

Agenda

Lord Howe Island Board



Lord Howe
ISLAND BOARD

Meeting Board Meeting March 2024

Location	Lord Howe Island Community Hall
Date/Time	Tuesday 19 th March December 3.30pm – Closed Session Wednesday 20 th March 9:00am to 10:30am – Open Session
Chairperson	Atticus Fleming AM , A/Coordinator General, DPE Bruce Baird AM , Appointed Member (Tourism) Chris Bath , Appointed Member (Conservation)
Board Members	James Lonergan , Elected Member Matthew Retmock , Elected Member Therese Turner , Elected Member
Invitees	Robert Jeremy , Elected Member, awaiting formal appointment Suzie Christensen , Chief Executive Officer
Attendees	Michael Chalmers , Senior Manager, Business and Corporate Services Bradley Josephs , Acting Senior Manager, Infrastructure and Engineering Services Paula Pollock , Senior Manager, Environment and Community Services
Observer	Michael Vader , A/ Executive Director Business Delivery NPWS
Minutes	Chelsea Holden , Executive Assistant

Tuesday 19th March Agenda Items – Closed Session

3:30pm	In-Camera Session		Board members only
4:30pm	1. CONFLICT OF INTEREST DECLARATIONS		Presenter: A Fleming
	2. WH&S AND RISK MANAGEMENT		
	2.1. WH&S and Risk Management Update	Note	Preparer: J Spivey
	Attachment A: CAMMS Incident Summary Report – 01/11/2023 to 01/03/2024		Presenter: S Christensen
	3. OPERATIONS AND SERVICES		
	3.1. Critical Infrastructure Project Update	Note	Presenter: M Vader/ S. Christensen Preparer: S Christensen/ M Vader
	3.2 LHIB / DECCEEW Memorandum of Understanding (MOU) Critical Infrastructure – updated	Decide	Presenter: M Vader Preparer: O. Senese
	Attachment A: Updated Memorandum of Understanding with Environment and Heritage Group – Critical Infrastructure Program		
	4. FINANCE AND BUSINESS MANAGEMENT		
	4.1. Financial Status Update	Note	Preparer: M Chalmers
	Attachment A: Financial Report 31 December 2023		Presenter: M Chalmers
	4.2 IT & Cybersecurity as at March 2024	Note	Preparer: M Chalmers
	Attachment A: Audit Office Engagement Closing Rep		Presenter: M Chalmers



Meeting

Board Meeting March 2024

5. LEASING AND LAND ADMINISTRATION

- 5.1.** Application to Suspend Condition of Residency on PL1954.18 - Michael Maxwell Decide Preparer: P Pollock
Presenter: P Pollock
- 5.2. Attachment A:** Attachment A: Policy - Suspension of Condition of Residency on Perpetual Leases
- Attachment B:** Background – Condition of Residency on Perpetual Leases
- Attachment C:** Form 1 – PL1954.18 – Application to Suspend Residency on Perpetual Lease
- Attachment D:** Medical Support Document
- Attachment E:** File Note
- 5.3.** Application to suspend condition of residency on PL1976.04 - Sandra Beaumont Decide Preparer: P Pollock
Presenter: P Pollock
- Attachment A:** Form 1 - Application to suspend condition of residency and support document - PL1976.04
- Attachment B:** Policy - Suspension of Condition of Residency on Perpetual Leases
- Attachment C:** Background - Condition of Residence and Handley
- 5.4.** Application to suspend condition of residency on PL1996.01 - Christopher Wade and Rosalind Wade Decide Preparer: P Pollock
Presenter: P Pollock
- Attachment A:** Form 1 - Application to suspend condition of residency and support documents - PL1996.01
- Attachment B:** Policy - Suspension of Condition of Residency on Perpetual Leases
- Attachment C:** Approved and Refused Suspension of Lease 2017 – September 2023
- Attachment D:** Information Sheet 5 – Perpetual Leases on Lord Howe Island
- Attachment E:** Response to request to Show Cause – PL1996.01 – Wade Christopher – 22 February 2024
- Attachment F:** Email – 12 March 2024
- 5.5.** Building Certification Issues Note Preparer: Myall Stevens
Presenter: P Pollock

Agenda

Lord Howe Island Board



Lord Howe
ISLAND BOARD

Meeting Board Meeting March 2024

6:30pm Closed session concludes

7:00pm Dinner at Anchorage

Wednesday 20th March Agenda Items – Open Session

9:00am 6. MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION

Attachment A: Board Meeting Minutes December 2023 - Closed

7. STATUS AND COMPLIANCE REPORTING

7.1 Compliance and Status Report

Note

Preparer: C Holden

- Out of session matters
- Biosecurity Update
- Owners Consent and Development Applications approved under delegated authority
- Motor vehicle importation or transfer status
- Feedback and Complaints

Presenter: S Christensen

Attachment A: Attachment A - Quarterly Public Accommodation Transfer Applications - **CLOSED**

7.2 Actions from Previous Meeting

Note

Preparer: C Holden

Attachment A: Action sheet from previous Board meetings - **CLOSED**

Presenter: S Christensen

8. CHIEF EXECUTIVE OFFICER'S REPORT

Note

Preparer: S Christensen

Attachment A: Infrastructure & Engineering Services

Presenter: S Christensen

Attachment B: Environment & Community Services

Attachment C: Projects

9. FINANCE AND BUSINESS MANAGEMENT

9.1. Financial Status Update - Verbal

Note

Presenter: M Chalmers

Preparer: M Chalmers

10. POLICY AND STRATEGY

10.1. Adoption of Vehicle Importation, Transfer and Use Policy (Post-public Notice)

Decide

Preparer: L Shick

Presenter: S Christensen

Attachment A: Policy – Draft – Vehicle Importation, Transfer and Use – Reviewed December 2023

10.2. Draft Dog Importation Policy – for Public Display

Decide

Preparer: C Venables

Attachment A: Draft Dog Importation and Management Policy - Revised

Presenter: P Pollock

Attachment B: Dog Importation and Management Policy Feedback and Justification

10.3. Community Strategic Plan Update

Note

Preparer: D Matassoni

Presenter: S Christensen



Meeting Board Meeting March 2024			
10.4.	State Environmental Planning Policy Attachment A: NSW Government made the State Environmental Planning Policy Amendment (Lord Howe Island) 2024 Attachment B: Guideline adopted by the Board	Note	Preparer: P Pollock Presenter: P Pollock
11. DEVELOPMENT APPLICATIONS			
11.1.	Development Contributions Plan	Note	Preparer: Myall Stevens Presenter: P Pollock
11.2.	MDC2022.7.2 - Application to modify development consent – Request for approval to assess and determine the application out of session - Chad Wilson	Decide	Preparer: P Pollock Presenter: P Pollock
11.3.	MDC2021.4.2 – Application to modify development consent – Gin Distillery - Anthony Riddle Attachment A: Assessment Report – MDC2021.4.2 – Gin Distillery – Anthony Riddle	Decide	Preparer: P Pollock Presenter: P Pollock
11.4.	Extension of Crooked Post Development Consent Attachment A: Development consent DA2019.05 Attachment B: Modification of development consent MDC2019.5.2 Attachment C: Business Paper 2023 and attachments	Decide	Preparer: P Pollock Presenter: P Pollock
12. LEASING AND LAND ADMINISTRATION			
12.1.	Creation of an easement in gross over Portion 109 - Bradley Wilson	Decide	Preparer: P Pollock Presenter: P Pollock
12.2.	Cancellation of Permissive Occupancy – PO2007.02 - Estate of John Francis Green	Note	Preparer: P Pollock Presenter: P Pollock
12.3.	Application for consent to transfer PL1975.08 by way of gift from Marie Thompson to Janine Phillipps and Peter Phillipps	Decide	Preparer: P Pollock Presenter: P Pollock
12.4.	Request for Fletcher Owens at Lorhiti to operate two public accommodation licences for Jessica Owens	Decide	Preparer: P Pollock Presenter: P Pollock
12.5.	Risk Assessment – The Lord Howe Island Radio Station Attachment A: Risk Analysis Attachment B: Timeline of Complaints and Financial	Decide	Preparer: P Pollock Presenter: P Pollock
12.6.	Request for out of session consideration for future consent to transfer PL1976.04 Sandra Beaumont to Mackenzie Beaumont	Decide	Preparer: C Holden Presenter: S Christensen
13. BUSINESS ARISING FROM PREVIOUS MEETING			
14. GENERAL BUSINESS AND QUESTIONS ON NOTICE			

Agenda

Lord Howe Island Board



Meeting

Board Meeting March 2024

10:30am Morning tea for the Board and Community will be provided during a break at approximately 10:30, reflecting agenda progress.

12:00pm **Open Session Concludes**

12:00pm **Meeting** – Destination North Coast Board and CEO Michael
– Thurston

1:00PM

1:00pm **MEETING CLOSED**

NEXT MEETING: 21 & 22 May 2024

Board Meeting: March 2024	Agenda Number: 06.00	Record Number: ED24/1574
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Adoption of minutes of previous meeting.

Recommendations

1. **Endorse** the December 2023 Board meeting minutes.

Current position

Process for Distribution of Board Meeting Minutes

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

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

Endorsement of Board Meeting Minutes

Minutes of the September 2023 and October 2023 meeting were distributed to each Board member and were endorsed as per the above process.

A copy of the amended draft minutes is attached.

Attachments

Attachment	Title
A	Board Meeting Minutes – December 2023 – CLOSED

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Chelsea Holden	Executive Assistant

Board Meeting: March 2024	Agenda Number: 07.01	Record Number: ED24/1548
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Status and Compliance Reporting

Recommendations

1. **Note** the information contained in the Status Report for out of session matters, biosecurity update, owners consent and development applications approved under delegated authority, motor vehicle importation or transfer status, feedback and complaints.

Current position

At the December 2023 meeting the Board adopted to receive routine compliance reporting and information as one consolidated report. The following matters are included:

1.1 Out of Session Matters - Open	2
1.2 Out of Session Matters – Closed	2
2.1 Biosecurity Update	3
3.1 Owners consent approved under delegated authority	5
4.1 Development Applications approved under delegated authority	6
5.1 Motor vehicle importation or transfer status.....	7
6.1 Public accommodation licence transfer applications.....	9
7.1 Review of compliance with residency condition of perpetual leases and feedback complaints.....	11
7.2 Feedback and Complaints	12

1.1 Out of Session Matters - Open

No.	Date	Application	Vote	Comment
December 2023				
Nil				
January 2024				
1	03/01/2024	Noted the proposed actions at next steps and the legal advices provided by Governance and Legal, Department of Planning and Environment for repairs to the Lulawai and provision for boat maintenance	<ul style="list-style-type: none"> Unanimous 	Via Teams
2	10/01/2024	Approved The Lord Howe Island Board agrees to request that a State Environmental Planning Policy (SEPP) be made as soon as possible to remove the requirement in the Local Environment Plan (LEP) for development consent for boat maintenance and repair works in designated areas of the foreshore. Noted the timeline prepared by the Department of Planning, Housing and Infrastructure for the development and gazettal of an amending State Environmental Planning Policy (SEPP)	<ul style="list-style-type: none"> Unanimous 	Via Teams
February 2024				
Nil				

1.2 Out of Session Matters – Closed

Nil

2.1 Biosecurity Update

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

1. Rodent Report

Most recent confirmed rodent sign 12 August 2021.

Rat on a Rodent (ROAR) Notifications

Months	Reports	Evidence Collection	Investigations	Outcome
1 December 2023 – 1 March 2024	3	3	3	No evidence of rodent.

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

Aircraft and Vessels (other than the Island Trader) Report

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

Period	Aircraft			Vessels	
	Qantas	Private	Eastern	Private	Commercial
1 December 2023 – 1 March 2024	204	17	226	18	0
% Met	100%	100%	100%	100%	

Island Trader Report

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

Period	PMQ Inspections	LHI Inspections
1 Dec 2023 – 1 March 2024	7	7
% Met	100%	100%

Inspections at the PMQ Birdon site include inside and outside cargo storage areas and surrounds. The Island Trader is inspected both inside and outside the hold. A range of biosecurity risk materials continue to be identified and treated at PMQ. The ongoing identification of biosecurity risk material at this site demonstrates a high risk and substantiates the efforts working with Birdon to attempt to reduce the risk of pest incursion on LHI.

Inspections on arrival at LHI are conducted on the jetty and surrounding cargo storage areas. Due to the high standard of inspections at PMQ by contracted operators Tate Animals, limited biosecurity risk materials were detected on arrival.

2. Biosecurity monitoring

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

The camera array and static monitoring components have been fully active over the reporting period. The static monitoring network consists of two distinct networks of passive monitoring devices. The first network located around the Jetty and Airport is monitored on a weekly basis, whilst a second more geographically spread monitoring network is checked monthly. Dog searches have been occurring on a 12-weekly cycle for all settlement blocks and 6-weekly cycle for unoccupied Crown settlement blocks. Contract dog teams continue to be used for full settlement searches or as required.

Device	Number of devices	Check frequency target	Status	Comments – Including Actual checks completed or status
Camera array	161	Monthly	Met	Images analysed by eVorta AI software (and human) <ul style="list-style-type: none"> • December: • January: 93,781 • February: 121,819 No rodents seen.
Static monitoring devices (kill traps, wax tags, bait stations, chew cards, tracking tunnels)	253	Monthly	Met	Completed.
Airport and Jetty static monitoring devices (kill traps, wax tags, bait stations, chew cards, tracking tunnels)	83	Weekly	Partially Met	Every 7 - 10 days. Jetty rounds complete on average every 7 days, Airport complete on average every 9 days.
Dog searches	Full sweep of the settlement	Twelve-weekly	Met. 314 Settlement Blocks Checked.	Search Rounds completed as follows: <ul style="list-style-type: none"> • January 4-23 • Next round is scheduled to start April 1st
Dog searches	Settlement Crown Block Search	Twelve-weekly	Met 72 Crown Settlement Blocks Checked.	Search Rounds completed as follows: <ul style="list-style-type: none"> • January 4-23 • Currently being undertaken

Table 1: Rodent biosecurity monitoring effort: 1 August – 16 November 2023

3.1 Owners consent approved under delegated authority

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

1. The development value is not more than \$2 million
2. The proposal does not relate to the subdivision of land or the creation of a new residential dwelling, and
3. The proposal complies with any planning instrument in force relating to the Island.

No Owner Consent applications determined by the CEO since the December 2023 Board Meeting.

4.1 Development Applications approved under delegated authority

The Minister for the Environment, under section 80(1) of the *Environmental Planning & Assessment Act 1979*, issued authority to the CEO to determine development applications providing:

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

No development applications determined by the CEO since the December 2023 Board Meeting.

5.1 Motor vehicle importation or transfer status

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

The table below shows the vehicle applications determined since the December 2023 Board meeting.

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation to Applicant	Comment
Jill Hisco	Suzuki Ignis	N	Private	0	Approved 23/11/2023 - Replacement
Thomas Wilson	Toyota Prius	N	Private	1	Approved 30/11/2023 – transfer from Terrance Wilson
Michael Nobbs	Caterpillar FEL/Backhoe	N	Private	1	Approved 30/11/2023 – Transfer from LHIB
Pia Funch & Jeremie Drezet	Subaru Forester	N	Private	-1	Approval dated 09/11/2023 – WITHDRAWN by applicant 04/12/2023
Pia Funch & Jeremie Drezet	Suzuki Grand Vitara	N	Private	1	Approved 07/12/2023 – Transfer from Ed Rourke
Tasman Thompson Shick	Boat Trailer	N	Private	1	Approved Dec 2023 Board Meeting under Exceptional Circumstance – Transfer from Suzie Christensen
Tasman Thompson Shick	Toyota Hilux Ute	N	Private	0	Approved Dec 2023 Board Meeting under exceptional circumstance – Transferr from Josh Owens - Replacement
Bradley Wilson	Box Trailer	N	Commercial	1	Approved 28/12/2023 - Temporary Approval to 01/04/2024 – Repairs to Lulawai
Ron Matthews	Daihatsu Terios	N	Commercial	0	Approved 19/01/2024 – Replacement – Transferred from Jill Hiscox
Ian Fitzgerald	Toyota Town00A Van	N	Private	1	Approved 23/01/2024 – Transferred from Ron Matthews
Marie Thompson	Suzuki Ignis	N	Private	0	Approved 23/01/2024 - Replacement

Applicant	Vehicle Type	Preferred Vehicle	Use	Variation to Applicant	Comment
Capella Lodge	Toyota Kluger Station Wagon	N	Commercial	0	Approved 01/02/2024 – Temporary Replacement while Toyota Granvia is off island under repairs
Rod Oxley & Lisa Makiiti – Bowker Beach House	Nissan E-NV200 Wagon	Y	Commercial	0	Approved 20/02/2024 - Replacement
Sally Brooks, The Salle Aesthetic	Toyota Tarago	N	Commercial	1	Approved 15/02/2024 – Transferred from Bowker Beach House
Ben Ohlback, Bennys Fish Truck	Mitsubishi Triton Ute	N	Commercial	1	Approved 23/02/2024
Denise Tokailagi	Toyota Yaris	N	Private	0	Approved 27/02/2024 – Transferred from Kellie Ellis

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

As at 06 March 2024

Registered Road Vehicles						
Essential	Commercial	Private	Hire	Plant & Equipment	Imported without approval	Total
32	126	184	8	23	57	430

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

Registered Road Vehicles						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
192	34	35	17	41	111	430

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 57 vehicles imported without approval prior to the current policy:

- 49 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 imported without approval in 2020 (unclear if this is for hire purposes).
- 2 vehicle, a mobility scooters imported without approval in 2023 (unclear if these are for hire purposes)
- 5 vehicles have been replaced and are awaiting removal.

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

Vehicles Imported Without Approval – By Type						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
4	0	7	5	6	35	57

Compliance Audit

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

There is a total of 38 vehicles awaiting removal:-

- 36 vehicles - The replacements have been imported, however, the condition to remove the replaced vehicle has not been adhered to by the applicant.
- 2 vehicles – temporary importations which have a time limit for removal.

Vehicles due for removal – By Type						
Car/Utility	Bus	Motorcycle / Scooter	Truck	Plant & Equipment	Trailers	Total
15	0	9	3	4	7	38

A number of other compliance issues were identified:-

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

The Board has eight (7) vehicles due for removal which are Included in the above total, being three (3) truck, three (3) plant & equipment and one (1) trailer.

A plan is in development for the Board vehicles highlighted for removal and once the actioning of that plan has commenced:-

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

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

6.1 Public accommodation licence transfer applications

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

Attachment A: Report – Quarterly – Status of Public Accommodation Transfer Applications

7.1 Review of compliance with residency condition of perpetual leases and feedback complaints

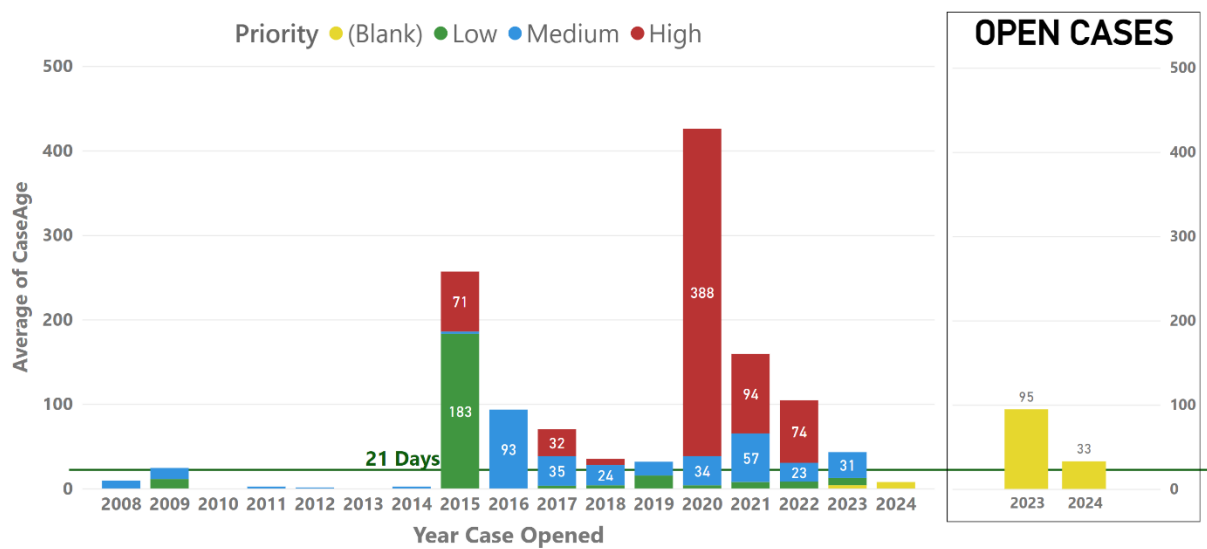
Bi-annual update. Update to be provided during May 2024 meeting.

Resolution and Response Time

The graph below shows the average number of days a case is open (per year) based on case priority. The line at 21 days shows the timeframe the current policy outlines for complaints to be responded to.

The graph shows a decline in the average time to close high priority complaints. In 2023, the average time to close high-priority cases dropped to 0 days. However, with more in complaints in 2023 (40 complaints), the average response time has increased. This is particularly notable for cases remaining open since 2023.

Response Times



Conclusion

While historical data could be interpreted in various ways based on influencing factors such as data capture, reporting processes and current events, the current data trends suggest a positive shift. There has been a general increase in overall complaints, accompanied by an increase in response rate, signifying a proactive approach to recording and addressing concerns.

