

LORD HOWE ISLAND BOARD

BOARD MEETING AGENDA

MEETING DATE:	MEETING LOCATION:	MEETING TIME:
21 April 2021	Museum, Lord Howe Island	Planning Session 9:00 am to 1:00 pm
21 April 2021	Public Hall, Lord Howe Island	Closed Session: 1:30 pm to 4:30 pm
22 April 2021	Public Hall, Lord Howe Island	Open Session: 9:00 am to 12:30 pm

Preparer	Presenter	ITEM		OPEN (O)	CLOSED (C)	ACTION Note/Decide
N/A	Chair	1	CONFLICT OF INTEREST DECLARATIONS			
	PA	2	MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION	O		Note
LS	PA	3	OUT OF SESSION MATTERS – STATUS REPORT	O	C	Note
JvG	PA	4	ACTIONS FROM PREVIOUS MEETINGS – STATUS REPORT	O		Note
PA	PA	5	CHIEF EXECUTIVE OFFICER’S REPORT	O		Note
LS	PA	6	MOTOR VEHICLE IMPORTATION OR TRANSFER – STATUS REPORT	O		Note
		7	BUDGET ADJUSTMENTS			
JvG	JvG	(i)	Finance Report	O		Note
DM	JS	(ii)	Revised Fees and Charges – Biosecurity inspections	O		Decide
		8	DEVELOPMENT APPLICATIONS			
LS	JS	(i)	Owner Consent approved under Delegated Authority	O		Note
LS	JS	(ii)	DAs Determined Under Delegated Authority	O		Note
AAP	AAP	(iii)	Assessment Report OC2020.01 & DA2019.10 – s8.3(1) Review of Determination – Janelle Makiiti	O		Decide
AAP	AAP/JS	(iv)	Assessment Report MDC2019.5.2 – Amendments to conditions for the Crooked Post – Tim Cruikshank	O		Decide
AAP	AAP	(v)	Stage 1 Planning Proposal – Report on Public Exhibition and Government Agency Consultation	O		Decide
AAP	AAP	(vi)	Assessment Report OC2021.02 & DA2021.02 – Subdivision (Boundary Adjustment) Lot 4 DP 1216390 and Lot 2 DP 1174920 – Rod Oxley and Lisa Makiiti	O		Decide

Preparer	Presenter	ITEM		OPEN (O)	CLOSED (C)	ACTION Note/Decide
		9	POLICY AND STRATEGY			
JSp	PA	(i)	Corporate and Operations Plan Update	O		Note
PA	PA	(ii)	Vehicle Importation, Transfer and Use Policy Review	O		Decide
		10	LEASING AND LAND ADMINISTRATION			
JS	JS	(i)	Proposed Permissive Occupancy for Marine Rescue	O		Decide
JS	JS	(ii)	Review of Compliance with Residency Condition on Perpetual Leases	O	C	Note
LS	JS	(iii)	Application to transfer by way of sublease PL1978.01 – Judith Riddle to Amy Hickey	O		Decide
JS	JS	(iv)	Options for the future use of the Nursery Site	O		Note
JS	JS	(v)	Lord Howe Island Land Allocation Review – Implementation Update	O		Note
		11	GOVERNANCE			
			Governance & Induction to be held during Planning Session for new Board			
JvG	JvG	(i)	Audit and Risk Committee Report	O		Note
PA	PA	(ii)	Appointment of Deputy Chairperson	O		Decide
PA	PA	(iii)	Issues Raised from Minister’s Visit – Status Report	O		Note
AF	AF	(iv)	Review of Effectiveness and Efficiency of the Lord Howe Island Board	O		Decide
		12	OPERATIONS AND SERVICES			
DM	JS	(i)	Biosecurity Update	O		Note
DW	DW	(ii)	Lord Howe Island Flood Study Update	O		Note
		13	WH&S AND PUBLIC RISK MANAGEMENT			
JSp	PA	(i)	WH&S and Public Risk Management Update	O	C	Note
		14	INTERVIEWS			
		15	GENERAL BUSINESS AND QUESTIONS ON NOTICE			

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Number: 2	Record: ED21/2352
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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 December 2020 meeting were distributed to each Board member and have been endorsed through the above process.

A copy of the endorsed Minutes is attached.

RECOMMENDATION

Submitted for the Board's information.

Prepared: Belinda Panckhurst, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Attachment:

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

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Number: 3	Record: ED21/1309
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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 December 2020, one matter was considered out of session.

RECOMMENDATION

Submitted for the Board's information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Attachment:

Attachment A: Out of Session Result Summary Sheet – Open

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Item: 4	Record Number: ED21/1676
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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 December 2020 Board meeting, and previous meetings, is attached for the Board's information.

RECOMMENDATION

Submitted for the Board's information.

Prepared: John van Gaalen, Manager Business and Corporate Services

Endorsed: Peter Adams, Chief Executive Officer

Attachments:

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

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Number: 5	Record Number: ED21/1724
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

Chief Executive Officer's Report to the April 2021 Meeting of the Board

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

Number of items excluded from this public edition: 0

COVID-19

The changing COVID situation continues to be navigated by the Board, doctor, police officer and the community. No cases have been reported at any stage here and this has continued to be the case following re-opening the island after its 6 month closure.

Community transmissions in various parts of Australia cause "hotspots" and restrictions to travel. These are a challenge and have been managed including cancellations and changes that sometimes have little or no warning.

IMPACTS ON SUPPLIES – FLOODED HASTINGS RIVER

The Birdon facility on the Hastings was severely flood affected. This meant that their site could not be accessed for an extended time and when it was able to be assessed, damage to essential equipment as well as goods awaiting transport to LHI were damaged.

A voyage of the Island Trader had to be cancelled. This put pressure on some essential supplies and some such as LPG were all but exhausted especially for commercial operations. Heath as the Local Emergency Controller started early to organise emergency transport before food or the ability to cook food (LPG) ran out. Despite great efforts by Woolworths and Eastern Air Services who brought the Woolworths orders by air that would have come on the cancelled voyage, this only addressed a proportion of the shortage and could not address the LPG issue at all.

An RAAF Hercules (C130) was deployed on Easter and delivered LPG and some food. Eastern Air Services continue to freight food for business owners to feed visitors, I understand that cafes and businesses have been cooperating with each other to stretch supplies, and this should facilitate being able to serve the residents and visitors until the ship arrives. At the time of writing, the ship was planned to arrive 10/11 April. Thanks to all who contributed to addressing this impact from the major floods on the mainland.

ROCK FALL – GOATHOUSE TRACK

A major rockfall occurred at 8pm on 6 March, sweeping away the subject walking track. Emergency assessment showed that it was very unstable and unsafe. The track has been

closed and Jacobs engaged to provide expert assessment of Mount Lidgbird as it affects the Goat House Track, and the Lower Road and Get-up Place where they affect the Gower Track. The Goat House Track remains closed for the foreseeable future until its safety and any reinstatement or diversions are assessed.

MATTER	STATUS	ACTION REQUIRED BY BOARD AT THIS MEETING
Community Strategic Plan	Resources diverted due to unprecedented challenges. No progress since last meeting.	Note
Runway Feasibility Study	The Minister wrote to the Minister for Transport requesting a working group be established by Transport for NSW. An internal team has been set up by TfNSW to drive the new contract for air services to LHI. They met for the first time on 8 April and both Andrew Nicolls and I attended. I had commissioned expert review of previous work including changes in: commerciality of the route; developments in suitable aircraft; impacts in the air industry, potential players, and potential servicing models. This work has largely been completed and is in the process of being put into a draft report. The information potentially accelerates the procurement process by TfNSW as well as providing options for the consideration of the Board and TfNSW.	Note
Rodent Eradication Program	No sign of live or recently dead rodent since 9 October 2019.	None
Renewable Energy Project	Project contract in defects period (some other minor works not included in the contract are yet to be undertaken). The facility is providing energy for the island and some minor issues with reliability of the system controller are being resolved.	See Attachments A & C to this report.
Marine Rescue	Marine Rescue Unit at LHI and marine radio installation continues to progress. Telecommunications upgrade at Intermediate Hill complete but understood to have been damaged by lightning strike. Repair and improved lightning characteristics to be completed. Vessel had inspection for safety completed at beginning of April. Facility construction at jetty area near completion. Permissive occupancy for marine Rescue building to be considered at this meeting.	See report 10 (i) to this meeting.

Prepared: Peter Adams, Chief Executive Officer

Attachments:

Attachment A: Infrastructure and Engineering Services Report – Open

Attachment B: Business and Corporate Services Report – Open

Attachment C: Hybrid Renewable Energy Project Status Report – Open

Attachment D: Environment and Community Services Report – Open

Infrastructure and Engineering Services (IES) Report

December 2020 to March 2021

Human Resources

- The IES unit has been short of field staff during the reporting period. The positions vacant have been part-filled by casual staff, and this has reduced pressure and improved productivity in recent weeks. A recruitment process will be commenced shortly with the aim of filling these positions on a permanent basis.
- The LHIB apprentice mechanic recently completed their apprenticeship and has now resigned from the LHIB. This has left a gap in staffing levels. Options to fill this gap will be investigated and assessed as part of the upcoming structural review of the LHIB. In the short term, the IES unit has made enquiries to seek casual or contractor services as required to maintain core workshop services.
- A recruitment process is underway to permanently fill the Waste Management Facility Coordinator position.

Parks and visitor facilities

- Maintenance continues to public areas, parks and gardens to maintain a high standard of presentation. Mowing has consumed additional labour time this quarter with good growing conditions for lawns.
- Additional bins placed in public areas during busy holiday periods, and additional staff rostered on as required to maintain services during these periods.
- Wood BBQ replacements continuing. Neds Beach electric BBQ faulty. One repaired immediately, the other requires parts, expected to be repaired mid-March.

Roads

- Pothole road maintenance being carried out weekly. Repair technique adjusted to speed up the repair process and get holes filled more quickly.
- Road drain maintenance, sand and debris removal as required.
- LHIB has applied to the NSW Government for road funding under the Fixing Local Roads Round 2 Program. Applications were submitted in December 2020 for 12 road projects. If received, the funding will allow major repair work to be carried out on degraded sections of road, and also on sections which are not severely degraded, but which require maintenance to prolong the life of the road surface and reduce future maintenance costs.
- A scope of work is being developed for this program. Work is also underway to develop alternative funding models which may be required to supplement grant funding or replace it altogether if no grant money is allocated.

Marine and coastal

- Jetty landing repairs completed by a contractor in December 2020. Two new piles installed and landing repaired and secured.
- Jetty stairs and boat ramp pressure cleaned early March.

General maintenance, operations and mechanical

- Replaced timber ramps to Neds Beach toilets.
- Building repairs to SES/RFS shed, boat sheds, nurses' flats, hospital, jetty shed, public toilets, Board houses.
- Work underway to convert old Commonwealth Bank room into a shared office space.
- Work underway to convert phasmid enclosure (in LHIB depot) into a water testing facility. This will provide an improved work area for water officers to carry out regular testing on LHIB potable water supplies.
- New headstone slab at the cemetery. Assisted Federal authorities with a burial at sea.
- Mechanical programmed and breakdown maintenance and workshop services continue as usual.
- LHIB staff continue to monitor mosquito larvae species as per the Lord Howe Island Mosquito Surveillance and Vector Monitoring Programme. This programme is part of a National scheme run by the Commonwealth Department of Agriculture, Water and the Environment.

Electrical

- All programmed maintenance and safety checks completed.
- Energy demand for the reporting period was 705 600 kWh.
- Fuel consumption for the reporting period was 122 000 litres.
- Fuel energy efficiency for the reporting period was 5.78 kWh/L.
- There are currently 295 customers connected to the electrical supply system. An increase of 1 new customers.
- There were 4 **unplanned** customer supply interruptions to the distribution system during the period. All of these outages were the result of localised customer overloads.
- There were 7 **unplanned** island wide supply interruptions to the distribution system during the period. This resulted in a loss of supply to all customers for a period averaging 20 minutes. All interruptions were the result of a problem with the BESS (Battery Energy Storage System). The outages occurred following the initial commissioning process. In each case the cause of the fault has or is being investigated and corrective action initiated by Photon Energy and Tesla.
- There was 1 **planned** supply interruption to the distribution system during the period. This resulted in a loss of supply to 15 customers when low voltage underground distributors were replaced along Anderson Road between Neds Beach Road and Cemetery Road. The duration of this supply interruption was 5 hours.
- See projects section and the attached project status report for reporting on the renewable energy project.

Airport

- New windsock poles have arrived for the primary wind indicator on the airport grounds and the Windy Point and Blinky dune windsocks. Conservation Risk Assessment is underway. Following this, installation will proceed.
- Aerodrome maintenance including mowing, weed control, repainting markings and tarmac repairs continues.
- Annual Aerodrome Technical Inspection – conducted 23-25 February 2021. Delayed due COVID – was meant to be July 2020. Ensuing report not received at time of writing.
- Aerodrome Manual – currently undergoing full rewrite to comply with new Civil Aviation Safety Regulations.

- Aerodrome Wildlife Hazard Management Plan – currently undergoing full rewrite to comply with new Civil Aviation Safety Regulations.
- Airport Transport Security Plan – currently undergoing full rewrite to comply with new Transport Security Regulations and Airport Security Classification Model.
- Specialist contractors have been engaged to assist with these updates to manuals and plans, but considerable staff time has still been required.
- Aerodrome Emergency Exercise held Thursday 17 December 2020. Participants included NSW Police, LHIB, NSW RFS, NSW SES & NSW Health (SESLHD).
- Airport runway emergency lighting upgraded with new solar lights. Work is underway to upgrade associated lights on Intermediate and Transit Hill. This work was required due to an increasing failure rate in the old lights.

Island Trader

- Operations continue as normal.
- IES continues to support the Board Biosecurity team in working with Birdon to implement biosecurity initiatives. New sealed plastic crates being evaluated for Auspost and general cargo.

Update 7/4/21: Island Trader voyage B069 (27-28 March) was not able to go ahead due to the extreme flooding which affected the NSW Mid North Coast and flooded Birdon's premises. Birdon has been working to restore operations, clean up their site and assess damage to facilities and cargo. Voyage B070 will go ahead as scheduled on 10-11 April and further voyage will follow the published schedule. LHIB would like to thank the Birdon team for their recover so quickly and for the liaison with Lord Howe Island throughout the flood emergency and recovery.

Emergency Management

- Oil Spill Basic Equipment Operator Course 9 & 10 March 2021 held by Transport for NSW – Maritime division. Students from LHIB, Marine Parks and NSW Police.
- Newly installed Marine Rescue VHF repeater installation on Intermediate Hill was struck by lightning mid-February causing damage to batteries and power supply. Marine Rescue is managing and funding repairs.
- New AED defibrillator installed at Neds Beach shed. Associated householder sent early Feb advising of location and a first aid procedure reminder.
- LHIB participated in the SES debrief following the tsunami marine warning which was issued 11 February 2021.
- Creeks have been monitored during recent heavy rain. Soldiers and Old Settlement creeks opened to the Lagoon without requiring intervention; Cobbys was not in danger of flooding.

Update 7/4/21: In response to the missed voyage of the Island Trader due to flooding, support by the Defence Force was mobilised to provide important supplies to Lord Howe Island. LPG and food was flown from Port Macquarie to Lord Howe Island via RAAF Hercules on 2nd and 3rd April. These arrangements were made by the Local Emergency Management Committee and the NSW Government emergency management agencies.

Waste management facility

- The WMF has been affected by staff shortages in the IES team. Core operations have been maintained but there have been a few days where the WMF has been closed to the community.
- Service operations have largely returned to normal with easing of COVID-19 safety requirements. Social distancing and hand hygiene still required.
- Export of grade 3 glass off-island for recycling continues.
- Positive discussion held with NSW EPA regarding glass reuse in concrete for projects at the WMF. Testing commencing to optimise concrete formula using crushed glass sand and aggregate. If successful, this will secure a reuse pathway for glass. Projects to benefit include new storage bays and shed foundations/slabs.
- Draft compost sampling plan has been submitted to the EPA. Once this plan is finalised and approved, the WMF will commence the sampling program. The results of sampling will form part of the application to the EPS to allow compost reuse.
- The Revolve re-use shed has been operating successfully and is kept tidy by a team of dedicated volunteers
- Unfortunately the Board's arrangement for sending used clothing back to a Port Macquarie charity has been put on hold due to an over-supply of donations at the charity. WMF staff are exploring alternative options for reuse.

COVID-19

- Increased cleaning maintained for airport terminal and public toilets.
- Hand sanitiser provided in public areas.
- LHIB workplaces have eased requirements to wear masks and have reviewed room number limits according to NSW Health advice.

Projects

Aviation fuel shed

Progress has been delayed due to the fire engineering assessment. LHIB Manager Infrastructure and Engineering Services is liaising weekly with stakeholders to progress towards building certification. Also holding regular discussions with builder to assess availability once certification received. Regular discussions being held with refuelling contractor. The condition of the current shed is a concern, and an alternative temporary location for the fuel operation is being considered.

Shared Waste Water System – Board, School, Bowling Club, Preschool

Works undertaken by LHIB and contractors in January saw progress on the installation of the shared waste water system. The common feed pipe was installed to collect waste water from customers, and the irrigation field was installed on the Lagoon foreshore. The system is operational and the school and preschool are connected. An additional area of irrigation is still to be installed. Once this is complete, the Board and Government House will be connected to the system. The Bowling Club has taken delivery of a new waste water pump station. This will be installed by the Club in the coming months and will connect to the new shared treatment system.

Stronger Country Community Fund Grants

IES section maintains regular contact with the SCCF office to monitor project progress.

Round 1 – Old Powerhouse Site Remediation – SCCF1B-0032

Grant acquitted. Picnic tables for the concrete area adjacent to Marine Parks and Post Office have arrived and will be installed soon.

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

Experience gained in delivering projects over the past 18 months led the Board to sit with the Skate Park Committee and express concerns about the estimated costs of the concept design exceeding the grant budget. The NSW Public Works Advisory (PWA) was engaged by SCCF Grant Management Office with support from the Skate Park Association and LHIB to conduct a project health check. Preliminary information has started to come back to the Board, and a meeting with the Skate Park Committee will be held soon to discuss what PWA find.

Update 7/4/21: PWA has identified a funding shortfall of approximately \$350,000. Meeting held with Skate Park Committee. Options available include a change of scope or seeking additional funding. Skate Park Committee and LHIB will work with SCCF to identify the preferred way forward.

Round 2 – Lagoon Foreshore Fitness Trail – SCCF2-0537

Grant finalised and acquitted. Remaining funds have been transferred to the Bowling Club project and will be used to upgrade the waste water treatment system.

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

Further work is planned to use remaining grant funds to improve the waste water treatment system. This will utilise all remaining funds, and the grant will then be finalised and acquitted.

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

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

Round 3 – Community Playground Upgrade – SCCF3-1561

The scope of works has been distributed for quotes from playground design / manufacturing companies, with responses due back by 23rd March and evaluation to be closed out and respondents advised of the outcome by 8th April. A design refinement process will allow for the submission that is accepted to be tailored to maximise the fit with the needs of the Island community. Playgroup parents have been the lead point of contact for the Board on this, and through that channel will be kept in the loop of progress or asked for input where appropriate.

The quote process will give the Board an indication of the lead time needed for manufacturing of the selected equipment, and this will be shared too when we have some firm information. The scope of work specified a preference for work to be completed in winter, and we remain hopeful that this can be achieved.

Update 7/4/21: A supplier has been selected and work is underway to finalise the procurement.

Round 3 – CBD Amenities and Wastewater System & Round 2 – Stevens Reserve Walking Track

Community engagement material is being developed to start a conversation about what the needs are in the town centre area with regards to toilet facilities and options for where they can be located. The existing waste water treatment system at the Community Hall has limited capacity (constrained by the system inflow capacity and the available irrigation area). These technical limitations and constraints as well as some possible opportunities are being drawn up to start a conversation with the community about how this project can be optimised for delivery. The proximity to Stevens Reserve lends itself towards both the wastewater and the walking tract projects being brought to the community for consultation at the same time, allowing for a broader town centre revitalisation discussion to take place.

Windy Point Coastal Remediation

- IES conducted a procurement process for a contractor to carry out the beach nourishment and sand bag wall removal. All Island Service was appointed as the contractor and commenced work on 22 February 2021.
- So far 3600 cubic metres of sand has been transported from the mid-northern section of Lagoon Beach and placed against the eroded dunes at Windy Point.
- Planning is underway for revegetation work to help stabilise the dune once the major beach nourishment campaign is complete.
- Regular reports are being sent to the Coastal Estuary section of the NSW Department of Planning, Industry and Environment, and coastal engineering are monitoring progress.

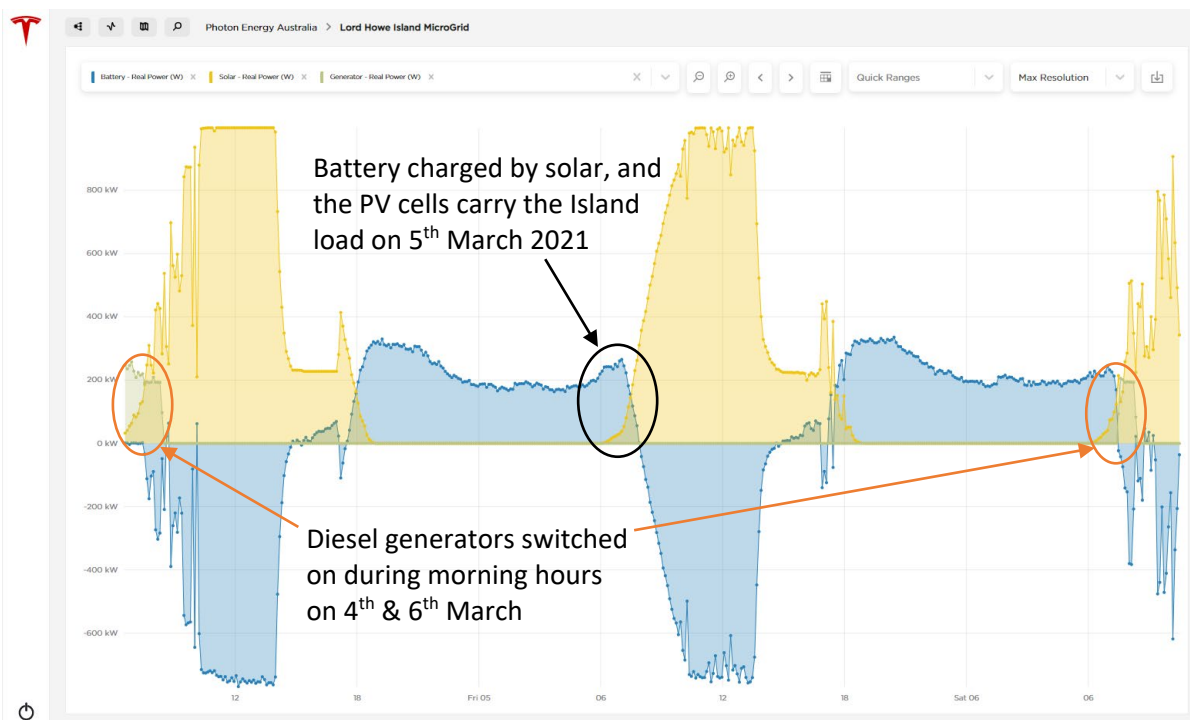
Update 7/4/21: 6500 cubic metres of sand has now been transported.

Hybrid Renewable Energy Project

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

The western array of solar panels was completed in late January, and cabled up to the battery and distribution board so that the full design capacity of solar generation is available. There has been an extensive testing and commissioning period during which some unplanned outages occurred. These outages appear to have occurred as a result of the Tesla Powerpack undergoing some commissioning checks and then hitting a fault when they were restored for full automatic use. Fault-finding by the Photon and Tesla teams is underway. The faults must be diagnosed and rectified before the Board accepts completion of the project.

A significant achievement occurred on 5th March when solar PV and solar-charged battery provided the island electrical load for a full 24 hour period, and the diesel generators operated for only 2 hours in the next 48 hour period.



Between 9th and 13th March acoustic monitoring stations were installed at the three locations around the Island that were also subject to monitoring many years ago at project inception. These measurements were carried out to detect potential noise from the Tesla battery inverters and the solar inverters to ensure that the development complies with the acoustic emissions thresholds set in the conditions of consent. It is anticipated that there will be no detectable noise emissions from the site, and that the ambient noise of wind, waves and birds will exceed anything that can be detected from the solar generation site.

Shortly the Building Certifier will attend site to issue the Occupation Certificate, and Photon will reach the Practical Completion milestone, which marks completion of construction and the start of the 12 month and 24 month monitoring and performance guarantee periods. The Board would like to acknowledge and thank the Photon and Solmech teams who have spent the better part of the last year living with us on the Island.

Update 7/4/21: Occupation Certificate has been issued. There remains a reliability issue with the microgrid controller which is yet to be resolved. The Board is working with Photon to diagnose and fix this fault.

Prepared: David Waterhouse, Manger Infrastructure and Engineering Services

Endorsed: Peter Adams, Chief Executive Officer

CEO Board Report

Business and Corporate Services

ISSUE	STATUS	ACTION REQUIRED BY THE BOARD AT THIS MEETING
Actions from Previous Meetings – Status Report	In progress	For the information of the Board. Agenda item 4
CEO Report - BCS	Complete	For the information of the Board. Agenda item 5 Attach B
Financial Report	Complete	For the information of the Board. Agenda Item 7 (i)
Operations Plan 3rd Quarter Update	Complete	For the information of the Board. Agenda Item 9 (i)
Audit & Risk Committee Update	Complete	For the information of the Board. Agenda item 11 (i)
WH&S and Public Risk Management Update	Complete	For the information of the Board Agenda item 13 (i)

The 'Business & Corporate Services' (BCS) division continued to take on a greater workload over spring into summer due to additional reporting and operating at reduced capacity during the COVID-19 interruptions and with maternity leave having an impact. The team has worked tirelessly and with good humour. I wish to again complement my staff and their attitude.

Plans within the division this year are very much IT (information technology) related. Upgrades to the Records and Finance management systems are expected. Improved reporting has greatly enhanced knowledge of finances and thus better decision-making.

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

Liquor Store

The financial data available for the Liquor Store relates to the period to February 2021. The island re-opening coincided with a return to 'normal' operating conditions. Liquor Store staff have worked diligently in the changed circumstances and further improving the physical set-up of the store. This work has resulted in consistent net returns to the Liquor Store for the comparable periods of the Covid-19 restrictions in 2020-21.

The Store is working towards a goal of achieving the original budgeted surplus, despite the drop in turnover. The major challenges for the store are maintaining staff levels and ensuring the quality of the reporting software. A review of this software is planned but has been delayed by the provider.

Liquor Store: Year-to-Year Comparison – February 2021

	2019-20	2020-21	Change \$	Change %
Sales	1,284,463	1,182,360	-102,103	-8%
Other	10,533	3,518	-7,015	-67%
Licence fees	0	5,808	5,808	0%
Internal	0	0	0	0%
Total Income	1,294,996	1,191,686	-103,310	-8%
Wages	115,752	96,087	-19,665	-17%
Cost of Goods sold	1,028,642	845,332	-183,310	-18%
Other	4,386	1,788	-2,598	0%
Depreciation	1,263	2,467	1,204	95%
Total Expenditure	1,150,043	945,674	-204,369	-18%
Surplus/ Deficit	144,953	246,012	101,059	70%
Gross Margin %	25%	41%		

Tourism Management

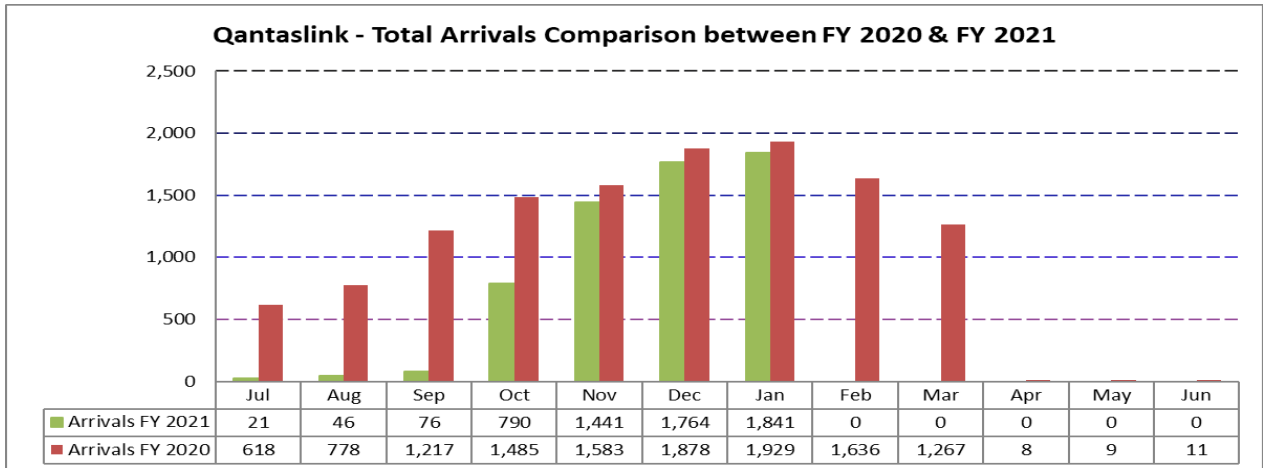
The COVID-19 impact on the island and its economy as well as its way of life is highlighted by the change in passenger traffic over the 4 months of this financial year. The activity has increased steadily from October to being now similar to last year.

Examining arrivals by air across calendar years is prudent given the impact of Covid was specifically in the period April to September 2020. Arrivals in 2019 (16,916) compared to 2020 (9,693) shows a drop of 43%, whilst total passengers (both ways) show 2019 (33,836) compared to 2020 (18,877) as a drop of 44%.

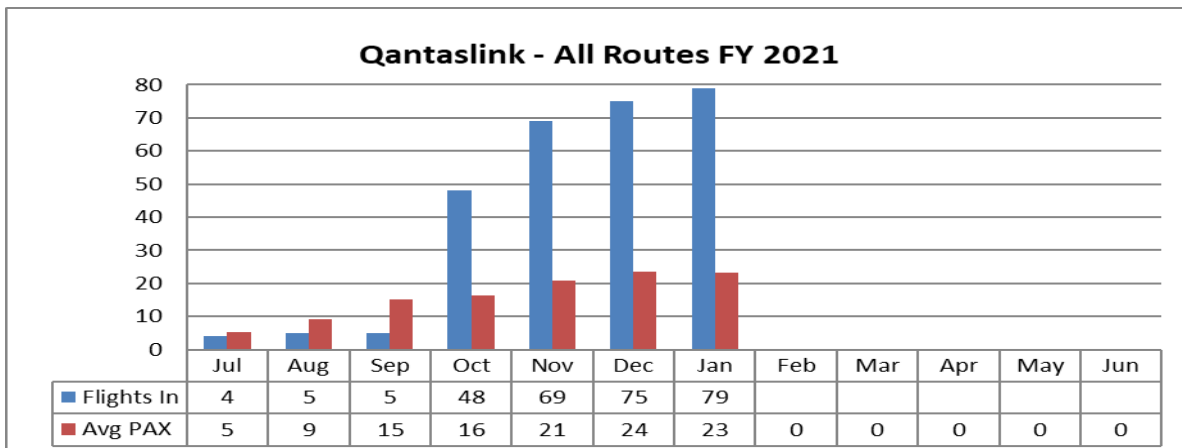
Of note is the increase of non-Qantas numbers from 2019 to 2020 against this major overall drop. This increase is further amplified in the current financial year.

The number of passengers arriving by air (Qantas and other) between July 2020 and January 2021 was 6,612, down from 9,762 arrivals for the corresponding period last year.

The chart below compares monthly arrivals for Qantaslink only for July to January 2021 with the corresponding period last year.



The following chart provides the number of QantasLink only flights and average passengers per month from July to January. The number of flights has increased in the period from 4 per month to 79 per month. The average number of passengers per flight has also increased in this period up from 5 to 23. January last year was 77 flights at an average of 25 passengers. It is expected that numbers will continue to increase with accommodation bookings very strong and additional flights being included to meet demand.



Prepared: John van Gaalen, Manager Business and Corporate Services

Endorsed: Peter Adams, Chief Executive Officer

Solar PV HREP

Status Report to 12 March 2021

Overall Project Status



Watch Point

Project Details			
Project Name	Solar PV Hybrid Renewable Energy Project	Portfolio	Lord Howe Island Board - Engineering & Infrastructure Services
Project ID	ARENA reference: 2013/RAR0004	RM8 Doc reference	ED21/1722
Project Manager	Amy Foxe	Geographical Location	Lot 230 DP47747 Lord Howe Island -31.528491, 159.07475
Project Sponsor	Manager, Infrastructure and Engineering Services	Current Phase	Commissioning

Project Thresholds and Status

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

Thresholds Comments: Programs show estimated Actual Completion Date of Milestone 11 (Practical Completion) at 15 March 2021. The Project Board were provided initial notification of the delay to completion of Milestone 11 via email on 16 November 2020 and detailed information on 23 November 2020. Failure to complete Milestone 11 in accordance with the schedule was issued to the Board meeting on 07 December 2020 and a verbal briefing of contract status provided to the Board.

Contract requirements for the 12m and 24m operations and performance milestones will follow from the achievement of Actual Completion.

Layout change variation materials and design costs accepted and invoiced. Labour costing rejected by LHIB and accepted by Photon. Contingency claims to ARENA can occur now the Deed has been varied. Final labour costs for system hardening expected in next invoice.

Variation of the Deed with ARENA complete as at 04 January 2021.

Project Budget – Income and Expenditure

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

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

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

Comments: Budget reporting restructured in response to the ARENA Deed Variation.

Income - LHIB cash contingency budgeted for 2019/20 carried over in full as contractually required. Principal and interest repayments commence upon final TCorp loan draw down.

Expenditure - Financial audit of FY19/20 project income and expenditure has commenced with Thomas Noble & Russell accountants appointed.

Contingency – Contingency is shown separately. When contingency is accessed, the expenditure is reported against the Activity area until the Contingency Claim is approved. The Project Board has voted to approach ARENA to access contingency for Variations VAR-02 and VAR-04. A request to access the contingency from ARENA will be submitted. LHIB Contingency may be required to cover any additional costs incurred or rejection of the claim by ARENA.

Current Financial Year Expenditure (Source: Cost Plan) – as at 15 March 2021

Expenditure - By Budget Category	Budget FY20/21	YTD Committed	YTD Actuals	YTD Actuals & Commitments	YTD %-Actuals & Commitments
Scoping, project design and approvals*	0	0	0	0	0
Project Management & Administration	682,350.00	262,719.04	292,794.52	555,513.56	81%
Construction (project delivery materials and equipment)	136,500.00	0	9,964.22	9,964.22	7%
EPCM Contract and Contractor Payments	3,220,680.00	428,216.86	2,955,206.54	3,383,423.40	105%
Contingency - LHIB	-	-	-	-	-
Contingency - ARENA	-	-	-	-	-
Total	4,039,530	690,936	3,257,965	3,948,901	98%

Budget Comments: EPCM funds will remain as a commitment spanning several financial years until 2022/23. Contingency claim to be lodged with ARENA being prepared now. If approved, this will result in Variation expenditure being reported in the Contingency expenditure row. Liquidated Damages apply to the Photon contract.

Milestone Tracking – As at 11 March 2021 (Claim #10)

Contractor Milestones	Forecast Due Date	Revised Due Date	Variance / Comment
1. Contract Signing	20/06/2019	-	Complete. Claim lodged & approved.
2. Site mobilisation	29/05/2020	-	Complete. Claim lodged & approved.
3. Design Documentation	07/02/2019	-	Complete. Claim lodged & approved.
4. Battery shipped from manufacturer	08/11/2019	-	Complete. Claim lodged & approved.
5. PV modules, racking, inverters shipped from manufacturer	06/12/2019	-	Complete. Claim lodged & approved.
6. (not used in final contract)			
7. Powerhouse modifications	21/09/2020	15/10/2021	Complete. Claim lodged & approved.
8. Battery installation	14/09/2020	-	Complete. Claim lodged & approved.
9. A. % PV modules, racking, inverters, distribution board delivered to site	31/08/2020	-	Complete. Claim lodged & approved.
9. B. % PV modules, racking inverters, distribution board installed		05/03/2021	88.2% claimed and paid
10. A. % LV cable received on site	28/09/2020	-	Complete. Claim lodged & approved.
10. B. % LV cable installed and terminated		11/02/2021	97.5% claimed and paid
11. Provisional acceptance (Practical Completion)	30/11/2020	15/03/2021	+ 106 days
12. Intermediate acceptance	30/11/2021	15/03/2022	+ 106 days
13. Final acceptance	30/11/2021	15/03/2023	+ 106 days
Photon Milestone Comments: A completion program has not been issued since early February. Dates remain as published in PCG#14 dated November 2020.			
Composting toilet installed	30/07/2020	30/07/2021	RFQ to be issued in early 2021
Unsealed access track constructed	01/09/2020	30/07/2021	Due to wet weather and access needs, partial construction completed by Photon.
Entryway / carpark asphaltting & fuel area bund	01/09/2020	TBA	Package of works within broader roads contract.
Other Contractor Comments: Road works to be considered as packages of work for roads contractor in the context of broader Island work for improved economy of scale. Timing on this is TBA with a roads construction grant sought in December 2020. Composting toilet quote rec'd from Photon exceeded budget. Quotes from local builders to be sourced in early 2021 for work to be awarded and complete within FY20/21 (subject to procurement / manufacture schedule).			

Issues, Changes and Decisions

Changes / variations for period			
ID	Description of variation	Approved by	Date Approved
EPCM 09	Pedestrian Gate – to provide efficient staff access between the Powerhouse and the Battery / HREP Distribution Board.	Project Board	15/02/2021
<p>Comment: EPCM Variation 09 – As the fencing was nearing completion, it became apparent that a pedestrian gate almost directly in front of the powerhouse would save time and allow for more efficient access between the Powerhouse and the Battery Storage System / HREP Distribution Board.</p>			

Decisions for period				
ID	Decision Status	Date Decision Made	Decision Made By	Decision Details
Contractual	Final	04/01/2021	ARENA	Proposal to alter Deed of Agreement for grant funding submitted to ARENA requesting altered budget structure (no change to total estimates), clarifications via edits and amended milestone dates (approved)
<p>Comments: Request to vary Deed of Agreement with ARENA finalised. Signed by LHIB CEO 22 December 2020 and takes effect upon receipt by ARENA on 04 January 2021.</p>				

Success Stories
<ul style="list-style-type: none"> During commissioning we experienced a 24-hour window where good solar penetration combined with a full battery load and low overnight energy use. This meant that for that 24-hr period the Island was powered solely by renewable energy and batteries that were charged by solar.

Senior Management Team and Board Feedback

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

Recommended focus area/s: Commissioning communications issues are concerning and require diagnosis, rectification and a return of system stability.

CEO Board Report

Environment and Community Services

Biodiversity Management

- Hunting of Masked Owls to deliver their eradication continues. Since December 2020 there has been one call reported from the Soldiers Creek vicinity and two owl kills from Nathans Valley. Follow up surveys at Soldiers Creek did not illicit any response to call playback, sighting or evidence of predation. The Nathans Valley owl kills were followed up and an owl was observed flying past but would not respond to call playback. Ongoing surveys are required to determine the number of remaining owls and to target their removal through shooting. *Update: Owl killed near golf course on evening of 5 April.*
- As of the 16 March 2021 a total of 14 Woodhens have been killed by motor vehicles since the start of the year. Householder distributed to inform community of Woodhen surveys and increased incidence of roadkill, particularly between Cobby's Corner and Capella urging drivers to slow down. The Board is encouraging residents to report all Woodhen road kills to the Board.
- At the time of drafting Woodhen surveys were underway from 15 -26 March in accordance with permit conditions imposed by the Department of Environment, Energy and Science approval for the REP who will collate data for future reports to the Board. *Update: A significant increase in numbers were again recorded. 540 woodhens in the settlement area. The southern mountains were not survey this exercise because the Providence Petrels are on-island currently. Last November 50 woodhens were recorded in the southern mountains. They will be surveyed in the next survey in November.*
- Weed and Myrtle Rust inspections have commenced and will continue over the coming months. If Myrtle Rust is not detected the data will be submitted to the Island Eradication Advisory Group and NSW Department of Primary Industries to review to be able to formally declare its eradication from Lord Howe Island.
- African Big-headed Ant (ABHA) surveys are scheduled in early April, initially targeting the two reinfestation sites identified in summer of 2018/19 and will then survey all former infestations. If ABHA are not detected the data will be submitted to the Island Eradication Advisory Group and NSW Department of Primary Industries to review to be able to formally declare its eradication from Lord Howe Island.

Threatened plants

- Threatened plant recovery actions continue to be implemented according to the LHI Saving Our Species (SOS) grant agreement.
- The Lord Howe Morning Glory *Calystegia affinis* - Old Settlement continues to receive treatment to reduce Flea Beetle *Arispoda* sp, induced leaf defoliation and dieback.
- Phillip Island Wheat Grass *Elymus multiflorus* sbsp *kingianus* has been established at six sites (North Bay, Windy Point, Blinky Point, Rocky Run and Boat Harbour and Intermediate Hill) increasing the original population known from Old Settlement and Dawsons Point of 50 plants to over 400 (including seedling recruits).

- Sand Spurge *Euphorbia psammogeton* population on Blinky Beach has been saved from localised extinction with population reduced to 25 plants. Supplementation of the original population on Blinky Beach was timely and the species is now self-propagating (estimate at 100 individual plants). Trials to establish Sand Spurge in 'former known' locations on the lagoon foreshore has had varied results due the modified environment. The aim is to build population size to enable adequate seed dispersal to enable their persistence in the wild.
- Follow-up survey for nine threatened plant species across 20 monitoring plots is being planned for April – May 2021

Research

Research station bookings during the reporting period.

Project	Bookings
Bio Benefits – Black winged Petrels	Terry O'Dwyer x 2pp
Vegetation / Weed Survey UAV	Dendra x 6pp
MPA Research Galapagos Sharks	Jonathan Mitchell x 2pp
Plant Surveys Sallywood/Little Mt Palm	Andrew Denham x 2pp

Rodent Eradication

- Funding proposals to implement outstanding REP projects, namely final success check, Biodiversity Benefits Monitoring and preparation of the project overview report have been submitted.
- Biodiversity Benefits Monitoring continues.
- Shifted all palletised rodent stations from depot to track shed.
- Cattle Import update – Board staff have had two meetings with prospective cattle owners to discuss options to facilitate cattle import. Previously the option of using the Island Trader to import cattle has been dismissed due to the very high costs arising from the requirement to construct specialist cattle enclosures. Commercial operators approached. ADF request submitted and being followed through.

Biosecurity

- See separate business paper.

Weed Management

- LHI Weed Eradication Program (WEP) is tracking 480 hectares of weed search and 8,196 hours of effort this financial year, across cliff lines and more accessible terrain.
- Teams have extended weed search across Transit Hill, Malabar, northern flank of Mt Gower (near complete) and across new weed search terrain on the western face of Mt Lidgbird in "*The Bowl*" south of Roundface. The Bowl has presented a new weeding frontier with mature specimens of priority weeds removed. Expansion of search effort into this terrain was accelerated by the November 2020 helicopter winch program.
- Increased weed seedling recruitment under residual mature weed plants has been observed and recorded by LHIB Weed Eradication Team.
- Management of the LHI Weed Eradication Dataset in progress, combining MS Access to Fulcrum based data to enable analysis of the 15 year WEP dataset.

Sample of weeds removed from the previous 12 months - 1.12.2020 to 1.03.2021

Weed Species	Seedling	Juvenile	Young Mat	Peak Mature	Regrowth	Total
Bitou Bush	0	0	2	0	0	2
Bridal Creeper	1	58	6	0	0	65
Cherry Guava	489	368	44	2	9	912
Climbing Asparagus Fern	12	9	4	3	0	28
Cotoneaster	155	4	1	1	0	161
Ground Asparagus	831	1742	175	22	1	2771
Lantana	2	0	2	0	0	4
Ochna	97	277	7	1	92	474
Rhus Tree	1	2	0	0	0	3
Silky Oak	3	6	0	0	0	9
Sweet Pittosporum	239	461	5	2	0	707
White Cedar	236	11	5	0	1	253

Revegetation

- Ongoing maintenance and infill planting at the Environmental Trust funded revegetation project at "Pinetrees Sallywood Swamp Forest Revegetation" is ongoing.
- Planning is underway for upcoming revegetation works to revegetate recent coastal protection works at Windy Point, control exotic Rhodes Grass and infill planting on Blackburn Island following the breeding season for Wedge-tailed Shearwater and to convert exotic grasses to native vegetation at the Lord Howe Island Morning Glory site at Old Settlement.
- Maintenance work and infill planting continues at all existing revegetation sites.
- The environmental unit has established a small nursery at the depot, which provides opportunity for staff to learn plant propagation skills, alternative wet weather work and capacity for the LHIB to grow uncommon and threatened plant species.

Incident Management

- See – WH&S update.

Compliance and Enforcement

- Nil

Community Programs & Education

- An application has been received from the Hastings CoOp to hold a Tastings Event on October 22,23 and 24. It is proposed the event on Friday 22 October will be hosted in the CBD. Board staff will review and issue approval with conditions as appropriate.

Visitor Infrastructure

- Repair and maintenance of walking tracks.
- Sprayed grass impeding safe access across the Lower Road on Mt Gower track.
- Commenced spray out exotic Broad-leaved Paspalum from Muttonbird Point track.
- Spray out Farmers Friends, Broad-leaved Paspalum and other weeds from Transit Hill track.
- Repaired broken treads at Middle Beach stairs.

- Closed off Goat House walking track as a result of significant rockfall and subsequent land slip that has destroyed approximately 100m of trail and rendered the immediate area unsafe. Request for quote have been sent out for a geotechnical risk assessment using the NPWS Landslides and Rockfalls procedures. *Update: Submissions received, contract awarded.*

Marine Management / Moorings

- Marine Rescue NSW (MR) purchased a Board Public Temporary Mooring (PTM) in the North Passage in October 2020 (NP 4), this mooring is now considered a private mooring. The MR vessel 'Fearless' has been attached to this mooring during the reporting period
- 34 visiting vessels attached to PTM's during the reporting period. *Note: Report period up to mid March. Arrivals continue strongly.*
- Mooring issues including installation being pursued for the vessel 'Stardust'

Human Resource Management

- Biosecurity Team Leader role awarded.
- Bush Regenerator role awarded.
- Ranger role awarded.

Work Health & Safety

- Goat House Cave walking track closed until further notice due to rockfall and landslip.

Environmental Assessment

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

Land Administration

- The Expression of interest for future uses for the Nursery Site concluded on March 22. Submissions will be collated and reported formally to the Board at the June Board meeting.
- Legal advice received regarding pursuit of alleged residency on lease under the LHI Act, further work required prior to issuing show cause notice.
- 5 Lease matters reported to the Board.

Development Assessment and Land Use planning

- Planning Proposal placed on public exhibition 22 October – 19 November 2020. Final report will be presented to the Board for endorsement at March 2021 Board meeting.
- Building Certification – All certification services where the LHIB has been appointed the Principal Certification Authority (PCA) are on hold, and the Board is no longer accepting new PCA appointments. Board Administration staff are waiting on legal advice from DPIE legal services and legal advice from Fair Trading NSW regarding the status of existing developments where the Board has been appointed PCA, and

options for future developments.

Discussions have commenced with the Local Government Association regarding seconding or contracting a qualified PCA from another local council to review the backlog of open jobs and to research the feasibility and facilitate a solution for future PCA services to provided by the Board. While the Board is not required to provide PCA services, the implications of not having a PCA on-island are significant. Options are challenging because they may require additional resources and costs as well as bringing expertise into the Board's team. It seems very unlikely that a dedicated on-island private certifier is viable.

Prepared: Justin Sauvage, Manger Environment and Community Services

Endorsed: P Adams CEO LHIB

Board Meeting: April 2021
(Deferred from March 2021)

Agenda Number: 6

Record: ED21/1310

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, thirteen (13) vehicle applications to import or transfer were determined by the Chief Executive Officer under the 'Vehicle Importation, Transfer and Use Policy'.

CURRENT POSITION

There will be an increase of four (4) vehicles since the last Board meeting.

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation	Comment
Darrin Nobbs, All Island Services	Nissan Atlas Truck	No	Commercial	0	Approved 30/11/20 replacement for burnt out vehicle
Ian Hutton	Today Scooter	Yes	Private	0	Approved 16/12/20 – transfer from Helen Tiffin
Helen Tiffin	Holden Barina	No	Private	0	Approved 16/12/2020 - replacement
Erica Thompson	Mitsubishi	No	Private	0	Approved 16/12/020 - replacement
Diane Owens	Toyota Hilux	No	Commercial	0	Approved 24/12/20 - replacement
Diane Owens	Box Trailer	No	Commercial	1	Approved 15/01/2021
Scott Wilson	Boat Trailer	No	Private	1	Approved 15/1/2021
Gail Cameron	Hyundai Hatch	No	Private	0	Approved – 15/01/2021 – replacement – SUBSEQUENTLY WITHDRAWN 25/01/2021

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation	Comment
Birdon P/L	Manitou Forklift	No	Commercial	1	Approved 27/1/21 - Replacement – the vehicle it replaced was not an approved vehicle and was not listed on our vehicle register so this is an additional vehicle
David Chlumsky	Daihatsu Hatch	No	Private	0	Approved 28/1/21 – Replacement
Amy Hickey	Suzuki Vitara	No	Private	0	Approved 11/2/21 - Replacement
Rod Oxley	Toyota Hilux	No	Commercial	0	Approved 9/3/2021 - Replacement
Bradley Wilson	Toyota Hiace	No	Commercial	1	Approved 15/3/2021 – transferred from Clive Wilson – still not complete

As at 16 March 2021

Registered Road Vehicles						
Essential	Commercial	Private	Hire	Plant & Equipment	Imported prior to Approval Policy	Total
33	109	160	8	27	68	405

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	44	14	43	93	405

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 67 vehicles imported without approval prior to the current policy:

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

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

Vehicles Imported Without Approval – By Type						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
4	0	10	4	6	43	67

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Finance Report

RECOMMENDATION

It is recommended that the Board:

1. Note the information provided in this paper

BACKGROUND

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

- Income Statements
- Capital Expenditure

CURRENT POSITION

General Funded Operations

The Board is tracking well in accordance with the operating Budget. The financial statements in Attachment A highlight that 65% of income was received and 57% of expenditure was paid to February 2021, being 8 months of the year (2/3 or 66.7%). Wage increases of 0.3%, reduced because of COVID-19, have been applied. Wages expenditure is budgeted to 63% based on fortnights paid, and actuals are 55% partly due to delays in recruitments.

Attachment A includes recurrent operations by Cost Centre as the first report and a second report showing Board totals with a split between grant funded and recurring operations. These recurring operations show a deficit result \$1.035m to 28 February for full accounting operations, against a full year estimate of \$3.023m in deficit. This includes the non-cash allowance for depreciation.

Grant Funded Projects

The grant funded projects were budgeted for 20/21 FY at an income of \$1.41m and expenditure of \$1.83m. Against this allocation, actual income received is \$0.93m and expensed \$1.22m to date. Operational grants are predominantly associated with Environmental Management (\$1.4m budgeted expenditure) with the bowling club, flood study and aquatic club also included.

Capital Expenditure

Attachment B is a system generated report (reconciled) that identifies costs to February 2021. Further updates on specific projects will be reported by the Manager, Infrastructure and Engineering Services. Approved income budget is \$2.67m with \$1.22m received to date. Expenditure was \$3.47m out of a budgeted amount of \$6.68m. The Board has accessed \$2.7m from its T Corp debt facility this year, bringing the current loan debt against the Solar Project to just over \$5m. The approved debt funds available is up to \$5.9m.

Debtors

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

Debtors are grouped and reported from 2 modules being:

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

A summary of Sundry debtors as at February 2021 totalled \$491,770 and was as follows:

30 Days	60 Days	90 Days
\$36,605	\$5,415	\$25,274

The Liquor Store debtors are \$173k and grant invoices due being \$30k. It is especially important in the Board's current cash flow position that these overdue amounts are paid. Details regarding individual accounts can only be discussed in the closed session.

A summary of Rates debtors at 4 March 2021 totalled \$128,700 and was as follows:

Current	Arrears (90 Days)
\$38,600	\$90,100

This report was printed on 4 March and so small delays on payments are normal, but as the amount is significant, close attention to these accounts including payment plans is important. Larger commercial businesses (local) are traditionally the major contributors to the arrears, and has improved. Specific discussion regarding these debts can be held in closed session in accordance with Board policy. Please note the basis for the split between current and 90 days only, is that these charges are 90 day, or quarterly charges.

RECOMMENDATION

It is recommended that the Board:

1. Note the information provided in this paper

Prepared: John van Gaalen Manager Business and Corporate Services

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Attachment A: Income Statements at 28 February 2021 - Open

Attachment B: Capital Expense Report at 28 February 2021 - Open

LORD HOWE ISLAND BOARD

Budget Report - by Reporting Centre - Summary

Reporting Centre	Financial Year 2019-2020						Financial Year 2020-21						Compare 8 mths to FY Budget (67%)	
	Year-to-Date Actual: Feb'20			Full Year Budget			Year-to-Date Actual: Feb'21			Full Year Budget			Inc	Exp
	Income	Expense	Result	Income	Expense	Result	Income	Expense	Result	Income	Expense	Result		
CEO	0	155,337	-155,337	0	267,700	-267,700	0	94,100	-94,100	0	327,000	-327,000	0%	29%
Governance	0	38,089	-38,089	0	124,000	-124,000	0	27,900	-27,900	0	109,000	-109,000	0%	26%
Liquor Store	1,296,464	1,151,339	145,125	1,915,000	1,514,000	401,000	1,191,700	945,700	246,000	1,884,000	1,566,300	317,700	63%	60%
Corporate	1,225,180	807,609	417,571	2,644,500	1,565,800	1,078,700	1,425,700	798,800	626,900	1,432,000	1,626,600	-194,600	100%	49%
Tourism	0	55,000	-55,000	0	112,000	-112,000	0	20,000	-20,000	0	40,000	-40,000	0%	50%
Electricity	1,622,176	1,018,630	603,546	1,877,500	1,559,500	318,000	1,369,500	775,300	594,200	1,910,000	1,331,700	578,300	72%	58%
General Services	664,170	1,953,951	-1,289,781	1,263,600	3,511,100	-2,247,500	710,700	2,176,600	-1,465,900	1,309,500	3,454,700	-2,145,200	54%	63%
Airport	634,181	422,446	211,735	1,190,400	706,900	483,500	420,700	840,400	-419,700	1,077,400	1,221,400	-144,000	39%	69%
Community Services & Development	280	24,390	-24,110	7,000	195,200	-188,200	200	46,500	-46,300	4,000	179,900	-175,900	5%	26%
Land Administration	205,204	181,829	23,375	291,000	399,800	-108,800	238,000	92,000	146,000	348,400	266,000	82,400	68%	35%
Environment	450,645	628,326	-177,681	841,000	1,386,100	-545,100	303,700	878,600	-574,900	759,700	1,626,100	-866,400	40%	54%
LHIB - General Funded only	6,098,300	6,436,946	-338,646	10,030,000	11,342,100	-1,312,100	5,660,200	6,695,900	-1,035,700	8,725,000	11,748,700	-3,023,700	65%	57%

RED is a deficit#

Reporting Centres - details of services included:

CEO	Provision of CEO services provided through DPIE
Governance	Board members & Internal Audit
Liquor Store	sales of liquor direct and via shops, restaurants, clubs and tourist facilities
Corporate	
Administration	Licences, interest income, admin salaries, IT, communications, insurance, external audit, training, travel, relocation, COVID funding \$1.2m, \$0.8m rec'd last yr.
Tourism	Board support of LHITA
Electricity	Includes allowances for costs associated with part-year completion of the solar project.
General Services	Infrastructure and amenities, fleet, waste facility, water & wastewater, roads, wharf, emergency services, private works
Airport	All airport activities
Community Services	Community liaison, health facilities and advocacy
Land Administration	Leases (PL, SL, PO), small grants, planning, & other contractors,
Environment	Enviro levy, weeding, trails, biosecurity, environmental management

LORD HOWE ISLAND BOARD

Income Statement - Grants to Recurrent

for the year ended 30 June 2021 - Actuals to 28 February 2021

	BUDGET			ACTUAL			
	GRANT \$'000	RECURRENT \$'000	TOTAL \$'000	GRANT \$'000	RECURRENT \$'000	TOTAL \$'000	
Expenses							
Employee-related expenses	1,426	4,650	6,076	371	2,551	2,923	55%
Operating Expenses	404	3,647	4,051	490	2,104	2,594	58%
Depreciation and amortisation	0	3,009	3,009	0	1,856	1,856	62%
Grants and subsidies	0	50	50	0	20	20	40%
Finance costs	0	146	146	0	50	50	34%
Other expenses	0	247	247	360	(19)	341	-8%
Total expenses	1,830	11,749	13,578	1,221	6,562	7,783	
Revenue							
Government contributions	0	1,775	1,775	0	2,129	2,129	120%
Sale of goods and services	0	2,947	2,947	0	1,630	1,630	55%
Investment revenue	0	440	440	0	200	200	45%
Retained taxes, fees and fines	0	3,529	3,529	0	1,554	1,554	44%
Grants and other contributions - operating #	1,413	0	1,413	933	0	933	0%
Grants and other contributions - capital #*	1,841	1,090	2,931	128	1,090	1,218	100%
Other income	0	34	34	0	13	13	38%
Total revenue	3,254	9,815	13,069	1,061	6,615	7,676	
Gain (Loss) on disposal of assets	0	0	0	0	1	1	
Gain (Loss) on borrowings at fair value	0	0	0	0	0	0	
NET RESULT	1,424	(1,934)	(509)	(161)	54	(106)	
Plus: Depreciation (non-cash)	0	3,009	3,009	0	1,856	1,856	
Less: Capital Works funding	(1,841)	(1,090)	(2,931)	(128)	(1,090)	(1,218)	
NET CASH RESULT	(417)	(15)	(432)	(289)	820	531	
# Check Result - to Summ & State reports#	(416.7)	(3,023.7)	(3,440.4)	(288.8)	(1,035.7)	(1,324.5)	

2021 Capital Projects Transactions & Budgets February 2021

WO	WO Description	2,020	2021 Revenue		2021 Expense	
		WIP	Actual	Budget	Actual	Budget
25	ESRMP Solar PV 2014 - ARENA Grant Funded from 2015	3,331,482	0	0	3,066,889	4,069,750
32	Closed - Boat Ramp and Launch/Retrieval Project	41,635				
41	Closed - OWWS Upgrade Community Hall 2014		0	0	0	0
46	Closed - Preparation of Business Case - LHI Renewable Energy Capital Proposal	57,882				
52	Hybrid Renewable Energy Knowledge Sharing Plan AN431/432/433 2015	551				
53	Hybrid Renewable Energy Project Management AN431/432/433 2015	2,503,463	0	519,997	288,121	250,000
57	NSW Treasury Annual Capital Works Funding		1,090,000	1,090,000	0	0
61	Jetty Upgrade (replacement of deteriorating piles) 2015	55,867				
92	Slipway 2016	97,319	0	423,267	0	390,000
103	HV Switch Replacements 2016 (split over assets when complete)	16,483				
120	OWWS Research Facility 2018	20,450	0	0	0	15,000
122	OWWS Admin/Depot 2017	65,198	0	0	24,121	20,000
125	RRR 11 - Road - Andersdon Rd to Cow Bale 2019	7,026				
126	RRR 9 - Road - Smoking Tree Ridge Road - Lagoon Road to Giles's Gate 2018 WIP	2,085				
129	RRR 10 - Road - Lagoon Rd Neds Neach Road to to OV Drive 2018	18,520				
130	RRR 6 and 7 - Road - Lagoon Rd - Kings Beach to Smoking Tree Ridge Road 2017 WIP	26,705				
149	Aviation Fuel Shed Upgrade 2017	41,232	0	0	16,193	35,000
150	Hospital Garage/Morgue Shed 2018	7,382				
152	Closed - Depot Workshop Extension 2017		0	0	0	0
155	Closed - Composting Unit 2017 - Upgrade of LHIB WMF - all costs		0	25,050	92	0
179	Stronger Communities Fund Public Hall Improvements 2018		121,374	0	0	0
180	Stronger Communities Fund Old Powerhouse Site Remediation 2018	520,744	0	241,156	12,694	7,512
183	Airport Terminal - Biosecurity Upgrade 2021		0	0	105	15,000
185	TRAX Shed Mezzanine 2019	350				
188	RRR 12 - Road - Bowling Club Reseal 2019	5,555				
189	RRR 13 - Road - McGee's Parade Reseal 2019	20,665				
190	RRR 14 - Road - Middle Beach (Nursery Road to Anderson Rd) Reseal 2019	54,617	0	0	0	257,144
194	Airport Terminal Shade Structure 2019	37,548				
196	Closed - Concrete Minimix Truck 2019		0	0	0	0
197	Administration Office Upgrade 2019	3,709				
200	SCCF 2 - 0165 - Stevens Reserve Boardwalk 2019	644	0	196,253	0	391,862
201	SCCF 2 - 0536 - Skate Park 2019		0	0	0	76,230
202	SCCF 2 - 0537 - Lagoon Foreshore Fitness Trail 2019		6,795	6,795	468	468
214	DPC Design for a Skate Park for Lord Howe Island		0	0	0	5,500
215	Closed - Vermeer Mini Hydro Vac System V100D 2019		0	0	0	0
219	Erosion Mitigation Works and Seabee Wall Investigation	27,552	0	0	23,200	390,213
220	NSW Treasury Minor Works Funding Expensed - Corporate	5,602				
226	Shed - Revolve/Waste Oils/Sludge WMF (Design) 2020		0	0	2,252	50,000
230	Neds Beach Road - Lagoon Road/Anderson Road 2020		0	0	5,678	114,000
231	RRR 8 - Road - Cemetery Road - Neds Beach Road/Anderson Road Reseal	2,136	0	0	184	0
235	Jetty Walkway and Platform - Support Beams Replacement		0	0	4,079	80,000
236	Jetty Deck and Kerb Replacement 2020		0	0	2,975	150,000
245	Vehicle - Nissan NV200 2015 2020 WIP	26,512	0	0	1,979	40,000
248	OE - Dell SCV3020 SAN 2020	24,381				
252	SCCF 3 - 1561 - Playground Upgrade 2021		0	116,480	0	86,000
254	Public Fuel Sales Facility 2021 - WIP		0	0	3,529	30,000
255	Compost Facility 2021 - WIP		0	0	0	20,000
256	OI - Glass Storage Bunkers 2021 - WIP		0	0	0	16,000
257	Potable Water Trailer 2021		0	0	0	30,000
258	Windsock Poles 2021 - WIP		0	0	12,692	30,000
259	Airport Tie Downs 2021		0	0	0	10,000
260	Mobile Biosecurity Inspection Room 2021		0	0	0	95,000
263	SCCF 3 - 1720 - CBD Amenities 2021		0	54,814	0	6,100
Totals		7,023,296	1,218,170	2,673,812	3,465,251	6,680,779

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Number: 7 (ii)	File Ref: ED21/1679
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Biosecurity Inspection Fees and Charges proposed update.

RECOMMENDATION

It is recommended that:

The Board adopt the update to Biosecurity Fees and Charges as per Table 2 to be implemented from May 10 2021.

BACKGROUND

Development of biosecurity related fees and charges

At the September 2020 Board meeting, the Board were presented with draft/concept biosecurity related fees and charges noting that work on the development of these fees and the associated fee structure had only just commenced.

At the December 2020 Board meeting details of the proposed fees and charges along with background justification was presented to which the Board adopted the following:

1. *Note the Biosecurity update*
2. *Place on public exhibition for a period of six weeks over Christmas the proposed fee and charges outlined in Table 2 in the body of this report.*
3. *Note that the fees do not apply to RPT air passenger services or the Island Trader Service.*
4. *That the Board Administration review the fee as required to ensure cost recovery for biosecurity services to visiting vessels and aircraft.*
5. *Following the exhibition period a paper be presented to the Board at the March 2021 meeting.*

The proposed changes to biosecurity related fees were exhibited from 12/01/2021 to 22/02/2021. A summary of any submission received follows below.

EXHIBITION

A householder was sent to the community on 12/01/21 advising of the previous Board resolution to place the proposed fees and charges on public exhibition.

The exhibition period finished on 22 February 2021, with one submission received.

The main concerns outlined in the submission was a suggestion the Board had undertaken to decrease general aviation fees. The submission also raised a concern about the exclusion of commercial aircraft from the proposed fee update.

The 2016 Board paper referred to in the submission was considered in closed session in September 2016. As the resolution was considered in closed session it has not been published in this report, however the resolution adopted a schedule of fees and charges and did not bind the Board to maintaining fees and charges at a particular level for the 2016/17 financial year.

The submission also suggested that an alternative was an increase of the Environmental Levy.

Increasing the Environment Levy would in effect see all persons traveling to Lord Howe Island, including all residents, paying for the Biosecurity costs of a comparatively small number of visiting aircraft and vessels. This report does not support the increase of environment levies for the purpose of covering Biosecurity inspection fees for visiting vessels and aircraft.

DISCUSSION

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

Visiting Vessels – Yachts and non-commercial vessels

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

An average of 84 vessels arrived each year from 2009-2019. The estimated annual cost to inspect 25% of the arriving vessels and maintain the Dawson's Point monitoring network is \$7,350. The cost per vessel, when averaged across all visiting vessels is \$90 per vessel.

A breakdown of the costs indicates that each individual inspection would cost \$350 all inclusive. This calculation is anticipated to cover all costs associated with the entire time taken for inspections to be carried out and any consumables which may be required (EG. Baits, boat fuel, etc.) and somewhat assist in covering administration time requirements.). (Table 1 shows a summary of the cost workings).

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

Table 1: Vessel biosecurity charges workings

It must be noted that an inspection rate greater than 25% of vessels is desirable, however a significant increase in inspections would result in a stepwise increase in costs as additional staff would need to be employed, full details of Vessel Arrivals and Inspection Rate Advice can be found in Attachment A.

An alternate resolution would be for 100% vessel inspections at a fee of \$350/vessel.

Any vessels that arrive without having obtained proper mooring approval, and/or those which are reasonably believed to have not properly undertaken the mandatory biosecurity actions would be identified as high biosecurity risk and would be met for a full inspection. The Master of the vessel would be liable for the charges related to these inspections and activities. It is anticipated that these vessels, assuming they are permitted to moor, would be charged the full inspection amount. This would be at least \$350, potentially more for large vessels that require more than two hours to complete the inspection.

All vessels arriving without prior approval, including partial and or incomplete applications, or who have failed to complete the required biosecurity actions, are proposed to be charged \$350.

The LHIB biosecurity team currently utilise NSW Marine Parks staff and vessel to access visiting vessels for inspection. This is currently provided at no charge to the LHIB. This arrangement is verbally agreed for the remainder of 2020/21 financial year and is anticipated to be formalised for the 2021/22 period. The fee structure would need to be reviewed should the Board need to provide its own vessel and crew for inspections.

Visiting Vessels – Commercial vessels

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

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

Visiting aircraft – non-commercial

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

Proposed Fee Changes

Table 2 Airport Charges & Table 3 Mooring Charges below outlines in yellow the proposed changes to the Board’s adopted fees and charges. The pricing structure is identified as a code 4 – that is full cost recovery, whilst the service category is H, indicating that the fee is recovering operating costs but does not cover capital depreciation costs. It is noted that the proposed fees for visiting vessel inspections assumes an inspection regime of only inspecting 25% of all visiting vessels. A regime proposing to inspect all visiting vessels would require substantially higher per vessel fees.

Airport Charges							
1		Airport Charges (incl landing fees, parking fees)	Fee / Charge 2020/21 (\$)	Proposed Change April 12 2021	Pricing Structure	Service Category	GST Applied
	a	Airport Usage Charge					
	i	Airport Usage Charge (Annual) - for commercial freight operators (excluding Qantaslink) - unlimited landings and parking	6,333.00				
	ii	Airport Usage Charge (Annual) for local aircraft only - unlimited landings and parking	2,708.00				
	b	Landing Fees					
	i	Non-RPT per tonne per occasion - excluding island based aircraft	30				
	c	Tie down \ parking fees for non-RPT aircraft per night	26				
	d	Administration Fee	40				
	e	Biosecurity Inspection Fee	NA	150	4	H	Taxable

Table 2: Airport Charges

Mooring Charges						
17	Mooring - Public (Temporary)					
	a	Administration Fee	45			
	b	Per night	50			
	c	Environmental Levy. Per person per visit (not payable if only staying one night; ie transiting)	43.66			
	d	Biosecurity Inspection Fee	NA	90	4	H Taxable
	e	Late/incomplete biosecurity application fee	NA	350	4	H Taxable
	f	Commercial Vessels				
	i	Biosecurity Inspection	NA	350	4	H Taxable
	ii	Extended Inspection (>2hrs)	NA	175/hr	4	H Taxable

Table 3: Mooring Charges

RECOMMENDATION

It is recommended that:

The Board adopt the update to Biosecurity Fees and Charges as per Table 2 to be implemented from May 10 2021.

Prepared: Darcelle Matassoni Acting Biosecurity Team Leader 11/03/2021

Endorsed: Peter Adams CEO LHIB

Attachments:
Attachment A: Vessel Arrivals and Inspection Rate Advice

Lord Howe Island Biosecurity Vessel Arrivals and Inspection Rate – Advice

Background

Visiting vessels which wish to enter the LHI Lagoon and attach to a mooring must apply for approval to do so with the LHIB. Recent updates to this application and approvals process now require certain biosecurity activities and requirements to be carried out/met in order for an application to be approved. These changes introduce reasonable mitigation measures which address the risk pathway – namely in relation to the assessed risk of rodent introduction via recreational and chartered commercial vessels.

Approximately 19 New Zealand Islands which have successfully had rodents eradicated have seen rodent re-introduction events associated with recreational vessels. Although this metric is slightly confounded (as the nature of recreational vessels and visits to these islands often differs from those to LHI), it is indicative of the risk of re-introduction posed by these types of vessels.

Recommended approach

The recommended approach is that 100% of vessels are met and subject to a level of biosecurity inspection which correlates to the relative risk posed.

In practise, this would mean:

- All recreational vessels are met by a biosecurity officer to assess both their level of compliance with the requirements on which their mooring approval is conditional, and the likelihood that the vessel has any prohibited or biosecurity matter on board which may pose a biosecurity risk to LHI. A detection dog search would only be required if the biosecurity officer had reason to believe a more thorough investigation was required; and,
- All commercial/freight carrying vessels (as defined in the LHIB Biosecurity Requirements – Visiting Vessels documentation) are met by a biosecurity officer to assess their level of compliance with the requirements, and for a full biosecurity detection dog search of the vessel and cargo.

Procedural detail and guidance has been provided to the LHIB Biosecurity Team as to the conducting of these inspection activities. Additionally, the LHIB Biosecurity Team has obtained in kind support from local Marine Parks officers as to vessel use and resource sharing to facilitate inspection activities.

Should 100% of vessels not be able to be met due to resourcing constraints, the recommended order for prioritisation is:

- Any commercial or cargo carrying vessels.
- Vessels that arrive without having applied for/obtained conditional mooring approval (and therefore unlikely to have implemented required quarantine actions).
- International recreational vessel arrivals.
- Vessels that the Biosecurity Team assess as unlikely to have effectively implemented required quarantine actions (this can be assessed from quality of submitted paperwork, communications history, etc.).
- Vessels that have correctly followed the mooring application process and have provided reasonable evidence to suggest compliance with the requirements.

Board Meeting: April 2021
(Deferred from March 2021)

Agenda Number: 8 (i)

Record Number: ED21/1311

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

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

RECOMMENDATION

The report is submitted to the Board for information.

BACKGROUND

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

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

CURRENT POSITION

Since the December 2020 Board meeting, one owner consent application complied with the above requirements and was approved.

OC	Applicant	Site	Proposal	Zone	Decision
2020.11.1	John Green	Portion 91, LHI 43	Alterations and additions to existing dwelling at Earls Anchorage, Anderson Road	Zone 2 Settlement. The proposed development is permissible with the consent of the LHI Board	Approved 2/3/2021, subject to conditions

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Number: 8 (ii)	Record Number: ED21/1312
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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

Since the December 2020 Board meeting, no development applications complied with the above requirements and were determined by the CEO.

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: Lynda Shick, Administration Officer

Endorsed: Peter Adams, Chief Executive Officer

Board Meeting: April 2021
(Deferred from March 2021)

Agenda Number: 8 (iii)

Record: ED21/1738

LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

Item: s8.3(1) Review of Determination - Janelle Makiiti, OC2020.01 & DA2019.10 to:

- remove the requirement in condition 17 to demolish the existing cottage

at Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island.

1 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island
Proposed Development	Alterations and Additions to the Existing Primary Dwelling including Demolition of Shed and Construction of Attached Studio, Relocation of Approved Property Access, Retention of Existing Cottage and Decommissioning to a Non- Habitable Storage Shed and FujiClean CE1500EX wastewater treatment system to replace existing septic.
Owners Consent Application No	OC 2020.01 concurrently processed and determined with DA 2019.01
Development Application Approval:	DA2019.10 Date: 29 April 2020
Applicant	Janelle Makiiti
Estimated Cost of Development	\$149,000.00
Site Inspections	A site inspection undertaken during OC & DA assessment.
Zone	Zone 2 Settlement.
Significant Native Vegetation Map	Part of the lot contains mapped Significant Native Vegetation (SNV). The approved alterations and additions to the existing dwelling are not located within a SNV mapped area, and the approved relocated property access will not likely result in the damage or removal of SNV.
Notification	The s8.3(1) Review of Determination was placed on exhibition for 14 days.
Submissions Received	No submissions were received.



<p>Report Recommendation</p>	<p>That the LHIB review its determination of DA2019.10 on Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island, and modify condition 17 of the consent, (under Sections 8.3 and 8.4, Environmental Planning and Assessment Act 1979) to the following:</p> <p>17. Decommissioning of Cottage and Shed for Studio.</p> <p>a) <i>The existing cottage shall be de-commissioned with an inspection of the modified structure undertaken by an appropriate LHIB Officer to ensure the residential decommissioning of the building is done to the satisfaction of the Lord Howe Island Board.</i></p> <p>b) <i>No Occupancy Certificate of any kind, for any of the development under DA2019.10, is to be issued until such time that the Board is satisfied that the above decommissioning on the retained shed/ decommissioned cottage has been carried out.</i></p> <p>c) <i>The demolition of the existing building (shed) is to be carried out in accordance with AS2601-2001: The Demolition of Structures, so that the risk of injury to the residents, workers and other site personnel, and the risk of damage to adjacent property and the immediate environment is minimised.</i></p>
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2 Consent Authority

Delegations

The Ministerial delegations to the LHIB do not reference s8.3 Reviews of Determination. Nonetheless, s8.3(6), Environmental Planning and Assessment Act 1979 states that “*The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council*”. Hence as the original OC and DA assessment was reported to the LHIB (at the request of a Board member) and the subject condition 17 of the DA was amended by the Board in its resolution on the OC and DA, this review of determination application is also submitted to the Board.

3 Background

OC 2020.01 and DA2019.10 on the earlier mentioned subject site were submitted to the April 2020 LHIB meeting with the following recommendation:

“The application for OC 2020.01 and DA 2019.10 for Alterations and Additions to the Existing Primary Dwelling including Demolition of Shed and Construction of Attached Studio, Relocation of Approved Property Access, Retention of Existing Cottage and Decommissioning to a Non-Habitable Storage Shed and FujiClean CE1500EX wastewater treatment system to replace existing septic, at Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island, be approved subject to the conditions detailed in section 11 of the report.”

The subsequent resolution by the LHIB in relation to this matter (at the April 2020 meeting) was the following:

“8(viii) Alterations and additions including retention of existing cottage – OC2020.01 and DA2019.10

It was moved by GC and seconded by CW that OC 2020.01 and DA 2019.10 be approved with the following amendment to the conditions:

Condition 17 heading to be deleted and replaced with: “Demolition of Cottage and Shed for Studio. The text for condition 17 a), 17 b) and 17 c) be deleted and replaced with:

- a) The cottage proposed to be retained and de-commissioned shall be demolished*
- b) No Occupancy Certificate of any kind, for any of the development under DA2019.10 is to be issued until such time that the Board is satisfied the above works have been completed*
- c) All demolition works are to be carried out in accordance with AS2601-2001: The Demolition of Structures, so that the risk of injury to the residents, workers and other site personnel, and the risk of damage to adjacent property and the immediate environment is minimised.*

The Board adopted the motion.

*A follow up motion was moved GC and seconded DK:
That the Board undertake the necessary steps to support the issue of a final Occupation Certificate or interim Occupation Certificate for DA2015.15 on Lot 812 DP1213759.*

The Board adopted the motion.”

4 Prior Site History

Prior to the above more recent background, DA2015.15 for ‘demolition of existing dwelling and rebuild of the dwelling and subdivision of land over 2 stages’ was approved in May 2015 on the site. This approval was for the demolition of the existing cottage located adjoining the main dwelling on the site, the construction of a replacement new stand-alone dwelling towards the (then) north eastern rear of the site and a 2 x lot subdivision excising that rear section of the site as a separate lot (now Lot 812) from the rest of the land.

Condition 5 of DA2015.15 stated *“Prior to the issue of an Occupation Certificate for the new dwelling, the existing dwelling which the new dwelling is to replace, is to be fully demolished”*. This demolition was not undertaken, but the new dwelling was constructed, the subdivision certificate was released and the subdivision registered.

Condition 4 of DA2015.15 required: *“Prior to the issue of an Occupation Certificate, the applicant is required to register a reciprocal right of carriageway and easement for services and maintenance for the Right of Way shown in the drawing Site Roof/Site Analysis/Construction Management Plan, March 2015.”* This approved ROC was to run through the position of the cottage (then proposed to be demolished), to the west of the main dwelling and the sheds behind it then rearwards to the (then) proposed new lot (now Lot 812) and house. At determination of the subject DA2019.10, this ROC/ easement has not been registered on the subdivision (in addition to the cottage not being demolished as referenced above).

5 Site Description

The site is identified as Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island. As shown in *Figure 1*, the allotment is irregularly shaped and currently contains several buildings including the primary dwelling generally clustered centrally within the lot. The closest existing dwellings to the site are located on the immediately adjoining Lot 154, DP 757515 to the south-east of the subject dwelling. The total area of the site is 7,802m².

The site includes an existing single storey residential dwelling, and three separate buildings/sheds (one being a former cottage) located in the centre of the site. There are four large water tanks located along the eastern common boundary of the site (in alignment to the rear of the existing dwelling). There are other ancillary domestic structures spread across the property.

The land has partly been cleared, there is some landscaping around the existing dwelling, and vegetable gardens near the larger northern shed. There is significant vegetation located along the allotment boundaries, and there are large tracts/areas of significant vegetation scattered throughout the site (refer to *Figure 1*).

The site has a frontage of 18.41m along Mutton Bird Drive. The site has an existing informal driveway located along the eastern property boundary leading to the main house and northern shed providing egress to/from Mutton Bird Drive.

In accord with its general location, the site is flat without any significant topographical features.



Figure 1 Aerial photograph of site. Source: SIX Maps

6 Approved Development

The approved development as submitted with the subject OC 2020.01 and DA2019.10 was for “Alterations and Additions to the Existing Primary Dwelling including Demolition of Shed and Construction of Attached Studio, Relocation of Approved Property Access, Retention of Existing Cottage and Decommissioning to a Non- Habitable Storage Shed and FujiClean CE1500EX wastewater treatment system to replace existing septic”.

Relocation of Approved Property Access

Of particular relevance to the subject s8.3(1) review of determination, the subject OC and DA approval relocated the approved (ref DA2015.15) property access from the western side of the main dwelling to the east, to the existing driveway, which will in turn be extended to also provide access to the rear of Lot 812. As noted earlier, this approved ROC was to run through the position of the cottage (previously proposed to be demolished), to the west of the main dwelling and the sheds behind it then rearwards to the (then) proposed new lot (now Lot 812) and house.

