

LORD HOWE ISLAND BOARD

BOARD MEETING AGENDA

MEETING DATE:	MEETING LOCATION:	MEETING TIME:
Monday 23 September 2019	Public Hall, Lord Howe Island	Planning Session 9:00 am to 11:00 am
Monday 23 September 2019	Public Hall, Lord Howe Island	Closed Session: 11:00 am to 4:30 pm
Tuesday 24 September 2019	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	SS	1	CONFLICT OF INTEREST DECLARATIONS			
CH	PA	2	MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION	O		Note
CH	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	C	Note
CH	PA	6	MOTOR VEHICLE IMPORTATION OR TRANSFER – STATUS REPORT	O		Note
		7	FINANCE AND BUSINESS MANAGEMENT			
JvG	JvG	(i)	Closed Session		C	Decide
JvG	JvG	(ii)	Closed Session		C	Decide
		8	DEVELOPMENT APPLICATIONS			
CH	JS	(i)	Owner Consent approved under Delegated Authority	O		Note
CH	JS	(ii)	DAs Determined Under Delegated Authority	O		Note
AAP	AAP	(iii)	Diane Owens Two Lot Subdivision, Erection of a new dwelling on the proposed lot associated with a transfer of dwelling entitlement, erection of a tourist accommodation OC2019.06 and DA2019.06	O		Decide
AAP	AAP	(iv)	The Construction of a Community Skate Park DA2019.11	O		Decide
AAP	AAP	(v)	Lord Howe Island Bowling Club alterations to kitchen and bathroom facilities OC2019.10 and DA2019.15	O		Decide
JS	JS	(vi)	Proposal to make the Lord Howe Island Board a Planning Proposal Authority	O		Decide

Preparer	Presenter	ITEM		OPEN (O)	CLOSED (C)	ACTION Note/Decide
		9	POLICY & STRATEGY			
JS	JS	(i)	Biosecurity Operations Plan Resourcing update	O		Note
JS	JS	(ii)	Removal of Camphor Laurels from Stevens Reserve	O		Decide
		10	LEASING & LAND ADMINISTRATION			
JS	JS	(i)	Lord Howe Island Land Allocation Review – Implementation Update	O		Note
JS	JS	(ii)	Closed Session		C	Decide
JS	JS	(iii)	Closed Session		C	Decide
JS	JS	(iv)	Closed Session		C	Decide
JS	JS	(v)	Closed Session		C	Decide
JS	JS	(vi)	Closed Session		C	Decide
JS	JS	(vii)	Closed Session		C	Decide
JS	JS	(viii)	Special Lease Report – Proposed extension of special leases	O		Decide
JS	JS	(ix)	Proposal to relocate Permissive Occupancy for Pinetrees boatshed	O		Decide
JS	JS	(x)	Closed Session		C	Decide
JS	JS	(xi)	Review of Perpetual Leases that are potentially in Breach of their lease conditions	O		Note
		11	GOVERNANCE			
JvG	JvG	(i)	Closed Session		C	Note
JvG	JvG	(ii)	Closed Session		C	Decide
JvG	JvG	(iii)	Attestation Statement for Financial Year 2018/19	O		Decide
		12	OPERATIONS & SERVICES			
AW	AW	(i)	Rodent Eradication Project Update	O		Note
		13	WH&S and PUBLIC RISK MANAGEMENT			
BP	JvG	(i)	WH&S and Public Risk Management Update	O		Note
		14	INTERVIEWS			
		15	GENERAL BUSINESS AND QUESTIONS ON NOTICE			

Board Meeting: September 2019	Agenda Number: 2	Record: ED19/8004
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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 May 2019 meeting and the Special June 2019 meeting were distributed to each Board member and have been endorsed through the above process with amendments.

A copy of the endorsed Minutes is attached.

RECOMMENDATION

Submitted for the Board's information.

Prepared: Chelsea Holden, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Attachments: Attachment A: Minutes - Board Meeting – May – **Closed Session**
Attachment B: Minutes - Board Meeting – Special June – **Closed Session**

Board Meeting: September 2019	Agenda Number: 3	Record: ED19/8288
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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 May 2019, one matter was considered at an out of session meeting and a result summary is attached.

RECOMMENDATION

Submitted for the Board's information.

Prepared: Chelsea Holden, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

OPEN SESSION				
No.	Date	Application	Vote	Comment
June 2019				
1	14/06/2019	Application to sublease Perpetual Lease 2000.04 Adrian Lisle Skeggs to David Chlumsky	Approved - GC, RP, TT, CW	No response – DK, MR
July 2019				
	Nil			
August 2019				
	Nil			

Board Meeting: September 2019	Agenda Item: 4	Record Number: ED19/8590
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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 May 2019 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 May 2019 Board Meeting and Previous Meetings

LORD HOWE ISLAND BOARD

Action Sheet from May 2019 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#
12(vii) November 2016	Commercial Tour Operator Licensing System	Investigate opportunities to align with Ecotourism Australia accreditation program.	October 2018	MECS	Bridging permits issued. Draft Eco-pass information pack being prepared. However, due to other major projects, has been deferred.	
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 2019	MECS	Will form part of greater LEP Phase 2	
10 (iv) March 2017	Review of Boatshed Foreshore Encroachments	<ol style="list-style-type: none"> Review and adjust rentals where there has been, or will be, an approved increase in the footprint area of fixed improvements. Follow up anomalies identified in the assessment. 	Ongoing	MECS/MBCS	Ongoing	
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	Consultation undertaken informed the 2019/20 budget adopted by the LHIB in May 2019. Survey undertaken. School consultation held. Two workshops held with additional planned. Officer undertaking CSP required on REP and will return to CSP in Dec 2019.	
15 May 2018	General Business	Draft a letter to OEH for signature by the Chair seeking funding for the sediment tracing study.	October 2018	CEO	Sediment study determined to not be effective for outcomes and timeframe, & therefore not required.	27 June 2019

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
					Funding achieved for erosion remediation.	
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 Planning Proposal prepared and submitted for Gateway consideration. Stage 2 LEP review is a major exercise requiring significant funds. Funding requirement included in Estimates briefing note for Sept 2019. Not yet funded..	
10 (iii) September 2018	Cat B Land Restitution	Provide a progress report for the November 2018 Board meeting.	October 2018	MECS	On going, letters to be sent to lease holders in September 2019.	
10 (iv) September 2018	Review of Compliance with Residency Conditions	<ol style="list-style-type: none"> Write letters as per the decisions captured in the minutes. Prepare out of session paper to capture the Board's discussion on direction and advise on options to change the Policy and the Act to reflect the agreed direction. 	November 2018 October 2018	MECS MECS	Letters sent, some replies received, follow up letters and actions underway with individuals. Update report provided in September 2019	
12 (iii) September 2018	Airport Runway Feasibility Study	Form a high level working group, comprised of all relevant stakeholders.	Nov 2019	CEO	Meetings with Transport for NSW held. Feasibility Study with TfNSW. Working Group being reinstated.	
12 (iv) September 2018	Location of Public Fuel Sales	<ol style="list-style-type: none"> Rezone the land so that it can be operated by a private entity. Submit a DA. 	February 2019 February 2019	MECS MIES	DA plans to be prepared. Re-zoning request being considered by planning.	
3 November 2018	Out of Session Matters	Administration to advise of a Master Plan for the Old Post Office site regarding the utility and amenity of		MIES	Completed initial internal discussions of what is required on this site	

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
		the civic precinct and resolve to consider the original conditions of the lease. We agree to have an open meeting of the Board to consider the revised DA.		MECS	which have been included into the construction plan. DA approved March 2019 meeting	
15 November 2018	Interview	Administration to provide advice at the next Board meeting about options to provide Aged Care Services on the island.		CEO/ MECS	Strategy to be mapped for presentation to LHIB as out of session paper.	
13 iii) November 2018	Old Powerhouse site remediation	Suggestions for name of park at a later stage.		MIES	To be addressed on completion of amphitheatre	
7 (ii) March 2019	Application for Liquor Licence	1. Approve the investigation of an Alcohol Management Strategy for LHI with an aim for implementation from 1 July 2020 following a Public Consultation process across the commercial and domestic sectors of the island.	April 2019	MBCS	Planned to commence in late 2019	
5 May 2019	CEO Report – IES	Draft a letter to Rod Staples – RMS	May 2019	MIES/ CEO	Letter sent to seek reassurance funding will not be lost.	
7 (i) May 2019	Finance Report – Budget Adjustments	Implement Budget adjustments as approved	May 2019	MBCS	Completed	May 2019
7 (ii) May 2019	Budget Process	<ul style="list-style-type: none"> Adjustments made to draft budget as approved in Closed Planning Meeting Extraordinary meeting to be held in June 2019 to approve budget 	May 2019 June 2019	MBCS MBCS	Completed Completed	May 2019 June 2019
9 (ii) May 2019	Amendments to the LHI Local Environment Plan	<ul style="list-style-type: none"> Submit Planning Proposal & Gateway Determination Report on outcomes of Gateway Determination 		MECS MECS MECS	Planning Proposal submitted. Waiting for Gateway Determination Completed.	

Agenda Item No.	Item	Actions (refer to full minutes for detail)	Estimated Completion Date	By Whom	Progress	Actual Completion Date#
		<ul style="list-style-type: none"> Prepare a revised Site Plan for Site 8 – Fuel Supply 				
10 May 2019	Leasing & Land Administration	Regular report to be tabled to include an updated List of outstanding issues, in particular, residency.		MECS	Implemented - Ongoing.	
11 (i) May 2019	Audit & Risk Committee Minutes	To be tabled in the Open Session.	November 2019	MBCS/ CEO	Advice provided to ARC who will report back to the Board	
11 (ii) May 2019	Code of conduct	Implement new Code of Conduct	June 2019	CEO/ MBCS	Included in Webpage & Policies within records system	August 2019
12 (ii) May 2019	Proposed Marine Rescue Concept	Support Marine communications enhancement		CEO/ MIES	Resolution of support sent to Marine Rescue NSW	June 2019
		Provide in-principle support to undertake further community consultation		CEO/ MIES	Resolution of support sent to Marine Rescue NSW. Public consultation undertaken.	Aug 2019
		Written response to Marine Rescue NSW		CEO/ MIES	Undertaken LEMC have resolved to support proposal.	June 2019 Sept 2019
15 May 2019	Windy Point erosion	Look at possible assistance		Chair/ CEO	Expert advice and proposal completed. Funding achieved, agreements reached, equipment being procured.	June 2019
15 May 2019	Aged Care	To look at availability of nurse's flat – post REP	Dec 2019	CEO/ MECS	Options being included in draft strategy.	

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.

ENVIRONMENT AND COMMUNITY SERVICES UNIT OPEN SESSION

ENVIRONMENT & COMMUNITY SERVICES UNIT

30 April – 11 September 2019

Biodiversity Management

- ABhA infestation detected in rodent bait stations in former infestation area. ABhA are attracted to the Pestoff20R rodent pellets which helped delimit the infestation area for treatment. The infestation area was delimited and baited within 1.5 days with no subsequent signs of ABhA in any former infestation areas (using rodent bait stations as monitoring tool). Ongoing monitoring of all former infestation areas scheduled for Spring/Summer 2019/2020.
- Contract issued to Pestlures for hunting Masked Owl. Commenced targeted searches at the Saddle between Mt Lidgbird and Mt Gower 19-26 July. Board staff with firearms licenses to target Masked Owl between visits by Pestlures and respond to reports by community.

Research & Volunteers

- The Research Station has been occupied by OEH working for the REP and contract weed team staff May – September.

Rodent Eradication

- See Agenda Item - Rodent Eradication progress report.

Biosecurity

- Ongoing inspections using detection dogs of freight brought in on Island Trader and freight planes as well as inspections of luggage from passenger planes. Increased surveillance both pre border and post border.
- Pre border inspections at Birdon wharf facility, Port Macquarie for each loading of LH Seafreight with LHIB Biosecurity Dog Handler and detection dog. This includes servicing bait stations and other detection devices, prophylactic treatments for invertebrates, training of stevedores, suppliers and carriers.
- Obtained funding to seal Birdon shed to reduce potential access by pests such as rodents, snakes, lizards, frogs and invertebrates.
- Obtained funding to purchase more pallet storage to keep freight off the ground and to purchase two rapid response kits (one for Port Macquarie and one for LHI) to enable treatment of pests/incursions as soon as possible after detection.
- External audit of biosecurity inspections and procedures and review of rodent Incursion Response Plan by New Zealand biosecurity audit contractor undertaken.
- Revised bait inspection procedure for baits located on Island Trader. Inspections of bait stations on ship undertaken prior to departure from Port Macquarie, on arrival at LHI and on return to Port Macquarie after ship cleared of freight.
- Continual improvements in development of Biosecurity Operational Plans for biosecurity inspections at LHI wharf, LHI aerodrome, Port Macquarie wharf and aerodrome.
- Procured monitoring devices for installation at LHI jetty and aerodrome to implement the Biosecurity Monitoring Plan approved under EPBC approval.
- Reviewed staff and resource requirements to undertake biosecurity inspections, monitoring and capacity to respond to incursions.

Weed Management

- Base level effort on invasive weeds undertaken by contract groups (Wild Things Native Gardens and Bushland & Rainforest Restoration Consulting) focusing on priority blocks with Bridal Creeper in the Northern Hills.
- On ground weed management limited during this reporting period due to the roll out of the REP requiring local labour resources. A lag in on ground effort is not ideal, however sharing of labour resources to address critical project timeframes to improve the success of the REP is necessary.
- Heli-Resources used during down time on the REP to insert the LHIB weed team onto Mt Gower. New threatened plant locations were identified and a mature Ground Asparagus removed from south – east of the Get Up Place. This significant detection is working to prevent Mt Gower from becoming Mt Asparagus and protecting the Cloud Forest and Southern Mountains biodiversity.
- The Friends of LHI provided a 25 person volunteer weeding effort in June, with focus on priority weed sites.
- XM2 undertook trial of hyperspectral data capture and recording spectral signatures of priority plants, with further work to continue.
- Four grant reports submitted to the NSW Environmental Trust, Saving Our Species – Office Environment and Energy, National Landcare Program administered by the North Coast Local Land Services – Protecting World Heritage Values and the Little Mt Palm and NSW Department Primary Industries (DPI) Weeds Action Plan. Effective grant reporting is critical to release future program funds.

Revegetation

- Maintenance of revegetation sites has been undertaken in accordance with the Revegetation Work Schedule.
- Planting on Blackburn Island commenced with assistance from Zoos Victoria staff and implemented as part of Conservation Volunteers.

Incident Management

- Nil

Compliance and Enforcement

- Two potential breaches of Building and Development conditions are currently under investigation.

Community Programs & Education

- Contribute to Signal and Community Information Bulletin.
- <https://www.lordhoweisland.info/blog-post/get-involved-in-protecting-paradise/>

Visitor Infrastructure

- In flight biosecurity and REP information sheet provided for incoming LHI QantasLink flights.
- The Environment crew have been working on the REP effectively full time. Work on track maintenance has been restricted to essential tasks to manage the safety of the track network. Regular track maintenance is expected to resume in November, although it will take some months before the tracks are restored to their usual standard.
- Brief for the renewal of Middle Beach Stairs has been provided to MIES and may be incorporated in the Stevens Reserve walking track upgrade.
- Track safety and condition audits will commence in October.

Marine Management / Moorings

- 11 yachts visited the Island and attached to LHIB public moorings during the reporting period.

Human Resource Management

- Recruitment for a part time Land and Compliance Officer will commence shortly.
- Environment team and weed team have been working effectively full time on the REP since April.
- Project Officer – Community Strategic Plan has been seconded full time to the REP. Will recommence work on the CSP in November 4 days per week.

Training

- Firearms Safety and Training delivered to licensed firearms officers with the Board.

Work Health & Safety

- Environment team staff member recently injured while working under the direction of the REP. treatment is ongoing, may require further scans on the mainland.

Environmental Assessment

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

Land Administration

- Negotiations have been ongoing with Pinetrees regarding the relocation of the boatshed in response to the coastal erosion threat are ongoing. Report regarding new Boatshed Permissive Occupancy prepared for September 2019.
- Review of expired Permissive Occupancies underway. Reallocation of these permissive occupancies will be undertaken as per the Board's Permissive Occupancy policy.
- Actions being pursued following resolutions by the Board (Sept 2018) for compliance with Residency condition of Perpetual Leases. A revised list of potentially non complying leaseholders is being prepared and show cause letters will be sent to the relevant leaseholders.
- Work is about to commence on a revised suspension of residency policy.
- Development Assessment is ongoing. Staff are progressing the procurement of Planning and Assessment Services as the current contract has expired.
- Two assessments for Owner Consent, Development Applications have been determined out of session.

RECOMMENDATION

It is recommended that the Board note the information provided.

Prepared: Justin Sauvage – Manger Environment and Community Services

Endorsed: Peter Adams, Chief Executive Officer

INFRASTRUCTURE AND ENGINEERING SERVICES

15 May 2019 to 6 September 2019

Airport

- On Sunday 21 July 2019 to Tuesday 23 July 2019 The Annual Aerodrome Technical Inspection was conducted by Daniel Holliday of Aerodrome OLS Surveys. The ensuing report was received by the Board on 7 August 2018. Five (5) Recommendations for Corrective Action were detailed in the report with two (2) relating to vegetation maintenance, one (1) relating to runway sealed surface maintenance, one (1) relating to the runway strip transverse slope and one (1) relating to apron markings. Aerodrome management were aware of the non-compliances and had already developed a Plan for Corrective Action. Works on corrective actions in the past have not progressed as hoped due to resourcing of staff and materials. Plans are now progressing for outsourcing to external contractors to complete the works.
- On Thursday 30 May 2019 the Rodent Eradication Project (REP) Team, in conjunction with the Lord Howe Island Local Emergency Management Committee, and Lord Howe Island Aerodrome Management, conducted the desk top exercise 'Farewell Mickey and Friends'. The purpose of the exercise was to ensure everyone knew their roles and responsibilities if a helicopter incident/accident was to occur during the helicopter aerial operations of the REP and that all related Emergency Management Plans were appropriate to the cover such an emergency.
- A Special Event Zone (SEZ) was declared at the aerodrome by the Commonwealth Department of Home Affairs. The SEZ was required to facilitate the REP aerial operations plus bait and other equipment storage without the need for the usual security requirements entering the airside of the aerodrome. The SEZ is in force 9am 4 May 2019 to 3pm 30 September 2019.
- Three (3) separate incidents of unauthorised access to the aerodrome have been reported in recent months. The first instance of 26 May 2019 was referred to the NSW Police and is now a matter for the court. The second instance of 27 May 2019 was of a nature that a warning letter was sent. The third instance of 27 June 2019 is pending an outcome.
- On 31 July 2019 the Aerodrome Manual, Bird and Animal Hazard Management Plan and Aerodrome Safety Management System were updated and reissued in full with a copy sent to the Civil Aviation Safety Authority on 5 August 2019.
- The LHI Aerodrome Bird and Animal Hazard Committee met on Thursday 22 August 2019. The committee primarily discussed the preparation for the upcoming Sooty Tern and Migratory Wader Season. Plans are in place for trialling of additional bird harassment techniques and will commence late September/early October if required.
- Mathew James, Operations and Security Coordinator Newcastle Airport, has been seconded to the Lord Howe Island Board as a nominated Aerodrome Reporting Officer for the period of 23 August to 17 September 2019. The secondment was required due to staff changes and leave arrangements within the Infrastructure and Engineering Unit.
- At the time of writing (Friday 6 Sep 2019) there have been four (4) bird strikes recorded for 2019 at the aerodrome. On Sunday 13 January 2019 during departure a QantasLink

DHC8-200 struck a Sooty Tern out to sea off Blinky Beach. The aircraft continued to Brisbane and underwent an engineering inspection where it was discovered that the bird had entered the air intake on the port engine. No damage was recorded and the aircraft resumed service. On Monday 18 March during landing a QantasLink DHC8-200 struck a Ruddy Turnstone which necessitated an overnight stay until the aircraft could be inspected by an engineer. Unfortunately, due to weather, it was a number of days before the aircraft could be inspected (all OK) and return to service. On Saturday 6 April during landing a QantasLink DHC8-200 struck a Pacific Golden Plover impacting the pilots' windscreen. The captain declared the aircraft fit to return to service with the flight experiencing only a 15 minute delay. On Wednesday 28 August during landing a QantasLink DHC8-200 struck a Black Back Gull which necessitated an overnight stay until the aircraft could be inspected by an engineer. The aircraft left the next day with no damage reported.

From 1 January 2019 to 31 July 2019, there have been 1126 aircraft movements, which equates to 2.66 strikes per 1000 movements. As one strike was out of our field of influence (13/01/2019) the amended strike rate is 1.7 strikes per 1000 movements.

For the corresponding period in 2018 there were 1.85 strikes per 1000 movements. Both of these strikes were out of our field of influence (struck over water etc.) which realised an amended strike rate of 0 strikes per 1000 movements.

- On Friday 19 July 2019 trialling of a new variety of wind sock frame commenced for the Primary Wind Indicator at the aerodrome. The new frame appears to be handling the wind conditions to date.

Emergency Management

- The Local Emergency Management Committee (LEMC) met on Thursday 4 July 2019. The LEMC continue to work with mainland agencies on the implementation of the 'One Emergency Service' model. Members continue to review and test the Consequence Management Guides of the LHI Emergency Management Plan.
- On Wednesday 12 June 2019 Telstra contacted the Board informing that the Conference Bridge Service facilitating '000' calls on the Island would cease after January 2020. Telstra also advised that they do not have an alternate service suitable to cover the Island's needs. The LHI LEMO has been in contact with the NSW RFS, Victorian Country Fire Authority (CFA) and SA RFS who all use, or are changing to, private providers to deliver similar conference bridge services for their operations. Initial investigations are positive and it is anticipated the transition to a private provider should not affect the Island '000' call arrangements.
- The Adventist Development and Relief Agency (ADRA) made a decision not to extend their arrangements with NSW State Government to assist with Welfare Services during times of emergencies. This is unfortunate for Lord Howe Island as the Department of Justice Disaster Welfare Services has recently undertaken training sessions with LHI ADRA volunteers. It is anticipated that NSW SES will take up this role on the Island and it is hoped the ADRA volunteers can transition to NSW SES to continue this important welfare assistance.
- On Friday 16 August 2019 the LEMC was informed that as of Friday 16 August 2019 Jim McFadyen would be standing down as the NSW SES LHI Local Commander. The acting NSW SES LHI Commander is Tim Solomon.

- A visit by NSW SES volunteers is planned for 6 – 9 September 2019 to undertake Tsunami Awareness Community Engagement. The team are State Rescue Board accredited vertical rescue operators and there will be opportunities for training for NSW SES, NSW RFS, Board employees and other interested parties. The team also intend to liaise with the ADRA volunteers regarding transitioning to NSW SES.
- Marine Rescue NSW (MRNSW) are progressing with plans for installing radio equipment on the Intermediate Hill viewing platform. This new equipment will greatly enhance the use of VHF marine band radios on the Island. MRNSW are hopeful the installation will occur in November 2019.
- A public meeting was held on Tuesday 30 August 2019 with representatives from Marine Rescue NSW gauging the community's interest in establishing a Marine Rescue Unit on the Island. Community response was supportive and establishment of the Unit is progressing.
- Air Ambulance patient retrievals year to date (Friday 6 September 2019) total ten (10), five (5) of which were residents.

Patient retrievals for the same period in 2018 totalled six (6), five (5) of which were residents. Four (4) residents required treatment for illness and one (1) for injury. The one (1) visitor required treatment for illness.

- Fire appliance and SES vehicle successfully completed roadworthiness certificates in June and August respectively.(pink slips)
- Two SES members attended the igloo on the summit of Mt Gower in order to replace the emergency equipment and clean the igloo. The SES utilised the REP helicopter to transport two heavy cases to the summit and remove the 'old' equipment. SES met the operating costs of the helicopter. There is now an additional emergency case located near the creek in the saddle approximately half way up Mt. Gower. This completes the two station emergency cases planned for implementation.
- SES Local Commander has changed with the new Local Commander being Tim Solomon. Tim will be supported by local members and SES HQ in his new role. Trainers from the SES are to visit the island mid-September.
- A new single cab fire appliance arrived on voyage BO30. The new appliance has a greater water storage capacity along with a bullbar mounted remote snorkel/hose system which is operated from the cab. The old appliance will be de-commissioned by a RFS mechanic and prepared to be removed from the island on the next available ship. Local RFS members and relevant Board staff have been briefed on the operation and maintenance of the new vehicle.

Building Construction Maintenance and Management

- From 6 to 20 May 2019 Ian Creswick of Essential Safety Protection (ESP) conducted the annual Fire Safety Inspections for all Lord Howe Island Board premises, vehicles and plant and Island businesses.
- ESP undertook First Attack Fire Fighting and Evacuation Training with a number of Infrastructure and Engineering Staff. It is anticipated that Ian will continue to hold similar training sessions in future annual visits.

- Minor internal works at the Community Hall were completed by the LHIB carpenter in August. The Community Hall hosted several gatherings in July being the Phasmid Day and the NSW Marine Rescue community consultation. The building worked well for these two large events.
- New combination locks are being trialled at the jetty shower and laundry facilities. If successful, this will negate the need to issue keys and the inevitable loss of keys.
- Quote received for painting Liquor store with work to commence early September.
- The LHIB carpenter will replace the front southern deck area of the Hospital due to deteriorating timber flooring. New decking material arrived on voyage BO30.

Maritime Facilities and Coastal Activities

- June - DPI coastal engineers visited the island to conduct a feasibility study on the construction of a new heavy capacity boat ramp adjacent to the jetty. DPI made use of LHIB punt re sampling. A concept plan was developed and costed at \$1.3 million. A grant application was submitted under the Emergency Management Community Resilience program (total available funding \$1.5 million) the result of which is expected to be announced late in 2019.
- The jetty stairs and boat ramp were cleaned in August to remove marine growth via high pressure/high temperature water treatment.
- In Mid-September the swimming pontoon will be removed from the water for cleaning and service. Expected to be out of water for one day only.
- Two large pinetrees were removed from the front of Pinetrees boatshed deck due to undermining. In addition a large pinetree root system was removed from the inter-tidal zone, by LHIB crane.

Roads, Parks and Visitor Facilities

- Limited road and pothole repairs were carried out during July/August/Sept, hampered by breakdown of critical machinery.
- Pothole repair continues utilising a canola based cold mix asphalt.
- Over thirty (20) dangerous trees were identified and removed from locations on the island within the road reserve and commercial areas. The trees were removed without incident with the assistance of local arborist Craig Wilson
- Works Staff continue with significant road verge trimming of vegetation in order to provide a safe passage for visitors and residents both on foot and bicycle whilst passing vehicles.
- Spraying for weeds on the airstrip was carried out early September in order to comply with CASA regulations.

- Maintenance on roadside gardens have commenced with the garden 'pods' along the airport road the first to be cleaned up and mulched. Further similar works are planned for all garden areas in order to re-establish these areas and make them more visually attractive.
- June- 30 tonnes of road base was added to the turning circle at the Little Island gate. Unfortunately the LHIB roller broke down whilst on route to roll the new surface. A replacement roller is being sourced on a hire basis in order to complete this and other roadwork applications.
- Local arborist Craig Wilson has completed numerous dangerous and technically difficult tree removals during late August and early September. This required road closures as the use of the LHIB crane was needed. In addition, numerous stumps close to road edges were removed using a stump grinder to improve road user safety and amenity.
- The goal posts on the oval have been strengthened at the south end of the oval and a new set of posts ordered to allow the re installation of goal posts at the northern end. It is planned that the new posts will be ready for use by end of September, shipping dependant.
- Rectification works are planned for September to address the deteriorating condition of the Little Island access road. Severe winter weather conditions have resulted in the undermining of one section of the track. The track will be restored to original status.
- It is planned that in October all LHIB works staff will be involved in an extensive sealing and reseal program on island roads as part of the NSW Govt. Roads to Recovery grant funding. However this work is dependent on sourcing and shipping a hired bitumen sprayer and metal drum roller onto the island in time for the works.

Waste Management Facility

- A large amount of previously stockpiled material has been removed from the island in a joint LHIB/REP effort. There remains significant quantities of stockpile material at the WMF that still needs to be removed from the island. Discussions have been held with the HREP contractor to investigate whether their activities may be an opportunity to backship material to the mainland.
- A 10 ft locked container has been relocated to the WMF in order to store donated clothing. There have been several occasions where clothes donated for the charitable purposes have been taken for personal use. This new procedure will ensure the clothing goes to those who it is intended.
- It is intended that no more compost material be disposed of to mainland landfill, but instead be beneficially used on the island. A testing regime will commence shortly to determine if the compost material is suitable and safe to use and gain EPA approval for the material. The composting unit is now working reasonably well. The compost trommel remains problematic. The trommel is used to remove oversize and contaminants from the raw compost. A new feeder arrangement is being investigated and costed to overcome the trommel issues. A slight change to food waste disposal behaviour by the community will be needed to ensure the compost is of useable quality and a community education program is planned.

- A program of testing the crushed glass produced at the WMF is being investigated that, if successful, should allow the crushed glass to be reused on the island, rather than sent to landfill.

General Items/Other

- LHIB staff continue to monitor and treat the Board's drinking water quality for NSW Health compliance.
- LHIB staff continue to monitor mosquito larvae as per the Lord Howe Island Mosquito Surveillance and Vector Monitoring Programme. This programme is part of a National scheme run by the Federal Government.
- LHIB staff continue to monitor wastewater discharge at the WMF with reporting for EPA licence compliance.
- LHIB staff continue to assist residents and businesses with their on-site wastewater management system installations and/or upgrades.
- Tasman Thompson attended the LHIB on Wednesdays during July to work with the LHIB carpenter to gain school accredited work experience.
- Todd Vowles will be relieving as plant mechanic in mid-September whilst LHIB plant mechanic is on annual leave. Todd, who was the previous LHIB plant mechanic, will work for two weeks and also mentor the LHIB apprentice mechanic.
- The demountable shed was relocated from the airport hangar to the old powerhouse site in order to provide Edge Constructions with a site office and tool storage area.
- The LHIB took delivery in August of a new Vermeer Hydra Cut appliance. This machine will allow post holing and trenching with minimal disruption to the ground surface and vegetation. The machine has already been utilised on the privacy fence between the Oxley's premises and the start of the Transit Hill walk. The unit will be offered for private rental but will be supplied, at cost, with an LHIB operator for operator safety reasons.

IES UNIT -MAJOR PROJECTS SUMMARY STATUS REPORT

As at 9 September 2019

PROJECT	DESCRIPTION	CURRENT STATUS	EST. COMPLETE DATE	BUDGET	EXPEND TO DATE	ACTUAL % COMPLETE
GRANT FUNDED PROJECTS						
HREP	Construction of a solar panels array, battery storage and control systems	Construction contract awarded. Fine tuning solar panel array layout. Minor DA amendment to be submitted. Finalising land subdivision issues. Contractors recently visited Island to research construction access, local subcontractor resources and site familiarisation.		\$11,120,000		
Community Hall Renewal	Revitalisation of the public hall	Works largely completed with the hall now open for use. External painting of public toilets to be done in conjunction with Old Powerhouse site project.	Nov-19	\$460,000		95.00%
Old Powerhouse Site Renewal	Construction of a public amphitheatre style entertainment and function space	Project underway but subject to construction delay primarily due to inability to land construction materials, particularly concrete mix due to shipping capacity restrictions.	Nov-19	\$535,000		50.00%
Lagoon Foreshore Fitness Equipment	Provision of public exercise equipment on the lagoon foreshore adjacent to the playground.	Equipment ordered and currently being manufactured. Two large stumps recently removed at installation location.	Nov-19	\$93,660		20%
Stevens Reserve Walking track Upgrade	Provide an all ability track from Lagoon Rd to Middle Beach Rd through Stevens Reserve to Nursery Rd, using a combination of raised boardwalk and onground path.	Lower section of the existing trail being surveyed to allow development of detailed concept design options. Land boundary issues being investigated.	Aug-20	\$594,705		5%
Skatepark	Provision of a transitional skatepark on the lagoon foreshore	Concept design prepared. DA being assessed. Initial cost estimate completed.	Aug-20	\$231,000		20%
Bowling Club Amenities Upgrade	Upgrade of kitchen and toilet facilities at the Bowling Club	DA being assessed. Initial cost estimate completed. Bowling Club has requested a construction commencement in May 2020 to minimise loss of income to the Club.	Jul-20	\$345,253		20%
Roads to Recovery (R2R)	Repair and/or reseal of deteriorated sections of Island roads	Four projects completed. A major works program planned for October 2019 to complete the remaining sections has been significantly impacted by the mechanical failure of the Board's bitumen spray unit and the metal drum roller. Attempts to source suitable hire machinery and have them delivered to the Island in time is proving problematic. Grant funding works completion deadline end November 2019	Dec-19	See below		
R2R - Lagoon Rd	Neds Beach Rd to OV Drive	Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$57,522		0%
R2R - Smoking Tree Ridge Rd	Lagoon Rd to Gile's Gate	Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$10,154		0%
R2R - Lagoon Rd	Neds Beach Rd to OV Drive	Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$77,938		0%
R2R - TC Douglass Drive		Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$60,618		0%
R2R - Cemetery Rd	Neds Beach Rd to Anderson Rd	Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$19,294		0%
R2R - Neds Beach Rd	Lagoon Rd to Anderson Rd	Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$54,713		0%
R2R - Jetty Hardstand	Damaged pavement in unloading/storage area	Assessing road projects to determine what can be feasibly completed in remaining grant funding timeframe with resources available		\$37,719		0%

PROJECT	DESCRIPTION	CURRENT STATUS	EST. COMPLETE DATE	BUDGET	EXPEND TO DATE	ACTUAL % COMPLETE
Private Fuel Supply	Construction of a public fuel supply point containing two 20,000 litre containerised fuel tanks for diesel and unleaded housed in a shed on a bunded concrete slab with bowsers providing 24hr self-serve and payment by credit card	Seeking source of design funds	Jun-20	\$0		0%
Foreshore Beach Nourishment at Windy Point	Erosion mitigation works and Seebee wall investigation	Purchasing of an off road dump truck to move sand from north end of Lagoon Beach to the erosion zone at Windy Point is in progress. Quote being prepared to investigate the condition of the Seebee wall. Discussions held with Pintrees Permissive Occupancy owner. They are proposing to remove the boatshed structure in May 2020, which means the sandbag protective structure cannot be removed until that time.	Jun-20	\$715,000		10%
Multipurpose Boatramp – (Community Emergency Resilience Program)	Grant application for design and construction of a multipurpose concrete ramp to the south of the existing wharf	Grant applied for in the order of \$1.0 million. Total estimated cost \$1.67 million. Proposed to transfer funds from Slipway (Boating Now program) to cover the funding shortfall		\$1,670,000		0%
Slipway – (Boating Now Program)	New slipway and boatramp improvements	Proposed option of upgrading the existing boat ramp along with a specialised trailer/cradle has been investigated and estimated to have a construction cost well over the remaining project funding available. Request RMS to retain remaining funds. Proposed to apply funds to the Multipurpose ramp concept.		\$670,000		10%
OPERATIONAL PROJECTS						
Onsite Wastewater System at Research Facility	Replace the existing damaged system with a new treatment and irrigation system	Resourcing issues - project delayed	Jun-20	\$20,000		0%
Onsite Wastewater System at Marine Parks / Post Office Site	Install new wastewater treatment system	Resourcing issues - project delayed	Jun-20	\$35,000		5%
Onsite Wastewater System at Admin Centre		Project scope being clarified	Jun-20	\$20,000		0%
Water Tank Admin	LHIB Depot rainwater storage tanks (??)	Project scope being clarified		\$10,000		0%
Water Tank - Old Post Office		Project scope being clarified		\$30,000		5%
Gower Wilson Hospital Garage	Construct a garage addition to the existing hospital building to house the patient transport vehicle	DA lodged and being evaluated. REF to be completed.	Jun-20	\$80,000		15%
Admin Office Upgrade	Roofing, walkway, lunch room, skylights	Re-evaluating scope and priority		\$100,000		0%
Met House 1 Renovations	Renovations	Reassessing project - Asset not owned by LHIB		\$50,000		0%
Playground Equipment	Replace worn out playground equipment	Project scope being clarified		\$50,000		0%
Plant Storage Shed (at WMF)	Construct a new shed near the WMF to house and protect the Boards construction equipment currently stored on the foreshore area	Planned for 2020	Jun-20	\$200,000		0%
Airport Fuel Shed Replacement	Demolition of the existing shed and the construction of a new compliant building on the existing slab.	Pouring of concrete slab has been delayed due to shipping capacity limitations. Expected to commence week commencing 23/9/19. Shed to be manufactured after slab measurement. Potential delay due to shipping 3 week layover.	Dec-19	\$130,000		10%
Airport Terminal Shade Structure		Project scope being clarified		\$8,000		
Depot Workshop Extension (?)		Project scope being clarified		\$0		0%

PROJECT	DESCRIPTION	CURRENT STATUS	EST. COMPLETE DATE	BUDGET	EXPEND TO DATE	ACTUAL % COMPLETE
Design of Multipurpose shed at Waste Management Facility	Construct a new shed at the WMF to cover the Recycle centre, waste oils storage and sludge processor	Re-evaluating priorities at the WMF	Jun-20	\$50,000		0%
WMF - Compost Exemption Order	Produce compost to a quality level approved by the EPA where it can be beneficially used on the Island	Composter now working reasonably well. Sizing trommel not functional. Trommel feeder being investigated to overcome issues. Testing Plan for EPA being developed for approval	Dec-19			10%
WMF - Glass Exemption Order	Gain EPA approval for the crushed glass product so that it can be beneficially used on the Island	Testing Plan being developed for EPA approval. Improved glass storage area required.	Dec-19			20%
WMF - Recycled Glass Storage Bunkers	Construct a three (3) bay crushed glass storage area	Required to address EPA licence non-compliance issues and to gain approval for crushed glass reuse	Dec-19			0%
WMF - Asbestos Removal	Treatment and disposal of legacy friable asbestos from WMF	Prepare scope of work for specialist asbestos removal contractor	Mar-19	\$70,000		0%
WMF - Skip Bins Replacement	Purchase replacement skip bins for shipping of waste	Being delivered	Sep-20	\$10,000		50%
Jetty Upgrade	Replacement of deteriorating piles	Project scope being clarified. Recommend combine with projects "Deck and Kerb Replacement" and "Walkway and Platform" for economies of scale. Reconstruction works during tourist season likely to cause unacceptable disruption to boat operators.		\$245,000		0%
Jetty - Deck and Kerb Replacement		See Jetty Upgrade above		\$120,000		0%
Jetty - Walkway and Platform	Support beams replacement	See Jetty Upgrade above		\$80,000		0%
Jetty Building Roof		Project scope being clarified		\$5,000		0%
Road - Anderson Rd to Cow Bale Seal	Seal	Assessing road projects to determine what can be feasibly completed with resources available		\$5,400		0%
Road - Bowling Club Road Reseal	Reseal	Assessing road projects to determine what can be feasibly completed with resources available		\$6,750		0%
Road - Middle Beach Rd (Nursery Rd to Anderson Rd) Reseal	Reseal	Assessing road projects to determine what can be feasibly completed with resources available		\$24,750		0%
Road - McGees Parade Reseal	Reseal	Assessing road projects to determine what can be feasibly completed with resources available		\$10,100		0%
Road - Neds Beach Rd (Lagoon Rd/Anderson Rd)	Seal	Assessing road projects to determine what can be feasibly completed with resources available		\$5,000		0%
Road - Cemetery Rd Reseal	Reseal	Assessing road projects to determine what can be feasibly completed with resources available		\$2,000		0%
Underground Drainage Airport	Install Tideflex valves and replace steel grate	Tideflex units and installation requirements being investigated	Jun-20	\$80,000		
HV Communications and Load Control System	Provision for monitoring and possibly control of high voltage electrical system at remote locations	Project to be scoped in detail when solar array system installed		\$100,000		
Plant Room 2 Ventilator Fan	Replace fan	Not required this FY		\$15,000		
Generator 3 Engine Rebuild	Rebuild engine	Currently in progress	Sep-19	\$55,000		50%
Refurbishment Substation 8 (Airport)	Refurbish substation	Not required this FY		\$20,000		
CBM Acoustic Radiator Replacement	Replace radiator	Completed	Aug-19	\$10,000		100%
Tractor - New Holland		Project scope being clarified		\$60,000		
Vermeer Vacuum Excavator	Purchase of a machine to excavate without damaging tree roots and underground services	Unit purchased and training completed.	Aug-19	\$45,000		100%

PROJECT	DESCRIPTION	CURRENT STATUS	EST. COMPLETE DATE	BUDGET	EXPEND TO DATE	ACTUAL % COMPLETE
Mini Bitumen Spray Tanker	Purchase of Bitumen Sprayer	Procurement of a unit suitable for Island conditions is taking longer than expected.	Nov-19	\$50,000		20%
Concrete Minimix Truck	Purchase 2nd hand concrete truck to batch and deliver concrete	Completed	Sep-19	\$10,000		100%
PFAS Investigation	Investigate PFAS contamination on the Island	Report received identifying three (3) areas of possible concern				
Flood Study	Review and Update of the Lord Howe Island Flood Study	Flood Study consultants information requirements have been identified. Currently researching availability of data. Board will be required to undertake a drainage structures audit to supply missing information.	Jun-20			15%

Board Meeting: September 2019

Agenda Number: 5

Record Number: ED19/8674

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

Chief Executive Officer's Report to the September 2019 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: 1

Business & Corporate Service Report

Reason: Business in Confidence

MATTER	STATUS	ACTION REQUIRED BY BOARD AT THIS MEETING
Community Strategic Plan	Key issues identified by LHI community (on & off island) via survey and workshops assisted with informing the 2019/20 budget and strategic planning for 2019/20 financial year. The CSP will continue in 2020 when the key officers are available following completion of the REP. The 2019/20 budget adopted in May includes a person for part of the year to undertake this work.	Note
Runway Feasibility Study	Meetings held with Transport for NSW following the changes to the machinery of government. Full reports being reviewed by TforNSW and working group scheduled to meet following review.	Note
Rodent Eradication Program	Project implementation underway and last remaining rodents being eradicated. Funding shortfall addressed through grant variation by the Commonwealth Government. Appeal to Supreme Court determined and costs awarded to LHIB by Court. Detailed status report in this business paper.	See agenda item 12 (i)
Renewable Energy Project	Project funding agreement with ARENA signed, contract awarded, project underway, equipment manufacture commissioned, site visits undertaken by contractors.	Note
Boat retrieval system (slipway)	Revised concept being investigated following visit to LHI by new head of RMS Maritime. Estimated cost of ramp solution not within RMS budget. Funding application prepared and submitted to attempt to address funding shortfall..	Note
Marine Rescue	NSW Government announcement re funding a possible Marine Rescue Base at LHI and marine radio installation after an initial meeting with Commissioner Marine Rescue NSW and NSW Police on LHI.	Note

Prepared: Peter Adams, Chief Executive Officer

Attachments:

Attachment A: Chief Executive Officer Report – BCS Unit - **Closed**
Attachment B: Chief Executive Officer Report – ECS Unit - Open
Attachment C: Chief Executive Officer Report – IES Unit – Open
Attachment D: Chief Executive Officer Report – IES Unit Major Projects Summary Report – Open

Board Meeting: September 2019

Agenda Number: 6

Record: ED19/8580

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 12 applications to import or transfer vehicles were determined by the Chief Executive Officer under the 'Vehicle Importation, Transfer and Use Policy':

CURRENT POSITION

There will be an increase of four vehicles (two being trailers) to the island since the last Board meeting.