Attachments

Attachment	Title
A	Status of Public accommodation Licences transfers - Closed

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Lynda Shick	Land & Property Officer
Sophie Powell	GIS Officer
Paula Pollock	Senior Manager Environment and Community Services
Chelsea Holden	Executive Assistant

Board Meeting: December 2023	Agenda Number: 08.00	Record Number: ED23/8512
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Actions from previous meeting – status report

Recommendations

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

Current position

As a matter of process and procedure, a list of actions is prepared after each Board meeting to ensure that the Board's resolutions are systematically carried out by staff. Those actions reported as complete are deleted from the Action List at the subsequent Board meeting. 51 actions were completed since December, 7 are in progress and 5 are yet to commence or are on hold pending PaTH / My Workzone implementation.

A list of actions from decisions of the September 2023 Board meeting, and previous meetings, is attached for the Board's information.

Attachments

Attachment	Title
A	Action sheet from previous Board meetings – CLOSED

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Chelsea Holden	Executive Assistant

Board Meeting: March 2024	Agenda Number: 08.00	Record Number: ED24/1563
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Chief Executive Officer's report 23/11/2023 – 12/03/2024

Recommendations

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

Current position

The following briefing provides an overview of highlights, risks, and opportunities during the reporting period. Attachments A, B and C provide more detail from each operational unit.

Key Change / Issues

- Election of Island Board members was held Thursday 15th February. Congratulations to returning members Therese, James and Matthew, and welcome Robert. Briefing notes have been submitted to the Minister who will appoint 4 Island members for a three-year term following cabinet endorsement on the 25th March.
- LHIB is now within the Department of Climate Change, Energy, the Environment and Water. Machinery of Government (MOG) changes remain fluid and are being progressed, however LHIB has been advised that it will be included in the DCCEEW PaTH transition and corporate services model. Costs have not yet been identified. This transition should resolve long standing cybersecurity risks identified by the Committee (See item 4.02).
- The procurement for Program Management Services for upgrades to critical infrastructure is in the final stages. NPWS will manage the program management team and deliver an upgraded waste management facility, marine freight service and improved biosecurity facilities for the Lord Howe Island Board. INSW facilitated the first assurance review for the projects, and recommendations received will be implemented by the project team.
- The license for the Waste Management Facility has been updated by EPA and now requires submission of a DA by the end of August 2024. This timeframe has been advised to the program management team to ensure the project schedule reflects the requirement. Site preparation including clean-up and remediation has commenced (see item 3.1 and MIES report at attachment A).
- Transport for NSW has commenced planning for renewal of the LHI – Sydney Regular Public Transport (RPT) route. LHI's interests are being represented by NPWS, and the

long-term needs advocated for by DCCEEW Secretary Anthony Lean. This representation is a critical and welcome mitigation to a very high-risk matter for the Island.

- Other projects recommended by the E&E review are on track. Consultation workshops were held the week of the 12-15 Feb regarding the Community Strategic Plan (see item 10.03), and the supporting documents developed to inform the LEP review have been scoped. Workforce planning continues.
- The spot amendment State Environment Planning Policy (SEPP) was been fast-tracked to allow for an historical boat repair and maintenance activity that has been identified as not permissible under the LHI LEP. The SEPP was gazetted on the 16th February (see 11.1). Short term storage and repair and maintenance work consistent with the approved guidelines has been approved for two larger vessels.
- Additional funding has been secured for the Island's Weed Eradication and Threatened Species work, which will see the programs adequately resourced for the next three years (see Attachment B MECS report). Unfortunately, a second Helicopter support operation planned for February had to be postponed due to staffing challenges.
- A serious injury occurred in late December with a tree falling on a staff member. The matter was investigated and determined to have been an unavoidable accident, SafeWork will attend the Island later in the year. The worker has recovered and is back on Island, though not back at work yet.
- Recruitment and staffing continue to be challenging, mainly due to the lack of accommodation on the Island which means that the local workforce pool is very quickly exhausted.
- Despite the above, general operations across the business are running smoothly.

Attachments

Attachment	Title
A	IES report
B	ECS report
C	Projects

Approval and contact

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

CEO BOARD REPORT

INFRASTRUCTURE AND ENGINEERING SERVICES

OPEN SESSION

Item

Core Service Streams

1. Aerodrome Operations
2. WMF Operations
3. Electricity Generation and Distribution Operations
4. IES public operations and assets

Major Projects, Major Maintenance Items and Procurements

5. Jetty Maintenance
6. Roads Project

Summary of Activities and Issues

1. Aerodrome Operations

Asset maintenance and operations have proceeded smoothly during this period, thanks to proactive maintenance efforts at the site, which have prevented any major interruptions. Commercial operators have been able to utilize the airstrip without experiencing any disruptions in availability.

An annual technical inspection has been scheduled, with the surveyor set to arrive on the island on May 2nd.

This year marks the 50th anniversary of the Lord Howe Island runway. Discussions have begun both internally and externally on celebrating this significant milestone.

2. WMF Operations

During this reporting period, maintenance and operations of assets have remained consistent, with a total of 140 tonnes transported off the island. Approximately 55% of this waste has been diverted from landfill, indicating a significant positive environmental impact.

On March 7th, the Environmental Protection Agency (EPA) finalized the new version of the operating license. As a result, five new Pollution Reduction Programs (PRPs) have been added to the license:

- New PRP U1: Implementation of Phase 1 Site Remediation
- New PRP U2: Interim grease trap waste management procedure for site remediation
- New PRP U3: Submission of Development Application (DA) for Waste Management Facility Redevelopment
- New PRP U4: Detailed design and costing for Waste Management Facility Redevelopment
- New PRP U5: Wastewater Treatment System Design Report

These PRPs have been specifically tailored to align with the critical infrastructure program, facilitating compliance operations during the rebuild.

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Operations have proceeded smoothly during this period, with repair works scheduled for March to address a collapsed bearing within the HotRot system.

3. Electricity Generation and Distribution Operations

The total energy demand for this reporting period was 791200kWh with diesel generation totalling 188700kWh and solar generation totalling 644500kWh (approx. 81% solar). Fuel consumption for the reporting period was 48200 litres which is a difference of 8400 litres for the same reporting period last year. Fuel energy efficiency for the reporting period was 16.4 kWh/L.

There are currently 297 customers connected to the electrical supply system. There were no unplanned customer supply interruptions to the distribution system during the period.

The replacement of the coolant header tank on engine No.3 was completed due to a tank leak. A representative from PENSKE Power Systems visited the Powerhouse to fault find mechanical problems associated with Engine No.3.

The back-up Generator which is stored at the Powerhouse for Engine replacements was sent back to PENSKE for a full engine rebuild.

Powerhouse staff are pleased to report that up to the current reporting period there has been no Island wide loss of supply due to generation plant failure on either the hybrid solar system or diesel generator system for a total of 35 months.

4. IES operations

Ongoing maintenance and operational efforts continue to have a significant contribution across the entire island, particularly with the increased utilization of BBQ facilities and the need for additional mowing during December and early January. Staff worked extra hours over the summer to maintain public facilities.

A Plant Officer has been officially onboarded for the Board and is currently implementing the fleet management plan to address specific Board assets. First Aid refresher courses for Field staff have been completed, ensuring their preparedness for emergencies.

Additionally, collaborative internal relations have continued, fostering a cohesive working environment that facilitates effective communication and cooperation among team members.

5. Jetty Maintenance

Polaris Marine Construction (PMC) has initiated the maintenance works on the jetty, replacing badly rotted curbs and decking, and commencing full pile rewrapping. Initial pile density readings indicate minimal damage despite exposure to the elements since construction, with positive metal density readings.

However, project implementation has a number of issues that could not be known until works commenced, that require resolution:

1. Challenges in replacing rubber fenders due to hidden placement of bolts. Two options were considered: removing the timber fender for drilling and bolt installation or attempting to remove the block between the rubber fender and wharf girder, which presents difficulties and material replacement issues. Concerns also arise regarding the timber fender system's condition and the complexity of reinstallation due to the poor condition of steel piles and uncertainties about pile conditions.
2. Dry rot is widespread in timber members, potentially affecting up to 50% of them, necessitating a comprehensive Wharf Structures Condition Assessment. Assessments highlight inadequacies in the fender piles and the overall system to accommodate vessels like the Island Trader, citing vessel height, coping impact, and potential seabed displacement due to vessel impact loads.

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3. A cavity under some of the road approach jetty has been identified by Polaris and an expert technical assessment is underway. The road area potentially affected has been marked out so as not to be used and plans to fill the cavity with concrete are underway but require materials.

Comprehensive condition assessments of the wharf structure are scheduled to commence by the end of March to inform the approach to both fender replacement and pile structure. Though not considered a major concern for the technicians involved, a structural safety assurance for continued use of the jetty and its approach will be sought.

6. Roads Project

Tenders for materials and shipping are currently available to the project team for review. The deadline for submission of tenders was set for the 7th of March, with anticipated approvals to be finalized by the 14th of March.

Upon awarding of the materials tender, there will be a timeframe of 4 weeks allotted for the drop-off of materials to the selected shipping tender. Based on current estimations, materials are expected to be provided to the shipping tender between the 21st of March and the 11th of April.

Subsequently, shipping tenders will have 4 weeks to deliver the materials to Lord Howe Island once they have been received at their chosen departure port. As it stands, the projected delivery timeframe for materials to reach Lord Howe Island ranges from late April to early May. These timelines are subject to adjustments as the tender process progresses and any logistical challenges are addressed.

It is intended to maximise the freight value by using the outward voyage to remove excess waste product, as required by EPA. It is important to note that logistical challenges may arise as we navigate the process of balancing both tenders simultaneously. Specifically, shipping tenders present unique challenges as each has different preferred locations for departures. To address these challenges, the materials tender has incorporated lump sum prices for each preferred location.

Attachments

Attachment	Title
Nil	

Approval and contact

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

CEO BOARD REPORT

ENVIRONMENT AND COMMUNITY SERVICES

OPEN SESSION

Item

This report is a brief summary of ECS activities and issues covering the period December 2023 to March 2024.

Core Service Streams

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

Summary of Activities and Issues

Summary of Activities and Issues

1. Biodiversity Management

Operations

Foreshore Management

A staged clean-up of the lagoon foreshore has commenced, with reference to the [LHI Lagoon Foreshore Management Plan](#) and the [Public Spaces \(Unattended Property\) Act 2021](#). The last thorough clean-up was undertaken in 2016, and since then, there has been an accumulation of watercraft, (some likely abandoned), in the dune area.

A summary of priorities is provided below:

Phase	Description	Timing (2024)
1	Boat ramp area	February/March
2	Amend foreshore management plan (recognize boat repair, maintenance and storage areas)	March/April
3	Compliance strategy and monitoring schedule	April
4	Create foreshore cleanup app	March/April
5	Address Boatshed issues (shared understanding of encroachment, permissible activities, operational areas and fees)	April
6	Dune area (clear abandoned items from the foreshore)	May-June

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There will be frequent and clear communication with the community on this process through Householders and other means.

Myrtle rust surveillance

The Lord Howe Island Myrtle Rust Response and Management Plan has been finalised and is being implemented, following detection of an isolated active myrtle rust infection earlier in November.

Comprehensive settlement searches undertaken over the spring/summer months are summarised below:

Start date	Search focus	Result
3 October	Routine spring search across the settlement, Crown land and the PPP	No sign of myrtle rust detected
2 November	Revegetation sites and nurseries that have a high proportion of myrtaceous seedlings or new growth	Two small potted mountain rose seedlings displaying typical signs of myrtle rust infection
3 November	Buffer around infection site, Crown lands and high-risk areas	No sign of myrtle rust detected
15 November	All myrtaceous species in the settlement (including surrounding crown land) checked for the presence of myrtle rust	No sign of myrtle rust detected
22 January	All myrtaceous species in the settlement (including surrounding crown land) checked for the presence of myrtle rust	No sign of myrtle rust detected

Over January 2024, 3,778 myrtaceous plants were inspected for myrtle rust. No other cases of active myrtle rust or signs of past infections have been detected since November. Regular searches for myrtle rust will continue across the Island at the end of March, and future householders will keep the community informed of results.

Hygiene protocols remain in place on the Island. Residents and visitors have been asked to continue to use the boot scrub bays at track heads and ensure that their hiking gear and clothing are sanitised either by laundering or spraying with 70% methylated spirits/bioethanol.

A hygiene station remains at the Lord Howe Island Board Administration Office (near the Liquor Store). Spray bottles at lodges across the island can be refilled at the Administration Office or at the Airport (around the plane schedule). Spray bottles have been returned to the track heads.

The After-Action Review (AAR) of the response to the myrtle rust incursion in February 2023 has been completed. Observational data from all partners, participants and the Lord Howe Island community was collated and analysed for insights and lessons learned by an experienced consultant. Outcomes and recommendations will be shared with the community via a householder.

Biodiversity Benefits Monitoring Project

The Biodiversity Benefits Monitoring Projects continue, including invertebrates, vegetation, little shearwater, food web analysis, and Placostylus surveys. LHIB has partnered with scientists in the Department of Climate Change, Energy, Environment and Water (DCCEEW) to complete the work so that we can understand how the environment is responding to the absence of rodents.

Over the last three months, DCCEEW and Australian Museum scientists visited the island to monitor snails, Little Shearwaters, vegetation, and invertebrates. Field collection for

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invertebrates is complete and samples will now be analysed. DNA samples were collected from Placostylus to get a better understanding of population health and distribution. About 1/3 of vegetation sites have now been surveyed.

Results so far are showing increases in numbers, recruitment, and/or breeding success compared to monitoring that took place before the removal of rodents from the island. Lord Howe Island Gecko monitoring is due to commence in mid-2024.

Phytophthora testing

Extensive Phytophthora testing in June 2023 discovered additional phytophthora infections across the settlement area. Since then, some additional hygiene protocols have been put in place (including the closure of the Little Island track for emergency purposes only) until the full extent of the infections can be mapped and a comprehensive management strategy can be developed.

In April, The Royal Botanic Gardens and Ryan Tate will attend the island to comprehensively search the island with a phytophthora detection dog and map the infestation across the settlement area and along some priority sections of the walking track in the PPP. This will help inform LHIBs management activities. The track down to Little Island will remain locked for emergency access only until testing is complete and a management strategy is finalised.

Woodhen management

The November 2023 woodhen census was not conducted to prioritise helicopter weeding operations. Resource constraints prohibited running both operations simultaneously, and the woodhen population is healthy. However, this means that no woodhens have been banded since November 2022 resulting in a large number of un-banded birds across the island. The Board will therefore be trying to band as many woodhens as possible between 1-18 April to improve the efficiency of the next census, which is scheduled for November-December 2024.

The woodhen population is now too large to allow every bird to be banded and counted. An alternate and more appropriate population monitoring method will be trialled alongside the standard census method in November. Any new method employed moving forward will need to be able to detect changes in population size, so if numbers start to decrease, intervention actions can be initiated.

Grants

LHIB was successful in their bid for a Commonwealth Saving Native Species grant of approximately \$300,000 over two years to support the captive management of Phasmids on the Island, continue important habitat management on Balls Pyramid, monitor the wild Phasmid population (including population surveys), and continue the important population management done by the Melbourne Zoo, including genetic testing of the various Phasmid populations and testing for Serratia.

Planning and Strategic

Training

Refresher first aid and CPR training was completed by relevant staff in February.

Infrastructure

Monitoring of the condition and maintenance of the island's track network are now being recorded and tracked through a Fulcrum app on mobile devices. This allows work to be prioritised based on the level of risk to public safety and the environment. This includes ropes, bridges, fallen trees, etc.

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Refurbishment of the facilities at North Bay are scheduled to be completed in mid-March. This includes the erection of a new interpretive sign that was collaboratively designed with Marine Parks to provide important information to visitors about the North Bay area.

Annual audits of the rope and track networks have been completed to ensure continued safe experiences in the PPP. The World Heritage field officers replaced a frayed section of rope along the Goathouse track and will continue to monitor ropes that have started to show signs of wear. An additional comprehensive examination of the rope and anchor points in the southern mountains will be conducted by qualified professional before the end of the year.

A geotechnician and a structural engineer have assessed the integrity and location of the stairs at both ends of Middle Beach. Design options have been investigated for the northern stairs by experienced stones masons and a proposed design has been drafted for consideration as part of a Development Application. The southern stairs are still open for public access currently, and the design and plans for their replacement is being managed by a project management consultant. Once the design has been finalised materials needed to upgrade the southern beach access will require delivery via Helicopter outside of Shearwater nesting months.

The track down to Little Island has become severely undercut due to tidal erosion. Vehicle access along the track is restricted to essential purposes only. A new path for the track will need to be identified and assessed for any potential environmental impacts.

A new kitchen was installed at the Research Facility, along with a new storage shed. These upgrades were desperately needed and will help improve the functionality of the space for visiting researchers to the Island.

EcoPass

The Lord Howe Island EcoPass Permits are due to be renewed to guides operating tours in the PPP. A review of the EcoPass Permit conditions has been completed, informed by a risk assessment of the walking tracks across the Island (with input from relevant tour operators), the NSW EcoPass conditions, and the Australian Adventure Activity Standards. The review will inform the renewed permits.

Issues of note are:

- Application of EcoPass to any business that provides tours in the PPP
- Change to guide: client ratios to better align with industry standards
- First aid training and kit requirements
- Exclusion of commercial tours from informal tracks in the PPP

The EcoPass conditions will be finalised before the end of this tourist season so that business can start to plan for the next season.

Resourcing and recruitment

- Blake Thompson has moved on from a Field Officer role to take on the Mechanic position with the Board.

2. Biosecurity

Operations

Port surveillance

The Boards biosecurity contractors based in Port Macquarie and Birdon staff withheld some stock feed from two recent voyages due to obvious insect infestation inside and outside of

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bags. Board staff worked with the consignees and suppliers, supplied reports and information on requirements of the LHI Plant Importation Policy, the Birdon Biosecurity Management Plan (adopted by the Board in 2023), the Lord Howe Island Regulation 2014, (cl. 61 Importation of seeds, plants and other things) and the general Biosecurity duty of the *Biosecurity Act 2015*.

An interim amendment was made to the LHI Plant Importation Policy (CEO) to provide for a range of processed chaff to be imported for supplementary feeding of stock.

The Biosecurity Team will be working with the Department of Primary Industries – Local Land Services in coming months to host a series of community information sessions on best practice management of agricultural pests and weeds from a biosecurity perspective.

Resourcing and recruitment

- The new Biosecurity team leader, Darryl Birch, is due to arrive and start in his position by the end of March.
- The biosecurity team has a new member, Louis Shick. Louis has worked for the LHIB as a valuable member of the WEP for many years, also throughout the REP and RRP.
- The team also have welcomed Sooti, a 3-year-old black male cocker spaniel. He is currently being trained by Tim and Ernie and is promising to be a great addition to the detection dog team.

3. Weed Management

Operations

Helicopter Operations

Two helicopter winch operations were planned for the 2023/2024 summer season. The first operation commenced on 20th November 2023 and was completed on 8th December 2024. This was the first winch operation to be completed since November 2020 and was the largest winch operation to be completed by the LHIB to date. There was a total of 12 operational days across the window, with crews controlling 2261 individual weeds and searching 39.3ha of remote terrain.

The second winch operation planned for 14th February to 9th March was unfortunately cancelled due unforeseen staffing issues. Another operation will be planned for the 2024/2025 summer season.

Remote area weed control work is identified as a priority Lord Howe Island Biodiversity Management Plan 2007, and the Lord Howe Island Weed Management Strategy 2016-2025.

The helicopter was also utilised to remove remaining gear from the Goat House track repair, and deliver building materials to remote or hard to reach areas for priority projects commencing in coming months.

Contract Work

Three contract teams were engaged across January and February to complete priority bush regeneration work:

- Northern Rivers Ecological
- Back to Bushland
- Raw Environmental

These teams completed a total of 176 person days. Contract labour is essential to meet project targets and supplement shortages of on-island labour.

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Grants

The LHIB has been successfully awarded two grants for activities to protect the critically endangered Little Mountain Palm (*Lepidorrhachis mooreana*):

- Saving Native Species – \$500,000 over 2 years
- NCLLS –\$1.25 million over 4 years

LHIB staff are currently working with grant partners, including DCCEEW technical specialists, to finalise project activities before acceptance.

Resourcing and recruitment

- Bush Regeneration and Weed Eradication Field Supervisor, Jae De Clouett returned from parental leave on 22nd January.
- Three part-time Bush Regenerator staff were recruited, commencing in early February:
 - Jake Wright
 - Flynn Gillingham
 - Chris Tafili-Reid
- Three part-time Bush Regenerator staff resigned from their positions with the LHIB Bush regeneration team:
 - Louis Shick (moved to Biosecurity)
 - Tyahna Cameron
 - Toni Lee
- Recruitment processes continue to fill vacant Bush Regenerators roles.

4. Threatened plants

Operations

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

5. Environmental Assessment

Operations

Property Inspections

The environment team continues to provide assessment services to the community on an as needs basis, generally for development and tree removal applications. This service is not currently charged.

Resourcing and recruitment

- The Team Leader World Heritage continues to provide basic environmental assessment service for low impact development proposals.

6. Marine management and moorings

Operations

To comply with NSW legislation and ensure work is carried out in a safe manner, a second suitably trained diver from the LHIB will be added to the NSW DPI dive register.

Regular mooring inspections and general maintenance will continue quarterly by LHIB staff. Over the last quarter, 21 visiting vessels were moored in the lagoon.

Training

Essential training and medical assessments are to be undertaken by identified Board staff to meet requirements for safe diving during mooring inspections and maintenance, and to ensure continued compliance with regulations.

7. Land Administration

Operations

See business papers 5.1, 5.2, 5.3, 5.4, 5.5, 10.5, 12.1, 12.2, 12.3, 12.4.

8. Development Assessment and Land Use planning

Operations

See business papers 11.1, 11.2, 11.3, 11.4.

Resourcing and recruitment

The LHIB does not have a statutory planning unit and has experienced significant challenges in resourcing for planning functions, particularly given the Island's remote location, unique planning context, and staff accommodation constraints.

An inability to attract and retain long term planning staff within the establishment has resulted in the LHIB contracting out planning and development services for over a decade. A more complete and efficient operating system to deliver statutory planning services to the LHI community is being investigated.

