideration of the Board. Agenda Item 7 (i)
Audit & Risk Committee Update	Complete	For the information of the Board. Agenda item 11 (i)
Operations Plan Mid-term Update	Complete	For the consideration of the Board. Agenda Item 11 (ii)
WH&S and Public Risk Management Update	Complete	For the information of the Board Agenda item 13 (i)

The 'Business & Corporate Services' (BCS) division has taken on a greater workload over the winter months into Spring due to additional reporting, and operating at reduced capacity during the COVID-19 interruptions and with maternity leave having an impact. The team has worked tirelessly and with good humour. I wish to complement my staff and their attitude, especially during my enforced absence.

Plans within the division this year are very much IT (information technology) related. Upgrades to the Records and Finance management systems are expected. Improved reporting has greatly enhanced knowledge of finances and thus better decision-making. This will in turn assist our ability to provide good arguments for funding requests.

Credits relating to the COVID-19 support package have been issued and changes have been made to payment terms.

Liquor Store

The financial data available for the Liquor Store relates to the period to October 2020. This period has been significantly impacted by the COVID-19 closure. Loss of product passing use by dates, massive reductions in sales and the impact of fixed costs have all affected the operating result. It is expected that the island re-opening will coincide with a return to 'normal' operating conditions over time. Liquor Store staff have worked diligently in both delivery of reduced liquor and further improving the physical set-up of the store. This work has resulted in consistent net returns to the Liquor Store for the comparable periods of the Covid-19 restrictions in 2020 to 2019.

Maximum margins have further reduced high end product and made some of the items reasonable in comparison to the mainland.

A review of the Liquor Store software is also planned.

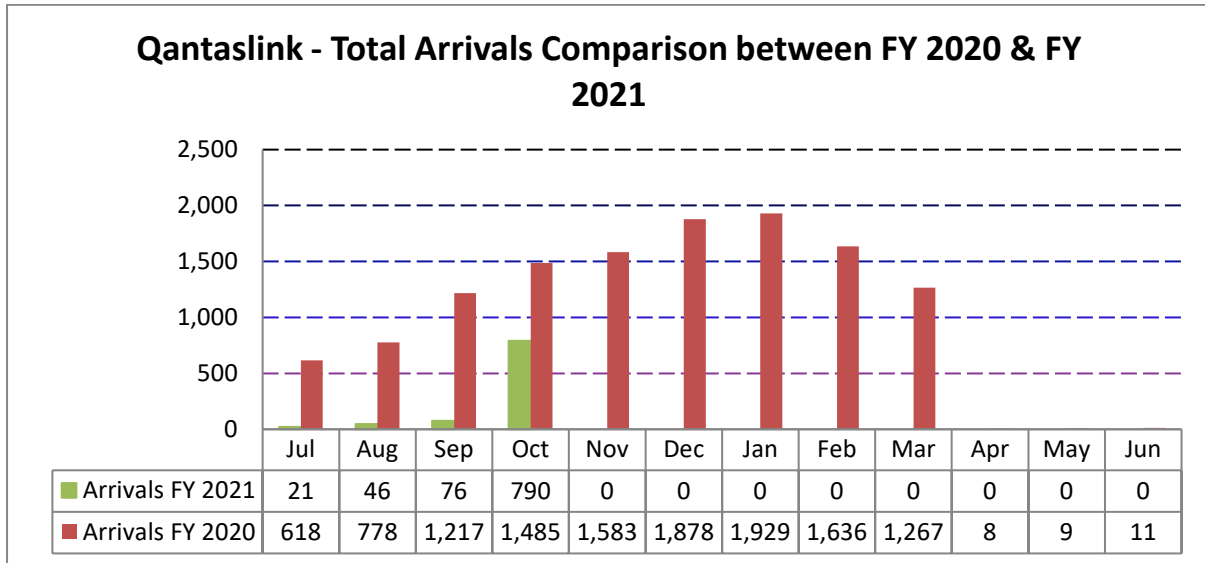
Liquor Store: Year-to-Year Comparison - October 2020

	2019-20	2020-21	Change \$	Change %
Sales	537,413	275,782	-261,631	-48.68%
Other	350	0	-350	-100.00%
Licence fees	0	2,904	2,904	0.00%
Internal	0	0	0	0.00%
Total Income	537,763	278,686	-259,077	-48.18%
Wages	60,511	41,834	-18,677	-30.87%
Cost of Goods sold	511,843	230,893	-280,950	-54.89%
Other	0	1,305	1,305	0.00%
Depreciation	633	1,233	600	94.68%
Total Expenditure	572,987	275,265	-297,722	-51.96%
Surplus/ Deficit	-35,224	3,421	38,645	-109.71%
Gross Margin %	5%	19%		

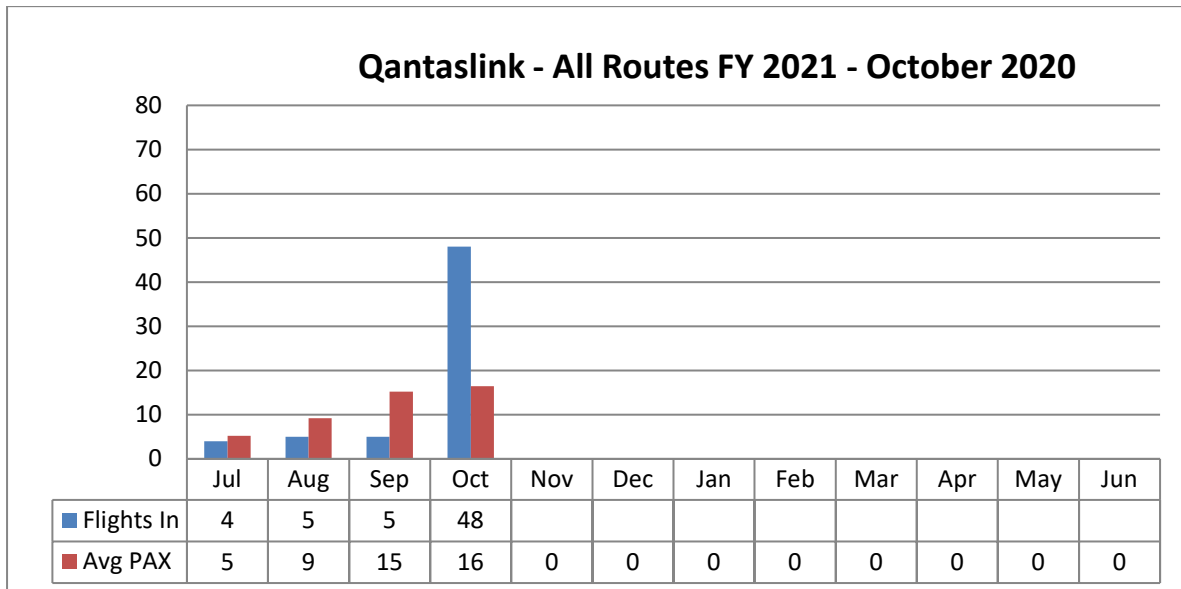
Tourism Management

The COVID-19 impact on the island and its economy as well as its way of life can be highlighted by the change in passenger traffic over the 4 months of this financial year. These figures include Qantaslink arrivals only as other data is not available as yet. It is noted that Eastern Air Services provided a significant number of passenger seats for the island's residents during the closure due to COVID and these numbers are not included in the figures below.

The number of Qantaslink passengers arriving by air between July 2020 and October 2020 was 933, down from 4,097 arrivals for the corresponding period last year. The chart compares monthly arrivals for Qantaslink for July to October 2020 with the corresponding period last year.



The following chart provides the number of QantasLink (only) flights and average passengers per month from July to October. The number of flights has increased in the period from 4 per month to 48 per month because of the island re-opening to visitors in October. The average number of passengers per flight has also increased in this period up from 5 to 16. October last year was 64 flights at an average of 23 passengers. It is expected that numbers will continue to increase and it is understood that accommodation bookings are very strong and Qantas are scheduling additional flights to meet demand.



Prepared: John van Gaalen, Manager Business and Corporate Services

Endorsed: Peter Adams, Chief Executive Officer

Solar PV HREP

Status Report to 19 November 2020

Overall Project Status



Off Track

Project Details			
Project Name	Solar PV Hybrid Renewable Energy Project	Portfolio	Lord Howe Island Board - Engineering & Infrastructure Services
Project ID	ARENA reference: 2013/RAR0004	RM8 Doc reference	ED20/10229
Project Manager	Amy Foxe	Geographical Location	Lot 230 DP47747 Lord Howe Island -31.528491, 159.07475
Project Sponsor	Manager, Infrastructure and Engineering Services	Current Phase	Construction and Commissioning

Project Thresholds and Status

Area	Measure	Lower Threshold	Upper Threshold	Current Status	Action on variation beyond thresholds
Time	Project program – variance from schedule	-30 days on Photon milestones	+30days on Photon milestones	Off track	Report to Project Control Group
Cost	Budget Line Items – variance from estimate	-10% on lines <\$100,000 -5% on lines >\$100,000	+10% on lines <\$100,000 +5% on lines >\$100,000	On track	Report to Project Control Group, CFO and CEO
	Overall budget – variance from estimate	-5% on overall budget	+5% on overall budget	On track	
Quality	Specification – non-conformances	Deviation from specification to the detriment of quality	Deviation from specification to the benefit of quality	On track	Report to Project Control Group
Scope	Inclusions – variance from priority requirements	“Must” and “Should” items 100% delivered	Decision on “Could”/“Not Essential” delivered	On track	Report to Project Control Group
Benefit	Fuel – reduction in diesel use for electricity generation	67% below 2011 (calendar) baseline year	>75% below 2011 (calendar) baseline year	On track	Report to Project Control Group

Thresholds Comments: Status change to Time: Extension of Time due to wet weather received requesting two additional days to contractual completion date of Milestone 11 from 30 November 2020 to 02 December 2020. Based upon schedule issued by Photon on 16 November, and confirmed within November PCG#14 report and teleconference held 18 November 2020. Programs show **estimated Actual Completion Date of Milestone 11 (Practical Completion) at 15 March 2020**. The Project Board were provided initial notification of the delay to completion of Milestone 11 via email on 16 November 2020 and detailed information on 23 November 2020.

Layout change variation materials and design costs accepted and invoiced. Labour costing remains in discussion. Contingency claims to ARENA must await completion of the ARENA Deed Variation.

Variation of the Deed with ARENA almost complete. All information submitted to ARENA for consideration by ARENA staff and the delegate. Changes to Milestone dates following revised program from Photon submitted. Restructure of budget and reporting seems to have gained preliminary acceptance and is subject to final delegate sign off.

Impact of the Public Health Order/s on the project is mostly in the area of consultants/contractor and remains ongoing. Island reopening has created different challenges in sourcing accommodation and the reduced availability of local labour. Current risk to project is border closure of South Australia where Solmech sub-contractors are largely based.

Project Budget – Income and Expenditure

Income - by Funding Source	L-T-D	2019/20	2020/21	2021/22	2022/23	Available Contingency	Total
LHIB	(456,000)	-	-	-	-	-	(456,000)
Contingency - LHIB	(755,331)	-	-	-	-	(250,000)	(1,005,331)
Grant - ARENA	(1,268,172)	(2,184,462)	(519,997)	(27,369)	-	-	(4,000,000)
Contingency - ARENA	-	(11,929)	-	-	-	(488,071)	(500,000)
Loan - T-Corp	-	(2,300,787)	(3,599,213)	-	-	-	(5,900,000)
Total	(2,479,503)	(4,497,177)	(4,119,210)	(27,369)	-	(738,071)	(11,861,331)

Expenditure - By Budget Category	L-T-D	2019/20	2020/21	2021/22	2022/23	Total
Scoping, project design and approvals*	1,658,014	-	-	-	-	1,658,014
Project Management & Administration	-	431,234	682,350	66,506	49,000	1,229,090
Construction (project delivery materials and equipment)	-	18,663	136,500	-	-	155,163
EPCM Contract and Contractor Payments	-	3,867,253	3,220,680	77,300	148,500	7,313,733
Contingency - LHIB	755,331	-	-	-	-	755,331
Contingency - ARENA	-	11,929	-	-	-	11,929
Total	2,413,345	4,329,079	4,039,530	143,806	197,500	11,123,260

* Life to Date expenditure audited, and includes expenditure relating to initial scoping of the project as a wind and solar PV project, and then the subsequent redesign of the project to the final form of solar PV and battery storage.

Comments: Budget reporting restructured in response to the ARENA Deed Variation discussions. Dissection of income and expenditure reflects ARENA feedback and is structured in the way that ongoing ARENA reporting is proposed for ease of LHIB reporting and improved transparency.

Income - LHIB cash contingency budgeted for 2019/20 carried over in full as contractually required. Phasing of income reflects renegotiated ARENA milestones and an estimate of the time taken for ARENA to process claims (30+ days after evidence approved). Principal and interest repayments commence upon final TCorp loan draw down.

Expenditure - Categories of expenditure reported above have been revised. ARENA is currently considering this structure as part of Deed renegotiations. Financial audit of FY19/20 project income and expenditure to confirm the data supplied above.

Contingency – Contingency is shown separately. When contingency is accessed, the expenditure is reported against the Activity area until the Contingency Claim is approved. The Project Board has voted to approach ARENA to access contingency for Variations VAR-02 and VAR-04. A request to access the contingency from ARENA will be submitted, and once approved, the budget will be adjusted on both income and expenditure sides.

Current Financial Year Expenditure (Source: Authority & Cost Plan) – as at 19 November 2020

Expenditure - By Budget Category	Budget FY20/21	YTD Committed	YTD Actuals	YTD Actuals & Commitments	YTD %-Actuals & Commitments
Scoping, project design and approvals*	0	0	0	0	0
Project Management & Administration	682,350.00	310,638.46	216,247.37	526,885.83	77%
Construction (project delivery materials and equipment)	136,500.00	0	9,432.06	9,432.06	7%
EPCM Contract and Contractor Payments	3,220,680.00	893,230.66	2,481,248.24	3,374,478.90	105%
Contingency - LHIB	-	-	-	-	-
Contingency - ARENA	-	-	-	-	-
Total	4,039,530	1,203,869	2,706,928	3,910,797	97%

Budget Comments: EPCM funds will remain as a commitment spanning several financial years until 2022/23. Discussions with ARENA are ongoing but rely upon the variation to the Deed to be processed before the contingency claim can be lodged. Expenditure is shown in the anticipated breakdown with Variations Costs shown as expenditure against the Activity. Expenditure will be moved against the Contingency line item when the claim is submitted and approved. Liquidated Damages will apply to the Photon contract. Discussions have commenced. Damages will be withheld from the Completion Undertaking security held as a cash retention.

Milestone Tracking – As at 16 November 2020 (PCG #14)

Contractor Milestones	Forecast Due Date	Revised Due Date	Variance / Comment
1. Contract Signing	20/06/2019	-	Complete. Claim lodged & approved.
2. Site mobilisation	29/05/2020	-	Complete. Claim lodged & approved.
3. Design Documentation	07/02/2019	-	Complete. Claim lodged & approved.
4. Battery shipped from manufacturer	08/11/2019	-	Complete. Claim lodged & approved.
5. PV modules, racking, inverters shipped from manufacturer	06/12/2019	-	Complete. Claim lodged & approved.
6. (not used in final contract)			
7. Powerhouse modifications	21/09/2020	15/10/2021	30% claimed and paid
8. Battery installation	14/09/2020	-	Complete. Claim lodged & approved.
9. A. % PV modules, racking, inverters, distribution board delivered to site	31/08/2020	-	Complete. Claim lodged & approved.
9. B. % PV modules, racking inverters, distribution board installed		05/03/2021	40% claimed and paid
10. A. % LV cable received on site	28/09/2020	-	Complete. Claim lodged & approved.
10. B. % LV cable installed and terminated		11/02/2021	65% claimed and paid
11. Provisional acceptance (Practical Completion)	30/11/2020	15/03/2021	+ 106 days
12. Intermediate acceptance	30/11/2021	15/03/2022	+ 106 days
13. Final acceptance	30/11/2021	15/03/2023	+ 106 days
Photon Milestone Comments: Updated schedule reflects delayed contractual completion of Milestone 11 as issued in PCG#14 on 18 November 2020. Claim for the balance of Milestone 7 anticipated to be received within the month of November.			
Composting toilet installed	30/07/2020	30/07/2021	RFQ to be issued in early 2021
Unsealed access track constructed	01/09/2020	30/07/2021	Due to wet weather and access needs, partial construction completed by Photon.
Entryway / carpark asphaltting & fuel area bund	01/09/2020	30/07/2021	Package of works within broader roads contract.
Other Contractor Comments: Road works to be considered as packages of work for roads contractor in the context of broader Island work for improved economy of scale. Composting toilet quote rec'd from Photon exceeded budget. Quotes from local builders to be sourced in early 2021 for work to be awarded and complete within FY20/21.			

Issues, Changes and Decisions

Changes / variations for period			
ID	Description of variation	Approved by	Date Approved
EPCM 06	Hillclimber Layout Change – relocation of three rows of PV panels and structures due to unsafe work conditions on the western hillside	Project Board	27/10/2020
EPCM 07	Weedmat Ballast – purchase and installation of pavers under inverter stations to hold down weed mat and reduce turf maintenance	Project Board	27/10/2020
EPCM 08	Screens – Change from three indoor screens to two, with one outdoor screen to be installed outside of Post Office / Marine Parks	Project Board	27/10/2020
EPCM 09	Composting toilet – Source and construct composting toilet	Rejected – on basis of cost	-

Comment: EPCM Variation 06 - Hillclimber Layout change arises from the grades within the western array exceeding the technical capability of the hillclimber to pile drive the array posts. This is a variation for the benefit of the contractor. Nil cost implication. Relocated area inspected and cleared of shearwater activity by Manager, World Heritage.

EPCM Variation 07 - Import a small quantity of pavers to deter grass growth under the inverters where air intake fans operate. Weed mat will also be laid but pavers will provide a hard area that will be long lasting and reduce maintenance costs overall.

EPCM Variation 08 – Deviation from specification due to COVID restrictions on indoor space at the Board administration front office and within the airport terminal. An outdoor rated screen box with screen will instead be installed at the Post Office/Marine Parks. The Hall was considered but not pursued as the PO building has greater visibility.

EPCM Variation 09 – Composting Toilet was received to consider use of existing labour resources to build the toilet during wet weather down time. The cost of the Photon quote exceeded the budget estimate and was not pursued. Further quotes will be sought from appropriately qualified builders / carpenters.

Decisions for period				
ID	Decision Status	Date Decision Made	Decision Made By	Decision Details
Contractual	Pending Approval		ARENA	Proposal to alter Deed of Agreement for grant funding submitted to ARENA requesting altered budget structure (no change to total estimates), clarifications via edits and amended milestone dates (approved)

Comments: Request to vary Deed of Agreement with ARENA for improved reporting under consideration by ARENA and the Delegate. Revised contract to be presented to the Board for review and CEO sign off.

Success Stories
<ul style="list-style-type: none"> Shut downs in late October allowed for battery and eastern/central PV connection. The Tesla batteries successfully restarted the Island network at the end of the last shut down which was a modelled event and confirmed in practice. The Island is powered by solar in the eastern / central array and the battery storage system on days when the sun is shining. Team are working with Photon and Tesla to develop promotional protocols and to create comm’s regarding this interim step towards full operational completion. Shed construction complete. Some local labour employed by the project have transitioned back to roles in the tourism industry upon Island reopening. Compensation process closed with compensation issued in accordance with the Valuer General’s determination.

Senior Management Team and Board Feedback

SMT: Recommended “Overall Status” For Program: Watch Point

Recommended focus area/s: Closely monitor revised schedule and any further extensions of time due to weather.

CEO Board Report

Environment and Community Services

Biodiversity Management

- Hunting of Masked Owls to deliver their eradication continues. Since August 2019 six female Masked Owls have been shot. There have been no confirmed sightings of males. Only one Masked Owl remains detected and recently, from Erskine Creek, which is not responding to call playback. Ongoing surveys are required to determine the number of remaining owls and to target their removal through shooting.
- Dr Chris Reid (Australian Museum), Ian Hutton and Saxxon Thompson have recently published a journal article on the rediscovery of two endemic flightless wood eating beetle species (*Cormodes darwini* and *Prionesthis sterrha*) on Blackburn Island in 2019 (both are listed as presumed extinct). The Australian Museum have submitted a funding application to the NSW Environmental Trust to develop educational material on the beetle fauna of LHI and to captive manage both of these species with the intent of reintroducing them to the main island (where they were present prior to the accidental introduction of rats in 1918). Board staff have transported six pallets of recently felled Sallywood timber to Blackburn Island to provide forage and breeding habitat for these beetles in an effort to help secure this remnant population in the wild. The revegetation of Blackburn Island is identified as an important conservation measure for the two rediscovered beetles, which are considered eligible for listing as Critically Endangered due to only being found on Blackburn Island.

Threatened plants

- New locations of LHI Broom *Carmichaelia exsul*, Mountain Xylosma *Xylosma parvifolium*, Huttons Geniostoma *Geniostoma huttonii* and LHI Morning Glory *Calystegia affinis* were recorded during the recent heli-winch access program funded by Saving Our Species (SOS). All mature species exhibited large flower and or seed crops, particularly the LHI Broom. LHI Broom previously exhibited heavy browsing by rodents and rarely produced seed.
- Translocation sites of SOS priority threatened species of Philip Island Wheat Grass *Elymus multiflorus* sbsp *kingianus* and Sand Spurge *Euphorbia psammogeton* are exhibiting good survivorship, seed production and recruitment.

Research

Research station bookings during the reporting period.

Project	Bookings
Biosecurity	Ryan Tate, Claire Chiotti
Reptile surveys	Terry O'Dwyer
Woodhens	Terry O'Dwyer, Michael Shiels
Sallywood Swamp Forest survey	Andrew Denham, Berrin McKenzie
Plastic ingestion	Jennifer Lavers, Megan Grant
Heli winch pilot & crewman	Tony Feller, Ryan Turner
Snail surveys	Isabel Hymen, Frank Koehler,
Biodiversity Management Plan	Craig Stehn, Mel Geise

Rodent Eradication

- Fish sample results provided. Brodifacoum residues were still detected in five mullet and two bluefish samples. The residues were at levels below the safe threshold for human consumption identified in toxicological report, providing that livers aren't eaten. A Householder was disseminated advising to not eat fish livers.
- Funding pitch submitted to seek funds to implement outstanding REP projects, namely final success check, Biodiversity Benefits Monitoring and preparation of the project overview report.

Biosecurity

- See separate business paper.

Weed Management

- LHI Weed Eradication Program is tracking 385 hectares of weed search and 3,900 hours of effort this financial year, across cliff lines and more accessible terrain.
- Helitreck – Kareela Aviation contracted in November to provide helicopter winch access to deploy weed eradication staff at elevation in the Southern Mountains. Seven operational days achieved 121 person days / near 968 person hours of effort across an estimated 35 hectares of remote access terrain. Repeat search was undertaken of the northern flank of Mt Gower and new terrain in the bowl between Roundface and Barrow Flats. The Lidgbird site provided a new weeding frontier with mature specimens of priority weeds removed. Weed infestations in this locality was expected, based on detection of weed on the cliffs above the Lower Rd and ramp on the Round Face.

Weeds removed during the helicopter – winch operation 2020.

Species	Seedling	Juvenile	Young Mature	Peak Mature	Regrowth	Total
Cherry Guava	114	278	127	57	9	585
Ochna	97	34	18	6	0	155
Ground Asparagus	2	7	1	1	0	10
Silky Oak	1	0	0	0	0	1
Tobacco Bush	36	9	4	2	0	51
						802

Revegetation

- The Environmental Trust have funded a revegetation project titled “Pinetrees Sallywood Swamp Forest Revegetation”. The first phase site has been fenced and over 5000 trees planted by Pinetrees staff with some Board assistance. Pinetrees are bringing a rainforest nursery expert to the island to assist them build a nursery so they can propagate their own plants to continue this project in the future.
- Maintenance work and infill planting implemented on Blackburn Island prior to the return of nesting Wedge-tailed Shearwaters.
- The environmental unit has established a small nursery at the depot, which provides opportunity for staff to learn plant propagation skills, alternative wet weather work and capacity for the LHIB to grow uncommon and threatened plant species.

Incident Management

- See – WH&S update.

Compliance and Enforcement

- Nil

Community Programs & Education

- Nil.

Visitor Infrastructure

- Repair and maintenance of walking tracks

Marine Management / Moorings

- Currently the Board is awaiting more information from Mr David Blackly, skipper/owner of the vessel 'Carol J' moored on a private mooring at Blackburn Island owned by Mr Gower Wilson.

Before an extension of Mr Blackley existing approval is issued, The Board requested that Mr Blackley provide the following information:

1. Estimated timeframe for the resolution of his insurance issues for completing necessary repairs to enable the vessel to be seaworthy;
2. Estimated departure date once the vessel is deemed seaworthy. It is understood that there may be some uncertainty regarding timeframes and to nominate a departure date and this can be reviewed at a later stage if necessary;
3. Considering that he is residing on his vessel while resolving his insurance issues, to provide a waste management plan with regard to his disposal of general, food and effluent waste from the vessel.

Mr Blackley has provided a waste management plan (3) via response email but has not provided any additional information (2 & 3). Therefore, his approval to attach to Mr Wilson's mooring has not been extended at this stage.

- Comets Hole 4 Mooring was inspected and serviced in August 2020 prior to the vessel 'Ball Breaker' attaching to it. This vessel is owned by the builder who is renovating the Bowling Club and has been permitted to attach to the mooring for approximately 3 months or until such time as the building works have been completed.

Human Resource Management

- Biosecurity Team Leader role readvertised
- Bush Regenerator role advertised – Permanent full time.
- Ranger role advertised – Permanent part time (replacing role currently vacant).
- Land and Property Administration Officer – Temporary Part Time advertised and filled.

Work Health & Safety

- On the 11 November 2020 a contractor working for the weed team was knocked unconscious for a brief period of time by a rock that was dislodged by a co-worker, working upslope. The contractor was admitted to hospital for observation but has since fully recovered and returned to work. Safe Work NSW were formally notified on 13 November 2020 as required under the Work Health and Safety Act 2011. The incident was investigated by Safe Work and completed on the same day. The Board is required to complete an internal investigation to determine cause of incident and introduce appropriate control measures to prevent or minimise risk in the future. The preliminary investigation has been completed, the final investigation will be completed by the end of December.

Environmental Assessment

- Ecological assessments for all OC / DAs referred completed
- Tree risk assessments completed.

Land Administration

- Options Paper for the Nursery site prepared for Board.
- 5 Lease matters reported to the Board.

Development Assessment and Land Use planning

- Planning Proposal placed on public exhibition 22 October – 19 November 2020. Final report will be presented to the Board for endorsement at March 2021 Board meeting.

Prepared: Justin Sauvage, Manger Environment and Community Services

Endorsed: P Adams

Board Meeting: December 2020

Agenda Number: 5

Record Number: ED20/10294

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

Chief Executive Officer's Report to the September 2020 Meeting of the Board

The following briefing provides an overview of key issues managed by the Board during the reporting period, and their status. It is intended that this document be available to the public as part of the minutes of the meeting. Matters which are subject to confidentiality, business in confidence or legal action are shaded and are not included in the public copy of the report.

Number of items excluded from this public edition: 0

COVID-19

Lord Howe Island was subject to a series of Public Health Order restricting all travel to the island until 1 October. The economic impact arising from the shutdown had a significant impact on Board finances, individuals and businesses as well as the broader economy. It also creating complications for the Board workforce as staff leaving the island for medical treatment, family matters or personal reasons were required to undertake 14 days quarantine upon return to the island, and this impacted on the ability of the Board to maintain service delivery.

The Repeal of the Public Health Order was enacted following preparation of a Recovery/Reopening Plan and significant negotiation in regard to what operational details and legal requirements would provide an acceptable level of safety to allow reopening. It cannot be overstated how challenging this was and I want to thank Lauren Douglass for her efforts, as well as our Police Officer Heath Roberts, Dr San Clark and Craig, Justin Sauvage, David Waterhouse, local operators and many more including our Local Health District colleagues and partners.

While it is not wise to be complacent, it is important to celebrate the excellent outcomes so far in Australia, NSW, and here on Lord Howe, in what has been an international pandemic of huge proportions.

MATTER	STATUS	ACTION REQUIRED BY BOARD AT THIS MEETING
Community Strategic Plan	Resources diverted due to unprecedented challenges. No progress since last meeting.	Note
Runway Feasibility Study	Full reports being reviewed by TfNSW and working group scheduled to meet following review. Further changes to potential membership changes to the Machinery of Government including the change to the key role of Board Chair in facilitating. Bushfire and now COVID-19 have made this matter difficult to advance. Close liaison with TfNSW and Qantas to address urgent issue completed. Weekly flights from Sydney and twice weekly flights from Port Macquarie were	Note

	underwritten maintaining connection for residents and for medical and other purposes.	
Rodent Eradication Program	No sign of live or recently dead rodent since 9 October 2019.	None
Renewable Energy Project	Project continues in implementation and system partially operational despite a range of major challenges including COVID-19 travel restrictions, wet weather and difficulties with accommodation now in peak tourism season after reopening of island.	See Attachments A & C to this report.
Marine Rescue	Marine Rescue Unit at LHI and marine radio installation continues to progress. Telecommunications upgrade at Intermediate Hill largely complete with significant improvements to range/coverage. Vessel major refit complete. Facility construction well underway at jetty area. Mooring design and installation to be completed before vessel passage to LHI.	Note

Prepared: Peter Adams, Chief Executive Officer

Attachments:

- Attachment A: Infrastructure and Engineering Services Report – Open
- Attachment B: Business and Corporate Services Report – Open
- Attachment C: Hybrid Renewable Energy Project Status Report – Open
- Attachment D: Environment and Community Services Report – Open

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Motor vehicle importation or transfer status report.

RECOMMENDATION

The report is submitted to the Board for information.

BACKGROUND

Since the last Board meeting, nineteen (19) vehicle applications to import or transfer were determined by the Chief Executive Officer under the 'Vehicle Importation, Transfer and Use Policy'.

CURRENT POSITION

There will be an increase of eight (8) vehicles since the last Board meeting.

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation	Comment
Jozette Johnston	Great Wall Ute	No	Private	0	Approved 25/11/20 - Replacement
Wesley Holden	Toyota Hilux 92A	No	Commercial	0	Refused 25/11/20
Issac Bennett	Toyota Hilux Ute	No	Commercial	0	Approved 25/11/20 – transfer from Scott Wilson
Birdon P/L	Manitou Forklift	N/A	Commercial	0	Approved 24/11/20 - Replacement
Brenton Kirkpatrick	Great Wall V240 Ute	No	Private	1	Approved 17/11/20 – transferred from Wayne Foss
Wayne Foss	Toyota Rav 4	No	Commercial	0	Approved 17/11/20 – transferred from Z Brcina
Darrin Nobbs, All Island Services	Tyre Roller	N/A	Commercial	1	Approved 30/10/20 – transferred from LHIB – this vehicle was not on the vehicle register
Darrin Nobbs, All Island Services	Case Roller	N/A	Commercial	1	Approved 30/10/20 – transferred from LHIB
Ellis Whitfield	Motorcycle	Yes	Private	0	Refused 12/11/20

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation	Comment
Marine Rescue NSW	Boat Trailer	N/A	Essential	1	Approved 6/11/20 – Marine Rescue to be added to policy as an essential service
Dean Hiscox	Boat Trailer	N/A	Commercial	0	Approved 6/11/20 – approval given for a trailer imported without approval on 23/3/2014
Dean Hiscox, LH Environmental Tours	Boat Trailer	N/A	Commercial	1	Approved 6/11/20
Annette Young, Milky Way	Toyota Tarago	No	Commercial	0	Approved 29/9/20– Replacement
Photon Engineering Australia	Telehandler	No	Commercial	0	Approved 29/9/20 – Temporary approval – Solar Project. Replacement
Photon	Air Compressor	No	Commercial	1	Approved 29/9/2020 – Temporary approval - Solar Project
Annette Young, Milky Way	Box Trailer	N/A	Commercial	1	Approved 8/10/20
Bradley Josephs	Daihatsu Terios	No	Private	0	Approved 8/10/20 – Replacement – transferred from Elizabeth Wright
Peter Van Gelderen	Kubota Tractor	No	Private	1	Approved 21/9/20
All Island Services	Excavator	No	Commercial	0	Approved 21/9/2020 Replacement

As at 25 November 2020

Registered Road Vehicles						
Essential	Commercial	Private	Hire	Plant & Equipment	Imported prior to Approval Policy	Total
33	109	161	8	29	62	402

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
192	23	44	12	41	90	402

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 62 vehicles imported without approval prior to the current policy:

- 57 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.
- 3 vehicles, all boat trailers, were imported without approval in 2016.
- 1 vehicle, a mower was imported without approval in 2019.
- 10 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
6	0	10	1	3	42	62

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

LORD HOWE ISLAND BOARD

Budget Report - by Reporting Centre - Summary

Reporting Centre	Financial Year 2019-2020						Financial Year 2020-21						Compare 4 mths to FY Budget (33%)	
	Year-to-Date Actual: Oct'19			Full Year Budget			Year-to-Date Actual: Oct'20			Full Year Budget				
	Income	Expense	Result	Income	Expense	Result	Income	Expense	Result	Income	Expense	Result	Inc	Exp
CEO	\$0	\$75,400	-\$75,400	\$0	\$267,700	-\$267,700	\$0	\$86,000	-\$86,000	\$0	\$327,000	-\$327,000	0%	26%
REP - LHIB funded	\$0	\$3,097,300	-\$3,097,300	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0%	0%
Governance Management	\$0	\$10,900	-\$10,900	\$0	\$124,000	-\$124,000	\$0	\$3,400	-\$3,400	\$0	\$109,000	-\$109,000	0%	3%
Liquor Store	\$537,800	\$559,900	-\$22,100	\$1,915,000	\$1,514,000	\$401,000	\$278,700	\$275,300	\$3,400	\$1,884,000	\$1,566,300	\$317,700	15%	18%
Corporate Administration	\$2,104,900	\$413,200	\$1,691,700	\$2,644,500	\$1,643,800	\$1,000,700	\$1,555,800	\$405,500	\$1,150,300	\$1,432,000	\$1,626,600	-\$194,600	109%	25%
Tourism	\$0	\$27,500	-\$27,500	\$0	\$112,000	-\$112,000	\$0	\$19,800	-\$19,800	\$0	\$40,000	-\$40,000	0%	50%
Electricity	\$1,121,400	\$503,300	\$618,100	\$1,877,500	\$1,468,800	\$408,700	\$597,400	\$241,700	\$355,700	\$1,910,000	\$1,331,700	\$578,300	31%	18%
General Services	\$308,700	\$1,204,000	-\$895,300	\$1,263,600	\$3,511,100	-\$2,247,500	\$264,000	\$1,057,900	-\$793,900	\$1,309,500	\$3,468,600	-\$2,159,100	20%	30%
Airport	\$176,500	\$205,900	-\$29,400	\$1,190,400	\$706,900	\$483,500	\$20,200	\$397,600	-\$377,400	\$1,077,400	\$1,221,400	-\$144,000	2%	33%
Community Services & Development	\$0	\$18,700	-\$18,700	\$7,000	\$195,200	-\$188,200	\$100	\$20,700	-\$20,600	\$4,000	\$179,900	-\$175,900	3%	12%
Land Administration	\$128,900	\$85,400	\$43,500	\$291,000	\$399,800	-\$108,800	\$151,400	\$27,300	\$124,100	\$348,400	\$266,000	\$82,400	43%	10%
Environment	\$124,200	\$248,900	-\$124,700	\$841,000	\$1,386,100	-\$545,100	\$13,100	\$375,800	-\$362,700	\$759,700	\$1,612,200	-\$852,500	2%	23%
LHIB - General Funded only	\$4,502,400	\$6,450,400	-\$1,948,000	\$10,030,000	\$11,329,400	-\$1,299,400	\$2,880,700	\$2,911,000	-\$30,300	\$8,725,000	\$11,748,700	-\$3,023,700	33%	25%

RED is a deficit#

Reporting Centres - details of services included:

CEO	Provision of CEO services provided through DPIE
Governance	Board members & Internal Audit
Liquor Store	sales of liquor direct and via shops, restaurants, clubs and tourist facilities
Corporate Administration	Licences, interest income, admin salaries, IT, communications, insurance, external audit, training, travel, relocation
Tourism	Board support of LHITA
Electricity	Includes allowances for costs associated with part-year completion of the solar project.
General Services	Infrastructure and amenities, fleet, waste facility, water & wastewater, roads, wharf, emergency services, private works
Airport	All airport activities
Community Services	Community liaison, health facilities and advocacy
Land Administration	Leases (PL, SL, PO), small grants, planning, & other contractors,
Environment	Enviro levy, weeding, trails, biosecurity, environmental management