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation	Comment
Lynda Shick	Suzuki Jiminy	No	Private	0	Approved 30/06/19 Replacement
Terrence Wilson	Toyota Prius Hybrid	No	Private	1	Approved 11/06/2019 subject to conditions
Andrew Wilson	Trailer	No	Private	1	Approved 10/07/2019 subject to conditions
Peter Turner	Toyota Hilux Utility	No	Private	0	Approved 17/06/2019 Replacement
Elizabeth Stevenson	Suzuki Swift Car	No	Private	0	Approved 13/07/2019 Replacement
Vicki Payten	Toyota RAV4	No	Private	0	Approved 24/06/2019 Replacement
Betty Lonergan	Holden Captiva	No	Private	0	Approved 24/06/2019 Replacement
Lord Howe Island Board	Toyota Hilux Utility	No	Essential	0	Approved 11/07/2019 Replacement
Allen Thompson	Toyota Hilux Utility	No	Commercial	1	Approved 08/05/2019 subject to conditions *Temporary 2 year approval

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation	Comment
Darrin Nobbs	Positrack & Trailer Earth Moving	No	Plant & Equipment	0	Approved 26/06/2019 Replacement
Leanda Lei	Suzuki Blena	No	Hire	0	Approved 25/07/2019 Replacement
Lynda Shick and Sharon Whitfield	Trailer	No	Commercial	1	Approved 28/08/2019 subject to conditions
NSW Rural Fire Service	Isuzu Firetruck	No	Essential	0	Approved 06/09/2019 Replacement
William Shead	Toyota Hilux Workmate	No	Private	0	Approved 10/09/2019 Replacement
William Shead	Toyota Hiace Commuter Bus	No	Commercial	0	Approved 10/09/2019 Replacement

As at September 2019

Registered Road Vehicles						
Essential	Commercial	Private	Hire	Plant & Equipment	Imported prior to Approval Policy	Total
34	100	154	8	27	66	389

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
189	22	49	10	34	85	389

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 68 vehicles imported without approval prior to the current policy:

- 56 vehicles were imported without approval prior to 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.
- 9 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	11	1	3	45	66

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Chelsea Holden, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

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

The following Owner's Consent applications complied with the above requirements and have been processed by the CEO since the last Board meeting.

OC	Applicant	Site	Proposal	Zone	Decision
2019.08	Edward & Danielle Rourke Pinetrees Lodge	Lot 236 DP 48213, Pinetrees Lodge	Installation of four small spa baths on the decks of garden cottage	Zone 2 Settlement. Proposed development is permissible with the consent of the LHI Board within the zone.	Approved subject to conditions 11/07/2019
2019.11	Kylie Owens	Part Lot 44, DP 757515	Change of use and fit-out for a grocery shop.	Zone 5 Special Uses. The LHIB administration has advised it considers the proposed development to be the "Premises of a Public Authority" as defined in the LHI LEP 2010, which is permissible with consent within the zone, consistent with the other commercial uses on the site.	Approved subject to conditions 23/08/2019

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Chelsea Holden, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Board Meeting: September 2019	Agenda Number: 8 (ii)	Record Number: ED19/8295
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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
DA2019.14	Edward & Danielle Rourke Pinetrees Lodge	Lot 236 DP 48213, Pinetrees Lodge	Installation of four small spa baths on the decks of garden cottage	Zone 2 Settlement. Proposed development is permissible with the consent of the LHI Board within the zone.	Approved subject to conditions 11/07/2019
DA2019.16	Kylie Owens	Part Lot 44, DP 757515	Change of use and fit-out for a grocery shop.	Zone 5 Special Uses. The LHIB administration has advised it considers the proposed development to be the "Premises of a Public Authority" as defined in the LHI LEP 2010, which is permissible with consent within the zone, consistent with the other commercial uses on the site.	Approved subject to conditions 23/08/2019

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Chelsea Holden, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

1 Item

Concurrent OC 2019-06 and DA 2019-12 for:

1. Two Lot Subdivision;
2. Erection of a new dwelling on the proposed lot associated with a transfer of dwelling entitlement
3. Erection of a tourist accommodation associated with a transfer of 2 x tourist bed licences;
4. Installation of a shared waste water system for the new dwelling and tourist accommodation;

on Lot 208, DP 40096, Lagoon Road, Lord Howe Island.

2 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 208 DP 40096, Lagoon Road, Lord Howe Island
Proposal	Two Lot Subdivision, Erection of a new dwelling on the proposed lot associated with a transfer of dwelling entitlement, Erection of a tourist accommodation associated with a transfer of 2 x tourist bed licences, Installation of a shared waste water system for the new dwelling and tourist accommodation.
Owners Consent No	The subject of this report is for concurrent OC 2091-06 and the subject DA application.
Development Application	DA 2019.12
Applicant	Diane Owens
Estimated Cost of Development	\$500,000.00
Site Inspections	A site inspection was carried out in May 2019.
Zone	Zone 2 Settlement
Significant Native Vegetation Map	The lot does not contain any mapped Significant Native Vegetation (SNV)
Notification	The DA was placed on public exhibition from 21/03/19 until 04/04/19.
Submissions Received	One objection received.
Recommendation	Refusal

3 Consent Authority

Owners Consent

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.

The subject OC relates to the subdivision of land, and the creation of a new residential dwelling. Therefore, the proposal cannot be determined under delegated authority, and is being reported to the LHIB for determination.

Development Consent

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

1. The value of the development must not total \$150,000 or more (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.

The proposal relates to subdivision of land, erection of new dwellings and has a development value of \$500,000. Therefore, the proposal cannot be determined under delegated authority, and is being reported to the LHIB for determination.

4 Site Description

The site is legally described as Lot 208 DP 40096, Lagoon Road, Lord Howe Island. As shown in *Figure 1*, the allotment has an irregular shape which adjoins eight (8) surrounding allotments. The site has a 205m frontage to Lagoon Road and an existing area of 16,450m² (1.645ha).

As indicated in the aerial provided at *Figure 4*, the site currently has an existing dwelling in the vicinity of the south eastern corner and a packing shed in the vicinity of the rear north eastern boundary, along with some greenhouses and general outbuildings. The legal status and use of the packing shed building (which is not located within the subject proposed Lot A) has not been determined as part of this OC and DA assessment.

There are both 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. To the south east the site adjoins the LHI Community Hall and The Anchorage. Otherwise the site is adjoined by a mixture of residential allotments, open grassed paddocks and palm plantations.



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

As Figure 2 shows, Lot 208 is located in Zone 2 Settlement under the LHI LEP 2010, and also adjoins on its northern boundary and parts of its eastern boundary with Zone 2 Settlement. The western boundary across from Lagoon Road is Zone 7 Environment Protection, and to the south east is land being Zone 5 Special Uses. The lot adjoins Zone 1 Rural on parts of its north eastern boundary.

Although the land contains no mapped Significant Native Vegetation under LEP 2010 (refer to Figure 3), the land is landscaped with native species including planted palms.



Figure 2: Extract from the LEP 2010 Zoning Map. The site is Zone 6 Recreation in green.

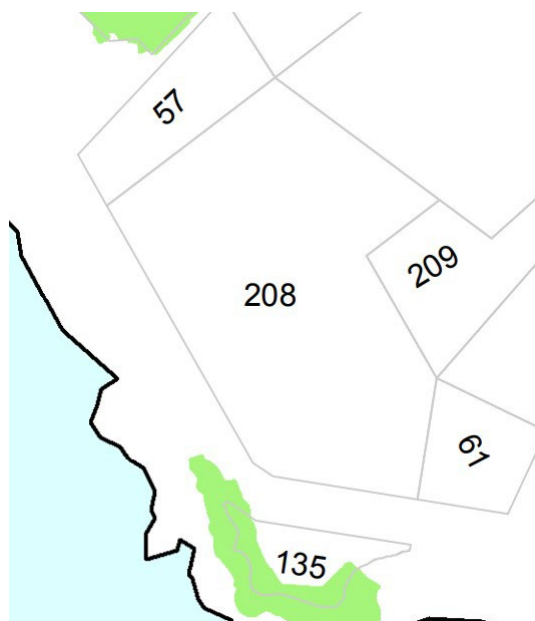


Figure 3: Extract from the LEP 2010 SNV Map. Site outlined in blue. SNV in green.



Figure 4: Aerial Location of subject land Lot 208, DP 40096. Source: Six Maps

5 Proposed Development

The proposed OC 2019-06 and DA 2019-12 includes several components:

i. Subdivision

The proposal seeks to subdivide Lot 208, DP 40096 into two allotments (refer to *Figures 5 & 6*). The site is presently 16,450m² (1.645ha). The excised allotment shown on the proposed subdivision plan as “A” will have an area of 3,400m². The residue lot shown on the proposed subdivision plan as “B” will have an area of 1.305 hectares.

ii. Erection of New Building/Dwelling on Proposed Lot A & Dwelling Entitlement Transfer

The proposal seeks to erect a new dwelling on proposed Lot “A”. The proposed single storey dwelling has a gross floor area of 279.6m² (excluding stairways and voids).

As *Figures 7-9* show, the subject dwelling is to have 4 bedrooms and includes separate decks on 3 sides.

The dwelling plans show the building will be built upon concrete piers, have a rusticated weatherboard exterior, corrugated metal sheet roofing colour medium, timber posts and decking, and an external water tank located on its eastern side. The applicant has submitted a BASIX Certificate with the DA.

The construction of the above new dwelling relies upon the subject application including the transfer of a dwelling entitlement from the applicant's Shearwater Cottage at Lorhiti Lodge (Lot 10, DP 202580 Anderson Road, Lord Howe Island) to the subject proposed lot "A" of the subdivision plan.

The transfer of dwelling entitlements and policy related matters are further discussed in detail under the assessment of clause 26, LHI LEP 2010 in Section 7.3.2 the Report.

iii. Erection of a new Tourist Accommodation for two (2) people

The proposal also seeks to erect a Tourist Accommodation unit on proposed lot "A". The proposed building is to have a gross floor area of 62.88m², and includes a total roof area of 97.5m².

As *Figures 10 & 11* show, the proposed Tourist Accommodation includes a single bedroom, kitchen, lounge, and dining areas, a bathroom/ laundry and separate WC. Lower and upper decks are proposed on the western elevation towards Lagoon Road.

The plans show the building will have a skillion metal roof, a rusticated weatherboard exterior, with timber posts and decking.

The above new tourist accommodation relies upon the transfer of two (2) existing tourist bed allocation licences from Lorhiti Lodge (Lot 10, DP 1202580 Anderson Road, Lord Howe) to the proposed Lot A.

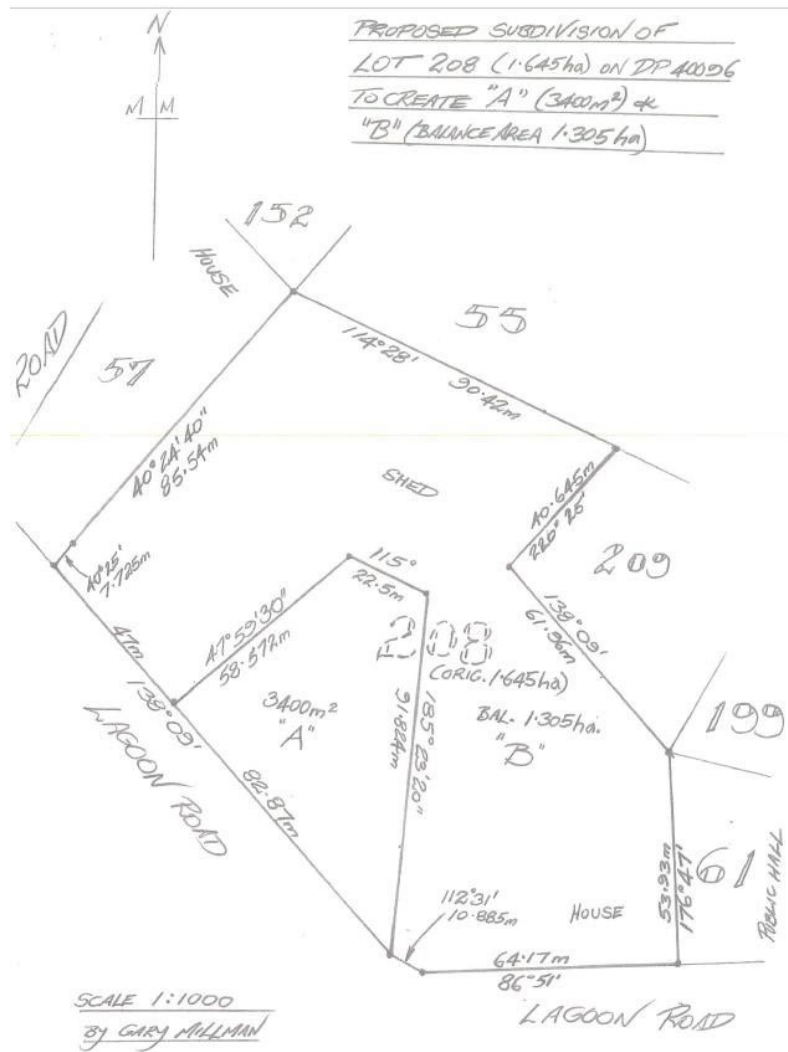
iv. Installation of new shared waste water system for the new dwelling and tourist accommodation;

The application includes the installation of a new waste water management system (refer to *Figure 12*) on the proposed subdivided land shown as "A" to service and treat the wastewater generated by the proposed new Tourist Accommodation unit and dwelling being located on this site.

Leasing Arrangements

The applicant provided advice regarding the leasing arrangements for Lot 208, DP 40096 and the conditions of residency of the leaseholders. These matters are policy related with the LHIB. This OC 2019.06 and DA 209.12 report is based on the legislative planning and environmental provisions. The interpretation of the lease conditions is a matter for further discussion and investigation with the LHIB.

The applicant has submitted the following subdivision plan, new dwelling plans, tourist accommodation plans, and waste water system plans, as reproduced below: (refer to *Figures 5-12*).



Figures 5 and 6: Applicant's submitted draft proposed subdivision and aerial overlay of proposed subdivision

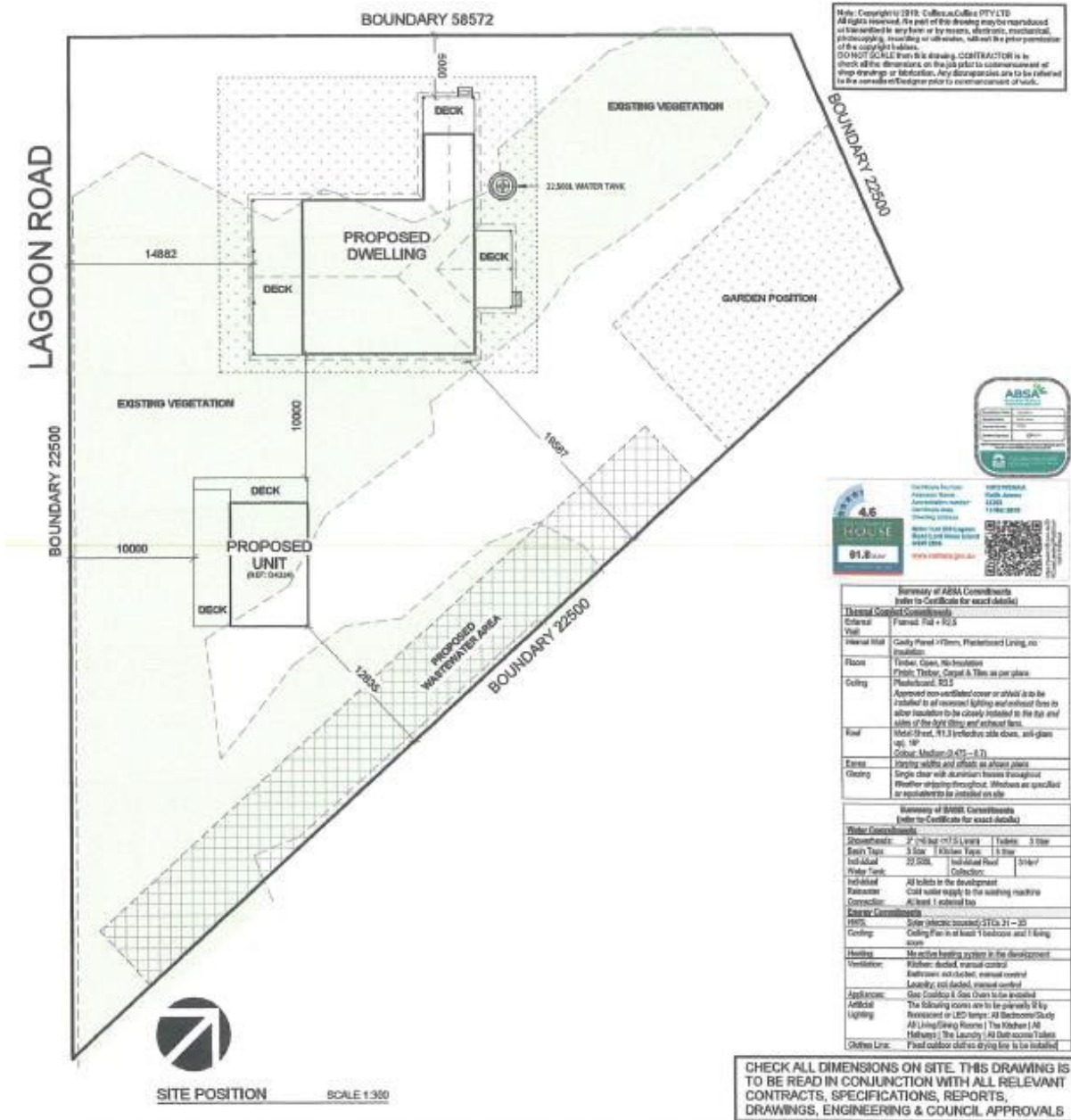


Figure 7: Applicant's submitted site plan proposed Lot "A" showing both the proposed Dwelling and Tourist Accommodation

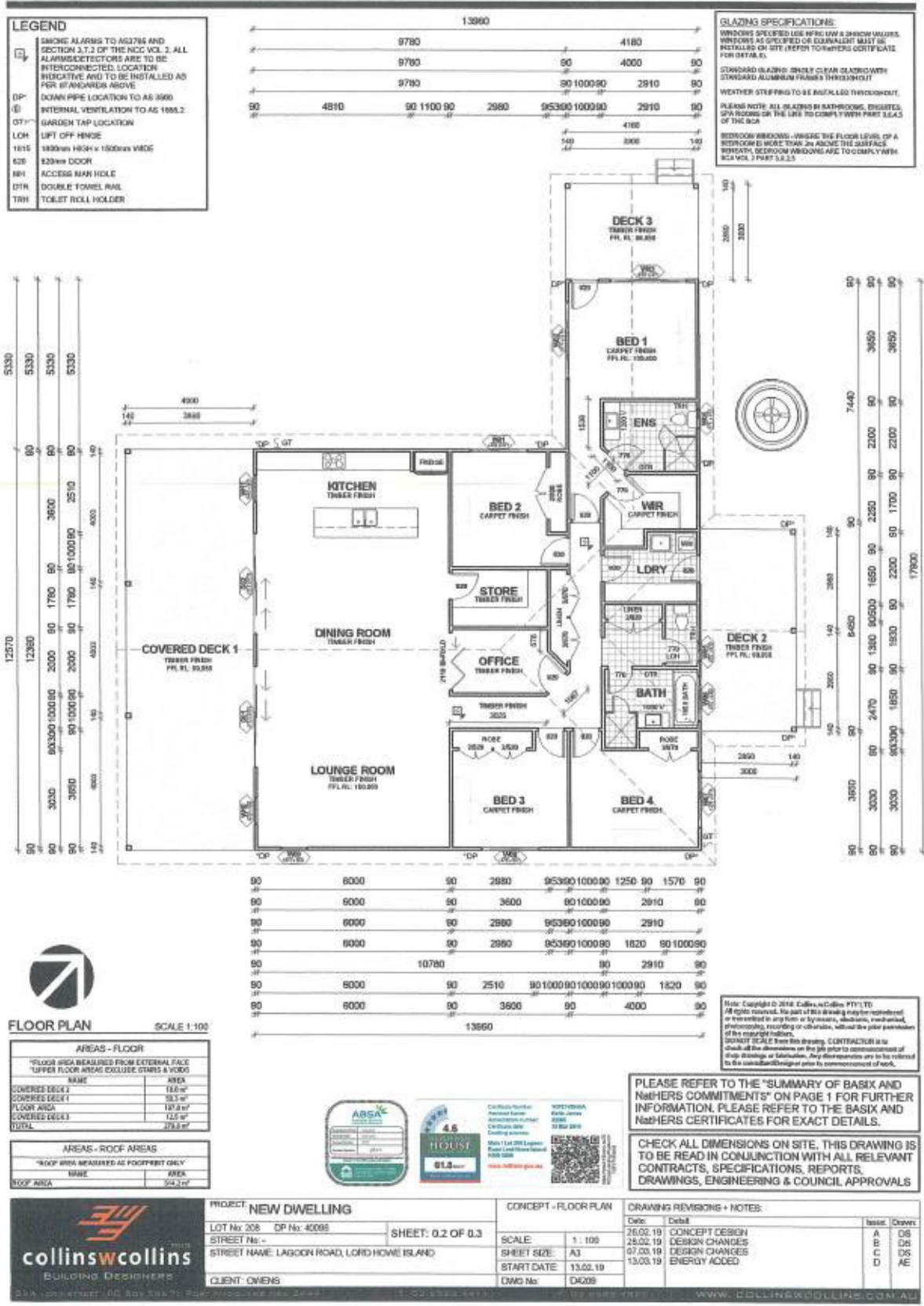


Figure 8: Applicant's proposed Lot A Dwelling Floor Plan

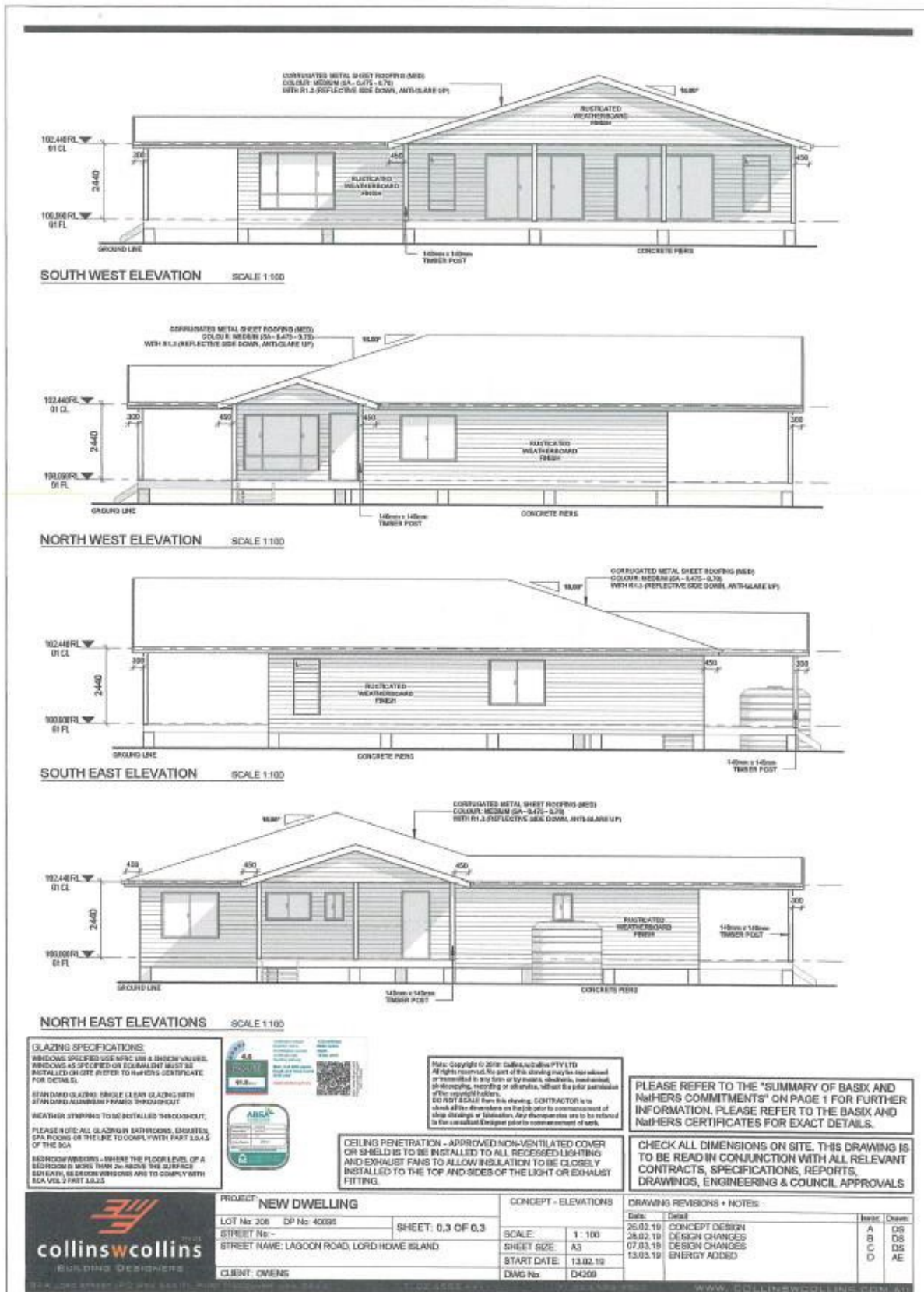


Figure 9: Applicant's proposed Lot A Dwelling Elevations



LEGEND

SMOKE ALARMS TO AS3086 AND SECTION 3.7.2 OF THE NCC VOL 2, ALL ALARMS/DETECTORS ARE TO BE INTERCONNECTED. LOCATION NEGATIVE AND TO BE INSTALLED AS PER STANDARDS ABOVE

DP DOWN PIPE LOCATION TO AS 3086

IV INTERNAL VENTILATION TO AS 1886.2

GT GARDEN TAP LOCATION

LGH LIFT OFF HINGE

1815 1800mm HIGH x 1500mm WIDE

AD ACCESS DOOR

MH ACCESS MAN HOLE

OTR DOUBLE TONGUE RAIL

TRH TOILET ROLL HOLDER

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LOWER FLOOR PLAN SCALE 1:100

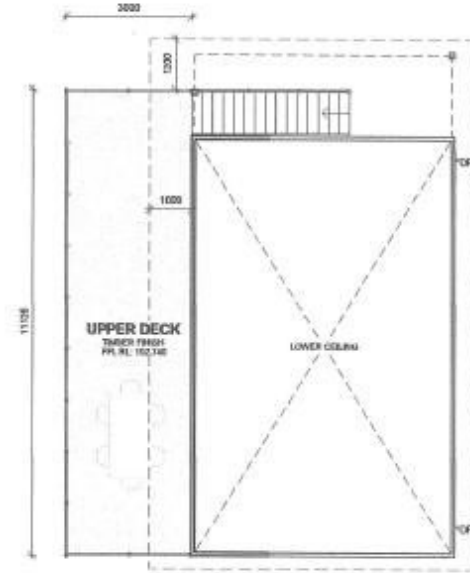
AREAS - FLOOR	
*FLOOR AREA MEASURED FROM EXTERNAL FACE	
*UPPER FLOOR AREAS EXCLUDE STAIRS & VOIDS	
NAME	AREA
COVERED DECK	43.8 m ²
UPPER DECK	33.1 m ²
TOTAL	76.9 m ²

AREAS - ROOF AREAS	
*ROOF AREA MEASURED AS FOOTPRINT ONLY	
NAME	AREA
ROOF AREA	37.3 m ²

AREAS - GROSS FLOOR AREA	
*MEASURED FROM EXTERNAL FACE OF EXTERNAL WALL	
NAME	AREA
GFA	80 m ²



UPPER FLOOR PLAN SCALE 1:100



GLAZING SPECIFICATIONS:
 WINDOWS OFFERED USE UPVC OR ALUMINIUM. WINDOWS AS SPECIFIED OR EQUIVALENT MUST BE INSTALLED ON SITE (REFER TO NHERS CERTIFICATE FOR DETAILS).
 STANDARD GLAZING: SINGLE CLEAR GLAZING WITH STANDARD ALUMINIUM FRAMES THROUGHOUT.
 WEATHER STRIPPING TO BE INSTALLED THROUGHOUT.
 PLEASE NOTE: ALL GLAZING BATHROOMS, ENIGMETS, SPA ROOMS OR THE LIKE TO COMPLY WITH PART 3.8.4.5 OF THE BCA.
 BEDROOM WINDOWS - WHERE THE FLOOR LEVEL OF A BEDROOM IS MORE THAN 2m ABOVE THE SURFACE GRADE, BEDROOM WINDOWS ARE TO COMPLY WITH BCA VOL. 3 PART 3.8.2.3.

CEILING PENETRATION - APPROVED NON-VENTILATED COVER OR SHIELD IS TO BE INSTALLED TO ALL RECESSED LIGHTING AND EXHAUST FRIMS TO ALLOW INFILTRATION TO BE CLOSELY INSTALLED TO THE TOP AND SIDES OF THE LIGHT OR EXHAUST FITTING.

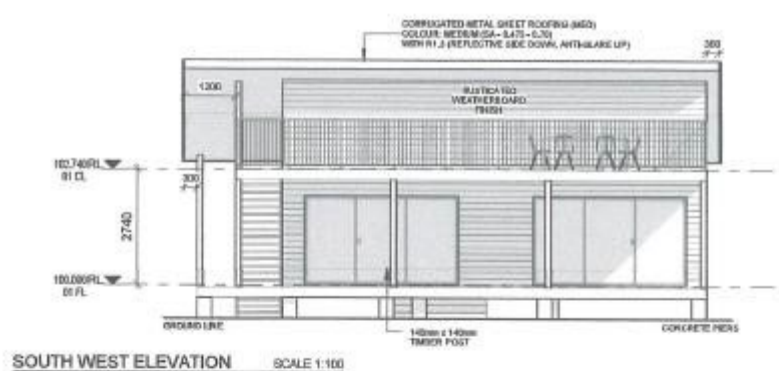
PLEASE REFER TO THE "SUMMARY OF BASIX AND NHERS COMMITMENTS" ON PAGE 1 FOR FURTHER INFORMATION. PLEASE REFER TO THE BASIX AND NHERS CERTIFICATES FOR EXACT DETAILS.

CHECK ALL DIMENSIONS ON SITE. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS, DRAWINGS, ENGINEERING & COUNCIL APPROVALS

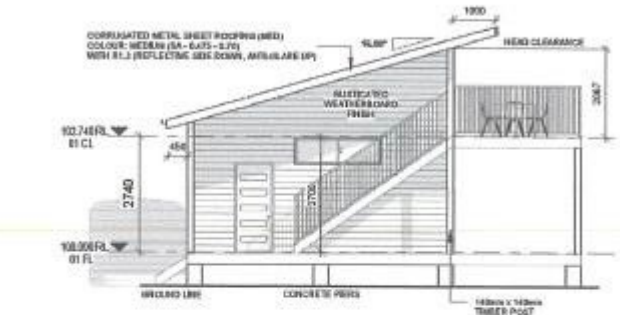
	PROJECT: PROPOSED UNIT	CONCEPT - FLOOR PLAN	DRAWING REVISIONS + NOTES:		
	LOT No: 208 DP No: 40095 SHEET: 0.2 OF 0,3	SCALE: 1:100	Date:	Issue:	
	STREET No: STREET NAME: LAGOON ROAD, LORD HOWE ISLAND	SHEET SIZE: A3	28.02.19	A	DS
	CLIENT: OWENS	START DATE: 13.02.19	28.02.19	B	DS
	DWG No: DK224	13.03.19	C	DS	
			D	AE	

Figure 10: Applicant's proposed Lot A Tourist Accommodation Floor Plan

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 DON'T SCALE from this drawing. CONTRACTOR is to check all the dimensions on the job prior to commencement of site work or fabrication. Any discrepancies are to be referred to the consultant/designer prior to commencement of work.



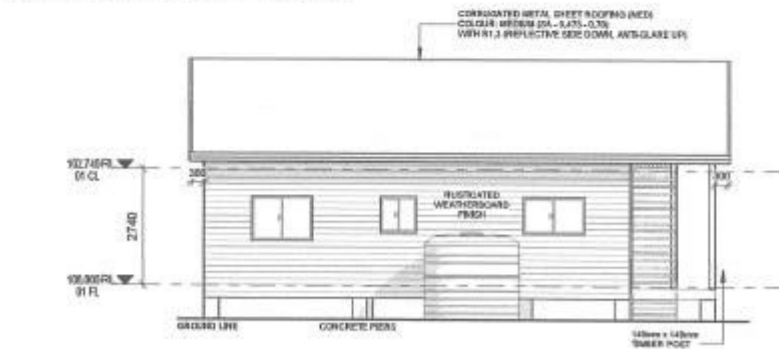
SOUTH WEST ELEVATION SCALE 1:100



NORTH WEST ELEVATION SCALE 1:100



SOUTH EAST ELEVATION SCALE 1:100



NORTH EAST ELEVATIONS SCALE 1:100

GLAZING SPECIFICATIONS:
 WINDOWS SPECIFIED USE WRO LOW & SILICON UGLASS WINDOWS AS SPECIFIED OR EQUIVALENT MUST BE INSTALLED ON BEST PRACTICE TO WINDERS CERTIFICATES FOR DETAILS.
 STANDARD GLAZING: SINGLE CLEAR GLAZING WITH STANDARD ALUMINIUM FRAMES THROUGHOUT.
 WEATHER STRIPPING TO BE INSTALLED THROUGHOUT.
 PLEASE NOTE: ALL GLAZING IN BATHROOM, DRESSING, SPA ROOMS OR THE LRE TO COMPLY WITH PART 2.4.4.3 OF THE BCA.
 RETROFIT WINDOWS - WHERE THE FLOOR LEVEL OF A ROOM IS MORE THAN 2m ABOVE THE SURFACE FINISH, RETROFIT WINDOWS ARE TO COMPLY WITH BCA VOL. 2 PART 3.6.3.

CEILING PENETRATION - APPROVED NON-VENTILATED COVER OR SHIELD IS TO BE INSTALLED TO ALL RECESSED LIGHTING AND EXHAUST FANS TO ALLOW INSULATION TO BE CLOSELY INSTALLED TO THE TOP AND SIDES OF THE LIGHT OR EXHAUST FITTING.

PLEASE REFER TO THE "SUMMARY OF BASIX AND NATHERS COMMITMENTS" ON PAGE 1 FOR FURTHER INFORMATION. PLEASE REFER TO THE BASIX AND NATHERS CERTIFICATES FOR EXACT DETAILS.

CHECK ALL DIMENSIONS ON SITE. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS, DRAWINGS, ENGINEERING & COUNCIL APPROVALS

	PROJECT: PROPOSED UNIT	CONCEPT - ELEVATIONS	DRAWING REVISIONS - NOTES:		
	LOT No: 208 DP No: 40086 SHEET: 0.3 OF 0.3	SCALE: 1:100	Date:	Issue / Drawn:	
	STREET No: -	SHEET SIZE: A3	24.02.19	CONCEPT DESIGN	A DS
	STREET NAME: LAGOON ROAD, LORD HOME ISLAND	START DATE: 13.02.19	28.02.19	DESIGN CHANGES	B DS
CLIENT: OWNERS	DWG No: D4224	07.03.19	DESIGN CHANGES	C DS	
		13.03.19	ENERGY ADDED	D AE	

Figure 11: Applicant's proposed Lot A Tourist Accommodation Elevations

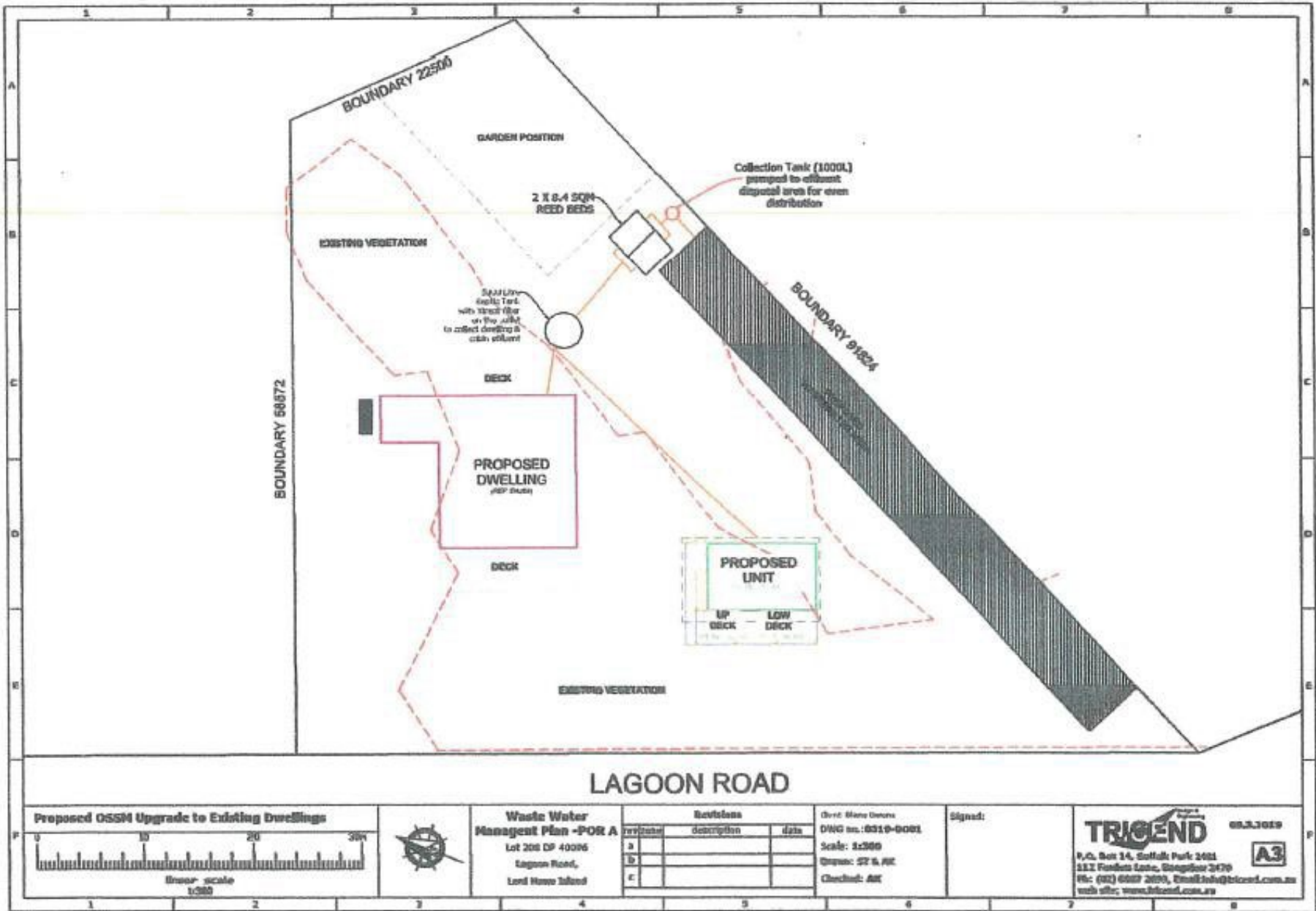


Figure 12: Applicant's submitted Waste Water Management Site Plan Proposed Lot A

6 Referrals

The LHIB has advised that the application was distributed to the following relevant internal specialists for review.

6.1 Comments received from internal specialists

Specialist	Issue	Comment
Manager Environment World Heritage (Hank Bower)	<p>Section 4.1 of the SEE identified that some vegetation will be disturbed as part of the construction of the dwelling. However, it does not quantify the number of plants, species of plants, their size/age class and habitat value and the area of native vegetation removal. This is needed to determine the level of impact to threatened species and their habitat.</p> <p>The SEE or other related documentation doesn't provide a threatened species assessment under the NSW Biodiversity Act.</p> <p>At least 7 threatened species have known or potential habitat on site.</p> <p>LHI Placostylus, which has High Quality habitat mapped on the property including the area of native vegetation where the house site is proposed</p> <ul style="list-style-type: none"> • LHI Gecko • LH Woodhen • LH Currawong • LHI Golden Whistler • LHI Silvereye • White Tern <p>Section 5.2 of the SEE outlines the Aims/objectives of the LHI LEP 2010.</p> <p>Part (a) aims to conserve the World Heritage values of Lord Howe Island and to restore or enhance lost or disturbed natural resources of the Island.</p> <p>The proposal acknowledges it will disturb native vegetation but does not outline how it will restore or enhance lost or disturbed natural resources.</p> <p>If the proposal disturbs native vegetation it needs to detail mitigation measures to offset the impact to restore and enhance lost or disturbed natural resources. Without this information an adequate or complete assessment of the ecological impacts of the proposal cannot be completed.</p>	Noted and issue has been included in report recommendation
LHIB	<p>Dwelling Building Class: Class 1a</p> <p>Tourist Accommodation: Class 3</p> <p>Notes relating to issuing of Construction Certificate</p> <ul style="list-style-type: none"> • If the Development Application is approved the applicant is required to apply for a Construction Certificate for the 	Noted and recommended accordingly – refer to notes below.

	<p>proposed works. No works can commence until a valid Construction Certificate for the works has been issued.</p> <ul style="list-style-type: none"> • All construction is to be carried out and completed in accordance with the Building Code of Australia (BCA)/National Construction Code (NCC). • If the applicant is proposing a Performance Solution for any requirements of the BCA/NCC, the relevant Performance Requirements must be determined in accordance with A0.7 of the BCA/NCC. A report outlining any proposed Performance Solutions must be compiled by an appropriate person and submitted with the application for a Construction Certificate. • In the application for a Construction Certificate the applicant is to provide detailed structural engineering plans for the works. Structural plans are to address all actions including construction in Wind Zone A, and are to be certified by an appropriately qualified Structural Engineer in accordance with AS1170.2. • The applicant is to ensure the Construction Certificate plans align with the approved Development Application plans. • In the application for a Construction Certificate the applicant is to provide evidence of payment of a Long Service Levy as per section 34 of the Building and Construction Industry Long Service Payments Act 1986. • Prior to the issuing of a Construction Certificate the applicant is to ensure compliance with any/all conditions imposed by the Board as part the Development Application approval process. • As the Dwelling is classified as 1a, construction must be overseen by a licenced builder. The licenced builder is to be nominated in the Construction Certificate application. <p>Alternatively, the applicant can apply for an Owner Builder Permit, issued by NSW Fair Trading. A copy of the Owner Builder Permit is to be supplied with the Construction Certificate Application.</p> <ul style="list-style-type: none"> • The Construction Certificate plans are to include BASIX commitments nominated in the BASIX Certificate. BASIX Commitments are to be certified by a certifying authority before the issuing of an Occupation Certificate. • Prior to the issuing of a Construction Certificate for the Dwelling, the applicant is to provide evidence that the licensed contractor/builder undertaking the residential building work has taken out insurance under the Home Building Compensation Fund as per the Home Building Act 1989. <p>If the applicant is undertaking the work as an Owner Builder there is no requirement to show evidence of payment of</p>	
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insurance under the Home Building Compensation Fund.

Access for People with a Disability

- The Tourist Accommodation must achieve compliance with the Disability (Access to Premises – Buildings) Standards 2010 (DS), the National Construction Code (NCC) and AS1428.1.

This access must be provided continuously from one dedicated accessible carparking space in the carpark area to the building.

Aspects for compliance include, but not limited to:

- Accessways
- Doors and doorways
- Handrails and grabrails
- Manoeuvring areas
- Passing areas
- Ramps
- Toilets

Safe Movement and Access

- Balustrading for verandahs and barriers are to be provided on the stairs to the balcony to prevent people from falling. The balustrading/barriers must be continuous and extend for the full extent of the verandahs and walkways. The balustrading is to be constructed to:
 - Prevent people from falling through; and
 - Be capable of restricting the passage of children; and
 - Have the strength and rigidity to withstand the foreseeable impact of people and, where appropriate, the static pressure of people pressing against it.
- The balustrade construction is to be detailed in the structural engineering plans.

Fire Safety

- The applicant is to ensure that fire-fighting equipment is installed as per the requirements of the NCA/ NCC.
- The applicant is to ensure that fire detection and early warning devices, such as automatic smoke detectors are installed in living spaces of the dwelling and Tourist Accommodation unit so that occupants may evacuate in the event of fire, to a place of safety. The placement of early warning devices is to be in accordance with AS1851.8.
- The applicant is to ensure that an Annual Fire Safety Statement for the Tourist Accommodation is supplied to the Board as a record of the functionality and ongoing maintenance of any fire safety measures installed.
- The applicant is encouraged to install 38mm 'Storz' fittings to any existing or new water tanks to enhance the Rural Fire Service firefighting capabilities should there ever be a need for firefighting at the Dwelling or Tourist Accommodation unit.

The submitted plans for the tourist unit do not include any provision for disabled access.

Water

- Any potable water provided to the dwelling and Tourist Accommodation will be required to meet the Australian Drinking Water Guidelines 2011 and any subsequent amendments to the Guidelines.
- An appropriate drinking water management plan, in compliance with NSW Health requirements and the Public Health Act 2010 and Regulation 2012, is to be provided to the Board and lodged with NSW Health.
- All waterproofing of wet areas, such as bathrooms, is to be certified by an appropriate person. The certification must be provided to the Board before any Occupancy Certificate for the building can be issued.
- All plumbing work, including the connections to the potable water system, is to be undertaken by a licensed plumber.
- The applicant is to ensure all stormwater from the roof structures of each building is diverted to rainwater tanks as outlined in the application.