Negotiations have commenced with three mainland Local Government Authorities around delivery of the required planning services via a dedicated planning resource to be established within the Council planning unit, where systems, a supportive professional work environment, mentoring, and learning and development opportunities are available. For the LHIB the proposal provides inbuilt contingency for periods of leave and may broaden the professional pool available.

Clearer guidance regarding submission procedures will be provided, to enhance the quality of applications received from proponents and improve processing timeframes. Aligning with existing Council systems and processes will improve completeness, standardise Island applications, and facilitate a smoother and more efficient community experience.

9. Spatial and data management

Operations

The focus has been improving the LHIB's capacity for geospatial analysis and data management capacity overall. Work has focused on:

- Training staff in GIS software to build self-sufficiency and increase access to spatial information. Training has now been undertaken for staff across BCS, ECS & IES.
- Creation of new mobile data collection applications for projects and business operations such as Mooring Inspections, Dangerous Tree Inspections, Work Notifications, Native Plant Records, Signage.
- Creation & training data collection apps & capabilities within IES with new apps for Mowing, Public Facility Servicing, and Work Notifications.

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- Refining existing mobile data collection applications and data visualisation dashboards for ECS teams (WEP, Biosecurity, World Heritage)
- Improving accuracy of currently held datasets (Lot, Roads, Tracks etc), and reorganisation of LHIB datasets to improve data sharing capabilities.
- Data sharing for project work (critical infrastructure projects) & project reporting (WEP)
- Investigating areas where new technology may be used to increase efficiency and reduce workload for units (Biosecurity)

Imagery capture

The NSW Department of Primary Industries (NSW DPI) and LHIB partnered to capture new high-resolution aerial imagery and terrain mapping (LiDAR) for LHI. Both products have now been delivered and have replaced the old 2011 imagery and terrain model.

The 2023 basemap imagery will be publicly available via SixMaps at some point in the near future (<https://maps.six.nsw.gov.au/>). However, this service is provided by Spatial NSW and may be delayed as they upgrade their systems to accommodate new imagery.

Approval and contact

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

CEO BOARD REPORT PROJECT REPORT

OPEN SESSION

Item

This report is a brief update of progress on current projects. The budget reflects the full spend of the project to date across the project's lifetime. Current year budget and expenditure is presented in the financial update (3.01).

IES

- SCCF – CBD Amenities
- SCCF – Skatepark
- SCCF - Communications Solution and Community Hall Activation
- Commercial Property Maintenance (Historical)
- Jetty Maintenance Project

CEO

- Efficiency and Effectiveness Review

ECS

- Biosecurity NPP Project
- Improved Biosecurity Measures (Training)
- Lagunaria Swamp Project
- Threatened Plant Monitoring & Survey
- Conservation of LHI Stick Insect
- Biodiversity Benefits Monitoring
- Middle Beach Stairs
- Restoring Blackburn Island
- Reveg - Pinetrees Paddock

Summary of Activities and Issues

R Red Project is likely to deliver late/over budget/has insufficient resourcing
 A Amber Project has missed some targets but overall end date/budget is not at risk
 G Green Project on track

	Project Title	Schedule	Budget	Resources	Overall RAG
IES	SCCF – CBD Amenities	R	A	A	R
	SCCF – Skatepark	R	R	A	R
	SCCF - Beach Access	R	G	G	R
	SCCF - Community Hall Facilities Activation	G	G	G	G
	SCCF - Communications Solution	G	G	G	G
	Commercial Property Maintenance (Historical)	G	G	G	G
	Jetty Maintenance Project	R	G	G	R
CEO	Efficiency and Effectiveness Review Project (<i>Sub-projects listed individually below</i>)	R	G	A	A
	<i>Community Strategic Plan (CSP)</i>	G	G	G	G
	<i>Workforce Plan</i>	A	G	A	A
	<i>Local Environment Plan</i>	R	G	G	R

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<i>Asset Management Plan</i>	R	G	A	R
<i>Policy Review</i>	A	G	G	G
<i>Revenue Review</i>	A	G	G	G
<i>Engagement Plan</i>	G	G	G	G

IES Reports

SCCF – CBD Amenities

A Project Management Plan has been finalised for the CBD Amenities project outlining an ambitious timeline to achieve completion of construction in 2024. Key milestones for the project are:

1. D&C Contractor Engaged – May 24
2. Concept Design Complete – Jun 24
3. DA Board Meeting – Aug 24
4. DA Approved – Sep 24
5. Construction Period – Oct-Dec 24 Construction Certificate Approved – Apr 25
6. Construction Certificate Approved – Apr 25

This will be confirmed over the next couple of weeks as we move to procurement phase following signoff of the Project Management Plan and Budget.

SCCF – Skatepark

Following the community workshops, Convic developed a concept design aligned with the Skate Park Committee's desires. However, the cost estimate for this design exceeds the available grant funding due to island construction and building cost escalation. Convic is now developing lower-cost skate-based options, although they anticipate these may not fully meet the committee's aspirations. They will present these alternatives to the committee for discussion and feedback in March – once considered by the committee the LHIB will review the project plan and decide on next steps.

SCCF - Beach Access

A trial period for the beach access equipment is in progress, running for 3 months Jan - March 2024.

Feedback has been collected throughout the process and other locations reviewed. At the end of the trial, this will be consolidated and a final review undertaken.

SCCF - Community Hall Facilities activation:

Acoustics: Working with a specialist acoustics consultant, a solution has been devised to reduce sound reverberation in the hall, aligning with AAAC guidelines. The solution is purchased and awaiting installation mid-April.

AV System: Efforts have been focused on designing a comprehensive AV system for the public hall and annex. Additional funding was agreed in principle by the SCCF grant body, allowing progress on the AV solution development. A high-level design brief has been prepared, with competitive tendering to follow once funds variation is confirmed.

Storage: An expression of interest (EOI) has been issued for weatherproofed storage construction under the hall and in the annex. Construction plans are underway, with materials procurement and construction dates pending confirmation.

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Starlink (satellite internet) and PA System: Starlink installation at the community hall is complete. Additionally, a new mobile PA system has been acquired for community events, successfully tested at Discovery Day.

Community Hall Hire Policy: Discussions with stakeholders have led to a proposal to amend the hiring policy, mirroring reasonable rates and terms of other mainland community halls. Further fine-tuning and insurance considerations are ongoing.

Public Library / Book Exchange: Designs for weatherproof book stalls have been finalised, with plans to issue an EOI for local construction. Initial book stock plans are in progress, considering themes and potential integration with online book exchange groups.

SCCF - Communications Solution:

Following community consultation, it was concluded that the installation of a mobile phone network is not supported at this time. Finalisation of the grant is underway and a variation to redirect any underspend is being considered.

Commercial and Residential Property Maintenance (Historical)

An asset condition review was completed while preparing the Asset Management Plan. This review informed a list of required historical maintenance and essential infrastructure upgrades, and work schedule priorities. Josh Owens has been contracted to coordinate this work over an 18-month period and commenced in April 2023. Josh is working with local trades and specialised contractors as needed to attend to this list with 58% of work now complete.

Access to available trades is a risk that is being closely monitored to ensure appropriate timeframes are met. In early March Mackies Electrical team from Port Macquarie carried out a wide range of electrical work to complete some of these jobs.

	Complete	Working on	Scheduled	Hold	% Active	% Complete
Marine Parks Office	1	0	0	0	0%	100%
Met House 4	20	0	0	0	0%	100%
Government House	7	0	0	0	0%	100%
Research Facility	11	0	0	1	0%	92%
Demountables	5	0	0	1	0%	83%
LHIB Offices	20	0	0	5	0%	80%
WMF, Trax Shed & Fuel Shed	7	0	0	3	0%	70%
Hospital	6	2	1	0	33%	67%
Ned's Beach & Old Set Toilets	2	0	1	0	33%	67%
TC Douglass House	7	3	0	1	27%	64%
Jetty/Marine Parks Shed	5	0	2	1	25%	63%
LHI Dog Kennels	6	2	0	2	20%	60%
Airport	3	0	0	2	0%	60%
Dolls House	6	3	1	0	40%	60%
Met House 3	9	11	0	0	55%	45%
Misc Works	6	6	0	14	23%	23%
Nurses Flats	1	2	0	6	22%	11%
North Bay	0	0	6	0	100%	0%
Doctors House	0	0	2	0	100%	0%
SEO House	0	1	0	10	9%	0%
Met 1 - BOM (NA)	0	0	0	14	0%	0%
Met 2 - BOM (NA)	0	0	0	21	0%	0%

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Jetty Maintenance Project

On the 5th March Polaris Marine commenced on the Jetty Upgrade project, following a comprehensive site visit last October. The Project is now being managed and reported through the Critical Infrastructure program (Item 03.01)

EER Projects

Policy Review

A full review of internal and external policies and procedures is currently underway using a governance framework created by DPE. Policy review checklists are at ~80% completion and due to be finalised in the next week.

A regulation coverage matrix is being developed alongside the checklists. This matrix maps each existing policy with its corresponding section in the LHI Regulation, allowing us to visualise where there are sections of the Regulation not covered by a policy & identify the potential for policy consolidation or retirement.

The first drafts for the identified consolidation policies (Leases, Biosecurity and Compliance & Enforcement) and associated procedures have been finalised. Board engagement is required to confirm overall policy intent, following which meetings will be set up with all Subject Matter Experts to initiate the SME review process.

Once SME input has been compiled, it will be integrated with recommendations to finalise the documents. The final drafts will be sent to the DCCEE legal team for review before community consultation and the Board approval process can be finalised.

A Policy Adoption Plan is now being developed to assist the Board with the implementation of the new and updated policies. It will show the roadmap to adopting the policies and required actions.

Revenue Review

The revenue review has been scoped and is underway, with the aim being to confirm whether the situation has changed in relation to new / additional revenue streams on LHI. KPMG is undertaking this review and is due to have it finalised by May.

LEP Review

Scoping work has begun for the LEP in order to ensure all foundational studies are done to inform the review.

ECS Projects

Middle Beach Stairs

The Middle Beach Stairs project is progressing with a methodology to scope and plan both sets of stairs developed as part of the Project Management Plan.

The plan aims to achieve completion of construction in 2024. Key proposed milestones for the project are:

1. D&C Contractor Engaged – May 24
2. Concept Design Complete – Jun 24
3. DA Board Meeting – Aug 24
4. DA Approved – Sep 24

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- 5. Construction Period – Oct-Dec 24
- 6. Construction Certificate Approved – Apr 25

(these dates are to be confirmed through Phase 1 activities in March):
See ECS Report - Attachment B of CEO's Report for full update.

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Darcelle Matassoni	Senior Project Officer

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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Adoption of Vehicle Importation, Transfer and Use Policy (Post-public Notice)

Recommendations

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

Current position

At the December 2023 Board Meeting, changes were made to the Vehicle Importation, Transfer and Use Policy and the Board resolved to:

- Approve the inclusion of a trailer to the Schedule of Essential Services for NSW State Emergency Service under 8.4 of the Vehicle, Importation Transfer and Use Policy.
- Following adoption of recommendation 1 that the Board advise NSW State Emergency Service to make application to import an Essential Service trailer to replace the current trailer, U31106 and require its removal from the island.
- Approve the amended maximum size requirements for private and commercial vehicles and commuter buses.
- Approve a copy of the proposed amendments to the policy be placed on public exhibition for a period of 28 days and a report of submissions be tabled at the March 2024 Board Meeting

A copy of the policy was placed on public exhibition for a period of 28 days from 16/02/2024 to 15/03/2024 (Attachment A)

Summary of Proposed Changes

- The inclusion of a trailer to the Schedule of Essential Services for NSW State Emergency Service under 8.4 of the Vehicle Importation Transfer and Use Policy
- Amend the maximum size requirements for private and commercial vehicles. **Noting that only the maximum height requirement is being amended from 1815mm to 1900mm. This amendment is based on the dimensions of a 2023 Toyota Hilux utility.**
- Adding maximum size requirements for commuter buses only based on the dimensions of a 2023 Toyota Hiace 12-seater bus as resolved by the Board on 29/08/2023.

Submissions

As at 14/03/2024 no submissions were received. However, the exhibition period was advertised to close on the 15/03/2024. Should any submissions be received by the end of 15/03/2024 they will be advised verbally at the Board meeting.

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

Attachments

Attachment	Title
A	Policy - Draft Vehicle Importation, Transfer and Use – Reviewed December 2023

Approval and contact

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

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

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1 Policy Overview

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

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

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

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

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

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

2 Legislative Framework

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

84 Approval to import motor vehicles

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

Maximum penalty: 50 penalty units.

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

86 Hire of motor vehicles

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

Maximum penalty: 50 penalty units.

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

87 Use of motor vehicles

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

approval to the use of that vehicle on the Island.

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

2.1 Relevant Legislative Provisions Relating To Approvals:

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

3 Definitions

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

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

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

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

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

3.2 Reside

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

3.3 Dwelling

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

3.4 Tenant

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

3.5 Essential Services

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

3.6 Vehicle Hire

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

money or other consideration of any kind.

3.7 Vehicles for Private Use

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

As a result of community concern over road safety, the Board has introduced maximum size of a vehicle for private use permissible on the island, ~~is: which is based on the 2023 model of a 2 wheel drive Toyota Hilux utility:~~

- a) Length 5330 mm (not including tow ball);
- b) Width 1855 mm (not including side mirrors); and
- c) Height ~~1900~~1815 mm (not including roof racks or roll bars or headboard on the tray).

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

3.8 Vehicles for Commercial Use

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

As a result of community concern over the number of oversized vehicles, the Board has introduced a maximum size of a standard vehicle for commercial use permissible on the island, which is based on the ~~2023 current~~ model of a 2 wheel drive Toyota Hilux utility and the maximum size of a commercial commuter bus, which is based on the 2023 Toyota Hiace 12-seater bus; which in 2020 was:

3.8.1 Vehicles for Commercial Use - Standard

- a) Length 5330mm (not including tow ball);
- b) Width 1855mm (not including side mirrors); and
- c) Height ~~1900~~1815 mm (not including roof racks, roll bars or headboard on the tray).

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

3.8.2 Vehicles for Commercial Use – Commuter Bus Only

- a) a) Length 5915mm (not including tow ball);
- b) b) Width 1950mm (not including side mirrors); and
- c) c) Height 2280mm (not including roof racks, roll bars or headboard on the tray).

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

3.9 Commercial Use

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

3.10 Power Assisted Pedal Cycle

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

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

Power Assisted Pedal Cycles are to meet NSW RMS vehicle standards and it is noted that they not be permitted to propel the bicycle when the rider is not pedalling (an optional low-speed start-up mode that allows the motor to power the cycle up to 6 km/h).

3.11 Motorised wheelchairs and mobility scooters

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

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

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

3.12 Bull bars/Roo bars/Nudge bars

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

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

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

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

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

4 Vehicle Types

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

4.1 Preferred Vehicles

Lord Howe Island Board Vehicle Importation, Transfer and Use Policy

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

- a) A motor vehicle meeting the following requirements:
 - i. Have a Vehicle Kerb weight\mass of less than 1154kg; and
 - ii. Generate noise less than 82 dba (data on noise emissions provided in green vehicle guide www.greenvehicleguide.gov.au); and
 - iii. Have vehicle size "footprint"
 - Length 4000 mm (max)
 - Width 1700 mm (max)
 - Height 1720 mm (max)
- b) Electric Vehicles:
 - i. Electric vehicles include any vehicle that has battery storage and has an electricity plug-in recharge capacity. These vehicles (or the batteries for these vehicles) must have the ability to be plugged into an electricity power point connected to the LHI Grid.
 - ii. Hybrid electric vehicles that do not have a plug in recharge capacity are not deemed electric vehicles for the purpose of this policy.
 - iii. Electric vehicles for private use must not exceed the maximum vehicle footprint as defined under Section 3.
- c) Motor Scooters:
 - i. 4 stroke motor scooters with a maximum capacity of 250cc.

4.2 Other Vehicles

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

4.3 Boat Trailers

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

4.4 Box Trailers

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

4.5 Caravans

The importation of caravans is prohibited under this policy.

4.6 Specialist / Other Trailers

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

4.7 Plant and Equipment

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

This provisions of this Policy do not relate to:

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

5 Fees

5.1 Importation or Transfer

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

6 Incentives

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

7 Eligibility to Import and Use

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

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

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

7.1 Eligibility

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

7.1.1 Vehicles for Private Use

- 1) A person who resides in an approved dwelling on a Perpetual Lease, either as: the holder, owner, or sub-lessee of the lease or; as the owner-occupant of a multiple occupancy or ; by way of a current tenancy agreement under the *NSW Residential Tenancy Act 1987* and
 - a) has resided on the island for a continuous period of 24 months at time of application. (Proof of Tenancy will be required and should be supplied with application); and
 - b) has no existing approval for a commercial vehicle which is suitable for private use; and
 - c) does not reside with another person who has approval for a Commercial vehicle which is suitable for private use.
- 2) An employee of an Essential Service provider (other than the Board) who does not have access to the private use of a vehicle provided by the Essential Service may apply to import or transfer a preferred vehicle if they can demonstrate to the Board a genuine need for the vehicle. This will only apply where the employee will occupy the position for a period greater than 12 months and is subject to any specification set out in the schedule of Essential Service entitlements. Any approval will be in accordance with this policy. Approval under this clause will be terminated at the cessation of employment with the Essential Service provider.
- 3) Lord Howe Island Board employees other than a person described in a), may after 12 months service staff apply to import a preferred vehicle in accordance with the Board's vehicle importation and use policy. Applications must demonstrate need for vehicle in accordance with this policy. Any approval will be in accordance with this policy. Approval to import vehicle will result in termination of private use rights of LHI Board vehicle. Approval under this clause will be terminated at the cessation of employment with the Board.
- 4) A person who can demonstrate exceptional circumstance which cannot be addressed by this policy. In such cases, the Board may exercise discretion, provided that the applicant has demonstrated that no viable alternative to the importation and use of a vehicle exists.

7.1.2 Vehicles for Commercial Use

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

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

7.1.3 Vehicles for Essential Services

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

7.1.4 Vehicles for Hire

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

7.2 Use

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

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

7.3 Private and Commercial Use

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

Where a person has approval for a private use vehicle and a commercial use vehicle, the commercial use vehicle cannot be used for private use.

7.4 Essential Services

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

Use restrictions will be set out as conditions of approval.

7.5 Hire Vehicle Use

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

8 Allocations

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

8.1 Private Use

One (1) vehicle per approved dwelling.

8.2 Commercial Use

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

8.3 Essential Services Allocation

Essential Services will be eligible to import vehicles as follows:

8.4 Schedule of Essential Services

ESSENTIAL SERVICE	VEHICLE ALLOCATION
Lord Howe Island Board	A fleet comprising of all vehicle types, being the minimum number

	of vehicles required to ensure the safe, effective and efficient delivery of the Board's charter, to a maximum of 13 road going vehicles.
NSW Police	1 Vehicle
NSW MPA	1 Vehicle
Bureau of Meteorology	1 Vehicle
NSW Education	1 Vehicle
NSW Health	1 Vehicle – Ambulance
Doctor (GP)	1 Vehicle
NSW RFS	1 Vehicle – Fire Engine
NSW SES	1 Vehicle – Emergency Response Vehicle
<u>NSW SES</u>	<u>1 Trailer</u>
NSW Marine Rescue	1 boat trailer (with RIB)
Transport for NSW Maritime (for use by LHI Port Operations and NSW Police)	1 fuel trailer
Transport for NSW Maritime	1 boat trailer

8.5 Additional Vehicle Allocation for Hire Car Use

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

Clause 86 of that Regulation states that:

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

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

In addition to any other allocation:

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

9 Review of Applications

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

Where the CEO intends determining the application contrary to the majority view of the elected members, the CEO will document the reasons for doing so and provide a written briefing to the

Chairperson, who will determine the matter in consultation with the Board.

10 Approval Periods – Importation and Use

10.1 Private Use Approval Period

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

10.2 Commercial Approval Period

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

10.3 Hire Vehicle Approval Period

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

11 Approval Conditions

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

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

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

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

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

continue to use the vehicle during the period of owner absence.

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

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

11.1 Breach of Approval

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

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

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

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

12 Vehicle Replacement

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

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

13 Vehicle Transfers

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

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

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

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

14 Delegations

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

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

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

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

15 Reporting and Monitoring

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

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

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

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

|

16 Attachment: Application to Import a Vehicle

DRAFT

LORD HOWE ISLAND BOARD

APPLICATION TO IMPORT A VEHICLE

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

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

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

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

APPLICANT DETAILS

Name:

Email: Phone:

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

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

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

Private Use
 Commercial Use
 Essential Service
 Hire Use

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

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

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

Commercial Note: Refer section 7.1.2 and 8.2 the policy.

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

Name of approved business:

Essential Note: Refer section 7.1.3 and 8.4 the policy.

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

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

Name of business licence and approved hire car permit holder:

VEHICLE TO BE IMPORTED

Make: Model:

Engine Capacity: No. of Cylinders:

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

Unladen Weight (in Tonnes or Kgs):

4WD or 2WD: Registration No.:

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

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

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

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

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

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

Is this vehicle electric or hybrid?

Yes No

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

Yes No

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

Yes No

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

If yes, please specify:

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

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

Yes No

If yes, which vehicle is being replaced?

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

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

.....

17 Attachment: Application to Transfer a Vehicle

DRAFT

LORD HOWE ISLAND BOARD

APPLICATION TO TRANSFER A VEHICLE

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

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

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

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

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

TRANSFEROR DETAILS (Person selling vehicle)

Name:

Email: Phone:

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

TRANSFEEEE DETAILS (Person buying vehicle)

Name:

Email: Phone:

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

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

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

- Private Use
 Commercial Use
 Essential Service
 Hire Use

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

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

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

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

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

Commercial Note: Refer section 7.1.2 and 8.2 the policy.