LORD HOWE ISLAND BOARD

Income Statement - Grants to Recurrent

for the year ended 30 June 2021 - Actuals to 31 October 2020

	Note	BUDGET			ACTUAL		
		GRANT \$'000	RECURRENT \$'000	TOTAL \$'000	GRANT \$'000	RECURRENT \$'000	TOTAL \$'000
		recurrent	change	recurrent			
Expenses							
Employee-related expenses	3 a	1,425.8	4,639.0	6,064.8	191.7	1,344.6	1,536.3
Operating Expenses	3 b	493.9	3,668.5	4,162.4	172.5	705.0	877.5
Depreciation and amortisation	8, 10	0.0	3,008.7	3,008.7	0.0	927.9	927.9
Grants and subsidies	3 c	0.0	50.0	50.0	0.0	0.0	0.0
Finance costs	3 d	0.0	146.0	146.0	0.0	27.1	27.1
Other expenses	3 e	0.0	236.5	236.5	321.5	(93.5)	228.0
Total expenses		1,919.7	11,748.7	13,668.4	685.7	2,911.1	3,596.8
Revenue							
Government contributions	2 a	0.0	1,765.0	1,765.0	0.0	1,841.1	1,841.1
Sale of goods and services	2 b	0.0	2,947.0	2,947.0	0.0	473.2	473.2
Investment revenue	2 c	0.0	440.0	440.0	0.0	74.3	74.3
Retained taxes, fees and fines	2 d	0.0	3,529.0	3,529.0	0.0	484.1	484.1
Grants and other contributions - operating #	2 e	1,413.0	10.0	1,423.0	703.1	0.0	703.1
Grants and other contributions - capital #*	2 e	1,841.0	1,090.0	2,931.0	369.3	0.0	369.3
Other income	2 f	0.0	34.0	34.0	0.0	8.0	8.0
Total revenue		3,254.0	9,815.0	13,069.0	1,072.4	2,880.7	3,953.1
Gain (Loss) on disposal of assets		0.0	0.0	0.0	0.0	0.1	0.1
Gain (Loss) on borrowings at fair value		0.0	0.0	0.0	0.0	0.0	0.0
NET RESULT		1,334.3	(1,933.7)	(599.4)	386.7	(30.3)	356.4
Plus: Depreciation (non-cash)		0.0	3,008.7	3,008.7	0.0	927.9	927.9
Less: Capital Works funding		0.0	(1,090.0)	(1,090.0)	0.0	0.0	0.0
NET CASH RESULT		1,334.3	(15.0)	1,319.3	386.7	897.6	1,284.3

2021 Capital Projects Transactions & Budgets October 2020

WO	WO Description	2,020	2021 Revenue		2021 Expense	
		WIP	Actual	Budget	Actual	Budget
25	ESRMP Solar PV 2014 - ARENA Grant Funded from 2015	3,331,482	0	0	2,490,335	4,069,750
32	Closed - Boat Ramp and Launch/Retrieval Project	41,635				
41	Closed - OWWS Upgrade Community Hall 2014		0	0	0	0
46	Closed - Preparation of Business Case - LHI Renewable Energy Capital Proposal	57,882				
52	Hybrid Renewable Energy Knowledge Sharing Plan AN431/432/433 2015	551				
53	Hybrid Renewable Energy Project Management AN431/432/433 2015	2,503,463	0	519,997	178,944	250,000
57	NSW Treasury Annual Capital Works Funding		545,000	1,090,000	0	0
61	Jetty Upgrade (replacement of deteriorating piles) 2015	55,867				
92	Slipway 2016	97,319	0	423,267	0	390,000
103	HV Switch Replacements 2016 (split over assets when complete)	16,483				
120	OWWS Research Facility 2018	20,450	0	0	0	15,000
122	OWWS Admin/Depot 2017	65,198	0	0	0	20,000
125	RRR 11 - Road - Andersdon Rd to Cow Bale 2019	7,026				
126	RRR 9 - Road - Smoking Tree Ridge Road - Lagoon Road to Giles's Gate 2018 WIP	2,085				
129	RRR 10 - Road - Lagoon Rd Neds Neach Road to to OV Drive 2018	18,520				
130	RRR 6 and 7 - Road - Lagoon Rd - Kings Beach to Smoking Tree Ridge Road 2017 WIP	26,705				
149	Aviation Fuel Shed Upgrade 2017	41,232	0	0	11,793	35,000
150	Hospital Garage/Morgue Shed 2018	7,382				
152	Closed - Depot Workshop Extension 2017		0	0	0	0
155	Closed - Composting Unit 2017 - Upgrade of LHIB WMF - all costs		0	25,050	92	0
179	Stronger Communities Fund Public Hall Improvements 2018		121,374	0	0	0
180	Stronger Communities Fund Old Powerhouse Site Remediation 2018	520,744	241,156	241,156	7,512	7,512
183	Airport Terminal - Biosecurity Upgrade 2021		0	0	0	15,000
185	TRAX Shed Mezzanine 2019	350				
188	RRR 12 - Road - Bowling Club Reseal 2019	5,555				
189	RRR 13 - Road - McGee's Parade Reseal 2019	20,665				
190	RRR 14 - Road - Middle Beach (Nursery Road to Anderson Rd) Reseal 2019	54,617	0	0	0	257,144
194	Airport Terminal Shade Structure 2019	37,548				
196	Closed - Concrete Minimix Truck 2019		0	0	0	0
197	Administration Office Upgrade 2019	3,709				
200	SCCF 2 - 0165 - Stevens Reserve Boardwalk 2019	644	0	196,253	0	391,862
201	SCCF 2 - 0536 - Skate Park 2019		0	0	0	76,230
202	SCCF 2 - 0537 - Lagoon Foreshore Fitness Trail 2019		6,795	6,795	468	468
214	DPC Design for a Skate Park for Lord Howe Island		0	0	0	5,500
215	Closed - Vermeer Mini Hydro Vac System V100D 2019		0	0	0	0
219	Erosion Mitigation Works and Seabee Wall Investigation	27,552	0	0	1,259	390,213
220	NSW Treasury Minor Works Funding Expensed - Corporate	5,602				
226	Shed - Revolve/Waste Oils/Sludge WMF (Design) 2020		0	0	0	50,000
230	Neds Beach Road - Lagoon Road/Anderson Road 2020		0	0	0	114,000
231	RRR 8 - Road - Cemetery Road - Neds Beach Road/Anderson Road Reseal	2,136	0	0	184	0
235	Jetty Walkway and Platform - Support Beams Replacement		0	0	0	80,000
236	Jetty Deck and Kerb Replacement 2020		0	0	0	150,000
245	Vehicle - Nissan NV200 2015 2020 WIP	26,512	0	0	1,979	40,000
248	OE - Dell SCV3020 SAN 2020	24,381				
252	SCCF 3 - 1561 - Playground Upgrade 2021		0	116,480	0	86,000
254	Public Fuel Sales Facility 2021 - WIP		0	0	0	30,000
255	Compost Facility 2021 - WIP		0	0	0	20,000
256	OI - Glass Storage Bunkers 2021 - WIP		0	0	0	16,000
257	Potable Water Trailer 2021		0	0	0	30,000
258	Windsock Poles 2021 - WIP		0	0	0	30,000
259	Airport Tie Downs 2021		0	0	0	10,000
260	Mobile Biosecurity Inspection Room 2021		0	0	0	95,000
263	SCCF 3 - 1720 - CBD Amenities 2021		0	54,814	0	6,100
Totals		7,023,296	914,325	2,673,812	2,692,565	6,680,779

25	ESRMP Solar PV 2014 - ARENA Grant Funded from 2015	3,331,481.88
32	Closed - Boat Ramp and Launch/Retrieval Project	41,634.59
46	Closed - Preparation of Business Case - LHI Renewable Energy Capital Proposal AN431/432/433	57,882.00
52	Hybrid Renewable Energy Knowledge Sharing Plan AN431/432/433 2015	551.12
53	Hybrid Renewable Energy Project Management AN431/432/433 2015	2,503,463.41
61	Jetty Upgrade (replacement of deteriorating piles) 2015	55,866.64
92	Slipway 2016	97,318.79
103	HV Switch Replacements 2016 (split over assets when complete)	16,482.89
120	OWWS Research Facility 2018	20,450.33
122	OWWS Admin/Depot 2017	65,197.56
125	RRR 11 - Road - Andersdon Rd to Cow Bale 2019	7,026.39
126	RRR 9 - Road - Smoking Tree Ridge Road - Lagoon Road to Giles's Gate 2018 WIP	2,085.31
129	RRR 10 - Road - Lagoon Rd Neds Neach Road to to OV Drive 2018	18,519.54
130	RRR 6 and 7 - Road - Lagoon Rd - Kings Beach to Smoking Tree Ridge Road 2017 WIP	26,705.28
149	Aviation Fuel Shed Upgrade 2017	41,231.99
150	Hospital Garage/Morgue Shed 2018	7,382.37
180	Stronger Communities Fund Old Powerhouse Site Remediation 2018	520,743.92
185	TRAX Shed Mezzanine 2019	350.27
188	RRR 12 - Road - Bowling Club Reseal 2019	5,555.20
189	RRR 13 - Road - McGee's Parade Reseal 2019	20,665.30
190	RRR 14 - Road - Middle Beach (Nursery Road to Anderson Rd) Reseal 2019	54,617.24
194	Airport Terminal Shade Structure 2019	37,547.67
197	Administration Office Upgrade 2019	3,709.06
200	SCCF 2 - 0165 - Stevens Reserve Boardwalk 2019	643.90
219	Erosion Mitigation Works and Seabee Wall Investigation	27,551.76
220	NSW Treasury Minor Works Funding Expensed - Corporate	5,602.40
231	RRR 8 - Road - Cemetery Road - Neds Beach Road/Anderson Road Reseal	2,136.35
245	Vehicle - Nissan NV200 2015 2020 WIP	26,512.40
248	OE - Dell SCV3020 SAN 2020	24,380.72
		7,023,296.28

CAPITAL	ELECT		
GRANT CAP	STATE	RMS	MARINE FAC
GRANT CAP	STATE	TREASURY	ELECT GEN
GRANT CAP	CMWLTH	ARENA	ELECT GEN
GRANT CAP	CMWLTH	ARENA	ELECT GEN
GRANT CAP	STATE	TREASURY	MARINE
GRANT CAP	STATE	TRANSPORT	MARINE FAC
GRANT CAP	STATE	TREASURY	ELECT
GRANT CAP	STATE	TREASURY	BUILD COMM
GRANT CAP	STATE	TREASURY	INFRA
GRANT CAP	STATE	TREASURY	ROADS
GRANT CAP	STATE	TREASURY	ROADS
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GRANT CAP	STATE	TREASURY	ROADS
GRANT CAP	STATE	TREASURY	BUILD COMM
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GRANT CAP	STATE	TREASURY	ROADS
GRANT CAP	STATE	TREASURY	BUILD COMM
GRANT CAP	STATE	TREASURY	BUILD COMM
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GRANT CAP	STATE	OEH	INFRA
GRANT OPER	STATE	TREASURY	CORPORATE
GRANT CAP	STATE	TREASURY	ROADS
GRANT CAP	STATE	TREASURY	VEHICLES
GRANT CAP	STATE	TREASURY	OFFICE EQU

Capital Electricity	AS
Grant Capital State Grant Roads & Maritime Services Marine Facilities	AS
Grant Capital State Grant NSW Treasury Electricity Generation	AS
Grant Capital Commonwealth Australian Renewable Energy Agency Electricity Generation	AS
Grant Capital Commonwealth Australian Renewable Energy Agency Electricity Generation	AS
Grant Capital State Grant NSW Treasury Marine Facilities	AS
Grant Capital State Grant Transport for NSW Marine Facilities	AS
Grant Capital State Grant NSW Treasury Electricity	AS
Grant Capital State Grant NSW Treasury Buildings Commercial	AS
Grant Capital State Grant NSW Treasury Infrastructure	AS
Grant Capital State Grant NSW Treasury Roads	AS
Grant Capital State Grant NSW Treasury Roads	AS
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Grant Capital State Grant NSW Treasury Roads	AS
Grant Capital State Grant NSW Treasury Buildings Commercial	AS
Grant Capital State Grant NSW Treasury Buildings Commercial	AS
Grant Capital State Grant Department of Industry Public Facilities	AS
Grant Capital State Grant NSW Treasury Buildings Commercial	AS
Grant Capital State Grant NSW Treasury Roads	AS
Grant Capital State Grant NSW Treasury Roads	AS
Grant Capital State Grant NSW Treasury Roads	AS
Grant Capital State Grant NSW Treasury Buildings Commercial	AS
Grant Capital State Grant NSW Treasury Buildings Commercial	AS
Grant Capital State Grant Department of Industry Infrastructure	AS
Grant Capital State Grant Office of Environment & Heritage Infrastructure	AS
Grant Operational State Grant NSW Treasury Corporate	
Grant Capital State Grant NSW Treasury Roads	AS
Grant Capital State Grant NSW Treasury Motor Vehicles	AS
Grant Capital State Grant NSW Treasury Office Equipment	AS

Asset - CVR	00000432.0001.01	EL - Solar PV WIP		
			09/04/2016	09:12
			09/04/2016	09:11
Asset - CVR	00000039.0001.01	MF - Wharf ?		
Asset - CVR	00000457.0001.01	MF - Slipway WIP		
Asset - CVR	00000007.0001.01	EL - Substation No. 5 Lagoon Road South ?		
Asset - CVR	00000386.0001.01	BC - Research Facility (29 June 2011) ?	07/10/2018	16:25
Asset - CVR	00000455.0001.01	OI - LHIB Depot Envirocycle Wasywater System		
Asset - CVR	00000054.0001.01	RD - Bitumen seal - Anderson Road ?	03/10/2017	11:07
Asset - CVR	00000113.0001.01	RD - Bitumen seal - Smoking Tree Road ?	18/04/2017	15:40
Asset - CVR	00000085.0001.01	RD - Bitumen seal - Lagoon Road ?	07/10/2018	16:27
Asset - CVR	00000069.0001.01	RD - Bitumen seal - Lagoon Road ?		
Asset - CVR	00000438.0001.01	BC - Aviation Refuelling Shed		
Asset - CVR	00000336.0001.01	BC - Nurses Quarters ?		
Asset - CVR	00000506.0001.01	OI - Old Powerhouse Site Remediation Works 2018 WI		
Asset - CVR	00000364.0001.01	BC - Trax Shed ?		
Asset - CVR	00000059.0001.01	RD - Bitumen seal - Bowling Club Road ?		
Asset - CVR	00000089.0001.01	RD - Bitumen seal - McGee's Parade ?		
Asset - CVR	00000093.0001.01	RD - Bitumen seal - Middle Beach Road ?		
Asset - CVR	00000514.0001.01	BC - Airport Terminal Shade Structure 2019 WIP		
Asset - CVR	00000320.0001.01	BC - Board Offices South Wing ?		
Asset - CVR	00000517.0001.01	OI - Steven's Reserve Boardwalk 2019 WIP		
Asset - CVR	00000450.0001.01	OI - Windy Point Seawall		
Asset - CVR	00000061.0001.01	RD - Bitumen seal - Cemetery Road ?		
Asset - CVR	00000533.0001.01	MV - Nissan NV200 2015 2020 WIP		
Asset - CVR	00000535.0001.01	OE - Dell SCV3020 SAN 2020		

7	21/07/2017	OPEN			Open
4	09/04/2016	CLOS	COMP		Closed
2	09/04/2016	CLOS	COMP		Closed
4	21/07/2017	OPEN			Open
9	21/07/2017	OPEN			Open
1	21/07/2017	OPEN			Open
4	21/07/2017	OPEN			Open
1	21/07/2017	OPEN			Open
1	20/08/2016	OPEN	COMP		Open
1	20/08/2016	OPEN			Open
1	20/08/2016	OPEN	COMP		Open
1	20/08/2016	OPEN	COMP		Open
1	20/08/2016	OPEN	COMP		Open
1	20/08/2016	OPEN			Open
1	20/08/2016	OPEN			Open
1	20/08/2016	OPEN			Open
3	18/05/2018	OPEN			Open
1	07/10/2018	OPEN			Open
1	07/10/2018	OPEN			Open
1	07/10/2018	OPEN			Open
1	07/10/2018	OPEN			Open
1	07/10/2018	OPEN			Open
1	07/10/2018	OPEN			Open
3	15/02/2019	OPEN			Open
2	15/07/2019	OPEN			Open
2	16/07/2019	OPEN			Open
1	19/10/2019	OPEN			Open
1	11/06/2020	OPEN			Open
1	18/07/2020	OPEN			Open

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-2625	0	0	-2625	2530079.48	2530079.48
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0	0	0	0	0	0
0	0	0	0	0	0
-30470.44	0	0	-30470.44	-421588.65	-421588.65
0	0	0	0	0	0
0	0	0	0	0	0
0	0	0	0	16482.89	16482.89
0	0	0	0	20450.33	20450.33
0	0	0	0	0	0
0	0	0	0	7026.39	7026.39
0	0	0	0	2085.31	2085.31
0	0	0	0	18519.54	18519.54
0	0	0	0	27709.01	27709.01
0	0	0	0	39411.77	39411.77
0	0	0	0	0	0
0	0	0	0	350632.86	350632.86
0	0	0	0	0	0
0	0	0	0	5555.2	5555.2
0	0	0	0	20665.3	20665.3
0	0	0	0	35350.3	35350.3
0	0	0	0	0	0
0	0	0	0	3709.06	3709.06
0	0	0	0	643.9	643.9
0	0	0	0	27551.76	27551.76
0	0	0	0	5602.4	5602.4
0	0	0	0	2136.35	2136.35
0	0	0	0	26512.4	26512.4
0	0	0	0	24380.72	24380.72

7690202	5160122.52	32.9000393	2529735.12	-2625	2527110.12	7690202	5163091.88
0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0
250000	250000	0	0	0	0	250000	250000
-2184462	-1762873.35	19.299427	-433511.7	-30470.44	-463982.14	-2184462	-1720479.86
245000	245000	0	0	0	0	245000	245000
0	0	0	0	0	0	0	0
0	0	0	16482.89	0	16482.89	0	0
20000	-450.33	102.25165	20387.47	0	20387.47	20000	-387.47
20000	20000	0	0	0	0	20000	20000
12426	5399.61	56.5458716	7026.39	0	7026.39	12426	5399.61
12239	10153.69	17.0382384	2085.31	0	2085.31	12239	10153.69
96457	77937.46	19.1997885	18519.54	0	18519.54	96457	77937.46
22820	-4889.01	121.424233	27709.01	0	27709.01	22820	-4889.01
130000	90588.23	30.3167462	39236.12	0	39236.12	130000	90763.88
30000	30000	0	0	0	0	30000	30000
116989	-233643.86	299.714383	347079.86	0	347079.86	116989	-230090.86
0	0	0	0	0	0	0	0
12305	6749.8	45.1458757	5555.2	0	5555.2	12305	6749.8
30765	10099.7	67.1714611	20665.3	0	20665.3	30765	10099.7
82330	46979.7	42.9373254	35350.3	0	35350.3	82330	46979.7
8000	8000	0	0	0	0	8000	8000
50000	46290.94	7.41812	3709.06	0	3709.06	50000	46290.94
196253	195609.1	0.328096895	528.36	0	528.36	196253	195724.64
715000	687448.24	3.85339301	27313.68	0	27313.68	715000	687686.32
88000	82397.6	6.36636364	5602.4	0	5602.4	88000	82397.6
4136	1999.65	51.6525629	2136.35	0	2136.35	4136	1999.65
0	0	0	26512.4	0	26512.4	0	0
0	0	0	24380.72	0	24380.72	0	0

32.861427	344.36	0	344.36	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
21.2401104	11923.05	0	11923.05	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
101.93735	62.86	0	62.86	0	0	0
0	0	0	0	0	0	0
56.5458716	0	0	0	0	0	0
17.0382384	0	0	0	0	0	0
19.1997885	0	0	0	0	0	0
121.424233	0	0	0	0	0	0
30.1816308	175.65	0	175.65	0	0	0
0	0	0	0	0	0	0
296.677346	3553	0	3553	0	0	0
0	0	0	0	0	0	0
45.1458757	0	0	0	0	0	0
67.1714611	0	0	0	0	0	0
42.9373254	0	0	0	0	0	0
0	0	0	0	0	0	0
7.41812	0	0	0	0	0	0
0.26922391	115.54	0	115.54	0	0	0
3.8200951	238.08	0	238.08	0	0	0
6.36636364	0	0	0	0	0	0
51.6525629	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0

2,530,079.48		2,530,079.48	801,402.40	3,331,481.88	3,331,481.88
0.00		0.00	41,634.59	41,634.59	41,634.59
0.00		0.00	57,882.00	57,882.00	57,882.00
0.00		0.00	551.12	551.12	551.12
-421,588.65	-2,196,390.85	1,774,802.20	728,661.21	2,503,463.41	2,503,463.41
0.00		0.00	55,866.64	55,866.64	55,866.64
0.00		0.00	97,318.79	97,318.79	97,318.79
0.00		0.00	16,482.89	16,482.89	16,482.89
20,450.33		20,450.33		20,450.33	20,450.33
0.00		0.00	65,197.56	65,197.56	65,197.56
7,026.39		7,026.39		7,026.39	7,026.39
2,085.31		2,085.31		2,085.31	2,085.31
18,519.54		18,519.54		18,519.54	18,519.54
26,705.28		26,705.28		26,705.28	26,705.28
39,411.77		39,411.77	1,820.22	41,231.99	41,231.99
0.00		0.00	7,382.37	7,382.37	7,382.37
350,632.86	-143,550.00	494,182.86	26,561.06	520,743.92	520,743.92
0.00		0.00	350.27	350.27	350.27
5,555.20		5,555.20		5,555.20	5,555.20
20,665.30		20,665.30		20,665.30	20,665.30
54,617.24		54,617.24		54,617.24	54,617.24
0.00		0.00	37,547.67	37,547.67	37,547.67
3,709.06		3,709.06		3,709.06	3,709.06
643.90		643.90		643.90	643.90
27,551.76		27,551.76		27,551.76	27,551.76
5,602.40		5,602.40		5,602.40	5,602.40
2,136.35		2,136.35		2,136.35	2,136.35
26,512.40		26,512.40		26,512.40	26,512.40
24,380.72		24,380.72		24,380.72	24,380.72
2,744,696.64	-2,339,940.85	5,084,637.49	1,938,658.79	7,023,296.28	0.00 7,023,296.28

Operating Income / Expenditure Adjustments

	Revenue	Expenditure	Forecast
2020/21 Original Forecast including Depreciation	8,847,000	11,855,700	-3,008,700
Bowling club	231,320	339,793	
Flood study	44,624	14,160	
Aquatic Club	50,000	50,000	
World Heritage	177,000	221,601	
Weed Eradication Program	10,000	10,000	
Weed Action program	17,800	28,087	
Little Mountain Palm	266,075	372,211	
Biosecurity improvements	0	20,059	
Tide is turning	0	99,039	
Blackburn Island	2,567	19,827	
Laguniara Swamp	6,300	10,196	
Sallywood swamp	24,938	55,933	
S.O.S.	382,432	388,847	
Biosecurity Support	100,000	100,000	
Guarding Paradise	100,000	100,000	
Wages correction - reduced increase		-98,000	
Wages correction - additional leave provisions		34,000	
Recognition of efficiency savings by Treasury - no increase 2 network switches & installation	-64,000	15,000	
Amended Operating Forecast including Depreciation (\$)	10,196,056	13,636,454	-3,440,399
Original Operating Position	8,847,000	11,855,700	-3,008,700
Changes to Operating budget	-64,000	-49,000	-15,000
Grant funded programs	1,413,056	1,829,754	-416,699
	10,196,056	13,636,454	-3,440,399

Source of Grant Expenditure 2020/21

1,413,056	431,931	15,233
Grant Income	Funds @ 1/7/20	Funds @ 30/6/21

Capital Income / Expenditure Amendments

	Revenue	Expenditure	Forecast
2020/21 Original Forecast Capital Expenditure (\$)	1,090,000	1,090,000	0
Solar Project	519,997	4,069,750	
R2R (2020-24)	257,144	257,144	
Skate park	0	5,500	
Powerhouse site	241,156	7,512	
Steven's reserve	196,253	391,862	
Skate park	0	76,230	
Fitness trail	6,795	468	
Upgrade of WMF	25,050	0	
Erosion mitigation	0	390,213	
Slipway, ramp	423,267	390,000	
Playground Upgrade	116,480	86,000	
CBD amenities & wastewater	54,814	6,100	
Records Management Software Upgrade CM9	0	20,000	
Financial Management Software Upgrade Authority V7.1	0	60,000	
Amended Forecast Capital Expenditure (\$)	2,930,956	6,850,779	-3,919,823

Funding source of CapEx 2020/21

Amended CapEx approval - Original Budget	1,090,000
Unrestricted Cash - as at 1 July 2020	80,000
Restricted Cash - as at 1 July 2020	673,522
Grant Income - capital	1,840,956
Loan borrowing T'Corp - refers Solar Project	3,285,495
Restricted Cash - as at 30 June 2021	-119,194
	6,850,779

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Finance Report

RECOMMENDATION

It is recommended that the Board:

1. Note the information provided in this paper
2. Approve the proposed budget adjustments as per Attachment C
3. Approve the temporary recruitment of a Works Officer to June 2021

BACKGROUND

The following reports for the financial year 2020/21 are attached:

- Income Statements
- Capital Expenditure
- Budget Variations

CURRENT POSITION

General Funded Operations

The Board is tracking well in accordance with the operating Budget. The financial statements in Attachment A highlight that 33% of income was received and 25% of expenditure was paid to October, being 4 months of the year (1/3 or 33%). Wage increases normally occur in the first full pay period of the financial year and has been 2.5% in recent years. Current approval of an increase of 0.3% because of COVID-19 impacts is yet to be confirmed and therefore not yet applied. Wages expenditure is cash flowed to 32% based on fortnights paid, and actuals are 30% partly due to delays in recruitments.

Attachment A includes recurrent operations by Cost Centre as the first report and a second report showing Board totals with a split between grant funded and recurring operations. These recurring operations show a deficit result \$30k to 31 October for full accounting operations, against a full year estimate of \$3.008m in deficit. This includes the non-cash allowance for depreciation.

Grant Funded Projects

The grant funded projects were budgeted for 20/21 FY at an income of \$1.41m and expenditure of \$1.92m. Against this allocation, actual income received is \$0.703m and expensed \$0.686m to date. Operational grants are predominantly associated with Environmental Management (\$1.4m expenditure) with the bowling club, flood study and aquatic club also included (see Attachment C for detail).

Capital Expenditure

Attachment B is a system generated report (reconciled) that identifies costs to October 2020. Further updates on specific projects will be reported by the Manager, Infrastructure and Engineering Services. Approved income budget is \$2.67m with \$0.91m received to date. Expenditure was \$2.69m out of a budgeted amount of \$6.68m. The Board has accessed a further \$2.7m from its T'Corp debt facility this year, bringing the current loan debt against the Solar Project to just over \$5m. The approved debt was for up to \$5.9m.

Debtors

Debtors continues to be a significant issue for the Board and the commercial and residential communities who owe these funds. It gives some indication of the position of the Board especially in relation to COVID-19 impacts.

Debtors are grouped and reported from 2 modules being:

- Sundry debtors – includes grants, liquor store, intra-government charges and miscellaneous items
- Rates debtors – includes electricity, waste, leases, licences and permits

A summary of Sundry debtors as at October 2020 totalled \$612,729 and was as follows:

30 Days	60 Days	90 Days
\$397,954	\$17,343	\$975

The Liquor Store debtors are \$82k and grant invoices due being \$446k. It is especially important in the Board's current cash flow position that these overdue amounts are paid. Adding 3 larger commercial businesses (non-residential) to these results brings this total to 95% of the debts owed. Details in regards to individual accounts can only be discussed in closed session.

A summary of Rates debtors as at 8 October 2020 totalled \$181,239 and was as follows:

Current	Arrears (90 Days)
-	\$181,239

This report was printed on 8 October and so small delays on payments are normal, but as the amount is significant, close attention to these accounts including payment plans is important. Three larger commercial businesses (local) are the major contributors to the arrears (84%). Specific discussion regarding these debts can be held in closed session in accordance with Board policy. Please note the basis for the split between current and 90 days only, is that these charges are 90 day, or quarterly charges.

Budget Variations

Proposed adjustments to the approved budget are presented to the Board for consideration on a quarterly basis. In June 2020 the Board approved the budget for the 2019/20 financial year. This budget covered recurrent costs and capital works funded locally and through the NSW Government.

Additions to the Budget are based on recognition of carried forward restricted funds. Grant funded projects are fully funded, either by carried forward funds, new Grant income or, in the case of the Solar Project, loan funds.

The amounts identified are those that the Administration has projected can be completed in the coming financial year. This approval provides authority to proceed with these projects. The list in Attachment C provides detail of the specific grants relating to the budget variations.

Changes to the Budget for your consideration is as follows:

Operating:

- i) Recognition of a reduction in the wages budget of \$98,000 due to reduction in the wage increase, normally of 2.5% but approved by the Commission for 0.3%. This was off-set by an increase of \$34,000 in recognition of Award based payments for paid maternity leave, resulting in a net reduction in the expenditure budget of \$64,000
- ii) Reduction of income for Government Contributions from DPIE/ Treasury as recognition of efficiency savings not included in the original budget resulting in a net reduction of income of \$64,000
- iii) Supply and installation of 2 network switches \$15,000 (ordered in 2019/20)

Capital:

- iv) Capital Projects being those rolled over as they were not completed in 2019/20, having been previously approved and ordered;
 - a. Records Management Upgrade \$20,000
 - b. Authority FMS Upgrade \$60,000

Staff Changes

There is also a change to the current year staffing that was originally considered at the June 2020 budget meeting.

- Proposal to add a full-time grade 2 field officer in the IES works team, from 14 December 2020 to 30 June 2021 (0.55 FTE to full year budget)

The 2020/21 budget was developed in a climate of reduced income due to impacts of COVID-19. Savings were sought from various areas, and the IES works team was reduced by one FTE. Since that time there have been savings in other areas of the IES budget and the financial outlook for the remainder of the 20/21 year has sufficient funds to reinstate this position. The works team provides critical community services and maintenance to Board assets. While services have been maintained to a satisfactory standard with the reduced staff level, some areas of maintenance have received less attention than they require, contributing to asset condition decline and the reduced staff level is not sustainable. It is recommended that approval is granted to reinstate the position immediately to year end, with the establishment again part of the currently proposed review and the normal budgetary process for 2021/22. It is identified that savings

made within the first 4 months as highlighted within the reports, will cover this change - refers to Attachment A – Report 1 General Services: Expenses, which identifies costs of 30% of budget to date.

RECOMMENDATION

It is recommended that the Board:

1. Note the information provided in this paper
2. Approve the proposed budget adjustments included in Attachment C
3. Approve the temporary recruitment of a Works Officer to June 2021

Prepared: John van Gaalen Manager Business and Corporate Services

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Attachment A: Income Statements at 31 October 2020 - Open

Attachment B: Capital Expense Report at 31 October 2020 - Open

Attachment C: Budget Adjustments December 2020 - Open

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

List of Owner's Consents dealt with under Delegated Authority.

RECOMMENDATION

The report is submitted to the Board for information.

BACKGROUND

The Minister for the Environment has approved delegated authority regarding the issuing of owners 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.

CURRENT POSITION

Since the September 2020 Board meeting, no owner consent applications complied with the above requirements.

OC	Applicant	Site	Proposal	Zone	Decision
2020.5.1	Lee & Taylah Kent	Lot 340, DP1017190	Small extension to north side of dwelling	Zone 2 Settlement. The proposed development is permissible with the consent of the LHI Board within the zone	Approved subject to conditions 10/06/2020 – omitted from September 2020 business paper in error

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Board Meeting: December 2020	Agenda Number: 8 (ii)	Record Number: ED20/10334
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

List of Development Applications dealt with under Delegated Authority.

RECOMMENDATION

The report is submitted to the Board for information.

BACKGROUND

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)

CURRENT POSITION

The following development applications complied with the above requirements and have been determined by the CEO since the last Board meeting, as detailed below:

DA	Applicant	Site	Proposal	Zone	Decision
MDC2018.5.3	Mr David Murray and Mrs Margaret Murray	Lot 354 DP: 1156660	Modification to construct footings in shearwater nesting season	Zone 2 Settlement	Approved subject to conditions – 12 October 2020

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Planning Assessment Report

1 Item

DA 2020.12 for a three (3) lot subdivision at Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island.

2 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island
Proposal	Three (3) Lot Subdivision
Owners Consent No	OC 2020.04 approved 29 th April 2020
Applicant	Larry & Elizabeth Wilson
Estimated Cost of Development	N/A
Site Inspections	A site inspection has been undertaken.
Zone	Zone 2 Settlement. The proposed development is permissible with the consent of the LHI Board.
Significant Native Vegetation Map	Part of the lot contains mapped Significant Native Vegetation (SNV). A condition is proposed that no internal boundary fences are to be erected within the subject site to ensure that no damage or removal of SNV will occur as a result of the proposed subdivision.
Notification	The DA application was publicly exhibited 21 August 2020 to 4 September 2020, in accordance with LHIB policy.
Submissions Received	No submissions have been received.
Recommendation	That the application for Development Application DA2020.12 for a three-lot subdivision at Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island be approved subject to the application of the conditions listed in the report.

3 Consent Authority

Development Application Delegations

The LHIB CEO and Chairperson has delegation to grant consent to DAs (DAs) subject to the following conditions:

- The value of the development must not total \$150,000 or more (as calculated by the LHIB).
- The DA must not relate to the subdivision of land or the erection of new dwellings.
- No more than 3 written submissions received within 14 days of the public exhibition period.

As a subdivision is proposed the subject DA cannot be determined under delegated authority, and the application is referred to the full LHIB for determination.

4 Site Description

The site is legally described as Lot 285 DP 48687, on the corner of Lagoon Road and Ocean View Drive, Lord Howe Island. As shown in the aerial photograph (refer *Figure 1*), the allotment has an irregular shape which adjoins eight (8) surrounding allotments. The site has a 204m frontage to Lagoon Road on its western side, and 95m frontage along Ocean View Drive on the southern boundary, 101m along the eastern boundary and 50m frontage along the northern boundary. The site has an existing area of 17,232m² (1.7232ha).

As indicated in *Figure 1*, the site currently has three existing dwellings, out-buildings and sheds, water tanks and on-site effluent disposal tanks and associated infrastructure. The proposal will enable each existing dwelling to be located on separate allotments created by the subdivision.

The two existing dwellings located on proposed Lots 1 and 2 have a shared wastewater irrigation area that will be dissected by the proposed common boundary between the lots.

The property comprises areas of open grassed paddocks and established vegetation including palms and other mixed vegetation.

The site is located opposite the LHI lagoon (across Lagoon Road) and is in the vicinity of the LHI wharf and maritime area. The site is adjoined by a mixture of residential allotments, open grassed paddocks and a palm plantation.

As *Figure 2* shows, Lot 285 is located in Zone 2 Settlement under the LHI LEP 2010. The site is also adjoined on its northern, eastern and part of its southern boundary with Zone 2 Settlement. The western boundary across from Lagoon Road is Zone 7 Environment Protection, and to the (part) south eastern boundary is Zone 6 Recreation land.

The land contains mapped Significant Native Vegetation under LEP 2010 (refer to *Figure 3*), and the land is landscaped with native species including planted palms.



Figure 1: Aerial View of subject site and adjoining land. Source: Six Maps

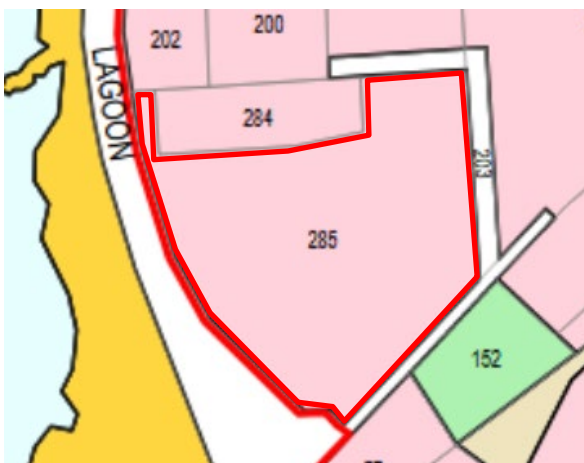


Figure 2: Extract from the LEP 2010 Zoning Map. The site is Zone 2 Settlement

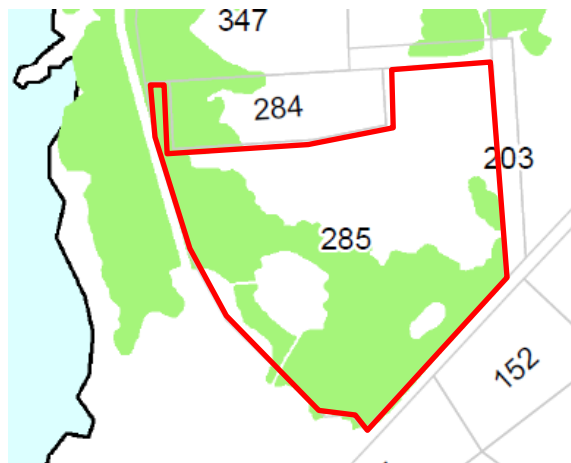


Figure 3: Extract from the LEP 2010 SNV Map. SNV in green.

5 Proposed Development

The proposal seeks to subdivide Lot 285, DP 48687 into three allotments (refer to Figure 4). The site is presently 17,232m² (1.723ha). The allotments are shown on the proposed subdivision plan (refer figure 4 on following page), as Lots 1-3, each with areas of Lot 1 - 3001m², Lot 2 – 3001m², and Lot 3 – 11,230 m² (1.123ha).

The proposal will subdivide the land so that each allotment will include an existing constructed dwelling, sheds, tanks etc as noted on the survey plan. The existing wastewater management systems for the three dwellings will be maintained including the earlier mentioned shared irrigation area that will be dissected by the boundary between Lots 1 and 2.

Proposed Lot 3 benefits from a direct road frontage to Lagoon Road and will also have a 4m driveway handle from Ocean View Drive. Proposed Lots 1 and Lot 2 have existing access off Ocean View Drive.

The application states that the subdivision will be likely completed in stages. This does not require a formal staged approval under the EPA Act 1979 as subdivision certificates can be subsequently issued for the individual lots as required once the DA is determined.

6 Referrals

The LHIB has provided the following internal referral comments on the subject applications in which no objections to the proposal have been raised.