Wastewater

- All plumbing work, including approved connections to the wastewater system, is to be undertaken by a licensed plumber.
- The applicant is to provide documentation to the Board outlining compliance with the LHI Onsite Wastewater Management Strategy, and approved by the LHIB.

Waste Management

- All construction waste is to be contained within the site and then be recycled or disposed of at the authorised waste management facility on the Island.
- Waste disposal fees will be charged in accordance with the Lord Howe Island Board's schedule of fees and charges.
- No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Construction and Demolition

- No excavation to be carried out until the site is inspected by the LHIB Senior Electrical Officer, i.e. 'dial before you dig'.
- All construction is to be carried out and completed in accordance with the National Construction Code (NCC).
- All electrical work must be carried out by a licensed electrician and an Electrical Compliance Certificate issued. The

	<p>certification must be provided to the Board before any Occupancy Certificate for the building can be issued.</p> <ul style="list-style-type: none"> • All works are to be undertaken in accordance with approved Construction Certificate documentation. • Pre-Commencement meeting to be arranged with the Owner, Builder and Board Personnel prior to any work commencing on site. If the applicant is nominating the Lord Howe Island Board as the Principal Certifying Authority, this meeting will constitute the pre-commencement and site set out inspection. • The applicant is to ensure all Mandatory Inspections are undertaken. <p>Mandatory Inspections</p> <ul style="list-style-type: none"> • As a Class 3 Building, the Principal Certifying Authority (PCA) will require the following Mandatory Inspections to be undertaken during construction: <ul style="list-style-type: none"> a) Pre commencement/set out b) Prior to covering the junction of any internal fire-resisting construction and any other building element required to resist internal fire spread c) Any wet area waterproofing prior to covering d) Stormwater connections e) Final Inspection, including fire related elements, prior to any Occupation Certificate being issued • As a Class 1a Building, the Principal Certifying Authority (PCA) will require the following Mandatory Inspections to be undertaken during construction: <ul style="list-style-type: none"> a) Pre commencement/set out b) After excavation for, and prior to placement of, any footings c) Prior to pouring any in-situ reinforced concrete building element d) Prior to covering the framework for any floor, wall, roof or other building element e) Prior to covering waterproofing in any wet areas f) Stormwater connections g) Final Inspection, including fire related elements, prior to any Occupation Certificate being issued 	
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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.

If the subject DA was approved 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.*

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 outlined in the referral comments from the Manager Environment World Heritage (refer to section 6.1 of this report) the proposal acknowledges it will disturb native vegetation but does not outline how it will restore or enhance lost or disturbed natural resources.

If the proposal disturbs native vegetation it needs to detail mitigation measures to offset the

impact to restore and enhance lost or disturbed natural resources. Further investigation of ecological matters is required.

Without this information an adequate or complete assessment of the ecological impacts of the proposal cannot be completed.

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

7.3.2 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 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, dwellings and Tourist Accommodation are permitted with development consent on the land under the LEP.

LEP 2010 compliance summary table

LEP 2010 Clause		Compliance Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	N	Each of the aims of the LEP 2010 have been considered in the assessment of this application. The proposed development will require removal of native vegetation (although not SNV) and without a full ecological assessment it is not possible to determine or assess the environmental impact and/or disturbance to protected flora and fauna native to the Island.
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	N	The proposal requires the removal of native vegetation to provide an area for the dwelling, and tourist development to be located on site. An analysis of the impacts of vegetation removal from the development on native flora and fauna species has not been undertaken by the applicant. Therefore, an adequate assessment of these issues associated with the development could not be completed.
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: the site is currently 1.645ha, and proposed lot "A" = 3,400m ² ; and proposed Lot "B" = 1.305ha.
	b) If one or more	Y	Only applies to proposed lot B which with a

LEP 2010 Clause		Compliance Y/N	Comment
	<p>dwellings are located on the proposed allotment, the allotment is at least the minimum dwelling area</p> <p>(c) if there is existing tourist accommodation, staff accommodation or commercial premises on a proposed allotment—the total area occupied by any existing buildings comprising, or ancillary to, the accommodation or premises is no more than 15 percent of the balance of the area of the allotment remaining after the minimum dwelling area is deducted from the total area of the allotment.</p>	N/A	<p>proposed area of 1.305ha complies with the minimum dwelling area of 3,000m².</p> <p>No existing tourist accommodation, staff accommodation or commercial premises are located either on proposed Lots A or B.</p>
22	<p>Tourist accommodation, staff accommodation and commercial premises</p> <p>(1)</p> <p>(a) the total area of the allotment occupied by any existing or proposed buildings comprising, or ancillary to, the accommodation or premises is no more than 15 percent of the balance of the area of the allotment remaining after the minimum dwelling area is deducted from the total area of the allotment, and</p> <p>(b) it is proposed that at least 50 percent of the total area of the</p>	<p>N</p> <p>Y</p>	<p>The total area occupied by the proposed tourist accommodation is (6.27m x 10.03m excluding decks =) 62.88m², is to be no more than 15% of the balance of the area of the allotment remaining after the minimum dwelling area is deducted from the total area of the allotment (Proposed Lot A is (3,400m² - 3000m²) x 15%= 60m²). The proposed tourist accommodation at 62.88m² is greater than 60m² and therefore does not comply with clause 21(c).</p> <p>Presently the subject site (Lot 208, DP 40096) is considered to contain 50% landscaped area. The proposed Lots “A” and “B” are</p>

LEP 2010 Clause	Compliance Y/N	Comment
<p>allotment be comprised of landscaped areas and that various species of plants that are native to the Island and common to the locality be retained or planted on at least 35 percent of the total area of the allotment, and</p> <p>(c) the proposed development is carried out on a part of the allotment that does not have any significant native vegetation, and</p> <p>(d) the consent authority is satisfied that there is a demonstrated business need for the development</p> <p>(4) total number of persons permitted to be accommodated in all forms of tourist accommodation on the Island will be no more than 400 persons</p>	<p>Y</p> <p>N</p> <p>Y</p>	<p>considered to contain greater than 50% of their respective lots as containing landscaped areas, and are capable of including 35% native landscaping</p> <p>If the subject DA was approved a condition of consent would be required for a landscape plan be prepared prior to OC that shows additional native planting within the setback area along Lagoon Road, and to increase screening and ensure 35% of the site comprises native plants.</p> <p>The land is not mapped as containing SNV.</p> <p>The applicant has not provided any documentation that provides evidence demonstrating a business need for the tourist accommodation.</p> <p>The proposed tourist development does not require the need for new tourist accommodation bed licences as two existing bed licences are to be transferred from Lorhiti Lodge (Lot 10, DP 1202580) Anderson Road. If the DA was approved a condition would be required to ensure this.</p>
<p>23</p> <p>Erection of Dwellings</p> <p>(1)</p> <p>(a) Each new dwelling must have a GFA of not greater than 300m²</p> <p>(b) The total area of the allotment is at least the minimum dwelling area of 3000m².</p> <p>(c) The total area of</p>	<p>Y</p> <p>Y</p> <p>N</p>	<p>The proposed new dwelling will have a complying GFA of 279.6m².</p> <p>Proposed Lot "A" complies with an area of 3,400m².</p> <p>As discussed under clause 22, the proposed</p>

LEP 2010 Clause		Compliance Y/N	Comment
	<p>the allotment occupied by the tourist accommodation is to be no more than 15% of the balance of the area of the allotment remaining after the minimum dwelling area is deducted from the total area of the allotment</p> <p>(d) At least 50% of the total area of the allotment must be comprised of landscaped areas, and 35% of the total area of the allotment is to be native plants</p> <p>(e) the proposed dwelling or dwellings are erected on a part of the allotment that does not have any significant native vegetation</p>	<p>Y</p> <p>Y</p>	<p>tourist accommodation is 62.88m² (excluding all deck areas). Therefore, the proposed tourist development footprint is too large and does not comply with the requirements of this clause.</p> <p>Ref to assessment provided above under clause 22.</p> <p>As stated earlier no SNV is located on the site.</p>
26	Limit on number of dwellings		# Refer to below discussion on clause 26.
29	Maximum height of buildings	Y	
Division 2 Provisions that apply to particular land			
32	Setbacks of buildings in Zone 1, 2 or 5	Y	<p>With proposed setbacks of 14.8m and 10m for the proposed dwelling and tourist unit (respectively), the development complies with the 10m front road setback requirement of the LEP.</p> <p>The proposal also complies with the 5m minimum setback to any other boundary requirement.</p>
34	Land Adjoining Zone 7 or 8	N/A	
35	Foreshore Development	N/A	The proposed development is not located within the Foreshore area.
39	Development Affecting Heritage Items	N/A	The subject site is not a listed heritage item or located immediately adjoining any item.

Clause 26 (Limit on Number of Dwellings)

As stated earlier in Section 5 of this report, the construction of the new dwelling relies upon a proposed transfer of a dwelling entitlement from the applicant's Shearwater Cottage at Lorhiti Lodge (Lot 10, DP 202580 Anderson Road, Lord Howe Island) to the subject proposed lot "A" of the subdivision plan.

As background to this, DA 2018.04 was granted conditional consent on 15 May 2018 on the Lorhiti Lodge site for "Acknowledgment of the Shearwater Cottage dwelling entitlement on Lot 10 and undertake alterations to the existing Shearwater Cottage and Cyclone Alley to consolidate those two cottages, at 78 Anderson Road, Lord Howe Island".

Condition 2 of DA2018.04 (extract below) identified the availability of a dwelling entitlement credit as a consequence of the consolidation of two existing staff accommodation/ dwellings on Lot 10, DP 202580 being Cyclone Alley and Shearwater Cottages into one dwelling.

2. Dwelling Entitlement and Construction of a New Dwelling

A dwelling entitlement is acknowledged in respect of the subject application for consolidation of the two existing dwellings being Cyclone Alley and Shearwater Cottages, into one dwelling. This development consent however grants no approval for any such future dwelling on the subject site.

To activate the above dwelling entitlement a separate Owner's Consent and Development Application will be required to be lodged and approved by the LHIB for any dwelling on the subject site in accordance with the acknowledged dwelling entitlement. For clarity it is noted that such an application will not be considered to be a new dwelling under clause 26, LHI LEP 2010.

Reason: To provide clarity as to what is approved as part of the subject DA and to confirm there is an available dwelling entitlement credit related to this subject DA.

The subject proposal has submitted a separate OC and DA as required, however these do not relate to the land for which consent was granted in DA2018.04, (being Lorhiti Lodge Lot 10, DP 202580, Anderson Road), but rather the applicant seeks to transfer the dwelling entitlement to the subject site of the current DA being Lot 208, DP 40096, proposed lot "A".

The LHIB has advised that **it is not permissible to transfer a dwelling entitlement off the existing site** to which it relates to another unrelated site. In light of this and the approval of DA2018.04 requiring the dwelling entitlement to remain on Lot 10, DP 202580, the proposed construction of a dwelling on proposed lot A relying upon this transfer cannot be approved. This is reflected in the recommendation of this report.

6.3.1.2 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
a) <i>The proposed development is consistent with the aims of this plan and the objectives of any</i>	Y	Ref to discussion provided in the above LEP Compliance table.

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
<i>zone, as set out in the plan, within which the development is proposed to be carried out,</i>		
<i>b) 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	Satisfactory subject to appropriate conditions.
<i>c) No part of the proposed development:</i> <i>i. will result in any damage to, or removal of, significant native vegetation, or</i> <i>ii. will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	As stated earlier in this report the lot is not mapped as Significant Native Vegetation (SNV) hence no SNV will be damaged or removed as a result of the proposal.
<i>d) Access is, or will be, available to the site of the proposed development and the provision of any such access will not:</i> <i>i. result in any damage to, or the removal of, significant native vegetation, or</i> <i>ii. have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	Each of the proposed lots will benefit from a direct road frontage to Lagoon Road off which access is presently available and which any additional access will be possible. A recommendation of this report will require that details regarding vehicular access from Lagoon Road to each building on site including existing and proposed new dwelling, and tourist accommodation facilities and any easements resulting from the proposed development and subdivision being Lots "A" and "B" be provided prior to the construction certificate, approved by the LHIB, and legally completed prior to issuance of the Construction Certificate.
<i>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,</i>	N/A	
<i>f) The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	Y	

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
<i>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,</i>	Y	The subject site is already serviced by the required utilities and these will remain available for the proposed subdivision.
<i>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,</i>	Y	The appearance of the proposed development will remain in keeping with the character and nature of the area.
<i>i) The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	As assessed earlier under the discussion of clause 32, LHI LEP, the proposal will not create any overshadowing of any adjoining land.
<i>j) 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 Clause	DCP 2005	Complies Y/N	Comment
Part 1 Introduction			
1.2	Plan Objectives	Y	
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.
2.3	Design Context	Y	As assessed in this report above, the proposal will remain consistent with the existing character and nature of the site and locality.
2.4	Bulk and Scale	Y	
2.5	Building Forms	Y	The proposal will not cause any change to the present building form and character of the Island.
2.6	Building Materials &	Y	

	Colours		
2.7	Energy and water efficiency	Y	The proposal generally complies with the DCP.
2.8	Landscaping design	Y	
2.9	Site access and parking	Y	
Part 3 Development Control Policy			
3.2	Single Dwellings	Y	Refer to the LHI LEP Compliance Table earlier in section 7.3.2.

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 instruments
Comment: An assessment against the LHI LEP 2010 has been undertaken (see Section 7.3.2) and the proposed development was found to comply with the relevant provisions of the LEP except clause 26 in relation to the proposed transfer of an existing dwelling entitlement.
 - 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

An assessment of the environmental impacts of the proposal have been considered elsewhere

in this section of the subject report. The table below provides further assessment of any likely impacts.

Likely environmental impacts

Potential Impacts	Proposal
Access, Transport and Traffic	The development as proposed is not of a scale or intensity to create significant detrimental impacts on access, transport and traffic issues in the area
Public Domain, Visual and Streetscape	The proposed will not detrimentally affect the visual amenity of the area.
Ecological	As assessed earlier in Section 6 of this report, the LHIB Manager Environment and World Heritage has advised that the proposal will disturb native vegetation but does not outline how it will restore or enhance lost or disturbed natural resources. The application also has not detailed mitigation measures to offset the impact to restore and enhance lost or disturbed natural resources. Without this information an adequate or complete assessment of the ecological impacts of the proposal cannot be completed.
Heritage	The subject site is not listed as a heritage item.
Views	No views will be impacted as a consequence of the proposed development.
Privacy	The proposal will not change the existing privacy arrangements.
Open Space	Open space will not be impacted by the proposal.

c) the suitability of the site for the development

It has not been possible to determine if the subject development is suitable for the subject site on the basis of the lack of submitted information on the developments ecological impacts and mitigation methods and the inability to transfer the required Dwelling Entitlement from the Lorhiti Lodge site to the subject property (as assessed and outlined earlier in this report).

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

As confirmed earlier in this report one submission was received to the notification of the proposal.

Submission	Objection	Response
1.	The proposed location selected, two storey and very high-pitched roof would create an ugly visual impact visible from many areas, especially the lagoon and jetty area. The dwelling should be screened by native vegetation.	As assessed in the subject assessment the proposed development will mostly be screened from Lagoon Road and the adjoining properties by existing site vegetation to be retained. The areas that do not have existing vegetation could be conditioned to have landscape screening planted if the DA was approved.

- e) the public interest

On the basis of the lack of submitted information regarding ecological impacts and mitigation methods and the inability to transfer the required Dwelling Entitlement from the Lorhiti Lodge site to the subject property, the subject application (as assessed and outlined earlier in this report) is not deemed to be in the public interest.

9 Conclusion

Combined OC 2019-06 and DA 2019-12 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.

The application for a Two Lot Subdivision, Erection of a new dwelling on the proposed lot associated with a transfer of dwelling entitlement, Erection of a tourist accommodation associated with a transfer of 2 x tourist bed licences, Installation of a shared waste water system for the new dwelling and tourist accommodation is not supported and is recommended for refusal as outlined in the following recommendation.

10 Recommendation (Refusal)

Owners Consent and Development Consent Recommendation (Refusal)

That OC 2019-06 and DA 2019.12 for a Two Lot Subdivision, Erection of a new dwelling on the proposed lot associated with a transfer of dwelling entitlement, Erection of a tourist accommodation associated with a transfer of 2 x tourist bed licences, Installation of a shared waste water system for the new dwelling and tourist accommodation on Lot 208, DP 40096, Lagoon Road, Lord Howe Island, be refused for the following reasons:

1. The subject proposal does not relate to the land for which consent was granted in DA2018.04, (being Lorhiti Lodge Lot 10, DP 202580, Anderson Road), but rather seeks to transfer the dwelling entitlement to the subject site of the current DA being Lot 208, DP 40096, proposed lot "A".

It is not permissible to transfer a dwelling entitlement off the existing site to which it relates to another unrelated site. In light of this and the approval of DA2018.04 requiring the dwelling entitlement to remain on Lot 10, DP 202580, the proposed construction of a dwelling on proposed lot A relying upon this transfer cannot be approved.

2. In light of reason 1 above, the subject DA does not seek consent under or meet the requirements of clause 26 (Limit on number of dwellings to which consent may be given), LHI LEP 2010. Nor would the issue of a Dwelling allocation be consistent with the Dwelling Allocation policy - that is no new dwellings be issued as per the Handley review recommendation pending the development of a revised Dwelling Allocation Policy.
3. The proposed tourist accommodation unit on proposed Lot A, does not comply with the provisions of clause 22(1)(a) (Tourist accommodation, staff accommodation and commercial premises), LHI LEP 2010.
4. The proposal does not outline how it will ecologically restore or enhance, lost or disturbed native vegetation as a result of the development.

The application also has not detailed mitigation measures to offset the impact to restore and enhance lost or disturbed natural resources. Without this information an adequate or

complete assessment of the ecological impacts of the proposal cannot be completed, and specifically compliance with clause 2 (Commencement and aims of Plan), LHI LEP 2010 cannot be determined.

5. The proposed tourist accommodation unit does not achieve compliance with the Disability (Access to Premises – Buildings) Standards 2010 (DS), the National Construction Code (NCC) and AS1428.1.
6. The subject DA has not included information on the required vehicular and pedestrian access to the proposed development to allow an assessment under LHI LEP 2010, clause 11(d).
7. In light of the above reasons for refusal, the proposed development is not suitable for the subject site and is not in the public interest and does not comply with section 4.15 (1) (c) & (e), Environmental Planning and Assessment Act 1979.

Recommended:	Recommended for refusal:
Peter Chapman Date: 10 September 2019 LHI Consultant Town Planner & Director All About Planning Pty Ltd	Peter Adams Date: 10 Sept 2019 Chief Executive Officer Lord Howe Island Board

LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

1 Item DA 2019.11 – The construction of a Community Skate Park at Unidentified Crown Land Reserve No. 12, Lagoon Road, Lord Howe Island.

2 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Unidentified Crown Land Reserve No. 12, Lagoon Road, Lord Howe Island
Proposal	Community Skate Park
Development Application No.	DA 2019-11
Owners Consent Granted	OC 2017-14 granted consent 09 October 2017
Applicant	Lord Howe Island Skate Park Association
Estimated Cost of Development	\$230,000
Site Inspections	A site inspection was carried out in September 2018.
Zone	Zone 7 Environment Protection.
Significant Native Vegetation Map	The land is partly mapped as Significant Native Vegetation (SNV), however no SNV will be damaged or removed as part of this proposal.
Notification	DA 2019.11 was placed on public exhibition from 13/03/2019 to 27/03/2019.
Submissions Received	30 person petition against the proposal and 2 submissions in support were received and are discussed later in this report.
Report Recommendation:	The application for DA 2019-11 a Skate Park located on 'Unidentified Crown Land Reserve No. 12, Lagoon Road, Lord Howe Island', be approved subject to conditions.

3 Consent Authority

Both the LHIB CEO and Chairperson have delegation to grant consent to Development Applications (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 the subject proposal for construction of a Community Skate Park has an estimated development cost of \$230,000.00 and received thirty (30) submissions against and two (2) submissions of support during public exhibition, the proposal does not comply with delegations and is being reported to the LHIB for determination.

4 Site Description

The site of the proposed Skate Park is located within land legally identified as 'Unidentified Crown Land Reserve No.12, Lagoon Road, Lord Howe Island' which includes land along the Lagoon Foreshore. As *Figure 1* shows, the Skate Park site is to be located on the western side of Lagoon Road, along the LHI Lagoon foreshore area. The proposed Skate Park will be located west of the Bowling Club access road and opposite the LHI Oval. Unidentified Crown Land Reserve No. 12, Lagoon Road is an irregular shaped allotment that extends for much of the length of the Lagoon.

The proposed site is within an existing cleared area on the foreshore. The area has been cleared and is dominated by exotic grasses such as kikuyu grass, and there is no known vegetation of conservation significance or threatened plant species known within the confines of the proposed work on site. The neighbouring vegetation is dominated by the exotic Pohutukawa trees providing some screening to surrounding localities. As discussed later in this report, the proposed activity is unlikely to have any significant adverse impacts on threatened fauna species within known or potential habitat at the proposed site.



Figure 1: Aerial of subject site and surrounds. Source: Six Maps

Near the site is the WW1 stone war memorial epitaph, approved Preschool site (DA 2019-09) and the LHI oval and cricket ground all situated on the eastern side of Lagoon Road. There is an informal access track running parallel to the Lagoon in the broad vicinity of the site.

The subject site is located within Zone 7 Environment Protection within the *LHI Local Environmental Plan 2010* (LHI LEP 2010). Land surrounding the site to the north and south is also Zone 7 Environment Protection, to the north-east across Lagoon Road is land zoned **5 Special Uses**, and to the east lies Zone 6 Recreation land (refer to *Figure 2*). The proposed Skate Park is located within the area defined by the Foreshore Building Line.



Figure 2: Extract from LEP 2010 Zone Map. Proposed Skate Park outlined in red. Site outlined in red. Site Zoned 7 Environment Protection.



Figure 3: Extract from LEP 2010 SNV Map. Proposed Skate Park outlined in red. SNV in green.

The land is partly cleared grass land and partly vegetated, and includes areas of mapped SNV. The Skate Park will be constructed within an existing cleared area, and no SNV is proposed to be damaged or removed as part of the construction.

5 Proposed Development

The proposed works involves the construction of a largely inground Skate Park. Construction works will include a concrete Skate Park (14m wide x 9m long), with a total footprint of approximately 200m².

The facility is designed as a transition style skate facility, incorporating a bowl, to cater more specifically for the predominant surfer demographic on the Island. The park will suit a beginner to intermediate range of abilities and enable natural skills progression. The design incorporates a number of skate elements including a beginner mini ramp section at the entry. The mini ramp connects to an open-ended bowl section which is flowing and provides for a variety of different skate lines and trick potential to promote skills progression (refer to *Figures 5-7*). The open end also allows for natural drainage and for ease of access.

The project has been funded by various authorities, with all funds raised contributing to the design and construction of the facility. The applicants have submitted that apart from the sports oval, there are limited public recreational spaces set aside specifically for the youth of LHI. Therefore, the Skate Park provides a needed public recreational facility.

The Skate Park has been designed to ensure its visual impact is minimised. It will sit largely at existing ground level at the eastern end and being excavated at the western end approximately 800mm into the natural slope with approximately 1m extending above the existing ground level at this point with back fill provided (refer to *Figure 8*). Consequently, any visual amenity impacts will be minimised.

The design of the skate park will meet Australian standards. No lighting is proposed at the Park to discourage night time use, and the site is approximately 200m away from the closest residential dwellings. At this distance the Skate Park is not expected to cause any ongoing disturbance to local residents.

The applicant also proposes to plant 245 native plants around the Skate Park for amenity and protection from winds.

The applicant has indicated in the subject DA their wish to retain the skate park in the position originally included in the OC2017-14 (refer to *Figure 4*) application rather than the adjoining location provided for in the approval of the OC:

3. The Development Application shall, in order to address the existing uses of the subject area of the reserve, include relocation of the facility approximately 20m further south. If this cannot be achieved a detailed analysis of the existing uses of the site and the potential impacts of the skate park on those uses, in addition to the reasons as to why the facility cannot be relocated shall be detailed.

The applicant states the original location for the Skate Park is preferred as it: is located in a cleared area; will have less visual impact particularly from Lagoon Road; have less impacts on foreshore vehicle and walking tracks; and will not limit other recreational users in the area such as dog walkers and kite surfers. Additionally, the established Pohutukawa trees in the area provide a screen as well as a shaded area for users of the park.

Having reviewed the above information, completed an inspection of the site and surrounds and made an overall assessment of the application it is the recommendation of this report that the Skate Park be approved in the original location as submitted in OC2017-14 and the subject DA.

Permissibility

The proposed development DA 2019.11 will enable construction of the Lord Howe Island Community Skate Park, being defined as a 'Recreation Area' under LHI LEP 2010. A recreation area is not listed within Zone 7 Environment Protection as permissible with consent. However, clause 35 of the LEP allows for the consideration of additional uses on the foreshore area if the consent authority (LHIB) is satisfied it meets the matters for consideration listed under cl.35(2). These matters are discussed later in this report (ref section 7.2.4: LHI LEP 2010) and the conclusion is reached that the proposal is permissible under cl. 35.

Historical Development:

2015

- The LHI Lagoon Foreshore Management Plan 2015 states that "*the LHIB will consider the installation of a sporting facility such as a skate ramp or exercise area, subject to funding and the provisions of the LEP*".

2016

- The Skate Park Association was established and on 26 September was registered as a NSW Incorporated Association.

- October LHISPA supporters met for the first time at the Public Hall, then subsequently met with the locally elected Board members and accepted a \$3000, 2016-17 LHIB Community Grant
- Late October LHISPA householder survey of skate park location(s)
- 1 November LHISPA obtained an ABN: 97 717 902 348
- November LHISP Skaters Committee developed skate park concept design
- 6 November expression of interest to build a skate park based on the concept was sent to skate park construction companies
- 14 November Jason Geralis from Civic (website) <http://convic.com/> submitted a free design and drawings for consideration
- 17 November site survey closes: 26 returned forms.

2017

- January: 'Convic' designers of the Skate Park were asked to amend the design to reduce the size and scale and include features that local skaters with a surf orientation/background would prefer (paid with part of the LHIB 2016-2017 Community Grant)
- March Convic amended their design.
- The LHI Owners Consent application was lodged with the LHIB.
- September 2017, the proposal was discussed at the LHIB September Meeting – Agenda Item No. 7(iii).
- 9 October 2017, the LHIB granted conditional Owners Consents (OC 2017-14).

2018

- February 2018, Craig Thompson lodged the Development Application and associated documents, including planning/ecological documentation.
- April 2018 the LHIB identified that site could be potentially impacted by per-and-poly-fluoroalkyl substances (PFAS). AECOM undertook a preliminary PFAS assessment including site sampling immediately north of the proposed Skate Park and within the proposed construction staging area.
- Consequently, the LHIB identified that before any development approvals could be considered additional soil sampling and analysis for the presence of PFAS in the immediate area proposed for the skate park needed to be undertaken to ensure the soil is PFAS free.
- June soil sampling was undertaken, analysed and assessment of the PSAS results were completed.

As the above timeline shows, the LHISPA has undertaken past community consultation during the project planning to date. The association has indicated a desire to continue public consultation on the project prior to and during construction.

Submitted Plans

The applicant has submitted a site plan, 3D perspective, excavation details, revegetation/landscape plan and species plantings (refer to *Figures 4-10*) below.

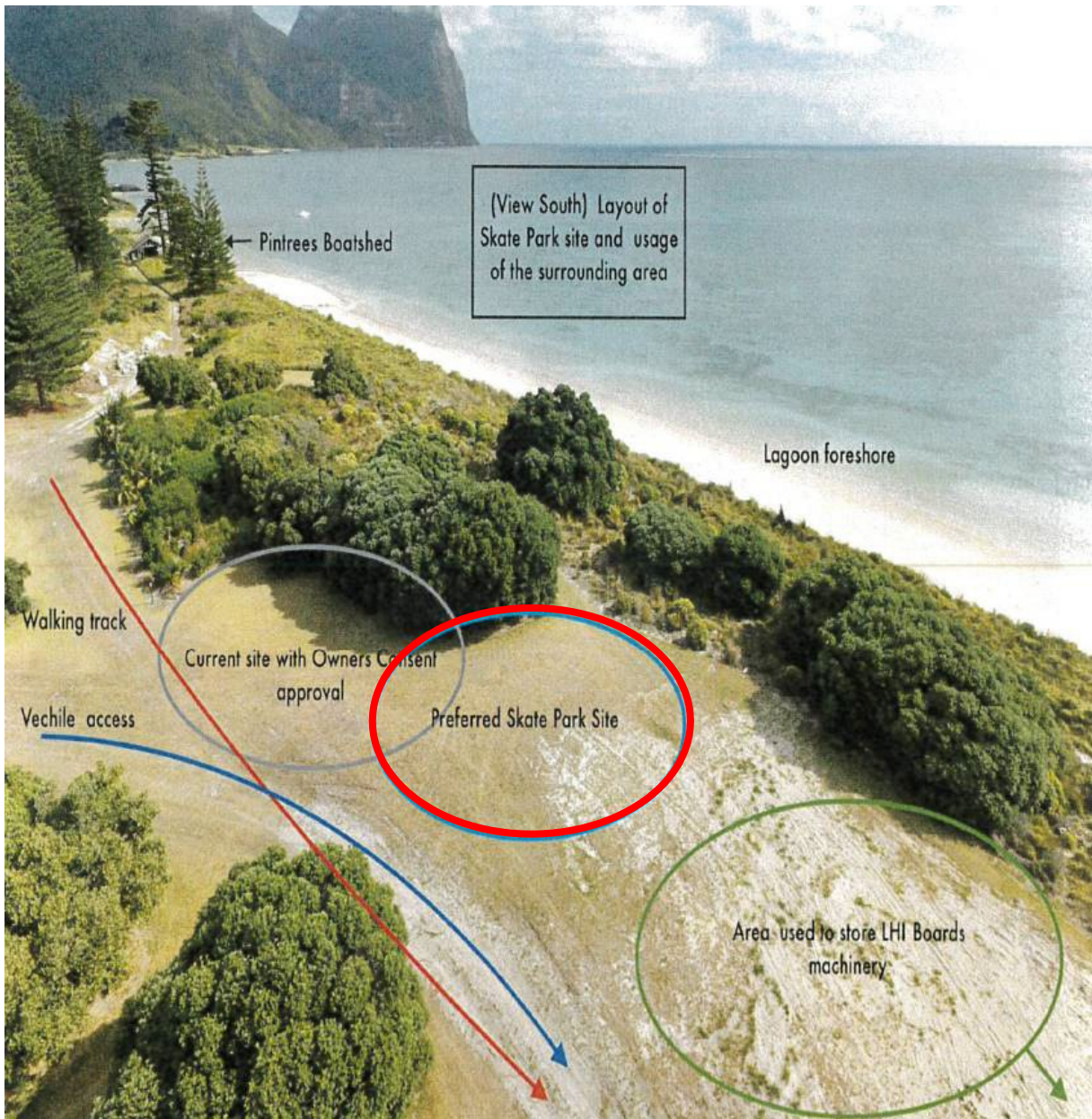
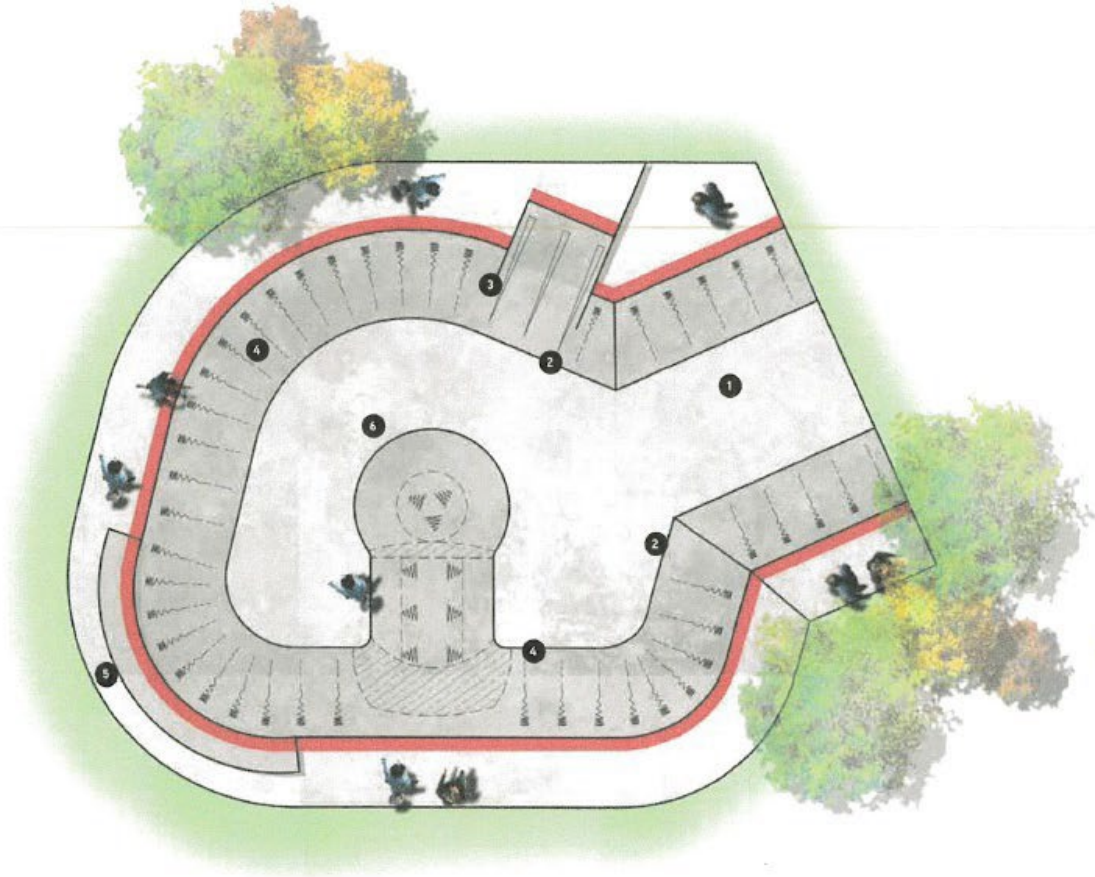


Figure 4: Applicant's submitted site plan

SKATE WORKS PLAN



LEGEND

- ① 900H Mini Ramp
- ② 900H Banked Quarter Pipe
- ③ 1200H Flat Bank
- ④ 1200H Quarter Pipe
- ⑤ 1800H Quarter Pipe
- ⑥ Mogul Feature

CONVIC

Unit 13, 46-50 Regent Street
 Richmond VIC 3121
 T (03) 9486 9899
 Convic.com

PROJECT
 Lord Howe Skate Park

TITLE
 Concept Plan

DATE
 10.03.2017

FUNDING APPLICATION DESIGN | LORD HOWE SKATE PARK

Figure 5: Applicant’s submitted indicative 3D design perspective of proposal - 1

PERSPECTIVE VIEWS

Oval end

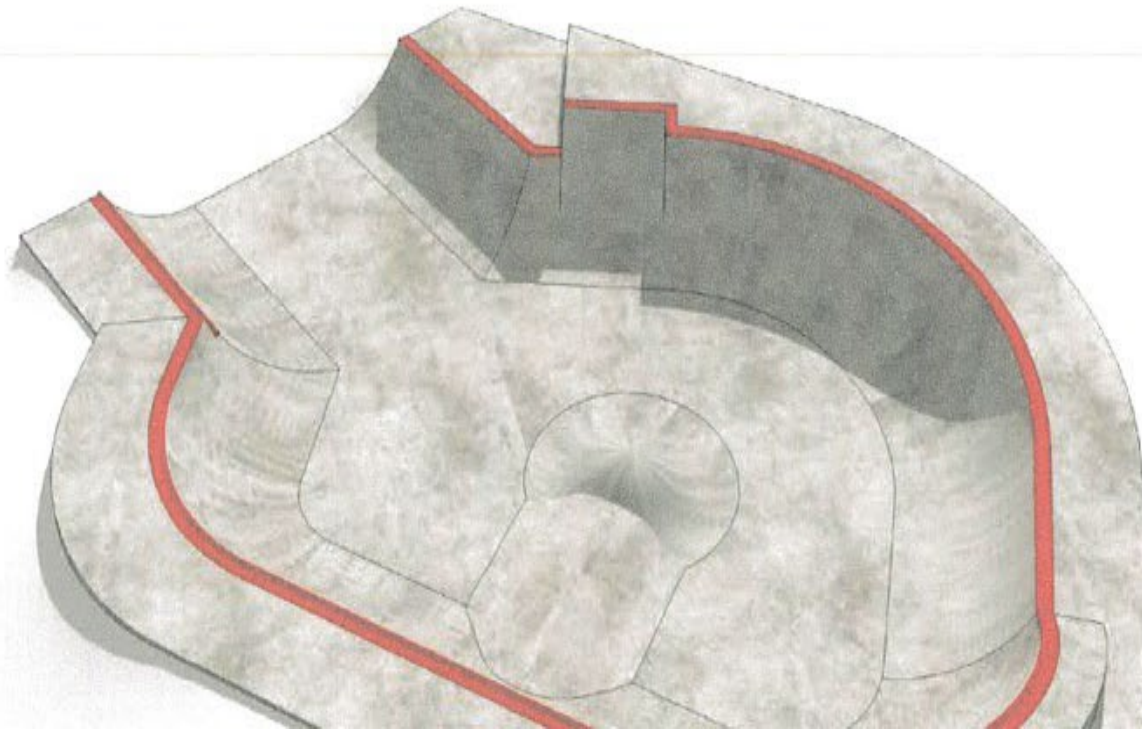


Figure 6: Applicant's submitted indicative 3D design perspective of proposal - 2



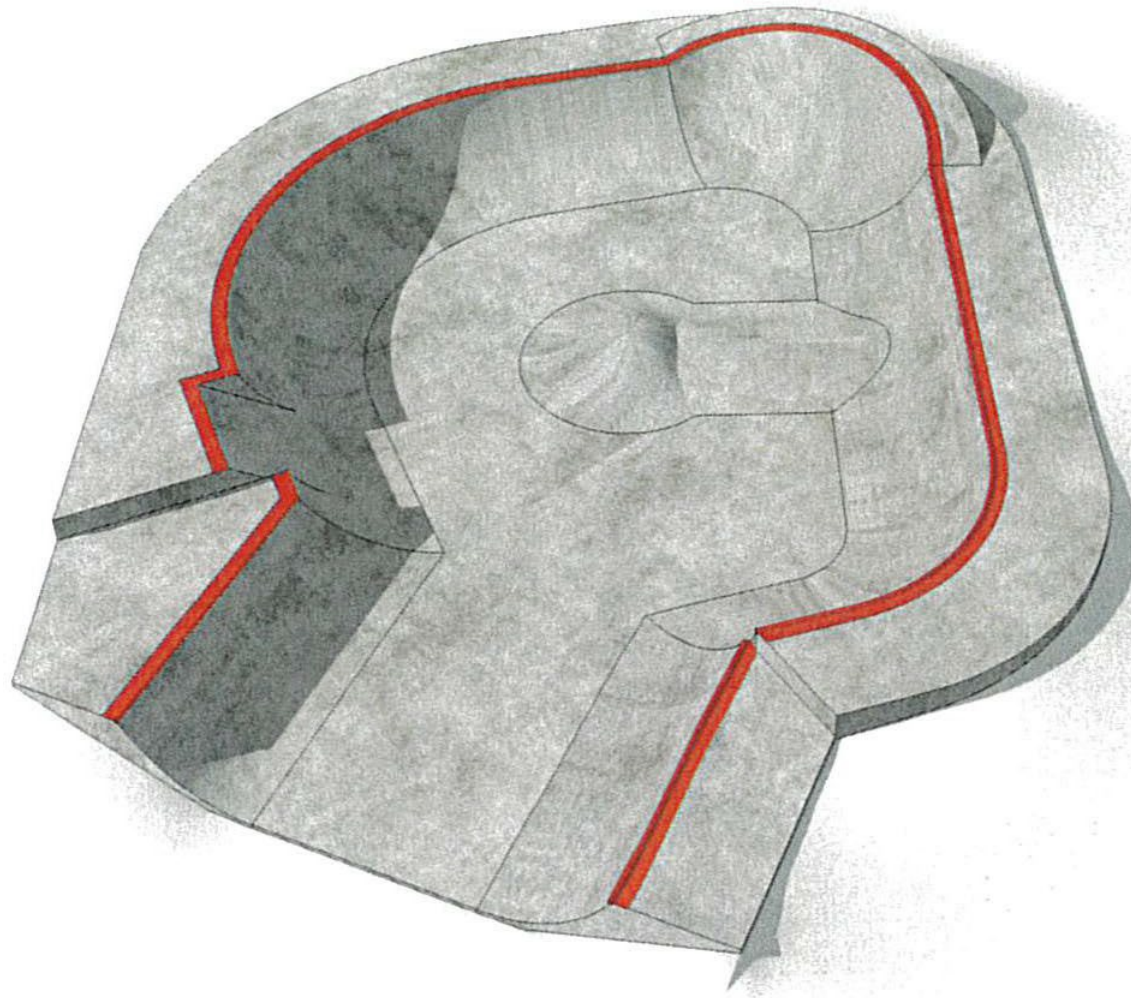


Figure 7: Applicant's submitted indicative 3D design perspective of proposal - 3

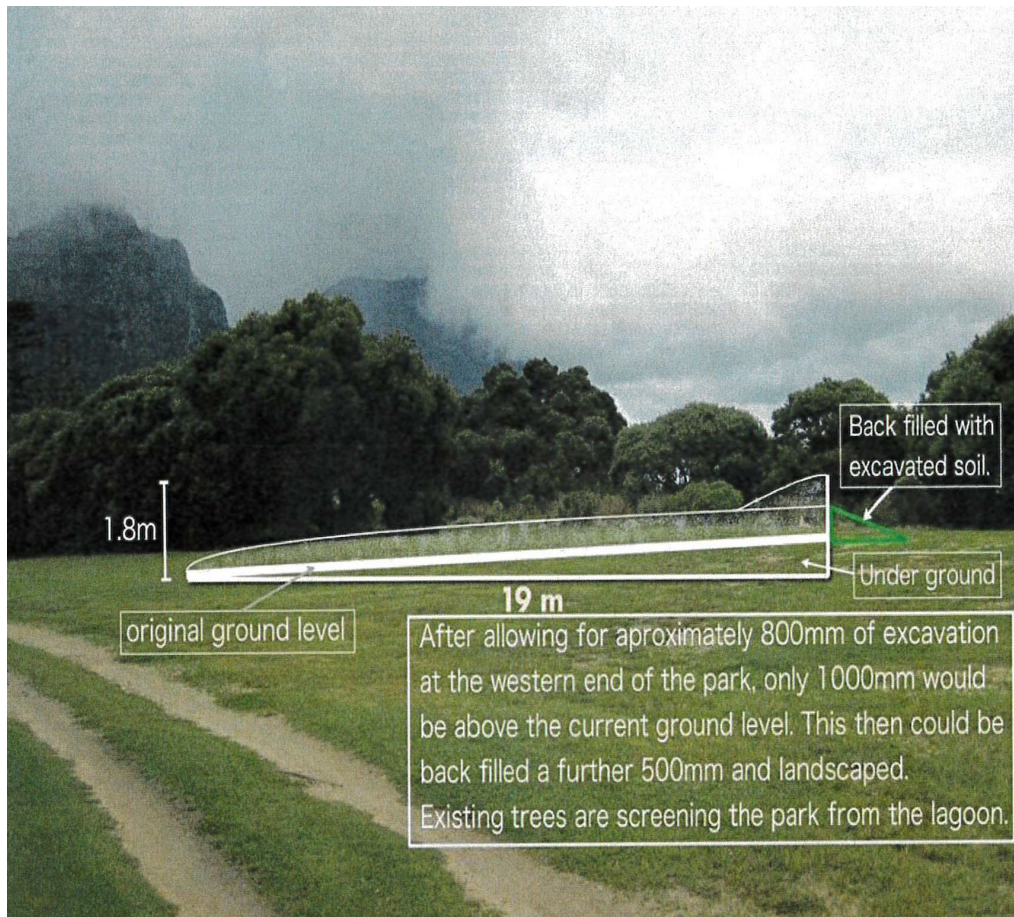


Figure 8: Applicant's submitted excavation proposal and site location

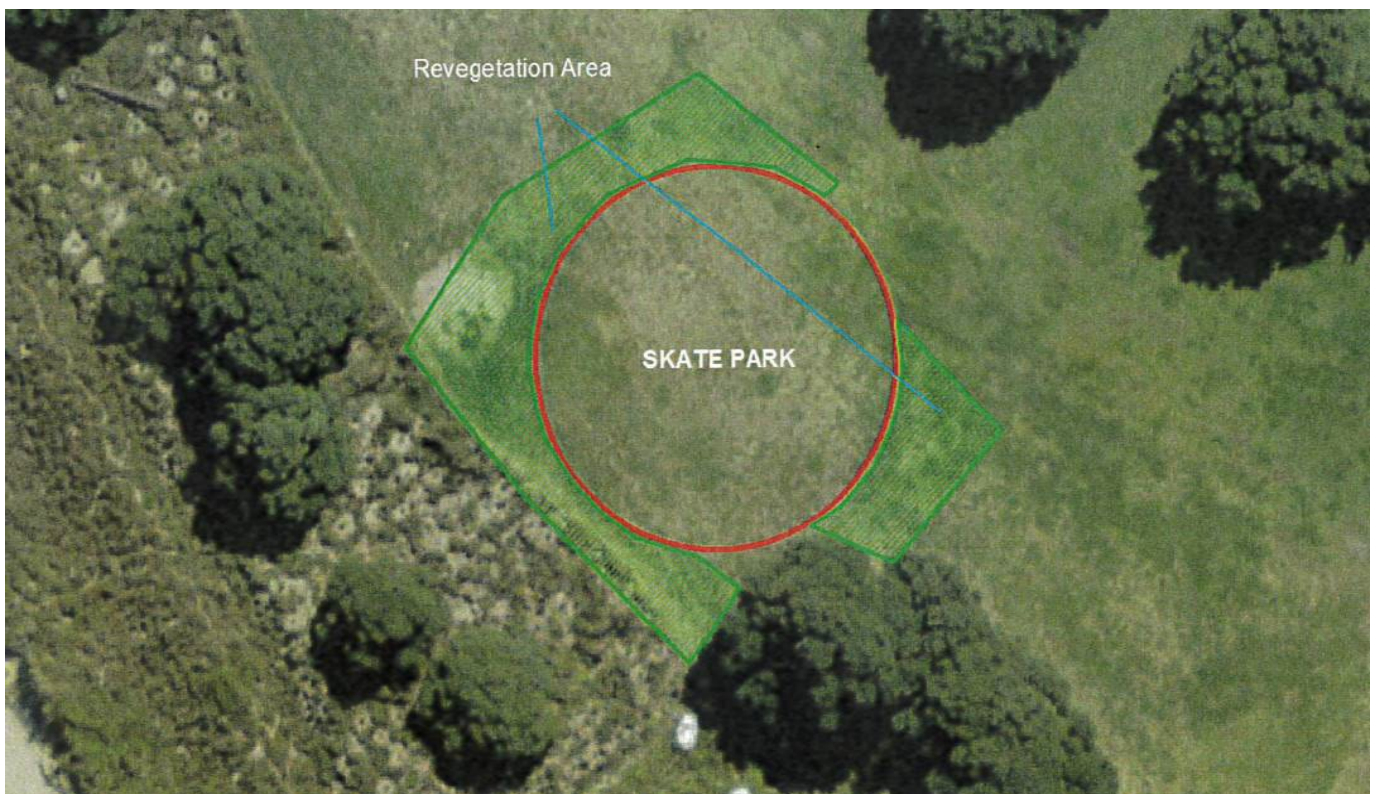


Figure 9: Applicant's submitted revegetation and landscape plan for the Skate Park proposal

Common Name	Scientific Name	No.
Bullybush	<i>Cassinia tenuifolia</i>	50
Kentia Palm	<i>Howea fosteriana</i>	25
Goatwood	<i>Coprosma prisca</i>	50
Grey Saltbush	<i>Atriplex cinera</i>	20
Hopwood	<i>Dodonaea viscosa ssp. burmanniana</i>	10
Juniper	<i>Myoporum insulare</i>	15
lily - Dune/ Crinum	<i>Crinum asiaticum var. pedunculatum</i>	20
Melaleuca	<i>Melaleuca howeana</i>	15
Wollastonia	<i>Wollastonia biflora</i>	10
Wedding lily	<i>Dietes robinsoniana</i>	20
(Red) Berrywood	<i>Ochrosia elliptica</i>	10
TOTAL		245

Figure 10: Applicant's submitted revegetation and landscape species planting for the Skate Park proposal – post construction

6 Referrals

The Board 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 the response.