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

Name of approved business:

Essential Note: Refer section 7.1.3 and 8.4 the policy.

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

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

Name of business licence and approved hire car permit holder:

VEHICLE TO BE IMPORTED

Make: Model:

Engine Capacity: No. of Cylinders:

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

Unladen Weight (in Tonnes or Kgs):

4WD or 2WD: Registration No.:

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

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

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

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

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

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

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

Is this vehicle electric or hybrid?

Yes No

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

Yes No

.....
.....

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

Yes No

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

If yes, please specify:

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

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

Yes No

If yes, which vehicle is being replaced?

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

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

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

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

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

TRANSFEROR'S DECLARATION

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

Signature: Date:

TRANSFEEE'S DECLARATION

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

Signature: Date:

Board Meeting: March 2024	Agenda Number: 10.06	Record Number: ED24/1335
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Review of the Dog Importation and Management Policy

Recommendations

1. **Approve** publication of the draft Dog Importation and Management Policy to seek community feedback
2. **Approve** the proposed next steps to finalise and implement the revised Dog Importation and Management Policy

Current position

Process outline and delivery timeframe

The LHIB Dog Importation and Management Policy 2019 (the Policy) is due for review. The LHIB ECS unit has internally reviewed the Policy in consultation with the NSW Office of Local Government, NSW Department of Primary Industry – Animal Biosecurity and Animal Welfare Units, and with valuable feedback from Island vet Courtney Turner on behalf of the LHI dog owner community.

Key issues with the Policy identified thus far are summarised below, with proposed actions/amendments.

Issue	Action
The Policy overall is too long, complex and difficult to interpret	<ul style="list-style-type: none"> • Consider, identify and clearly state the scope and objectives of the Policy in alignment with associated legislation, responsible dog ownership and the Island's natural values. • Include a list of definitions. • Reformat and refine the entire document using clear and concise phrasing and structure. Refer to legislation where relevant while avoiding unnecessary inclusion of entire sections or clauses. • Develop new and improved dog management area maps.

<p>The desexing requirements for both male and female dogs are very outdated based on current veterinary recommendations and evidence-based practice</p>	<ul style="list-style-type: none"> • Consider risks to animal welfare, relaxing desexing requirements, objectives of the Policy, and implement mitigation strategies • Amend relevant section of the Policy to allow importation of intact puppies of either sex up to 12 months of age under strict conditions and payment of a bond. Amendments should bring the Policy into line with current veterinary best-practice and animal welfare standards, and policy conditions should reduce the risk of pregnancies to virtually nil. • Review and revise the LHI Regulation to support Policy changes
<p>It is not considered reasonably practicable for veterinary practitioners to certify a dog as "free of disease and parasites". It would be more feasible for this class of people to certify that dogs have had appropriate prophylaxis treatments and a health check</p>	<ul style="list-style-type: none"> • Change wording in relevant clause/s of the Policy. • Look to utilise available databases (NSW Pet Registry) to keep track of relevant immunisations.
<p>There is limited guidance and resources for dog owners on the island to train their dogs appropriately for the Board's expectations</p>	<ul style="list-style-type: none"> • Explore options to support the availability of accredited dog trainers to dog owners • Clear expectations of commitments and requirements to import and manage a dog on the Island
<p>Nine species of migratory shorebirds have recently been added or uplisted to the EPBC Act threatened species list, several of which are regular visitors to LHI including Ruddy Turnstone and Alaskan Bar-tailed Godwit. These species preferentially use the strip of beach from Cobbys Creek north to the WMF as an alternate roost/refuge when they are flushed or dispersed from the airstrip, grass apron and Moseley Park. This stretch of beach is currently a designated off leash area.</p>	<ul style="list-style-type: none"> • Amend Policy to prohibit dogs from the 150 metre stretch of beach from Cobbys Creek to the beach access track near the WMF entrance. • Amend Policy to allow dogs on leash at Cobbys BBQ area and on the small stretch of beach directly in front of the BBQ area.
<p>Limited designated dog areas.</p>	<ul style="list-style-type: none"> • Review environmental and social justifications around areas prohibited to dogs • Consider options for a dedicated fenced off-leash dog park, contingent on grant funding

Next Steps

April	Develop assessment standards for dog obedience training on Lord Howe Island (including a scoring system to assess key requirements)
April/May	Policy team within DCCEEW to review the proposed draft and amend as required
May/June	Public exhibition (including an information session at the Public Hall)
June	Incorporate any feedback and finalise the Policy

June	Table the final Policy for Board adoption (will include a submission summary and any expert recommendations)
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Communication Plan

Public exhibition of the amended Policy will commence with an information session for the community to:

- Identify the proposed changes
- Review expert advice and information that informed the proposed changes
- Identify those sections of the Policy that are / are not up for review
- Ask questions about the purpose and intent of the Policy

New maps will be developed and included in the Policy appendices.

Upon finalisation of the Policy, a new webpage on the LHIB website dedicated to responsible dog ownership on LHI will be developed to summarise important information (including updated interactive maps), answer frequently asked questions, and link to the full Policy and dog importation application form.

New interpretive signs in key locations will be designed to help with voluntary compliance of the policy.

Attachments

Attachment	Title
A	Draft Dog Importation and Management Policy – Revised
B	Dog Importation and Management Policy Feedback and Justification

Approval and contact

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

Dog Importation and Management Policy

Lord Howe Island Board Policy

March 2024

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1. Introduction

This document sets out the specific policies and procedures for the importation and management of dogs on Lord Howe Island. The policy has been prepared by the Lord Howe Island Board in accordance with the *Companion Animals Act 1998*, the *Lord Howe Island Act 1953*, and the *National Parks & Wildlife Act 1974*.

2. Purpose

The principal object of this policy is to provide for the effective and responsible care and management of companion animals on Lord Howe Island. It also aims to provide protection to the World Heritage values of the island, including the protection of endemic and/or protected flora and fauna.

3. Scope

The policy encourages and reinforces responsible dog ownership (including minimum training requirements) and aims to provide adequate areas for dogs to be exercised and socialised both on and off leash.

The policy restricts the number of dogs on the Island and the areas where dogs are permitted, consistent with the natural heritage values of the Island.

The policy will be managed through an integrated process of community education, cooperation, enforcement and ongoing review.

4. Definitions

Term	Meaning
Assistance animal	A dog or other animal: a) accredited under a law of a State or Territory that provides for the accreditation of animals trained to assist a person with a disability to alleviate the effect of the disability; or b) accredited by an animal training organisation prescribed by the Disability Discrimination Regulations 2019 for the purposes of this paragraph; or c) trained: i) to assist a person with a disability to alleviate the effect of the disability; and ii) to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.
Authorised Officer	An employee of the Lord Howe Island Board authorised to perform regulatory functions for the purposes of the CA Act.
CA Act	Companion Animals Act 1998 (NSW)
CA Regulation	Companion Animals Regulation 2018 (NSW)
Dangerous dog	A dog for the time being the subject of a declaration by an Authorised Officer of the LHIB or a court under the CA Act that the dog is a dangerous dog.
Dog attack	The act of a dog rushing at, attacking, biting, harassing or chasing any person or animal (other than vermin), whether or not any injury is caused to the person or animal.
Leashed area	A public place declared by order of the LHIB to be a leashed area where dogs are permitted only whilst under the effective control of a competent person by way of a leash, cord or chain.
LHI or 'the Island'	Lord Howe Island
LHIB or 'the Board'	Lord Howe Island Board
Menacing dog	A dog for the time being the subject of a declaration by an Authorised Officer of the LHIB under section 34 (1A) or a court under section 45 (1A) of the CA Act that the dog is a menacing dog.

Term	Meaning
Nuisance dog	A dog is a nuisance if the dog: (a) is habitually at large, or (b) makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises, or (c) repeatedly defecates on property (other than a public place) outside the property on which it is ordinarily kept, or (d) repeatedly runs at or chases any person, animal (other than vermin and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock) or vehicle, or (e) endangers the health of any person or animal (other than vermin and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock), or (f) repeatedly causes substantial damage to anything outside the property on which it is ordinarily kept.
Off leash area	An area declared by order of the LHIB to be a designated dog exercise area where dogs are permitted to be off leash.
PPP	Permanent Park Preserve
Prohibited Area	An area declared by order of the LHIB and/or under the CA Act where dogs are not permitted, whether or not they are leashed or otherwise controlled.
Public Place	Any pathway, road, bridge, jetty, wharf, road-ferry, reserve, park, beach or garden, or any other place the public are entitled to use.
Veterinary practitioner	A person who is registered as a veterinary practitioner under the Veterinary Practice Act 2003.
WMF	Waste Management Facility

5. Policy

Approval Process and Conditions

Approval may be given to import a dog to LHI, subject to the following conditions:

a) The dog is free of disease and parasites.

In order to satisfy this condition, the applicant will be required to provide a certificate not more than 14 days prior to the date of import signed by a veterinary practitioner certifying that the dog has current C5 vaccination, internal and external parasite prophylactic treatments and a general health check.

For dogs that are returning to the island (for example after being away with the owner on holidays), the owner must show evidence of recent parasite prophylactic treatments.

b) The dog is de-sexed prior to 6 months of age.

All dogs must be de-sexed or otherwise rendered permanently incapable of reproduction prior to 6 months of age.

A dog may be permitted to be de-sexed between 6 and 12 months of age, if it is recommended by a veterinary practitioner for health reasons.

If an intact dog under the age of 12 months is permitted to be imported, a bond equivalent to 10 penalty units (\$1100) must be lodged with the LHIB prior to importation of the dog. This bond will be refunded upon production of an appropriate veterinary certificate demonstrating compliance with this condition.

If permitted by the LHIB due to recommendations by a veterinary practitioner, any dog older than 6 months of age that is not de-sexed, must remain on a leash at all times while off the owner's property until it is de-sexed.

Intact female dogs that are in heat must be confined to the owner's property at all times.

In the unlikely event a female dog becomes pregnant while on the Island, the dog must be flown off the Island before giving birth so that the puppies are born on the mainland.

Failing to have a dog de-sexed or otherwise rendered permanently incapable of reproduction by 12 months of age will be deemed to be a breach of the conditions of the approval to import and will result in the approval being terminated.

Dogs over the age of 12 months must be de-sexed prior to importation.

These conditions do not prevent a person with a disability from bringing an assistance animal onto the Island.

These conditions do not prevent the LHIB from granting approval for the bringing of a dog (such as a trained detection dog, a dog trained in search and rescue or a specialist hunting dog) onto the Island to carry out priority work.

c) The dog is microchipped and registered.

In accordance with the CA Act, dogs must be microchipped prior to importation and registered at the LHIB's Administration Office within seven days of the dog arriving on the Island. All dogs must be entered into the NSW Companion Animals Lifetime Registration database.

An annual animal permit fee is payable to the LHIB. Fees are listed in the LHIB's schedule of fees and charges.

d) The dog meets minimum obedience requirements.

Prior to importation, dogs over the age of 6 months must be validated by an accredited trainer in accordance with the LHIB Assessment Standards for Dog Obedience Training.

In the event the dog being imported is under the age of 6 months, a bond equivalent to 10 penalty units (\$1,100.00) must be lodged with the LHIB prior to importation. This bond will be refunded upon the production of the appropriate training certificate demonstrating compliance with this condition.

In addition, within 6 weeks of arriving on the island dogs must undergo assessment of sociability and bird avoidance, in accordance with the LHIB Assessment Standards for Dog Obedience Training.

Until a dog is able to be assessed and meet the minimum obedience requirements, then the dog must remain on a leash at all times while off the owner's property.

Failing to have the dog certified to the required level of obedience and bird avoidance before reaching 12 months of age will be deemed to be a breach of the conditions of the approval to import and may result in the approval being terminated.

In the event the dog is too young to be trained (prior to 6 months of age) and is not de-sexed at the time of importation, a bond of 10 penalty units (\$1100.00) will suffice for both conditions. The bond will be refunded when the owner demonstrates both conditions (de-sexing and obedience training) have been met. Failure to meet both conditions will result in the approval being terminated.

These conditions do not prevent a person with a disability from bringing an assistance animal onto the Island.

Eligibility

Persons may be permitted to import dogs to the island if:

- a) They are a leaseholder or have lived on the island for more than two years immediately prior to lodging their application; or
- b) They own a dog prior to becoming a temporary resident of the island, provided that they have documentary evidence that their term of employment will be at least two years duration; or
- c) The dog is an assistance animal or a working detection dog.

Not more than one dog per household shall be permitted and dogs must be kept at the owner's normal place of residence.

Where approval to import a dog to the Island is granted, the dog must be imported within 12 months from the approval being given, otherwise the approval will lapse and a new application will be required.

Approval to import and keep a dog on the Island will be subject to the owner of the dog complying with the conditions of this policy.

Written applications for importing a dog can be made on the prescribed application form (Appendix B).

Transfer of Ownership

Dogs imported to the Island must be kept at the normal place of residence of the approved importer. When dog owners require someone else to care for their dog for periods greater than 90 days, an application to transfer the dog ownership is required.

Written applications for the transfer of dog ownership can be made on the prescribed application form (Appendix C). The person applying must satisfy all relevant conditions of this Policy. Applications outside the transfer of ownership criteria will be assessed on their merits by the LHIB.

General Responsibilities of Dog Owners

- A dog must have a collar around its neck with a name tag attached that shows the name of the dog and the address or telephone number of the dog's owner.
- The owner of a dog must take all reasonable precautions to prevent the dog from escaping from the property on which it is being kept.
- A dog that is in a public place must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the person.
- If a dog defecates in a public place the person who is in charge of the dog at that time must immediately remove the dog's faeces and properly dispose of them. Proper disposal means complete removal from the site and later disposal at the WMF. Burying faeces on site is not acceptable.

Restricted dogs

It is an offence in New South Wales to sell, acquire or breed dogs on the restricted dog list. The breeds of dogs that are prohibited from importing to the Island are as follows:

- American Pit-bull Terrier or Pit-bull Terrier;
- Japanese Tosa;
- Dogo Argentino (Argentinean fighting dog);
- Fila Brasileiro (Brazilian fighting dog);
- Perro de Presa Canario or Presa Canario;
- * Any dog declared by the LHIB under Division 6 of the CA Act to be a restricted dog;
- Any other dog of a breed kind, or description prescribed by the Regulation.

* Refers to any dog where the LHIB is of the opinion that the dog is a breed or cross-breed of dog on the restricted dog list

Nuisance dogs

If the Board becomes aware of any dog behaviour that may be considered a nuisance, an investigation will be undertaken by the Board's Authorised Officers, as a result of which the Authorised Officer may issue a nuisance order requiring the owner of the dog to prevent the behaviour that is alleged to constitute the nuisance.

This presents the owner with a realistic definite timeline in which to take action to abate the nuisance. If requested, the LHIB may provide advice as to corrective measures that may be employed, but it remains the owner's responsibility to determine and implement the necessary corrective action.

Where the nuisance has not been abated after the abatement period the LHIB may issue an Infringement Notice. In the case of continued nuisance, the LHIB may revoke any prior approvals and order the dog to be removed from the Island.

Menacing and dangerous dogs

A dog that attacks persons or animals can be declared menacing or dangerous. A dog declared menacing or dangerous is subject to very strict controls under the CA Act.

Dog attacks

Dog attacks on persons, other dogs, wildlife or stock should be reported to the Board as soon as possible so that they can be investigated.

Dog Management Zones

Maps showing dog management zones are provided in Appendix A.

Assistance animals and biosecurity detection dogs are generally exempt from all zonal restrictions.

Off leash areas:

The following areas are designated dog exercise areas where dogs are permitted to be off leash. Dogs must be under constant supervision to ensure the safety of other dogs, people and wildlife in these areas.

- The open space area west of Lagoon Road from the Aquatic Club carpark south to the southern end of the grassed area opposite the oval
- Blinky Beach south of the main access track
- Middle Beach from the bottom of the southern access steps to the bottom of the northern access steps
- Lagoon Beach from the Aquatic Club south to Pinetrees boatshed
- Lagoon Beach from the southern boundary of the airstrip (airstrip rocks) south to the beach access track adjacent to the WMF gate (known locally as 'dump beach').
- 'Dump beach' BBQ area

Leashed areas:

Dogs are permitted in the following areas only whilst under the effective control of a competent person by way of a leash, cord or chain.

- The northern and southern walking tracks to Middle Beach
- Transit Hill track including Bowker Avenue track to Blinky Beach
- Little Island track from the gate south to the boundary of the PPP (where the palm tree forest starts 250 m before end of the track)
- Foreshore walking track from opposite Wilsons Hire to the Aquatic Club
- Foreshore walking track from opposite Pinetrees cemetery north to the start of the off-leash area opposite the oval
- Stevens Reserve
- Aquatic Club BBQ area
- Cobbys Corner BBQ area and beach from the fig tree to 80 metres north to level with the Norfolk Pines
- All other public places not listed as an off-leash or prohibited area

Prohibited areas:

Due to the popularity and social and environmental values of some public areas, and the presence of seabirds and shorebirds, dogs are prohibited from the following areas, whether or not they are leashed or otherwise controlled:

- All of the Permanent Park Preserve except the southern walking track to Middle Beach and the Transit Hill walking track.

- North Bay
- The Old Settlement area including the beach, access tracks and BBQ areas.
- The Neds Beach area from the eastern end of the palm tree forest on Neds Beach Road, including the beach, BBQ areas and grassed open recreational areas.
- Blinky Beach north of where the carpark access track meets the beach.
- Lagoon Beach north of the Aquatic Club
- Cobbys beach from the northern most Norfolk pine near the BBQ area north to the WMF access track
- Lovers Bay
- Johnsons Beach
- Kings Beach including the entrance to Soldiers Creek
- Salmon Beach
- All other beaches, dunes and rocky shorelines not listed as an off leash or leashed area.
- All BBQ areas except Aquatic Club, Cobbys Corner and 'Dump Beach'
- 'The Pines' precinct – all of the foreshore from Signal Point to the boat sheds carpark
- The Aerodrome (Portion 180) except for the purposes of loading or unloading a dog from an aircraft.
- The Waste Management Facility and adjacent revegetation areas
- The Island cemeteries – Any area of crown land reserved for the purposes of a cemetery, together with such areas on leasehold land that are clearly defined as private cemeteries.

Under the CA Act dogs are prohibited in the following public places:

- Childrens play areas – within 10 metres of any playground.
- School grounds and childcare centres
- All public buildings
- Sporting fields
- Food preparation and consumption areas except for outdoor eating areas as approved by the vendor.

Leasehold land:

- A dog does not have to be on a leash if it is on the dog owner's property.
- A dog must not be on any other lease without the lease owner's consent.

Communication and education

The LHIB will supply dog owners with resources, support and guidance in the form of community information sessions, printed materials, limited signage, advice from accredited dog trainers, and information on the LHIB website.

Enforcement and penalties

The policy will be given effect and enforced by delegated LHIB staff.

Penalties enforceable by an on-the-spot fine or in court may be imposed on the owner or person in control of a dog for various offences under the CA Act and CA Regulation. Such offences include, but are not limited to:

- a) Dog in a public place not under the effective control of some competent person by means of an adequate chain, cord or leash (except in designated off leash areas)
- b) Dog in a prohibited area
- c) Dog attacking persons or animals

- d) Dog fouling a public place, and failure of the person controlling the dog to remove and appropriately dispose of faeces
- e) Failure to notify the LHIB of transfer of ownership of a dog
- f) Where an Authorised Officer is satisfied the dog is a nuisance.

Offences under the CA Act attract on-the-spot fines of up to \$1,320. Significant penalties may apply where dogs harm protected fauna.

Failure to comply with this policy will be deemed to be a breach of the conditions of the approval to import and may, at the discretion of the LHIB, result in enforcement action such as the issue of a penalty notice, prosecution or an approval to keep the dog on the Island being withdrawn, in which case deportation of the dog will occur.

If an approval to import a dog to the Island has been terminated, the dog must be removed from the Island within 2 weeks from the date of the notice for termination being issued. Failing to remove the dog from the Island within the time specified may result in the dog being seized by an Authorised Officer or a Police Officer and may result in fines to the owner.