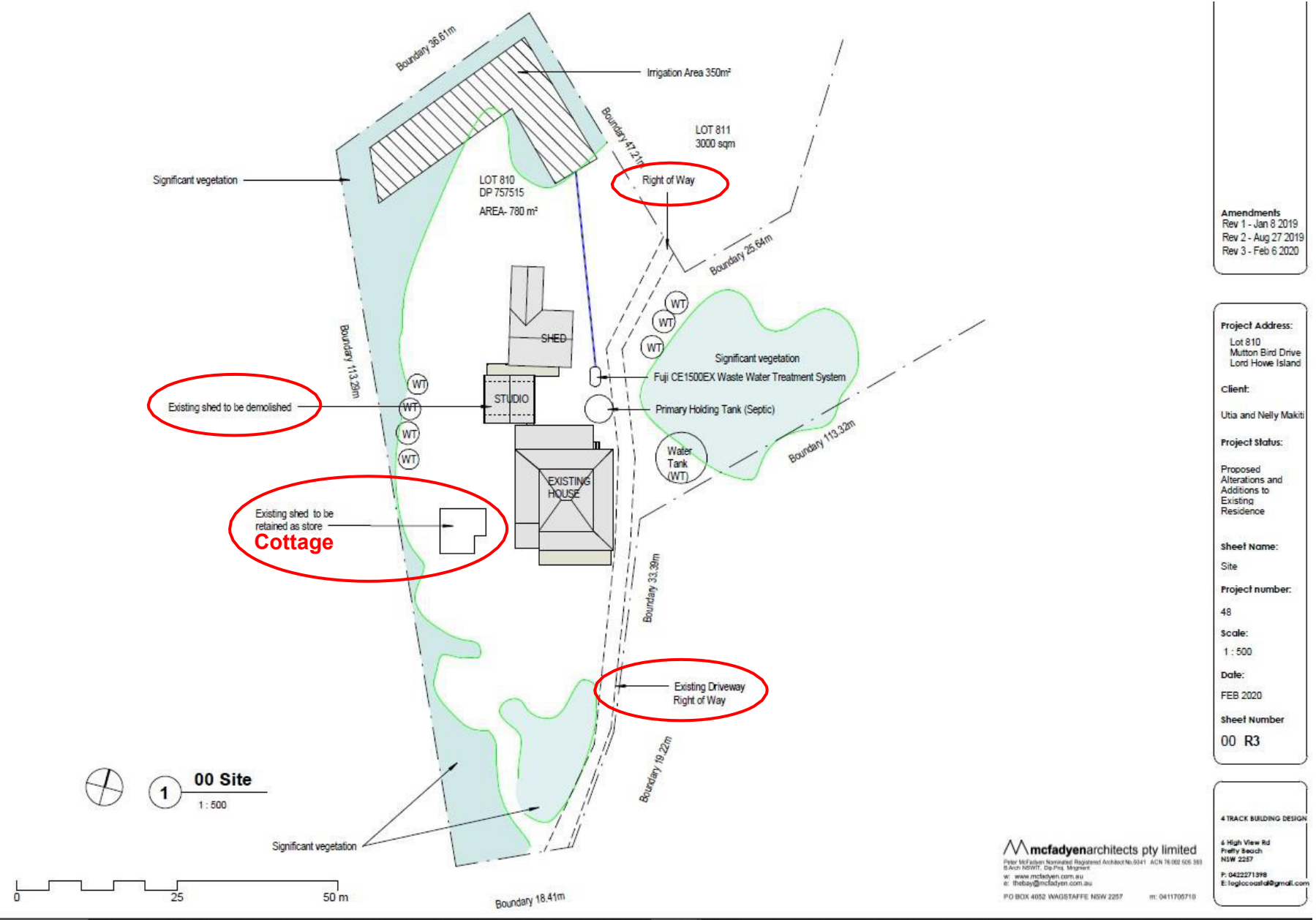
The original (DA2015.15) approved property access to the west of the (proposed) retained & decommissioned cottage was assessed by the LHIB’s, Manager Environment / World Heritage as requiring removal of 30 native plants including 15 planted Kentia Palms and additional native remnant plantings. It would also have been located within the nesting habitat for Flesh-footed Shearwaters resulting in the loss of 3 burrows, and increased potential for road kill due to proximity of the driveway to potential habitat for other threatened species. As a consequence, compensatory offset plantings of 100 native plants would have been required.

As a result of the assessed negative ecological and environmental impacts resulting from the above relocated property access, the applicants were advised to amend their plans the subject OC 2020.01 and DA2019.10. The amended ROC was proposed to be provided using the existing driveway located on the eastern side of the primary dwelling, with an extension rearwards towards Lot 812 and the newly constructed dwelling on this rear lot. The amended ROC resulted in significantly less ecological and environmental impacts, yet provide access for both allotments as required under previous *DA 2015/15*.

Retention of Existing Cottage and Decommissioning to a Non-Habitable Storage Shed

As intimated earlier, the subject OC 2020.01 and DA2019.10 applications proposed to retain the cottage to the south-west of the primary dwelling, with decommissioning to a non-habitable shed / out-building. This change of use was to be achieved through the removal of the building’s existing kitchen, bathroom/shower and toilet, and its subsequent use only for storage. These requirements formed part of the recommended conditions of consent in the report to the April 2020 LHIB meeting.

The applicant submitted the required plans with the OC and DA which (particularly relevant to the subject s8.3(1) review of determination) included the following site plan (with proposed relocated carriageway, and retained decommissioned cottage) and existing floor plan and photos of the cottage (refer to *Figures 2 – 5*).



Amendments
 Rev 1 - Jan 8 2019
 Rev 2 - Aug 27 2019
 Rev 3 - Feb 6 2020

Project Address:
 Lot 810
 Mutton Bird Drive
 Lord Howe Island

Client:
 Utia and Nelly Makiti

Project Status:
 Proposed Alterations and Additions to Existing Residence

Sheet Name:
 Site

Project number:
 48

Scale:
 1 : 500

Date:
 FEB 2020

Sheet Number
 00 R3

4 TRACK BUILDING DESIGN

6 High View Rd
 Pretty Beach
 NSW 2257

P: 0422271398
 E: logiccaatal@gmail.com

mcfadyenarchitects pty limited
 Peter McFadyen, Registered Architect No. 9141 ACN 18 002 605 393
 6 Arch Hillway, Digby, Wagstaffe
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 e: thebay@mcfadyen.com.au
 P.O. BOX 4092 WAGSTAFFE NSW 2257 m: 0411709710

Figure 2: DA2019.10 Site Plan with alterations and additions to house & proposed studio, relocated property access, & retention of cottage for storage

FLAT: EXTERNAL WALLS DIMENSIONS
INTERNAL WALLS DIMENSIONS

KEYS

- : ROOF LINE
- ▬: WINDOWS
- ∩: DOORS
- ⊞: TOILET BOWL + CISTERN
- : VANITY
- ⊞: LAUNDRY SINK

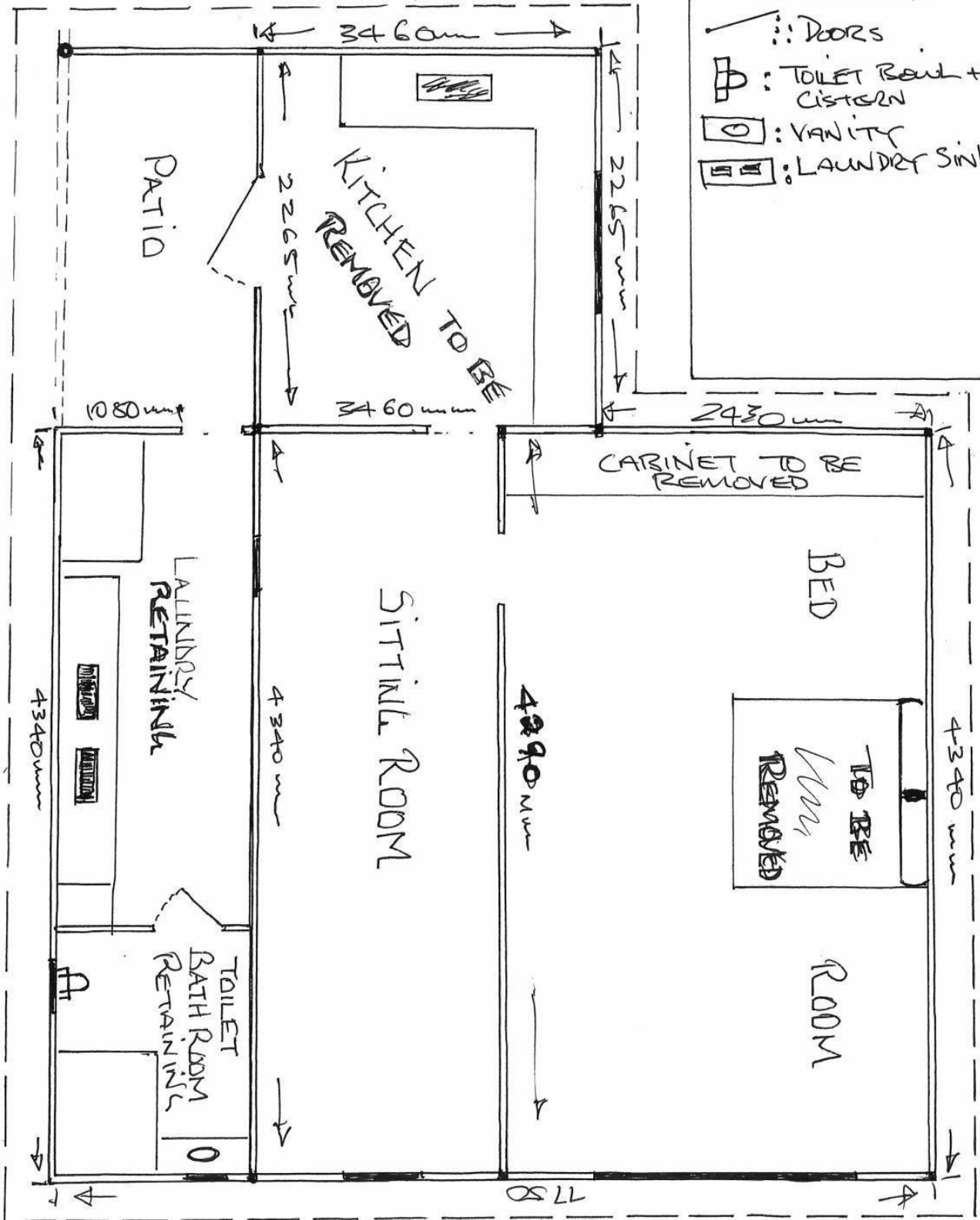


Figure 3: Existing Cottage Floor Plan with proposed decommission works for use as storage shed



Figures 4 & 5: Applicants submitted photos of the Cottage to be decommissioned and used as a storage shed.

7 Proposed s8.3(1) Review of Determination

The submitted s8.3(1) Review of Determination application requests the deletion of the requirement in condition 17 to demolish the existing cottage as outlined in the following 3 submissions:

Lord Howe Island Board
Mr Peter Adams
Chief Executive Officer
LORD HOWE ISLAND 2898

03rd August, 2020

RECEIVED

Dear Mr Adams,

- 4 AUG 2020

Lord Howe Island Board

**Makiiti House
Lot 813 DP 1213759
Lord Howe Island**

Further to correspondence received from the LHIB, as the applicant and leaseholder of Lot 813 I would like to request the reconsideration, under clause 8.3(1) of the Environmental Planning and Assessment Act 1979, of condition 17 of development consent 2019.10.

Having reviewed the minutes of the board meeting I believe that there is a strong misconception that the existing cottage proposed to be retained is intended for residential use. As detailed in the development application the existing cottage was to be decommissioned so that it was unfit for residential use and was to be repurposed to be used for storage.

The development application included for a relocation of a right way of way for access and services previously approved by the board, but subsequently assessed by Board officers as potentially having a detrimental effect on identified significant vegetation if it was to proceed in the approved location.

The relocation of the right of way meant that it was unnecessary to demolish the existing building. To require its demolition as noted in condition 17 of the recent consent, I believe is unwarranted and against sustainability principles. Building on Lord Howe Island presents difficulties and to require demolition of an existing structure without valid reason should not be acceptable and repurposing of buildings supported. If the concern of the board is that the existing building is to be potentially used for residential purposes there are punitive measures that can be imposed to ensure this would not occur.

I believe I have clearly illustrated my good faith and responsible actions in agreeing to and commencing the process to relocate the approved right of way location to negate potential detrimental impacts on significant vegetation and similarly can assure the board the existing building if retained would not be used for residential purposes.

I understand that the planning assessment by the board's consultant planners agreed with the retention of the existing building. Subsequently, I would request for a review of condition 17 of the development consent given there are no valid reasons for requiring demolition of the existing building.

Yours Faithfully,

Janelle Makiiti



21 January 2021

Mr Justin Sauvage
MANAGER ENVIRONMENT AND COMMUNITY SERVICES
Bowker Avenue
Lord Howe Island Board.
NSW 2898

RE: REVIEW OF CONDITION 17 OF DA2019.10

Dear Mr Justin Sauvage

I am writing this statement as to provide you a strong understanding of my argument and to support my application to the usage of the retained building on my lease.

It is noted clearly in the Owners Consent application form back in 2019 that this building is to be strongly use for **STORING BUILDING**.

Not for residential usage.

It is my own presumption to think that there are some confusions to this matter/s were the retained building is to be available for residential usage.

I am appreciating of your acknowledgement of getting back to me regarding to this matter.

Kind regards

Janelle Makiiti



And the following email dated 28 February 2021 from the applicant (cc to the Islander Board members):

Good Evening,

We have been advised by the LHIB staff that our application for reconsideration of a condition of our development consent will be considered at the March board meeting. We would like to take this opportunity to advise board members of why the request has been made so there is no misunderstanding. Previously the board had issued a development consent for the subdivision of our land which included a new access right of way that required removal of an existing cottage building and would have also required removal of an area of significant vegetation of which we were unaware. When our current approved development proposal for alterations and additions to our existing house was in design development stage the issue of the right of way and the impact on the area of significant vegetation was considered and following negotiations with board staff an alternative location for the access right of way was proposed and accepted and we understand is currently being processed.



The new proposed right of way location no longer required removal of the existing secondary cottage building and subsequently our application for alterations and additions included for the retention of the cottage to be repurposed for storage of garden equipment, bikes and other items. To ensure the cottage was no longer able to be used for residential purposes the kitchen was removed and evidence of this provided to the board staff.

When we received development consent DA 2019-10 dated 02 June 2020, we were shocked by condition 17 which required demolition of the existing cottage building. To do so we believe is unwarranted and against sustainability principles. Building on Lord Howe Island presents difficulties and to require demolition of an existing structure without valid reason should not be acceptable and repurposing of buildings supported. If the concern of the board is that the existing building is to be potentially used for residential purposes there are punitive measures that can be imposed, as well as the works already undertaken to render the building not fit for habitation, to ensure this would not occur. Should the board after due consideration still determine there is valid reason for the existing building still be required to be demolished, we advise that we would intend to lodge a development application for the construction of a new storage shed to replace the existing building, which we believe would only serve to illustrate an unrealistic, inefficient and non sustainable outcome to this situation.

We believe we have clearly illustrated good faith and responsible actions in previously agreeing to the relocation the approved right of way to negate potential detrimental impacts of the removal of significant vegetation and similarly can assure the board that the retained existing building, no longer requiring removal for the access right of way, would not be used for residential purposes. We also understand that the planning assessment by the board's consultant planners agreed with the retention of the existing building.

We look forward to your favourable consideration of this request and please do not hesitate to contact us should you wish to discuss further.

Regards

Janelle and Utia Makiiti

8 Discussion

As stated earlier, the original recommendation from the assessment report on the subject OC 2020.01 and DA2019.10, was to allow the retention of the cottage as proposed in the application, but ensure it's decommissioning through the removal of the building's existing kitchen, bathroom shower and toilet, (and its subsequent use only for storage). These requirements formed part of the recommended conditions of consent in the report to the April 2020 LHIB meeting. The intention of the above was to maintain consistency with the Board's past practice in similar situations.

As a consequence of the preceding information, the recommendation of this report on the s8.3(1) review remains largely similar to the original recommendation at the time of determination.

9 Recommendation

That the LHIB review its determination of OC2020.01 and DA2019.10 on Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island, and modify condition 17 of the consent, (under Sections 8.3 and 8.4, Environmental Planning and Assessment Act 1979) to the following:

17. Decommissioning of Cottage and Shed for Studio.

- a) The existing cottage shall be de-commissioned with an inspection of the of the modified structure undertaken by an appropriate LHIB Officer to ensure the residential decommissioning of the building is done to the satisfaction of the Lord Howe Island Board.*

- b) *No Occupancy Certificate of any kind, for any of the development under DA2019.10, is to be issued until such time that the Board is satisfied that the above decommissioning on the retained shed/ decommissioned cottage has been carried out.*
- c) *All demolition works (including of the existing shed) is to be carried out in accordance with AS2601-2001: The Demolition of Structures, so that the risk of injury to the residents, workers and other site personnel, and the risk of damage to adjacent property and the immediate environment is minimised.*

Possible Alternative Resolution (for the LHIB's information/ convenience):

That the Lord Howe Island Board confirm its original determination of OC2020.01 and DA2019.10 on Lot 813 DP 1213759, Mutton Bird Drive, Lord Howe Island, and not modify condition 17 of the consent, (under Sections 8.3 and 8.4, Environmental Planning and Assessment Act 1979).

Prepared: Peter Chapman – All About Planning 15/03/2021

Endorsed: Peter Adams – CEO LHIB

LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

Item MDC2019.5.2: s4.55(2) (Other Modification) EPA Act 1979, Approved change of use to an Allied Health Clinic, Day Spa and Food and Drink Premises (Bar), including alterations and additions, at Part Lot 44, DP 757515 (previous post office premises), fronting Neds Beach Road near its intersection with Lagoon Road, Lord Howe Island.

1 Summary Assessment Report

Assessment Officer	Peter and Michelle Chapman – Consultant Town Planners
Address/Property Description	Part Lot 44, DP 757515, corner of Neds Beach Road and Lagoon Road, Lord Howe Island
Proposal	Approved change of use to an Allied Health Clinic, Day Spa and Food and Drink Premises (Bar), including alterations and additions, at Part Lot 44, DP 757515 (previous post office premises), fronting Neds Beach Road near its intersection with Lagoon Road, Lord Howe Island.
Owners Consent Application No	OC 2019.02 was assessed and determined concurrently with DA2019.5.
Development Application No.	DA 2019.5, Date of Determination: 19 March 2019
Applicant	Mr Timothy Cruikshank
Estimated Cost of Development	\$125,000.00
Site Inspections	AAP is familiar with the subject site.
Zone	Zone 5 Special Uses. The LHIB administration has previously confirmed that 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.
Significant Native Vegetation Map	The lot is not mapped as Significant Native Vegetation (SNV). No SNV will be damaged or removed as a result of the proposal.
Notification	The MDC application was exhibited from 12/02/21 to 26/02/21.
Submissions	14 submissions were received (7 in support & 7 objections) plus a petition with 233 Petitioners. A summary table of submissions is attached to this report as Appendix 1.
Recommendation	a. That the following proposed amendments contained in MDC2019.5.2 regarding DA2019.5 for the approved change of use to an Allied Health Clinic, Day Spa and Food and Drink Premises (Bar), including alterations and additions, at Part Lot 44, DP 757515 (previous post office premises), fronting Neds Beach Road near its intersection with Lagoon Road, Lord Howe

	<p>Island, be determined in the following manner:</p> <ol style="list-style-type: none"> i. <i>Refused:</i> (as the wastewater servicing of the development has not been adequately resolved and an assessment of these modifications cannot be completed): <ul style="list-style-type: none"> ○ <i>Condition 1. Time Limited Consent</i> ○ <i>Condition 9. Health Amenity and Wastewater</i> ○ <i>Condition 10. Food Safety</i> ○ <i>Condition 20. Number of Patrons</i> ○ <i>Condition 23. Hours of Operation</i> ii. <i>Refused:</i> (in the context of a demonstrated social impact being experienced by the community in the form of anti-social behaviour resulting from drinking, the proposal for takeaway liquor sales is likely to accentuate this): <ul style="list-style-type: none"> ○ <i>Condition 21. Plan of Management (to allow liquor takeaway sales)</i> iii. <i>Approved:</i> <ul style="list-style-type: none"> ○ <i>Condition 11. Water</i> <p>b. That arising out of the consideration of MDC2019.5.2, the following conditions of consent of DA2019.5, be modified in the following manner:</p> <ol style="list-style-type: none"> i. Condition 1 (Time Limited Consent): be amended to refer to a four (4) year time period applying from the date of consent of DA2019.5 (ie two (2) additional years beyond the existing requirement). ii. Condition 23 (Hours of Operation and Maximum Staff and Patron Numbers): be amended through the deletion of the first two dot points and their replacement with the following: <ul style="list-style-type: none"> ○ <i>The Licenced Bar will operate only between 12.00pm and 9.00pm.</i> ○ <i>The Day Spa and Allied Health components will operate only between 6.00am and 9.00pm (with no loud activities, music played, or PA systems used before 8.00am or after 7.00pm).</i> ○ <i>Requests for variations to the above for special events can be made in writing to, (and will be at the discretion of), the CEO, LHIB, a minimum of two weeks in advance. Any specifications arising shall be complied with.</i>
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2 Consent Authority

The LHIB CEO and Chairperson has delegations to grant consent to Development Applications (DA) 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.

Modifications to Development Consents are not specifically referenced in the delegations however the original DA was referred to the LHIB for determination (due to the number of submissions received) and for this reason the subject information report on the MDC is also referred to the Board.

3 Background

This report provides an assessment of the subject MDC2019.5.2, including the details of the proposed amendments, the number and content of submissions received from the community and the details of the key issues for the assessment.

OC2019-02 and DA2019.05 for a change of use to an Allied Health Clinic, Day Spa and Food and Drink Premises (Bar), including alterations and additions, was approved at the March 2019 LHIB meeting.

This approval included the following requirements as key conditions of consent:

1. *Time Limited Consent*

Pursuant to Section 4.17(1), NSW Environmental Planning & Assessment Act 1979, the subject development shall cease two (2) years from the issue of the occupation certificate/date of this consent unless the required onsite unisex disabled toilet facility (and if the existing waste water treatment system has insufficient capacity), a new/ upgraded onsite waste water management system as required by these imposed conditions, is approved, provided and constructed on the subject site within this timeframe.

A separate Owners Consent, Development Application and Construction Certificate, (accompanied by the appropriate plans and details) will be required for the unisex disabled toilet facility and new/ upgraded onsite waste water management system.

Reason: To ensure that appropriate sanitary facilities including a new waste water treatment facility for the subject development are provided on the subject site within two years, to relieve impacts of the additional waste water load on the Community Hall's public toilet facilities.

9. *Health, Amenity & Wastewater*

The (subject) Old Post Office Building is not currently connected to any wastewater treatment system. The current LHI Board owned and operated wastewater treatment system on the subject site does not have sufficient capacity to accommodate black water that may be generated from the subject development. Additionally, the existing Community Hall public toilets do not have spare capacity in peak demand periods.

The following wastewater requirements are consequently identified:

- a) *At all times the development must be connected to a waste water treatment system with sufficient capacity to treat the volume of waste water generated on site.*
- b) *If the current waste water treatment system has insufficient capacity it must either be significantly upgraded, or a new waste water treatment system and associated effluent irrigation area is to be provided onsite.*

The new or significantly upgraded system is required to be installed on site within 2 years of the issue of the occupation certificate for the subject premises, to accommodate the increase in daily hydraulic load.

Pursuant to Condition 1 of this development consent, if a suitable compliant toilet facility is not provided within 2 years of issue of the occupation certificate, then the approved use shall cease.

Also pursuant to Condition 1 of this development consent, a separate Owners Consent, Development Application and Construction Certificate, (accompanied by the appropriate plans and details) will be required for the unisex disabled toilet facility and new/ upgraded onsite waste water management system.

- c) *Suitable sanitary facilities for personal hygiene must be provided in a convenient location within, or associated with, the new toilet/s.*
- d) *For a Class 6 building servicing a maximum number of 22 patrons (inclusive of 2 staff) at any one time, as outlined in the application, the NCC requirement is:*
 - *a single uni-sex facility (comprising one closet pan, one washbasin and means for the disposal of sanitary towels) is to be provided within the development.*
- e) *All Greywater arising from the proposed bar/ kitchen and day spa operations must be connected to the existing septic system (on the subject site) upfront as part of the initial construction work. This is to be all grey water associated with the new bar use and day spa and private and communal treatment room sinks.*

If the LHIB Board decommissions the existing system on site, the sink connections shall be plumbed into the new waste water treatment system provided on site.

- f) *A maximum 22 persons is permitted on site at any one time, to minimise the demand on the Community Hall's toilet facilities and to limit grey water generation at the subject site.*

Reason: To ensure adequate public health and customer and staff amenity is maintained. In accordance with Condition 1 of this approval, the above requirements for provision of an on-site toilet facility may be deferred for up to 2 years from the date of occupation certificate approval, pending the provision and construction of the required onsite toilet and a new/ upgraded onsite waste water management facility on the subject site and in light of the LHIB's advice that the proposed development may rely upon the LHI Community Hall toilets during this intervening time.

20. Number of Patrons

Not more than twenty (22) patrons and staff of the proposed development shall be present on the subject site at any one time.

Any increase to the number of staff and patrons/customers on site at any one time will require a new development consent or modification of development consent.

Reason: To control impacts of the development and ensure compliance with the requirements for sanitary facilities.

23. Hours of Operation and Maximum Staff and Patron/Customer Numbers

The following maximum daily hours of operation, and maximum staff employment and patron levels are permitted for the proposed development:

- *The Licenced Bar (Sunset Drinks) will operate only between 12pm and 9pm (during summer) and 12pm and 8pm (during winter, autumn and spring). The shared Day Spa or Allied Health providers will operate on site between 7.00am to 6.00pm*
- *The proposed mixed use deck area may operate between 7am and 11.30am for yoga or Pilates classes as private one-on-one session or small group sessions with one instructor.*
- *A maximum of 22 persons are to be onsite at any one time to maintain compliance with sanitary facilities requirements of the BCA.*

Reason: To protect the amenity of the surrounding land uses, control total number of persons on site at any one time and minimise impacts on adjacent public areas and street parking.

4 Site Description

The site is identified as Part Lot 44, DP 757515, at the corner of Neds Beach Road and Lagoon Road, Lord Howe Island. As shown below in *Figure 1*, Lot 44 is a broadly triangular shaped allotment, with parallel parking located along both road frontages, and additional bicycle parking in front of The Anchorage at Ned's Beach Road, immediately opposite the subject premises. The subject existing building is located parallel to Ned's Beach Road, approximately half way along the Ned's Beach Road frontage of the site.

The site currently comprises four separate buildings on the site, with a hard stand area with vehicular access off Lagoon Road, newly constructed amphitheatre and landscaping, water tanks and some vegetation. The previous post office building (the subject of this proposal) has been converted through the approved alterations and addition work to the approved uses and is located centrally on the Ned's Beach Road frontage of the site.

A giftwares/ retail shop (Beach Boutique), Diamonds shop, the small Island Showcase premises formerly being the office of the LHI Signal newspaper, a covered Tourist Information Bay, free public visitor phone facility, the premises of the Marine Park Authority and the relocated Post Office premises operate within the site.

Primary land uses surrounding the site include the lagoon foreshore recreation area and boat sheds to the south and south east along Lagoon Road. Commercial and community uses include the LHI Community Hall, the Anchorage Restaurant and Bar, and a Clothing/homewares store, located opposite the subject premises in Neds Beach Road, to the north west. Further north along Ned's Beach Road, to the north-east is Thompson's store comprising a mixed use retail/ grocery/takeaway/café and hardware premises.



Figure 1: Aerial Photograph of site of proposed development (prior to demolition of Powerhouse, undertaking of approved works to subject premises and construction of amphitheatre)



Figure 2: Side & Rear elevations of development as constructed



Figure 3: Front corner of development as constructed

5 Proposed Modification of Development Consent

The MDC has been submitted under s4.55(2) (Other Modification), Environmental Planning and Assessment Act 1979, and is to make modifications to a number of the key aspects of the Board's approval for the development in DA2019.05 relating to the following:

- Removal of time limited DA consent
- Wastewater requirements
- Increase in maximum permissible number of patrons
- Food safety & preparation
- Potable (drinking) water supply
- Allowance of takeaway liquor sales
- Increase in permitted hours of operation

The applicant's proposed modifications are the following (the condition number references are as per the determination of DA2019.05):

- *Condition 1. Time Limited Consent - Remove.*

Applicant Justification: The LHIB are the owners of the land on which the development resides. The requirement of the addition of the toilets outside of the building structure of the "old Post Office" means that Dynamic Physiotherapy Pty Ltd does not hold the lease over this new structure. The LHIB are currently exploring options to build this new amenity and it is our understanding that this will be not used exclusively for Dynamic Physiotherapy but for all businesses on the site including the boatshed's. Dynamic Physiotherapy should not be held accountable for a DA or installation of toilets that are not housed within our lease, being delivered by the LHIB within a certain timeframe.

- *Condition 9. Health Amenity and Wastewater – Replace 9(d) with:
"For a Class 6 building servicing a maximum number of 70 people the landlord will provide a BCA compliant sanitary facility on site to satisfy all tenants on site, including Dynamic Physiotherapy Pty Ltd."*

Replace 9(e) with:

"All Greywater arising from the proposed bar/kitchen and day spa operations must utilise the existing septic system (on the subject site). This is to be all grey water associated with the new bar use and day spa and private and communal treatment room sinks."

Replace 9(f) with:

"The maximum number of patrons using the site must not exceed the capacity of the Waste Water System."

Applicant Justification: The number of patrons was originally restricted to greater than a normal "small bar" primarily due to it's impacts on the sanitary facilities provided. These facilities have demonstrated that they have had the capacity to accommodate the current development with extra capacity for an increase in numbers. These facilities are only to be improved upon with the installation of toilets by the landlord providing further capacities for these facilities.

- *Condition 10. Food Safety – Replace with:
"All food storage, preparation, display and handling and the design of areas in which food preparation, handling, display and storage take place, shall be undertaken in accordance with the Australian Standard for Food and Drink Premises (AS 4674—2004 Design, construction and fit-out of food premises) and relevant NSW Health*

Requirements. All food preparation will be conducted in approved food premises, the temperature and style of the food provided will be up to the discretion of the business and can be changed over time.”

- *Condition 11. Water – Replace 11(f) with:
“The landlord will supply the water for the site, in the case of water being insufficient for the site, Dynamic Physiotherapy will pay the costs associated with carting water from elsewhere in the ratio as defined by the water meters onsite.”*

Applicant Justification: We have proven after a year of operation that the current supply has been ample for our use. 2020 has not been a normal year in any respect, however we have doubled the capacity for capturing water on site by doubling the roof catching capacity. This has improved the capacity of the existing onsite tanks to be sufficient.

- *Condition 20. Number of patrons - Replace with:
“Not more than seventy (70) patrons and staff of the proposed development shall be present on the subject site at any one time. Any increase to the number of staff and patrons/customers on site at any one time will require a new development consent or modification of development consent.”*

Applicant Justification: The requested numbers are well under the maximum capacity for all small bars in NSW (120). There is an outside deck area of 110m² and inside area of 60m². The very conservative ratio of 1 person for every 2m² of outside area and 1 person for every 4m² inside should be applied. This ratio, is the extremely conservative ratio employed under the Co-Vid19 pandemic, to give larger than normal spacing, for hospitality venues. This ratio allows for 55 people outside and 15 people inside, Or 70 people in total. The number of patrons was originally restricted primarily due to it's impacts on the sanitary facilities provided. These facilities have demonstrated that they have had the capacity to accommodate the current development with capacity for an increase in numbers. These facilities are only to be improved upon with the installation of toilets by the landlord providing further capacities for these facilities.

All businesses on Lord Howe Island are inherently restricted in their number of patrons, due to the limitation on the number of people allowed to visit and reside on the island at any given time. Currently we are further restricted in the number of patrons allowed due to Co-vid19 restrictions. The Co-vid19 restrictions can fluctuate and diminish based upon outbreaks and need to be fluid, thus not tied to a DA.

- *Condition 21. Plan of Management – Delete last dot point “A restriction preventing takeaway sales of liquor and that all liquor sold is opened and consumed on premises”*

Replace with:

“Dynamic Physiotherapy Pty Ltd will comply with all conditions set out in its accompanied Liquor Licence as determined by the LHIB”

Applicant Justification: Firstly, the sale of liquor should be determined by and in line with, the liquor licence not the DA. Thus, referring to the liquor licence will allow this to occur. Three other “similar” businesses, surrounding the site, operate both a take away and on premises licence. Since Co-vid19 all bars have been able to supply liquor both on premises and take away. This has been enacted by the NSW and Federal government to allow the continuation of hospitality businesses in the event of any outbreak of Co-vid19 due to safety concerns. We have displayed that since March 2020 we have been operating with both a take away and on premises licence without an issue. The fear that the area adjacent to the site, would become a “beer garden”, has been shown to be not founded in fact. Limiting Dynamic Physiotherapy’s ability to sell

take away whilst allowing other surrounding businesses and the landlord to do just that, would constitute a restriction of trade.

- **Condition 23. Hours of Operation – Delete and replace with:**
 “The following maximum daily hours of operation are permitted for the proposed development:
 - Dynamic Physiotherapy Pty Ltd will operate between 6am and 10pm, 7 days a week.
 - Dynamic Physiotherapy Pty Ltd will only supply liquor in the hours described by the liquor licence under the same name.
 - Special event trading hours to be permitted upon written approval by the LHIB.”

Applicant Justification: We have attempted to start morning yoga and small class fitness on the deck, however the demand is to have these services before other work commences. Thus, our clients are asking for 6 am to 7 am classes.

Currently we are closing at 8pm in Spring Autumn and Winter. All food and beverage businesses on LHI have a closing time of 10pm. Even surrounding take away mixed businesses have liquor licences till 10pm. Anchorage is currently providing 2 dinner sittings, due to co-vid regulations, one at 630 and the other at 730. They often run late with their second seating. We are providing a place for people to await their dinner sitting. Currently we are asking people to leave our business and wait on the street prior their dinner sitting. This is an example that shows that our current hours of operation are too restrictive and not in line with surrounding CBD businesses.

6 Referrals

The LHIB has advised that the application was distributed to the relevant internal specialists for review. Concerns have been raised with the proposed modifications as outlined below which are consistent with advice given on the assessment of the original DA2019.5.

The table below outlines the issues raised by these specialists and the response.

6.1 Comments received from internal specialists

Specialist	Issue	Comment
Team Leader, Compliance and Projects (Kate Dignam)	<p>For the purpose of this report I will be making comment on BCA/NCC requirements and other compliance matters, especially in relation to sanitary facilities and wastewater, as opposed to addressing the individual condition.</p> <p>Mr Cruikshank limited himself to 20 patrons (LHIB ref: ED18/11574) in his initial development application (DA2019.05) as the BCA/NCC requirement for Class 6 buildings – restaurants, cafés, bars states that sanitary facilities need not be provided if the total number of persons accommodated in the building is not more than 20. What Mr Cruikshank had not taken into account is the need to supply sanitary facilities for staff/employees. This includes the Allied Health staff as well as Bar staff.</p> <p>The Board allowed the use of the Public Hall sanitary facilities and wastewater treatment system to cover the need for Mr Cruikshank’s businesses. Whilst this stop-gap solution appeared to be reasonable to the Board at the time there were, and still are, a number of issues that</p>	Noted and recommended accordingly

should influence this decision:

1. The Public Hall wastewater treatment facilities were designed to cater for the use of the hall, picnic area, boat shed's, co-op (now Diamond's), Beach Boutique and Marine Parks at the time (2016). The additional hydraulic load of the Allied Health Services and Sunset Bar (on paper and in reality) is over and above the design profiles. Also over and above is the additional staff at the new Post Office facilities, use by the Anchorage staff and, in dry times, Anchorage patrons.
2. The Public Hall wastewater treatment facilities were not designed to cater for a commercial kitchen. Wastewater treatment for commercial kitchens requires the treatment of additional inputs such as oil and grease and effluence compliance values are more stringent. The wastewater treatment system associated with Mr Cruikshank's business activities needs to be able to treat the wastewater to a standard commensurate for a facility with a commercial kitchen as per the LHI On-Site Wastewater Management Strategy (OSWMS).
3. Whilst the Board has allowed the Public Hall Sanitary Facilities to be the sanitary facilities associated with Mr Cruikshank's development these facilities are not compliant to the Disability Access Standards (nor the BCC/NCC - aligned) as is required.

Sanitary facilities required for the proposed 70 persons on-site.

Note this is the requirement for just the proposed patronage and staff for the Crooked Post. This does not factor additional user numbers from other sources, which, if determined and taken into account could require additional sanitary facilities to those listed below.

Employees and the public may share the same facilities in a Class 6 building provided the number of facilities provided is not less than the total number of facilities required for employees **plus** those required for the public.

Male Sanitary Facilities Required:

- Closet Pan x 2
- Urinal x 1
- Wash Basin x 1
 - There must be at least 1 x Male Accessible Sanitary Facility.

Female Sanitary Facilities Required:

- Closet Pan x 3
- Wash Basin x 2
- adequate means of disposal of sanitary towels/items
 - There must be at least 1 x Female Accessible Sanitary Facility.

Hydraulic load for wastewater treatment facility and associated irrigation field sizing.

AS/NZS 1547:2012 and LHI OWMS flow values are to be used for wastewater system design purposes. Any departure from these wastewater design flows will need to be supported by flow data for a minimum of 3 months over the peak period.

Note: wastewater includes both grey water and black water. There is no separate greywater treatment system. There is no septic system on site. All wastewater from the Crooked Post facility is pumped to the hall wastewater treatment system.

Utilising the limited information provided in the application the following table outlines the potential hydraulic load for the Crooked Post. Note, this does not take into consideration other influent sources. All figures are conservative.

Source	Number	Design Flow (L/person/day)	Total (L)
Sunset Bar Patronage	66 x 2 *	30	3,960
Sunset Bar Staff	4	20	80
Allied Health Patrons	5	10	50
Allied Health Staff	2	20	40
Day Spa Patrons	10	10	100
Day Spa Staff	1	20	20
Pilates/Yoga Patrons	10	10	100
Pilates/Yoga Staff	2	20	40
TOTALS			4,440lt

* As the 'Bar' serves food restaurant flow values have been used. Restaurant flow values are based on per diner per sitting. As food is served on a continual basis from 12:30pm the value has been based on 2 sittings.

It was interesting to note that the applicant has stated that the wastewater treatment facilities at the hall 'have demonstrated that that they have had the capacity to accommodate the current development with extra capacity for an increase in numbers'. This statement has no basis in fact and is totally incorrect. The wastewater treatment facilities at the hall have not coped with the additional hydraulic load nor the commercial kitchen inputs. The system is constantly failing and, at the time of writing this report, is in need of another pump out.

The land application area required for compliant effluent irrigation for the potential daily hydraulic load generated by the proposed numbers for The Crooked Post would be in the order of 1,788m². This figure is influenced by

	<p>the chosen treatment system capabilities, soil type, soil bulk density, vegetation nutrient uptake and other contributing factors. It is not a 'one size fits all'. Ground truthing the chosen land application area in conjunction with the chosen treatment system may reveal a small variation to the square meterage required.</p> <p>There is insufficient unconstrained land required in the vicinity of the Crooked Post to provide the required effluent land application area. Constraints include flood zoned land, wells, proximity to the lagoon, proximity to residences, trafficked areas and private leasehold land.</p> <p><i>Potable Water</i></p> <p>Potable Water to the building is supplied by the Board. This water is treated and managed by the Board to meet the Australian Drinking Water Guidelines 2011. The applicant states that the supply has proven sufficient. The applicant also states that his businesses have not been running to capacity due to the Island closure and COVID limitations.</p> <p>The Board owns and utilises 3 x 5000 gallon water tanks. This water caters for the Crooked Post, Diamond's, Beach Boutique and the Public Water Bottle Filling Station. The supply has proven to be adequate under the current circumstances. It should be noted that the current state of La Niña (ref: BoM) has realised higher than average rainfall for the summer period. Coupled with COVID closures and restrictions it is inappropriate to make claims on the adequacy of the potable water supply during this time.</p> <p>The Lord Howe Island Board did install meters on the potable water feeds to the various businesses. It is not unreasonable for Mr Cruikshank to request the payment of costs, on a pro rata basis, associated with carting water to site in times where supply may be insufficient.</p> <p>Changes to time limited consent, business hours, food safety requirements and liquor sales/licencing is not appropriate to this report.</p>	
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7 Submissions

As noted earlier in this report, the subject MDC application was exhibited from 12/02/21 to 26/02/21 with 14 submissions received (7 in support & 7 objections).

In addition to the above, a petition with 233 petitioners (in support) was received. Of the 233 petitioners approximately 75% were visitors to the Island.

A summary table of submissions is attached to this report as Appendix 1.

8 Discussion and Assessment of Key Issues

At the time of lodgement of the subject MDC application the applicant was advised of the following:

- The lack of adequate onsite wastewater facilities for the subject business was a key issue for the assessment of the Development Application and was the reason for many of the original DA conditions that the proposed MDC is now seeking to change.
- The MDC needs to be supported by a wastewater analysis of the community hall toilets operation and whether their capacity is currently being exceeded (with the operation of the subject business included) or not, what spare capacity (if any) does the system have, and what additional wastewater loads will the additional patron numbers proposed in the MDC generate?
- It was understood from the LHIB that the community hall toilets were at least at (or over) capacity prior to the approval of your original DA (13 months or more ago), highlighting the need for the additional wastewater analysis now.
- The proposed MDC increase in the maximum number of patrons allowed on the premises under the DA from 22 patrons (inclusive of 2 staff) to 70 is substantial which will significantly change the wastewater load from the business (and the general amenity impacts from the use).
- Please note that you as the applicant and proponent would need to organise and pay for this additional wastewater analysis.
- There is a possible timing issue related to this analysis as measurements of waste flows over representative (including peak) times are likely to be needed
- It is possible that you and the Board may be criticised for progressing and putting the MDC on exhibition without a key part of information (being the wastewater analysis) to justify your proposed changes
- in response to your representations, the LHIB admin will progress the lodgement and public exhibition of the MDC as is, but on the understanding that the application is missing key information needed to support it - being at a minimum an additional wastewater analysis for the community hall toilets
- it is our intention to (post the public exhibition of the MDC) ask for additional information from you (being at a minimum the wastewater analysis discussed above and any other issues that arise) including how you intend to stop the proposed up to 70 patrons from spilling onto the surrounding community area
- It is more than unlikely (again in light of the above), that a completed assessment and recommendation on a determination of the MDC will be able to be reported to the March LHIB meeting. Instead consideration will be given at the time to preparing an interim information report to the March meeting on your MDC and it's progress up to that date. This will not (at this stage) include any recommendation on a determination as the assessment will still be ongoing but will be for the information of the LHIB members.

Using the key issues of the proposed MDC listed earlier in Section 5 of this report the following comments can be noted:

- *Removal of time limited DA consent and Wastewater Requirements*
As discussed in Section 3 (Background) of this report, condition 1 of the approval for DA2019.5 sets a 2 year time limit on the DA as provided below:
 1. *Time Limited Consent*
Pursuant to Section 4.17(1), NSW Environmental Planning & Assessment Act 1979, the subject development shall cease two (2) years from the issue of the occupation certificate/date of this consent unless the required onsite unisex disabled toilet facility (and if the existing waste water treatment system has insufficient capacity), a new/

upgraded onsite waste water management system as required by these imposed conditions, is approved, provided and constructed on the subject site within this timeframe.

A separate Owners Consent, Development Application and Construction Certificate, (accompanied by the appropriate plans and details) will be required for the unisex disabled toilet facility and new/ upgraded onsite waste water management system.

Reason: To ensure that appropriate sanitary facilities including a new waste water treatment facility for the subject development are provided on the subject site within two years, to relieve impacts of the additional waste water load on the Community Hall 's public toilet facilities.

In addition, condition 9 has the following related requirements:

9. *Health, Amenity & Wastewater*

The (subject) Old Post Office Building is not currently connected to any wastewater treatment system. The current LHI Board owned and operated wastewater treatment system on the subject site does not have sufficient capacity to accommodate black water that may be generated from the subject development. Additionally, the existing Community Hall public toilets do not have spare capacity in peak demand periods.

The following wastewater requirements are consequently identified:

- a) At all times the development must be connected to a waste water treatment system with sufficient capacity to treat the volume of waste water generated on site.*
- b) If the current waste water treatment system has insufficient capacity it must either be significantly upgraded, or a new waste water treatment system and associated effluent irrigation area is to be provided onsite.*

The new or significantly upgraded system is required to be installed on site within 2 years of the issue of the occupation certificate for the subject premises, to accommodate the increase in daily hydraulic load.

Pursuant to Condition 1 of this development consent, if a suitable compliant toilet facility is not provided within 2 years of issue of the occupation certificate, then the approved use shall cease.

The assessment report to the March 2019 Board meeting included the following discussion in regard to the above:

Onsite Wastewater Disposal – the subject ex Post Office building also does not have any sanitary facilities (toilets, washbasins or sinks) and there is no existing capacity for additional blackwater wastewater loads in the existing wastewater treatment system on the site. Staff have advised that the existing system does have capacity for grey water load from the proposal.

As outlined in the internal referral comments on the DA, the proposal requires at a minimum a single uni-sex disabled toilet, handwash basins and sinks and a new onsite wastewater treatment system. This is on the basis that not more than 20 patrons (plus 2 staff) of the proposed mixed use business are onsite at any one time (under the BCA).

In this regard the elected LHIB has indicated they are willing to allow the proposed development to rely upon the Community Hall public toilets as an interim measure until the required onsite sanitary facilities and new wastewater treatment system are constructed. In light of these circumstances the recommendation of this report includes the issuing of a 2 year time limited consent for the proposal, at the end of which the use shall cease unless the required onsite sanitary facilities and new wastewater treatment system are constructed.

The 2 year time limit of condition 1 was instigated as a response to the Board's willingness to allow the proposal to rely upon the Community Hall toilets as an interim measure pending the provision of wastewater facilities on the site. As this has not yet been resolved this requirement remains fundamental to the integrity of the DA approval.

At an essential level the 19 March 2019 DA approval for the development was clear that 2 years was given for the operation to proceed to allow for the permanent resolution of the wastewater requirements of the development. If this did not occur the approval would cease to remain valid at the completion of that period.

Importantly the proposed MDC with its proposal to increase the maximum patron numbers on the premises and increased hours of operation will significantly add to the wastewater loads from the business accentuating the above issues.

The following internal referral advice from the Board's Team Leader, Compliance and Projects (ref Section 6 earlier in this report), regarding the Community Hall toilets wastewater system is relevant:

It is noted that the applicant has stated that the wastewater treatment facilities at the hall 'have demonstrated that they have had the capacity to accommodate the current development with extra capacity for an increase in numbers'. This statement has no basis in fact and is totally incorrect. The wastewater treatment facilities at the hall have not coped with the additional hydraulic load nor the commercial kitchen inputs. The system is constantly failing and, at the time of writing this report, is in need of another pump out.

The above mentioned internal referral advice also notes in relation to the proposal that the "wastewater includes both grey water and black water. There is no separate greywater treatment system. There is no septic system on site. All wastewater from the Crooked Post facility is pumped to the hall wastewater treatment system."

Also relevant is the advice of one of the received community submissions objecting to the proposed MDC from the contractor tasked with maintaining the Community Hall wastewater system (– ref discussion in section 7 of this report) and the attached submissions summary). The key advice contained herein is the following:

"I believe you are considering extending the number of hours that Cruicked's Post is open and the number of people at any one time to about 70 and if you do this that means that the premises will deliver approx. 1,500 litres per day (as well as the wastewater from the 3 other premises) as against the current 400 litres which will impact on the system. These figures are below the correct ones and will be higher as he does not seem to comply with figures on service.

Please consider this point because through summer months it has been at maximum treatment levels and now with a proposed increase to about 10,500 litres per week. This will cause a flood situation in the treatment tank affecting treatment of the water to it being not at an acceptable level. This also affect the irrigation area with sediment blocking the dripper holes."

In regards to the applicant's submission (made in the MDC) that the applicant should not be held accountable for the provision of a wastewater system that is outside his lease – it is relevant to note that it is not a relevant matter under the LHI LEP 2010 or the Environmental Planning and Assessment Act 1979 who provides the required additional wastewater treatment facilities for the subject development – it either is or is not provided, and currently it is not.

For the above reasons the recommendation of this report is to refuse the following proposed modifications requested in the subject MDC as they are either directly or closely related to the wastewater servicing for the development, as this has not been adequately resolved and an assessment of these modifications cannot therefore be completed:

- *Condition 1. Time Limited Consent*
- *Condition 9. Health Amenity and Wastewater*
- *Condition 10. Food Safety*
- *Condition 20. Number of Patrons*
- *Condition 23. Hours of Operation*

The missing information that was requested from the applicant, (that the MDC needed to be supported by) was a wastewater analysis of the community hall toilets operation and whether their capacity is currently being exceeded (with the operation of the subject business included) or not, what spare capacity (if any) does the system have, and what additional wastewater loads will the additional patron numbers proposed in the MDC generate.

Additional relevant considerations are whether an upgrade of the existing community hall facility is possible (and of what size), whether (instead) the installation of a new system is feasible in place of the existing community hall facility (and again of what size), and whether a feasible possible alternative is a new wastewater facility on the old powerhouse site.

To allow time for the required investigations and analysis into the suitable wastewater options on both the ex-powerhouse site and the community hall, it is recommended that the existing 2 year time limited consent condition be extended for an additional 2 years.

- *Increase in maximum permissible number of patrons*
Existing conditions 9(d), 20 and 23 of DA2019.5 limit the maximum number of patrons and staff on the premises at any one time to 22. The primary reason for this was the sanitary and wastewater requirements discussed above. Consequently, such a proposal cannot be considered prior to the wastewater and sanitary facilities being adequately resolved.

As noted in the internal referral comments provided in section 6 of this report, another issue with the current reliance upon the Community Hall toilets by the subject proposal is that the existing and proposed enlarged patron numbers do not comply with the requirements for disability access standards nor the number of sanitary facilities required.

In addition, an increase in the number of patrons in the premises will increase the likely environmental and amenity impacts of the development on its surrounds including adjoining properties. If or when the wastewater servicing issues are adequately addressed these amenity impacts will need to be carefully considered and addressed in a new or revised MDC that is submitted. Considering the above it is considered that the requested increased capacity to 70 is overambitious and needs to be revised down reasonably significantly in any future application.

- *Food safety & preparation*
The applicant's intention with the proposed modification of condition 10 relating to food safety

is to permit flexibility of where food sold on the premises is prepared (with a particular desire to include preparation of hot food onsite). The current application and approval reflects the information submitted with the original DA that only cold food would be prepared onsite and that any hot food sold would only come from surrounding businesses.

Further to the above it is also understood that hot food has been at times prepared onsite on a barbeque on the balcony in contravention of the current DA approval.

In relation to the subject MDC the key issue with the said additional food preparation onsite will be a possible increase in the wastewater loads and an increase in grease/ oil solids from the proposal. Without the adequate resolution of the wastewater servicing needs of the development the impacts and servicing needs of the proposed additional food preparation can not be assessed.

- *Potable (drinking) water supply*

The proposed modification seeks to amend the condition that currently requests additional water storage capacity to be provided for the premises, with an agreement that the operator will pay for the cartage of additional water (in an apportioned ratio defined by the water meters onsite) as/ if required. The LHIB admin has advised no objection to this proposed change.

- *Allowance of takeaway liquor sales*

As discussed earlier in this report, the requirements for a Plan of Management in existing condition 21 includes a last dot point that prevents the takeaway sale of liquor.

The applicant states in the submitted MDC that takeaway liquor sales have been occurring from the subject business and submits that this is no different to the surrounding businesses.

On this issue the assessment report on the original approval for the development (DA2019.5) outlined that the reason for the above requirement was *“to clarify that the sale of alcohol is to only relate to the functions of a small bar as submitted by the subject applications, it is the recommendation of this report that the bar is not to operate as a takeaway retail liquor outlet and that any alcohol served at the premises must be opened and consumed at the premises.”*

It is also considered (contrary to submissions in the MDC) that the sales of takeaway liquor from the surrounding premises is not comparable to the subject proposal as these surrounding premises are Thompson’s store which closes at 4-5pm and have their own covered outdoor dining area along with selling groceries and hot food, Diamond’s is a grocery store which also closes at 5pm and the Anchorage is a full restaurant with dedicated dining areas.

Most of the objections received to the MDC raise concern with the proposed modification to allow takeaway liquor sales from the premises. They also believe that this has and will increase problems of anti-social behaviour resulting from drinking.

The above submissions demonstrate a social impact, or at least a perception of impact being experienced by the community. Regardless of where this is being generated, in this context it is difficult to justify a proposal for increased liquor sales which is likely one way or the other, to accentuate this. On the above basis it is recommended that this aspect of the subject MDC be refused.

- *Increase in permitted hours of operation*

Condition 23 of the subject DA2019.5 approval, sets the permitted hours of operation for the different components of the business (as outlined earlier). The key points of this aspect of the subject MDC is that:

- The licenced bar would not have any prescribed hours of operation in the DA instead any

such hours of operation specified in the liquor licence for the premises would be relied upon (current DA requirement 12.00pm – 9.00pm (summer) & 12.00pm – 8.00pm (winter, autumn & spring))

- The shared day spa/ allied health hours would be 6.00am to 10.00pm, 7 days (current DA requirement 7.00am to 6.00pm)
- The mixed use deck area use for yoga, or pilates (private or group sessions with 1 instructor) would not have any restricted hours of operation other than the above (currently 7.00am – 11.30am)
- Deletion of the maximum 22 patrons at any one time

In response to submissions made in the MDC it can be confirmed that there is a legal ability and established precedence (and practice) under the EPA Act 1979 to place hours of operation restrictions on development approvals for licenced premises (separate to those requirements of a liquor licence) and there is no reason to diverge from that approach at this point.

As noted elsewhere in this report an increase in the hours of operation will have a potential impact on the quantity of wastewater loads from the proposal – being the key issue for the assessment of the MDC. Also needing to be weighed up is the potential amenity impacts on surrounding properties, the characteristic of general development on the island and the collective or sum total effect of the combined modifications being requested in the current MDC.

On balance, the requested extensions to the approved hours of operation cannot be supported, however a compromise variation to the hours is recommended allowing the bar to open one (1) additional hour in winter (currently 8.00pm closing), thus being until 9.00pm all year, and the day spa/ allied health being allowed to operate 6.00am to 9.00pm (currently 7.00am to 6.00pm) with no loud activities, music played, or PA systems used before 8.00am or after 7.00pm. Opportunity is also proposed for special event requests for variations to the above, to be made to the LHIB CEO as included in the recommendation of this report.

The number of patrons has already been discussed earlier.

9 General 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.

9.1 Commonwealth legislation

9.1.1 *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 to address this was applied to the DA approval for this development which will remain in place.

9.2 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 original DA2019.5 for the proposal was referred to the LHIB's Manager Environment World Heritage without any particular ecological issues being raised and with appropriate standard conditions applied which can remain in place in any determination of the subject MDC.

9.2.1 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.

As noted in the original assessment of DA2019.5, the subject premises is located in the vicinity of an LEP heritage listed item, being the Community Hall (ref further discussion of heritage issues under clause 39, LHI LEP 2010).

9.3 Local Statutory Plans and Policies

9.3.1 Lord Howe Island Local Environmental Plan 2010

Permissibility - Lord Howe Island Local Environmental Plan 2010

The approved proposal is not Exempt Development under Clause 9 of the LEP 2010. Therefore, the original DA approval and the subject MDC was required.

The site is located within Zone 5 Special Uses zone. The LEP 2010 objectives are:

- (a) *to provide utility services that are essential to the community's needs in a manner that is in sympathy with the World Heritage values of the natural environment of the Island,*
- (b) *to maintain efficient services (such as education, health and transport services and the administration of the Island) and associated infrastructure.*

As stated in the assessment of the original DA2019.5, the LHIB administration advised it considers the proposed development to be a "Premises of a Public Authority" as defined in the LHI LEP 2010. This use is permissible with consent in the zone. The LEP definition for Premises of a Public Authority is as follows:

"premises of a public authority means premises used by a public authority to carry out its functions and includes buildings used by a public authority for business or commercial purposes."

As also noted in the original DA assessment, the site is proposed to be rezoned to Zone 2 Settlement within the Stage 1 LHI LEP review, which is imminently to be submitted to the NSW Department of Planning. This will enable greater flexibility for permitted uses over the subject site.

The LHI LEP 2010 and its amendments comprise the principal environmental planning instrument applying to the proposal. The following summary table details the various LEP provisions relevant to the subject proposal with assessment and/or comment included as required.

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 original development approved in

LEP 2010 Clause		Compliance Y/N	Comment
			<p>DA2019.5, as amended by the conditions of consent applied to the determination was viewed as being consistent with the aims of the LEP “to enhance the wellbeing and welfare of the Island Community by pursuing economic development that safeguards the welfare of future generations” and to “to ensure that tourism on the Island does not adversely affect the lifestyle of residents, or the World Heritage environmental qualities, of the Island, but enables visitors and residents to enjoy the Island”.</p> <p>However, the proposed amendments in the subject MDC that are not supported in this report are inconsistent with the above.</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.
9	Exempt Development	N/A	The proposed works are not listed as Exempt Development within Schedule 1 of the LEP, therefore the approved OC and DA were required.
11	Matters that must be satisfied before development consent granted	Y & N	Refer to the assessment under Clause 11 provided below this table.
Part 2 General Provisions applying in particular zones			
12	Land Use Zones	Y	As stated earlier in this report, the land is zoned Zone 5 Special Uses.
15	Zone 5 Special Uses	Y	As stated above, (and in the original DA assessment), the LHIB administration has advised it considers the subject development to be a “Premises of a Public Authority” as defined in the LHI LEP 2010 which is a use permissible with consent in the zone.
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
29	Maximum height of buildings	N/A	No change to the constructed building is proposed in the subject MDC.
30	Advertisements or signs	N/A	The placement or erection of an advertisement or sign may be carried out, but only with the consent of the LHIB. The applicant has not proposed any signage as part of the subject application.
Division 2 Provisions that apply to particular land			

LEP 2010 Clause		Compliance Y/N	Comment
32	Setbacks of buildings in Zone 1, 2 or 5	N/A	No change to the constructed building is proposed in the subject MDC.
35	Foreshore development	N/A	The entire subject site is located outside of the Foreshore Building Line.
39	Development Affecting Heritage Items	N/A	The subject MDC does not trigger Clause 39 of the LEP as the site is not an LEP listed heritage item (ref Section 9.3.2 of this report). In addition, no change to the constructed building is proposed in this MDC.

CLAUSE 11 MATTERS

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

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
a) <i>The proposed development is consistent with the aims of this plan and the objectives of any zone, as set out in the plan, within which the development is proposed to be carried out,</i>	N	Refer to comments provided under clause 2 of the LHI LEP 2010 (above), regarding aspects of the subject MDC that are not supported.
b) <i>There is an adequate area available for the disposal or treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	N	Refer to the assessment regarding wastewater facilities provided under section 8. (Discussion and Assessment of Key Issues) of this report.
c) <i>No part of the proposed development:</i> i. <i>will result in any damage to, or removal of, significant native 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 the subject site is not mapped as Significant Native Vegetation (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>	Y	The proposal as modified by the subject MDC, will continue to satisfactorily make use of the site's existing access to both Ned's Beach Road and Lagoon Road. No additional work is required to supplement this that might otherwise remove SNV or

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
<i>ii. have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>		the habitat of any native plants or animals.
<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>	N/A	
<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>	N	Refer to comments regarding potable water and wastewater facilities provided under section 8. (Discussion and Assessment of Key Issues) of this report.
<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	
<i>i) The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	The approved development was not originally considered to create any overshadowing of adjoining properties. As no change to the constructed building is proposed in the subject MDC this is considered likely to continue.
<i>j) The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</i>	N	The original development approved in DA2019.5, was supported on the basis of the required conditions of consent applied to the approval. The key changes now proposed in the subject MDC are viewed to likely reduce the privacy of the adjoining properties and are not supported. Refer to the assessment provided under section 8. (Discussion and Assessment of Key Issues) of this report.

9.3.2 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		Compliance Y/N	Comment
Part 1 Introduction			
1.2	Plan Objectives	N	The original development as recommended for conditional approval in DA2019.5, was viewed as being consistent with the DCP objectives. For the same reasons discussed earlier in this report regarding clause 2, and the aims/ objectives of the LHI LEP 2010, the subject MDC is not viewed as being consistent with the DCP 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 original approved development recommended for conditional approval was viewed as being consistent with the DCP's design objectives. As no change to the constructed building is proposed in the subject MDC this is considered likely to continue.
2.3	Design Context	Y	Refer to the above comment.
2.4	Bulk and Scale	Y	Refer to the above comment.
2.5	Building Forms	Y	Refer to the above comment.
2.6	Building Materials & Colours	Y	Refer to the above comment.
2.7	Energy and water efficiency	Y	Refer to the above comment.
2.8	Landscaping design	Y	Refer to the above comment.
2.9	Site access and parking	Y	Refer to the above comment.

10 Environmental Effects

10.1 Environmental Planning and Assessment Act 1979

Under the provisions of Section 4.15 of the EP&A Act, a consent authority in determining an application, is to take into consideration the following matters that are of relevance to the development.

- a) the provisions of the following that apply to the land to which the development application relates:
 - i. Any environmental planning instrument
Comment: Refer to the assessment under the LHI LEP 2010 provided earlier in this

report in section 9.3.1.

- 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: Refer to the assessment under the LHI DCP 2005 provided earlier in this report in section 9.3.2.

- iv. 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.

- v. 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.

- vi. 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 proposed development have been considered elsewhere in this report. The table below provides further assessment of any likely impacts.

Likely environmental impacts

Potential Impacts	Proposal
Access, Transport and Traffic	No change in proposed MDC
Disability Access	No change in proposed MDC
Public Domain, Visual and Streetscape	No change to the constructed building is proposed in the subject MDC.
Ecological	No change in proposed MDC
Flood	No change in proposed MDC
Heritage	No change in proposed MDC
Views	No change in proposed MDC
Privacy	Refer to the assessment provided earlier under Clause 11, LHI LEP 2010
Open Space	No change to the constructed building is proposed in the subject MDC.
Social and economic Impact in Locality	Refer to the summary of public submissions received to the notification of the subject application provided as attachment 1 of this report, and the discussion provided in Section 8 (Discussion and Assessment of Key Issues), on the proposed allowance of takeaway liquor sales in the MDC.
Construction	No change to the constructed building is proposed in the subject MDC.

11 Section 4.55 Modification of Consent

Under the provisions of Section 4.55, of the EP&A Act, the applicant may seek modification of a development consent.

The applicant has submitted the subject MDC under clause 4.55(2) *Other Modifications*.

The following matters are of relevance to the development:

4.55 Modification of consents—generally

(2) Other modifications

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all),

Comment: In regard to the (greater than) tripling in the permissible number of patrons and the removal of the requirement for additional or augmented wastewater facilities, proposed in the subject MDC (along with the overall collective change in the proposal from these and the other proposed modifications), it is potentially debateable whether the modified development will have the same character/ nature and be substantially the same development as approved under DA2019.5.

In particular an increase in the allowable patron numbers to 70 is not considered in keeping with the original Development Application approval and is likely difficult to justify as being reasonable for the development.

(b) it has consulted with the relevant Minister, public authority or approval body

Comment: N/A The original DA did not require or involve the concurrence of any approval body, Integrated Development referral or General Terms of Approval.

c) it has notified the application in accordance with:

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent,*

Comment: As confirmed earlier in this report the subject MDC was notified by the LHIB and 14 submissions were received (7 in support & 7 objections) plus a petition with 233 Petitioners.

Refer to section 7 of this report and the summary table of submissions attached as Appendix 1 for more details and comments.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: Refer to the above comments made in relation to 4.55(2)(c).

12 Conclusion

This report has provided an assessment of the subject MDC2019.5.2, including the details of

the proposed amendments, the number and content of submissions received from the community and the details of the key issues for the assessment.

As stated earlier, an assessment of the MDC cannot be completed without the wastewater needs/ requirements being resolved. In fact, the majority of the proposed modifications in the subject MDC – namely the time limited consent, the increase in the permissible number of patrons, the ability to prepare hot food on the premises, and the increased hours of operation (in addition to the wastewater condition itself), are all inextricably linked to the wastewater servicing of the development being adequately resolved.

For these reasons the applicant was advised of the above at the time of lodgement of the MDC and the need for an analysis of the community hall toilets operation and whether their capacity is currently being exceeded (with the operation of the subject business included) or not, what spare capacity (if any) does the system have, and what additional wastewater loads will the additional patron numbers proposed in the MDC generate.

The above analysis would also need to include considerations of whether an upgrade of the existing community hall facility is possible (and of what size)? and whether (instead), the installation of a new system is feasible in place of the existing facility (and again of what size)?

Additional investigations would be relevant on the possible alternative provision of a new wastewater facility on the old powerhouse site.

On the basis that the information required to address this wastewater servicing issue in the required manner is not available, there is no option but to recommend refusal of the majority of the modifications requested in the subject MDC as set out in the following recommendation.

In this scenario the time limited condition No. 1 of DA 2019.5 would be considered to come into effect and the development would cease to have a valid approval to operate as the current operational limit ended March 2021.

In the circumstances, it is open for the Board to grant an interim extension to the original time limited consent condition of DA2019.5. Thus, the following recommendation includes a resolution to amend condition 1 of DA 2019.5 to increase the existing (2 year) time period to 4 years (an additional 2 years from now). The retention of the time limited condition and its extension will allow the above mentioned additional wastewater analysis and investigations to be undertaken and new/ augmented facilities provided. Then it would be open to the applicant to lodge a new MDC at that time.

In the context of a demonstrated social impact being experienced by the community in the form of anti-social behaviour resulting from drinking, it is difficult to justify the proposal for additional takeaway liquor sales. Thus, it is recommended that this aspect of the subject MDC also be refused.

As discussed in the preceding report a compromise extension to the approved hours of operation is supported as outlined in the recommendation.

The following recommendation is made.

13 Recommendation

- a. That the following proposed amendments contained in MDC2019.5.2 regarding DA2019.5 for the approved change of use to an Allied Health Clinic, Day Spa and Food and Drink Premises (Bar), including alterations and additions, at Part Lot 44, DP 757515 (previous post office premises), fronting Neds Beach Road near its intersection with Lagoon Road, Lord Howe Island, be determined in the following manner:
 - i. *Refused:* (as the wastewater servicing of the development has not been adequately resolved and an assessment of these modifications cannot be

completed):

- *Condition 1. Time Limited Consent*
- *Condition 9. Health Amenity and Wastewater*
- *Condition 10. Food Safety*
- *Condition 20. Number of Patrons*
- *Condition 23. Hours of Operation*

ii. *Refused:* (in the context of a demonstrated social impact being experienced by the community in the form of anti-social behaviour resulting from drinking, the proposal for takeaway liquor sales is likely to accentuate this):

- *Condition 21. Plan of Management (to allow liquor takeaway sales)*

iii. *Approved:*

- *Condition 11. Water*

b. That arising out of the consideration of MDC2019.5.2, the following conditions of consent of DA2019.5, be modified in the following manner:

i. Condition 1 (Time Limited Consent): be amended to refer to a four (4) year time period applying from the date of consent of DA2019.5 (ie two (2) additional years beyond the existing requirement).

ii. Condition 23 (Hours of Operation and Maximum Staff and Patron Numbers): be amended through the deletion of the first two dot points and their replacement with the following:

- *The Licenced Bar will operate only between 12.00pm and 9.00pm.*
- *The Day Spa and Allied Health components will operate only between 6.00am and 9.00pm (with no loud activities, music played, or PA systems used before 8.00am or after 7.00pm).*
- *Requests for variations to the above for special events can be made in writing to, (and will be at the discretion of), the CEO, LHIB, a minimum of two weeks in advance. Any specifications arising shall be complied with.*

Recommended:	Endorsed:
	
Peter Chapman Date: March 2021 LHI Consultant Town Planner & Director All About Planning	Peter Adams Date: 9 April 2021 Chief Executive Officer Lord Howe Island Board

ATTACHMENT 1
SUMMARY OF PUBLIC SUBMISSIONS

ATTACHMENT 1: SUBMISSIONS SUMMARY

MDC 2019.5.2 was exhibited from 12/02/21 to 26/02/21 with 14 submissions received (7 in support & 7 objections) plus a petition with 233 Petitioners.

No.	Name	Objection or support	Detail of Submission
1.	Name & contact details redacted	Objection (resident)	<ul style="list-style-type: none"> Proposed increase to 70 people will create a wastewater load of approx. 1,500 litres per day on the Community Hall wastewater system on top of the load from the 3 other premises onsite which is a significant increase against the current 400 litres flows to the system This will detrimentally impact on the operation of the system. These figures are below the correct ones and will be higher as the applicant does not comply with figures on service. Through summer months existing system has been at maximum treatment levels and the proposed increase to about 10,500 litres per week will cause a flood situation in the treatment tank adversely and unacceptably affecting the water treatment. Also, the dripper holes for the irrigation area will get blocked.
2.		Support (visitor)	<ul style="list-style-type: none"> As a visitor to LHI the proposed modifications are a good idea as there are limited options available currently
3.		Support (?)	<ul style="list-style-type: none"> Refer to comments on submission 2. Proposal is reasonable as long as it is not competing with existing offerings and does not detrimentally impact on surrounding properties Proposal should be allowed to have same hours as surrounding businesses Sunday afternoon live music should be allowed
4.		Objection (resident)	<ul style="list-style-type: none"> Making money and what tourists might like seems to come before residents and their quality of life The LHIB should not be paying for a new or upgraded wastewater system required by the subject business If the community hall toilets are operating satisfactorily currently then a compromise would be to allow the business to continue but only as is Proposed extension of hours to 10.00pm is unreasonable due to resulting noise/ general amenity impacts on neighbours. Compromise for 9.00pm would be acceptable. 6.00am opening for palates and yoga is ok as long as boot camp style loud music and shouted encouragement is not involved. Jumping from 22 patrons to 70 is an enormous increase adding to the noise impacts already being created Takeaway liquor sales should not be allowed as per the past Board refusal for the post office liquor sales onsite. This will encourage drinking & anti-social behaviour on the common/ community area and the street front which has happened in the past Justifying the MDC by arguing it has been a tough year financially the provision of increased employment is not grounds for approval – the whole Island is recovering very well and has had 100% employment rates with a need to import staff. Proposal has impacted on the already existing community clubs especially when they have all just had renovations done
5.		Support (resident)	<ul style="list-style-type: none"> Refer to comments on submission 3 above.
6.		Support (resident)	<ul style="list-style-type: none"> Refer to comment on submission 3 above Provision of takeaway food and liquor should be allowed as per neighbouring businesses Increase to 70 patrons is reasonable

			<ul style="list-style-type: none"> • Earlier start to exercise classes on verandah is supported • Changes proposed will make a positive addition to what LHI offers both tourists and residents
7.		Support (visitor)	<ul style="list-style-type: none"> • Refer to comments on submission 3 above
8.		Objection (resident)	<ul style="list-style-type: none"> • Proposed MDC not supported in any way especially jumping from 22 patrons to 70 which is an enormous increase adding to the noise impacts already being created from the proposal • Proposal has changed the centre of town detrimentally • Proposed extension of hours to 10.00pm is unreasonable due to resulting noise/ general amenity impacts on neighbours. • The current operation of the business has resulted in drinking & anti-social behaviour on the common/ community area and the street front • Proposal has not been adhering to its current 22 patron limit or its specified closing hours • Proposal does not comply with the Liquor Licensing Act with the lack of its own toilets • The proposal should not have been allowed in the first place and the building was never intended for its current use
9.		Support (visitor)	<ul style="list-style-type: none"> • Refer to comments on submission 6
10.		Objection (resident)	<ul style="list-style-type: none"> • Community has benefitted from the allied health/ day spa component of the business however we object to the proposed changes to the Sunset Bar operations • Particularly want to object to the significant increase in patron numbers from 22 to 70 and increase the hours of operation to 10.00pm, 7 days. • Noise and general amenity impacts from proposal are already excessive and disruptive – to significantly increase patron numbers and hours of operation of the Bar will only exasperate the problem and cause further intrusion and quality of life issues in our immediate area • The proposal as is has detrimentally impacted on the dynamics of the area, increased traffic/ parking issue, over straining existing toilet amenities and the peaceful/ relaxed atmosphere of the area • Takeaway liquor sales should not be allowed as this will encourage/ worsen the already occurring drinking & anti-social behaviour on the common/ community area and the street front associated with the business • Comparing the subject business with to the surrounding existing businesses (with takeaway and on premises liquor licences) and claiming its unfair to have more onerous requirements compared to these is not valid as Thompson’s store close at 4-5pm and have their own covered table and chairs area outside along with selling groceries and hot food, Diamond’s is a grocery store which also closes at 5pm and Anchorage is a restaurant with plenty of seating • Proposal has not been adhering to its current 22 patron limit or its specified closing hours, therefore why should we be expecting the increased hours to be followed and policed further increasing the detrimental amenity impacts being experienced • Most people on the Island would not like a new open verandah bar close by their home, disturbing their peace and their guests, 7 nights a week and requesting longer hours and more patrons • We not need another late night bar, especially situated in the middle of town • Proposal has impacted on the already existing community clubs especially when they have all just had renovations done, these facilities do not affect neighbours or cause disturbances
11.		Objection	<ul style="list-style-type: none"> • Refer to comments on submission 10

		(resident)	<ul style="list-style-type: none"> • Takeaway liquor sales have been occurring in contravention of DA conditions resulting in impacts noted above • A study done by The National Drug Research Institute at Curtin University in WA, states... 'Communities and authorities striving to reduce alcohol related harms, should consider restrictions on trading hours'... They go on to say.... ... 'People who lived closest to licensed premises were shown to report the highest levels of drunkenness and property damage in their neighbourhoods'. • our other fear is with this push for greater numbers and extended hours.....amplified music will come next. • Proposal is very disturbing for our business's future, when regular visitors who have been coming to the island for over 20 years and staying with us, complain about how noisy the bar is and hadn't realised just how close it was to their accommodation • Will the initial cost and ongoing upkeep costs of the proposed toilets, be shared by the whole community.... Or will the rent be increased to the businesses in this area, that use these facilities. Surely extra toilets are only needed because of recent developments in this area. • If more toilets are required in the town centre, why not firstly renovate and extend the original toilet block behind the hall? The majority of the infrastructure is already there. • If new wastewater facilities are proposed on the old powerhouse site where would the wastewater be dispersed without impact affecting neighbouring properties and existing areas that children play in, the additional noise from such facilities would also be unacceptable • As a community we need to be aware of what direction our island is heading. We need to look at what our visitors find most unique about the Island and the reasons regulars keep coming back. Why families have travelled here for generations. • While sitting in a crowded noisy bar, may be some people's idea of paradise. The majority of people who travel to the island to immerse themselves in our tranquillity, find it disturbing. Especially when they're kept awake by it at night.
12.		Objection (resident)	<ul style="list-style-type: none"> • I am worried that the extension of hours is not in keeping with the original idea/DA application and will only encourage more late-night noise. • In the past, "Blue Peters" restaurant/bar was confined to reasonable hours (I believe 9pm) as it was situated in a built-up residential area. • I know that Anchorage is often open later than 9pm (especially in summer) but is generally not a problem as its main focus is on the restaurant rather than a bar.
13.		Objection (resident)	<ul style="list-style-type: none"> • The building was never intended to be used for its present purpose and does not comply with the NSW Liquor Licensing Act regarding toilet facilities. • The business has changed the ambience of the area and encroaches on the privacy of persons enjoying the picnic area under the Pinetrees. • The proposal deprives both the bowling and golf club of a vital income for the continued viability of the clubs for the enjoyment and entertainment of members and visitors to the island. • The building is ideal for use by Mr Cruikshank to carry out his professional business. Not a night club.
14.		Support (resident)	<ul style="list-style-type: none"> • Having read the applicant's reasons to modify the original approval, we can only agree that each point is fair and reasonable now that the business has been successfully operating for 13 months. • Lord Howe is experiencing a substantial increase in forward tourist

			<p>accommodation bookings, which doesn't look like changing. At the same time we are experiencing a downturn in hospitality venues, with existing restaurants doing a sterling job, but struggling to meet demand. The Crooked Post, while not a restaurant, does go some way towards filling that hospitality need. Many clients are perfectly happy with a casual evening sampling bar snacks and island themed cocktails.</p> <ul style="list-style-type: none"> • We can confidently say that every guest has commented favourably on both the aesthetic appeal and the enjoyable experience of The Crooked Post. The proposed reasonable consent modifications can only improve on that widespread visitor appeal. Our tourism amenity is important, and becoming increasingly so.
15.	Petition with 233 signatories	Support (approx. 75% of petitioners were visitors)	<ul style="list-style-type: none"> • We the below signed, support the Crooked Post in it's efforts to change its conditions, namely, <ul style="list-style-type: none"> ○ Increase its capacity to at least be in-line with current COVID-19 restrictions ○ Supply take away cocktails and drinks to enjoy elsewhere ○ Bring its hours of operation in line with surrounding restaurants and takeaway businesses

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

LHI Stage 1 Planning Proposal Public Exhibition and Government Agency Consultation Update

RECOMMENDATION

That the LHIB resolve:

- 1) To note the information provided on the results of the public exhibition and government agency consultation of the PP for the Stage 1 LHI LEP review,
- 2) To adopt the recommendation to make minor modifications to the Planning Proposal as outlined in the report
- 3) a) To retain the existing item in the PP for the Stage 1 LHI LEP review to delete Clause 24(1)(c) regarding the family occupancy requirement of dual occupancies.

or alternative resolution 3(b).

- 3) b) To amend the existing item in the PP for the Stage 1 LHI LEP review regarding the existing family occupancy requirement of clause 24(1)(c), to an amendment of the clause to restrict the occupancy of a dual occupancy to Islander residents as defined under the LHI Act (but without the existing family restrictions).
- 4) That the Blackburn House boundary adjustment & rezoning remain excluded from the current LHI LEP Stage 1 review and,
- 5) To submit the Planning Proposal for the Stage 1 LEP review with the subject proposed amendments to NSW DPIE with a request that the PP be finalised.

BACKGROUND

- 2016: as previously reported to the LHIB, a Stage 1 Planning Proposal (PP) to amend the Lord Howe Local Environment Plan 2010 was drafted by the Board's previous consulting planners, RPS
- June 2016 the Draft planning proposal was endorsed by the Board after a period of public exhibition. This included the proposed deletion of cl. 24(1)(c) restricting the occupation of dual occupancies to family members.
- July 2016: Adopted draft planning proposal was referred to NSW Planning & Environment. LHIB was instructed to address several fundamental questions and issues requiring significant amendments to the drafted PP
- March 2018: All About Planning (AAP) was engaged to prepare an amended PP to address the NSW Planning & Environment issues and to submit/ progress the new PP to the NSW DPIE for a Gateway Determination, then progress through to finalisation of the PP.
- May 2019 LHIB meeting: The LHIB resolved to:
 1. *Submit the attached Planning Proposal and request a Gateway Determination for the subject "Stage 1 Planning Proposal – Amendments to the Lord Howe Island Local Environmental Plan 2010" from the NSW Department of Planning and Environment.*
 2. *Report to the Board the outcomes of the Department's Gateway Determination including any specific requirements and subsequent steps.*

3. *In response to the NSW Department of Planning and Environment's request and prior to forwarding the Planning Proposal for Gateway Determination, that the LHIB prepare a revised site plan for the Site 8 – Fuel Supply which confirms the existing road is avoided.*
- The adopted draft planning proposal amendments included:
 - Deletion of the cl.24(1)(c) dual occupancy restriction regarding occupation by family members only
 - New clause requiring consideration of the impacts of development in the vicinity of a heritage item
 - Four amendments related to definitions of 'Home Business', 'Environment Protection Works', 'Centre Based Child Care Centre', and 'Home Based Child Care Centre' and associated LEP zoning provisions
 - Addition of two exempt development provisions, being for roof mounted solar energy systems and chicken pens/foul and poultry houses
 - Addition of Recreation Area and Boatsheds as a permissible use in Zone 7 – Environment Protection and associated LEP references, including modification of the boatshed definition to acknowledge existing community and private boatshed uses
 - Eight (8) site specific rezonings and associated zone map changes
 - July 2019: The Planning Proposal (PP) was submitted to the NSW Department of Planning Industry & Environment (DPIE) for a Gateway Determination.
 - 20th December 2019, NSW DPIE advised the LHIB by letter of their support for the intent and objectives of the new Stage 1 PP but requested amendments to address five matters including the deletion of Issue 2 concerning references to the LHI Vegetation Management Plan and some other minor clarifications.
 - February 2020: The requested amended PP was issued by AAP to NSW DPIE for the Gateway Determination.
 - April 2020: Gateway determination for the PP was issued by NSW DPIE
 - October 2020: the required 28 day public exhibition period was held (referencing the NSW DPIE LEP online tracking system which had the July 2019 PP uploaded not the February 2020 version)
 - November 2020: the required 21 day government agency consultation was undertaken to:
 - Heritage NSW
 - Department of Planning, Industry and Environment – Biodiversity and Conservation
 - Department of Planning, Industry and Environment – Crown Lands, and
 - Civil Aviation Safety Authority

In the April 2020 Gateway Determination, NSW DPIE advised that they had not made the LHIB the local plan making authority. Consequently, the recommendation of this report includes that the Stage 1 PP as resolved by the LHIB at this meeting, be submitted to NSW DPIE for drafting and finalisation.

Public Exhibition

In response to the above public exhibition of the Stage 1 PP, twenty three (23) submissions were received. Attachment 1 to this report contains a summary of those submissions.

Of the 23 submissions, 22 were lodged in respect of PP Issue 1, being the Occupancy of dual occupancy dwellings by non-family members. The other submission was in relation to the Shick family Blackburn House boundary adjustment & rezoning.

Issue 1 (Occupancy of Dual Occupancy Dwellings by Non-Family Members)

As mentioned above, all but one public submission received to the Stage 1 LEP review was in relation to the proposal to remove the existing requirement under clause 24(1)(c) of the LHI LEP 2010 related to dual occupancy development.

Clause 24(1)(c) currently states the following:

“24 Concession for erection of certain dual occupancies

(1) Despite clause 23 (1) (a) and (b), the consent authority may consent to the erection of a dwelling on an allotment even though the proposal does not conform to those provisions if—

(a) it is proposed that the dwelling be erected as part of a dual occupancy, and (no change proposed)

(b) it is proposed that the dual occupancy be comprised of that dwelling (the new dwelling) together with a dwelling that already exists on the land (the existing dwelling), (No change proposed) and

(c) it is proposed that the new dwelling be occupied by the children, siblings, parents, grandparents or grandchildren of those proposing to reside in the existing dwelling, and.....”