As a subdivision application only, referrals to relevant internal specialists for the subject DA were not undertaken. The following preliminary consultations were undertaken on the approved Owners Consent for the application and these remain relevant to the DA.

Manager Environment World Heritage (Hank Bower): Parts of the proposed lot boundaries of the subdivision will extend through mapped SNV. As clearing or damage to mapped SNV is prohibited, an advisory note should be placed on any determination that the erection of boundary fences through these areas will not be permitted.

DA comment: this has been included as a proposed condition of approval in the attached recommendation.

Team Leader - Compliance & Projects (Kate Dignum): The proposed subdivision will not conflict with the wastewater systems currently provided for each of the three dwellings on the site. One of these dwellings (Larry & Liz's) has a part shared system with the dwelling on the adjoining lot 284 however this can remain in place as is with the proposed subdivision.

DA Comment: the applicants have confirmed that the connection of the wastewater from adjoining Lot 284 to proposed lot 3 has not proceeded due to the lot 284 leaseholders not wanting to pursue this to date.

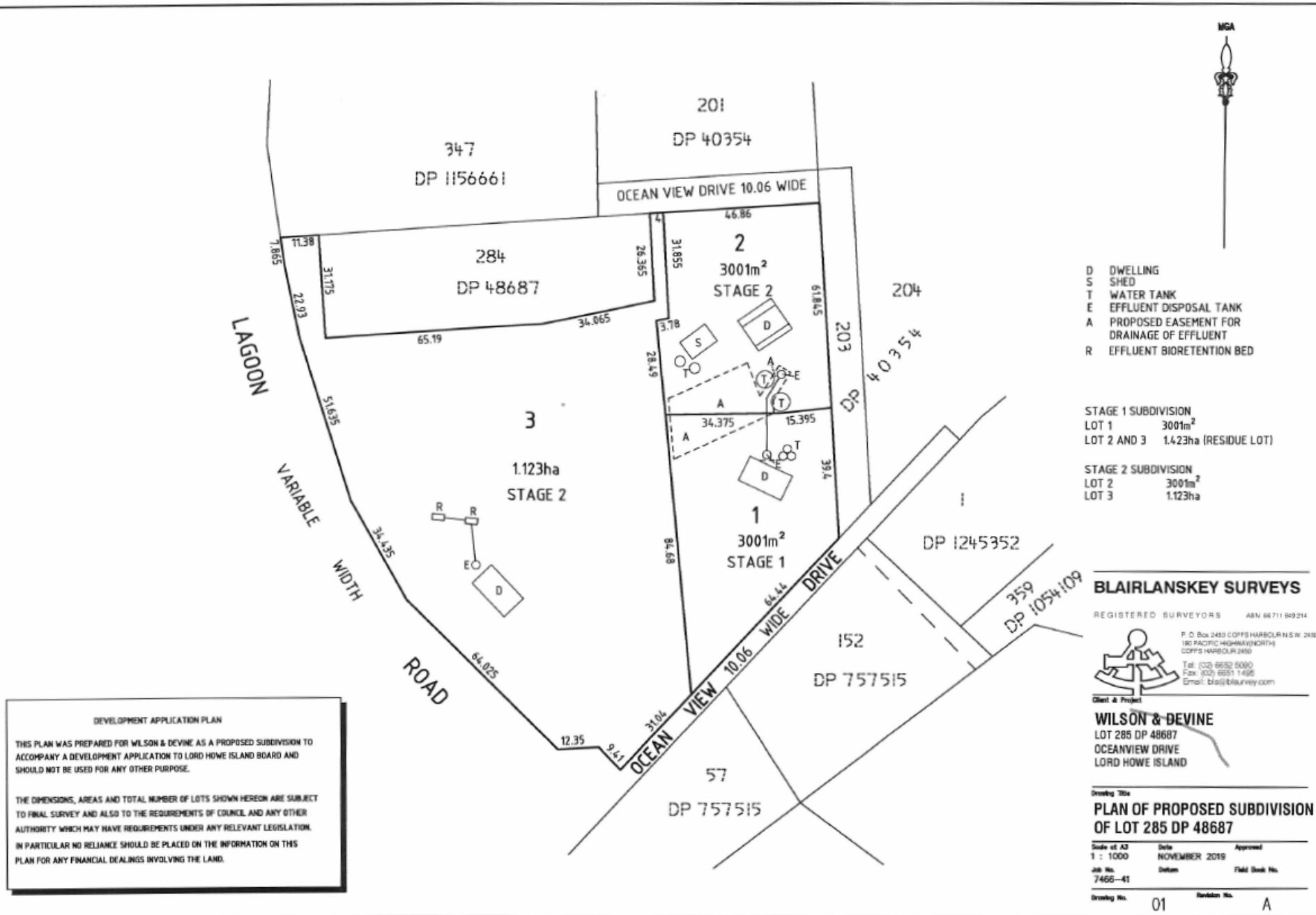


Figure 4: Applicant's submitted subdivision plan. Source: Blairlanskey Surveys

7 Planning Assessment

A Town Planning assessment has been undertaken for the proposed development taking into account the relevant statutory controls, and other relevant matters as detailed below in this report. The key considerations are addressed below.

7.1 Commonwealth legislation

7.1.1 *Environmental Protection and Biodiversity Conservation Act 1999*

The Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) provides for the protection of certain matters of national environmental significance (NES) listed under the Act, which include:

- World Heritage Areas
- National Heritage Places
- Ramsar wetlands of international importance
- Commonwealth listed threatened species and ecological communities
- Listed migratory species
- Commonwealth marine areas
- Great Barrier Reef Marine Park
- Nuclear actions.

Under the EPBC Act, Commonwealth approval is required from the Minister of Sustainability, Environment, Water, Population and Communities (Minister) for any action that will have or is likely to have a significant impact on a NES, or on the environment of Commonwealth land or on the environment if the action is proposed to be taken by a Commonwealth agency (known as a 'controlled action').

A person proposing to take a controlled action must refer the proposal to the Minister for determination. A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.

Lord Howe Island is a declared World Heritage Property. Section 12 of the EPBC Act 1999 requires approval of actions that involve a significant impact on a declared World Heritage Property.

An Advisory Note has been included in the recommendation to this report, that the applicant make independent enquiries with the Australian Government's Department of the Environment and Energy, to confirm whether they consider the proposed actions as detailed in this report are likely to have any impact on the heritage values of the:

- *World Heritage and National Heritage listed Lord Howe Island Group - ID 105085 and 105694, and*
- *Register of the National Estate listed Lord Howe Island Group and Marine Environs - ID 201.*

7.2 NSW legislation

7.2.1 Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 (NSW) (BC Act) sets the framework for the listing of threatened species, populations and ecological communities, and key threatening processes in NSW, and the preparation and implementation of recovery plans and threat abatement plans.

The BC Act also provides the mechanism for applying for and obtaining licences to take actions, which could result in harm to a threatened species, population or ecological community, or their habitat, or damage to critical habitat.

As a subdivision only, and as assessed in this report, the proposal is not considered to have a detrimental biodiversity impact. As discussed in section 6 a condition is included in the attached recommendation to prevent the construction of boundary fences through mapped Significant Native Vegetation (SNV) to avoid resultant impacts.

7.2.2 NSW Heritage Act 1977

The main objective of the Heritage Act 1977 (Heritage Act) is to encourage the conservation of the heritage of NSW. Pursuant to Section 4.45 of the EP&A Act 1979, Section 58 and Section 57(1) of the Heritage Act are triggered by this application.

The Lord Howe Island Group is listed on the State Heritage Register. Section 57 (1) of the Heritage Act requires that all applications to carry out development on Lord Howe Island, be referred to and granted concurrence by the NSW Heritage Office. This provision is overridden however by the operation of Section 57 (2), in the circumstance of the Minister issuing a Heritage Exemption Order.

On 9 January 2015, the NSW Minister for Heritage published an order under section 57(2) of the Heritage Act, providing for an exemption to refer specific activities to the Heritage Division, instead requiring referral of only those applications requiring consent under clause 39 of the LHI LEP 2010.

The site does not require consent under Clause 39 as it is not a listed heritage item within the LEP 2010. Referral of this application to the NSW Heritage Division is therefore not required.

7.3 Local Statutory Plans and Policies

7.3.1 Lord Howe Island Local Environmental Plan 2010

The *LHI LEP 2010* is the principal environmental planning instrument applying to the proposal. The subject site for the 3 x Lot Subdivision is located within Zone 2 Settlement, under the LHI LEP 2010. Subdivision is permissible in this zone with consent under the LEP.

The following summary table details the LEP provisions relevant together with assessment and/or comment as required.

LEP 2010 compliance summary table

LEP 2010 Clause		Compliance Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	Y	The proposed subdivision has been assessed as generally meeting the aims and objectives of the LEP 2010.
3	Land to which plan applies	Y	The LEP 2010 applies to the subject site which is part of Lord Howe Island, as defined in Section 3 of the Lord Howe Island Act 1953.
6	Who is the consent authority for this Plan?	Y	The Lord Howe Island Board (LHIB) is the relevant consent authority.
7	Maps	Y	Noted.
9	Exempt Development	N/A	The proposed works are not listed as Exempt Development within Schedule 1 of the LEP.
11	Matters that must be satisfied before development consent granted	Y	All relevant matters are further considered in the clause 11 assessment following.
Part 2 General Provisions applying in particular zones			
12	Land Use Zones	Y	The land is zoned Zone 2 Settlement
14	Zone 2 Settlement	Y	Refer to the above discussion of the Zone 2 Settlement objectives and permissible development under clause 14 of the LEP.
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
21(2)	Subdivision a) The area of each proposed allotment is to be at least 3000m ²	Y	Satisfied: proposed Lot 1 = 3,100m ² ; proposed Lot 2 = 3,001m ² , and proposed lot 3 = 1.123ha.
	b) If one or more existing dwellings (but no existing tourist accommodation, staff accommodation or commercial premises) on a proposed allotment – the total area of the allotment is at least the minimum dwelling area	Y	The present Lot 285 DP 48687 has three existing dwellings. There are no tourist or staff accommodation or commercial premises located on the subject site. As per above each proposed subdivided lot meets the required minimum 3,000m ² dwelling site area.

23	Erection of Dwellings (1)(a) Each new dwelling must have a GFA of not greater than 300m ² (b) The total area of the allotment is at least the minimum dwelling area of 3000m ² .	Y Y	The proposal does not include the construction of any new dwellings on the site. The three existing dwellings will each be respectively located (without alterations or additions) within the 3 proposed lots. As discussed under clause 21, the proposed subdivided allotments will all meet the minimum dwelling area of 3,000m ² .
26	Limit on number of dwellings	N/A	The proposal does not include the construction of any new dwellings on the site. The three existing dwellings will each be respectively located (without alterations or additions) within the 3 proposed lots.
Division 2 Provisions that apply to particular land			
32	Setbacks of buildings in Zone 1, 2 or 5	Y	As per earlier advice the three dwellings are existing. Each of these already comply with the setback requirements of the LEP.
33	Landscaping in Zone 2	Y	The proposal will not create an adverse impact on the existing landscaped character and dispersed pattern of housing in the zone. The proposal will enable the subdivision of the subject site. The dwellings are existing therefore there will be no change in the pattern of existing settlement in the area. To avoid future ecological impacts on the mapped SNV within the site, a condition is recommended to prevent the erection of boundary fences through mapped SNV.
39	Development Affecting Heritage Items	N/A	The subject work will not be undertaken on any listed heritage items or located adjoining any item.

7.3.2 CLAUSE 11 MATTERS

Clause 11 of the LHI LEP 2010 provides that the consent authority must not consent to the carrying out of development unless it is satisfied regarding the following matters. These requirements with respect to the proposed development are discussed below.

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
<i>The proposed development is consistent with the aims of this plan and the objectives of any zone, as set out in the plan, within which the development is proposed to be carried out,</i>	Y	Refer to discussion provided in the above LEP Compliance table. The proposed subdivision meets the aims and objectives of the LEP 2010.

<i>There is an adequate area available for the disposal or treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	Y	The wastewater treatment facilities for the three existing dwellings within the site will be maintained.
<i>No part of the proposed development: will result in any damage to, or removal of, significant native vegetation, or will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	The proposed subdivision will not result in the damage or removal of SNV. To avoid future ecological impacts on the mapped SNV within the site, a condition is recommended to prevent the erection of fences along the proposed boundaries through mapped SNV.
<i>Access is, or will be, available to the site of the proposed development and the provision of any such access will not: - result in any damage to, or the removal of, significant native vegetation, or - have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island</i>	Y	The current access arrangements for each of the existing dwellings will be maintained. Each currently benefits from a direct frontage to a public road. No additional clearing will be associated with the above.
<i>Any proposed landscaping will provide various species of plants that are native to the Island and common in the locality to enhance any significant native vegetation,</i>	N/A	
<i>The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	N/A	There are no known landform limitations which will adversely impact on the subdivision proposal.
<i>Adequate services in respect of the proposed development can be provided without significant additional cost to the Board or the community of the Island,</i>	Y	The subject site is already serviced by the required utilities and these will remain available for the proposed subdivision.
<i>The appearance of the proposed development (when considered by itself or in conjunction with existing buildings and works) will not have any significantly adverse impact on the locality,</i>	Y	The appearance of the proposed development will remain as is in keeping with the character and nature of the area.
<i>The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	As assessed earlier, the proposal does not include any building construction and will not create any overshadowing of adjoining land.
<i>The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</i>	Y	The proposal will not reduce the privacy of any adjoining property.

7.3.3 Lord Howe Island Development Control Plan 2005

The Lord Howe Island Development Control Plan 2005 (DCP 2005) applies to the subject site and an assessment of the provisions of the DCP relevant to the subject proposal is included in the following table.

DCP Compliance summary table:

LHI DCP 2005 Clause	Complies Y/N	Comment	
Part 1 Introduction			
1.2	Plan Objectives	Y	The proposed subdivision. The proposal is consistent with the Plan objectives.
1.4	Where does plan apply?	Y	This DCP applies to the subject site.
Part 2 Design Principles			
2.1	Introduction	Y	Noted.
2.2	Objectives	Y	The proposal is consistent with the DCP's design objectives, particularly designing the system considering the physical limitations of the site, and minimising any potential adverse impacts.
2.3	Design Context	Y	The development responds sensitively to its setting, ensuring functionality and sustainability are achieved long-term. The proposal as assessed is consistent with the character and nature of the site and locality.
2.4	Bulk and Scale	Y	See above comment
2.5	Building Forms	Y	See above comment
2.6	Building Materials & Colours	Y	See above comment
2.7	Energy and water efficiency	Y	See above comment
2.8	Landscaping design	Y	See above comment
2.9	Site access and parking	Y	No change to existing arrangements proposed.

8 Environmental Effects

8.1 Environmental Planning and Assessment Act 1979

Under the provisions of Section 4.15, (previously 79C (1)) of the EP&A Act, in determining a DA, a consent authority is to take into consideration the following matters as are of relevance to the development the subject of the DA.

- a) the provisions of the following that apply to the land to which the development application relates:
 - i. Any environmental planning instrument
Comment: An assessment against the LHI LEP 2010 has been undertaken (see Section 7.3.1) and the proposed development was found to comply with all relevant provisions subject to the conditions of approval included in the recommendation of this report.

- ii. Any proposed instrument that is or has been the subject of public consultation under this Act.
Comment: N/A
- iii. Any development control plan
Comment: An assessment of the proposal against the LHI DCP 2005 has been undertaken in Section 7.3.3 and was found to comply.
- iii. Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4
Comment: There are no planning agreements relevant to the application.
- iv. The regulations (to the extent that they prescribe matters for the purposes of this paragraph)
Comment: There are no relevant matters prescribed by the regulations.
- v. Any coastal zone management plan (with the meaning of the Coastal Protection Act 1979)
Comment: There are no coastal zone management plans relevant to the application.

- b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

As assessed in this report, the proposed subdivision will not have any adverse environmental impacts on the natural and built environment and will not significantly impact social and economic interests within the locality.

- c) the suitability of the site for the development

Having regard to the location and the preceding assessment, the proposal is considered to be satisfactory.

- d) any submissions made in accordance with this Act or the regulations

As confirmed earlier in this report no submissions were received to the notification of the DA for the proposal.

- e) the public interest

For the reasons outlined in the preceding assessment, it is considered that the proposal will be in the public interest, subject to appropriate conditions included in the attached recommendation.

9 Conclusion

DA 2020.12 has been assessed with regard to the provisions of Section 4.15 of the EP&A Act, the LEP 2010 and DCP 2005 and the relevant codes and policies of the Lord Howe Island Board.

In light of the above comments and the preceding development assessment, the DA for a 3 x lot subdivision is supported subject to the application of a number of conditions included in the following recommendation.

10 Recommendation (Conditional Approval)

That DA 2020.12 for a three-lot subdivision at Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island be approved subject to the application of the following conditions:

1. Approved Plans and Supporting Documentation

The development is to be carried out in accordance with the plans and documentation provided with DA 2020.12 as listed below and endorsed by the Lord Howe Island Board's stamp, except where amended by other conditions of consent.

- a) Completed DA application forms prepared by Larry and Elizabeth Wilson dated 19th August 2020.
- b) Completed DA Statement of Environmental Effects prepared by Larry and Elizabeth Wilson dated 19th August 2020.
- c) The following plans: Plan of Proposed Subdivision, prepared by Blairlanskey Surveys, Drawing No. 01, Rev: A, dated: November 2019

Reason: To ensure the development is carried out only in accordance with the details submitted in the DA.

2. Biodiversity

- a) Damage to, or removal of Significant Native Vegetation is prohibited, as per Clause 11 of LEP 2010.
- b) Parts of the proposed lot boundaries for the subdivision will extend through mapped Significant Native Vegetation (SNV) within the site. As clearing or damage to mapped SNV is prohibited and to avoid associated ecological impacts, the erection of boundary fences through these SNV areas are not permitted.

Reason: To ensure the development has minimal environmental impacts as per the assessment of the subject application.

3. Easement for Services and Maintenance

A Reciprocal Easement for services and maintenance over the existing shared wastewater land irrigation area bisected by the boundary between proposed Lots 1 and 2 and associated service lines is to be registered.

The process for this is to include:

- The applicant and leaseholders shall prior to release of the registration of the subdivision, submit a request to the LHIB to recommend that the Minister make provision for the following amendments to the conditions in the perpetual leases of the two associated respective properties:

Insert the following clause (or wording to the same effect) in the respective perpetual leases:

'the lessee has the benefit of a Reciprocal Easement for Services and Maintenance in terms of the wording of Part 14 of Schedule 8 of the Conveyancing Act 1919 but only within the surveyed boundaries shown on the unregistered plan [applicant will advise number] held by the Board vide a copy of which is attached as a notation to this lease.'

Reason: To ensure that the required reciprocal easement for services and maintenance over the existing shared wastewater irrigation area is incorporated into the approved subdivision and in a timely manner.

ADVICE TO APPLICANT:

a) Commonwealth Environment Protection and Biodiversity Conservation Act 1999 The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* provides that a person must not take an action which has, will have, or is likely to have a significant impact on: *A matter of national environmental significance (NES) matter; or Commonwealth land without an approval from the Commonwealth Environment Minister.*

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation.

It is the proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth EPBC Act does not have application.

The Commonwealth EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

b) Section 8.7 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court. This right of appeal is only valid for six months from the date of the consent. To determine the extent to which the consent is liable to lapse refer to Section 95 of the Act

Recommended:	Recommended for approval:
	
Peter Chapman Date: October 2020 LHI Consultant Town Planner & Director All About Planning Pty Ltd	Peter Adams Date: 27 Nov 2020 Chief Executive Officer Lord Howe Island Board

Board Meeting: December 2020	Agenda Item: 8 (iv)	Record Number: ED20/10455
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

Item OC2020.10 & DA2020.13 for Alterations and Additions to Existing Garage to create a studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island.

1 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island
Proposal	Alterations and Additions to Existing Garage to Create a Studio.
Owners Consent Application No	OC 2020.10 has been concurrently lodged and assessed with the subject DA 2020.13.
Applicant	Chris & Rosalind Wade
Estimated Cost of Development	\$25,000.00
Site Inspections	The site is known by AAP.
Zone	Zone 2 Settlement. The proposed development is permissible with the consent of the LHI Board within the zone.
Significant Native Vegetation Map	Part of the lot contains mapped Significant Native Vegetation (SNV) but no SNV will be damaged or removed as a result of the proposal.
Notification	DA 2020.13 was placed on public exhibition from 16/10/2020 to 30/10/2020.
Submissions Received	Six (6) submissions were received and these are outlined within the ensuing report.
Recommendation	<p>a) The Board Grant Owners Consent for application 2020.10 Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island.</p> <p>b) That DA2020.13 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, be refused for the reasons listed in the report.</p>

Alternate Recommendation	<p>a) Regarding 'Owner Consent' 2020.10 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, the Lord Howe Island Board decline to issue the requested consent for the reasons listed in the report.</p> <p>b) That DA2020.13 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, not be determined because Owners Consent has not been granted.</p>
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2 Consent Authority

Owner's Consent

Delegations

The Minister has authorised the Lord Howe Island Board's (LHIB) CEO to grant owners consent to the lodgement of development, subject to the following conditions:

1. The value of the development must not exceed \$2,000,000
2. The application must, in the opinion of the person granting owner's consent, comply with any Planning Instrument which is in force relating to the Island.
3. The owner's consent must not relate to a proposed development application for the subdivision of land.
4. The OC must not relate to the creation of new residential dwellings.

Development Application Delegations

Both the LHIB CEO and Chairperson have delegation to grant consent to Development Applications (DAs) subject to the following conditions:

1. The value of the development must not total \$150,000 or more (as calculated by the LHIB).
2. The DA must not relate to the subdivision of land or the erection of new dwellings.
3. No more than 3 written submissions received within 14 days of the public exhibition period.

Under the above delegations the subject proposal is referred to the full LHIB as it does not comply with the setback to boundary requirements of the LHI LEP 2010, and as more than 3 written submissions have been received to the notification of the proposal. Aside from the above, the applications have been called in for referral to the LHIB by a Board member.

It should be noted that the Owners Consent (OC) and Development Application (DA) are distinct applications which have been submitted and assessed concurrently as allowed for by the Board's established practice. Consequently, decisions on each application need to be made and in particular a prerequisite for the DA to precede is the prior issue of the OC.

3 Site Description

The site is legally identified as Lot 331 DP 46194, being 331 Anderson Road, Lord Howe Island. The total area of the site is 2,734m². As shown in *Figure 1*, the allotment is irregularly shaped with a large dog-legged cut out in the boundary at the front southern corner. It is located at the southern end of Anderson Road at the second last corner in the road (heading south) in the near vicinity of the new Powerhouse and the Solar Renewable Energy project.

The subject site has two buildings including an existing centrally located, single storey, 3 bedroom dwelling and a nearby detached single garage with 45 degree pitch roof, gabled ends, associated loft storage area and a front bull-nose corrugated iron verandah. The garage has a ground floor area of 36.9m² with the loft having the same 36.9m² area (excluding the northern verandah). The applicants have confirmed that the garage does not currently include any kitchen facilities and (contrary to that shown on the submitted plans) does not include a sink/ basin or a washing machine, but only a bench and fridge on the ground floor.

There are a number of existing rainwater water tanks along with a septic wastewater system.

The site benefits from both a front and side frontage to Anderson Road of 10m to the front (excluding the front boundary corner cut out) and 70m to the side.



Figure 1: Aerial photograph of site. Source: SIX Maps



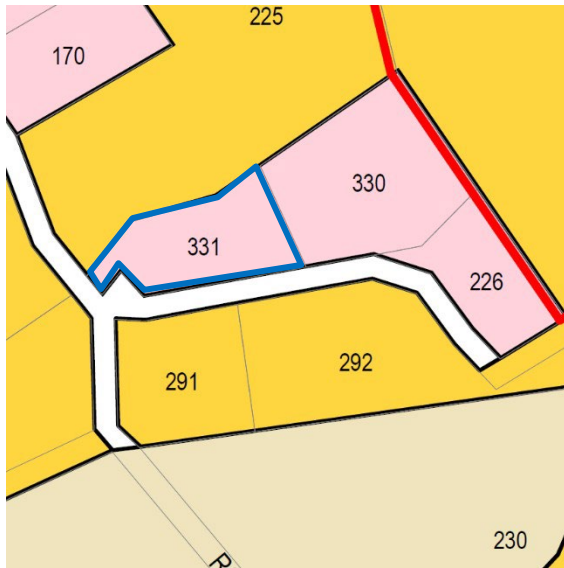


Figure 2: Extract from the Lord Howe Island Local Environmental Plan 2010 (LEP 2010) Zoning Map detailing 2 Settlement zoning of site.

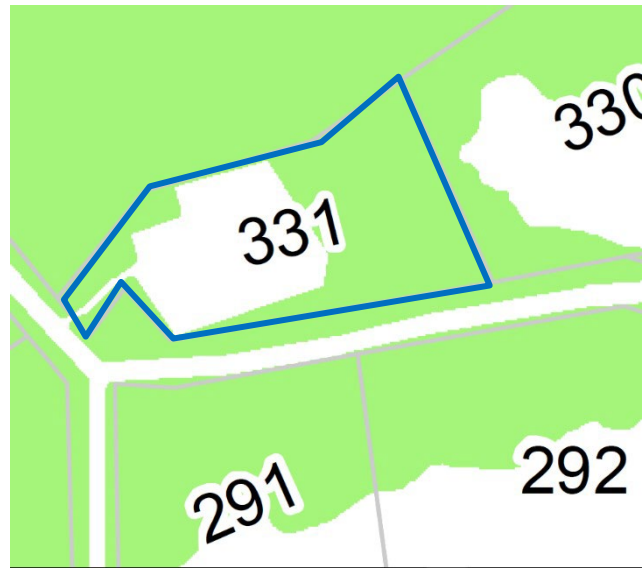


Figure 3: Extract from the LEP 2010 SNV Map identifying extent of SNV on subject site.

The land is predominantly vegetated with the only clearings being for the existing dwelling, garage and driveway (refer to *Figure 1*) including some significant native vegetation (SNV) (refer to *Figures 2 and 3*). This overall vegetation extends outside the site boundaries within Anderson Road and predominantly screens the existing site features from the public road and adjoining properties.

4 Proposed Development

The proposed development is to undertake alterations and additions to the existing detached garage to create a studio on the subject site. The proposed works will comprise the following:

- i) The installation of a bathroom within the existing ground floor area with a shower toilet and wash basin
- ii) The provision of a bedroom area also within the existing ground floor area
- iii) The designation of the existing upstairs loft as a 'utility room'
- iv) The construction of a 19.8m² (3.15 x 6.3m) addition on the western side of the existing garage to be used as a storage/ garage (with a garage door and internal access to the existing space) on the ground floor and an (internally) enlarged 26.9m² loft (above) as a 'storage/ utility' room accessed via double doors at the loft level.
- v) The extension of the existing ground floor northern verandah across the front of the above proposed western addition
- vi) The alternations and additions will be undertaken in materials and finishes matching the existing garage and dwelling

The proposed addition to the garage involves variations to the boundary setback requirements of the LHI LEP 2010 (as considered in section 6.3.1 of this report). As discussed later in the report (ref section 5 - Internal Referrals and 6.3.1 – Lord Howe Island LEP 2010), there are some inaccuracies on the submitted plans in regards to these.

The applicant has submitted the key plans provided on the following pages with the subject OC and DA (refer to *Figures 4 – 10*).



CHRIS WADE

331 ANDERSEN ROAD

SITE PLAN GARAGE EXTENSION

SITE PLAN

Project number	Project Number
Date	09/04/2020 2:58:28 PM
Drawn by	OS/IDEH/N
Checked by	OS/IDEH/N

A101

Scale 1:200

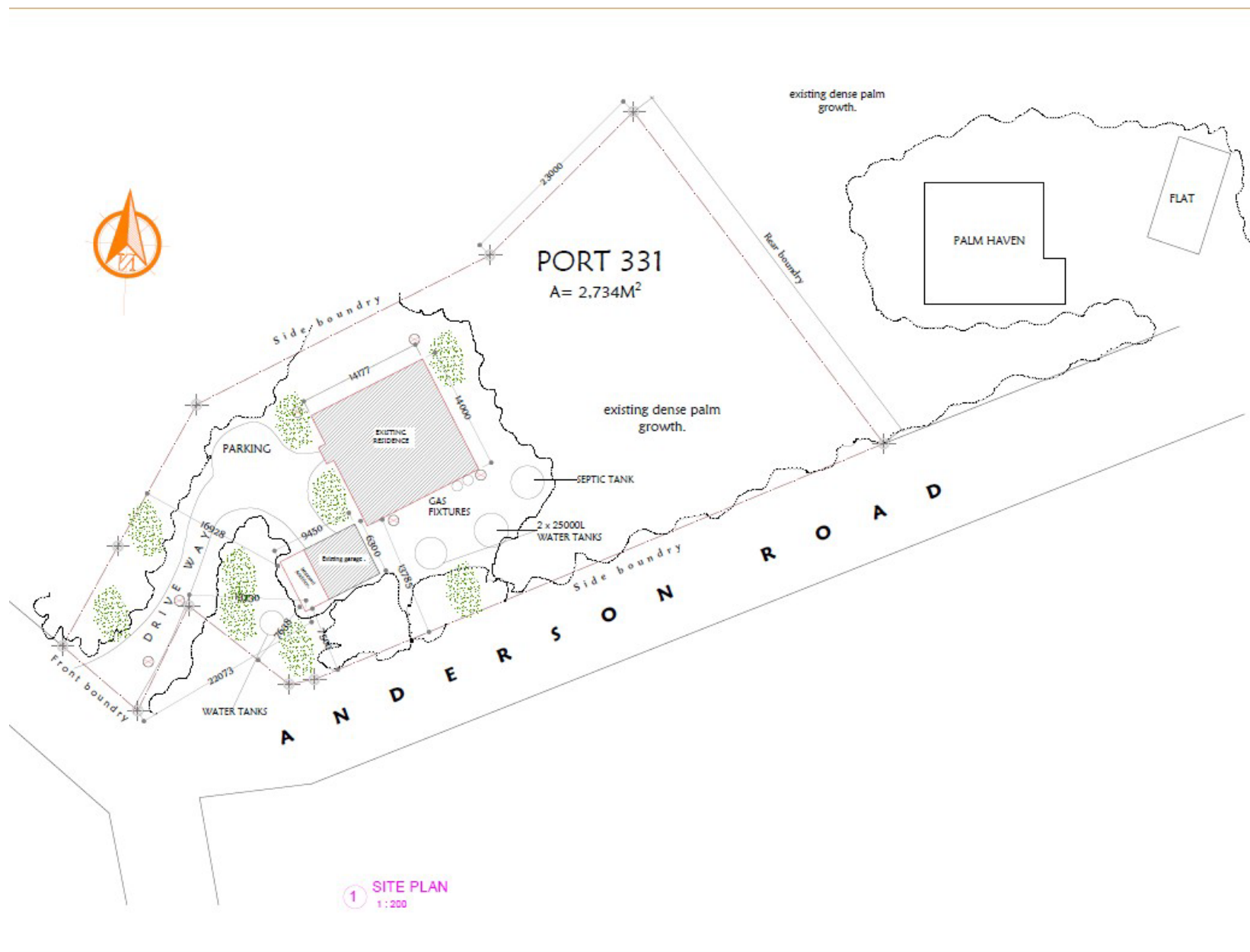


Figure 4: Applicant's submitted Site Analysis and Site Plan. – Dimensions to southern and western boundaries are inaccurate

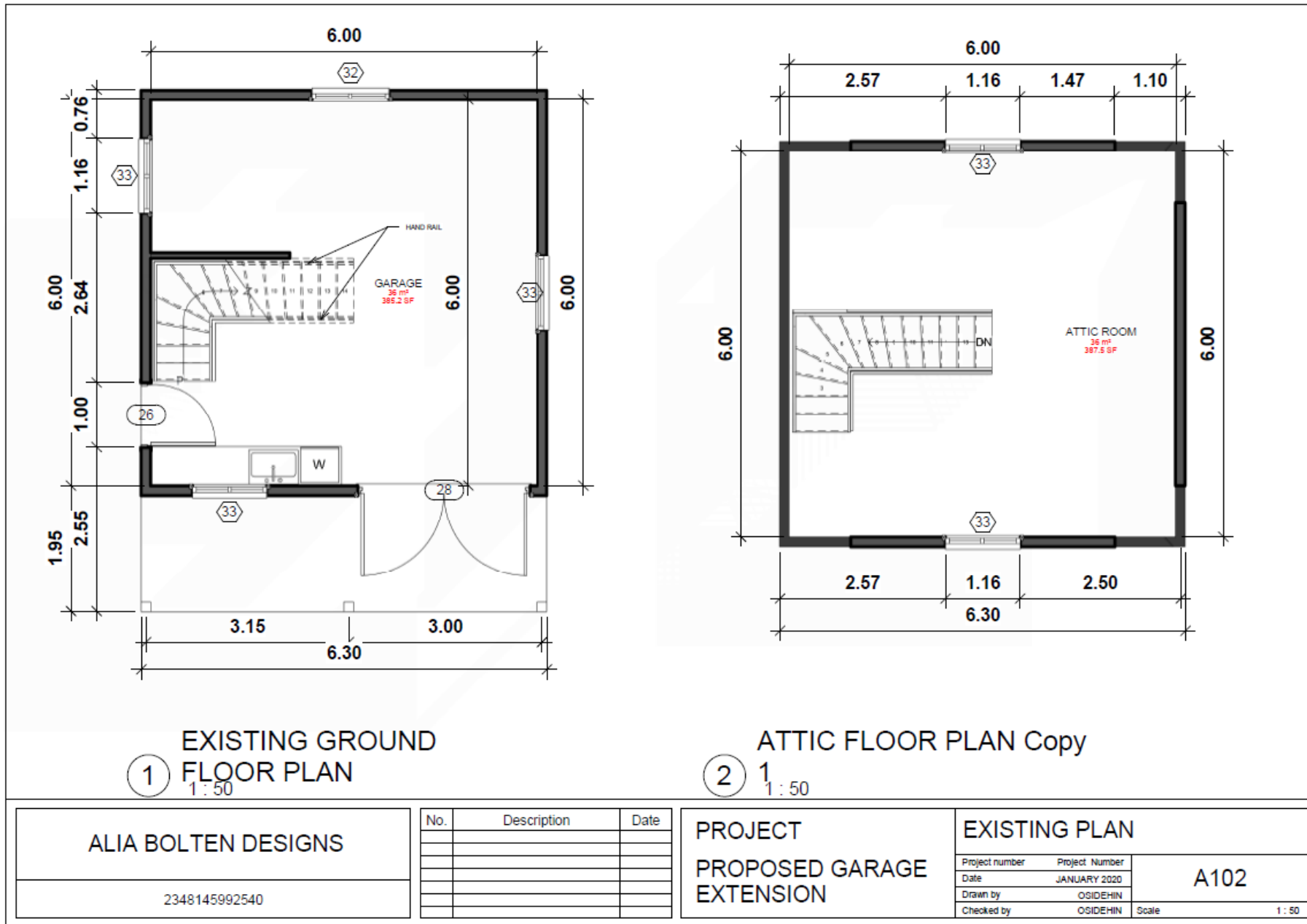


Figure 5: Applicant's submitted Existing Floor Plan for the detached garage

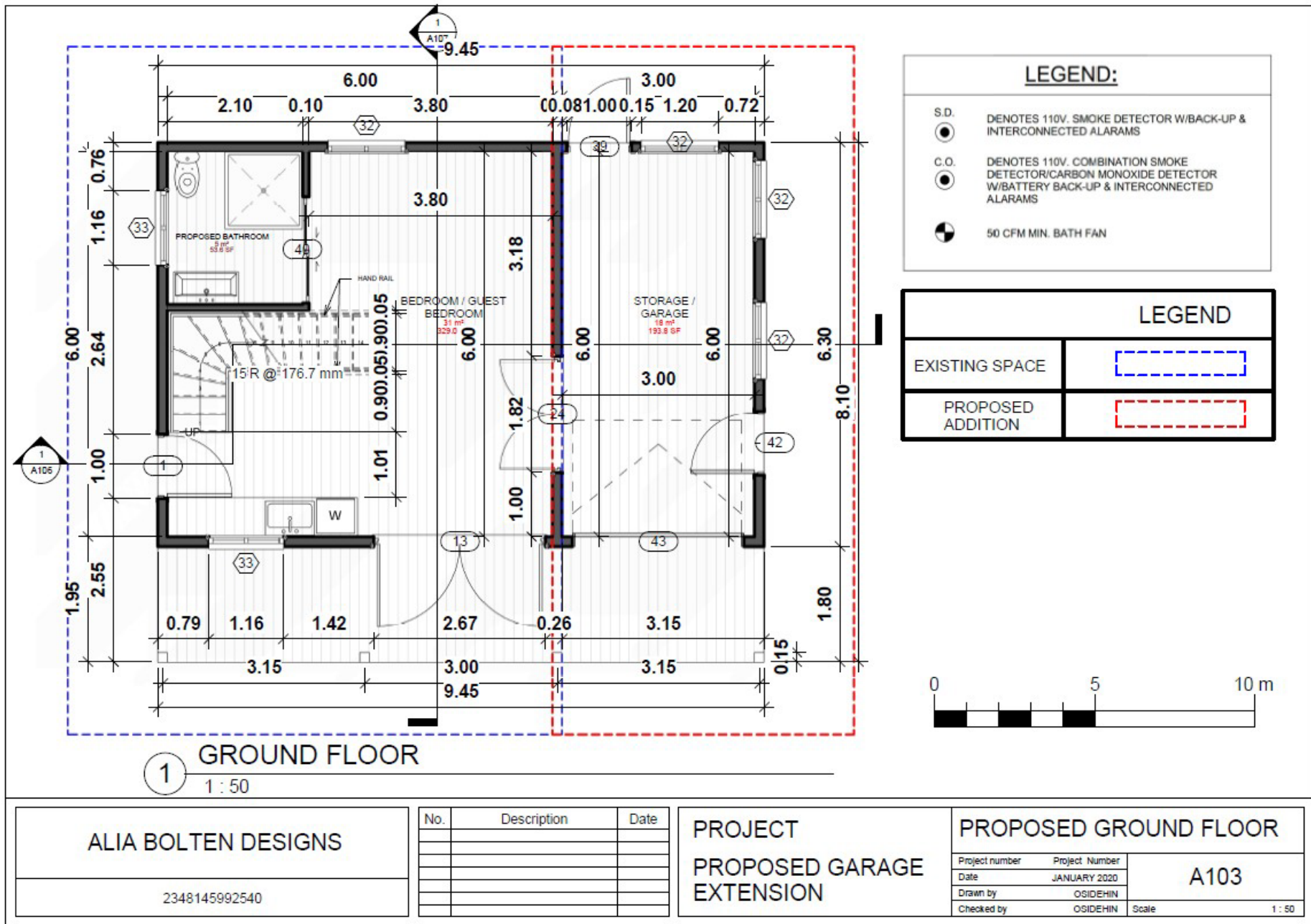
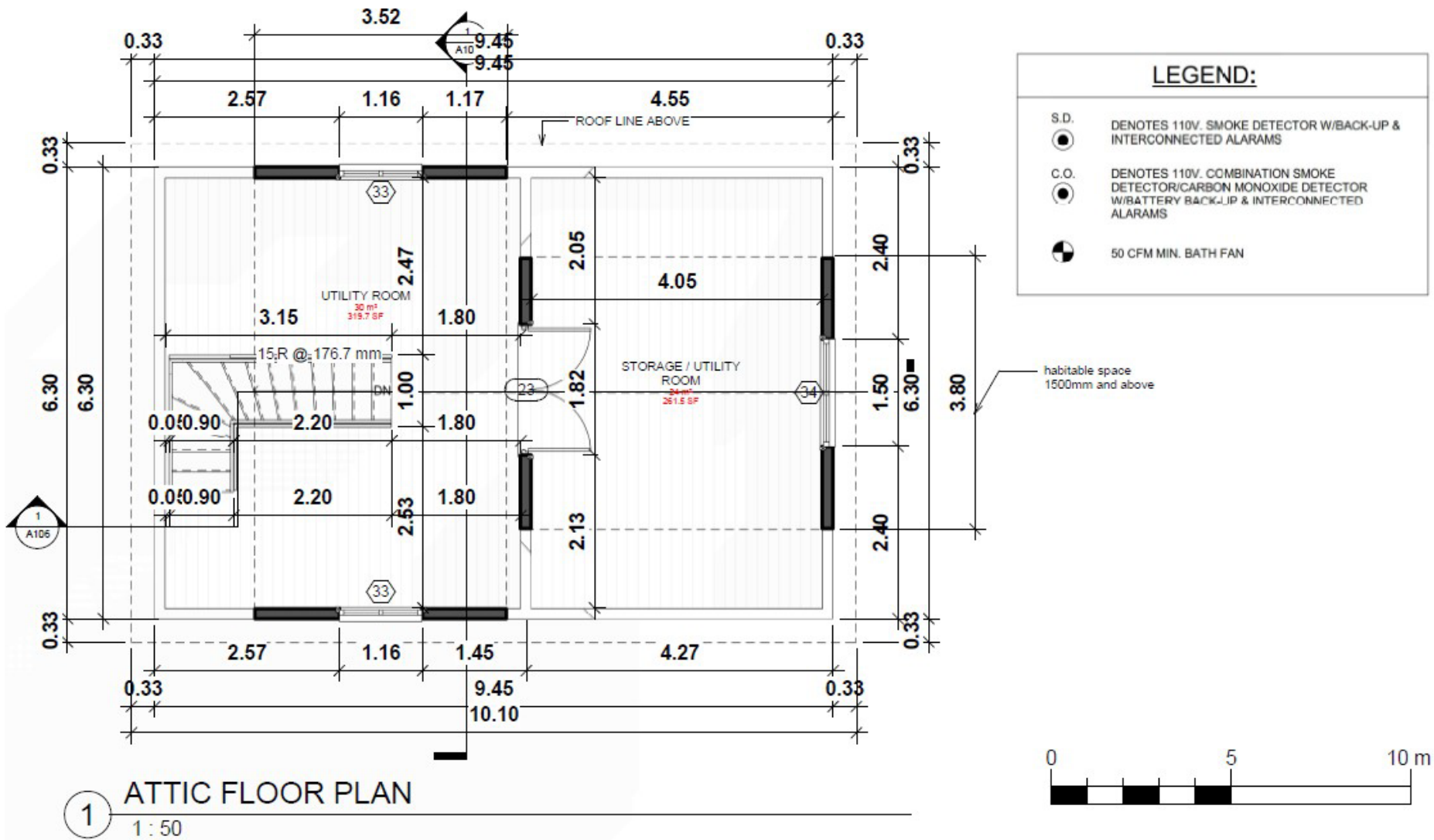