DRAFT

Policy Metadata

Category	Description		
Date Adopted			
Period of Review		Agenda Item	
File Reference		Agenda Item	
Associated Legislation			
Associated Policies & Procedures			

Version Control

Version	Date Issued	Key Updates	Author	Approver

DRAFT

Appendix A: Dog Management Zone maps

Appendix B

Appendix C

Appendix D

Appendix E

DRAFT

Board Meeting - March 2024 - POLICY AND STRATEGY

Section	Organisation	Summary of issue or comment	Proposed change	Discussion	Action	Notes
Overall	Kate Wingett BVSc (hons) Acting Director Animal Biosecurity and Chief Veterinary Officer Animal Biosecurity Biosecurity and Food Safety NSW Government Department of Regional NSW	Consider underpinning the policy and procedure with a risk assessment or equivalent as supporting evidence to achieve the desired outcomes of the LHIB				
		Consider the scope of the policy and procedure and who the actions in the documents will apply to and how enforceable actions in a LHIB policy and procedure are for the public.	Identify and state goals and objectives of the policy		Agree and incorporate proposed change	
		Change Veterinary Surgeons Act 1986 to Veterinary Practice Act 2003 throughout the document.			Change Veterinary Surgeons Act 1986 to Veterinary Practice Act 2003 throughout the document.	
	Dr Courtney Turner DVM BAnVetBioSc (Hons I) Island Vet	Enforcement/regulation of the policy requirements (seems non-existent), and relying on reporting by community members, which usually is a "he said she said" situation, with little evidence I am unsure how the LHIB can enforce fines or warnings.		Detailed statements including evidence (statutory declarations, photographs, videos) collected as part of all investigations.	Increase compliance monitoring & enforcement. Development of a compliance strategy for the Dog Management and Importation Policy. Improve education around Dog Policy as part of the review process. Improve clarity around regulatory enforcements to non-compliance actions in the policy	
LHIB	Policy overall is too lengthy with too many direct excerpts from CA Act & LHI Regs - difficult to interpret for public.			Reformat and retine entire document. Refer to legislation where relevant but avoid unnecessary inclusion of entire sections or clauses. Eliminate ambiguities through concise phrasing & structure.		
3.1.2	LHIB	LHIB keeps register of C5 vaccinations. Only new applicants and expired vaccinations need Vet Cert	Only new applicants and expired vaccinations need a vet certificate.	Onerous for dog owners and LHIB staff - simplify process while still ensuring protection of the island's environment, population, and other dogs.	Split this requirement into two parts - initial importation requirements, and dog return requirements and which requirements need to come from a vet, and which ones can be done through a stat dec by the owner or checked by LHIB officer in database. Visual check by biosecurity officers on arrival to the island	
	Kate Wingett BVSc (hons) Acting Director Animal Biosecurity and Chief Veterinary Officer Animal Biosecurity Biosecurity and Food Safety NSW Government Department of Regional NSW	We do not consider it reasonably practicable for registered veterinary practitioners to certify a dog as "free of disease and parasites". It would be more feasible for this class of people to certify that dogs have had appropriate prophylaxis/treatments and a health check.			Change wording of clause to "certify that the dog has had a health check, C5 vaccination and parasite prophylaxis treatments."	
3.1.3 - 3.1.4	Kate Wingett BVSc (hons) Acting Director Animal Biosecurity and Chief Veterinary Officer Animal Biosecurity Biosecurity and Food Safety NSW Government Department of Regional NSW	The Australian Veterinary Association policy on Surgical sterilisation of dogs and cats is a recommended reference for policy on desexing dogs. The above-mentioned risk assessment would also be helpful in determining a policy position of desexing of dogs	Veterinarians to decide the appropriate age of sterilisation/desexing based on current scientific evidence, and consideration of the animal's weight, vaccination status, health status and ability to withstand major surgery.	Veterinarians may recommend sterilisation/desexing of dogs before puberty. Performing this sooner than the traditional age of 6 months may be recommended based on the likelihood of failure to comply by a percentage of owners at 6 months (including failure to redeem discount certificates) and /or puberty being possible prior to this age. Desexing before 6 months of age is commonly undertaken in the shelter situation.	Recommend change to the policy: 3.1.4 Intact pups may be permitted provided the dog is de-sexed or otherwise rendered permanently incapable of reproduction at the earliest age possible, and no later than 12 months of age, as advised by a veterinarian based on current scientific evidence and consideration of the dog's weight, breed, health status and ability to withstand major surgery.	https://www.rva.com.au/policy-advocacy/policies/companion-animals/health/desexing-surgical-sterilisation-of-companion-animals/
	Dr Courtney Turner DVM BAnVetBioSc (Hons I) Island Vet	Desexing requirements - both female and male requirements are very outdated based on current veterinary recommendations and evidence-based practice.	"I prefer to desex both males and females at around 9-12 months of age (or even 18 months for some breeds) to prevent [diseases caused by early-age desexing] from occurring."	Bond should exceed the cost of flying off with the dog and the cost of the de-sexing operation to ensure compliance. Policy requirements should ensure that the risk of unwanted pregnancies is virtually nil.	In this instance a bond equivalent to X penalty units must be lodged with the LHIB prior to importation of the dog. This bond will be refunded upon production of the appropriate veterinary certificate demonstrating compliance with this clause. If a dog reaches six months of age before it is desexed, then the dog must remain on a leash at all times while off the owner's property until it can be de-sexed. Intact female dogs that are in heat must be confined to the owner's property at all times. In the unlikely event a female dog becomes pregnant while on the Island, then it must be flown off the island so that the puppies are born on the mainland at the owner's expense.	
3.1.5	LHIB	NSW Pet Registry is not currently being utilised to register or attach important information to pets (e.g. menacing or dangerous animal, microchip information, vet information)	Require all pet owners to register their animal on the NSW Pet Registry	LHI does not currently have a log in to access or add to records	Mandatory registration of all pets on the NSW Pet Registry Information from vets around vaccinations and health checks to be linked to the pets record on the registry	
3.1.8 - 3.1.10	LHIB	Obedience Training not easily accessible to pet owners on the island Currently includes the vet as able to assess obedience	Increase importation to allow for a trainer to come to the island on a regular basis (annual, bi-annual?) Remove vet from approved			
	Dr Courtney Turner DVM BAnVetBioSc (Hons I) Island Vet	Training and behaviour requirements (limited guidance and resources for owners to train their dogs appropriately for the LHIB's expectations)		Bird aversion (scale ranking) Board specified performance criteria - tested 3 yearly come when called sit / stay Other specific criteria Consider use of off-island trainers for final assessment of obedience required to stay on island		
3.2.3	LHIB Biosecurity	Not more than one dog per household	Add clause to allow more than one dog if homing working/detection dogs			
	Dr Courtney Turner DVM BAnVetBioSc (Hons I) Island Vet	Limitations on number of dogs per household	Relax restriction	Lifting one dog per household rule could result in significant increase in number of dogs on island. Multiple dogs already allowed per lease if multiple households exist	Recommend no change to one dog per household rule	
		Section on dog management zones, designated & prohibited areas etc. is lengthy and somewhat ambiguous in parts. Maps are poor quality.	Consolidate sections 3.8 - 3.14 into one section with subheadings and concise dot points. Update and improve quality of maps. Develop interactive online maps and information sheets to add to LHIB website.			

Board Meeting - March 2024 - POLICY AND STRATEGY

3.8 - 3.14	LHIB	Threatened migratory shorebirds preferentially using area of beach from Cobbys Creek north to WMF as alternative roost site/refuge when disturbed or dispersed from the airstrip.	Prohibit dogs from 140 m of beach from Cobbys creek to WMF beach access track.	9 species of migratory shorebirds recently added and one uplisted on EPBC Act threatened species list, most of which are either regularly or occasionally present on LHI. This is a MNES and we have a statutory obligation to minimise threats and disturbance to these species. While most migrate to the northern hemisphere in about early April and return in September, a number of immature birds 'overwinter'. Double-banded Plover is a winter migrant from New Zealand and are present on LHI from early March - late August.	Recommend change to the policy to prohibit dogs from the 140 metres of beach from Cobbys Creek to the beach access track near the WMF entrance. This area of beach is currently a designated off-leash area.	https://birdlife.org.au/news/australias-threatened-species-list-just-got-longer/
	Dr Courtney Turner DVM BA(VetBio)Sc (Hons I) Island Vet	Limited designated dog areas, and the inconsistency of the reasonings behind area inclusion/exclusion	Review prohibited, on-, and off-leash areas and provide justification for all	Skate park development would result in reduction of grassed off-leash area.	Consider options for a dedicated fenced off-leash dog park, contingent on grant funding	See sheet 2 for reasonings behind area inclusion/exclusion.
OLG						

Board Meeting: March 2024	Agenda Number: 10.03	Record Number: ED24/1589
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Community Strategic Plan (CSP) Update and Next Steps

Recommendations

1. **Note** the progress in the development of the LHI Community Strategic Plan.

Current position

The development of the Community Strategic Plan (CSP) is progressing well, with recent community workshops held from February 12th to 15th representing a significant milestone in the process. These workshops were instrumental in gathering valuable insights from our community to shape the future direction of our island.

Port Macquarie-Hastings Council (PMHC) has played a vital role in supporting and guiding us throughout the CSP development journey and ensuring a robust engagement process.

Participation in the 2024 Workshop data collection to-date is shown below:

	Adults	Children	Total
Total Population	409	87	496
CSP Participants	141	21	162
% Participation	34	24	33

*Note: 25 of the children are under 5 years of age so the adjusted % would be 34%.

The workshops were successful in collecting valuable feedback and insights across a range of critical areas including infrastructure, environmental, social services, culture and heritage, community and economic development. Participants actively engaged in discussions, providing diverse perspectives that will inform the drafting of the CSP document.

The upcoming survey and engagement sessions will further assist the planning process, ensuring that the CSP accurately reflects the collective vision and priorities of our community.

Next Steps:

1. **Consolidation of Feedback:** Currently, the team is consolidating the input received during the workshops to integrate it into a draft CSP. This process involves analysing all feedback to ensure comprehensive representation of community priorities. This will then be reviewed against relevant state and federal considerations as well as the Board's legislative responsibilities to provide a final draft CSP in May 2024.
2. **Community Survey:** In March, a community-wide survey will be conducted to gather additional input and validate the findings from the workshops. This survey aims to reach a broader audience including those unable to attend the workshops.
3. **Additional Engagement:** To capture additional information, engagement sessions will be organised with several additional groups that have had low participation in the process so far for different reasons. These sessions will provide additional insights into the needs and aspirations of various groups within the community.
4. **Timeline Development:** A detailed timeline for the completion of the CSP has been developed and presented to the senior management team. This timeline outlines key milestones and deadlines to ensure that the development process remains on track.
5. **Draft Community Strategic Plan:** A draft CSP is due to be tabled at the May meeting of the Board, to be considered for community exhibition.

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Darcelle Matassoni	Senior Project Officer

Board Meeting: March 2024	Agenda Number: 10.04	Record Number: ED24/1594
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Making of State Environmental Planning Policy Amendment (Lord Howe Island) 2024

Recommendations

1. **Note** the making of State Environmental Planning Policy Amendment (Lord Howe Island) 2024.

Current position

The NSW Government made the State Environmental Planning Policy Amendment (Lord Howe Island) 2024 (the SEPP) by notification on February 16, 2024 (Attachment A)

The SEPP enables the repair, maintenance and storage of boats to be permitted without development consent if the development meets both of the following conditions:

1. complies with the Guideline published by the Board (Attachment B)
2. is carried out on or before 23 February 2029.

The Guideline was developed in consultation with, and as recommended by the Environment Protection Authority (EPA). The Lord Howe Island Marine Park Manager at the Department of Primary Industries (DPI) also provided feedback to assist with preparation of the Guidelines.

The operative provisions of the SEPP will have effect for approximately five years. The Board is encouraged to plan and install appropriate vessel handling and waste management facilities on the Island before February 2029.

Boat owners effecting repairs or maintenance will still need to obtain the Lord Howe Island Board's (the Board) approval under its general power to manage vacant Crown land and the affairs of the Island under the Lord Howe Island Act 1953. In granting approval, the Lord Howe Island Board must comply with Part 5 of the Environmental Planning and Assessment Act 1979. The Part 5 assessment system ensures that public authorities fully consider environmental issues before they undertake or approve activities that do not require development consent. It is intended that this requirement is addressed through the completion of a standard application form, (much the same process as has been required for vessel storage).

Critical path of development

- Issue identified by A/Chief Executive Officer, December 2024
- Acting Deputy Secretary of Legal and Governance, Department of Planning and Environment advised on position.

Page 1 of 2

- At an out of session Board meeting on 10 January 2024, the Board resolved to request that a SEPP should be made as soon as possible to remove the requirement for development consent for boat maintenance and repair works in designated areas of the foreshore.
- Department's legal team assisted with the preparation and review of the proposed SEPP and Executive Council papers
- The Secretary, Department of Planning, Housing and Infrastructure formed the view that the SEPP, through application of the Guideline and existing statutory approval processes, will not adversely affect critical habitat, threatened species, populations or ecological communities, or their habitats.
- Parliamentary Counsel provided an opinion that the SEPP can be legally made.
- The Minister Planning and Public Spaces determined that the form and subject matter of the proposed SEPP is appropriate under section 3.20(9) of the Environmental Planning and Assessment Act 1979 (EP&A Act)
- The proposal was tabled at the Executive Council, 14 February 2024
- The Minister Planning and Public Spaces recommended to His Excellency the Lieutenant-Governor the making of the proposed State Environmental Planning Policy Amendment (Lord Howe Island) 2024 under section 3.29(1) of the EP&A Act.
- The SEPP was notified 16 February 2024.

Background

The Lord Howe Island has no facility where boats can be lawfully repaired, maintained and stored. The repair, maintenance and storage of boats was prohibited under the Lord Howe Island Local Environmental Plan (LEP), a) on the public jetty absolutely, and b) in the foreshore unless development consent has been obtained.

To provide for these essential activities, a SEPP was proposed to amend the LEP establishing areas within Zone 7 to be used for boat repair, maintenance and storage without development consent.

Next steps

The Board's Lagoon Foreshore Management Plan will need to be amended, to reflect the details of the SEPP.

Attachments

Attachment	Title
A	NSW Government made the State Environmental Planning Policy Amendment (Lord Howe Island) 2024
B	Guideline adopted by the Board

Approval and contact

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



New South Wales

State Environmental Planning Policy Amendment (Lord Howe Island) 2024

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

PAUL SCULLY, MP
Minister for Planning and Public Spaces

State Environmental Planning Policy Amendment (Lord Howe Island) 2024 [NSW]

State Environmental Planning Policy Amendment (Lord Howe Island) 2024

under the

Environmental Planning and Assessment Act 1979

1 Name of policy

This policy is *State Environmental Planning Policy Amendment (Lord Howe Island) 2024*.

2 Commencement

This policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of policy

This policy is repealed at the beginning of the day following the day on which this policy commences.

4 Land to which policy applies

This policy applies to the land referred to in this plan, Schedule 1[2].

5 Maps

The maps adopted by *Lord Howe Island Local Environmental Plan 2010* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this policy.

State Environmental Planning Policy Amendment (Lord Howe Island) 2024 [NSW]
Schedule 1 Amendment of Lord Howe Island Local Environmental Plan 2010

Schedule 1 Amendment of Lord Howe Island Local Environmental Plan 2010

[1] Clause 37A Additional permitted uses

Insert after clause 37A(1)—

- (1A) This clause prevails over clauses 34 and 35.

[2] Schedule 4 Additional permitted uses

Insert at the end of the schedule, with appropriate clause numbering—

Temporary boat maintenance area

- (1) This clause applies to land identified as “Item 3” on Sheet 4 of the map.
- (2) Development for the purposes of the repair, maintenance or storage of boats is permitted without development consent if the development—
- (a) complies with the *Environmental Guidelines for Boat Repair and Maintenance*, published by the Board in January 2024, and
- (b) is carried out on or before 23 February 2029.

[3] Dictionary

Omit “Lord Howe Island Local Environmental Plan 2010 Sheet 4 (6380_COM_APU_004_005_20220113)” from the definition of *the map*.

Insert instead “Lord Howe Island Local Environmental Plan 2010 Sheet 4 (6380_COM_APU_004_005_20240112)”.



Environmental Guidelines for Boat Repair and Maintenance

January 2024

Publishing Information

Citation:

Lord Howe Island (2024) *Environmental Guidelines for Boat Repair and Maintenance*, Lord Howe Island NSW

Date:

January 2024

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I. Introduction

I.1 Purpose and scope of the guidelines

The purpose of these guidelines is to support responsible boat repair and maintenance activities on Lord Howe Island and to manage the environmental risks associated with these activities.

There are no facilities or infrastructure in place on Lord Howe Island to assist the undertaking of boat repair and maintenance. These guidelines are to be applied as an interim measure, until such time as an appropriate slipway and bunding facility is installed.

Implementing the guidelines will improve environmental outcomes for the Island environment and marine waters.

The management actions described in these guidelines may not be applicable to all operations undertaken in the designated foreshore zones identified as 'Item 3' in the Lord Howe Island Local Environmental Plan 2010 Sheet 4.

I.2 Why the Guidelines are needed

Island wellbeing and tourism activities depend on the long-term health of marine resources and the ecological health of their supporting ecosystems.

Boat repair and maintenance activities, particularly the wastes that are generated from these activities, have the potential to affect the surrounding coastal environment, if not managed.

Many of the products used to clean boat hulls and decks contain toxic ingredients such as chlorine, phosphates and ammonia. Removal and application of antifouling paints releases toxic chemicals which may contaminate the water and bottom sediments. Harm may be caused by toxic paint chips, paint residues and other solid and liquid wastes containing heavy metals, acids, oil, hydrocarbons and marine pest species.

The guidelines recognize that repair and maintenance work in the designated areas is:

- of a low volume,
- undertaken in an open well ventilated environment,
- undertaken over a sandy substrate
- undertaken above the mean high water, and well back from the waterline

I.3 How to use the guidelines

The guidelines are to be used by:

- Boat owners and operators conducting boat repair and maintenance activities;
- Boat owners of visiting vessels undertaking emergency repairs;
- Visiting marine service contractors;
- Board officers involved in planning and regulation.

Part 2 of the guidelines gives a brief explanation of the environmental management issues which typically arise from boat repair and maintenance activities.

Part 3 recommends specific actions that will improve work practices and achieve better environmental outcomes at the nominated foreshore work zones.

Anyone undertaking boat repair and maintenance activities should reference Part 3 to identify the activities and practices that are relevant to their work.

2. Environmental Management Issues

The specific environmental management issues arising from boat repair and maintenance are described below. Most boat repair and maintenance activities have the potential to adversely affect aquatic plant and animal life. They may also threaten human health and environmental amenity. The greatest risk to the environment results from maintenance activities undertaken in the absence of adequate waste containment and management infrastructure and systems.

Management Issue	Description	Relevance to Lord Howe
Materials use and storage	A wide range of chemicals and other materials, many of which may be hazardous, are used in the maintenance and repair of vessels. Examples include fuels, oils, alkaline and acidic solutions, cleaning solvents, disinfectants, detergents, degreasers, rust inhibitors and antifouling paints. These materials need to be used carefully and stored securely to prevent leakage and spills.	Likely
Emergency response procedures	Materials and chemicals used onsite may cause injury or environmental harm in the event of an accidental leak or spill. It is important to have a clear and well understood emergency protocol to deal with such situations.	Possible
Boat haul-out, repair and maintenance area	In a poorly managed work environment, repair and maintenance activities can lead to environmental harm and contamination of groundwater, soil, air and the receiving estuarine/marine water and sediments.	Possible
Removal of antifouling paint	<p>Antifouling coatings are applied to prevent or inhibit the settlement and attachment of marine biota on to boat hulls. This is primarily achieved by the application of paints that continuously leach chemicals such as copper and/or other biocides that are toxic to hull foulants.</p> <p>In the past, tributyltin (TBT) was used for this purpose, but has been restricted in Australia since 1989 due to negative impacts on the marine environment. Modern antifouling paints mostly contain copper, in the form of either copper oxide or copper thiocyanate, together with a secondary antifouling agent such as diuron. Conventional antifouling paints contain biocides that are harmful to marine life.</p> <p>Non-toxic antifouling coatings, mostly based on silicone, have surface properties that reduce the strength of adhesion of antifoulants and ideally self-clean during vessel activity.</p> <p>The removal of antifouling paints results in paint debris, sludge, dust and other particles that may contribute to water, soil and air pollution and may be harmful to marine life.</p>	Likely
Manual and mechanical scraping, scrubbing and cleaning	Hull and deck sanding and scraping produces a range of solid wastes, including paint chips and dust that can pollute and contaminate air, soil, surface waters and bottom sediments. Conducting these activities outdoors increases the potential for pollutants to be dispersed into the environment by wind, rain or runoff. The accumulation of paint chips and other residues in soils and sediments can also lead to contamination.	Likely

<p>Pressure water blasting</p>	<p>Using water-based pressure cleaners to clean the exterior of boats has the potential to create an environmental nuisance and cause environmental harm. High-pressure water blasting also presents containment problems caused by the wide dispersion of biological and physical materials removed from the boat hull during the cleaning process. Pollutants and contaminants originating from pressure water blasting activities include:</p> <ul style="list-style-type: none"> • Chemicals and additives, including detergents, solvents, caustic or acids, used in the cleaning solution. • Materials removed from the cleaning surface including biological hull foulants, antifouling paint chips and sludge, dirt, oil and grease. • Compounds produced as a result of reactions between the cleaning solution and the materials removed from the boats. 	<p>Likely</p>
<p>Abrasive blast cleaning</p>	<p>Abrasive blast cleaning involves cleaning surfaces by using compressed air (dry blasting) or water (wet blasting) to propel hard granular particulate matter through a nozzle against the boat hull and/or other surfaces.</p> <p>Abrasive blast cleaning practices result in emissions, which may cause air pollution, soil and water contamination. Performing these practices near public places may also result in visual annoyance, dust and noise nuisances.</p>	<p>Unlikely Not considered further in these guidelines</p>
<p>Removal of biological foulants</p>	<p>Marine pests may be present on the hull of boats, in ballast tanks or in the internal plumbing of boats.</p>	<p>Likely</p>
<p>Manual painting</p>	<p>Painting boat hulls and applying topside coatings may result in the concentrated release of harmful vapours and liquids. Wastes generated by painting activities are considered hazardous where they contain solvents and/or heavy metals.</p>	<p>Likely</p>
<p>Spray painting</p>	<p>Spray painting involves the application of liquid and solid formulations that consist of paints, powder coatings, surface preparation products, removers, finishers, solvents and thinners. The environmental risks associated with spray painting include the release of volatile organic compounds and fine particles from overspray into the atmosphere and then onto soil and into water bodies.</p>	<p>Possible</p>
<p>Fibreglassing</p>	<p>Fibreglassing activities are a source of hazardous volatile emissions to the environment. Acetone (a solvent used to clean tools and other surfaces contaminated with resin) and styrene (the volatile component of the polyester resin) are the largest contributors of volatile emissions caused by fibreglassing activities. Fibreglass trimming, grinding, sanding and drilling activities may also give rise to air pollution in the form of dust and other particulate emissions.</p>	<p>Possible</p>
<p>Welding and metal fabrication</p>	<p>Welding activities may contribute towards air pollution and cause metal contamination of soil, runoff and estuarine/coastal marine surface waters through the generation of airborne dusts and the emission of fumes and smoke. Performing welding activities near public places may also result in visual annoyance and dust nuisances.</p>	<p>Likely</p>

Board Meeting - March 2024 - POLICY AND STRATEGY

Engine maintenance and repair	Engine maintenance and repair activities involve the use of oil, fuel and solvent that are potentially hazardous to human health and the surrounding environment.	Likely
Waste management	Boat repair and maintenance facilities may produce a wide range of solid and liquid wastes that are potentially dangerous to people, wildlife and marine life. Dangers to wildlife include the potential for ingestion of debris mistaken for food and/or death from entanglement. Human dangers include injury from stepping on discarded items and exposure to toxins. Marine water quality can be affected by pollutants in surface runoff, or groundwater infiltration. These pollutants may include sediment, nutrients, oils, grease, hydrocarbons, metals, chemicals, particulates and solvents. Pollutants discharged to the aquatic environment should be reduced to the maximum extent that is reasonable and practical, having regard to best practice environmental management. Other general waste impacts include reduced amenity of our shoreline.	Likely
Air quality management	Boat repair and maintenance activities may affect local air quality and cause air pollution by generating dust, fumes, and other emissions.	Unlikely. Low volume of works to be undertaken in open air. Not considered further in these guidelines.
Noise management	The emission of noise is considered to interfere with a person's enjoyment of the environment if it is unreasonable having regard to its volume, intensity or duration; and the time, place and other circumstances in which it is emitted. Noise carries long distances over water. Excessive and/or unreasonable noise emissions from activities such as grinding, sanding, cutting and the revving of engines can be a major source of disruption and annoyance to surrounding areas. Specific noise control measures or restricted hours of operation can ameliorate impacts.	Possible
Management of contaminated land	There is some probability that past and current boat maintenance practices have resulted in soil and sediment contamination at some boat repair or maintenance facilities. Any onsite excavation or construction needs to be carefully managed to protect human health and prevent further dispersion of contaminants.	Unlikely. Low volume of works undertaken annually over time.