The Planning Proposal recommends the removal of (c). *(parts (a), (b), (d), & (e) are not proposed to be changed).*

As stated in the 2019 PP adopted by the LHIB for submission to DPIE in 2016 and 2019, the removal of this LEP restriction is consistent with the Handley Review recommendations to increase housing opportunities on the island. Under the Planning Proposal both existing and any new approved dual occupancies could become dwellings for any Islanders, children or relatives of Islanders, or others at the discretion of the property owner.

The justification for the proposed amendment regarding dual occupancies from the Handley Review was as follows:

“This (existing LEP) restriction, if strictly enforced, would prevent approval of a dual occupancy with either a ‘granny flat’ or the existing dwelling to be occupied by a friend, carer or anyone else. There is little point in maintaining this restriction since there is no continuing requirement in the LEP for one of the dwellings to be used by the designated family members. Subclause (1)(c) should be amended, preferably by statute, to read ‘it is proposed that one of the dwellings will be occupied by the holder of the subject lease’ or words to that effect. This would not prevent perpetual lease holders applying for the suspension of the residency condition in a proper case.”

The key points of concern raised in the community submissions regarding the proposed removal of the ‘family only’ LEP Clause 24(1)(c) are:

- *Residency and holiday home opportunities would be opened up to non-residents resulting in the availability of much needed residency opportunities for island residents being reduced.*
- *The proposed LEP amendment ‘clearly impacts/is contrary to the foundation of the LHI Act’*
- *Removal of cl.24(1)(c) has not been agreed to by the LHIB & Islanders.*
- *The proposed amendment will not increase housing opportunities on the Island.*
- *This current clause is integral to Development Control on the Island and ensures ongoing housing opportunities for the resident community and must be retained.*
The proposed amendment would have unintended consequences in taking residency opportunities from Islanders to non-residents. Islanders should have preference.
- *The Island community has always had a strong cultural and historical connection with previous generations & have struggled at times to provide land/ housing for their descendants.*
- *A suggested alternative ‘to avoid exploitation of the proposed change’ would be to require any dual occupancy to remain part of the existing dwelling and to not become a separately*

owned dwelling. Preventing the subdivision of dual occupancies/ separate sale opportunities will reduce resulting impacts

- *An alternative amendment option is to replace the existing cl. 24(1)(c) with a requirement that “both existing and new approved dual occupancies should become dwellings for any Islander” (within the meaning of the LHI Act).*
- *An additional requirement should be considered that states “leaseholders and islanders holding a dual occupancy must permanently reside on the island, (or have a mechanism in place to satisfy this condition)”*
- *There is insufficient understanding of the original purpose and context of the LEP to make the proposed change.*

Comment: The existing LEP Clause 24(1)(c) only comes into effect at the DA stage where a proponent is required to demonstrate that they are building the dual occupancy for a family member. However, once the DA is approved and construction complete there is currently no meaningful (or court enforceable) mechanism to enforce compliance of who can live in the approved dual occupancy.

Whilst compliance with the existing LEP Clause 24(1)(c) could be attempted through a DA Condition, Handley states in his report that:

This restriction, if strictly enforced, would prevent approval of a dual occupancy with either a ‘granny flat’ or the existing dwelling to be occupied by a friend, carer or anyone else. There is little point in maintaining this restriction since there is no continuing requirement in the LEP for one of the dwellings to be used by the designated family members.

As the clause contains no provisions for ongoing enforcement it is likely that such a condition would be difficult to defend if challenged in the Land and Environment Court and is not therefore enforceable..

It is also important to note that in the scenario that any approved Dual Occupancy was sought to be used for purposes of short term holiday accommodation, that use would fall into non-compliance with the LHI LEP and the LHI Act if the use did not have a tourist accommodation development consent and a tourism bed license. Both of these are comparatively easy to enforce.

The suggestions made in the public submissions for alternative wordings of an amended cl.s24(1)(c) relating to who can reside in dual occupancies, would on face value provide the type of protection for Islander residency that the community submissions are keen to secure (but with an increased flexibility compared to the existing family restriction). However, it would need to be noted that these alternatives have the same post DA approval enforceability issues as the current measures.

If on balance the LHIB is of a mind to not delete clause 24(1)(c) entirely, it is suggested that the clause be amended to restrict the occupation of any dual occupancy to Islander residents as defined under the LHI Act (but without the existing family restriction). Such a change will also be counter to the 2016 Government response to the Handley review which states:

Currently the Lord Howe Island Local Environmental Plan (LEP) requires that the new dual occupancy dwelling is occupied by the ‘children, siblings, parents, grandparents or grandchildren’ of those proposing to live in the existing dwelling.

The LEP will be amended to remove this restriction, allowing for occupancy by those other than family members.

Given that the Government has made its intention to remove this restriction clear in its response to the Handley review it is possible that retention of this clause will not be supported by Government.

Shick Family Blackburn House Boundary Adjustment & Rezoning

The other submission received during the PP exhibition was in respect of the Shick family Blackburn House boundary adjustment & rezoning. The submission's key request is that the rezoning/ land swap take place. As outlined later in this discussion the site was purposely removed from the Stage 1 PP at the March 2018 LHIB meeting.

This land swap matter was originally referenced in the June 2016 Stage 1 LEP Review PP prepared by RPS as:

"Issue 19 - Site 10 – Rezone from Part 8 – Permanent Park Preserve and Part 2 – Settlement to Part 8 – Permanent Park Preserve and Part 2 – Settlement"

Property Description	Lot 313, DP 821319
Perpetual Lease	1992.01
Site Area	Area 1 – 910m ² Area 2 – 880m ²
Current Use	Perpetual Lease
Current Zone	8 – Permanent Park Preserve, and 2 – Settlement
Proposed Zone	8 - Permanent Park Preserve, and 2 – Settlement (swap)
Reason	Boundary Adjustment between the lot and the Permanent Park Preserve

The previous June 2016 PP noted the following regarding the above:

- *In April 2009, the Board agreed to a boundary adjustment and land transfer between Portion 313 and the LHI Permanent Park Preserve.*
- *Area 2 which is currently zoned for Settlement will be removed from Lot 313 and zoned as part of the Permanent Park Preserve. Area 1 which is currently part of the Permanent Park Preserve will become part of Lot 313 Settlement and zoned accordingly.*
- *The boundary adjustment and land transfer will be subject to a development application and the LHIB Disposal of Land Asset Policy. Both areas are approximately the same size and of similar value and the land swap is considered to be equitable.*
- *In accordance with s19A of the LHI Act, Schedule 1 describing the area permanently dedicated as the LHI Permanent Park Preserve will need to be amended and approved by the Governor, or potentially revoked by way of an Act.*



In subsequent advice dated July 2016 regarding the June 2016 PP, the NSW DPIE confirmed that the LHI Act requires that any dedication cannot be revoked except by an Act and that this would need to be completed prior to any associated revision of the LEP (not vice versa) and that keeping this item in the PP would mean that all other amendments in the Stage 1 LEP review would have to be delayed until this matter is resolved. In subsequent discussions NSW DPIE strongly reiterated that the above land swap should be removed from the Stage 1 LEP review.

As a consequence of the above, this item was included in a number of matters recommended to be removed from the Stage 1 PP as reported to the LHIB meeting of March 2018 and the matter was subsequently removed from the updated PP. Since then the PP has been further reviewed by NSW DPIE, then referred for a DPIE Gateway Determination, placed on public exhibition and referred to the required NSW Government Agencies for comment.

Subsequent to the above, further investigations have confirmed that undertaking the above proposal will involve at least two legislation changes and a planning proposal to adjust the zoning.

The Lord Howe Island Act 1953 does not have a mechanism to facilitate a 'land swap' involving land that has been dedicated as Permanent Park Preserve. The only mechanism available to remove land from the PPP is an amendment to the Act to redescribe the land in Schedule 1 by removing 'Area 1' from the land described in the Schedule. This will 'revoke' the PPP dedication over Area 1.

Once the above step is taken, the Board would be free to deal with the land and then negotiate the 'land swap'. The completion of that then requires a separate process involving the Governor adding the 'Area 2' land into the PPP requiring another legislative amendment.

In view of the above particular procedural legal requirements, the LHIB resources required and significant delays inevitably involved in legislative changes, it is recommended that the Blackburn House boundary adjustment & rezoning remain excluded from the current LHI LEP Stage 1 review.

The LHIB administration have advised of their intention to prepare a separate report to the LHIB concerning this land swap matter.

Government Agency Consultation

In response to the Government Agency consultation required by the NSW DPIE Gateway Determination, three (3) submissions/responses were received. Submissions were received from Heritage NSW, CASA and NSW DPIE Biodiversity and Conservation.

Attachment 2 to this report contains a summary of those submissions.

Heritage NSW stated that:

"We have reviewed the provisions identified in the planning proposal and consider that the amendments identified are largely administrative in nature. Additionally, we consider that the proposed clause requiring the consideration of impacts of development in the vicinity of a heritage item, will have a positive heritage outcome. As such, we do not raise an objection to any of the proposed changes".

CASA in their response simply stated: "CASA has reviewed the information provided and has no comment to make".

NSW DIPE, Biodiversity and Conservation provided more detailed comments related to biodiversity, flooding and coastal matters (including some planning matters) - refer Attachment 2, along with appropriate comments and recommendations provided.

Pre-Gateway Determination NSW DPIE Requests

As stated earlier in the background discussion of this report, NSW DPIE in a letter dated 20th December 2019, confirmed their support for the intent and objectives of the new Stage 1 PP but

requested that 5 matters be addressed including the deletion of Issue 2 regarding references to the LHI vegetation management plan date and some other minor corrections/ clarifications.

As also previously confirmed the requested amended PP was issued by AAP to NSW DPIE (for the Gateway Determination) dated 28th February 2020 with the Gateway Determination being subsequently issued by NSW DPIE on 15th April 2020. However, the July 2019 version of the Stage 1 PP (Attachment C) was uploaded to the online LEP tracking system by NSW DPIE, not the updated February 2020 version. Hence the public exhibition and Government agency referrals of the PP all referenced the 2019 PP.

In view of the nature of the changes requested by NSW DPIE in their letter of 20th December 2019 to delete one administrative matter and to add other minor corrections/ clarifications to existing matters, (and for the sake of completeness), it is simply proposed to include these requested changes in the recommendation of this report for incorporation into the PP prior to its finalisation (as referenced below in the list of changes to the PP). Procedurally, as the December 2019 NSW DPIE comments are minor and administrative (as mentioned above), there is no need to re-exhibit the PP on these points. The Government Agency Referral Comments Summary provided at Attachment 2 includes the matters raised in the NSW DPIE in December 2019.

Miscellaneous

One matter in the LHI Stage 1 LEP review that is to be deleted for issues unrelated to the exhibition and consultation of the PP is 3.10, Issue 10 – Site 4: Owen's Land Swap. This was in regarding Part Lot 10 DP 1202580 and Part Lot 79 DP 757515 and was a proposed swap between the Part of Lot 10 south of Anderson Rd (Settlement zoned but 100% mapped Significant Native Vegetation) and Part Lot 79 (Environment Protection and only partly mapped SNV), that was resolved to proceed by the LHIB in November 2017. This matter is now not proceeding as it has been determined that the leaseholder's development on the main part of Lot 10 is now reliant upon the southern part of the lot to meet its existing site coverage requirements.

Proposed Recommended Final Changes to LHI LEP Stage 1 Review PP

The following minor amendments to the PP are now recommended prior to finalisation in response to the public exhibition and Government referrals of the PP (and other updated information that has become known):

- a. Planning Proposal Issue 6 (*Permissibility & definition of Boatsheds & Recreation Area in Zone 7 Environment Protection*): Instead of making Boatsheds and Recreation Area permissible uses everywhere within the Environment Protection zone, these uses shall be included in the proposed Schedule 4 (Additional Permitted Uses) as "*Development for the purposes of 'Recreation Area' and 'Boatsheds' fronting or adjacent to the Lagoon and Ned's Beach' are permissible with consent.*"
- b. Planning Proposal Issue 9 (*Part rezoning from recreation zoning to rural & environment protection behind Milky Way*): Retain the proposed zone boundary alignment with the mapped SNV but in a rationalised or simplified form (without a buffer).
- c. Planning Proposal Issue 10 (*Owens land swap*): Deleted
- d. Planning Proposal Issue 12 (*Anderson Rd Dairy rural rezoning*): Retain the proposed zone boundary alignment with the mapped SNV but in a rationalised or simplified form (without a buffer).

NSW Department Planning Industry & Environment (issue, section and page refs are as per the July 2019 PP):

- Issue 2 relating to the omission of the date of adoption of the Lord Howe Island Board Vegetation Rehabilitation Plan is to be removed as the DPIE considers that a reference to this document in the LEP must include the date on which it was adopted;
- The discussion on Issue 4 in Section 3.5 is to clarify that 'centre-based child care facilities' are to be made permissible with consent in Zone 5 Special Uses and 'home- based child

care' and 'centre-based child care facilities' will be permissible with consent in Zone 2 Settlement;

- Section 3.5 is to include a plain English list of the development standards for which roof-mounted solar energy systems can be exempt development without reference to the provisions of State Environmental Planning Policy (Infrastructure) 2007;
- The diagram on page 50, which indicates that the area of land for the proposed fuel supply facility will be rezoned to Zone 2 Settlement, is to be removed; and
- The discussion relating to Section 9.1 Directions 1.5 Rural Lands and 2.2 Coastal Management is to be updated to reflect the recent amendments to these Directions.

RECOMMENDATION

That the LHIB resolve:

- 1) To note the information provided on the results of the public exhibition and government agency consultation of the PP for the Stage 1 LHI LEP review,
- 2) To adopt the recommendation to make minor modifications to the Planning Proposal as outlined in the report
- 3) a) To retain the existing item in the PP for the Stage 1 LHI LEP review to delete Clause 24(1)(c) regarding the family occupancy requirement of dual occupancies.

or alternative resolution 3(b).

- 3) b) To amend the existing item in the PP for the Stage 1 LHI LEP review regarding the existing family occupancy requirement of clause 24(1)(c), to an amendment of the clause to restrict the occupancy of a dual occupancy to Islander residents as defined under the LHI Act (but without the existing family restrictions).
- 4) That the Blackburn House boundary adjustment & rezoning remain excluded from the current LHI LEP Stage 1 review and,
- 5) To submit the Planning Proposal for the Stage 1 LEP review with the subject proposed amendments to NSW DPIE with a request that the PP be finalised.

Prepared: Peter Chapman Director – All About Planning Pty Ltd

Endorsed: Peter Adams CEO LHIB

Attachments:

Attachment A: Public Submissions Summary

Attachment B: Government Agency Referral Comments Summary

Attachment C: Stage 1 Planning Proposal as exhibited by Planning NSW

Lord Howe Island Stage 1 LEP Review

Attachment 1: Summary Public Submissions

Submission	Issues Raised
1.	<ul style="list-style-type: none"> - Opposed to deletion of Clause 24(1)(c) of the LHI LEP and the requirement for a dual occupancy to only be occupied by the children, siblings, parents, grandparents or grandchildren of those residing in the existing dwelling. - residency and holiday home opportunities would be opened up to non-residents and the much needed residency opportunities for island residents would be reduced. - Proposed LEP amendment 'clearly impacts the foundation of the LHI Act'
2.	<ul style="list-style-type: none"> - See above at 1 - The statement that the proposed removal of Cl.24(1)(c) has "been agreed to by the LHIB & Islanders is misleading and not true" - Deletion of this sub-clause will not increase housing opportunities on the Island - The current clause is integral to Development Control on the Island and ensures ongoing housing opportunities for the resident community and must be retained
3.	- As per 1 above
4.	- The proposed amendment to Cl.24(1)(1) would have unintended consequences in taking residency opportunities from Islanders to non-residents. Islanders should have preference.
5.	- As per earlier submissions.
6.	- Objects to the proposal to alter cl24(1)(c) without giving reasons
7.	- As per submission 1,2 and 4.
8.	- As per submission 1,2 and 4.
9.	- As per submission 1,2 and 4.
10.	- As per submission 1,2 and 4.
11.	- As per submission 1,2 and 4.
12.	- Alteration could have unintended consequences
13.	- As per submission 1,2 and 4.
14.	- As per submission 1,2 and 4.
15.	- As per submission 1,2 and 4.
16.	<ul style="list-style-type: none"> - As per submission 1,2 and 4. - The Island community has always had a strong cultural and historical connection with previous generations & have struggled at times to provide land/ housing for their decendants
17.	- As per submission 1,2 and 4.
18.	- As per submission 1,2 and 4.
19.	<ul style="list-style-type: none"> - As per submission 1,2 and 4. - Non-Islander ownership of Capella and Wade's house illustrates existing problems regarding residency and the proposed LEP change should not therefore occur. - "I would like to request the removal of the word 'others' from the end of recommendation 6, as it is to open to exploitation!" - Suggested alternative 'to avoid exploitation of proposed change' would be to require any dual occupancy to remain part of the existing dwelling and not a separate dwelling thereby preventing subdivision/ separate sale opportunities & resulting impacts.
20.	<ul style="list-style-type: none"> - Agrees with proposed amendments except the deletion of Cl. 24(1)(c). - As per 1 above - Proposed alternative suggestion is to replace existing Cl.24(1)(c) with a requirement that "both existing and new approved dual occupancies should become dwellings for any Islander" - An additional requirement should be considered "that states leaseholders and islanders holding dual occupancy must permanently reside on the the island (or have a mechanism in place to satisfy this condition)"
21.	<ul style="list-style-type: none"> - I'd like to make a formal submission that I am, and will remain opposed to, the deletion of clause 24 (c) from the Lord Howe Island Act as I believe removing it goes against the very original intent of the Act. - While I believe the Island and The Act should continue to innovate, I am not confident the current administrators have enough understanding of the purpose and context of the Act to make any adjustments whatsoever at this point.

22.	- As per submission 1,2 and 4.
23.	- The Blackburn House boundary adjustment & rezoning (as per past agreements/ discussions/ correspondance and LHIB resolutions), should be progressed through inclusion in the LEP review and then finalised.

Lord Howe Island Stage 1 LEP Review

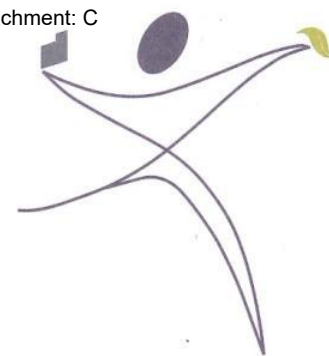
Attachment 2: Summary Government Agency Submissions

	Agency	Issues Raised	Comments
A.	Heritage NSW	"We have reviewed the provisions identified in the planning proposal and consider that the amendments identified are largely administrative in nature. Additionally, we consider that the proposed clause requiring the consideration of impacts of development in the vicinity of a heritage item, will have a positive heritage outcome. As such, we do not raise an objection to any of the proposed changes."	Noted. No action required.
B.	CASA	"CASA has reviewed the information provided and has no comment to make."	Noted. No action required.
C.	Biodiversity and Conservation, NSW Planning, Industry & Environment	In summary, the BCD recommends that: 1. Consideration is given to the use of a Schedule to the LEP to narrow the scope of the proposed permitted uses in the Environment Protection zone for Issue 6. <i>(Permissibility & definition of Boatsheds & Recreation Area in Zone 7 Environment Protection)</i>	<p>As previously reported the PP intends to make 'Recreation Area' and 'Boatsheds' permissible uses within the Environment Protection zone to rectify an existing non-conforming use issue with the existing Lagoon boatsheds & other similar facilities along the Lagoon foreshore and the Ned's Beach shed (within Zone 7 Environment Protection).</p> <p>The PP also seeks to modify the definition of boatshed to include community based and private uses to reflect the current and historical use of these structures and that will also resolve existing non-conforming uses with the current boatshed definition, which only contemplates commercial marine based uses.</p> <p>B&C is concerned that making 'Recreation Area' and 'Boatsheds' permissible uses generally within the Environment Protection zone will also permit recreation areas and boatsheds elsewhere in other (non-lagoon fronting) Environment Protection zoned areas. Consequently B&C suggest the alternative of adding 'Recreation Area' and 'Boatsheds' as additional permitted uses into the new Schedule 4 of the LEP proposed for the new fuel facility.</p> <p><i>Comment:</i> Such a reference in Schedule 4 would specifically and only make "'Recreation Area' and 'Boatsheds' fronting or adjacent to the Lagoon and Ned's Beach" permissible with consent.</p> <p>Any new applications under the above would still need to comply with the LEP objectives for the Environment Protection zone and the additional/ specific assessment requirements for development within the foreshore building line under cCause 35 of the LEP.</p>

			<p>Consequently, the suggested minor amendment is supported and it is recommended that the Planning Proposal delete the addition of 'Recreation Area' and 'Boatsheds' as permissible uses within the Environment Protection zone and instead add 'Recreation Area' and 'Boatsheds' as additional permitted uses into a new sSchedule 4 of the LEP as the following:</p> <p>“Schedule 4 Additional permitted uses 2 Use of certain Environment Protection zone land fronting Lagoon and Neds Beach</p> <p><i>(1) This clause applies to Environment Protection zone land fronting Lagoon and Neds Beach, Lord Howe Island, shown as “Item 2” on the Additional Permitted Uses Map.</i></p> <p><i>(2) Development for the purposes of ‘Recreation Area’ and ‘Boatsheds’ fronting or adjacent to the Lagoon and Ned’s Beach” are permissible with consent.”</i></p>
	<p>2. Consideration is given to the proposed Environment Protection zoning for Issue 9 in relation to field verification and a more practical demarcation of the zone. <i>(Part rezoning from recreation zoning to rural & environment protection behind Milky Way)</i></p>		<p>B&C is concerned about demarcating (variable nature) significant native vegetation lines as a zone boundary & suggests to rationalise/ simplify the proposed boundary with an appropriate buffer to SNV.</p> <p><i>Comment:</i> There are many existing instances of LHI LEP 2010 zone boundaries following mapped SNV boundaries and it was on this basis that the proposed approach for Issue 8 was adopted.</p> <p>It is recognised that this method seeks to place a fixed zone boundary on a variable/dynamic natural element (ie. a vegetation line) which over time can become disconnected. However given the existing approach to zone boundary locations in the LEP, it is proposed to retain the proposed zone alignment of the mapped SNV but in a rationalised or simplified form.</p> <p>On the basis that the existing LEP zonings do not incorporate any buffers, it is not recommended that any buffer to the existing SNV be implemented for the subject rezoning. Additionally, incorporating a SNV buffer will have the effect of further reducing available agricultural land on the island, which overall would be a negative outcome.</p>
		<p>3. Further background justification and analysis of Significant Native Vegetation should be considered in relation to Issue 10. <i>(Owens land swap)</i></p>	<p><i>Comment:</i> This rezoning/land swap site to be deleted from the PP as the applicant has advised the LHIB Administration that she does not wish to proceed with this matter.</p>
		<p>4. Consideration is given to providing more practical zoning boundaries and apply that analysis to the whole property for issue 12. <i>(Anderson Rd Dairy rural rezoning)</i></p>	<p>B&C is concerned about demarcating vegetation lines as zone boundary & suggests rezoning the whole lot to rural instead of just the cleared areas.</p> <p><i>Comment:</i> Refer above comments in relation to Issue 8 (point 2) above. Given the existing approach to zone boundary locations in the LHI LEP 2010, it is proposed to retain the proposed zone alignment of the mapped SNV but in a rationalised or simplified form.</p>

	<p>5. Further justification explaining the reasoning for the rezoning and mapped SNV should be documented to support the proposed rezoning for issue 13. <i>(Crown Land Lagoon Rd opposite airstrip)</i></p>	<p><i>Comment:</i> No SNV is impacted by this proposal and this matter is a direct recommendation from the Handley review. NSW DPIE has not raised any concern about this and the proposal is considered to be adequately justified.</p>
	<p>6. Consideration is given to the suitability of the site for issue 14 in relation to the existing zoning and surrounding environmental factors incl. potential migration of the creek. <i>(Fuel supply)</i></p>	<p>B&C doesn't support the proposed location of the fuel supply facility within the Environmental Protection zone and in proximity of the creek.</p> <p><i>Comment:</i> The Creek is considered to be a minor creek with a low potential for migration having a predominant straight alignment in vicinity of site. This site has been the subject of both specific (and general) LEP review and public consultation. The proposed fuel facility will be a self contained, above ground and transportable setup that can be relocated if required.</p> <p>In addition, as the site is located within the LEP mapped foreshore building line, any DA for the proposal will need to comply with the LEP objectives for the Environment Protection zone and the additional site specific assessment requirements for development within the foreshore building line under Clause 35 of the LEP. These existing protections will adequately address the relevant environmental and assessment issues.</p>
	<p>7. Further information in relation to flood impacts should be provided in relation to Sites 6 and 8 (Issues 12 and 14). <i>(Boatsheds/Recreation Areas & Fuel Supply site)</i></p>	<p><i>Comment:</i> As per Point 8 (following), additional consideration of flooding and flood prone land will appropriately be considered in the future Stage 2 LEP Review.</p>
	<p>8. Future reviews of the LHI LEP and DCP should incorporate the outcomes of flood studies and flood risk management plans to clearly document Flood Prone Land.</p>	<p><i>Comment:</i> It is agreed that this information is appropriately considered in a future Stage 2 LEP review.</p>
	<p>9. The proposal should define coastal protection works as a new dictionary definition in the LEP.</p>	<p><i>Comment:</i> B&C is supportive of the PP provisions in relation to Coastal Protection Works.</p>
	<p>10. Consideration should be given to including an additional requirement in clause 35 of the LEP to address future coastal hazards.</p>	<p>B&C suggests an additional provision to Clause 35 (Foreshore Development) requiring consideration of coastal hazards management in the assessment of development within the foreshore building line.</p> <p><i>Comment:</i> Clause 35 of the LHI LEP already includes a requirement to consider whether a proposal will "be adversely affected by, or adversely affect, coastal processes". Coastal hazards are ordinarily included in the above.</p> <p>It is also considered that the future Stage 2 review of the LEP will more appropriately consider Coastal Processes and Hazards in further detail.</p>

		<p>11. The potential for the migration of the creek's boundaries should be considered in relation to issue 14. <i>(Fuel supply)</i></p>	<p><i>Comment:</i> Refer above notes regarding Issue 14 (Point 6 above).</p> <p>It is also noted that (as reported previously) the proposed Schedule 4 provisions in the PP include the following assessment requirements for the fuel facility that will adequately address this query:</p> <p><i>(a) the site can be effectively landscaped to minimise the visual impact of the proposal for development of a commercial premises on the site, and</i></p> <p><i>(b) no direct vehicular access is provided to Lagoon Road, and</i></p> <p><i>(c) any commercial premises can be demonstrated to not impact on the environmental quality of the lagoon foreshore and the adjacent creek</i></p>
D.	NSW DPIE (20th December 2019) [issue, section and page refs are as per the July 2019 PP]	<ul style="list-style-type: none"> •Issue 2 relating to the omission of the date of adoption of the Lord Howe Island Board Vegetation Rehabilitation Plan is to be removed as the DPIE considers that a reference to this document in the LEP must include the date on which it was adopted; 	<p><i>Comment:</i> The recommendation of the attached report includes the requested removal of this item from the PP.</p>
		<ul style="list-style-type: none"> •The discussion on Issue 4 in Section 3.5 is to clarify that 'centre-based child care facilities' are to be made permissible with consent in Zone 5 Special Uses and 'home- based child care' and 'centre-based child care facilities' will be permissible with consent in Zone 2 Settlement; 	<p><i>Comment:</i> The recommendation of the attached report includes the addition of the requested clarifications.</p>
		<ul style="list-style-type: none"> •Section 3.5 is to include a plain English list of the development standards for which roof-mounted solar energy systems can be exempt development without reference to the provisions of State Environmental Planning Policy (Infrastructure) 2007; 	<p><i>Comment:</i> The recommendation of the attached report includes the requested additional development standards for roof-mounted solar energy systems to be exempt development.</p>
		<ul style="list-style-type: none"> •The diagram on page 50, which indicates that the area of land for the proposed fuel supply facility will be rezoned to Zone 2 Settlement, is to be removed; and 	<p><i>Comment:</i> The recommendation of the attached report includes the requested removal of the said diagram.</p>
		<ul style="list-style-type: none"> •The discussion relating to Section 9.1 Directions 1.5 Rural Lands and 2.2 Coastal Management is to be updated to reflect the recent amendments to these Directions. 	<p><i>Comment:</i> The recommendation of the attached report includes the incorporation of the requested updated comments in relation to Section 9.1 Directions 1.5 and 2.2.</p>



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Lord Howe Island

STAGE I Planning Proposal

Stage I Amendments to the Lord Howe Island Local Environmental Plan 2010

PLANNING PROPOSAL For Gateway Determination

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AAP Reference: 2017 – 019

19th June 2019

Lord Howe Island Stage I Planning Proposal

For: Lord Howe Island Board

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This Stage I Planning Proposal has been prepared in accordance with an agreement between All About Planning Pty Ltd and the Lord Howe Island Board dated March 2018.

In preparing this Planning Proposal, All About Planning Pty Ltd has used and relied on data, plans and information provided by the Lord Howe Island Board and other parties as detailed in this document. Except as otherwise stated, the accuracy and completeness of the information provided to All About Planning Pty Ltd for this Planning Proposal has not been independently verified.

This Planning Proposal should be read in conjunction with the following documents:

- Review of Land Allocation Policy, The Hon. Ken Handley AO QC, February 2015
- The Final Government Response to the Handley Review, November 2017
- Coastal Hazard Definition and Coastal Management Study, Haskoning Australia Pty Ltd, September 2014
- Lord Howe Island Local Environmental Plan 2010 (LHI LEP 2010)
- Lord Howe Island Development Control Plan 2005 (LHI DCP 2005)
- Site Surveys. Plans and Drawings prepared by the Lord How Island Board and/or other parties as described in this proposal, which identify and illustrate the various proposed LEP amendments.
- Lord Howe Island Board (LHIB) LEP 2010 Review Discussion Paper, 2016
- Community Feedback on LHIB Discussion Paper, 2016
- Lord Howe Island Act 1953
- Lord Howe Island LEP 2010

For and on behalf of All About Planning Pty Ltd.

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Summary

This Planning Proposal has been prepared by All About Planning Pty Ltd (AAP) on behalf of the Lord Howe Island Board (the Board) to seek various relatively minor amendments to the existing Lord Howe Island Local Environmental Plan 2010 (LEP 2010).

The Board has identified a number of areas where the LEP 2010 could be improved to be clearer, better reflect existing land uses and respond to community needs on the island.

The Board has commenced a two-stage local plan review process. Stage I of the review, reflected in this Planning Proposal, is aimed at addressing anomalies and responding to known inadequacies in the current plan. The second stage will be to review LEP 2010 in its entirety, including its structure (which is not in the Standard Template format) and key zoning provisions such as the permitted number of permanent dwellings, tourist bed numbers, staff accommodation provisions and subdivision provisions.

In 2016 the Board undertook early community consultation to gauge community response to then proposed rezonings and amendments to the controls in the local plan, and the outcome of that process has informed this Stage I Planning Proposal. A copy of this Consultation Outcomes Summary Paper setting out the community's feedback in 2016 is included as Appendix D.

The purpose of this Planning Proposal is to undertake the following amendments to LEP 2010:

- Deletion of the current dual occupancy restriction related to occupation by family members only
- Update reference to the LHI Vegetation Rehabilitation Plan, to remove a date reference
- New clause requiring consideration of impacts of development that is in the vicinity of a heritage item
- Four amendments related to definitions and associated LEP zoning provisions
- Addition of two exempt development provisions, being for roof mounted solar energy systems and chicken pens/foul and poultry houses
- Addition of Recreation Area and Boatsheds as a permissible use in Zone 7 – Environment Protection and associated LEP references, including modification of the boatshed definition to acknowledge existing community and private boatshed uses
- Eight site specific rezonings and associated zone map changes

I.0 Part I – Objectives and Intended Outcomes

This Planning Proposal has been prepared by AAP on behalf of the Lord Howe Island Board (the Board) to make various relatively minor amendments to the Lord Howe Island Local Environmental Plan 2010 (LEP 2010).

The following lists the 13 issues identified for resolution in this Planning Proposal.

ISSUE	PROPOSED AMENDMENT
1.	Delete Clause 24 (1) (c) – Permit the occupancy of dual occupancy dwellings by non-family members
2.	Amend Clause 31 – to remove the reference to the ‘March 2003’ date, this being the current LHIB Vegetation Rehabilitation Plan, to ensure any future updates to this plan are legally covered
3.	Insert new Clause 39 A to require consideration of heritage items in vicinity of proposed development.
4.	<p>Part A. Amend Definitions of 2 terms.</p> <p>Home Business to permit a maximum 2 employees and to insert a new provision (d), being: Under Dictionary - Home Business (d) the home business does not interfere with local amenity or environmental quality.</p> <p>Environment Protection Works to specifically reference Coastal Protection Works, including beach nourishment. Amend Clause 10(3) definition of Part C.</p> <p>Under Clause 10(3) – environmental protection works means any works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes vegetation restoration work, wetland protection works, erosion protection works, dune protection works and coastal protection work including beach nourishment and the like.</p> <p>Part B. Insert two new Dictionary Definitions, being: Under Dictionary – Centre Based Child Care Centre</p> <p>Centre Based Child Care Centre <i>Means a building used as a school, long day care centre, pre-school, out of hours school care, college, technical college, academy, lecture hall, gallery or museum, and includes the community use or development for community use of the facilities or site of the establishment.</i></p> <p>Under Dictionary – Home Based Child Care Centre</p>

	<p>Home Based Child Care Centre</p> <p>Means:</p> <p>(a) a family day care residence (within the meaning of the Children (Education and Care Services) National Law (NSW)), or</p> <p>Note. A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the Children (Education and Care Services) National Law (NSW).</p> <p>(b) a dwelling used for the purposes of a home based education and care service (within the meaning of the Children (Education and Care Services) Supplementary Provisions Act 2011), at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.</p> <p>Part C.</p> <p>i. Permit Centre Based Child Care Centre in Zone 5 – Special Uses by amendment of Clause 15 (3), by adding new use (p) Centre Based Child Care Centre</p>
<p>5.</p>	<p>Include 2 additional items in Schedule 1 – Exempt development, being:</p> <p>Column 1</p> <p>Development - Roof Mounted Solar Energy Systems</p> <p>Column 2 – Development Standards and Other Requirements</p> <ul style="list-style-type: none"> • in the case of development for the purposes of a photovoltaic electricity generating system—the system is installed in accordance with the manufacturer’s specifications or by a person who is accredited by the Clean Energy Council for the installation of photovoltaic electricity generating systems, and • in the case of development for the purpose of any solar energy system other than a photovoltaic electricity generating system—the system is installed in accordance with the manufacturer’s specifications, and • the system does not involve mirrors or lenses to reflect or concentrate sunlight, and • In the case of a system that is not ground-mounted: • the development does not reduce the structural integrity of, or involve structural alterations to, any building to which it is attached, and • if the land is in a prescribed residential zone (note: for LEP 2010 - the Settlement zone) and is attached to a wall or roof facing a primary road—the system does not protrude more than 0.5m from the wall or roof (as measured from the point of attachment), and

	<ul style="list-style-type: none"> • if the land is in a prescribed residential zone (note: for LEP 2010 - the Settlement zone) and is not attached to a wall or roof facing a primary road: • the system is installed no less than 1m from any adjoining property boundary if the system protrudes more than 0.5m from any building to which it is attached (as measured from the point of attachment), and • the system is not attached to any wall or roof of a building facing a primary road, and • the system does not protrude more than 0.5m from any building to which it is attached (as measured from the point of attachment), and • in the case of development for the purposes of a photovoltaic electricity generating system—the system has the capacity to generate no more than 10kW. <p>The above proposed standards are broadly consistent with Clause 20, Infrastructure SEPP – exempt provisions for solar systems; the exception being that on LHI no 1-1.5m overhang from a roof is to be permitted and any photovoltaic electricity generating system is to be limited to a maximum generation capacity of 10kW.).</p> <p>It is proposed to include roof mounted solar energy systems as exempt development, as defined in the SEPP, with the exception of Part 3, Division 4, Clause 39 (3) (a) (e), (f) (ii), (f) ((iii) A, part (f) ((iii) B, (f)(iv) and (f)(v).</p> <p>Column I</p> <p>Development – Add the term Fowl and Poultry Houses as an Exempt provision, with the same height, area and other development standards that currently apply to bird aviaries</p>
6.	Legitimise existing and future recreation based land uses in Zone 7 - Environment Protection by inserting Recreation Area and Boatsheds as new uses permitted with consent under Clause 17(3) in the Environment Protection zone and associated modified definition of boatshed to acknowledge existing community and private boatshed uses
7.	Site 1 – Rezone from Zone 5 - Special Uses to Zone 2 - Settlement zone.
8.	Site 2 – Rezone crown land adjacent to Milky Way from Zone 6 – Recreation to Part Zone 7 – Environment Protection.
9.	Site 3 – Rezone existing farmland near Milky Way from Zone 6 – Recreation to Partly Zone 7 – Environment Protection and Partly Zone 1 – Rural.

10.	Site 4 – Rezone from Zone 7 - Environment Protection to Zone 2 - Settlement and Lot 10, DPI202580 from Zone 2 – Settlement to Zone 7 – Environment Protection, to allow the Owen’s Land Swap, as per resolution of the November 2017 LHIB meeting.
11.	Site 5 – Rezone (Cnr Anderson Rd adjacent to Lorhiti) from Zone 6 – Recreation to Zone 7 – Environment Protection.
12.	Site 6 – Rezone Pt Lots near the new powerhouse, from Zone 7 - Environment Protection to Zone 1 – Rural to accommodate existing small dairy.
13.	Site 7 – Rezone a lot opposite the runway, from Zone 7 - Environment Protection to Zone 1 – Rural.
14.	Site 8 – Enable an Additional Permitted Use to permit a preferred new Fuel Supply proposal off Airport Road.

1.1 LHI Local Strategic Planning Statement

A World Heritage Listed Island

Lord Howe Island is a world heritage listed volcanic remnant in the southwest Pacific Ocean, situated in the Tasman Sea between Australia and New Zealand. The island is located approximately 600 kilometres east of mainland Port Macquarie, 702 kilometres northeast of Sydney, and about 772 kilometres from Norfolk Island to its northeast. Although the Island is remote from the mainland it forms part of the State of New South Wales and is administered by the Lord Howe Island Board (LHIB). The LHIB is established under the Lord Howe Island Act 1953, of the NSW Parliament.

The main island measures 11km long in a north south direction and between 2.8km and 0.6km wide and has a total area of 1,455 hectares.

Much has been written about Lord Howe Island which has focussed on its uniqueness and which of course is a key basis for the island’s World Heritage listing in 1982. The island’s World Heritage listing is in recognition of



its superlative natural landscapes and scenery and its rich terrestrial and marine biodiversity as an outstanding example of an island ecosystem developed from submarine volcanic activity.

Settlement Character

The LHI settlement is restricted to the central lowlands and covers about 15% of the island. Tourism is one of the island's major sources of income. There is an airstrip on the island and daily commercial air services to Sydney and Brisbane. About 16,000 tourists visit the island each year. Numbers are regulated, with a maximum of 400 tourists allowed on the island at any one time.

Character is what makes one neighbourhood distinctive from another. It is the way a place 'looks and feels'. It is created by the way built and natural elements in both the public realm and private domain interrelate with one another, including the interplay between buildings, architectural style, subdivision patterns, activity, topography and vegetation. LHI contains relatively dispersed low density architecturally relaxed built form, with a mix of compatible land uses intermingled throughout the primary settlement zone, within retained significant areas of natural landscape and that deliver a visually striking and cohesive overall character.

The existing character of LHI is highly valued by the community, which comprises its long term islander residents, short stay workers and government administrators. Additionally, the Island is appreciated by people the world over, who have visited and fallen in love with the place and its people.

The Lord Howe Island community are proud of their unique and diverse island home, and who are a self-sufficient, resourceful and welcoming people.

Future Land Use Direction and Planning Priorities

New development and land uses have been able to successfully occur, using a non-standardised and site specific place based design approach. Application of island specific non-standard town planning controls suits the island and which ensures the planning controls that are adopted for the island are effectively tailored to the unique character and valued characteristics of the Island.

Existing development controls have for the most part been highly effective in moderating built form, bulk, scale and height as well as retention and enhancement of native landscaping and preservation of the dispersed overall pattern of settlement, as well as ensuring a sustainable economic base.

There is a need however to respond to the Handley Review recommendations, to continue to protect and maintain agricultural opportunity through appropriate land use zoning, to conserve areas of significant mapped vegetation and to resolve a number of relatively minor inconsistencies between permitted and actual uses in the current LEP.

This Stage I Planning Proposal will ensure that the essential and future desired character of the Island continues to be protected and enhanced. The subject amendments to the existing planning framework will assist in achieving this vision and resonate consistently with both the island's existing and desired local character and community aspirations for self-sufficiency, including the maintenance and development of sustainable primary food production opportunities and conservation of key island native vegetation.



1.2 Preparation of the Planning Proposal

The Planning Proposal has been prepared in accordance with:

- Section (Part) 3.3 of the *Environmental Planning and Assessment Act, 1979*
- Relevant Section 9.1 Directions by the Minister NSW Planning and Environment Guidelines, “A guide to preparing local environmental plans”

The Planning Proposal contains the following information:

- A description of the issues and the proposed response
- A statement of the objectives or proposed outcomes of each amendment
- An explanation of the provisions that are to be included in the proposed instrument
- The justification for those provisions

2.0 Explanation of Provisions

2.1 LEP 2010 Review Discussion Paper, 2016 and Community Feedback Summary Paper

In April 2016 the Board released for public consideration a Discussion Paper which considered studies, reviews and practical findings from implementation of the LHI LEP 2010, and which proposed a number of potential amendments to the LEP 2010 in response. The Discussion Paper and associated community engagement process in 2016 sought feedback from the island community to inform the development of a Planning Proposal.

The Discussion Paper identified a two stage LEP review process, where anomalies and amendments where information is already available and so can be made quickly might proceed ahead of a more thorough review of the structure and controls in the LHI LEP 2010.

A copy of the Consultation Outcomes Summary Report from this review and discussion paper is included as Appendix E.

The following section provides a summary of the key policy relevant to this Planning Proposal.

2.2 Review of Land Allocation Policy, The Hon. Ken Handley AO QC, February 2015

The Hon. Ken Handley AO QC, was engaged by the NSW Department of Premier and Cabinet to undertake a Review of Lord Howe Island's Land Allocation Policy, which findings were reported in February 2015. The primary purpose of the Review was to explore options for reform of the land allocation and tenure system on the Island, which would maintain and protect the unique environmental and cultural values of the Island and provide advice to the Minister for the Environment.

The particular terms of reference identified four key areas for consideration:

1. Forms of tenure – current arrangements, including existing policies and legislative frameworks
2. Land allocation methods
3. Strategies to increase land and housing supply
4. Economic sustainability

In undertaking the Review, Handley consulted with key stakeholders and LHI residents in order to identify risks and challenges with the current arrangements and to seek feedback on future options.

Amongst a number of key matters, Handley recommended that:

- Option 3: Permissive occupancies used for business purposes (such as the three boatsheds near the intersection of Neds Beach Road and Lagoon Road), be granted for fixed terms of 5 years to give the occupiers additional security of tenure and to encourage investment in those businesses.
- Option 7: The class of persons who can be proposed for a dual occupancy should be widened.

Please refer to Appendix A for additional details.

2.3 LHIB Preliminary Report into Housing Availability, Affordability on Lord Howe Island, 2016

The LHIB Administration prepared a preliminary report titled 'Housing Availability, Affordability and Associated Development Pressures on Lord Howe Island' which outlined the legislative and policy framework in place on the island, housing supply and demand and options to moderate price increases on the island. The Report was compiled in 2016 for consideration at the June 2016 LHIB Meeting.

The issues of housing availability, affordability and associated development pressures on Lord Howe Island are complex. It was concluded by the Administration that it was not possible to adequately address these issues and provide meaningful recommendations in the timeframe given. It was recommended that the preliminary report be used as a basis of a brief for a qualified person to independently assess these issues and make recommendations about the way forward.

2.4 LHIB Final Response to Handley Report, November 2017

The LHIB Administration in November 2017 finalised a response to the Handley Review, which has relevance to the subject Stage I Planning Proposal. A copy of this response is included at Appendix B.

The following key responses were made to the Handley Review, which are relevant to the subject Planning Proposal:

- It is agreed that the dual occupancy restriction in the LHI LEP 2010, which prevents occupation of dual occupancies by non-family members, places an unreasonable restriction on the island community and unnecessarily constrains available housing stock on the island.)

A removal of the current dual occupancy restriction to family members is therefore being pursued as part of this Stage I Planning Proposal.

2.5 Lord Howe Island Vegetation Rehabilitation Plan 2003

The Lord Howe Island Board (the Board) has a statutory responsibility to manage the native vegetation of the Island to conserve and enhance the World Heritage values. Lord Howe Island Vegetation Rehabilitation Plan 2002-2007 was adopted in 2003 by the LHIB. The 2003 Rehabilitation Plan states that:

“The Board have been responsible for undertaking revegetation projects over the past 15 years. The coastal foreshore was one of the first areas targeted. The restoration of Shearwater nesting areas at the Big Muttonbird Ground area is one of the most successful projects in the past 5 years.

This plan will provide a strategic direction for the future to ensure both Board resources and external grant funds are allocated to the highest priority projects.”

This 2003 Plan has not yet been formally replaced by any later iterations and reviews, however the LEP needs to include scope for formal amendment over time. An amendment to the LEP is therefore being proposed to remove reference to the date of the Vegetation Rehabilitation Plan or alternatively permit amendments over time.

The plan covers Lord Howe Island & Blackburn Island. The other off-shore Islands have not been included in this plan as there has been no evidence of clearing of native vegetation during the post settlement of Lord Howe Island. The impact that weeds may cause on the native vegetation associations (predominately native grassland) on these Islands has been addressed in the Lord Howe Island Board Weed Management Strategic Plan 2002 with a high priority recommendation being to “monitor offshore Islands for new weed incursions”. Due to the nature of the bushland clearing on the Island, this plan focuses on land zoned: foreshore protection, environment protection, Permanent Park Preserve and special lease.

Background information, including the relevant maps on the significance of vegetation communities in the settlement area has been addressed in association with the DRAFT report by John Hunter (NPWS) titled “Vegetation and habitat of significance within the settlement area of Lord Howe island – A report to the Lord Howe Island Board May 2002”. The Hunter report has been prepared for the review of the Lord Howe Island Regional Environment Plan. Part of the Hunter report provides long term recommendations in terms of future zoning of cleared areas (predominantly Special Leases).

While this plan is designed to be read in context of the Hunter report, utilising the relevant background information pertaining to priority vegetation associations under threat in the settlement, its primary aim is to provide practical recommendations for Board rehabilitation projects for the next 5 years (2002-2007).

This plan is also designed to be intrinsically linked to the Lord Howe Island Board Weed Management Strategic Plan (2002). The Weed Strategy focuses on weeds as the main cause of degradation of core (or intact) bushland areas. This plan focuses on restoring or reconstructing vegetation associations where the main cause of degradation is land clearing.

The method of weed control in rehabilitation sites generally commences as a target weeding approach (predominantly Kikuyu grass). The rehabilitation projects recommended in this plan generally do not address the type of difficult weed management issues faced in the Weed Strategy such as developing priorities within complex weed communities.

A copy of this Plan is included at Appendix E.

2.6 LHI Regional Environmental Study 1985

The LHI Regional Environmental Study was undertaken in 1985 to inform then strategic planning work and the adoption of a Regional Environmental Plan for the island, consistent with the Environmental Planning and Assessment Act 1979. This study was the most comprehensive strategic town planning document that has been prepared to date in respect of Lord Howe Island. The study comprised a number of key focus areas, including heritage, vegetation and landscape.

Relevant to this subject Stage 1 Planning Proposal it has been noted that:

- The island now has a reduced amount of Rural zoned land – this is apparent when comparing the current Zone 1 – Rural land with the 1986 historic zoning map.
- The lagoon foreshore was previously zoned Recreation 3 (c). This Planning Proposal is now seeking to add Recreation back as a permissible use within foreshore areas, as has historically been the case and as reflected in current continuing recreation based land uses in this foreshore area.

Some of the mapping in this early town planning study was not entirely accurate or has not remained accurate overtime. Digital aerial imagery of LHI at 10-cm resolution was subsequently captured using Airborne Digital Sensor (ADS40 Digital Image Acquisition System, Leica Geosystems), and became available in January 2012.

Subsequent studies since this date have been able to access these higher resolution aerial images.

A subsequent Stage 2 LEP amendment may wish to incorporate further aerial studies and a comprehensive review of the LEP and historical provisions.

2.7 Royal Haskoning Coastal Processes Study 1994 and LHI Coastline Hazard Definition and Coastal Management Study 2014

Whilst it is not proposed to amend a foreshore building line or add significant new coastal management provisions, this study confirmed the LHI's exposure to significant ongoing coastal processes and as such it is considered sensible to clarify that the existing definition of 'Environment Protection Works' should include coastal protection work including beach nourishment and the like, which may be required from time to time to manage coastal processes.

2.8 Lord Howe Island Heritage Study 2012

Whilst additional specific heritage items are not proposed to be added to the LEP as part of this Stage 1 review, it is proposed to add a clause requiring consideration of the potential impacts of a development in the vicinity of a heritage item.

This 2012 Community Heritage Study contains a detailed investigation into both the cultural and physical heritage of the island and includes substantial historical background to the development of the island.

2.9 Lord Howe Island Act 1953

Lord Howe Island has its own Act of NSW Parliament. The Lord Howe Island Act 1953 established the LHI Board and set out the wide ranging powers, authorities, duties and functions of the Board.

The Lord Howard Island Act 1953 replaced the earlier appointed Board of Control and reserved all land on the island as the property of the Crown. On the recommendation of the Board, the Secretary of Lands provided direct descendants of those who had held permissive occupancies on LHI since 1913 with perpetual leases on blocks up to 5 acres, and short-term special leases were granted for pastoral and agricultural use. These could be fixed for a period not exceeding ten years, but could be extended on the recommendation of the Board.

The LHI's 2012 Community Heritage study states that:

“Perpetual leases came with conditions which prevented one person holding more than one lease and requiring the leaseholder to be a permanent resident of the Island. A leaseholder could only transfer his lease to a direct descendant on his death through the provision of a will or he could transfer it to outside interests through sale, but only if no islander expressed interest in it. This second clause was the cause of some friction in the community when properties were sold to mainlanders and created division between islanders and non-islanders. Eventually, legislation was enacted in an attempt to maintain the fragile balance between land tenure, the natural environment and the bureaucracy with the passing of the Lord Howe Island Amendment Act 1981. The Act now recognised all settlers who had resided on the island for a period of ten years, which failed to please the descendants of first settlers or those whose career and family situations required extended absences away from the island.

A further amendment to the Act in 2004 authorised the Board to regulate annual rental of perpetual and special leases every three years, subject to advice from the Valuer-General's Office and according to its financial position."

2.10 Lord Howe Island Regional Environmental Plan 1986 and 2005

Together with the 2005 amendments to the Regional Environmental Plan (REP) 1986, the REP was the key statutory planning instrument adopted for LHI and which controlled development within the settlement area, particularly around the central area of the island. The REP was prepared in accordance with the then requirements of the NSW Environmental Planning and Assessment Act 1979. The REP was then subsequently replaced by the Lord Howe Island Local Environmental Plan 2010.

Relevant to this Planning Proposal, it is evident that the 1986 and 2005 REP permitted boatsheds, clubs and recreation areas on LHI within the foreshore area. Clause 14 of the REP 2005 contained the following Recreation zone objectives:

Clause 14 Zone 6 Recreation

(1) The objectives of Zone 6 Recreation are as follows:

- (a) to set aside land for open space,*
- (b) to provide opportunities for the passive and active enjoyment of open space areas,*
- (c) to provide utility services that are essential to the community's needs in a manner that is in sympathy with the World Heritage values of the natural environment of the Island.*

(2) Except as otherwise provided by this plan, development for the purposes of vegetation restoration may be carried out on land within Zone 6 Recreation without the consent of the consent authority.

*(3) Except as otherwise provided by this plan, demolition and **development for the purposes of any of the following may be carried out on land within Zone 6 Recreation only with the consent of the consent authority:***

- (a) boatsheds,***
- (b) clubs,***
- (c) public utility installations,*
- (d) public utility undertakings,*
- (e) recreation areas,***
- (f) roads,*
- (g) telecommunications facilities.*

(4) Except as otherwise provided by this plan, development is prohibited on land within Zone 6 Recreation unless it may be carried out under subclause (2) or (3).

This Planning Proposal's LEP amendment to permit recreation uses within the foreshore is therefore consistent with historical land use activity within the foreshore area. Issues have been identified in respect of more recent development applications for the LHI Golf Club and Aquatic Club, various Boatsheds and the existing children's playground, all of which are now located within Zone 7 – Environment Protection.

2.11 Lord Howe Island Local Environmental Plan 2010

LHI is a unique world heritage listed island. Non-Standard Planning controls have been carefully crafted to ensure retention of native vegetation, landscape quality and the dispersed pattern of settlement, including commercial uses. The LHI LEP 2010 does not follow the NSW Government's Standard LEP Template and it also contains an unusual and specific provision at Clause 8 (2) regarding application of State Environmental Planning Policies (SEPP's) to LHI:

“(2) A state environment planning policy (other than SEPP (Building Sustainability Index: BASIX 2004) made before this Plan takes effect does not apply to the land to which this Plan applies.”

The current LEP goes on to provide at Clause 8 (3) and (4) that:

“(3) A State environmental planning policy made after this Plan takes effect does not apply to the land to which this Plan applies unless the policy expressly provides otherwise.

(4) To avoid doubt, [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) does not apply to the land to which this Plan applies.”

In particular it is noted that the Coastal Management SEPP 2018 and the Exempt and Complying Codes SEPP 2008 do not apply to LHI.

The LEP contains a list of exempt provisions at Schedule 1, some of which are specifically addressed in this Planning Proposal, covering such works as advertisements, internal and external building works, bird aviaries, cabanas, ramps, satellite dishes, shade structures.

The land use zones adopted for the island under the LHI LEP 2010 are:

Zone 1 Rural—coloured light brown and edged in black

Zone 2 Settlement—coloured pink and edged in black

Zone 5 Special Uses—coloured yellow and edged in black

Zone 6 Recreation—coloured light green and edged in black

Zone 7 Environment Protection—coloured orange and edged in black

Zone 8 Permanent Park Preserve—coloured dark green and edged in black

Zone 9 Marine Park—coloured light blue and edged in black

A zone extract of the LEP map is included on the following pages.

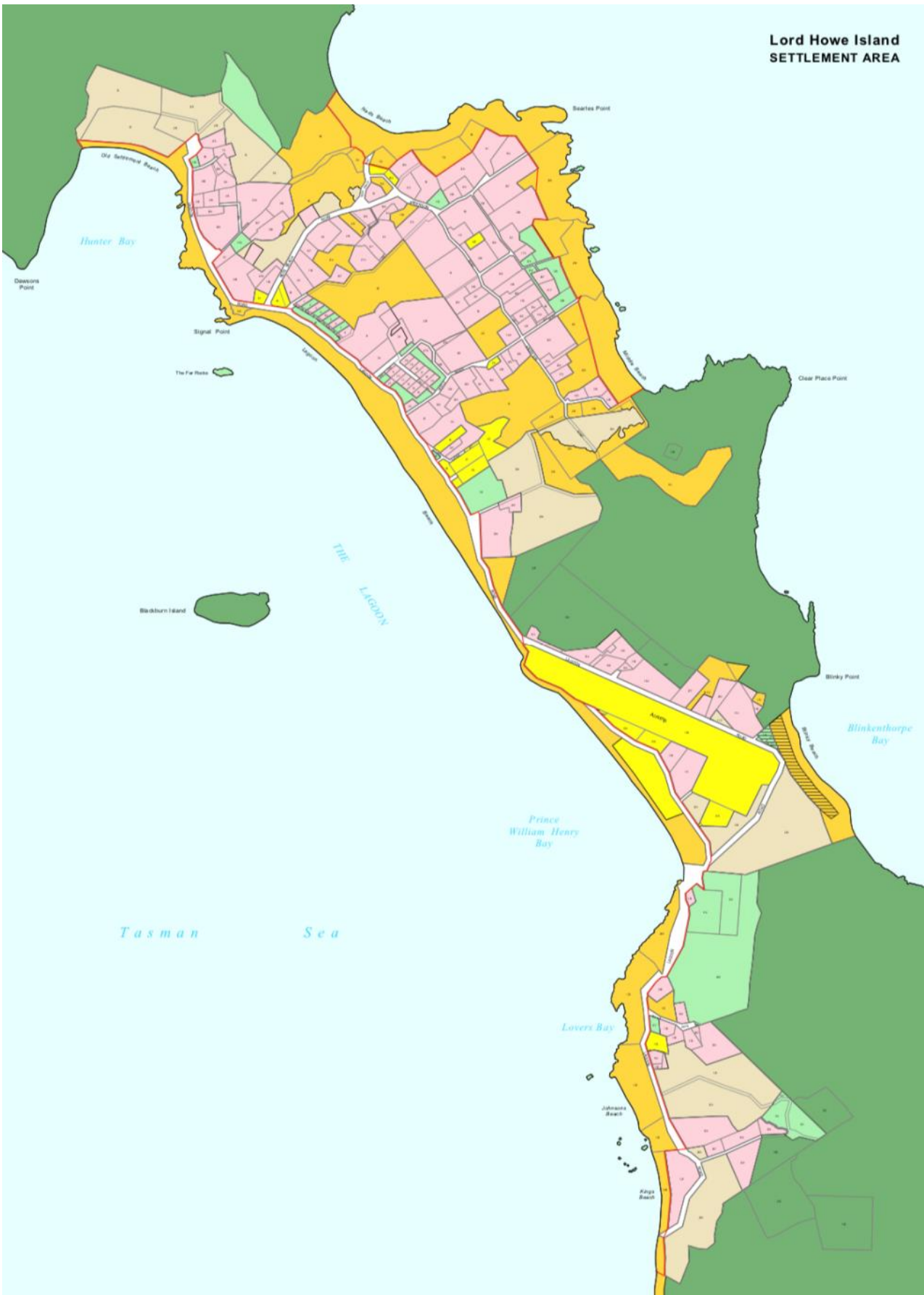
The density and landscaped character of development on LHI is predominantly controlled by Clause 22 of the LEP, which provides that any existing or proposed buildings related to tourist accommodation, staff accommodation and commercial premises on an allotment is not to exceed 15% of the balance of the area of

the allotment remaining after the minimum dwelling area is deducted from the total area of the allotment. Minimum dwelling area is 3,000 m² for a proposed or existing dwelling, or 2,500m² per dwelling in the case of a dual occupancy or multiple dwellings (refer Clause 20 for definitions).

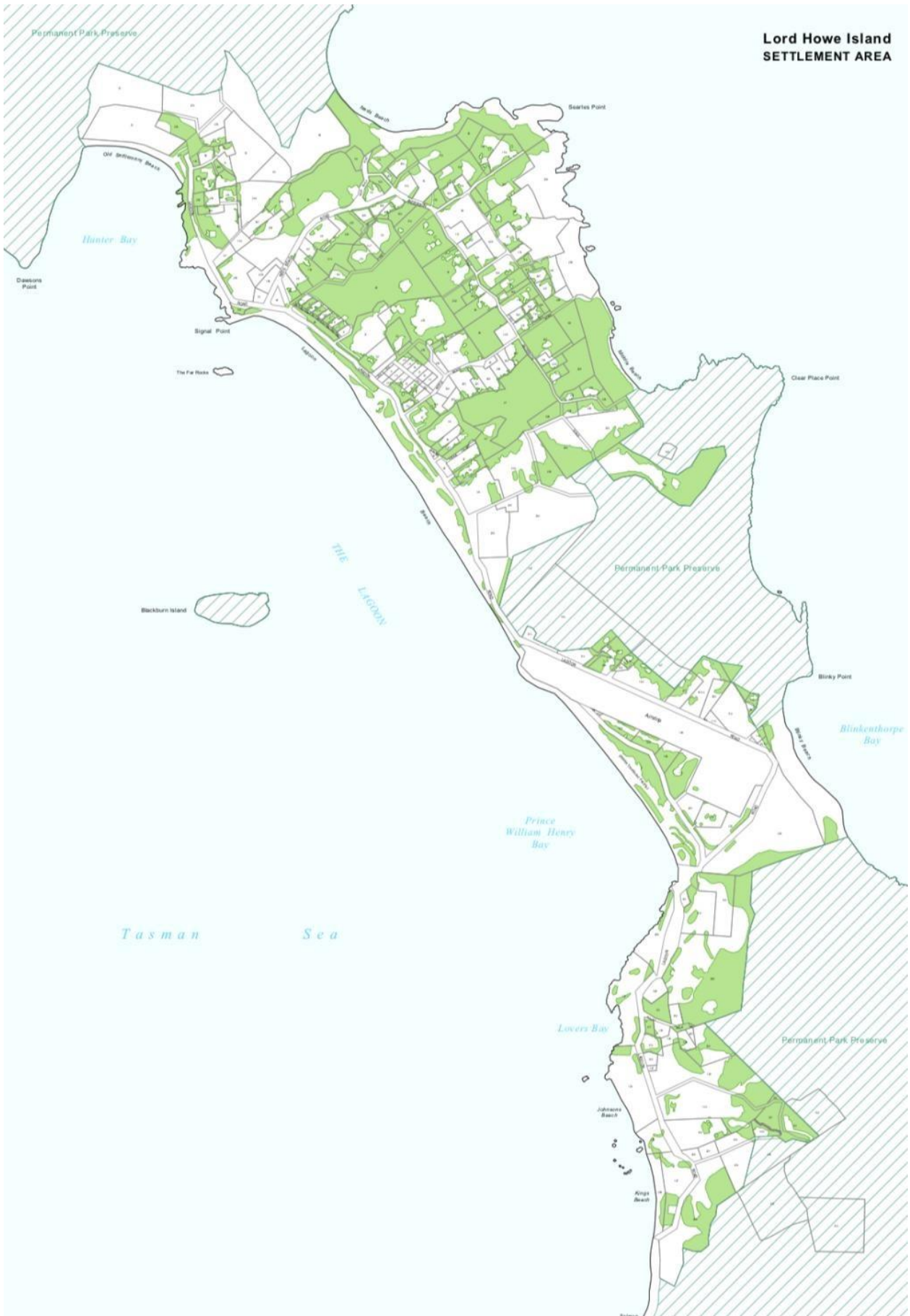
Clause 26 of the LHI LEP 2010 contains an upper limit on the number of new dwellings that can be approved for LHI up to the 28th October 2025, being a total of 25 new dwellings. A dwellings allocation policy has traditionally been relied on by the LHIB to allocate new dwellings to interested parties.

Regarding the number of new dwellings limit in the LEP, the LHI 2012 Community Based Heritage Study noted that: *“In an effort to overcome the problem of insufficient land for the numbers of eligible residents, the Board has struggled for a compromise despite the constraints imposed by planning instruments, the environmental protection of the island and the sustainability of the fragile ecosystem in response to increased pressure on resources. There are currently (in 2012) around 122 leases on Lord Howe Island, of which 83 are occupied by those with lineal descent, 25 by other islanders and non-islanders resident less than 10 years and 14 homes occupied by Government employees...the Board created sufficient land to create 25 new leases. These are to be offered through a ballot process up to the year 2025 but there is no guarantee of a successful outcome for the children of leaseholders. To this day, the machinations of land tenure on Lord Howe Island continue to divide the community.”*

Sheet 3 of the LEP map, being the significant native vegetation map, is another critical town planning control for the island, see map over page. It is prohibited to remove any mapped significant native vegetation on LHI.



Lord Howe Island LEP 2010 Sheet 2 Existing Zoning Plan Extract



Lord Howe Island LEP 2010 Sheet 3 Existing Significant Vegetation Map Extract

Schedule 2 of the LEP contains the current list of heritage items.

Clauses 38, 39 and 40 of the LEP contain the key current heritage provisions related to listed heritage items.

The LHIB is not proposing to add to the current list of identified heritage items in this Stage 1 LEP Review. The items recommended in the 2012 Heritage Study will be considered for inclusion in the Stage 2 Comprehensive LEP Review.

2.12 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 for certain development applications on LHI.

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 (being for listed heritage items).

Referral of applications involving heritage items is therefore required to the NSW Heritage Division.

2.13 Environmental Planning & Assessment Act 1979

The Lord Howe Island Board (LHIB), in accordance with Section 3.32 of the Environmental Planning and Assessment Act 1979, is considered to be the 'planning proposal authority' in respect of the proposed revised planning instrument.

The proposed instrument (LEP) is to apply to an area that is not within a local government area.

3.0 The Planning Proposal

Various relatively minor amendments to the existing provisions of the LHI LEP 2010 are proposed, being:

ISSUE No.	Description
1.	Deletion of the current dual occupancy restriction related to occupation by family members
2.	Modification of the reference to the LHI Vegetation Rehabilitation Plan to enable consideration of future plan revisions
3.	Add a new clause requiring consideration of impacts of development that is in the vicinity of a heritage item
4.	Make amendments related to definitions and associated LEP zoning provisions
5.	Amend the exempt development provisions for roof mounted solar energy systems and fowl and poultry houses
6.	Add Recreation Area and Boatsheds as permissible uses in the Zone 7 – Environment Protection and associated LEP references and boatshed definition modification
7.	Site 1 - rezoning amendment and associated map change
8.	Site 2 - rezoning amendment and associated map change
9.	Site 3 - rezoning amendment and associated map change
10.	Site 4 - rezoning amendment and associated map change
11.	Site 5 - rezoning amendment and associated map change
12.	Site 6 - rezoning amendment and associated map change
13.	Site 7 - rezoning amendment and associated map change
14.	Site 8 – Add Schedule 4 – additional permitted use and associated map change

Each of the above 14 planning issues are addressed in turn in Sections 3.1 to Section 3.14 following.

The aerial map following shows the location of the 8 proposed site specific amendments.

This Planning Proposal identifies eight (8) sites to be rezoned as above. The sites are identified below.



Above: Map showing the location of the 8 proposed rezoning sites on the island

3.1 Issue 1 - Occupancy of dual occupancy dwellings by non-family members

Clause 24(1)(c) of LEP 2010 requires that a new dual occupancy dwelling is occupied by the “*children, siblings, parents, grandparents or grandchildren of those proposing to reside in the existing dwelling*”. It is proposed that the existing clause 24(1)(c) be deleted from LEP 2010.

The removal of this restriction is consistent with the Handley Review recommendations and will increase housing opportunities on the island. Under this Planning Proposal both existing and any new approved dual occupancies could become dwellings for any Islanders, children or relatives of Islanders, or others at the discretion of the property owner.

The removal of the occupancy control in the LEP 2010 is a clear recommendation of the Handley LHI Review, which findings were released in 2015 and which is has also been actively supported by the LHIB. The Handley Review is discussed in more detail at Section 2 (Part 2.1.2) of this Planning Proposal.

Both the LHIB and Islanders are committed to implementing key agreed recommendations from the Handley Review and removal of the current LEP restriction for dual occupancies is one of these agreed improvements.

3.2 Issue 2 - Vegetation Restoration – Clause 31

Clause 31 of LEP 2010 requires vegetation restoration to be carried out in accordance with the Lord Howe Island Board Vegetation Rehabilitation Plan, as adopted by the Board in March 2003.

The Board is currently reviewing this document and it is proposed to remove reference to the March 2003 date.

This amendment will ensure that the Board does not need to update the LEP every time it reviews its Vegetation Rehabilitation Plan.

3.3 Issue 3 – Development in vicinity of a Heritage Item

Currently Division 3 (Clauses 39 - 40) of LEP 2010 provides controls for development, including subdivision, on the land which contains a heritage item. However, the impact of development on a heritage item is not a formal matter for consideration.

A new clause under Division 3 of the Lord Howe Island LEP 2010 is proposed to be introduced to:

- *Require the consent authority to consider the impact of a proposed development on any heritage items in the vicinity of the proposed development.*
- *The provision does not need to specify the extent of “vicinity”.*

The provision should not require a Heritage Management document as this is considered to be too onerous for the Island Community.

A complimentary DCP provision is not required.

The LHI Board commissioned a comprehensive Community based Heritage Study by Musescape Pty Ltd in 2012 which will continue to inform assessment of heritage items. Additionally, conservation management plans have been prepared for key heritage items such as the Lagoon Boatsheds and which will also continue to inform heritage assessment and decision making on the Island.

Delegation from the Minister/Heritage Office are in place and this proposed amendment will not impact on those delegations.

3.4 Issue 4 – Add or Amend Dictionary Definition of Terms

The following amendments and additions to existing definitions are proposed for the LEP 2010:

- **Part A. Amend Definitions**

Home Business to permit a maximum 2 employees and to insert a new provision (d), being:

Under Dictionary - **Home Business**

(d) the home business does not interfere with local amenity or environmental quality.

The proposed additional provision (d) above is desired to protect the island from home businesses that may otherwise erode local amenity or environmental quality.

Environment Protection Works specifically include reference to Coastal Protection Works, including beach nourishment, by:

- Add 'Coastal Protection works undertaken by the Board' to Clause 10(1) as a form of development that does not require consent.
- Amend the Clause 10(3) definition of Part C to add the Coastal Management Act 2016 definition of coastal protection works being:

coastal protection works means:

- (a) beach nourishment activities or works, and
- (b) activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters, including (but not limited to) seawalls, revetments and groynes.

Under the current Clause 10(3) **environmental protection works** are defined as any works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes vegetation restoration work, wetland protection works, erosion protection works, dune protection works and the like.

- **Part B. Insert two new Dictionary Definitions, being:**

Under Dictionary – Centre Based Child Care Facility

Adopting the Standard Instrument LEP definition.

centre-based child care facility means:

- (a) a building or place used for the education and care of children that provides any one or more of the following:
 - (i) long day care,
 - (ii) occasional child care,
 - (iii) out-of-school-hours care (including vacation care),
 - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)),

Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)) is provided. but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Under Dictionary – Home Based Child Care Centre

Adopting the Standard Instrument LEP definition.

Home Based Child Care Centre

Means:

- (a) a family day care residence (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or

Note. A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the [Children \(Education and Care Services\) National Law \(NSW\)](#).

- (b) a dwelling used for the purposes of a home based education and care service (within the meaning of the [Children \(Education and Care Services\) Supplementary Provisions Act 2011](#)), at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of

whom are children who do not ordinarily attend school.

- **Part C. Child Care Centres.**

- i. Permit Centre Based Child Care Centre in Zone 5 – Special Uses by amendment of Clause 15 (3), by adding new use (p) Centre Based Child Care Facility

It is appropriate that centre based child care facilities be permitted with consent in Zone 5 Special uses. Zone 5 is a closed zone. Other permissible land uses are similar to child care centres.

The reasons for the above amendments are:

- To increase to 2, the number of staff able to be employed in association with a Home business, whilst protecting residential amenity and environmental quality.
- Ensure all kinds of coastal protection works can reasonably be undertaken pursuant to Clause 10(3) of the LHI LEP 2010 and to permit the LHIB to undertake coastal protection works as exempt development.
- Provide new provisions related to both Home Based and Centre Based Child Care.

3.5 Issue 5 – Add 2 Additional Exempt Development Items

Schedule I of the LHI LEP 2010 identifies Exempt Development.

Through assessment of various development applications the Board has identified the following additional types of development which it considers is appropriate to include as Exempt Development:

- Roof mounted solar energy systems
- Foul and poultry houses

Roof mounted solar energy systems

The Board has adopted a target that 80 percent of the Island's power is to come from renewable sources (solar and wind) by 2019. As well as demonstrating in a practical way the Island's commitment to protecting the environment, achieving this target will significantly reduce the island's reliance on diesel fuel for power. It is anticipated that including solar energy systems as exempt development will promote the uptake of energy efficient systems.

It is desired to allow solar energy systems that form part of the LHIB's 'Renewable Energy Road Map' to be listed as exempt development under Schedule I of the LEP. Any exemption for such systems will need to ensure the proposed systems do not result in adverse visual impacts on the island's high quality landscape and visual amenity and are consistent with the island's technical requirements for solar systems.

No roof mounted solar energy system should be allowed to project at any point past the edge of any roof it is mounted on neither should roof mounted solar systems be permitted to change the vertical pitch of the roof, by more than 0.5m above the existing roof, as measured from the point of the attachment.

Additionally, exempt roof mounted solar energy systems are not to be permitted on any Schedule 2 listed heritage item.

Under SEPP (Infrastructure) 2007, which does not apply to Lord Howe Island, roof mounted solar energy systems are exempt from development approval, being listed in Part 3, Division 4, Clause 39 (3) of the SEPP of that instrument.

It is proposed to use permit roof mounted solar energy systems as exempt development, as defined in the SEPP, but with the exceptions of Part 3, Division 4, Clause 39 (3) (a) (e), (f) (ii), (f) ((iii) A, part (f) ((iii) B, (f)(iv) and (f)(v). The reasons for not adopting some of the SEPP provisions are that no roof overhang/protrusions are considered appropriate on Lord Howe Island, due to world heritage listing and to maintain the overall aesthetic and environmental quality of the island's built form.

Fowl and Poultry Houses

Whilst “bird aviary” is included as exempt development in Schedule 1 of LEP 2010, it is not clear that this includes chicken or poultry pens.

“Fowl and poultry houses” are included as an exempt development in SEPP (Exempt and Complying Development Codes) 2008 which does not apply to Lord Howe Island.

It is proposed to add the separate term “Fowl and poultry houses” to the Schedule 1 Exempt Development list.

LHIB approval is required to bring (import) poultry and birds to LHI under clause 62 (2) of the *Lord Howe Island Regulation 2014* (LHI Regulation). The LHIB has an Avian Importation Policy 2011 that must be complied with as a separate matter to the provisions of the LEP 2010.

The LHIB’s policy requirements for poultry include:

- Approval to import and keep poultry on LHI will be subject to the owner of the poultry ensuring that this policy is complied with.
- A failure to comply with the policy will be deemed to be a breach of the conditions of the approval to import and keep poultry and may, at the discretion of the LHIB, result in approval to keep poultry on LHI being withdrawn.
- Only day old chicks and fertile eggs purchased from (NSW Department of Primary Industry) certified disease free properties will be approved for importation to LHI.
- Under clause 65 of the LHI Regulation a person who is granted approval to import poultry to LHI must not keep any poultry that the person owns other than on the land that the person lawfully occupies under the *Lord Howe Island Act 1953* (LHI Act 1953).
- Where approval is granted to import poultry to LHI the importer, under Section 65 (b) of the LHI Regulation must not permit any such poultry to stray from the land the person lawfully occupies under the LHI Act 1953.
- Poultry must be of a species approved by the LHIB. The following breeds have an on-going approval for importation: a) Chicken b) Turkey
- Poultry must be securely penned. Turkeys must be penned at all times with no free-ranging permitted.

Given the LHIB’s strict control over the number of poultry on the island through the LHI Regulation and their Avian Policy, it is not considered necessary to restrict the number of poultry as part of an exempt provision.

It is however considered sensible to adopt the same restrictions on Fowl and Poultry houses as bird aviaries, being:

- (a) Must be erected on land within Zone 1 Rural or Zone 2 Settlement.
- (b) Maximum area of 10 square metres.
- (c) Maximum height of 2.4 metres.
- (d) Must not be erected in any location visible at street level.
- (e) No more than one of each per allotment.
- (f) No internal plumbing.
- (g) Roof water must be disposed of without causing nuisance to adjoining premises.
- (h) Must not be used for dwelling or for commercial premises.

3.6 Issue 6 – Add Recreation Area and Boatsheds as a Permissible Use under Clause 17(3) and Modify the definition of Boatshed to include community and private uses

It is proposed to insert Recreation Area and Boatsheds as new uses permitted only with consent under Clause 17(3) in the Environment Protection zone, to better reflect both existing and desired future recreation and water based land uses and activities.

(3) (i) Recreation Area

(3) (j) Boatsheds

It is also proposed to modify the definition of Boatshed under the LHI LEP 2010 to include community and private uses, to reflect the existing range of boatshed uses on the island. The current definition of boatshed is:

boatshed means a building or place used for marine-based commercial uses and the maintenance and storage of boats and related materials, but that is not intended for, nor capable of, habitation.

Zone 7 – Environment Protection extends along the Unidentified Crown Land Reserve No.12, Lagoon Road, Lord Howe Island, being the lagoon foreshore. The island's western side foreshore Environmental Protection zoned land includes part of a golf course, a children's playground and public toilets, a community aquatic club boatshed, which has been granted a permissive occupancy by the LHIB, as well as heritage listed boatsheds along the lagoon foreshore spread between the aquatic club and the foreshore immediately adjacent to the intersection of Neds Beach Rd and Lagoon Rd.

LHI's group of functional boatsheds within the Lagoon Foreshore demonstrates the historic and current reliance of Lord Howe Islanders on water transport and water based commercial and non-commercial land uses. This significance is recognised by the heritage listing of the current boatsheds that are spread along the western side Lagoon foreshore off Lagoon Road. There is also a non-heritage listed shed housing snorkelling gear for hire via an honesty box system on the eastern side of the island at Neds Beach, at the eastern end of Neds Beach Road. And a community based Aquatic Club boatshed on the Lagoon side foreshore.

A number of these boatsheds collectively have an ongoing functional tourist/commercial marine based tourism use and enable islanders to offer activities to tourists such as boat tours, fishing charters, snorkelling and diving expeditions. Other existing boat sheds are of personal value for non-commercial uses to islander families and/or for communal uses. These boatsheds are technically a non-conforming land use in the Environmental Protection zone, since the rezoning of the foreshore of the island from Recreation to Environmental Protection.

LHI's foreshore based Environmental Protection Zone has historically been used for various recreation purposes, both commercially, on a communal basis and privately. It is proposed to add recreation area and boatsheds as additional permitted uses within Zone 7 of the LHI LEP 2010 to address the issue of current non-conforming uses within these areas, for example, the existing Playground fronting Lagoon Road, and that part of the Golf Course positioned on the western side of Lagoon Road.

Adding these uses is preferred over the alternative of pursuing a rezoning of the entire lagoon foreshore to Zone 6 - Recreation and has the additional benefit of not permitting other uses within a Recreation zone that may not be suitable within the foreshore areas.

Modifying the definition of boatshed to include community based and private use will also resolve existing non-conforming uses with the current boatshed definition., which only contemplates commercial marine based uses.

Any new recreation areas and boatsheds will require LHIB consent and assessment of the relevant issues prior to determination. The proposed amendments will also ensure that any new proposal for development on the foreshore land would be assessed against the 'Environment Protection' zone objectives, which are the more onerous environmental protections.

Section 19 of the Lord Howe Island Act 1953 allows the Minister on the recommendation of the LHIB to reserve or dedicate crown lands in such manner as may seem best for the public interest, for any public purpose. The LHIB has confirmed that the land west of the foreshore building line of the Lagoon Reserve has been previously reserved for recreation purposes pursuant to this clause. This rezoning proposal is consistent with this provision of the LHI Act 1953.

Lord Howe Island has a Foreshore Building Line as an additional foreshore planning control. The Foreshore Building Line runs along the eastern side of Lagoon Road (which is on the western side of the island) from Kings Beach in the southern part of the island up to Old Settlement Beach in the north and also along the eastern side of the island from Middle Beach north to Neds Beach.

Clause 35 (1) of the LHI LEP 2010 prohibits development in the foreshore area, unless the development meets the requirements of Clause 35 of LEP 2010:

- (a) The proposed development is in the public interest and does not significantly reduce public access to the foreshore, and*
- (b) The bulk and scale of the proposed development will not detract from the visual amenity of the foreshore area, and*
- (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*

- (d) *There is a demonstrated Island community-based, or marine-based, business need for it, and*
- (e) *The proposed development will not be adversely affected by, or adversely affect, coastal processes, and*
- (f) *In the case of proposed development involving the erection of a structure—the purpose of that structure could not practicably be fulfilled by an existing structure, and*
- (g) *In the case of development proposed to be carried out on land that is also within Zone 9 Marine Park—the proposed development is not inconsistent with any advice about the development that is provided to the consent authority by the Marine Parks Authority.*



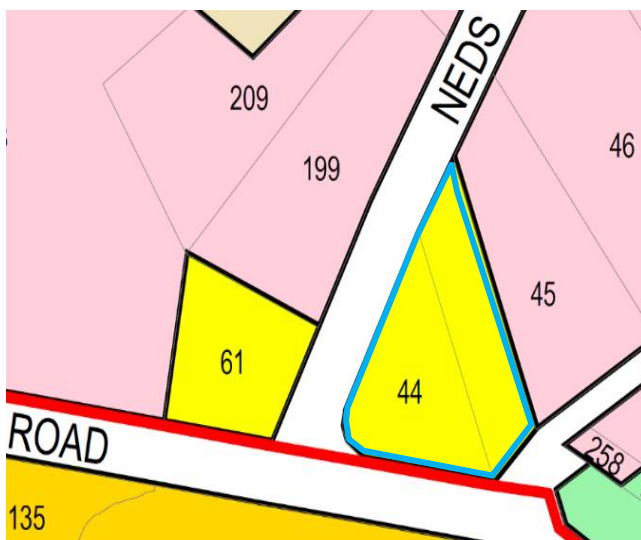
Existing Commercially Used Boatsheds



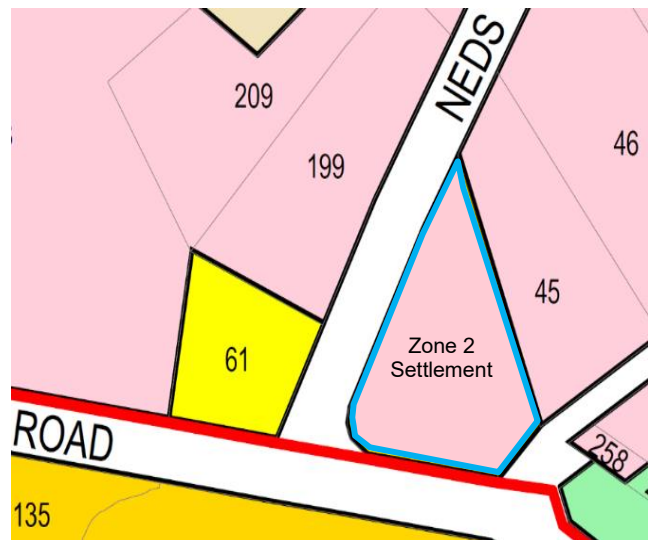
Existing privately used Boatsheds

3.7 Issue 7 - Site 1: Rezone from 5 - Special Uses to 2 -Settlement zone

Property Description	Lot 44 in DP 757515 and Part Ned’s Beach Road and Lagoon Road Crown Road Reserve
Site Area	2,240m ² – being Portion 44 excluding the adjacent unformed crown road
Current Use	Commercial uses under lease with the LHIB including LHI Co-operative, Beach Boutique, Post Office, Marine Parks Office and possible other commercial use. Until recently part of the site was also used to generate electricity by way of a diesel generated Powerhouse, in a timber building, now demolished.
Current Zone	5 – Special Uses
Proposed Zone	2 – Settlement
Reason	To reflect current use (not being public utility undertakings) and to provide for the maximum use of the site



Current 5 Special Uses zoning map (site shown outlined in blue)



Proposed 2 Settlement zoning map (site shown outlined in blue)

The Settlement zone on LHI is the primary zone for commercial, retail and residential uses on the island.