Table 1 Comments received from internal specialists

Internal specialist	Issue	Planner's Comment
Hank Bower Manager Environment /World Heritage	<p>Comment</p> <p>The subject site is zoned Zone No. 7 – Environmental Protection The proposal will not require the removal of any native remnant vegetation as the Subject site is cleared and wholly located on the Lagoon foreshore. It is likely that several exotic Pohutukawa <i>Metrosideros excelsa</i> need to be pruned or removed. The proposal states it will plant 245 native plants around the skate park to screen it. This planting will create habitat for local wildlife including threatened species.</p> <p>The proposal will not result in the removal or damage of any Significant Native Vegetation (SNV) as the Study area doesn't contain any vegetation mapped as SNV.</p> <p>The proposal will not result in any significant impacts on any Threatened species, populations or ecological communities, or their habitats as it is located on cleared land.</p> <p>The subject site provides no known or potential habitat for any listed threatened species.</p> <p>A 5 Part Test of significance was submitted with the DA and found it will not impact on any threatened species habitat as it is located within cleared land. This assessment concludes that the proposed development will not result in any significant impacts</p>	Noted, with the suggested requirements included in the recommendation of this report.

	<p>on any Threatened species, populations or ecological communities, or their habitats providing the recommendations below are adhered to.</p> <p>Recommendations</p> <p>That the development be approved subject to.</p> <ul style="list-style-type: none"> All building materials and building activity are restricted to being stock piled on cleared open areas. 	
<p>Kate Dignam – Team Leader Compliance & Projects</p>	<p>Notes relating to issuing of Construction Certificate</p> <ul style="list-style-type: none"> If the Development Application is approved the applicant is required to apply for a Construction Certificate for the proposed works. No works can commence until a valid Construction Certificate for the works has been issued. If the applicant is proposing a Performance Solution for any requirements of the BCA/NCC, the relevant Performance Requirements must be determined in accordance with A0.7 of the BCA/NCC. A report outlining any proposed Performance Solutions must be compiled by an appropriate person and submitted with the application for a Construction Certificate. In the application for a Construction Certificate the applicant is to provide detailed structural engineering plans for the works. Structural plans are to address all actions including construction in Wind Zone A, and are to be certified by an appropriately qualified Structural Engineer in accordance with AS1170.2. The applicant is to ensure the Construction Certificate plans align with the approved Development Application plans. In the application for a Construction Certificate the applicant is to provide evidence of payment of a Long Service Levy as per section 34 of the Building and Construction Industry Long Service Payments Act 1986. Prior to the issuing of a Construction Certificate the applicant is to ensure compliance with any/all conditions imposed by the Board as part the Development Application approval process. <p>Waste Management</p> <ul style="list-style-type: none"> All construction waste is to be contained within the site and then be recycled or disposed of at the authorised waste management facility on the Island. Waste disposal fees will be charged in accordance with the Lord Howe Island Board’s schedule of fees and charges. No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. <p>Per-and-Poly-fluoroalkyl Substances (PFAS)</p> <ul style="list-style-type: none"> The proposed area for the Skate Park has been utilised, in the past, as a training ground for NSW Rural Fire Service (RFS) personnel in the use of Aqueous Film-Forming Foams (AFFF). AFFFs are now known to contain PFAS. <p>As part of the NSW Environment Protection Authority’s (EPA)</p>	<p>Noted, with the suggested requirements included in the recommendation of this report.</p>

PFAS project to assess the legacy of PFAS use across NSW the LHIB undertook initial investigations at known training sites around the Island. The initial investigations have revealed the presence of PFAS in the soil immediately to the northwest of proposed skate park site, i.e. the proposed skate park construction staging area. In the initial investigation this area is known as site C, sample HA002.

Recommendation:

- Before any development approvals are given undertake soil sampling and analysis for the presence of PFAS in the immediate area proposed for the skate park to ensure the soil is PFAS free [refer to PFAS testing results following].
- If approval is granted, move the proposed construction staging area to the south east of the proposed site for the skate park to ensure:
 - no PFAS contaminated soil migrates from site during the construction process
 - the construction activities do not pose additional risk to human health
 - water usage in the concrete production does not cause PFAS to leach into the groundwater
- It would be prudent to undertake soil sampling and analysis for the presence of PFAS in the new proposed construction staging area to ensure the soil is PFAS free.

Construction and Demolition

- No excavation to be carried out until the site is inspected by the LHIB Senior Electrical Officer, i.e. 'dial before you dig'.
- All construction is to be carried out and completed in accordance with the National Construction Code (NCC).
- Any electrical work required must be carried out by a licensed electrician and an Electrical Compliance Certificate issued. The certification must be provided to the Board before any Occupancy Certificate for the building can be issued.
- All works are to be undertaken in accordance with approved Construction Certificate documentation.
- Pre-Commencement meeting to be arranged with the Owner, Builder and Board Personnel prior to any work commencing on site. If the applicant is nominating the Lord Howe Island Board as the Principal Certifying Authority, this meeting will constitute the pre-commencement and site set out inspection.
- The applicant is to ensure all Mandatory Inspections are undertaken.

Mandatory Inspections

- As a Class 10b structure the Principal Certifying Authority (PCA) will require the following Mandatory Inspections to be undertaken during construction:
 - a) Pre commencement/set out
 - b) Prior to pouring any in-situ reinforced concrete building element, and

	c) Final Inspection, including fire related elements, prior to Occupation Certificate being issued																							
<p>Kate Dignam PFAS Report</p>	<p>Before the Board makes any further consideration of the development application for the construction of the Skate Park it was recommended by LHIB MIES to undertake PFAS sampling in the area proposed for Skate Park and the alternate Construction Staging Area.</p> <p>Sampling took place on Wednesday 12 June 2019 between 10:30am and 12:30pm. There were six sample sites at each location. Two samples were taken from each site, one at 0-0.1m (indicated with -1 in sample ID) and one at 0.4-0.5m (indicated with -2 in sample ID). See Attachment 1 for plan of sample site.</p> <p>The samples were sent to Australian Laboratory Services Environmental, Smithfield NSW, on Thursday 13 June 2019 for analysis of the full PFAS Suite. See Attachment 2 for the full list of PFAS analysed.</p> <p>The guidance document for PFAS assessment criteria in Australia is the PFAS National Environmental Management Plan (NEMP) (January 2018). The following table outlines the soil criteria for human health-based guideline values and Interim soil – ecological direct exposure for Public Open Space (the same guidance value applies to both exposure scenarios:</p> <table border="1" data-bbox="384 965 1125 1037"> <thead> <tr> <th>PFOS/PFHxS</th> <th>PFOA</th> <th>Comments and source</th> </tr> </thead> <tbody> <tr> <td>1 mg/kg</td> <td>10 mg/kg</td> <td>Up to 80% of exposure is assumed to come from other pathways.</td> </tr> </tbody> </table> <p>The full certificate of analysis from Australian Laboratory Services Environmental for all 24 soil samples is provided as Attachment 3.</p> <p>The following table outlines the soil samples where PFAS compounds were reported above the laboratory Limit of Reporting (LOR).</p> <table border="1" data-bbox="384 1301 1139 1532"> <thead> <tr> <th>Sample ID</th> <th>PFOS (LOR 0.0002 mg/kg)</th> </tr> </thead> <tbody> <tr> <td>SP01-1</td> <td>0.0003 mg/kg</td> </tr> <tr> <td>SP03-1</td> <td>0.0003 mg/kg</td> </tr> <tr> <td>SP06-1</td> <td>0.0005 mg/kg</td> </tr> <tr> <td>CS01-1</td> <td>0.0003 mg/kg</td> </tr> <tr> <td>CS02-1</td> <td>0.0002 mg/kg</td> </tr> <tr> <td>CS03-1</td> <td>0.0002 mg/kg</td> </tr> <tr> <td>CS06-1</td> <td>0.0003 mg/kg</td> </tr> </tbody> </table> <p><i>The analytical results indicate the following:</i></p> <ul style="list-style-type: none"> • The only PFAS compound found to have concentrations above the LOR is Perfluorooctane sulfonic acid (PFOS). • PFOS above the LOR was only found in surface soil samples (indicated by -1 in sample ID). • No concentration of PFOS exceeded the NEMP human health or ecological direct exposure guidelines for Public Open Space. For comparative information the human health guideline for residential land use with garden/accessible soil (assuming homegrown produce providing up to 10% of fruit and vegetable intake) is 0.009 mg/kg. <p>As the detection of PFOS was only found in surface soil samples it can be stated that the migration of the PFOS from the adjacent RFS training site has been of human nature. Primarily this would have been through the movement of the Board's</p>	PFOS/PFHxS	PFOA	Comments and source	1 mg/kg	10 mg/kg	Up to 80% of exposure is assumed to come from other pathways.	Sample ID	PFOS (LOR 0.0002 mg/kg)	SP01-1	0.0003 mg/kg	SP03-1	0.0003 mg/kg	SP06-1	0.0005 mg/kg	CS01-1	0.0003 mg/kg	CS02-1	0.0002 mg/kg	CS03-1	0.0002 mg/kg	CS06-1	0.0003 mg/kg	<p>Noted, with the suggested requirements included in the recommendation of this report.</p>
PFOS/PFHxS	PFOA	Comments and source																						
1 mg/kg	10 mg/kg	Up to 80% of exposure is assumed to come from other pathways.																						
Sample ID	PFOS (LOR 0.0002 mg/kg)																							
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SP03-1	0.0003 mg/kg																							
SP06-1	0.0005 mg/kg																							
CS01-1	0.0003 mg/kg																							
CS02-1	0.0002 mg/kg																							
CS03-1	0.0002 mg/kg																							
CS06-1	0.0003 mg/kg																							

	<p>Excavator and Bulldozer when undertaking erosion works at Windy Point 2015/2016. The equipment would park and undergo wash-down in the subject site as well as traverse through the site accessing the beach, Passion Pit and rock/sandbag stockpile.</p> <p>The subject site is still often used by the Board for parking and traversing when undertaking erosion works on the beach. It should be noted that in the AECOM Final Report of the Preliminary PFAS investigations the photo of the subject site shows the Bulldozer parked at the subject site in between sampling locations. Sampling at this location for the Preliminary Investigation was undertaken on 23 January 2018.</p> <p>The skate park construction proposes to stockpile excavated soil on-site and then reuse to backfill around the sides and rear of the structure and then vegetate the area with LHI native species. <i>Given the low levels of PFOS detected this would be an acceptable use of the excavated soil.</i></p> <p><i>It would be prudent to implement strict Soil Erosion and Sediment Control during the construction process of the skate park. The excavated soil will need to be managed in such a way as to not allow/minimise migration from site and excluded to minimise contact with the public until vegetation works are complete.</i> It should be noted that the applicant's planning document submitted with the DA alludes to erosion and sediment controls supplied as Appendix 4 which is, unfortunately, not supplied with the document.</p> <p><i>While the concentrations of PFOS in soils were less than the adopted human health assessment criteria, it is acknowledged that these criteria are for standard scenarios and do not directly apply to activities such as intrusive works. Such works would need to be undertaken in line with work place health and safety procedures to manage potential human health risks.</i></p>	
<p>Gary Millman</p>	<p>The proposed Skate Park area (19 x 14m) has been staked as per the 'preferred' site shown on the aerial photo with small amount of the southern end in the "current site" circle. The south east corner is approx. 37m to Lagoon Road boundary.</p>	

Attachment 1 - Sample Locations and Sample Sites – Proposed Skate Park



Figure 10: PFAS Investigation testing sites. Source: LHIB

7 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.

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.

As previously noted, the Manager Environment World Heritage has reviewed the applicant's submitted planning documents, and assessed the potential direct and indirect impacts of the proposed development to native vegetation, native fauna and species, populations and ecological communities listed as threatened under the NSW Biodiversity Conservation Act (2016) and the EPBC Act 1999.

The Manager Environment World Heritage's assessment, and the applicant's ecological assessment determined that the proposal will not result in a significant effect on the listed Threatened species, populations or ecological communities or their habitats, or their lifestyle requirements as it is located within a cleared area. The applicant proposes to plant 245 native plants around the Skate Park to screen it.

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.

The applicant's planning and ecological assessment identifies that the Skate Park is minimal in its scale of activity, (although it will incur temporary disturbance to the site during the construction phase), and being a cleared site dominated by exotic grasses, is unlikely to fragment or isolate an area of habitat from another area of habitat. The applicant's assessment notes that the proposed pruning of surrounding exotic vegetation is not considered important to the long-term survival of any species and will not trigger or contribute to any listed Key Threatening Processes, and also indicates there is available habitat resources in the surrounding landscape. The applicant has proposed to plant 245 native plants post construction. The report states that the degree of impact from the proposal is considered minor and will be mitigated by the regeneration of the area following the construction phase.

As indicated in the LHIB's internal referral comments, the Lord Howe Island Manager Environment World Heritage, has determined that the proposal will not result in damage or removal of any significant native vegetation (SNV). This report has recommended conditions of consent (if approved), incorporating mitigation measures to address any potential environmental 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 4.46 (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).

On 5th September 2008, the NSW Minister for Planning published an order under Section 57(2) of the Heritage Act 1977, providing standard exemptions from sub-section 57(1) of the

Heritage Act 1977, as described in the Schedule attached to the Order (17 Standard Exemptions).

On 6 June 2005, the NSW Minister for Planning published an order under Section 57(2) of the Heritage Activity 1977, providing for an exemption from Section 57(1) to refer specific activities to the Heritage Division described in Schedule C, including:

- i. Development carried out in accordance with the LHI REP 2005 (as amended) other than development which relates to heritage items listed in Schedule 3 to the Plan (ie. referral only required for those applications requiring consent under clause 39 of the LHI LEP 2010 (Schedule 3 of the LEP containing the listed LEP items).

The LHI WW1 'War Memorial' (as identified in Schedule 2 of the LHI LEP 2010 as a Heritage Item), is located on the eastern side of Lagoon Road in the vicinity of the proposed Preschool but not on the land within the Skate Park Permissive Occupancy.

As such, the Skate Park is not considered to be on the same land as the War Memorial. In support of this position, it is noted that the LHISPA will have no legal access to or control over the War Memorial.

Consequently, it is considered that the proposal is not subject to clause 39 of the LEP.

Aside from the above, in assessing the proposal, the Skate Park development is not considered to materially impact the adjacent heritage item, and will have little to no adverse impact on its heritage significance for the following reasons:

1. The proposed skatepark location will not be within the visual curtilage of the War Memorial and will not therefore have a visual impact on the item.
2. The excavation and construction works for the Skate Park will be located 75m from the War Memorial and therefore will not impact on the structure or foundations of the War Memorial.
3. The development is to be carried out in accordance with the plans and documentation provided with application No. DA 2019.11 and will include appropriate temporary construction fencing and waste management requirements for the development will ensure that the War Memorial is not impacted.
4. No waste shall be placed in any location or in a manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site or impact on the War Memorial.
5. The historical, social and cultural significance associated with the War Memorial will not be eroded by the proposed Skate Park development.

In accordance with the above assessment and proposed condition of consent, the proposed work is considered to be minor in nature, and will have little or no adverse impact on the heritage significance of the subject heritage item. The proposed Skate Park development will not destroy, dismantle or deface the existing heritage item, alter its exterior such as to its detail, fabric, finish or appearance, or move any part of a heritage item.

7.2.3 State Environmental Planning Policy 55 (Remediation of Land)

It is noted that *State Environmental Planning Policy 55 (Remediation of Land) 2017* does not statutorily apply to Lord Howe Island. However, there is an obligation under the NSW planning legislation and general Government requirements, and under s4.15 of the EP&A Act 1979 to consider potential contamination impacts and issues.

As noted above in Section 6, LHIB's internal referrals identified that the proposed area for

the Skate Park had been utilised in the past as a training ground for NSW Rural Fire Service (RFS) personnel in the use of Aqueous Film-Forming Foams (AFFF). AFFFs are now known to contain Per-and-Poly-Fluoroalkyl Substances (PFAS).

As stated in the Internal Referrals table (ref section 6 of this report), the additional PFAS sampling in the area proposed for Skate Park and the alternate Construction Staging Area undertaken in the assessment of the subject DA has found that:

- *The only PFAS compound found to have concentrations above the LOR is Perfluorooctane sulfonic acid (PFOS).*
- *PFOS above the LOR was only found in surface soil samples (indicated by -1 in sample ID).*
- *No concentration of PFOS exceeded the NEMP human health or ecological direct exposure guidelines for Public Open Space.*

As a consequence of the above testing and analysis it is considered that the subject site is suitable for the proposed use subject to the implementation of the recommended conditions of this report.

7.2.4 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 details the LEP provisions relevant to the subject proposal, together with assessment and/or comment as required.

Table 2 LEP 2010 compliance summary table

LEP 2010 Clause		Complies Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	Y	<p>Each of the aims of the LEP 2010 have been considered in the assessment of this application.</p> <p>The Skate Park proposal facilitates the well-being and welfare particularly of the LHI youth by providing a recreational facility aimed at meeting their wants and needs. The proposal will facilitate the proper management, development and conservation of the Island's natural environment on the basis that the ecological consideration, assessment and recommendations submitted with this DA application are undertaken.</p> <p>The proposal meets the aims of LEP 2010.</p>
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; therefore, the DA is required.
11	Matters that must be satisfied before development consent granted	Y	Refer to the following assessment table under clause 11 of the LEP.
Part 2 General Provisions applying in particular zones			
12	Land Use Zones	Y	The land is zoned Zone 7 Environment Protection.
17	Zone 7 Environment Protection	Y	<p>The Skate Park will provide a valued recreational facility for the youth of LHI, and the proposal is being undertaken in a manner that will be sympathetic with the values of the natural environment of the Island, and scenic amenity of the land.</p> <p>Development for the purposes of 'Recreational Areas' are permissible in Zone 7 Environment Protection, under clause 35 of LHI LEP (being Foreshore Development) that permits the Skate Park proposal with the consent of the LHIB.</p> <p>The Skate Park proposal meets the zone objectives as the development is excavated into the ground and areas above surface level will thus minimised, backfilled and landscaped with native plants, protecting both the scenic amenity of the land and reducing the potential for erosion of this vulnerable area. The proposed planting will also restore this highly disturbed area, and will assist to connect flora and fauna habitat within the local area.</p>
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
31	Vegetation Restoration	Y	<p>Development for the purposes of vegetation restoration will be generally undertaken in accordance with the <i>Lord Howe Island Board Vegetation Rehabilitation Plan</i>.</p> <p>As previously noted, the Manager Environment World Heritage has reviewed the applicant's ecological assessment. Although no SNV or native vegetation is being removed, the applicant proposes a revegetation plan with 245 species of native plants. These species range in height and will be located to the north, west and south around the Skate Park.</p> <p>This revegetation area would reduce ingress of</p>

			<p>harsh south-westerly winds and provide added amenity.</p> <p>It is recommended that conditions of approval be added to this determination (if approved) to ensure all associated vegetation works will be undertaken in consultation with the LHIB's Manager Environment World Heritage and the LHIB Veg Rehabilitation Plan.</p>
Division 2 Provisions that apply to particular land			
35	<p>Foreshore Development</p> <p>1) Despite anything to the contrary in Part 2 or the other provisions of this Part, development on the foreshore area is prohibited.</p> <p>2) Despite subclause (1), development on the foreshore area may be carried out with consent if, in the consent authority's opinion:</p> <p>(a) the proposed development is in the public interest and does not significantly reduce public access to the foreshore, and</p> <p>(b) the bulk and scale of the proposed development will not detract from the visual amenity of the foreshore area, and</p> <p>(c) the proposed development addresses any need to restore lost or disturbed plants that are native to the Island, particularly if restoring those plants may enhance visual amenity, and</p> <p>(d) there is a demonstrated Island community-based, or marine-based, business need for it, and</p> <p>(e) the proposed development will not be adversely affected by, or adversely affect, coastal processes, and</p> <p>(f) in the case of proposed development involving the erection of a structure—the purpose of that structure could not practicably be</p>	Y	<p>Within the subject Environment 7 Protection Zone the Skate Park is permissible under clause 35(2) of the LEP. A precondition for this is the establishment that the proposal will achieve compliance with the provisions of cl. 35(2).</p> <p>As discussed throughout this report, the Skate Park proposal is considered as being in the public interests as it provides a community youth based recreational area on LHI, particularly as there are limited youth facilities on the Island. The Skate park could not be practicably used or fulfilled by any other existing structures.</p> <p>The proposal's location is not considered to reduce public access of the foreshore area as walkers, kite surfers, vehicles and people can still move throughout the area with limited additional impact or conflict.</p> <p>The project has minimal bulk and scale as the Skate bowl is excavated into the ground, with minimal extent above current surface levels at one end which will be backfilled and planted with native plants. The proposal's low scale and height, and proposed native planting around the skate facility will provide both local amenities, and restoration of vegetation presently devoid and lacking in this locality. The restoration process will also ensure that the proposed development will not be adversely affected by, or adversely affect coastal processes.</p>

	fulfilled by an existing structure.		
39	Development Affecting Heritage Items	N/A	Refer to the assessment provided earlier in this report under section 7.2.2: NSW Heritage Act, which confirms that clause 39 of the LHI LEP does not apply to the subject proposal.

7.2.5 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	COMPLIES 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>	Y	The subject site is Zone 7 Environment Protection under the LHI LEP 2010. As assessed earlier in section 7.2.4, the proposal is consistent with the aims of the LHI LEP and objectives of this zone.
b) <i>There is an adequate area available for the disposal or treatment of any effluent treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	N/A	
c) <i>No part of the proposed development:</i> i. <i>will result in any damage to, or removal of, significant native vegetation, or</i> ii. <i>will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	Refer to the assessment comments provided in section 6 of this report, provided by the LHIB's Manager Environment World Heritage, along with the discussion within section 7.1.1 Environmental Protection and Biodiversity Conservation Act 1999, and 7.2.1 Biodiversity Conservation Act 2016.
d) <i>Access is, or will be, available to the site of the proposed development and the provision of any such access will not:</i> i. <i>result in any damage to, or the removal of, significant native vegetation, or</i> ii. <i>have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	Satisfactory access to the proposed development is available via Lagoon Road and the existing informal access track through the area and which will be provided without any significant impact on native vegetation (ref Manager Environment World Heritage comments in section 6)
e) <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>	Y	Inclusion of native species onsite has been considered and implemented to enhance the locality's ecology.
f) <i>The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	Y	The Skate Park is protected by the primary coastal dune, and the surrounding vegetation. The proposal will also have added protection from the 245 proposed native plants surrounding part of the Skate Park ensuring that the proposal is not

CLAUSE 11 REQUIREMENT	COMPLIES Y/N	DISCUSSION
		affected by, or will affect coastal processes.
<i>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,</i>	Y	Adequate services can be provided without significant additional cost to the LHIB or the community.
<i>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,</i>	Y	The development is considered minor in scale, and is unlikely to have any significant adverse impacts in the locality when undertaken in accordance with the recommendations of this report. The generous setbacks to surrounding land uses and planting of landscaping will help soften the development and maintain the landscaped and vegetated character of development on the Island.
<i>i) The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	The proposed development will not cause any overshadowing of adjoining land.
<i>j) The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</i>	Y	In view of the nature of the adjoining properties, the significant separation distances to the nearest residential development, the existing site vegetation and the nature of the proposed development and use, there will not be any reduction in the privacy of neighbouring properties as a result of the development.

7.2.6 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 community Skate Park is generally consistent with the Plan objectives and with the Island's character as assessed elsewhere in this report.
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. Skate Park design is not discussed.
2.3	Design Context	Y	As assessed in this report above, the proposal as conditioned is considered consistent with the character and nature of the site and locality.
2.4	Bulk and Scale	Y	The proposal will have minimal additional impact on the bulk and scale to the existing landscape.
2.5	Building Forms	Y	The Skate Park structure has been designed to cater for the LHI youth, and will not include any new buildings.
2.6	Building Materials &	Y	The proposed materials and colours will complement the natural surroundings.

	Colours		
2.7	Energy and water efficiency	Y	Energy and water efficiency principles are satisfactorily considered within the design.
2.8	Landscaping design	Y	Vegetation management, the removal and pruning of exotic species, and the revegetation and additional landscaping needs have been considered and assessed as part of this application. Conditions of consent have been added to the determination to enhance the development.
2.9	Site access and parking	Y	Adequate site access is available.

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 7.2.4) 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 against the LHI DCP 2005 was undertaken and it was found that the proposal satisfactorily meets the relevant provisions subject to the conditions of approval included in the recommendation of this report.
 - 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.
- 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, the proposed Skate Park will provide positive social impacts and facilitate the well-being of the LHI youth community. On the basis of the ecological consideration, general assessment and recommendations of this report, the proposal will facilitate the proper management, revegetation and conservation of the Island's natural environment application.

c) the suitability of the site for the development

Having regard to the location and the proceeding assessment of the proposal, the site is considered suitable for the proposed development.

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

The following table provides a summary of issues raised in the 30 person petition against the proposal and 2 submissions in support received during public exhibition, and provides a planning response.

Submitter		Response
30 Person Petition	<p>The proposal will:</p> <ul style="list-style-type: none"> • Generate noise • Result in users regularly injuring themselves • Result in anti-social behaviour • Be unsightly & and an eyesore • Affect the image of Lord Howe Island • Be un-necessary • Encourage drug use 	<p>The subject DA for construction and use of a new Skate Park legally has to be assessed and determined on its merits.</p> <p>As outlined in this report, the impact of the proposal on surrounding neighbour's amenity including from potential noise, privacy and overshadowing have been assessed as low. This low impact is primarily due to the generous separations from surrounding land uses, and the applicant's proposal to landscape around the Skate park with extensive native plants enabling softening and regeneration of this open and cleared locality.</p> <p>The Skate Park has been designed for varying levels of expertise, based on best design practice. Presently skateboarders on the Island use the narrow Island roads, weaving around road users, putting themselves and others at risk. The Skate Park is considered to be beneficial to both local and visiting families as a safer area to practice skills and for recreational pursuits.</p> <p>The proposed location and substantial inground form of the proposal, with proposed vegetation planting, with the foredune and existing vegetation as a backdrop will ensure it remains in keeping with the scenic quality of the area and not be an eyesore.</p> <p>The perceived increase in drugs exchange specifically resulting from the proposal is difficult to substantiate and is not a justifiable reason for refusal.</p> <p>The proposal will improve the family friendly character of the Island and the perception that the Island is wanting to cater for the interests and development of its youth.</p>

		A recommendation of this report is to ensure that sightlines to Lagoon Road and the surrounding reserve area are maintained. This mitigation measure will assist casual surveillance of the site and its users and provide a safety and security measure.
Benjamin Latta	<p>Supports the proposal for the following reasons:</p> <ul style="list-style-type: none"> • The Skate Park will be a great addition to, and be complimentary to the range of outdoor activities available on the Island • It will develop the co-ordination and physical skills of people of all ages • The design and location is well considered and practical • Experience in similar small coastal towns is that Skate Parks provide a safe communal space for recreation that the community really values (including those that originally doubted the merits of such proposals) • The LHIB should also consider providing a BBQ area with picnic tables in conjunction with the skate park 	<p>Noted & agreed</p> <p>Any future use of the land and creation of additional facilities onsite will be considered on their merits separately to this application.</p>
Brent Madden	<p>Supports the proposal for the following reasons:</p> <ul style="list-style-type: none"> • Refer to above points made by Benjamin Latta • Skate Parks provide for teaching, and mentoring/ positive role modelling of youth by older youth and young adults • Skate Parks provide the benefits of exercise outdoors, cost free and get kids active whilst developing new skills and friendships. • Once constructed the Skate Park will have nil environmental impact. • The Skate Park represents to him one of the last small pieces of the puzzle missing in an otherwise ideal paradise community. 	Noted & agreed

e) the public interest

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

9 Conclusion

DA 2019-11 has been assessed with regards to the provisions of Section 4.15 of the EP&A Act, the LHI LEP 2010, the LHI DCP 2005, and the relevant codes and policies of the Lord

Howe Island Board.

The proposal for a Community Skate Park will benefit the well-being of the youth and community on the Island. The proposal's design and siting, including its orientation responds sensitively to its settings and site constraints.

The application for a Skate Park is supported, subject to the proposed conditions and advisory notes in the following recommendation.

10 Recommendation (Conditional Approval)

Development Consent Recommendation (Conditional Approval)

The application for DA 2019-11 for a Community Skate Park located on 'Unidentified Crown Land Reserve No. 12, Lagoon Road, Lord Howe Island', be approved in the original location submitted in OC2017-14 and the subject DA, subject to 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 No. 2019.11 as listed below and endorsed with the Lord Howe Island Board's stamp, except where amended by other conditions of consent.

- a) Completed DA Form prepared by Craig Thompson, Lord Howe Island Skate Park Association, dated 28.02.2019
- b) Statement of Environmental Effects in the DA Form prepared by Craig Thompson, Lord Howe Island Skate Park Association, dated 28.02.2019
- c) The following plans prepared by Convic, Project: Lord Howe Skate Park, dated 10.03.2017:
 - Title – Concept Plan, Perspective Views, submitted as part of the DA documentation.
- d) Planning document (Review of Environmental Factors), prepared by Christo Haselden, dated 27 February 2019 including Appendix 3 Landscape Plan and species list.

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

2. Construction Certificate

- a) A construction certificate is required to be approved and issued by an Accredited Certifier, prior to the commencement of any works on site.
- b) If the applicant is proposing a Performance Solution for any requirements of the BCA/NCC, the relevant Performance Requirements must be determined in accordance with A0.7 of the BCA/NCC. A report outlining any proposed Performance Solutions must be compiled by an appropriate person and submitted with the application for a Construction Certificate.
- c) The applicant is to ensure that the Construction Certificate Plans are the same as the approved DA Plans.
- d) In the application for a Construction Certificate the applicant is to provide **detailed structural engineering plans** for the works. Structural plans are to address all actions including construction in Wind Zone A, and are to be certified by an appropriately qualified Structural Engineer in accordance with AS1170.2.

- e) Prior to issuing a Construction Certificate the applicant is to provide evidence of **payment of a Long Service Levy** as per section 34 of the Building and Construction Industry *Long Service Payments Act 1986*.

Reason: To ensure construction is undertaken in accordance with requirements.

3. Construction Staging Area

- a) The proposed temporary Construction Staging Area is to be relocated to the immediate south-east of the Skate Park in accordance with the LHIB PFAS Investigation testing sites plan (dated 27/06/2019).

Reason: To ensure no per – and poly – fluoroalkyl substance (PFAS) contaminated soil migrates from the site during the construction process; that construction activities do not pose additional risks to human health, and construction to mitigate the potential for water and PFAS to leach into the ground.

4. Ecology and Habitat

- a) All building materials and building activity shall be restricted to being stock piled on cleared open areas within the proposed relocated staging area for the project as per these conditions of approval.
- b) A vegetation plan is to be submitted and approved by the LHIB Manager Environment / World Heritage prior to issue of the Construction Certificate, including the location of trees and shrubs from the approved planting list.
- c) The landscaping between Lagoon Road and the Skate Park is to maintain open sight lines to / from Lagoon Road.
- d) During period of drought the plantings must be watered and any dead plants must be replaced annually during the winter rain season;
- e) All vegetation works shall be undertaken in accordance with the requirements of the LHIB Manager Environment World Heritage and the Lord Howe Island Board Vegetation Rehabilitation Plan.

Reason: To ensure ecological communities are not adversely impacted by the development, and to ensure public safety through causal/passive surveillance of the site.

5. Waste Management

- a) The applicant is to ensure that any waste generated from the proposed development is to be contained within the site and then be recycled or disposed of at the authorised waste management facility on the Island.
- b) No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.
- c) The applicant is advised that waste disposal fees will be charged in accordance with the Lord Howe Island Board's schedule of fees and charges.

Reason: To ensure the proper removal of waste is carried out.

6. Construction

- a) The proposed excavation and soil works shall be undertaken in line with work place health and safety procedures to manage potential human health risks from the identified PFAS contamination.
- b) Any excavated soil shall from the site shall only be reused as backfill for the proposal itself and not taken or used off-site.
- c) All works are to be undertaken in accordance with approved Construction Certificate documentation.
- d) All construction is to be carried out and completed in accordance with the National Construction Code (NCC).
- e) Pre-Commencement meeting to be arranged with the Owner, Builder and Board Personnel prior to any work commencing on site. If the applicant is nominating the Lord Howe Island Board as the Principal Certifying Authority, this meeting will constitute the pre-commencement and site set-out inspection.
- f) No excavation is to be commenced until the site is inspected by the Lord Howe Island Senior Electrical Officer (ie. Dial before you dig).
- g) Pre-Commencement meeting to be arranged with the Owner, Builder and Board Personnel prior to any work commencing on site. If the applicant is nominating the Lord Howe Island Board as the Principal Certifying Authority, this meeting will constitute the pre-commencement and site set out inspection.
- h) Any electrical work must be undertaken by a licensed electrician and an Electrical compliance Certificate issued. The certification must be provided to the Board prior to the Occupation Certificate for the building is issued.
- i) The applicant is to ensure all Mandatory Inspections are undertaken.

Reason: To ensure works are undertaken appropriately.

7. Erosion and Sediment Control

- a) Erosion and Sediment Controls shall be put in place in accordance with the applicable requirements of the "Blue Book" (Landcom [2004], Managing Urban Stormwater: Soils and Construction [4th Edition]), and Volume 2A: "Installation of Services" to ensure downstream aquatic habitats are not impacted. Particular care should be taken when conducting earthworks near watercourses.

Strict Soil Erosion and Sediment Control shall be implemented during the construction process of the skate park. The excavated soil will need to be managed in such a way as to not allow/minimise migration from site and excluded to minimise contact with the public until vegetation works are complete.

Reason: To prevent soil laden water runoff affecting downstream water quality.

8. Inspections

The Principal Certifying Authority (PCA) will require the following mandatory inspections to be undertaken during development works:

- a) Pre commencement/set out
- b) Prior to pouring any in-situ reinforced concrete building element, and
- c) Final Inspection, including fire related elements, prior to Occupation Certificate being issued

Please note: It is the applicant or their representative's responsibility to book inspections with the Lord Howe Island Board at least 48 hours prior. Failure to do so may result in a delay in the inspection being undertaken.

Reason: This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

9. Construction Hours

To limit the impact of the development on adjoining owners, all construction work shall be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays. No construction work shall take place on Sundays or Public Holidays.

Reason: To limit the potential for any loss of amenity to adjoining owners and/or occupiers associated with the construction of the approved works.

10. Notice of Commencement

Notice must be given to the Lord Howe Island Board at least two (2) days prior to the commencement of building work.

Reason: This is a legislative requirement.

11. Erection of construction signs

A sign must be erected in a prominent position on any site on which building work, is being carried out:

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.
- d) Any such sign is to be maintained while the building work is being carried out, but must be removed when the work has been completed,

Reason: This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

ADVICE TO APPLICANT:

1. Significant Native Vegetation

Damage to, or removal of Significant Native Vegetation is prohibited, as per Clause 11 of LEP 2010.

2. 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.

Section 97 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:	Approved:
	
Peter Chapman Date: 6 September 2019 LHI Consultant Town Planner & Director All About Planning Pty Ltd	Peter Adams Date: 10 September 2019 Chief Executive Officer Lord Howe Island Board

Board Meeting: September 2019	Agenda Number: 8 (v)	Record Number: ED19/8298
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Lord Howe Island Board

Planning Assessment Report

1 Item

Combined OC 2019-10 and DA 2019-15 for rear alterations (kitchen and bathroom facilities) Lord Howe Island Bowling Club being Lot 39 DP 757515, Lagoon Road, Lord Howe Island.

2 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 39 DP 757515, Lord Howe Bowling Club, Lagoon Road, Lord Howe Island
Proposal	Rear alterations (kitchen and bathroom facilities) Lord Howe Island Bowling Club.
Owners Consent No	The recommendation of this report includes a resolution that the LHIB grant owners Consent (OC 2019-10) concurrently with DA 2019-15, if the LHIB determine to approve the proposal.
DA No	DA 2019.15
Applicant	Margaret Devine
Estimated Cost of Development	\$390,000.00
Site Inspections	A site inspection was carried out in May 2019.
Zone	Zone 2 Settlement. Proposed development is permissible with the consent of the LHI Board within the zone.
Significant Native Vegetation Map	Part of the lot is mapped Significant Native Vegetation (SNV). The proposed alterations and additions are located within the existing building envelope, and are not located within a SNV mapped area. No SNV will be damaged or removed as a result of the proposal.
Notification	The DA was placed on public exhibition from 06/05/19 until 20/05/19.
Submissions Received	No submissions were received.

3 Consent Authority

Owners Consent

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.

The subject OC proposal does not relate to the subdivision of land, or the creation of new residential dwellings, and as the development has an estimated cost of \$390,000.00 it complies with the above delegations to the CEO.

Development Consent

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

1. The value of the development must not total \$150,000 or more (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.

Although no new dwellings are proposed and no submissions were received during the public exhibition period, the subject development value at \$390,000.00 is over the above conditions and cannot be determined under delegated authority. Therefore, the proposal will be reported to the LHIB for determination.

4 Site Description

The site is identified as the Lord Howe Island Bowling Club, legally described as Lot 39 DP 757515, Lagoon Road, Lord Howe Island. As shown in *Figure 1*, the allotment has an irregular shaped boundary, and includes the Lord Howe Island (LHI) Bowling Club main building, bowling greens, ancillary structures and the LHI Oval. The LHI Bowling Club is accessed from an access off the eastern side of Lagoon Road. The land is landscaped with native species including planted palms, but has manicured bowling greens and cleared sports/playing fields. The proposed alterations will be undertaken within the existing footprint at the rear of the Bowling Club building.

Lot 39 is located in Zone 6 Recreation under the LHI LEP 2010. The lot adjoins Zone 5 Special Uses to the north, and Zone 1 Rural to the east, and adjoins Zone 2 Settlement to the south of the site. Along the western side boundary runs Lagoon Road which adjoins Zone 7 Environment Protection (refer to *Figure 2*). The LHI Bowling Club is located west of the Foreshore Building Line.

There are mapped areas of significant native vegetation (SNV) with a small concentration along the mid northern boundary, and another larger area of SNV within the south-eastern corner of the site, as shown in *Figure 3*. However, no SNV is located near the Lord Howe Island Bowling Club building.

The land is identified as being flood prone. The proposed works will be wholly within the existing building envelope so no additional impact is perceived. The 1% AEP for the site is identified as 4.48m AHD. Floor levels for the renovations are identified as 4.351m AHD (kitchen) and 4.491m AHD (toilets). This is discussed further in *Section 5* of this report.



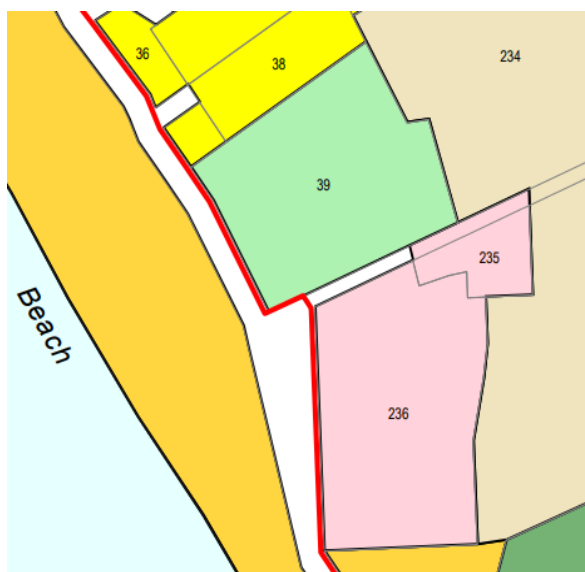


Figure 2: Extract from the LEP 2010 Zoning Map. The site is Zone 6 Recreation in green.

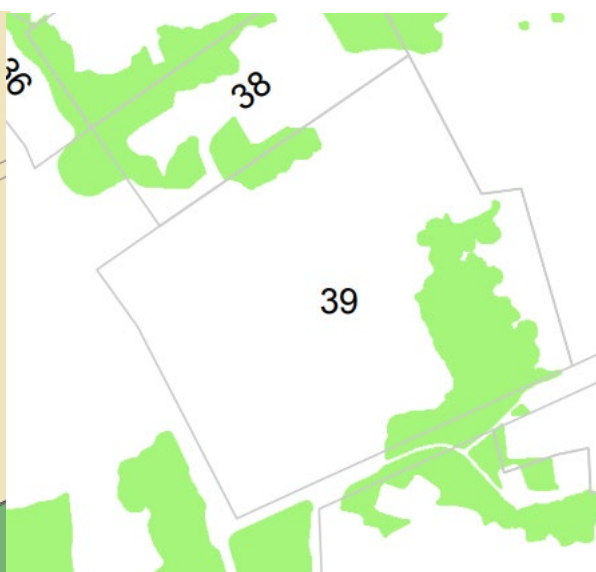


Figure 3: Extract from the LEP 2010 SNV Map. Site outlined in blue. SNV in green.