3. Required Management Actions

Identifier	Action	Outcome
I	General	
1.1	<ul style="list-style-type: none"> ▪ Works must not impede jetty operations, public use of the boat ramp, or impact on access to or the use of the Jetty, Transport NSW/Marine Park or Marine Rescue sheds. 	<ul style="list-style-type: none"> • Commercial stevedoring and goods transport operations are not impacted by private works in the area. • Emergency response or public agency operations are not impacted by private works in the area.
1.2	<ul style="list-style-type: none"> ▪ Works must not unreasonably impede use of the foreshore reserve by other users. 	<ul style="list-style-type: none"> • There are opportunities for safe public access, use and enjoyment of the foreshore and boat ramp area.
1.3	<ul style="list-style-type: none"> ▪ Storage, repair and maintenance works are limited to: <ul style="list-style-type: none"> ○ A maximum of 7 days per vessel per operation in the short-term storage area adjacent to the boat ramp at Hunter Bay. ○ A maximum of 6 weeks per vessel per operation in the long-term storage area on Lot 152 DP 757515 <p>Applications outside these criteria will be considered by the CEO on their merits.</p>	<ul style="list-style-type: none"> • Commercial boat repair business are permitted only with development consent. • There is adequate access to the foreshore and ramp area for all boat users.
1.4	<ul style="list-style-type: none"> ▪ Owners must lodge the appropriate form at the LHIB administration prior to commencing works or storing their vessel. 	<ul style="list-style-type: none"> • The LHIB is indemnified against public risk • Obligations under part 5 of the <i>Environment Planning and Assessment Act 1979</i> are met.
1.5	<ul style="list-style-type: none"> ▪ Damage to or removal of native vegetation is not permitted. 	<ul style="list-style-type: none"> • Impacts on the foreshore environment are limited.
1.6	<ul style="list-style-type: none"> ▪ At the completion of the repair and maintenance works, the work areas must be cleaned up by the owner or contractor and wastes should be stored and disposed of in accordance with this guideline. 	<ul style="list-style-type: none"> • The significant scenic values and amenity of the foreshore is maintained and enhanced. • A safe public environment is maintained.
1.7	<ul style="list-style-type: none"> ▪ Tools, materials, equipment, chemicals and fuel are to be appropriately stored or removed from the site when not in use. 	<ul style="list-style-type: none"> • The significant scenic values and amenity of the foreshore is maintained and enhanced. • A safe public environment is maintained.
1.8	<ul style="list-style-type: none"> ▪ The working area is to be made safe and barricaded/signposted to discourage public access during works and the area restored at the completion of works. 	<ul style="list-style-type: none"> • Obligations under work health and safety laws in a public area are met

		<ul style="list-style-type: none"> • Risk to the safety of others and the environment is minimized.
1.9	<ul style="list-style-type: none"> ▪ Owners must lodge the appropriate form at the LHIB administration prior to commencing works or storing their vessel. 	<ul style="list-style-type: none"> • The LHIB is indemnified against public risk • Obligations under part 5 of the <i>Environment Planning and Assessment Act 1979</i> are met.
2	Chemical storage and handling	
2.1	<ul style="list-style-type: none"> ▪ Undertake work in a secure area over a surface impervious to leaks or spills. ▪ Have rags on site to mop up any spills ▪ Store as little as possible of the chemicals, hazardous and dangerous liquid materials used on site. ▪ Petrol, oil, chemicals, refuse or waste such as paper or rags contaminated with similar combustibles or pollutants shall not be discharged or thrown into the waters or upon the ground within the Marine Park. ▪ Refer to Safety Data Sheets for advice and information on handling all liquids and powder products used or stored on site. ▪ Ensure that all personnel responsible for handling chemicals are aware of the potential hazards of the materials they handle and implement safe work methods. ▪ Label directions for any paint, chemical or antifoulant must be followed, including requirements for disposal of leftover product and containers which must be disposed of at the waste transfer facility. ▪ Keep records of chemical application, including the application of antifouling paint and otherwise comply with the record keeping and other requirements of the <i>Pesticides Act 1999</i> and <i>Pesticides Regulation 2017</i>. 	<ul style="list-style-type: none"> • Work practices minimise the risk of harm to the community and the environment. • The <i>Protection of the Environment Operations Act 1997</i> is complied with (it is an offence to pollute waters) • Chemical, residue or particulate matter involved in or resulting from the construction, repair or maintenance of boats is captured, securely contained and disposed of at the waste management facility. • Exposure of people, wildlife, marine life and habitats to pollution, contamination and waste is limited. • The potential for waste materials to enter the surrounding estuarine/coastal marine waters is limited.
3	Boat washing	
	<ul style="list-style-type: none"> ▪ The following measures should be undertaken to prevent pollutants from discharging into the marine environment from the cleaning of boats and motors, engines or mechanical equipment: <ul style="list-style-type: none"> ○ Oil, fuel and dirt should be wiped from the engine as much as possible before cleaning ○ Outboard motors should be washed and rinsed in a work area away from the shoreline ○ Where possible, boat decks should be rinsed with water only. ○ It is recommended that environmentally sensitive detergents only (e.g. low phosphate, biodegradable) are used. ○ Boats with antifouling material applied to the hull may only be washed down over geofabric or tarp, or a bunding system if available. ▪ Liquid and solid waste is to be disposed of as per 10. Waste Management section 	<ul style="list-style-type: none"> • Contaminated wastewater runoff and other liquid and solid pollutants is prevented from entering surface water, groundwater, soil and marine sediments.

4	Hull cleaning and stripping <ul style="list-style-type: none"> ▪ Where possible, use mechanical or manual buffing and scraping methods in preference to pressure water blasting for hull cleaning, as solid wastes are less likely to escape and can be swept or vacuumed up for disposal. ▪ Fit sanders, grinders and other power tools with dust extraction and collection systems if possible ▪ Use water-based or biodegradable strippers, cleaners and degreasers. Chemicals should not be used where they can directly enter the water. ▪ Use phosphate-free detergents wherever possible and scrub with a soft brush to absorb the detergent. Use biodegradable spray-type cleaners that do not require rinsing. ▪ Read the manufacturer's Safety Data Sheet before deciding on a chemical cleaner. Chemicals that are toxic to humans are likely to also be toxic to marine organisms. ▪ Wherever possible, use hot water, rags or a brush instead of chemicals. ▪ Ensure that pressure water blasting activities do not create an environmental nuisance and avoiding pressure water blasting operations during windy conditions ▪ Paint removal activities should take place away from the shoreline and tarpaulins must be placed on the ground to ensure that the removed paint debris, sludge, dust and other residues are contained, collected and disposed of properly and do not enter any waterway or the waters of the marine park. ▪ Unless confirmed otherwise, it should be assumed that any removed antifouling coating is contaminated with biocides, may contain Tributyltin or lead based compounds, and should be handled and disposed of as contaminated waste. 	<ul style="list-style-type: none"> • Pollution prevention and control measures are adopted to avoid the release of contaminants into marine waters, bottom sediments, soil and air.
5	Application of paints including anti-fouling paints	
5.1	<ul style="list-style-type: none"> ▪ Tarpaulins/drop sheets should be spread under the entire boat work area to collect wastes and prevent paint drips and spills from entering the marine/land environment ▪ Where possible, manual painting using brushes and rollers is recommended in preference to spray painting methods. Refer to the manufacturers' directions when deciding on the application method. ▪ Antifouling paint and other chemical must be stored securely in labelled containers, applied over a tarped area and must not be sprayed during high wind. ▪ Before applying antifouling paints, consider using alternative technologies, particularly those that rely on the coatings physical properties rather than its toxicity to prevent fouling, if these technologies are appropriate for the vessel's speed and frequency of activity. ▪ Only use antifouling paints that have been registered for use in Australia by the Australian 	<ul style="list-style-type: none"> • Accidental spillage is captured. • Contaminated wastewater runoff and other liquid and solid pollutants is prevented from entering surface water, groundwater, soil and marine sediments.

	<p>Pesticides and Veterinary Medicines Authority.</p> <ul style="list-style-type: none"> ▪ Follow the antifouling paint manufacturer’s specifications. ▪ Paint out excess paint onto an absorbent material such as an old rag or newspaper. Allow to dry before disposal. ▪ When using containers filled with water to clean water-based paint from brushes and rollers, allow the paint solids to settle by leaving the container overnight. Pour the water out onto the garden or grassed area in the morning and use an old rag or newspaper to wipe out the solids from the bucket. ▪ All paint waste, particularly antifouling paint waste, should be disposed of at the waste management facility. ▪ Ensure that spray painting activities are sensitive to surrounding foreshore users and that they do not result in visual annoyance or create an environmental nuisance. ▪ Spray painting must not be performed in high winds, and consideration should be given to erecting screening material to a height of two metres to arrest drift. 	
6	Removal of biofouling	
	<ul style="list-style-type: none"> ▪ Biofouling should be carefully removed to prevent contamination with paint chips and other hull coatings. ▪ Measures should be implemented to contain and dispose of biological material removed from vessels ▪ Do not return collected biofouling to the sea or any waterway. 	<ul style="list-style-type: none"> • Biofoul is captured and prevented from entering surface or marine waters.
7	Fibreglassing	
	<ul style="list-style-type: none"> ▪ Where practical, hand lay-up methods are recommended over spray gun applications as hand lay-up releases less styrene. ▪ Reduce the amount of grinding and sanding as much as possible by trimming with a knife or mechanical cutter when articles have solidified but not yet hardened. ▪ Securely wrap all sanding and grinding dusts, and seal contaminated and spent solvents in a container prior to disposal at the waste management facility. 	<ul style="list-style-type: none"> • Pollution prevention and control measures are adopted to avoid the release of contaminants into marine waters, bottom sediments, soil and air.
8	Welding and metal fabrication	
	<ul style="list-style-type: none"> ▪ Establish an isolated area for using oxy-acetylene torches and welders, away from combustible materials such as oils, grease and rubber. ▪ Conduct all metal cutting operations on a suitable surface and screen the area to minimise the horizontal dispersion of metal fragments and allow the sweeping or vacuuming of metal scraps and filings. 	<ul style="list-style-type: none"> • Work practices minimise the risk of harm to the community and the environment.

	<ul style="list-style-type: none"> ▪ Securely wrap all dusts and other grinding wastes prior to disposal at the waste management facility. 	
9	Engine maintenance and repair	
	<ul style="list-style-type: none"> ▪ Use a drip tray or groundsheet under the engine to collect oil, grease, solvents or detergents. ▪ Keep adequate supplies of rags and other absorbent materials for cleaning up small fuel and oil spills. ▪ Where possible, clean engine parts with a brush rather than with solvents or aqueous degreasers such as alkaline or caustic soda. ▪ Use water-based or biodegradable strippers, cleaners or degreasers wherever possible. ▪ Use a funnel when pouring fuel into drums or tanks or use hand pumps to remove fuel from drums. ▪ Drain oil filters before disposal 	<ul style="list-style-type: none"> • Adverse environmental impacts associated with engine service and repair activities are minimized.
10	Waste management	
	<ul style="list-style-type: none"> ▪ General waste and uncontaminated debris should be disposed of as per normal practice at the waste management facility (eg plastics, recycleables, scrap metal etc) ▪ Controlled (hazardous) waste must be collected in sealed, separate clearly labelled containers and disposed of in accordance with direction at the waste management facility. Controlled waste includes waste that is capable of leaching, or is toxic, corrosive, poisonous, flammable or explosive, such as: <ul style="list-style-type: none"> ○ Detergents, degreasers, brush cleaning fluids, solvents and acidic or alkaline solutions ○ Used used engine oil, lubricating oil, hydraulic and gearbox oil, volatile solvents, thinners and other hydrocarbons ○ Paint, solvents, paint scrapings, biofouling residues and antifouling paint residues containing metals such as copper, lead, zinc, tin and metalloids; or other substances such as tributyltin, diuron and diuron derivatives used in antifouling paints ○ Contaminated and spent solvents ○ Marine biota (bio-hazardous) residues ▪ Ensure there are enough drums and/or other containers for collecting and storing waste. ▪ Clearly label all liquid waste disposal drums with details of their contents and ensure that they are sealed prior to their disposal at the waste management facility. Notification in advance of disposal would be appreciated. 	<ul style="list-style-type: none"> • General wastes are disposed of in accordance with Lord Howe Island Board requirements. • Pollution prevention and control measures are adopted. • Release of contaminants into marine waters, bottom sediments, soil and air is avoided.
11	Noise management	

	<ul style="list-style-type: none"> ▪ Operate power tools within the hours 7:30am to 5:30pm. 	<ul style="list-style-type: none"> • Noise generated on the site is minimized • Impacts on the foreshore environment and users are limited.
12	Air quality management	
	<ul style="list-style-type: none"> ▪ Fit power tools with dust extraction and collection systems. ▪ Apply paints using rollers or brushes or airless spray guns in preference to compressed-air guns. Where spray painting cannot be avoided, use High Volume Low Pressure (HVLV) spray guns to reduce the amount of overspray, paint usage, the release of volatile organic compounds and subsequent odours. ▪ Regularly collect floor sweepings, dust, powder waste or absorbent clean up materials and place them in a sealed bag before disposing of them in a covered waste bin. ▪ Use wet/dry vacuum cleaners with dust filters for general cleaning of the work area floor surface rather than sweeping and hosing the surface down with water. 	<ul style="list-style-type: none"> • Chemical, residue or particulate matter involved in or resulting from the construction, repair or maintenance of boats is captured, securely contained and disposed of at the waste management facility.
13	Contaminated land management	
	<ul style="list-style-type: none"> ▪ Where land is potentially contaminated from past activities, earth works should only occur following an assessment of contamination levels by a qualified expert. ▪ Marine sediment in the near vicinity of boat repair and maintenance facilities should not be disturbed unless it has been demonstrated that it is safe to do so through analysis of contaminant concentrations. 	<ul style="list-style-type: none"> • Existing contaminants in soil and sediment are prevented from being remobilised into the environment during construction or development works.
14	Emergency response procedures	
	<ul style="list-style-type: none"> ▪ Familiarise with the location of the emergency spill kit and wall mounted extinguisher in the work area, and have a plan of action in the event of a fire, chemical and other spills, pollution incidents, damage to equipment and personal injury. ▪ Report all spills to the EPA 131555 and Lord Howe Island Board ▪ Keep and maintain spill clean-up equipment; rags, tarps, drums ▪ Contain and clean up spills or leaks immediately if it is safe to do so. ▪ Dispose of contaminated clean-up materials in accordance with the Waste Management section of these guidelines. 	<ul style="list-style-type: none"> • Boat owners can respond effectively to emergency situations which may threaten human and environmental health.

4. Boat Maintenance areas





Board Meeting: March 2024	Agenda Number: 11.01	Record Number: ED24/1331
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Development Contributions Plan

Recommendations

1. **Note** the preparation of a Development Contributions Plan under Section 7.11 of the *Environmental Planning and Assessment Act 1979* which will apply to new residential and tourism developments on Lord Howe Island.
2. **Note** that the consideration of the Development Contributions Plan will be necessary at an out of session Board Meeting to facilitate public notification, review and reporting for adoption at the May Board meeting.

Current position

Section 7.11 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) authorises a consent authority responsible for determining a development application to grant consent to a proposed development subject to a condition requiring infrastructure contributions of cash and/or land towards the provision or improvement of public amenities and services to meet that development.

Lord Howe Island does not have a Development Contributions Plan at present and therefore does not have a mechanism to collect contributions towards infrastructure and services that may be affected new development and increased population on Lord Howe Island.

Lord Howe Island is expected to develop in line with the release of dwelling entitlements by the LHIB. The *Lord Howe Island Local Environmental Plan 2010* provides for 25 new dwellings over a 20-year period from 2005 to 2025.

At the December 2022 meeting of the LHI Board, approval was given for the release of six dwelling entitlements. A process to allocate these entitlements was approved and has been implemented from July 2023.

The Board approved the '*Collection of a one-off, \$20,000 environment and services levy will apply to any dwelling created or constructed under this standard. This levy is payable within 12 months of the ballot being determined*'.

History

Contributions have previously been levied on new residential development under a special levy imposed by Lord Howe Island Board. The retired Allocation and Granting of Dwelling Entitlements Policy stated, '*one-off, \$15,000 environment and services levy will apply to any*

Page 1 of 2

dwelling created or constructed under this policy'. These levies on residential development were imposed on previous releases of dwelling entitlements as a contribution towards the required infrastructure. A legal and appropriate means by which to collect a contribution is through a Development Contributions Plan made under the Environmental Planning and Assessment Act 1979 (EP&A Act).

It is proposed that all remaining dwelling entitlements released under the *Lord Howe Island Local Environmental Plan 2010*, and any new/re-development of tourist accommodation facilities be subject of the Development Contributions Plan.

How Does a Contributions Plan Operate

In determining a development application, the Lord Howe Island Board may impose a condition requiring the payment of a monetary contribution. Contributions will be required for all forms of residential development that create the potential for an increase in demand of public amenities and services identified in the Plan. Contributions will be calculated based on the additional demand.

How are developer contributions spent

The contributions made to the LHIB under the provisions of a Contributions Plan may fully or partially fund the public amenities and services identified in the Plan. In the situation where public amenities and services are not fully funded by contributions, the remaining funds will be drawn from alternative sources. Public amenities and services are required at the time of demand for those services. This demand may occur before the contributions have been collected to fund these services.

Contributions are calculated based on the following categories of projects:

- Open Space and Recreation.
- Community Facilities.
- Roadworks and Traffic Management.
- Community Cultural and Emergency Services
- Built assets (public)
- Management of the Contributions Plan.

Next steps

Prepare a Development Contributions Plan for Board consideration.

Attachments

Attachment	Title
A	Nil

Approval and contact

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

Board Meeting: March 2024	Agenda Number: 11.02	Record Number: ED24/1337
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

MDC2022.7.2 – Application to modify development consent – Request for approval to assess and determine application out of session – Chad Wilson

Recommendations

1. **Agree** to assess and determine the modification out of session.

Current position

On 22/02/2024, an application to modify consent was lodged by Chad Wilson for:-

- Alterations to guest house internal and external, new double garage, accessible pathways between buildings and new retaining wall to parking.

The application was publicly exhibited from 23/02/2024 to 08/03/2024. No submissions were received.

An assessment report is in preparation by the Board's independent planning consultant. The application is to be determined by the Board.

Applicant request

The lodgement of this modification was required to address site coverage reduction conditions of the original consent, the addition of a garage and retaining wall, and issues identified by the Principal Certifier appointed by Mr Wilson regarding building classification and compliance with the National Construction Code of Australia 2022.

The submission of the modification (17/01/24) was delayed due to the inability of the applicant to access his planning support and then by the Christmas/New Year break.

The applicant was asked to supply additional information and clarification on the proposal (23/01/2024). Upon receipt of this information (24/01/2024) the application was lodged in the planning portal by Board staff (21/02/24).

The applicant has a building team engaged and has commenced building work on elements of the development. As the application was not sufficiently progressed to make the March 2024 Board meeting for assessment and determination, it would ordinarily be tabled at the following Board sitting on 21st & 22nd May 2024.

According to the applicant, this would result in a costly hiatus in building work.

Page 1 of 2

Given the extenuating circumstances, the applicant requested that the Board consider and determine the development application out of session, giving him, his contracted building team and trades a decision before late May.

Attachments

Attachment	Title
	Nil

Approval and contact

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

Board Meeting: March 2024	Agenda Number: 11.03	Record Number: ED24/1503
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

MDC2021.4.2 - Application to modify consent – Gin Distillery – Anthony Riddle

Recommendations

1. **Approve** MDC 2021.04.02, to permit packaged liquor sales in conjunction with onsite liquor tastings at Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island, subject to the existing conditions of approval of DA2021.04, as amended by the modified and new conditions listed in the assessment report.

Current position

On 17/01/2024, an application to modify development consent DA2021.04 was lodged by Anthony Riddle to:-

- Modify Condition 2. Proposed Operation – to include liquor sales on subject site.

Specifically, the modification seeks to permit packaged liquor sales in conjunction with onsite liquor tastings (approved Gin Distillery within existing shed), at Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island.