Whilst the subject site has in the past been used to accommodate a noisy diesel generated power station, those times are now thankfully past and new opportunities are being pursued for the site, all of which rely on a rezoning to permit commercial and retail uses, including within the powerhouse electrical workshops which premises are intended for an adaptive re-use.

In September 2014, the Board adopted a preferred concept plan for the precinct at the intersection of Lagoon Rd and Anderson Rd including the area occupied by the former powerhouse and electrical workshop building.

This involved the demolition and remediation of the powerhouse building, relocation of the transformer, creation of a landscaped open space and the relocation of the Post Office to the former electrical workshop building. This rezoning reflects the outcomes of that planning process and the LHIB's motivation to see this area continue to be developed as an attractive, vibrant community, commercial and retail island hub.

The only other commercial spaces on the island are the LHIB owned commercial premises, for example Thompson Store and Surf Shop, fronting Neds Beach Road, Joys Shop fronting Middle Beach Road, the Top Shop off Muttonbird Drive and the LHIB Liquor Store fronting Bowker Avenue, which is part of the LHIB office administration area.

The proposed reduction in Special Use land is needed in order to facilitate Community and Board expectations for the subject site.

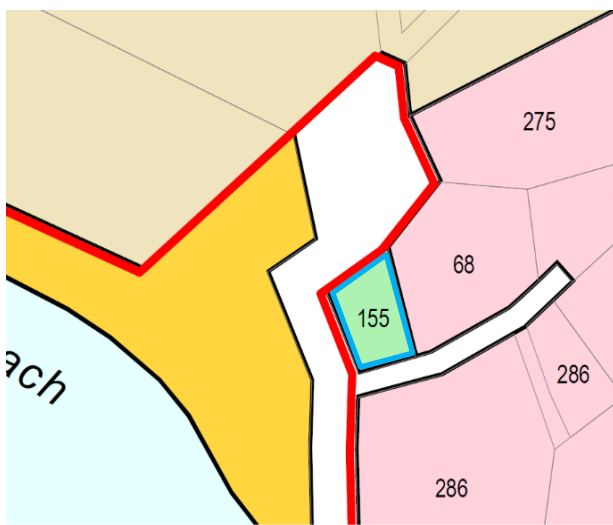
Whilst the proposed recreation component of the site would suit a recreation zoning, a recreation zoning will not suit the other existing and desired uses for the site, which are retail and commercial in nature. ie Australia Post's relocation to the electrical workshop building on site and an adaptive re-use of the existing post office site. Therefore, an overall change to Zone 2 Settlement is preferred.



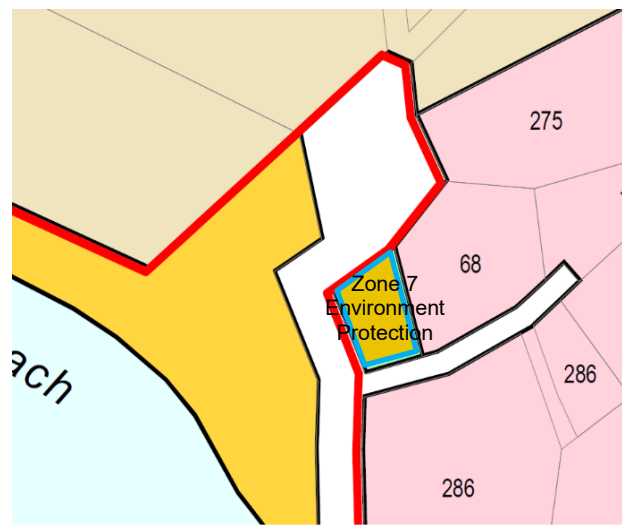
View of LHI Lagoon from vicinity of Lot 44

3.8 Issue 8 - Site 2 - Rezone from 6 – Recreation to 7 – Environment Protection

Property Description	Lot 155 in DP 757515
Site Area	1,125m ²
Current Use	Vacant Crown Land, access for Milky Way Apartments
Current Zone	6 – Recreation
Proposed Zone	7 – Environmental Protection
Reason	To reflect current use



Current 6 Recreation Zoning map
(site shown in blue)



Proposed 7 Environment Protection zoning map
(site shown in blue)

This site contains predominately native vegetation with the exception of a mature Norfolk Island Pine and the existing formed road, which is permitted within the proposed Zone 7 – Environmental Protection.

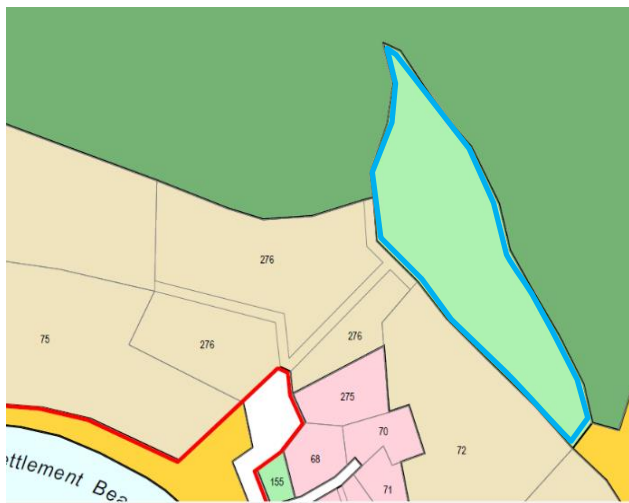
The subject site is not used as recreational land. The site is heavily vegetated and comprises predominantly significant native vegetation apart from the existing formed road. For ease of mapping it is proposed to rezone the whole lot Zone 7 – Environment Protection, rather than delineate a proposed unzoned portion for the existing road. Roads are permitted within Zone 7.



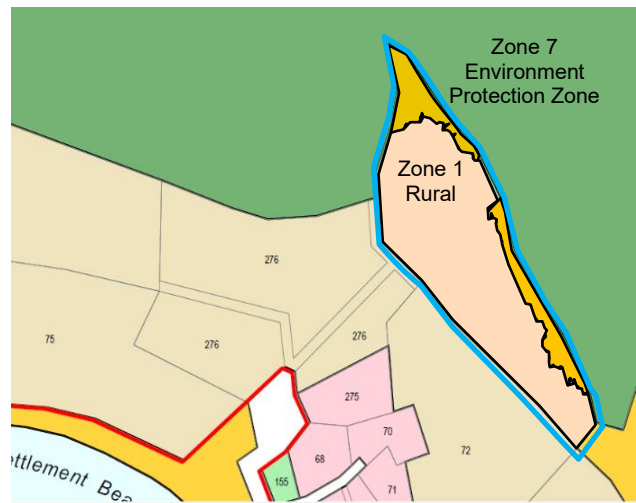
Existing Aerial of site 2

3.9 Issue 9 - Site 3: Rezone from 6 – Recreation to Part 7 – Environment Protection and Part 1 – Rural

Property Description	Part Lot 66 in DP 757515
Site Area	6,300m ²
Current Use	Environmental plantings and grazing
Current Zone	6 – Recreation
Proposed Zone	Part Zone 7 – Environment Protection (northern section) & Part Zone 1 - Rural (remainder)
Reason	To reflect current and ongoing uses, consistent with immediately adjoining land



Current 6 Recreation site zoning (site outlined in blue)



Proposed part 7 Environment Protection and 1 Rural zoning map (site shown outlined in blue)

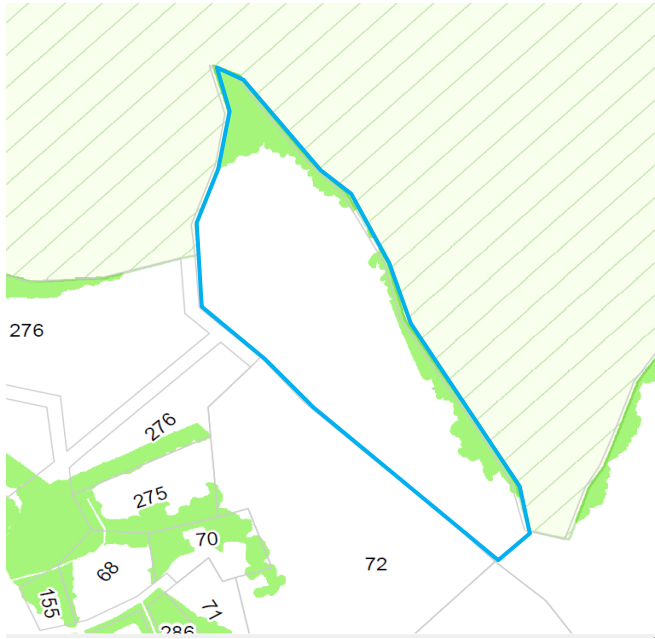
The northern part of the site is identified as a priority site for native revegetation works as it is immediately adjacent to the LHI Permanent Park Preserve and provides core nesting habitat for the threatened sooty tern. The southern part of the site is used for grazing and which is valuable as a continuing rural land use.



Above: View of subject site, showing forest edge and existing rural grazing land in the central northern section of the island, near Milky Way Apartments

As evidenced in the above photo, the site has never been utilised for recreation purposes, being a valuable ecological and rural resource.

The proposed Zone 7 boundary for the Environmental Protection zone is the existing updated significant native vegetation map for the site.



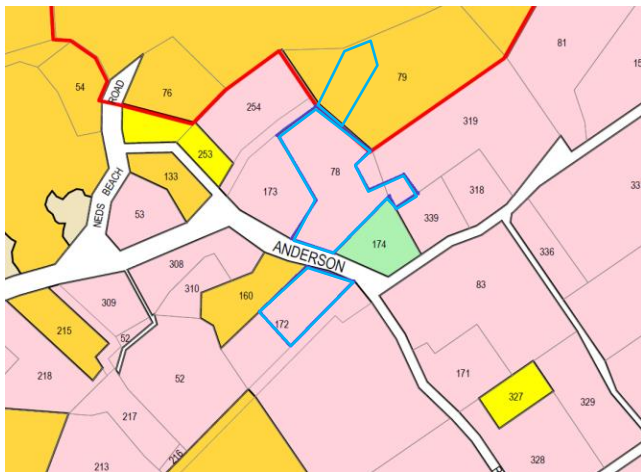
Existing LHI LEP 2010 Significant Native Vegetation (SNV) Mapping extract for site 3



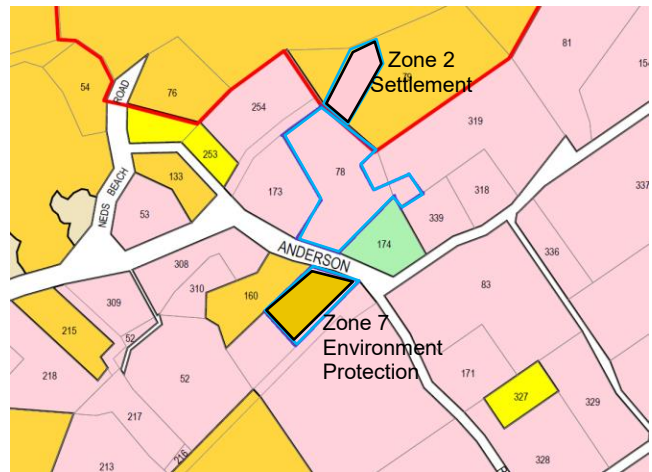
Existing aerial of site 3

3.10 Issue 10 – Site 4: Owen’s Land Swap

Property Description	Part Lot 10 in DP 1202580 and Part Lot 79 in DP 757515
Site Area	Approximately 3,000m ² (Part Lot 79 in DP 757515) 3,162m ² (Part Lot 10 in DP 1202580)
Current Use	Environmental plantings and garden (Part Lot 79 in DP 757515) and mapped significant native vegetation (Part Lot 10 in DP 1202580)
Current Zone	2 – Settlement (Part Lot 10 in DP 1202580) 7 – Environmental Protection (Part Lot 79 in DP 757515)
Proposed Zone	7 – Environmental Protection (Part Lot 10 in DP 1202580) 2 – Settlement (Part Lot 79 in DP 757515)
Reason	To reflect terms of proposed land swap with Owens, as per Resolution of the LHIB in November 2017 and to conserve high value mapped significant native vegetation



Current 2 Settlement and 7 Environment Protection site zoning (site outlined in blue)



Proposed 2 Settlement and 7 Environment Protection site zoning (site outlined in blue)

At the November 2017 LHIB meeting it was resolved to undertake a land swap with islander Diane Owens to achieve the conservation of a significant parcel of land comprising high quality mapped significant native vegetation.

The proposed rezoning for Site 4 involves two lots, being:

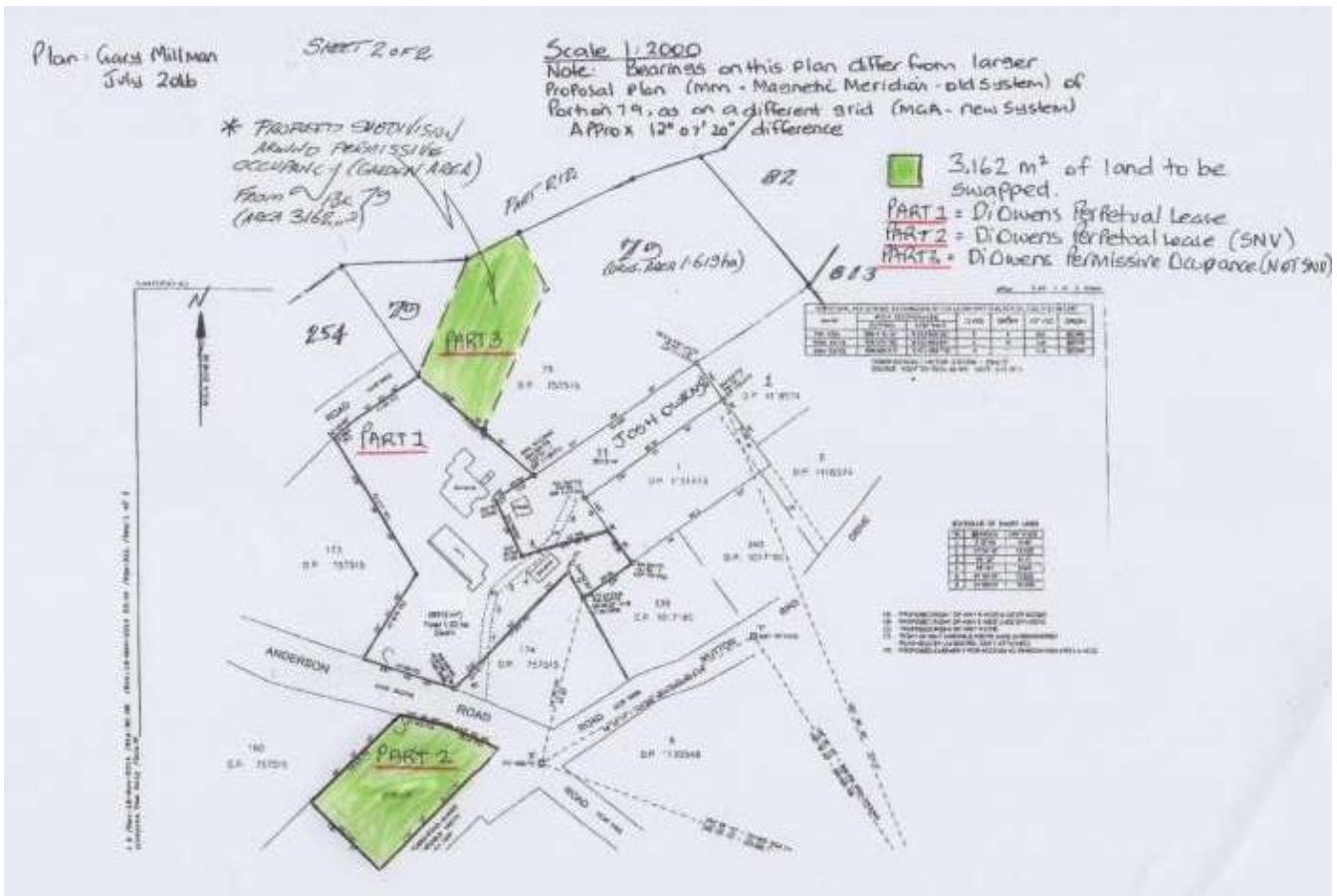
- Lot 1 in DP 1202580, currently zoned Settlement and proposed zone Environment Protection
- Part Lot 79 in DP 757515, currently zoned Environment Protection and proposed zone Settlement

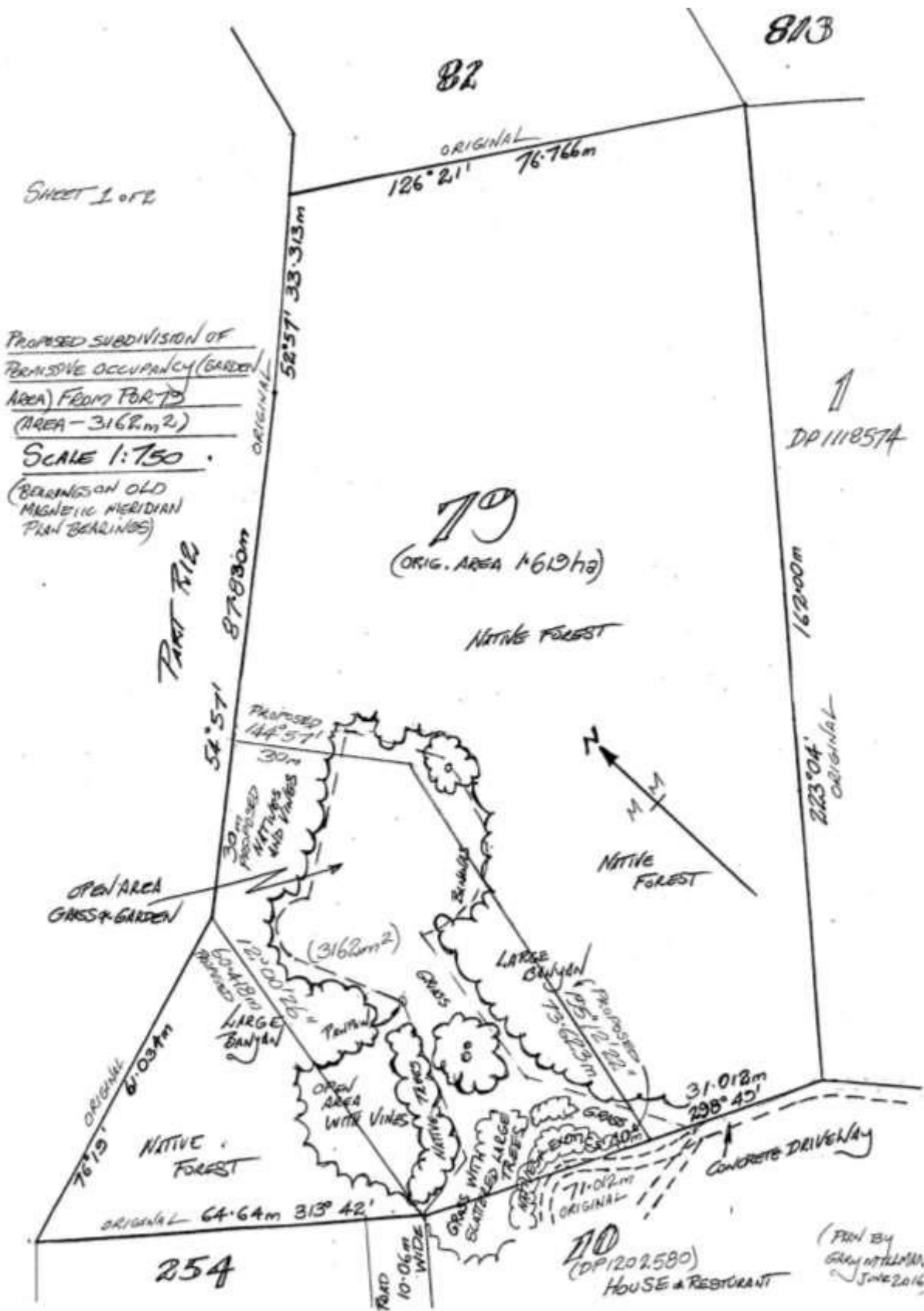
Lot 1 is mapped 100% Significant Native Vegetation (SNV) under the LHI LEP 2010 and is physically separated from the bulk of Mrs Owens’ Perpetual lease by Anderson Road. While the area’s zoning could permit development, environmental constraints preclude any form of building on this lot.

The majority of Lot (portion) 79 is mapped SNV under the LEP. The zoning of portion 79 precludes use of the area for residential or commercial purposes, however the physical characteristics of the cleared garden area on this site would not preclude consideration of building development if that part of portion 79 were appropriately zoned.

At the November 2017 Board meeting it was resolved that:

1. The Board support Mrs Owens’ “Proposal I” involving rezoning of approximately 3,000 sqm of her current Permissive Occupancy (Garden) area, part portion 79, and exchange of the rezoned area for Part 10, DPI202580 with subsequent rezoning of Part 10,
3. The Board include “Proposal I” in the draft Planning Proposal for phase I review of the Lord Howe Island Local Environment Plan 2014 currently under discussion with the Department of Planning and Environment, and
4. In implementing Proposal I, steps be taken to ensure that sufficient land is kept available to meet the future needs of the Lord Howe Island Walking Track Strategy.



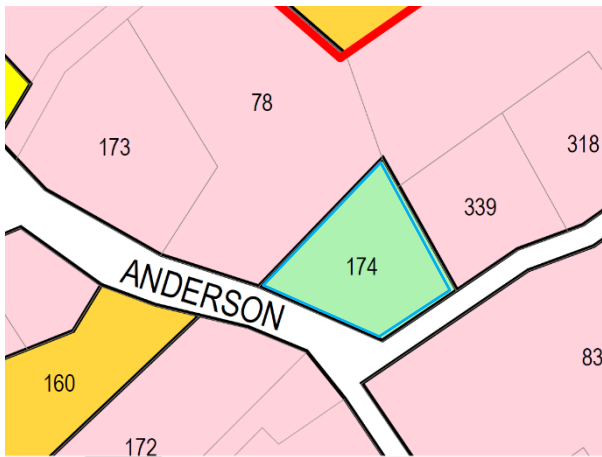




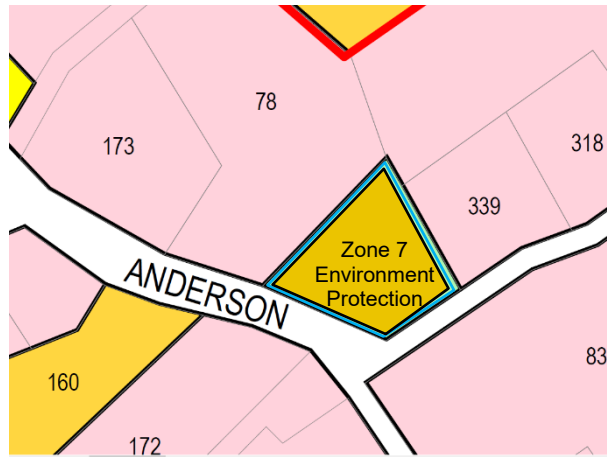
Existing aerial of Site 4 with site highlighted in blue

3.11 Issue 11 - Site 5: Rezone from 6 – Recreation to Part 7 – Environmental Protection

Property Description	Lot 174 in DP 757515
Site Area	3,457m ²
Current Use	Vacant Crown Land with easement of variable width for access to Lot 10 DPI202580 (Lorhiti Apartments)
Current Zone	6 – Recreation
Proposed Zone	7 – Environmental Protection
Reason	To appropriately protect this important threatened species habitat



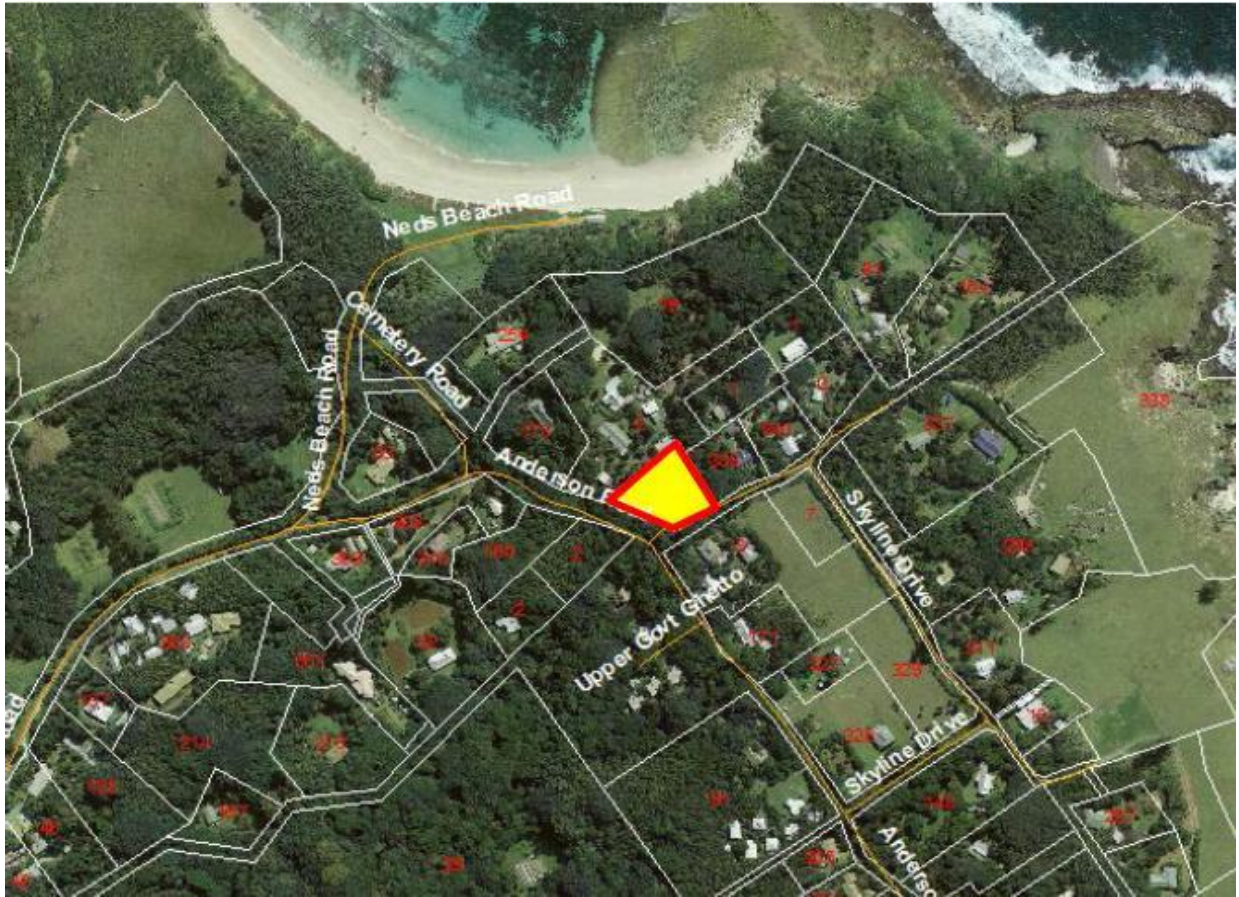
Current 6 Recreation zoning
(site outlined in blue)



Proposed 7 Environmental Protection
(site outlined in blue)

The site is identified as core Flesh-footed Shearwater and LHI Placostylus habitat. The entire allotment is mapped as significant native vegetation under the LHI Local Environmental Plan 2010. The entire site is therefore proposed to be zoned Environmental Protection. It is the view of the LHIB that the site has never been used for any recreation purpose.

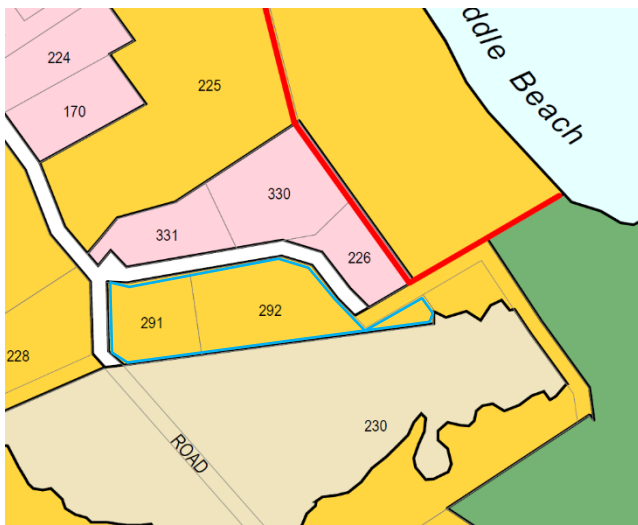
There is a disused road reserve on the site but this is not required for access to the adjacent Lorhiti tourist accommodation. Access to Lorhiti is from the established existing crossover point to Anderson Road.



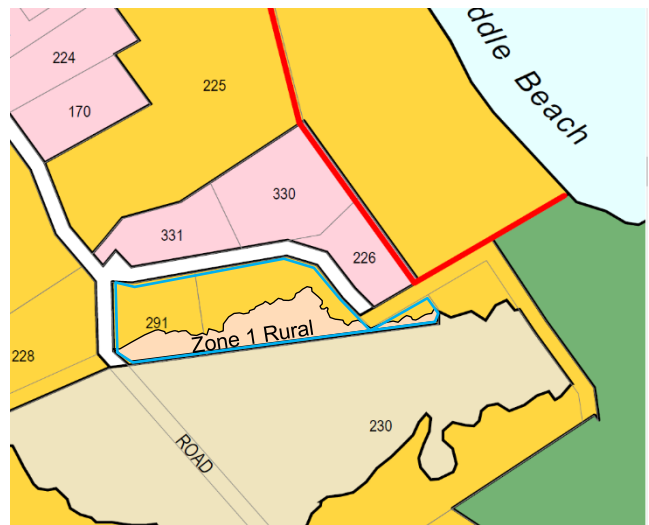
Site context map (site shown in yellow)

3.12 Issue 12 - Site 6: Rezone from 7 - Environment Protection to I – Rural

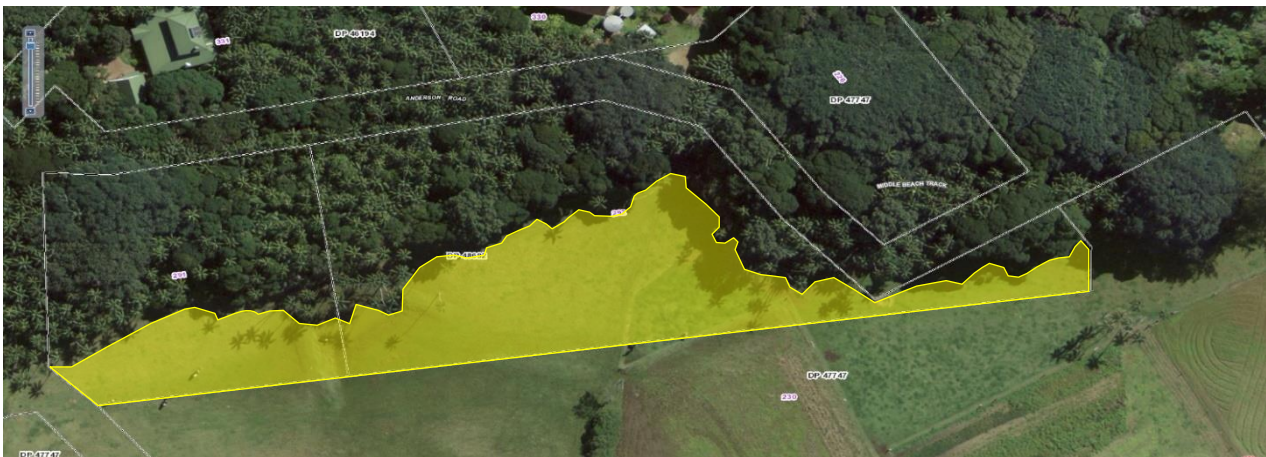
Property Description	Part Lot 291 and Part Lot 292 in DP 48692
Site Area	Approximately 3,300m ²
Current Use	Agriculture including dairy
Current Zone	7 – Environment Protection
Proposed Zone	I – Rural
Reason	To reflect current and existing use



Current 7 Environmental Protection zoning (site outlined in blue)



Proposed I Rural zoning (site outlined in blue)



Detail context map site outlined in yellow

It is proposed to rezone an existing cleared Environmental Protection zoned area to zone I – Rural, to include this area in to the existing adjacent rural zone which reflect the current and historic rural land use. The rezoning of this part of the subject portions involves cleared land only and which does not meet the

3.13 Issue 13 - Site 7: Rezone from 7- Environment Protection to I – Rural

Property Description	Lot 110 in DP 757515
Site Area	4,250m ²
Current Use	Vacant Crown Land
Current Zone	7 – Environment Protection
Proposed Zone	I – Rural
Reason	<ul style="list-style-type: none"> ▪ In January 2008, the Board approved the 2 lot subdivision of Lot 110 to create a Category B allotment and a residue allotment. ▪ Lot 110 was formerly held under special lease for agricultural purposes. The southern part of the residue allotment is cleared and it is not appropriate that this be zoned environmental protection.



Current 7 Environmental Protection zoning (site outlined in blue)



Proposed I Rural zoning (site outlined in blue)

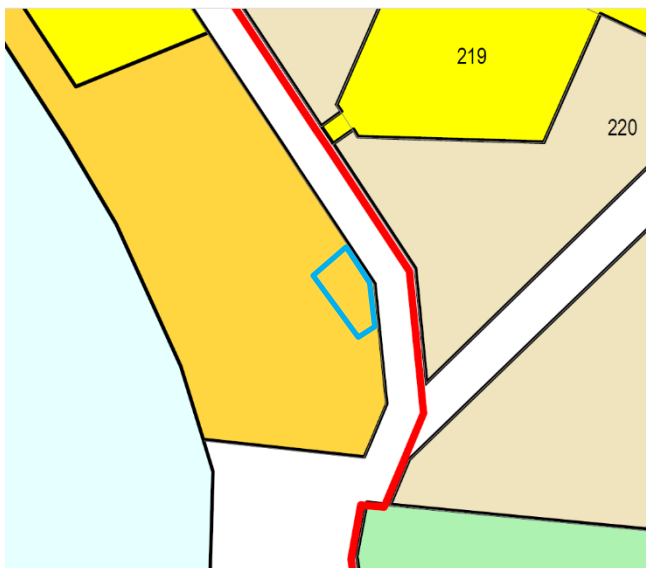
The proposed rezoning is subject to the response of the NSW Government to the review of land allocation and tenure arrangements recently undertaken by the Hon. Ken Handley.



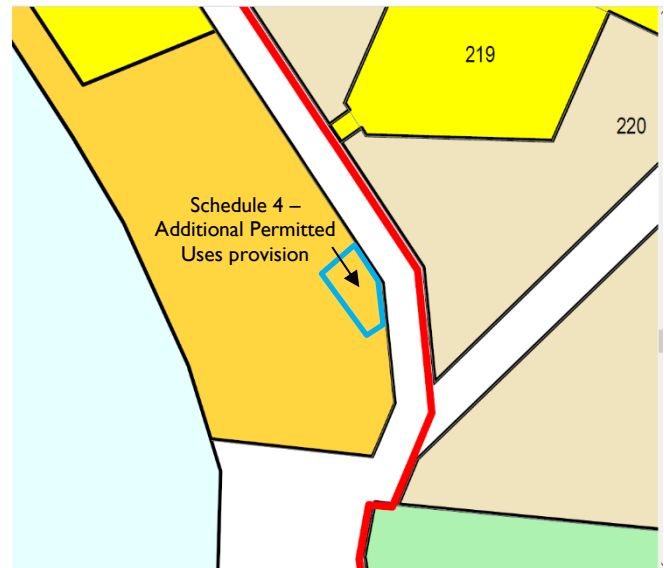
Existing site context of site 7 highlighted in yellow

3.14 Issue 14 – Site 8: Add a new Schedule 4 – Additional Permitted Uses and permit Commercial Premises (including Fuel Supply)

Property Description	Unidentified Crown Land, fronting Old Lagoon Road and bordering Lot 220 in DP 45732
Site Area	450m ²
Current Use	Vacant Crown Land
Current Zone	7 – Environment Protection
Proposed Zone	7 – Environmental Protection with Schedule 4 Additional Permitted Uses provision
Reason	<ul style="list-style-type: none"> ▪ The LHI Board has identified the need for establishment of an additional fuel supply location on the island, which could be run by a private entity. ▪ The preferred site for the additional fuel supply business is off Old Lagoon Road near the LHI airport and the LHI Meteorological Station as shown on the following scaled plan.

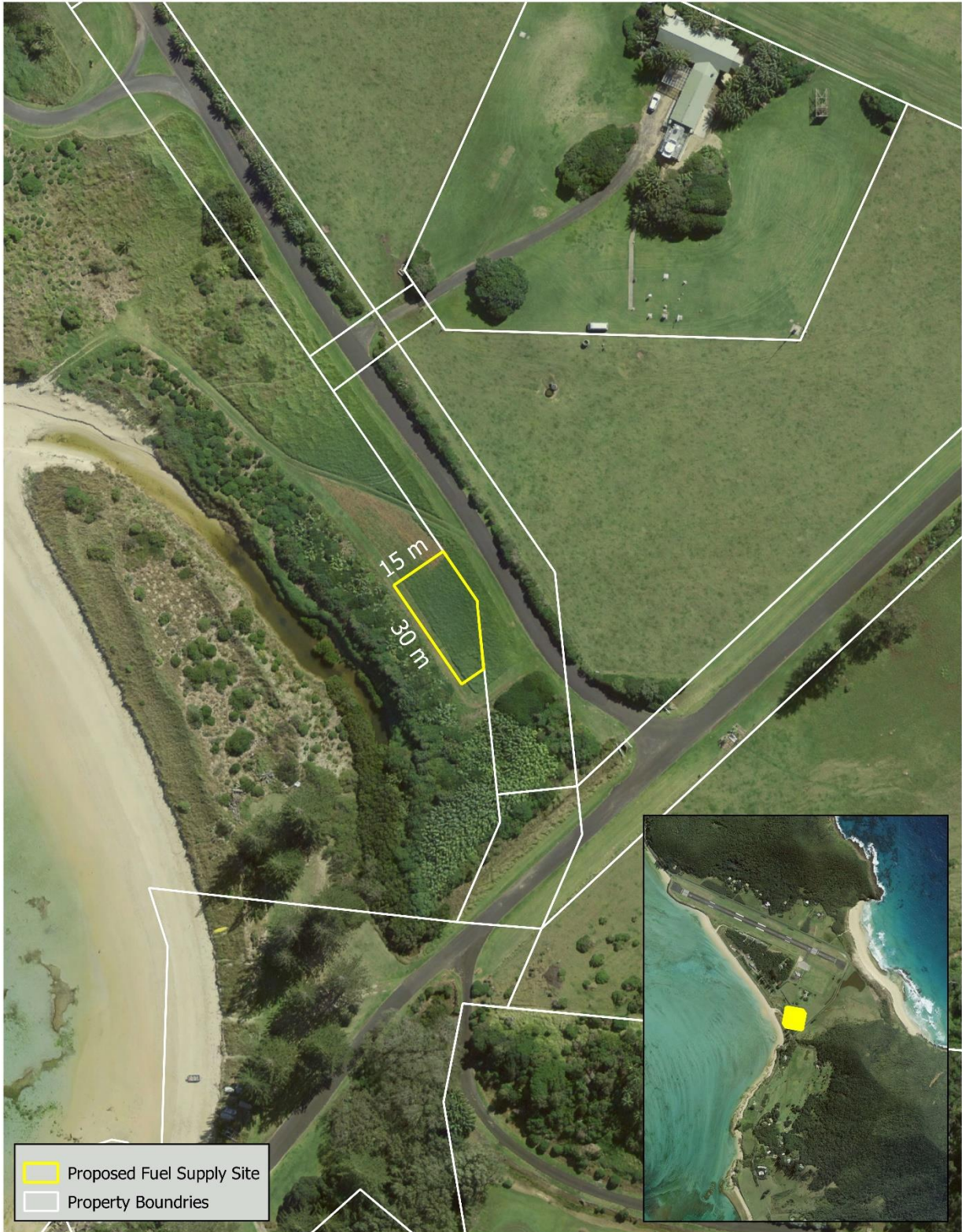


Current 7 Environmental Protection zoning (site outlined in blue)



Retained 7 Environment Protection zoning with Proposed Schedule 4 Additional Permitted Uses provision (site outlined in blue)

A number of sites for a new fuel supply were discussed with the community by the LHIB, with the response coming back overwhelmingly in favour of the subject site adjacent to the airport. In vicinity of the site near Cobby’s Corner there is an existing heritage listed residence, ‘Kentia’ that relies on Old Lagoon Road for vehicular access and one other approved dwelling that is yet to be constructed, on the corner of Airport Road and Old Lagoon Road. Additionally, the LHI Waste Management Facility, the Meteorological Station and the LHI Airport Terminal are accessed via Old Lagoon Road. In proximity of the site to the south is another dwelling with direct access to Lagoon Road.



Scale at A4: 1:1200
MGA 94 - Zone 57

This map is not guaranteed to be free from error or omission. Therefore, the Lord Howe Island Board and its employees disclaim liability of any act done or omission made on the information on the map and any consequences of such acts or omissions.

Proposed Fuel Supply site

Date created: 7/12/2018



Location and context map of Site 8 proposed fuel supply

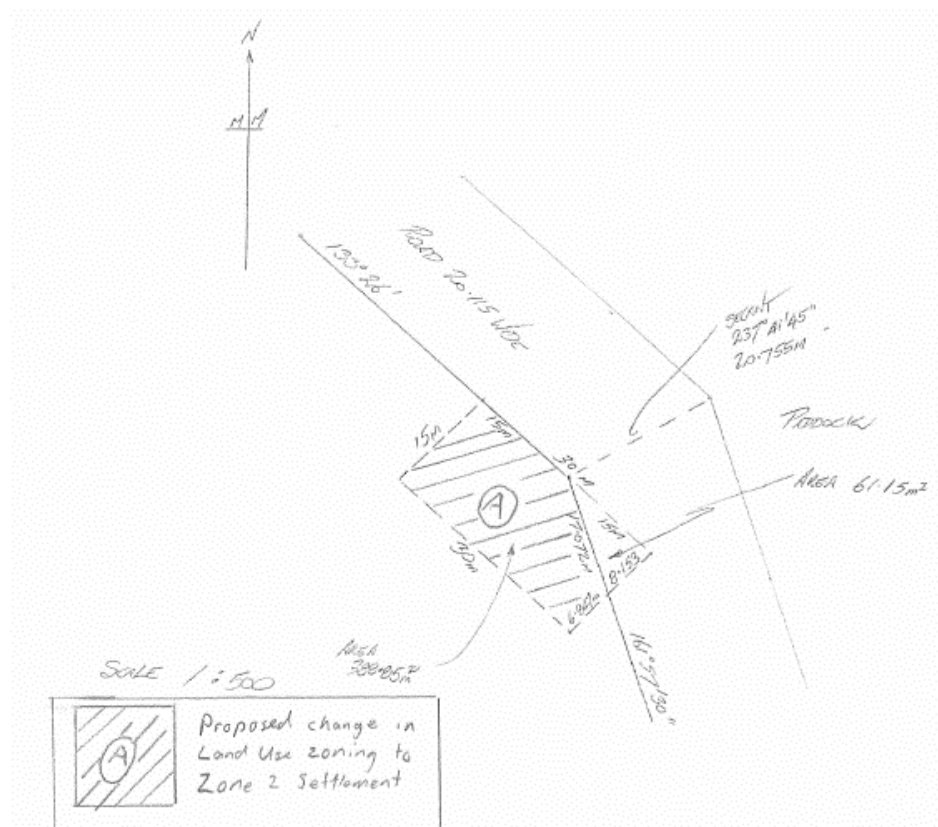
The preferred site for the private fuel supply is zoned 7 - Environment Protection under the LHI LEP. "Public utility undertakings" are permitted with development consent in the Environmental Protection zone as long as they comply with the following definition:

public utility undertaking means any of the following undertakings, or uses associated with those undertakings, carried on by, or on behalf of, the Board or any government agency acting under any Commonwealth or State Act:

(d) ..., fuel storage depots,.....

Importantly, to comply with the above definition of fuel storage depot and to therefore be permissible in the current Zone 7 - Environment Protection, the fuel supply facility would need to be owned and operated by the LHIB rather than a fuel retail outlet and would additionally only be able to be used as a fuel storage depot, which does not include retail fuel sales. The alternative definition of a commercial premises is considered best suited to the fuel supply proposal but which commercial premises are also currently prohibited in the Environmental Protection zone.

Consequently, an LEP amendment is proposed which will retain the Environmental Protection zone but permit Commercial Premises on the site by adding a new Schedule 4 – Additional Permitted Uses provision to the LHI LEP. Within the identified site under new Schedule 4 would specifically order to establish a private fuel supply (commercial premises) for the island community at the preferred subject site. The dimensions of the area for inclusion in the new Schedule 4 is 30m x 15m as illustrated below.



Survey Sketch prepared by LHIB identifying proposed location for new fuel supply on LHI



Example of Proposed Fuel Supply Container and Dispenser

The fuel storage unit for the proposed private retail sale of fuel will sit above ground within a fully bunded area.

Two options were considered for achieving the new fuel supply, being either:

- A change in land use zoning to Zone 2 - Settlement, which would permit Commercial Premises such as a fuel supply business, with consent on the site
- The inclusion of the site in a new Schedule 4 – Additional Permitted Uses.

The inclusion of the site as an additional permitted use was favoured by the LHIB as providing the greatest potential control over the future use/s of the site and that also did not require a change in land use zone.

The LHIB's Manager Infrastructure and Engineering Services has confirmed the locational guidelines and vehicle access/traffic management arrangements for Fuel Storage/ Dispensing will be able to be satisfied in respect of the subject site.

There is no Schedule 4 in the LEP at the moment. It will be necessary for an enabling clause such as clause 2.5 of the SILEP (below) to be included in the LEP as well as an Additional Permitted Use Schedule and map.

2.5 Additional permitted uses for particular land [compulsory]

(1) Development on particular land that is described or referred to in Schedule 1 may be carried out:

- (a) with development consent, or
- (b) if the Schedule so provides—without development consent,

in accordance with the conditions (if any) specified in that Schedule in relation to that development.

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

Direction 1. While this clause and Schedule 1 are compulsory, it is not compulsory to include any items in the Schedule when the Plan is first made.

Direction 2. A type of development may be included in Schedule 1 only if it is a type of development listed in Direction 5 at the beginning of the Land Use Table.

It is acknowledged that the aesthetics of the new fuel supply project, including proposed site landscaping, will require careful consideration as part of any subsequent development application – as the unit itself is not an attractive visual element.

Suggested wording for the proposed new Schedule 4 of the LHI LEP 2010 is:

Schedule 4 Additional permitted uses

I Use of certain land at Old Lagoon Road, Lord Howe Island

(1) This clause applies to land at Old Lagoon Road, Lord Howe Island, shown as “Item 1” on the Additional Permitted Uses Map.

(2) Development for the purposes of a commercial premises, including for the purpose of the private retail supply of fuel, is permitted with development consent if:

(a) the site can be effectively landscaped to minimise the visual impact of the proposal for development of a commercial premises on the site, and

(b) no direct vehicular access is provided to Lagoon Road, and

(c) any commercial premises can be demonstrated to not impact on the environmental quality of the lagoon foreshore and the adjacent creek

3.15 Section A - Need for the Planning Proposal

Is the Planning Proposal a result of a study or report?

The Planning Proposal has arisen as a response to a number of planning issues that have been identified by the LHIB, during assessment of various development applications and the community feedback on required amendments over the past few years and reports and investigations as detailed in Sections 2.3 and 2.4 above.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal aims to address anomalies and minor matters in LEP 2010, some of which are essential to progress at this time, including the proposal related to an imminent land swap involving the LHIB and another application involving Site 1 to enable commercial use of this site.

A subsequent review addressing more comprehensively LEP 2010, particularly in relationship to housing availability and in response to the Handley Review findings, is proposed as a separate Stage 2 process. It is considered that this approach is the most efficient.

The required provisions can only be achieved by undertaking an amendment to the LHI LEP 2010.

3.16 Section B - Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

No Regional or Sub-Regional Strategy applies to Lord Howe Island.

Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

A LHIB commissioned LHI Community Plan was prepared by Peter Kenyon of the Bank of I.D.E.A.S. in 2011, which this proposal is generally consistent with.

A public consultation process is underway on LHI for preparation of a new Community Strategic Plan. This consultation has identified a number of priorities and issues.

An emerging priority relevant to this PP is the need for additional housing opportunity, whilst not impacting on significant island values. The proposed amendment to existing dual occupancy provisions will assist in addressing this identified need.

Is the Planning Proposal consistent with applicable state environmental planning policies?

Only the BASIX SEPP applies to LHI. The SEPP (Building Sustainability Index: BASIX) 2004 – specifically provides that it applies to Lord Howe Island under Clause 5 of the BASIX SEPP. None of the proposed amendments to the LEP 2010 will impact on or be inconsistent with the application of the BASIX SEPP on Lord Howe Island.

Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?

Part 3A, Clause 15A of the LHI Act 1953 states that the EP&A Act 1979 only applies to LHI in respect of Parts 4, 4A, 5A and Division 2A of Part 6, Therefore although this Planning Proposal has considered and addressed the s9.1 Directions it is noted that as these Directions may not formally apply on LHI.

A review of the Directions is outlined in Table 1 following.

Table 1 Section 9.1 Directions

Clause	Direction	Consistent	Comments
Employment and Resources			
1.1	Business and Industrial Zones	Not applicable	
1.2	Rural Zones	Consistent	The Stage 1 Planning Proposal does not reduce rural zoned land, it is proposing to add to the existing rural zoned land. The amount of zoned rural land on the island is to be increased to reflect current and historic farming activity.
1.3	Mining, Petroleum Production and Extractive Industries	Not applicable	
1.4	Oyster Aquaculture	Not applicable	
1.5	Rural Lands	Consistent	The Stage 1 Planning Proposal is consistent with the Rural Lands objectives of the Direction 1.5 and the strategic need to increase rural zoned land on the island.
Environment and Heritage			
2.1	Environment Protection Zones	Minor inconsistency	The LHI LEP contains a number of provisions that effectively protect and conserve environmentally sensitive land. These provisions are to be retained in full. This Planning Proposal includes a proposal to rezone some land currently zoned 7 – Environmental Protection to Zone 1 – Rural and to rezone one other land parcel from Zone 6 – Recreation to Zone 7 – Environmental Protection. Consequently there is a technical inconsistency with Direction 2.1, however this is considered of minor significance. The proposed changes to the LEP map relevant to Zone 7 – Environmental

Clause	Direction	Consistent	Comments
			<p>Protection reflect historic and existing rural land uses. Further as noted above, Zone 7 is being increased on one site and reduced on another.</p> <p>Specifically, the Planning Proposal seeks to rezone Sites 6 and 7 from Zone 7 - Environment Protection to Zone 1 - Rural. As both these sites are cleared and used for agriculture, the reduction in environment protection zone is a technical but not actual loss. The proposed zone provisions on these sites is considered of minor significance and justified in accordance with (6)(d).</p> <p>Site 8 has been added by the LHIB in 2019 consistent with a recent LHIB resolution, to facilitate the construction of a LHI Fuel Storage and Service Station in proximity of the LHI airport. This site is relatively small and was chosen due to its proximity to the airport and for the absence of mapped significant native vegetation.</p> <p>Any inconsistency with the S.9.1 Direction is considered to be of overall minor significance and is being proposed to better reflect existing and desired future land uses.</p> <p>The LEP 2010 contains land zoned both Zone 8 – Permanent Park Preserve and Zone 7 – Environmental Protection, together with specific aims and objectives, that require the conservation of World Heritage values and the conservation of mapped significant native vegetation.</p> <p>Approximately 75% of the main island, plus all outlying islets and rocks within the Lord Howe Island Group, are protected under the Permanent Park Preserve. This area is permanently dedicated for the public purpose of preserving native flora and fauna pursuant to Section 19 of the LHI Act. Under the LHI Act, the Board has the responsibility to manage, protect, restore, enhance and conserve the preserve in a manner that recognises its World Heritage values (section 5(f)). Section 15B of the LHI Act requires that a plan of management for the Preserve be prepared and implemented in accordance with the provisions of Part 5 of the National Parks and Wildlife Act (NPW Act) as if the preserve were a national park. However, unlike the NPW Act arrangements, the Plan of Management for the Preserve is to be approved by the Minister administering the LHI Act, and is to be carried out and given effect to by the Board. No change to Zone 8 is proposed.</p>
2.2	Coastal Protection	Consistent	<p>Lord Howe Island (in its entirety) falls within the “coastal zone” as defined in the Coastal Protection Act 1979.</p> <p>The Lord Howe Island Coastal Management Study (September 2014) by Haskoning – refer Appendix D, found that the key coastline management issue for LHI is erosion/recession threatening Lagoon Road at Lagoon</p>

Clause	Direction	Consistent	Comments
			Beach. Coastal processes and coastline hazards are described particularly for Lagoon Beach and Cobbys Beach. None of the management options to address this key management issue are affected by the Planning Proposal.
2.3	Heritage Conservation	Consistent	The Planning Proposal seeks to include a non-standard provision requiring consideration of the potential impacts of a development on heritage items in proximity.
2.4	Recreation Vehicle Areas	Not applicable	
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Consistent	LHI has no straight residential zones, but rather a Settlement zone and a Rural zone in which a mix of commercial and residential uses can occur with development consent. The current LEP and proposed LEP amendment seeks to deliver housing for the island within the existing dwelling cap limit set by the LEP. One amendment involving Zone 2 – Settlement is proposed, being Site 7, to execute a LHIB resolution to pursue a land swap in order to conserve key significant mapped vegetation on the island.
3.2	Caravan Parks	Not applicable	
3.3	Home Occupations	Not applicable	
3.4	Integrating Land Use and Transport	Not applicable	
3.5	Development near Licensed Aerodromes	Consistent	The proposed fuel supply site is affected by controls related to the LHI Airport, which will be considered in any Development Application relating to this site.
3.6	Shooting Ranges	Not applicable	
Hazard and Risk			
4.1	Acid Sulfate Soils	Not applicable	
4.2	Mine Subsidence and Unstable Land	Not applicable	
4.3	Flood Prone Land	Not applicable	
4.4	Planning for Bushfire Protection	Not applicable	
Regional Planning			
5.1	Implementation of Regional Strategies	Not applicable	
5.2	Sydney Drinking Water Catchments	Not applicable	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	

Clause	Direction	Consistent	Comments
5.4	Commercial and Retail Significance of the NSW Far North Coast	Not applicable	
5.5	Cessnock LGA (revoked)	Not applicable	
5.6	Sydney to Canberra Corridor (revoked)	Not applicable	
5.7	Central Coast (revoked)	Not applicable	
5.8	Second Sydney Airport Badgerys Creek	Not applicable	
5.9	North West Rail Link Corridor Strategy	Not applicable	
Local Plan Making			
6.1	Approval and Referral Requirements	Not applicable	
6.2	Reserving Land for Public Purposes	Not applicable	
6.3	Site Specific Provisions	Not applicable	
Metropolitan Planning			
7.1	Implementation of a Plan for Growing Sydney	Not applicable	

3.17 Section C - Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposed amendments do not affect the provisions in LEP 2010 which identify and protect significant native vegetation on the island. It is not considered that there will be any adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

In particular, this Stage I Planning Proposal involves no change to Zone. 8 – Permanent Park Preserve and no physical loss of any environmentally significant land. Only a rezoning of part of two sites to reflect historic and continuing rural uses is proposed.

Are there any other likely environmental effects as a result of the Proposal and how are they proposed to be managed?

It is not considered that there will be any adverse environmental effects as a result of any of the proposed amendments.

How has the Proposal adequately addressed any social and economic effects?

The proposed amendments are not considered likely to have any significant environmental or economic effects.

3.18 Section D - State and Commonwealth Interests

Is there adequate public infrastructure for the Planning Proposal?

The Planning Proposal does not provide for additional development that would require public infrastructure.

The NSW Heritage Office may welcome consultation regarding the proposed addition of the consideration of heritage impacts for development in proximity of a heritage item.

State Department consultation will be undertaken post Gateway Determination.

As this Planning Proposal constitutes only minor modifications to the current LEP, it is not considered necessary to consult with the Commonwealth.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Relevant agencies will be consulted post Gateway Determination.

Lord Howe Island was inscribed on the World Heritage List in 1982, in recognition of its superlative natural landscapes and scenery and its rich terrestrial and marine biodiversity as an outstanding example of an island ecosystem developed from submarine volcanic activity. The World Heritage property covers Lord Howe Island, offshore islands and islets, including the central portion of the main island, of which a significant part was cleared for settlement, and farming; and the LHI Permanent Park Preserve, which is managed in accordance with a Plan of Management.

The Lord Howe Island Group is one of 6 world heritage listings in NSW. The Group comprises Lord Howe Island, Blackburn Island, Admiralty Islands, Mutton Bird Island, Ball's Pyramid, and associated coral reefs and marine environments. The Commonwealth Environment Protection and Biodiversity Conservation Act 1999, provides protection of matters of national environmental significance including world heritage areas. Under the Act, any action that is likely to have a significant impact on the Island requires the approval of the Federal Environment Minister.

The following table provides a summary of the relevant public authorities, which in the opinion of the Board should be consulted following Gateway Approval:

Following receipt of Gateway Approval the Board, with the assistance of Department of Environment and Planning, considers consultation with the following relevant agencies may be appropriate:

Public authority/stakeholder	Issue requiring comment
NSW Heritage Office	Additional provision for land in the vicinity of a heritage item
NSW Department of Environment & Heritage	Relationship with Coastal Protection Act
NSW Premier and Cabinet	As key stakeholder

4.0 Mapping

4.1 Affected Land

The location of the land directly affected by land rezoning proposals for Sites 1- 7 (as described in sections 3.12 to 3.23 of this Planning Proposal) is shown on the following maps (Figures 1 and 2):



Proposed sites to be rezoned in subject Stage 1 LEP review shown outlined in red

4.2 Draft LEP Map

The proposed amendments will require changes to an LEP 2010 map sheet as found on the NSW Legislation website. The affected map sheet is:

Land Zoning Map, Sheet 2 of 3

Map identification number: 6380_COM_LZN_002_005_20140512

New map sheets have not been drafted at this stage. The Regional Office of the NSW Department of Planning and Environment will prepare the required mapping in the appropriate form, as discussed.

Indicative mapping is shown on the map in Section 4.1.

5.0 Community Consultation

In preparing this Planning Proposal, the Board undertook early community consultation to engage with Island residents on key issues.

Community Consultation to date has included:

1. Preparation of a Discussion Paper and associated Community Survey, that were distributed to all islanders. Responses were facilitated concurrently with the running of drop-in information sessions for the community in April 2016.

All feedback from this early consultation process was reviewed and informs this Stage I Planning Proposal to amend LEP 2010. A copy of the 2016 Consultation Outcomes Summary Paper is provided for review concurrently with this Planning Proposal. A copy of this Paper is included as Appendix E.

2. Preparation of a Report to the LHIB members, setting out a proposed reduced scope for the Stage I Planning Proposal, following review by All About Planning Pty Ltd and the LHIB Administration. This Board report on the revised scope of the Planning Proposal was discussed in open gallery and attending members of the Lord Howe Island community were invited to make any comments.

The LHIB members resolved to adopt a reduced scope for the Stage I review and acknowledged their commitment to undertaking post Gateway Determination additional community consultation. A copy of the LHIB Paper from March 2018 is included as Appendix E.

The Minister's Gateway Determination will specify community consultation to be undertaken, in accordance with Section 3.34 of the EP&A Act 1979 as part of the LEP 2010 amendment process.

Community consultation will at the appropriate time be commenced by the placing of a public notice in appropriate Lord Howe Island newsletters and on local community notice boards.

The Planning Proposal exhibition material would be made available by the Board during the exhibition period. The community consultation process would be completed when the relevant planning authority has considered any submissions received concerning the proposed Local Environmental Plan and has forwarded those reports to the DP&E for final consideration by the Minister.

6.0 Project Timeline

This project timeline is based on known and anticipated dates and timeframes related to the subject Planning Proposal – Stage I. The timeline anticipates a 6 - 8 month timeframe from lodgement of the agreed Planning Proposal to DPE to finalisation.

	2018		2019											
Step	Nov	Dec	Jan	Feb	Mar	April	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Revise PP in light of preliminary DPE feedback and LHIB site additions (DPE, LHIB, AAP)														
Submit revised Stage I PP to LHIB														
PP to DPE for consideration & Gateway Determination														
PP Public Exhibition														
Agency consultation														
Consideration of Submissions														
Post exhibition Review of PP														
Submit to DPE to finalise LEP														
Make the Plan														
Notification														

Planning Proposal – Stage I, Project Timeline

LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

1 Item

OC2021.02 & DA2021.02 Assessment Report - Subdivision (Boundary Adjustment) Lot 4 DP 1216390 and Lot 2 DP 1174920, Lagoon Road & Bowker Avenue, Lord Howe Island - Rod Oxley and Lisa Makiiti

2 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road & Bowker Avenue, Lord Howe Island
Proposal	Subdivision Boundary Adjustment
Owners Consent No	OC 2021.2 lodged & assessed concurrently with DA2021.2
Applicant	Rod Oxley & Lisa Makiiti
Estimated Cost of Development	N/A
Site Inspections	The town planners are familiar with the subject site
Zone	Zone 2 Settlement. The proposed development is permissible with the consent of the LHI Board.
Significant Native Vegetation Map	Part of the lot contains mapped Significant Native Vegetation (SNV).
Notification	The DA application was publicly exhibited 19 th February to 5 th March 2021, in accordance with LHIB policy.
Submissions Received	The LHIB has advised that no submissions were received.
Recommendation	a) That OC2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road, Lord Howe Island be approved. b) That DA2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road, Lord Howe Island be approved subject to the application of the conditions listed in the report.

3 Consent Authority

Owner's Consent Delegations

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

- The value of the development must not exceed \$2,000,000
- 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.
- The owner's consent must not relate to a proposed development application for the subdivision of land.
- The OC must not relate to the creation of new residential dwellings.

Development Application Delegations

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

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

As the proposed boundary adjustment can be considered a subdivision, the subject OC and DA is referred to the full LHIB for determination.

4 Site Description

The site is made up of two existing properties, legally known as Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road & Bowker Avenue, Lord Howe Island. As shown in the aerial photograph (refer *Figure 1*), Lot 4 has an elongated 'L' shape that extends from Lagoon Rd alongside the LHI Hospital then around and behind both the Hospital and the adjoining Lot 2 (that is the other part of the subject site). Lot 2 is an irregular shaped site that has a part frontage to Bowker Avenue and the LHIB Depot.

Lot 4 has an existing area of 5,748m² and is occupied by a residential dwelling located behind two detached tourist cabins accessed off Lagoon Rd. Lot 2 has an existing area of 3,000m² and is occupied by a stable.

As is characteristic of the general area, the two above properties making up the site have a level topography. The property comprises areas of open grassed paddocks and established vegetation including palms and other mixed vegetation some of which is mapped SNV.

The sites are located opposite the LHI lagoon (across Lagoon Road) and is adjoining to the LHI Hospital and the LHIB Depot (each of which are zoned Special Uses, under the LHI LEP 2010). Otherwise the site is adjoined by Residential zoned allotments to the north and vegetated Environment Protection zoned land to the rear.

As Figure 2 shows, the subject Lots 4 and 2 are located in Zone 2 Settlement under the LHI LEP 2010. The land contains mapped Significant Native Vegetation under the LEP (refer to Figure 3), and the land is landscaped with native species including planted palms.

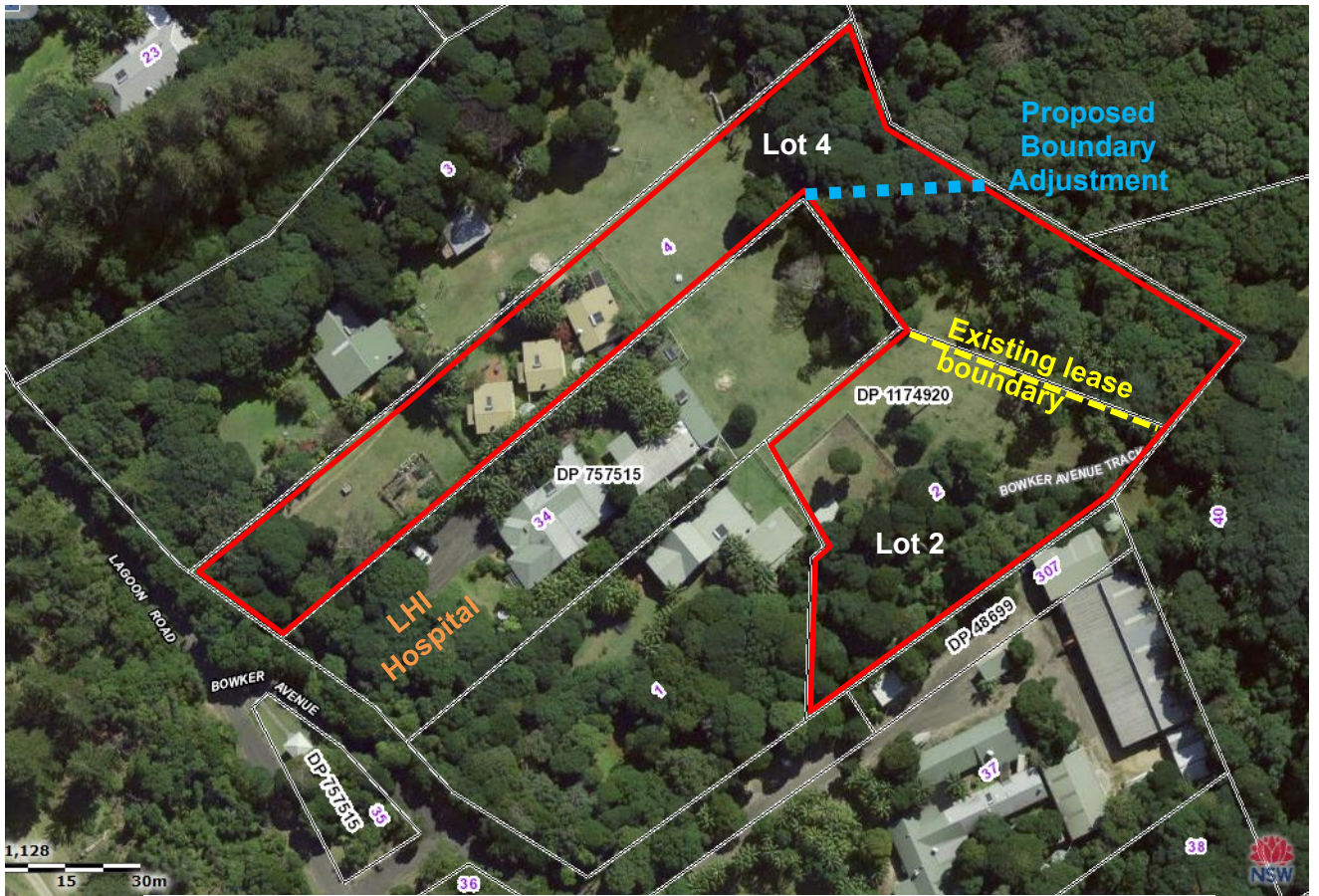


Figure 1: Aerial View of subject site (highlighted) & adjoining land. Source: Six Maps

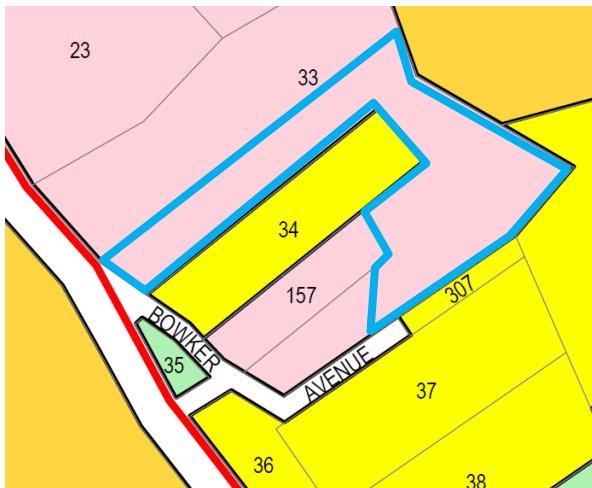


Figure 2: Extract from the LEP 2010 Zoning Map. The site is Zone 2 Settlement

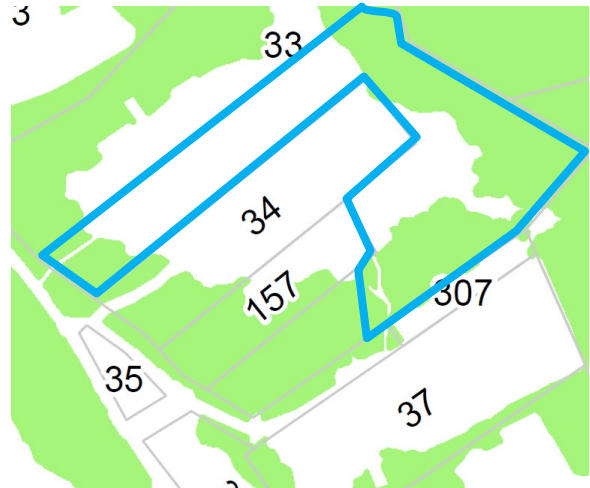


Figure 3: Extract from the LEP 2010 SNV Map. SNV in green.

5 Proposed Development

The proposal seeks to make an adjustment to the existing boundary between Lots 4 and 2 which make up the subject site (with associated reallocation of site areas) as illustrated in figures 1 and 4.

The existing and proposed adjusted details for the allotments are as follows:

Lot	Existing Area	Proposed Area
4	5,748m ²	3,729m ²
2	3,000m ²	5,018m ²

Important notes about the proposal include:

- there will no division of the land into a greater number of allotments than the two that already existed.
- it is considered to be a boundary adjustment between adjoining allotments
- the proposed boundary adjustment is between two wholly Settlement zoned allotments and therefore it will not make any change to the proportionate areas of each lot otherwise zoned.
- Lot 4 and the immediately adjoining Lot 3 (to the north) has an existing shared right of way over part of each lot and Lot 4 also has a wastewater system (and associated easement) located within Lot 3 – each of these is proposed to be retained in the proposal.

6 Referrals

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

Team Leader - Compliance & Projects (Kate Dignum):

There is no construction associated with this DA therefore compliance with the BCA/NCC is not applicable.

The boundary realignment between Lots 2 & 4 will not affect any common services such as wastewater nor will it affect accessways or the like.

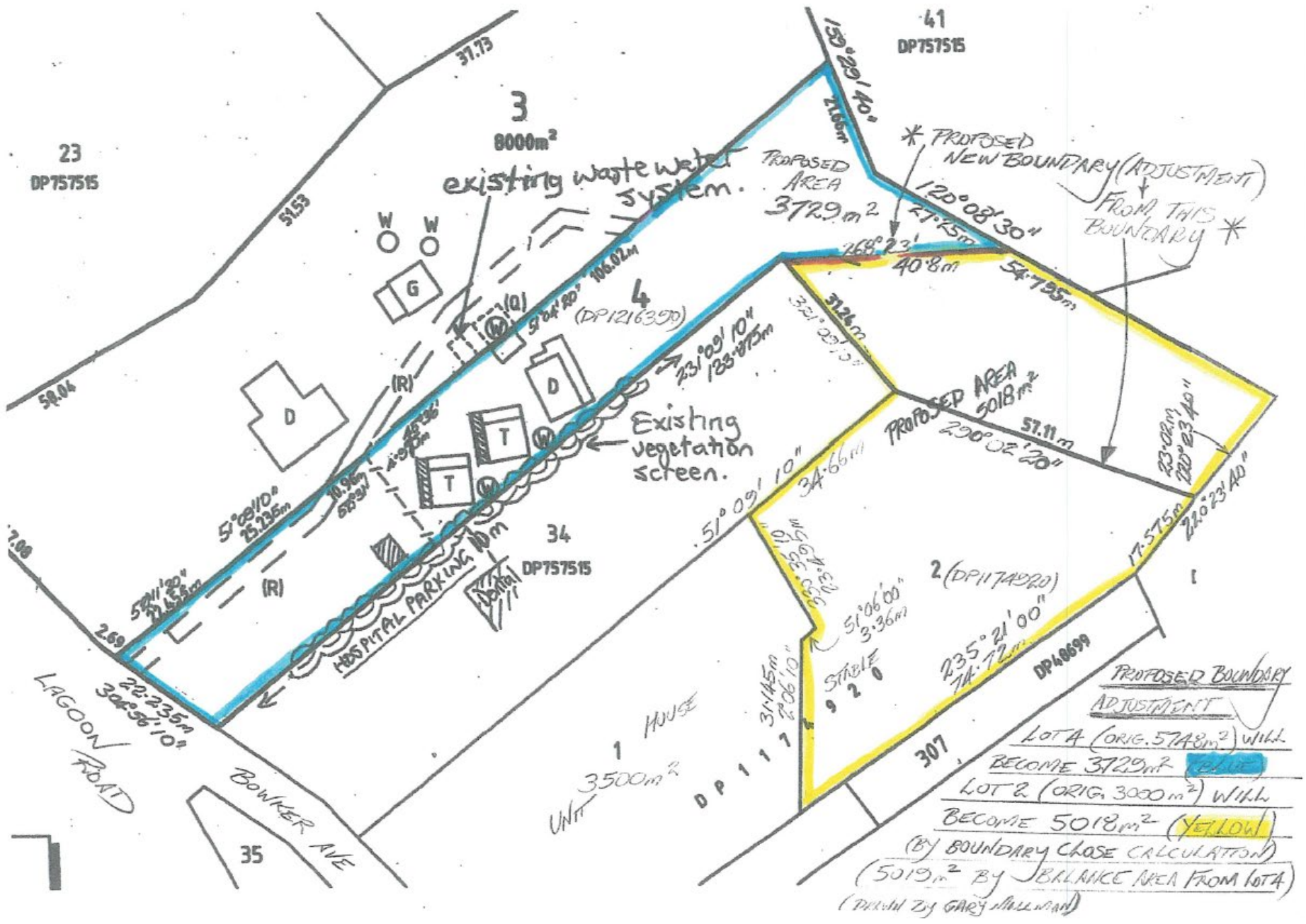


Figure 4: Applicant's submitted subdivision boundary adjustment plan.

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.

7.1 Commonwealth legislation

7.1.1 *Environmental Protection and Biodiversity Conservation Act 1999*

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

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

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

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

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

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

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

7.2 NSW legislation

7.2.1 *Biodiversity Conservation Act 2016*

The Biodiversity Conservation Act 2016 (NSW) (BC Act) sets the framework for the listing of threatened species, populations and ecological communities, and key threatening

processes in NSW, and the preparation and implementation of recovery plans and threat abatement plans.

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

As a subdivision (boundary adjustment) only, the proposal is not considered to have a detrimental biodiversity impact.

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.

The following heritage items listed in the LEP 2010 are in the general vicinity of the subject site but their heritage significance will not be impacted by the proposed boundary adjustment:

- Government House, Bowker Avenue, Portion 37
- War Memorial, Lagoon Road, Portion 35
- World War I Memorial, Lagoon Road, Portion 36.

7.3 Local Statutory Plans and Policies

7.3.1 Lord Howe Island Local Environmental Plan 2010

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

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

LEP 2010 compliance summary table

LEP 2010 Clause		Compliance Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	Y	The proposed subdivision (boundary adjustment) has been assessed as generally meeting the aims and objectives of the LEP 2010.
3	Land to which plan applies	Y	The LEP 2010 applies to the subject site which is part of Lord Howe Island, as defined in Section 3 of the Lord Howe Island Act 1953.
6	Who is the consent authority for this Plan?	Y	The Lord Howe Island Board (LHIB) is the relevant consent authority.
7	Maps	Y	Noted.
9	Exempt Development	N/A	The proposed works are not listed as Exempt Development within Schedule 1 of the LEP.
11	Matters that must be satisfied before development consent granted	Y	All relevant matters are further considered in the clause 11 assessment following.
Part 2 General Provisions applying in particular zones			
12	Land Use Zones	Y	The land is zoned Zone 2 Settlement
14	Zone 2 Settlement	Y	Refer to the above discussion of the Zone 2 Settlement objectives and permissible development under clause 14 of the LEP.
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
21(2)	Subdivision a) The area of each proposed allotment is to be at least 3000m ² (b) N/A (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	Y Y	Satisfied: amended Lot 4 = 3,729m ² amended Lot 2 = 5,018m ² Lot 4 will continue to include the 2 x existing tourist cabins and the dwelling. The adjustments to Lot 4 will maintain compliance with cls 21(2)(c) as demonstrated below: <ul style="list-style-type: none"> Permissible Max: $3729 - 3000 = 729\text{m}^2 \times 0.15 = 109.35\text{m}^2$ Existing Bld Area (Lagoon Landing): $[47.16\text{m}^2 \times 2] + 14.9\text{m}^2 = 109.22\text{m}^2$ [Complies]

	allotment.		
21(3)	<p>Despite subclauses (1) and (2) and anything to the contrary in Part 2, land may be subdivided with the consent of the consent authority if—</p> <p>(a) the consent authority is satisfied that the purpose of the proposed subdivision is to make a minor boundary adjustment between adjoining allotments, and</p> <p>(b) the proposed subdivision will not divide the land into a greater number of allotments than already exist.</p>	Y	<p>The compliance of the proposal is achieved through the previous clause 21(2) of the LEP (ref above). Nevertheless, it is relevant to note that the proposal is for a minor boundary adjustment between two adjoining allotments which will not divide the land into a greater number of allotments than already exist.</p>
Division 2 Provisions that apply to particular land			
33	Landscaping in Zone 2	Y	As a subdivision (boundary adjustment) the proposal will not create an adverse impact on the existing landscaped character and dispersed pattern of housing in the zone.
39	Development Affecting Heritage Items	N/A	The subject work will not be undertaken on any listed heritage items as discussed under 7.2.2 NSW Heritage Act 1977, earlier in this report

7.3.2 CLAUSE 11 MATTERS

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

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

<i>There is an adequate area available for the disposal or treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	Y	The existing wastewater treatment facilities for Lot 4 (contained within an easement within the adjoining Lot 3) will be unaffected by the proposed boundary adjustment.
<i>No part of the proposed development: will result in any damage to, or removal of, significant native vegetation, or will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	The proposed boundary adjustment will not result in the damage or removal of SNV.
<i>Access is, or will be, available to the site of the proposed development and the provision of any such access will not: - result in any damage to, or the removal of, significant native vegetation, or - have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island</i>	Y	The current access arrangements for each of the subject allotments will be maintained. Each currently benefits from a direct frontage to a public road. No additional clearing will be associated with the above.
<i>Any proposed landscaping will provide various species of plants that are native to the Island and common in the locality to enhance any significant native vegetation,</i>	N/A	
<i>The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	N/A	There are no known landform limitations which will adversely impact on the subdivision proposal.
<i>Adequate services in respect of the proposed development can be provided without significant additional cost to the Board or the community of the Island,</i>	Y	The subject site is already serviced by the required utilities and these will remain available for the proposed boundary adjustment.
<i>The appearance of the proposed development (when considered by itself or in conjunction with existing buildings and works) will not have any significantly adverse impact on the locality,</i>	Y	The appearance of the proposed development will remain as is in keeping with the character and nature of the area.
<i>The proposed development will not cause any significant overshadowing of adjoining land,</i>	N/A	As assessed earlier, the proposal does not include any building construction and will not create any overshadowing of adjoining land.
<i>The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</i>	N/A	The proposal does not involve any building construction and will not reduce the privacy of any adjoining property.