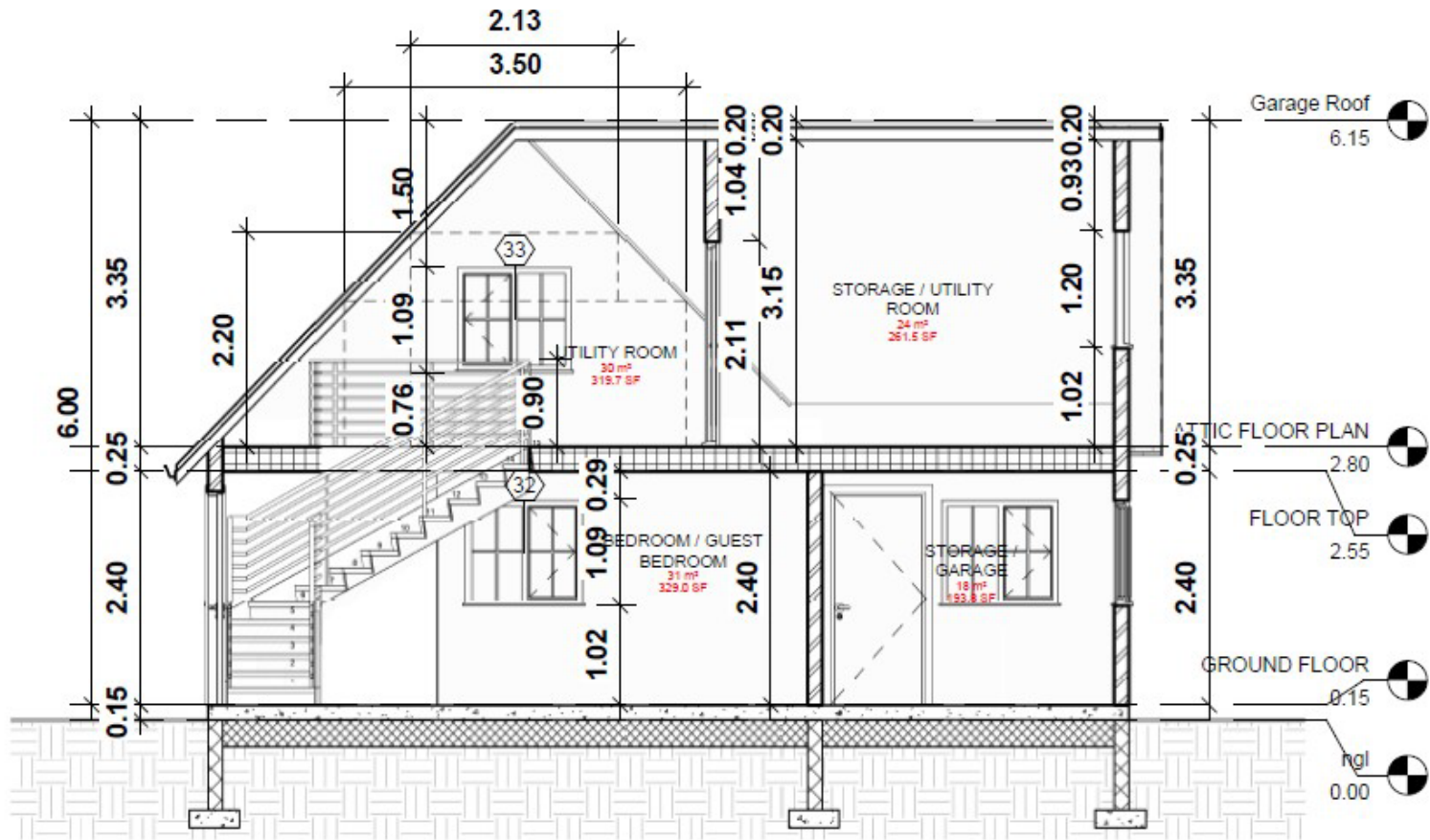
Figure 6: Applicant's submitted Floor Plan with alterations and additions shown.

ALIA BOLTEN DESIGNS	No.	Description	Date	PROJECT PROPOSED GARAGE EXTENSION	PROPOSED GROUND FLOOR	
	2348145992540				Project number	Project Number
				Date	JANUARY 2020	
				Drawn by	OSIDEHIN	
				Checked by	OSIDEHIN	Scale 1 : 50



ALIA BOLTEN DESIGNS 2348145992540	No.	Description	Date	PROJECT PROPOSED GARAGE EXTENSION	PROPOSED FIRST FLOOR	
					Project number	Project Number
					JANUARY 2020	A104
				Drawn by	OSIDEHIN	
				Checked by	OSIDEHIN	Scale
						1 : 50

Figure 7: Applicant's submitted Loft Floor Plan with alterations and additions shown.



1 Section 1
1:50

ALIA BOLTEN DESIGNS	No.	Description	Date	PROJECT PROPOSED GARAGE EXTENSION	BUILDING SECTION 1	
	2348145992540				Project number	Project Number
				Date	JANUARY 2020	
				Drawn by	OSIDEHIN	
				Checked by	OSIDEHIN	Scale
						1:50

Figure 8: Applicant's submitted Cross Section of garage alternations and additions



1 NORTH ELEVATION
1 : 50

ALIA BOLTEN DESIGNS	No.	Description	Date	PROJECT PROPOSED GARAGE EXTENSION	NORTH ELEVATION		
	2348145992540				Project number	Project Number	A108
				Date	JANUARY 2020		
				Drawn by	OSIDEHIN		
				Checked by	OSIDEHIN	Scale	

Figure 9: Applicant's submitted Northern Elevation of garage and addition.

5 Referrals –

The LHIB has distributed the subject application to relevant internal specialists for review. No objections to the proposal were raised. *Table 1* outlines the matters raised by these internal specialists and their response.

Table 1: Comments received from internal specialists

Internal specialist	Issue	Planner's Comment
<p>Hank Bower Manager Environment World Heritage</p>	<p>Comment</p> <p>The property is zoned Zone No. 2 – Settlement according to the Lord Howe Island Local Environmental Plan 2010. The objectives of this zone are: to provide opportunities for limited residential and commercial development. The proposal is consistent with these objectives.</p> <p>The proposed alterations and extension of the existing garage will require the removal of a New Zealand Christmas Tree <i>Metrosideros excelsa</i> and will not require the removal of any native vegetation.</p> <p>Subsequently, the proposal will not result in the removal of any mapped Significant Native Vegetation (SNV).</p> <p>There is native vegetation in the Study area which is mapped by Sherringham et al 2016 as community 12a – Kentia Palm Forest on coral sand and calcarenite. The vegetation at the Subject site is mapped by Pickard (1983) as vegetation association Hf <i>Howea forsteriana</i>. The Sherringham et al 2016 mapping is considered more accurate.</p> <p>There is no native vegetation identified for removal for this proposal. The proposal will require removal of a New Zealand Christmas Tree.</p> <p>The subject site provides known or potential habitat for at least 7 threatened species being; LHI Gecko <i>Christinus guentheri</i>, LHI Currawong <i>Strepera graculina crissalis</i>, LHI Golden Whistler <i>Pachycephala pectoralis contempta</i>, LHI Silvereye <i>Zosterops lateralis tephroleura</i>, Lord Howe Woodhen <i>Hypotaenidia sylvestris</i>, LHI Placostylus <i>Hypotonia bivaricosus</i> and Flesh-footed Shearwater <i>Ardenna carneipes</i>.</p> <p>The LHI Currawong, LHI Golden Whistler, LHI Silvereye and LH Woodhen are all widely distributed across the Island and regularly occupy forests and gardens within the settlement. They are commonly found co-habiting with human infrastructure within the settlement area and in the case of the LHI Currawong, LHI Golden Whistler, LHI Silvereye and LH Woodhen will forage and roost around dwellings and associated infrastructure. However, the core habitat resources for all these species is dense native vegetation.</p> <p>The Flesh-footed Shearwater nest seasonally on LHI in burrows, predominantly in areas of calcarenite soils with dense native vegetation. The Flesh-footed Shearwater has potential nesting habitat at the Subject site in the forested</p>	<p>Noted</p>

	<p>area around the existing garage. To mitigate any potential impact to nesting Flesh-footed Shearwater any works associated with the DA must only be undertaken outside the nesting season for this species which is between June and September.</p> <p>The LHI Gecko is known to occur throughout the settlement of LHI where it can utilise human made structures and stock piled building materials (e.g. sheets of corrugated iron etc) as sheltering habitat. It can be found within cavities of dwellings that exclude rodents and shelters within cracks and cavities in trees and rocks. It is possible that LHI Gecko could be present within the existing garage and could be detected during renovations. Any animals detected during works must be moved to similar habitat structures in the adjacent area (e.g. fallen timber within dense native vegetation, old dwellings/structures) away from the development site.</p> <p>The Subject site includes areas mapped as modelled High Quality Habitat (A) for LHI Placostylus. This mapping is considered accurate where there is intact native vegetation. The LHI Placostylus favours forested habitats on calcarenite soils with a dense shaded canopy, continuity with large areas of vegetation and a thick moist leaf layer in which they can burrow during dry times. This habitat is present at the Subject site, and should any LHI Placostylus be detected during construction they should be moved to adjacent bushland and placed under dense debris so they are sheltered from predators such as Woodhen and LHI Currawong.</p> <p>A 5 Part Test of significance was not submitted with the DA. This assessment concludes that the proposed development will not result in any significant impacts on any Threatened species, populations or ecological communities, or their habitats providing the recommendations below are adhered to.</p> <p>Recommendations</p> <p>If the development is approved it should be subject to the following:</p> <ul style="list-style-type: none"> • If any live LHI Gecko or LHI Placostylus are detected during works they must be moved to similar habitat structures in the adjacent area (e.g. fallen timber within dense native vegetation, old dwellings/structures) away from the development site so they can escape predation by predators such as LHI Currawong and LH Woodhen. • All building materials and building activity are restricted to being stock piled on cleared open areas. • Any works associated with the DA must only be undertaken outside the nesting season for this species which is between June and September. 	
<p>Kate Dignam – Team Leader Compliance & Project</p>	<p>The proposed alterations & additions in this Development Application will classify the building as a Class 1 building with the exception of the ground floor garage addition which will be a Class 10 building.</p> <p>A construction certificate will be required for all works outlined in the DA. A building certifier will be required to</p>	<p>Noted & issues included in the attached recommendation where details/ information required for the</p>

	<p>certify elements of the building works.</p> <p>As this DA is a change of use from an uninhabitable building to a habitable building a BASIX Certificate is required. The BASIX certificate may require works to be done or installation of certain fixtures and/or systems. A building certifier may be required to inspect and certify that BASIX nominations have been fulfilled before a Final Occupation Certificate can be issued.</p> <p>The applicant must ensure that the building is constructed in such a manner to avoid the likelihood of the creation of any unhealthy conditions. The current design/floor plan is not consistent with the BCA volume 1, Part 2.4 Health and Amenity.</p> <p>There is a laundry within the proposed bedroom. The applicant must ensure that water vapour and condensation is managed so as not to impact on the health of the occupants.</p> <p>A double door is proposed from the new garage area direct into the bedroom. The applicant must ensure that this doorway can be completely sealed so as to prevent carbon monoxide entering into the bedroom.</p> <p>The current floor material is unsealed pavers. This material is not adequate to provide a barrier for rising damp. Moisture from the ground must be prevented from causing unhealthy or dangerous conditions for the occupants.</p> <p>The wet areas, laundry and bathroom must have waterproofing appropriate to the fixtures and fittings proposed to be installed. The waterproofing is to be applied by an appropriate person to the requirements of the BCA/NCC and AS3740. The application of the waterproofing will be required to be certified by the appropriate person who undertakes the task. This certification will be required before an occupancy certificate can be issued for the building. An inspection of the waterproofing before covering will also be required by a building certifier.</p> <p>Fire detection and early warning devices will need to be installed so that occupants are warned of a fire in the building. All fire related elements required to be installed will need to be inspected and certified by a building certifier.</p> <p>The house is currently serviced by a Septic. Under the LHI On-site Wastewater Management Strategy 2015 (the Strategy) a septic alone is not an allowable form of wastewater treatment.</p> <p>As this Development Application proposes an additional bedroom, therefore increasing occupancy, the applicant must upgrade the wastewater treatment system to comply with the Strategy. Development consent will be required for the upgrade as only land mapped as SNV is available on the lease for the required effluent irrigation field.</p> <p>All plumbing works, including connections to the wastewater treatment system, are to be undertaken by a licenced plumber.</p>	<p>DA is missing.</p>
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	All electrical works are to be undertaken by a licenced electrician. All electrical works are to be certified by the licenced electrician and a copy of the certification is to be provided to the Board.	
Garry Millman –Surveyor	The extension to the existing garage has been staked as per DA2020.13 plans. I located an original boundary corner peg to the south of the proposed extension and found that the existing garage south corner is 5.6m from the side boundary which makes the proposed south corner from this boundary about 5.4m. The closest distance from the new proposed south corner of the garage building to the 'kick in' of the road boundary measures about 3.1m.	Noted, these confirmed boundary setbacks to Anderson Rd are less than those indicated on the submitted site plan. Refer to assessment of cl. 32 LHI LEP in sect 6.3.1 for more discussion on non-complying boundary setbacks.

6 Planning Assessment

The following planning assessment has been undertaken for the proposed development taking into account the relevant statutory controls, and other relevant matters as detailed below in this report.

6.1 Commonwealth legislation

6.1.1 Environmental Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) provides for the protection of certain matters of national environmental significance (NES) listed under the Act, which include:

- World Heritage Areas
- National Heritage Places
- Ramsar wetlands of international importance
- Commonwealth listed threatened species and ecological communities
- Listed migratory species
- Commonwealth marine areas
- Great Barrier Reef Marine Park
- Nuclear actions.

Under the EPBC Act, Commonwealth approval is required from the Minister of Sustainability, Environment, Water, Population and Communities (Minister) for any action that will have or is likely to have a significant impact on a NES, or on the environment of Commonwealth land or on the environment if the action is proposed to be taken by a Commonwealth agency (known as a 'controlled action').

A person proposing to take a controlled action must refer the proposal to the Minister for determination. A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.

Lord Howe Island is a declared World Heritage Property. Section 12 of the EPBC Act 1999 requires approval of actions that involve a significant impact on a declared World Heritage Property.

For any approval issued for the subject DA an Advisory Note should be included in the recommendation to this report, that the applicant make independent enquiries with the Australian Government's Department of the Environment and Energy, to confirm whether they consider the proposed actions as detailed in this report are likely to have any impact on the heritage values of the:

- *World Heritage and National Heritage listed Lord Howe Island Group - ID 105085 and 105694, and*
- *Register of the National Estate listed Lord Howe Island Group and Marine Environs - ID 201.*

6.2 NSW legislation

6.2.1 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (NSW) (BC Act) sets the framework for the listing of threatened species, populations and ecological communities, and key threatening processes in NSW, and the preparation and implementation of recovery plans and threat abatement plans.

The BC Act also provides the mechanism for applying for and obtaining licences to take actions, which could result in harm to a threatened species, population or ecological community, or their habitat, or damage to critical habitat.

As confirmed in the internal referrals supplied (ref section 5 earlier), no adverse ecological impacts from the proposal are envisaged. No SNV will be removed or damaged as a consequence of the proposed works. Appropriate conditions to address or mitigate potential environmental impacts should be included in any approval of the application.

6.2.2 NSW Heritage Act 1977

The main objective of the *Heritage Act 1977* (Heritage Act) is to encourage the conservation of the heritage of NSW. Pursuant to Section 4.46 (previously Section 91) of the EP&A Act 1979, Section 58 and Section 57(1) of the Heritage Act are triggered by this application.

The Lord Howe Island Group is listed on the State Heritage Register. Section 57 (1) of the Heritage Act requires that all applications to carry out development on Lord Howe Island, be referred to and granted concurrence by the NSW Heritage Division. This provision is overridden however by the operation of Section 57 (2), in the circumstance of the Minister issuing a Heritage Exemption Order.

On 9 January 2015, the NSW Minister for Heritage published an order under section 57(2) of the *Heritage Act*, providing for an exemption to refer specific activities to the Heritage Division, instead requiring referral of only those applications requiring consent under clause 39 of the LHI LEP 2010. (This being related to listed heritage items).

The site does not require consent under clause 39, as it is not a listed heritage item within the LEP 2010. Referral of this application to the NSW Heritage Division is therefore not required.

6.2.3 Lord Howe Island Act 1953

The Lord Howe Island Act 1953 (LHI Act) established the Lord Howe Island Board as a Statutory Body, its membership being seven with an elected Islander majority (4), it also sets out the Board's Charter and functions; establishes the Permanent Park Preserve; and provides a land tenure regime of perpetual leases which gives Islanders who hold a lease certain privileges and obligations.

Perpetual Lease holders on Lord Howe Island are required to comply with section 21(7) of the Lord Howe Island Act which states:

(7) 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 the holder or the owner (subject to mortgage) or sublessee of the lease has been or shall be prevented by sickness of himself or herself or family or other adverse circumstance from performing such condition, the Board may, upon application as prescribed, and on sufficient reason being shown, suspend such condition for such period and subject to such conditions as the Board may approve.

Concerns have been raised in a number of submissions received for this application that Chris and Rosalind Wade may be in breach of the condition that requires them to reside on the lease. However as the Board has not formally completed an investigation into this it is not appropriate to add significant weight to this when considering the merits or permissibility of this Owners Consent or Development Application.

Local Statutory Plans and Policies

6.3.1 Lord Howe Island Local Environmental Plan 2010

The *LHI LEP 2010* is the principal environmental planning instrument applying to the proposal. The following summary *Table 2* details the LEP provisions relevant to the subject proposal, together with assessment and/or comment as required.

The subject site is located within Zone 2 Settlement, and the proposed development is permitted with development consent on such land under the LEP.

Table 2: LEP 2010 compliance summary table

LEP 2010 Clause		Compliance Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	N	As outlined elsewhere in this assessment the proposal does not comply with the aims and strategies of the LEP in particular 3(a) "to apply general land use controls to land within each zone and special provisions for particular kinds of development or for development on particular land".

3	Land to which plan applies	Y	The LEP 2010 applies to the subject site which is part of Lord Howe Island, as defined in Section 3 of the Lord Howe Island Act 1953.
6	Who is the consent authority for this Plan?	Y	The Lord Howe Island Board (LHIB) is the relevant consent authority.
7	Maps	Y	Noted.
9	Exempt Development	N/A	The proposed works are not listed as Exempt Development within Schedule 1 of the LEP.
11	Matters that must be satisfied before development consent granted	N & Y	Clause 11(a) regarding compliance with the aims of this plan and the objectives of any zone is not complied with. Neither is cl. 11(b) regarding the required upgrade of the onsite wastewater facilities. Other than the above, the relevant matters contained within clause 11 are satisfied – refer to clause 11 assessment following.
Part 2 General Provisions applying in particular zones			
12	Land Use Zones	Y	The land is zoned Zone 2 Settlement.
14	Zone 2 Settlement	N	The proposal does not comply with the LEP Zone 2 Settlement objectives as assessed later in this report (ref section 6.4 – Clause 11 Matters (LHI LEP 2010).
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
25	New use of a building as a dwelling	N/A	As assessed below (ref cl. 26), the application is not for a new dwelling.
26	Limit on number of dwellings to which consent may be given.	Y	<p>Based on the plans submitted with the application and confirmations received from the applicants, no kitchenette or kitchen facilities are proposed for the studio works, and the proposal does not constitute an additional dwelling.</p> <p>If the applications were to be approved (and to ensure the above remains the case) a condition should be applied to prevent the installation of any kitchen/kitchenette facilities without LHIB approval and to ensure that no separate residential occupation of the proposed studio is to occur (other than in conjunction with the occupation of the primary dwelling).</p> <p>Another condition would be recommended, if the LHIB was of a mind to approve the DA, being that bedroom facilities shall only be provided on the ground floor of the studio as indicated on the submitted plans. With the entire first floor only used as a utility room and storage.</p>

27	<p>Enlargements or extensions of dwellings:</p> <p>a) 300m² max. GFA for dwelling</p> <p>b) no removal of SNV</p> <p>c) min. 50% allotment area to be landscaped with 35% native planting</p>	Y	<p>The proposed alterations & additions to the existing garage to create a studio will involve the following:</p> <ul style="list-style-type: none"> The existing dwelling has a GFA of (14.17m x 14m=) 164.38m² (excl rear unenclosed covered deck) + (upper floor of 7.89 x 4.4m=) 34.72m², total 199m². The existing garage has a GFA of 36.9m² + a loft of (36.9m²/ 2 (to exclude the <1.4m ceiling height) – 3.37m² stairs=) 15m² = 52m². <i>Total Existing GFA = 251m²</i> <p>The revised site calculations as a result of the subject proposal will be:</p> <ul style="list-style-type: none"> Existing dwelling=199m² Revised total garage/ studio with alts & adds = 96.39m² (excl. upper area with ceiling height ≤ 1.4m) <p><i>Total Proposed GFA = 295.4m²</i></p> <p>The proposal thus complies with the 300m² max GFA provision of the LEP.</p> <p>The proposed work would be located adjoining a mapped SNV area of the site and any approval of the development should therefore include the standard condition that no SNV shall be damaged or removed as a result of the proposal.</p> <p>At least 50% of the site will continue to be available for landscaping and 35% of that will be native species.</p>
29	Maximum height of buildings	Y	<p>The proposal complies, as the building roof height is less than 7.5m (no change is proposed to the roof height being 5.23m).</p>
Division 2 Provisions that apply to particular land			
32	<p>Setbacks of buildings in Zone 1, 2 or 5</p> <p><i>32(2)(b) (if the allotment has more than one boundary adjoining a road) – the building must be erected at least 10 metres from one of those boundaries and at least 5 metres from any other boundary of the allotment,</i></p>	N	<p>The proposed work incorporating an addition to the western end of the existing garage will significantly reduce the existing southern and western (front) setbacks to Anderson Road. All other setbacks will remain unchanged or are not at issue in the proposal.</p> <p>The Board's surveyor has confirmed that the existing garage on site is setback 5.6m from Anderson Rd to the southern boundary and (it has been otherwise calculated) to be around 5m from the western (front) boundary with Anderson Rd. The proposed addition to the garage will reduce these setbacks to 5.4m (south) and 3.1m (west) respectively.</p> <p>The above dimensions are reasonably different to those indicated by the applicant on the submitted plans which are shown as 7.5m to the south and 7.6m to the west (front).</p> <p>The LHIB's dimensions for the setback are relied upon for this planning assessment.</p> <p>Notwithstanding the above inconsistencies in the nominated setbacks, the applicant has made the</p>

		<p>following arguments in support of the proposed setbacks (as quoted in the applications):</p> <ul style="list-style-type: none"> • <i>“The assumed notional boundary is in fact Anderson Road (rather than the existing dog leg). The dog leg area comprises existing established SNV that appears to form part of our property as garden landscaped area. To the casual observer, the front boundary would in fact be presumed to be the (main) Eastern boundary, which is approx. 20m away from the proposed development.</i> • <i>The proposal is a corner block with an unorthodox irregular shaped dog legged boundary. Despite this unusual dog leg, the distance of the proposed alteration is approx. 7.5m from the Southern boundary and 7.5m from the dog leg boundary. This is a minor variation to the relevant setback.</i> • <i>The proposed alteration is unable to be located elsewhere on the block due to the block layout and large volume of SNV across the property. The proposed alteration has been positioned on an already existing cleared area that has an existing woodshed construction in situ.</i> • <i>We understand that other existing and recently approved alterations are significantly higher than our proposed alteration and are far more visible from the street. Our proposal is mainly obscured by existing vegetation and has been designed to match the existing architecture in place.</i> • <i>It seems there is some ambiguity in regards to the actual boundary lines as the site boundary comprises a dog leg section that makes defining the front and side boundary ambiguous</i> • <i>Without the dog leg boundary, the property would comply with the front setbacks</i> • <i>The development will see an improvement in the amenity, safety and maintenance to an old aging building</i> • <i>There is absolutely no concerns with any neighbouring properties, overshadowing etc., as the development is in established palm forest, with no affected neighbours.”</i> <p>It is also noted that cl. 32(3) of the LEP provides for the LHIB to consider variations to the requirements 32(2)(b) “if, in the consent authority’s opinion, compliance with the requirements would be unreasonable (for example, because of the physical constraints of the land) or unnecessary”.</p> <p>Some merit consideration can be given to a proposed variation to boundary setbacks on the basis of the submission of the applicant, including the degree and density of existing landscape screening between the proposed work and the site boundaries and within the road reserve of Anderson Road (and the fact that this vegetation is mapped SNV and cannot be damaged or removed).</p> <p>Nonetheless, based on the LHIB’s calculated setbacks and applying the 10m required setback to the larger</p>
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			<p>southern side boundary, the proposal includes a 2.5m variation to the 10m setback and 1.9m to the 5m setback requirements of the LEP. These are variations of 25% and 38% of each standard respectively. These are numerically significant variations which weigh heavily on the assessment of the merits of the proposal and given these circumstances, the degree of variation to the LEP and DCP setbacks are not supported.</p> <p>Another consideration assessed earlier (ref cls. 11 and 14), is that the proposed variations also do not comply with the objectives of the LEP, or the objectives of the Zone 2 Settlement within the LEP.</p>
33	Landscaping to be carried out in Zone 2	N	In regards to the creation of a precedent (for future development) by the approval of the proposed (significant) setback variations, the development proposal is assessed as likely to have a significant adverse impact on the existing landscaped character and dispersed pattern of housing in the Settlement 2 Zone.

6.3 CLAUSE 11 MATTERS

Clause 11 of the LHI LEP 2010 provides that the consent authority must not consent to the carrying out of development unless it is satisfied regarding the following matters. These requirements with respect to the proposed development are discussed below.

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
a) <i>The proposed development is consistent with the aims of this plan and the objectives of any zone, as set out in the plan, within which the development is proposed to be carried out,</i>	N	<p>The first LEP objectives of Zone 2 Settlement is to provide for <i>development that maintains the dispersed housing pattern of the settlement area and is in sympathy with existing development in relation to the following setbacks, building mass and style, visual amenity, and landscaped character.</i></p> <p>The proposed variations to the setback requirements do not comply with the above objectives as sought to be applied in the LEP cl. 32 requirements and as assessed elsewhere in this report.</p>
b) <i>There is an adequate area available for the disposal or treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	N	The current Septic wastewater system servicing the site must be upgraded due to the increased occupancy related to the proposal in accordance with the LHI On-site Wastewater Management Strategy 2015. The subject application has not addressed this requirement which also requires development consent (refer to internal referral comments in section 5 and the recommendation of this report).
c) <i>No part of the proposed development:</i> i. <i>will result in any damage to, or removal of, significant native</i>	Y	As stated earlier in this report part of the lot is mapped Significant Native Vegetation (SNV). The proposal will be located adjoining mapped SNV but no SNV is proposed to be damaged or removed as a result of the proposal.

<p>vegetation, or will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</p> <p>(ii) will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</p>		<p>If an approval is issued for the development, it would be appropriate to include standard conditions relating to the preservation of SNV to ensure and address this.</p>
<p>d) Access is, or will be, available to the site of the proposed development and the provision of any such access will not:</p> <p>i. result in any damage to, or the removal of, significant native vegetation, or</p> <p>ii. have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</p>	Y	<p>No change to the current vehicle access arrangements to/from Anderson Road or within the site is proposed. Refer also to the above comments on subclause 11(c).</p>
<p>e) Any proposed landscaping will provide various species of plants that are native to the Island and common in the locality to enhance any significant native vegetation,</p>	N/A	<p>As stated under the discussion of clause 33 of the LHI LEP 2010, no additional landscaping is proposed or considered required.</p>
<p>f) The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</p>	N/A	<p>The site has not been identified as being affected by such hazards.</p>
<p>g) Adequate services in respect of the proposed development can be provided without significant additional cost to the Board or the community of the Island,</p>	Y	<p>No additional services are required for the proposed development.</p>
<p>h) The appearance of the proposed development (when considered by itself or in conjunction with existing buildings and works) will not have any significantly adverse impact on the locality,</p>	N	<p>As assessed elsewhere in this report, the proposal involves significant numerical non-compliances with the LEP setbacks. The approval of these variations is likely to create a precedent for consideration of future development that in different circumstances will not be in accordance with cl. 11(h) of the LEP.</p>
<p>i) The proposed development will not cause any significant overshadowing of adjoining land,</p>	Y	<p>The proposal will not generate overshadowing of any adjoining land.</p>
<p>j) The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</p>	Y	<p>As also assessed earlier under the discussion of clause 32, LHI LEP 2010, the proposal will not reduce the privacy of any adjoining property.</p>

6.4 Lord Howe Island Development Control Plan 2005

The Lord Howe Island Development Control Plan 2005 (DCP 2005) applies to the subject site and an assessment of the provisions of the DCP relevant to the subject proposal is included in the following table.

DCP Compliance summary table:

LHI DCP 2005 Clause		Complies Y/N	Comment
Part 1 Introduction			
1.2	Plan Objectives	Y	The proposed works are consistent with the Plan objectives.
1.4	Where does plan apply?	Y	This DCP applies to the subject site.
Part 2 Design Principles			
2.1	Introduction	Y	Noted.
2.2	Objectives	N	In relation to the proposed setback variations and how they relate to the objectives of encouraging good design of buildings which respect the special landscape character of the Island and encouraging maintenance of the existing scale of Island buildings, the proposal as assessed in this report is inconsistent with the DCP.
2.3	Design Context	N	As assessed in this report elsewhere, the proposal numerically (in as far as setbacks are concerned) will be inconsistent with the character and nature of the site and locality.
2.4	Bulk and Scale	N	The proposed alterations and additions to the existing garage will increase the bulk and scale of the existing structures on the site and will not be setback from the site boundaries in accordance with the LEP. Therefore the proposal will not maintain the dispersed pattern of buildings on the Island in sympathy with existing development.
2.5	Building Forms	Y	The proposed works will be consistent with the existing building and structure on the site. The proposal will not significantly change the present building form and character of the Island.
2.6	Building Materials & Colours	Y	The proposed materials will be sympathetic and compatible with the existing building materials and colours.
2.7	Energy and water efficiency	Y	As discussed earlier, the proposed development has considered energy and water efficiency, and the proposal generally complies with the DCP.
2.8	Landscaping design	Y	As discussed previously, no additional landscaping is proposed or considered to be required in the subject DA.
2.9	Site access and parking	Y	No change to the existing arrangements proposed.
Part 3 Development Control Policy			
3.2	Single Dwellings	Y & N	The proposal will comply with the minimum site area and maximum GFA for dwellings as referenced in s3.2 of the LHI DCP and cl. 27 of the LHI LEP 2010. However, the proposal will not comply with the 10m and 5m setback requirements of s3.2 of the LHI DCP and cl. 32 LHI LEP 2010 (as assessed earlier in this report under the relevant section).

7 Environmental Effects

7.1 Environmental Planning and Assessment Act 1979

Under the provisions of Section 4.15, (previously 79C (1)) of the EP&A Act, in determining a DA, a consent authority is to take into consideration the following matters as are of relevance to the development the subject of the DA.

- a) the provisions of the following that apply to the land to which the development application relates:
- i. Any environmental planning instrument
Comment: An assessment against the LHI LEP 2010 has been undertaken (see Section 7.3.1) and the proposed development was found to not comply with key relevant provisions of the LEP. On balance the application has been assessed as not being worthy of support.
 - ii. Any proposed instrument that is or has been the subject of public consultation under this Act
Comment: N/A
 - iii. Any development control plan
Comment: An assessment of the proposal against the LHI DCP 2005 has been undertaken in Section 7.3.3 and it was found to not comply with some key relevant provisions. Consequently, the applications have been recommended for refusal.
 - iii. Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4
Comment: There are no planning agreements relevant to the application.
 - iv. The regulations (to the extent that they prescribe matters for the purposes of this paragraph)
Comment: There are no relevant matters prescribed by the regulations.
 - v. Any coastal zone management plan (with the meaning of the Coastal Protection Act 1979)
Comment: There are no coastal zone management plans relevant to the application.
- b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

As evidenced by the submissions received to the notification of the proposal the existing non island residency status of the applicants and the associated non-compliance with the LHI Act 1953, is having a negative social effect on the community. Without any change to this situation the proposed development is likely to accentuate this negative impact.

An assessment of the environmental impacts of the proposal have been considered elsewhere in this section of the subject report. It is considered that the proposed significant variations to the LHI LEP setback requirements are likely to set a negative precedent for consideration of future applications elsewhere on the Island resulting in detrimental environmental impacts.

The *Table 3* below provides further assessment of any likely impacts.