5 Proposed Development

The proposed OC 2019-10 and DA 2019-15 development are for alterations to refurbish the rear kitchen and bathroom/toilet facilities at the LHI Bowling Club. The proposed works are proposed to ensure improvement in the standard of kitchen and toilet facilities and accessibility within the premises.

The alterations will be undertaken within the existing building envelope and setbacks, with no change to the floor area or existing main roof structure. The external finish of the building will be similar in context to the existing building being weatherboard. The development will not overshadow buildings or obstruct view of adjoining properties. No additional landscape planting is proposed.

The Statement of Environmental Effects lodged with the application states that the existing LHI Bowling Club's gross floor area (GFA) is 475m², being 365m² on ground floor and 110m² within the upper floor level. The proposed area of the existing building to be rebuilt is approximately 70m². As stated earlier these works will not amend the existing GFA of the Club's building.

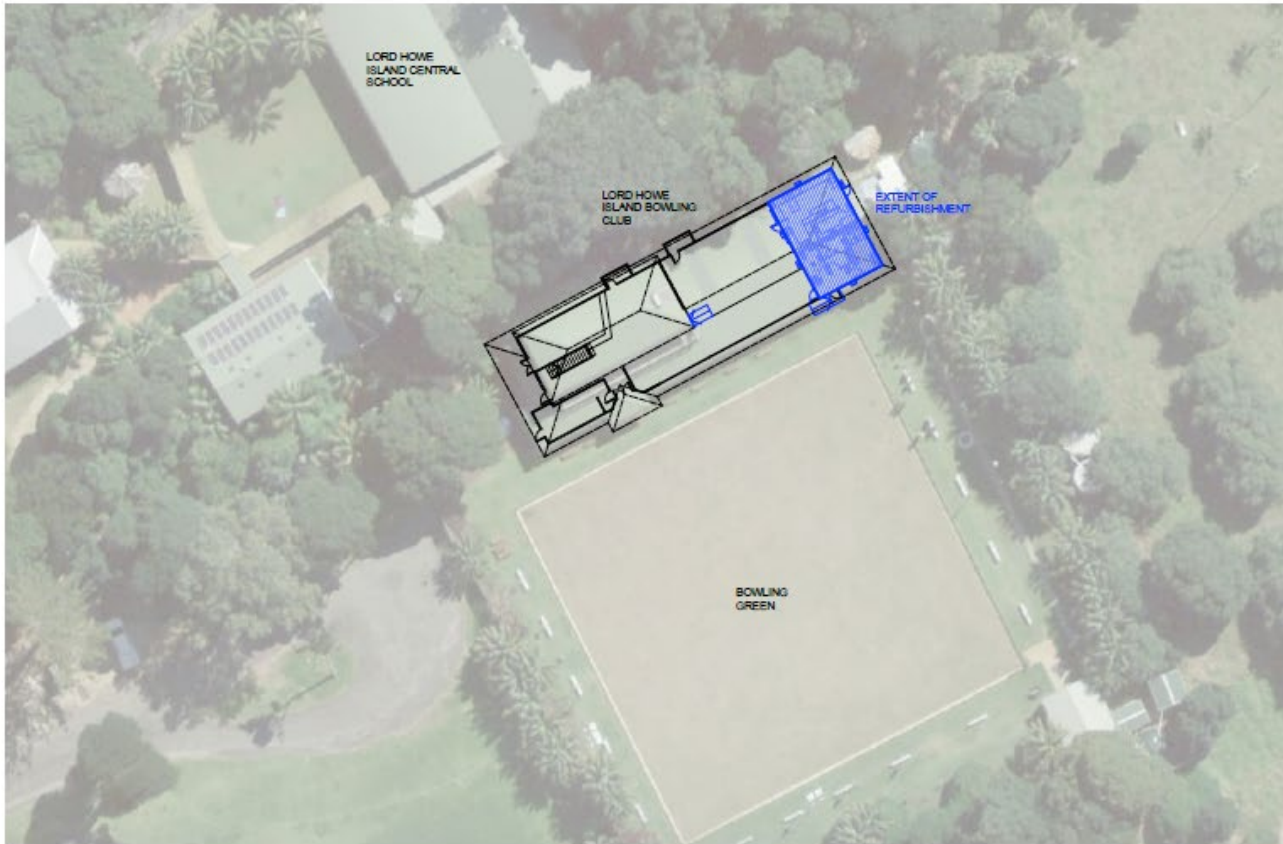
The proponent's plans show that the toilet refurbishment will include facilities with 2 female toilets, 1 male toilet and 3 urinals, and a separate accessible toilet. The kitchen rebuild will include updated appliances, counter and servery, stainless steel kitchen benches, services and equipment, freezer, refrigerator, dry storage area, handwashing and additional sinks. A new reinforced concrete access ramp to the new external door will be constructed with a powder coat finish aluminium handrail.

Although the land is flood prone, the proponent's submitted application identifies that water can be efficiently drained from the site without impacting upon any adjoining neighbours. The proponent states the existing building floor level and proposed floor levels for the rebuild are RL 4.491m and 4.351m respectively. This is below the FPL of 4.78m. The development is a Class 6 non habitable building and the location is in a low velocity flood storage area. Existing site development runoff will be captured by existing rainwater tanks.

There will be no impact on SNV. The eastern end of the existing building near area of rebuild will be utilised to store demolition materials, waste and construction materials.

The waste water treatment system is proposed to be piped to and treated by the LHI Board, LHI Central School and LHI Bowling Club cluster system, and can be constructed with sufficient capacity to adequately service LHI Bowling Club.

The applicant has submitted the following site plan, floor plans, elevations and sections, as reproduced below: (refer to *Figures 4 -7*).



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B	DA / CC Issue	100	24/04/19

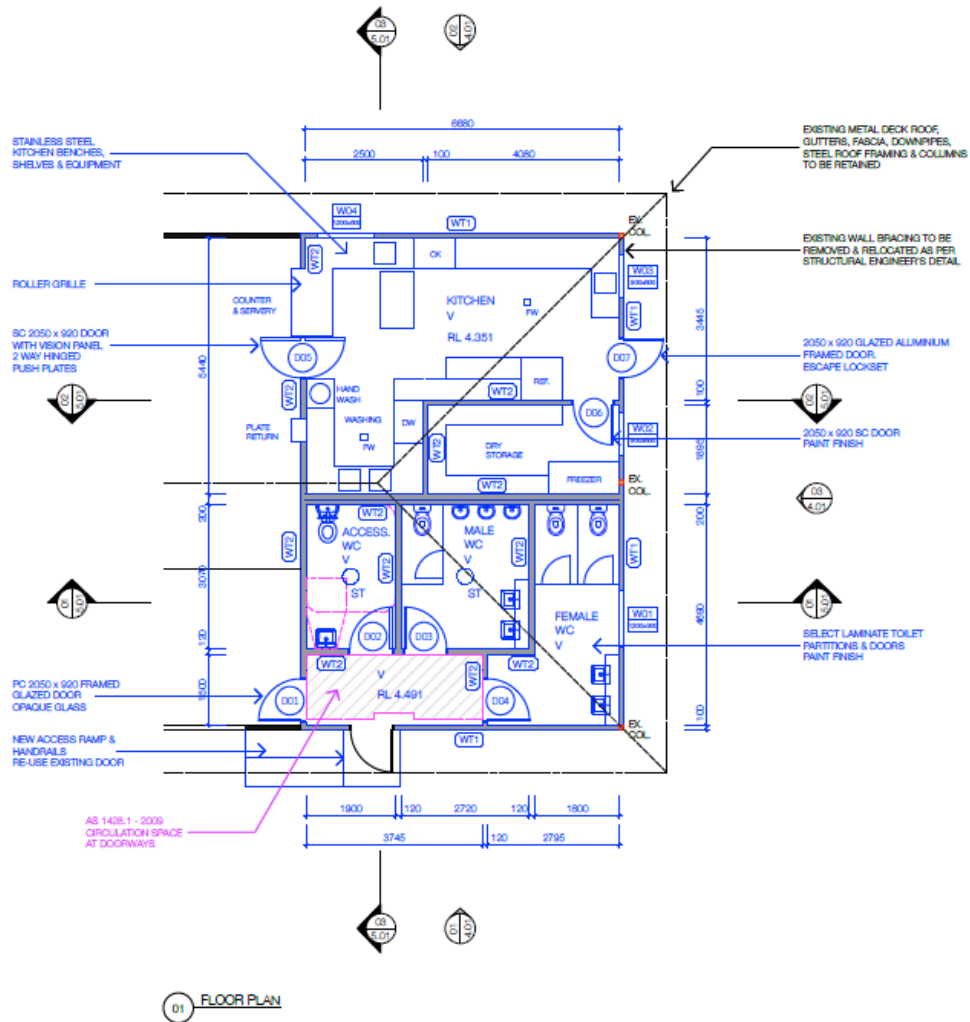


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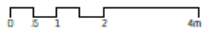


Project	Drawn	Date
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	Checked	Scale: 1:2500(A) 1:5000(B)
	Drawn	Drawn Date: A:J/A1
Title	Scale	Sheet No
SITE PLAN	744CC_A_ 1.00	B

Figure 4: Applicant's submitted site plan

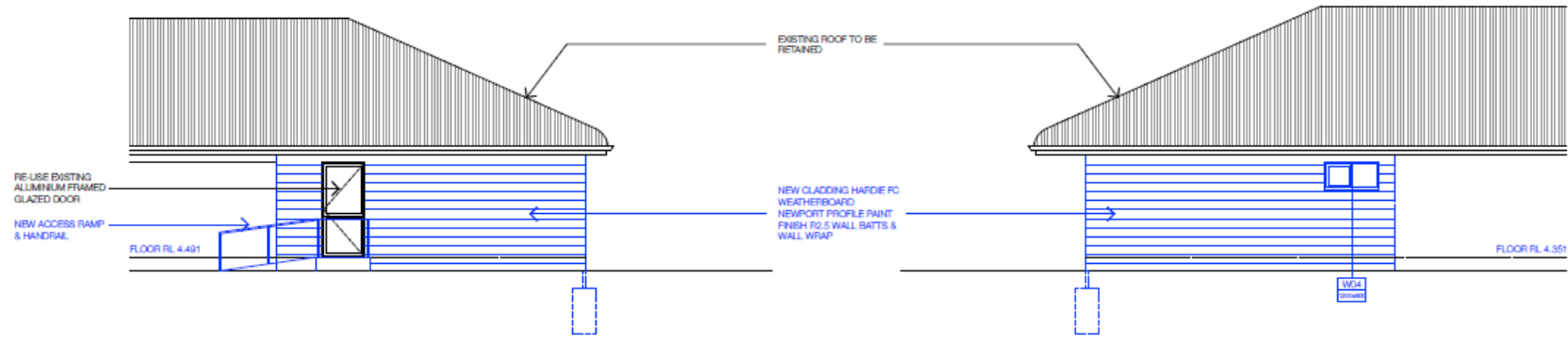


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B	Revised Advanced Copy Issue	80	03/04/19
C	PA / CC Issue	80	24/04/19



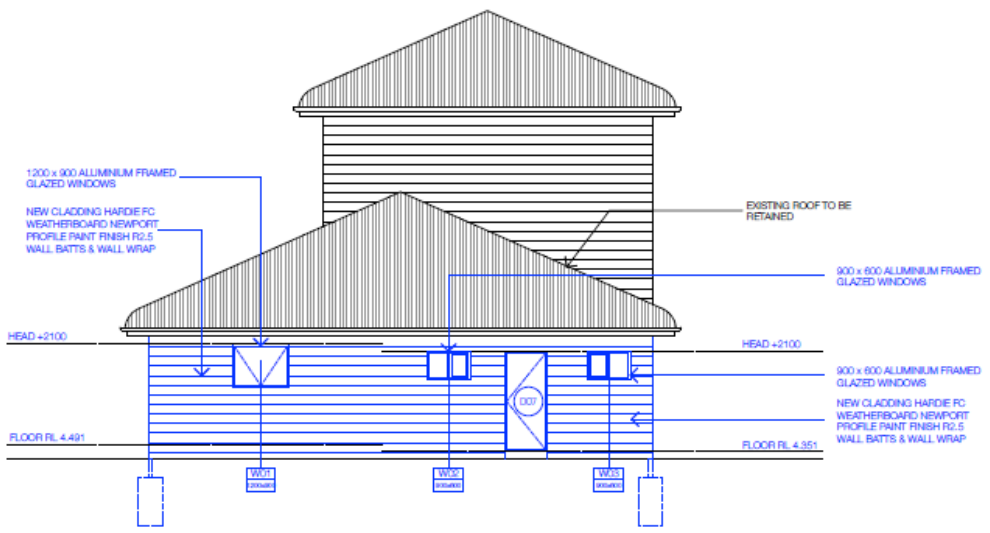
Pages	Drawn	Date
LORD HOWE ISLAND BOWLING CLUB	80	27/03/19
		Scale 1:500(A1) 1:1000(A3)
	Checked	Rev Date A3/A4
FLOOR PLAN	744CC_A	1.02
		Rev Date

Figure 5: Applicant's submitted ground floor plan



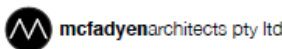
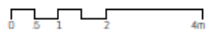
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2 NORTH ELEVATION
Scale: 1:50



03 EAST ELEVATION
Scale: 1:50

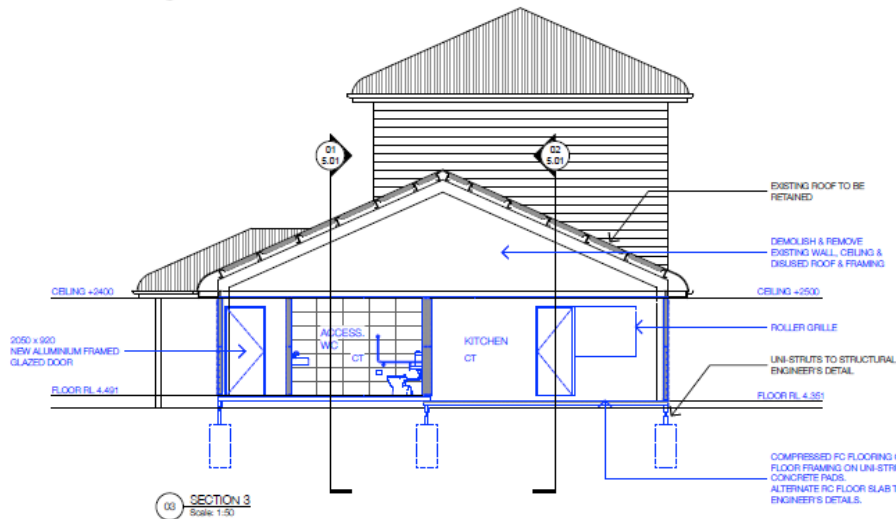
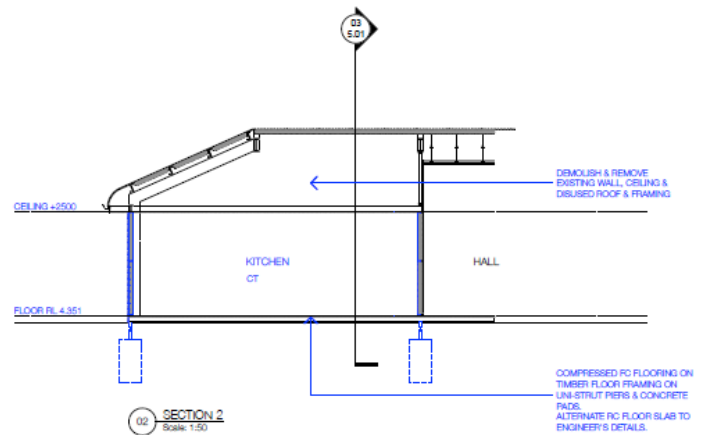
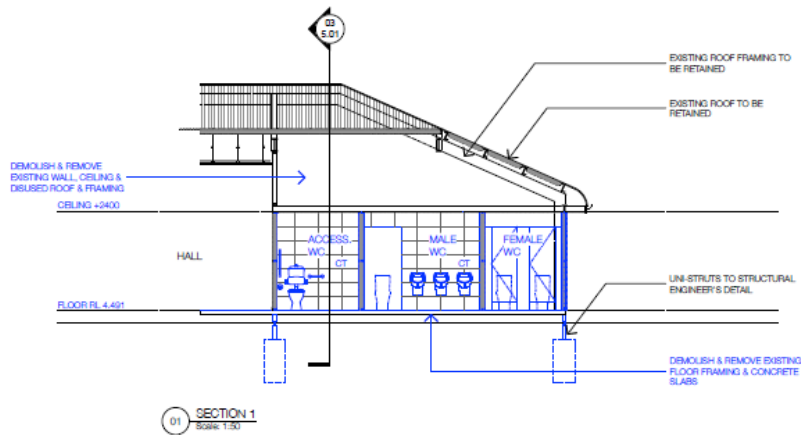
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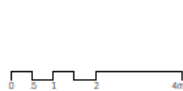
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Pages	Drawn	Date	
LORD HOWE ISLAND BOWLING CLUB	BD	22/02/19	
		Scale 1:250(A3) 1:500(BA3)	
Title	Job No.	Drawing No.	Rev.
ELEVATIONS	744CC_A_	4.01	A

Figure 6: Applicant's submitted elevations



No.	Description	By	Date
A	UK / CC Issue	BD	24/04/19




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 1/113 LIMITED, ANZAC AVENUE SUITE 1/113
 1/113 LIMITED, ANZAC AVENUE SUITE 1/113
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Drawn	By	Date
BD	BD	22/03/19
Checked	JM	Scale: 1:2000(A1), 1:1000(A3)
Date	23/03/19	Sheet Size: A3/A4
744CC_A_5.01		SECTION 3

Figure 7: Applicant's submitted sections

6 Referrals

The LHIB has advised that the application was distributed to the following relevant internal specialists for review. No objections to the proposal have been raised.

6.1 Comments received from internal specialists

Specialist	Issue	Comment
Manager Environment World Heritage (Hank Bower)	No comment as the alterations and additions are located within the existing building envelope, no vegetation removal will occur as a consequence of this proposal.	Noted
Team Leader, Compliance and Projects (Kate Dignam)	<p>Notes relating to issuing of Construction Certificate</p> <ul style="list-style-type: none"> • If the Development Application is approved the applicant is required to apply for a Construction Certificate for the proposed works. No works can commence until a valid Construction Certificate for the works has been issued. • If the applicant is proposing a Performance Solution for any requirements of the BCA/NCC, the relevant Performance Requirements must be determined in accordance with A0.7 of the BCA/NCC. A report outlining any proposed Performance Solutions must be compiled by an appropriate person and submitted with the application for a Construction Certificate. • In the application for a Construction Certificate the applicant is to provide detailed structural engineering plans for the works. Structural plans are to address all actions including construction in Wind Zone A, and are to be certified by an appropriately qualified Structural Engineer in accordance with AS1170.2. • The applicant is to ensure the Construction Certificate plans align with the approved Development Application plans. • In the application for a Construction Certificate the applicant is to provide evidence of payment of a Long Service Levy as per section 34 of the Building and Construction Industry Long Service Payments Act 1986. • Prior to the issuing of a Construction Certificate the applicant is to ensure compliance with any/all conditions imposed by the Board as part the Development Application approval process. <p>Access for People with a Disability</p> <ul style="list-style-type: none"> • If the development is approved the applicant is to ensure compliance with the Disability (Access to Premises – Buildings) Standards 2010 (DS), the National Construction Code (NCC) and AS1428.1. <p>This access must be provided continuously from one dedicated accessible carparking space in the carpark area to the building, through the main pedestrian entry of the building, through the building to reach the new part and within and throughout the new part.</p> <p>Aspects for compliance include, but not limited to:</p> <ul style="list-style-type: none"> ▪ Accessways ▪ Doors and doorways ▪ Handrails and grabrails ▪ Manoeuvring areas ▪ Passing areas 	Noted and recommended accordingly – refer to notes below.

- Ramps
- Symbols and signs
- Toilets

Fire Safety

- If the development is approved the applicant is to ensure that fire-fighting equipment is installed as per the requirements of the NCC for a Class 6 building and the intended use.
- All required Portable Fire Extinguishers are to be located in a conspicuous and readily accessible position with their location indicated by placement of a fire extinguisher location sign as per AS2444-2001.
- The applicant is to ensure that an Annual Fire Safety Statement for the LHI Bowling Club is supplied to the Board as a record of the functionality and ongoing maintenance of any fire safety measures installed.
- The applicant is encouraged to install 38mm 'Storz' fittings to any existing or new water tanks to enhance the Rural Fire Service firefighting capabilities should there ever be a need for firefighting at the LHI Bowling Club.

Flood Management

- The LHI Bowling Club is situated in an area identified as floodplain. As outlined in the Webb McKewon & Associates LHI Floodplain Management Study 1999 (the Study) development in the floodplain should have floor levels elevated at 300mm above the 1% AEP (Annual Exceedance Probability). The 1% AEP for the site is identified as 4.48m AHD. Floor levels for the renovations are identified as 4.351m AHD (kitchen) and 4.491m AHD (toilets).

The Study states: 'Within the Pinetrees to Stevens Reserve catchment there are no high velocity areas so in that sense development could occur anywhere on the floodplain.' The report also states 'The area should be considered as flood storage which means, in general, that development can proceed as long as it is in a flood compatible manner.'

As the LHI Bowling Club is a class 6 building and non-habitable there are no additional requirements under the BCA/NCC nor does the Australian Building Code Board (ABCB) Standard for Construction of Buildings in Flood Hazard Areas apply.

With the above taken into consideration electrical componentry should only be installed above 4.78m AHD in the renovated areas of the LHI Bowling Club.

- The applicant should also be warned of the potential of flooding and recommend for them to take measures to limit their damages.

Health and Amenity

- The NCC requirement for sanitary facilities for a Class 6 building servicing the number of patrons and staff (70), as previously supplied to the Board during planning stages for wastewater requirements, is:
 - Male: 2 x closet pan, 1 x urinal and 2 x washbasin.

- Female: 3 x closet pan, 3 x washbasin and the means for disposal of sanitary towels.
- Accessible Unisex Sanitary compartment – 1 (an accessible unisex sanitary compartment must contain a closet pan, washbasin, shelf or bench top and adequate means of disposal of sanitary towels)
- *The application has satisfied the NCC requirements for sanitary facilities with the exception of the unisex sanitary compartment as there is no indication of a shelf or benchtop on the plans provided.*

Water

- Any potable water provided to the building will be required to meet the Australian Drinking Water Guidelines 2011 and any subsequent amendments to the Guidelines.
- An appropriate drinking water management plan, in compliance with NSW Health requirements and the Public Health Act 2010 and Regulation 2012, is to be provided to the Board and lodged with NSW Health.
- All waterproofing of wet areas, such as bathrooms, is to be certified by an appropriate person. The certification must be provided to the Board before any Occupancy Certificate for the building can be issued.
- All plumbing work, including the connections to the potable water system, is to be undertaken by a licensed plumber.

Wastewater

- The wastewater generated from the LHI Bowling Club is proposed to be piped to and treated by the LHI Board, LHI Central School & LHI Bowling Club Cluster System.
- An agreement is to be entered into between the LHI Bowling Club and the Lord Howe Island Board for the LHI Bowling Club to join the Wastewater Cluster System before any connection to the system. The agreement will outline costs associated with connection, servicing, electricity use and the like.
- All plumbing work, including approved connections to the wastewater system, is to be undertaken by a licensed plumber.
- Decommissioning of Obsolete Septic Tanks
- Once the LHI Bowling Club is connected to the new wastewater treatment system any obsolete septic tanks must be decommissioned in accordance with NSW Health Advisory Note 3 dated January 2017. This Advisory Note can be accessed at: <http://www.health.nsw.gov.au/environment/domesticwastewater/Documents/adnote3.pdf>

Waste Management

- All construction waste is to be contained within the site and then be recycled or disposed of at the authorised waste management facility on the Island.
- Waste disposal fees will be charged in accordance with the Lord Howe Island Board's schedule of fees and charges.

	<ul style="list-style-type: none"> No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. <p>Construction and Demolition</p> <ul style="list-style-type: none"> No excavation to be carried out until the site is inspected by the LHIB Senior Electrical Officer, i.e. 'dial before you dig'. All construction is to be carried out and completed in accordance with the National Construction Code (NCC). All electrical work must be carried out by a licensed electrician and an Electrical Compliance Certificate issued. The certification must be provided to the Board before any Occupancy Certificate for the building can be issued. All works are to be undertaken in accordance with approved Construction Certificate documentation. Pre-Commencement meeting to be arranged with the Owner, Builder and Board Personnel prior to any work commencing on site. If the applicant is nominating the Lord Howe Island Board as the Principal Certifying Authority, this meeting will constitute the pre-commencement and site set out inspection. The applicant is to ensure all Mandatory Inspections are undertaken. <p>Mandatory Inspections</p> <ul style="list-style-type: none"> As a Class 6 building the Principal Certifying Authority (PCA) will require the following Mandatory Inspections to be undertaken during construction: <ul style="list-style-type: none"> a) Pre commencement/set out b) After the commencement of the excavation for, and before the placement of, the first footing c) Stormwater connections d) Final Inspection, including fire related elements, prior to any Occupation Certificate being issued 	
Gary Millman	No site inspection required as alterations and additions are located within the existing building envelope.	

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.

No adverse environmental or ecological impacts from the proposal are envisaged as the alterations and additions are located within the existing building envelope, no vegetation removal will occur as a consequence of this proposal.

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

7.3.2 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 details the LEP provisions relevant to the subject proposal, together with assessment and/or comment as required.

The subject site is located within Zone 6 Recreation, alterations to the LHI Bowling Club are permitted with development consent on the land under the LEP.

LEP 2010 compliance summary table

LEP 2010 Clause		Compliance Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	Y	<p>Each of the aims of the LEP 2010 have been considered in the assessment of this application.</p> <p>The proposed development including demolition and rebuilding works will be undertaken within the existing building envelope, creating minimal negative environmental impact and/or disturbance to protected flora and fauna native to the Island.</p> <p>The proposal will enhance the well-being and welfare of LHI residents and tourists as the kitchen and bathroom facilities will be upgraded to meet the needs of the Bowling Club for future generations.</p> <p>The proposal meets the aims of LEP 2010.</p>
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 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 6 Recreation
14	Zone 6 Recreation	Y	The proposal complies with the LEP zone objectives and is permissible with the consent of the LHIB.

LEP 2010 Clause		Compliance Y/N	Comment
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
22	Tourist accommodation, staff accommodation and commercial premises	Y	The development does not involve the erection, enlargement or extension of any building or commercial premises and will not impact on any significant native vegetation. The proposal will upgrade existing kitchen and bathroom/toilet facilities.
29	Maximum height of buildings	Y	There is no change proposed to the existing building roofline.
Division 2 Provisions that apply to particular land			
34	Land Adjoining Zone 7 or 8	N/A	The proposed works relate to the existing building, therefore no change in the site's relationship or impacts on the adjoining zone 7 land will result.
35	Foreshore Development	N/A	The proposed development is not located within the Foreshore area.
39	Development Affecting Heritage Items	N/A	The subject site is not a listed heritage item or located immediately adjoining any item.

6.3.1.2 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
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>	Y	The LHI Bowling Club is permitted within Zone 6 Recreation, and the upgrade and rebuilding of the kitchen and toilet facilities of the Bowling Club are generally consistent with the aims and objectives of the LEP.
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>	Y	The wastewater generated by the LHI Bowling Club is proposed to be piped to and treated by the LHI Board, LHI Central School and LHI Bowling Club cluster system. It is considered by the LHIB that there is adequate available area for disposal and treatment that will not adversely impact on groundwater quality. After discussion with the LHIB, a condition of consent has been recommended that "Evidence of a Contract or Service Agreement between the applicant and a Lord Howe Island Board accredited Service Agent is required prior to approval for the wastewater management system. The

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
		agreement will outline costs associated with connection, servicing, electricity use and the like. The wastewater generated from the LHI Bowling Club is to be appropriately piped and treated as per requirements of this Agreement". The obsolete septic tanks will also be decommissioned.
c) <i>No part of the proposed development:</i> i. <i>will result in any damage to, or removal of, significant native vegetation, or</i> ii. <i>will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	As stated earlier in this report part of the lot is mapped Significant Native Vegetation (SNV). However the proposal will not be located within mapped SNV and no SNV will be damaged or removed as a result of the proposal.
d) <i>Access is, or will be, available to the site of the proposed development and the provision of any such access will not:</i> i. <i>result in any damage to, or the removal of, significant native vegetation, or</i> ii. <i>have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	No change to the current vehicle access arrangements to/from Lagoon Road or within the site is proposed. Refer also to the above comments on subclause (c) regarding native vegetation.
e) <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	No additional landscaping is proposed or considered required.
f) <i>The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	Y	As stated earlier in this report (ref 6.1) internal referrals , the existing building floor level and proposed floor levels for the rebuild of RL 4.491m and 4.351m respectively, are both above the 1:100 Flood Planning Level (FPL) RL 4.2m height.
g) <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 LHI Bowling Club has existing and adequate services available.
h) <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	As assessed elsewhere in this report, the proposal will not have any significant adverse impacts on the locality.
i) <i>The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	As assessed earlier under the discussion of clause 32, LHI LEP, the proposal will not create any overshadowing of any adjoining land.
j) <i>The proposed development will not cause any significant reduction in</i>	Y	The proposal will not reduce the privacy of any adjoining property.

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
<i>the privacy of occupiers of adjoining land</i>		

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 works on the LHI Bowling Club are generally 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.
2.3	Design Context	Y	As assessed in this report above, the proposal will remain consistent with the existing character and nature of the site and locality.
2.4	Bulk and Scale	Y	The proposal will not cause any additional bulk and scale to the existing building.
2.5	Building Forms	Y	The proposal will not cause any change to the present building form and character of the Island.
2.6	Building Materials & Colours	Y	The proposed replacement building materials and colours will be complimentary and similar to the existing Bowling Club design.
2.7	Energy and water efficiency	Y	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 existing arrangements proposed.
Part 3 Development Control Policy			
3.2	Single Dwellings	N/A	Not applicable.

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 instruments
Comment: An assessment against the LHI LEP 2010 has been undertaken (see Section 7.3.2) 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

An assessment of the environmental impacts of the proposal have been considered elsewhere in this section of the subject report. The table below provides further assessment of any likely impacts.

Likely environmental impacts

Potential Impacts	Proposal
Access, Transport and Traffic	There will be no change to the existing access into or within the subject site or public pedestrian or vehicular movement on Lagoon Road from the proposed development.
Public Domain, Visual and Streetscape	The proposed demolition, and alterations to the rear kitchen and bathroom/toilet facilities will be undertaken within the existing building envelope, with replacement materials being complimentary to the existing site context as the LHI Bowling Club design.
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.
Flood	The existing building floor level and proposed floor levels for the rebuild of RL 4.491m and 4.351m respectively, are both above the 1:100 Flood Planning Level (FPL) RL 4.2m height.
Heritage	The subject site is not listed as a heritage item.
Views	No additional views will be impacted as a consequence of the proposed development.
Privacy	The proposal will not change the existing privacy arrangements.
Open Space	Open space will not be impacted by the proposal.
Social and economic Impact in Locality	There will be no adverse social or economic impact. The proposal will upgrade the bathroom/toilet and kitchen facilities enhancing the facility for users. The wastewater generated can be adequately serviced and

	treated when connected to the proposed LHIB wastewater disposal cluster system.
Construction	The development will permit alterations to demolish the rear existing wall, ceiling and disused roof and framing, and rebuild the kitchen and bathroom/toilet facilities at the LHI Bowling Club. The development consent (if approved) will include appropriate conditions relating to construction works and public safety.

- c) the suitability of the site for the development

Having regard to its location, and the preceding assessment, the proposed development will be undertaken within the existing building envelope, and will upgrade the rear LHI Bowling Club kitchen and bathroom/toilet facilities and is 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 no submissions were received to the notification of the proposal.

- e) the public interest

For the reasons outlined in the preceding assessment, it is considered that the proposed works on the LHI Bowling Club will be in the public interest, subject to appropriate conditions included in the attached recommendation.

9 Conclusion

This combined OC and DA 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.

The application for rear alterations to upgrade the kitchen and bathroom/toilet facilities of the Lord Howe Island Bowling Club is considered to have planning merit and is supported subject to the application of a number of conditions and advisory notes outlined in the following recommendation.

10 Recommendation (Conditional Approval)

Owners Consent and Development Consent Recommendation (Conditional Approval)

That OC 2019-08 and DA 2019.15 for alterations and additions (kitchen and bathroom facilities) to Lord Howe Island Bowling Club being Lot 39 DP 757515, Lagoon Road, Lord Howe Island, be approved subject to 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 No. 2019-15 as listed below and endorsed with the Lord Howe Island Board's stamp, except where amended by other conditions of consent.

- a) Completed Applications for Owners Consent and DA Forms prepared by Margaret Devine, Lord Howe Island Bowling Club dated 03.05.2019.
- b) Statement of Environmental Effects prepared by Margaret Devine submitted with the DA Form, and undated.
- c) The Architectural plans prepared and details provided by McFadyen Architects Pty Ltd submitted with Development Application, Drawing Nos. 744CC: A-0.00, 0.01, 1.00, 1.01, 1.02, 4.01, & 5.01, Rev A, B, & C, dated 24.04.19.

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

2. Construction Certificate

- a) The applicant is to submit to the Lord Howe Island Board, a Construction Certificate for the proposed works. No works can commence until a valid Construction Certificate for the works has been issued.
- b) A construction certificate is required to be approved and issued by an Accredited Certifier, prior to the commencement of any works on site.
- c) All Construction work is to be carried out and completed in accordance with the National Construction Code (NCC) / Building Code of Australia (BCA). An applicant proposing a Performance Solution for any requirements of the BCA/NCC, must be determined in accordance with the relevant Performance Requirements and A0.7 of the BCA/NCC. A report outlining any proposed Performance Solutions must be compiled with by an appropriate person and submitted with the application for a Construction Certificate.
- d) **Prior to the issuing of a Construction Certificate** the applicant is to provide **detailed structural engineering plans** for the development works. The structural plans are to address compliance with construction in Wind Zone A, and are to be certified by an appropriately qualified Structural Engineer in accordance with AS1170.2.
- e) The applicant is to ensure that the Construction Certificate Plans are the same as the approved DA Plans.
- f) Prior to issuing a Construction Certificate the applicant is to provide evidence of payment of a Long Service Levy as per section 34 of the Building and Construction Industry Long Service Payments Act 1986.
- g) Prior to the issuing of a Construction Certificate the applicant is to ensure compliance with any/all conditions imposed by the Board as part the Development Application approval process.

Reason: To ensure construction is undertaken in accordance with requirements.

3. Access for People with a Disability

- a) The applicant is to ensure compliance with the Disability (Access to Premises – Buildings) Standards 2010 (DS), the National Construction Code (NCC) and AS1428.1.

Prior to the Construction Certificate, this access must be provided continuously from one dedicated accessible carparking space in the carpark area to the building, through the main pedestrian entry of the building, through the building to reach the new part and within and throughout the new part.

Aspects for compliance include, but not limited to:

- Accessways
- Doors and doorways
- Handrails and grabrails
- Manoeuvring areas
- Passing areas
- Ramps
- Symbols and signs
- Toilets

Reason: To ensure compliance with regulatory provisions to ensure access, safety and amenity for people with a disability.

4. Ecology and Habitat

- a) 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 garage bedsits/structures) away from the development site so they can escape predation by predators such as LHI Currawong, LHI Woodhen and rodents.
- b) All building materials and building activity are restricted to being stock piled on cleared open areas.

Reason: To ensure ecological communities are not adversely impacted by the development.

5. Fire Safety

- a) Prior to the Occupation Certificate, the applicant is to ensure that fire-fighting equipment is installed as per requirements of the NCC for a Class 6 building and the intended use.
- b) The applicant is to ensure all required Portable Fire Extinguishers are to be located in a conspicuous and readily accessible position with their location indicated by placement of a fire extinguisher location sign as per AS2444-2001.
- c) The applicant is to have an Annual Fire Safety Statement for the LHI Bowling Club and submit to the Lord Howe Island Board as a record of the functionality and ongoing maintenance of any fire safety measures installed.
- d) The applicant is encouraged to install 38mm 'Storz' fittings to existing and new water tanks, to enable the Rural Fire Service firefighting capabilities should there be a need for firefighting at the residence.

Reason: To ensure the resulting development is fire safe.

6. Flood Management

- a) As the site is identified as floodplain, any electrical componentry should only be installed above 4.78m AHD in the renovated areas of the LHI Bowling Club.

Advice: The LHI Bowling Club is situated in an area identified as floodplain. As outlined in the Webb McKewon & Associates LHI Floodplain Management Study 1999 (the Study) development in the floodplain should have floor levels elevated at 300mm above the 1% AEP (Annual Exceedance Probability). The 1% AEP for the site is identified as 4.48m AHD. Floor levels for the renovations are identified as 4.35m AHD (kitchen) and 4.49m AHD (toilets).

The Study states: 'Within the Pinetrees to Stevens Reserve catchment there are no high velocity areas so in that sense development could occur anywhere on the floodplain.' The report also states 'The area should be considered as flood storage which means, in general, that development can proceed as long as it is in a flood compatible manner.'

As the LHI Bowling Club is a Class 6 building and non-habitable, there are no additional requirements under the BCA/NCC nor does the Australian Building Code Board (ABCB) Standard for Construction of Buildings in Flood Hazard Areas apply.

Reasons: To warn and recommend measures to limit damages from potential flooding events.

7. Health and Amenity

- a) The plans are to be amended to ensure that the unisex sanitary compartment has a shelf or benchtop provided.

Advice: The NCC requirement for sanitary facilities for a Class 6 building servicing the number of patrons and staff (70), as previously supplied to the LHI Board during planning stages for wastewater requirements, is:

- Male: 2 x closet pan, 1 x urinal and 2 x washbasin.
- Female: 3 x closet pan, 3 x washbasin and the means for disposal of sanitary towels.
- Accessible Unisex Sanitary compartment – 1 (an accessible unisex sanitary compartment must contain a closet pan, washbasin, shelf or bench top and adequate means of disposal of sanitary towels)

Reasons: To ensure compliance with NCC health requirements for sanitary facilities.

8. Installation and System Performance Requirements for Wastewater

- a) The wastewater generated from the LHI Bowling Club is proposed to be piped to and treated by the LHI Board, LHI Central School and LHI Bowling Club cluster.
- b) An agreement is to be entered into between the LHI Bowling Club and the Lord Howe Island Board for the LHI Bowling Club to join the Wastewater Cluster System before any connection to the system. The agreement will outline costs associated with connection, servicing, electricity use and the like.
- c) All plumbing work, including approved connections to the wastewater system, is to be undertaken by a licensed plumber.

9. Decommissioning of Obsolete Septic Tanks

Once the LHI Bowling Club's new wastewater treatment connection/system is operational, the existing obsolete septic tanks must be decommissioned in accordance with NSW Health Advisory Note 3 dated January 2017. This Advisory Note can be accessed at:

<http://www.health.nsw.gov.au/environment/domesticwastewater/Documents/adnote3.pdf>

Reason: To ensure compliance with regulatory requirements.

10. Water

- a) Any potable water provided to the building will be required to meet the Australian Drinking Water Guidelines 2011 and any subsequent amendments to the Guidelines.
- b) An appropriate drinking water management plan, in compliance with NSW Health requirements and the Public Health Act 2010 and Regulation 2012, is to be provided to the Board and lodged with NSW Health
- c) The applicant is to ensure that all plumbing work, including the disconnections and connections is to be undertaken by a licensed plumber.
- d) The applicant is to ensure that all waterproofing of wet areas such as bathrooms is to be certified by an appropriate person. The waterproofing certification is to be provided to the Board before issuance of an Occupancy Certificate.

Reason: To ensure works are undertaken appropriately.

11. Waste Management

- a) The applicant is to ensure that any waste generated from the proposed development is to be contained within the site and then be recycled or disposed of at the authorised waste management facility on the Island. This excludes asbestos waste, if any, which is the responsibility of the applicant to remove from the Island.
- b) No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow,

wash, percolate or otherwise escape from the site.

- c) The applicant is advised that waste disposal fees will be charged in accordance with the Lord Howe Island Board's schedule of fees and charges.
- d) **Asbestos**
If any material containing asbestos is found on site during the demolition/ construction process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriate asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.

Reason: To ensure the proper removal of waste is carried out.

12. Construction and Demolition

- a) The applicant is to ensure that any electrical work must be carried out by a licensed electrician and an Electrical Compliance Certificate issued with, or before, the application for Occupancy Certificate for the building additions and alterations.
- b) All construction work is to be carried out and completed in accordance with the National Construction Code (NCC)/ Building Code of Australia (BCA).
- c) All works are to be undertaken in accordance with approved Construction Certificate documentation.
- d) Pre-Commencement meeting to be arranged with the Owner, Builder and Board Personnel prior to any work commencing on site. If the applicant is nominating the Lord Howe Island Board as the Principal Certifying Authority, this meeting will constitute the pre-commencement and site set-out inspection.
- e) No excavation is to be commenced until the site is inspected by the Lord Howe Island Senior Electrical Officer (ie. Dial before you dig).
- f) All demolition works shall be undertaken in accordance with Australian Standard AS 2601—1991: The Demolition of Structures.

Reason: To ensure works are undertaken appropriately.

13. Electrical

- a) No electrical work shall be undertaken until the electrical "Additions and Alterations" form is submitted to the LHIB and any arising notice of requirements issued.
- b) All additional wiring must be carried out by a licensed electrical contractor to AS/NZS3000.2018 standards. A signed Compliance Form for Electrical Works is required from the contractor within 7 days of completion of all new electrical works.

14. Inspections

The Principal Certifying Authority (PCA) will require the following mandatory inspections to be undertaken during development works:

- a) Pre-commencement and site set-out
- b) After the commencement of the excavation for, and prior to the placement of, any footings
- c) Storm-water connections
- d) Final Inspection after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

Please note: It is the applicant or their representative's responsibility to book inspections with the Lord Howe Island Board at least 48 hours prior. Failure to do so may result in a delay in the inspection being undertaken.

Reason: This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

15. Construction Hours

To limit the impact of the development on adjoining owners, all construction work shall be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays. No construction work shall take place on Sundays or Public Holidays.

Reason: To limit the potential for any loss of amenity to adjoining owners and/or occupiers associated with the construction of the approved works.

16. Notice of Commencement

Notice must be given to the Lord Howe Island Board at least two (2) days prior to the commencement of building work.

Reason: This is a legislative requirement.

17. Erection of construction signs

A sign must be erected in a prominent position on any site on which building work, is being carried out:

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.
- d) Any such sign is to be maintained while the building work is being carried out, but must be removed when the work has been completed,

Reason: This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

18. Site Landscaping

Existing site landscaping and all major areas of native plantings on site are to be protected and maintained.

No significant native vegetation is to be removed or damaged.

Reason: To minimise vegetation removal.

ADVICE TO APPLICANT:

1. Significant Native Vegetation

Damage to, or removal of Significant Native Vegetation is prohibited, as per Clause 11 of LEP 2010.

2. 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

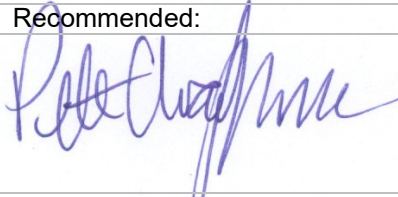

A matter of national environmental significance (NES) matter; or Commonwealth land without an approval from the Commonwealth Environment Minister.

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.

Section 97 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: 
Peter Chapman Date: 19 August 2019 LHI Consultant Town Planner & Director All About Planning Pty Ltd	Peter Adams Date: 4 September 2019 Chief Executive Officer Lord Howe Island Board

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Proposal to make the Lord Howe Island Board a Planning Proposal Authority

RECOMMENDATION

That the Board write to Planning Industry and Environment supporting amendments to the Environmental Planning and Assessment Act to become a Planning Proposal Authority.