7.3.3 Lord Howe Island Development Control Plan 2005

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

DCP Compliance summary table:

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

8 Environmental Effects

8.1 Environmental Planning and Assessment Act 1979

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

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

- iii. Any development control plan
Comment: An assessment of the proposal against the LHI DCP 2005 has been undertaken in Section 7.3.3 and was found to comply.
 - iii Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4
Comment: There are no planning agreements relevant to the application.
 - iv. The regulations (to the extent that they prescribe matters for the purposes of this paragraph)
Comment: There are no relevant matters prescribed by the regulations.
 - v. Any coastal zone management plan (with the meaning of the Coastal Protection Act 1979)
Comment: There are no coastal zone management plans relevant to the application.
- b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

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

- c) the suitability of the site for the development

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

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

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

- e) the public interest

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

9 Conclusion

OC2021.2 & DA2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road & Bowker Avenue, Lord Howe Island, has been assessed with regard to the provisions of Section 4.15 of the EP&A Act, the LEP 2010 and DCP 2005 and the relevant codes and policies of the Lord Howe Island Board.

In light of the above comments and the preceding development assessment, OC2021.2 & DA2021.2 are supported subject to the application of a number of conditions included in the following recommendation.

10 Recommendation (Conditional Approval)

- a) That OC2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road, Lord Howe Island be approved.
- b) That DA2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road, Lord Howe Island be approved subject to the application of the following conditions:

1. Approved Plans and Supporting Documentation

The development is to be carried out in accordance with the plans and documentation provided with DA2021.2 as listed below and endorsed by the Lord Howe Island Board's stamp, except where amended by other conditions of consent.

- a) Completed DA application forms prepared by Rod Oxley & Lisa Makiiti dated 12th February 2021.
- b) Completed DA Statement of Environmental Effects prepared Rod Oxley & Lisa Makiiti.
- c) The following plan: Plan of Proposed Boundary Adjustment, prepared by Gary Millman (undated).

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

2. Biodiversity

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

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

3. Existing Wastewater System

The existing wastewater system located within the adjoining Lot 3 DP1216390 (and associated easement), for Lot 4 shall be retained for as long as it is required.

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

ADVICE TO APPLICANT:

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

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment

has not involved any assessment of the application of the Commonwealth legislation.

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

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

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

Prepared: Peter Chapman All About Planning

Endorsed: Peter Adams Chief Executive Officer

Attachments:

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Operations Plan 2020/2021 – Third Quarter Review.

RECOMMENDATION

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

BACKGROUND

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

The Operations Plan was formulated around the six strategic directions:

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

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

CURRENT POSITION

Attached is the status update of the Operations Plan for financial year 2020/2021, with comments on the progress against each of the identified actions as at 12th March 2021 (Attachment A).

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

Preparing to re-open Lord Howe was a highest priority and in many ways more challenging than the closure. Businesses and agencies had specific requirements and implications as well as the usual ones applying to the mainland. Despite this and the inevitable impacts on projects and delivery of the Operating Plan, good progress was made.

The closure of the island with no tourists, as well as the assistance package impacted revenues. Close management of expenditure, triage in terms of priorities and assistance from Treasury has meant that financial impacts are far less than could have occurred. Now that the island is re-opened revenues are strong and financial results at this time are encouraging despite the year's impacts. Visitation to the island remains very strong with businesses reporting forward bookings, waiting lists and despite cancellations when parts of Australia become COVID areas of concern, replacement bookings occurring.

Two tsunami warnings have occurred. Despite them not being significant events, prudence dictated that the tsunami Consequence Management Plan be initiated and various steps taken by the SES, LEOCON and the Board.

The flooding of the NSW east coast was rapid and major. This closed the Port Macquarie airport and the Birdon ship yard on the Hastings River. Considerable effort has been applied to addressing supply chain issues including airfreight and RAAF assistance when LPG and food supplies neared exhaustion especially for businesses. The island was at 100% occupancy by visitors and due to efforts of the LEMC, Eastern Air Services, local NSW and Commonwealth parliament and cooperation between café operators, visitors were able to be fed and their food cooked.

Biosecurity has been able to be maintained despite these unusual supply chain changes and uncertainties.

The Solar PV HREP project is nearing practical completion with some controller reliability issues still being addressed. Much of the island's energy needs are being met by the installation with some unplanned outages frustrating this achievement. This is expected to be addressed soon and contractual milestones provide the means to ensure a reliable system before handover.

The Windy Point/Pinetrees boatshed project has proceeded beyond the various approval and permissive occupancy processes, construction of the new boatshed completed by Pinetrees using recycled materials. Removal of the concrete blocks, sand bags and placement of sand is complete and with over 7000 m3 of sand moved at the time of writing from northern sections of Lagoon Beach to infill the eroded sections at Windy Point the work is nearing completion. Revegetation is planned and it is expected that regular minor renourishment of the sand at Windy Point is successful in managing coastal erosion and infrastructure threat.

The year to date has continued to be challenging in responding to natural and other situations. While many were glad to see 2020 pass and looked forward to a less dramatic 2021, the reality has delivered more challenges. The Board and the island community have adapted to these events and continue to navigate well.

RECOMMENDATION

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

Prepared: Peter Adams, Chief Executive Officer

Attachments:

Attachment A: Operations Plan Third Quarter Review FY 2021 - Open

LHI Operations Plan FY 2021

Strategic Direction: Effective Governance and Leadership

1.1	Ensure accountability, fairness and transparency in the Board's decision-making and relationships with all its stakeholders.	Responsible Officer	KPI/Measure - Operations Plan 2020/21	Status End of Mar (Q3) 2021
1.1.1	Hold Board meetings four times a year in public.	CEO / MBCS	Four public meetings held per annum. Code of Meeting Practice is adhered to.	Being met. COVID 19 Public Health Order restricting travel to LHI has impacted ability for appointed Members to attend in person and for public gallery. Teleconference meetings and restrictions on public numbers in room have had to be imposed to comply with NSW Gov requirements. Adhered to.
1.1.2	Develop a 10 year strategic plan to develop a longer term vision and key directions for the community, providing a basis for future policy, plans and community reporting	CEO	Continue stage 2 of community engagement, prepare draft CSP and inform 21/22 budget and operating plan. Adopt Local Strategic Planning Statement.	Stage 2 on hold while resources are limited and COVID impacts are being managed. Resource not yet available. Draft being prepared in liaison with DPIE.
1.1.3	Develop and implement appropriate policies and procedures to ensure decisions are merit based, transparent and defensible.	MBCS	Policies and procedures reviewed in accordance with the schedule to ensure currency and completeness.	Continued resource challenges resulting in some delays with June 2021 quarter target..
1.1.4	Ensure all conflicts of interest of Board members and staff are declared and managed in accordance with the Board's Code of Conduct.	MBCS	A record is kept of conflicts of interest declared. Declarations of Pecuniary Interests are completed and reported on an annual basis. Register established.	Records kept. Register maintained.
1.1.5	Ensure appropriate community engagement and consultation opportunities are provided so that community input to decisions and plans is obtained and considered.	CEO/MECS	Program of meetings and engagement opportunities undertaken. Prepare and present to the Board for adoption a Community Participation Plan in line with the EP&A Act. Community input to policy development is sought as appropriate.	Meeting held adapted for COVID restrictions. COVID sub-group meetings as required. Public exhibitions for planning, Captive management facility, Biosecurity Fees and Charges. Not started. Complete and ongoing.
1.2	Ensure corporate governance practices meet legislative requirements.	Responsible Officer	Operations Plan 2020/2021	
1.2.1	Work with the Audit and Review Committee (ARC) and auditors.	CEO / MBCS	Report to ARC meetings (four times per year). Internal audit work plan completed on time.	Achieved. 19/20 completed. 20/21 in progress - Operational Review. Delay to ToR.
1.2.2	Provide relevant and timely advice to Government on matters affecting the management of the island, including review of the Act and Lord Howe Island Regulation.	CEO / MBCS	Briefings and submissions prepared as required to the Minister, DPIE and Treasury as appropriate.	Achieved.
1.3	Work to achieve long term financial sustainability.	Responsible Officer	Operations Plan 2020/2021	
1.3.1	Develop sustainable annual budget	CEO / MBCS	Seek adequate capital funding achieved to fund the Total Asset Management Plan (TAM Plan). Efficiencies explored to allow the Board to meet its priorities in accordance with the Corporate Plan. Business cases to be prepared for recurrent funding of biosecurity strategy and REP.	Ongoing dialogue with Treasury, DPIE and other environment departments. Some submissions pursued re stimulus funding opportunities. Expenditure managed and currently below budget. Financial assistance achieved from NSW Treasury to assist in COVID impacts. Further business case submitted and continue to be pursued.

			Pursue funding requests for REP project completion	Some private sector (FAME) funding achieved. Alternate project report approach underway. Further projects to undertake post REP monitoring and surveys submitted.
			Pursue funding requests for Biosecurity	Direct assistance for biosecurity not yet achieved.
1.3.2	Levy fees and charges at an appropriate level.	MBCS	Fees and charges are in accordance with the Board's decisions.	Achieved.
1.3.3	Ensure that the services delivered are provided at the appropriate level.	CEO	Service levels and service delivery monitored and reports provided to the Board on achievement of service levels.	Service levels continue to be delivered. Service levels back to "normal" except for some staff shortage challenges.
1.3.4	Secure ongoing funding from DPIE for the care and maintenance of the PPP.	CEO/CHAIR	Initial discussions for ongoing funding held.	Various grant applications and successes. However, recurrent funding has not been actively pursued while REP project funding requests and Treasury impacts from COVID put matters on hold.
1.4	Ensure risks are properly managed.	Responsible Officer	Operations Plan 2020/2021	
1.4.1	Implement the risk management policies and procedures.	MBCS	Progress against the implementation of risk management policies and procedures is reviewed quarterly.	Risk plan reviewed and reported to ARC quarterly.
1.4.2	Regularly review the Risk Register.	CEO	Top priority risks reviewed quarterly.	Risk plan reviewed and reported to ARC quarterly.
			Conduct review of entire Risk Register.	Risk Register format changed by DPIE. Workshop conducted for all managers with first draft back for review. To be tabled at May 2021 ARC meeting.
1.4.3	Develop and implement a Business Continuity Plan to ensure the continuance of Board services should a significant event occur.	CEO	Business Continuity Plan completed and tested by end May 2021.	Completion on track after managers workshop with relevant DPIE staff and consultants.
1.5	Provide internal IT and communications systems which are secure, stable and support business operations.	Responsible Officer	Operations Plan 2020/2021	
1.5.1	Implement ICT policies and procedures.	MBCS	Set up of an IT committee	IT committee set up and seeking to address the various audit recommendations relating to IT including security..
		MBCS	Projects completed on time.	Timelines being set by committee for 2020/22
1.5.2	Support and maintain corporate ICT.	MBCS	Systems operational 99% of the time during business hours.	Achieved.
1.6	Provide efficient and effective records management and information management.	Responsible Officer	Operations Plan 2020/2021	
1.6.1	Review and implement policies and procedures regarding information management.	MBCS	100% of relevant staff informed of record keeping responsibilities.	All new staff have RM8 training as part of their induction.
1.6.2	Continue the RM8 electronic records management system implementation.	MBCS	Records are moved to electronic format or archived by June 2021	Review need for scanning off-island of necessary files, subject to security concerns. Lease and DA data only to be scanned. Delays caused by Covid in first half of year with this now being addressed.
			Alternative records system on hard drive to be reviewed by June 2021	File Drives' data recording has been delayed due to impact of COVID. Relates to records identified by archiving date that can be retained.
1.7	Ensure effective management of human resources.	Responsible Officer	Operations Plan 2020/2021	
1.7.1	Ensure organisational structure is aligned to strategic priorities and legislative requirements and is adequately resourced.	MBCS	Review undertaken annually. Implement staff changes to meet funding and budget decisions.	Reviewed as part of 2020/21 Budget approval process and is again part of the 21/22 process. Expected to be included as part of Operational review planned this financial year.

1.7.2	Attract, develop and retain an effective workforce that delivers required outcomes.	CEO / Unit Managers	Required recruitment process implemented.	Staff shortages have occurred post COVID and in peak tourist season. Recruitment undertaken and new staff being recruited and trained where possible.
			Training programs provided in line with the training budget.	Significant training completed and underway. Worked together with others to coincide or combine training where appropriate to assist with costs and numbers.
1.7.3	Provide workplaces that ensure the health, safety and welfare of employees and members of the public.	CEO / Unit Managers	Draft Risk Management Policy and Guidelines and all associated policies and procedures implemented and reviewed at appropriate intervals.	Ongoing and included in every Managers' meeting agenda. Risk workshop completed and risk plan review underway including risks to staff or public.
			WH&S Management Plan to be reviewed annually.	Ongoing.
			Incidents and injuries are reviewed.	Scheduled reviews of all outstanding cases held regularly with DPIE and insurer case managers. Recent Notifiable Incident reported, reviewed and cleared.
			Safe work procedures and training requirements are in place.	Ongoing
1.7.4	Ensure that Work and Development Plans are completed for all staff.	CEO / Unit Managers	Implement annual programme for work and development plans.	Commenced for some staff.
1.7.5	Review and implement actions from the Workforce Plan 2020-2023	MECS	Develop staff and volunteer resourcing methodology for biosecurity incursion response.	Staff training ongoing. Number trained increased. Volunteer program yet to be developed.
			Investigate possible skills audit.	Commenced possible approach with audit system provider. (Regional Development Australia). System on line and available. Not promoted on LHI as yet.
1.8	Provide timely and proactive communication to all stakeholders.	Responsible Officer	Operations Plan 2020/2021	
1.8.1	Develop and implement a Communication / Community Engagement Strategy.	CEO / MECS	A Communication / Engagement Strategy in place by end 2021 in partnership with the Community Participation Plan.	Not started
			Develop and present to the Board a Community Participation Plan for Development and Assessment.	Not started
1.8.2	Promote Board programs and services through meetings, advertising and written materials.	CEO / Unit Managers	All materials prepared as required to a high standard.	Various meetings, householders, CEO updates in Signal, social media.
1.8.3	Maintain information on the Board's website and through social media.	Manager Admin	Number of page views per month.	Regularly updated. However, some material has not yet been updated.
1.9	Ensure high standards of customer service.	Responsible Officer	Operations Plan 2020/2021	
1.9.1	Provide appropriate services efficiently and effectively to the appropriate service level.	CEO / Unit Managers	Communication of and access to information improved.	Web registers kept up to date (incl contracts).
			Efficiency and effectiveness of employees enhanced.	Limited resources and complexity of matters incl compliance make satisfactory service levels extremely difficult. Hope to address during Operational Review.
1.9.2	Implement the Customer Service Improvement Plan (CSIP).	CEO / Unit Managers	Actions from the CSIP implemented, including the following:	
			Explore on-line services.	Public Health Order applications and other applications added to web. Service NSW system not implemented. Manual systems had to suffice..
			Continue improved Work and Development Planning system	Commenced for some staff.
			Implement social media initiatives	Yes and ongoing.

			Review processes and procedures to improve customer service.	Vehicle application system improvement implemented. Policy review may offer small efficiencies through simplification, and changes to applications if adopted after exhibition.
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Strategic Direction: Strong and Sustainable Economy

2.1	Market the island as a tourist destination.	Responsible Officer	Operations Plan 2020/2021	
2.1.1	Maintain and enhance the sustainable tourism 'product' through the provision of infrastructure, engineering and environmental services.	CEO	Provide infrastructure, engineering and environmental services to support the tourism product.	CEO regularly at LHITA meetings. LHITA & CEO has been very active to meet challenging Public Health Order closures and re-opening, and planning/preparing campaigns, facilitating air services and assisting businesses.
2.1.2	Conduct visitor surveys as required, in conjunction with partners where appropriate, to inform product planning and destination marketing.	CEO	Visitor surveys conducted, analysed and assessed to inform product planning and destination marketing.	No surveys this Q
2.1.3	Work in partnership with LHI Tourism Association (LHITA), Destination NSW and other bodies in the ongoing implementation of the Destination Management Plan.	CEO	Regular consultation and information sharing takes place.	DMP revision undertaken by LHITA's consultants. DMP under review. Close liaison by LHITA with DNSW & TA for re-opening and an increased focus on LHI with no overseas travel currently.
2.1.4	Promote the island in key source markets as resources allow.	CEO	Participate in marketing strategy, plan development and post survey review/analysis.	CEO and LHITA actively involved in tourism and marketing incl media interviews, social media campaign, famils, conservation volunteer program, etc.
2.1.5	Ensure website content is current and relevant.	Manager Admin	Website content is refreshed and updated as necessary.	Complete and ongoing. Website LHITA website has been redesigned and modernised.
2.1.6	LHITA to be supported in regular review of the Destination Management Plan (DMP).	CEO	Participate in DMP review. Those parts of the DMP for which the Board is responsible are implemented.	Underway.
2.2	Foster an environment that supports sustainable economic development.	Responsible Officer	Operations Plan 2020/2021	
2.2.1	Work with business regarding options and plans for sustainable business growth.	CEO	Support for local business development provided.	Work with proponents on opportunities & proposals. Worked with businesses on hardship, COVID operational/legal challenges, adaptation. Assisted meet changing requirements due to COVID rules especially for lodges.
2.2.2	Pursue avenues of funding to implement economic development projects.	MBCS	Funding opportunities, pursued and reported.	Stronger Country Communities grants achieved and delivery continues, subject to project management resources available. Playground, skate park and Stevens Reserve all in progress.
2.2.3	Develop and maintain contemporary policies to aid sustainable development.	MBCS	Policies regularly reviewed and red tape reduced.	Some policy and application reviews completed.
2.3	Effectively manage the Board's business enterprises.	Responsible Officer	Operations Plan 2020/2021	
2.3.1	Operate the LHI Liquor Store.	MBCS / Liquor Store Manager	Achieve surplus to enable subsidy of delivery of service for LHIB.	COVID-19 restrictions impacted on first quarter. Strong business returns since.

2.3.2	Operate the island's airport and wharf facilities.	MIES / MBCS	Airport and wharf facilities are operational when required and revenue and expenditure targets are met.	Revenue/Expenditure targets met (except for visitor levies due to COVID), no downtime experienced. Supply chains maintained with limited reduction in shipping during COVID closure. Port Macquarie flooding resulted in loss of 1 fortnightly voyage with assistance being provided by Woolworths, Eastern Airlines and RAAF Hercules provided for LPG and other urgent supplies.
2.4	Effectively manage the Board's commercial leases.	Responsible Officer	Operations Plan 2020/2021	
2.4.1	Ensure that fair market rental return is achieved on commercial leases.	MBCS	Commercial leases are revalued at least every three years and annual CPI increases are applied.	Adopted COVID relief package implemented. Lease fees waived for 2 quarters.
2.5	Take action to ensure appropriate and adequate servicing of the island by a major airline.	Responsible Officer	Operations Plan 2020/2021	
2.5.1	Lead Air Services Working Group in negotiating ongoing air services to the island beyond 2022.	CEO	Progress initiatives to ensure air services to LHI beyond 2022.	Approach to Qantas not successful during COVID "shutdown" for Qantas. Working Group not able to be established due to further changes in leadership, & COVID impacts. NSW Minister for Energy and Environment wrote to Transport Minister to facilitate formation of working group. (April update) TfNSW group formed to drive contract procurement. First meeting held.
2.5.2	Review the strategy for the future of the airport to enable continued air services.	CEO / MIES	Commence actions with the aim of ensuring an air service into the future.	See above.

Strategic Direction: Sound Infrastructure

3.1	Provide sound asset management.	Responsible Officer	Operations Plan 2020/2021	
3.1.1	Review and update TAMPLAN annually for Board approval.	MIES	TAMPLAN is updated annually and supported by Treasury CAPEX requests	TAMPLAN updates still in progress. CAPEX budget for 21/22 being developed.
3.1.2	Develop procedures then undertake and document preventative maintenance on all assets to reduce failures.	MIES	Undertake gap analysis for Asset Management Plan and Policy.	Road review ongoing. HREP asset renewal planning underway.
3.1.3	Implement computerised Asset Maintenance System (AMS).	MIES	Undertake gap analysis to populate system with asset data.	Evaluating AMS software module which connects to LHIB finance system Authority.
3.1.4	Replacement or new plant items.	MIES	Strategic review of plant/fleet to minimise costs while improving continuity of services.	Review preparing for input into 21/22 budget.
3.2	Maintain recreational facilities for visitor and community use.	Responsible Officer	Operations Plan 2020/2021	
3.2.1	Maintain and improve standard of recreational facilities through regular maintenance.	MIES	Recreational facilities are available for use.	On track. Regular maintenance program to recreational areas. SCCF grants being progressed for Stevens Reserve, playground, skatepark and aquatic club.
3.2.2	Implement approved walking track strategy.	MECS	Priority walking track works as per strategy implemented in accordance with available funding.	Track clearing and maintenance conducted before re-opening and ongoing.
3.3	Operate Aerodrome safely for Regular Passenger Transport (RPT) services, medical evacuations and general aviation.	Responsible Officer	Operations Plan 2020/2021	
3.3.1	Arrange Annual Aerodrome Technical inspections and participate in CASA audits.	MIES	Annual Aerodrome Technical Inspections and CASA Audits completed and recommendations acted on.	2019 audit recommendations actioned. 2020 audit delayed due to covid. Has since been conducted 23-25 February 2021. Report not yet received.
3.3.2	Review Aerodrome Manual annually.	Aerodrome manual controller	Aerodrome Manual updated annually and distributed.	On track. Specialist contractor appointed. Review in progress.

3.3.3	Review effectiveness Bird and Animal Hazard Management Plan annually.	MIES	Bird and Animal Hazard Management Plan effectiveness reviewed annually. Strategies to minimise risk of bird strike to aircraft implemented.	Document update on track. Specialist has assessed the Aerodrome and provided training on site. Review in progress. Bunting install before season and removed as per schedule. New bunting product has proven successful. Additional bunting being considered in 21/22 budget. Monitoring effectiveness of control measures continues.
3.3.4	Hold Aerodrome emergency exercises annually.	MIES	Full and desktop aerodrome emergency exercise held in 2020/21.	Delayed due to COVID restrictions. Exercise held 17th December 2021; CASA requirement met.
3.4	Maintain road network in good condition for all road users.	Responsible Officer	Operations Plan 2020/2021	
3.4.1	Implement road renewals as per TAMPLAN, subject to budget allocations.	MIES	Quarterly report to SMT & Board meeting on progress and achievement of Roads CapEx against budget.	RTR work strategy initiated. Initial costings and methodology proposed. Weekly road maintenance underway as short term management measure. Applied for NSW Government Fixing Local Roads grant. Scope being developed for maintenance campaign.
3.4.2	Regular routine road maintenance programmed.	MIES	Standard of roads is maintained or improved.	Ongoing. Some areas of road are subject to increasing rates of deterioration and require concerted maintenance effort - see above.
3.5	Maintain wharf to serve shipping contractor, charter operators and visiting boats.	Responsible Officer	Operations Plan 2020/2021	
3.5.1	Maintain wharf as per TAMPLAN.	MIES	Wharf is available 100% of the time when required and routine maintenance and works are carried out. Wharf deck strengthened, low-level landing repiled, fenders repaired and deck maintained 2021 Feasibility of 2 nd low level landing to be assessed.	On track and ongoing. Landing repairs complete. Work underway to prepare tender for next stage of maintenance. Assesed.
3.6	Maintain Board building and property assets.	Responsible Officer	Operations Plan 2020/2021	
3.6.1	Maintain Board buildings as per TAMPLAN.	MIES	Buildings are maintained to an acceptable standard for commercial and residential purposes.	Underway. Target met.
3.6.2	Pursue MOU with SESLHD re: doctors residence and GWMH	CEO/ MIES	Initiate MOU discussions with SESLHD	Approached SESLHD via staff and SESLHD CEO office. No response.
3.6.3	Deliver Capital Works Programme	MIES	Quarterly report to SMT & Board meeting on progress and achievement CapEx against budget.	See report.
3.6.3	Refurbish rainwater collection at Depot/Admin, Gov House and Public Hall to maintain supply levels.	MIES	Review planned works.	Complete at this stage. No further action planned.
3.7	Provide facilities in conjunction with Roads and Maritime Services for all Island boat users to safely and efficiently launch, retrieve and maintain boats in an environmentally sound manner.	Responsible Officer	Operations Plan 2020/2021	
3.7.1	Explore compromise options with the current budget to address gap for boat users to safely and efficiently launch retrieve and maintain boats in an environmentally sound manner.	MIES	Explore compromise options with existing funding.	September Board Meeting adopted revised Boating Now proposal. Contactor assisting with design. Trailer and wash-down facility design in early stage. Continual liaison with grant office.
3.8	Provide reliable and efficient electricity supply.	Responsible Officer	Operations Plan 2020/2021	
3.8.1	Maintain electricity generation and distribution system to provide a reliable and safe supply.	MIES	Unplanned electricity outages are maintained at or better than service targets.	Targets met for Q1&2, 7 unplanned outages have occurred durign the recent reporting period, all due to coommissioning faults with the battery energy storage system. Fault finding underway by contractor.

3.8.2	Hybrid Renewable Energy Project completed.	MIES	Project is completed in accordance with objectives.	All PV panels and batteries connected and providing generation. Practical completion milestone not yet reached. See status report attached to CEO report.
			ARENA funding agreement obligations met.	Target met.
			Achievement of Solar PV goals.	Not yet applicable - still in construction phase. However initial (partial) PV connections and generation are encouraging.
3.8.3	Electricity Safety Management System implemented fully and audited.	MIES	ENSMS Compliance maintained	Ongoing and met. 19/20 report is overdue due to pressures of solar installation on resources. ENSMS office kept informed and report is now being prepared.
3.9	Provide efficient and environmentally sustainable waste and recycling management services.	Responsible Officer	Operations Plan 2020/2021	
3.9.1	Maintain and upgrade the Waste Management Facility using grants and allocations to improve composting and waste diversion.	MIES	Through discussions with EPA compost exemption order achieved by 30 June 2021.	WMF coordinator is finalising sampling plan with EPA.
			Compost is given back (not sold) to the community once it reaches an acceptable standard under a distribution system to be determined.	Standard not yet verified.
			Achieve maximum diversion from landfill, aspiring to achieve WARR strategy targets.	Complete.
3.9.2	Maintain compliance with EPA licence for wastewater and waste management at WMF site.	MIES	Wastewater system is maintained and managed to achieve ongoing compliance with EPA licence requirements and the Island's Wastewater Strategy.	Recent issues with waste water quality are being investigated. May be a transient fault. Further action will be required if there is a systemic issue.
			Pollution Reduction Programs (PRPs) within licence are planned and executed as required.	Planning and execution underway.

Strategic Direction: Outstanding Environment

4.1	Protect and manage the environment in a manner that recognises and promotes the World Heritage values of the Island.	Responsible Officer	Operations Plan 2020/2021	
4.1.1	Protect threatened species, populations and ecological communities, and their habitats through implementation of LHI Biodiversity Management Plan (BMP)	MEWH	Significant progress against identified actions in the LHI Biodiversity Management Plan (BMP) is demonstrated.	80% of actions completed. BMP update under consideration, community consultation planning commenced.
			BMP action table is reviewed	Complete.
4.1.2	In accordance with the LHI LEP, manage development in order to protect landscape values and scenic features	MECS	Development applications and activities are assessed in accordance with relevant environmental legislation, policies, and procedures.	Yes, ongoing.
4.1.3	Contribute to World Heritage Area conservation by being a member of the Australian World Heritage Advisory Committee (AWHAC).	CEO / MEWH	Participate in AWHAC meetings and annual world heritage forums.	Yes, ongoing.
4.2	Work to prevent the introduction of exotic pests and pathogens to and eradicate exotic pests from the Island.	Responsible Officer	Operations Plan 2020/2021	
4.2.1	Implement biosecurity measures to protect against the introduction of exotic pests and pathogens to the Island.	MEWH	Significant progress made towards implementation of high priority actions identified in the LHI Biosecurity Strategy.	On track. Biosecurity protocols developed & implemented for inspecting visiting vessels and aircraft. Monitoring network deployed. Overall, completed audit recommendations have increased by 31% FY19/20 to FY20/21.
			Engage Biosecurity Team Leader 2020	Final stages of recruitment being undertaken.
			Implement priority one audit actions at Port Macquarie by 2021 and seek funding for unbudgeted items.	Priority 1 complete. Shed sealing and pallet stands completed. Discussion with Birdon ongoing.

			Biosecurity dogs/handlers continue to be managed, utilised and ongoing accreditation maintained.	Complete and ongoing.
			Conduct regular biosecurity inspections at high risk entry points. Maintain rodent surveillance network.	Complete and ongoing.
4.2.2	Implement the LHI Weed Management Strategy 2016 and Program to eradicate priority invasive weeds	MEWH	Report change on weed population status annually.	Achieved.
			Minimum 500 ha weeded per annum.	Significant progress has been made with this. Two helicopter operations undertaken in previous quarters. Currently sitting at 380ha in March 2021.
			Undertake weed inspections across 30% of leases.	Advice on general biosecurity duty forwarded to community, 2 inspections have been undertaken to date. Scheduled for April 2021.
			Report on weed response post rodent eradication.	In progress. Data currently being collected.
4.2.3	Implement priority one items as identified by the LHI Biosecurity Audit 2020.	MEWH	Achieve significant progress against priority one biosecurity actions.	A total increase of 64 completed recommendations, 15 of which are priority 1 recommendations based on the 2020 Pahor audit.
4.2.4	Seek funding to undertake success check, biodiversity success monitoring and final project report for the REP	MEWH	Success check funded and planned	Currently unfunded.
			Biodiversity benefits monitoring funded and commenced.	Partially funded by FAME, included in ET grant application.
			Final REP report funded and commenced.	Not funded. Included proposal to the Environmental Trust (ET). Some independent reporting occurring.
4.2.5	Conduct surveys for African Big headed Ant (ABHA) and myrtle rust	MEWH	ABHA survey complete	Scheduled for April 2021
			Survey of all leases for Myrtle Rust complete	Scheduled for April 2021
4.3	Identify, protect and value heritage items.	Responsible Officer	Operations Plan 2020/2021	
4.3.1	Identify and protect heritage items	MECS	Heritage requests considered and assessed. Heritage items to be considered in all DA planning assessments.	Complete and ongoing.
4.4	Improve awareness and understanding of the environment through education and research.	Responsible Officer	Operations Plan 2020/2021	
4.4.1	Provide regular updates on environmental programs, research and maintain interpretation to increase environmental awareness	MECS/ MEWH	Articles prepared for Signal and LHIB website and community consultation undertaken on weeds, rodents, waste management and biosecurity	Achieved.
4.4.2	Encourage appropriate environmental research which is of benefit to LHI environment and community.	MECS/ MEWH	High priority research supported	Achieved.
4.5	Improve environmental sustainability of Board programs and operations (waste disposal; wastewater; renewable energy).	Responsible Officer	Operations Plan 2020/2021	
4.5.1	Undertake audit program to monitor and record waste types and volumes received from the community.	MIES	Audits completed by end June 2021.	Audit not undertaken as yet.
4.5.2	Develop better knowledge within the resident and tourist populations of the waste program objectives activities.	MIES	Waste data regularly updated at WMF, The Signal and website.	Not started.
4.5.3	Reduce the environmental impact of wastewater from Board properties.	MIES	All remaining Board properties which do not meet the Strategy are upgraded by end June 2021.	Preschool/LHIB/School/Bowling club cluster installed with preschool and school connected. Work underway to connect bowling club, LHIB depot and Government House. Further work required at research facility. Likely to not meet June 2021 deadline.
			All Board property wastewater systems are maintained in accordance with Strategy.	Maintenance achieved. Further work to implement full testing as required by strategy.
4.5.4	Undertake monitoring of LHI groundwater monitoring well network on annual basis and establish data management and reporting.	MIES	Data on quality and levels is collected and data is managed to enable sensible reporting.	Complete.

4.5.5	Develop a program to phase out single-use plastics on the Island.	MIES	Work is undertaken with community representatives to put in place measures to phase out the sale single use plastics	Discussions held with LHI Plastics action group. No further progress.
4.5.6	Support community in implementing On-site Wastewater Strategy.	MIES	Demonstrated progress by commercial and residential leases to upgrade wastewater systems to meet revised Strategy deadlines.	Further residential and commercial upgrades have been completed.

Strategic Direction: Responsible Land Management

5.1	Design land use and development policies that balance environmental, economic and social outcomes.	Responsible Officer	Operations Plan 2020/2021	
5.1.1	Finalise Stage 1 review of the LHI Local Environmental Plan (LEP)	MECS	Public exhibition of the Planning Proposal complete	Planning proposal placed on public exhibition. Report put to LHIB April 2021.
5.1.2	Seek funding opportunities to commence Stage 2 review of the LHI Local Environmental Plan (LEP)	MECS	Funding opportunities achieved	Funding sought. Not available at this time.
5.1.3	Undertake a review of the Dwelling Allocation and Entitlement Policy	MECS	Draft dwelling allocation entitlement policy commenced and available for community consultation in 2021.	Report provided to Board regarding use of Nursery land as potential dwelling sites. No further action Q3.
5.2	Provide an efficient and effective development planning and assessment service.	Responsible Officer	Operations Plan 2020/2021	
5.2.1	Provide development planning and assessment through the services of an independent planning consultant.	MECS	Annual performance reviews of planning contract undertaken.	Not undertaken as yet.
5.3	Provide an effective lease administration system.	Responsible Officer	Operations Plan 2020/2021	
5.3.1	Administer leases in accordance with the Act.	MECS	Continue to pursue of compliance of priority issues lease issues identified in the Handley Review.	Ongoing. Land and Property Officer appointed on temporary part time contract. Has assisted good progress on matters.
5.3.2	Implement recommendations from independent review of land tenure and allocation arrangements.	MECS	Priority actions from Land Tenure and Land Allocation review are implemented.	Most are state government actions and advocacy to implement continuing. LHIB actions undertaken.
5.4	Protect and manage the LHI Permanent Park Preserve in a manner that recognises the World Heritage values of the Island.	Responsible Officer	Operations Plan 2020/2021	
5.4.1	Ensure LHI Permanent Park Preserve is managed in accordance with Plan of Management.	MEWH	PPP review completed by June 2021.	PPP Plan of management review conducted with community consultation. On track for completion by June 2021.
5.5	Protect and manage vacant crown lands.	Responsible Officer	Operations Plan 2020/2021	
5.5.1	Develop a plan for management of Norfolk Island Pines	MECS	Plan developed by June 2021	On hold until resources available.
5.6	Rehabilitate degraded areas.	Responsible Officer	Operations Plan 2020/2021	
5.6.1	Maintain and expand revegetation areas	MEWH	Report on the area maintained annually Report on the area additional land revegetated.	6 hectares 1.8 hectares
5.6.2	Implement LHI Coastal Study recommendations to manage erosion and recession risks.	MIES & MECS	Foreshore remediation implemented by December 2020. Cobby's Creeks is managed to reduce flooding impacts on properties on the Sally Swamp area. Grant funding achieved.	Boatshed DA approved, relocated, Perm Occ completed, Contractor engaged and work in progress. 3700 cubic metres of sand has been moved from northern end of Lagoon Beach to Windy Point erosion scour. Removal of sandbags underway. <i>April update. Concrete and sand bags removed, 7000 m3 sand moved.</i> Impacts have been managed. On track.

Strategic Direction: Strong and Engaged Community

6.1	Plan for appropriate services for the community.	Responsible Officer	Operations Plan 2020/2021	
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6.1.1	Support a whole of government approach to the provision of health, education and other services.	SMT	Meetings held with NSW Health, RMS, Police, SES and RFS every 12 months.	Regular & frequent meetings with NSW Health (COVID), Police. Other agencies engaged on COVID matters. Recovery-Reopening Plan prepared by LHIB in consultation with NSW Health. General planning to continue. Close liaison with local Health & Police on a range of matters incl. emergency responses and accommodation.
6.2	Improve relationship with the community through engagement and consultation.	Responsible Officer	Operations Plan 2020/2021	
6.2.1	Develop a communication / community engagement strategy to support an informed and involved community.	MECS	Prepare and present to the Board for adoption a Community Participation Plan in line with the EP&A Act.	Not started.
6.3	Provide professional environmental and public health services.	Responsible Officer	Operations Plan 2020/2021	
6.3.1	Ensure compliance with public health standards for LHIB drinking water supplies, wastewater management and food safety.	MECS / MIES	Scheduled inspection and testing regime are implemented.	Annual food safety inspection planned for first half 2021 Drinking water testing compliant. Wastewater testing schedule may have some gaps, work underway to identify and close gaps.
6.3.2	Prepare and implement Drinking Water Quality Assurance Program for Board supplies.	MIES	Drinking Water Quality Assurance Program implemented and documented fully.	Complete.
6.4	Support capacity building in community organisations.	Responsible Officer	Operations Plan 2020/2021	
6.4.1	Make funds available under Community Grants Program for activities or projects that benefit the LHI community.	MECS	Expressions of Interest for Community Grants sought every 12 months in accordance with Policy.	Not undertaken 2020 due to LHIB financial position.
6.5	Promote programs that assist children.	Responsible Officer	Operations Plan 2020/2021	
6.5.1	Make funds available under LHI Scholarship Program to support the completion of tertiary education that contributes to LHI.	MECS	Funding provided for LHI Scholarship Program.	Ongoing, chosen recipient currently studying.
6.5.2	Support community events.	MECS/MIES	Event calendar developed and priority events for Board assistance identified.	Support for various incl. Bling Bike event, Carols (23 Dec), Rockfest, Citizenship ceremony, etc. Support had been organised for Discovery Day but cancelled due to weather.
6.5.3	Actively support progress of establishment of pre-school	MECS	Project assisted and supported.	Final stages of construction, opening planned for Term 2.
6.6	Manage the Local Emergency Management Committee (LEMC) and Emergency Management Plan (EMPLAN).	Responsible Officer	Operations Plan 2020/2021	
6.6.1	Arrange quarterly meetings of LEMC.	LEMO / MIES	4 times yearly meetings of LEMC held.	Q2 meeting held. COVID sub-group meetings as required. Next meeting is overdue - action underway to convene.
6.6.2	Implement EMPLAN as required and coordinate annual review.	LEMO / MIES	EMPLAN implemented for any emergencies and 3 yearly review completed.	Complete. On target.

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Draft Vehicle Importation, Transfer and Use Policy.

RECOMMENDATION

That the reviewed and exhibited Vehicle Importation, Transfer and Use Policy (Attachment C to this report) be adopted with all changes adopted as exhibited.

BACKGROUND

Following review of the subject policy and a report to the Board in December 2020, the Board resolved:

- 1) *That the reviewed Vehicle Importation, Transfer and Use Policy (Attachment B to this report) including proposed changes be placed on exhibition for six weeks over the Christmas period, with the exhibition to be notified by Householder.*
- 2) *That a report be presented to the Board at its March 2021 meeting to consider submissions and a draft Policy for adoption.*

The purpose of this business paper is to report submissions made during the public exhibition period and recommend a draft Policy for adoption.

At the December 2020 meeting (see December report at Attachment B), it was noted that the review proposed several changes. A summary of the changes (taken directly from the December 2020 Report) is shown below. The numbered reference correspond to the relevant clauses in the Policy:

Section 3 Definitions:

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

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

A sentence has been added to reinforce that an electric powered cycle that does not meet the RMS definition including that it must not propel the bicycle when the rider is not

pedalling (except an optional low-speed start-up mode that allows the motor to power the cycle up to 6 km/h). It is understood to be illegal for a *Power Assisted Pedal Cycle* to be used on public roads if it does not comply with the RMS definition.

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

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

Section 4 Vehicle Types.

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

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

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

Removing the requirement for separate metering would simplify billing.

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

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

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

7.1.2 *Vehicles for Commercial Use.* Proposed to delete “Motor Assisted Pedal Bicycles will not be approved for commercial use”. See discussion at 3.10

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

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

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

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

CURRENT POSITION

The draft reviewed Policy was publically exhibited inviting submissions, from 11 January to 22 February 2021. Notification of the exhibition was sent by email to all on the Board's "householder" email list and hard copies delivered to PO boxes for those who do not have an email address or have indicated they wish to receive paper copies of householders. The notification was also placed on the Board's web site with a link to the December Board report with its attached current and proposed draft policy with changes highlighted.

SUBMISSIONS

Four submissions were received and these are summarised in Attachment A. Comments in the last column respond to the issues or suggestions made.

In short:

- Two submissions supported the changes and in particular, allowing e-bikes to be used for commercial purposes without approval.
- One submission sought to lessen the restrictions on eligibility and number of vehicles.
- One submission sought to increase the restrictions on eligibility, size/type of vehicles and number of vehicles.

The exhibited policy changes were therefore supported. However two of the submissions made argument for further changes (ie increase or decrease restrictions) that would require significant development, drafting and evaluation in terms of effectiveness, management and impacts.

As noted at the December meeting, due to technology changes, the Hybrid Renewable Energy Project, and questions regarding whether the policy is actually achieving its objectives, deeper review beyond this current review is recommended. The Policy is complex and lengthy. Its strong restrictions arguably reduce the rate of growth in vehicle numbers, but may not be sufficient or the most effective method of restricting vehicle numbers, usage and impacts.

Therefore, it is recommended that the exhibited amendments to the Policy be adopted making it consistent with legislative changes as well as clearer and a little more streamlined.

RECOMMENDATION

That the reviewed and exhibited Vehicle Importation, Transfer and Use Policy (Attachment C to this report) be adopted with all changes adopted as exhibited.

Prepared and Endorsed: Peter Adams, Chief Executive OfficerB

Attachments:

Attachment A: Review of Vehicle Importation, Transfer and Use Policy - Submissions

Attachment B: Report to December 2020 Meeting - Business Paper - 09 (i) Vehicle Importation, Transfer and Use Policy Review – Open

Attachment C: Advertised draft policy with changes and comments shown.

SUBMISSIONS RECEIVED

Sub No.	Issues Raised by Submitter	Comment by Board staff
1	<p>Support for proposed changes especially in relation to e-bikes for business use. Some businesses “high up” and difficult to access for guests on bicycles. Evens “playing field” for those businesses.</p>	<p>Support noted</p>
2	<p>Comments relate to the policy objective and methods of restricting vehicle ownership.</p> <ul style="list-style-type: none"> • The aim of policy to reduce vehicle numbers fails to take into account population growth and migration to the island. A single household may have many occupants with different needs for travel. • Policy should be changed to allow a second vehicle per lease (specifically a motorcycle), so that the smaller vehicle can be used in lieu of larger car when not required. • Electric e-bikes should not be used as an excuse to refuse a motorcycle. Do not have same capability as motorcycle. • Requirement for an applicant to have been a permanent resident for 24 months prior to making application, should be removed. If a person demonstrates a legitimate requirement and has residential tenancy agreement, should be entitled to apply. • Clause 7.1.1 (d) allows the Board to exercise discretion if “exceptional circumstance which cannot be addressed by the policy” is demonstrated. Individual needs of 	<p><i>The draft revised policy considered by the Board in December and subsequently exhibited did not have changes relating directly to the issues raised in this submission. See discussion in covering report.</i></p> <ul style="list-style-type: none"> • The policy seeks to reduce impacts from motor vehicles due to the unique nature of the island, its limited road network and environment. It is acknowledged that it is restrictive and challenging. • This is an option that has been debated in the past and while it would increase vehicle numbers, could allow use of smaller motorcycles at times rather than cars. • Comment made in response to a refusal to approve a motor cycle outside the policy’s eligibility criteria and considered to not have demonstrated “exceptional circumstance”. • As above. • As above. While restrictive to achieve its objectives, the policy allows for demonstrated exceptional circumstances to be considered.

	<p>applicants need to be taken into consideration. Should not be one rule for all.</p>	
<p>3.</p>	<p>Comments relate to the busy periods for the island and adverse comments made by guests (at submitter's business), regarding vehicle numbers, use and size. Suggestions for reducing impact or number of vehicles.</p> <ul style="list-style-type: none"> • Need greater incentive to adhere to recommended vehicle size rather than just waiving of wharfage fee. • Perhaps a bond be retained to cover return freight to mainland. • Clause 7.1.1 eligibility criteria should be tightened. Person living 2 years on island should not necessarily be 	<p><i>The draft revised policy considered by the Board in December and subsequently exhibited did not have changes relating directly to the issues raised in this submission. See discussion in covering report.</i></p> <p>It is confirmed that returning guests do comment that vehicle numbers have increased. It is suggested that perceived increases in "traffic" and impacts, is a product of vehicle numbers, type and size, and frequency of use.</p> <ul style="list-style-type: none"> • There is both a maximum vehicle size within which vehicles are required to comply (CI 3.7 & 3.8) unless a demonstrated alternative is not possible or practical. A much tighter set of criteria for "preferred vehicles" (CI 4.1) qualifies an applicant for incentives including waiving of application and wharfage fees. The exhibited draft policy proposes to increase the maximum vehicle size because the vehicle it is based on (Toyota Hilux) is now larger than the dimensions when the policy was revised in 2017. Increasing size is a concern. However, little alternative is available if a similar type of vehicle is required. It is noted that other vehicles such as the small buses used for guest transport are also increasing in size (eg Toyota Tarago no longer available and Granvia alternative is larger) • Return freight is expensive and a disincentive to complying with the requirement to remove vehicles no longer approved for use (eg when replaced). Administration and compliance is a significant ongoing challenge. • All applicants need to demonstrate need for vehicle regardless of length of residency. Further restricting eligibility may reduce numbers or increase but would be

	<p>entitled to a car, even if they live in a second dwelling on a property.</p> <ul style="list-style-type: none"> • Recent situation where person with car working during day had vehicle used frequently by others. • Just because a vehicle is for sale on island, should not mean that applicant should be granted permission to have vehicle. • Should be a moratorium on new vehicle importation until the roads are in a better condition (like for like could be permitted). 	<p>challenging to implement especially where businesses need vehicles and family or mobility needs are argued.</p> <ul style="list-style-type: none"> • Noted. • When an application is made to transfer a vehicle, it is made by both the transferor and transferee. Such applications follow the same criteria as an application to import a vehicle including eligibility, demonstrated need, etc. • It is not considered that improved road surface condition would increase the capacity for vehicle numbers.
4	<ul style="list-style-type: none"> • Welcome changes to e-bike policy change for commercial operators. Would trial these for their guests. • Additional hire car licence suggested for their lodge. Believes this would reduce vehicle movements associated with deliveries of meals and guests to various island locations. Would welcome opportunity to bid for licence. 	<ul style="list-style-type: none"> • Noted • The policy (CI 8.5 9 (a)) allows the Board to approve up to eight (8) hire vehicles. Currently there are eight (8) hire vehicles approved. These are not transferable without the Board's written approval. These are to be "preferable vehicles" (CI 8.5 (f)), unless otherwise approved by the Board. The Board can revise this quota at any time subject to a demonstrated business need (CI 8.5 (a)).

Board Meeting: December 2020	Agenda Number: 9 (i)	Record Number: ED20/10472
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Vehicle Importation, Transfer and Use Policy Review.

RECOMMENDATION

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

BACKGROUND

The aim of this policy is to:

“work towards limiting the overall number and impact of vehicle movements on the island’s road system, with a particular focus on the types of vehicles driven on the island. The vision is for the Island’s fleet to consist of a limited number of low impact vehicles, with electric vehicles being encouraged.

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

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

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

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

The Board will continue to review and develop the policy, and associated programs and initiatives. These reviews will occur biannually.” (Section 1 Vehicle Importation Transfer & Use Policy - Attachment A)

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

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

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

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

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

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

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

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

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

CURRENT POSITION

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

The current Policy is included Attachment A.

PROPOSED CHANGES

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

Section 3 Definitions:

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

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

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

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

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

Section 4 Vehicle Types.

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

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

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

Removing the requirement for separate metering would simplify billing.

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

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

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

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

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

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

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

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

INFORMATION FOR APPLICANTS AND APPLICATION FORM

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

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

NEXT STEPS

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

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

RECOMMENDATION

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

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

Prepared & Endorsed: Peter Adams CEO

Attachments:

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

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

LORD HOWE ISLAND BOARD DRAFT POLICY

TITLE	Vehicle Importation, Transfer and Use Policy		
DATE ADOPTED	December 2006	AGENDA ITEM	8 (ii) December 2006
CURRENT VERSION	September 2017	AGENDA ITEM	8 (v) September 2017
REVIEW	Biannually	RECORD NUMBER	ED17/765
ASSOCIATED LEGISLATION	<i>Lord Howe Island Act 1953 (NSW)</i> <i>Lord Howe Island Regulation 2014 (NSW)</i> <i>Local Government Act 1993</i>		
ASSOCIATED POLICIES	N/A		

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1 Policy Overview

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

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

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

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

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

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

2 Legislative Framework

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

84 Approval to import motor vehicles

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

Maximum penalty: 50 penalty units.

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

86 Hire of motor vehicles

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

Maximum penalty: 50 penalty units.

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

87 Use of motor vehicles

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

approval to the use of that vehicle on the Island.

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

2.1 Relevant Legislative Provisions Relating To Approvals:

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

3 Definitions

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

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

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

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

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

3.2 Reside

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

3.3 Dwelling

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

3.4 Tenant

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

3.5 Essential Services

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

3.6 Vehicle Hire

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

money or other consideration of any kind.

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3.7 Vehicles for Private Use

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

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

- a) Length ~~53320~~mm (not including tow ball);
- b) Width ~~18550~~mm (not including side mirrors); and
- c) Height ~~1815700~~ mm (not including roof racks or roll bars or headboard on the tray).

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

3.8 Vehicles for Commercial Use

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

As a result of community concern over the number of outsized vehicles, the Board has introduced a maximum size of a standard vehicle for commercial use permissible on the island, which is based on the current model of a 2 wheel drive Toyota Hilux utility, which in ~~2017~~ was:

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

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

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

3.9 Commercial Use

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

3.10 Power Assisted Pedal Cycle

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

A ~~P~~power-~~A~~ssisted ~~P~~edal ~~C~~ycle is designed to be propelled ~~primarily by a pedalling cyclist~~solely by human power and has one or more auxiliary (electric) propulsion motors attached to assist the rider. ~~This means that it must be possible to propel the bicycle only by the rider pedalling it. The primary driving force should be the rider, and the motor is only intended to help the rider, such as when going uphill or cycling into a headwind, or to cycle at a speed they cannot maintain solely by pedalling. The main source of propulsion for the power assisted pedal cycle is human, and the motor is only designed to assist rather than replace the rider.~~

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

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

~~permitted to propel the bicycle when the rider is not pedalling (an optional low-speed start-up mode that allows the motor to power the cycle up to 6 km/h). Power Assisted Pedal Cycles are only permitted for private use without approval. They are not allowed to be used for Hire purposes unless approval has been granted by the Board.~~

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

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

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3.11 Motorised wheelchairs and mobility scooters

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

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

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

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

3.12 Bull bars/Roo bars/Nudge bars

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

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

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

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

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

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

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

4 Vehicle Types

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

4.1 Preferred Vehicles

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

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

- iii. Have vehicle size “footprint”
 - Length 4000mm (max)
 - Width 1700mm (max)
 - Height ~~1600mm~~ 1720 mm (max)

b) Electric Vehicles:

- i. Electric vehicles include any vehicle that has battery storage and has an electricity plug-in recharge capacity. These vehicles (or the batteries for these vehicles) must have the ability to be plugged into an electricity power point connected to the LHI Grid. ~~Approval to import an electric vehicle will be conditional on the leaseholder upgrading their electricity meter to a “Smart” meter, if not already installed.~~
- ii. Hybrid electric vehicles that do not have a plug in recharge capacity are not deemed electric vehicles for the purpose of this policy.
- iii. Electric vehicles for private use must not exceed the maximum vehicle footprint as defined under Section 3.

c) Motor Scooters:

- i. 4 stroke motor scooters with a maximum capacity of 250cc.

4.2 Other Vehicles

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

4.3 Boat Trailers

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

4.4 Box Trailers

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

4.5 Caravans

The importation of caravans is prohibited under this policy.

4.6 Specialist / Other Trailers

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

4.7 Plant and Equipment

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

This provisions of this Policy do not relate to:

Commented [PA7]: Proposed to be deleted because:

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

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

5 Fees

5.1 Importation or Transfer

- a) Vehicles meeting the Board’s Preferred Vehicle criteria will be exempt from the importation application fee.
- b) A non-refundable application fee of \$2050 per vehicle will apply to all applications for the importation or transfer of vehicles which do not meet the Board’s Preferred Vehicle criteria.
- c) A non-refundable application fee of \$2050 per vehicle will apply to all applications to renew a commercial vehicle or hire vehicle approval.
- d) Box trailers will be exempt from the above fee.
- e) Boat trailers will be exempt from the above fee.

6 Incentives

- a) Vehicles meeting the Board’s Preferred Vehicle criteria will be exempt from the Board’s wharfage fee for the vehicle.
- b) Box trailers will be exempt from the wharfage fee for the vehicle (limit of one exemption per lease).
- c) If not already installed, installation of ‘Smart’ Advanced meters at residences and businesses as part of the importation of an electric vehicle, will be ‘at cost’, including the Board’s Senior Electrical Officer (SEO) labour and parts.

7 Eligibility to Import and Use

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

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

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

7.1 Eligibility

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

7.1.1 Vehicles for Private Use

- 1) A person who resides in an approved dwelling on a Perpetual Lease, either as: the holder, owner, or sub-lessee of the lease or; as the owner-occupant of a multiple occupancy or; by way of a current tenancy agreement under the *NSW Residential Tenancy Act 1987* and a) has resided on the island for a continuous period of 24 months at time of application. (Proof of Tenancy will be required and should be supplied with application); and -

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

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b) ~~a) An employee of an Essential Service provider (other than the Board) who does not have access to the private use of a vehicle provided by the Essential Service may apply to import or transfer a preferred vehicle if they can demonstrate to the Board a genuine need for the vehicle. This will only apply where the employee will occupy the position for a period greater than 12 months and is subject to any specification set out in the schedule of Essential Service entitlements. Any approval will be in accordance with this policy. Approval under this clause will be terminated at the cessation of employment with the Essential Service provider.~~

e) ~~b) Lord Howe Island Board employees other than a person described in a), may after 12 months service staff apply to import a preferred vehicle in accordance with the Board's vehicle importation and use policy. Applications must demonstrate need for vehicle in accordance with this policy. Any approval will be in accordance with this policy. Approval to import vehicle will result in termination of private use rights of LHI Board vehicle. Approval under this clause will be terminated at the cessation of employment with the Board.~~

e) ~~c) A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. In such cases, the Board may exercise discretion, provided that the applicant has demonstrated that no viable alternative to the importation and use of a vehicle exists.~~

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

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

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

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7.1.2 Vehicles for Commercial Use

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

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

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7.1.3 Vehicles for Essential Services

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

7.1.4 Vehicles for Hire

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

7.2 Use

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

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

7.3 Private and Commercial Use

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

Where a person has approval for a private use vehicle and a commercial use vehicle, the commercial use vehicle cannot be used for private use.

7.4 Essential Services

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

Use restrictions will be set out as conditions of approval.

7.5 Hire Vehicle Use

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

8 Allocations

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

8.1 Private Use

One (1) vehicle per approved dwelling.

8.2 Commercial Use

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

8.3 Essential Services Allocation

Essential Services will be eligible to import vehicles as follows:

8.4 Schedule of Essential Services

ESSENTIAL SERVICE	VEHICLE ALLOCATION
Lord Howe Island Board	A fleet comprising of all vehicle types, being the minimum number

	of vehicles required to ensure the safe, effective and efficient delivery of the Board's charter, to a maximum of 12-13 road going vehicles.
NSW Police	1 Vehicle
NSW MPA	1 Vehicle
Bureau of Meteorology	1 Vehicle
NSW Education	1 Vehicle
NSW Health	1 Vehicle – Ambulance
Doctor (GP)	1 Vehicle
NSW RFS	1 Vehicle – Fire Engine
NSW SES	1 Vehicle – Emergency Response Vehicle
<u>NSW Marine Rescue</u>	<u>1 boat trailer (with RIB)</u>

Commented [PA10]: Biosecurity dog vehicle added.

Commented [PA11]: Newly established Marine Rescue Unit added

8.5 Additional Vehicle Allocation for Hire Car Use

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

Clause 86 of that Regulation states that:

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

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

In addition to any other allocation:

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

9 Review of Applications

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

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

10 Approval Periods – Importation and Use

10.1 Private Use Approval Period

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

10.2 Commercial Approval Period

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

10.3 Hire Vehicle Approval Period

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

11 Approval Conditions

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

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

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

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

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

In the case of deceased estates, where a private use vehicle is attached to the dwelling of the deceased, the vehicle must remain garaged at the approved dwelling and its use suspended until the administration of the estate has been completed. Where the executor or a caretaker living on the

estate does not have access to another private use vehicle, these persons may use the vehicle during the period of administration.

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

11.1 Breach of Approval

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

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

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

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

12 Vehicle Replacement

Unless a case for exceptional circumstances can be established to the satisfaction of the Board, replacement of vehicles will be on a 'one on – one off' basis, where the replacement vehicle has the same (+ 10% subject to the discretion of the Board) or smaller engine capacity and tare weight as the vehicle being replaced.

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

13 Vehicle Transfers

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

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

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

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

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

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14 Delegations

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

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

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

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

15 Reporting and Monitoring

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

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

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

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

16 Attachment: Information for Applicants

DRAFT

LORD HOWE ISLAND BOARD

VEHICLE IMPORTATION, TRANSFER AND USE POLICY

Eligibility to Import or Transfer and Use: Information for Applicants

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

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

All applications to import or transfer and use a vehicle will need to demonstrate a genuine need for the import or transfer, and use of a vehicle, and for the vehicle selected. The Board reserves the right to reject any application for any vehicle where it believes that a vehicle is not in the public interest and/or the likely impacts of the vehicle, including environmental impacts on both the natural and built environments, and social and economic impacts will be unacceptable for the island and/or where an applicant has failed to adequately justify the need for a proposed vehicle. An application to import or transfer and use a vehicle must be made on the prescribed form and include any additional information as the Board may require or the applicant wishes to provide.

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

ELIGIBILITY

Vehicles for Private Use

- a) A person who resides in an approved dwelling on a Perpetual Lease, either as: the holder, owner, or sub-lessee of the lease or; as the owner-occupant of a multiple occupancy or ; by way of a current tenancy agreement under the *NSW Residential Tenancy Act 1987* and has resided on the island for a continuous period of 24 months at time of application. Proof of Tenancy will be required and should be supplied with application.
- b) An employee of an Essential Service provider (other than the Board) who does not have access to the private use of a vehicle provided by the Essential Service may apply to import or transfer a preferred vehicle if they can demonstrate to the Board a genuine need for the vehicle. This will only apply where the employee will occupy the position for a period greater than 12 months and is subject to any specification set out in the schedule of Essential Service entitlements. Any approval will be in accordance with this policy. Approval under this clause will be terminated at the cessation of employment with the Essential Service provider.
- c) Lord Howe Island Board employees other than a person described in a), may after 12 months service staff apply to import a preferred vehicle in accordance with the Board's vehicle importation and use policy. Applications must demonstrate need for vehicle in accordance with this policy. Any approval will be in accordance with this policy. Approval to import vehicle will result in termination of private use rights of LHI Board vehicle. Approval under this clause will be terminated at the cessation of employment with the Board.
- d) A person who can demonstrate exceptional circumstance which cannot be addressed by this

policy. In such cases, the Board may exercise discretion, provided that the applicant has demonstrated that no viable alternative to the importation and use of a vehicle exists.

- e) A person as per a) under **Private Use Eligibility** who:
 - i. Has no existing approval for a commercial vehicle which is suitable for private use;
 - ii. Does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.

Vehicles for Commercial Use

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

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

Vehicles for Essential Services

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

Vehicles for Hire

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

17 Attachment: Application to Import a Vehicle

DRAFT

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Proposed Permissive Occupancy (PO) for Marine Rescue Unit

RECOMMENDATION

The Board seek the Minister's approval for the granting of a Permissive Occupancy over a portion of the unnamed Reserve Land illustrated in Figure 1 of Attachment A for the purposes of the Volunteer Marine Rescue NSW – Lord Howe Island Operations Facility. The Permissive Occupancy to be subject to the conditions set out in Attachment A "Permissive Occupancy Agreement" with a rental set at 100% of the independent valuer assessed rental value for the unimproved land and indexed to CPI.

BACKGROUND

At the April 2020 Board meeting it was resolved to approve the construction of an operations centre for a Lord Howe Island Marine Rescue Operations Centre. At the time of drafting this report construction of the centre was nearing completion.

On 27 July 2020 the LHIB received an email from Mark Cooper, Marine Rescue NSW requesting that a PO be granted to Marine Rescue – LHI for the site of the LHI Marine Rescue Operations Centre.

Currently in the jetty precinct there are a number of users including Birdon, RMS, Marine Parks and the Shack. Marine Parks currently pay a commercial rent for the jetty storage facility, whilst Birdon has a clause in the shipping contract permitting them to use the storage sheds free of charge. Neither the Shack, nor RMS storage shed have a formal rental agreement with the Board.

The *Lord Howe Island Act 1953* (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.

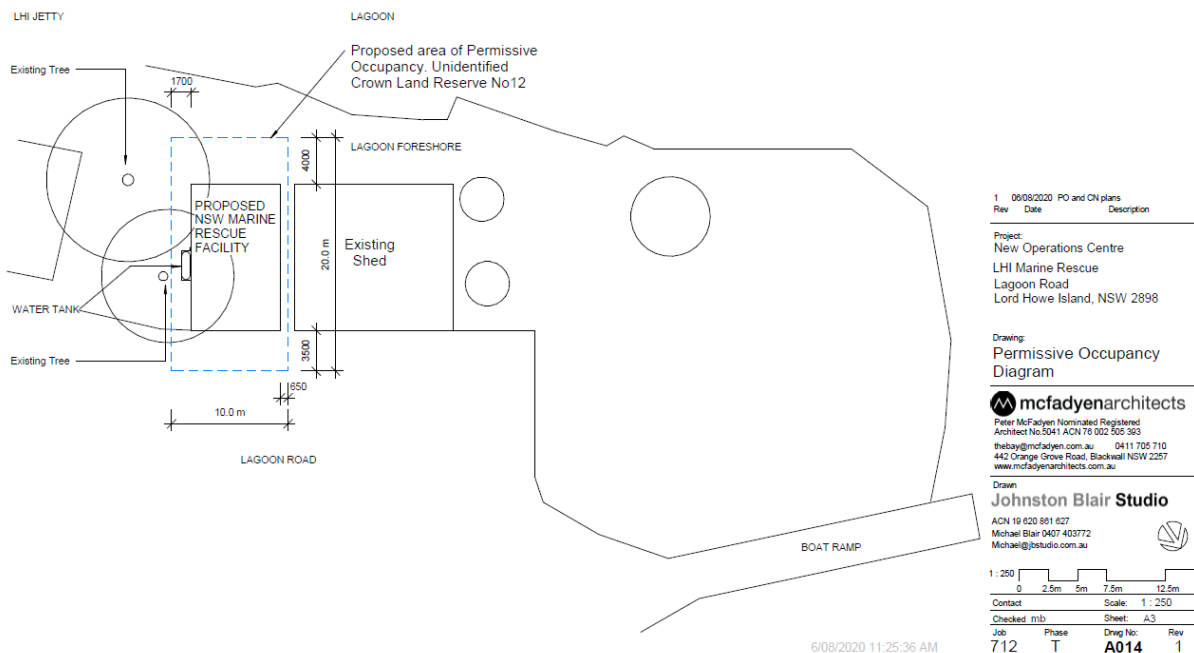
CURRENT POSITION

There is currently no formal tenure granted to Marine Rescue for the portion of land occupied by the Marine Operations Centre. Under the Act the Board has the option of granting a PO to Marine Rescue LHI. A PO provides the recipient with permission to occupy vacant Crown Lands, or Crown lands subject of a reservation under this Act for such purposes and upon such terms and conditions as the Minister may impose on the recommendation of the Board.

While a PO grants permission to occupy Crown Land, it is not a transferrable right which means once a PO is granted, the recipient cannot then transfer by way of sale or any other means the PO to another person or entity. As such a PO granted to Marine Rescue is only valid as long as Marine Rescue occupy and operate the Operations Centre.

Due to the location of the Operations Centre and nature of the structure of Marine Rescue NSW it is not possible to grant a Special Lease, or Perpetual Lease to Marine Rescue.

The proposed location and boundaries are outlined in blue in the figure below. The boundary is larger than the footprint of the building to enable space for rainwater tanks and for maintenance activities of the building to be undertaken within the footprint of the PO. The approximate total area for the PO is 200m².



Process for creation of a Permissive Occupancy

A Permissive Occupancy Policy adopted by the Board on January 22 2007 (Attachment B) details a process the Board should follow when creating a PO. The policy states:

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.*

Following is a response to each of the above considerations:

Matter to be addressed	Analysis
<p>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;</p>	<p>While the PO itself has not been advertised, the development has gone through a Development Assessment process for DA2020.05. The proposed use was publically exhibited for a period of 14 days. During the initial exhibition no submissions were received. However at a Board meeting in April 2020 the Board resolved to request a follow up paper to be prepared for consideration by the Board prior to determining the DA. At the May 2020 Board meeting a petition was received containing 19 signatures raising concerns about the development being excessive, duplicating services and taking up valuable area used for storage of freight. An additional letter was received from a resident siting similar concerns.</p> <p>The submissions were discussed in some detail by the Board. The Board resolved 4-3 to issue Owners Consent and DA approval for the DA.</p> <p>The DA process satisfies the process of public exhibition of this Permissive Occupancy.</p>
<p>b. whether there are possible alternative public uses for the land;</p>	<p>Alternative uses for the land was considered through the DA process. The Board resolved to approve the DA for the Operations Centre.</p>

<p>c. whether the proposed occupation and use of the land is in the public interest;</p>	<p>The proposed use of the land is to provide a Marine Rescue Service for all maritime activities that take place in LHI waters and adjacent areas. The facility is self-funded with support from volunteers, fundraising and grants.</p>
<p>d. the likely impacts of the proposed occupation and use of the land, including environmental, social, cultural and economic impacts;</p>	<p>These impacts were considered in detail in the assessment of DA2020.05. The Board resolved to approve the DA for the Operations Centre.</p>
<p>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;</p>	<p>The LHI Branch of Marine Rescue LHI has to date demonstrated significant capacity to be self-funding and is supported by Marine Rescue NSW. It is anticipated that the Marine Rescue has capacity to manage the land in accordance with the PO conditions.</p>
<p>f. the consistency of the proposed occupation and use of the land with the Zoning of the subject land under the LHI REP 2005;</p>	<p>This was considered in detail in the assessment of DA2020.05. The Board resolved to approve the DA for the Operations Centre.</p>
<p>g. whether the proposed occupation and/or use requires development consent under the LHI REP 2005;</p>	<p>Consent was granted (DA2020.05) for the proposed use in May 2020,</p>
<p>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.</p>	<p>Proposed rental to be calculated for the unimproved land value only. At the time of drafting this report the valuation had not been completed, however it is anticipated the valuation will be completed in early April.</p> <p>See body of this paper for further discussion on the calculation of the PO rental.</p>

Discussion on Permissive Occupancy Rental

The PO Policy provides incomplete guidance on how to calculate rental for POs'. A Valuer General (VG) has not been used for at least the last two rounds of PO valuations. Previous valuations have been undertaken by a commercial valuer. The VG only being engaged to provide valuations for lease transfers, and compensation matters under the Lord Howe Island Act.

A review of existing PO's on the Island show that churches and island based community groups such as the Aquatic Club and Preschool pay peppercorn rentals, whilst government agencies, private and commercial PO's pay rents based on valuations.

Marine Rescue LHI is a branch of Marine Rescue Volunteers NSW. Local branches such as LHI are staffed by volunteers, whilst the governing body employs 33 full time staff and receives State Government funding, corporate sponsorship and funding from community fundraising activities. Whilst Marine Rescue NSW is not a State Government agency, it does report to the NSW Minister for Police and Emergency Services.

The location for the Marine Rescue Unit has displaced some stevedoring activities undertaken by Birdon Shipping. This matter was considered in some detail during the determination of the DA. It is also occupying land in a precinct that is constrained for space with multiple competing demands for future uses.

The Board is currently responsible for maintaining the jetty precinct, including the maintenance of buildings. The only direct cost incurred by the Board with the Marine Rescue Operations Centre is for the operation of a shared waste water system, however Marine Rescue have committed to entering into a cost sharing agreement for this. At the time of drafting this report this agreement had not been finalised. The Board does incur some indirect costs from the management of the site in the way of managing occasional conflicts and the lost opportunity to use the site for other uses.

Liabilities to the Board by signing the PO

Under the PO Policy adopted by the Board January 22 2007 (Attachment B) the Board is obliged to pay the value of the improvements should the PO be surrendered. Specifically:

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.

However, the standard clause in the PO agreement that was also adopted alongside the policy in 2007 reads:

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.

At the time of the DA, Marine Rescue listed the value of the development as \$250 000. Should the PO be terminated or Marine Rescue choose to surrender the PO, and assuming the building is maintained in good condition, the Board will have the option to require the building to be removed at the expense of Marine Rescue. Alternatively if the Board wished to retain the improvements, it would be liable to pay for the value of the improvements at that time.

Setting of rent

In light of the quasi-government agency status of Marine Rescue, and the relative value of the land which the facility is located, it is proposed that Marine Rescue be charged valuer assessed rental indexed to CPI for land value only.

RECOMMENDATION

The Board seek the Minister's approval for the granting of a Permissive Occupancy over a portion of the unnamed Reserve Land illustrated in Figure 1 of Attachment A for the purposes of the Volunteer Marine Rescue NSW – Lord Howe Island Operations Facility. The Permissive Occupancy to be subject to the conditions set out in Attachment A "Permissive Occupancy Agreement" with a rental set at 100% of the independent valuer assessed rental value for the unimproved land and indexed to CPI.

Prepared: Justin Sauvage Manager of Environment and Community Services

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Attachment A: Permissive Occupancy Agreement

Attachment B: Permissive Occupancy Policy – Adopted January 2007

PERMISSIVE OCCUPANCY AGREEMENT

Permissive Occupancy No: 2021.01

Location and Description

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

Approved Purpose: Marine Rescue Operations Centre

Commencement Date: 1 May 2021

Holders: Volunteer Marine Rescue NSW

We, Marine Rescue Operations Centre acknowledge that:

1. Our occupation and use of the Subject Land as shown in Figure 1 is for the Approved Purpose and granted by the NSW Minister for the Environment (the Minister) as a Permissive Occupancy under section 31A of the *Lord Howe Island Act 1953* (the Act);
2. This Permissive Occupancy may be terminated any time by the Minister, upon the recommendation of the Lord Howe Island Board (the Board).
3. Our occupation and use of the Subject Land under this agreement shall not create, confer or imply any tenancy, right of ownership, or possession of the Subject Land other than a permission to occupy and use the Subject Land; and
4. Our right to occupy the Subject Land is created by this agreement and is not transferable.
5. We are jointly and severally liable for all obligations and liabilities arising under this Permissive Occupancy Agreement.

We also agree to pay for the use and occupation of the Subject Land by way of rent at the rate of 100% of the unimproved land value determined by an independent valuation and adjusted for Consumer Price Index (CPI) per annum (CPI calculation is outlined in Schedule (A)). Rent is 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 occupancy.

We acknowledge and agree that our occupation and use of the Subject Land 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 agree that this occupancy may be terminated at any time by a written demand of possession signed by the Minister or any person appointed on his behalf, and served on us personally, or left for us on the Subject Land. It is also agreed and acknowledged that we may terminate and cease to occupy the Subject Land at any time by giving notice in writing to the Minister of the date on which we intend to cease occupation. In either case, we shall be liable for rent up to that date unless the occupancy is terminated by the Minister at an earlier date.

We agree, upon termination of this occupancy and within such time as may be given, to remove structures, and/or all or any material from the Subject Land at our cost and without compensation, if required by the Minister in writing to do so, and to return to the Board quiet and peaceable possession of the Subject Land.

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 Land and which arise directly or indirectly from:

- a) Any negligent or willful act or omission of the Holders (severally or jointly), their 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 Holders (severally or jointly), their 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 Holders (severally or jointly) 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:

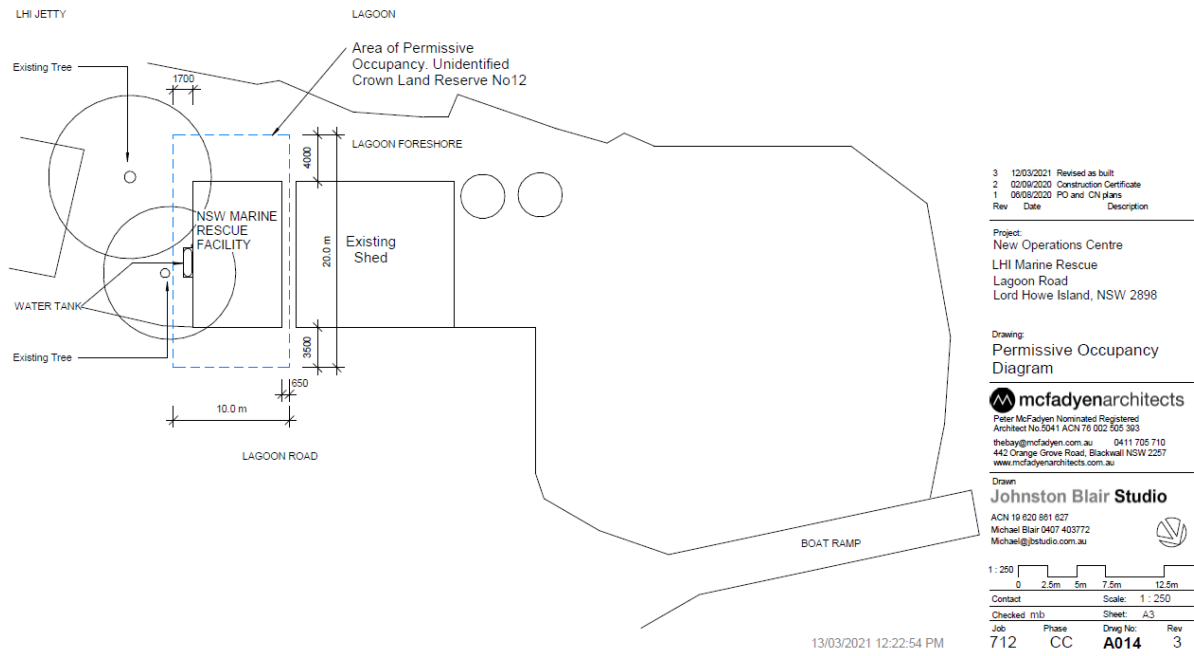


Figure 1 Plan view detailing Permissive Occupancy area outlined in blue.

SCHEDULE A
CONDITIONS OF PERMISSIVE OCCUPANCY (PO: 2021.01)

- 1) Annual rent as determined by an independent valuation of the Subject Land 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. *CPI means the Consumer Price Index for Sydney (All Groups) published by the Australian Bureau of Statistics. If the CPI is suspended or discontinued the index to be used shall be the index advised by the Australian Statistician which reflects the basis changes in the cost of living in Sydney during any year.*
- 2) Rental obligations under this Permissive Occupancy will commence on 1 May 2021 or upon the date the Minister approves this agreement whichever date is later.
- 3) The Subject Land shall be occupied and used predominantly for the Approved Purpose. The Permissive Occupancy area is detailed in Figure 1.
- 4) The Holders shall keep the area in a safe and clean condition to the satisfaction of the Board.
- 5) The Holders 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.
- 6) Any improvements upon the Subject Land shall be kept in good repair throughout the currency of the occupancy, reasonable wear and tear excepted.
- 7) The Holders shall take effective steps to keep the Subject Land free from 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 Board reserves its right and any person authorised by it to enter upon the Subject Land with any material and equipment at any time and from time to time for the purpose of constructing and maintaining authorised works, or for any other purpose approved by the Board without interference or annoyance by the Holders.
- 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 affected for the purpose of improvement of the Subject Land, all second growth, weeds or noxious plants on such improved area shall be eradicated by the Holders by such regular consecutive treatments as the Board may direct.
- 11) No burning off shall be carried out except with the Board's consent and in accordance with conditions imposed by the Board.
- 12) The Holders shall not de-pasture stock on the Subject Land without prior approval of the Board.
- 13) This agreement is not transferable and will be surrendered when the Holders no longer require the Subject Land for the Approved Purpose.
- 14) The Holder shall, if and when directed by the Board, adopt and maintain on the Subject 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.
- 15) All minerals which the Subject 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 Subject Land except by the holder of a permit issued under authority of the Minister.
- 16) The Holders shall not conduct upon the Subject Land any trade or activity which in the opinion of the Board is offensive or which may endanger the public health.
- 17) The occupation and use of the Subject Land will comply with any Board policy, which may apply from time to time, and all relevant State and Commonwealth legislation.
- 18) The Holders acknowledge the erosion risk on the Subject Land and expressly agree to waive any claim for negligence, against the State of NSW, the Minister and the Board,

and agree to indemnify the State of NSW, the Minister and the Board against any and all actions arising from loss or damage to the structures arising from coastal erosion.

- 19) The Permissive Occupancy Agreement will be terminated by the Minister when coastal erosion immediately threatens the structures including the operations center.
- 20) Any use of the Subject Land is limited to those for Approved Purposes.
- 21) Any of these conditions may, on application by the Holders, and on recommendation of the Board, be varied, modified or revoked by the Minister.
- 22) A breach of any of these conditions will render the Permissive Occupancy Agreement liable to termination.

Signed: Date:

Witness Name:

Witness Signature: Date:

Signed: Date:

Witness Name:

Witness Signature: Date:

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.

LORD HOWE ISLAND BOARD

**APPLICATION FOR A PERMISSIVE OCCUPANCY (PO) UNDER SECTION 31 A
OF THE LORD HOWE ISLAND ACT 1953 (THE ACT)**

Name of Applicant:

Address:

1. I am the holder of a Perpetual Lease under the Act, being Perpetual Lease No:, over Portion/s:

OR

2. I am the authorised representative on an incorporated body, being:
....., and the PO applied for will be used for the provision of an essential community service.

If answering 2. above, please describe the Essential Community Service:

.....
.....
.....
.....

Please provide the following information (All applicants):

1. The location and area (sq m) of land required (the subject land):

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.....
.....
.....
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.....

2. What is the proposed use of the subject land (this will be the prescribed purposes of the PO):

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.....

3. Please state why the proposed use of the subject land cannot be accommodated within another tenure, e.g. an existing Perpetual or Special Lease.

.....
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.....

4. Is the proposed use of the subject land permissible under the Lord Howe Island Regional Environment Plan 2005 (the REP):

.....
.....
.....
.....

5. I, the applicant, have read and understood Board's Standard Permissive Occupancy Agreement and Conditions (attached) and agree to occupy, use and manage the land in accordance with same, if granted a PO:

Signed by the applicant:Name:

Date:

Permissive Occupancy Agreement

Permissive Occupancy No:

Location and Description of Subject Lands:

Approved Purpose:

Commencement Date:

Holder:

I/we, (Name of Holder/s), being the holder of Permissive Occupancy No. (PO no.) hereby acknowledge that the occupation and use by us of the subject land, being (Description of Land including Portion No.) for the purpose of (Approved Purpose) is granted by the NSW Minister for the Environment (the Minister) as a Permissive Occupancy under Section 13 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 by way of rent at the rate of [\$rent] CPI adjusted per annum, commencing from [commencement date] 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:

- any negligent or wilful 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
- 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
- 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)...../...../.....

(witnessed).....(date)...../...../...../

SCHEDULE A
CONDITIONS OF PERMISSIVE OCCUPANCY

Permissive Occupancy No:

Location and Description of Subject Lands:

Approved Purpose:

Commencement Date:

Holder:

1. Annual rent of [\$rent], to be 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.
2. The land shall be occupied and used only for the approved purpose.
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 Crofton Weed, Asparagus Fern and such plants or weeds as may from time to time be required to be destroyed by direction of the Board.
5. Any improvements the property of the Crown upon the land shall be kept in good repair throughout the currency of the occupancy reasonable wear and tear excepted.
6. The public shall, unless otherwise agreed to by the Board in this agreement, have unrestricted right to the use of any defined or designed road, track or pedestrian pathway within the land and such use shall not be interfered with by the occupant.
7. The occupant shall take effective steps to keep the land free from rats or other noxious 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 any body 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 depasture 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 land 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. Should stock be depastured on the land in accordance with an authority from the Board, the occupant shall not overstock the land either wholly or in part, the decision as to overstocking to rest with the Board. Should the Board deem it necessary for maintenance of pasture or preservation of the fertility of such land or for the prevention of erosion thereon, it may determine the maximum number of stock that may be depastured on such land or any specified part of such land and the occupant shall not permit this number to be exceeded.
16. 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.
17. 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.
18. All palm trees and the product thereof on the land shall remain the property of the Crown.
19. 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.
20. The occupation and use of the subject lands will be in accordance with the any Board policy which may apply from time to time, and all relevant State and Commonwealth legislation.
21. 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.
22. A breach of any of these conditions will render the occupancy liable to termination.

(signed).....(date)...../...../.....

(witnessed).....(date)...../...../...../

Board Meeting: March 2021 (Deferred from March 2021)	Agenda Number: 10 (ii)	Record Number: ED21/1777
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Handley Review – Review of Compliance with Residency Condition of Perpetual Leases

RECOMMENDATION

It is recommended that the Board note the outcomes of the review of compliance with the residency condition of leases.

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.

Attachment A provides an update on the investigations into lease holders not residing on their lease.