Table 3: Likely environmental impacts

Potential Impacts	Proposal
Access, Transport and Traffic	There will be no detrimental impacts on the existing access with the subject site or vehicular movement from Anderson Road.
Ecological	As stated previously, the proposal will not result in the removal of any SNV or result in a significant effect for any threatened species, populations or ecological communities, or their habitats subject to the application of the appropriate conditions applied to any consent issued for the proposal.
Flood	The site is not identified as flood affected.
Heritage	The subject site is not listed as a heritage item.
Views	Public and private views will not be significantly impacted.
Privacy	The proposal will not significantly change the existing privacy arrangements.
Open Space	Open space will not be impacted by the proposal.
Social and economic Impact in Locality	Refer to above assessment.
Construction	Construction will need to be undertaken in accordance with the BCA/NCC requirements, and as per the recommended DA conditions of consent.

c) the suitability of the site for the development

Having regard to its location, and the preceding assessment of the proposal (including the significant setback variations), it is felt that the site will not adequately accommodate the proposal, and is not suitable for the proposal for the reasons outlined in this report.

d) any submissions made in accordance with this Act or the regulations

As confirmed earlier in this report, six (6) objections were received to the notification of the proposal. These objections were in relation to the following:

- perceived residency status of the applicants, and that they had not been living on the Island in non-compliance with the residency requirements of the LHI Act 1953
- for these reasons the subject applications should be refused
- if the applications are approved it will set a negative precedent for future situations and erode trust in the LHIB by the LHI community leading to a deeper void between each.

e) the public interest

For the reasons outlined in the preceding assessment, it is considered that the proposed works will not be in the public interest, and should be refused as per the attached recommendation.

8 Conclusion

The subject DA application is recommended for refusal. The application has been assessed with regard to the provisions of the LHI Act 1953, Section 4.15 of the EP&A Act, the LEP 2010 and DCP 2005 and the relevant codes and policies of the Lord Howe Island Board.

Regarding the Owners Consent application the Board administration has advised that Owners Consent should be granted. A refusal of Owners Consent is not consistent with due process. Should the Board refuse Owners Consent the Board may be liable to a Class 4 judicial review and civil enforcement. The significance of a Class 4 appeal is that the Board may be liable for costs should the proceeding against the Board be successful.

In the scenario where the Board grants Owners Consent but refuses the DA, the determination may be the subject to a Class 1 Development appeal where the merits of the DA will be reviewed by the Land and Environment Court. Typically each party pays their own legal costs for a Class 1 appeal.

The Board Administration have provided an alternative recommendation where Owners Consent is refused, but this is not the recommend course of action for the above reasons. Both options ultimately result in the same outcome of the proposed development not being supported due to its noncompliance with the LEP.

9 Recommendation

- a) The Board Grant Owners Consent for application 2020.10 Alterations and Additions to Existing Garage to Create a Studio at Lot331 DP 46194, No. 331 Anderson Road, Lord Howe Island.
- b) That DA2020.13 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, be refused for the following reasons:
 - i. inconsistencies in the submitted plans for the application regarding the existing and proposed boundary setbacks and in relation to existing facilities on the ground floor of the development
 - ii. The proposal does not comply with the clause 2 aims and strategies of the LHI LEP 2010 as outlined in the preceding assessment and in particular 3(a) “to apply general land use controls to land within each zone and special provisions for particular kinds of development or for development on particular land”.
 - iii. The proposal will not comply with the Objectives of the Zone 2 Settlement referenced in clause 14, and clause 11(a) LHI LEP 2010 as sought to be applied by the LEP setback requirements of cl. 32.
 - iv. the proposed numerical non-compliances with the LEP setbacks are likely to create a negative precedent for consideration of future development and that is not in accordance with Clause 11(h) of the LEP regarding the appearance of the development involving a significantly adverse impact on the locality.
 - v. The proposed variations to the boundary setback requirements of clause 27, LHI LEP 2010 and s3.2 of the LHI DCP 2005 are numerically significant and are not supported. Based on the LHIB’s calculated setbacks and applying the 10m required setback to the larger southern side boundary, the proposal includes a 2.5m variation to the 10m setback and 1.9m to the 5m setback requirements of the LEP. These are variations of 25% and 38% of each standard respectively.
 - vi. The proposal does not demonstrate compliance with Clause 33, LHI LEP

2010 in that the proposal will likely have a significant adverse impact on the existing landscaped character and dispersed pattern of housing in the Settlement 2 Zone and approval of the variation would create an undesirable precedent.

- vii. The proposal is inconsistent with the LHI DCP 2005, s2.2 Objectives in relation to the proposed setback variations and how they relate to encouraging good design of buildings which respect the special landscape character of the Island and encouraging maintenance of the existing scale of Island buildings and the likely creation of an undesirable precedent for consideration of future development.
- viii. In relation to LHI DCP 2005, Section 2.3 Design Context, the proposal numerically (in as far as setbacks are concerned) will be inconsistent with the character and nature of the site and locality and the likely creation of an undesirable precedent for consideration of future development
- ix. In relation to LHI DCP 2005, s2.4 Bulk and Scale, the proposed alterations and additions to the existing garage will increase the bulk and scale of the existing structures on the site, it will not be setback from the site boundaries in accordance with the LEP, it will not maintain the dispersed pattern of buildings on the Island in sympathy with existing development and likely create an undesirable precedent for consideration of future development.
- x. A BASIX Certificate for the development (required for the proposed change of use from an uninhabitable building to a habitable building) has not been submitted under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. In addition, the BASIX Certificate is likely to require additional work and/ or installation of certain fixtures and/ or systems which need to be detailed in the application and plans.
- xi. The current design/ floor plan does not comply with Building Code of Australia (BCA) Volume 1, Part 2.4 (Health and Amenity) requirements including the following:
 - Location of laundry facilities within the bedroom and the means to manage water vapour and condensation and avoid resultant health impacts on occupants
 - Evidence and details that the proposed internal double door between the ground floor bedroom and the new garage addition has been designed to be completely sealed from carbon monoxide entry from the garage
 - The current ground floor material is unsealed pavers. This material is not adequate to provide a barrier for rising damp. Moisture from the ground must be prevented from causing unhealthy or dangerous conditions and no new floor is proposed complying with the BCA.

- xii. The current Septic wastewater system servicing the site must be upgraded due to the increased occupancy related to the proposal in accordance with the LHI On-site Wastewater Management Strategy 2015. The subject application has not addressed this requirement which also requires development consent.
- xiii. For the preceding reasons, the site is not considered suitable for the proposed development and will not be in the public interest.

Alternate Recommendation:

Owners Consent and Development Consent Recommendations (Refusal)

- a) Regarding 'Owner Consent' 2020.10 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, the Lord Howe Island Board decline to issue the requested owners consent on the following basis:
 - i. The proposal does not comply with the clause 2 aims and strategies of the LHI LEP 2010 as outlined in the preceding assessment and in particular 3(a) "to apply general land use controls to land within each zone and special provisions for particular kinds of development or for development on particular land".
 - ii. The proposal will not comply with the Objectives of the Zone 2 Settlement referenced in clause 14, and clause 11(a), LHI LEP 2010 as sought to be applied by the LEP setback requirements of cl. 32.
 - iii. the proposed numerical non-compliances with the LEP setbacks are likely to create a negative precedent for consideration of future development and that is not in accordance with Clause 11(h) of the LEP regarding the appearance of the development involving a significantly adverse impact on the locality.
 - iv. The proposed variations to the boundary setback requirements of clause 27, LHI LEP 2010 and s3.2 of the LHI DCP 2005 are numerically significant and are not supported. Based on the LHIB's calculated setbacks and applying the 10m required setback to the larger southern side boundary, the proposal

includes a 2.5m variation to the 10m setback and 1.9m to the 5m setback requirements of the LEP. These are variations of 25% and 38% of each standard respectively.

- v. The proposal does not demonstrate compliance with Clause 33, LHI LEP 2010 in that the proposal will likely have a significant adverse impact on the existing landscaped character and dispersed pattern of housing in the Settlement 2 Zone and approval of the variation would create an undesirable precedent.
 - vi. For the preceding reasons, the site is not considered suitable for the proposed development and will not be in the public interest.
 - vii. The LHIB is in the process of investigating the Island residency status of the applicants/ lessees under the Lord Howe Island Act 1953, and the issue of an Owners Consent at this time would not be prudent as it may prejudice this process.
- b) That DA2020.13 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, not be determined because Owners Consent has not been granted.

Recommended:	Approved:
Peter Chapman Date: 26 November 2020 LHI Consultant Town Planner & Director All About Planning Pty Ltd	Peter Adams Date: Chief Executive Officer Lord Howe Island Board

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 2017	AGENDA ITEM	8 (v) September 2017
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 work towards limiting 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 its 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, and 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 5200mm (not including tow ball);
- b) Width 1850mm (not including side mirrors); and
- c) Height 1700 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.

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 2017 was:

- a) Length 5200mm (not including tow ball);
- b) Width 1950mm (not including side mirrors); and
- c) Height 1700 mm (not including roof racks, roll bars or headboard on the tray).

Note: this maximum size requirement does not apply to vehicles previously approved.

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 primarily by a pedalling cyclist and has one or more auxiliary propulsion motor attached. This means that the main source of propulsion for the power-assisted pedal cycle is human, and the motor is only designed to assist rather than replace the rider.

Power Assisted Pedal Cycles 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 Board.

3.11 Motorised wheelchairs and mobility scooters

A motorised wheelchair under this policy is defined by the 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 .

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.

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 4000mm (max)
 - Width 1700mm (max)
 - Height 1600mm (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. Approval

- to import an electric vehicle will be conditional on the leaseholder upgrading their electricity meter to a “Smart” meter, if not already installed.
- 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.

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 of \$205 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 of \$205 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).
- c) If not already installed, installation of 'Smart' meters at residences and businesses as part of the importation of an electric vehicle, will be 'at cost', including the Board's Senior Electrical Officer (SEO) labour and parts.

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, 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.

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

- a) 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 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.
- b) 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.
- c) 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.

- d) 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.
- 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.

7.1.2 Vehicles for Commercial Use

A person as per **a)** 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. Motor Assisted Pedal Bicycles will not be approved for commercial use.

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 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 12 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

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 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 replacement vehicle has the same (+ 10% subject to the discretion of the Board) or smaller engine capacity and tare weight as the vehicle being replaced.

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 approval of a vehicle on the island, the Board reserves the right to apply a transfer fee to any transfer of any vehicle approval.

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

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 transfer fee of no greater than 10% of that amount.

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.

16 Attachment: Information for Applicants

LORD HOWE ISLAND BOARD

VEHICLE IMPORTATION, TRANSFER AND USE POLICY

Eligibility to Import or Transfer and Use: Information for Applicants

Please read carefully, as once an application is accepted, the \$205 fee is not refundable, regardless of the outcome of your application.

Applicants should ensure eligibility before applying and should refer to the full Lord Howe Island Board *Vehicle Importation, Transfer and Use Policy* (the Policy) for further information.

All applications to import or transfer and use a vehicle will need to demonstrate a genuine need for the import or 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. 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.

If you are making an application to import or transfer, and use a vehicle on Lord Howe Island you will need to comply with one of the following eligibility criteria.

ELIGIBILITY

Vehicles for Private Use

- a) 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 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.
- b) 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.
- c) 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.
- d) 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.

- 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.

Vehicles for Commercial Use

A person as per **a)** 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. Motor Assisted Pedal Bicycles will not be approved for commercial use.

Vehicles for Essential Services

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

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)**.

17 Attachment: Application to Import a Vehicle

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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 2015* (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 of \$205.00 applies to the importation of a motor vehicle.

APPLICATION FEE

Total fees lodged: \$205.00 Receipt No.: Receiving Officer:

APPLICANT DETAILS

Name:

Address:

Is this vehicle application for (please circle):

Private Use Commercial Use Essential Service

NOTE:

- Private use eligibility is limited to one vehicle per dwelling.
- 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.
- Essential service entitlements are specified in Clause 8 of the Policy.

On what basis are you eligible to apply for the importation and use of a vehicle under the Lord Howe Island Board *Vehicle Importation, Transfer and Use Policy 2015*?

Please refer to Clause 7 of the *Vehicle Importation, Transfer and Use Policy*.

NOTE:

- For commercial use vehicles, a Business Licence is a prerequisite, and
- For commercial and private use vehicles, applicants residing as Tenants are required to supply a copy of their Tenancy Agreement with this application.

Please specify:

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18 Attachment: Application to Transfer a Vehicle

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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 2015* (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 of \$205.00 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: \$205.00 Receipt No.: Receiving Officer:

TRANSFEROR DETAILS

Name:

Address:

TRANSFEEEE DETAILS

Name:

Address:

Is this vehicle application for (please circle):

Private Use Commercial Use Essential Service

NOTE:

- Private use eligibility is limited to one vehicle per dwelling.
- 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.
- Essential service entitlements are specified in Clause 8 of the Policy.

LORD HOWE ISLAND BOARD DRAFT POLICY

TITLE	Vehicle Importation, Transfer and Use Policy		
DATE ADOPTED	December 2006	AGENDA ITEM	8 (ii) December 2006
CURRENT VERSION	September 2017	AGENDA ITEM	8 (v) September 2017
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 work towards limiting 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 its 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, and 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.

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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 ~~53320~~mm (not including tow ball);
- b) Width ~~18550~~mm (not including side mirrors); and
- c) Height ~~1815700~~ 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.

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 outsized 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 ~~2017~~ was:

- a) Length ~~53320~~mm (not including tow ball);
- b) Width ~~1855950~~mm (not including side mirrors); and
- c) Height ~~1815700~~ mm (not including roof racks, roll bars or headboard on the tray).

Note: this maximum size requirement does not apply to vehicles previously approved.

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 ~~P~~power-~~A~~ssisted ~~P~~edal ~~C~~ycle under this policy is defined by the NSW RMS.

A ~~P~~power-~~A~~ssisted ~~P~~edal ~~C~~ycle is designed to be propelled ~~primarily by a pedalling cyclist~~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, the main source of propulsion for the power assisted pedal cycle is human, and the motor is only designed to assist rather than replace the rider.~~

Commented [PA1]: E-bikes wired to bypass mechanism that stops being propelled without pedalling are not legally able to be used on public roads in NSW.

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

~~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). Power Assisted Pedal Cycles 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 Board.~~

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Commented [PA2]: Consider what is meant by "hire purposes" and whether provision for use by accommodation provider is acceptable. E-bikes are commonly available for hire in NSW.

Commented [PA3]: Proposed to allow (without approval) for uses other than private.

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3.11 Motorised wheelchairs and mobility scooters

A motorised wheelchair under this policy is defined by ~~the~~ 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.

Commented [PA4]: See definition of "hire" and discussion in 3.10 above.

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.

Commented [PA5]: Nudge bars can be small, and shaped in such a way as to minimise risk to pedestrians in an accident compared to larger "bull" or "roo" bars.

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.

Commented [PA6]: Para added to make it clear that removing bulbar without replacing compliant bumper is not legally compliant because ADR rules apply and a vehicle is potentially unsafe without.

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.

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 4000mm (max)
 - Width 1700mm (max)
 - Height ~~1600mm~~ 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. ~~Approval to import an electric vehicle will be conditional on the leaseholder upgrading their electricity meter to a “Smart” meter, if not already installed.~~
- 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.

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:

Commented [PA7]: Proposed to be deleted because:

- 1) The term smart meter is misleading. The purpose is instead to have a separate meter to be able to charge a different tariff.
- 2) The need for a different tariff is challenged. A close examination of private and commercial tariffs shows that in many cases, the domestic or commercial tariffs are not lower than electric vchle tariff if thresholds are exceeded.
- 3) Different tariffs lead to complexity in billing and administration arguably more costly than any higher tariff might generate in revenue.
- 4) Electric vehicles should be encouraged because of environmental benefits now that solar/PV generation is introduced.

- 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 of \$2050 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 of \$2050 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).
- c) If not already installed, installation of ‘Smart’ Advanced meters at residences and businesses as part of the importation of an electric vehicle, will be ‘at cost’, including the Board’s Senior Electrical Officer (SEO) labour and parts.

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, 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.

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 -

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- b) ~~Has no existing approval for a commercial vehicle which is suitable for private use, and~~
- a) ~~Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.~~

Commented [PA8]: Improves clarity for the reader. No change to requirements or meaning.

b) 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.

b) 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.

c) 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.

a) A person as per a) under **Private Use Eligibility** who:

b) ~~Has no existing approval for a commercial vehicle which is suitable for private use;~~

b) ~~Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.~~

Commented [PA9]: Shifted to a) above

7.1.2 Vehicles for Commercial Use

A person as per a) 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. ~~Power Assisted Pedal Cycles will not be approved for commercial use.~~

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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 12-13 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
<u>NSW Marine Rescue</u>	<u>1 boat trailer (with RIB)</u>

Commented [PA10]: Biosecurity dog vehicle added.

Commented [PA11]: Newly established Marine Rescue Unit added

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.~~

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Commented [PA12]: This requirement is very difficult to monitor. Possible removal of this paragraph proposed.

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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 replacement vehicle has the same (+ 10% subject to the discretion of the Board) or smaller engine capacity and tare weight as the vehicle being replaced.

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 ~~of~~ any vehicle ~~approval~~.

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

~~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 transfer fee of no greater than 10% of that amount.~~

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Commented [PA13]: The objective of this is not clear. Difficult to administer and proposed to be removed.

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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: Information for Applicants

DRAFT

LORD HOWE ISLAND BOARD

VEHICLE IMPORTATION, TRANSFER AND USE POLICY

Eligibility to Import or Transfer and Use: Information for Applicants

Please read carefully, as once an application is accepted, the \$20~~50~~ fee is not refundable, regardless of the outcome of your application.

Applicants should ensure eligibility before applying and should refer to the full Lord Howe Island Board *Vehicle Importation, Transfer and Use Policy* (the Policy) for further information.

All applications to import or transfer and use a vehicle will need to demonstrate a genuine need for the import or 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. 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.

If you are making an application to import or transfer, and use a vehicle on Lord Howe Island you will need to comply with one of the following eligibility criteria.

ELIGIBILITY

Vehicles for Private Use

- a) 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 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.
- b) 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.
- c) 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.
- d) 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.

- 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.

Vehicles for Commercial Use

A person as per a) 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. Motor Assisted Pedal Bicycles will not be approved for commercial use.

Vehicles for Essential Services

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

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).

17 Attachment: Application to Import a Vehicle

DRAFT

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Vehicle Importation, Transfer and Use Policy Review.

RECOMMENDATION

1. That the reviewed Vehicle Importation, Transfer and Use Policy (Attachment B to this report) including proposed changes be placed on exhibition for four weeks (or six if the exhibition period is over Christmas/New Year).
2. That a report be presented to the Board at its March 2021 meeting to consider submissions and a draft Policy for adoption.

BACKGROUND

The aim of this policy is to:

“work towards limiting 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 its 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, and 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.” (Section 1 Vehicle Importation Transfer & Use Policy - Attachment A)

The importance as well as the restrictive nature of this policy is widely recognised. Despite the policy and its strict application to all proposed importations and transfers, perceived numbers of vehicle movements seem to continue to increase and this is a commonly communicated comment by visitors to Lord Howe.

Applying the policy especially where it leads to refusals to import or transfer vehicles is a challenging process for the CEO and the Elected Board Members who are consulted (as required in the Policy) on any requests outside of the policy, where controversial, or where a refusal is proposed. The needs and wants of individuals are often in tension with the collective need to manage vehicle numbers and movements.

Reporting on numbers of vehicles on island occurs to every Board meeting. It is noted that the number of vehicles alone is not the sole determinant of vehicles movements or traffic, but that the frequency of use of vehicles, especially instead of other forms of moving around the island, is another important factor. In other words, it is not just how many vehicles but how often they are used.

It is suggested that there is merit in revisiting the policy to consider how well it is achieving its aims. This could lead to consideration of different approaches to achieving the policy's aims. However, the current policy is lengthy, complex and was the product of a very detailed process. It is therefore not intended to commence a deep review at this time because that would take significant time.

Instead, the policy has been reviewed at this stage to make it current and to update any changes or definitions in related legislation. It also seeks to streamline process where possible, to make what is a major and ongoing administrative task a little clearer. Administering the Policy requires significant resources and time for every application.

Because of changes in technology as well as the imminent commissioning of the Hybrid Renewable Energy system, the use of electric vehicles is even more attractive than when the policy was adopted. Therefore some changes to the policy where it relates to electric vehicles are also included.

A possible change to Power Assisted Pedal Cycles (e-bikes) to be use without approval for uses other than only private use.

In the future, electricity demand management objectives may suggest changes to when and how electric vehicles are encouraged to be charged. This can also be considered within broader tariff decisions in the relatively near future.

This report therefore proposes some changes to the Policy and public exhibition is recommended before consideration of submissions and adoption by the Board.

CURRENT POSITION

The subject Policy was adopted in December 2006 and was last reviewed in September 2017. The Policy is therefore due for review.

The current Policy is included Attachment A.

PROPOSED CHANGES

Proposed changes are shown on Attachment B. In addition some notes are included in the right hand column to assist in understanding the possible change, or to prompt questions. In summary and in order as they appear in the draft Policy, proposed changes include.

Section 3 Definitions:

3.7 Vehicles for Private Use. The maximum dimensions no longer align with the newer models of the vehicle the Policy used to set the dimensions (Toyota Hilux). While it is concerning that vehicles appear to becoming larger over time given that keeping vehicles as compact as practical would assist in reducing impacts from vehicles, suitable choices are limited by what is available on the market.

3.10 Power Assisted Pedal Cycle. (Commonly termed e-bike). The definition has been amended to align with the definition by the NSW Roads and Maritime Authority (RMS).

A sentence has been added to reinforce that an electric powered cycle that does not meet the RMS definition including that it must not propel the bicycle when the rider is not pedalling (except an optional low-speed start-up mode that allows the motor to power the cycle up to 6 km/h). It is understood to be illegal for a *Power Assisted Pedal Cycle* to be used on public roads if it does not comply with the RMS definition.

Removal of the restriction on the use of *Power Assisted Pedal Cycle* (e-bikes) to only private use would allow their use by visitors to the island. A proposal has been received from an accommodation provider that some e-bikes be available to guests. The lodge is at an elevated location that some people would find it difficult to ride a conventional bicycle to. **While this approval could be granted by the Board under the current Policy, it was considered that it was preferable to include as a proposal in the Policy review to allow comment.** If adopted, this change would no longer require individual approval but allow others to provide e-bikes if they chose.

3.12 Bull bars, Roo bars, nudge bars. No change proposed. However, confusion occurs when vehicles approved with small rounded “nudge bars” that a sometimes standard equipment are interpreted as being inconsistent with refusals to allow “bull” or “roo” bars.

Section 4 Vehicle Types.

4.1 Preferred Vehicles. The maximum height for a “Preferred Vehicle” is proposed to be increased from 1600mm to 1720mm. The benefits of a small footprint vehicle in reducing motor vehicles impacts is recognised but the limitation of 1600mm precluded some very small SUV shape vehicles that could be considered for inclusion as preferred vehicles.

4.2 Electric Vehicles. It is proposed to remove the requirement for a “Smart meter” to be installed. The purpose was to use a separate meter (not necessarily a “smart meter” to be able to charge a different tariff for charging an electric vehicle than the tariffs applying to other domestic or commercial use.

The cost of installing separate charge points and associated meter can be very prohibitive. The tariff while originally intended to be higher than other electricity use, is not necessarily higher because of the different tariffs thresholds already applicable depending on the amount of energy consumed in domestic and commercial situations.

Removing the requirement for separate metering would simplify billing.

Because the solar PV project is soon to be fully operational, charging a higher tariff for electric vehicle charging is not necessarily a positive policy outcome because of the environmental advantages of electric compared to fossil fuel vehicles.

6c) Change “Smart” to “Advanced” meter to align with current terminology.

7.1.1. No change to requirements or meaning. Edits to improve ease of reading.

7.1.2 *Vehicles for Commercial Use*. Proposed to delete. See discussion at 3.10

8.4 *Schedule of Essential Vehicles*. Proposed to increase number of Board vehicles by one (1) to include biosecurity officer and dog transport. The current electric van used for the increased biosecurity function was approved by the Board. This change in the Policy reflects that decision.

Marine Rescue added because of new LHI unit being formed. Marine Rescue indicate that they believe they can function with existing vehicles and the trailer for the RIB is the only extra vehicle (trailer) required.

11 *Approval Conditions*. Proposed to delete fourth paragraph where a private vehicle approval is terminated if the owner moves to a new residence. It is very difficult to monitor, administer and enforce.

15 *Reporting and Monitoring*. Words added to reflect current reporting and resolutions by the Board in 2010 and 2016.

INFORMATION FOR APPLICANTS AND APPLICATION FORM

The current Policy includes a section after the Policy itself that is information for applicants, and another section that is the application forms to import or transfer a vehicle.

These are proposed to be amended after public exhibition of the Draft (reviewed) Policy to reflect whatever changes are adopted when it is presented back to the Board for adoption. The application forms will also be redesigned to include any administrative or interpretive improvements.

NEXT STEPS

The Board could adopt the amended Policy. However, because of the proposed change to clause 3.10 that if adopted would allow Motor Assisted Pedal Cycles to be used without approval by those other than for private purposes, the Board may prefer to exhibit the draft Policy for public comment.

It is proposed that following exhibition, a report on submissions received and a recommended draft Policy (including revised information sheet and application forms), be presented to the Board at its March meeting for consideration.

RECOMMENDATION

1. That the reviewed Vehicle Importation, Transfer and Use Policy (Attachment B to this report) including proposed changes be placed on exhibition for four weeks (or six if the exhibition period is over Christmas/New Year).

2. That a report be presented to the Board at its March 2021 meeting to consider submissions and a draft Policy for adoption.

Prepared & Endorsed: Peter Adams CEO

Attachments:

Attachment A – Current adopted *Vehicle Importation, Transfer and Use Policy*.

Attachment B – Proposed *Vehicle Importation, Transfer and Use Policy* with changes and original wording shown to assist ease of seeing proposed changes.

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Electoral Districts Redistribution Report Proposal

RECOMMENDATION

That the CEO send an urgent submission to the Electoral Districts Redistribution Panel with a copy of this report, opposing the proposed change of Lord Howe Island to the Electoral District of Sydney and that it remain in the Electoral District of Port Macquarie.

BACKGROUND

The *Report of the Electoral Districts Redistribution Panel* (dated 9 November 2020) has been released for comment by 9 December 2020. The Report proposes that Lord Howe Island be transferred from the (NSW) electoral district of **Port Macquarie** to the electoral district of **Sydney**. The report can be viewed at the following link:

<https://www.elections.nsw.gov.au/NSWEC/media/NSWEC/Redistribution/Report-of-Reasons-for-Draft-Determination.pdf>

The purpose of this report is to alert the Board and recommend urgent submission of the Board's response to the Electoral Districts Redistribution Panels proposal.

The Redistribution Panel was appointed in December 2019 and is undertaking the first redistribution under the Electoral Act 2017. The purpose is to ensure that as far as practicable, each electoral district of the NSW Legislative Assembly has an equal number of electors (within 10%).

CURRENT POSITION

Lord Howe Island is currently in the Port Macquarie Electoral District and the following submission was made to the Panel and adopted in the Panel's Report.

“Lord Howe Island

78. Suggestions and comments were lodged in relation to transferring Lord Howe Island from the electoral district of Port Macquarie to that of Sydney, reflecting both the practicalities of contemporary travel, and the electoral arrangements at the federal level.¹⁸ The Redistribution Panel notes that QantasLink offers year-round scheduled services to Lord Howe Island, with flights departing from Sydney on most days. In contrast, QantasLink offers only a seasonal weekly service between Port Macquarie and Lord Howe Island from February to June, and September to December.

79. As it seems that constituents flying from Lord Howe Island to meet with their Member of Parliament would need to stay at least overnight in Sydney, the Redistribution Panel proposes that Lord Howe Island be transferred from the electoral district of Port Macquarie to the electoral district of Sydney.”

It is noted that currently Port Macquarie electorate has 60,580 electors (as at 23 March 2020); and 63,710 electors projected in April 2023). There are 309 current electors in the Unincorporated Area of Lord Howe Island and 307 projected electors). The Sydney electorate currently has 55,296 electors (23 March 2020); and 56,715 projected for April 2023.

DISCUSSION

The comments in the Panel’s Report quoted above need to be corrected. QantasLink no longer provide a seasonal weekly flight to/from Port Macquarie. However, a Regular Public Transport (RPT) service is provided by Eastern Air Services to and from Port Macquarie several times per week. It is noted also that regular flights to/from Newcastle have recently commenced by Eastern Air Services.

Medical and other trip purposes anecdotally seem to be increasingly to Port Macquarie. Therefore the opportunity to satisfy multiple purposes at Port Macquarie or that region including visits to the elected representative, is greater than it was in the past.

Supply chains are strongly focussed on Port Macquarie. The ship and airfreight services operate from Port Macquarie. Suppliers are accustomed to the challenges of serving this remote and sensitive location. For example, nurseries understand the biosecurity requirements of plant importation to this World Heritage listed island. Food, construction and hardware providers are geared to deliver to the ship or air freight provider in a timely and biosecure manner. Relationship and training of supply chain providers occurs regularly in the Port Macquarie region to reduce risk and to optimise service to islanders from those suppliers.

When issues arise in regard to supply chains or other matters of importance to island residents, the Member for Port Macquarie often advocates and facilitates solutions. This is a regular occurrence. A Member for Sydney is less likely to be able to facilitate outcomes for a small island population given the scale of Sydney. For example, advocating to ensure food orders for island families make it to the ship and are not delayed by weeks is unlikely to be a priority nor have the influence of a State Member in the same electorate as the supply chain providers.

Relationship with Port Macquarie Hasting Council has resulted in a Memorandum of Understanding to provide expert assistance when needed by the Board.

Staff travel to Port Macquarie regularly to ensure biosecurity management is robust at the Port Macquarie harbourside and airport.

The Island’s police officer reports to and is supported by the Mid North Coast Local Area Command.

The Lord Howe Island Emergency Management Committee reports through and is supported by the North Coast Regional Emergency Management Committee.

Lord Howe has an excellent school. Completion of secondary education however, is generally undertaken either through students attending boarding schools on the mainland or through the distance education program managed by the Camden Haven High School which is located within the Port Macquarie electoral district

While it is acknowledged that local members seek to represent their communities well regardless of their location, it can be argued that there is a strong relationship to the Port Macquarie region and community and that the issues of importance of Islanders at a state government level, are more aligned to regional community and their representatives than to Australia's largest capital city. For example, is it likely that the Member for Sydney could facilitate solutions with Port Macquarie suppliers for families seeking their goods to be shipped from Port Macquarie?

It is noted that at federal level, Lord Howe Island is a part of the Australian electoral division of Sydney. It could be argued that if it is appropriate for this to be the arrangement at Federal level, the same should apply at state level. However, by nature, the matters where the Federal House of Representatives Member for Sydney assists the Lord Howe community, tend to be those needing assistance at a federal level. Recent examples include problems with Australia Post during the COVID-19 Public Health Order, Commonwealth Government support for continuing regional air services during COVID-19, assistance with biosecurity and World Heritage support, etc.

The Board may debate the merit of the proposal and it is recommended that a resolution be adopted that requires the CEO to make an urgent submission by the closing date of 9 December 2020.

The Board could:

- Adopt the recommendation below;
- Move and resolve an alternate position, or
- Resolve to not make a submission.

RECOMMENDATION

That the CEO send an urgent submission to the Electoral Districts Redistribution Panel with a copy of this report, opposing the proposed change of Lord Howe Island to the Electoral District of Sydney and that it remain in the Electoral District of Port Macquarie.

Prepared & Endorsed: Peter Adams CEO

Attachments:

Nil

Key to Colour coding:

Status of Progress: Colour of the cell represents the implementation status of the recommendation and the organisation responsible.
Recommendation In place, no further action required.
Responsibility of the Lord Howe Island Board – Implementation in progress.
Responsibility of the State Government – not yet implemented.
Not supported by State Government – will not be implemented

Recommendation	Lead organisation	Progress
1. Retain the present system of land tenure, with most Crown land outside the Permanent Park Reserve held under perpetual or special lease	N/A	In place. No further action required.
2. Properly police and enforce the residency condition in perpetual leases, with forfeiture as a last resort.	Lord Howe Island Board	<ul style="list-style-type: none"> - Guidelines in place for assessing applications for suspension in residency conditions. - A limited review of compliance with the residency condition on existing leases has been undertaken. Firm guidelines for such monitoring are yet to be developed. - Additional legal advice obtained from OLG/DPIE regarding procedural process for investigations of alleged non-residence.
3. Special leases are due to expire on December 2015, without any legal right of renewal, although the lease holders expect to obtain renewals. The new leases should be granted for 20 year terms with strong covenants to encourage new investment and ensure that the land is fully and properly used.	Department of Planning Industry and Environment.	<ul style="list-style-type: none"> - Leases were renewed in December 2015 for a further two years, another two years in December 2017. - Special Leases renewed, and now expire 31 December 2021. - Required legislative changes to allow for the granting of 20 year leases has not yet been implemented.
4. Permissive occupancies for business purposes, principally as boat sheds, which are currently revocable at will, should be granted for fixed terms of 5 years, to increase security of tenure and encourage investment.	Not applicable	Recommendation not supported by Government.
5. Restrictions on the enforcement of mortgages of leases should be relaxed to make leases more acceptable to lenders as security and mortgages to corporations should not require the Minister's consent.	Department of Planning Industry and Environment.	Required legislative changes are being pursued.

Recommendation	Lead organisation	Progress
6. The restrictions on who can occupy a dual occupancy dwelling should be relaxed	Lord Howe Island Board	This has been include in the Stage 1 Planning Proposal recently placed on public exhibition.
7. Subject to pending applications for approval of a Category A dwelling the remaining quota for new dwellings under the LEP should be reserved for dual occupancy dwellings.	Not applicable	Recommendation not supported by Government.
8. The LEP should be amended to make it easier to subdivide perpetual leases with 2 existing detached dwellings erected before 28 October 2005 to increase the saleable housing stock without further building development, or use of the quota.	Lord Howe Island Board	To be included in the major review of the Lord Howe Island Local Environmental Plan. This review is not proposed to be undertaken until completion of the Community Strategic Plan.
9. 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.	Lord Howe Island Board	Mediation process completed. Board staff implementing next steps.
10. The provisions in the Act dealing with the succession to perpetual leases on death should be rationalised, clarified and extended to surviving spouses and de facto partners	Department of Planning Industry and Environment.	Required legislative changes are being pursued.
11. The existing exemption from land tax for all leases on the island should be removed to allow the Land Tax Management Act to operate on the island in the normal way. The Chief Commissioner and the Board should be permitted to exchange information to ensure that leaseholders only claim one principal or usual place of residence.	Department of Planning Industry and Environment.	Required legislative changes are being pursued.
12. The Board should comply with its statutory duty under s 301(1) of the Duties Act by requiring grants, transfers and mortgages of leases to be stamped or marked exempt before they are registered by the Board.	Lord Howe Island Board	Implemented. Applicants advised of this requirement via the notification of acceptance for form 5.
13. In the interest of transparency and accountability, should recommendations 11 and 12 be adopted, provision should be made for the additional taxation revenue, raised from the island in these ways, to be returned to the island by being credited to the Lord Howe Island Account (s 34).	Not applicable	Recommendation not supported by Government.
14. The legal framework under which the Board and the Minister consider applications for consent to the transfer of perpetual leases should be	Department of Planning Industry and Environment.	Required legislative changes are being pursued.

Recommendation	Lead organisation	Progress
strengthened to prevent vendors evading the maximum price provision by requiring purchasers to purchase their furniture and other chattels at prices above their fair market value, and to prevent vendors withdrawing their lease from sale when an Islander is willing to purchase the lease.		
15. In the interests of transparency and accountability, the Board should maintain and publish in its Annual Report to Parliament (s36A) separate accounts for its functions as custodian and manager of the Permanent Park Reserve, and its functions as the local council for the Settlement. The island community cannot reasonably be expected to pay for the upkeep of the Park out of its own resources.	Department of Planning Industry and Environment.	Required legislative changes are being pursued.
<p>16. Miscellaneous recommendations by way of statute law revision which are not thought to raise any question of principle.</p> <p><i>Miscellaneous recommendations are as follows:</i></p> <p>i) Section 12 (1)(g) gives the Board power to 'provide...shops, offices and other buildings for lease to the public'. There is some doubt about the Board's power to lease land associated with such buildings. The matter should be put beyond doubt by adding to subsection (1)(g) the power to include in such a lease the land associated with or surrounding such buildings.</p> <p>ii) Section 21(2) enables perpetual leases to be granted to two or more Islanders as joint tenants or tenants in common, but subsections (7A) and (7B) only refer to joint tenants. They should be amended to include tenants in common.</p> <p>iii) Section 21, which only deals with perpetual leases provides in subsection (7A): 'The Minister may...suspend the condition of residence on a lease held or owned... by...an Islander who already...holds or owns...or subleases not more than one other lease.' In its context the expression 'not more than one other lease' may refer to a perpetual lease only, and not to a special lease or one granted under</p>	Department of Planning Industry and Environment.	Required legislative changes are being pursued.

