

Meeting	Lord Howe Island Board Meeting
Location	Community Hall, Lord Howe Island
Date/Time	Tuesday 09 May 2023, 2:30 pm – 6:00 pm Wednesday 10 May 2023, 9:00 am – 1:00 pm
Present	Atticus Fleming AM , Chairperson (AF, Chair) Therese Turner , Elected Member (TT, Deputy Chair) Gary Crombie , Elected Member (GC) Matthew Retmock , Elected Member (MR) James Lonergan , Elected Member (JL) Christine Bath , Appointed Member, Conservation (CB) (via Teams) Bruce Baird AM , Appointed Member, Business and Tourism (BB)
Board Staff Present	Suzie Christensen , Chief Executive Officer (SC, CEO) Paula Pollock , Sr. Manager Environment and Community Services (PP, MECS) Bradley Josephs , Acting Sr. Manager Infrastructure and Engineering Services (BJ, MIES)
Observer	N/A
Apologies	Debbie Johnsen , Sr. Manager Business and Corporate Services (DJ, MBCS) (via Teams)
Minutes	Chelsea Holden , Executive Assistant

On Tuesday 09th May 2023, following an in-camera discussion, the Closed Session commenced at 4:32pm and closed at 6:05pm. On Wednesday 10th May 2023, the open session commenced at 9:00am and closed at 10:41am.

Unless otherwise specified, all Board decisions were unanimous.

1 CONFLICT OF INTEREST DECLARATIONS

There was one formal declaration tabled.

Board member	Agenda item
MR	5.01

2 WH&S AND RISK MANAGEMENT

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

Closed Session



3 FINANCE AND BUSINESS MANAGEMENT

3.1 Financial Status Update

Closed Session

3.2 FY2023-2024 Budget Paper

Closed Session

4 OPERATIONS AND SERVICES

4.1 Update on Deed of Variation with Birdon

Closed Session

4.2 Long Term Marine Strategy Verbal

Closed Session

4.3 Current Status of Roads Project and future construction

Closed Session

5 LEASING AND LAND ADMINISTRATION

5.1 Application to suspend condition of residence – PL1990.01 – Suzy Gillet

Closed Session

5.2 Application to suspend condition of residence – PL2016.07 – Daggar Christine

Closed Session

5.3 Plan and Timeline for Dwelling Allocation Ballot Process 2023

Closed Session

6 POLICY AND STRATEGY

6.1 Resourcing to Implement the Efficiency and Effectiveness Review

Closed Session

6.2 Health Services (Verbal Update)

Closed Session

BUSINESS ARISING FROM PREVIOUS MEETING

Closed session recommenced on 10th May at 8:30am.

Open session commenced 9:00am

The Chair welcomed the community members to the room and a sound check for hearing was done.

7 MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION

It was moved GC, seconded by TT and the Board:

Endorsed the February 2023 board meeting minutes and noted the information provided in the report.

8 OUT OF SESSION MATTERS – STATUS REPORT

The Board noted the information provided in the report.

9 ACTIONS FROM PREVIOUS MEETING – STATUS REPORT

An overview of outstanding actions was provided, and advice that several actions have been progressed.

The status of Camphor laurel trees have informally been investigated and they have either been cut up or are rotten. It was agreed to formalise the investigation and close it off in next meeting.

Mobile phone microcell matter has not progressed any further, pending development of an options paper, and community consultation. Funding has been received for these and additional infrastructure, should that be required / desired. Administration staff are in the process of developing a scope, to put it out to tender and procure.

CEO advised that Telstra, via Downer, is looking for an answer from the Board in relation to owner's consent as they are under pressure to finalise this project. It is one of the final black spot projects and the funding could get pulled if a decision is not made and this threat or opportunity could be gone. Telstra will not hold it forever.

The Board noted the information provided in the report.

The three matters that community members highlighted with the Board are being addressed.

It was agreed that:

1) The Board thanks the community, the tourism representatives, The Lord Howe Island Board staff, National Parks and Wildlife staff and other contributors for their significant efforts to date in response to Myrtle Rust. The Board acknowledges the lessons learned in implementing the response and asks the Lhib Administration to prepare a plan with clear decision points and actions to apply in any future Myrtle Rust Incursions. The plan should address issues relating to notification and consultation with the community and tourism business, noting the need to act decisively to avoid significant economic and ecological consequences.