COMMENT

The policing of residency on lease requires the Board to prove in the positive that a resident is not residing on their lease. This makes investigations into residency status resource intensive and challenging. Nonetheless some progress has been made with seven investigations having been completed with residency confirmed or resolved according to the *Lord Howe Island Act 1954*. A further eight cases remain under investigation.

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

It is recommended that the Board note the outcomes of the review of compliance with the residency condition of leases.

Prepared: Justin Sauvage, Manager Environment Community Development

Endorsed: Peter Adams, Chief Executive Officer

Attachments:

Attachment A: Status update of residency on lease investigations – Closed

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Application to transfer by way of sublease PL1978.01, being Portion 18 of LHI 51R from Judith Ann Riddle to Amy Louise Hickey for a period of 5 years.

RECOMMENDATION

It is recommended that the Board seek the Minister's consent to the subleasing of Perpetual Lease 1978.01 from Judith Ann Riddle to Amy Louise Hickey for a period of five years to 16 February 2026.

BACKGROUND

Under the *Lord Howe Island Act 1953* (the Act), the holder of a Perpetual Lease must reside on their lease. Specifically s21(7):

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

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

s23(2) of the Act sets out how the Board must receive the application to transfer a lease and the requirement for Minister's consent to sub-lease:

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

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

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

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

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

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

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

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

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

CURRENT POSITION

Perpetual Lease 1978.01 is held by Judith Ann Riddle as sole tenant. The lease has been sub-let continuously since 26 October 2005 to Mrs Riddle's daughter Amy Louise Hickey. On 31 December 2020, Mrs Riddle' sublease to Amy Louise Hickey expired.

Mrs Riddle lives with her husband, Mr Peter Riddle, on his lease, being PL1954.21 and therefore cannot live on two leases. Mrs Riddle purchased PL1978.01 on 2 August 2005 and since that date has subleased it continuously to her daughter Amy Louise Hickey. Mrs Riddle's reasons for the sublease as stated on Form 5, Schedule 2:-

2) *To provide housing for my daughter and her children.*

Mrs Riddle is part leaseholder of PL1954.27 (Leanda Lei) with her brother Andrew Wilson as Tenants in Common. Mr Andrew Wilson resides on PL1954.27 and the Minister approved the suspension of residency for Mrs Riddle on PL1954.27 on 21/12/2017 for an indefinite period.

Ms Hickey is an Islander under the Act, and there is otherwise no objection to approval of the application. By subleasing to Ms Hickey, Mrs Riddle is able to satisfy the requirement that an Islander resides on her lease.

RECOMMENDATION

It is recommended that the Board seek the Minister's consent to the subleasing of Perpetual Lease 1978.01 from Judith Ann Riddle to Amy Louise Hickey for a period of five years to 16 February 2026.

Prepared: Lynda Shick Land & Property Officer

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Nil

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Options for the future use of the Nursery Site.

RECOMMENDATION

1. The report outlining the expressions of interest process and submissions received be noted.
2. Proposals and options be investigated and a further report be presented to the May 2021 Board Meeting.
3. Letters be sent to those who made submissions thanking them and advising that more detailed investigations are underway.

BACKGROUND

A report on the Captive Management Facility was considered by the Board at its meeting in December 2019. The following resolution was adopted:

- 1) *Leave the CMF temporarily in place and implement an annual maintenance program.*
- 2) *Release an Expression of Interest to the LHI community to garner interest in use of the CMF / site in its current or modified form. This could include commercial lease arrangements*
- 3) *Further investigate other reuses described in Options 1 and 2.*
- 4) *Have a Status Report at the March 2020 Board meeting.*

Due to resource constraints and competing priorities, namely the prioritisation of virtually all spare available Environment and Community Services Unit resources to implementing Biosecurity controls post REP, and supporting the Board's COVID-19 response the Expression of Interest (EOI) did not commence until January 2021. The public exhibition period closed on the 22 March 2021. The outcomes of the EOI are discussed later in this report.

Background to the site – opportunities and constraints

The parcel of land, Lot 2 DP1202416, known as the Lord Howe Island Nursery is located on land between Anderson Road, Middle Beach Road, Lagoon Drive and Stevens Reserve

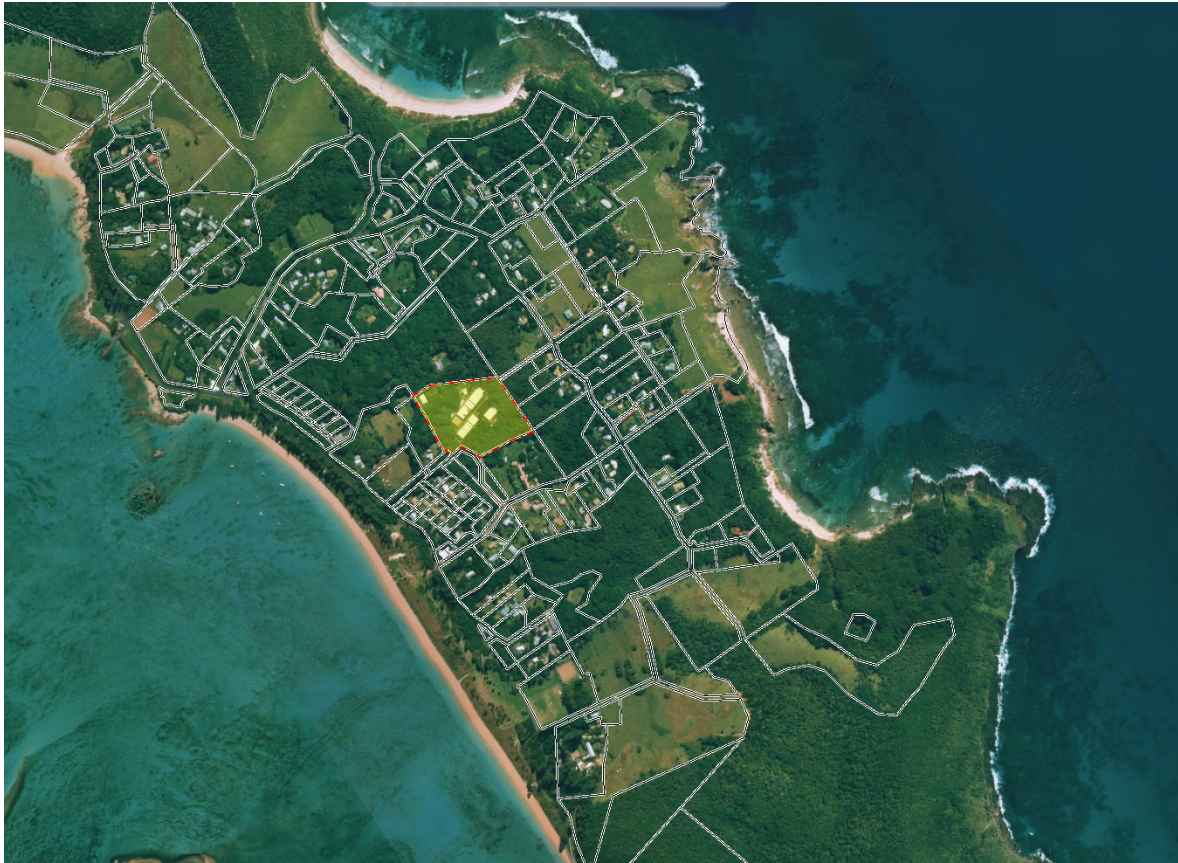


Figure 1 Location map of the Nursery site.

The nursery site has a total area of approximately 3.64ha with the majority of the site consisting of significant native vegetation. Cleared areas on the site are occupied by nursery infrastructure consisting predominantly of sheds and igloos (greenhouses). In the southern corner of the lot the Board operates a research facility, consisting of two rooms for temporary accommodation, a shared bathroom, kitchen and laboratory.

The northern portion of the lot is under a commercial lease to Kentia Fresh for the purpose of a café, micro-brewery and nursery operations. This lease was signed in 2014 and expires in May 2029. Under the terms of the lease the permitted uses include:

- nursery operations for seeds, seedlings, fruits, vegetables, flowers plant
- the production and sale of garden supplies
- the service of food and beverages
- tourism
- cooking school

The Board has previously considered and approved Development Applications for the activities proposed by Kentia Fresh.

The commercial lease boundaries are illustrated in Figure 2, and make up approximately 1.62ha. Kentia Fresh also currently use a greenhouse outside of the commercial lease area on the southern side of the access road in return for undertaking maintenance (predominantly mowing) of the site. This is part of an informal agreement made with the previous CEO and Manager of Business Services, and to date Kentia Fresh has honoured its obligation.

Prior to Kentia Fresh taking up the lease, the Lot was used by the Lord Howe Island Board for the operation of a Kentia palm and native plant propagation nursery.

A Permissive Occupancy in the name of Thompson WF is also located on the northern Boundary of the lot. This Permissive Occupancy is separate to the Kentia Fresh lease.

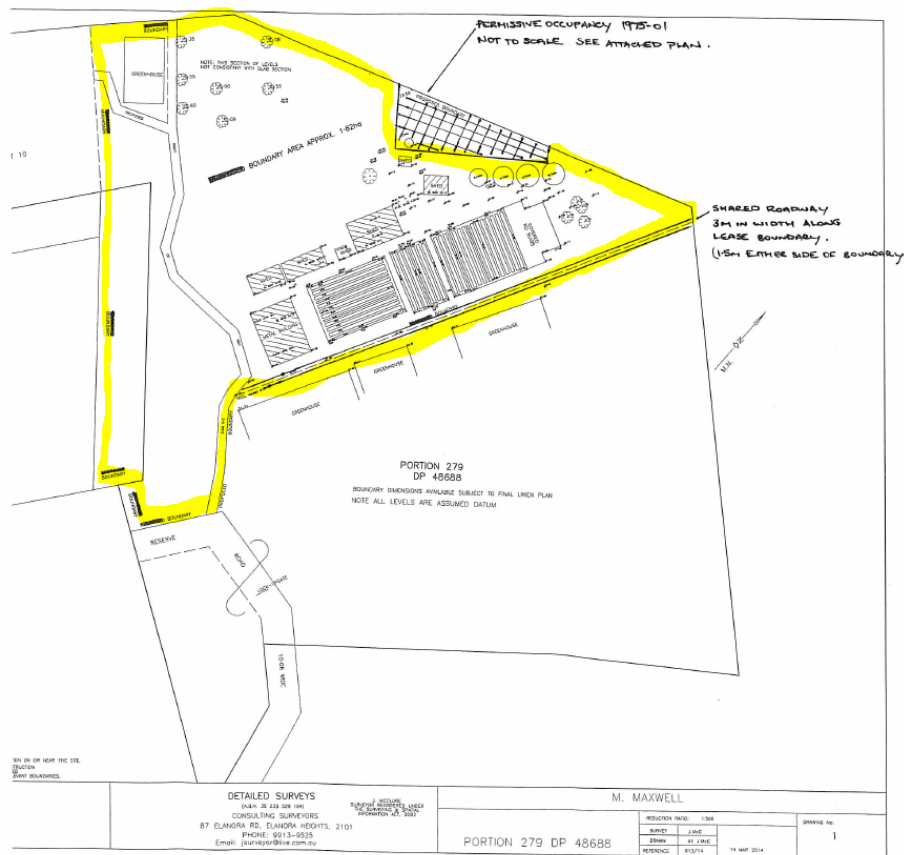


Figure 2 -Commercial Lease area to Kentia Fresh

During the Rodent Eradication Program (REP) Taronga Zoo was contracted by the Lord Howe Island Board to operate a captive management facility on the nursery site for woodhens and currawongs. A number of shade houses were dedicated to the captive management program. An additional greenhouse/shade structure was also constructed under a DA for a dedicated wooden enclosure.

The wooden and currawong enclosures remain on the site.

For the purposes of this report, “the site” shall mean the residual portion of Lot 2 DP1202416 not currently subject to commercial lease (to Kentia Fresh) or Permissive Occupancy 1975.01.

The Board currently utilise the research facility in the southern portion of the nursery lease, and one of the currawong enclosures used for Phasmid husbandry. The remainder of the site is currently not formally utilised by the Board other than for ad-hoc storage. Figure 3 below shows that there is approximately 1.5ha in total available for alternative uses, noting that the majority of the area is significant native vegetation.



Figure 3 Approximate area of available land to be repurposed for alternate uses

The area of cleared land that would potentially be available for construction of dwellings or other built infrastructure on the site is shown in blue in Figure 4 below. The total area of cleared land with development potential on the site is approximately 4380m².

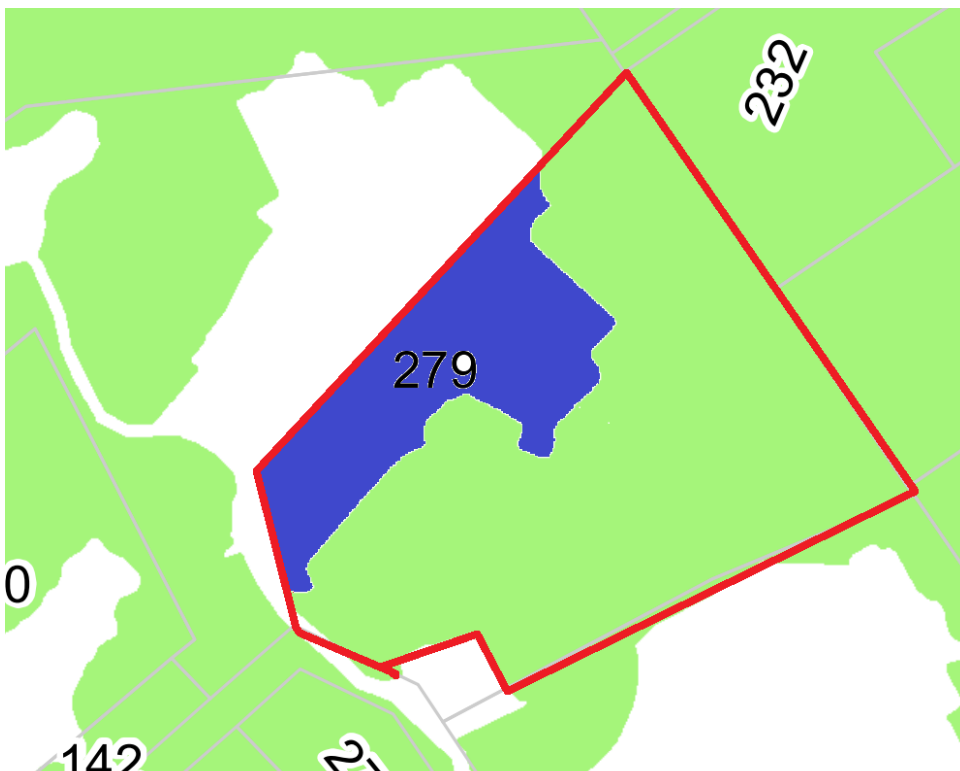


Figure 4 Cleared area in blue, Significant Native Vegetation in green.

The existing infrastructure on the site has limited residual value. Some greenhouses are being used by Kentia Fresh and the shade/greenhouses adapted to be used for the captive management program have some potential to be utilised in situ or relocated elsewhere on site. However their overall condition is relatively poor. The currawong and woodhen enclosures designed and constructed to be used during the captive management program remain on site and are in fair condition. The colourbond fence panels from the woodhen enclosures may be able to be reused for other purposes, but they would have limited resale value. The currawong cages are more substantial and could be readily repurposed in situ, or at another location on the island for the care of other bird species, including possible future reintroduction programs for locally extinct bird species. Only a small number of currawong cages would need to be retained for Board purposes. Due to labour costs associated with dismantling, packing and shipping it is unlikely that the Board would find an off island buyer willing to purchase the excess currawong cages. However, this has not been put to gauge market interest as yet.

Permissible land uses

The nursery site was rezoned "*Settlement*" in recent years. At the time of the rezoning it was stated that the preferred zoning of *Settlement* was chosen to permit flexibility for future uses on the site. Permissible uses in the settlement zone are broad and include residential development and commercial development.

Infrastructure constraints

The supply of electricity to the site is highly constrained. The site is geographically isolated from the nearest substation. For any proposed use that would require electrical power beyond a small number of household appliances, the installing of a new low voltage (240V) cable which will have limited capacity or the construction of a new electrical substation would be necessary. A new substation would provide significant capacity for future development of the site including residential or larger commercial uses and would likely be best located in the vicinity of the research facility. It also has the potential to reduce the load on existing substations. A new substation may also help facilitate additional renewable energy infrastructure on the site including solar and battery, or electric vehicle charging station. The cost of constructing a new substation not been determined but could be as high as \$100,000.

CURRENT POSITION

On 22 January 2021 the EOI was placed on exhibition. At the end of the exhibition period a total of 15 proposals were received from 10 submissions. Table 1 summarises the submissions and details how the applications align with the LHIB Corporate Plan. Submissions nine and ten were prepared by LHIB Staff.

Submission number	Description	Outcomes and alignment with Corporate Plan. Text in blue represent Corporate Plan objectives.	Comments
1.1	Lease existing Igloos for Kentia Palm, vegetables and native plant cultivation.	<p>Improve local food security</p> <p>Local employment opportunities</p> <p>Contribute to local economy as activity would require local services for support.</p> <p>2.2. Foster an environment that supports sustainable economic development.</p>	<p>Expansion of existing business.</p> <p>Generate modest income for the Board.</p>
1.2	Construct and operate water tank farm to guarantee water security for the Brewery and the island in general.	<p>Improve water security of whole island.</p> <p>2.2. Foster an environment that supports sustainable economic development.</p>	<p>Would capture water from on site and adjacent properties, may include stormwater recycling.</p> <p>Applicant to bear the capital cost, or costs shared with agreement with LHIB to access water.</p> <p>Generate modest income for the Board.</p>
1.3	<p>Construct and operate water tank farm to guarantee water security for the Brewery, a commercial laundry and the island in general.</p> <p>Commercial Laundry would be open to the public.</p>	<p>Improves water security of whole island.</p> <p>2.2. Foster an environment that supports sustainable economic development.</p> <p>6.1 Plan for appropriate services for the community</p>	<p>Would capture water from on site and adjacent properties, may include stormwater runoff capture.</p> <p>Applicant could bear the capital cost, or costs shared with agreement with LHIB to access water.</p> <p>Generate modest income for the Board.</p>
1.4	Construction of a dedicated shed to support the creation and operation of a <i>maker space</i> for residents to use as a collaborative work space for making, learning and creative activities.	<p>Strong community engagement outcomes.</p> <p>6.1 Plan for appropriate services for the community.</p> <p>6.4. Support capacity building in community organisations.</p>	<p>Could need ongoing external support and facilitation in the absence of a community group taking on this role.</p> <p>Ideally would be self-funding, but in practice may need external funding from time to time.</p>

<p>2</p>	<p>Construction and operation of a Distillery and Gin School supporting the Distillery.</p> <p>Grow local food to support the Distillery and Gin School</p> <p>Creation of a community garden in one of the Igloos.</p> <p>Proposal would occupy six of the igloos and include a distillery and sales outlet purpose built on the site.</p>	<p>Local employment opportunities</p> <p>Contribute to local economy through increased liquor sales and revenue for the Board.</p> <p>Contribute to local economy as industry would require local services for support.</p> <p>Potentially increased food security.</p> <p>Community Building through the community garden</p> <p>Tourism attractor</p> <p>2.1. Market the island as a tourist destination</p> <p>2.2. Foster an environment that supports sustainable economic development.</p> <p>6.1 Plan for appropriate services for the community.</p> <p>6.4. Support capacity building in community organisations.</p>	<p>This proposal is potentially targeting a similar audience to the existing Café and Brewery which has DA approval and is in the process of being constructed.</p>
<p>3</p>	<p>Convert the SNV areas of the site into an extended conservation reserve, including interpretative materials about historical and current environmental programs including woodhen breeding, captive management, waste, solar</p>	<p>2.1. Market the island as a tourist destination</p> <p>2.2. Foster an environment that supports sustainable economic development.</p> <p>4.1. Protect and manage the environment in a manner that recognises and promotes the World Heritage values of the Island.</p> <p>4.3. Identify, protect and value heritage items.</p>	<p>Proposed to be staffed by <i>Friends of LHI</i> staff, and charge tourists to undertake tours.</p> <p>Potentially compatible with most other proposed uses in this table with the exception of subdivision of land for residential use.</p>

		4.4. Improve awareness and understanding of the environment through education and research.	
4	Staff accommodation for essential workers, staff, contractors and stranded visitors. Dedicate portion of land to growing local produce	Meets an existing need for staff accommodation. 2.2. Foster an environment that supports sustainable economic development.	Proposal has the potential to be self-funded, or funded as a public/private partnership with the Board. Permissible under the LEP, addresses a genuine need. Proposed to be flexible for other uses such a youth housing, aged care – likely to have issues with the LEP in relation to whether they would constitute dwellings.
5	Request for land to be released for residential purposes for Islanders.	Addresses an acute housing need.	
6	Request for land to be released as residential purposes for Islanders.	Addresses an acute housing need.	
7	Request for land to be released as residential purposes for Islanders.	Addresses an acute housing need.	
8.1	Creation of 3 residential building blocks for Islanders	Addresses an acute housing need.	
8.2	Townhouse style accommodation for LHIB Management employees	Addresses an acute need for staff accommodation.	
8.3	Machinery/Equipment storage instead of the foreshore area.	3.2 Maintain recreational facilities for visitor and community use.	Would only require part of the site.
9 (internal)	A selection of Currawong cages to be left in situ for potential future breeding and	4.1. Protect and manage the environment in a manner that recognises and promotes the World Heritage values of the Island.	Would require the retention of at least 8 Currawong enclosures.

	release of the LHI Phasmid and Boobook Owl	<p>4.3. Identify, protect and value heritage items.</p> <p>4.4. Improve awareness and understanding of the environment through education and research.</p>	Enclosures could be dismantled and stored for future use, but alternative land suitable to install the enclosures when required is very limited.
10 (internal)	Relocate Board depot, SES and possibly Board Administration to site.	<p>Moves critical infrastructure to a lower risk Tsunami zone.</p> <p>Moves Critical infrastructure out of a low risk flood zone</p> <p>Allows for a clean slate design to optimise depot operations and administration functions.</p> <p>Opportunity to repurpose site of existing Board buildings as a dwelling or other purpose.</p> <p>Effective life of heavy plant if stored on site, may be extended as less exposed to salt spray.</p>	<p>Significant budget required for planning and construction of new depot infrastructure and administration buildings.</p> <p>Use of existing Board depot site for residential or other uses would require rezoning. Remediation issues and costs may be a challenge given the current and historic use as a depot.</p> <p>If only the depot was relocated the splitting up of the administration and depot functions may introduce inefficiencies to overall Board operations.</p>

Table 1 Summary of submissions and alignment with the corporate plan

Discussion of Options

This report does not examine each option in detail, however the options for residential lots and staff accommodation are discussed in some detail below as they seek to address some of the most pressing needs identified in the Community Strategic Plan Consultation process.

Residential subdivision

Figure 5 illustrates the potential for subdivision of the nursery site for residential accommodation. The layout in figure 5 is not to scale and intended to illustrate the maximum residential development potential for the site. The Board may also wish to consider a lower density option. A desktop analysis suggests that up to 4 lots could be constructed and still maintain the minimum lot size of 3000 m² and retain sufficient cleared areas to build a dwelling with a footprint of approximately 200m². A detailed survey would be required to confirm the analysis and ensure that front and side boundary setbacks can be maintained.

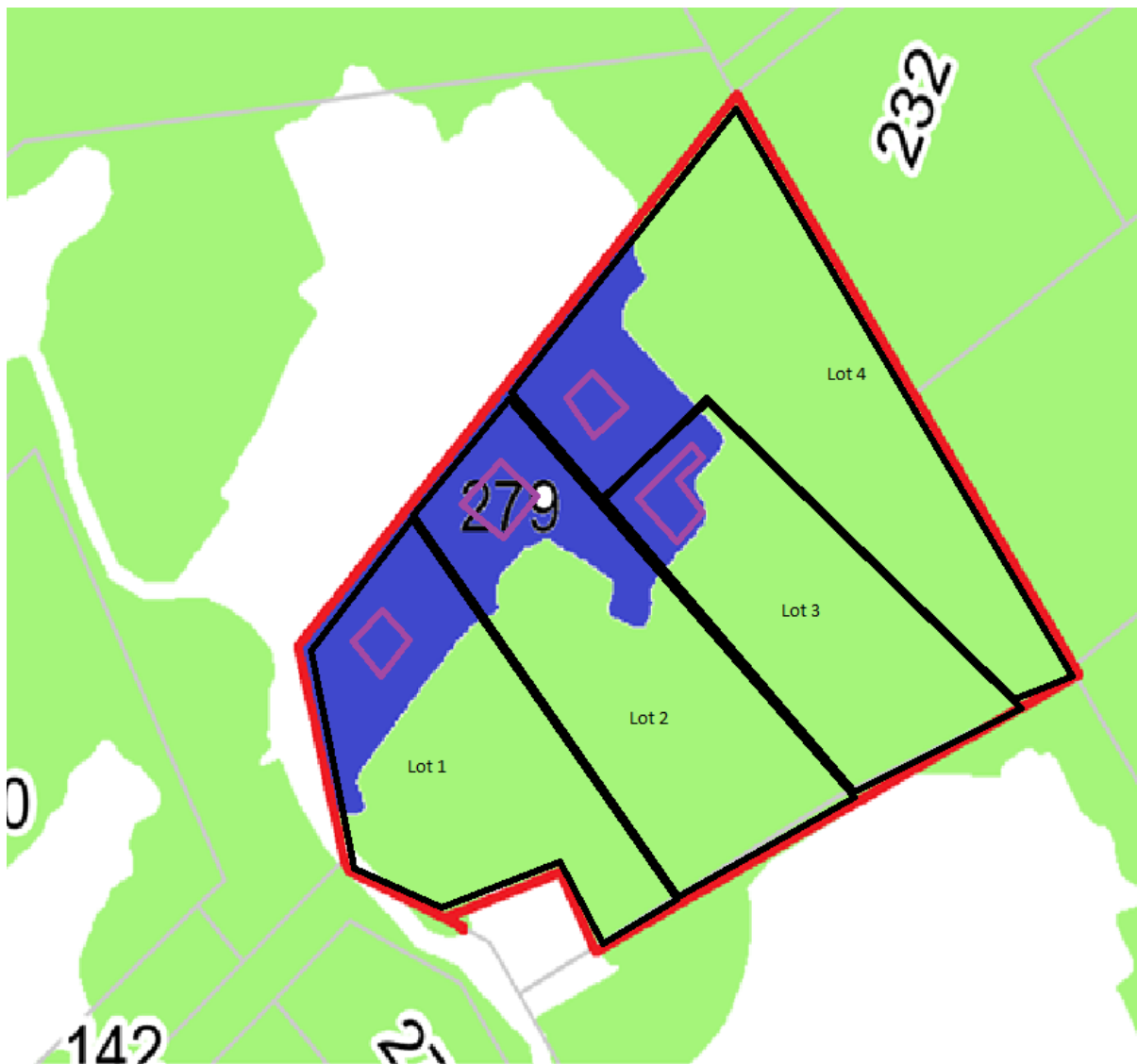


Figure 5 Potential residential subdivision pattern showing in purple indicative building footprints (not to scale).

Under the LEP there is a cap on the number of dwellings that can be constructed until 2025. There are currently 12 dwellings available for allocation. A dwelling allocation policy would need to be developed and implemented in line with the Handley Report. The allocation of dwelling entitlements would be potentially controversial.

The subdivision would require the construction of a new road, and resealing/upgrade of the existing nursery road which in sections is currently in very poor condition. This might be funded from the sale of the leases. Assuming each lease is sold at the Valuer General rate it is estimated that each vacant lot sold with a dwelling entitlement would generate between \$300 000 - \$600 000 per lot minus associated development costs.

Medium density staff accommodation

Seasonal and short term staff accommodation is frequently in short supply on the island leading to increased costs to businesses or inability to provide sufficient staff. It can also mean that important specialists are not able to be brought to the island because no accommodation is available. Accommodation for staff of businesses on-island is a use proposed in submissions. It is also noted that the Board has a very limited supply of short term staff accommodation. The two nurse's flats and Research Facility are the primary sources of short term staff accommodation. Currently the nurse's flats are used as short term accommodation for relief nurses, specialist medical practitioners, locums, police, and other government agency staff. The Research Facility accommodation is dormitory style and may not be appropriate for professional services. With imminent changes to available (on-island) nurses it is highly likely that the two nurse's flats will no longer be available for short term staff accommodation as they will be required for full time accommodation for replacement nurses. This will mean that there will be no spare accommodation for relief nurses, specialists or other government agency staff.

A portion of the available land at the nursery could be used to construct staff accommodation consisting of dormitory or motel style accommodation with communal kitchens. To ensure that the accommodation is only used for short term staff needs the Board could adopt a policy to ensure that it only be made available for maximum stays (for example periods of say 12 weeks). Depending on the number of accommodation units built, the primary user of the accommodation could be Board contractors, other government agencies including relief nurses and police, dentists and mental health practitioners. Alternatively or in addition, staff accommodation could be rented out to businesses on the island to assist with staff shortages.

Option 5: Land/infrastructure made available for commercial and or community use

It is possible that local businesses may be interested in taking over some or all of the nursery site for commercial uses. Potential business enterprises may include expanded nursery operations, tourist accommodation, tourist attraction – restaurant or similar, or depot/yard for a local island business. Alternatively the land could also be made available for a community use such a maker and or craft space, similar to a Men's shed, but with a broader target demographic and activities.

RECOMMENDATION

1. The report outlining the expressions of interest process and submissions received be noted.
2. Proposals and options be investigated and a further report be presented to the May 2021 Board Meeting.

Prepared: Justin Sauvage Manager Environment & Community Services

Endorsed: Peter Adams CEO LHIB

Attachments:
Nil

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Lord Howe Island Land Allocation Review – Implementation Update – April 2021

RECOMMENDATION

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

BACKGROUND

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

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

The Terms of Reference identified four key areas for consideration:

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

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

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

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

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

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

CURRENT POSITION

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

RECOMMENDATION

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

Prepared: Justin Sauvage Manager Environment and Community Services

Endorsed: Peter Adams CEO

Attachments:

Attachment A: ED20/9835.01 Implementation Update Table – April 2021 - 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. - Update report on current investigations provided in separate paper.
3. Special leases are due to expire on December 2015, without any legal right of renewal, although the lease holders expect to obtain renewals. The new leases should be granted for 20 year terms with strong covenants to encourage new investment and ensure that the land is fully and properly used.	Department of Planning Industry and Environment.	<ul style="list-style-type: none"> - Leases were renewed in December 2015 for a further two years, another two years in December 2017. - Special Leases renewed, and now expire 31 December 2021. - Required legislative changes to allow for the granting of 20 year leases has not yet been implemented.
4. Permissive occupancies for business purposes, principally as boat sheds, which are currently revocable at will, should be granted for fixed terms of 5 years, to increase security of tenure and encourage investment.	Not applicable	Recommendation not supported by Government.
5. Restrictions on the enforcement of mortgages of leases should be relaxed to make leases more acceptable to	Department of Planning	Required legislative changes are being pursued.

Recommendation	Lead organisation	Progress
lenders as security and mortgages to corporations should not require the Minister's consent.	Industry and Environment.	
6. The restrictions on who can occupy a dual occupancy dwelling should be relaxed	Lord Howe Island Board	This has been include in the Stage 1 Planning Proposal recently on public exhibition and in separate paper to this meeting.
7. Subject to pending applications for approval of a Category A dwelling the remaining quota for new dwellings under the LEP should be reserved for dual occupancy dwellings.	Not applicable	Recommendation not supported by Government.
8. The LEP should be amended to make it easier to subdivide perpetual leases with 2 existing detached dwellings erected before 28 October 2005 to increase the saleable housing stock without further building development, or use of the quota.	Lord Howe Island Board	To be included in the major review of the Lord Howe Island Local Environmental Plan. This review is not proposed to be undertaken until completion of the Community Strategic Plan.
9. There should be no more Category B allotments, and the 3 existing ones should revert to special lease land where substantial restitution by both parties is practicable and the former leaseholder agrees. Where restitution is not practicable or the former leaseholder does not agree, the allotment or allotments should be allocated by a revised ballot process open to Islanders deemed eligible.	Lord Howe Island Board	Mediation process completed. Board staff implementing next steps.
10. The provisions in the Act dealing with the succession to perpetual leases on death should be rationalised, clarified and extended to surviving spouses and de facto partners	Department of Planning Industry and Environment.	Required legislative changes are being pursued.
11. The existing exemption from land tax for all leases on the island should be removed to allow the Land Tax Management Act to operate on the island in the normal way. The Chief Commissioner and the Board should be permitted to exchange information to ensure that leaseholders only claim one principal or usual place of residence.	Department of Planning Industry and Environment.	Required legislative changes are being pursued.
12. The Board should comply with its statutory duty under s 301(1) of the Duties Act by requiring grants, transfers and mortgages of leases to be stamped or marked exempt before they are registered by the Board.	Lord Howe Island Board	Implemented. Applicants advised of this requirement via the notification of acceptance for form 5.
13. In the interest of transparency and accountability, should recommendations 11 and 12 be adopted, provision should be made for the additional taxation revenue, raised from the island in these ways, to be returned to the island by being credited to the Lord Howe Island Account (s 34).	Not applicable	Recommendation not supported by Government.

Recommendation	Lead organisation	Progress
<p>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.</p>	<p>Department of Planning Industry and Environment.</p>	<p>Required legislative changes are being pursued.</p>
<p>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.</p>	<p>Department of Planning Industry and Environment.</p>	<p>Required legislative changes are being pursued.</p>
<p>16. Miscellaneous recommendations by way of statute law revision which are not thought to raise any question of principle.</p> <p><i>Miscellaneous recommendations are as follows:</i></p> <p>i) Section 12 (1)(g) gives the Board power to 'provide...shops, offices and other buildings for lease to the public'. There is some doubt about the Board's power to lease land associated with such buildings. The matter should be put beyond doubt by adding to subsection (1)(g) the power to include in such a lease the land associated with or surrounding such buildings.</p> <p>ii) Section 21(2) enables perpetual leases to be granted to two or more Islanders as joint tenants or tenants in common, but subsections (7A) and (7B) only refer to joint tenants. They should be amended to include tenants in common.</p> <p>iii) Section 21, which only deals with perpetual leases provides in subsection (7A): 'The Minister may...suspend the condition of residence on a lease held or owned... by...an Islander who already...holds or owns...or subleases not more than one other lease.'</p>	<p>Department of Planning Industry and Environment.</p>	<p>Required legislative changes are being pursued.</p>

Recommendation	Lead organisation	Progress
<p>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.' Every forfeiture must be declared by the Minister by notification in the</p>		

Recommendation	Lead organisation	Progress
<p>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

Audit and Risk Committee Overview.

RECOMMENDATION

The report is submitted to the Board for information.

BACKGROUND

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

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

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

1. Risk Management

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

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

2. Internal Audit

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

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

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

3. Audit and Risk Committee

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

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

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

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

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

The Chief Executive Officer and the Manager Business & Corporate Services attended the meetings of the ARC by conference phone on Thursday 3 December and then on Tuesday 2 March 2021.

At the December meeting the CEO's report referred to re-opening of the island, Newcastle flights, and the Biosecurity audit, update of the solar Hybrid renewal project and advice of the new chair of the Board.

Other items discussed were:

- Work Health and Safety
- Business Continuity
- Disaster Recovery Testing
- Audits
- Finance

In the March meeting Peter's CEO report discussions points were:

- Code of Conduct
- Election
- Minister's visit
- Tsunami
- Ongoing Covid-19 impacts
- Delays to Hybrid Renewable Energy Project
- Operational Review
- Roads
- Post REP impacts
- Health services
- Airport – Interagency Working Group
- Ongoing Financial assistance issues

Regular reporting included Risk, Finance, complaints, and various audit updates.

The Annual Engagement Plan relating to the external audit of financial statements for 2020/21 was discussed in some detail with the Board's external Auditors and the Audit Office NSW present.

The next ARC meeting for the year has been scheduled for the 20th May 2021.

Members are:

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

RECOMMENDATION

The report is submitted to the Board for information.

Prepared: John van Gaalen Manager Business and Corporate Services

Endorsed: Peter Adams Chief Executive Officer

Board Meeting: April 2021 (Deferred from March 2021)	Agenda Number: 11 (ii)	File Ref: ED21/1536
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LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Appointment of Deputy Chairperson

RECOMMENDATION

That the Board appoint a Deputy Chairperson.

BACKGROUND

Schedule 1A to the *Lord Howe Island Act 1953 (the Act)* outlines provisions relating to members and procedures of the Board.

The Deputy Chairperson is a statutory position created by Part 1 of Schedule 1A.

Schedule 1A Part 2, Section 3 of the Schedule states:

- (1) The Board is to appoint one of its members (not being the Chairperson) to be the Deputy Chairperson of the Board.
- (2) Subject to this Schedule, the Deputy Chairperson holds office for one year from the date on which he or she takes office

Under *the Act*, the Deputy Chairperson can only exercise the following statutory functions of the Chairperson in their absence:

- The power to preside over a meeting of the Board (clause 13(1) of Schedule 1A)
- The power to have a deliberative vote and in the event of an equality of votes have a second or casting vote (clause 13(2) of Schedule 1A)

It has been the practice of the Board that the Deputy Chairperson is the locally elected (Islander) Board member, who gained the most votes in the most recent Board election.

CURRENT POSITION

At the Board election held on 18 February 2021, four local Board members were elected.

The Board must now appoint one of the local Board members as Deputy Chairperson.

RECOMMENDATION

That the Board appoint a Deputy Chairperson.

Prepared: Peter Adams, Chief Executive Officer

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Issues raised during Minister's Visit on 28 January 2021 – Status Report

RECOMMENDATION

That that the Board note the information

BACKGROUND

The Minister responsible for the administration of Lord Howe Island (Minister for Environment and Energy), the Hon Matthew Kean visited the island on 28-29 January 2021. The Minister met with the Board and others and a range of matters were discussed. Some of these initiated further actions and a status report on these is provided for the Board's information.

A wide range of issues and challenges were discussed with the Minister. Some were to assist the Minister with context and background to matters arising that require his approval from time to time. Others required some immediate action so that the Minister could assist with representations. The actions are listed in the table below.

CURRENT POSITION

The following table lists the subject issues, agreed actions and status.

Issue	Comment	Action	Status
Qantas contract and route licence (Sydney to LHI)	Contract for SYD-YLHI expires Mar 22. Need for urgent working group to secure services beyond 2022.	Minister to write to Minister for Transport and Roads requesting a government working group be convened to secure route and air services..	Letter from Minister sent 18 Mar 21. TfNSW first working group meeting held 8 April.
Health Services – Lack of clarity and agreement on ownership and management of	An MoU has never been agreed between SESLHD and the LHIB in regards to health services generally, but specially, the hospital and the delivery of medical services,	Draft a letter to the NSW Minister for Health seeking initiation of formal	Draft BN & draft letter 9 Feb 21. Withdrawn at request of CEO because of complexity of

health related assets on LHI.	including asset maintenance and accommodation. Current accommodation shortages for medical staff and visiting specialists has brought fresh attention to the matter.	discussions between the LHIB and South East Sydney Local Health District (SESLHD).	request and concerns re whether a letter from Minister appropriate at this stage.
Aged care is a key concern	Aged Care – Draft letter to Federal Health Minister (Hunt) seeking expedition of Aged Care Packages, Levels 3 & 4. The basis for the request is that Lord Howe Island has no back-up support networks for the elderly, and does not have access to short notice/emergency age care services unlike mainland localities.	Minister to write to (Comm) Minister for Health requesting approval for some (Level 3&4) packages for LHI residents.	Letter from Minister 23 Feb 21 sent to Min Hunt. Some Level 1&2 packages approved (prior to 23 Feb). No news on Level 3&4 or if reply received.
Mental health	Lack of face to face services on island.	Minister to write to NSW Minister for Health requesting assistance in MoU with NSW Health for mental health services.	BN & letter 9 Feb 21. Letter from Minister dated 23 Feb 21 sent to NSW Min for Health. No knowledge of any reply as yet.
Map out LEP process and identify funding/resource requirements	Absolute limit on housing protects island environment and over development. However impacts on Islanders wishing to live on-island. LEP review (Stage 2) proposed but unfunded.	MECS to provide details on LEP process and funding needs.	MECS to provide at meeting.

RECOMMENDATION

That that the Board note the information

Prepared: Peter Adams, Chief Executive Officer

Approved: Peter Adams, Chief Executive Officer

Attachments: Nil

LORD HOWE ISLAND BOARD

Review of the effectiveness and efficiency of LHIB OPEN SESSION (Revised from Closed Session)

ITEM

Proposal to undertake a review of the efficiency and effectiveness of the LHIB administration and to not proceed with the previously approved LHIB Organisational Review

RECOMMENDATIONS

That the Board moves to

1. Rescind the previous decision for a LHIB organisation review previously adopted by the Board on Tuesday 26 May 2020.
2. Approve an independent review of the efficiency and effectiveness of the LHIB administration.
3. Approve a sub-committee consisting the Chair, Mr Kirk and a resident board member (to be nominated).
4. Delegate authority to the sub-committee to develop a Terms of Reference and commission the review.
5. Note that the review will operate independent of the administration of LHIB.
6. Note that a report to the Board and the Audit and Risk Committee will be made at the conclusion of the review.

BACKGROUND

In May 2020, the LHIB adopted the motion to undertake an organisation and cost review, which covers the following scope:

1. A review of the organisation and financial sustainability opportunities to be undertaken and presented to the Board with recommendations prior to the preparation of the draft budget for 2021-22 financial year.
2. The review includes investigation of previous reviews, including recommendations, status of implementation and reasons (if available) of any recommendations that were not adopted.
3. A request be made to the Department of Planning, Industry and Environment (DPIE) Support Team for an independent facilitator/project manager and project support staff to assist in the review.

4. Board Member, Mr David Kirk be requested to steer the review process.

CURRENT POSITION

The Chair of LHIB proposes instead a more strategic and comprehensive review of the efficiency and effectiveness of the LHIB in meeting its strategic and operational objectives.

The review's proposed scope is summarised as follows:

1. The objectives (desired outcomes and deliverables) of the LHIB Administration
2. The level, capability and capacity of available resources including:
 - a. staffing (eg, mapping of staffing and changes over time, accommodation strategy)
 - b. financial and budget (eg, source of funds, value for money, financial management practices)
3. The extent to which objectives are being met within current resources and any recommendations
4. Identifying key constraints on performance
5. Mapping of business processes including gap analysis and recommendations for improvement
6. Risk management: evaluating management of key business risks

NEXT STEPS

To progress the review, it is proposed to:

1. Establish a subcommittee to lead the delivery of the efficiency and effectiveness review, consisting of the following board members
 - a. Dr Atticus Fleming, Chair
 - b. Mr David Kirk, member
 - c. TBC, non-resident member

Note: the review will be supported by Mr Andrew Nicholls, Executive Director, NPWS Business Delivery, DPIE to maintain independence from the LHIB administration.

2. Develop a Terms of Reference based on the scope above, in consultation with the DPIE Risk and Audit team, and presented to the subcommittee for consideration and approval.
3. Commission a suitable external contractor to conduct the review.
4. Report progress and the final report to the Board and the Audit and Risk Committee, with a view to completion within 4 months of commencement.

Prepared & Endorsed: Atticus Fleming AM, Chair, LHIB

LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

ITEM

Lord Howe Island biosecurity update.

RECOMMENDATION

That the Board note the Biosecurity update

BACKGROUND

Biosecurity procedures, practices, and resources are in an active update and development phase post rodent eradication. Substantial progress has since been made on improving biosecurity delivery with a strong emphasis on data management in order to better understand biosecurity goals and where vulnerabilities lie.

This update encompasses the period from December 2020 – March 2021.

SUMMARY OF ACTIONS AND DATA

RODENT

Most recent confirmed Rodent Sign: 9th October 2019

Rat on a rodent (ROAR) Reports:

Month	Reports	Evidence Collections	Outcome
December 20	4	1	No rodent activity observed by LHI Biosecurity Team.
January 21	0	0	No rodent activity observed by LHI Biosecurity Team.
February 21	2	2	No rodent activity observed by LHI Biosecurity Team.
March 21	1	0	No rodent activity observed by LHI Biosecurity Team.

All reports have been investigated and no evidence of positive rodent sign was found. Evidence collections are only undertaken when the initial report contains sufficient evidence to justify further investigation.

VESSELS AND AIRCRAFT INSPECTIONS

- A 99.8% inspection rate of vessels and aircraft arriving to Lord Howe Island has been implemented since the island reopened in September 2020.
- Given the current resources available to the LHI Biosecurity Team this inspection rate is unsustainable.

	Month	Aircraft			Vessels	
		Qantas	Private	Eastern	Private	Commercial
2020	September	5	0	12	0	1
	October	48	10	25	0	2
	November	71	8	26	7	2
	December	75	5	26	11	2
2021	January	79	17	26	8	3
	February	66	3	21	5	2
	Total	344	43	136	31	12
	Met	344	42	135	31	12
	Unmet	0	1	1	0	0
	% Met	100%	98%	99%	100%	100%

Table 1 Inspections carried out in last 6 months

- 60% of ship inspections since March 2020 have resulted in positive discoveries of potential pest species, suggesting that whilst improvements have been significant, there still remains a high level of risk from pest species bypassing current quarantine facilities and activities.
- Port Macquarie (PMQ) (Birdon) Interceptions of potential invasive species:
 - 6 x Rats
 - 9 x Mice
 - 4 x Rabbits
 - 1 x Bleating Tree Frog
 - 3 x Green Tree Frogs
 - Fruit flies
 - Cicada's
 - Crickets
 - Eastern Water skinks
 - Spiders
 - Ants
 - Brown Antechinus
- LHI Interceptions of potentially invasive species
 - 1 x Termite infestation
 - 3 x Unidentified Spiders
 - 1 x Unidentified Beetle
 - 1 x Double Drummer Cicada
- The response to updated biosecurity actions has been very positive, with all vessels and aircraft actively implementing actions and many visitors noting how happy they are to assist in the Island's conservation story.

Double Drummer Cicada, *Thopha saccata* (12-15cm)



BIOSECURITY DOGS

- Sebbi our 7yr Springer Spaniel required Tibial Plateau Levelling Osteotomy (TPLO) cruciate ligament surgery in February and is recovering well.
- A replacement dog 'Becky' has been contracted from Steve Austin to provide continuity of service whilst Sebbi is recovering.
- Sebbi's recovery will take 8-10 weeks

BUDGET UPDATE

- The board approved a 63% increase of the Biosecurity Budget in FY20/21 (in comparison to FY19/20) in order to fund the post-eradication year 1 essential biosecurity items.
- This budget contributed to the progress of many recommended biosecurity actions including:
 - The purchase and installation of 481 monitoring devices island wide
 - Monthly monitoring targets have been met with 14 full monitoring checks on the settlement network of 371 monitoring devices
 - Installation of monitoring devices and traps around Dawson's point
 - 65 checks of devices around arrival points - airport and ship - (94 devices)
 - Devices installed and monitored on all walking tracks in the PPP (providing information for the scheduled 2021 post eradication success check)
 - The design and implementation of a Biosecurity focused arrivals process for vessels and aircraft
 - The purchase of a rodent incursion kit
 - ✓ 1500 Wax Tags
 - ✓ 1900 Chew Cards
 - ✓ 300 Trakka Tunnels (1400 cards)
 - ✓ 900 Mouse Traps
 - ✓ 900 Rat Traps
 - ✓ 1800 Trap Covers
 - ✓ Lure
 - ✓ Bait
 - ✓ Tools
 - Provision of a PMQ Biosecurity dog and handler for pre-departure MV Island Trader checks
 - Completion of stage one rodent proofing of the Birdon freight shed and installation of pallet racking.
 - LHI Biosecurity Room upgrades, including an airlock and sealing of the biosecurity room ceiling
 - LHI Biosecurity team training and contingency training of members of the Environment Team
 - The development of a Rodent Incursion Plan
 - A LHI and PMQ Biosecurity Audit (Pahor 2020)
 - The development of a Termite incursion response and monitoring network
 - The investigation of 16 Rodent reports, no positive rodent evidence found.
 - Updates to Birdon processes and monitoring on MV Island Trader
- 51% of all outstanding recommendations are unfunded in FY20/21
- 79% of outstanding Priority 1 actions are unfunded in FY20/21 (see table 1)

Biosecurity actions based on Audit recommendations (2003, 2015, 2019 and 2020) have been worked on concurrently, Figure 1 shows recommendation progress by audit from FY19/20 to FY20/21. e.g. Recommendations arising from the 2003 Landos Audit were 55% complete in FY19/20 and are now 79% complete in the FY20/21 (to date).

Overall, completed audit recommendations have increased by 31% FY19/20 to FY20/21. A total increase of 64 completed recommendations, 15 of which are priority 1 recommendations based on the 2020 Pahor audit.

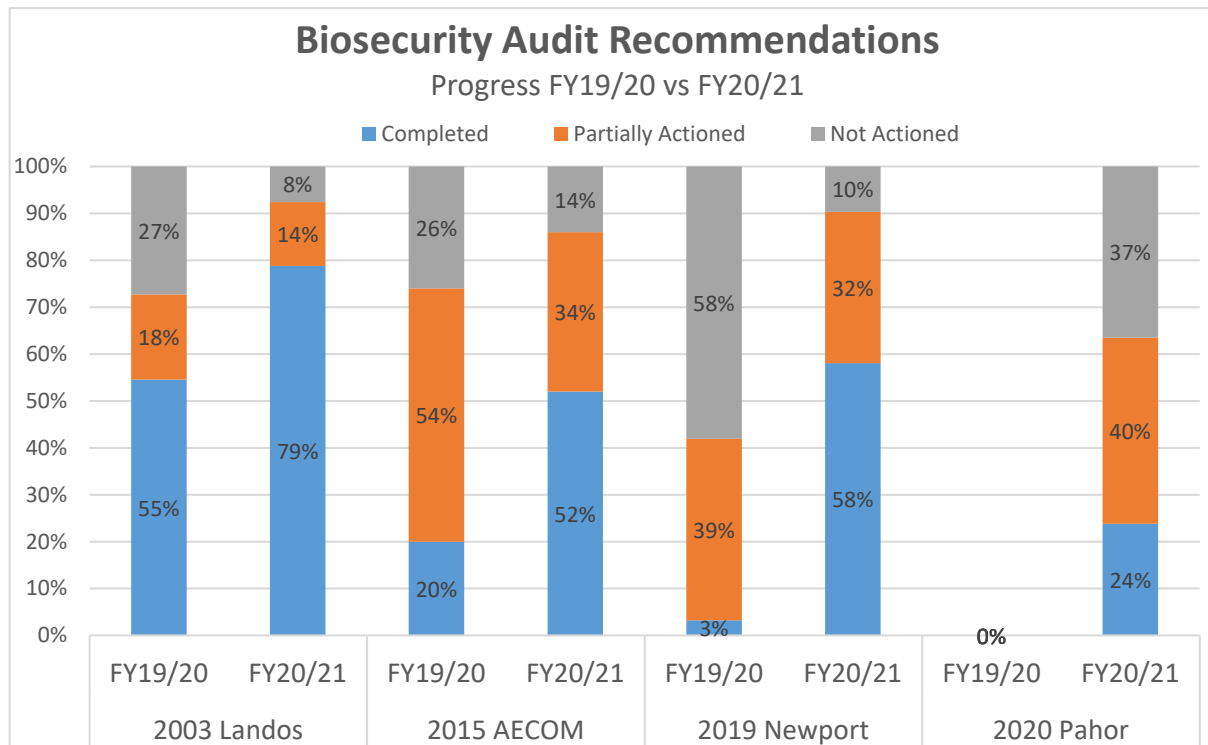


Figure 1 Status changes in Biosecurity Audit actions FY19/20 to FY20/21.

Figure 2 shows that the majority of completed Biosecurity actions implemented to date have been focused on incoming vessels/shipping and data management. Infrastructure and stakeholder engagement are the two functional areas that have the highest degree of uncompleted actions.

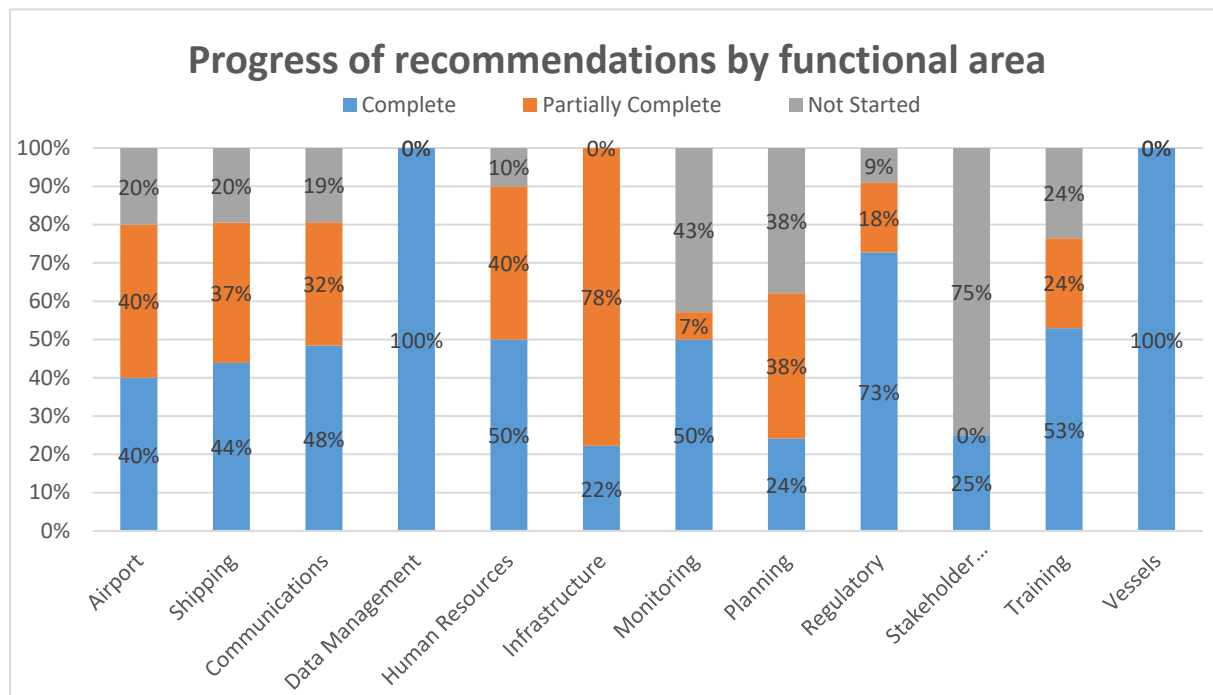


Figure 2 Breakdown of completed and partially completed recommendations.

Table 2 shows a list of Biosecurity priority 1 items that were not funded in FY20/21 and have are unlikely to be put forward for funding in FY21/22 due to limited resources.

Unfunded Priority 1 items

Ref	Recommendation	Status	Funding Required.
3.7	A dedicated communications and human resources role is created and resourced. This may require part-time engagement for Environment related activities only.	Unfunded	\$104,400
4.24	Selection of any potential replacement dog breed and supplier be undertaken with sufficient lead time to avoid a gap in capacity. Discussions should begin in the next 12 months with potential providers for replacement in the next 2-4 years.	Unfunded	\$60,000, requested as an additional budget request in FY21/22 budget
4.34	The Birdon external cargo storage area should be fenced to the maximum possible extent in such a way as to prevent rodent movement onto the site.	Unfunded	\$250,000 Indicative pricing, requires quoting
4.41	Implement measures to effectively retrofit and/or re-design the M/V Island Trader gangway to ensure it presents a barrier to rodents from dispersing onto the vessel whilst berthed in Port Macquarie.	Unfunded	Scoping of works needed to proceed to quote
4.42	The installation of a wash-down facility which meets all environmental requirements to allow wash-down that may utilise fungicides, herbicides, insecticides, etc. at the Birdon Port Macquarie yard.	Unfunded	Scoping of works needed to proceed to quote
4.7	A short-term implementable post-entry quarantine receiving station is placed/constructed at the LHI wharf. This should occur within two months of this audit.	Unfunded	Partially Funded (\$75,000), various options investigated further scoping of works needed to proceed to quote
4.74	Development of a robust reptile monitoring plan in collaboration with reptile and biosecurity experts.	Unfunded	\$5,000 *note: once this plan is written the monitoring and purchase of equipment is also not funded.
4.75	General targeted reptile surveys that utilise suitable methodologies for the target species occur on a biannual basis. Survey frequency may be reviewed after a sufficient data-set has been obtained.	Unfunded	\$10,000
4.76	Targeted reptile surveys be conducted at and near to potential introduction sites such as the LHI wharf, airport, and lodges/residences that receive direct bulk cargo deliveries.	Unfunded	\$10,000
4.78	Development of a robust invertebrate/insect monitoring plan in collaboration with invertebrate and biosecurity experts.	Unfunded	\$5,000 *note: once this plan is written the monitoring and purchase of equipment is also not funded.
4.8	Targeted ant surveys at both Birdon and LHI sites should be planned and resourced. Surveys should target at least Red Imported Fire Ant (<i>Solenopsis invicta</i>), and Yellow Crazy Ants <i>Anoplolepis gracilipes</i> .	Unfunded	\$10,000

4.81	A robust amphibian monitoring plan and schedule is be created in collaboration with amphibian and biosecurity experts.	Unfunded	\$5,000 *note: once this plan is written the monitoring and purchase of equipment is also not funded.
4.85	A robust reptile incursion response pathway and plan is developed in consultation with relevant experts, and properly resourced.	Unfunded	Included in 4.7
4.86	A robust amphibian incursion response pathway and plan is developed in consultation with relevant experts, and properly resourced.	Unfunded	Included in 4.81
4.87	A robust invertebrate incursion response pathway and plan is developed in consultation with relevant experts, and properly resourced.	Unfunded	Included in 4.78
2.4	Professional revision of LHIB website design to improve user engagement, useability, and intuitive information finding.	Unfunded	This should be a general expense of the LHIB ~\$15,000.
4.28	The engagement of an experienced ecologist to conduct a faunal survey of the general area surrounding the Birdon, Eastern Air, and Qantas facilities. To be repeated every approximately 3-5 years.	Unfunded	\$5,000
4.8	The formulation and implementation of suitable pest monitoring and/or control activities be undertaken in consultation with biosecurity experts and Qantas/Eastern Air for all aircraft used to service LHI.	Unfunded	\$10,000

Table 2 List of Priority 1 UNFUNDED recommendations

Capital works update

Jetty biosecurity inspection room	Construct	\$ 75,000	In progress - Project options being reinvestigated, unlikely to be finalised in FY20/21
Pallet stands	Purchase	\$ 20,000	COMPLETE
Biosecurity airport	Goods	\$ 15,000	In Progress – Quote Stage

Table 3 Status update on Capital Works

RECOMMENDATION

That the Board note the Biosecurity update

Prepared: Darcelle Matassoni, Acting Team Leader Biosecurity

Endorsed: Peter Adams, Chief Executive Officer

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Lord Howe Island Flood Study Update

RECOMMENDATION

That the Board note the draft Flood Study and approve its public exhibition.

BACKGROUND

The Lord Howe Island Board engaged specialist flood consultant WMAwater to review and update the Lord Howe Island Flood Study. The last Flood Study was conducted in 1998. This review has used new data and modelling techniques to update the study in accordance with the NSW Floodplain Development Manual (2005).

A flood questionnaire was sent out to the community in June 2019 with a number of responses received which have been incorporated into the review.

The study is funded by a grant from the NSW Government Floodplain Management Program.

CURRENT POSITION

The draft study has been prepared and is ready to release for public exhibition. The study is attached to this paper. A brief comparison between the results of the 1998 study and this update can be found on pages 35-36.

Selected figures from the report are also attached, showing the data for the 1% Annual Exceedance Probability flood model including peak flood depth, flood level (metres above Australian Height Datum) and the proposed Flood Planning Area which is defined in this study as the 1% AEP level plus freeboard (safety factor) of 0.3 metres.

RECOMMENDATION

That the Board note the draft Flood Study and approve its public exhibition.

Prepared: David Waterhouse Manager Infrastructure and Engineering Services

Endorsed: Peter Adams Chief Executive Officer

Attachments:

Attachment A: Lord Howe Island Flood Study – Draft for Public Exhibition

Attachment B: Selected Figures from Draft Lord Howe Island Flood Study

LORD HOWE ISLAND BOARD



LORD HOWE ISLAND FLOOD STUDY REVIEW AND UPDATE

DRAFT REPORT FOR PUBLIC EXHIBITION





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LORD HOWE ISLAND FLOOD STUDY REVIEW AND UPDATE

DRAFT REPORT FOR PUBLIC EXHIBITION

MARCH 2021

Project Lord Howe Island Flood Study Review and Update		Project Number 119040	
Client Lord Howe Island Board		Client's Representative David Waterhouse	
Authors Monique Retallick Mark Babister		Prepared by TO BE SIGNED FOR FINAL REPORT	
Date 5 March 2021		Verified by TO BE SIGNED FOR FINAL REPORT	
Revision	Description	Distribution	Date
4	Draft for Public Exhibition	Public	March 2021
3	Draft	LHI Board	May 20
2	Calibration - Draft		DEC 19
1	Data Collection- Draft Report	LHI Board	JUL 19

LORD HOWE ISLAND FLOOD STUDY REVIEW AND UPDATE

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LIST OF ACRONYMS

AEP	Annual Exceedance Probability
ARI	Average Recurrence Interval
ALS	Airborne Laser Scanning
ARR	Australian Rainfall and Runoff
BOM	Bureau of Meteorology
DECC	Department of Environment and Climate Change (now OEH)
DNR	Department of Natural Resources (now OEH)
DRM	Direct Rainfall Method
DTM	Digital Terrain Model
GIS	Geographic Information System
GPS	Global Positioning System
IFD	Intensity, Frequency and Duration (Rainfall)
LiDAR	Light Distance and Ranging
m AHD	meters above Australian Height Datum
OEH	Office of Environment and Heritage
PMF	Probable Maximum Flood
PTSR	Pinetrees to Steven's Reserve
SRMT	Shuttle Radar Mission Topography
TUFLOW	One-dimensional (1D) and two-dimensional (2D) flood and tide simulation software (hydraulic model)
WBNM	Watershed Bounded Network Model (hydrologic model)

ADOPTED TERMINOLOGY

Australian Rainfall and Runoff (ARR, ed Ball et al, 2016) recommends terminology that is not misleading to the public and stakeholders. Therefore the use of terms such as “recurrence interval” and “return period” are no longer recommended as they imply that a given event magnitude is only exceeded at regular intervals such as every 100 years. However, rare events may occur in clusters. For example there are several instances of an event with a 1% chance of occurring within a short period, for example the 1949 and 1950 events at Kempsey. Historically the term Average Recurrence Interval (ARI) has been used.

ARR 2016 recommends the use of Annual Exceedance Probability (AEP). Annual Exceedance Probability (AEP) is the probability of an event being equalled or exceeded within a year. AEP may be expressed as either a percentage (%) or 1 in X. Floodplain management typically uses the percentage form of terminology. Therefore a 1% AEP event or 1 in 100 AEP has a 1% chance of being equalled or exceeded in any year.

ARI and AEP are often mistaken as being interchangeable for events equal to or more frequent than 10% AEP. The table below describes how they are subtly different.

For events more frequent than 50% AEP, expressing frequency in terms of Annual Exceedance Probability is not meaningful and misleading particularly in areas with strong seasonality. Therefore the term Exceedances per Year (EY) is recommended. Statistically a 0.5 EY event is not the same as a 50% AEP event, and likewise an event with a 20% AEP is not the same as a 0.2 EY event. For example an event of 0.5 EY is an event which would, on average, occur every two years. A 2 EY event is equivalent to a design event with a 6 month Average Recurrence Interval where there is no seasonality, or an event that is likely to occur twice in one year.

The Probable Maximum Flood is the largest flood that could possibly occur on a catchment. It is related to the Probable Maximum Precipitation (PMP). The PMP has an approximate probability. Due to the conservativeness applied to other factors influencing flooding a PMP does not translate to a PMF of the same AEP. Therefore an AEP is not assigned to the PMF.

This report has adopted the approach recommended by ARR and uses % AEP for all events rarer than the 50 % AEP and EY for all events more frequent than this.

Frequency Descriptor	EY	AEP (%)	AEP	ARI
			(1 in x)	
Very Frequent	12			
	6	99.75	1.002	0.17
	4	98.17	1.02	0.25
	3	95.02	1.05	0.33
	2	86.47	1.16	0.5
	1	63.21	1.58	1
Frequent	0.69	50	2	1.44
	0.5	39.35	2.54	2
	0.22	20	5	4.48
	0.2	18.13	5.52	5
	0.11	10	10	9.49
Rare	0.05	5	20	20
	0.02	2	50	50
	0.01	1	100	100
Very Rare	0.005	0.5	200	200
	0.002	0.2	500	500
	0.001	0.1	1000	1000
	0.0005	0.05	2000	2000
	0.0002	0.02	5000	5000
Extreme			↓	
			PMP/ PMPDF	

FOREWORD

The NSW State Government's Floodprone land Policy provides a framework to ensure the sustainable use of floodplain environments. The Policy is specifically structured to provide solutions to existing flooding problems in rural and urban areas. In addition, the Policy provides a means of ensuring that any new development is compatible with the flood hazard and does not create additional flooding problems in other areas.

Under the Policy, the management of flood liable land remains the responsibility of local government. The State Government subsidises flood mitigation works to alleviate existing problems and provides specialist technical advice to assist Councils in the discharge of their floodplain management responsibilities.

The Policy provides for technical and financial support by the Government through four sequential stages:

1. ***Flood Study***
 - Determine the nature and extent of the flood problem.
2. ***Floodplain Risk Management***
 - Evaluates management options for the floodplain in respect of both existing and proposed development.
3. ***Floodplain Risk Management Plan***
 - Involves formal adoption by Council of a plan of management for the floodplain.
4. ***Implementation of the Plan***
 - Construction of flood mitigation works to protect existing development, use of Local Environmental Plans to ensure new development is compatible with the flood hazard.

WMAwater were engaged by the Lord Howe Island Board to update the Lord Howe Island Flood study for Kings Beach, Airport, and Pinetrees to Steve's Reserve catchments. This study forms the first stage of the process.

EXECUTIVE SUMMARY

To Be completed

1. INTRODUCTION

Lord Howe Island was not recognised as having a flooding problem until the occurrence of two large flood events in January and June 1996. The June 1996 event was a particularly rare event. The event caused the worst flooding on record and was associated with a number of large landslips. A large rainfall event also occurred in February 1998. This confirmed the suspicions from the 1998 Flood Study (Reference 1) that the design rainfall estimates for the island were an underestimate. This led to a review of design rainfall estimates that resulted in substantial increase in design rainfalls. These revised rainfalls were used in the subsequent Floodplain Risk Management Study and Plan (Reference 2).

This study represents an update to the previous flood study. The purpose of the flood study is to define existing flood behaviour and provide tools for the investigation of management of flooding. The study area includes three separate catchments:

- The basin draining to Kings Beach
- The basin which includes the airport and golf course
- The main inhabited area of the Island extending from Pinetrees to Stevens Reserve

This report details the investigations, results and findings of the flood study for the three catchments. This includes:

- a summary of available data,
- hydrologic model development,
- hydraulic model development,
- calibration of the hydraulic model, and
- definition of the design flood behaviour through the analysis and interpretation of model results,
- provisional hydraulic hazard,
- emergency response classifications.

A glossary of flood related terms is provided in Appendix A.

2. BACKGROUND

2.1. General

Prior to the January and June 1996 floods, the last significant flood event that could be recalled by local residents of Lord Howe Island was in the late 1920's. A number of historical floods have been recorded on a wall at Pinetrees but none of these approached the magnitude of the June 1996 event.

The June 17-18 1996 storm caused significant damage to Lord Howe Island leading to the Island being declared a Natural Disaster Area. Apart from flooding, which caused particular problems around the airport and within the Pinetrees to Steven's Reserve catchment, massive land slips changed the face of the island in many areas, closing roads and washing away foot tracks. The airport runway was badly damaged by water rising up through the pavement. The Bureau of Meteorology's (BoM) pluviography at the airport recorded most of the event but went under water in the latter part of the storm. Fortunately BoM personnel were able to provide an estimate of the residual rain after the gauge was submerged.

Within the southernmost part of the study area (Kings Beach catchment) no properties were flooded, but extensive inundation of rural lands occurred with land slips and gravel deposition. Extensive flooding occurred in the airport catchment with many parts still inundated several days after the event. Two houses were badly flooded. The Pinetrees to Steven's Reserve catchment was affected by substantial ponding of floodwaters due to the lack of any exit point for the floodwaters. A number of properties were extensively flooded.

2.2. Study Area

The study area (Figure 1) covers three distinctly different catchments, Kings Beach, Airport, and Pinetrees to Steven's Reserve.

Kings Beach

Kings Beach catchment lies immediate South of South Capella on the West Coast of the Island. The total catchment area to the ocean is approximately 165 hectares. The catchment consists of well-defined drainage lines, and an unrestricted and natural exit to the ocean. The lower flatter slopes are cleared grazing land with steep naturally forested areas in the upper catchment. The Kings Beach catchment can be considered a "conventional" catchment in that it has well defined drainage paths and has a natural exit to the ocean which is unrestricted and flood levels in the lower part are influenced by ocean conditions. There are two natural creeks draining the catchment from the southern and northern boundaries of the floodplain.

A man made channel was constructed which intersected the southern branch and directed the flow straight to the ocean through the middle of the floodplain. This is now the main drainage path. It carries all the flow in very small events (less than 20%) and spreads out over the whole floodplain in major events. Photographs 1 and 2 in Appendix B show the catchment in normal conditions, and Photographs 3 and 4 Appendix B show the extent of flooding near the peak of the June 1996 event.

Flood levels are determined by the amount of flow entering the floodplain basin, the ocean level at the downstream boundary (this only affects the reach downstream of the road), the road crossing (with its limited culvert capacity) and the overall shape of the floodplain and the drainage channels.

Airport

The total catchment area is approximately 80 hectares, with ill-defined heavily vegetated drainage lines. The catchment can be subdivided into three sub-catchments. The Golf Course sub-catchment originates in a steep forested area adjacent to the headwaters of Kings Beach Catchment, follows wide grassed valleys somewhat restricted by heavy vegetations, finally joining Cobbys Creek. There are small drains within the golf course proper but these would only carry the flows in very minor events. In larger events the flows would spread naturally across the flat valley bottoms.

The Blinky Beach to Cobbys Creek sub-catchment, covers a large part of the airport and a hill slope forested area to the south. The hill slope area drains to a natural swamp and to a series of small flood storage basins upstream of the airport road. Some of these have no outlet paths but the larger swamp near Blinky Beach has a culvert draining across to the table drain to the north of the airport access road. This culvert would clearly carry flow in either direction depending on where the runoff was sourced. The table drain on the northern side of the airport road drains in a south westerly direction towards the Cobbys Creek outlet. Near its confluence with Cobbys Creek the road access to the airport terminal crosses the table drain. Only one small culvert (diameter 300 mm approximately) is available to convey the flow. Downstream of this point the drain joins the Golf Course sub-catchment and the now well-defined creek passes through a heavily vegetated and then clear channel to the ocean. There is a beach berm at the end of the creek which is regularly maintained by the LHIB.

The third sub-catchment drains the remaining airport area to the north of the runway. A steep forested hill slope area forms the northern part of the sub-catchment. Flows originating from this area collect to the north of the airport road in a series of flood storage basins which connect to table drains on the northern and southern sides of the road. There are a number of small culverts connecting across the road. The table drains lead to a substantial single cell culvert which is the only defined outlet from this area. It passes under the runway before exiting to the ocean west of the airport terminal. The outflow is restricted by a beach berm which limits the low flow capacity of the culvert. This catchment, at least in a June 1996 type event, breaks out direct to the ocean near the north western corner of the runway.

Poor drainage and high flood levels are problems for this catchment. Even after the flood peak is reached it takes many days for the floodwaters to drain away leading to loss of vehicular access, waterlogging, and killed pasture grasses (the worst problem area is front of Mr Stan Fenton's house).

It would appear that the flood and drainage problems of this area can be sourced back to the construction of the airport and runway in the mid 1970's. Fill for the runway was taken from the lower end of the Golf Course, and construction of the runway has meant that a major barrier to

flood and drainage flows has been placed across the floodplain. It is quite apparent that the drainage provisions around the airport constructed as part of the airport re-development are completely inadequate to convey even moderate flows. They are incapable of conveying major flows and the whole area becomes a large pond which can drain only very slowly. Photographs 8 and 9 in Appendix B illustrate this.

Pinetrees to Steven's Reserve

The Pinetrees to Steven's Reserve catchment commences immediately to the north of the airport catchment (see Figure 1). This infiltration driven catchment has an approximate catchment area of 145 hectares. It largely consists of cleared land partially covered with low density urban development on the lower flatter slopes, with a relatively small surrounding catchment of forested hills draining down on to the floodplain.

It is characterised by ill-defined drainage lines and the lack of a clear outlet. With no drainage outlet to the ocean and no overflow path the only escape for floodwaters is infiltration. The infiltration rate within the catchment is high and most buildings are relatively high off the ground.

2.3. Previous Studies

A number of flood studies and assessments have previously been undertaken within the catchments. A Flood Study and a Floodplain Management Study have been previously carried out by WMAwater within the three catchment areas. After the January and June 1996 storms affecting the Island, the Lord Howe Island Board (LHIB) decided to undertake a Flood Study. A second phase included a Floodplain Management Study, which also involved a revision of the rainfall design data due to the occurrence of a new event in 1998, which was not considered in the original Flood Study. A brief overview of these reports is provided below along with other relevant studies undertaken in the catchments.

Lord Howe Island Flood Study (Webb, McKeown & Associates Pty Ltd, 1998)

The Lord Howe Island Flood Study (referred to herein as the 1998 Flood Study) investigated the flooding characteristics and behaviour (flows, flood levels and velocities) of the three catchments that form part of Lord Howe Island. A runoff routing hydrologic model (Watershed Bounded Network Model, WBNM) covering all three catchments were set up to determine the inflows to the hydraulic model. A number of large storms, with relatively good data, including the June 1996 Storm, were used to calibrate and validate the hydrologic model. A hydraulic (RUBICON) model of each catchment was developed. This study has been used for data for the current study.

Lord Howe Island Floodplain Management Study (Webb, McKeown & Associates Pty Ltd, 1999)

Following the February 1998 storm, a revision of the design rainfall data, was deemed appropriate. The previous models were tested against this event as a verification exercise. The design rainfalls were increased significantly across the whole range of design events. New design flood levels were determined and options for improving the future management of the floodplain were tested. Options recommended by this study will form a starting point for the current assessment.

Lord Howe Island Coastal Study Extract pp. 2 - 42 (Haskoning Australia Pty Ltd, 2014)

This study is a coastal study of the island but does provide some useful information for the current study. The study considers the impacts of a range of coastline management issue including beach erosion/shoreline recession, coastal lagoon/watercourse entrance instability, coastal cliff and slope instability and threats from climate change. The report considered these issues and identified immediate management actions and approvals required. The study contains a detailed discussion of local datums and a tidal planes analysis and design ocean levels which will be adapted for the current study.

3. AVAILABLE DATA

3.1. Rainfall Information

3.1.1. Historical rainfall data

Historical rainfall data was obtained at a number of locations within the study area and surrounds. Daily rainfall and pluviograph data was obtained for a number of gauges within the region from the Bureau of Meteorology (BoM) (refer to Figure 2).

The daily read stations record total rainfall for the 24 hours to 9:00 am of the day being recorded. For example, the rainfall received for the period between 9:00 am on 3 February 2008 until 9:00 am on 4 February 2008 would be recorded on the 4 February 2008.

Table 1 presents a summary of the rainfall gauges available for use in this study.

Table 1: Rainfall stations

Station Name	Station ID	Agency	Opened	Closed	Gauge type
Lord Howe Island (Milky Way)	200389	BOM	01/2000	Current	Daily
Lord Howe Island Aero NSW	200839	BOM	11/1988	Current	Daily
Lord Howe Island Aero NSW	200839	BOM	07/1994	Current	Pluviograph
Lord Howe Island (Orlando)	200375	BOM	07/2000	Current	Daily
Lord Howe Island	200440	BOM	02/1886	11/1998	Daily
Lord Howe Island	200440	BOM	09/1946	12/1998	Pluviograph
Lord Howe Island South End	200441	BOM	04/1933	12/1959	Daily

Historical rainfall data was available for a number of historic flood events including 1996 and 1998. Significant events occurred in both January and June 1996. From the daily rainfall data available the five largest events were identified. Table 2 shows these events. Based on the IFD analysis previously undertaken the June 1996 event was considered to be above the 1% AEP event for most durations. The January 1996 event is considered to be a 2% AEP event and the 1998 event close to a 1% AEP.

Table 2: Largest events determined from daily rainfall data

Date	24 hour Rainfall amount (mm)	Station ID
June 1996	449.0	200389
February 1998	374.6	200839
April 1930	304.8	200375
April 2009	265.0	200440

3.1.2. Design rainfall data

Design rainfall data available for the three catchments within Lord Howe Island is documented in References 1 and 2. This will be updated as part of the current study.

3.2. Water Level Data

3.2.1. Timeseries Water Level Data

Manly Hydraulics Laboratory (MHL) operates a water level recorder at Lord Howe Island (Table 3, Figure 2). Tide levels have been observed at the jetty since 1994 and some levels are available from the MSB prior to that date. There is anecdotal evidence that the highest level at the jetty was the underside of the girder which is approximately 2m AHD.

Stage hydrograph data was obtained from the MHL operated water level station. The recorded time-series of water levels was used for model calibration purposes. It should be noted that these water level recorders are located within the tidal limit and therefore provides no indication of flows. Water level recordings are available for the historic events.

Table 3: Water Level Recorder

Station Name	Agency	Station ID	Opened	Closed
Lord Howe Island	MHL	240402	08/1994	Current

Table 4 shows the water levels in the Lagoon, obtained from MHL, based on a review of data collected every 15 minutes from 1994 to 2013 for various tidal planes. Table 5 shows the exceedance probability for these levels.

Table 4: Tidal Levels in the Lagoon

Tidal plane	Water Level (m AHD)
High High Water Solstice Springs	2.31
Mean High Water Springs	2.01
Mean High Water	1.83
Mean High Water Neaps	1.66
Mean Sea Level	1.23
Mean Low Water Neaps	0.81
Mean Low Water	0.63
Mean Low Water Springs	0.46
Indian Springs Low Water	0.24

Source: Table 1 from Lord Howe Island Coastal Study Extract pp. 2 – 42

Table 5: Probability of Exceedance for Lagoon Tidal Levels

Probability of exceedance (%)	Water Level (m AHD)
0.1	2.53
1	2.30
5	2.05
10	1.91
50	1.23
90	0.58

Source: Table 2 from Lord Howe Island Coastal Study Extract pp. 2 – 42

3.2.1. Observed peak flood levels

A number of flood levels within the three catchments were identified in the 1998 Flood Study. Publicity through a newsletter and The Signal newspaper assisted in bringing forward information. The previous study (Reference 1) gathered a large number of photographs, which were used to identify flood levels (reproduced in Appendix B). After the June 1996 flood, permanent brass markers were placed by LHIB to identify flood levels at key locations. These were surveyed in the 1998 Flood Study.

A number of historical floods have been recorded on a wall at Pinetrees dating back to June 1995 but none of these approached the magnitude of the June 1996 event.

Historic peak flood levels reported in the 1998 Flood Study have been digitised spatially (as accurately as possible) (refer to Figure 4 and Table 30 in Appendix E). Sufficient calibration data exists for the 1996 and 1998 events for use in the current study.

3.3. Topographic Information

There is a considerable amount of topographic data available for the study area (Figure 3). However, the accuracy and suitability of these existing datasets for use in the present study varies. This includes contours, hydrosurvey, cross sections and Light Detection and Ranging (LiDAR) survey.

LiDAR survey of Lord Howe Island was obtained for the study from ELVIS. This LiDAR data has a 1m grid resolution. The accuracy of the ground information obtained from LiDAR survey can be adversely affected by the nature and density of vegetation, the presence of steep varying terrain, the vicinity of buildings and/or the presence of water. Spatial accuracy of the LiDAR in the horizontal and vertical directions was reported as 0.8m and 0.3m respectively (95% confidence).

A DEM (Digital Elevation Model) at a 1m grid resolution was used in order to:

- confirm sub-catchment and catchment watershed boundaries; and
- inform the two dimensional hydraulic model used in the study.

Contour layers (10m and 20m) generated from different elevation surfaces were provided by LHIB. Data was available for the Airport, Kings Beach and Pinetrees to Steven's Reserve catchments. Metadata has not been provided to indicate accuracy or the elevation dataset from which they were derived.

NSW Maritime conducted a hydrographic survey of the Lagoon (eastern side of LHI) in October 2008. This was recorded using ODOM CVX3 Echo Sounder and is based on LHI AHD 71 Datum. Mapping of the Survey has been obtained in PDF format.

The Port Authority of New South Wales conducted a survey of the Lagoon in March 2015. This data set is reduced to zero and is based on the Lord Howe Island Hydro Datum being approximately the level of Lowest Astronomical Tide. This zero is 0.144 metres above Local AHD.

Cross sections were also available from the 1998 RUBICON model. These were used to confirm that the LiDAR had recorded the channel invert.

3.1. Aerial Imagery

High resolution aerial imagery of Lord Howe Island has been obtained from NSW Six Maps for this study. This was utilised in the assigning of Manning's n values and identifying catchment changes.

3.2. Culvert and Structure Data

Some culvert and structure data was available from the 1998 Flood Study for inclusion in the hydraulic model.