Recommendation	Lead organisation	Progress
<p>section 12(1)(g), but the subsection should be amended to make this clear. This provision is used, and properly used, to allow a holder to operate tourist lodge on one perpetual lease and have his or her home on another.</p> <p>iv) Section 22(3) provides that a special lease may only be granted to the holder of a perpetual lease, but there is no expressed requirement for the perpetual leaseholder to remain the holder of the special lease. In <i>Lance Wilson v The Minister for the Environment</i> (No 2294 of 1992) the Equity Division of the Supreme Court held that there was no implied requirement for the holder to remain the holder of both leases. The plaintiff, who retained his special lease after he had transferred his perpetual lease, succeeded in having the forfeiture of his special lease set aside. Given the evident policy behind section 22(3), that special leases should be held by Islanders who have their usual home on the Island, to prevent them being held by non-residents and non-Islanders, the result appears anomalous. Section 22(3) should be strengthened by the addition of words such as 'and must continue to be held by such holder but may be transferred with such lease or to an Islander who holds a perpetual lease but does not already hold a special lease' or words to that effect.</p> <p>v) Section 27(1) dealing with forfeiture provides: 'Every lease...shall be liable to be forfeited if any rent be not paid...or upon breach of any condition annexed to the lease...or if it should appear to the satisfaction of the Minister after report by the Board that the land comprised in the lease is not used and occupied bona fide for the purpose for which the lease was granted, or where in pursuance of any other provision of this Act the lease becomes liable to forfeiture.' Every forfeiture must be declared by the Minister by notification in the Gazette (section 27(2)), but there is no express requirement in subsection (1) for the Board to report to the Minister in cases of forfeiture for non-payment of</p>		

Recommendation	Lead organisation	Progress
<p>rent or breach of any condition other than that relating to the purpose for which the lease was granted. Subsection (1) should be amended to require a report from the Board in every case where forfeiture is sought.</p>		

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Lord Howe Island Land Allocation Review – Implementation Update – December 2020

RECOMMENDATION

It is recommended that the Board note progress to date on implementation of the *Lord Howe Island Land Allocation Review*.

BACKGROUND

In February 2014 the Honourable Justice Handley AO was engaged by the NSW Department of Premier and Cabinet to review the land allocation and tenure systems on the Island and provide advice to the Minister for the Environment.

The purpose of the review was to identify options for different land allocation methods and forms of tenure which would maintain and protect the unique environmental and cultural values of the Island. The forms of tenure and allocation methods were to be transparent, fair, financially sustainable, and recognise the needs of current and future generations of Islanders.

The Terms of Reference identified four key areas for consideration:

1. Forms of tenure
2. Land allocation methods
3. Strategies to increase land and housing supply
4. Economic sustainability.

Mr Handley visited the Island in March 2014 to undertake targeted consultation with a range of stakeholders including Board members, staff of the Board and residents. Fifteen individual meetings were held on the Island and Mr Handley also attended a number of meetings in Sydney with stakeholders.

A Discussion Paper was prepared and released for public comment in August 2014. The Discussion Paper outlined 15 options for reform in the areas identified in the Terms of Reference. Mr Handley made a second visit to the Island in August 2014. The options were outlined at a public meeting and Mr Handley later met individuals privately to receive their feedback.

Fifty-nine submissions were received, both written and verbal from individuals or families and four were received from groups or institutions. The majority of the submissions were from Island residents.

Mr Handley completed the review and reported his findings to the Government in November 2014. A government response to the review was considered by Cabinet in August 2016. The review report and the draft government response were released to the LHI community with

an opportunity to comment in November 2016. The final Government response to the review was released in April 2017.

CURRENT POSITION

An implementation plan was developed and was presented to the Board in March 2018. An implementation update has been prepared and is attached at "A".

RECOMMENDATION

It is recommended that the Board note progress to date on implementation of the *Lord Howe Island Land Allocation Review*.

Prepared: Justin Sauvage Manager Environment and Community Services

Endorsed: Peter Adams CEO

Attachments:

Attachment A: ED20/9835.01 Implementation Update Table – December 2020 - Open

Special lease – Lot 7 DP1130548



Figure 1 Chargeable lease area in yellow – 3200m², Lot 7 DP1130548

Property Management Plan

Special Lease No

Site description	Lot 7 DP1130548
Existing land use	Cleared Paddock – Grazing of Cattle
Management priorities	Current: Maintaining Pasture for production of milk. Future: Improvement of the quality of pasture.
Issues/Threats	None noted.

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 mortgage or 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.

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 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 on 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 or which he may incur in respect of any accident or injury to any person or property which may arise out of his 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 there under.

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

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.

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.

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Creation of a Special Lease – Therese Turner

RECOMMENDATION

1. The Board recommend to the Minister that a Special lease over Lot 7 DP1130548 be granted to Therese Turner.
2. That the lease conditions be as set out in Attachment 1.
3. That the Expiry date for the Special Lease be set at 31 December 2021

BACKGROUND

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.

The option to create future dwelling allotments from Special Lease land will be maintained (section 22(8) of the Act). However, new guidelines for the identification of land suitable for future housing and new ballot criteria will be prepared in close consultation with the community.

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. In the intervening time other priorities have made it very difficult for Board staff to pursue the restitution of these leases. This has resulted in some uncertainty of tenure for the perspective lease holders however it is noted that the impacted lease holders have continued to occupy the leases free of any lease fees and as such have not been materially disadvantaged by the delay in restitution of these leases.

CURRENT POSITION

The restitution of a Special Lease for Therese Turner is straight forward in that the land use is compatible with the proposed use and no subdivision is required. Therese Turner has submitted the prescribed paperwork (Form 3) and a property management plan to seek a renewal of the lease.

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.

Therese Turner is the holder of Perpetual Lease 1954.17 and has submitted a management plan proposing to use the land for grazing. This paper proposes that the Board recommend to the Minister that a Special Lease over Lot 7 DP1130548 be granted to Therese Turner subject to the lease conditions and management plan set out in Attachment A. The proposed expiry date for this lease is December 32 2021, to coincide with the expiry date of other leases.

RECOMMENDATION

1. The Board recommend to the Minister that a Special lease over Lot 7 DP1130548 be granted to Therese Turner.
2. That the lease conditions be as set out in Attachment 1.
3. That the Expiry date for the Special Lease be set at 31 December 2021

Prepared: Justin Sauvage Manager Environment and Community Services

Endorsed: Peter Adams CEO

Attachments:

Attachment A: ED20/9836.01 - Special Lease Conditions – Therese Turner

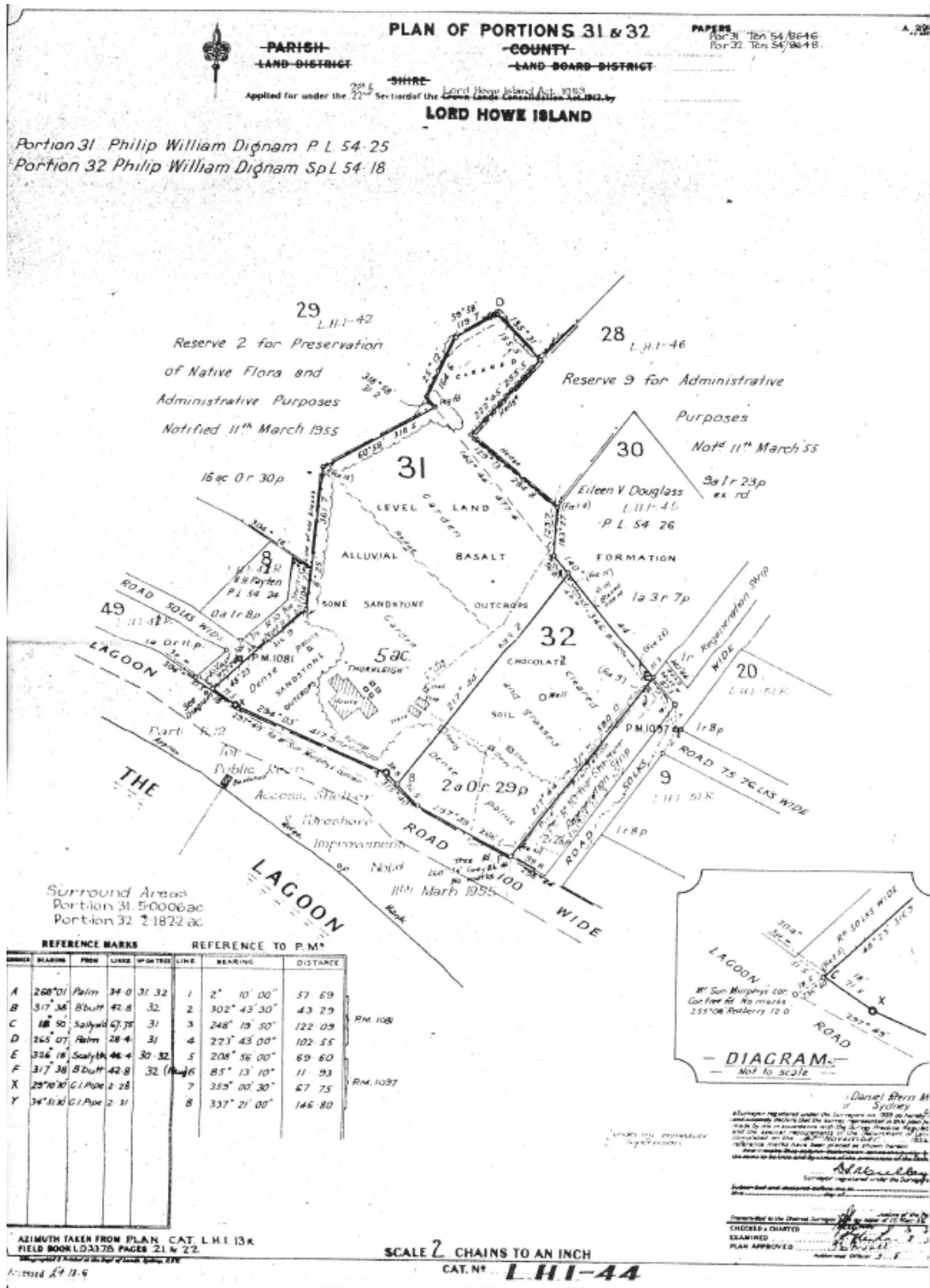


Figure 1 Chargeable lease area - Portion 32

Property Management Plan

Special Lease No

<p>Site description</p>	<p>Portion 32 Lagoon Road</p> <p>Portion 32 (known as ‘the paddock’) has been an integral part of Thornleigh since the property was established in about 1890. The paddock has been used for a range of purposes over the life Thornleigh, including as a dairy (cattle kept in the herd at Moseley Park were agisted in the paddock awaiting milking before being returned to Moseley Park), to support the butchery which operated from about 1930 to about 1975, for storage of fuel and oils (Thornleigh operated as the MOBIL agent on the Island for over 100 years) and for other agricultural purposes such as poultry farming and gardening.</p> <p>The paddock is an open area surrounded by stands of established Norfolk Pines, Kentia Palms, Maulwoods and Blackbutts many of which were planted by the Dignam family to shelter Thornleigh from wind and harsh weather. The open and sheltered topography attracts a large number of native and migratory birds.</p> <p>The objective of this Plan is to preserve the character of the paddock while putting the area to some new uses.</p>
<p>Existing land use</p>	<p>Structures Structures in the paddock include: Garage shed Old Milking Bails Fuel Shed Poultry run and housing Well Fences and gates None of the structures have been contributed by the Board and all are the responsibility of the lessee.</p> <p>Public Roads and Easements There are no public roads, easements or pathways on the leased land. Access to the paddock will continue to be private, controlled by the lessee.</p> <p>Cultivation The following agricultural activities will be carried out under this Plan: + Poultry (currently 28 free range birds) - production of eggs for private consumption and sale to lodges and restaurants + Apiary - beekeeping under DPI Beekeeper Registration Authority # 64165</p> <p>+ Orchard - the orchard currently includes 30 advanced trees (lemon, lime, orange and mandarin varieties).</p> <p>No livestock grazing (refer Lease condition 17) No livestock will be kept or grazed on the property for the duration of this Plan.</p> <p>Significant Native Vegetation (SNV) Areas of SNV will be protected from disturbance by the use of fencing, gates and curtilage vegetation and hedges. SNV areas are well away from areas used for the planned activities. SNV and other forested areas at Thornleigh are regularly inspected to keep them clean and clear of weeds and rubbish (from roadside users). Planting of palms and other natives will continue in order to improve the quality and health of the understory.</p> <p>Fences and gates (refer Lease conditions 5 and 17)</p>

	<p>The boundaries of the open area of the Paddock are fenced and the driveway entrance from Lagoon Road is gated.</p>
Management priorities	<p>Revegetation The eastern and southern boundaries are being revegetated, by encouraging natural regeneration and planting native plants and (in the case of the southern boundary) suitable ornamental plants (e.g. hibiscus). Significant revegetation has been undertaken, extending the palm forest (including SNV) on the western boundary. Flowering plants (such as clover, lavender and sunflowers) have been and will continue to be planted in order to make the area attractive to honeybees and other beneficial insects, and as shelter for land birds.</p>
Other matters	<p>Mains power line The Board is responsible for care, maintenance and regulatory compliance of the main power line traversing the leased land and adjoining Portion 31. Access will be granted to Board staff for this purpose.</p> <p>No other Board responsibilities The Board has no other responsibilities for the leased land or any structures on it.</p>

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 mortgage or 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.

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 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 on 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 or which he may incur in respect of any accident or injury to any person or property which may arise out of his 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 there under.

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

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.

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.

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Creation of Special Lease – Robert Jeremy - Thornleigh

RECOMMENDATION

1. That the Board recommend to the Minister to grant a Special Lease to Robert Jeremy over Portion 32 Lagoon Drive, locally known as Thornleigh.
2. That the lease conditions be as set out in Attachment 1 subject to a review by DPIE legal.
3. That the expiry date of the special lease be set at 31 December 2021.

BACKGROUND

Mr Jeremy has applied for the granting of a Special Lease over portion 32 Lagoon Drive as illustrated in figure 1 below.



Figure 1 Location of proposed Special Lease

The application was considered at the September 2018 Board Meeting and the following recommendation was adopted:

“It is recommended that the Board defer this application pending review of all Special Leases and prospective applications following introduction of the 20 year term recommended in the Lord Howe Island Land Allocation Review.”

Mr Jeremy has since requested that his application be resubmitted.

Section 22 of the Lord Howe Island Act, 1953 (the Act) state that the Minister may approve Special Leases over Crown lands for cultivation or grazing or cultivation and grazing or for such other purpose as the Minister on the recommendation of the Board may approve. Section 22 further provides that the term of a Special Lease may be fixed for any period not exceeding ten years, that the term of such Leases may be extended and that a Special Lease may only be granted to the holder of a Perpetual Lease.

Portion 32 was previously held as Special Lease by Mr Jeremy’s late aunt Patricia Dignam. The Special Lease was not renewed in 2005 as the land was then considered suitable as a Category “B” block. In May 2011, the Board agreed to *“...no longer pursue sub-division of Portion 32 for Category B due to flooding constraints and other matters.”* The late Ms Dignam passed away in July 2012.

Recommendation 9 of the final *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. The amendments related mostly to the process of achieving “substantial restitution”, timeframes, etc. Portion 32 was not one of the *“...3 existing [Category B allotments]”* as the decision to no longer proceed with Portion 32 as a Category B block was made several years before the Handley Review was commissioned.

Recommendation 3 of the final Handley Review stated that:

“Special Leases are due to expire in 2015, without any legal right of renewal, although the lease holders expect to obtain renewals. The new leases should be granted for 20 year terms with strong covenants to encourage new investment and ensure that the land is fully and properly used.”

This recommendation was supported by Government which also stated that:

Applicants seeking renewal of their expiring special leases or initial grants will be required to lodge draft management plans for the use of the land for designated pastoral, agricultural or horticultural purposes. If successful in their application for a special lease, fully developed management plans will be requested and Lessees will be obliged by strict covenants (attached to the Lease) to make the land productive.

Provision will also be made in the special lease for a review of the lessee’s performance against the conditions of the lease every five years during the term.

CURRENT POSITION

Given the significant uncertainty of timing of future amendments to the Act, a further deferral of this lease application serves no meaningful purpose, creates uncertainty for the applicant and deprives the Board of the very modest income generated by the lease fees. The applicant has submitted a detailed property management plan demonstrating that the land will be used for productive agriculture in accordance with the proposed conditions of the Special Lease. The proposed term of the lease is set to expire December 31 2021 to coincide with the expiry date of all other Special Leases on the Island.

It is proposed that the Board recommend to the Minister to create a Special Lease over Portion 32 to Robert Jeremy.

Section 22 of 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.

The application submitted by Mr Jeremy meets these criteria. The applicant is a holder of a Perpetual Lease on an adjoining lot. He is proposing to use the land for cultivation, and the application has been made in the prescribed form.

Attachment 1 sets out the proposed Special Lease area and conditions.

RECOMMENDATION

1. That the Board recommend to the Minister to grant a Special Lease to Robert Jeremy over Portion 32 Lagoon Drive, locally known as Thornleigh.
2. That the lease conditions be as set out in Attachment 1 subject to a review by DPIE legal.
3. That the expiry date of the special lease be set at 31 December 2021.

Prepared: Justin Sauvage Manager Environment and Community Services

Endorsed: Peter Adams CEO


Attachments:

Attachment A: ED20/9834 - Special Lease for Thornleigh – December 2020



Planning, Industry & Environment

Lord Howe Island – Declaration of Mr Branko Pavlica as an Islander

Purpose	To consider the Lord Howe Island Board recommendation that Branko Pavlica be declared an Islander to enable the transfer of Perpetual Lease 1954.31 to him for use as his primary place of residence.					
Analysis	Mr Branko Pavlica was the de facto partner of Perpetual Leaseholder, the late Ms Jann Garton, who passed away in March 2015. The will of Ms Garton intends for Mr Pavlica to inherit the Perpetual Lease. Mr Pavlica does not currently meet the definition of Islander under the <i>Lord Howe Island Act 1953</i> (LHI Act). Islander status is required to hold a Perpetual Lease under section 21 of the LHI Act.					
Recommendation	That the Minister: <ul style="list-style-type: none"> • Sign the Gazette Notice to declare Mr Branko Pavlica has acquired the status of an Islander under section 3(1)(d) of the LHI Act (Tab 1). 	<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Yes	No					
<input checked="" type="checkbox"/>	<input type="checkbox"/>					
Signature/ comment	 <hr/> The Hon Matt Kean MP Minister for Energy and Environment Date: 3.9.20					

Background

The late Ms Garton sought for Mr Pavlica to inherit the Perpetual Lease

Mr Pavlica was the de facto partner of the late Ms Garton who passed away in March 2015. On the 19 January 2017, the former Minister for the Environment appointed Dr Frank Reed in his capacity as executor for the estate of Jann to hold Perpetual Lease 1954.31 until 17 June 2017. The executor advised the Board that the will of the late Jann Garton intends for Mr Pavlica to inherit Perpetual Lease 1954.31.

In February 2019, Dr Reed submitted Form 5, requesting that Ms Garton's Perpetual Lease be transferred to Mr Pavlica.

The Handley Review recommended the extension of Perpetual Lease provisions to de factos

In 2014, the Hon. Ken Handley AO QC was engaged by the NSW Government to review the land allocation and tenure systems on Lord Howe Island. The review was completed in February 2015. Recommendation 10 states:

"The Provisions of the [LHI] Act dealing with the succession to perpetual lease on death (s23(10)-(13)) should be rationalised, clarified and extended to surviving spouses and de facto partners."

In November 2017, the Government formally supported this recommendation. Draft legislation has been drawn up to enact the necessary changes to the LHI Act, but has not been tabled in Parliament.

The executor delayed the request to transfer the lease until the LHI Act was amended to allow Mr Pavlica to inherit the lease.

SENSITIVE: PERSONAL

DOC19/989752

Approving Officer	Position	Date
Peter Adams	Chief Executive Officer	1/11/2019
Kate Wilson	A/Deputy Secretary, Policy, Strategy and Science, EES	21/08/2020

Attachments

Tab	Title
1	Gazette Notice – Islander status declaration – Branko Pavlica
2	Business Paper - 10 (vii) Request to be Granted Islander Status Branko Pavlica - September 2019
3	Minutes - Board Meeting - September 2019

LORD HOWE ISLAND ACT 1953

Lord Howe Island – Declaration of Islander Status

Declaration of Acquisition of Islander Status by Order

I, MATT KEAN MP, Minister for Energy and Environment, pursuant to section 3(1)(d) of the *Lord Howe Island Act 1953*, on the recommendation of the Lord Howe Island Board, declare that Branko Pavlica has acquired the status of an Islander under the *Lord Howe Island Act 1953*.

Dated this 3rd of September 2020



The Hon Matt Kean MP
Minister for Energy and Environment

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Transfer of Perpetual Lease 1954.31 to Branko Pavlica.

RECOMMENDATION

That the Board recommend to the Minister to grant approval to the transfer of Perpetual Lease 1954.31 from the estate of the late Jann Garton to Branko Pavlica.

BACKGROUND

On the 15 January 2019 the Lord Howe Island Board received an application from the executor for the estate of Jann Garton to transfer Perpetual Lease 1954.31 to Branko Pavlica.

The Board was unable to process this application as Branko Pavlica did not meet the definition of an Islander under the *Lord Howe Island Act 1953* (the Act).

At the September 2019 Board meeting the Board endorsed a resolution to request to the Minister for Branko to be declared an Islander.

On September 3 2020 the Minister wrote to the Board advising that Branko had been formally declared an Islander.

On November 27 2020 the declaration of Branko Pavlica to be an Islander was published in the NSW Gazette.

CURRENT POSITION

As per the Ministers declaration in Attachment A Branko Pavlica has now been declared an Islander. The Board is able to recommend to the Minister that he hold a Perpetual lease in accordance with section 23(4) of the Act.

The application to transfer Perpetual Lease 1954.31 to Branko has been received in the prescribed form. Branko Pavlica meets all the eligibility criteria as prescribed in the Act, including a demonstrated intent to reside on his lease.

RECOMMENDATION

That the Board recommend to the Minister to grant approval to the transfer of Perpetual Lease 1954.31 from the estate of the late Jann Garton to Branko Pavlica.

Prepared: Justin Sauvage Manager Environment and Community Services.

Endorsed: Peter Adams CEO

Attachments:

Attachment A: Decision – Request for Minister to Declare Islander – Branko Pavlica – December 2020 - Open

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Update on Category B Special Lease restitution.

RECOMMENDATION

That this report be noted.

BACKGROUND

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.

The option to create future dwelling allotments from Special Lease land will be maintained (section 22(8) of the Act). However, new guidelines for the identification of land suitable for future housing and new ballot criteria will be prepared in close consultation with the community.

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. A separate report has been prepared for the Board considering the restitution of the Special Lease to Therese Turner. In the intervening time the complexities of these proposals and other priorities have made it challenging for Board staff to pursue the restitution of these leases. While this has resulted in some uncertainty of tenure for the perspective lease holders it is noted that the impacted lease holders have continued to occupy the leases for cultivation and grazing free of any lease fees and as such have not been materially disadvantaged by the delay in restitution of these leases.

CURRENT POSITION

There have been significant delays in the restitution of the Special Leases, primarily due to the REP and then COVID and a lack of dedicated staff resources to progress the complex processes required for the creation of new Special Leases.

This report considers the restitution of the Special Leases to Thompson Brothers and Mavis Fitzgerald. As discussed below, the restitution of the leases is a complex process, and it appears that the Board may have difficulty endorsing the agreements due to elements of the respective agreements being inconsistent with the Lord Howe Island Local Environment Plan 2010 (LEP) and administrative constraints imposed by the *Lord Howe Island Act (1954)* (the Act)

Status of Thompson Lease

The Thompsons Lease, comprising of Portion 55 is a large 6.8 ha lot located north west of Neds Beach Road. It is currently used for grazing and cultivation – See Figure 1

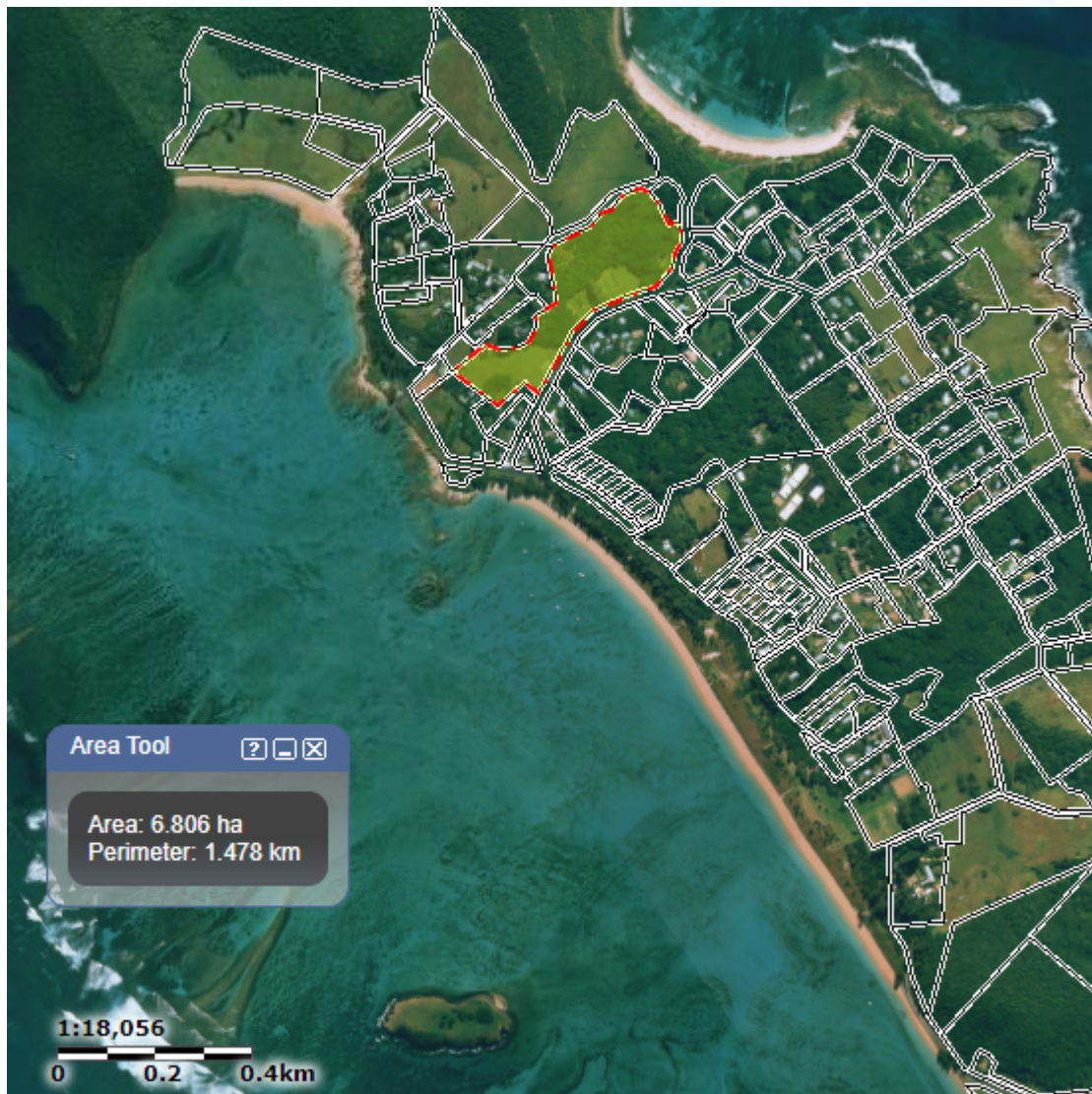


Figure 1 Location view of Thompsons Lease

The mediated outcome agreed to by the Thompson brothers is for the lease to be split into six separate portions as set out below:

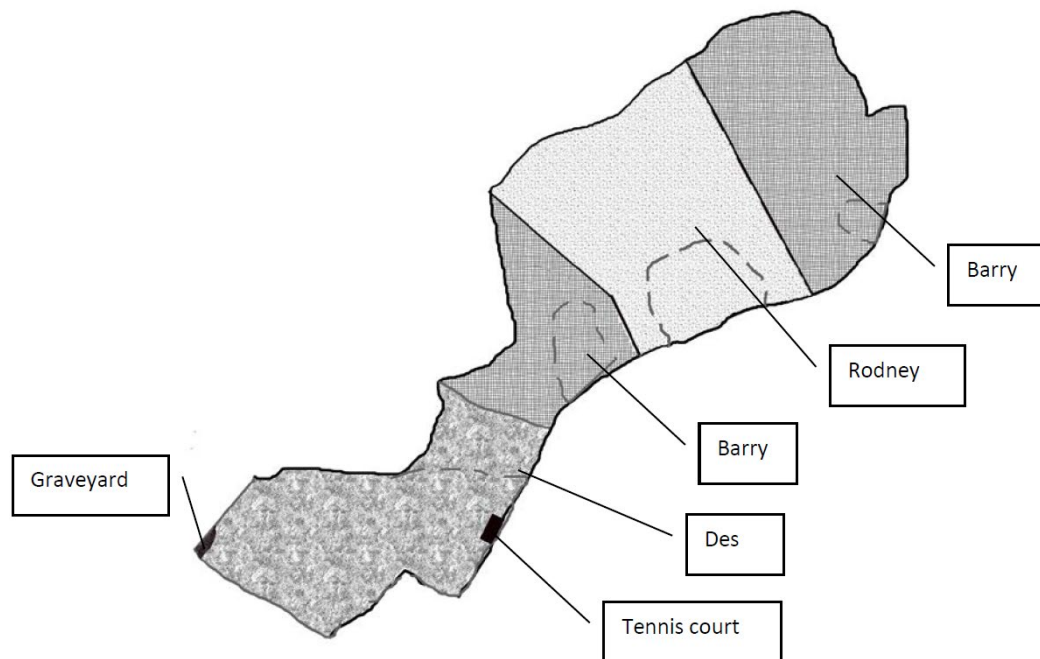


Figure 2 Proposed split of Special Leases for Thompson Brothers.

The negotiated agreement also contains the following conditions:

- “Des, Barry and Rodney be allocated a Special Lease held in common over the tennis court and a small margin of area around it
- Des and Rodney be allocated a Special Lease held in common over the Thompson family graveyard
- The remaining area of Portion 55 be divided into three Special Leases, with areas as equal as it is practicable to achieve. Each brother is allocated one of these Special Leases as sole tenant, as shown in the diagram below
- All members of the Thompson family and cattle have access across all the Special Leases above
- We will ask the Lord Howe Island Board (The Board) to pay half of the costs of all necessary surveys, planning proposals and development applications arising from the above.”

In summary the agreement calls for the creation of up to six Special Leases. Two of the Special Leases – the Graveyard and Tennis Court are for a purpose other than Agriculture. This is potentially problematic because section 22 (1) of the *Lord Howe Island Act 1954* (the Act) indicates that Special Leases are intended for cultivation or grazing. Specifically:

(1) Subject to this section the Minister may lease Crown lands for cultivation or grazing or cultivation and grazing or for such other purpose as the Minister on the recommendation of the Board may approve.

As Special Leases over the Graveyard and Tennis Court are not for cultivation or grazing, it will require a Board endorsement and for the Minister to accept a Special Lease for an

alternative use. Historically approval of Special Leases for purposes other than cultivation or grazing have been very rare, but not unheard of.

One of the Thompson Brothers, Barry, has since passed away. It is proposed that the Special Lease will follow the estate of the late Barry Thompson. This follows the same precedent set with the Special Lease restitution for the Payten/Turner lease.

In order for the granting of Special Leases to proceed, a subdivision of the land to reflect each Special Lease boundary is required. Clause 21(1) of the Lord Howe Island Local Environment Plan 2010 (LEP) requires that the minimum lot area in land zoned rural is at least 2 ha unless the land is for the purpose of a public utility installation, premise of a public authority or a recreation area. The subdivision for the graveyard and tennis court may be permissible only if they are identified as a recreation area. The two proposed lots for Barry Thompson are less than 2 ha in size. In some circumstances two separate portions of land can be identified as a common lot via a vinculum. However, this is normally only done where there is a material physical relationship between the two parcels of land, ie a when a portion of land is dissected by a road. Normally, the mere fact of common ownership would not be sufficient to link the two unrelated parcels of land. It is not known if Land Registry Services will accept such a proposal. Expert planning advice, and legal advice will be required to resolve this.

The subdivision(s) will also require DA approval and assessment would need to address any inconsistencies with the LEP or other planning instruments.

Fitzgerald Lease over Lot 110 DP48693

Lot 110 is located on Lagoon Road, opposite the airport and is illustrated in Figure 2 below. It is currently used for grazing.



Figure 3 Location of Lot 110.

The lot is currently zoned settlement and environmental protection. In the Stage 1 Planning Proposal which has since been on public exhibition, the Board supported a proposal to rezone a portion of the environmental protection zone to rural. Figure 4 illustrates the proposed portions of land to be rezoned.

The current permissible uses for Environmental Protection outlined in the LEP do not include rural or agriculture. Existing use rights do not apply in this circumstance as the lease was cancelled over a decade ago meaning the applicant would not be able to demonstrate compliance with the existing use provisions in the Environmental Planning and Assessment Act 1979.

It would not be appropriate, and potentially not legally sound, for the Board to recommend to the Minister to grant a Special lease for agriculture over a portion of land where the proposed activity is not permissible under the current zoning. Expert planning and legal advice may be required to confirm this.



Figure 4 Left - current zoning, environmental protection orange, and settlement pink. , Right - proposed rezoning

It would appear that the solution is to wait for the Planning Proposal to be adopted and issue the Special Lease at that point in time. Some steps may be able to be undertaken in parallel with the Stage 1 LEP process to reduce the time to finalise the matter. In the interim the lease holder could continue to occupy the land without paying a lease fee.

Discussion

It is not possible to pursue restitution of the Special Leases strictly in accordance with the negotiated agreements facilitated by the mediator and adopted by the Board at the September 2018 Board Meeting. The Board Administration will enter into negotiation with the parties to identify a mutually agreeable outcome whilst honouring the intent of the restitution process. Once a negotiated agreement has been reached a paper will be submitted to the Board seeking endorsement for a recommendation to be made to the Minister to create the respective Special Leases. For the Thompson's lease it is likely this will be preceded by a development application for the subdivision.

RECOMMENDATION

That this report be noted.

Prepared: Justin Sauvage Manager Environment and Community Services.

Endorsed: Peter Adams CEO

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Modification of Perpetual Lease Conditions to Perpetual Lease 2016.03 to provide access to Perpetual Lease 2016.04

RECOMMENDATION

1. The Board recommend to the Minister to modify the Perpetual Lease Conditions for Perpetual Lease 2016.3 to enable driveway access to Perpetual Lease 2016.04 consistent with the Figure 1 in this report.
2. That prior to the request being made to the Minister the Board administration receive notification from the mortgagee indicating concurrence with the proposed lease amendments.

BACKGROUND

At the April Board meeting the Board considered OC2020.01 and DA2019.10 including Alterations and Additions including the retention of existing cottage. The Board resolved to approve the Development Application (DA) with amended conditions. Among the conditions was a condition requiring that the Perpetual Lease terms be amended to give legal meaning to the right of access. Specifically:

1. Right of Access

- a) A Right of Access and Easement for Services shall be created burdening Lot 813 to the benefit of Lot 812 over the general location (and with an extension), of the existing driveway to the east of the primary dwelling on Lot 813 as indicated on the subject approved site plan.
- b) Within two (2) months of the endorsed date of approval of the subject OC and DA, the following process shall be commenced:
 - The applicant shall submit a request to the LHIB to recommend that the Minister make provision for the following amendments to the conditions in the perpetual leases of the two respective properties:

Insert the following clause (or wording to the same effect) in the respective perpetual leases:

‘the lessee has the benefit of a Right of Access and Easement for Services in terms of the wording of Part 14 of Schedule 8 of the Conveyancing Act 1919 but only within the surveyed boundaries shown on the unregistered plan [applicant will advise number] held by the Board vide a copy of which is attached as a notation to this lease.’

- c) This right of access and easement for services shall be completed and in place prior to the issue of an occupation certificate for the proposal.

Reason: To ensure that the required access to the benefit of Lot 812, and burden of Lot 813 is created and in a timely manner.

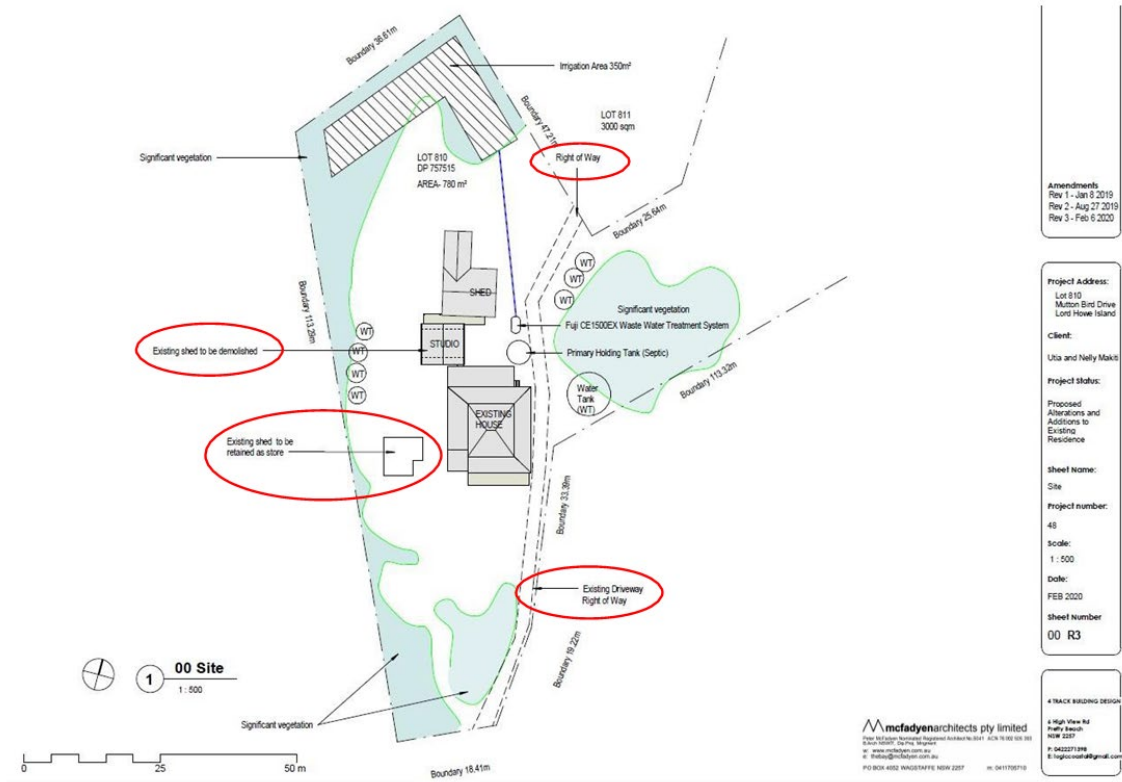


Figure 1 Approved site plan showing alignment of the proposed driveway

The process of amending the lease was commenced on the 18th June 2020 following a meeting with Board Staff.