2) The Chair, on behalf of the Board will request written advice from DPE Legal and Governance in relation to two Lhib staff flying on an NPWS aircraft. The next step will be determined based on advice received.

The Board should consider this advice for scenarios in the future. The Board can then respond based on the points addressed in the legal advice. TT asked if the community member that raised the issue can be advised. The chair will respond to the community member with the minutes.

It was agreed that these decisions would be included in the open minutes.

3) Health Related issues:

a) The Board requested advice on the contractual relationship with Health for the services on the island, including whether there is any contractual relationship with The Board and the health services or whether there is any contractual relationship with the Board in relation to the premises.

The Board is seeking to understand the relationship between the administration and provision of the health services.

b) The Board asked for a letter to be drafted from Minister Penny Sharpe to the NSW Minister for Health asking for an improvement in the health services, including dental services.

10 CHIEF EXECUTIVE OFFICER'S REPORT

The CEO highlighted key points from the report.

The Chair asked the audience if there are any questions. TT asked if replaced vehicles, old pontoon, old seawall geofab and various rubbish can be removed off the island and be addressed.

BB asked what will happen with the Met houses? CEO answered - currently the Board rents them and houses LHIB staff in them and that will not change in the short term.

From the audience, Rodney Thompson asked if the special leasing matters addressed in December would be renewed. CEO confirmed that the matter discussed in December was permissive occupancies associated with deceased estates, not special leases.

With respect to the biosecurity compliance attachment, the Chair noted the benefits of the ecology on the island that continue to be observed as a result of the overall eradication and control of all feral cats, goats and rats. Noting that the recommendations for monitoring and surveillance have been followed and there was only one item that was partially compliant. MECS advised the partially compliant one was some of the inspections were done on 14th day instead of 7th day and that she was very confident that they are compliant and that there is not any increased the risk.

The Chair advised the Board would like to see an overarching plan be determined in relation to biodiversity monitoring and research. Individual agencies want to study and use the island as a site for external monitoring and research and this should be driven by what the Board and community wants. MECS noted that a plan is underway and a draft will come to the board when it is ready.

The Board noted the information provided in the CEO report.

11 FINANCE UPDATE

A verbal update was provided regarding the financial position of the Lord Howe Island Board as at end of April 2023

The Chair advised the results of this year and the planning for next year were discussed in closed session and summarised that the results this year are tracking okay as LHIB have underspent in a number of areas. There is still a challenge in terms of long-term financial sustainability.

The CEO confirmed that as at end March 2023, LHIB is 6.9 million dollars favourable to the budget because of underspend in labour and in capital, and additional funding that has come in. It is not a cash position, and it reflects that the capacity to get work done and deliver projects and services continues to be a risk due to recruitment and procurement challenges. However, financially it is better than being in deficit. The intention for the surplus is to carry forward with the permission of funders in the following financial year.

The Board noted the financial summary.

12 DEVELOPMENT APPLICATIONS

12.1 Owner Consent Approved Under Delegated Authority Status Report

The Board noted the information provided in the report.

12.2 Development Applications Approved Under Delegated Authority Status Report

The Board noted the information provided in the report.

12.3 Assessment Report – OC2022.08 and DA2022.7.1

MECS presented the development application and previous history. The development was fully conditioned but there are two proposed amendments to the conditions.

Discussion involved to the proposed amendments to allow the additional 85m GFA site coverage provided in the amended assessment report, discrepancy in the interpretation, precedent, compliance with legislation and a desire to find a pathway forward to assist the applicant.

It was moved by TT and seconded by GC and the Board:



1. **Approved** DA2022.07 for a Proposed Tourist Accommodation incorporating alterations/ additions and conversion of existing dwelling as a 4x bedroom guest house, construction of new transit lounge/new laundry and storage shed and construction of a replacement dwelling and new wastewater system on Lot 1 DP 1279044, No. 1 Ocean View Drive, Lord Howe Island, subject to the application of the conditions listed in the assessment report.

2. **Approve that the Board recommends to the Minister** that OC2022.08 for Proposed Tourist Accommodation incorporating alterations/ additions and conversion of existing dwelling as a 4x bedroom guest house, construction of new transit lounge/new laundry and storage shed and construction of a replacement dwelling and new wastewater system on Lot 1 DP 1279044, No. 1 Ocean View Drive, Lord Howe Island be approved.