In addition, site photos, measurements of opening widths and pipe network layout figures were collected by Lord Howe Island Board Staff (refer to Figure 3 and Appendix D).

3.3. Cadastre and LPI Data

A cadastre of Lord Howe Island has been obtained from LHIB for this project. Additionally, Land and Property Information (LPI) layers for drainage paths, drainage areas, areas of interest and the mean high water tidal extent were provided by LHIB, however the date at which the data was recorded was not provided.

3.4. Previous models

The previous Flood study of Lord Howe Island (Reference 1) developed a WBNM hydrologic model. This model will be further refined using the most up to date data and techniques for the present study.

A 1D RUBICON hydraulic model was developed in the previous Flood Study (Reference 1). This model will be used as reference data only. A new two dimensional TUFLOW model will be set up for the current study.

3.5. Community Consultation

One of the central objectives of the Flood Study process is to provide the local community with a community accepted resource that can be utilised for all flood related issues including development, flood warning, response and management/remediation.

Newsletters were posted to the community by LHIB. A total of 12 responses were received through both email responses and online survey. Of these 2 reporting flooding since 1998. The respondents did not indicate they had photos or flood marks for the flood events since 1998 that could be used in the calibration process.

4. MODELLING APPROACH

The primary objective of this study is to define the flood behaviour under historical and existing floodplain conditions in the Study Area while addressing possible future variations in flood behaviour due to climate change and provide information for its management.

The approach adopted for this study has been influenced by the study objectives, accepted practice and the quality and quantity of available data. There are two basic approaches to determining design flood levels namely:

- a *flood frequency approach* based upon a statistical analysis of the flood record, and
- using a *rainfall/runoff routing* approach (hydrologic modelling) to obtain flows, and then inputting these flows into a hydraulic model of the study area

A rainfall/runoff routing approach was adopted for the current study due to the lack of a long-term water level gauge for use in flood frequency analysis.

A hydrologic (WBNM, Watershed Bounded Network Model) model was established for each catchment to determine inflows into the hydrodynamic model. A two-dimensional hydrodynamic (TUFLOW) model was used to define the flood behaviour using LiDAR and hydrosurvey.

The TUFLOW models were calibrated and verified to the June 1996 and February 1998 events.

The calibrated hydraulic models were then used to assess the flood levels and hydraulic flood hazard for the 20, 5, 1% AEP and PMF events.

5. INTENSITY FREQUENCY DURATION INFORMATION

To determine the design flood behaviour within the catchment, it is necessary to obtain design rainfall data. Design rainfall is based on statistical analysis of historical rainfall events to determine rainfall that has a certain probability of occurring; often identified as an ARI or AEP.

Design rainfalls derived by Bureau of Meteorology specifically for Lord Howe Island (Reference 1) were used for the 1998 Flood Study. These were revised by Webb McKeown and Associates (now WMAwater) in the 1999 Floodplain Risk Management Study after the occurrence of a significant rainfall event in February 1998.

Since this time, the distributions and methods used to fit design rainfalls have changed and additional rainfall data (20 years) is available. Design rainfalls (Intensity Frequency Duration, IFDs) over Australia were developed by Bureau of Meteorology for the 2019 version of Australian Rainfall and Runoff (ARR2019). However, these IFDs did not cover Lord Howe Island. Therefore, IFDs were derived for use in this flood study, based on recorded rainfall data (refer to section 3.1) on Lord Howe Island using updated techniques. The derivation of IFDs is described in this section.

5.1. Method

The following method was used to develop IFDs for Lord Howe Island.

1. At each site, rainfall was totalled for a range of durations from 30 minutes to 4320 minutes, based on a moving window. For daily rainfall sites, only durations of one day or greater were calculated.
2. Annual maximum series were extracted for each site (refer to Appendix C) for each duration. In some records there were flags to indicate if data recordings at the fixed time step were missed but that the total equals the total in the missed timesteps. These values were included if the burst duration being calculated was larger than the gap. Sensitivity testing showed that inclusion of these values made very little difference to the results.
3. Factors were applied to the annual maximum series for the daily rainfall sites (ARR2019 Book 2, Table 2.3.4) to convert rainfall from the restricted period of 9am to 9am, to an unrestricted period.
4. The annual maximum series for the two pluviograph sites were pooled, as they did not include concurrent data.
5. For durations of 24 hours or greater, a combined annual maximum series was derived based on the following procedure:
 - Where pluviograph and daily data was available at the same gauge for a given year, the pluviograph data was used,
 - In years where data was only available from one site, the annual maximum from that site was used,
 - In years where data was available at multiple sites, the maximum of the annual maxima from all sites was used. Using the mean of the annual maxima was also investigated and the difference in results was found to be insignificant.
6. Generalised Extreme Value (GEV) distributions were fitted to the individual and combined annual maximum series using the method of L-moments.

5.2. Results

The design rainfalls derived for each duration are shown in Figure 6 and Table 6. Overall the IFDs have reduced from the 1998 estimates. This is not unexpected due to the lack of major storms in the last 20 years.

Table 6: Design rainfalls Depths (mm)

Duration (minutes)	Annual Exceedance Probability (%)						
	50	20	10	5	2	1	0.5
30	26.4	33.8	39.0	44.0	50.8	56.1	61.5
60	35.7	47.4	56.5	66.4	81.0	93.6	107.7
120	48.5	65.1	77.6	90.9	110.4	126.8	144.8
180	56.3	75.9	92.0	110.2	138.6	164.2	194.0
360	68.8	93.5	116.1	144.0	192.3	240.2	301.1
720	82.1	114.4	143.3	178.7	238.8	297.6	371.1
1440	114.5	166.5	207.4	252.3	319.8	378.6	445.1
2880	137.3	197.4	242.9	291.5	362.5	422.4	488.4
4320	145.6	205.9	250.9	298.3	366.6	423.3	485.1
5760	151.9	212.6	258.1	306.0	375.2	432.8	495.6
7200	157.7	218.7	265.1	314.5	386.8	447.8	515.1
8640	163.5	226.1	273.7	324.7	399.1	462.0	531.5
10080	170.4	233.8	281.3	331.5	404.1	464.7	530.8

6. HYDROLOGIC MODELLING

6.1. Overview

Hydrologic models of the Kings Beach, Airport, and Pinetrees to Steven's Reserve catchments were established as part of the study. All models were developed using the Watershed Bounded Network Model (WBNM).

The three main hydrologic models used in Australia are RORB, RAFTS and WBNM. WBNM (Watershed Bounded Network Model) is the simplest to set up as it only uses area whereas RORB and RAFTS require stream length and/or stream slope to be quantified. These two parameters can be map source and scale dependent. By using WBNM this source of uncertainty will be eliminated.

WBNM (Reference 4) is widely used throughout Australia and particularly NSW. WBNM simulates a catchment and its tributaries as a series of sub-catchment areas linked together to replicate the rainfall and runoff process through the natural stream network. Input data includes the definition of physical catchment characteristics including surface area of sub-catchments, proportion of impervious surfaces, stream length adjustments, initial and continuing losses, temporal and spatial patterns over the catchment.

Key parameters for WBNM represent the physical characteristics of the catchment. Typical model parameters include;

- Rainfall Losses: two values, initial and continuing loss, modify the amount of rainfall excess to be routed through the model sub-catchments;
- Lag Parameter: this affects the timing of the runoff response to the rainfall and is subject to catchment size, shape and slope; and
- Non Linearity Exponent: adjustment of the non-linearity of catchment response.

The parameters adopted for this study were based on the previous experience and calibration. Details of the parameters used for each of the catchments can be found in Sections 6.2 and 6.3.4.

6.2. Old model

For the 1998 flood study, a WBNM hydrologic model was set up to cover all three catchments. As no flow data was available for calibration, the model parameters were based on recommendations in the WBNM modelling guide, for ungauged catchments. The adopted C value was 1.29. Initial loss was 0.0 mm and continuing loss was 2.5 mm/h for the Kings Beach and Airport catchments, and 30mm and 10 mm/hr for the Pinetrees to Steven's Reserve catchment.

6.3. Hydrologic Model Update

Some changes were made to the layout of sub-catchments compared with 1998 hydrologic model. The sub-catchments were redefined based on the fine resolution DEM. An additional sub-catchment was included in the north of the Pinetree catchment and an additional area on the west coast was included in the Kings Beach catchment. The model sub-catchments were altered to

align with required input locations for the hydraulic model, and two of the larger sub-catchments were split into smaller sub-catchments to give more consistent sub-catchment areas over the model. The hydrologic model layout is shown in Figure 7, and the difference in catchment area is shown in Table 7.

Table 7: Change in catchment area – 2019 to 1998

Catchment	Change in catchment area
Airport	4%
Kings Beach	11%
Pinetrees to Steven’s Reserve	24%

6.3.1. Calibration to Historical Events

The WBNM models were calibrated to historical events for which sufficient rainfall and observed hydrograph data existed. Adopted calibration events were those used in previous studies. No events have occurred since 1998 of a large magnitude or with sufficient calibration data available for inclusion in the study.

6.3.2. June 1996 Event

A large rainfall event occurred on the 18th June 1996, with almost 450 mm of rain recorded at the Lord Howe Island Aero pluviometer. The maximum rainfall occurred between 2am and 4am, with a maximum intensity estimated at 125 mm/h. The rainfall data from the Lord Howe Island Aero pluviograph was used as input to the WBNM model for both the rainfall depths and temporal pattern. This rainfall was adopted for all catchments and sub-catchments.

The hydrographs produced from the hydrologic model were input to the TUFLOW model for calibration to historic water levels.

6.3.3. February 1998 Event

A rainfall event was recorded on 12 February 1998. A total of approximately 375 mm recorded at Lord Howe Island Aero pluviometer with the maximum rainfall occurring between 4pm and 10pm. The rainfall data from the Lord Howe Island Aero pluviograph was used as input to the WBNM model for both the rainfall depths and temporal pattern. This rainfall was adopted for all catchments and sub-catchments.

The hydrographs produced from the hydrologic model were input to the TUFLOW model for calibration to historic water levels.

6.3.4. Parameters

The adopted loss parameters are similar to those used in the 1998 Flood study. Losses were set at 0 mm initial loss and 2.5 mm/hr continuing loss for Airport and Kings Beach catchments, and 30 mm initial loss and 10 mm/hr continuing loss for Pinetrees to Steven’s Reserve catchment. The exception to this is the February 1998 event for the Pinetrees to Steven’s Reserve catchment only

which has an applied initial loss of 30mm and continuing loss of 20mm/hr. Higher than normal losses were applied for the Pinetrees to Steven's Reserve catchment however this is compatible with the soils in the catchment and dense vegetation. Further details are provided in Section 7.5 and 7.6. The adopted Lag parameter (C) was 1.6, which is the current default parameter recommended in WBNM manual (Reference 4) for ungauged catchments.

6.3.5. Comparison with Previous Hydrologic Models – Historic Events

A comparison of the results of the hydrologic modelling with the results presented in the 1998 Flood Study shows that the hydrographs produced from the hydrologic modelling are similar in both studies (Diagram 1).

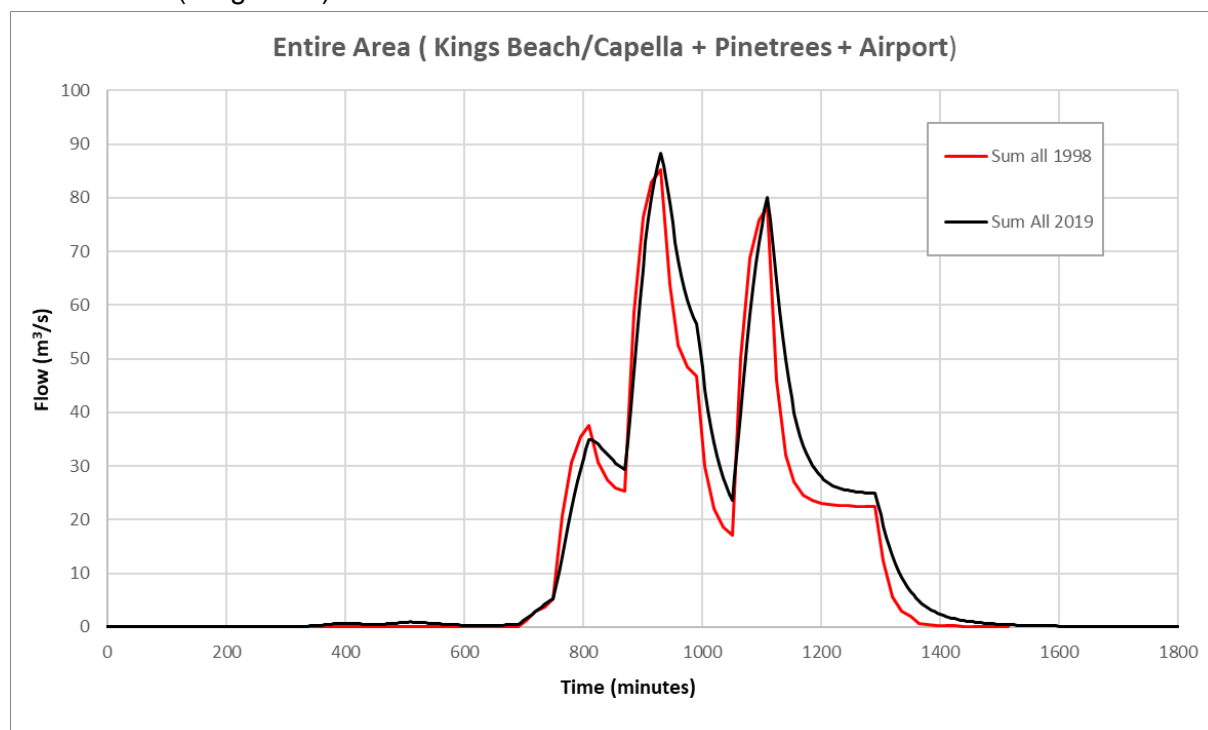


Diagram 1: Total flow from all Lord Howe Island catchments for June 1996 event.

6.3.6. Design Event Modelling

Design flow estimates were obtained for AEPs of 20%, 5%, and 1% design events. Design rainfalls used are described in Section 5.

Other inputs to the hydrologic model are the spatial and temporal patterns of rainfall. In real rainfall events and particularly in large catchments, depths of rainfall can vary significantly from one location in the catchment to another. When this occurs, spatially non-uniform rainfall (spatial pattern) can be applied to the hydrologic model. A uniform spatial pattern was used. Areal reduction factors are used to convert point IFDs to areal rainfalls. These were calculated based on formula for South East Coast region, using the equation in ARR 2019 (Reference 6). These are shown in Table 8.

Table 8: Areal reduction factors

Duration (minutes)	Annual Exceedance Probability					
	50%	20%	10%	5%	2%	1%
30	0.95	0.95	0.95	0.94	0.94	0.94
60	0.97	0.96	0.96	0.96	0.95	0.95
120	0.98	0.97	0.97	0.96	0.96	0.96
180	0.98	0.98	0.97	0.97	0.96	0.96
360	0.99	0.99	0.98	0.98	0.98	0.98
720	0.99	0.99	0.99	0.99	0.99	0.99
1440	0.99	0.99	0.99	0.99	0.99	0.99
2880	0.99	0.99	0.99	0.99	0.99	0.99
4320	1.00	1.00	1.00	1.00	1.00	1.00

Temporal patterns are a representation of how the rainfall fell over time. The temporal patterns of real storms can vary significantly, and catchments can respond very differently to the shape of the temporal pattern. For example, some rainfall events can have a significant portion of the rainfall occurring at the start of the storm burst (front loaded), and the catchment response will vary from that to a storm where a large portion of the rainfall occurs towards the end of the rainfall burst (back loaded).

ARR 2019 (Reference 6) provides ensembles of temporal patterns, i.e. 10 temporal patterns for each rainfall duration and across three AEP groups. The application of the AEP groups is shown in Table 9.

Table 9: Temporal Pattern Bins

AEP Group Name	Design AEP's Applied to
Rare	2% and 1%
Intermediate	10% and 5%
Frequent	50% and 20%

East Coast temporal patterns, obtained from ARR datahub (Reference 7), were applied to the design rainfalls as described in Section 5.2. This is considered valid as the topographic features within the zone are similar to Lord Howe Island. Ten temporal patterns were run for each duration and AEP.

Initial and continuing losses were as per the design runs in the previous study (refer to Table 10). A lower continuing loss than the calibration events was used for Pinetrees to Steven's Reserve to be consistent with the previous study. A lag parameter value of $C = 1.6$ was adopted for all catchments.

Table 10: Design Losses

Catchment	Initial Loss (mm)	Continuing Loss (mm/h)
Airport and Kings Beach	0	2.5
Pinetrees to Steven's Reserve	30	10

The results of the design event hydrologic modelling are shown in Figure 8 to Figure 13 for selected sub-catchments and AEPs. The critical duration of flows from the hydrologic model for Airport and Kings Beach catchments for all AEPs was 60 minutes. For Pinetree catchment, critical duration was 360 minutes. However, all patterns were run through the hydraulic model to determine the critical durations for design flood levels.

6.3.7. Comparison with previous Hydrologic Models – Design Events

The critical duration, 1% AEP event was compared between the 1999 Floodplain management study (Reference 2) and the current study, for each catchment outlet (Table 11 and Diagram 2). The differences in the peak flows are largely due to the different temporal patterns used for design, and different lag parameters in the two studies. The differences in hydrograph volumes between the two studies reflect the change in catchment area and differences in design rainfall inputs. Note that the Pinetrees to Steven’s Reserve area includes an additional catchment from the previous study that drains separately.

Table 11: Comparison of 1% AEP design event – 1999 and 2019 studies

Catchment	Crit. Dur'n (mins)	Peak			Volume			1% AEP Design rainfall difference	Catchment area difference
		1998 (m ³ /s)	2019 (m ³ /s)	Percent difference	1998 (Mm ³)	2019 (Mm ³)	Percent difference		
Airport	60	48.5	29.0	-40%	2.62	2.35	-10%	-5%	4%
Kings Beach	60	28.9	29.7	3%	2.32	2.70	17%	16%	11%
Pinetrees to Steven's Reserve	360	34.0	22.3	-34%	14.76	13.99	-5%	-8%	24%

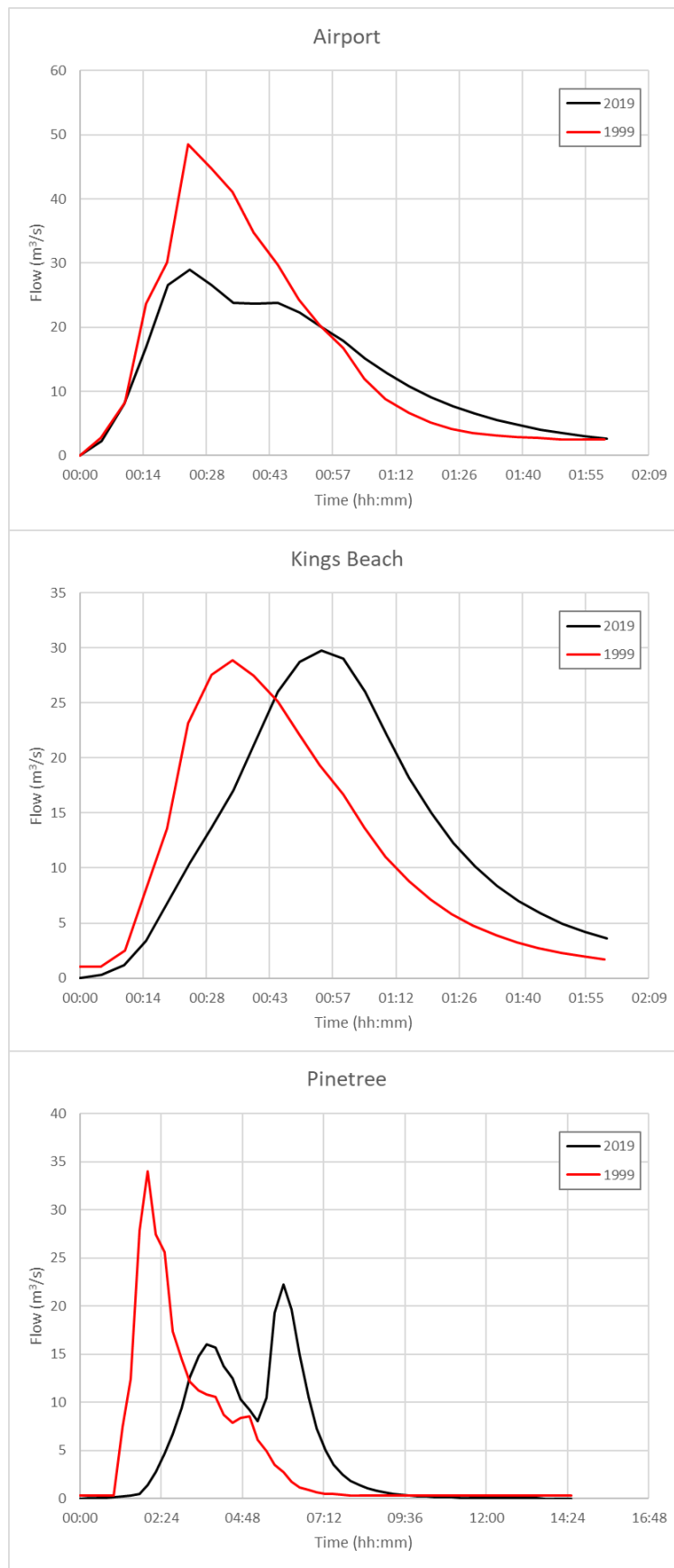


Diagram 2: 1% AEP critical duration event, comparison between 2019 and 1999 studies

6.3.8. Probable Maximum Flood

6.4. Probable Maximum Precipitation rainfall depths

Probable Maximum Precipitation (PMP) rainfall depths were calculated using the Generalised Tropical Storm Method as revised (GTSMR) (Reference 11) for durations of 24 hours and above and the Generalised Short Duration Method (GSDM) (Reference 12) for durations up to 6 hours and then interpolated between these durations. PMP estimates were calculated using the entire catchment area of all sub catchments on Lord Howe Island. As the gridded inputs for the PMP estimates (topographical adjustment factor (TAF), decay amplitude factor (DAF), extreme precipitable water (EPW)) do not extend to Lord Howe Island these were derived by moving the shapefile of Lord Howe Island catchments to the NSW coast. For DAF and EPW this was moved to the coast at the same latitude. For TAF the shapefile was further shifted to the area near Coffs Harbour so that the TAF was calculated on an area with steep elevation changes, as this occurs on Lord Howe Island. Rainfall depths were calculated for the 0.5, 1, 2, 3, 4.5, 6, 9, 12, 18, 24, 48, 72 hour durations and are presented in Table 12 and Diagram 3.

Table 12: Probable Maximum Precipitation Depths (mm)

Duration (hours)	PMP rainfall (mm)
0.5	220
1	330
2	490
3	590
4	680
4.5	720
6	790
9	890
12	970
18	1120
24	1280
48	1840
72	2310

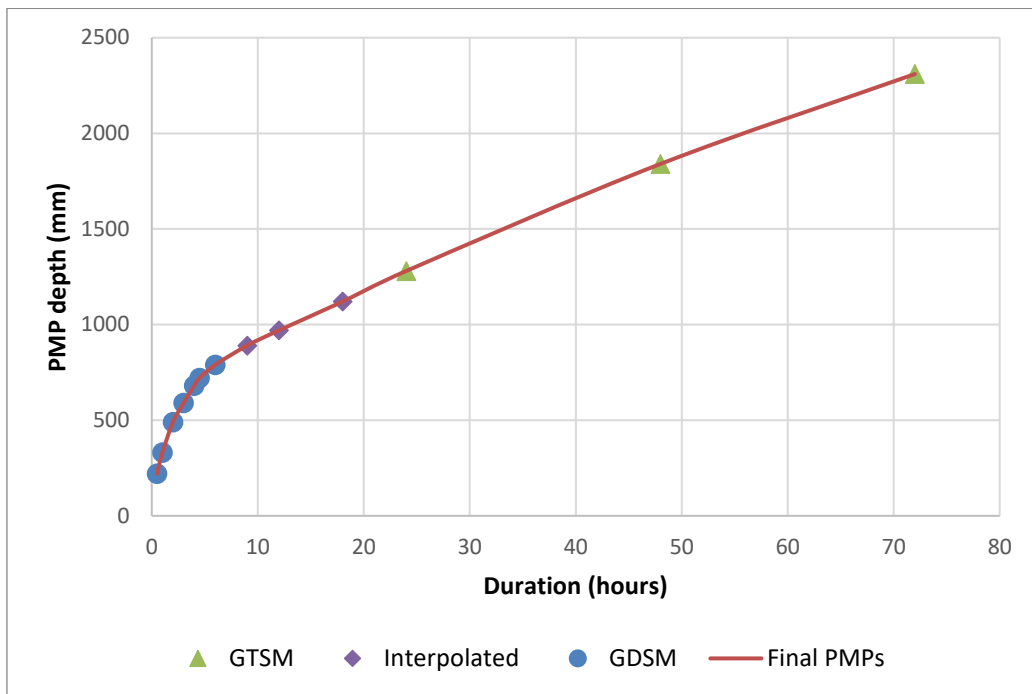


Diagram 3: PMP depths showing values derived using GSDM and GTSM and the interpolation between the two methods

6.5. Probable Maximum Flood

Probable Maximum Flood (PMF) estimates were calculated using the method in the NSW Floodplain Risk Management Guide (Reference 13). The WBNM model was run using the PMP rainfall depths. GSDM temporal patterns were used for durations up to and including 12 hours and GSTM temporal patterns were used for durations greater than 12 hours. As the catchment is small a uniform spatial pattern was used. As recommended in NSW Floodplain Risk Management Guide (Reference 13), initial loss and continuing loss values of 0mm and 1mm/hr respectively were used.

The WBNM model was run for all durations that the PMP rainfall depths were calculated at (see Section 6.4) and these flows were then adopted as inflows to the hydraulic model.

7. HYDRAULIC MODELLING

A model of the study area was developed in the hydrodynamic modelling package (TUFLOW). TUFLOW (Reference 5) is widely used in Australia and internationally for assessing flood behaviour and hydraulic hazard. TUFLOW is a finite difference numerical model which is capable of solving the depth averaged shallow water equations in both the one and two-dimensional domains.

The model extent for each catchment was determined based on the previous model extents and the catchments delineated for the hydrologic WBNM model.

A separate two-dimensional hydrodynamic model (TUFLOW) model of the Kings Beach, Airport, and Pinetrees to Steve's Reserve catchments was established.

7.1. Model Configuration

The model consists of a 2D 2 m grid defining the overbank and the channel for the Kings Beach, Airport, and Pinetrees to Stevens Reserve catchments. The extent of the TUFLOW models are shown on Figure 14 to Figure 16.

The model extends a sufficient distance upstream and downstream of the study area such that the imposed boundary conditions do not influence the model results in the region of interest. The TUFLOW model limits were:

Pinetree to Stevens Reserve (PTSR)

- Upstream extent to Skyline Drive,
- Upstream extent follows the ridgeline through Middle Beach Common to Transit Hill summit, and
- Downstream limit of approx. 500m into the Lagoon

Airport

- Upstream extent to the summit of Transit Hill,
- Extent continues to Blinky Beach and approx. 600m upstream of the Lord Howe Island Golf Club, and
- Downstream limit of approx. 600m into the Lagoon

Kings Beach

- Upstream limit of Summit Creek extending to Mount Lidgbird,
- Upstream of Lagoon Road extending to Intermediate Hill, and
- Downstream limit of approx. 300m into the Lagoon

A 2 metre digital terrain model (DTM) was created using the topographic data outlined in Section 3.3.

7.2. Topographic Data

The TUFLOW hydraulic models make use of the available topographic data as outlined in Section 3.3. The extents of the available data are provided on Figure 3 and includes the following:

- LiDAR survey at 1m grid resolution
- Hydrographic survey of the Lagoon from October 2008 and March 2015

This data has been applied where available in the following order:

- LiDAR survey applied as the base elevation data
- October 2008 hydrographic survey applied where available
- March 2015 hydrographic survey applied where available

In addition to the use of the available LiDAR data, there were also some minor topographic changes made within the TUFLOW models in order to improve hydraulic representation. These changes include:

- Lowering of flow paths to improve hydraulic continuity and ensure channel inverts are correctly represented in the models,
- Smoothing of boundary between hydrodynamic survey and LiDAR survey data at Signal Point (PTSR model) and Kings Beach, and
- Smoothing of LiDAR data to improve continuity between Middle Beach Road and TC Douglass Drive (PTSR model) and downstream of Lagoon Road (Kings Beach Model).

7.3. Hydraulic Structures

Pit structures and culverts under a number of roads and the airport were incorporated in the model based on data from site inspections undertaken by LHIB. Where pit and culvert sizes and culvert lengths were not provided, they have been estimated based on provided photos and aerial imagery. Similarly, where pit and culvert invert levels have not been provided, they have been estimated based on nominal pit and culvert depths to ensure minimum grades and culvert structure are not exposed. Typically, when culvert invert levels are not provided, minimum cover of 400mm is also used to determine culvert invert levels, but site photos indicate that minimum cover is not achieved at most locations. Locations and culvert details are provided in Table D 1 and Table D 2 (APPENDIX D).

7.4. Boundary Conditions

Inflows and boundary conditions for the TUFLOW model consist of a number of time varying flow hydrographs developed using the WBNM model. At the downstream boundary of the model, a tailwater level defining the tide level in the lagoon was used. The tailwater conditions were based on recorded tide levels at the Lord Howe Island Gauge for historic flood modelling. Figure 14 to Figure 16 show the inflow and boundary locations.

7.5. Model Calibration

Model calibration was undertaken using historical data for the 1996 and 1998 flood events. These events were adopted as a reasonable amount of observed data exists within the catchment. Time

varying water level data is also available in the lagoon for these events. Previous studies on the Lord Howe Island catchments have used these events for calibration and been able to reproduce observed flood behaviour.

Inflows to the hydraulic model for these events were developed as part of the study (refer to Section 6.3).

7.5.1. Manning’s n Value

The hydraulic efficiency of the creeks is represented (in part) within the TUFLOW model by the roughness or friction factor, Manning’s “n” value. Manning’s “n” is used to describe the influence of the following factors on flow behaviour:

- channel roughness,
- channel sinuosity,
- vegetation and other debris/obstructions in the channel, and
- bed forms and shapes

As part of the calibration process the Manning’s “n” roughness value was adjusted within reasonable limits to best match the recorded flood heights along the creek system. Adopted values were selected based on an assessment of the ground cover types and vegetation density within the floodplain. The adopted values (refer to Table 13 and Figure 17) were then used for the hydraulic modelling of the design events.

Table 13: Adopted Manning’s “n” Values

Description	Manning’s “n” Value
General	0.040
Roads	0.020
Maintained grass	0.035
Vegetated area	0.050
Sports-field/grass	0.035
Beach/sand	0.025
Water	0.020
Buildings	0.020 – 3.000

Buildings have been represented using a depth varying Manning’s “n” whereby the Manning’s “n” value is dependent on the depth of flow. Manning’s “n” roughness of 0.020 is applied between depths of 0 – 0.3m. Between depths of 0.03m to 0.1m the roughness will vary linearly between 0.02 and 3. For depths equal to and greater than 0.1m a Manning’s of 3 is applied.

7.5.2. Infiltration - Pinetrees to Steven’s Reserve Catchment

The Pinetrees to Steven’s Reserve catchment has no drainage outlet to the ocean and no overflow path. The only way flood waters are drained is via infiltration. The catchment sandy soils mean that a high amount of infiltration occurs. The area around Stevens Reserve is known for its high infiltration rates with water lost to “caves” or “sink holes”.

As part of the calibration process the infiltration parameter was varied in order to match observed levels for the Pinetrees to Steven's Reserve catchment. A similar approach was adopted in the 1998 Flood Study.

The infiltration is modelled via two mechanism infiltration areas (as per) and a sinkhole. The 1998 Flood Study noted possible reasons for the spatial variation in infiltration rates. The fixed infiltration rate areas are defined as either 150mm/hr or 300mm/hr and total infiltration in the model in these areas is dependent on the length and extent of inundation. The infiltration rate has limited effect on the peak level but is key to the rate of recession of the flood.

The sinkhole location infiltration is dependent on the depth of water. In the hydraulic model this is modelled as flow vs water depth as shown on and varies up to 3.6 m³/s at 2.5m depth.

This value was initially adjusted from those adopted in the 1998 model in order to better match the 1996 and 1998 event recorded flood levels. These infiltration rates were also adopted in the design event modelling.

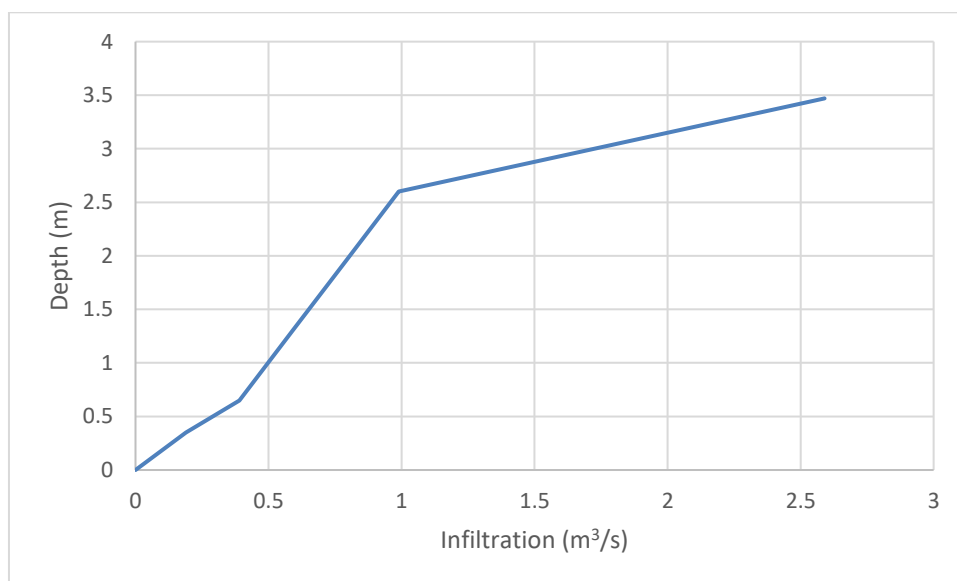


Diagram 4: Sinkhole infiltration rate

7.6. Calibration Results and Discussion

The 1996 and 1998 events were used for calibration of the hydraulic model. The TUFLOW hydraulic models, similar to the 1998 Flood Study, have been calibrated against observed peak flood levels. The location of the observed levels have been estimated spatially as shown in Figure 4 and Figure 5. Peak flood depths and levels at calibration points are shown on Figure 20 to Figure 25. Some text within this section has been copied from the 1998 Flood Study which provides a more contemporary report of the flood behaviour.

7.6.1. 1996 Event

7.6.1.1. Overview

A total of nearly 450 mm of rain was recorded at the Bureau of Meteorology - Lord Howe Island - Airport pluviograph on 18 June 1996. The maximum falls were between 0200 hours and 0400 hours, with a maximum intensity estimated to be about 125 mm/h.

This event was generated from a conglomeration of three thunderstorm cells, which formed over a large area within the Tasman Sea to the south west of Lord Howe Island. The weather system was slow moving, and this coupled with the high mountains on the Island, had the effect of anchoring the system and causing it to lift. These factors contributed to intense rainfall on the Island over a significant length of time. Whilst sea temperatures in June are generally lower than during the summer months, it is not known whether the formation of this storm system in winter would have resulted in significantly lower rainfalls than would be expected during the warmer months for a similar type event. Although a localised system of this nature is observed on average about once every year somewhere within the eastern part of Australia, its frequency of occurrence over ocean areas is not known because of the lack of observed rainfall data. Nevertheless, this type of high intensity rainfall event at any individual location is considered to be fairly rare. Statistical analysis of available pluviography data for the Island over a 50 year period (1946 to 1996) suggests that the June 1996 event is very rare.

7.6.1.2. Pinetrees to Steven's Reserve

In the June 1996 flood event water ponded throughout all the low lying areas. However, it was also noted that there was a general northerly flow of floodwaters from the Pinetrees Resort area towards Stevens Reserve at the far northern end of the catchment. There are two possible explanations for this flow (or maybe a combination of the two). The first is that the larger catchment area from the surrounding hills in the south, together with direct rainfall over the floodplain, produced a larger inflow per unit area of floodplain than the areas to the north. The higher flood levels arising by this means created a flood gradient to the north and the flow moved in this direction.

A second possible explanation lies in the relative infiltration rates. The area in and around Stevens Reserve is known for its high infiltration rates (water is lost into the "caves" or "sink holes"). The relatively higher infiltration rates, according to this explanation, thus meant that water levels dropped faster in this area creating a flood gradient for floodwaters from areas to the south to flow to the north. The modelling therefore had to be cognisant of these two possibilities to ensure that the correct mechanism was reflected in the ultimate results.

Flood levels in this catchment are therefore determined by the amount of surface flow entering the floodplain basin, the rate of infiltration, and the various hydraulic controls within the floodplain, these mainly being roads crossing generally from east to west. Even if the rate of infiltration proves to be the main mechanism driving flows from south to north, it is unlikely to control the peak levels. The June 1996 storm fell over a relatively short period of time, and the infiltration rates even at their highest, would be only a small proportion of the rainfall rate. However, the

differing infiltration rates could have caused localised flow patterns to develop (as discussed above) and the overall infiltration rate is vital for the rate of recession of the floodwaters as there are no overland escape paths for floodwaters.

The width of the floodplain varies significantly. Flows originating on the slopes of Transit Hill either flow directly or are diverted by a cutoff drain to a wide floodplain lying to the east of Pinetrees. Some flows from the hill slopes also flow directly into the Pinetrees Resort. A diversion bank has been constructed on a north/south alignment between Pinetrees and the Bowling Club. This effectively keeps flows originating from the Transit Hill area out of the Resort in small, more frequent, storm events. Flows ponding within the Resort can flow northwards towards The Oval, which is a large ponding area adjoining the Bowling Club. From this area flows move northwards through the school and the LHIB office complex where they join with flows passing to the east of Pinetrees Resort/the Bowling Club. At this point the floodplain is still wide but has narrowed when compared with the width at Pinetrees.

After leaving the LHIB area flows move northward through open paddock areas to the Anglican/Catholic Churches on Middle Beach Road. The floodplain has narrowed considerably at this point, and flows to the north are constricted by the slightly elevated road. Just north of the road there is a further constriction to the floodplain caused by a rocky ridge intruding from the east. After this point the floodplain opens slightly again and flows proceed down T C Douglas Drive before discharging into an open paddock area with considerable flood storage. From this point the flows proceed northwards into another paddock area before entering Stevens Reserve. This forms the end of the floodplain as ground levels start rising again to the catchment divide.

Photographs 11 to 16 in Appendix B show the extent of flooding in this catchment during the June 1996 flood. Photograph 11 in Appendix B shows the tennis court under water at Pinetrees near the peak of the flood. Quite a large number of motel units were flooded as well as the laundry building and staff quarters. The main building was not affected. Photograph 12 in Appendix B shows a view of the Bowling Club from the "Bowling Green" near the peak of the flood. Photographs 13 and 14 in Appendix B were taken from the balcony of the Bowling Club. Photograph 13 is taken looking towards the south-east and shows the flooding of the bowling greens in the foreground with the easterly flow path referred to above in the background towards Transit Hill. Photograph 14 shows the view towards the south-west with the bowling green in the foreground and The Oval in the background with Pinetrees behind the Pinetrees to the left. Photograph 15 in Appendix B shows the ponding around the churches taken from Middle Beach Road looking south. Photograph 16 in Appendix B is taken looking to the north from T C Douglas Drive towards Stevens Reserve in the far distance.

Good flood level information was available within the catchment. Starting from the south, a number of levels were available at Pinetrees, both on a wall near the laundry building and also on flood photographs provided by the owners:

- wall near laundry (16 June 1995, 4.03 m AHD; 7 January 1996, 4.13 m AHD; 27 January 1996, 4.00 m AHD),
- flood photograph June 1996, unit 47 (4.55 m AHD).

At Pinetrees a number of the staff units at the rear were flooded in the January 1996 flood.

A very clear debris mark (4.57 m AHD) was available at the Bowling Club for June 1996 together with a plaque placed by the LHIB (4.57 m AHD). The Bowling Club was flooded to a depth of about 50 mm.

The LHIB were very badly flooded. Flood marks were permanently identified by plaques and these were recorded as part of the survey during the 1998 Flood Study. A plaque was found on the rear of the Anglican Church Hall and a good flood mark was available inside the church proper. Further to the north a good flood mark was available at Mr J Lonergan Senior's house. The next area affected was along the north/south section of T C Douglas Drive which was the main flood path in this area. Water almost entered the house of Ms Marj Rayward, and a good flood mark was located here. Further to the north on the edge of Stevens Reserve, water almost entered the house of Ms Patricia Dignam, and a good flood mark was located and surveyed at this location during the 1998 Flood Study. Within Stevens Reserve, a flood mark was provided by Mr Ian Hutton at the Wood Hen Breeding building.

It was reported by residents, and documented in the 1998 Flood Study, that water remained in low lying areas for some time, but that the worst of flooding was over within 2 days of the flood peak. Therefore, the infiltration rate is very high in this area. This is assisted by the fact that the normal depth to water table is almost 3 metres (personal communication - Anglican Church Minister documented in the 1998 Flood Study) allowing a substantial depth of soil to be saturated before the infiltration rate would be affected by the need for lateral flow of the groundwater towards the ocean. Given the catchment area involved, it would appear that up to 500 mm of rain could be absorbed in a reasonable period of time before saturation of the soil would occur and the groundwater table elevated above the ground surface.

7.6.1.3. Airport

In the June 1996 flood the water built up to such a level that the floodwaters broke out to the ocean at the north-western end of the runway. Photographs 8 and 9 in Appendix B show the area looking along the airport road towards Blinky Beach during the June 1996 flood (Ms May Shick's house is on the left of Photograph 8 behind the trees). Photograph 10 in Appendix B shows the ponded, poorly drained area in front of Mr Stan Fenton's house referred to above.

A large amount of ponding occurred around the airport. Two houses were flooded during the June 1996 flood. Ms Judy Wilson was flooded in her house within the Golf Course sub-catchment. She was isolated at her house and had to wade out during the peak of the storm at great personal risk. Floodwaters entered her house, and the adjoining flat to the rear, to a depth of approximately 300 mm. Good flood marks were photographed at the time and these were surveyed in as part of the 1998 Flood Study. They consisted of a level in the rear flat, a level on the rear fence, and a flood debris mark in the Golf Course at the rear of the house. The photographs showed that the floodwaters were relatively clean and very little silt was deposited within the house, which made the clean-up much easier than it is in some floods (the November 1996 flood in Coffs Harbour left up to 50 mm of silt in some houses). Ms Wilson's house was almost flooded in the January 1996 event with water getting to the top of the top step at the front of the house. Flood levels surveyed in the vicinity of Ms Wilson's house were:

- rear fence (4.22 m AHD, June 1996),
- flood mark on rear of flat (4.38 m AHD, June 1996),
- debris mark from Photograph 6 in Appendix B on Golf Course (4.4 m AHD, June 1996),
- front step of house (4.13 m AHD, January 1996).

At the peak of the June 1996 flood, water escaped to the ocean across the road adjoining Ms Judy Wilsons house causing significant scour to the road and beach dune (see Photograph 17 in Appendix B). Photographs 5 and 6 in Appendix B show the lower reaches of the Golf Course sub-catchment after the June 1996 flood had receded. Debris marks and some erosion/deposition can be seen in the photographs (see also Photograph 18 in Appendix B).

The other house that was flooded in June 1996 lies within the third sub-catchment to the north of the airport and belongs to Ms May Shick. Floodwaters peaked at approximately 100 mm within the house. Damages amounted to approximately \$100,000. A flood debris mark was identified on the front wall of the house and levelled (4.35 m AHD). Ms Shick described the runoff coming off the hill slope beside her house as like a waterfall. She was almost flooded in the January 1996 flood with the floodwaters being within 250 mm of entering the house (approx. level 4 m AHD). Floodwaters from the sub-catchment broke out naturally to the ocean near the house likely preventing even higher flood damages.

A property owned by Mr Stan Fenton within the northern sub-catchment and at the eastern end of the runway suffered from access problems and loss of pasture grasses due to the long drainage times. Part of the airport runway drains into the property via a culvert across the road and any drainage from this area is dependent on the long flow path along the table drain, through the culvert under the runway and to the ocean through the beach berm. Photograph 7 in Appendix B shows the catchment in June 1996 conditions with the head loss through the small culvert on the airport access road being apparent. The property did not drain properly after the June 1996 event for several weeks by which time all the pasture had died and took 12 months to recover.

The flood profiles produced by the model were then compared with the flood levels at Ms Judy Wilson's house and at Ms May Shick's house. A good match was obtained which gave confidence in the model representation of the flood. Comparison with the general extent of flooding shown in Photographs 7, 9 and 10 in Appendix B also showed that the model was correctly representing the conditions experienced in June 1996.

7.6.1.4. Kings Beach

There were no flood marks in the Kings Beach catchment for the June 1996 event because no properties were inundated and there are no flood level gauges within the catchment. The flood photographs collected during the 1998 Flood Study, together with other similar photographs supplied by Mr R Shick, provided a good record at the flood peak and which enable intuitive calibration of the hydraulic model. Mr Shick was also able to describe the flood in January 1996 which almost entered his house due to diversion of flows from upstream caused by a debris blockage in the man-made drain. However, the flooding was worse in the June flood because of the volume of flow. Significant land slips occurred within the catchment and a substantial slip also

intruded into the floodplain on the property of Mr Esven Fenton, partially blocking the northern branch of the creek.

The residents interviewed in the Kings Beach catchment during the 1998 Flood Study expressed the view that the rainfall in their area tended to be higher than the rest of the Island given the proximity of the high mountain peaks in the south of the Island. Given the absence of any tangible information, and the relatively close proximity of Kings Beach to the BOM airport station, no attempt was made to take this into account in the modelling.

The flood profile produced by the model was then compared with the visual information available from the previously described photographs. The model results showed that the whole floodplain was inundated to depths of up to 0.5 metres, with depths in the vicinity of where the photographs were taken (near Mr R Shick's house) corresponding well with those shown in the photographs.

7.6.1.5. Results and discussion

A comparison of the June 1996 observed flood levels to the current study results and the previous study are presented in Table 14.

Table 14: June 1996 Event Calibration Results

Catchment	Location	Observed Level (m AHD)	Modelled Level Current Study (m AHD)	Difference Current Study (m)	Modelled Level 1998 Study (m AHD)	Difference 1998 Study (m)
Airport	May Shick's House	4.35	4.26	-0.09	-	-
	Judy Wilson's House (flat)	4.38	4.28	-0.10	-	-
	Judy Wilson's House (back fence)	4.22	4.28	0.06	-	-
Pinetrees to Steven's Reserve	Wood Hen Pen	3.60	3.73	0.13	3.61	0.01
	Patricia Dignam	3.60	3.83	0.23	3.61	0.01
	Marj Rayward	4.00	4.13	0.13	4.10	0.10
	Jim Lon. Jnr.	4.35	4.31	-0.04	4.37	0.02
	Jim Lon. Snr.	4.45	4.48	0.03	4.47	0.02
	Anglican Church	4.52	4.49	-0.03	4.52	0.00
	LHIB	4.57	4.53	-0.04	4.57	0.00
	Bowling Club	4.57	4.53	-0.04	4.57	0.00
Pinetrees	4.55	4.53	-0.02	4.57	0.02	

The TUFLOW modelled levels for the 1996 event are generally within the range of ± 0.1 m of observed values except for the levels recorded at Wood Hen Pen, Patricia Dignam's and Marj

Rayward's properties with differences of +0.13, +0.23m and +0.13m. This is still considered a reasonable calibration to the observed values. The 1998 study model had a closer alignment with the observed levels (refer to Diagram 5 to Diagram 7). This is likely due to the simplistic nature of the 1D model and how it easy it is to match limited data with simple parameter adjustments without matching true flow behaviour.

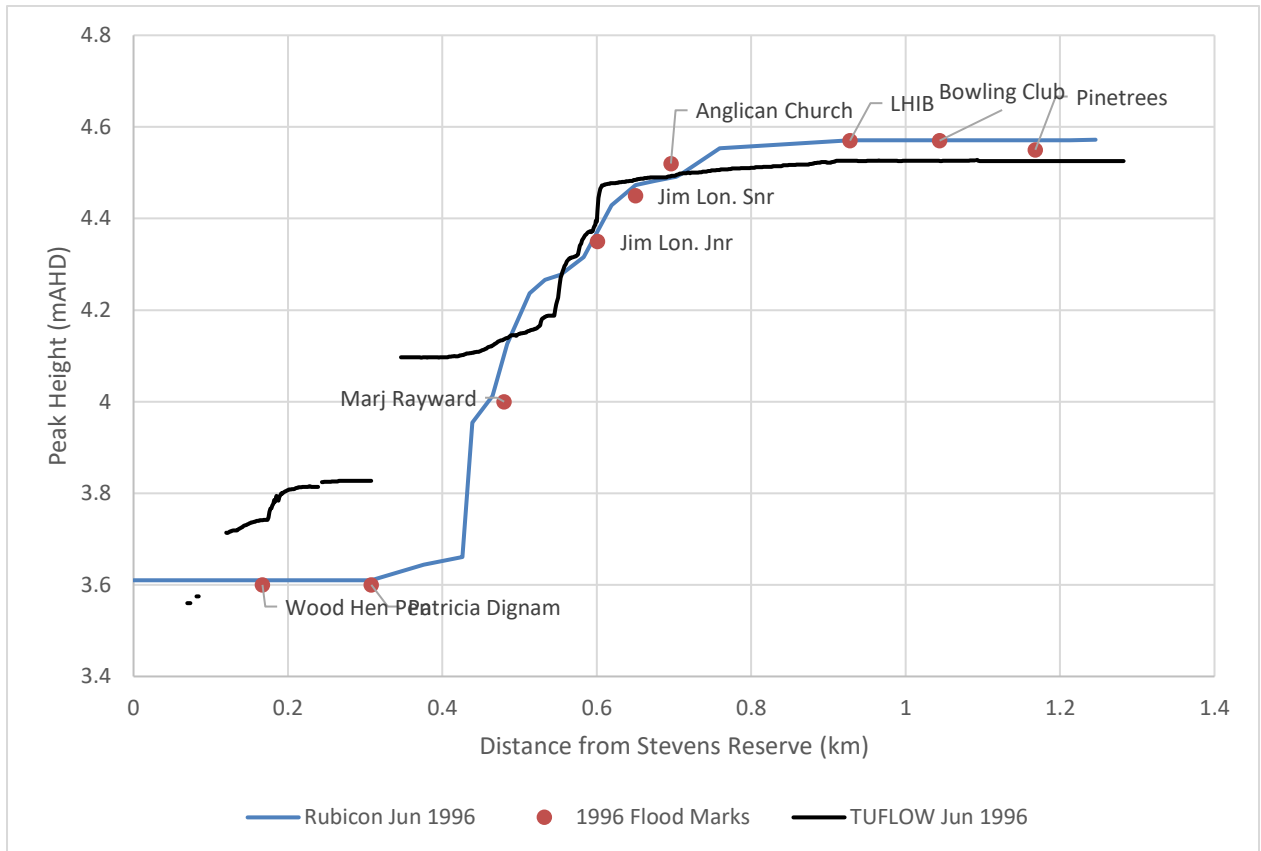


Diagram 5: June 1996 Pinetrees to Steven's Reserve Flood Level Comparison

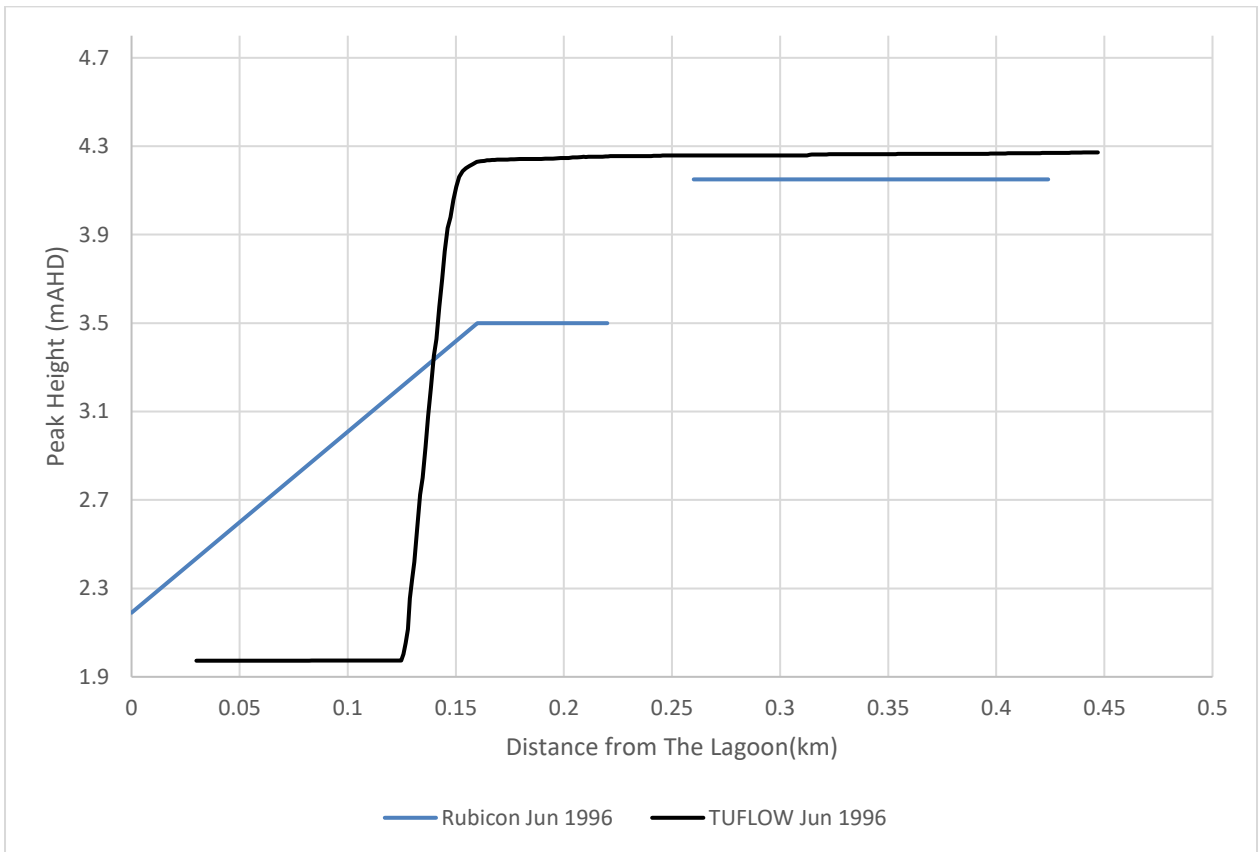


Diagram 6: June 1996 Airport Flood Level Comparison

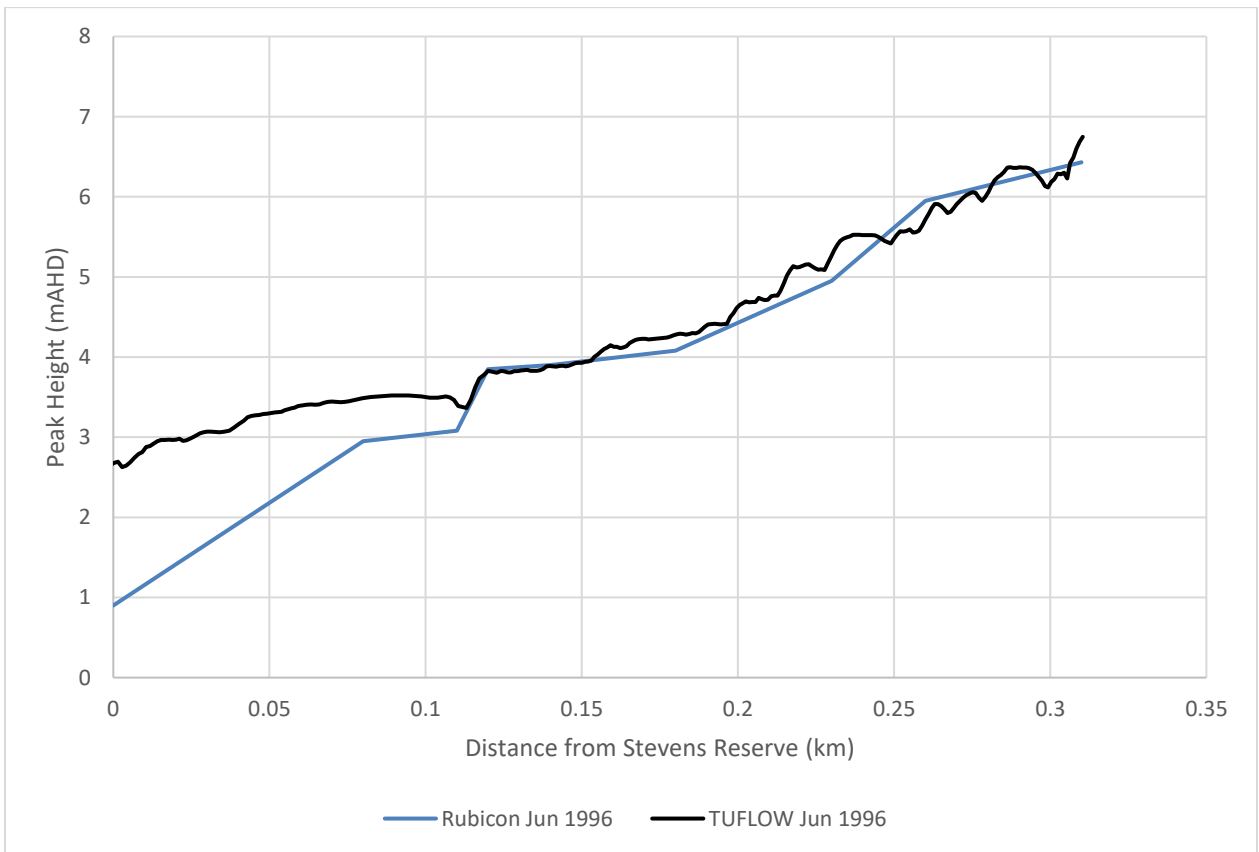


Diagram 7: June 1996 Kings Beach Flood Level Comparison

7.6.2. 1998 Event

7.6.2.1. Overview

The February 1998 storm was a very severe one for Lord Howe Island but was nowhere near as severe as the June 1996 storm. The tide gauge at the wharf recorded the ocean conditions during the storm and these were not unusually elevated. Given the poor hydraulic connection between the three catchments and the ocean, the ocean level was not a factor in determining peak flood levels.

7.6.2.2. Pinetrees to Steven's Reserve

Within the Pinetrees to Steven's Reserve catchment significant flooding occurred with a number of units flooded within Pinetrees Resort and water entering the workshop at the Lord Howe Island Board. Water was within 50 mm approximately of entering the Anglican Church. The observed levels at the LHIB and church were very approximate.

7.6.2.3. Airport

In the Airport catchment significant flooding occurred. The level at Ms Judy Wilson's house was approximately 0.3 m lower than in June 1996 and a slightly higher than in January 1996. Water did not enter Ms May Shick's house but it did enter the Eastern Airlines office to a depth of about 25 mm. Since this is in a low point it is not known whether this was due to local runoff or overall ponding.

7.6.2.4. Kings Beach

There were no reports of flooding in the Kings Beach catchment although deposited sediment was noted in the lower reaches of the man-made channel. A slip occurred near South Capella, but this was well outside of the floodplain.

7.6.2.5. Results and discussion

A comparison of the February 1998 observed flood levels to the current study results and the previous study are presented in Table 15.

Table 15: February 1998 Event Calibration Results

Catchment	Location	Observed Level (m AHD)	Modelled Level Current Study (m AHD)	Difference Current Study (m)	Modelled Level 1998 Study (m AHD)	Difference 1998 Study (m)
Airport	Golf Course	4.16	4.24	0.09	-	-
Pinetrees to Steven's Reserve	Anglican Church	4.14	4.30	0.16	4.25	0.11
	LHIB	4.17	4.32	0.16	4.25	0.08
	Pinetrees	4.24	4.32	0.08	4.25	0.01

The 1998 calibration model results are generally within the range of $\pm 0.1\text{m}$ of the observed values except for the Anglican Church and LHIB where the difference is $+0.16\text{m}$. These values were noted in the 1999 Floodplain Risk Management Study to be of low accuracy. As stated previously, this is considered a reasonable calibration to the observed values. There is a slight positive bias on the 1998 event.

Calibration to the observed events are dependent on the hydrologic model inputs as well as hydraulic infiltration and roughness. Significant sensitivity analysis to adjust model parameters were made in an effort to better calibrate the hydraulic model to the both events. Although this was undertaken, it was observed that, similar to the 1998 Flood Study, the modelled values were slightly higher than the observed values in the Pinetree's to Stevens Reserve catchment (refer to Diagram 8). It was therefore required that the continuing loss in the hydrologic model be increase from 10mm/hr to 20mm/hr for the 1998 event. It is likely that the either small errors in the recorded rainfall, either caused by the instrument or due to the location of the rainfall gauge during the 1998 event occurred. Additionally, the result could be due to high infiltration rates which have results in higher observed flood levels.

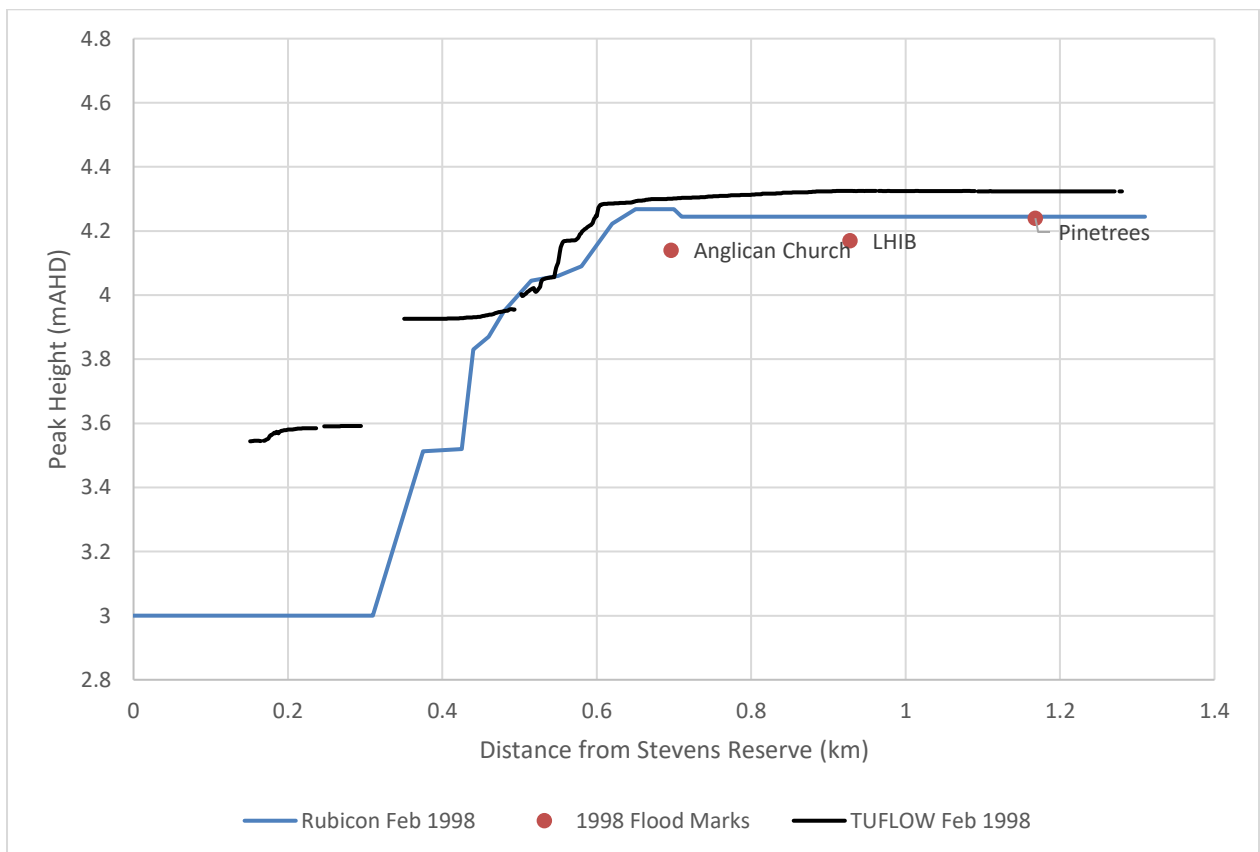


Diagram 8: June 1998 Pinetrees to Steven's Reserve Flood Level Comparison

8. DESIGN FLOOD BEHAVIOUR

8.1. Boundary Conditions

8.1.1. Design Inflows

As with the historical events the TUFLOW inflows for the 20%, 5% and 1% AEP and Probable Maximum Flood (PMF) design events were obtained from a number of time varying flow hydrographs taken from the WBNM model (refer to Section 6). These inflow hydrographs were then applied to the calibrated TUFLOW hydraulic model to produce design flood levels.

8.2. Tailwater Conditions

In addition to runoff from the catchment, the lower reaches of the catchment for Airport and Kings Beach can also be influenced by backwater effects resulting from elevated ocean levels. Hence, the height of the tide at the time of the arrival of the peak runoff from the catchment can also have an influence on flood levels in the lower reaches. However, these two distinct flooding mechanisms may or may not result from the same storm. Consideration must therefore be given to accounting for the joint probability of coincident flooding from both catchment runoff and backwater effects due to elevated ocean levels.

A full joint probability analysis is beyond the scope of the present study. Traditionally, it is common practice to estimate design flood levels in these situations using a 'peak envelope' approach that adopts the highest of the predicted levels from the two mechanisms.

Design tidal hydrographs in this study were based on a statistical analysis of ocean levels was undertaken by the Lord Howe Island Coastal Study (Reference 3). The design ocean levels in Reference 3 and reproduced in Table 5 are lower than the berm on the Pinetrees to Steven's catchment. Therefore, only rainfall dominated events were run for this catchment.

The adopted levels are significantly higher than those adopted for the 1998 Flood Study. Design ocean levels used in the 1998 Flood Study were based anecdotal evidence indicated that the highest level at the Jetty came up to the underside of the girder, this being approximately 2 m AHD. As such, 2 m AHD was adopted for the 1% AEP event and slightly reduced levels of 1.6 and 1.4 m AHD were adopted for the 5% and 20% AEP events respectively. The current 1% AEP design ocean level is 2.30 m AHD. Table 16 summarises the adopted ocean levels.

In addition to the above it is not unreasonable to expect that the effects of a severe storm in terms of ocean levels and runoff could be coincident for a catchment of this size. Hence to establish the design flood levels in the present study, the relative phasing of the ocean levels was adjusted such that the peak of the tidal hydrograph would approximately coincide with the peak of the catchment runoff. For example a 1% AEP catchment event was run with a mean high water springs variable tide. A 1% AEP ocean event was run with a 20% AEP catchment event. These 2 scenarios were enveloped to form the 1% AEP event.

Table 16: Adopted Tailwater and concurrent flows for Design Events

Rainfall Dominated Cases		Ocean Dominated Cases		Enveloped Design Grid
Rainfall	Ocean	Ocean	Rainfall	
20% AEP Rainfall run with 20% Ocean Level (1.74m AHD interpolated between 10% and 50% AEP levels)				20% AEP
5% AEP	Mean High Water Springs 2.01m AHD	5% AEP 2.05m AHD	20% AEP	5% AEP
1% AEP	Mean High Water Springs 2.01m AHD	1% AEP 2.30m AHD	20% AEP	1% AEP
PMF	1% AEP 2.30m AHD	0.1% AEP 2.53m AHD	20% AEP	PMF

8.3. Design Event Results

Peak flood depths for the 20%, 5% and 1 % AEP and Probable Maximum Flood (PMF) design events are presented in Figure 26 to Figure 37. Peak Flood levels are represented in figures Figure 38 to Figure 49. Peak velocities within the study area for the design events are presented in Figure 50 to Figure 61. Table 17 documents the design flood levels at key locations.

Table 17: Design Event Levels (Existing Conditions)

Catchment	ID	Location	Flood Level (m AHD)			
			20% AEP	5% AEP	1% AEP	PMF
Airport	A01	Golf Club	4.01	4.11	4.22	4.56
	A02	Airport			4.22	4.58
	A03	Lagoon Road	3.95	4.08	4.22	4.57
	A04	Judys House	4.01	4.11	4.22	4.55
	A05	Airstrip	3.99	4.04	4.20	4.52
Kings Beach	KB01	Near Cappella Lodge	10.53	10.54	10.56	10.69
	KB02	Soldiers Creek US Lagoon Road	4.60	4.66	4.69	4.75
	KB03	Lagoon Rd	3.59	3.73	3.81	4.76
Pinetrees to Steven's Reserve	PT01	Pine trees		4.17	4.44	5.58
	PT02	Lord Howe Island Bowling Club		4.17	4.44	5.58
	PT03	Anglican Church		4.16	4.41	5.58
	PT04	Police Station	3.85	3.90	4.05	5.57

8.3.1. Pinetrees to Steven's Reserve

Flooding in this catchment is characterised by the ponding that occurs in the upper catchment, near Pinetrees and in Steven's Reserve. In the 5% AEP event, the radio station is inundated to depths of 0.43m, increasing to 0.8m in the 1% AEP event. Further downstream, in frequent events such as the 20% AEP event ponding occurs at a number of properties and businesses, with depths

reaching 0.41m at properties west of the Police station. In the 5% and 1% AEP events, this inundation increases to 0.50m and 0.65m respectively.

Peak flood velocities are typically less than 0.5m/s where the flood extent intersects with properties in events up to the 1% AEP.

There is no tidal interaction in the Pinetrees to Steven's Reserve catchment in all design events.

8.3.2. Airport

The airstrip is subject to shallow depths of flooding. Significant flood depths occur south of the airport on Lagoon road and the Golf Course. In the 20% AEP event, flood depths are 1.29m on the Golf Course. This increases to 1.38m in the 5% AEP event, and 1.49m in the 1% AEP event.

Peak flood velocities are typically less than 0.5m/s where the flood extent intersects with properties in events up to the 1% AEP.

The catchment is negligibly impacted by tidal conditions, with the ocean dominated events generating peak flood levels, only in the creek between the downstream of the intersection with Lagoon Road at Cobbys Corner.

8.3.3. Kings Beach

Flooding in the Kings Beach catchment is characterised by the steep topography of Soldiers Creek. Extensive flooding occurs in the flatter region north of Lagoon Road. Although properties are inundated in events as frequent as the 20% AEP, flood depths do not exceed 0.1m. Similarly, in the 5% AEP event, despite widespread property affectation, depths remain shallow outside the Soldiers Creek channel, and do not exceed 0.2m at properties. In the 1% AEP the maximum depth reached at properties is 0.31m.

The steep topography in the Kings Beach catchment generates higher velocities compared to the other catchments. Peak flood velocities are typically 2.0m/s where the flood extent intersects with properties in events up to the 1% AEP.

In the Kings Beach catchment, peak flood levels in low lying land downstream of Lagoon Road is generated by ocean dominated flood events.

8.4. Comparison to Previous Studies

The TUFLOW hydraulic model has been compared to the 1998 Flood Study and 1999 Floodplain Risk Management Study (Reference 1 and 2) RUBICON model results. Table 18 compares the 1% AEP flood levels at key locations. Differences between the 1998/1999 Studies and the current study are a result:

- The use of a two dimensional model (current study) compared to a one dimensional model (1998/9 study), and
- Improved IFD estimates in the current study.

The results are largely similar to the flood study. The Airport catchment results are flat pond which shows the benefit on the use of a two dimensional model over a one dimensional model (as a one dimensional model will show gradient where there is none). Notable differences occur at KB 01, which would be a function of the limited ground level data outside of the main channel and is representative of the increased reliability of the two dimensional model results.

Table 18: Comparison of results to the 1998/1999 Flood Studies

Catchment	ID	Description	1% AEP Flood level (m AHD)	
			Original Study	Current study
Airport	A01	Golf Club	4.70	4.22
	A02	Airport	4.00	4.22
	A03	Lagoon Road	4.10	4.22
	A04	Judy's House	4.40	4.22
	A05	Airstrip	3.20	4.20
Kings Beach	KB01	Near Cappella Lodge	3.80	10.56
	KB02	Soldiers Creek US Lagoon Road	4.00	4.69
	KB03	Lagoon Rd	3.80	3.81
Pinetrees to Steven's Reserve	PT01	Pine trees	4.15	4.44
	PT02	Lord Howe Island Bowling Club	4.15	4.44
	PT03	Anglican Church	4.45	4.41
	PT04	Police Station	4.10	4.05

8.5. Sensitivity Analysis

The following scenarios were considered to represent the envelope of likely parameter values:

- \pm change in loss rates in the WBNM hydrologic model,
- \pm 20% change in the C storage routing parameter in the WBNM hydrologic model,
- \pm 20% change in Manning's "n" value, and
- Blockage of culverts

For the hydrologic model scenarios listed above the hydrologic model were run for the 1% AEP design storm. The Hydraulic model sensitivity was assessed with both the 1% AEP and 5% AEP events. The results for the hydrologic model sensitivity are provided in Table 19, Table 20 and Table 21 for the Pinetrees to Steven's Reserve, Airport and Kings Beach catchments respectively. Table 22 presents the results of the hydraulic model sensitivity assessment.

Changes in the continuing losses resulted in a change in peak flow of $<1\text{m}^3/\text{s}$. A $\pm 20\%$ change in the storage routing parameter resulted in up to a $2.3\text{m}^3/\text{s}$ change in peak flow.

A 20% increase and decrease in Manning's n value resulted in a maximum changing in flood levels of 0.03m at Soldiers Creek US Lagoon Road in the Airport Catchment for the 5% AEP event.

All culverts were blocked by 100% to determine sensitivity to blockage. This is a likely situation

based on site photos provided by the LHIB. The impacts of blockage are localised to the structures and minimal. There are no impacts due to blockage of culverts in the Pinetrees to Steven's Reserve catchment due to the placement of the culverts with respect to the primary flow paths. The model is relatively insensitive to changes in parameter values. Lagoon Road is particularly sensitive to blockage with a change in flood level of 0.12m in the 1% AEP event and 0.15m in the 5% AEP event.

Table 19: Pinetrees to Steven's Reserve catchment hydrologic model sensitivity

Pinetrees to Steven's Reserve Catchment Flow (m³/s)			
	Losses		
C value	Low (24mm IL, 8mm/h CL)	Original (30mm IL, 10mm/h CL)	High (36mm IL, 12mm/h CL)
1.3	27.0	26.2	25.3
1.6	24.8	23.9	23.0
1.9	22.8	21.9	20.9

Table 20: Airport catchment hydrologic model sensitivity

Airport Catchment Flow (m³/s)			
	Losses		
C value	Low (0mm IL, 2mm/h CL)	Original (0mm IL, 2.5mm/h CL)	High (10mm IL, 3mm/h CL)
1.3	17.9	17.8	17.6
1.6	16.7	16.5	16.4
1.9	15.8	15.6	15.5

Table 21: Kings Beach catchment hydrologic model sensitivity

Kings Beach Catchment Flow (m³/s)			
	Losses		
C Value	Low (0mm IL, 2mm/h CL)	Original (0mm IL, 2.5mm/h CL)	High (10mm IL, 3mm/h CL)
1.3	28.6	28.4	28.2
1.6	26.7	26.5	26.3
1.9	25.4	25.2	25.0

Table 22: Sensitivity Assessment – Hydraulic model

Catchment	ID	Description	Flood Level (m AHD)		Impact – Mannings decrease (m)		Impact Mannings Increase (m)		Blockage (m)	
			1% AEP	5% AEP	1% AEP	5% AEP	1% AEP	5% AEP	1% AEP	5% AEP
Airport	A01	Golf Club	4.22	4.11	-0.008	-0.014	0.009	0.015	0.020	0.028
	A02	Airport	4.22		-0.010	0.000	0.008	0.000	0.028	Newly Flooded
	A03	Lagoon Road	4.22	4.08	-0.010	-0.006	0.008	0.006	0.025	0.032
	A04	Judy's House	4.22	4.11	-0.008	-0.013	0.008	0.013	0.020	0.028
	A05	Airstrip	4.20	4.04	-0.009	-0.008	0.007	0.009	0.050	0.050
Kings Beach	KB01	Near Cappella Lodge	10.56	10.54	-0.003	-0.005	0.007	0.005	0.000	0.000
	KB02	Soldiers Creek US Lagoon Road	4.69	4.66	-0.025	-0.022	0.018	0.029	0.000	0.000
	KB03	Lagoon Rd	3.81	3.73	-0.006	-0.006	0.006	0.005	0.122	0.154
Pinetrees to Steven's Reserve	PT01	Pinetrees	4.44	4.17	-0.010	-0.003	0.008	0.002	0.000	0.000
	PT02	Lord Howe Island Bowling Club	4.44	4.17	-0.011	-0.003	0.007	0.003	0.000	0.000
	PT03	Anglican Church	4.41	4.16	-0.007	0.001	0.005	-0.003	0.000	0.000
	PT04	Police Station	4.05	3.90	-0.006	-0.011	0.004	0.010	0.000	0.000

8.6. Climate Change

The 2005 Floodplain Development Manual (Reference 9) requires that Flood Studies and Floodplain Risk Management Studies consider the impacts of climate change (sea level rise and rainfall increase) on flood behaviour. The following climate change scenarios (rainfall by the year 2070) are considered in this climate change assessment:

- **Increase in peak rainfall and storm volume:**
 - low level rainfall increase = 10%,
- **Sea level rise:**
 - a 0.4m increase in level by year 2050
 - a 0.9m increase in level by year 2100

A 10% increase is in line with the numbers determined by Engineers Australia, CSIRO and the Bureau of Meteorology as part of the revision of Australian Rainfall and Runoff.

Sea level rise was not assessed for the Pinetrees to Steven's Reserve catchment as it has no outlet to the ocean and the berm is above 4m AHD.

A 10% increase in rainfall results in up to a 0.04m increase in flood levels.

A 0.4m and 0.9m sea level rise result in an increase in flood levels in the lower reaches of the Kings beach catchment.

Table 23 and Table 24 summarises the impact of climate change on the 1% AEP and 5 % AEP flood levels respectively.

Table 23: Impact of Sea level Rise and Rainfall Increase with Climate Change for the 1% AEP event

Catchment	ID	Description	1% AEP Flood Level (m AHD)	1% AEP Impact (m)		
				Rainfall Increase	Rainfall Increase, SLR +0.4m	Rainfall Increase, SLR +0.9m
Airport	A01	Golf Club	4.22	0.04	0.04	0.04
	A02	Airport	4.22	0.04	0.04	0.04
	A03	Lagoon Road	4.22	0.04	0.04	0.04
	A04	Judy's House	4.22	0.04	0.04	0.04
	A05	Airstrip	4.20	0.04	0.04	0.04
Kings Beach	KB01	Near Cappella Lodge	10.56	0.01	0.01	0.01
	KB02	Soldiers Creek US Lagoon Road	4.69	0.01	0.01	0.01
	KB03	Lagoon Rd	3.81	0.04	0.04	0.04
Pinetrees to Steven's Reserve	PT01	Pine trees	4.44	-0.07	-	-
	PT02	Lord Howe Island Bowling Club	4.44	-0.07	-	-
	PT03	Anglican Church	4.41	-0.07	-	-
	PT04	Police Station	4.05	-0.06	-	-

Table 24: Impact of Sea level Rise and Rainfall Increase with Climate Change for the 5% AEP event

Catchment	ID	Description	1% AEP Impact (m)			
			5% AEP (m AHD)	Rainfall Increase	Rainfall Increase, SLR +0.4m	Rainfall Increase, SLR +0.9m
Airport	A01	Golf Club	4.11	0.02	0.02	0.02
	A02	Airport		Newly Flooded	Newly Flooded	Newly Flooded
	A03	Lagoon Road	4.08	0.03	0.03	0.03
	A04	Judy's House	4.11	0.02	0.02	0.02
	A05	Airstrip	4.04	0.02	0.02	0.02
Kings Beach	KB01	Near Cappella Lodge	10.54	0.02	0.02	0.02
	KB02	Soldiers Creek US Lagoon Road	4.66	0.04	0.04	0.04
	KB03	Lagoon Rd	3.73	0.12	0.12	0.12
Pinetrees to Steven's Reserve	PT01	Pine trees	4.17	-0.11	-	-
	PT02	Lord Howe Island Bowling Club	4.17	-0.10	-	-
	PT03	Anglican Church	4.16	-	-	-
	PT04	Police Station	3.90	-0.01	-	-

8.7. Hydraulic and Hazard Categories

Managing the Floodplain: a guide to best practice in flood risk management in Australia (AIDR 2017) provides a revised flood hazard classification, relating combinations of flood depths and velocities to risks to vehicles, people and buildings. The classification is divided into six categories (Diagram 9):

- H1 - Generally safe for people, vehicles and buildings
- H2 - Unsafe for small vehicles
- H3 - Unsafe for vehicles, children and the elderly
- H4 - Unsafe for people and vehicles
- H5 - Unsafe for people and vehicles. All buildings vulnerable to structural damage. Some less robust building types vulnerable to failure
- H6 - Unsafe for people and vehicles. All buildings types considered vulnerable to failure.