The application was publicly exhibited from 22/01/2024 to 05/02/2024.

Three submissions were received:-

- 1) Craig Thompson – 19/01/2024 – Opposed
- 2) Robert Jeremy – 31/01/2024 – Supported
- 3) Louise Wilson and Rex Byrne – 22/02/2024 - Opposed

An assessment report has been completed by the Board's independent planning consultant and is provided at Attachment A.

A summary of submissions is included in the assessment report, along with responses.

Board Assessment

The application is within the delegated authority of the CEO to determine. However in this instance, and given the submissions received, the LHIB CEO has referred this assessment to the full Board for determination.

Recommended

The MDC is recommended for approval with the following conditions applied:

- Onsite sampling/ tastings and packaged liquor sales are permitted but only in conjunction with distilling demonstrations/how-to tours. No retail, walk in packaged liquor sales to the general public are permitted from the site. Only customers who take part in full sampling/ tastings/ distilling demonstrations/ how to tours shall be sold packaged liquor.
- The consumption of liquor onsite shall be limited in amount and frequency appropriate to the approved onsite sampling/ tastings/ how to tours. Otherwise, no general liquor consumption and/or sales for consumption onsite shall take place.
- No service, packaged liquor sales or benches/ tables or seating is to be provided external to the subject distillery shed.
- The distilling operations, distilling demonstrations/how-to tours and associated packaged liquor sales shall be limited to the hours of 8.00am to 5.00pm, Monday to Friday; 3.00pm to 5.00pm Saturday and Sunday, with no operation on Public Holidays.
- Liquor Licence: A conditional Liquor Licence shall be obtained from the LHIB for the Distillery operations which is consistent with the original DA approval as modified by the conditions of this MDC approval.

Attachments

Attachment	Title
A	Assessment Report - MDC2021.4.2 – Gin Distillery – Anthony Riddle

Approval and contact

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

Board Meeting: March 2024	Agenda Item: 11.03	File Reference: MDC 2021.04.2
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

Planning Assessment Report

Summary Assessment Report

1 Item

MDC 2021.4.2 – To permit packaged liquor sales in conjunction with onsite liquor tastings (approved Gin Distillery within existing shed), Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island.

2 Summary Assessment Report

Assessment Officer	Peter Chapman (AAP Consultant Planner)
Address/Property Description	Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island
Proposal	Permit packaged liquor sales in conjunction with onsite liquor tastings (approved Gin Distillery within existing shed).
NSW Planning Portal No.	PAN-401509
MDC No.	MDC 2021.04.2
Applicant	Anthony Riddle – Lord Howe Island Brewing Co
Owner Consent Granted	OC 2021.04 assessed & issued concurrently with DA
Estimated Cost of Development	\$2,500.00
Site Inspection	A site inspection has been undertaken by Board officers
Zone	Zone 2 Settlement. The proposed development is permissible with consent from the LHI Board.
Significant Native Vegetation Map	Part of the lot contains mapped Significant Native Vegetation (SNV). The approved Gin Distillery use within the existing shed is located outside these areas within an existing (non-mapped) clearing.
Notification	The MDC was placed on public exhibition from 22/01/2024 to 05/02/2024.
Submissions Received	3 submissions received.
Recommendation	That MDC 2021.04.02, to permit packaged liquor sales in conjunction with onsite liquor tastings (approved Gin Distillery within existing shed), at Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island, be approved subject to the existing conditions of approval of DA2021.04, as amended by the modified and new conditions listed in the report.

3 Consent Authority

Development Consent

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

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

Modifications to Development Consents (MDCs) are not specifically referenced in the delegations. Nevertheless the application does comply with these (as they relate to Development Applications) in that 3 submissions (2 objecting to the proposal and 1 in support) have been received.

However in this instance the LHIB CEO has asked that this assessment be submitted to the full LHIB for determination.

4 Background

This report provides an assessment of the subject MDC 2022.04.02, including the details of the proposed amendments, and the details of the key issues for the assessment. The original assessment of the proposed development components which are not being modified in this application remain applicable and in place – hence these have been retained in this report. Assessment and compliance comments relevant to proposed changes in the subject MDC are noted as such for ease of reference.

OC & DA 2021.04 – Proposed Gin Distillery within existing shed, Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island, was approved by the LHIB in December 2021. Of key relevance to the subject MDC, the DA approval included onsite sampling/ tastings as part of the distilling demonstrations/ how-to tours but also a requirement that no liquor shall be sold from the proposed use, reflecting the submitted DA documentation which confirmed that all liquor sales will take place from the LHIB Liquor Store.

5 Site Description

The site is identified as Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island and is known as Leanda Lei tourist accommodation. As illustrated in figure 2 (following), Lot 1 has an irregular shape containing Leanda Lei Lodge, a dwelling and associated outbuildings, water and septic tanks.

The subject site has an area of approximately 1.73ha and has a frontage to Middle Beach Road of 142m.

As the predominate use on the site, Leanda Lei is an extensive tourist accommodation lodge with a variety of self-contained accommodation styles located within a number of separate buildings sited within attractive landscaped gardens.

The main access into the property is via a central vehicular driveway between the two front most accommodation blocks with informal pedestrian access also being available elsewhere along the site's frontage.

The dwelling on site is located in the rear north east corner of the property behind the tourist accommodation area.

The existing shed the subject of the proposed distillery use is located in the south eastern front corner of the property fronting Middle Beach Road as notated in figure 2 following. As

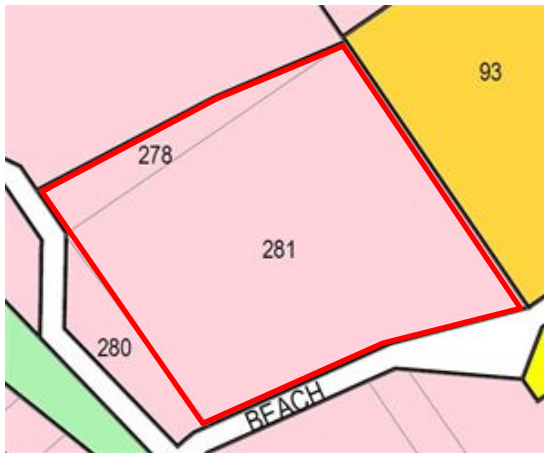
confirmed in the submitted plans for the application, the existing shed is 7m x 10m, it is single storey of fibro and timber framed construction on a concrete slab.

The shed faces Middle Beach Road and is setback approximately 5m from the front property boundary and has a minimum side setback of approximately 3m.

The shed is extensively screened by existing vegetation from both the rest of the Leanda Lei site and the adjoining properties.

Immediately opposite the site in Middle Beach road is the LHIB Quarry with residential properties surrounding this. Immediately to the east is Crown Land zoned 7 Environment Protection.

As is illustrated in figure 1 below, the site is zoned 2 Settlement under the LHI LEP 2010. Much of the eastern, northern and north western areas of the site are mapped SNV with the tourist accommodation and the subject shed being located in existing unmapped SNV areas.



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



Extract from the LEP 2010 SNV Map identifying extent of SNV on subject site

Figure 1: LHI LEP Mapping Extracts



Figure 2: Subject site layout with location of existing shed to be used as Distillery highlighted

6 Proposed Development

MDC Comment: The subject MDC 2021.4.2 proposes to permit packaged liquor sales from the approved Gin Distillery in conjunction with onsite liquor tastings.

As noted these will be only in association with the approved onsite sampling/ tastings associated with the distilling demonstrations/ how-to tours within the distillery. No retail or walk in sales are proposed.

As referenced earlier in this assessment, the current restriction included in the DA approval on onsite liquor sales reflected the operational detail of the proposed development as submitted by the proponents.

Original DA

The proposed development is the use/ adaption of the existing shed in the south-eastern front corner of the subject site as a Gin Distillery for the LHI Brewing Co.

The proposed operational details provided in the application include the following:

- *Anticipated Operation:* 1-2 distils every month. Each distil requires 1-2 people and takes approximately 3 hours. During this time bottling will take place from the previous still. So shed will be used for this purpose for approximately 5-6 hours per fortnight.
- *Proposed hours of operation:* 8am-5pm
- *Types/ quantities of product to be produced:* We will be producing Gin & Vodka on a 2-3 week basis. The still we have is 120Ltr and we expect to use this once per run.
- *Waste:* Leanda Lei has a modern Fuji waste management system installed in 2019. Waste from the distil is minimal with plant-based waste the main element being approximately 5kg per still. This will either be composted or used through the Hot Rot system at the LHI Waste Facility. Anticipated waste water will be one wash load of 5 litres per still per fortnight. There will be little to no waste, due to the reuse and stripping of remaining water from each distil.
- *Electrical:* No change to the existing electrical supply to the shed required (currently includes a desalination unit).
- *Delivery & Ingredients:* An IBC will be delivered to the shed once every 4-6 months with alcohol (Ethanol). Otherwise the required ingredients are minimal (around 4-5kgs per still) and are dry stored in cryovac bags.
- *Types/ quantities of flammable liquids to be stored within the Distillery confines at any one time.* 1x 1000Ltr IBC of 95% ENA Ethanol. There shouldn't be more than this at any one time in the building.
- *Parking:* If parking is required it will be utilising the current mowed space in front of the shed on the subject property
- *Final Product:* Bottles of Final Gin/ Vodka will be bottled and held under bonded storage. These bottles will be distilled in a supply and demand for the Lord Howe Island Liquor Store and all bottles will only be sold through the Liquor Store. No export of product other than through the Liquor Store as per Liquor Licensing on LHI. Onsite sampling/ tastings and demonstrations/how-to tours are proposed.
- *Are other stages of the LHI Brewing Co Gin production process taking place elsewhere on the Island?:* This premises will be the only place where Alcohol is produced for our business.

A SEPP 33 Chemical Hazard Analysis Report and a Hazardous Area Calculation (HAC) and Initial Compliance Review have been provided with the application due to the proposed Ethanol storage. The HAC and Initial Compliance Review in particular outlines the Government & Australian Standards requirements for the design and operation of the proposal including the required works to the existing shed structure to comply with these safety standards. These requirements will be need to be referenced in any approval for the application that may be issued.

Plans including a site location plan, floor plan and site photos have been submitted, as reproduced on the following pages.

MDC Comment: The subject MDC has not been accompanied by any amended plans due to the nature of the proposed change relating to a condition of approval.

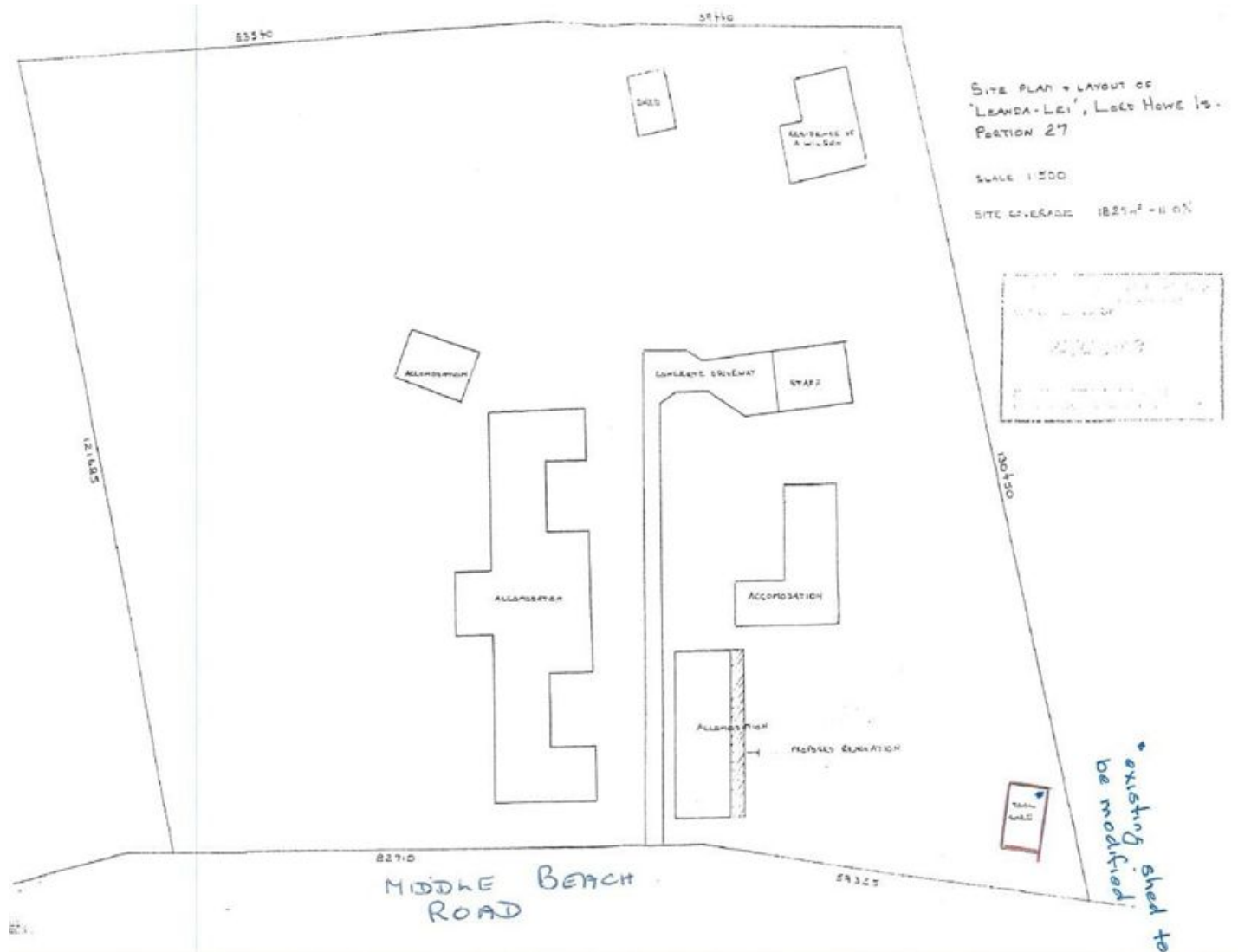


Figure 3: Submitted site layout plan

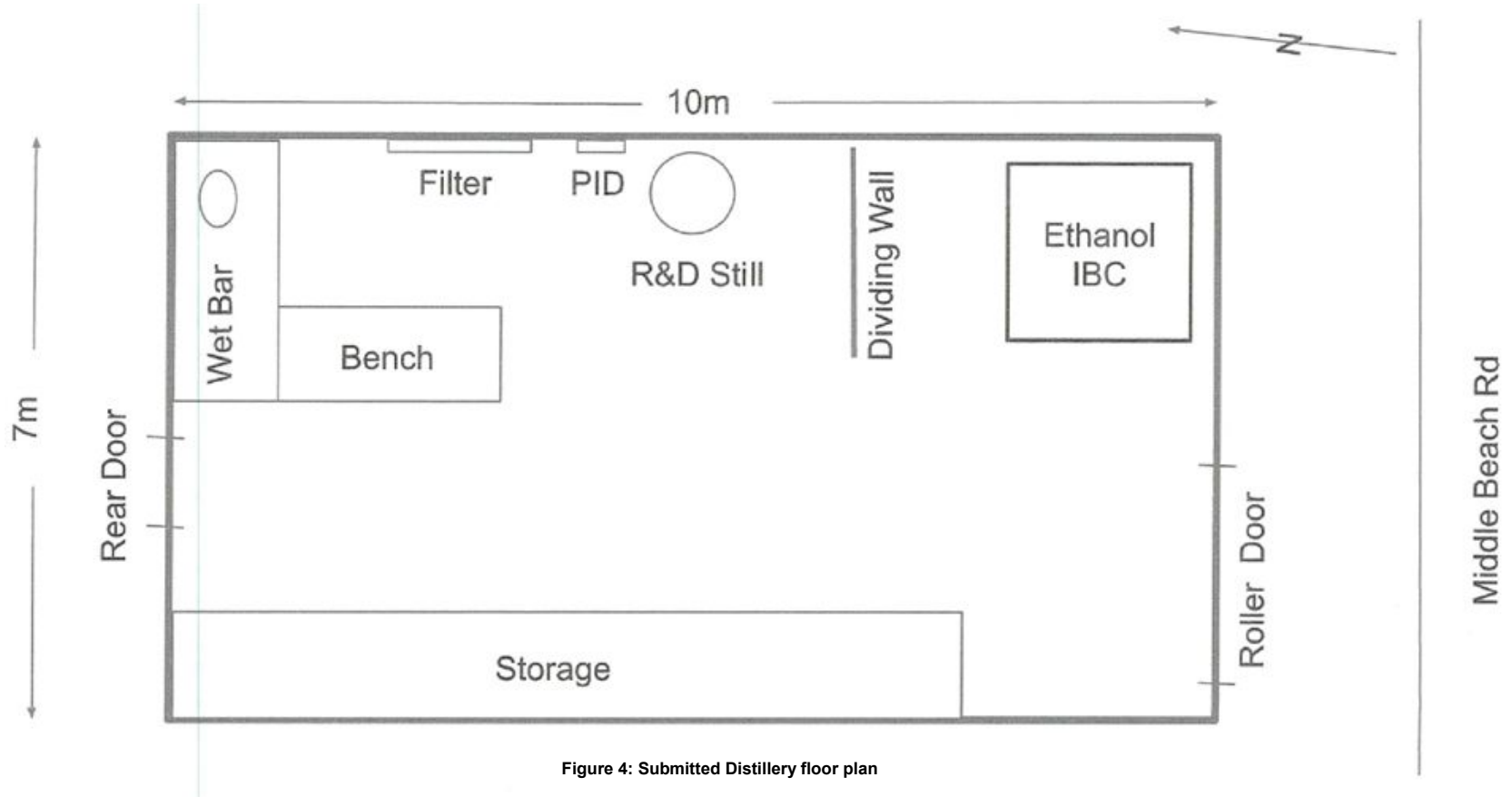


Figure 4: Submitted Distillery floor plan

Build Proposal - LL Shed



Figure 5: Submitted photos of subject shed proposed for the Gin Distillery



Figure 5b: Shed converted to distillery



7 Referrals

MDC Comment: Due to the nature of the proposed MDC, additional referrals were not required.

Original DA: The LHIB has advised that the application was distributed to the relevant internal specialists for review. No objections to the proposal were raised subject to relevant conditions. 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><i>June 2021</i></p> <p>Ethanol is classified as a Class 3 Flammable Liquid under model WHS Regulations and a Dangerous Good under the Australian Dangerous Goods Code. The applicant is to ensure the ethanol is stored and handled as per AS 1940-2004 - The storage and handling of flammable and combustible liquids. Items for consideration include (but are not limited to):</p> <ul style="list-style-type: none"> • Emergency Equipment and Plans – fire-fighting, first aid, spill kits etc. • The building is to be well ventilated to prevent accumulation of explosive vapours • External Ignition sources must be segregated by at least 3m – examples of ignition sources include heat, power points, electric motors, soldering irons, lawn mowers, sparks, embers, and static electricity. • Isolation from other chemicals/dangerous goods stored within the shed/workshop • Storage – bunding, placarding etc. No mention of IBC size in the application – ensure bunding, placarding & manifest quantities as per SafeWork Australia model WHS Regulations. <p>The Ethanol itself and the gin/vodka production process is highly flammable. The applicant is to provide a report from an appropriately qualified fire engineer outlining the suitability of the existing shed/workshop for ethanol storage and alcohol production and storage. The report is to identify any measures required to ensure BCA compliance.</p> <p>Due to the change of use of the shed the Disability (Access to Premises –Buildings) Standards 2010 will apply. The supplied plans do not show dimensions other than external extremes so I am unable to assess for compliance with the Standard and the BCA in relation to access, doorway widths and circulation spaces. The applicant should be aware that further modifications, such as installation of access ramps/removal of steps and widening of the rear access door maybe required to achieve compliance with the Standard. If any structural changes are required to achieve compliance with the Standard a Construction Certificate will be required.</p> <p>The applicant should submit plans showing all dimensions as is requested on the Development Application Form. A site visit is also suggested to verify dimensions.</p> <p><i>December 2021</i></p> <p>Everything in my previous still stands although most has already</p>	Noted and recommended accordingly

	<p>been addressed. As discussed for a previous DA generic words would be better.</p> <p>Suggested wording could be.....</p> <p>'The proposed alterations to the Carport/Garage/Shed to house a Gin distillery will change the use of the building from a Class 10a – Non-habitable Building (Carport/Garage/Shed) to a Class 8 – Processing Building.</p> <p>Before occupying the building under the proposed new use the applicant is to submit to the Board an Occupancy Certificate, issued by a Principal Certifying Authority (PCA), certifying that the building is suitable for occupancy as a Class 8 – Processing Building.'</p>	
<p>Manager Environment World Heritage (Hank Bower)</p>	<p>Comment</p> <p>The property is zoned Zone No. 2 – Settlement according to the Lord Howe Island Local Environmental Plan 2010. The objectives of this zone are: to provide opportunities for limited residential and commercial development. The proposal is consistent with these objectives.</p> <p>The proposed installation of Gin Still within an existing shed will not result in the removal of any native vegetation or habitat for threatened species.</p> <p>Subsequently, the proposal will not result in the removal of any mapped Significant Native Vegetation (SNV).</p> <p>There is native vegetation in the Study area which is mapped by Sherringham <i>et al</i> 2016 as community 12a – Kentia Palm forest on coral sand, 19 Maulwood – Kentia Palm – Cottonwood – Greybark lowland forest, Ep Environmental planting and Np Plantation. The vegetation at the Subject site is mapped by Pickard (1983) as vegetation association Hf <i>Howea forsteriana</i>. The Sherringham <i>et al</i> 2016 mapping is considered accurate.</p> <p>There is no native vegetation identified for removal for this proposal.</p> <p>The subject site provides known or potential habitat for at least 7 threatened species being; LHI Gecko <i>Christinus guentheri</i>, LHI Currawong <i>Strepera graculina crissalis</i>, LHI Golden Whistler <i>Pachycephala pectoralis contempta</i>, LHI Silvereye <i>Zosterops lateralis tephroleura</i>, Lord Howe Woodhen <i>Hypotaenidae sylvestris</i>, LHI Placostylus <i>Placostylus bivaricosus</i> and Black winged Petrel <i>Pterodroma nigripennis</i>.</p> <p>The LHI Currawong, LHI Golden Whistler, LHI Silvereye and LH Woodhen are all widely distributed across the Island and regularly occupy forests and gardens within the settlement. They are commonly found co-habiting with human infrastructure within the settlement area and in the case of the LHI Currawong, LHI Golden Whistler, LHI Silvereye and LH Woodhen will forage and roost around dwellings and associated infrastructure. However, the core habitat resources for all these species is dense native vegetation.</p>	<p>Noted and recommended accordingly</p>