Action: The Board Administration will apply to Department of Planning and query the clause that enables variation to development standards seeking flexibility to amend clause 4 of the LEP and advise applicant outcome. The applicant may then be able to proceed through modified development consent. Legal advice will be sought if required to confirm whether there is a pathway under the current LEP. The Administration will also engage consultants, develop a plan and timetable for conducting the LEP review to be presented to the Board at next meeting in August.

12.4 Assessment Report – OC2023.1.1 and DA2023.1.1

MECS gave an overview of the paper. MR confirmed this is standard procedure and no decision about the development application is being made.

It was noted that matters of this nature should generally not be handled in out of session but given the circumstances agrees it is appropriate.

It was moved by MR and seconded by JL and the Board,

Approved an out of session determination for the development application DA2023.1.1.

13 POLICY AND STRATEGY

13.1 Motor Vehicle Importation or Transfer Status Report

The CEO presented the paper and brought to the Board's attention another out of session matter relating to a vehicle import will be brought to them in the near future because there is an outside of policy decision required related to a pending application.

The Board noted the information provided in the report.

14 LEASING AND LAND ADMINISTRATION

14.1 Status of public accommodation licence transfer applications

The Board noted the information provided in the report.

14.2 Request for approval for Fletcher Owens at Lorhiti to operate two public accommodation licences for Jessica Owens

The Board reiterated the importance of enforcing the decommissioning provisions,

It was moved by JL, and seconded by GC and the Board

Approved the use of the two public accommodation licences in the name of Jessica Owens to operate from Unit 1 at Lorhiti Apartments until construction of Jessica Owens' own tourist accommodation apartment on PL1954.37 is complete on 1 February 2024. At this time, Unit 1, Lorhiti Apartments will be decommissioned

immediately in accordance with development application DA2021.3.1 approved on 06/07/2021 and MDC2021.3.2 approved 16/12/2021.

Action: The Board asks the Administration to ensure compliance with the provisions including decommissioning of units by scheduled date, and to take action as appropriate including warnings and fines and in the event of non-compliance.

14.3 Handley Review – Review of Compliance with Residency Condition of Perpetual Leases

Discussion was had regarding the importance of this item and feedback from the community and outside of community has come in. Outstanding items should be taken to the next step and if there are new compliance issues they should be added to the list.

It was moved by CB and seconded by BB and The Board,

Noted: that a review has been undertaken.

Endorsed: the plan provided to resolve each outstanding matter.

14.4 Cattle on SL2011.01

The CEO gave an overview of the paper. The Board discussed the specific cattle grid, fencing options, liability of wandering stock, tourist accessing the beach via the cattle grazing area, tourists colliding with the cows on bicycles at night, cyclists having accidents from the grids, the landowners' responsibility to contain animals and the financial impacts of the options.

It was noted the grid is on a public road for which LHIB is responsible and is existing infrastructure.

It was agreed that:

- A new grid will be installed by the LHIB
- A cost sharing arrangement should be entered into with the owner of the cattle.
- Appropriate cattle signage to be installed on the road.
- Negotiations around the renewal of the special lease will be entered into in good faith.
- The public safety of stock on the road will be assessed separately on a whole of island basis.

GC moved and JL seconded and the Board:

Note The Lord Howe Island Board has investigated the various issues related to this matter.

Approved the Administration will install a new cattle grid on Lagoon Road at its intersection with SL2011.01 subject to a cost sharing agreement between Lord Howe Island Board and Esven Fenton.

Action: The matter of Public Risk of wandering stock will be addressed in the Risk Assessment.

15 BUSINESS ARISING FROM PREVIOUS MEETING

Nil

16 GENERAL BUSINESS AND QUESTIONS ON NOTICE

Esven Fenton from audience asked if his special lease is threatened for non-renewal come end of term December 2023. The Board confirmed that they support his wish to install a new cattle grid on a cost share arrangement, and the cost share terms will be made by the Administration in good faith, and there is no threat to his special lease in the future.

Sally Montgomery from the audience, expressed hope for research optics to remain open for free research and thanked the Board for the opportunity to conduct research on Lord Howe Island. CEO thanked Sally for her time doing approved research.

The Chair thanked the Board staff for getting ready for the meetings and the quality of the papers and advice is progressing from where it was years ago. The executives are doing their best to be responsive to the community. It may be worth getting the resolutions out to the community by a podcast or another way as the crowd is small and the information can disseminate in other ways.

Meeting closed 10:51

17 NEXT MEETING

Tuesday 22 August 2023 – Closed Session

Wednesday 23 August 2023 – Open Session