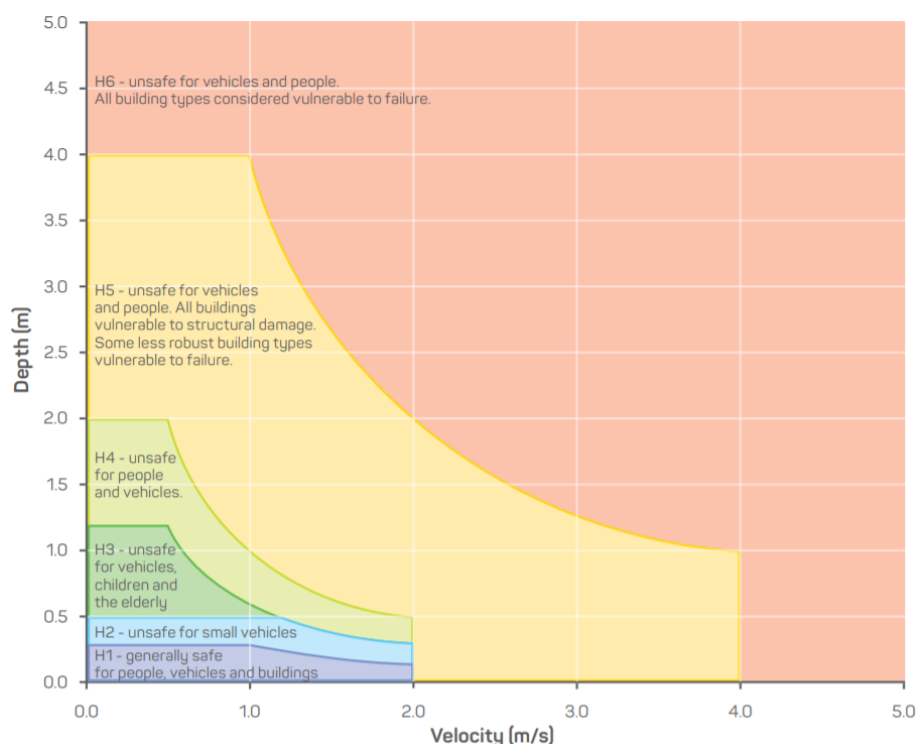


Diagram 9. Flood hazard vulnerability curves (AIDR 2017)

The *Floodplain Development Manual* (NSW Government, 2005) requires that other factors be considered in determining the 'true' hazard including: size of flood, effective warning time, flood readiness, rate of rise of floodwaters, depth and velocity of floodwaters, duration of flooding, evacuation problems, effective flood access, type of development within the floodplain, complexity of the stream network and the inter-relationship between flows. However, to assess the full flood hazard all adverse effects of flooding have to be considered. As well as considering the provisional (hydraulic) hazard it also incorporates threat to life, danger and difficulty in evacuating people and possessions and the potential for damage, social disruption and loss of production.

The conversion from 'provisional' hazard to 'true' hazard requires subjective decisions on how these aspects interact with the population at risk. To overcome this problem the practice has evolved to map provisional hazard and to separately identify evacuation risk over the full range of flood events. For this reason, a true hazard conversion has not been carried out.

Hazard classification was carried out on the 5% AEP, 1% AEP and PMF events adopting gridded depth and velocity results output from the TUFLOW 2D hydraulic model.

Figure 62 to Figure 70 present the provisional flood hazard classifications for the design events. Under this classification for a 1% AEP event, the majority of the floodplain is considered relative safe for vehicles and people. For all catchments, there is very little area subject to Hazard categories H5 or H6, meaning while areas of the floodplain for dangers to people and vehicles, the hazard it not sufficient to mean that well-constructed buildings are vulnerable.

Provisional flood hazard classifications for other events are also provided. In a probable maximum flood (PMF), a greater portion of the floodplain is classified as H5, however it does not intercept properties or businesses.

8.8. Hydraulic categories

Hydraulic categories describe the flood behaviour by categorising areas depending on their function during the flood event, specifically, whether they convey large quantities of water (floodway), store a significant volume of water (flood storage), or do not play a significant role in either storing or conveying water (flood fringe). As with categories of flood hazard, hydraulic categories play an important role in informing floodplain risk management in an area. Although the three categories of hydraulic function are described in the *Floodplain Development Manual* (NSW Government, 2005), their definitions are largely qualitative, and the manual does not prescribe a method to determine each area.

The manual gives an indication of criteria for the quantification of flood storage areas. The manual defines flood storage areas as areas outside of the floodway which if completely filled with solid material, would increase peak flood levels by 'more than 0.1 metres and/or would cause the peak discharge anywhere downstream to increase by more than 10 per cent'.

A range of methods have been developed that aim to define these areas such as Howells et al. (Reference 14), encroachment and conveyance methods. The Hydraulic Categories have been defined for the catchments in Lord Howe based on an iterative application of Howells method.

The use of velocity and depth to delineate areas of different hydraulic category follows the approach proposed by Howells et al. in their 2004 paper. At each grid cell, the peak velocity (v), peak depth (d) and their product ($v*d$) is considered, and the cell is categorised based on the following criteria.

1. If both $v*d > 0.08$ and $v > 0.045$, then 'floodway'
2. If both $v > 0.14$ and $d > 0.05$, then 'floodway'
3. If neither of the above apply and $d > 0.08$, then 'flood storage'
4. Otherwise, 'flood fringe'.

8.9. Flood Planning Area

The flood planning level (FPL) is used to define land subject to flood related development controls and is generally adopted as the minimum level to which floor levels in the flood affected areas must be built. The FPL includes a freeboard above the design flood level. It is common practice

to set minimum floor levels for residential buildings, garages, driveways and even commercial floors as this reduces the frequency and extent of flood damages. Freeboards provide reasonable certainty that the reduced level of risk exposure selected (by deciding upon a particular event to provide flood protection for) is actually provided.

The Flood Planning Area is defined as the 1% AEP event plus a freeboard. For Lord Howe Island the use of a 0.3m freeboard is considered appropriate. Figure 83 to Figure 85 show the proposed Flood Planning Area.

8.10. Flood Planning Constraint Categories

AIDR National Manual provides guidance on the how to classify land within the floodplain based on its Flood Risk. The guidance takes into account the Hazard Categorisation and Hydraulic Categorisation of the Design Flood Event and a flood event larger than the Design Flood Event, the Flood Planning Area, the PMF extent. The Flood planning Constraint Categories are presented in Figure 100 to Figure 102.

9. EMERGENCY RESPONSE

9.1. Flood Emergency Response Planning Classification of Communities

9.2. Communities

The Floodplain Development Manual (NSW State Government, 2005) requires flood studies to address the management of continuing flood risk to both existing and future development areas. As continuing flood risk varies across the floodplain so does the type and scale of emergency response problem and therefore the information necessary for effective Emergency Response Planning (ERP). Classification provides an indication of the vulnerability of the community in flood emergency response and identifies the type and scale of information needed by the State Emergency Services (SES) to assist in emergency response planning (ERP).

Criteria for determining flood ERP classifications and an indication of the emergency response required for these classifications are provided in the Floodplain Risk Management Guideline, 2007 (Flood Emergency Response Planning: Classification of Communities). Table 25 summarises the response required for areas of different classification. However, these may vary depending on local flood characteristics and resultant flood behaviour, i.e. in flash flooding or overland flood areas.

Table 25: Response Required for Different Flood ERP Classifications

Classification	Response Required		
	Resupply	Rescue/Medivac	Evacuation
High Flood Island	Yes	Possibly	Possibly
Low Flood Island	No	Yes	Yes
Area with Rising Road Access	No	Possibly	Yes
Area with Overland Escape Routes	No	Possibly	Yes
Low Trapped Perimeter	No	Yes	Yes
High Trapped Perimeter	Yes	Possibly	Possibly
Indirectly Affected Areas	Possibly	Possibly	Possibly

In undertaking this assessment for Lord Howe Island, all roads have been considered trafficable in a flood event, both paved and unsealed. The suitability for use of particularly unsealed roads should be reviewed with the SES, and Lord Howe Island. Figure 80 and Figure 82 presents the ERP classifications.

Most of the main population centres of the Pinetrees and Steven's Reserve are classified as Rising Road Access as the properties are inundated but flood free access roads provide a retreat to flood free land. Small parts of this catchment are classified as Low Flood Island as roads are cut prior to the inundation of the properties. The evacuation route along Lagoon road is also cut prior to the inundation of properties in Kings Beach, classifying properties up Smoking Tree Ridge Track as within a Low Flood Island.

9.3. Length of inundation

Time of inundation in a 1% AEP event shown on Figure 103 to Figure 105 for all grid cells within the model. The majority of areas are inundated for between 4 and 10 hrs. Some extremely low lying areas may experience inundation for longer. The time of inundation is measured as the duration the cell is inundated with a depth greater than 0.1m.

Table 26 provides the levels of low points in key roads within the catchment and the flood levels at these locations for a range of events. These low points were derived from the ALS. The length of time in a 1% AEP event till a low point in the road is cut and how long it can be expected to be cut is presented in Table 27. The time the road is cut is determined as the time when the depth reaches 0.1m.

Table 26: Peak Flood Levels at Road Low Points

Catchment	Road Name	Low point in road level (m AHD)	Flood Level (m AHD)			
			20% AEP	5% AEP	1% AEP	PMF
Airport	Lagoon Road at Airstrip	3.42	4.01	4.23	4.50	4.50
	Lagoon Rd Airstrip South	3.26	3.95	4.22	4.58	4.58
Kings Beach	Lagoon Rd	3.21	3.36	3.62	4.74	4.74
	Smoking Tree Ridge track	7.31	7.48	7.56	7.82	7.82
Pinetrees to Steven's Reserve	Rear St Police Station	3.69	3.76	3.84	4.03	5.57
	Middle Beach Rd	4.20			4.40	5.58
	Bowker Ave	4.12			4.43	5.58

Table 27: Time to cut and Time of inundation of Road Low Points

Catchment	Road Name	Low point in road level (m AHD)	Hours before inundated in 1% AEP Event	Total time of inundation (hrs)*
Airport	Lagoon Road at Airstrip	3.42	0.59	9.42
	Lagoon Rd Airstrip South	3.26	1.06	8.95
Kings Beach	Lagoon Rd	7.31	1.24	5.47
	Smoking Tree Ridge track	3.69	1.59	5.70
Pinetrees to Steven's Reserve	Rear St Police Station	4.20	1.40	4.76
	Middle Beach Rd	4.12	3.38	2.84
	Bowker Ave	3.42	3.53	3.36

10. PRELIMINARY OPTIONS IDENTIFICATION

10.1. Overview

A desktop preliminary options identification was undertaken based on the recommended options in the *Lord Howe Island Floodplain Management Study, 1999* and flood modelling results from the current study. In undertaking the assessment consideration was given to the 2005 NSW Government Floodplain Development Manual (NSW State Gov, 2005) which separates risk management measures into three broad categories:

Flood modification measures modify the physical behaviour of a flood (depth, velocity and redirection of flow paths) and include flood mitigation dams, retarding basins and levees.

Property modification measures modify land use and development controls. This is generally accomplished through means such as flood proofing (house raising or sealing entrances), strategic planning (such as land use zoning), building regulations (such as flood-related development controls), or voluntary purchase.

Response modification measures modify the community's response to flood hazard by educating flood affected property owners about the nature of flooding so that they can make informed decisions. Examples of such measures include provision of flood warning and emergency services, improved information, awareness and education of the community and provision of flood insurance.

Table 28 provides a summary of the floodplain risk management measures that could be considered for the Lord Howe Island catchments.

Table 28: Floodplain Risk Management Measures

Flood Modification	Property Modification	Response Modification
Flood mitigation dams	Land zoning	Community awareness/preparedness
Retarding basins	Voluntary purchase	Flood warning
Bypass floodways	Building & development controls	Evacuation planning
Channel modifications	House raising	Evacuation access
Levees	Flood proofing	Flood plan / recovery plan
Temporary Flood Barriers	Flood access	Flood insurance

10.1.1. Relative Merits of Management Measures

Indicative costs associated with each option are included in Table 29 as per the 1999 Management Study. A detailed cost benefit assessment should be undertaken in the next plan.

The potential environmental or social impacts of any proposed flood mitigation measure must be considered in the assessment of any management measure and these cannot be evaluated using the classical benefit/cost approach.

Table 29 presents a summary of options presented in the 1999 Risk Management Study and their status. Additional options identified during the study have been added. Recommendations are also made for options that should be modelled in the next stage.

Table 29: Options Summary

THE KINGS BEACH CATCHMENT							
ID	Measure	Description	Environmental/Social Implications	Indicative Cost (\$) from 1999 Study	Priority	Current Status	Recommendation
1	Development Controls.	Ensure by appropriate planning measures that flood problems do not increase in the future. Include flood information in the Building Code.	Long term benefits both environmentally and socially.	No direct costs.	High.	Controls are in place. The LHIB Development Application Statement of Environmental Effects captures information from the applicant about flooding and what measures will be undertaken to mitigate effects. During planning assessment project the LHIB Team Leader Projects and Compliance assesses application against Webb McKeown & Associates LHI Floodplain Management Study 1999 and makes recommendations to planners. Planners then include appropriate conditions in recommendation to LHIB.	Amend controls to refer to the current study and continue to assess developments in line with controls
2	Construct control works along man made drain.	Construction of such works over time would reduce erosion and stabilise the drain.	Reduction in sediment discharge to Lagoon.	\$50,000 (could be staged). Ongoing \$5000 p.a. maintenance.	Medium.	Planting and stabilisation work has been completed and receives ongoing maintenance.	Consider in the next phase as part of ongoing maintenance
3	Install depth indicators.	Depth indicators to be placed across floodplain to show depth over pavement.	Minor social benefit.	\$1,000.00	Medium.	Completed - depth indicators have been installed.	Nil
4	Increase culvert capacity under Lagoon Road.	More culverts under the road would reduce flood peaks and allow faster drainage.	No adverse environmental effects. Slight improvement in access.	\$20,000.00	Low.	Completed. Culverts have been included in the current study and culverts are maintained.	Consider in the next phase as part of ongoing maintenance
THE AIRPORT CATCHMENT							
5	Evacuation Plan for Ms Judy Wilson.	Provide specific provision in flood emergency plan for Ms Wilson to be evacuated before major flooding.	Major social benefit.	\$1,000.00	High.	A depth marker has been installed near the mouth of Cobbys Creek to indicate when the flood level as at the bottom step of Mrs Wilson's house. This was to be used to trigger an evacuation however Mrs Wilson now lives on the mainland. The current tenants at the house are staff from a nearby lodge and they are able to self evacuate. The catchment has been planted with Sallywood swamp. The creek outlet is maintained and periodically opened to ocean.	Nil
6	Clear golf course tributary creek.	Creek adjoining Ms J Wilson's house and downstream to the road should be cleared of excess vegetation/debris (including removal of tin fence) and regularly maintained.	Will improve visual amenity and reduce flood damages.	Annual cost \$2000.	High.	Completed. Golf course tributary creek is Cobbys Creek (as referenced above). Regular maintenance is carried out.	Consider in the next phase as part of ongoing maintenance
7	Maintain creek ocean outlet sand berms.	The two ocean outlets, at Cobbys corner and downstream of airport culvert, should be monitored and regularly lowered.	No adverse environmental or social effects.	\$3000 p.a.	High.	Cobbys corner is maintained and regularly opened to ocean. The other outlet (downstream of airport culvert) no longer receives the inflow volume as it did at the time of previous reporting, due to changes to airport drainage. Sand berm is monitored but has not required maintenance.	Consider in the next phase as part of ongoing maintenance
8	Development Controls.	Ensure by appropriate planning measures that flood problems do not increase in the future. Include flood information in the Building Code.	Long term benefits both environmentally and socially.	No direct costs.	High.	As per PM01	Amend controls to refer to the current study and continue to assess developments in line with controls
9	Improve culvert capacity under airport access road.	Present culverts too small and blocked. Larger culverts will reduce flood levels and improve drainage.	Reduce period of inundation and dieback of grass.	\$50,000.00	Medium.	Completed. Culverts have been included in the current study and culverts are maintained.	Nil – maintain culverts and remove blockages
10	Install depth indicators.	Depth indicators to be placed around airport road to show depth over pavement.	Minor social benefit.	\$2,000.00	Medium.	Completed – Depth Indicators have been installed (although one indicator has been damaged then removed and not replaced).	Replace depth indicator at Blinky Corner.
11	Resolve drainage problems on Mr S Fenton's land.	Can be rectified by land purchase or land swap. Some improvement may result from drainage works associated with seawall if works extended.	Social benefit.	Nil to ?	Low.	Resolved by drainage works undertaken in conjunction with 2015 airport runway reseal.	Nil
12	Provide mobile pumpout system.	A mobile pump out system could be used to drain low lying areas around the airport after floods.	Minor social benefit.	\$20,000.00	Very Low.	In place. Lord Howe Island fire truck (Rural Fire Service) is available as a mobile pump unit. LHIB also has a portable diesel pump.	Consider in the next phase as part of ongoing use.

13	House relocation of Ms Wilson's house.	Even with creek clearing will still be regularly flooded. Preferable to relocate house in longer term.	Will improve environmental amenity. Gives clear social benefit.	\$40,000 to \$100,000.	Long term objective	No action. Not under consideration.	Nil
14	Duplicating or otherwise amplifying the capacity of the culvert under the runway	This would be an extremely expensive and disruptive measure in terms of its likely effects on airport operation.				The side drains parallel to runway were enlarged as part of 2015 airport runway reseal works, given extra holding capacity. No culvert installed under runway. Extra culverts installed under Lagoon Road (details have been supplied for this study).	Recommend modelling in the next phase to confirm if effective.
PINETREES TO STEVENS RESERVE CATCHMENT							
15	Maintenance of high infiltration areas.	Since there are no drainage outlets it is vital that areas of high infiltration and any sinkholes be retained and maintained.	Social benefit.	Nil.	High.	High infiltration areas have been and continue to be retained. The sports oval has been lowered as a detention basin.	Consider in the next phase as part of ongoing maintenance
16	Maintenance of existing road levels.	It is vital that the existing levels of the east-west roads crossing the floodplain be maintained or flood flows could redistribute benefiting some and adversely affecting others.	No adverse environmental or social effects.	Nil.	High.	None have been raised except for possible small section adjacent to churches on Middle Beach Road where road has been resealed. New height is no more than 50mm above previous.	Consider in the next phase as part of ongoing maintenance
17	Provision of flood proofing advice (applies to all catchments).	Advice to be given regularly to the floodplain dwellers to ensure that they take appropriate actions if flooding threatens.	Social benefit.	Minor.	High.	No direct communication from LHIB currently. Lord Howe Island SES maintains community contact.	Although the community generally has a high level of awareness of weather events (from collective experience), recommended that clear advice is provided and that this is considered in the next phase.
18	Development Controls.	Ensure by appropriate planning measures that flood problems do not increase in the future. Include flood information in the Building Code.	Long term benefits both environmentally and socially.	No direct costs.	High.	As per Option 1	Amend controls to refer to the current study and continue to assess developments in line with controls
19	Pinetrees to Stevens Reserve detention basin.	A detention basin located in the paddock adjoining Pinetrees would reduce flood inundation within Pinetrees and give some minor reductions in levels and damages elsewhere.	Social benefit. No adverse environmental effects.	\$60,000 approx. (Cost will depend on design and construction method).	Medium.	Comparison of the 1999 Flood Study report figures with aerial imagery suggests the existing levee drawing from 1999 was not completely accurate. The levee visible in the SixMaps imagery was in place in 1999 and remains unchanged to the present. The level of oval has been lowered to provide detention however there is no documentation on these works.	Recommend modelling impact of oval in the next phase.
20	Provision of flood warnings and flood emergency plan (applies to all catchments)	Board to investigate whether it is possible to collect and disseminate warnings based on observed rainfalls and use these to trigger a flood emergency plan.	Social benefit.	\$15,000.00	Medium.	No action on warnings based on observed rainfalls used for trigger Lord Howe Island Local emergency Management Plan 2017 has a consequence management guide for storm/flash flood.	Maintain consideration
21	Restriction on flow downstream of Middle Beach Rd. Seems to be caused by fill	Option to remove fill to be modelled in the next study	Potential reduction in damages and flood levels	Low	High	Mentioned in 1998 flood study. The ALS contains some fill that is restricting flow which can be seen in results. The area is to the SW of a Board residence known as the Doll's House.	Recommend modelling the removal of fill in the next phase.

11. CONCLUSIONS

A detailed hydraulic model (TUFLOW) has been developed to quantify the flood behaviour of the

This model has been used to reproduce the historical flood behaviour from events in 1996 and 1998. The TUFLOW model has been used to define flood behaviour for a range of design events (20%, 5%, 1% and Probable Maximum Flood).

Community consultation and hazard classification were undertaken. The model developed for the current study is suitable for further floodplain planning and use in setting planning levels within the study area.

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- Bureau of Meteorology,
- Office of Environment and Heritage.

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APPENDIX A. GLOSSARY

Taken from the Floodplain Development Manual (April 2005 edition)

acid sulfate soils	Are sediments which contain sulfidic mineral pyrite which may become extremely acid following disturbance or drainage as sulfur compounds react when exposed to oxygen to form sulfuric acid. More detailed explanation and definition can be found in the NSW Government Acid Sulfate Soil Manual published by Acid Sulfate Soil Management Advisory Committee.
Annual Exceedance Probability (AEP)	The chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage. For example, if a peak flood discharge of 500 m ³ /s has an AEP of 5%, it means that there is a 5% chance (that is one-in-20 chance) of a 500 m ³ /s or larger event occurring in any one year (see ARI).
Australian Height Datum (AHD)	A common national surface level datum approximately corresponding to mean sea level.
Average Annual Damage (AAD)	Depending on its size (or severity), each flood will cause a different amount of flood damage to a flood prone area. AAD is the average damage per year that would occur in a nominated development situation from flooding over a very long period of time.
Average Recurrence Interval (ARI)	The long term average number of years between the occurrence of a flood as big as, or larger than, the selected event. For example, floods with a discharge as great as, or greater than, the 20 year ARI flood event will occur on average once every 20 years. ARI is another way of expressing the likelihood of occurrence of a flood event.
caravan and moveable home parks	Caravans and moveable dwellings are being increasingly used for long-term and permanent accommodation purposes. Standards relating to their siting, design, construction and management can be found in the Regulations under the LG Act.
catchment	The land area draining through the main stream, as well as tributary streams, to a particular site. It always relates to an area above a specific location.
consent authority	The Council, government agency or person having the function to determine a development application for land use under the EP&A Act. The consent authority is most often the Council, however legislation or an EPI may specify a Minister or public authority (other than a Council), or the Director General of DIPNR, as having the function to determine an application.
development	Is defined in Part 4 of the Environmental Planning and Assessment Act (EP&A Act). infill development: refers to the development of vacant blocks of land that are generally surrounded by developed properties and is permissible under the current zoning of the land. Conditions such as minimum floor levels may be imposed on infill development. new development: refers to development of a completely different nature to that associated with the former land use. For example, the urban subdivision of an area previously used for rural purposes. New developments involve rezoning and typically require major extensions of existing urban services, such as roads, water supply, sewerage and electric power.

redevelopment: refers to rebuilding in an area. For example, as urban areas age, it may become necessary to demolish and reconstruct buildings on a relatively large scale. Redevelopment generally does not require either rezoning or major extensions to urban services.

disaster plan (DISPLAN)	A step by step sequence of previously agreed roles, responsibilities, functions, actions and management arrangements for the conduct of a single or series of connected emergency operations, with the object of ensuring the coordinated response by all agencies having responsibilities and functions in emergencies.
discharge	The rate of flow of water measured in terms of volume per unit time, for example, cubic metres per second (m ³ /s). Discharge is different from the speed or velocity of flow, which is a measure of how fast the water is moving for example, metres per second (m/s).
ecologically sustainable development (ESD)	Using, conserving and enhancing natural resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be maintained or increased. A more detailed definition is included in the Local Government Act 1993. The use of sustainability and sustainable in this manual relate to ESD.
effective warning time	The time available after receiving advice of an impending flood and before the floodwaters prevent appropriate flood response actions being undertaken. The effective warning time is typically used to move farm equipment, move stock, raise furniture, evacuate people and transport their possessions.
emergency management	A range of measures to manage risks to communities and the environment. In the flood context it may include measures to prevent, prepare for, respond to and recover from flooding.
flash flooding	Flooding which is sudden and unexpected. It is often caused by sudden local or nearby heavy rainfall. Often defined as flooding which peaks within six hours of the causative rain.
flood	Relatively high stream flow which overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam, and/or local overland flooding associated with major drainage before entering a watercourse, and/or coastal inundation resulting from super-elevated sea levels and/or waves overtopping coastline defences excluding tsunami.
flood awareness	Flood awareness is an appreciation of the likely effects of flooding and a knowledge of the relevant flood warning, response and evacuation procedures.
flood education	Flood education seeks to provide information to raise awareness of the flood problem so as to enable individuals to understand how to manage themselves and their property in response to flood warnings and in a flood event. It invokes a state of flood readiness.
flood fringe areas	The remaining area of flood prone land after floodway and flood storage areas have been defined.
flood liable land	Is synonymous with flood prone land (i.e. land susceptible to flooding by the probable maximum flood (PMF) event). Note that the term flood liable land covers the whole of the floodplain, not just that part below the flood planning level (see flood planning area).

flood mitigation standard	The average recurrence interval of the flood, selected as part of the floodplain risk management process that forms the basis for physical works to modify the impacts of flooding.
floodplain	Area of land which is subject to inundation by floods up to and including the probable maximum flood event, that is, flood prone land.
floodplain risk management options	The measures that might be feasible for the management of a particular area of the floodplain. Preparation of a floodplain risk management plan requires a detailed evaluation of floodplain risk management options.
floodplain risk management plan	A management plan developed in accordance with the principles and guidelines in this manual. Usually includes both written and diagrammatic information describing how particular areas of flood prone land are to be used and managed to achieve defined objectives.
flood plan (local)	A sub-plan of a disaster plan that deals specifically with flooding. They can exist at State, Division and local levels. Local flood plans are prepared under the leadership of the State Emergency Service.
flood planning area	The area of land below the flood planning level and thus subject to flood related development controls. The concept of flood planning area generally supersedes the "flood liable land" concept in the 1986 Manual.
Flood Planning Levels (FPLs)	FPLs are the combinations of flood levels (derived from significant historical flood events or floods of specific AEPs) and freeboards selected for floodplain risk management purposes, as determined in management studies and incorporated in management plans. FPLs supersede the "standard flood event" in the 1986 manual.
flood proofing	A combination of measures incorporated in the design, construction and alteration of individual buildings or structures subject to flooding, to reduce or eliminate flood damages.
flood prone land	Is land susceptible to flooding by the Probable Maximum Flood (PMF) event. Flood prone land is synonymous with flood liable land.
flood readiness	Flood readiness is an ability to react within the effective warning time.
flood risk	<p>Potential danger to personal safety and potential damage to property resulting from flooding. The degree of risk varies with circumstances across the full range of floods. Flood risk in this manual is divided into 3 types, existing, future and continuing risks. They are described below.</p> <p>existing flood risk: the risk a community is exposed to as a result of its location on the floodplain.</p> <p>future flood risk: the risk a community may be exposed to as a result of new development on the floodplain.</p> <p>continuing flood risk: the risk a community is exposed to after floodplain risk management measures have been implemented. For a town protected by levees, the continuing flood risk is the consequences of the levees being overtopped. For an area without any floodplain risk management measures, the continuing flood risk is simply the existence of its flood exposure.</p>
flood storage areas	

Those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of a flood. The extent and behaviour of flood storage areas may change with flood severity, and loss of flood storage can increase the severity of flood impacts by reducing natural flood attenuation. Hence, it is necessary to investigate a range of flood sizes before defining flood storage areas.

floodway areas	Those areas of the floodplain where a significant discharge of water occurs during floods. They are often aligned with naturally defined channels. Floodways are areas that, even if only partially blocked, would cause a significant redistribution of flood flows, or a significant increase in flood levels.
freeboard	Freeboard provides reasonable certainty that the risk exposure selected in deciding on a particular flood chosen as the basis for the FPL is actually provided. It is a factor of safety typically used in relation to the setting of floor levels, levee crest levels, etc. Freeboard is included in the flood planning level.
habitable room	in a residential situation: a living or working area, such as a lounge room, dining room, rumpus room, kitchen, bedroom or workroom. in an industrial or commercial situation: an area used for offices or to store valuable possessions susceptible to flood damage in the event of a flood.
hazard	A source of potential harm or a situation with a potential to cause loss. In relation to this manual the hazard is flooding which has the potential to cause damage to the community. Definitions of high and low hazard categories are provided in the Manual.
hydraulics	Term given to the study of water flow in waterways; in particular, the evaluation of flow parameters such as water level and velocity.
hydrograph	A graph which shows how the discharge or stage/flood level at any particular location varies with time during a flood.
hydrology	Term given to the study of the rainfall and runoff process; in particular, the evaluation of peak flows, flow volumes and the derivation of hydrographs for a range of floods.
local overland flooding	Inundation by local runoff rather than overbank discharge from a stream, river, estuary, lake or dam.
local drainage	Are smaller scale problems in urban areas. They are outside the definition of major drainage in this glossary.
mainstream flooding	Inundation of normally dry land occurring when water overflows the natural or artificial banks of a stream, river, estuary, lake or dam.
major drainage	Councils have discretion in determining whether urban drainage problems are associated with major or local drainage. For the purpose of this manual major drainage involves: <ul style="list-style-type: none">• the floodplains of original watercourses (which may now be piped, channelised or diverted), or sloping areas where overland flows develop along alternative paths once system capacity is exceeded; and/or

- water depths generally in excess of 0.3 m (in the major system design storm as defined in the current version of Australian Rainfall and Runoff). These conditions may result in danger to personal safety and property damage to both premises and vehicles; and/or
- major overland flow paths through developed areas outside of defined drainage reserves; and/or
- the potential to affect a number of buildings along the major flow path.

mathematical/computer models

The mathematical representation of the physical processes involved in runoff generation and stream flow. These models are often run on computers due to the complexity of the mathematical relationships between runoff, stream flow and the distribution of flows across the floodplain.

merit approach

The merit approach weighs social, economic, ecological and cultural impacts of land use options for different flood prone areas together with flood damage, hazard and behaviour implications, and environmental protection and well being of the State=s rivers and floodplains.

The merit approach operates at two levels. At the strategic level it allows for the consideration of social, economic, ecological, cultural and flooding issues to determine strategies for the management of future flood risk which are formulated into Council plans, policy and EPIs. At a site specific level, it involves consideration of the best way of conditioning development allowable under the floodplain risk management plan, local floodplain risk management policy and EPIs.

minor, moderate and major flooding

Both the State Emergency Service and the Bureau of Meteorology use the following definitions in flood warnings to give a general indication of the types of problems expected with a flood:

minor flooding: causes inconvenience such as closing of minor roads and the submergence of low level bridges. The lower limit of this class of flooding on the reference gauge is the initial flood level at which landholders and townspeople begin to be flooded.

moderate flooding: low-lying areas are inundated requiring removal of stock and/or evacuation of some houses. Main traffic routes may be covered.

major flooding: appreciable urban areas are flooded and/or extensive rural areas are flooded. Properties, villages and towns can be isolated.

modification measures

Measures that modify either the flood, the property or the response to flooding. Examples are indicated in Table 2.1 with further discussion in the Manual.

peak discharge

The maximum discharge occurring during a flood event.

Probable Maximum Flood (PMF)

The PMF is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation, and where applicable, snow melt, coupled with the worst flood producing catchment conditions. Generally, it is not physically or economically possible to provide complete protection against this event. The PMF defines the extent of flood prone land, that is, the floodplain. The extent, nature and potential consequences of flooding associated with a range of events rarer than the flood used for designing mitigation works and controlling development, up to and including the PMF event should be addressed in a floodplain risk management study.

Probable Maximum Precipitation (PMP)	The PMP is the greatest depth of precipitation for a given duration meteorologically possible over a given size storm area at a particular location at a particular time of the year, with no allowance made for long-term climatic trends (World Meteorological Organisation, 1986). It is the primary input to PMF estimation.
probability	A statistical measure of the expected chance of flooding (see AEP).
risk	Chance of something happening that will have an impact. It is measured in terms of consequences and likelihood. In the context of the manual it is the likelihood of consequences arising from the interaction of floods, communities and the environment.
runoff	The amount of rainfall which actually ends up as streamflow, also known as rainfall excess.
stage	Equivalent to water level. Both are measured with reference to a specified datum.
stage hydrograph	A graph that shows how the water level at a particular location changes with time during a flood. It must be referenced to a particular datum.
survey plan	A plan prepared by a registered surveyor.
water surface profile	A graph showing the flood stage at any given location along a watercourse at a particular time.
wind fetch	The horizontal distance in the direction of wind over which wind waves are generated.



APPENDIX B. PHOTOGRAPHS OF FLOODING
KINGS BEACH CATCHMENT



Photograph 1: Looking down the man made drain towards the ocean



Photograph 2: Looking upstream along the man made drain



Photograph 3: Looking downstream across the floodplain (June 1996)



Photograph 4: Looking down the man made drain adjoining Photograph 3

AIRPORT CATCHMENT



Photograph 5: Golf course upstream of Ms Wilson's house after June 1996 storm



Photograph 6: Golf course debris marks after June 1996 storm



Photograph 7: Southern sub-catchment looking towards Blinky Beach June 1996 storm



Photograph 8: Northern sub-catchment looking towards Blinky Beach June 1996 storm



Photograph 9: Northern sub-catchment looking along runway to Blinky Beach June 1996



Photograph 10: Ponded area in front of Mr S Fenton June 1996

PINETREES TO STEVEN'S RESERVE CATCHMENT



Photograph 11: Tennis Court under water at Pinetrees - June 1996 -



Photograph 12: View of the Bowling Club from the "Bowling Green" - June 1996



Photograph 13: From Bowling Club looking towards Transit Hill - June 1996



Photograph 14: From Bowling Club looking towards the Oval - June 1996



Photograph 15: Flooding of the churches on Middle Beach Road - June 1996



Photograph 16: Paddock north of TC Douglas Drive looking to Stevens Reserve - June 1996

STORM DAMAGE



Photograph 17: Road Damage at Cobbys Corner caused by flood overflow



Photograph 18: Silt deposition on Golf Course upstream of Ms Wilson's house



Photograph 19: Major land slip closing road south of Kings Beach



Photograph 20 : Typical land slip initiation near Clear Place



APPENDIX C.

UNRESTRICTED ANNUAL SERIES 1947 - 1998

Year	Duration										
	6 m	12 m	18 m	30 m	1 hr	2 hr	3 hr	6 hr	12 hr	24 hr	48 hr
1947	11.5	15.1	21.4	32.0	54.9	58.3	64.2	79.4	96.5	134.9	158.4
1948	12.5	18.4	27.6	46.0	48.2	52.7	57.1	75.1	103.3	162.5	186.1
1949	12.6	15.8	22.3	37.1	74.3	93.5	111.3	176.0	198.9	201.2	201.2
1950	12.9	14.6	15.9	20.7	31.6	54.1	67.1	83.3	85.1	85.3	89.7
1951	5.1	9.7	10.7	17.5	28.1	46.1	58.1	58.7	58.7	62.3	73.1
1952	12.6	18.5	21.4	25.4	40.5	66.3	73.8	81.4	81.5	81.7	96.0
1953	8.1	13.2	15.0	22.9	36.5	42.9	48.6	56.5	79.7	105.4	106.4
1954	11.3	18.4	23.4	26.8	50.7	69.0	83.4	88.0	88.1	113.5	122.0
1955	7.9	11.2	14.5	21.2	35.9	67.5	96.6	163.9	177.2	186.6	190.2
1956	9.7	15.1	21.5	24.0	33.9	41.6	52.5	52.7	83.8	89.2	95.5
1957	12.4	15.2	17.9	25.8	30.5	43.4	55.6	58.3	73.2	146.3	153.2
1958	7.1	10.5	13.0	15.6	22.3	29.3	35.8	52.9	63.7	68.6	82.8
1959	8.9	14.6	19.0	31.7	43.7	45.2	45.3	46.6	51.1	59.6	82.8
1960	16.3	25.5	27.5	35.5	37.8	48.0	57.4	79.5	93.1	100.6	103.6
1961	7.5	12.8	14.4	16.4	27.5	39.6	44.9	73.9	108.9	120.0	122.7
1962	9.1	18.2	27.2	35.0	36.5	50.6	51.0	65.3	79.7	92.1	115.6
1963	12.3	14.9	17.4	20.9	29.4	37.0	49.0	64.6	106.1	111.5	120.0
1964	11.5	15.9	22.4	25.2	31.2	40.9	49.9	70.0	70.1	89.1	107.5
1965	6.7	9.7	12.6	17.8	21.5	28.4	31.0	32.9	33.1	37.3	42.4
1966	7.9	10.1	12.8	18.6	24.3	37.2	43.9	56.5	70.6	92.2	92.2
1967	6.8	13.3	19.2	27.5	42.8	53.9	55.9	59.3	67.3	93.7	101.0
1968	13.2	21.1	24.4	31.6	37.4	38.5	39.8	58.9	61.2	75.6	93.9
1969	13.7	18.9	20.4	26.9	45.0	63.0	70.3	89.1	91.3	100.6	103.4
1970	9.2	16.4	21.7	30.4	46.4	55.1	74.6	77.7	85.3	93.0	93.0
1971	7.9	13.7	16.2	24.4	34.0	41.4	41.4	46.1	59.7	73.8	86.6
1972	6.7	11.6	14.6	21.0	25.3	46.7	51.5	77.9	89.8	92.4	156.8
1973	29.2	33.3	36.7	46.2	59.0	70.8	72.5	91.5	99.5	112.0	115.8
1974	12.0	18.9	25.7	36.3	54.8	65.6	66.7	69.6	71.7	76.1	85.4
1975	14.3	18.6	22.5	35.2	46.9	66.9	71.3	95.8	99.4	102.5	146.9
1976	12.1	16.7	22.2	31.7	55.6	60.9	74.5	93.1	94.0	123.9	141.0
1977	10.5	14.5	18.2	21.3	27.8	31.6	33.1	51.1	54.1	55.0	67.3
1978	10.7	18.1	20.1	27.0	35.5	44.5	50.2	67.6	77.6	88.7	104.7
1979	19.7	28.6	37.2	39.6	50.3	61.8	67.3	79.5	97.0	152.9	167.0
1980	14.6	19.4	22.0	38.3	59.6	75.4	88.0	97.2	114.5	121.3	125.6
1981	17.6	21.9	24.2	30.4	36.0	55.4	64.6	85.2	134.9	163.3	174.9
1982	16.3	25.2	32.9	40.6	42.7	52.7	59.8	60.0	67.9	114.1	124.5
1983	14.9	24.1	25.0	26.7	32.5	41.0	43.2	47.0	59.4	68.7	82.0
1984	17.0	21.9	27.5	31.5	43.6	52.0	53.1	64.3	64.7	64.7	85.4
1985	10.4	13.0	16.6	20.7	31.9	49.6	54.3	59.0	59.0	59.4	63.7
1986	15.1	19.3	22.1	24.2	31.7	46.3	57.4	71.6	79.0	80.3	112.1

1987	13.8	16.3	20.6	24.7	29.9	37.0	44.6	56.1	83.8	91.5	94.8
1988	16.3	25.6	28.8	32.8	44.7	50.3	60.9	92.3	136.7	152.7	152.8
1989	12.5	19.1	23.7	24.8	29.5	34.0	43.5	73.9	90.3	93.8	100.3
1990	7.8	11.8	13.8	19.1	33.2	42.1	50.6	65.4	73.2	85.2	92.4
1991	17.3	23.0	32.5	36.8	48.2	55.7	61.4	61.8	62.0	107.9	177.4
1992	10.0	18.2	19.8	21.4	31.1	34.2	52.8	70.2	100.7	118.4	121.2
1993	12.2	17.1	20.2	21.8	26.0	31.4	37.3	57.2	78.9	81.4	84.0
1994	11.6	19.7	27.5	41.3	63.6	77.1	78.9	80.8	91.6	98.0	112.3
1995	18.3	25.3	26.1	28.3	37.9	64.4	69.0	84.9	123.1	178.3	185.0
1996	24.9	37.2	50.1	65.1	104.3	156.9	226.0	72.5	434.9	449.4	450.7
1997	n/a	n/a	n/a	35.0	45.5	71.5	72.5	72.5	72.5	72.5	n/a
1998	n/a	n/a	n/a	47.6	79.3	121.4	193.9	323.9	373.6	391.2	n/a



APPENDIX D. HYDRAULIC STRUCTURES

Table D 1: Culvert Structures included in models

ID	Culvert Details	Length (m)	Latitude	Longitude
L17_Culv01	600 RCP	6.00	-31.554	159.078
L17_Culv02	650 x 380 RCBC	5.80	-31.554	159.078
NLN_Culv01	450 RCP	7.00	-31.553	159.077
L14_Culv01	1510 x 930 RCBC	5.27	-31.552	159.077
L14_Culv02	1510 x 860 RCBC	4.50	-31.552	159.077
L15_Culv01	600 RCP	6.00	-31.552	159.077
L9_Culv01	1840 x 940 RCBC	11.70*	-31.544	159.078
L8_Culv1	1220 x 920 RCBC	16.72*	-31.543	159.078
L8_Culv02	910 x 285 RCBC	13.15*	-31.543	159.079
L7_Culv01	900 x 320 RCBC	10.61*	-31.541	159.081
L6_Culv01	900 x 280 RCBC	11.73*	-31.539	159.08
L16_Culv02	900 x 280 RCBC	12.20*	-31.539	159.08
L5_Culv01	900 RCP	101.19*	-31.538	159.075
L4_Culv01	900 x 330 RCBC	11.12*	-31.537	159.075
CL15_C01	455 RCP	46.48*	-31.536	159.071
CL15_Culv02	455 RCP	9.45*	-31.536	159.072
CL16_C01	380 RCP	9.70*	-31.536	159.072
CL16_C02	380 RCP	29.85*	-31.536	159.072
CL13_C01	455 RCP	9.21*	-31.536	159.071
CL13_C02	2 x 900 RCP	5.63*	-31.536	159.071
CL13_C03	2 x 900 RCP	50.18*	-31.536	159.071
CL13_C04	2 x 900 RCP	9.59*	-31.536	159.071
L1_Culv02	450 RCP	13.46*	-31.525	159.061
L1_Culv03	400 RCP	19.06*	-31.525	159.061
L1_Culv01	450 RCP	9.72*	-31.524	159.061

*please note culvert lengths are estimated based on aerial imagery

Table D 2: Pit Structures included in models

ID	Details*	Latitude	Longitude
CL15_Pit03	2400 Side Entry Pit	-31.536	159.071
CL15_Pit02	600 x 600 Grated Inlet Pit	-31.536	159.072
CL15_Pit01	600 x 600 Grated Inlet Pit	-31.536	159.072
CL16_Pit01	600 x 600 Grated Inlet Pit	-31.536	159.072
CL16_Pit02	600 x 600 Grated Inlet Pit	-31.536	159.072
CL13_Pit01	3600 x 3400 Grated Inlet Pit	-31.536	159.071
CL13_Pit02	2000 x 1800 Grated Inlet Pit	-31.536	159.071
L1_Pit03	2400 Side Entry Pit	-31.525	159.061
L1_Pit01	2400 Side Entry Pit	-31.524	159.061
L1_Pit02	2400 Side Entry Pit	-31.524	159.061

*please note all pit structures sizing and types are based on provided site photographs and aerial imagery



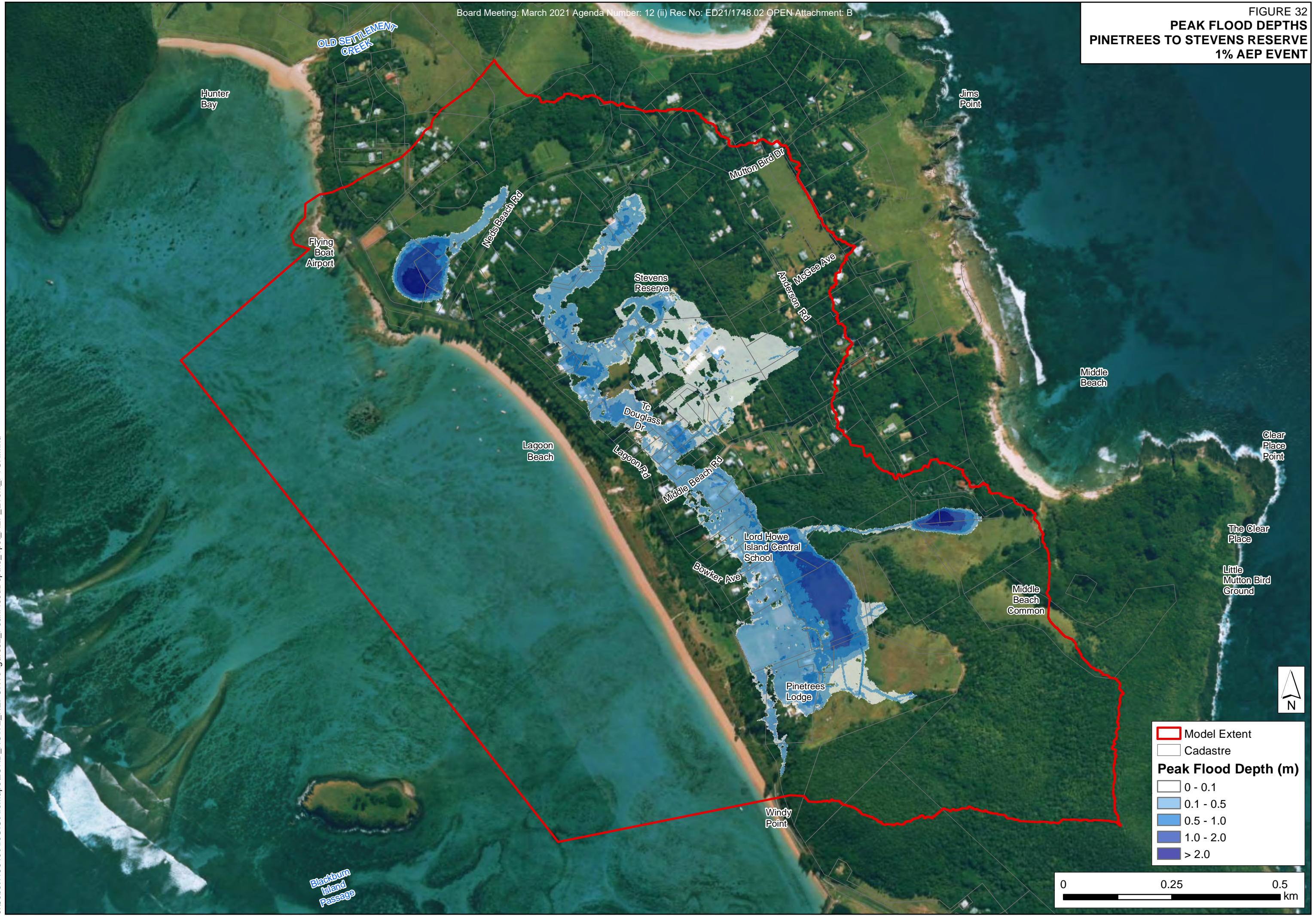
APPENDIX E. HISTORIC REPORTING LOCATIONS

Table 30: Locations Identified in the Lord Howe Island Flood Study (1998)

ID	Property name referenced in report	Deposited Plan Number	Lot Number and Road Name	Latitude, Longitude
1	Stan Fenton's house	DP757515	Lot 114, Lagoon Road	-31.53785 159.079282
2	Esven Fenton's property	DP48320	Lot 300, Mulley Drive	-31.549763 159.078301
3	May Shick's house	DP757515	Lot 313, Lagoon Road	-31.535614 159.0713
4	Mr Ray Shick's house	Unknown	Unknown – Kings Beach Catchment	Unknown
5	Judy Wilson	DP757515	Lot 191, Lagoon Road	-31.544634 159.077418
6	J. Lonergan senior's house	DP1127467	Lot 141, Middle Beach Road	-31.527539 159.066864
7	Marj Rayward	DP757515	Lot 18, TC Douglass Drive	-31.526722 159.066727
8	Patricia Dignam	DP757515	Lot 31 Lagoon Road	-31.525979 159.064448
9	Seventh Day Adventist Church	DP822355	Lot 322 Middle Beach Road	-31.527212 159.068086
10	Catholic Church	DP822355	Lot 323 Middle Beach Road	-31.527847 159.068224
11	Anglican Church	DP822355	Lot 324 Middle Beach Road	-31.52777 159.067735
12	Pinetrees	DP48213	Lot 236, Lagoon Road	-31.532356 159.069879
13	Woodhen breeding building Stevens Reserve (Ian Hutton supplied) Now removed.	DP757515	Lot 29	-31.524818 159.064001
14	LHIB	DP757515	Lot 37, Bowker Avenue	-31.529672 159.068766
15	Bowling club	DP757515	Lot 39, Lagoon Road	-31.53016, 159.069491
16	Golf course	DP757515	Lot 120, Lagoon Road	-31.544991 159.07919
17	Police station	DP757515	Lot 10, TC Douglass Drive	-31.526823 159.066263
18	Capella	DP1216287	Lot 41, Lagoon Road	-31.550071 159.075976
19	Airport/airstrip	DP757515	Lot 180, Lagoon Road	-31.540685 159.078136
20	J. Lonergan Junior's house	Unknown	Lot 141, Middle Beach Road	-31.527539 159.066864

FIGURE 32
PEAK FLOOD DEPTHS
PINETREES TO STEVENS RESERVE
1% AEP EVENT

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Model Extent
[Red outline]

Cadastre
[White outline]

Peak Flood Depth (m)

- 0 - 0.1
- 0.1 - 0.5
- 0.5 - 1.0
- 1.0 - 2.0
- > 2.0

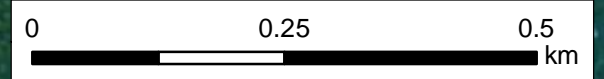


FIGURE 33
PEAK FLOOD DEPTHS
AIRPORT
1% AEP EVENT

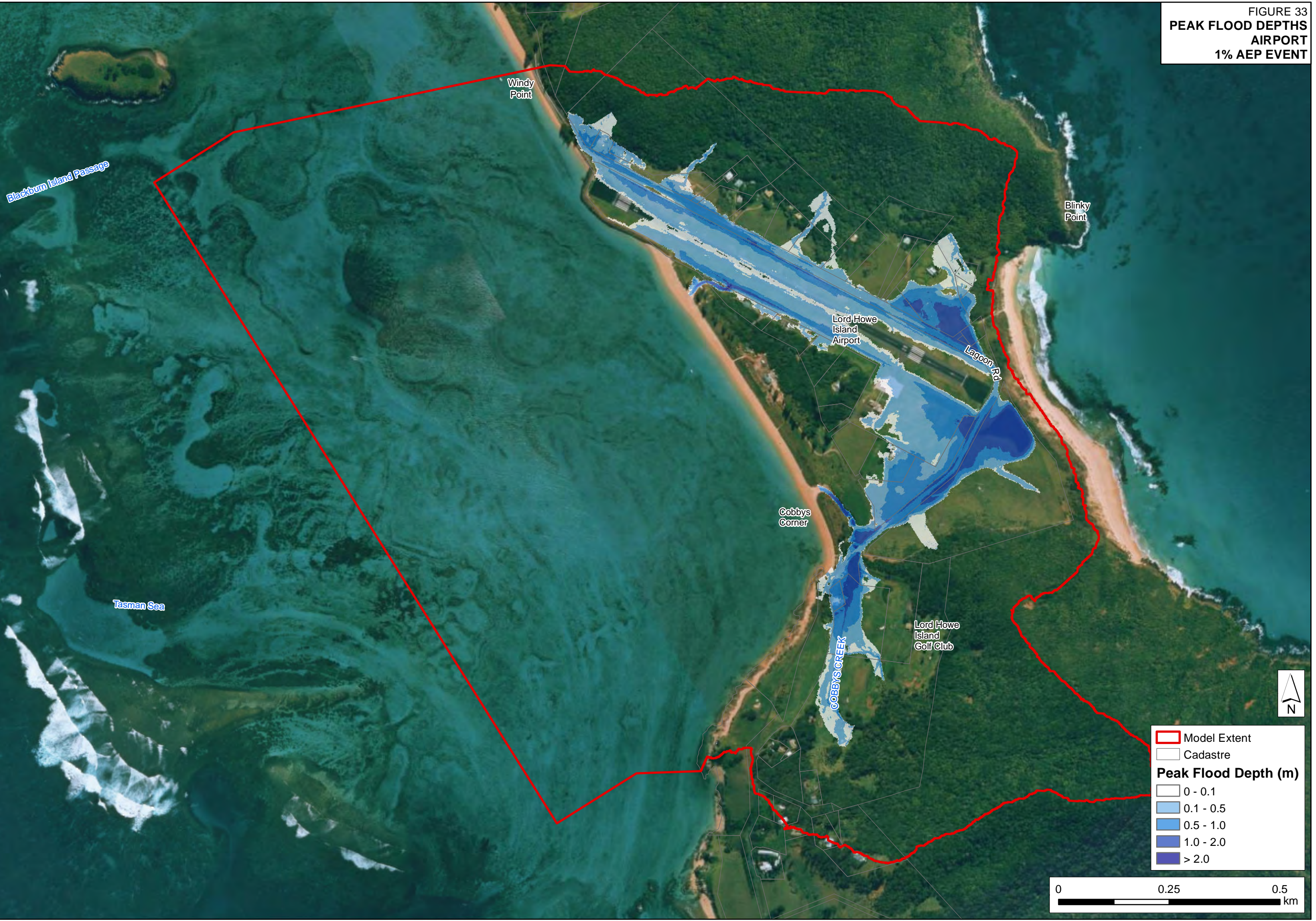
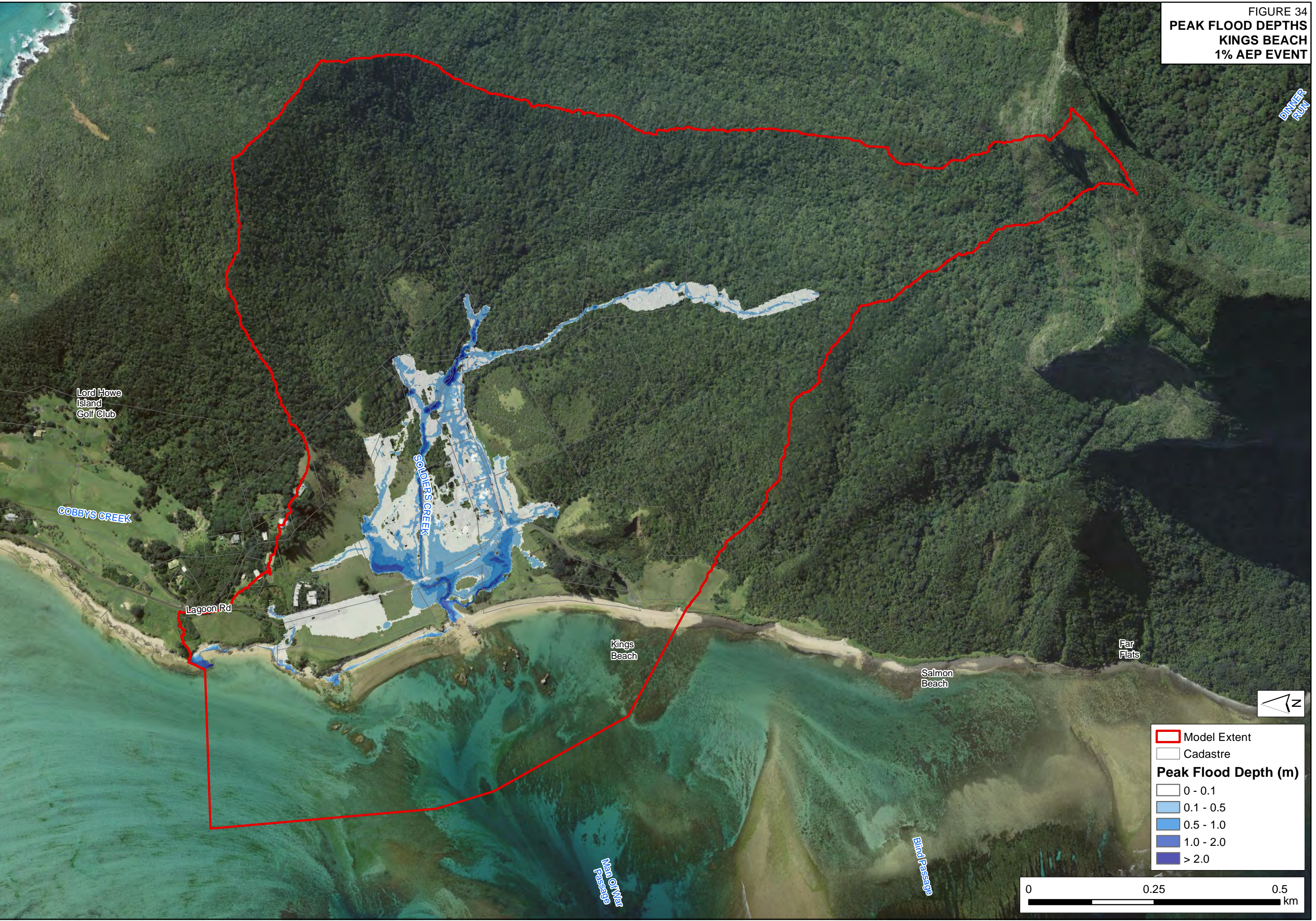


FIGURE 34
PEAK FLOOD DEPTHS
KINGS BEACH
1% AEP EVENT

DINNER
RUN

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Model Extent
Cadastre

Peak Flood Depth (m)

- 0 - 0.1
- 0.1 - 0.5
- 0.5 - 1.0
- 1.0 - 2.0
- > 2.0

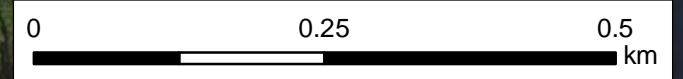
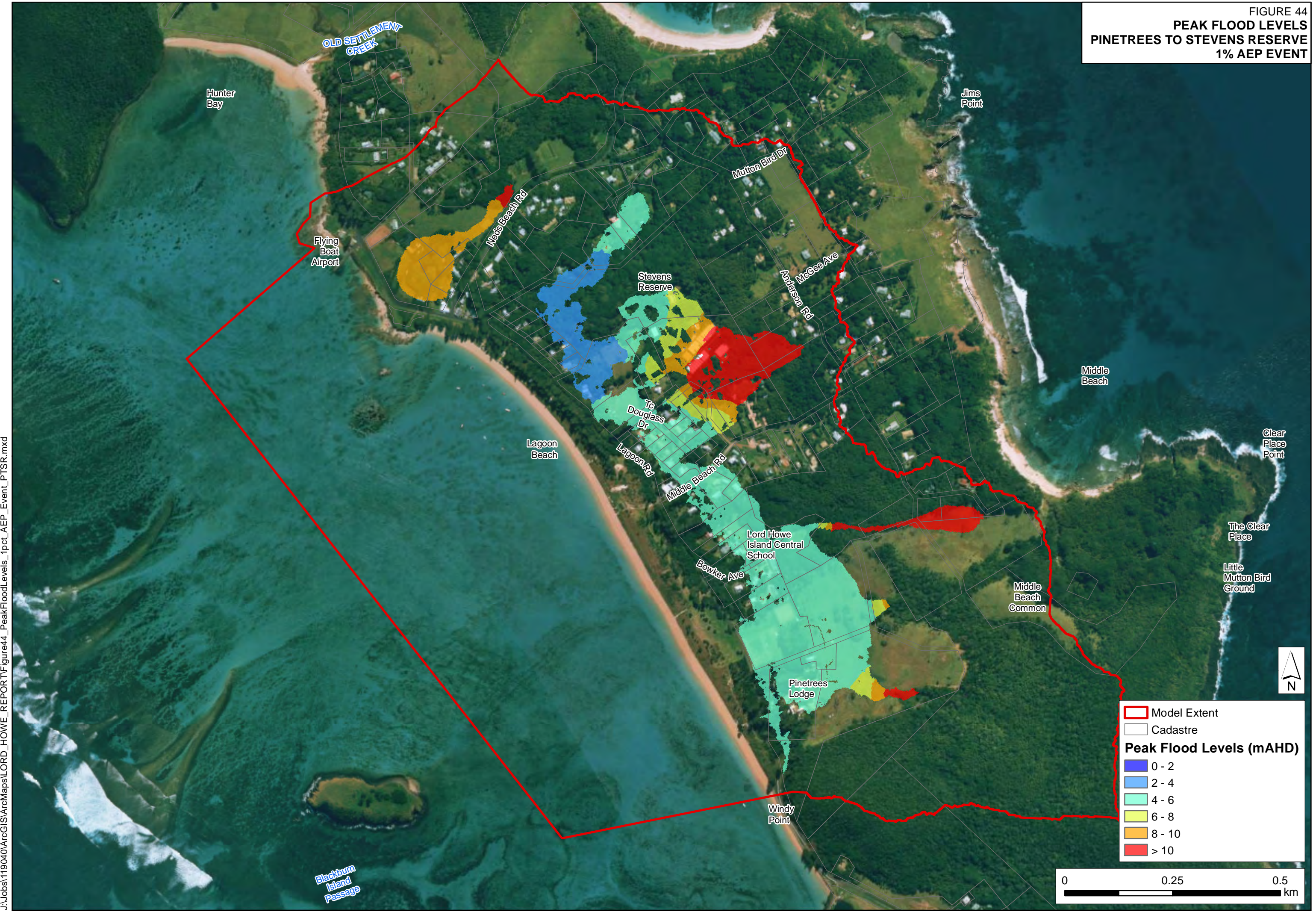


FIGURE 44
**PEAK FLOOD LEVELS
 PINETREES TO STEVENS RESERVE
 1% AEP EVENT**



Model Extent
 [Red line symbol]

Cadastral
 [White line symbol]

Peak Flood Levels (mAHD)

- [Dark blue box] 0 - 2
- [Light blue box] 2 - 4
- [Teal box] 4 - 6
- [Yellow-green box] 6 - 8
- [Yellow box] 8 - 10
- [Red box] > 10

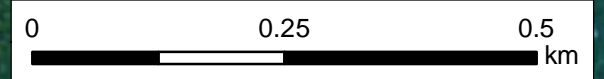


FIGURE 45
PEAK FLOOD LEVELS
AIRPORT
1% AEP EVENT



Model Extent
Cadastral

Peak Flood Levels (mAHD)

- 0 - 2
- 2 - 4
- 4 - 6
- 6 - 8
- 8 - 10
- > 10

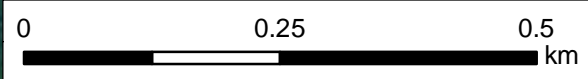
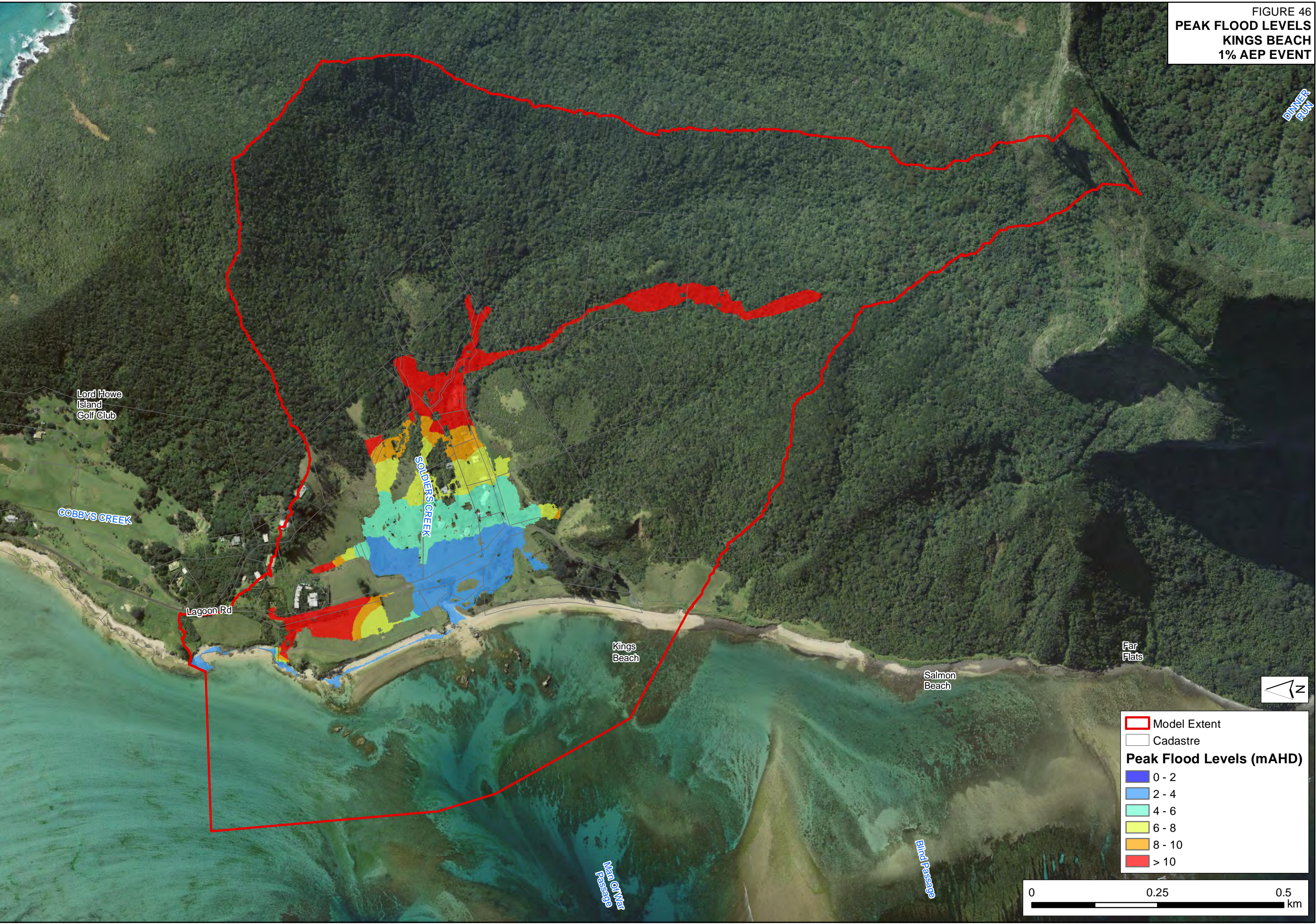


FIGURE 46
PEAK FLOOD LEVELS
KINGS BEACH
1% AEP EVENT

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Model Extent
Cadastrre

Peak Flood Levels (mAHD)

Blue	0 - 2
Light Blue	2 - 4
Cyan	4 - 6
Yellow	6 - 8
Orange	8 - 10
Red	> 10

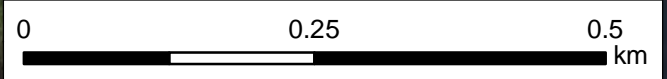
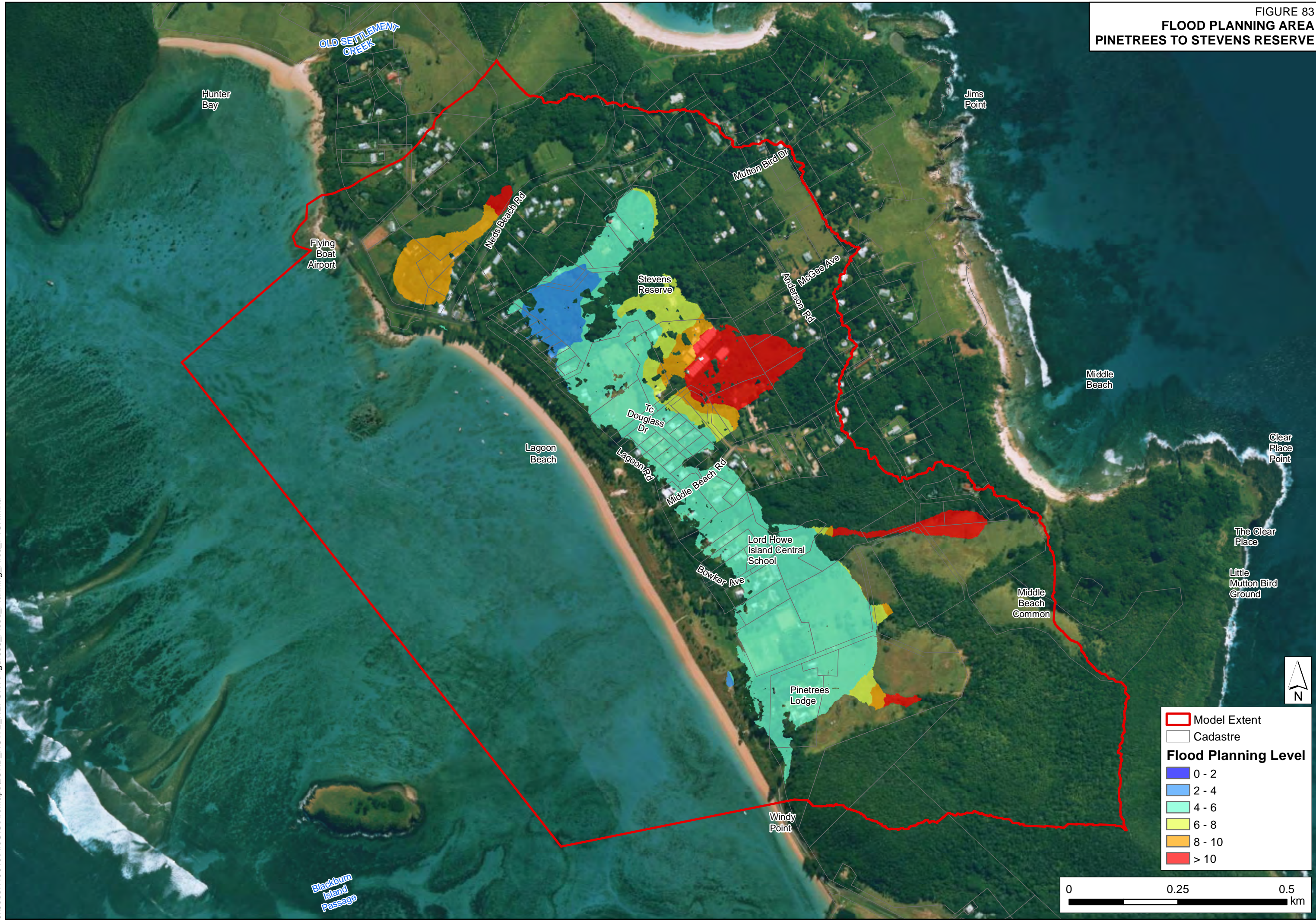










FIGURE 83
FLOOD PLANNING AREA
PINETREES TO STEVENS RESERVE

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	Model Extent
	Cadastre
Flood Planning Level	
	0 - 2
	2 - 4
	4 - 6
	6 - 8
	8 - 10
	> 10

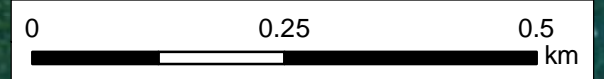


FIGURE 84
FLOOD PLANNING AREA
AIRPORT

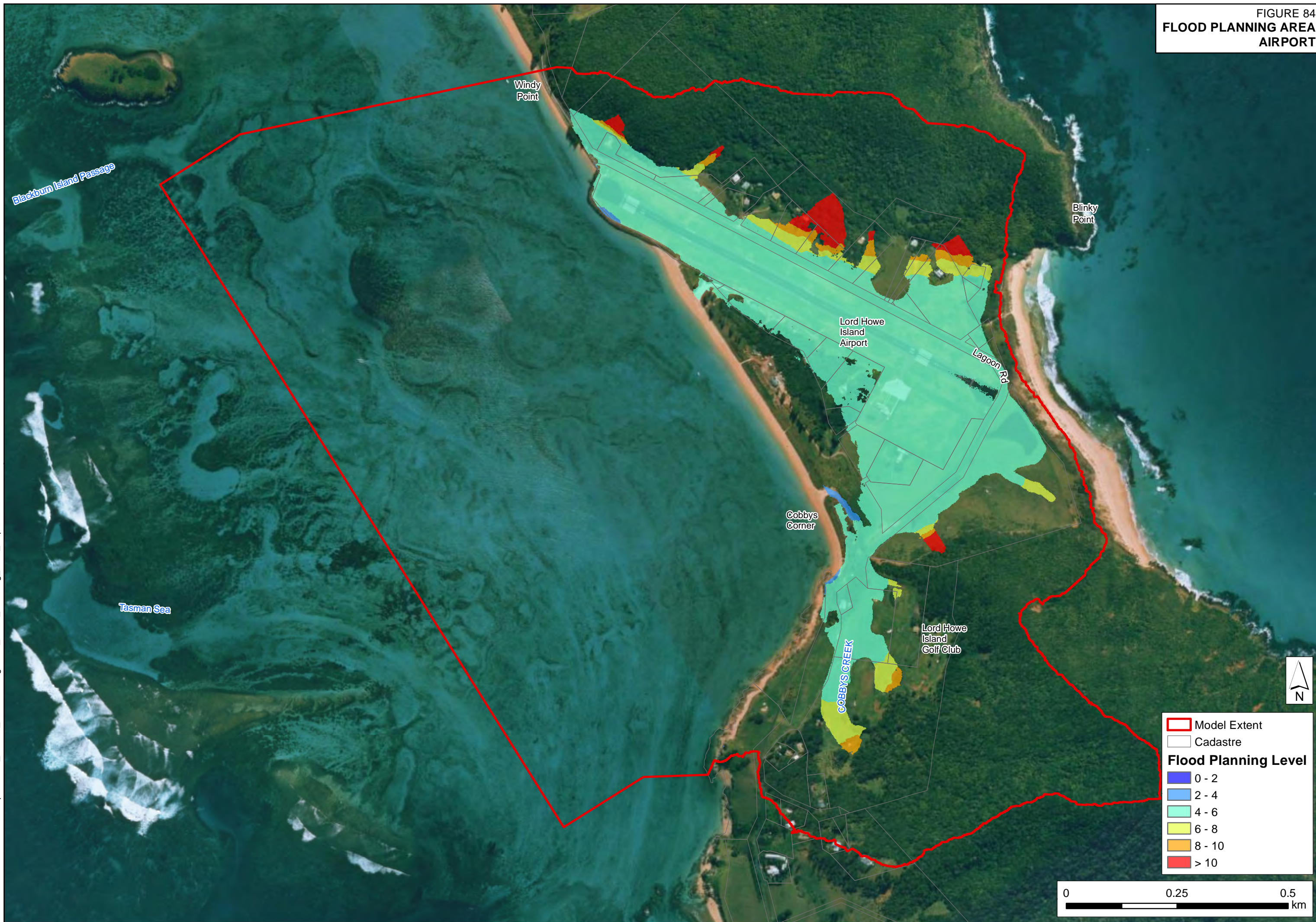
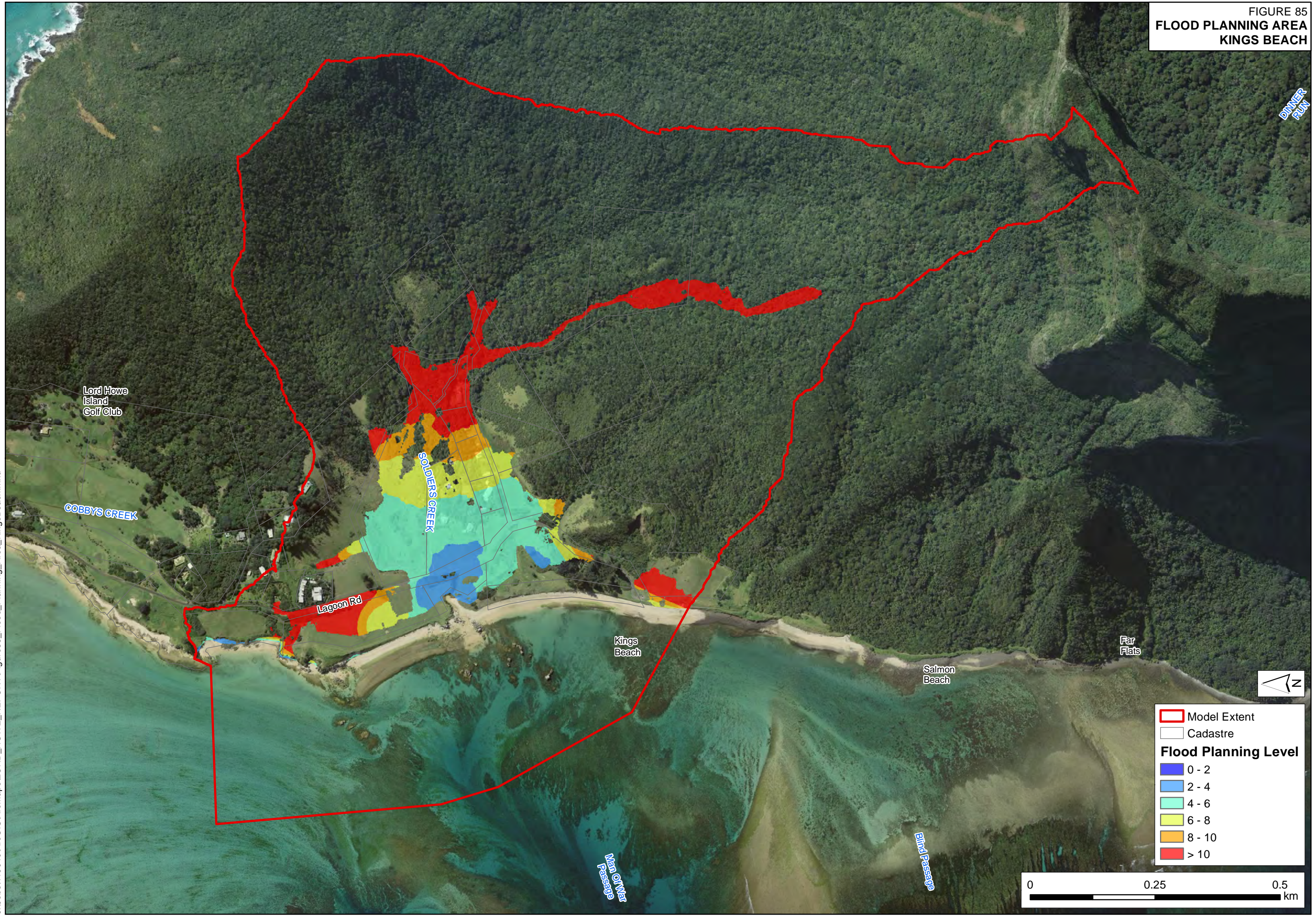


FIGURE 85
FLOOD PLANNING AREA
KINGS BEACH

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Board Meeting: April 2021
(Deferred from March 2021)

Agenda Number: 13 (i)

Record No: ED21/1779

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

Actions taken to address the incidence of injuries include Workplace Health & Safety matters being discussed and addressed at monthly staff meetings, including reviews of Job Safety Analysis and Hazard Identification.

At 31 March 2021 seven claims had been lodged for the 2021 financial year.

2020/21				
No	Date of Injury	Type of Injury	Cause of Injury	Hours lost
1	20/07/2020	Hip strain	Repetitive use injury	Medical expenses
2	23/07/2020	Tendon injury	Normal course of duty	15.2 hours
3	06/08/2020	Muscle strain	Excessive force undoing shackle	Medical expenses
4	26/08/2020	Eye injury	Struck by foliage	19.8 hours
5	15/10/2021	Crushed hand	Removing tyre	153.2 hours
6	09/02/2021	Knee injury	Stumbled on loose pavers	Medical expenses
7	26/02/2021	Lower back strain	Normal course of duty	20 hours

4. Mechanism of Injury

(Reportable and non-Reportable Claims)

[Mechanism of I... Q	Last 5 FY Reported Q				
	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
Totals	18	15	12	15	7
Chemicals and other substances	1	1	-	-	-
Vehicle incidents and other	1	-	1	1	-
Falls, trips and slips of a person	4	6	2	4	2
Hitting objects with a part of the body	2	1	4	3	2
Being hit by moving objects	4	1	-	4	-
Body stressing	6	5	4	3	3
Mental stress	-	1	1	-	-

Public Risk Management

On Thursday 11 February 2021 an undersea earthquake occurred southeast of Loyalty Islands triggering the Joint Australian Tsunami Warning Centre to issue a Tsunami Marine Warning for Lord Howe Island. Surge estimated to be 40-45cms were reported at Neds Beach at 3:45am in the morning. No damage or injuries were sustained.

On Saturday March 6 2021 around 8:00pm a rock fall caused significant damage to the upper portions of the Goat House Cave track. No one was on the track at the time. The Goat House Cave track is currently closed from the Smoking Tree Ridge track intersection pending a geotechnical assessment to inform remediation options.

Mid March 2021 major flooding in Port Macquarie resulted in cancellation of Island Trader voyage B069 as a result of the impact on the Birdon facilities at Glen Ewan Road. Eastern Air Services subsequently provided additional air freight services to deliver supplies to the community and a RAAF Hercules was deployed to deliver essentials including LPG gas.

A risk register review workshop for Board staff was facilitated by the Department of Planning, Industry and Environment on 30 March 2020 with a view to transposing the Board's current Risk Register to the latest departmental template as well as reassessing risks. A revised Draft Strategic Risk Register was developed.

Since the last reporting period Board staff undertook the following training:

- Aviation Security Awareness Training
- Applying Effective Wildlife Hazard Management Practices (Aerodrome)
- Pollution (oil spill) Response

RECOMMENDATION

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

Prepared: Jemima Spivey Manager Administration

Endorsed: Peter Adams Chief Executive Officer

Attachments:

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