BACKGROUND

The Lord Howe Island Act provides for the application of the Environmental Planning and Assessment Act. Currently when preparing an amendment to the Local Environment Plan (LEP) the Board prepares a planning proposal. The LEP stage 1 amendments is an example of a planning proposal recently prepared by the Board. However the Board is unable to submit the planning proposal direct to the Department of Planning, Industry and Environment (DPIE), rather DPIE forward the planning proposal to the Planning Secretary who is delegated to submit the planning proposal on behalf of the Board. This is predominantly an administrative step and does not appear to add any value to the planning process and slows the application process down.

CURRENT POSITION

The Lord Howe Island Board is not currently identified as a local planning proposal authority. Below is a bullet point summary of the legislative context for the proposed changes:

- Lord Howe Island is not a local government area under the Local Government Act 1993.
- Councils are constituted under the Local Government Act for each local government area (section 219 of the Local Government Act). Section 15A (2) of the Lord Howe Island Act 1953 does not provide that the Board is taken to be a council of a local government comprising the Island. Section 15A(2)(b) states that the Board is taken to be a council over a certain 'area' of land, but not for a local government area.
- The Board is therefore not a planning proposal authority in accordance with Section 3.32(1)(a) of the Environmental Planning and Assessment Act 1979 (the Act).
- The Minister could direct that the Board is a planning proposal authority, provided it is prescribed by the regulations (section 3.32(1)(b) of the Act).
- There are currently no planning proposal authorities prescribed in the Environmental Planning and Assessment Regulation 2000, so an amendment to the regulation

would be needed to prescribe that the Board is a planning proposal authority (this is one of the matters being considered in the current Regulation amendment).

- The current approach has been that under Section 3.32(2)(e) of the Act, the Minister may direct that the Secretary of the Department of Planning, Industry and Environment is the planning proposal authority where the proposed instrument is to apply to an area that is not within a local government area.

Planning staff from the Grafton office of Planning Industry and Environment are in the process of preparing a submission to cabinet to amend the Environmental Planning and Assessment Regulation to include Lord Howe Island as a local planning proposal authority. Board staff have been advised that there will be a formal consultation process once the amendments have been considered by Cabinet.

The practical implications for the Board becoming a planning proposal authority are as follows:

Public exhibition

As a planning proposal authority the Board would conduct the public exhibition of a planning proposal which would normally require the placement of an advertisement in the local newspaper, display of the proposal at physical locations nominated by the Board and display of the proposal on the Board's website.

Government Agency Consultation

As a planning proposal authority the Board would conduct the consultation with state and/or federal government agencies as required by the Gateway determination for a planning proposal. This would involve writing to the agencies providing a copy of the proposal and reviewing the comments made by the agency.

Consideration of Submissions

As a planning proposal authority the Board would consider the matters raised in submissions to a planning proposal during public exhibition. A report would need to be prepared for the Board on the matters raised in the submissions and whether any changes to the proposal are recommended. The Board would then resolve how to proceed with the proposal being whether to amend the proposal or request that the proposed LEP amendments be made as exhibited.

The primary advantage of the Board being a planning proposal authority is that it will streamline the approval process for amendments to the LEP. Currently, the Planning Secretary acts as the planning proposal authority on behalf of the Board. The Department, upon receiving a planning proposal from the Planning Secretary (on behalf of the Board) then issues instructions to the Planning Secretary on what steps need to be undertaken to satisfy the Department. This is known as a Gateway determination, and the instructions usually include matters such as specific public consultation activities, and requests for specific additional studies relevant to the proposal.

The planning proposal authority is then responsible for carrying these actions out. Currently this is the Planning secretary, who liaises with the Board to undertake the community consultation and directs the Board to undertake the relevant studies and community consultation.

In practice, as the Planning Secretary directs the Board as to what consultation activities need to be undertaken and the Board then undertakes the consultation, the resource implications for the actual consultation process will be about the same.

The Board will incur an additional resource burden in having to collate the consultation results and prepare a report to the Department on the outcome. The cost of this is partly counterbalanced by the opportunity the Board would gain from being able to review the consultation feedback and if desired amend planning proposal or address community concerns. This would be done prior to sending the consultation feedback back to the Department.

Under the proposed arrangement the Board will be able to issue the planning proposal direct to the Department who will then make a Gateway determination and issue the instructions direct to the Board. This significantly streamlines the process.

The other advantage of becoming a Planning Proposal Authority is that it gives the Board the ability to receive or reject third party planning proposals – ie from a lease holder or developer. Under the current situation the only way a third party can request consideration of a planning proposal is for them to approach the Department directly and request that the Planning Secretary submits the planning proposal. This means the Board has in theory no input into the acceptances or rejection process, although in practice it would be highly unusual for the Secretary to not consult with the Board. The overall benefits of being able to accept planning proposals is unclear, as to date, there have been very few third party planning proposals presented to the Board for consideration.

If the Board were to be delegated as planning proposal authority it would also open the opportunity for the Board to become a plan making authority. This role would see the Board responsible for making the new plans including the maps. This is not a compulsory role and many Council's frequently decline to take on this role when pursuing LEP amendments due to the expense and controversies that inevitably arise when a LEP map is amended. It is anticipated that for the foreseeable future that the Department will continue to take on the local plan making authority role.

Alternatives

The Board could write to DPIE and request that the Board not be made a planning proposal authority. So far the Grafton Office of DPIE have indicated that they are keen for the Board to have input into this decision making process, however there is no statutory obligation on DPIE or the State Government to honour our concerns. If the Board were to not be made a planning proposal authority the process for LEP amendments would remain the same as they currently are. This means that each proposal will be delayed by the several weeks or more for the time it takes for the Department to appoint the Planning Secretary, and the Board would have less opportunity to manage the community consultation process or amend a planning proposal in response to community consultation.

Conclusion

As a planning proposal authority the Board will have the opportunity to streamline the process of submitting and preparing a planning proposal. The Board will incur an additional resource burden in having to collate and review all community consultation reports and detailed studies, but this burden is offset by the greater control the Board gains over the process. As a planning proposal authority the Board does not gain any additional autonomy over determining the final outcome of a planning proposal but it does gain some opportunity to influence the kinds of planning proposals that are presented to the Department for determination.

RECOMMENDATION

That the Board write to Planning Industry and Environment supporting amendments to the Environmental Planning and Assessment Act to become a Planning Proposal Authority.

Prepared: Justin Sauvage Manager Environment and Community Services
Endorsed: Peter Adams CEO LHIB

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Update on Biosecurity Operations Plan Resourcing for Lord Howe Island

RECOMMENDATION

1. That this report be received and noted.
2. That a more detailed report be prepared for presentation at the Boards November 2019 meeting.

BACKGROUND

In 2016 the Board adopted the LHI Biosecurity Strategy 2016, which identifies the movement of freight via the Island Trader and aircraft as potential high to very high risk pathways for biosecurity matter entering LHI.

High to very high risk material includes mammals (including rodents), reptiles, amphibians, tramp ants, invertebrates, plants and plant pathogens. The LHI Biosecurity Strategy 2016 identifies increased inspections of freight at Port Macquarie and training of stevedores and providers as mitigating measures to address the risk pathways. It identifies that prevention and preparedness remain the most cost-effective approaches when managing biosecurity threats and incursions. In order to reduce the risk of incursions to Lord Howe Island, there is a need to improve the LHIB's biosecurity measures pre-border and to increase inspection regime for all pathways and risks.

Section 9 of the LHI Biosecurity Strategy 2016 identifies the following legal obligations applicable to the Board in undertaking its biosecurity duty:

- World Heritage Convention - Australia has obligations under Article 5, including: to protect, conserve and present the World Heritage values of the property
- EPBC Act, the Commonwealth can among other things: List key threatening processes and recovery plans (i.e. LHI Biodiversity Management Plan 2007 which has numerous actions related to biosecurity).
- LHI Act makes provision for the care, control and management of LHI. In relation to Biosecurity it defines the LHIB charter, functions and regulations including:
 - to manage, protect, restore, enhance and conserve the Island's environment;
 - take all practicable measures to protect and conserve the fisheries, fauna and flora of the Island

- prohibiting the introduction of any species of fauna or flora to the Island or prescribing conditions in relation to the introduction of any species of fauna or flora
 - the destruction of plants declared by the regulations to be noxious
 - regulation, control or prohibition of exotic plants on the land
- NSW Biosecurity Act 2015 – outlines the general biosecurity duty for people to be aware of their surroundings and take action to prevent the introduction and spread of pests, diseases, weeds and contaminants. For the LHIB, this translates to “if we are aware of risks we need to take reasonable steps to protect”

As part of the Rodent Eradication Program (REP), biosecurity detection dogs were purchased and trained, and dog handlers recruited, to enable improved biosecurity measures, specifically to detect remaining individual rodents post-REP baiting, as well as for ongoing island-wide rodent/pest surveillance and any subsequent incursion response. The Biosecurity detection dogs have been trained to detect rodents (rat/mouse), reptiles (snake/lizard) and amphibians (frog/cane toad).

CURRENT POSITION

The LHI Biosecurity Strategy 2016 outlines the Board’s legal obligations relating to biosecurity, identifies the risks to be managed and mitigated, and provides recommendations to increase biosecurity and manage risks. These have been trialed and are now being adjusted to ensure an appropriate level of protection and management is provided to protect investments made in various eradication and threatened species recovery programs being implemented on World Heritage listed Lord Howe Island.

In June 2019 the Board engaged an expert independent biosecurity auditor to review the Board’s existing biosecurity measures on Island and review inspection operations pre- and post-border. This included an assessment of the implementation of current biosecurity strategies and protocols in place for the storage, transport and delivery of goods and bulk cargo to Lord Howe Island and the efficacy of inspection procedures/regimes. This audit identified opportunities for improving biosecurity practices and facilities at departure and arrival points.

It recommended increased resourcing for biosecurity staffing to ensure:

- all voyages of the Island Trader are satisfactory inspected pre-border at Port Macquarie and post-border at LHI, which requires a minimum of two staff to be present at the LHI jetty for each day of unloading;
- all freight flights are inspected and over 90% of passenger flights are inspected;
- inspection of incoming private vessels;
- that there are adequate staff provisions to have a handler and dog working daily to hunt rodents on LHI during the REP;
- ongoing monitoring of surveillance and incursion response tools and devices;
- increased biosecurity leadership, education and engagement.

In June 2019 the Board received funds from the North Coast Local Land Services for improvements to Biosecurity measures for WH listed Island, which includes vermin proofing the Birdon Shed at Port Macquarie, rapid response kits and pallet inspection stands. Further funding opportunities for improving biosecurity measures for Lord Howe Island are being explored.

Current biosecurity activities include:

- Use of two person crew to inspect the island trader on island each visit. Two person crew required to allow for meal breaks, to inspect all priority freight and respond to incidents without gaps in detection.
- Biosecurity detection dogs inspecting 90% of freight flights and 50% passenger flights.
- Approvals and monitoring of imports for biosecurity risk.
- Pre-border (Port Macquarie) inspections with LHIB Biosecurity Officer and detection dog of Island Trader prior to and during loading. Also includes inspections of Eastern Air hangers and Birdon facilities, maintenance of baiting and monitoring devices, and education and awareness for stevedores, carriers and suppliers. This requires 4 days at Port Macquarie. Currently this includes:
 - o LHIB Biosecurity Officer and dog to fly return to Port,
 - o Accommodation for four nights
 - o Vehicle Hire
 - o Meal allowance.

On 20 June 2019 approval was granted at a Special Board Meeting to set the establishment for the Board and to further approve changes specific to the 2019/20 Salaries & Wages Budget:

The following was approved.

- Recognition of Dog Handlers on a full-time basis (7 days per week) now expensed against the Board's recurrent Budget at 1.05 FTE in 2019/20 (previously under REP), and recognised as 1.40 FTE in future years.

From 21 August 2019, the contract for engaging the Biosecurity Dog Handler roles through the REP ended. A 'Request to Fill' was submitted seeking an additional 0.4 FTE to meet increased biosecurity inspection and monitoring requirements. This was approved till November 2019 subject to preparation of a paper for consideration at the November Board meeting providing further detail on biosecurity requirements and resource implications.

RECOMMENDATION

1. That this report be received and noted.
2. That a more detailed report be prepared for presentation at the Boards November 2019 meeting.

Prepared: Hank Bower Manager Environment & World Heritage

Endorsed: Peter Adams Chief Executive Officer, Lord Howe island Board

Board Meeting: November 2016	Agenda Number: 8 (viii)	File Ref: PN001
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Lord Howe Island Weed Management Strategy 2016

RECOMMENDATION

To adopt the Draft Lord Howe Island Weed Management Strategy 2016 subject to making changes to align it with the *Biosecurity Act 2015*.

BACKGROUND

At its meeting of 22 March 2016, the Board resolved that the Draft Weed Management Strategy 2016 be placed on Public Exhibition for 28 days. Submissions were received up till the 25 May 2016.

In addition to the submission process, the LHI Weed Technical Panel, established to provide advice on the weed program, met on island on the 21 October 2016 to provide technical review of the Strategy and weed eradication program methodology.

Of the 18 submissions received, 94% supported the continuation of the strategic approach identified in the 2006 Weed Management Strategy which forms the basis of the Draft 2016 Strategy. All submissions acknowledge the achievements from the past 10 years and support the effort to continue the effective management of weeds on LHI.

There were two key phrases from submissions worth noting - *Invest Don't Rest* and a comment that the weed program has been the '*Conservation Heart Beat*' over the island for the last decade or more.

Feedback from the Technical Panel emphasised the importance of continuing the program post rodent eradication, as browsing pressure on weeds will be reduced.

CURRENT POSITION

Attachment 1a provides a summary of the submissions; key issues raised and recommended changes to the Strategy.

Attachment 1b provides a summary of feedback from the LHI Weed Technical Panel meeting.

The Draft LHI Weed Management Strategy 2016 has been amended to incorporate changes of format and editing. Changes regarding technical aspects of the weed eradication program methodology have also been made.

These include amendments to:

- improve effectiveness in weed eradication management with reducing weed populations;
- increase the search interval for residual mature weeds,
- research weed seed persistence, data categories and collection methods,
- remain alert
- upgrade weed categories post rodent eradication, and
- commission a technical review every three years to forecast future direction and funding needs.

Search methodology and feasibility of a multi weed species eradication program were discussed with the Technical Panel. The advice was that the Board needs to continue to apply effort to continue the effort to further deplete and reduce the immediate threat of weeds. The Panel also stressed the importance of removing ecosystem transformer weeds to avoid replacing one weed with another, as most inhabit the same environment. The development of an operations manual to provide more technical detail on eradication program methodology and weed species traits to support the Strategy was also advised.

A key point raised in feedback is that the weed categories in the Strategy will need to align to the *Biosecurity Act 2015*. Advice is expected from the Department of Primary Industries in this regard, and amendments will be made to the Strategy after receipt of that advice.

The outcomes of the program were recognised and suggestions made that the program has significant benefits for tourism which need to be promoted. Finally the Board will need to continue to seek external funding to implement the Strategy.

RECOMMENDATION

To adopt the Draft Lord Howe Island Weed Management Strategy 2016 subject to making changes to align it with the *Biosecurity Act 2015*.

Prepared _____ Sue Bower Flora Management Officer

Endorsed _____ Penny Holloway Chief Executive Officer

Attachment 1a: Draft Weed Management Strategy Submission Report

BACKGROUND

At its meeting of 22nd March 2016, the Board resolved that the Draft Weed Management Strategy 2016 be placed on Public Exhibition for 28 days. It was advertised in the Community Information Bulletin, on the Board's website and in The Signal that the period for submissions closed at close of business on 5th May 2016. However on request the period for submissions was extended. Submissions were received up till the 25th May 2016. Submissions have been collated and analysed for reporting to the Board.

PUBLIC SUBMISSIONS

A total of 18 submissions from a range of individuals and from a range of organisations was received (Table 1). Of the 18 submissions received, up to 21 main themes were identified and are summarised (Table 2 and 3). Four submissions were also received from seven of the members on the LHI Weed Technical Panel.

Table 1 Summary/groupings of submissions

Submissions received	No.
Friends of Lord Howe Island	1
LHIB staff working on the weed team (past and current)	5
LHIB management staff	2
Office Environment Heritage (combined submission) (#)	1
NSW Department of Primary Industries	1
Botanical expert (combined submission)	1
LHI lodge manager	1
Prior LHI Manager Environment World Heritage / Consultant (#)	1
Ecological editor	1
Noxious weeds inspector (#)	1
Local community (combined submission)	1
Volunteer or contract weeding on LHI	2
Total of submissions	18

(#) Submission received from LHI Weeds Technical Panel

SUMMARY OF REVISIONS MADE TO DRAFT WEED MANAGEMENT STRATEGY 2016 FOLLOWING PUBLIC EXHIBITION PROCESS

There was overwhelming support for the adoption of the Draft Strategy and strategic approach for the continuation of the program to manage and eradicate target invasive weeds from Lord Howe Island. One submitter largely focussed on document structure and editing however commented that he was "*struck by the remarkable achievements over the initial years and what a solid basis this applies for future control and eradication*". Of the submissions over 94% supported the continuation of the strategic approach identified in the 2006 Weed Management Strategy which forms the basis of the Draft 2016 Strategy.

Responses from individuals, both internal and external to the LHI Board, who have been involved in the weed eradication program, who have had exposure to the weed problem on Lord Howe Island prior to the adoption of the strategic approach; or who have experience in other island weed eradication programs have provided informed feedback on what is required for effective weed management on LHI into the future.

While the feasibility of eradication of widespread weeds has been questioned, the overwhelming view from the submissions is that the Board with support from the Federal and State Governments needs to continue the effort to suppress and eliminate priority invasive weeds (including Cherry Guava and Ground Asparagus) where appropriate with support for adoption of technical approaches to improve success. There is awareness

of the importance of the program continuing to protect the past and present investment in weed eradication and thereby the island's World Heritage Values which underpin the island's tourism based economy.

Points were raised about area of search effort, weed search intervals and weed management categories. These are aligned to weed species reproductive traits and risk to the environment. The program needs to remain adaptive to address new weed risks, the consequences of reduced resourcing and capacity to prioritise search effort where outcomes can be achieved. This is largely guided by the LHI weeds database.

There were two key phrases from submissions worth noting - *Invest Don't Rest* and a comment that the weed program has been the '*Conservation Heart Beat*' over the island for the last decade or more.

There were comments which did not apply directly to the Strategy and consequently have not being included in this analysis. However, there were a number of comments raised in submissions that were relevant to the Strategy and some changes, clarifications, and corrections to the Strategy are advised. These are listed below

1. Modify some sections of the document and aggregate information e.g. conservation significance and eradication theory to improve presentation and understanding; emphasis on the vision of the strategy;
2. Improve awareness on the astounding outcomes achieved to date which form the basis for the revised strategy;
3. Comprehensively edit the document;
4. Make reference to a weed eradication manual and weed program procedures to assist current and future operational roll out;
5. Undertake weed risk assessments of Category 2 species (Note: this will be ongoing);
6. Add a section on management of mature weeds with a marking and monitoring system, known as *INF-ing* (for Infestation);
7. Include additional reference to other eradication programs and islands and eradication theory;
8. Align weed categories with the requirements under *Biosecurity Act 2015*, which will repeal the *NSW Noxious Weeds Act 1993*. While the NSW Weed Risk Management system was applied for noxious weed ranking, consider application of OEH Conservation Weed Risk Assessment method;
9. Upgrade Sea Spurge *Euphorbia paralias* to the Category 2: Alert List or for a control and containment strategy;
10. Investigate upgrading of New Zealand Christmas Bush *Metrosideros kermadecensis* to eradication if hybridisation with endemic species is evident. Note: research and genetic testing of wildings is required;
11. Ensure the Alert list is adaptive and updated. Note: introduced invasive species list needs completion;
12. Include further reference to J. Le Cussan's contribution to program success;
13. Include information on weed species; seed bank persistence and reproductive maturity in lists or species profiles to clarify search interval to effect eradication;
14. Suggestion for working on less species, species based approach and prioritization of species based on eradication feasibility – reduce area to achieve outcomes;
15. Explain objective of island scale management of weeds if risk to environment is priority; identify which species are likely to reach the eradication endpoint first;
16. Develop weed eradication operations - procedures manual to future proof and guide the roll out and the Strategy.

Other minor edits

17. Action 1.1.1 – make note of increased awareness '*of quarantine measures*';
18. Objective 4.1 – make note '*network with the LHI Tourism Association and Tourism NSW to promote importance of the program to tourists in maintaining a pristine – high quality weed free destination*';

19. Action 3.2.4 - expand to include Knicker Nut . *Caesalpinia bonduc*;
20. Action 3.2.2 - add the wording ‘including strandline vegetation communities’ and reference to Little Island track; and,
21. Goal 3 Part II – note weed control in threatened species habitat and include examples of sites. NB: Threatened species; plant community profiles and weed management priorities to be included in a LHI *Weed Operational Manual/ Procedures*.

Table 2: Theme aggregation of points raised in submissions

Number	Theme	Responses
1	No support: Does not support strategy and program methodology. The 2006 strategic approach is not effective.	1
2	Support: Supports strategy and program methodology	17
3	Program continuation: Island environment and biodiversity conservation significance justifies continuation of the program and eradication	13
4	Madeira Vine: More input on Madeira Vine by Board and community	3
5	Biosecurity: Improve Quarantine	1
6	Roadsides: Management of weeds on roadsides and Little IslandTrack; manage exotic grasses strandline	2
7	Tourism: Weed program is important for tourism and island’s economy; social benefit	5
8	Conservation: Supports other Board conservation programs	1
9	Alternate technologies: Supports technologies to access remote areas; investigate weed detector dogs; continue effort in southern mountains	7
10	Editing: Further editing needed	5
11	Threatened communities: Manage weeds in restricted or threatened plant communities	2
12	Government support: Commend LHIB and Government for support to the program	3
13	Resourcing: Staffing, teams, capacity building, performance measures, maintain large teams, increased need for vigilance	5
14	Skills and commitment: Commends technical skills and commitment of project management particularly Jenny Le Cussan; commends teams on ground, Bruce Thompson and volunteer effort	6
15	Comparisons and networks: Program should be strategically compared to other islands as opposed to the mainland; Network with eradication and restoration practioners (including mainland) to remain abreast with new technologies	5
16	Future proofing: Future proof the program; eradication manual and weed program procedures	1
17	Biodiversity funding and support: Promote biodiversity conservation outcomes including tourism benefits; Continue to seek funding; maintain support from traditional investment including government; Promote philanthropy; seek non-traditional investment; Further promote achievements	5
18	Weed risks and eradication feasibility: Remain adaptive to new weed risks; prioritisation of weeds based on risk and resources/feasibility for eradication; search interval to be	4

	threatened plant communities																			
																				2
1 2	Commend LHIB and Government for support to the program							1			1				1					
																				3
1 3	Supports mixed teams			1				1												
1 3	Continue training and capacity building							1												
1 3	Develop performance measures to ensure quality of search effort on ground.										1									
1 3	Increased skill vigilance of teams is required as weeds reduce	1												1						
1 3	Staff structure inc. large / few teams on ground and supervisor			1										1					1	
																				6
1 4	Commends technical skills of project mgmt staff							1	1		1				1				1	
1 4	Applaud effort on ground								1									1	1	
																				6
1 5	Program should be strategically compared to other islands as opposed to the mainland							1	1		1			1	1					
1 5	Network with eradication and restoration practitioners (including mainland) to be abreast of new technologies.										1									
																				5

	Theme/Submission No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Total	
16	Future proof the program – prepare eradication manual/weed program procedures									1											
																					1
17	Promote biodiversity conservation outcomes									1											
17	Continue to seek funding - maintain support from traditional investment - government				1					1						1	1				
17	Promote philanthropy – seek non traditional investment									1						1					
17	Further promote achievements									1						1		1			
																					5
18	Remain adaptive to new weed risks										1					1				1	
18	Prioritisation of weeds based on risk assessments– including weed seek bank persistence, reproductive biology and resources										1					1				1	
18	Investigate OEH conservation based WRA															1					
18	Concern re: hybridisation of introduced NZ Christmas Bush <i>Metrosideros kermadecensis</i> to endemic species															1					
18	Update LHI Garden plant inventory										1									1	
18	Weed search interval	1														1				1	
																					4
19	Education and extension to										1										

	residents and visitors to improve awareness																		
19	Continue to work with community								1		1				1				1
																			4
20	Cost benefit analysis to threatened species—benefits may be realised in 20 years -has been significant benefit to date.								1										
20	Data analysis – of eradication trajectories and impact of failing to adopt eradication / identify costs of not eradicating								1						1				
																			3
21	LHI Board operational aspects regarding weed management in general																		1
																			1

Attachment 1b: LHI Weed Technical Panel Feedback

A meeting with the LHI Weed Technical Panel was held on the 21 October 2016 to discuss the Draft LHI Weed Management Strategy 2016 (the Strategy) and weed eradication program methodology. The Technical Panel was formed to provide expert advice and support to the LHI Weed Eradication Program and to address requirements of the NSW Environmental Trust project 'The Tide is Turning – Driving Weed Eradication on LHI'.

The Panel comprises up to seven participants with two panel members with a shared position. The technical panel members include:

- Office of Environment and Heritage (OEH) senior invasive weed technical staff, senior threatened species officer;
- Hastings Landcare - project manager (past noxious weeds inspector),
- ecological consultant (prior LHIB World Heritage Manager),
- New Zealand Department of Conservation (NZDOC) - conservation programs director and
- Biosecurity Queensland Department Agriculture and Fisheries (DAF) - weed eradication Project Coordinator.

The technical panel comprises members with and without first-hand knowledge of LHI, expert knowledge in weed management and / or expertise in eradication programs including pest plant and pest animal eradications on islands.

Of the seven panel members four submitted responses during the public submission period. Three panel members visited the island including two who had not provided a public submission.

SCOPE OF TECHNICAL PANEL INPUT AND FEEDBACK

The technical panel was provided with a range of targeted questions which came out of the public submissions and invited to discuss technical aspects of the Strategy. One of the panel members undertook a day of weed grid search with the LHIB weed team to gain understanding and to provide feedback on the LHI program search method on ground

SUMMARY OF TARGETED QUESTIONS PROVIDED TO THE PANEL

1. Is the 24 month search interval for weeds suitable?
2. Why remove multiple invasive weeds?
3. Is the Target area of 500ha suitable?
4. Feedback on Weed Categories in the draft Strategy
5. Feedback on Eradication program phases
6. Feedback on Implementation tables

SUMMARY OF FEEDBACK / RECOMMENDATIONS

1. **Is the 24 month island scale search method suitable?**
 - Species time to maturity drives search interval – this needs to be added to the strategy
 - Modelling on timeframe to eradication is being undertaken based on past data
 - Search period determined by species with longest seed longevity
 - Seed bank persistence – apply longest period of persistence for search longevity
 - Keep recording nil INF's (Infestation Markers) to measure progress of eradication

- Consider teams to spatially record residual weeds on ground
- Can you apply disturbance to encourage germination – re: residual weeds in Crofton Weed. Not really too dense.
- In NZ programs the locality of a prior mature infestation is searched for 10 years. Based on an example weed with 4 yr persistence.

2. Why remove multiple invasive weeds

- To avoid replacing one invasive weed with another – best practise management
- Species inhabit same environment
- Targeting ecosystem transforming weeds only six species most commonly encountered species. Other weeds not abundant mainly in gardens (referring to the 40 less common species)
- Ensure the teams don't get bored.
- Alert list species: add grape, passionfruit and agapanthus on the alert list.
- Comments made to the introduced plants lists on LHI re: alert species etc

3. Target area – 500ha

- Advised it be based on 24 month search interval
- Described the areas excluded from the search interval
- Based on average progress over 10 years
- Actual FTE hours considers sick days, weather, holidays etc. Average 40 hrs/ha-note: actual 32 hrs / ha
- Ochna – include yearly search interval for residual mature sites
- Analyse data to identify if matures are decreasing on management blocks – this will trigger increased search interval and review of search efficacy if it is not decreasing fast enough.
- Rope access – to work between helicopter and ground search needs investment and to not take away from on ground search.
- Schedule surveillance to stop reproduction and know how long to keep searching.

4. Weed Categories

- Improve scientific evidence of time to reach maturity and seed longevity - add profiles for weeds including reproductive biology and time to maturation – flower and fruiting periods to help hone weed search before fruiting.
- Add a category to the weed table of 'date last seen' (for plants classified as eradicated or presumed eradicated).
- Link to new legislation under the *Biosecurity Act 2015*
- Keep weeds categorised alphabetically – not list as those first to reach eradication endpoint
- Add a range of categories for mature plants – to capture various stages – vegetative, in flower, in fruit,

5. Eradication program phases

- Support the diagrammatic pictures showing program phases

6. Implementation tables – data collection etc

- Cross reference research and development

- Separate operational detail out from strategy into an operational manual.
- Add best practice on rope
- Remove “eradication not feasible for plants that reach maturity in one year (is feasible if resourcing is adequate and area delimited).
- Download GPS more frequently – daily/ weekly
- Consider modification of weed mapping – over time as weeds reduce the maps won’t be meaningful. Team grid search data may aid density mapping.
- Engage statistician / weed ecologist to analysis data

7. Feedback from grid search

- Teams to improve accuracy in data recording – self record or more frequently
- Search spacing for the weeds targeted on the day was suitable
- Teams to capture spatial data on weeds
- Data capture must be STRICT; reconfirm ‘INF’ infestation marking procedures.
- AUDIT – FMO needs to get out with teams to audit performance and ensure data recording and search protocols are being implemented.
- Query about effectiveness of stringline – North Queensland uses GPS track log. As it is biodegradable, is there a need to collect up – which reduces time doing actual grid search effort.

8. Other comments

- Prepare a weed eradication operations manual/procedures
- Add profiles for weeds including reproductive biology and time to maturation – flower and fruiting periods
- Drones project work
- HBT project work
- Weed detector dog – project work
- Biological control
- Improve awareness of biosecurity
- Eradication trajectory – the more you search the less you find.
- Audit of program important – review team
- Invest money into research
- BUDGET- engage a ops manager to support Flora Management Officer (FMO) to allow FMO to focus on reporting, funding, tendering, helicopters drone, data analysis. Ops manager to deal with day to day - logistics, scheduling work, HR.
- Suggest technical review in three years time

OUTCOMES

The Technical Panel provided constructive feedback and advised a number of changes to the strategy which have been adopted.

LANCE WILSON	L. Wilson
DOROTHEA WILSON	Dorothea A. Wilson
LORRINE DE RUSSETT	Lr. de Russett
NEIL DE RUSSETT	N de Russett
JOHN DE RUSSETT	J de Russett
POREY DAVIES	P Davies
DEANNA MARVEY	D Harvey
RODNEY SWAID	R Swaid
JOY DAVIES	J. Davies
Shirley E. Hanziker	S.E. Hanziker
D. Rickard	D Rickard
K. Rickard	K Rickard
WESLEY YOUNG	W Young
Shendan Turner	S Turner
Gowen Wilson	G Wilson
Julie Brettnall	J Brettnall
ED ROURKE	E Rourke
Anthony Russell	A Russell
GRAEME JOHNSTON	G Johnston
Jozette Johnston	J Johnston
GAIL FISHER	G Fisher
Cameron Kirkpatrick	C Kirkpatrick
UNA PAYTEW	U Payte
DAPHNE HECK	D Heck
MICHAEL JOHNS	M Johns
Kayla Hiscox	K Hiscox
Diane Gill	D Gill
Rebecca Moran	R Moran
DENISE TOKAIHAGI	D Tokaihagi
BRONWYN TOFAONO	B Tofaono

Heather Thompson
Rodney Thompson

RA MATTHEWS

Relly

(SAM) ~~Robert Matthews~~ ~~James Phillips~~ 200 Times
d. Phila. James Phillips

Anne Kennedy

JAMES THOMPSON

SALLY JACOBSON

Erica Thompson

Thompson
~~Sally Jacobson~~
depoen

8 (viii) Draft Weed Management Strategy 2016

SB gave an overview of the paper.

PH stated that the Strategy is a "living" document, and changes to it will be required from time to time.

It was moved RP, seconded LM, that the Board adopt the Draft Lord Howe Island Weed Management Strategy 2016 subject to making changes to align it with the *Biosecurity Act 2015*, and noting that there will be changes to it from time to time.

The Board then adopted the motion.

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Removal of Camphor Laurels *Cinnamomom camphora* from Stevens Reserve

RECOMMENDATION

1. That this report be received and noted.
2. That the Board continue to manage Camphor Laurel trees in accordance with the adopted weed management strategy, and that this includes the removal of all Camphor Laurel trees from Stevens Reserve.
3. That the timber from the Camphor Laurel trees be auctioned to islanders.

BACKGROUND

On the 2nd of September 2019 the Board received a petition with 60 signatures seeking to preserve five mature Camphor Laurel trees in Stevens Reserve (Attachment A). The Board administration had contracted Craig Wilson to undertake the removal of these trees and a mature Silky Oak *Grevillea robusta* in May 2017. To date the Silky Oak has been felled and at least one of the Camphor Laurels has been felled. This contract is still open for completion. The Board administration was acting in accordance with a November 2016 Board resolution to implement the adopted LHI Weed Management Strategy 2016.

At the November 2016 Board Meeting the Board, in open session resolved to adopt the Lord Howe Island Weed Management Strategy 2016-2025 (the Strategy) following its public exhibition and consideration of any submissions. An excerpt of the Board meeting minutes containing the resolution is found in Attachment B. Attachment C contains a partial extract of the November 2016 Board Paper.

The Strategy outlines the action plan for the second decade of a 30 year weed management program currently being rolled out on Lord Howe Island. It is structured around 4 goals:

- Goal 1: Exclude: Prevent the establishment of new invasive weeds
- Goal 2: Eradicate: Eliminate or prevent the spread of invasive weeds
- Goal 3: Effectively manage: Reduce the impact of widespread invasive weeds
- Goal 4: Build capacity: Ensure that Lord Howe Island has the ability and commitment to manage invasive weeds; and to promote awareness of invasive weeds within the community

Three weed management categories are identified in the Strategy:

- Category 1: Eradicate (Immediate or suppression leading to eradication);
- Category 2: Alert (Sleeper weeds – watch and act as necessary); and
- Category 3: Control (effectively manage).

There are over 700 introduced species of plant on Lord Howe Island, of the 700 species the Strategy identifies 68 species that are, or have the potential to become environmental weeds on Lord Howe Island and as such are targeted for eradication. This includes the Camphor Laurel.

Camphor Laurels are identified in the Strategy as a Category 1 weed. That is the species is to be eradicated because it is a known environmental weed throughout Australia, and has been observed to spread on Lord Howe Island.

A copy of the strategy can be found on the Board's website:

http://www.lhib.nsw.gov.au/sites/lordhowe/files/public/images/documents/lhib/Publications/Plans/LHI%20Weed%20Mgmt%20Strategy%202016_2025.pdf

Community consultation in the preparation of the Strategy.

The draft strategy had been initially presented to the Board for consideration at the March 2016 Board meeting with the paper recommending that the draft strategy be placed on public exhibition for 28 days.

The draft strategy was subsequently placed on public exhibition, with the publically advertised closing date being extended from 5 May 2016 to 25 May 2016. A total of 18 submissions were received. Only one submission did not support the overall program, questioning its overall effectiveness. No submissions objected to the listing of Camphor Laurel as a Category 1 weed. During the consultation process a LHI technical panel was formed to provide a technical review of the Strategy, weed priorities (in consideration of weed response post rodent eradication) and weed eradication program methodology.

Since the adoption of the strategy the Board has secured funding from North Coast Local Land Services (NCLLS) for the removal of tree weeds including Camphor Laurels. In June 2018 (ED184777) a Community Bulletin was distributed by the Board which included among other things a reference to the NCLLS funding for the removal of Camphor Laurels (along with other listed weeds).

A detailed record search has not found any record of formal correspondence to the Board since 2017 relating opposition to the removal of the Camphor Laurels in Stevens Reserve.

About Camphor Laurels

Camphor Laurels are native evergreen tree to eastern Asia, including China, Taiwan and Japan. They are a large spreading tree growing up to 30m tall. They are also long lived and individual trees are known to be over 100 years, and possibly as old as 500 years.

In Australia Camphor Laurel is a highly invasive tree that has a tendency to form single species communities and exclude most other desirable vegetation. The dense canopy and matting root system suppress undergrowth

The tree reproduce by a fleshy fruit surrounding a seed which are attractive to fruit eating birds, specifically the Lord Howe Currawong and Silvereye. The seeds have a relatively short lifespan, and germination rates rapidly drops for seed that are more than one year old.

Camphor Laurel is identified as a weed by the Department of Primary Industries and Environment (DPIE). DPIE list the following weed characteristics for Camphor Laurels:

Profile

How does this weed affect you?

Camphor laurel has the ability to adapt to the disturbed environment, it has prolific seed production and rapid growth rate as well as a lack of serious predators or diseases, it also has many specific attributes which enhance its weed status.

- It has a tendency to form single species communities and exclude most other tree species, including desirable native vegetation.
- It has a competitive advantage over native vegetation because it establishes easily.
- Birds and other fauna readily eat the fruit and disperse the seeds.
- It has a very dense, shallow root system which, when accompanied by the shading provided by the canopy, suppresses the regeneration of native seedlings.
- It can destabilise stream banks due to undercutting by the shallow root system and the general lack of ground cover species around the trees to hold the soil in place.
- Mature camphor laurel trees are large and therefore difficult and expensive to remove.
- Camphor laurel trees are long-lived with some trees being over 100 years old and reports of some up to 500 years old in their native habitat.
- Camphor laurel trees regenerate easily after lopping.
- Invasion of agricultural lands by camphor laurel can cause significant impacts on productivity and the costs of control can reduce the viability of some agricultural pursuits.

On the north and mid north coast, camphor laurel invades large areas of land and inhibits potential land use in the same way as lantana, groundsel bush, crofton weed and privet. It is especially troublesome on sloping, rocky land not readily accessible to machinery or grazing animals, and on better land not intensively utilised. The contraction of dairying and banana farming since the 1960s has resulted in large areas becoming infested with camphor laurel.

Toxicity

Camphor laurel is mildly toxic to humans, and mild symptoms may occur if large quantities are eaten. All parts of the plant are poisonous and can cause nausea, vomiting and respiratory distress. Allergic skin reactions can also occur.

Figure 1 Excerpt from DPIE website describing weed characteristics of Camphor Laurel.
<https://weeds.dpi.nsw.gov.au/Weeds/Details/28>

Legislative status of Camphor Laurel as a weed.

The North Coast Regional Strategic Weed Management Plan 2017 – 2022 developed by the NSW Government North Coast Local Land Services (NCLLS), sets out how government, industry and community share responsibility and work together to identify, minimise, respond to, and manage weeds. It relates to the North Coast region of NSW and includes Lord Howe Island.

Regional weed management priorities in the regional weed plan have been informed through the NSW DPI Weed Risk Assessment System (WRAS).

Camphor Laurel is identified as an Additional Species of concern in the regional weed plan (except for LHI where it is covered by the LHI Weed Management Strategy). Regional strategic responses are identified as:

- work within existing widespread weed programs for strategic asset protection
- prioritise the application of the General Biosecurity Duty to assist with management of these species
- work with industry to develop industry standards including restrictions on sale and trade

The LHI Weed Management Strategy 2016 is identified as part of the regional weed management prioritisation process, with weed eradication priorities informed through the WRAS for LHI. Camphor Laurel is prioritised for eradication under Category 1 of the LHI Strategy.

Camphor Laurel is spreading by seed from plants established on Lord Howe Island and subsequently poses a biosecurity risk (under the definition of the NSW Biosecurity Act 2015). Effective management of Camphor Laurel is a General Biosecurity Duty for Lord Howe Island.

Under Part 3 of the NSW Biosecurity Act 2015, a General Biosecurity Duty is defined as: “Any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised”.

Camphor Laurel was previously listed as a Class 3 Noxious Weed for the Lord Howe Island Control Area under Control Order 2014, requiring it to be “fully and continuously suppressed and destroyed and the plant must not be sold, propagated or knowingly distributed”.

In 2014 a Weed Risk Assessment was undertaken for Camphor Laurel on Lord Howe Island, which determined a very high feasibility to eradicate and recommended to destroy all infestations. This risk assessment concurs that the Board has a General Biosecurity Duty to eliminate the biosecurity risk that Camphor Laurel poses on Lord Howe Island.

The listing of Camphor Laurel as a category 1 weed in the LHI Strategy is consistent with effectively managing biosecurity risk.

Camphor Laurel as weed on Lord Howe Island

Camphor Laurel has been subject to formal weed management on Lord Howe Island since at least 2004 if not earlier. Since 2004 a total of 21 seedlings, 51 juveniles and 46 mature trees have been recorded as removed. The majority of these trees have been removed from in and around the settlement areas, and young mature trees removed from the foot slopes of Mt Lidgbird.

Camphor Laurel has been recorded from 15 weed blocks including Intermediate Hill, Lidgbird North, Settlement North and Settlement South (see Figure 1). The spread of Camphor Laurel by birds is demonstrated by the location of Camphor Laurel plants on the slopes of Mt Lidgbird some distance from the nearest known location of mature Camphor Laurel trees.

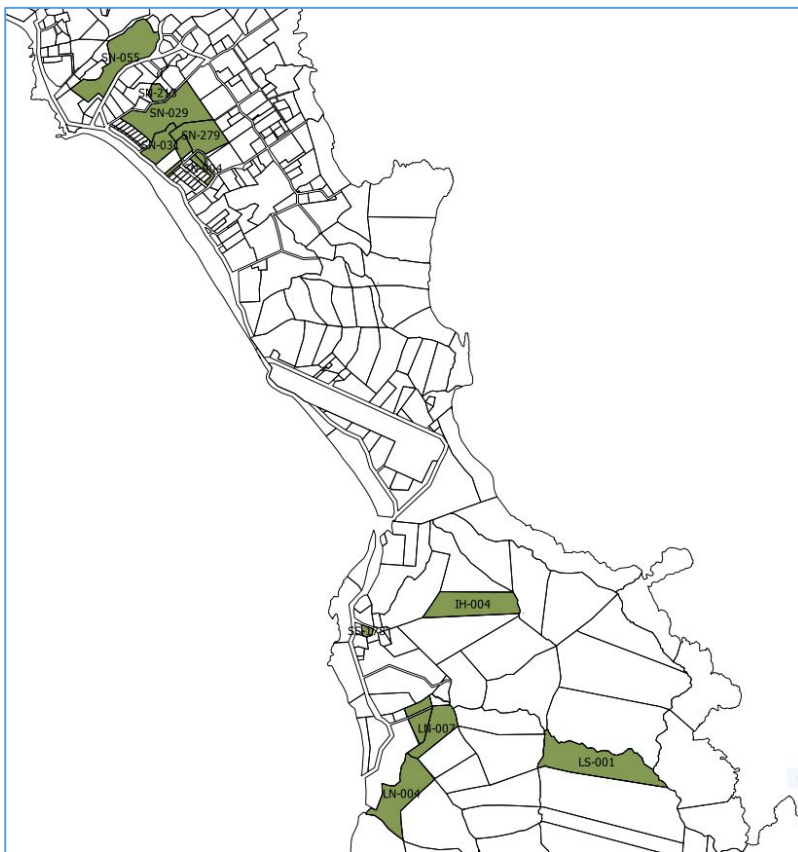


Figure 2 Map of weed blocks removed of Camphor Laurel

The continued detection of young life stage Camphor Laurel plants and young mature plants indicates that it does set seed on LHI and will spread over time. The removal of mature plants to date has reduced the extent of spread. For effective weed management all remaining plants including mature specimens should be removed.

CURRENT POSITION

There are four Camphor Laurel trees remaining in Stevens Reserve, two of them are large with diameter at breast height measurements of 137cm and 144cm.

Between 1892 and 1898 Joseph Maiden, Director of the Royal Botanical Gardens in Sydney, visited the island and after his visit sent seedlings of several plants including Camphor Laurel and Silky Oak as well as Small-leaved Privet *Ligustrum sinense*, Sweet Pittosporum *Pittosporum undulatum* and possibly the Grey Ironbark *Eucalyptus siderophloia* to Campbell Stevens to plant. The Board also planted Camphor Laurel's in Stevens Reserve in the 1930's as a future timber resource.

There are also another approximately 15 Camphor Laurel trees primarily located on one private leases and the Board administration are in ongoing negotiations with the leaseholder for the removal of these trees. Camphor Laurels have been removed from all other leases along with Flame Tree *Brachychiton acerifoliuous*, African Olive *Olea europaea* subsp. *cuspidata* and Silky Oak, which are also listed for eradication and received funding from the NCLLS for their complete removal.