Attachment A details the current lease agreement. Note that the current lease agreement includes the Deposited Plan (DP) showing the original proposed easement alignment. As this easement is only illustrated as “proposed” the amendment recommended in this report will supersede the proposed driveway alignment indicated on DP1213759.

CURRENT POSITION

Section 21(8) of the *Lord Howe Island Act 1973* (the Act) provides guidance on how the conditions of a Perpetual Lease may be amended.

- (8) The Minister may annex to any such lease such conditions reservations and provisions as the Minister may think fit. Any such condition reservation or provision annexed to such lease 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.

The Lord Howe Island Regulation 2014 does not detail any prescribed manner for amending the conditions of a Perpetual Lease. The applicant has provided a letter to the Board requesting that the lease conditions be amended in a form consistent with the DA condition. A letter from the applicant is the appropriate method to request the amendment in the absence of prescribed method in the Regulations.

Currently the Perpetual Lease 2016.03 is Mortgaged to the Westpac Bank. Prior to submitting the proposed amendments to the Minister the Board administration will seek written approval from the bank to amend the lease.

Proposed changes to the Perpetual Lease

Attachment A shows the current Perpetual Lease. The proposed amendments will add the following new paragraph after paragraph 18:

19. 'the lessee has the benefit of a Right of Access and Easement for Services in terms of the wording of Part 14 of Schedule 8 of the Conveyancing Act 1919 but only within the boundaries shown on the plan held by the Board vide a copy of which is attached as a notation to this lease.'

The reference to the plan detailing the Deposited Plan 1213759 will be struck out.

A new plan reflecting figure 1 will be inserted.

RECOMMENDATION

1. The Board recommend to the Minister to modify the Perpetual Lease Conditions for Perpetual Lease 2016.3 to enable driveway access to Perpetual Lease 2016.04 consistent with Figure 1 in this report.
2. That prior to the request being made to the Minister the Board administration receive notification from the mortgagee indicating concurrence with the proposed lease amendments.

Prepared: Justin Sauvage Manager Environment and Community Services

Endorsed: Peter Adams CEO

Attachment:

Attachment A: ED20/9909.01 - Copy of current Perpetual Lease Document PL2016.03 – Makiiti Janelle

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Audit and Risk Committee Overview.

RECOMMENDATION

The report is submitted to the Board for information.

BACKGROUND

Treasury Policy Paper 15-03 *Internal Audit and Risk Management Policy for the NSW Public Sector* requires all agencies to establish an independent Audit and Risk Committee (ARC) with appropriate expertise.

The objective of the ARC is to provide independent assistance to agency heads by monitoring, reviewing and providing advice about the agency's governance processes, risk management and control frameworks, and external accountability requirements.

The Core Requirements of the *Internal Audit and Risk Management Policy for the NSW Public Sector* are:

1. Risk Management

Core Requirement 1.1: The agency head is ultimately responsible and accountable for risk management in the agency.

Core Requirement 1.2: A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/ANZ ISO31000:2009.

2. Internal Audit

Core Requirement 2.1: An internal audit function has been established and maintained.

Core Requirement 2.2: The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing.

Core Requirement 2.3: The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.

3. Audit and Risk Committee

Core Requirement 3.1: An independent Audit and Risk Committee with appropriate expertise has been established.

Core Requirement 3.2: The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.

Core Requirement 3.3: The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'.

As establishing and maintaining an ARC is expensive, the Board has entered into a shared agreement with the Department of Planning, Industry and Environment (DPIE) ARC. This service is provided by DPIE at no cost to the Board.

Each quarter the DPIE ARC Secretariat prepares agendas for approval by the Chairperson of the ARC. Once approved the agenda is distributed and papers are prepared by Board officers for consideration by the ARC. Meetings are held, and minutes produced by the Secretariat.

The Chief Executive Officer and the Manager Business & Corporate Services attended the meeting of the ARC by conference phone on Wednesday 7 October and then the MBCS only on Friday 16 October. The CEO highlighted and discussed the COVID-19 implications and the recent lifting of the Public Health Order. He also discussed the work towards a new Risk Register.

Discussions at the first meeting (Agenda Items 1 to 7) included the CEO's report, risk management, governance, both internal and external audits, and compliance reporting. The coming Operational Review was also discussed.

The ARC meeting on Friday 16 October provided all necessary approvals (Agenda Items 9 and 10) to facilitate the Board's approvals of the Annual Financial statements and associated attestations at the special meeting on Monday 19th October. All appropriate documentation was provided to Treasury within the stipulated timeframes and an unqualified audit opinion.

Please note that the final ARC meeting for the year has been scheduled for the 3rd December.

Members are:

- Penny Hutchinson (Chair)
- Brian Blood
- Julie Elliott
- Alan Zammit AM

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: John van Gaalen Manager Business and Corporate Services

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Attachment A: Audit and Risk Committee Minutes October 2020 - Closed

LHI Operations Plan FY 2021

Strategic Direction: Effective Governance and Leadership

Strategic Direction: Effective Governance and Leadership				
1.1	Ensure accountability, fairness and transparency in the Board's decision-making and relationships with all its stakeholders.	Responsible Officer	KPI/Measure - Operations Plan 2020/21	Status End of Nov (Q2) 2020
1.1.1	Hold Board meetings four times a year in public.	CEO / MBCS	Four public meetings held per annum. Code of Meeting Practice is adhered to.	Being met. COVID 19 Public Health Order restricting travel to LHI has impacted ability for appointed Members to attend in person and for public gallery. Teleconference meetings and restrictions on public numbers in room have had to be imposed to comply with NSW Gov requirements. Adhered to.
1.1.2	Develop a 10 year strategic plan to develop a longer term vision and key directions for the community, providing a basis for future policy, plans and community reporting	CEO	Continue stage 2 of community engagement, prepare draft CSP and inform 21/22 budget and operating plan. Adopt Local Strategic Planning Statement.	Stage 2 on hold while resources are limited and COVID impacts are being managed. Resource not yet available. Draft being prepared in liaison with DPIE.
1.1.3	Develop and implement appropriate policies and procedures to ensure decisions are merit based, transparent and defensible.	MBCS	Policies and procedures reviewed in accordance with the schedule to ensure currency and completeness.	Planning in place to complete policy reviews in March 2021 quarter.
1.1.4	Ensure all conflicts of interest of Board members and staff are declared and managed in accordance with the Board's Code of Conduct.	MBCS	A record is kept of conflicts of interest declared. Declarations of Pecuniary Interests are completed and reported on an annual basis. Register established.	Records kept. Register maintained.
1.1.5	Ensure appropriate community engagement and consultation opportunities are provided so that community input to decisions and plans is obtained and considered.	CEO/MECS	Program of meetings and engagement opportunities undertaken. Prepare and present to the Board for adoption a Community Participation Plan in line with the EP&A Act. Community input to policy development is sought as appropriate.	Public meeting limited due to COVID restrictions. Various meetings with key stakeholders, etc. Not started. Complete and ongoing.
1.2		Responsible Officer	Operations Plan 2020/2021	Status End of Nov (Q2) 2020
1.2.1	Work with the Audit and Review Committee (ARC) and auditors.	CEO / MBCS	Report to ARC meetings (four times per year). Internal audit work plan completed on time.	Achieved. Completed.
1.2.2	Provide relevant and timely advice to Government on matters affecting the management of the island, including review of the Act and Lord Howe Island Regulation.	CEO / MBCS	Briefings and submissions prepared as required to the Minister, DPIE and Treasury as appropriate.	Achieved.
1.3		Responsible Officer	Operations Plan 2020/2021	Status End of Nov (Q2) 2020
1.3.1	Develop sustainable annual budget	CEO / MBCS	Seek adequate capital funding achieved to fund the Total Asset Management Plan (TAM Plan). Efficiencies explored to allow the Board to meet its priorities in accordance with the Corporate Plan. Business cases to be prepared for recurrent funding of biosecurity strategy and REP. Pursue funding requests for REP project completion Pursue funding requests for Biosecurity	Ongoing dialogue with Treasury, DPIE and other environment departments. Some submissions pursued re stimulus funding opportunities. Expenditure managed and currently below budget. Some financial assistance achieved from NSW Treasury to assist in COVID impacts. Further business case submitted and continue to be pursued. Some private sector (FAME) funding achieved. Alternate project report approach underway. Further projects to undertake post REP monitoring and surveys submitted. Direct assistance for biosecurity not yet achieved.
1.3.2	Levy fees and charges at an appropriate level.	MBCS	Fees and charges are in accordance with the Board's decisions.	Achieved.

1.3.3	Ensure that the services delivered are provided at the appropriate level.	CEO	Service levels and service delivery monitored and reports provided to the Board on achievement of service levels.	Service levels continue to be delivered, however some adjustment was implemented due to closure of island, no visitors due to COVID and impacts on revenues. Additional services levels to meet COVID hygiene and other priorities. Island prepared for return of visitors. Service levels back to "normal" except for some staff shortage challenges.
1.3.4	Secure ongoing funding from DPIE for the care and maintenance of the PPP.	CEO/CHAIR	Initial discussions for ongoing funding held.	Various grant applications and successes. However, recurrent funding has not been actively pursued while REP project funding requests and Treasury impacts from COVID put matters on hold.
1.4	Ensure risks are properly managed.	Responsible Officer	Operations Plan 2020/2021	
1.4.1	Implement the risk management policies and procedures.	MBCS	Progress against the implementation of risk management policies and procedures is reviewed quarterly.	Risk plan reviewed and reported to ARC quarterly.
1.4.2	Regularly review the Risk Register.	CEO	Top priority risks reviewed quarterly.	Risk plan reviewed and reported to ARC quarterly.
			Conduct review of entire Risk Register.	Risk plan workshop held in August with DPIE risk professionals and senior LHIB Managers. Review of entire register in progress.
1.4.3	Develop and implement a Business Continuity Plan to ensure the continuance of Board services should a significant event occur.	CEO	Business Continuity Plan completed and tested by end May 2021.	Person being engaged to engage with team and complete plan. DPIE template being used. Management of business continuity threats managed and continue during COVID.
1.5	Provide internal IT and communications systems which are secure, stable and support business operations.	Responsible Officer	Operations Plan 2020/2021	
1.5.1	Implement ICT policies and procedures.	MBCS	Set up of an IT committee	IT committee set up and seeking to address the various audit recommendations relating to IT including security..
			Projects completed on time.	Timelines being set by committee for 2020/21
1.5.2	Support and maintain corporate ICT.	MBCS	Systems operational 99% of the time during business hours.	Achieved.
1.6	Provide efficient and effective records management and information management.	Responsible Officer	Operations Plan 2020/2021	
1.6.1	Review and implement policies and procedures regarding information management.	MBCS	100% of relevant staff informed of record keeping responsibilities.	All new staff have RM8 training as part of their induction.
1.6.2	Continue the RM8 electronic records management system implementation.	MBCS	Records are moved to electronic format or archived by June 2021	Review need for scanning off-island of necessary files, subject to security concerns. Lease and DA data only to be scanned.
			Alternative records system on hard drive to be reviewed by June 2021	File Drives' data recording has been delayed due to impact of COVID. Relates to records identified by archiving date that can be retained.
1.7	Ensure effective management of human resources.	Responsible Officer	Operations Plan 2020/2021	
1.7.1	Ensure organisational structure is aligned to strategic priorities and legislative requirements and is adequately resourced.	MBCS	Review undertaken annually. Implement staff changes to meet funding and budget decisions.	Reviewed as part of 2020/21 Budget approval process and will again be part of the 21/22 process. Expected to be included as part of Operational review planned this financial year.

1.7.2	Attract, develop and retain an effective workforce that delivers required outcomes.	CEO / Unit Managers	Required recruitment process implemented.	Ongoing. Public Health Order restrictions to access LHI became greater as the COVID closure extended in time. Staff medical and personal matters began to not be able to be deferred and quarantine together with longer absences due to weekly flights impacted staff numbers. Other matters continue to limit human resources currently. Some recruitment was necessary while keeping tight budget management.
			Training programs provided in line with the training budget.	Training programs have resumed since the Island reopened, with a number of courses underway and in planning. Partnerships with others' training needs has enabled economies.
1.7.3	Provide workplaces that ensure the health, safety and welfare of employees and members of the public.	CEO / Unit Managers	Draft Risk Management Policy and Guidelines and all associated policies and procedures implemented and reviewed at appropriate intervals.	Ongoing and included in every Managers' meeting agenda.
			WH&S Management Plan to be reviewed annually.	Ongoing
			Incidents and injuries are reviewed.	Scheduled reviews of all outstanding cases held regularly with DPIE and insurer case managers. Recent Notifiable Incident reported, reviewed and cleared.
			Safe work procedures and training requirements are in place.	Ongoing
1.7.4	Ensure that Work and Development Plans are completed for all staff.	CEO / Unit Managers	Implement annual programme for work and development plans.	Not yet commenced.
1.7.5	Review and implement actions from the Workforce Plan 2020-2023	MECS	Develop staff and volunteer resourcing methodology for biosecurity incursion response.	Staff training ongoing. Number trained increased. Volunteer program yet to be developed.
			Investigate possible skills audit.	Commenced possible approach with audit system provider. (Regional Devel Australia). Needs to be re-activated.
1.8	Provide timely and proactive communication to all stakeholders.	Responsible Officer	Operations Plan 2020/2021	
1.8.1	Develop and implement a Communication / Community Engagement Strategy.	CEO / MECS	A Communication / Engagement Strategy in place by end 2021 in partnership with the Community Participation Plan.	Not started
			Develop and present to the Board a Community Participation Plan for Development and Assessment.	Not started
1.8.2	Promote Board programs and services through meetings, advertising and written materials.	CEO / Unit Managers	All materials prepared as required to a high standard.	Various meetings, householders, CEO updates in Signal, social media.
1.8.3	Maintain information on the Board's website and through social media.	Manager Admin	Number of page views per month.	Regularly updated. However, some not all dated material yet updated.
1.9	Ensure high standards of customer service.	Responsible Officer	Operations Plan 2020/2021	
1.9.1	Provide appropriate services efficiently and effectively to the appropriate service level.	CEO / Unit Managers	Communication of and access to information improved.	Web registers kept up to date (incl contracts).
			Efficiency and effectiveness of employees enhanced.	Limited resources and complexity of matters incl compliance make satisfactory service levels extremely difficult. Additional administrative and health related work during COVID has had a further impact. Hope to address during Operational Review.
1.9.2	Implement the Customer Service Improvement Plan (CSIP).	CEO / Unit Managers	Actions from the CSIP implemented, including the following:	
			Explore on-line services.	Public Health Order applications and other applications added to web. Service NSW system not implemented. Manual systems had to suffice..
			Continue improved Work and Development Planning system	Not commenced.
			Implement social media initiatives	Yes and ongoing.
			Review processes and procedures to improve customer service.	Vehicle application system improvement implemented. Policy review may offer small efficiencies through simplification, and changes to applications if adopted.

Strategic Direction: Strong and Sustainable Economy

2.1 Market the island as a tourist destination.		Responsible Officer	Operations Plan 2020/2021	
2.1.1	Maintain and enhance the sustainable tourism 'product' through the provision of infrastructure, engineering and environmental services.	CEO	Provide infrastructure, engineering and environmental services to support the tourism product.	CEO regularly at LHITA meetings. LHITA & CEO has been very active to meet challenging Public Health Order closures, and planning/preparing campaigns, facilitating air services and assisting businesses.
2.1.2	Conduct visitor surveys as required, in conjunction with partners where appropriate, to inform product planning and destination marketing.	CEO	Visitor surveys conducted, analysed and assessed to inform product planning and destination marketing.	No visitors in Q1/2 2020 FY
2.1.3	Work in partnership with LHI Tourism Association (LHITA), Destination NSW and other bodies in the ongoing implementation of the Destination Management Plan.	CEO	Regular consultation and information sharing takes place.	DMP revision underway by LHITA's consultants.
2.1.4	Promote the island in key source markets as resources allow.	CEO	Participate in marketing strategy, plan development and post survey review/analysis.	CEO and LHITA actively involved in tourism and marketing incl media interviews, social media campaign, famils.
2.1.5	Ensure website content is current and relevant.	Manager Admin	Website content is refreshed and updated as necessary.	Complete and ongoing. Website LHITA website has been redesigned and modernised.
2.1.6	LHITA to be supported in regular review of the Destination Management Plan (DMP).	CEO	Participate in DMP review. Those parts of the DMP for which the Board is responsible are implemented.	Underway.
2.2 Foster an environment that supports sustainable economic development.		Responsible Officer	Operations Plan 2020/2021	
2.2.1	Work with business regarding options and plans for sustainable business growth.	CEO	Support for local business development provided.	Work with proponents on opportunities & proposals. Work with businesses on hardship, COVID operational/legal challenges, adaptation.
2.2.2	Pursue avenues of funding to implement economic development projects.	MBCS	Funding opportunities, pursued and reported.	Stronger Country Communities grant achieved and delivered continues. Additional submission made for CBD toilet.
2.2.3	Develop and maintain contemporary policies to aid sustainable development.	MBCS	Policies regularly reviewed and red tape reduced.	Some policy and application reviews completed.
2.3 Effectively manage the Board's business enterprises.		Responsible Officer	Operations Plan 2020/2021	
2.3.1	Operate the LHI Liquor Store.	MBCS / Liquor Store Manager	Achieve surplus to enable subsidy of delivery of service for LHIB.	COVID-19 restrictions in first quarter has resulted in nil surplus. Revenue arrangement for proposed on island brewing agreed. Pricing policy for local products underway.
2.3.2	Operate the island's airport and wharf facilities.	MIES / MBCS	Airport and wharf facilities are operational when required and revenue and expenditure targets are met.	Revenue/Expenditure targets met (except for visitor levies due to COVID), no downtime experienced. Suuply chains maintained with limited reduction in shipping during COVID closure. Strategic initiatives being explored with shipping company. Marine Rescue projects underway and other infrastructure matters being developed.
2.4 Effectively manage the Board's commercial leases.		Responsible Officer	Operations Plan 2020/2021	
2.4.1	Ensure that fair market rental return is achieved on commercial leases.	MBCS	Commercial leases are revalued at least every three years and annual CPI increases are applied.	Adopted COVID relief package implemented. Lease fees waived for 2 quarters.
2.5 Take action to ensure appropriate and adequate servicing of the island by a major airline.		Responsible Officer	Operations Plan 2020/2021	
2.5.1	Lead Air Services Working Group in negotiating ongoing air services to the island beyond 2022.	CEO	Progress initiatives to ensure air services to LHI beyond 2022.	Approach to Qantas not successful during COVID "shutdown" for Qantas. Working Group not able to be established due to further changes in leadership, & COVID impacts.
2.5.2	Review the strategy for the future of the airport to enable continued air services.	CEO / MIES	Commence actions with the aim of ensuring an air service into the future.	Se above.

Strategic Direction: Sound Infrastructure			
3.1	Provide sound asset management.	Responsible Officer	Operations Plan 2020/2021
3.1.1	Review and update TAMPLAN annually for Board approval.	MIES	TAMPLAN is updated annually and supported by Treasury CAPEX requests
3.1.2	Develop procedures then undertake and document preventative maintenance on all assets to reduce failures.	MIES	Undertake gap analysis for Asset Management Plan and Policy.
3.1.3	Implement computerised Asset Maintenance System (AMS).	MIES	Undertake gap analysis to populate system with asset data.
3.1.4	Replacement or new plant items.	MIES	Strategic review of plant/fleet to minimise costs while improving continuity of services.
3.2	Maintain recreational facilities for visitor and community use.	Responsible Officer	Operations Plan 2020/2021
3.2.1	Maintain and improve standard of recreational facilities through regular maintenance.	MIES	Recreational facilities are available for use.
3.2.2	Implement approved walking track strategy.	MECS	Priority walking track works as per strategy implemented in accordance with available funding.
3.3	Operate Aerodrome safely for Regular Passenger Transport (RPT) services, medical evacuations and general aviation.	Responsible Officer	Operations Plan 2020/2021
3.3.1	Arrange Annual Aerodrome Technical inspections and participate in CASA audits.	MIES	Annual Aerodrome Technical Inspections and CASA Audits completed and recommendations acted on.
3.3.2	Review Aerodrome Manual annually.	Aerodrome manual controller	Aerodrome Manual updated annually and distributed.
3.3.3	Review effectiveness Bird and Animal Hazard Management Plan annually.	MIES	Bird and Animal Hazard Management Plan effectiveness reviewed annually.
			Strategies to minimise risk of bird strike to aircraft implemented.
3.3.4	Hold Aerodrome emergency exercises annually.	MIES	Full and desktop aerodrome emergency exercise held in 2020/21.
3.4	Maintain road network in good condition for all road users.	Responsible Officer	Operations Plan 2020/2021
3.4.1	Implement road renewals as per TAMPLAN, subject to budget allocations.	MIES	Quarterly report to SMT & Board meeting on progress and achievement of Roads CapEx against budget.
3.4.2	Regular routine road maintenance programmed.	MIES	Standard of roads is maintained or improved.
3.5	Maintain wharf to serve shipping contractor, charter operators and visiting boats.	Responsible Officer	Operations Plan 2020/2021
3.5.1	Maintain wharf as per TAMPLAN.	MIES	Wharf is available 100% of the time when required and routine maintenance and works are carried out.
			Wharf deck strengthened, low-level landing repiled, fenders repaired and deck maintained 2021
			Feasibility of 2 nd low level landing to be assessed.
3.6	Maintain Board building and property assets.	Responsible Officer	Operations Plan 2020/2021
3.6.1	Maintain Board buildings as per TAMPLAN.	MIES	Buildings are maintained to an acceptable standard for commercial and residential purposes.
3.6.2	Pursue MOU with SESLHD re: doctors residence and GWMH	CEO/ MIES	Initiate MOU discussions with SESLHD
3.6.3	Deliver Capital Works Programme	MIES	Quarterly report to SMT & Board meeting on progress and achievement CapEx against budget.
3.6.3	Refurbish rainwater collection at Depot/Admin, Gov House and Public Hall to maintain supply levels.	MIES	Review planned works.

3.7	Provide facilities in conjunction with Roads and Maritime Services for all Island boat users to safely and efficiently launch, retrieve and maintain boats in an environmentally sound manner.	Responsible Officer	Operations Plan 2020/2021	
3.7.1	Explore compromise options with the current budget to address gap for boat users to safely and efficiently launch retrieve and maintain boats in an environmentally sound manner.	MIES	Explore compromise options with existing funding.	September Board Meeting adopted revised Boating Now proposal. Implementation in early stage; liaison with grant office continues.
3.8	Provide reliable and efficient electricity supply.	Responsible Officer	Operations Plan 2020/2021	
3.8.1	Maintain electricity generation and distribution system to provide a reliable and safe supply.	MIES	Unplanned electricity outages are maintained at or better than service targets.	Target met.
3.8.2	Hybrid Renewable Energy Project completed.	MIES	Project is completed in accordance with objectives.	On track. Delays due to COVID impacts but able to keep project moving. See Project Status Update attached to CEO report.
ARENA funding agreement obligations met.			Target met.	
Achievement of Solar PV goals.			Not yet applicable - still in construction phase. However initial (partial) PV connections and generation are encouraging.	
3.8.3	Electricity Safety Management System implemented fully and audited.	MIES	ENSMS Compliance maintained	Ongoing & met.
3.9	Provide efficient and environmentally sustainable waste and recycling management services.	Responsible Officer	Operations Plan 2020/2021	
3.9.1	Maintain and upgrade the Waste Management Facility using grants and allocations to improve composting and waste diversion.	MIES	Through discussions with EPA compost exemption order achieved by 30 June 2021.	Preparation of sampling plan underway.
Compost is given back (not sold) to the community once it reaches an acceptable standard under a distribution system to be determined.			Standard not yet verified.	
Achieve maximum diversion from landfill, aspiring to achieve WARR strategy targets.			Complete.	
3.9.2	Maintain compliance with EPA licence for wastewater and waste management at WMF site.	MIES	Wastewater system is maintained and managed to achieve ongoing compliance with EPA licence requirements and the Island's Wastewater Strategy.	Compliant.
Pollution Reduction Programs (PRPs) within licence are planned and executed as required.			Planning and execution underway.	

Strategic Direction: Outstanding Environment			
4.1	Protect and manage the environment in a manner that recognises and promotes the World Heritage values of the Island.	Responsible Officer	Operations Plan 2020/2021
4.1.1	Protect threatened species, populations and ecological communities, and their habitats through implementation of LHI Biodiversity Management Plan (BMP)	MEWH	Significant progress against identified actions in the LHI Biodiversity Management Plan (BMP) is demonstrated. BMP action table is reviewed
4.1.2	In accordance with the LHI LEP, manage development in order to protect landscape values and scenic features	MECS	Development applications and activities are assessed in accordance with relevant environmental legislation, policies, and procedures.
4.1.3	Contribute to World Heritage Area conservation by being a member of the Australian World Heritage Advisory Committee (AWHAC).	CEO / MEWH	Participate in AWHAC meetings and annual world heritage forums.
4.2	Work to prevent the introduction of exotic pests and pathogens to and eradicate exotic pests from the Island.	Responsible Officer	Operations Plan 2020/2021
4.2.1	Implement biosecurity measures to protect against the introduction of exotic pests and pathogens to the Island.	MEWH	Significant progress made towards implementation of high priority actions identified in the LHI Biosecurity Strategy. Engage Biosecurity Team Leader 2020 Implement priority one audit actions at Port Macquarie by 2021 and seek funding for unbudgeted items. Biosecurity dogs/handlers continue to be managed, utilised and ongoing accreditation maintained. Conduct regular biosecurity inspections at high risk entry points. Maintain rodent surveillance network.
4.2.2	Implement the LHI Weed Management Strategy 2016 and Program to eradicate priority invasive weeds	MEWH	Report change on weed population status annually. Minimum 500 ha weeded per annum. Undertake weed inspections across 30% of leases. Report on weed response post rodent eradication.
4.2.3	Implement priority one items as identified by the LHI Biosecurity Audit 2020.	MEWH	Achieve significant progress against priority one biosecurity actions.
4.2.4	Seek funding to undertake success check, biodiversity success monitoring and final project report for the REP	MEWH	Success check funded and planned Biodiversity benefits monitoring funded and commenced. Final REP report funded and commenced.
4.2.5	Conduct surveys for African Big headed Ant (ABHA) and myrtle rust	MEWH	ABHA survey complete Survey of all leases for Myrtle Rust complete
4.3	Identify, protect and value heritage items.	Responsible Officer	Operations Plan 2020/2021
4.3.1	Identify and protect heritage items	MECS	Heritage requests considered and assessed. Heritage items to be considered in all DA planning assessments.
4.4	Improve awareness and understanding of the environment through education and research.	Responsible Officer	Operations Plan 2020/2021
4.4.1	Provide regular updates on environmental programs, research and maintain interpretation to increase environmental awareness	MECS/ MEWH	Articles prepared for Signal and LHIB website and community consultation undertaken on weeds, rodents, waste management and biosecurity
4.4.2	Encourage appropriate environmental research which is of benefit to LHI environment and community.	MECS/ MEWH	High priority research supported
4.5	Improve environmental sustainability of Board programs and operations (waste disposal; wastewater; renewable energy).	Responsible Officer	Operations Plan 2020/2021
4.5.1	Undertake audit program to monitor and record waste types and volumes received from the community.	MIES	Audits completed by end June 2021.
4.5.2	Develop better knowledge within the resident and tourist populations of the waste program objectives activities.	MIES	Waste data regularly updated at WMF, The Signal and website.
4.5.3	Reduce the environmental impact of wastewater from Board properties.	MIES	All remaining Board properties which do not meet the Strategy are upgraded by end June 2021. All Board property wastewater systems are maintained in accordance with Strategy.

4.5.4	Undertake monitoring of LHI groundwater monitoring well network on annual basis and establish data management and reporting.	MIES	Data on quality and levels is collected and data is managed to enable sensible reporting.	Complete.
4.5.5	Develop a program to phase out single-use plastics on the Island.	MIES	Work is undertaken with community representatives to put in place measures to phase out the sale single use plastics	Discussions held with LHI Plastics action group.
4.5.6	Support community in implementing On-site Wastewater Strategy.	MIES	Demonstrated progress by commercial and residential leases to upgrade wastewater systems to meet revised Strategy deadlines.	Progress demonstrated.

Strategic Direction: Responsible Land Management			
5.1	Design land use and development policies that balance environmental, economic and social outcomes.	Responsible Officer	Operations Plan 2020/2021
5.1.1	Finalise Stage 1 review of the LHI Local Environmental Plan (LEP)	MECS	Public exhibition of the Planning Proposal complete Planning proposal placed on public exhibition
5.1.2	Seek funding opportunities to commence Stage 2 review of the LHI Local Environmental Plan (LEP)	MECS	Funding opportunities achieved Funding sought. Not available at this time.
5.1.3	Undertake a review of the Dwelling Allocation and Entitlement Policy	MECS	Draft dwelling allocation entitlement policy commenced and available for community consultation in 2021. Report provided to Board regarding use of Nursery land as potential dwelling sites.
5.2	Provide an efficient and effective development planning and assessment service.	Responsible Officer	Operations Plan 2020/2021
5.2.1	Provide development planning and assessment through the services of an independent planning consultant.	MECS	Annual performance reviews of planning contract undertaken. Review to be conducted in December 2020.
5.3	Provide an effective lease administration system.	Responsible Officer	Operations Plan 2020/2021
5.3.1	Administer leases in accordance with the Act.	MECS	Continue to pursue of compliance of priority issues lease issues identified in the Handley Review. Ongoing. Land and Property Officer appointed on temporary part time contract.
5.3.2	Implement recommendations from independent review of land tenure and allocation arrangements.	MECS	Priority actions from Land Tenure and Land Allocation review are implemented. Most are state government actions and advocacy to implement continuing. LHIB actions undertaken.
5.4	Protect and manage the LHI Permanent Park Preserve in a manner that recognises the World Heritage values of the Island.	Responsible Officer	Operations Plan 2020/2021
5.4.1	Ensure LHI Permanent Park Preserve is managed in accordance with Plan of Management.	MEWH	PPP review completed by June 2021. On track.
5.5	Protect and manage vacant crown lands.	Responsible Officer	Operations Plan 2020/2021
5.5.1	Develop a plan for management of Norfolk Island Pines	MECS	Plan developed by June 2021 On hold until resources available.
5.6	Rehabilitate degraded areas.	Responsible Officer	Operations Plan 2020/2021
5.6.1	Maintain and expand revegetation areas	MEWH	Report on the area maintained annually 6 hectares Report on the area additional land revegetated. 1.8 hectares
5.6.2	Implement LHI Coastal Study recommendations to manage erosion and recession risks.	MIES & MECS	Foreshore remediation implemented by December 2020. In progress. Work has been completed to rehabilitate dune upon removal of old boat shed. Planning completed and permits obtained for dune restoration. Contractor engagement process underway. Cobby's Creeks is managed to reduce flooding impacts on properties on the Sally Swamp area. Impacts have been managed. Grant funding achieved. On track.

Strategic Direction: Strong and Engaged Community			
6.1	Plan for appropriate services for the community.	Responsible Officer	Operations Plan 2020/2021
6.1.1	Support a whole of government approach to the provision of health, education and other services.	SMT	Meetings held with NSW Health, RMS, Police, SES and RFS every 12 months. Regular & frequent meetings with NSW Health (COVID), Police. Other agencies engaged on COVID matters. Recovery-Reopening Plan prepared by LHIB in consultation with NSW Health. General planning to continue.
6.2	Improve relationship with the community through engagement and consultation.	Responsible Officer	Operations Plan 2020/2021
6.2.1	Develop a communication / community engagement strategy to support an informed and involved community.	MECS	Prepare and present to the Board for adoption a Community Participation Plan in line with the EP&A Act. Not started.
6.3	Provide professional environmental and public health services.	Responsible Officer	Operations Plan 2020/2021
6.3.1	Ensure compliance with public health standards for LHIB drinking water supplies, wastewater management and food safety.	MECS / MIES	Scheduled inspection and testing regime are implemented. Annual food safety inspection planned for first half 2021.
6.3.2	Prepare and implement Drinking Water Quality Assurance Program for Board supplies.	MIES	Drinking Water Quality Assurance Program implemented and documented fully. Complete.
6.4	Support capacity building in community organisations.	Responsible Officer	Operations Plan 2020/2021
6.4.1	Make funds available under Community Grants Program for activities or projects that benefit the LHI community.	MECS	Expressions of Interest for Community Grants sought every 12 months in accordance with Policy. Not undertaken 2020 due to LHIB financial position.
6.5	Promote programs that assist children.	Responsible Officer	Operations Plan 2020/2021
6.5.1	Make funds available under LHI Scholarship Program to support the completion of tertiary education that contributes to LHI.	MECS	Funding provided for LHI Scholarship Program. Ongoing, chosen recipient currently studying.
6.5.2	Support community events.	MECS/MIES	Event calendar developed and priority events for Board assistance identified. Ongoing incl. Bling Bike event, upcoming Carols (23 Dec). Rockfest planned for March 2021
6.5.3	Actively support progress of establishment of pre-school	MECS	Project assisted and supported. Construction progressing. Opening planned by committee for early 2021.
6.6	Manage the Local Emergency Management Committee (LEMC) and Emergency Management Plan (EMPLAN).	Responsible Officer	Operations Plan 2020/2021
6.6.1	Arrange quarterly meetings of LEMC.	LEMO / MIES	4 times yearly meetings of LEMC held. Q2 meeting held. COVID sub-group meetings as required.
6.6.2	Implement EMPLAN as required and coordinate annual review.	LEMO / MIES	EMPLAN implemented for any emergencies and 3 yearly review completed. Complete. On target.

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Operations Plan 2020/2021 – Mid-term Review.

RECOMMENDATION

It is recommended that the Board note the report on progress as at end of November 2020, against the Operations Plan for the Financial Year 2020/2021.

BACKGROUND

The purpose of this report is to outline the status of the Operations Plan 2020/2021.

The Operations Plan was formulated around the six strategic directions:

- Effective Governance and Leadership
- Strong and Sustainable Economy
- Sound Infrastructure and Services
- Outstanding Environment
- Responsible Land Management
- Strong and Engaged Community

The Operations Plan links the strategies and outcomes in the Corporate Plan to the KPI's and actions in the approved annual budget allocations.

CURRENT POSITION

Attached is the status update of the Operations Plan for financial year 2020/2021, with comments on the progress against each of the identified actions as at 24th November 2020 (Attachment A).

The financial year to date has been dominated by the continuation of the island's response to COVID-19 and the challenges of negotiating reopening and a Recovery Plan to safely move beyond the Public Health Order closures. Changes and requirements have been rapid as the government has managed this worldwide pandemic. Adapting, planning, preparing and implementing has been a significant challenge for the Board, businesses, and individuals.

Preparing to re-open of Lord Howe has been the highest priority. Despite this and the inevitable impacts on projects and delivery of the Operating Plan, good progress has been made.

The closure of the island with no tourists, as well as the assistance package has impacted revenues. The budget report will show however, that closely management of expenditure, triage in terms of priorities and assistance from Treasury has meant that financial impacts are far less than could have occurred.

Quarantine restrictions are no longer required and it is hoped that this will be able to be maintained safely into the future. This had a major impact on projects, staff, specialist personnel undertaking projects and now that the island is reopened, it feels like the floodgates have opened and projects are regaining momentum. .

Further improvements to the island's biosecurity have been implemented. Priority biosecurity actions identified in our recent audit (March 20) both on Lord Howe and in Port Macquarie, have continued since the September report.

Delivery of the Solar PV HREP project has accelerated and the contractor team and project managers have kept this important project moving. However, as reported in this business paper and my CEO's report, the full commissioning will now be in early 2021 because the project has now stretched into the peak season and accommodation is not available for the contract team. The project's solar array and supporting infrastructure is partially operationally already and excellent energy generation, system performance and reductions in diesel consumption are already apparent.

The Windy Point/Pinetrees boatshed project has proceeded beyond the various approval and permissive occupancy processes and as demolition and construction of the boatshed and its replacement in the new location further from the foreshore is complete. Removal of the concrete blocks, sand bags and placement of sand is next.

Ongoing services and activities have been delivered successfully, including critical compliance and operational requirements relating to safety, the airport, safety and risk management. I want to particularly thank those who have kept supply chains and airport/shipping services and compliance moving through extraordinary times.

During the year to date, the governance of the Board was coordinated efficiently and effectively and ongoing services were delivered to the LHI community at a high standard.

RECOMMENDATION

It is recommended that the Board note the report on progress against the Operations Plan Financial year 2021.

Prepared: Peter Adams, Chief Executive Officer

Attachments:

Attachment A: Operations Plan Mid-term review FY 2021 - Open

LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

ITEM

Lord Howe Island biosecurity update.