Removal of the Camphor Laurel trees in Stevens Reserve will be a significant step towards preventing the spread and managing the long term impacts of this weed species. Removal of the trees in Steven's reserve will also allow the natural vegetation to recover.

It has been raised by some community members that the removal of the Camphor Laurel trees will impact on the ground water quality, and the bores that subsequently draw from the groundwater. Island groundwater systems behave differently to inland ground water systems. On islands such as Lord Howe, the groundwater sits as a freshwater 'lens' on top of the saline oceanic seawater. This freshwater lens pushes down on the oceanic groundwater, meaning that freshwater can sometimes be found at depths slightly lower than sea level. Large deep rooted trees (such as Norfolk Pines, Hoop Pines, Bunya Pines and Tallowwood) and bores can have a significant effect on island groundwater systems in that they can extract so much freshwater that the saline sea water rises up through the soil profile. In extreme cases of bore pumping, or large plantations of deep rooted trees, the freshwater ground water can be extracted to the point that salt water seeps into usually freshwater groundwater systems.

Given the number of large trees on Stevens Reserve, the removal of four Camphor Laurel trees is not going to have any measurable impact on the groundwater, and if anything in the very short term might slightly increase the supply of freshwater in the groundwater system. The long term goal is that the trees will be replaced by native vegetation either by natural regrowth or targeted planting and as such the long term impact will be approximately the same as it is now.

Heritage significance

The native vegetation on Stevens Reserve was originally cleared by Campbell Stevens as a farm. In the 1930s the Lord Howe Island Board decided to plant tree species from the mainland to provide building material for future home construction. Eight different tree species were planted, including two tree species that have since been identified for eradication – the Silky Oak and Camphor Laurel. This is the most likely source of the trees in Stevens Reserve. It is also possible that Camphor Laurel trees were introduced earlier onto the island by Joseph Maiden, Director of

the Royal Botanic Gardens in Sydney between 1892 and 1898. There is no evidence to confirm that the two large trees in Stevens Reserve are the actual trees provided by Joseph Maiden.

In April 2012 The Community-based Heritage Study was produced for the Board by MUSEcape with grant funding from the NSW State Government. The purpose of this study was to inform the listing of heritage items for the Local Environment Plan. The Heritage Study went into some detail on the heritage significance of various items on the island, including the listing of specific Norfolk Pines. While the Heritage Study makes reference to the use of Stevens Reserve as a timber reserve it makes no comment on the heritage significance or preservation of Camphor Laurel trees in the reserve. The Heritage Study recognises that some of the trees planted in Stevens Reserve have invasive characteristics and recommends that they should be removed.

The two large Camphor Laurels in Stephens Reserve are significant trees with a large canopy. They are not signposted, and they do not form part of a passive recreation area where people frequently spend extended periods of time. Rather they are a trailside tree on the edge of the walking track. The trees are located in the context of a dense and enclosed canopy forest consisting of large native and introduced trees. There are no view lines to the Camphor Laurel trees from any roads or private property. As such the trees are considered to not form a significant part of the visual amenity or character of the island.

The removal of the Camphor Laurel trees and auctioning the timber for local use is consistent with the intended historical use of Stevens Reserve. With the planned upgrade of the Stevens Reserve trail there may be an opportunity to capture some of the history through the use of interpretive signage.

Alternatives

Possible alternative management options to the eradication of Camphor Laurel from Lord Howe Island have been considered. Retention of the Camphor Laurel trees result in long term resource implications for the Board. Table 1 describes the implications of possible management strategies for Camphor Laurel on Lord Howe Island. The first options is the removal of all trees in line with the Strategy, while the second option considers a partial removal while the third option considers retaining all the Stevens Reserve Camphor Laurel trees.

The adopted Weed Strategy has been used to secure a significant amount of state and federal government grant funding on the strength of the Strategy's commitment to the long term eradication of problem weeds on Lord Howe. If the Board resolves to retain mature Camphor Laurel trees on the island it may threaten the long term outcomes of existing grant programs and reduce the attractiveness of the island to future grant funds. The Board is also actively pursuing philanthropic investment to support long term management of weeds on the island. This investment will be more difficult to secure if the Board is unable to demonstrate a commitment to managing resources effectively and eradicating weed species when it has a reasonable opportunity to do so.

Option 1 – Eradicate Camphor Laurel as per the adopted Weed Strategy.

Regulatory Implications	This would satisfy the Board's duty to manage Camphor Laurel as a Biosecurity Risk.
Environmental Risk – Short term	Environmental risk arising from weed spread rapidly diminishes.
Environmental Risk – Long term	Environmental risk is eliminated, most likely within 5 – 10 years of the removal of the last mature tree.
Short term resource implications	Cost of contractor to cut down trees. Cost might be partially offset by the auction of timber to Lord Howe Island residents.
Long term resource implications	Once eradication is declared (after 5 years of no seedlings found) and assuming there is similar success with other target species for eradication there is a potential to start wind back weed effort.

	<p>The island will be able to continue to attract weed management grant funding as the commitment to the long term strategy will be preserved.</p>
Impact on heritage values.	<p>Trees will be removed. Heritage value could be partially retained through appropriate interpretive signage installed on the Stevens Reserve walking track. The milled timber will also be used locally and could serve as a heritage reminder.</p> <p>World heritage values will be maintained in the long term</p>
<p>Option 2 – Retain the two large Camphor Laurel trees in Stevens Reserve and eradicate all others.</p>	
Regulatory Implications	<p>This option would require the Weed Management Strategy to be amended and for the Board to enter into negotiations with NCLLS to amend the Regional Weed Management Strategy. If these strategies are not amended the Board may be in breach of the Biosecurity Act. It is highly unlikely that NCLLS will agree to amend the Regional Weed strategy to remove the Biosecurity Duty placed on Camphor Laurel.</p>
Environmental Risk – Short term	<p>Environmental risk is likely to increase over time as seed germination rates are likely to increase over time with the removal of seed browsing pressure from rodents.</p>
Environmental Risk – Long term	<p>As Camphor Laurel has a very long life expectancy (well over 100 years). The environmental risk will need to be managed for a very long period of time. With the eradication of rodents the environmental risk will be potentially higher than now.</p> <p>There is a significant risk of Camphor Laurel becoming a weedy tree species, if for some reason weed effort is unable to be maintained indefinitely.</p> <p>Camphor Laurel is bird dispersed and can be spread widely. Species that have recently started to spread may be faster spreading than early invaders, The presence of plants of all life stages on the island indicate that Camphor Laurel is on the move.</p>
Short term resource implications	<p>Resources currently allocated to removal of Camphor Laurel will be re-allocated to other target weed species. Weeding effort will not need to be increased in the short to medium term. This is assuming weeding effort on other target weeds for eradication continue for at least the next 10 years.</p>
Long term resource implications	<p>The long term the current weed effort may be need to be maintained indefinitely. The current weed effort is searches 80% of the island approximately every two years at a cost of about \$400 000 per year in labour and management costs.</p> <p>Retention of Camphor Laurel will threaten the ability of the Island to continue to attract grant funding for weed management, and is likely to discourage philanthropic investment in the long term management of weeds on the island.</p> <p>Demonstrates poor practice in Protecting World Heritage Values from weeds</p> <p>This has the potential to threaten the world heritage values of the Island and impact on the tourism brand.</p>

Impact on Heritage values	The historical heritage value of the trees will be maintained until the tree dies of natural causes. In the long term retention of the trees may threaten the world heritage values of the island.
Option 3 – Retain all Camphor Laurel in Stevens reserve but continue to eradicate on private lease hold land and in the PPP.	
Regulatory Implications	This option would require the Weed Management Strategy to be amended and for the Board to enter into negotiations with NCLLS to amend the Regional Weed Management Strategy. If these strategies are not amended the Board may be in breach of the Biosecurity Act. It is highly unlikely that NCLLS will agree to amend the Regional Weed strategy to remove the Biosecurity Duty placed on Camphor Laurel.
Environmental Risk – Short term	Environmental risk is likely to increase over time as seed germination rates are likely to increase over time with the removal of seed browsing pressure from rodents.
Environmental Risk – Long term	The long term the current weed effort may be need to be maintained indefinitely. The current weed effort is searches every part of the island approximately every two year at a cost of about \$400 000 per year in labour and management costs. Environmental risk will be somewhat higher than now. Significant risk of Camphor Laurel becoming a weedy tree species if for some reason weed effort is unable to be maintained indefinitely. The environmental impact beneath the trees will increase as undergrowth is suppressed. Risk of weed spread will also increase significantly as the rate of seep production increases
Short term resource implications	Resources currently allocated to removal of Camphor Laurel will be reallocated to other target weed species. Weeding effort will not need to be increased short to medium term.
Long term resource implications	Long term (in 10 or more years) weed effort will be need to be maintained indefinitely. Weeding effort will most likely need to be maintained at similar levels as to what currently allocated – about \$400 000 per year in labour and management costs. As the two smaller Camphor Laurel trees grow into larger trees the cost of removal will significantly increase. Currently they are of a size that they can be removed without specialist equipment. Retention of the Camphor Laurel will also threaten the ability of the Island to continue to attract grant funding for weed management, and is likely to discourage philanthropic investment in the long term management of weeds on the island. This has the potential to threaten the world heritage values of the Island and impact on the tourism brand.

Table 1 Impacts of the three different management options for Camphor Laurel

Conclusion

The removal of the Camphor Laurel trees from Stevens Reserve is consistent with the Weed Management Strategy adopted by the Board in November 2016 and the North Coast Regional Strategic Weed Management Plan 2017 - 2022 . It is also consistent with the listing of Camphor Laurel as a General Biosecurity Duty under the Biosecurity Act for Lord Howe Island. These actions will also fulfil the Islands obligations as a World Heritage Site.

Not having a plan that includes the eradication of Camphor Laurel trees on Lord Howe Island will jeopardise the future availability and partnership arrangements with the Environmental Trust, Federal Environment agency and environmentally focused philanthropic groups. It will also result in an ongoing and indefinite resource impact on the Board in that it will have to continue to manage the spread of Camphor Laurel trees for an indefinite period of time.

RECOMMENDATION

1. That this report be received and noted.
2. That the Board continue to manage Camphor Laurel trees in accordance with the adopted weed management strategy, and that this includes the removal of all Camphor Laurel trees from across Lord Howe Island including Stevens Reserve to deliver their eradication.
3. That the timber from the Camphor Laurel trees be auctioned to islanders.

Prepared: Justin Sauvage Manager Environment and Community Services.

Endorsed: Peter Adams Chief Executive Officer, Lord Howe Island Board

Attachments:

Attachment A: Petition seeking the retention of the five large Camphor Laurel Trees in Stevens Reserve – September 2019 – Open

Attachment B: Excerpt from Minutes of the meeting of the Lord Howe Island Board held on Lord Howe – September 2019 - Open

Attachment C: November 2016 Board Paper recommending the LHI Weed Strategy for adoption – September 2019 - Open

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. - List of Perpetual Leases with potential non-compliance have been updated.
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 Primary 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, and it is proposed to renew them a further years in 2019. - Required legislative changes to allow for the granting of 20 year leases has not yet been implemented. It is anticipated they will be introduced to parliament in late 2019 or first quarter of 2020.
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	Department of Primary	Required legislative changes are being pursued. It is anticipated that

Recommendation	Lead organisation	Progress
lenders as security and mortgages to corporations should not require the Minister's consent.	Industry and Environment.	they will be introduced to parliament in late 2019 or first quarter of 2020.
6. The restrictions on who can occupy a dual occupancy dwelling should be relaxed	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.
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 Primary Industry and Environment.	Required legislative changes are being pursued. It is anticipated that they will be introduced to parliament in late 2019 or first quarter of 2020.
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 Primary Industry and Environment.	Required legislative changes are being pursued. It is anticipated that they will be introduced to parliament in late 2019 or first quarter of 2020.
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	Not applicable	Recommendation not supported by Government.

Recommendation	Lead organisation	Progress
returned to the island by being credited to the Lord Howe Island Account (s 34).		
14. The legal framework under which the Board and the Minister consider applications for consent to the transfer of perpetual leases should be 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.	Department of Primary Industry and Environment.	Required legislative changes are being pursued. It is anticipated that they will be introduced to parliament in late 2019 or first quarter of 2020.
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 Primary Industry and Environment.	Required legislative changes are being pursued. It is anticipated that they will be introduced to parliament in late 2019 or first quarter of 2020.
<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</p>	Department of Primary Industry and Environment.	Required legislative changes are being pursued. It is anticipated that they will be introduced to parliament in late 2019 or first quarter of 2020.

Recommendation	Lead organisation	Progress
<p>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 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.’</p>		

Recommendation	Lead organisation	Progress
<p>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 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

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 Chief Executive Officer, Lord Howe Island Board

Attachments:

Attachment A: Implementation Update Table – September 2019 - Open

LORD HOWE ISLAND BOARD

PERMISSIVE OCCUPANCY POLICY

Adopted January 22, 2007

POLICY OVERVIEW:

The Minister, on the recommendation of the Board makes Crown Land available under Permissive Occupancy (PO) to eligible persons for a variety of valid purposes which range from kitchen gardens to communications infrastructure.

POs are the most flexible and open mechanism available to the Board to allow private occupation and use of land on the island, given that all other land on the island under the Act must be occupied either by the Board for essential infrastructure or public reserves, or by Perpetual Lease, Special Lease, or lease to a Commonwealth Authority.

The Board has developed this policy to ensure that land occupied under PO is allocated fairly and transparently, is well maintained by the PO holder and is used for the purpose it was granted.

In general, the Board believes that POs should be made available for a purpose which is lawful, consistent with the zoning of the land, consistent with community values and expectations and where the proposed use cannot be accommodated within another form of tenure under the Act.

Approval to occupy land under a PO is not a tradeable commodity and a PO does not vest any interest in the land in the PO holder. POs are issued at the absolute discretion of the Minister and may be terminated at will.

LEGISLATIVE FRAMEWORK:

The Act allows the Minister, on recommendation of the Board, to permit the occupation of vacant or reserved Crown Land on the island. This is covered under Section 31 A of the Act, which states:

- (1) The Minister on the recommendation of the Board may grant permissions to occupy vacant Crown lands or Crown lands the subject of a reservation under this Act, whether above or below or beyond high water mark, for such purposes and upon such terms and conditions as the Minister may impose on the recommendation of the Board.
- (2) A permission to occupy such Crown lands or a permissive occupancy of Crown lands granted or purporting to have been granted before the commencement of the *Lord Howe Island (Amendment) Act 1967*, and whether or not a tenancy was created or purported to have been created thereby, shall be deemed to have been validly granted and to have and always to have had force and effect subject to the terms and conditions thereof.

- (3) A permission to occupy Crown lands or a permissive occupancy of Crown lands referred to in subsection (2) or a permission to occupy Crown lands granted under subsection (1) shall be terminable at will by the Minister on the recommendation of the Board.

DEFINITIONS:

The Act

The Lord Howe Island Act 1953

Permissive Occupancy (PO)

The approved use of land under Section 31A of the Act

The Minister

The Minister administering the Act during the currency of the PO

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.

Policy Provisions:

1. The Board will only recommend to the Minister the granting of a Permissive Occupancy to a holder of a Perpetual Leaseholder under the Lord Howe Island Act 1953 or an incorporated body providing, in the opinion of the Board, an essential community service.
2. Applications for a Permissive Occupancy will be made on the prescribed form and will include:
 - the location and area of land required;
 - the proposed use of the land;
 - why the proposed use of the land cannot be accommodated within another tenure, e.g. Perpetual or Special Lease;
 - consistency of the proposed use with the Zoning of the subject land under the LHI REP 2005;
 - capacity of the applicant to occupy, use and manage the land in accordance with the Board's Standard Conditions of Permissive Occupancy
3. Permissive Occupancies must be continually used and occupied by the person to whom they are issued, and for the purposes for which they were issued. Permissive Occupancies which do not meet these requirements should be surrendered.

4. Permissive Occupancies may not be transferred. Where a holder no longer wishes, or is unable, to hold, use and occupy a Permissive Occupancy it will be surrendered to the Board.
5. Where there are improvements on a surrendered Permissive Occupancy, the Board will pay to the owner Valuer-General's value in consideration of the improvements.
6. In the event of a Permissive Occupancy being surrendered, the Board may choose to make a new Permissive Occupancy available over the same or similar area as the surrendered Permissive Occupancy.
7. If the Board chooses to make a Permissive Occupancy available as per Provision 6. above, it will seek expressions of interest from within the island community for the Permissive Occupancy or for alternative public uses for the land. Subsequent issuing of a Permissive Occupancy will be at the absolute discretion of the Board.
8. Prior to issuing any Permissive Occupancy, the Board will be provided with and take into consideration a report from the Chief Executive Officer detailing:
 - a) whether there are any public objections to the offering of the PO, subsequent to it having been advertised for a period of 14 days
 - b) whether there are possible alternative public uses for the land;
 - c) whether the proposed occupation and use of the land is in the public interest;
 - d) the likely impacts of the proposed occupation and use of the land, including environmental, social, cultural and economic impacts;
 - e) the capacity of the applicant to occupy, use and manage the land in accordance with the Board's Standard Conditions of Permissive Occupancy, and any other condition which the Board may impose;
 - f) the consistency of the proposed occupation and use of the land with the Zoning of the subject land under the LHI REP 2005
 - g) whether the proposed occupation and/or use requires development consent under the LHI REP 2005
 - h) The proposed rent for the land. Any calculation of rental will consider: the Valuer-Generals value of the unimproved land, and; the value of any improvement on the land, and; the value of any commercial use proposed in the occupation and use of the land.

PERMISSIVE OCCUPANCY AGREEMENT

Permissive Occupancy No: 2020.01

Location and Description
of Subject Lands: Portion of Unidentified Crown Land Reserve No.12 Lagoon Road, Lord Howe Island (see Diagram 1).

Approved Purpose: Boat and equipment storage shed, and ancillary uses.

Commencement Date: Possession from 1 January 2020, rental to commence from the 1 January 2022 or upon the termination of PO2014.01 Boat and equipment storage shed, whichever comes earlier.

Holders: Pinetrees Lodge Pty Ltd ATF Pinetrees Trust No 4.

We, Dani Rourke and Luke Hanson being the holders of Permissive Occupancy No. 2020.01, hereby acknowledge that the occupation and use by us of the subject land, Crown land to the west of Lagoon Road as shown in Figure 1 for the purpose of Pinetrees Boatshed is granted by the NSW Minister for the Environment (the Minister) as a Permissive Occupancy under Section 31 A of the Lord Howe Island Act 1953 (the Act), and may be revoked at any time by the Minister, upon the recommendation of the Lord Howe Island Board (the Board), and that occupation and use of the subject land under this agreement shall not create or confer or imply any tenancy or right of ownership or possession of the subject lands other than a permission to occupy and use, terminable at will, and also that we occupy the said premises, and that this agreement is not transferable,

AND we hereby agree to pay for the use and occupation of the subject land a sum of by way of rent at the rate as determined by an independent valuation and CPI adjusted per annum commencing from the 1st January 2021 which shall be deemed to accrue from day to day, and shall be payable by us in advance on or before 31st day of December in each year together with a proportionate part up to the date of termination of such tenancy at will as is hereinafter provided, and upon termination of this tenancy to deliver up to the Board quiet and peaceable possession of the subject lands.

AND we hereby acknowledge and agree that our occupation and use of the subject lands will be subject to the Board's Standard Conditions for Permissive Occupancy, and any other lawful condition which the Board may apply, as set out in Schedule (A)

We undertake not to sublet the premises without the consent in writing of the Minister for the Environment having been first obtained, to occupy and use the subject land in accordance with the approved purpose and any Board policy which may apply from time to time, and with all relevant State and Commonwealth Acts and Regulations.

We hereby also acknowledge that any improvements effected by us on the said premises during this occupation will become the property of the Crown upon the termination of this agreement if any arrears of rent remain due and unpaid by us at the date thereof, but it is hereby agreed and acknowledged that we have the right to remove such improvements or to sell the same to the Board, or any such person as the Board may agree to in writing.

We further agree that this tenancy may be terminated at any time by a written demand of possession signed by the Minister for the Environment for the time being of the State of New

South Wales or any person appointed on his behalf, and served on us personally, or left for us on the said premises. It is also agreed and acknowledged that we may terminate and cease to occupy the land at any time by giving notice in writing to the Minister for the Environment of the date on which we intend to cease occupation, and that we shall be liable for rent up to that date unless the occupancy should be terminated by the Minister for the Environment at an earlier date.

We agree, upon termination of this occupancy and within such time as may be given, to remove structures or all or any material from the land at our cost and without compensation, if required by the Minister for the Environment in writing to do so.

We agree to release and indemnify and keep indemnified the Board, all members of the Board, all of the Board's staff, the Minister and the State of New South Wales ('those indemnified') from and against all liability including but not limited to actions, suits, claims, demands, proceedings, losses, damages, compensation, costs (including my solicitor and client costs), charges, expenses and penalties whatsoever to which any of those indemnified may incur in respect of: the loss of life, personal injury or damage to property or persons occurring in connection with our use and occupation of the subject lands and which arise directly or indirectly from:

- a) Any negligent or willful act or omission of the approval holder, its employees, contractors, sub contractors or agents done or omitted to be done in the course of using the subject land; or
- b) Any act or omission, however caused, of the approval holder, its employees, contractors, sub contractors or agents done or omitted to be done in the course of using the subject land; or
- c) Any other event for which the approval holder would be able to make a claim with respect to the subject land.

We declare that we are above the age of eighteen (18) years.

Signed Date:

Witness Name:.....

Witness Signature: Date:

Signed Date:

Witness Name:.....

Witness Signature: Date:

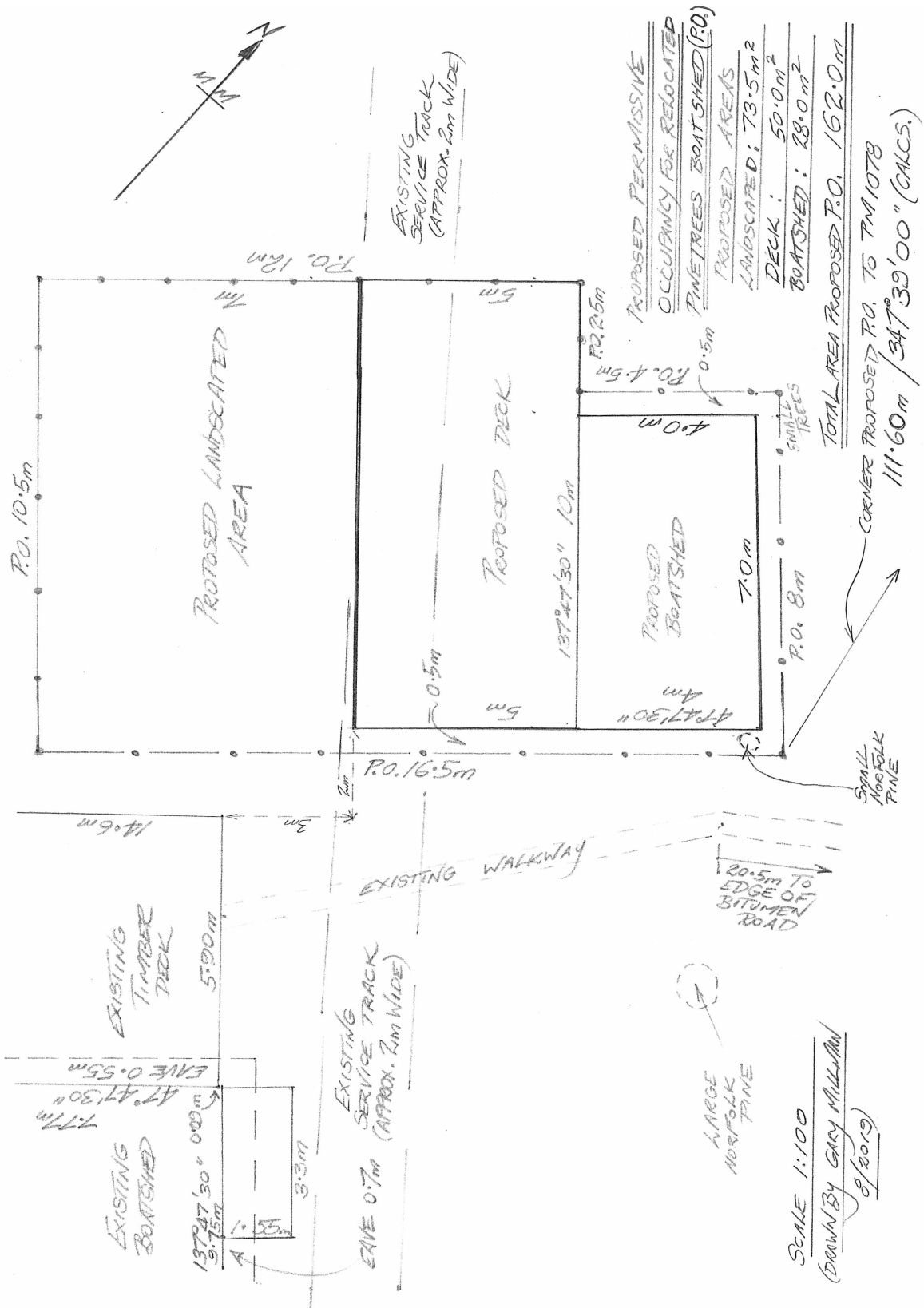


Figure 1 Plan view detailing Permissive Occupancy area and indicative location of proposed structures.

SCHEDULE A
CONDITIONS OF PERMISSIVE OCCUPANCY

Permissive Occupancy No: 2020.01

Location and Description
of Subject Lands: Portion of Unidentified Crown Land Reserve No.12 Lagoon
Road, Lord Howe Island (see Diagram 1).

Approved Purpose: Pinetrees Boatshed

Commencement Date: Possession from 1 January 2020, rental to commence from the
1 January 2022 or upon the termination of PO2014.01 Boat and
equipment storage shed, whichever comes earlier.

Holders: Lord Howe Island Community Preschool Incorporated

- 1) Annual rent as determined by an independent valuation and, CPI adjusted annually, shall be paid in advance to the Board on or before 31st December of the year preceding that for which it is due.
 - a. *In this clause CPI means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician for the year ending December 31 immediately before that indexation date.*
 - b. *The Price (exclusive of GST) will be increased on each anniversary of the term of this agreement to an amount calculated by multiplication of the then current Price by a fraction, the denominator of which is the CPI current one year previously and the numerator of which is the then current CPI.*
- 2) The land shall be occupied and used predominantly for the purpose of a Boatshed and associated ancillary activities. The Permissive Occupancy area is detailed in Figure 1: *Plan view detailing Permissive Occupancy area and indicative location of proposed structures.*
- 3) The occupant shall keep the area in a safe and clean condition to the satisfaction of the Board.
- 4) The occupant shall throughout the currency of the occupancy continually control all Noxious Weeds and such plants or weeds as may from time to time be required to be destroyed by direction of the Board.
- 5) Any improvements upon the land shall be kept in good repair throughout the currency of the occupancy, reasonable wear and tear excepted.
- 6) The public and the Board shall, have unrestricted right to the use of the existing service track identified in the plan attached to this agreement and such use shall not be interfered with by the occupant.
 - a. For the avoidance of doubt, this service track will be used by the Board to facilitate the traverse of heavy plant along this track from time to time. While the Board will seek to minimise the impact of these movements the Board will not be liable for the restitution of any damage to the service track surface caused by these movements.
- 7) The occupant shall take effective steps to keep the land free from rats or other introduced animals throughout the currency of the occupancy.
- 8) No building or structure shall be erected, nor shall any building or structure be altered, without the approval of the Board first obtained.
- 9) The right is reserved to the Board or anybody or person authorised by it, to enter upon the land 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 occupant.

- 10) No bush, timber, trees, palms or vegetative material shall be interfered with by ringbarking, cutting or otherwise unless under authority of the Board. Where in pursuance of such authority any ringbarking, cutting or other interference is effected for the purpose of improvement of the land, all second growth, weeds or noxious plants on such improved area shall be eradicated by the occupant by such regular consecutive treatments as the Board may direct.
- 11) No burning off shall be carried out except with the consent of and subject to such conditions as may be imposed by the Board.
- 12) The occupant shall not de-pasture stock on the land without prior approval of the Board.
- 13) This agreement is not transferable and will be surrendered when the holder no longer requires the subject and for the approved occupation and use.
- 14) The subject land may not be sub-let other than with the written agreement of the Board.
- 15) The occupant shall, if and when directed by the Board, adopt and maintain on the land or any part or parts of it, such 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.
- 16) 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 except by the holder of a permit issued under authority of the Minister for the Environment.
- 17) The occupant shall not conduct upon the land any trade or activity which in the opinion of the Board is offensive or which may endanger the public health.
- 18) The occupation and use of the subject lands will be in accordance with any Board policy which may apply from time to time, and all relevant State and Commonwealth legislation.
- 19) The occupants acknowledge the erosion risk and expressly agree to waive any claim for negligence, against the State of NSW, the Minister and the Lord Howe Island Board, and agree to indemnify the State of NSW, the Minister and the Lord Howe Island Board against any and all actions arising from loss or damage to the structures arising from coastal erosion.
- 20) The Permissive Occupancy Agreement will be terminated when coastal erosion immediately threatens the structures including the boatshed and decking.
- 21) Any use of the land is limited to those for permissible purposes.
- 22) Any of these conditions may, on application by the occupant, and on recommendation of the Board, be varied, modified or revoked by the Minister for the Environment.
- 23) A breach of any of these conditions will render the occupancy liable to termination.

Signed: Date:

Witness Name:

Witness Signature: Date:

Signed: Date:

Witness Name:

Witness Signature: Date:

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Proposal to relocate Permissive Occupancy for Pinetrees boatshed.

RECOMMENDATION

It is recommend that the Board recommend to the Minister the following:

1. That a new Permissive Occupancy P02020.1 be granted with conditions as set out in Attachment B: Permissive Occupancy Agreement for new boatshed.

BACKGROUND

Coastal erosion between Windy Point and northwards towards the grader track has been ongoing for several decades. Successive storm surges have eroded the escarpment at Windy Point north of the runway and threatened to undermine Lagoon Road and underground electricity services. The construction of the Seabee wall and rock revetment have protected Lagoon Road from being undermined, however the erosion escarpment continues to threaten the Pinetrees Boatshed, electricity main and adjacent service track.

In 2016 Pinetrees paid for the construction of a sandbag retaining wall with the work being undertaken by the Board. This was a short-term measure which has begun to fail and significantly exacerbated erosion immediately north and south of the sandbag retaining wall through re-direction of energy to adjacent foreshore.

In May 2019 two senior coastal engineers/geomorphologists from the Department of Primary Industry and Environment (DPIE) visited the island and met with Board members, Board staff and the owners of Pinetrees. During the meetings it was recognised that the engineered sandbag retaining wall out the front of the Pine Trees Boat shed was accelerating the rate of erosion at the ends of the structure, and increasing risk that the service track would be undermined and potentially expose underground power cables. The Pinetrees boatshed itself is also threatened by the erosion due to the erosion scarp outflanking the temporary coastal protection works placed in front of the boatshed. Visually the temporary coastal protection works appear to be ad-hoc, and detract from the outstanding scenic qualities of the island. The visual impact is particularly high for visitors to the island as they fly in and for anyone on the water in the lagoon.

The Board was advised that an ongoing program of sand nourishment combined with removal of the temporary sand protection works was the most effective way to protect the public assets and begin the process of restoring the shoreline to a more natural landform with a sloping beach to the ocean. This will also significantly improve the visual amenity of the lagoon foreshore. Removal of the temporary coastal protection works will necessitate the

relocation of the boatshed outside the immediate coastal erosion risk area. Relocation of the boatshed would require a Permissive Occupancy in a new location.

Section 31A of the *Lord Howe Island Act 1953* provides that the Minister may, on recommendation of the Board, grant permission to occupy Crown lands for such purposes and upon such terms and conditions as may be imposed. Section 31A further provides that such permissions shall be terminable at will by the Minister on recommendation of the Board. A copy of the agreement and the amended standard conditions of such occupancies is attached (Attachment A).

CURRENT POSITION

The Pinetrees Permissive Occupancy PO2014.01 encompasses the land the existing Boatshed is currently located on. This location is in the immediate coastal erosion zone. This report proposes that a new Permissive Occupancy (PO) be granted to Pinetrees Lodge, and that once the works have been completed the existing PO be withdrawn. The locations of the existing and new POs are illustrated in Figure 1 below:



Figure 1 Approximate location of existing and new POs *Not to scale.*

A Development Application (DA) and subsequent approval will be required for the existing boatshed to be removed and the new one constructed. The new boatshed and PO location is outside the immediate coastal erosion risk area, but it is possible that it will still be within the medium or long term coastal erosion risk area. Pinetrees have indicated that the new boatshed will be of lightweight construction and able to be relocated easily should it ever become at risk of erosion in the future.

The total area of the proposed Permissive Occupancy is 162m², this is smaller than the original Permissive Occupancy that has an area of approximately 192m². The proposed floor area of the new Boatshed structure will be 28m², significantly smaller than the current structure which has an area of 75m². The smaller size is more in keeping with the surrounding landscape and other boatsheds on the foreshore.

The proposed location of the deck will require the existing service track to be re-aligned. This realignment has been discussed with the Manager of Infrastructure and Engineering Services, and can be accommodated with minimal earthworks. Should the alignment of the service track need to be restored to the original alignment the Board has the ability to request that the Minister amend the PO to enable this. It is anticipated that the deck will be designed in such a way that it can be easily dismantled or modified.

Policy Context

The Lord Howe Island Permissive Occupancy Policy adopted in 2007 details the provisions under which the Board can recommend the Minister grant a PO. The following policy provisions are relevant to this application:

1. The Board will only recommend to the Minister the granting of a Permissive Occupancy to a holder of a Perpetual Lease under the Lord Howe Island Act or an incorporated body providing, in the opinion of the Board, an essential community service.

In this instance it is proposed that the Permissive Occupancy be made out to Pinetrees Lodge Pty Ltd. This would require a deviation from the Policy provision and reflects the long accepted use of the Pinetrees boatshed as an extension of the tourist activities of the Pinetrees Lodge, rather than a private operation of a specific Perpetual Leaseholder on the island. It also simplifies the long term administration of the PO should Pinetrees change ownership. Nothing in this proposed deviation from the Policy fetters the Board's ability to manage or cancel this PO in the future. The Board will retain its absolute discretion to accept or reject any future PO applications. In time it is proposed that the Permissive Occupancy Policy be amended to better reflect this.

Policy provision 8 in the Permissive Occupancy Policy sets the matters to be considered by the Board. A brief response to each element has been provided below:

8. Prior to issuing any Permissive Occupancy, the Board will be provided with and take into consideration a report from the Chief Executive Officer detailing:
 - a) whether there are any public objections to the offering of the PO, subsequent to it having been advertised for a period of 14 days
As this is the relocation of an existing Permissive Occupancy rather than granting of a new PO, it is not considered necessary to advertise.
 - b) whether there are possible alternative public uses for the land;
There are no other alternative public uses for this land that would add significant benefit beyond its current use.
 - c) whether the proposed occupation and use of the land is in the public interest;
Pinetrees is the largest private sector employer on Lord Howe with around 30 full-time employees and up to 10 casual employees. Pinetrees hosts around 2800 guests every year, and generates an annual revenue of just under ten million dollars. Since 2014, Pinetrees has invested five million

dollars in winter refurbishments, using local tradesman and services when available. The Pinetrees boatshed forms an intrinsic part of the Pinetrees brand and plays a significant role in the ongoing viability of Pinetrees.

- d) the likely impacts of the proposed occupation and use of the land, including environmental, social, cultural and economic impacts;
The proposed location of the new PO is in cleared land and does not encroach on any mapped or unmapped significant native vegetation. One small, mostly dead Norfolk Pine will be removed. The proposed location currently does not have any significant social, cultural or economic uses.
- e) the capacity of the applicant to occupy, use and manage the land in accordance with the Board's Standard Conditions of Permissive Occupancy, and any other condition which the Board may impose;
Pinetrees has demonstrated a significant investment in the operation of its existing boatshed and will be capable of meeting the Board's Standard Conditions of Permissive Occupancy and any additional conditions proposed by the Board.
- f) the consistency of the proposed occupation and use of the land with the Zoning of the subject land under the LHI REP 2005
The proposed use is consistent with existing use rights and is consistent with similar boatshed uses elsewhere in the Environmental Protection Zone.
- g) whether the proposed occupation and/or use requires development consent under the LHI REP 2005
Yes, a development consent is required for the construction of a new boatshed and decking. This DA is currently being prepared by Pinetrees.
- h) The proposed rent for the land. Any calculation of rental will consider: the Valuer-General's value of the unimproved land, and; the value of any improvement on the land, and; the value of any commercial use proposed in the occupation and use of the land.
It is proposed that Pinetrees will continue to pay rental on the original Permissive Occupancy until such time it is cancelled. When the original PO is cancelled the rental for the new PO will be determined in the prescribed form.

Proposed Amendments to the standard permissive occupancy conditions

The draft PO attached to this report (Attachment B) contains the following changes to the standard conditions:

- The definition and application of CPI when calculating rental has been clarified.
- Clause 6 has been added to provide the Board with access to the service track for maintenance and to facilitate the traverse of heavy plant along this track.
- Clause 19 and 20 have been carried over from the original Permissive Occupancy. These clauses indemnify the Board and the NSW government from damages claims that might arise should the structure be damaged by erosion.

Timing of decommissioning of the existing Permissive Occupancy 2014.01.

During the demolition and construction of the new boatshed Pinetrees will temporarily hold two Permissive Occupancies. It is proposed that rent will only be charged on the existing PO as there is no additional costs incurred by the Board, and Pinetrees gains no commercial advantage by holding the two PO's. At the end of demolition and construction Pinetrees will

seek to cancel PO2014.01. Alternatively, the Board can initiate the cancellation of the PO at any time under s32A(3) of the Act.

Pinetrees have indicated that, in good faith they will demolish and remove all structures on the existing PO. Prior to the commencement of demolition, a DA will be required and it would be appropriate that the consent include conditions to reflect this. In the unlikely circumstance that the PO holder is unwilling to remove the existing structure, the Board can enact the following standard provision in the PO agreement:

“We agree, upon termination of this occupancy and within such time as may be given to remove structures or all or any material from the land at our cost and without compensation if required by the Minister of the Environment in writing to do so.”

This provision gives the Board the ability to ensure that the existing boatshed and slab is removed in a timely manner.

Conclusion

The issue of this new PO will allow the Pinetrees boatshed to be relocated outside of the current erosion risk zone. Removal of the temporary coastal protection works in front of the Pinetrees boatshed will increase the effectiveness of sand nourishment activities and protection of the service track from erosion scour. It is anticipated that these works will also ultimately restore the coastline to a landform that better reflects its original alignment and more natural foreshore environment.

RECOMMENDATION

It is recommend that the Board recommend to the Minster the following:

1. That a new Permissive Occupancy P02020.1 be granted with conditions as set out in Attachment B: Permissive Occupancy Agreement for new boatshed.

Prepared: Justin Sauvage Manager Environment and Community Services.

Endorsed: Peter Adams CEO LHIB

Attachments:

Attachment A: Permissive Occupancy Policy – Adopted January 22, 2007 – September 2019 - Open
Attachment B: Permissive Occupancy Agreement for new boatshed – September 2019 - Open



LORD HOWE ISLAND BOARD

PLAIN LANGUAGE GUIDE TO THE LORD HOWE ISLAND ACT

Information Sheet 6: Special Leases on Lord Howe Island

What are Special Leases?

Under the *Lord Howe Island Act 1953* (the Act), all land on the island is NSW Crown Land. The Act does not allow freehold private ownership of land.

Instead, the Act provides for Perpetual Leases for Islanders to reside on, and Special Leases for other uses. While Special Leases may be granted for a wide range of purposes, they have almost exclusively been granted for agricultural purposes such as cultivation and grazing. The zoning of land under the Lord Howe Island Local Environmental Plan 2010 would play a significant role in determining where, and for what purpose, a Special Lease can be issued.

The issuing, transfer or subleasing of Special Leases is strictly controlled and constrained by the Act. These provisions date back to 1953 and were designed to protect the interests of Islanders and to prevent speculation and trading in island land.

Is there a Register of Special Leases?

Yes. The Lord Howe Island Board keeps a register containing particulars of leases granted under the Act. It may be inspected by the public at the Island office of the Board.

Who can be granted a new special lease?

New Special Leases can only be granted to a person who holds a Perpetual Lease on the Island. For more information about Perpetual Leases, see the fact sheet entitled "Perpetual Leases". You do not need to be an Islander to be granted a Special Lease, but you do need to hold a Perpetual Lease.

What is the term of a Special Lease?

A Special Lease may be granted for up to 10 years and may be extended with Ministerial approval upon the recommendation of the Board.

Can a Special Lease be cancelled or not renewed?

Yes, in specific circumstances which are strictly controlled by the Act. For example, if the land is required for home sites or for public purposes during the term of the lease, the Minister may withdraw from the lease on the recommendation of the Board.

A Special Lease may not be renewed if the land the Minister, on the recommendation of the Board, determines that it is required for housing or another public purpose.

Compensation may be claimed by the Special leaseholder in these circumstances. The amount of compensation is determined by the Valuer-General, subject to any regulations under the Act, and is subject to appeal in the Land and Environment Court.

The Act states that compensation may be paid for the loss of the land and the loss of the improvement on the land.

Compensation for the loss of the land is calculated based on the unexpired period of the lease. If the unexpired portion of the lease is less than 5 years, then the unexpired portion of the lease is to be calculated at 5 years.

In other circumstances, a Special Lease could be cancelled if, for example, the holder does not pay the rent or fails to comply with any condition applying to the lease.

If the holder of a perpetual lease forfeits that lease, any Special Lease held by that person is automatically forfeited.

In this circumstance, the Minister may waive or reverse forfeiture where it appears to the Minister, after a report from the Board, that there are good and sufficient reasons to do so. The Minister may waive or reverse the forfeiture absolutely or on conditions.

The holder of a Special Lease may surrender the whole or part of the land in the lease. The holder must complete a surrender form available from the Board's Island office and the surrender will take effect on the day of its acceptance by the Minister on the recommendation of the Board.

What is the Rent for a Special Lease?

The annual rent for a Perpetual Lease is payable in advance. The amount is determined from time to time by the Board in accordance with the *Lord Howe Island Regulation 2014*. The Regulation imposes a maximum annual rent that the Board may determine, based on a flat dollar amount plus an amount per square metre of land comprised in lease. Generally, the Board may make a new determination of the annual rental every three or more years. The maximum amounts (both the fixed amounts and the amounts per square metre of land) are increased on 1 September each year in accordance with the Consumer Price Index.

Other legal fact sheets forming part of this series include the following titles:

- Information Sheet 1: History of the Lord Howe Island Act 1953
- Information Sheet 2: NSW and Commonwealth Laws on Lord Howe Island
- Information Sheet 3: Owning and Inheriting Land on Lord Howe Island
- Information Sheet 4: Who is a Lord Howe Islander?
- Information Sheet 5: Perpetual Leases on Lord Howe Island
- Information Sheet 7: Permissive Occupancies on Lord Howe Island

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Extension of the term of Special Leases

RECOMMENDATION

That the Board seek the Minister's approval for the extension of the Specials leases listed in the table below for a period of two years from the 1 January 2020 until 31 December 2021 subject to the existing conditions of the leases.

Lease No	Holder	Portions	Chargeable Area
2011.01	DIGNAM KATHERINE	220	80215
2011.02	FENTON EK	123	65037
2011.03	FENTON SJ	113 & 115	2475
2012.01	ROURKE EM & ROURKE D	234	77157
2011.10	RETMOCK WP	40	1460
2011.11	SHICK RJ	125	4500
2011.12	THOMPSON BRUCE	160	4173
2011.13	THOMPSON B D & R	214	11280
2011.15	WILSON KB	65	10119.7
2011.16	WILSON KB	72	27600
2011.17	WILSON GC	268	37440
2011.18	WILSON GC	289 & 290	7810
2011.20	WILSON GC	338	15370
2011.21	YOUNG BRC	66	46330
2011.22	YOUNG BRC	276	30870

Table 1 List of Special Lease holders on Lord Howe Island

BACKGROUND

All land on Lord Howe Island is Crown land and may only be dealt with in accordance with the provisions of the Lord Howe Island Act 1953 (the Act). Pursuant to Section 22 of the Act, the Minister may grant Special Leases for agriculture or other uses to perpetual leaseholders on the recommendation of the Board. Attachment A – Special Lease Information Sheet provides an overview of Special Leases on Lord Howe Island.