RECOMMENDATION

That the Board:

1. Note the Biosecurity update
2. Place on public exhibition for a period of at least four weeks (six weeks if advertised over Christmas) the proposed fee and charges outlined in Table 2 in the body of this report.
3. Following the exhibition period a paper be presented to the Board at the March 2021 meeting.

BACKGROUND

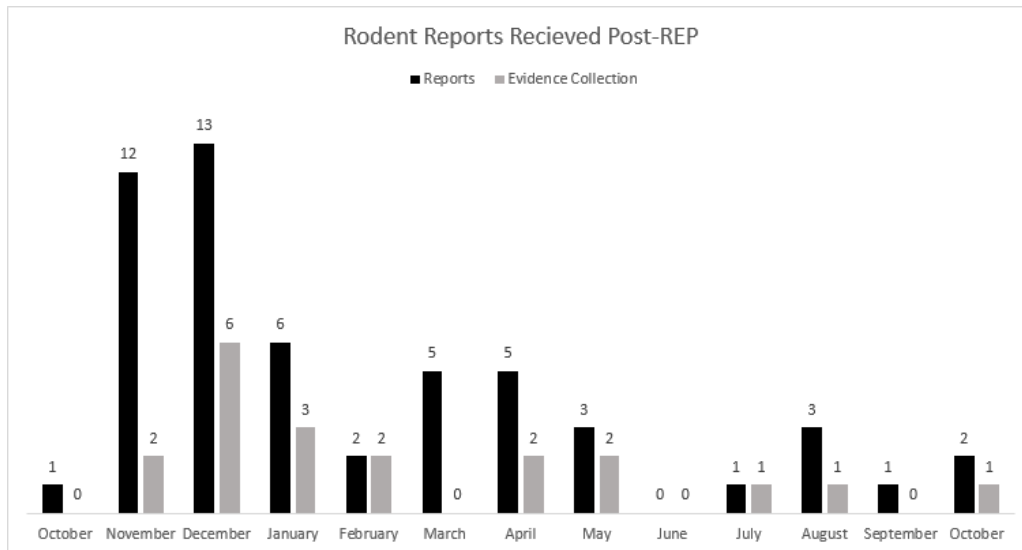
The last positive fresh rodent sign was found on LHI on 9th October 2019. Biosecurity procedures, practices, and resources are in an active update and development phase post rodent eradication. Substantial progress has since been made on improving biosecurity delivery with a strong emphasis on data management in order to better understand biosecurity goals and where vulnerabilities lie.

This update encompasses the period from August – October 2020.

SUMMARY OF ACTIONS AND DATA

1) Rodent sighting/sign reports and follow up.

- 6 suspected rodent sightings/sign reports have been made Aug-Oct 2020.
- Following assessment, 2 reports were progressed to further monitoring/evidence collection activities.



2) Termite Incursion follow-up

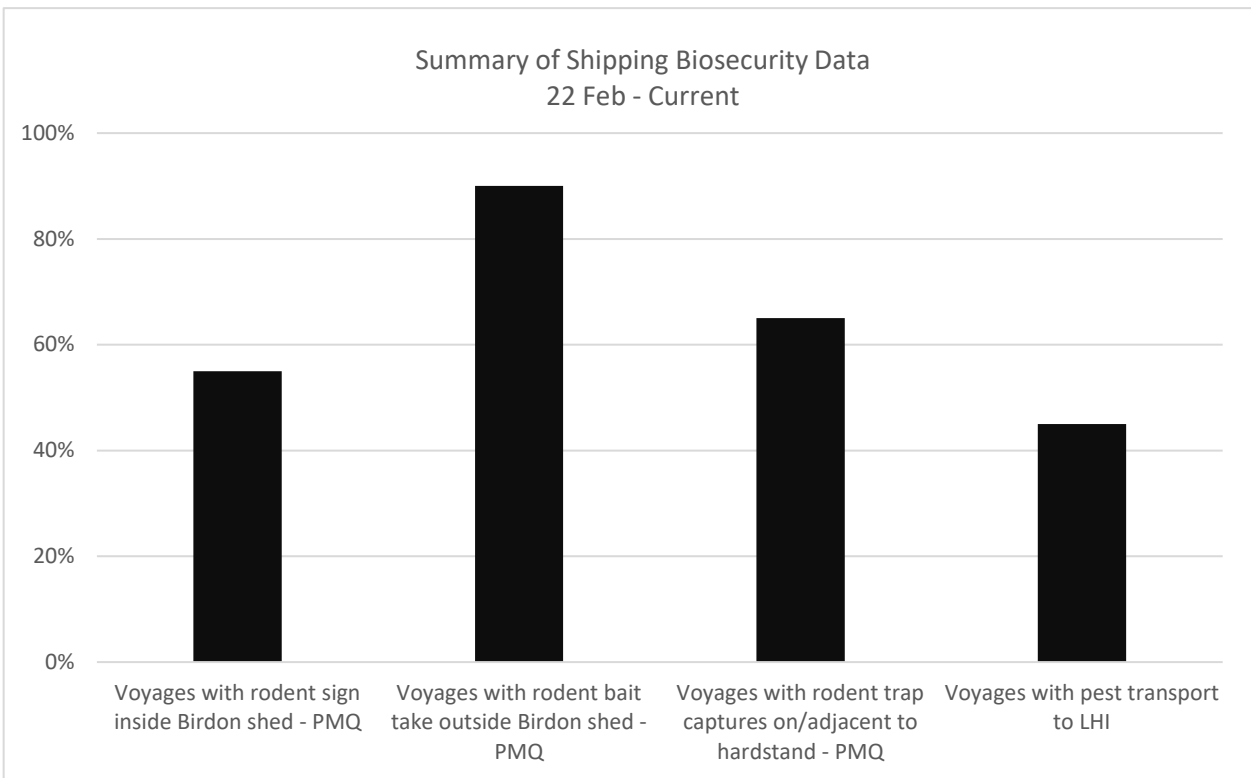
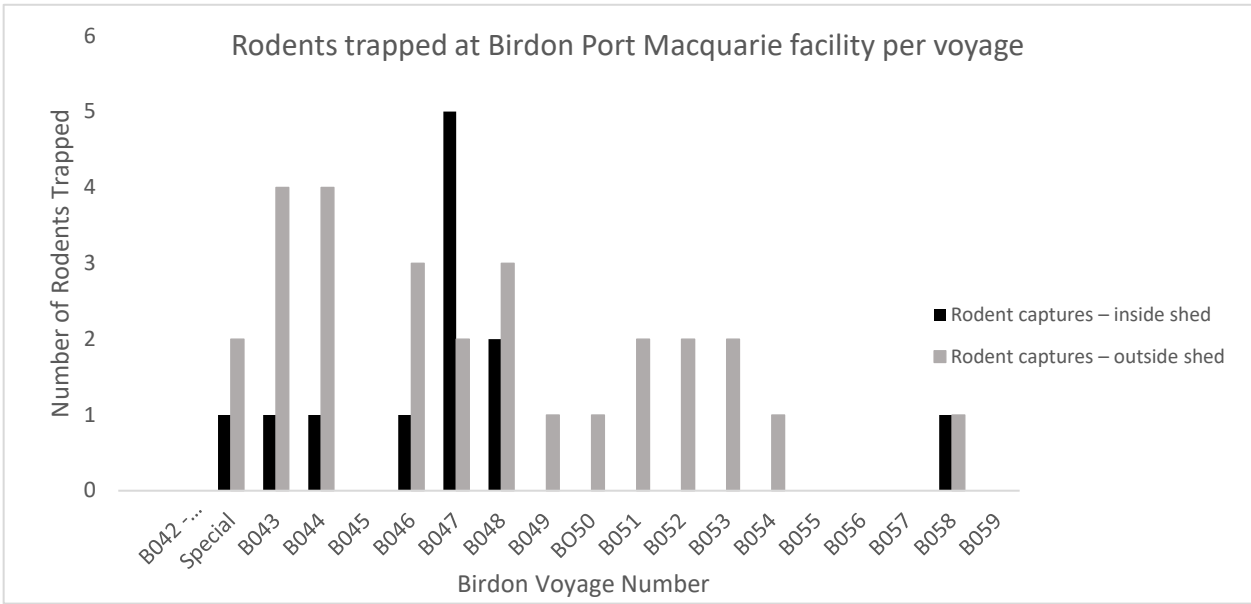
- In early September a species of termite was found on Lord Howe Island that hadn't previously been recorded. This species of potentially destructive termite – *Coptotermes Frenchi* are widely distributed on mainland Australia and are known to damage timber houses and structures.
- Subterranean termites are slow moving and at this stage the main infestation has been deemed to have been controlled
- The biosecurity team has been working closely with the Australian Museum, CSIRO and UWA termite specialist Theo Evans to create a plan for monitoring and eradication of this species from Lord Howe, with our first round of monitoring beginning in ~ 2 weeks; to be checked at 6 month intervals.
- The biosecurity team are also creating a picture of species of termites present on the island and an associated plan to prevent any further incursions. This will include an update (for review) to current policies on importing building material.

3) Arrivals Process has commenced for Vessels and Aircraft

- Vessel Inspections have begun with 7 vessels being inspected in November
- All vessels completed their pre-departure paperwork
- All vessels received an on-arrival inspection by a Biosecurity Officer and Marine Parks
- All private aircraft have been met from September - November and the new process has been working effectively.

4) Shipping

- **Birdon**
 - Discussions have been held with Peter Besseling from Birdon with regard to updating the Birdon Biosecurity Management Plan
 - An inspection at the end of November will confirm completion of the two highest priority biosecurity actions for Birdon (Rodent Proofing and Pallet Racking)
 - Improvements so far have seen a reduction in rodent access and increases our confidence in reaching the goal of shipments being free of biosecurity matter



5) Flights

a) Eastern

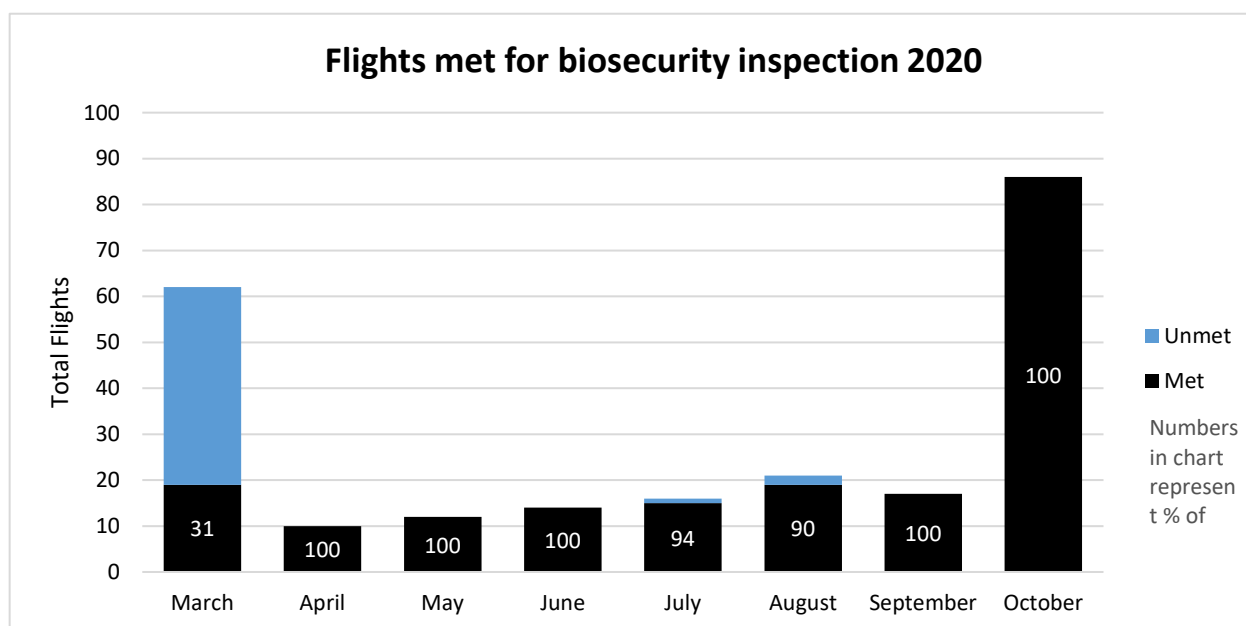
- Eastern Air Services began flights from Newcastle to Lord Howe Island on the 14th November 2020
- Discussions with Matt Berger and Paul McFarlane from Newcastle Airport with regard to Biosecurity practices for Lord Howe have commenced

b) Qantas

- Discussions with Qantas ground crew with regard to Biosecurity practices and configuration of biosecurity checks, which are now being trialed inside the fenced area, allowing passengers to move off the apron quicker have been held

c) Private Flights

- Discussions are underway with local pilots with regards to updated biosecurity practices
- All private flights to Lord Howe have been met by the biosecurity team since the re-opening of the island (2nd October 2020)



6) Suppliers of goods/freight

- Discussion have been held with AusPost with regard to biosecurity standards for mail pods delivered to Birdon for Lord Howe. AusPost have agreed to update storage and cleaning processes in the first instance and discuss updating mail transport and storage options.
- Discussions with our new Port Macquarie Bunnings contact have been held with regard to packaging and biosecurity requirements when shipping to Lord Howe

7) Permanent rodent surveillance network

- Checking, maintenance, and network refinement continues – no significant finds.
- Network has been expanded to include Dawson's Point (due to proximity to yacht moorings).
- A network of monitoring devices has been installed on all walking tracks (except Mt Gower which will be installed in the next few weeks). Initial checks have shown no rodent sign.

8) Capital works update

Biosecurity	Jetty biosecurity inspection room	Construct	\$ 75,000
Biosecurity	Pallet stands	Purchase	\$ 20,000
Biosecurity	Biosecurity airport	Goods	\$ 15,000

- Jetty Biosecurity Inspection Room – A quote is being progressed for the assessed works.
- Pallet Stands – Cantilever pallet stands have been installed at Birdon Port Macquarie.
- Biosecurity Airport – This project has moved forward to quote.

9) Fees and Charges update – Biosecurity

Development of biosecurity related fees and charges

At the September 2020 Board meeting, the Board were presented with draft/concept biosecurity related fees and charges noting that work on the development of these fees and the associated fee structure was in its infancy.

Analysis and recommendations on costs and possible amended fees is presented below.

Visiting Vessels – Yachts and non-commercial vessels

Current resourcing limitations do not allow for all vessels to be met for biosecurity inspection. Providing arriving vessels have completed their mooring application and have demonstrated compliance with the associated biosecurity requirements, vessels are currently met only when resourcing constraints allow. To date, 7 of 7 arrived vessels have been inspected. As vessel visitation numbers increase concurrently with increased flight arrivals (which also require biosecurity inspection), it is anticipated that 25% of arriving vessels may reasonably be expected to be met for inspection annually.

Inspection of 25% of vessels that have been fully compliant with biosecurity actions would provide an indication of the degree of biosecurity compliance and effectiveness of the measures imposed on visiting vessels. Inspections would be prioritised for vessels that are deemed high risk.

As such, implementation of the previously proposed cost recovery ‘user pays’ structure for those inspections which are able to be conducted is likely to result in some vessels being met and charged, whilst many others (who may reasonably be moored over the same time period) would not be able to be met (and subsequently not charged). This scenario is likely to result in questions as to why some vessels are inspected (and subsequently charged) whilst others are not. In light of this, a new fee structure is proposed.

It is suggested that the cost of the proposed inspection regime is spread across all visiting vessels. These funds would assist with funding the ongoing checks and maintenance of the expanded Dawson’s Point rodent monitoring network – this expansion was installed to assist in mitigating the biosecurity risk posed exclusively by vessels moored off Dawson’s Point.

An average of 84 vessels arrived each year from 2009-2019. The estimated annual cost to inspect 25% of the arriving vessels and maintain the Dawsons Point monitoring network is

\$7,350. The cost per vessel, when averaged across all visiting vessels is just under \$90 per vessel.

Figure 1 shows the monthly arrival averages for this period. A breakdown of the costs indicates that each individual inspection would cost \$350¹ all inclusive. Table 1 shows a summary of the cost workings).

It must be noted that an inspection rate greater than 25% of vessels is desirable, however a significant increase in inspections would result in a stepwise increase in costs as additional staff would need to be employed.

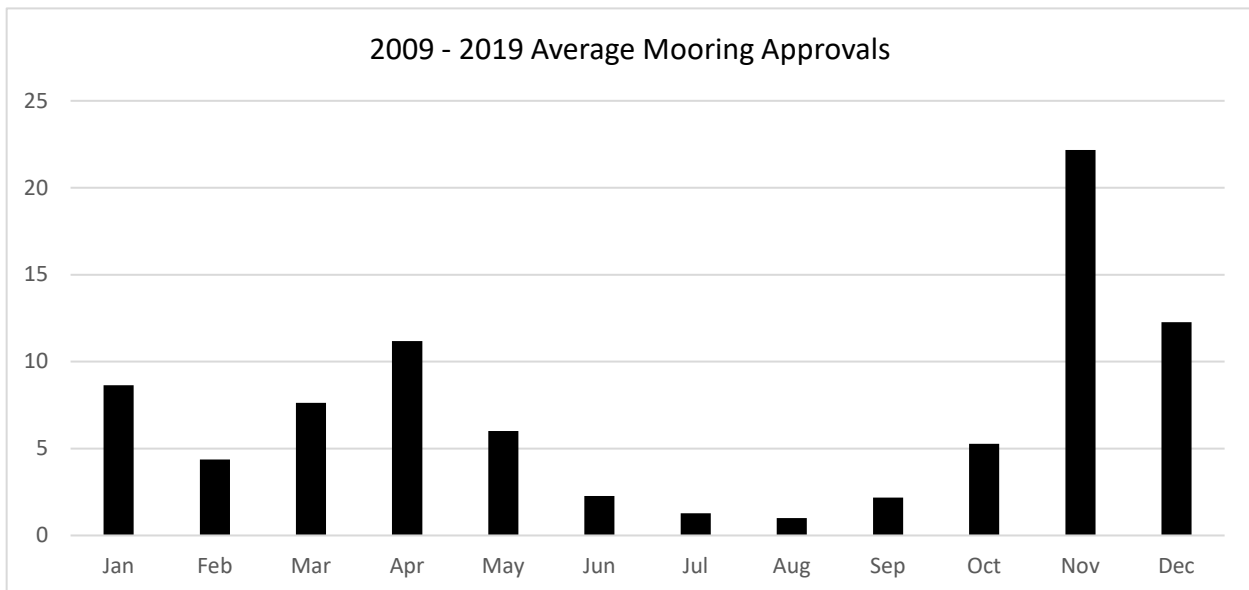


Figure 1: Average Mooring Approvals - LHI

Cost per vessel inspection	\$350
2009 - 2019 annual average visiting vessels	84
25% of annual average visiting vessels	21
Cost to inspect 25% of arrivals	\$7,350
Cost of levy for every vessel to cover inspection costs	\$87.50

Table 1: Vessel biosecurity charges workings

Any vessels which arrive without having obtained proper mooring approval, and/or those which are reasonably believed to have not properly undertaken the mandatory biosecurity actions would be identified as high biosecurity risk and would be met for a full inspection. The Master of the vessel would be liable for the charges related to these inspections and activities. It is anticipated that these vessels, assuming they are permitted to moor, would be charged the full inspection amount. This would be \$350. All vessels arriving without prior approval, including incomplete applications, or who have failed to complete the required biosecurity actions, would be charged \$350.

¹ \$350 is anticipated to cover all costs associated with the entire time taken for inspections to be carried out and any consumables which may be required (EG. Baits, boat fuel, etc.) and somewhat assist in covering administration time requirements.

The LHIB biosecurity team currently utilise NSW Marine Parks staff and vessel to access visiting vessels for inspection. This is currently provided at no charge to the LHIB. This arrangement is verbally agreed for the remainder of 2020 and is anticipated to be formalised for the 2021/22 period. The fee structure would be reviewed should the Board need to provide its own vessel and crew for inspections.

Visiting Vessels – Commercial vessels

All commercial vessels would be met for a full inspection. Although these vessels are subject to more strict mooring approval conditions, they generally present an elevated risk in comparison to recreational vessels. All commercial vessels would be charged a minimum biosecurity inspection fee of \$350. Should inspections require more than 2 hours, each additional hour would be charged at \$175/hour in addition to all over standard fees and charges.

*Definition of a commercial vessel as per the Visiting Vessel guidelines: “Vessels which are engaged in a commercial operation and/or any vessels intending to land stores, goods, cargo, or luggage that totals over 2 cubic meters by external volume measurements ashore on Lord Howe Island. Examples of such operations may include, but are not limited to: commercial charter vessels/voyages, chartered freight operations, and/or private vessels transporting bulk goods to Lord Howe Island.”

Visiting aircraft – non-commercial

Given current volumes, the meeting of a majority non-commercial/private aircraft is considered to be generally achievable with current resourcing. Similar to vessels, an additional charge or levy is proposed in place of a direct ‘user pays’ system. As inspections are less complex and do not require vessel use, a lower fee may be applied. It is expected that a charge of \$150 would be suitable to achieve ‘cost recovery’.

Proposed Fee Changes

The table below (Table 2) is proposed to be considered.

Airport Charges				
1	Airport Charges (incl landing fees, parking fees & Environment Levy)		Fee / Charge 2020/21 (\$)	Proposed Change
	a	Airport Usage Charge		
	i	Airport Usage Charge (Annual) - for commercial freight operators (excluding Qantaslink) - unlimited landings and parking	\$ 6,333.00	
	ii	Airport Usage Charge (Annual) for local aircraft only - unlimited landings and parking	\$ 2,708.00	
	b	Landing Fees		
	i	Non-RPT per tonne per occasion - excluding island based aircraft	\$ 30.00	
	c	Tie down \ parking fees for non-RPT aircraft per night	\$ 26.00	
	d	Administration Fee (including biosecurity)	\$ 40.00	\$ 190.00
2	Qantaslink Passenger Levy			
	a	Commercial Regular Passenger Transport (RPT) per sector per PAX	\$ 32.75	
3	Environment Levy			
	a	Commercial and non-commercial flights per sector per PAX (not payable if only staying one night; ie transiting)	\$ 21.83	
Mooring Charges				
17	Mooring - Public (Temporary)			
	a	Administration Fee (including biosecurity)	\$ 45.00	\$ 135.00
	b	Per night	\$ 50.00	
	c	Environmental Levy. Per person per visit (not payable if only staying one night; ie transiting)	\$ 43.66	
	d	Late/incomplete biosecurity application fee	\$ -	\$ 350.00
	e	Commercial Vessels		
	i	Biosecurity Inspection	\$ -	\$ 350.00
	ii	Extended Inspection (>2hrs)	\$ -	\$ 175/hr

Table 2: Proposed changes to LHIB Fees and Charges

Comparison of fees with other localities

The current visitor access fees to Lord Howe Island, including the Environmental Levy are significantly less than other similar levies, fees, and charges applied at other globally significant conservation sites. For locations such as the Galapagos, the equivalent fee can typically range from \$135 - \$220 per person per entry. The fee change proposed in this report only covers a small portion of the Biosecurity budget specifically charging inspections of visiting vessels/aircraft. In the medium term if external funding can't be found to support Biosecurity operations, consideration could be given to amending the Environment Levy. In

doing this consideration might be given to charging a differential fee for visitors and for residents. Other destinations such as the Galapagos already do this; i.e. tourist fee: USD\$100, Ecuadorian fee: USD\$6.

Process to amend fees and charges

Unlike local councils, the Lord Howe Island Board is not required to go to public exhibition to amend fees and charges. However, it is proposed that these fee amendments be placed on public exhibition, and following the exhibition the Board receive a report to consider a recommendation that may include adopt, amend or reject the proposed revised fee structure. The normal period for public exhibition is four weeks, however if it is proposed exhibition period is over Christmas that the exhibition period be extended to six weeks.

RECOMMENDATION

That the Board:

1. Note the Biosecurity update
2. Place on Public exhibition for a period of at least four weeks (six weeks if advertised over Christmas) the proposed fee and charges outlined in Table 2 in the body of this report.
3. Following the exhibition period a paper be presented to the Board at the March 2021 meeting.

Prepared: Darcelle Matassoni - Acting Biosecurity Team Leader

18/11/20

Endorsed: Peter Adams CEO

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Work Health and Safety (WH&S) and Public Risk Management Update

RECOMMENDATION

It is recommended that the Board note the information provided on Public Risk and WH&S matters.

BACKGROUND

The Board has requested information on Public Risk and WH&S matters be presented on a quarterly basis.

CURRENT POSITION

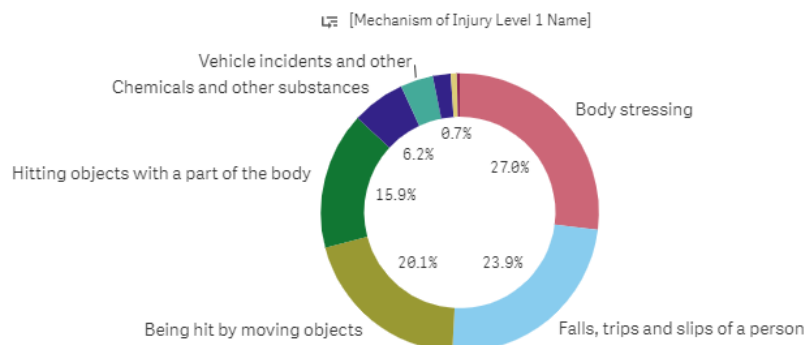
Workplace Health and Safety

At 25 November 2020 five claims had been lodged for the 2021 financial year.

2020/21				
No	Date of Injury	Type of Injury	Cause of Injury	Hours lost
1	20/07/2020	Hip strain	Repetitive use injury	Medical expenses
2	23/07/2020	Tendon injury	Normal course of duty	7.6 hours
3	06/08/2020	Muscle strain	Excessive force undoing shackle	Medical expenses
4	26/08/2020	Eye injury	Struck by foliage	19.8 hours
5	15/10/20	Crushed hand	Removing tyre	62.8 hours

3. Mechanism of Injury

(Reportable and non-Reportable Claims)



*Pre 2011/2012 data is not as reliable as they were either not a requirement or not populated back then. Hence some data shows as Not Found and Unknown.*The default presentation of this chart is all historical claims unless filtered by time selection*

Current and previous four financial years.

- Board staff are currently undertaking various training including Forklift, Crane Operator/Dogman, White Card and First Aid.
- The crane has undergone regular routine safety inspection.
- All staff have been inducted in relation to the Board's COVID Plans.

Public Risk Management

- The Board has implemented COVID Plans to cover operational areas. Measures include additional cleaning of public places, signage and hand sanitiser stations.
- Neds Beach stairs have been replaced providing safer beach access.
- The Boat Ramp had been pressure cleaned.
- A UHF radio has been installed at the Hospital to improve emergency contact with medical staff outside of Hospital opening hours.
- The Board has provided support to Volunteer Marine Rescue to install a VHF radio repeater on Intermediate Hill to improve communication coverage.

RECOMMENDATION

It is recommended that the Board note the information provided on WH&S and Public Risk matters.

Prepared: Jemima Spivey Manager Administration

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Attachment A: Financial Statistical Information - **Closed**

Form 4
Lord Howe Island Regulation 2014 (Clause 38)

State of New South Wales
IN THE COMMONWEALTH OF AUSTRALIA



LEASE IN PERPETUITY FOR THE PURPOSE OF RESIDENCE

(Lord Howe Island Act 1953, section 21)

WHEREAS **Janelle Mary Makiiti** of Lord Howe Island being the holder of Lease in Perpetuity No. 1954/16 for the purpose of residence under the provisions of the Lord Howe Island Act, 1953, as subsequently amended (hereinafter referred to as the "original lease") has in accordance with the provisions of the said Act transferred the original lease as to part only of the land comprised therein to Shane Jeffry Deacon and Lucy Heleen Kulman of Lord Howe Island as joint tenants and the residue of the land comprised in such lease has been retained by the said **Janelle Mary Makiiti** AND WHEREAS the original lease has been delivered up for cancellation and all things required by law have been done to enable separate leases to be issued in respect of the part so transferred and the residue so retained I, the Minister for Environment) pursuant to Sections 21 and 23 of the Lord Howe Island Act, 1953 (the Act), did on the *30th day of November 2016* *MS* grant to **Janelle Mary Makiiti**, her executors, administrators and assigns a lease in perpetuity for the purpose of residence of a parcel of land containing **seven thousand, eight hundred and two square metres** and being measured **Lot 813 Deposited Plan 1213759** situated on Lord Howe Island (not including any roads within the boundaries of that portion) being **Lease in Perpetuity No. 2016/03** (shown in the plan hereon), together with all rights, easements and appurtenances to hold the land in perpetuity subject to the Act and the regulations made under the Act and to the following conditions:

In these conditions "Board" means the Lord Howe Island Board.

1. THE lessees shall subject to and in accordance with the provisions of the Lord Howe Island Act, 1953, and the Regulations thereunder reside on the said land and make it their bona-fide residence.
2. THE lessees shall hold and use the land hereby leased bona fide in the lessees' own interest and shall not transfer, mortgage (except to the Board as security for an advance under Section 12A of the said Act), sublet or otherwise in any way deal with the land hereby leased or any part thereof (except by way of discharge of mortgage) except with the consent in writing of The Minister for the Environment first had and obtained.
3. THE Lessee, where any fences gates or turnstiles have been erected on the land hereby leased pursuant to the conditions attaching to a previous lease and such fences gates or turnstiles are situated on the land or on the boundaries of the land hereby leased, shall repair maintain and keep in good order and condition to the satisfaction of the Board all such fences gates and turnstiles and the approaches to all such gates and turnstiles.
4. THE lessees shall at all times in respect of the land hereby leased effectually destroy or cause to be destroyed all Crofton Weed, Asparagus Fern and such plants or weeds as may from time to time be declared by the Board to be noxious plants or weeds or which the Board may direct to be destroyed.
5. THE lessees shall at all times, unless authorised or otherwise directed by the Board, carefully preserve all bush, timber, trees, palms and vegetative material (except noxious weeds and plants) on the land hereby leased, and shall take all reasonable steps to prevent stock gaining access to any part of the land hereby leased on which is growing bush, timber, trees or palms.

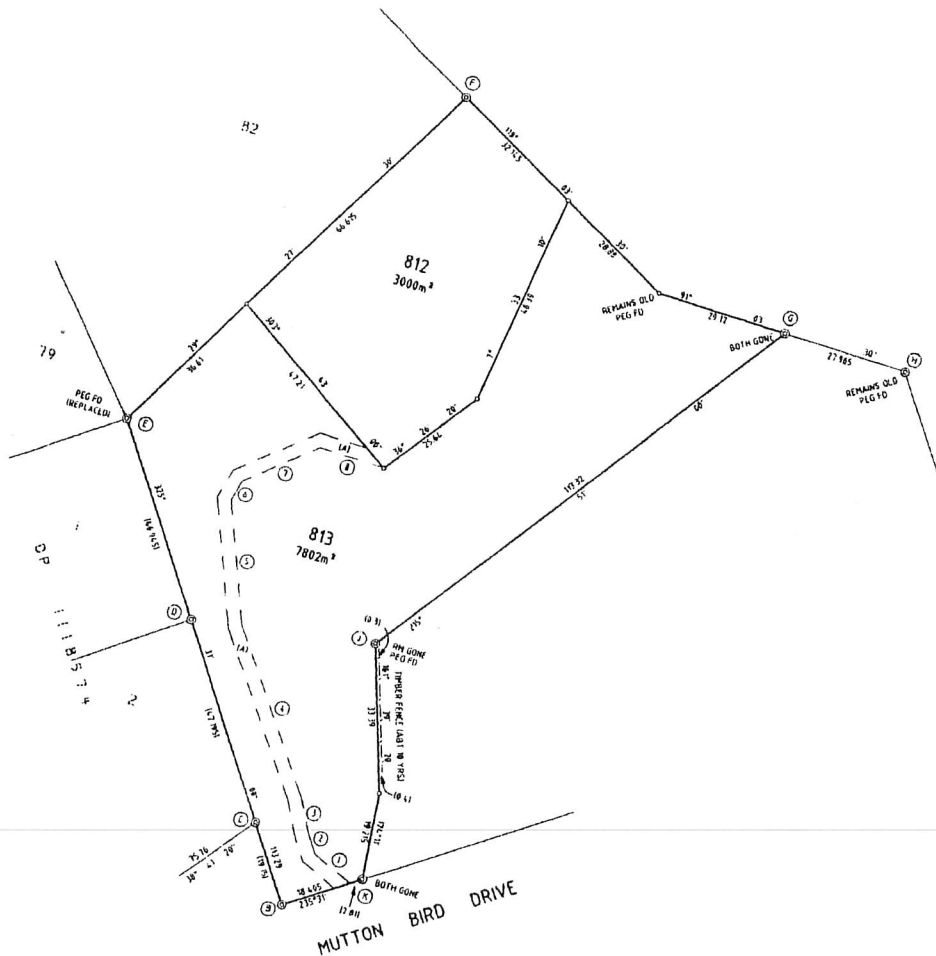
NOTICE - Persons dealing with this Lease are warned that search should be made in the office of the Lord Howe Island Board in order to ascertain whether the lease is still current or whether it has been forfeited or cancelled.

6. THE lessees shall not at any time without the previous consent of the Board interfere with or permit to be interfered with by ringbarking, cutting or otherwise any bush, timber, trees, palms or vegetative material (except noxious weeds or plants) on the land hereby leased. Where in pursuance of an authority from the Board any ringbarking, cutting or other interference is effected for the purpose of improvement of the land hereby leased all second growth, weeds or noxious plants on such improved area shall be eradicated by the lessees by such regular consecutive treatments as the Board may direct.
7. THE lessees shall take effective steps to keep the land hereby leased free from rats or other animals now or hereafter declared by the Board to be noxious animals.
8. THE lessees shall not at any time erect or cause or permit to be erected on the land hereby leased any building or structure and shall not alter or cause or permit to be altered any building or structure at any time on the land hereby leased except with the approval of the Board first had and obtained. All buildings or structures now or hereafter existing upon the land hereby leased shall be maintained by the lessees in good order and condition to the satisfaction of the Board.
9. THE lessees shall not at any time erect or effect or permit to be erected or effected within the site of any defined or designed easement any building, excavation or other works which shall interfere with the erection maintenance and use of works envisaged in accordance with the purpose of such easement and compatible with the object thereof.
10. THE lessees shall not at any time carry out or permit to be carried out upon the land hereby leased any burning off operations except with the consent of and subject to such conditions as may be imposed by the Board.
11. THE lessees shall not overstock the land hereby leased or any part thereof, the decision as to overstocking to rest with the Board. Should the Board deem it necessary for maintenance of pasture or preservation of the fertility of the land hereby leased or any part thereof or for the prevention of erosion thereon, it may determine the maximum number of stock that may be depastured on the land hereby leased or any specified part of such land and the lessees shall not permit the number so determined to be exceeded.
12. THE lessees shall, if and when directed by the Board, from time to time adopt and maintain on the land hereby leased or any part of it, such agricultural and/or pastoral practices and/or install such soil erosion control structures and/or refrain from or discontinue agricultural and/or pastoral practices as the Board may specify in the interests of soil conservation and the mitigation or prevention of erosion.
13. ALL palm trees and the product thereof on the land hereby leased are reserved to the Crown and shall remain Crown property but the lessees shall have sole right to collect palm seed from the land hereby leased subject however to the power of the Board to authorise some other person to collect the seed AND in that event the lessees shall permit all persons so authorised by the Board from time to time to enter upon the land hereby leased and collect and remove there from palm seed in such quantities as the Board may specify and the lessees shall not be entitled to compensation for any palm seed collected and removed under any such authority from the Board.
14. THE lessees shall not at any time take or remove or permit to be taken or removed from the land hereby leased any minerals stone gravel clay shells or other material except by a person for the time being holding a permit so to do issued by or under the authority the Minister for the Environment, PROVIDED the lessees may, with the prior approval of the Board, take from the land hereby leased such stone gravel clay shells or other materials which the lessees may require to use for building or other purposes upon the land hereby leased.
15. THE lessees shall permit the Board or anybody or any person authorised by it to enter upon the land hereby leased with any material and equipment at any time and from time to time for the purpose of constructing and maintaining authorised works or any other purpose approved by the Board without interference or annoyance by the lessee.

- 16. THE lessees shall permit the Commonwealth of Australia and any Authority of the Commonwealth or its 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 hereby leased on which an electricity transmission or telecommunication line is now or may hereafter be constructed, for all purposes connected with effecting any necessary repair and maintenance for the transmission and supply of electricity or telecommunication services.
- 17. THE lessees shall not conduct upon the land hereby leased any trade or activity which in the opinion of the Board is offensive or which may endanger the public health.
- 18. THE lessees 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 the Crown or which the Crown may incur in respect of any accident or injury to any person or property which may arise out of the construction and maintenance by the lessees of gates, turnstiles or other authorised works, notwithstanding that the conditions of this lease shall in all respects have been observed by the lessees or that any such accident or injury shall arise from any act or thing which the lessees may be authorised or required to do thereunder.

Signature:


Mark Spalding
.....
Minister for Environment



Deposited Plan 1213759

NOTICE - Persons dealing with this Lease are warned that search should be made in the office of the Lord Howe Island Board in order to ascertain whether the lease is still current or whether it has been forfeited or cancelled.

Reserved for notations

Transfer by way of MORTGAGE
dated 14th DECEMBER 2016
from JANELLE MARY MAKITI
to WESTPAC BANKING CORP
of ALEXANDRIA NSW 2015
of the within lease produced and entered in
the Lord Howe Island Board's register
on this 3rd day of JANUARY 2017
Chief Executive Officer 
Lord Howe Island Board