In October 2005, a detailed land assessment of Special Leases on Lord Howe Island was conducted by the Department of Lands, in accordance with the standards established under the NSW Crown Lands Act 1989.

In November 2005, expressions of interest were invited from members of the community for the use of vacant crown land for grazing, agricultural and associated activities, under Special Lease.

On 1 January 2006, on the recommendation of the Board, the NSW Minister for the Environment approved the granting of 18 Special Leases. Since this date, a number of Special Leases have been transferred to other individuals or surrendered.

Each of the leases was for a period of 5 years, with an option to renew for a further 5 years, subject to the management and use of the land in accordance with the Property Management Plan (PMP) for the land and the Special Lease conditions.

In 2012, the Minister approved an extension of the term of all Special Leases from 1 January 2011 for the full five year period (until 31 December 2015), subject to compliance with the management and use of the land in accordance with the PMP and conditions of the Special Lease.

In March 2014 the Government announced a review of land allocation and tenure arrangements for Lord Howe Island and appointed the Hon Ken Handley AO QC to conduct the review. Following consultation with the Island community and other stakeholders, a discussion paper seeking public comment was released in August 2014. Public submissions closed in October 2014. The final report on the Handley review was completed in February 2015. The final Government response to the Handley report was released in February 2017.

During the course of the Handley review and report, the term of Special Leases became due to expire. In order to forestall the expiry the Minister, on recommendation of the Board, approved the extension of term of all Special Leases for an additional two years. This extension concluded on 31 December 2017.

At the September 2017 Board meeting the Board resolved to extend all Special Leases a further two years. These leases expire on the 31st December 2019.

CURRENT POSITION

Currently there are 17 Special Leases on the Island. Table 1 below shows the current lease holders:

Lease No	Holder	Portions	Chargeable Area
2011.01	DIGNAM KATHERINE	220	80215
2011.02	FENTON EK	123	65037
2011.03	FENTON SJ	113 & 115	2475
2011.05*	WILSON GC	230,291,292	22938
2011.08*	WILSON GC	101	14910
2012.01	ROURKE EM & ROURKE D	234	77157
2011.10	RETMOCK WP	40	1460
2011.11	SHICK RJ	125	4500
2011.12	THOMPSON BRUCE	160	4173
2011.13	THOMPSON B D & R	214	11280
2011.15	WILSON KB	65	10119.7

2011.16	WILSON KB	72	27600
2011.17	WILSON GC	268	37440
2011.18	WILSON GC	289 & 290	7810
2011.20	WILSON GC	338	15370
2011.21	YOUNG BRC	66	46330
2011.22	YOUNG BRC	276	30870

*Table 2 List of Special Lease holders on Lord Howe Island *Special Leases 2011.05 and 2011.08 will be subject to a separate report in November 2019.*

All Special Leases are due to expire on the 31st December 2019, with the lease holder having no legal right to renew the Lease.

The Handley Review, and the final Government response contain recommendations which have direct implications for Special Leases if adopted. Table 2 summarises the Handley's recommendation and the Government's response:

Handley Recommendation	Government Response
Special 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.	The Lord Howe Island Act 1953 ('The Act') will be amended to increase the Special Lease term to 20 years. The addition of covenants can be done without legislative change. 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.

Table 3 Special Leases - Handley Recommendation and Government Response

The Government is currently pursuing the necessary legislative changes through parliament and they are anticipated to be presented to parliament at the November 2019 sitting. Assuming that parliament pass the amendments they are unlikely to have force until early 2020.

The government has also recommended that in order to grant lease holders an extended Special Lease term that they be required to develop detailed management plans and be obliged by strict covenants.

The negotiation of these management plans and drafting up measurable and legally enforceable covenants will be resource intensive, possibly requiring legal advice on each contract. The significant challenge of this task is highlighted by the fact that many of the Special Leases on the Island, while currently bound to undertake Agricultural activities, are very lightly used for agricultural purposes and a shift to productive agriculture will result in a significant change in how some Special Leases are used. It is anticipated that the Board may face some resistance from some existing Special Lease holders who may be required to shift to a more productive use of their land.

In order to assist with the development of the covenants and to guide management plans, Board staff will develop a draft Special Lease policy for further consideration by the Board. The policy will consider the following elements:

- Consideration of the productive capacity and economic viability of agricultural use on the land;
- Expression of interest and Special Lease allocation process;
- Template and guidelines for the development of property management plans, including the development of clear metrics to monitor ongoing compliance with property management plans;
- Community consultation of the draft policy.

Note regarding Gower Wilson's Special Lease 2011.05 and 2011.08

Gower Wilson currently holds seven Special Leases. Two of these leases, 2011.05 and 2011.08 are impacted by the proposed Hybrid Renewable Energy Project (HREP), while lease 2011.05 is also impacted by the Air Services Australia installation on his lease.

The current DA approval for the HREP project indicates that solar panels will be installed on special lease 2011.05 and 2011.08, although Board staff are currently considering an amendment that would see all of the solar panels moved to Special Lease 2011.05. This would free up the entirety of Special Lease 2011.08 for agricultural purposes. The compensation process for the construction of Air Services Australia infrastructure on Special Lease 2011.05 has never been formally concluded.

The renewal of these two Special Leases held by Gower, and any compensation payable will be dealt with in a separate report to the Board in November. These two leases (2011.05 and 2011.08) have therefore not been included in the table in the recommendation.

Conclusion

Given that the changes to the Act are yet to be made and the resources required to implement the government recommendation that lessees will be obliged by strict covenants to make the land productive, it is recommended that an interim two year extension of the leases be sought from the Minister. This will allow for sufficient time to develop and adopt a Special Lease policy and time to complete the process of advertising and negotiating management plans for each Special Lease.

RECOMMENDATION

That the Board seek the Minister's approval for the extension of the Specials leases listed in the table below for a period of two years from the 1 January 2020 until 31 December 2021 subject to the existing conditions of the leases.

Lease No	Holder	Portions	Chargeable Area
2011.01	DIGNAM KATHERINE	220	80215
2011.02	FENTON EK	123	65037
2011.03	FENTON SJ	113 & 115	2475
2012.01	ROURKE EM & ROURKE D	234	77157
2011.10	RETMOCK WP	40	1460
2011.11	SHICK RJ	125	4500
2011.12	THOMPSON BRUCE	160	4173
2011.13	THOMPSON B D & R	214	11280
2011.15	WILSON KB	65	10119.7

2011.16	WILSON KB	72	27600
2011.17	WILSON GC	268	37440
2011.18	WILSON GC	289 & 290	7810
2011.20	WILSON GC	338	15370
2011.21	YOUNG BRC	66	46330
2011.22	YOUNG BRC	276	30870

Table 4 List of Special Lease holders on Lord Howe Island

Prepared: Justin Sauvage Manager Environment and Community Services.

Endorsed: Peter Adams Chief Executive Officer, Lord Howe Island Board

Attachments:

Attachment A: Special Lease Information Sheet – September 2019 - Open

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Review of Perpetual Leases that are potentially in breach of their lease conditions.

RECOMMENDATION

That this report be received and noted.

Background

Recommendation 2 of the final *Handley Review of Land Allocation on Lord Howe Island* (“the Handley Review”) stated that:

“Properly police and enforce the residency condition in perpetual leases, with forfeiture as a last resort.”

This recommendation was supported by Government with the following comment:

Guidelines will be developed to support the Board in:

- *assessing applications for suspension in residency condition*
- *monitoring habitual residence of leaseholders*
- *enforcing the residency requirements in the case of ‘joint tenants’ and ‘tenants in common’ or situations where there are multiple dwellings on an allotment.*

A review of residency status of all lessees was undertaken in late 2017 by the administration with advice from local Board members. The review found that of the 115 Perpetual leases on the Island:

- The lessee/s of 78 leases (68%) were considered to be living on their leases
- The lessee/s of 23 leases (20%) who were not living on their leases had existing suspensions of the residency condition in place, were otherwise temporarily excused from fulfilling the residency condition (e.g. unresolved deceased estates), were technically in breach due to “historic” administrative oversights (which have substantially been rectified) and the like.
- One or more of the lessee/s of 14 leases (12%) were considered to be possibly not living on their leases.

CURRENT POSITION

In preparing this report a review of the original list presented to the Board has been undertaken and updated (Attachment A – update of Perpetual Leaseholders potentially in breach with their lease conditions - Closed). Two investigations have been completed with residency requirements met by the respective leaseholders. A further four perpetual leases are subject to separate reports at this Board meeting that if adopted will satisfy residency requirements.

Board staff are also investigating a number of new instances where leaseholders who may be in breach of their lease conditions. For privacy and confidentiality reasons and to ensure due administrative process is being followed the revised list will not be reported to the Board until after the initial investigation has been completed and any responses to show cause letters received.

Where the Board identifies a lease that is potentially in breach, an investigation process will be initiated. Table 1 describes the key steps in the investigation process.

Phase	Stage	Description
Investigation	Initial investigation	The Board administration considers whether there has been an arguable breach of the perpetual lease condition based upon available material.
	Show cause	The Board invites the affected leaseholder to show cause why, on the basis of the initial investigation, the Board should not further investigate whether the lease is liable to be forfeited for the reason of a breach of the perpetual lease condition.
Final deliberation	Preliminary report	After considering any comment from the affected leaseholder and, upon consideration of all information then available, the Board forms a preliminary view whether there has been a forfeiture event by reason of a breach of the perpetual lease condition. That preliminary view is set out in a report that collects all available information and includes the leaseholder response. That report should be considered and, if accepted, adopted at a formal meeting of the Board and include any proposed recommendation that might be made to the Minister for publication of a Gazette notice.
	Invitation to respond	The Board invites the affected leaseholder to comment upon the preliminary report.
	Final report	After considering the response of the leaseholder, and again considering the entirety of the available information, the Board adopts a final report setting out the determination of the Board whether the lease is liable to be forfeited for breach of the perpetual lease condition. That report would be provided to the Minister with a

		recommendation from the Board as to publication of a Gazette notice.
--	--	--

Table 1 Summary of procedural steps in relation to a breach event.

The Board administration seeks to investigate all potential non-compliance with lease matters. However in order to manage limited Board resources investigations into non-compliance are being prioritised according to the degree of non-compliance. For example in the two scenarios:

1. A lease that is not being occupied by its lease holder and is otherwise vacant
2. A lease that is not being occupied by its lease holder, but is being occupied by an Islander.

Both scenarios are in breach of the Lord Howe Island Act, however scenario two can be remedied by way of a sublease arrangement that would be permissible under the Act. While the Board would intend to investigate and pursue compliance for both scenarios, scenarios where there is no obvious administrative solution will have a higher priority than scenario two.

RECOMMENDATION

That this report be received and noted.

Prepared: Justin Sauvage Manager Environment and Community Services.

Endorsed: Peter Adams Chief Executive Officer, Lord Howe Island Board

Attachments:

Attachment A: List of Perpetual Leaseholders potentially in breach of their perpetual lease conditions – September 2019 - **Closed**

Internal Audit and Risk Management Attestation Statement for the 2018-2019 Financial Year for the Lord Howe Island Board

I, _____, am of the opinion that Lord Howe Island Board has internal audit and risk management processes in operation that are, compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

Core Requirements

For each requirement, please specify whether compliant, non-compliant,¹⁸ or in transition

Risk Management Framework

- | | | |
|-----|--|------------------|
| 1.1 | The agency head is ultimately responsible and accountable for risk management in the agency | Compliant |
| 1.2 | A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009 | Compliant |

Internal Audit Function

- | | | |
|-----|--|------------------|
| 2.1 | An internal audit function has been established and maintained | Compliant |
| 2.2 | The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing | Compliant |
| 2.3 | The agency has an Internal Audit Charter that is consistent with the content of the 'model charter' | Compliant |

Audit and Risk Committee

- | | | |
|-----|---|------------------|
| 3.1 | An independent Audit and Risk Committee with appropriate expertise has been established | Compliant |
| 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 | Compliant |
| 3.3 | The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter' | Compliant |

Membership

The chair and members of the Audit and Risk Committee are:

Role	Name	Start Term Date	Finish Term Date
Independent Chair	Peter Lucas	18 December 2018	30 September 2019
Independent Chair	Brian Blood	1 December 2013	30 November 2018*
Independent Member	Brian Blood	1 December 2018	30 September 2019
Independent Member	Elizabeth Crouch	21 October 2013	30 September 2019*
Independent Member	Alan Zammit	27 February 2012	30 September 2019*

*Includes reappointment for a second term.

This Audit and Risk Committee has been established under a Treasury approved principal department led shared arrangement with the following statutory bodies:

- Central Coast Regional Development Corporation (to 31 October 2018)
- Hunter Development Corporation (to 31 October 2018)
- Hunter and Central Coast Development Corporation (from 1 November 2018)
- Lord Howe Island Board
- Office of Local Government
- Planning Ministerial Corporation
- State Archives and Records Authority

Chair

Date:

Agency Contact:



Cluster Corporate Services Management Certification Letter – Finance,
Facilities, Property and Fleet
1 July 2018 - 30 June 2019

This Management Certification Letter is provided in compliance with NSW Treasury Policy and Guidelines Paper *Certifying the Effectiveness of Internal Controls Over Financial Information* (TPP 17-06) to Planning and Environment cluster agencies.

I, Richard Shakespeare, an Executive Director within the Corporate Services branch of the Department of Planning, Industry and Environment and former Executive Director Finance, Facilities, Property and Fleet of the former Department of Planning and Environment (DPE), advise that Cluster Corporate Services (CCS) of the former DPE provided Finance, Facilities Property and Fleet services during the 2018-19 financial year to client agencies with the former Planning and Environment Cluster.

Detail of services provided are outlined in the CCS Service Partnership Agreement and in specific Service Catalogues.

Finance, Facilities, Property and Fleet was committed to having an effective control environment for its operations and the services it provided to client agencies. The effective operation of the control environment was supported by:

- Independent Audit and Risk Committee oversight, in compliance with NSW Treasury Policy and Guidelines Paper *Internal Audit and Risk Management Policy for the NSW Public Sector* (TPP 15-03);
- Internal Audit function established and maintained, with internal audit services provided by an externally sourced provider (Ernst Young), in compliance with TPP 15-03;
- A code of ethics and conduct and related corporate policies covering behaviours, operational matters and workplace conduct;
- Risk management policy and framework; and
- Certified compliance with ISO/IEC 27001:2013 - Information Security Management.

Finance, Facilities, Property and Fleet services were managed during the 2018-19 financial year to provide assurance that appropriate controls are in place to underpin the production of reliable financial information and reports.

Internal controls are reviewed on a regular basis to ensure they are:

- Adequate, proportionate and operating as intended
- Adjusted as necessary in response to changes in internal/external environment
- Supportive of financial reporting compliance and quality objectives.

I advise that, to the best of my knowledge and belief, in all material respects during the specified period:

- Finance, Facilities, Property and Fleet had an effective system of internal control to ensure that the financial information provided to the client agency was relevant, reliable, comparable and understandable
- The system description (see Attachment) fairly presents the CCS system as designed and implemented throughout the specified period
- The controls related to the control objectives stated in the system description were suitably designed throughout the specified period
- The controls related to the control objectives stated in the system description operated effectively throughout the specified period.

The above view has been informed the management certifications required of general management (refer Treasury Policy and Guidelines Paper TPP 17-06 *Certifying the Effectiveness of Internal Controls Over Financial Information.*)

Notwithstanding the above, note that the client agency retains ultimate accountability for the accuracy and completeness of its financial information.



Richard Shakespeare
Executive Director
Corporate Services

Date: 3/9/19



Cluster Corporate Services Management Certification Letter – Human
Resources
1 July 2018 - 30 June 2019

This Management Certification Letter is provided in compliance with NSW Treasury Policy and Guidelines Paper *Certifying the Effectiveness of Internal Controls Over Financial Information* (TPP 17-06) to Planning and Environment cluster agencies.

I, Fiona Leyden, Executive Director People Performance and Culture of the Department of Planning, Industry and Environment and former Executive Director Human Resources of the former Department of Planning and Environment (DPE), advise that Cluster Corporate Services (CCS) of the former DPE provided Human Resource services during the 2018-19 financial year to client agencies with the former Planning and Environment Cluster.

Detail of services provided are outlined in the CCS Service Partnership Agreement and in specific Service Catalogues.

Human Resources was committed to having an effective control environment for its operations and the services it provided to client agencies. The effective operation of the control environment was supported by:

- Independent Audit and Risk Committee oversight, in compliance with NSW Treasury Policy and Guidelines Paper *Internal Audit and Risk Management Policy for the NSW Public Sector* (TPP 15-03);
- Internal Audit function established and maintained, with internal audit services provided by an externally sourced provider (Ernst Young), in compliance with TPP 15-03;
- A code of ethics and conduct and related corporate policies covering behaviours, operational matters and workplace conduct;
- Risk management policy and framework; and
- Certified compliance with ISO/IEC 27001:2013 - Information Security Management.

Human Resource services were managed during the 2018-19 financial year to provide assurance that appropriate controls are in place to underpin the production of reliable financial information and reports.

Internal controls are reviewed on a regular basis to ensure they are:

- Adequate, proportionate and operating as intended
- Adjusted as necessary in response to changes in internal/external environment
- Supportive of financial reporting compliance and quality objectives.

I advise that, to the best of my knowledge and belief, in all material respects during the specified period:

- Human Resource services had an effective system of internal control to ensure that the financial information provided to the client agency was relevant, reliable, comparable and understandable
- The system description (see Attachment) fairly presents the Human Resources system as designed and implemented throughout the specified period
- The controls related to the control objectives stated in the system description were suitably designed throughout the specified period
- The controls related to the control objectives stated in the system description operated effectively throughout the specified period.

The above view has been informed by the management certifications required of general management (refer Treasury Policy and Guidelines Paper TPP 17-06 *Certifying the Effectiveness of Internal Controls Over Financial Information.*)

Notwithstanding the above, note that the client agency retains ultimate accountability for the accuracy and completeness of its financial information.



Fiona Leyden
Executive Director
People Performance and Culture

Date: 3/09/2019

Attachment

Human Resource Services Management Certification Letter 2018 – 19

Description of services provided

Human resources

- Recruitment
- On Boarding
- Off Boarding
- Organisation Design Implementation
- Role Design
- Establishment Management and Governance
- Payroll
- HR Systems Management, Analytics and Reporting
- Performance Management (Performance Review)
- Business Partnering Advisory
- Special People and Change Projects
- Learning and Development (Non-Executive)
- Learning and Development (RTO, MTS, Compliance)
- Employee Relations
- Industrial Relations
- Work, Health and Safety (WHS)

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Attestation Statement for Financial Year 2018/19.

RECOMMENDATION

It is recommended that the Board resolve to authorise the Chairperson to sign the Internal Audit and Risk Management Attestation Statement for the 2018/19 Financial Year.

BACKGROUND

TPP 15-03 *Internal Audit and Risk Management Policy for the NSW Public Sector* requires the head of a statutory body, in accordance with a resolution of the governing body of the statutory body, to certify compliance with the eight Core Requirements for the prior financial year (the 'reporting period') annually. When reviewing the agency's compliance with the Policy, agencies will self-assess and determine whether they have been 'compliant', 'non-compliant' or 'in transition' in relation to each of the Core Requirements for the reporting period. A copy of the Attestation Statement must be separately submitted to NSW Treasury on or before 31 October each year. For any non-compliance with Core Requirements, agencies are required to also submit a copy of the relevant Portfolio Minister's exception approval.

The eight Core requirements are as follows:

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/NZS 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'

The Audit and Risk Committee has been established under a Treasury approved principal department led shared arrangement with the following statutory bodies:

- Planning Ministerial Corporation
- Central Coast Regional Development Corporation (to 31 October 2018)
- Hunter Development Corporation (to 31 October 2018)
- Hunter and Central Coast Development Corporation (from 1 November 2018)
- Office of Local Government.
- Lord Howe Island Board
- State Archives and Records Authority

Please also refer to the comments and attachments to Item 7 (i) of the Agenda to provide further clarity and endorsement of the financial reporting process for 2018/19.

CURRENT POSITION

The Lord Howe Island Board has internal audit and risk management processes in operation that are, compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*. Certification Statements from Cluster Corporate Services are included as Attachments, B and C.

RECOMMENDATION

It is recommended that the Board resolve to authorise the Chairperson to sign the Internal Audit and Risk Management Attestation Statement for the 2018/19 Financial Year.

Prepared: John van Gaalen Manager Business and Corporate Services

Endorsed: Peter Adams Chief Executive Officer

Attachment A: Internal Audit and Risk Management Attestation Statement for the 2018/19 – September 2019 – Open

Attachment B: FFPF CCS Management Certification Letter 2018-19 – September 2019 – Open

Attachment C: HR CCS Management Certification Letter 2018-19 – September 2019 – Open

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Lord Howe Island Rodent Eradication Project (REP) Implementation.

RECOMMENDATION

That the Board:

1. Pursue cost recovery of legal fees from the Supreme Court challenge.
2. Note the update to the rest of the project.

BACKGROUND

The REP is now well advanced in *Stage Three: Implementation and evaluation of the eradication plan*.

Stage Three involved delivery of the eradication plan (planned for implementation in winter 2019) over an approximate three – four month period. Key elements are:

- Finalise detailed logistics and operational planning including Property Management Plans
- Assemble and train remaining resources
- Finalise construction of captive management facilities for the woodhen and currawong
- Capture of woodhens and currawongs
- Operational readiness check
- Implementation of ground and aerial baiting
- Follow up monitoring and release of woodhens and currawongs
- Maintaining an ongoing biosecurity and rodent detection monitoring network.

CURRENT POSITION

An update on elements that have changed or advanced since the previous meeting is provided below.

1) Legal Challenges

Administrative Appeals Tribunal

A final version of the revised APVMA permit was received on 9 May 2019. The Crown Solicitors Office (CSO) revised fee estimate for this defense is ~\$137,000. No cost recovery is available.

Supreme Court

On 17 May 2019, proceedings in the Supreme Court were launched against the LHIB by Gai Wilson alleging breaches of the APVMA permit. The NSW CSO again represented the LHIB. The matter was heard on 6 June. On 18 June 2019, the Supreme Court handed down its' judgement dismissing the plaintiffs' claim for declaratory and final relief, and ruling comprehensively in the LHIB's favour and awarding costs. The full decision can be viewed at <https://www.caselaw.nsw.gov.au/decision/5d04ec48e4b02a5a800c198a>

The CSO's fee estimate for this defence is ~\$140,000. It is likely that approximately 70% can be recovered, should the LHIB seek to recover costs. A decision on whether to pursue cost recovery needs to be made by the Board.

Defending both legal challenges diverted the project's Senior Leadership Team including the Project Manager and LHIB CEO. The need to respond to the legal challenges resulted in time being taken away for the critical planning and implementation stages, as well as administering and providing services to the island. The legal challenges resulted in a very significant financial burden on the project through direct and indirect costs. These costs have been well above the direct legal costs quoted above and will impact the Board's finances well beyond that figure.

2) Biosecurity Control Order

A DPI compliance officer visited the island in mid-June and early July to discuss obligations under the Control Order with a small number of residents. To date there have been no incidents of non-compliance with the Control Order.

3) Staffing

The majority of the international expert field supervisors finished up with the project at the end of July, having successfully commenced the program and developed capability in the local team. Some stayed for a few weeks later.

- Assistant Project Managers Graeme Beech and Jaclyn Pearson finished in July and August respectively.
- Technical Advisor Keith Springer finished on island at the start of Aug but continues to provide technical advice remotely.
- Ground Operations Manager Grant Harper finished on island in mid-August and has handed remaining tasks over to Simon Pahor. Grant continues to provide technical advice remotely. Simon will remain until the end of the scheduled baiting.
- Rosie Willacy joined the team as Field Supervisor until the end of the scheduled baiting.
- Peter Carr (Maj) and Darryl Birch departed the island temporarily but will return to assist with the final baiting rounds and the pack down process.
- 12 local supervisors were promoted from the ground team.
- There has been some turnover of field officers and replacements have been recruited as needed.

4) Regulatory Compliance

To ensure compliance with the various permits, a compliance register was developed. Various reporting requirements under the permits have been completed, updates provided and queries answered. Two regulatory agencies also undertook project inspections:

- Inspection by Office of Environment and Energy Regional Operations Group 3-6 June 2019
- Inspections by Environmental Protection Authority 29 Oct – 2 Nov 2018 and 11-14 June 2019

No major concerns were raised.

5) Captive Management Update

Bird Capture:

- A total of 129 Currawong and 237 Woodhen were caught and accepted into the captive management facility
- A total of 50 woodhens were collected from the mountains (38 from Mt Gower, 5 from Mt Lidgbird and 7 from Big Slope) in the last week of May with the assistance of the helicopters.
- Processing into the facility included, banding, a physical health assessment, DNA sampling and blood samples taken for a subset of birds to establish baseline data on population health.
- All birds coming into the facility and daily individual reports are recorded in ZIMS (Zoological Information Management System).
- Birds are housed in numbered aviaries or pens with experienced Taronga keepers undertaking the day to day care of individuals now within the facility.

Bird Health

Birds have generally settled well into captive management and day to day husbandry and management routines are now established. Each fortnight the birds consume approximately 85 kgs of fresh food, 16 dozen eggs and 6 kg of meal worms. 10 cubic metres of mulch is replaced fortnightly.

To date, four Currawongs had been euthanised due to animal welfare concerns regarding aspergillosis. Taronga Zoo implemented a preventative anti-fungal treatment regime for other birds.

To date three Woodhens have died in captivity. One died from a non-infectious respiratory disease. One was a bird that was brought in after the initial capture and was observed eating bait in the wild. Despite being given Vitamin K the bird did not survive. One bird sustained an injury to one of its toes and was separated into a smaller pen containing two other birds for treatment since woodhen tend not to eat well when housed individually. These birds were aggressive towards it so it was moved to another enclosure with only one bird on and given extra cover. Unfortunately it was attacked overnight and died the following morning despite treatment.

Whilst these deaths in captivity are unfortunate, it should be remembered that a normal wild population has regular deaths.

Scheduled release:

After monitoring bait break down, ten Currawongs fitted with radio tracking devices were released on 2 Sept. Tracking shows all birds were alive and well at the time of writing this report. The remaining currawongs are scheduled for release from 23 Sept 2019.

Mountain woodhens are scheduled for release in Oct (coinciding with a weed eradication project helicopter visit) and lowland birds in mid Nov, once bait has been removed from stations in the settlement area.

Site Decommissioning

Future end use of the captive management site and aviaries need consideration by the LHIB. Options for consideration and further discussion in a November Business Paper could include:

- Leave the facility in situ for future use. Examples could include:
 - insurance population / captive breeding of woodhens
 - on island breeding of phasmids prior to release
 - aviaries for quarantine for future bird species translocations
 - commercial lease to business
- Reuse of aviary components on island. Examples could include:
 - Colour bond panels for reuse in solar array screening
 - Relocation of the new shade structure for use as a plant and equipment storage shed
 - Sale of materials on island (i.e. currawong panels and colour bond panels as chicken pens, dog kennels or sheds)
 - Sale of materials off island
 - Complete dismantling of all infrastructure to allow future use of the site.

6) Ground Baiting

Ground baiting tasks undertaken since the previous meeting include:

- Completion of bait station bar coding, labelling and cattle cover assembly.
- Line cutting and marking for bait stations and 9,500 hand broadcast points.
- Set up of approximately 18,900 external stations on a 10 m x 10 m grid. 2,300 of these have a wooden cattle cover.
- Set up of approximately 4,300 internal bait stations.
- Baiting in stations commenced on 22 May. At the time of writing this report round 10 (of 12 rounds) of bait station baiting was underway (baiting scheduled to end of October 2019).
- The servicing schedule has changed from every 7 days to approximately 10 days based on the difficulty in access properties in accordance with owner instructions and resources available.
- Hand Broadcast was undertaken over 164 hectares each application. The first application (12 kg /ha) was undertaken between 28 May and 20 June. The second application (8 kg / ha) between 19 June to 12 July 2019. Very small amounts of bait may still be placed strategically within or close to sites with positive rodent sign or that may be good refuge habitat.
- A variety of non-toxic monitoring tools have now been deployed on a 30 x 30m grid to supplement the bait station network.
- A mainland roofing contractor has been engaged to assist with baiting in rooves with no access.

7) Aerial Baiting

- 2 Helicopters arrived on island on 14 May 2019 along with 3 spreader buckets, 2 pilots and other air crew (Engineer, GIS Officer, and Load Supervisor).
- The first round of aerial baiting (12 kg/ ha) commenced on 8 June and was completed on 12 June 2019.
- The second round of aerial baiting (8 kg/ha) commenced on 19 June and was completed on 8 July.
- Total flying hours for aerial baiting and associated tasks was 76 hours. Associated flying tasks included boundary familiarisation and logging, deflector bait bucket calibration, and weather reconnaissance.

- Other flying activities costed to the REP included hover exit and entry training for Woodhen capture team, transport of capture team to mountains, ferrying captured woodhens from mountains
- Cost recovered flying (16 non REP Hours) undertaken by helicopters included ferrying weed eradication teams, SES equipment and other LHIB sling work.

Due to inclement weather significant standby time costs were incurred over what was budgeted.

8) Last remaining rodents

The baiting to date had seen very dramatic decrease in rodent activity and has so far followed the pattern we would expect in relation to rodent activity, bait take, and the persistence of final individual rodents in the settlement bait station area. Bait station operations typically require a longer period of time to achieve eradication success when compared to programs which utilise only aerial and/or hand-broadcast bait application. These methods place bait on the ground for any rodent to freely encounter as it moves through its environment. The seemingly small step of placing the bait in a station introduces the requirement for each rodent to decide to enter the station to access bait. It is typical to see bait take and activity rates rapidly decrease to very low levels followed by 'blips' or small, sporadic spikes in activity as the operation continues. This occurs as the remaining individuals, which were more cautious than others, decide to enter the stations. These behaviours lead to a typical pattern in bait take and rodent. It is not uncommon for mouse activity to continue for longer than rat activity.

It is important that we do not relax towards the end of the baiting operation and that we continue to apply pressure to the final remaining rodents to achieve successful eradication. As activity decreases there is a risk that complacency or concessions slip in which decrease the pressure being applied to the final individuals. By definition of being those that are remaining, these final few rodents are the most difficult to remove and require the most effort which must be sustained at the greatest possible intensity. By 'de-activating' stations too early or not baiting areas, we create an island of refuge within the bait station network. Any rodents which may have gone undetected within this area, or any that may by chance find their way into this area will not be exposed to bait. A consistent pressure on the population must be maintained up until the scheduled end of baiting.

Our rodent detector dogs Sebbi and Zuma (and handlers) have been actively seeking remaining rodents in the settlement over the last few weeks. They have been joined by mainland handler Steve Austin and his dog Tommy and will again in mid-October.

9) Masked Owl Eradication

A total of 14 Masked Owl carcasses have been found to date, significantly reducing owl numbers on the island. The contract shooter conducted his first visit in July and has two more scheduled visits to the island over the coming months. Several local shooters are now licensed and available for responding to owl sightings / calls.

A deceased boobook owl was found in July. Investigation by OEE and the Australian Museum staff have narrowed the specimen to either a New Zealand morepork or possibly a Tasmanian boobook, but definitely not a relic individual of the extinct Lord Howe boobook. It is not unusual for birds to travel large distances and this is how birds naturally colonise islands across the globe. DNA analysis is pending to confirm the exact species.

10) Risk Mitigation and Monitoring

Office of Environment and Energy staff have been undertaking a range of monitoring.

Monitoring of Masked Booby and Providence Petrel colonies before and during aerial baiting operations showed no disturbance from the helicopter activities.

The environmental monitoring program has commenced to meet permit conditions. So far samples of seawater, freshwater, groundwater, milk, eggs and fish have been collected and tested for brodifacoum in an accredited laboratory.

Milk and egg samples were collected five days after bait stations were first loaded in the dairy herd area and from two locations where laying hens are being kept. No detectable levels of Brodifacoum were found in any sample, however the precautionary advice regarding consuming milk and eggs remains in place. Additional sampling will be undertaken in the coming months to confirm that consumption of milk and eggs can resume as normal.

Coastal seawater samples were collected from the sea adjacent to creek mouths every second day for two weeks after both the first and second aerial application. Fresh water samples were collected from some creeks, bores and rainwater tanks after the aerial bait application. No detectable levels of Brodifacoum were found in any sample. The precautionary advice to not drink from streams currently remains in place. Final samples will be collected in early November (four months after the second application).

Fish samples (liver and flesh) were collected after the first and second aerial applications from a number of Kingfish, Trevally, Bluefish, Garfish and Mullet from near the shore. After the first application, a small number of samples (mostly livers) were found to contain very low traces of brodifacoum. Two flesh samples out of 20 (one Mullet and one Bluefish flesh sample) were found to contain very low residue levels, just above the limit of detection and well below the Human Health Risk Assessment (HHRA) guideline criteria. After the second application, only one fish sample (mullet flesh and liver) was found to contain traces of brodifacoum, again well below the guideline criteria. Dr Robert De Mott, who led the HHRA has reviewed all fish monitoring results to date and compared them to the guideline criteria set in the HHRA. He has assured the Board that there are no indications from the monitoring results that there is any risk of acute (short term) or chronic (long term) effects on human health, even for the most sensitive receptors (small children). Marine Parks have been advised of the results. The precautionary advice regarding not consuming fish livers from fish caught near the shore of the island currently remains in place. Final fish samples will be collected in early November (four months after the second application)

Non- target species monitoring walks commenced after the start of aerial baiting. Low numbers of non-target species carcasses have been collected and are all well below thresholds for mitigation established in regulatory approvals. It is important to note that the overall objective of the REP is to permanently reduce impacts to more than 70 species on LHI.

11) Knowledge Sharing

The project has gained and shared knowledge globally via the following mechanisms:

- Recruitment of international experts into the field team from New Zealand, the United Kingdom and Mexico
- Secondment of GIS Officer Dion Fabbro from the New Zealand Department of Conservation
- Operational Readiness checks from members of the Island Eradication Advisory Group (New Zealand)

- Secondment of Anthony Wilson from the Department of Environment and Energy
- Hosting a post Graduate researcher, Peter Kappes from the United States Department of Agriculture - National Wildlife Research Center in Hawaii
- Engagement of expert witnesses from the United States and New Zealand for the court challenges

12) Community Engagement Update

Information continues to be provided to the community and visitors via householders, newsletters, The Signal and information sheets distributed to arriving passengers.

The Conservation Volunteers program is running well and results will be compiled once the program is completed at the end of Sept.

13) Operational Planning

Operational planning over the coming months will focus on killing the last remaining rodents, completion of baiting in the settlement area, bird release, environmental monitoring and pack down and divestment of all REP equipment. Investigations into resale of bait stations has commenced.

14) Biosecurity

Responsibility for rodent biosecurity has essentially been handed over to the Environment and Community Services section. Activity includes

- Fortnightly biosecurity checks at Port Macquarie commenced in April
- Biosecurity operating procedures have been reviewed externally and refined.
- Ongoing liaison with Birdon regarding contractual biosecurity arrangements and training of their staff continues
- The on island biosecurity monitoring network will be established before completion of bait station baiting

15) Budget

It should be restated that project funding was secured in 2012 with implementation originally scheduled for 2015. Implementation has been delayed until 2019 in order to increase the robustness of the program, to reduce real and perceived risks, and to reassure the community and decision makers. This has included increased community consultation, additional studies, extra mitigation and costs associated with delay not originally budgeted for. Many changes in scope and timing have occurred during that time, with major changes by agreement of the Steering Committee.

Significant additional costs have been or will be incurred in implementing the most complex project of its type in the world. It should be recognised that this project is ground breaking for eradications on inhabited islands in Australia and globally. Whilst budget estimates have been developed based on extrapolation of global experience, the knowledge to accurately forecast every element did not exist before the project commenced. For example the bait station component alone is an order of magnitude above anything else that has ever been attempted. However the lessons learnt from this project will be shared to enhance project planning on future eradications.

Whilst considerable progress has been made implementing the project and many aspects of the project have been achieved, the funding originally committed is now insufficient to cover the entirety of the project.

Grant funds received are now effectively exhausted and there is approximately a significant shortfall to undertake the work required to complete the project.

To address the predicted funding shortfall, the following actions have been undertaken:

- a) The budget has been redeveloped from the bottom up to identify remaining essential and non-essential items and where potential cost savings can be made. The budget is being actively managed.
- b) Revenue opportunities from resale of some project assets and infrastructure have been identified for further investigation. This includes some GIS equipment, the currawong aviaries and potentially bait stations.
- c) An additional \$1.1M of funding through the Commonwealth Department of Environment and Energy was successfully secured for the FY18-19 financial year. The funding was delivered through a contract between the LHIB and North Coast Local Land Services under their regional partnerships agreement with the Department. Payment was made to the LHIB on invoicing for agreed milestones.
- d) Formal requests for additional funds have been made to the Environmental Trust in Dec 2018 and May 2019. A revised request was issued in Sept 2019.
- e) Additional funding from other external sources continues to be investigated:
 - With the approval of the Steering Committee, the LHIB engaged a consultant to undertake a Fundraising Campaign Readiness Assessment in order to identify potential philanthropic sources of additional funding. The report found that given the timeframe to completion of major elements of the REP, it was unlikely that sufficient philanthropic donations could be secured. Many interviewees also firmly considered the shortfall a government responsibility. The interviews with potential donors did however identify two opportunities for grant submissions. Invited proposals totalling \$800,000 have been submitted (and awaiting decision) to:
 - Foundation for Australia's Most Endangered Species (\$342,000)
 - Foundation for National Parks and Wildlife (\$466,500)
- f) Formal requests for additional funding have been made to various sources.
- g) A Memorandum of Understanding has been developed with the Invasive Species Council to allow joint fundraising between the LHIB and the ISC for a range of invasive species projects including the REP. This importantly allows collection of tax deductible donations through the ISC (a Deductible Gift Recipient). An Action Plan for the REP needs to be developed detailing what each party is responsible for and how money collected for the REP is granted to the LHIB and accounted for

Securing additional funds now is critical to ensure the eradication can be completed as planned and is successful. Implementation has fully commenced and the funds need to be secured as soon as possible to meet financial commitments including staff wages and regulatory compliance in the Financial Year 2019-20.'

SUMMARY

The operational baiting phase is nearing completion with focus on killing remaining rodents. The project will then move into a decommission phase.

RECOMMENDATION

That the Board:

1. Pursue cost recovery of legal fees from the Supreme Court challenge.
2. Note the update to the rest of the project

Prepared: Andrew Walsh, Rodent Eradication Project Manager

Endorsed: Peter Adams, Chief Executive Officer

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 31 August 2019 twelve claims in total had been lodged for the 2018-19 financial year and five for 2019-20.

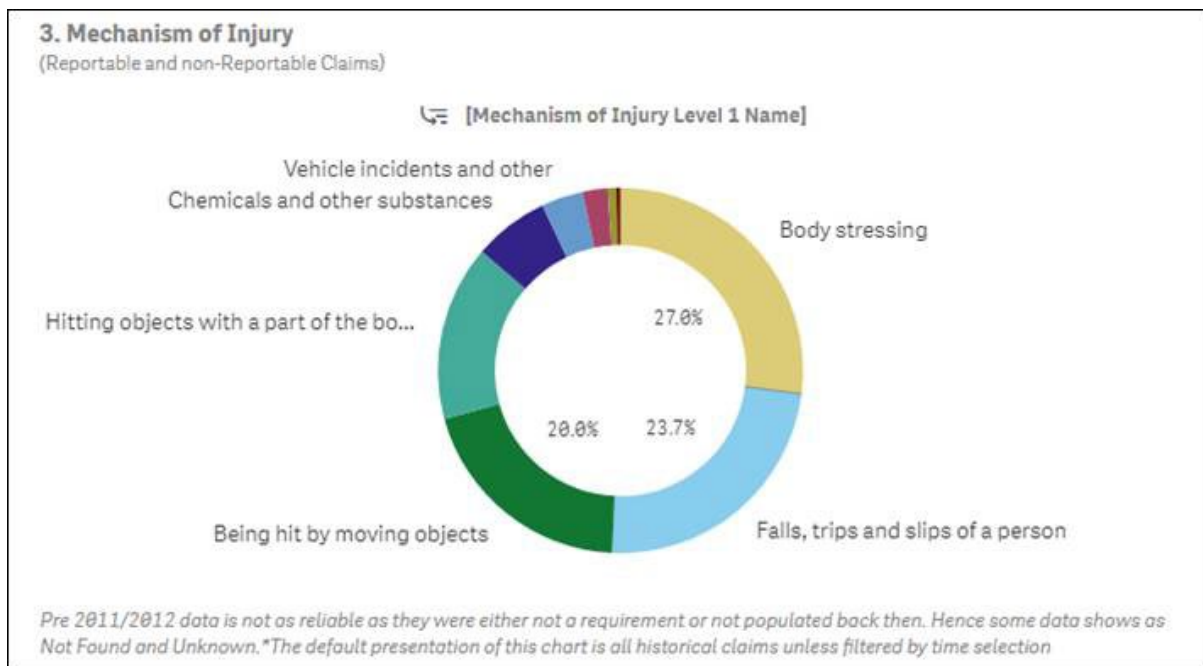
2018/19				
No	Date of Injury	Type of Injury	Cause of Injury	Hours lost
1	7/09/2018	Carpal tunnel syndrome	Occurred during normal course of business	Medical expenses only
2	25/09/2018	Foreign body in tip of finger	Picking up glass	Medical expenses only
3	08/10/2018	Mild tear in ligament of knee	Minor slip on rough terrain on a slope	0
4	27/11/2018	Bruised L peri-patellar tissues	Impact injury	Medical expenses only
5	20/12/2018	Lumbar back strain	Lifting	Medical expenses only
6	22/01/2019	Bruises and grazes	Fall in PPP	15.2
7	07/02/2019	Back strain (R sacroiliac)	Lifting	10.7
8	04/03/2019	Rib strain (L costo-chondral)	Lifting	29.2
9	04/04/2019	Hand spiked with wire (R hand)	Cutting brush	Medical expenses only
10	10/04/2019	Depression and anxiety	Stress	TBC
11	06/05/2019	Minor medial meniscal tear	Working on uneven terrain	Medical expenses only
12	24/05/2019	Lacerated wrist	Stuck by strapping unpacking pallet	Medical expenses only

2019/20				
No	Date of Injury	Type of Injury	Cause of Injury	Hours lost
1	06/08/2019	Crush injury finger	Attaching claw to excavator	Medical expenses only
2	09/08/2019	Lacerations to leg	Barbed wire	Medical expenses only
3	12/08/2019	Knee sprain	Stepped through lid of septic tank	TBC >38

4	20/08/2019	Facial injury	Accidentally struck by co-worker	7.6
5	29/08/2019	Sprain lateral ankle ligament	Rolled ankle on septic tank	TBC >18

Workers compensation statistics for the last five years as at 31 July 2019:

4. Claims Table Summary (Reportable and non-Reportable Claims)						
Last 5 FY Re...	Number of Claims #	Avg Net Incurred Cost	Net Incurred Cost \$	Total Amount Paid \$	Latest Estimate \$	Amount Recovered \$
Totals	270	\$8,969.09	\$2,421,655.58	\$1,980,312.93	\$441,342.65	\$0.00
Before	216	\$8,566.44	\$1,850,350.97	\$1,549,279.88	\$301,071.09	\$0.00
FY 15-16	9	\$4,356.44	\$39,208.00	\$39,208.00	\$0.00	\$0.00
FY 16-17	18	\$14,774.18	\$265,935.21	\$237,923.79	\$28,011.42	\$0.00
FY 17-18	15	\$15,928.72	\$238,930.87	\$136,175.73	\$102,755.14	\$0.00
FY 18-19	12	\$2,269.21	\$27,230.53	\$17,725.53	\$9,505.00	\$0.00



In July 2019 Melanie Cocca, Director WHS and Alexandra Delis, Injury Management & Workers Compensation Manager, from NSW Department of Planning, Industry and Environment visited the Island. The department has offered the Board their assistance and expertise in managing work health and safety and workers compensation/injury management matters, and are working with the Administration to achieve best outcomes in these areas.

Filling and levelling of depressions in the depot yard has occurred to reduce hazards.

Public Risk Management

Dangerous trees continue to be removed along with roadside stumps and those in areas that could be trip hazards that have been identified as a hazard.

Filling of the liquor store carpark and the entrance to the Transit Hill track to reduce hazards and improve amenity.

Removal of fallen branches and trees on various tracks and Stevens Reserve following various occurrences of high winds.

Improvement of road at Bowker Ave/Lagoon Rd to reduce hazard. Sealing cannot be undertaken until equipment is brought to island.

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