	<p>The Black winged Petrel are known to nest seasonally on LHI in burrows in the surrounding native vegetation upslope of Leanda Lei apartments. The Black winged Petrel has potential nesting habitat in bushland surrounding the shed which will not be impacted by this proposal and will therefore not be subject to impact.</p> <p>The LHI Gecko is known to occur throughout the settlement of LHI where it can utilise human made structures and stock piled building materials (e.g. sheets of corrugated iron etc) as sheltering habitat. It can be found within cavities of dwellings that exclude rodents and shelters within cracks and cavities in trees and rocks. It is possible that LHI Gecko could be present within the existing building and could be detected during renovations. Any animals detected during works must be moved to similar habitat structures in the adjacent area (e.g. fallen timber within dense native vegetation, old dwellings/structures) away from the development site</p> <p>The Subject site includes areas mapped as modeled High Quality Habitat (A) for LHI Placostylus. This mapping is considered accurate where there is intact native vegetation. The LHI Placostylus favours forested habitats on calcarenite soils with a dense shaded canopy, continuity with large areas of vegetation and a thick moist leaf layer in which they can burrow during dry times. This habitat is present at the Subject site, although is mostly restricted to bushland areas and does not include any areas to be impacted by this proposal.</p> <p>A 5 Part Test of significance was not submitted with the DA as the proposal is located within an existing development footprint and on adjacent cleared land. This assessment concludes that the proposed development will not result in any significant impacts on any Threatened species, populations or ecological communities, or their habitats providing the recommendations below are adhered to.</p> <p>Recommendations</p> <p>That the development be approved subject to.</p> <ul style="list-style-type: none"> • If any live LHI Gecko or LHI Placostylus are detected during works they must be moved to similar habitat structures in the adjacent area (e.g. fallen timber within dense native vegetation, old dwellings/structures) away from the development site so they can escape predation by predators such as LHI Currawong, LH Woodhen and rodents. • All building materials and building activity are restricted to being stock piled on cleared open areas. 	
<p>Surveyor (Gary Millman)</p>	<p>A site inspection of the existing shed has a footprint of 6.13m x 9.17m (not including the eaves), however the plan on the DA says 7m x 10m. The DA shows that the changes are all on the existing footprint.</p>	<p>Noted</p>

8 Planning Assessment

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

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 for the Environment (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 Agriculture, Water and the Environment, to confirm whether they consider the proposed actions as detailed in this report are likely to have any impact on the heritage values of the:

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

7.2 NSW legislation

7.2.1 *Biodiversity Conservation Act 2016*

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

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

The assessment contained herein has found that the proposed development will not have any significant impacts on native vegetation or fauna habitats as it is being constructed within an existing shed that is not within a mapped SNV area (ref earlier referrals section 6).

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 LEP 2010. As the subject site is not a heritage item listed under the LHI LEP 2013, the Ministerial Heritage Exemption can be relied upon and a referral to Heritage NSW is not required.

The subject application will not have a detrimental impact on the (World) heritage significance of the Island due to its small scale and minor nature.

7.3 Local Statutory Plans and Policies

7.3.1 Lord Howe Island Local Environmental Plan 2010 (LEP 2010)

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

LEP 2010 compliance summary table:

LEP 2010		Complies Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	Y	Each of the aims of the LEP 2010 have been considered in the assessment of this application. As assessed and recommended the proposed work can be undertaken with minimal negative environmental impact and/or disturbance to protected flora and fauna native to the Island.
3	Land to which plan applies	Y	The LEP 2010 applies to the subject site which is part of Lord Howe Island, as defined in Section 3 of the Lord Howe Island Act 1953.

6	Who is the consent authority for this Plan?	Y	The Lord Howe Island Board (LHIB) is the relevant consent authority.
7	Maps	Y	Noted.
9	Exempt Development	N/A	The proposed development does not come under the provisions for Exempt Development under schedule 1 of the LEP,
11	Matters that must be satisfied before development consent granted	Y	All relevant matters contained within Clause 11 are satisfied – refer to 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	The subject DA complies with the LEP zone objectives and is permissible with the consent of the LHIB.
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
22	Tourist accommodation, staff accommodation and commercial premises	Y	Cl. 22(1a) of the 2010 LEP requires that the total area of the allotment occupied by any building comprising, or ancillary to, tourist accommodation, staff accommodation or commercial premises will equate to no more than 15% of the balance of the area of the allotment remaining taking into consideration the minimum dwelling area deduction. As a use of the existing shed, the proposal will not change the existing site coverage of the development and compliance with cl. 22 of the LEP. At least 50% of the total area of the lot will still remain comprised of native landscaped areas, with no proposed removal of existing species required as part of this development.
29	Maximum height of buildings: 7.5m	Y	The proposed use of the existing shed will not change the height of the single storey structure which complies with the LEP.
Division 2 Provisions that apply to particular land			
32 (2)	Setbacks of buildings in Zone 1, 2 or 5: - 10m to a road frontage and - 5m all other boundaries	N/A	As outlined earlier in the site description of section 4, the subject existing shed is setback approximately 5m from the sites frontage with Middle Beach Rd and this is not proposed to be changed. On the basis of the above existing structures not being modified it is considered that clause 32 of the LEP does not apply to this application.
33	Landscaping to be carried out in Zone 2	Y	As outlined elsewhere in this report, the proposed development will be well screened by the established vegetation on the site and surrounding it. Therefore, it is comfortably established that the development will not have a significant adverse impact on the existing landscaped character and dispersed pattern of housing in the zone thereby complying with the LEP.

34	Land adjoining Zone 7 or 8	Y	The adjoining property to the north east of the subject site is zoned 7 Environment Protection and the proposed use of the existing shed is located within the 10m distance of the site boundary with this zone. In considering the nature of the proposal and cl 34 of the LEP, there is no justification for any natural land restoration, native rehabilitation, non-native plant prevention within Zone 8 PPP or work required under the LHIB Vegetation Rehabilitation Plan arising from the development.
Division 4 Miscellaneous			
41	What DA's are required to be advertised?	N/A	The subject DA was not required to be 'advertised' under the LEP. It was 'publicly exhibited' for 2 weeks as per LHIB requirements with no submissions received.
42	Requirement for environmental report	NA	As assessed in this report, the proposal is not likely to have a significant adverse impact on the environment and therefore an environmental report is not required.

Clause 11 Matters that must be satisfied before development consent granted

Clause 11 of the LEP 2010 provides that the consent authority must not consent to the carrying out of development unless it is satisfied of the following matters (to the extent that they are of relevance to the proposed development).

Clause 11 Compliance summary table:

CLAUSE 11 REQUIREMENT	COMPLIES Y/N	DISCUSSION
a) <i>The proposed development is consistent with the aims of this plan and the objectives of any zone, as set out in the plan, within which the development is proposed to be carried out,</i>	Y	The subject site is zoned 2 Settlement under the LHI LEP 2010. The proposal as assessed and recommended for approval in this report is consistent with the aims of the LHI LEP 2010 and objectives of Zone 2 Settlement.
b) <i>There is an adequate area available for the disposal or treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	Y	As outlined in the earlier description of the proposal (ref section 5), the proposal will create minimal wastewater - around 5 litres/ fortnight which will not be a substantial additional load and will not generate a need for an upgrade of the existing wastewater system.
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 outlined elsewhere in this assessment report the proposed development will not result in detrimental impacts on native vegetation or animals.

d) <i>Access is, or will be, available to the site of the proposed development and the provision of any such access will not:</i> i. <i>result in any damage to, or the removal of, significant native vegetation, or</i> ii. <i>have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i>	Y	No change to the current vehicle access arrangements for the subject shed directly off Middle Beach Road are proposed or required.
e) <i>Any proposed landscaping will provide various species of plants that are native to the Island and common in the locality to enhance any significant native vegetation,</i>	Y	As mentioned elsewhere in this report the proposal does not require the implementation of any landscaping works.
f) <i>The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	Y	The subject site is not identified as being affected by any identified hazard or land form limitation.
g) <i>Adequate services in respect of the proposed development can be provided without significant additional cost to the Board or the community of the Island,</i>	Y	There are no additional services required for the proposed development that requires financial outlay by the LHIB.
h) <i>The appearance of the proposed development (when considered by itself or in conjunction with existing buildings and works) will not have any significantly adverse impact on the locality,</i>	Y	Due to the minor nature of the required upgrade works largely being internal to the existing shed, the proposal will not result in a detrimental impact on the visual amenity of the locality.
i) <i>The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	Due to the lack of any substantial building work to the shed there will not be any overshadowing of adjoining properties created.
j) <i>The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</i>	Y	Due to its nature, low single storey scale and area, along with the existing screen vegetation closely surrounding, the proposed work will not create any significant privacy impacts to adjoining properties.

7.3.2 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		Complies Y/N	Comment
Part 1 Introduction			
1.2	Plan Objectives	Y	The proposed works as assessed and recommended for approval are consistent with the Plan objectives.
1.4	Where does plan apply?	Y	This DCP applies to the subject site.
Part 2 Design Principles			
2.1	Introduction	Y	Noted.
2.2	Objectives	Y	The proposed works as assessed will be consistent with the DCP's design objectives.
2.3	Design Context	Y	The proposal as assessed is consistent with the character and nature of the site and locality.
2.4	Bulk and Scale	Y	The proposal will be consistent with the character, existing form and scale of the site.
2.5	Building Forms	Y	The built form of the existing shed will not substantially change with the proposal and will remain in keeping with the established low density residential form and character of the Island.
2.6	Building Materials & Colours	Y	The proposed works will be consistent with the existing buildings on the site.
2.7	Energy and water efficiency	Y	The proposed use will not have a high water or energy usage.
2.8	Landscaping design	Y	The proposed works will not have a detrimental impact on the established site landscaping.
2.9	Site access and parking	Y	Site parking and access will not change as a result of the proposed works as assessed under clause 11 of the LHI LEP 2010. <i>MDC Comment:</i> refer to (following) additional assessment regarding carparking under s4.15 of the EP&A Act- Likely Environmental Impacts.

9 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 LEP 2010 has been undertaken (see Section 5.3.1) 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 DCP 2005 has been undertaken in Section 5.3.2 and was found to comply subject to the conditions of approval included in the recommendation of this report.

- iii) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,

Comment: There are no planning agreements relevant to the application.

- iv. The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

Comment: There are no relevant matters prescribed by the regulations other than the requirement that all demolition works shall be undertaken in accordance with Australian Standard AS 2601—1991: The Demolition of Structures.

- v. (Repealed)

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

Likely environmental impacts

Potential Impacts	Proposal
Access, Transport and Traffic	There will be no detrimental impacts on the existing access into or within the subject site or public pedestrian or vehicular movement on any public road from the proposed development. <i>MDC Comment:</i> As stated earlier in this assessment, the subject MDC proposes to permit packaged liquor sales (only) in association with the approved onsite sampling/ tastings for the distilling demonstrations/ how-to tours within the distillery (with no retail or walk in sales being allowed). Accordingly, the MDC (as submitted) will not increase the visitation rates to the approved distillery (from that approved by the original DA approval) and thereby there is no justification for reconsidering the need for carparking on the site. To ensure this is the case and to address issues raised in the submissions, it is the recommendation of this report to add conditions to the existing approval.
Public Domain, Visual and Streetscape	The proposed work will be in keeping with the established use of the site and will continue to be in keeping with the established form and character of the Island.
Ecological	The proposed development will not result in the removal of any SNV or result in a significant effect for any threatened species, populations or ecological communities, or their habitats as assessed in section 6 Referrals.
Flood	The site is not identified as flood affected.
Heritage	N/A, the subject site is not listed as a heritage item under the LHI LEP 2010.
Views	The proposal will not result in a detrimental impact on the visual amenity of the subject site or the locality.
Privacy	Due to the characteristics of the site and surrounds the proposed works will not create any detrimental privacy impacts to adjoining properties. To ensure this is the case and to address issues raised in the submissions, it is the recommendation of this report to add conditions to the existing approval.
Open Space	Open space will not be impacted by the proposal.

Social and economic Impact in Locality	There will be no adverse social or economic impact arising from the development. To ensure this is the case and to address issues raised in the submissions, it is the recommendation of this report to add conditions to the existing approval.
Construction	Potential impacts from construction activities will be minimised through the recommended conditions of the consent.

c) the suitability of the site for the development

Having regard to the location and this assessment, the site will adequately accommodate the proposed works and is considered suitable for the site for the reasons outlined in this report.

MDC Comment: As assessed elsewhere in this report the proposed allowance of packaged liquor sales (only) in association with the approved onsite sampling/ tastings for the distilling demonstrations/ how-to tours within the distillery, will not increase the the visitation rates to the approved distillery (from that approved by the original DA approval). Therefore the proposed MDC will not affect the approved developments environmental and general impacts on its immediate surrounds nor the suitability of the site for the development. To ensure this is the case and to address issues raised in the submissions, it is the recommendation of this report to add conditions to the existing approval.

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

As confirmed earlier in this report, the DA was placed on public exhibition from 12 March 2021 to 26 March 2021, with no submissions being received.

MDC Comment: As confirmed earlier in this report, the subject MDC was placed on public exhibition from 22/01/2024 to 05/02/2024, with 3 submissions received (2 objecting to the proposal and 1 in support). The following is a summary of the issues raised with comments provided as they relate to this assessment.

1. Oppose another liquor outlet being allowed on the Island & questions how many liquor licences are in place currently?
Comment: The approved development which is the subject of the proposed MDC is primarily for an on Island distillery with demonstrations/ how to tours undertaken. The sale of liquor will be limited to patrons who attend the demonstrations/ tours and won't be available to general walk-in retail customers.
The issue of liquor licences is a separate regulatory function of the LHIB and is handled under separate legislation/ regulation to the current development assessment process.
2. Impacts of Additional Parking and Traffic Flow on Middle Beach Road hill & associated noise impacts on surrounding properties
Comment: As stated elsewhere in this assessment (eg under s4.15 of the EP&A Act-Likely Environmental Impacts), the subject MDC proposes to permit packaged liquor sales (only) in association with the approved onsite sampling/ tastings for the distilling demonstrations/ how-to tours within the distillery (with no retail or walk in sales being allowed). Accordingly, there should be no increase in the visitation rates to the approved distillery associated with the subject MDC (from that approved by the original DA approval) and thereby no justification for reconsidering the need for carparking on the site.
3. Concerned about safety of patrons of the subject premises departing whilst being negatively affected by alcohol
Comment: It is against RSA procedures and requirements to serve alcohol to patrons

who are drunk. In addition as a distillery only offering tastings, normal servings of alcohol will not be provided and it will be the responsibility of the proponents to ensure that compliance with RSA requirements is maintained otherwise their liquor licence will be reviewed.

4. Original DA was meant to be a temporary proposal pending the setting up of a permanent location elsewhere for the distillery.
Comment: There were references in the original DA submission to the subject site being an interim solution pending a permanent location for the distillery being finalised. However, no timeframe for this was included in the application and in any case this was not a determinative matter in the assessment and determination of the application and a time limited consent was not therefore issued.
5. The LHIB administration has issued a Business Licence for the proposal without reference to the CEO, the LHIB itself or notifying neighbours (given it is a commercial use in a residential zone). In addition this licence does not include limits on group tour numbers, frequency of tours/ tastings or operational hours for the tours/ tastings.
Comment: This is a matter outside of the scope of this MDC development assessment.
6. The original DA for proposal included hours of operation between 8.00am to 5.00pm but no mention of tours/ tastings, no outdoor service area with tables and chairs and no proposed acoustic impact on adjoining properties. Since opening none of these specifications have been complied with.
Comment: The original application and approval for the development included sampling/ tastings for the distilling demonstrations/ how-to tours, that were to take place within the nominated business hours of 8.00am to 5.00pm. However the application did not include any external service area with tables and chairs and no approval for this has been granted.

The recommendation of this report includes the application of a new condition to confirm that no approval has been granted for any external service or tables and seating to be provided. Operating times have been modified.

7. In light of the issues apparent with the subject development's operation to date, and the lenient Business Licence issued, we strongly oppose the proposed liquor sales from the site as it will eventually evolve into a regular Bar operation, and increased patronage will create additional parking impacts (including across the road) and noise to adjoining properties.
Comment: The original DA approval for the development limits samplings/ tastings to those attending distilling demonstrations/ how to tours, and the proposed MDC is recommended to allow packaged liquor sales only, to patrons attending distilling demonstrations and organised tours. Additionally the recommendation includes a prohibition on walk in, retail packaged liquor sales and another to prevent any sales for onsite consumption. These are proposed to ensure the operation of the development remains within the confines of the original DA (as submitted and approved) and this MDC assessment.
8. The current operation of the distillery with the lenient LHIB Business Licence and the outdoor seating illegally taking place is already in effect operating as a licenced Bar with associated acoustic impacts
Comment: Refer to above comments in relation to point 7. Any non-compliance with these specifications will be a compliance matter for the LHIB administration to action.
9. We request that the subject MDC be deferred to allow the full LHIB to review the concerns raised also referencing the original DA approval and the nature of the issued Business Licence.

Comment: This reports recommendations to approve the MDC with tailored and specific conditions are submitted for the LHIB's consideration and determination.

10. We note that the LHIB has a commercial arrangement with the distillery to sell their product from the LHI liquor store.

Comment: This is a matter outside of the scope of this MDC development assessment.

11. The Distillery is a significant initiative which promotes the Island and markets a local product. Demonstrations, tastings and sales to these customers are an important element of the business and for visitors. If the MDC is not approved visitors won't understand why they can buy the distillery product via the mobile liquor sales licence and at outlets like the Golf Club but not the distillery itself.

Comment: Refer to the assessment of the MDC elsewhere in this report and the included recommendations.

e) the public interest

For the reasons outlined in the preceding assessment, it is considered that the proposed development with the recommended conditions of consent, will be in the public interest.

10 Environmental Planning and Assessment Act 1979, Section 4.55 Modification of Consent

Under the provisions of *Section 4.55, of the EPA Act 1979*, the applicant may seek modification of a development consent. The applicant has submitted the subject MDC under clause 4.55(1A) Modifications involving minimal environmental impact.

The following matters are of relevance to the development:

4.55 Modification of consents—generally

(1A) Modifications involving minimal environmental impact

(a) it is satisfied that the proposed modification is of minimal environmental impact,

Comment: As outlined and assessed in the preceding development assessment, the amendments proposed in the subject MDC (and the overall subject approved development) will remain of minimal environmental impact.

(b) 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: As outlined and assessed in the preceding development assessment, the amendments proposed in the subject MDC (and the overall subject approved development) will remain substantially the same as that originally granted in built form, nature, scale and impact.

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 for 14 days with 3 submissions being received in response (2 objecting to the proposal and 1 in support). The content of these submissions have been discussed in section 9 (Environmental Effects) of this report.

(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 comment in relation to subclause (c).

11 Conclusion

This MDC has been assessed with regard to the relevant provisions of Section 4.15 and 4.55 of the EP&A Act, the LEP 2010 and DCP 2005, the relevant codes and policies of the Lord Howe Island Board and relevant State and Federal legislation.

The MDC to permit packaged liquor sales in conjunction with onsite liquor tastings (approved Gin Distillery within existing shed) on Middle Beach Road, is considered to have planning merit and is supported as outlined in the following recommendation.

12 Recommendation (Conditional Approval)

That MDC 2021.04.02, to permit packaged liquor sales in conjunction with onsite liquor tastings (approved Gin Distillery within existing shed), at Leanda Lei, Lot 1 DP 1131292, Middle Beach Road, Lord Howe Island, be approved subject to the existing conditions of approval of DA2021.04, as amended by the following modified and new conditions:

Existing Condition 2 (Proposed Operation) final (fourth) dot point shall be deleted and replaced with the following:

- *Sales:* Onsite sampling/ tastings and packaged liquor sales are permitted but only in conjunction with distilling demonstrations/how-to tours. No retail, walk in packaged liquor sales to the general public are permitted from the site. Only customers who take part in full sampling/ tastings/ distilling demonstrations/ how to tours shall be sold packaged liquor.

Existing Condition 2 (Proposed Operation) - insert an additional (fifth, sixth and seventh) dot points and justification as follows:

- The consumption of liquor onsite shall be limited in amount and frequency appropriate to the approved onsite sampling/ tastings/distilling demonstrations/how to tours. Otherwise no general liquor consumption and/or sales for consumption onsite shall take place.
- No service, packaged liquor sales or benches/ tables or seating is to be provided external to the subject distillery shed.
- The distilling operations, distilling demonstrations/how-to tours and associated packaged liquor sales shall be limited to the hours of 12.00pm to 5.00pm, Monday to Friday; 3.00pm to 5pm Saturday and Sunday, with no operation on Public Holidays.
- Liquor Licence: A conditional Liquor Licence shall be obtained from the LHIB for the Distillery operations which is consistent with the original DA approval as modified by the conditions of this MDC approval.

Reason: To ensure the operation of the development remains within the confines of the

original DA (as submitted and approved) and the issued MDC.

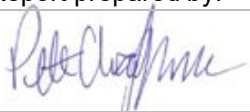

Existing Condition 3 (BCA Compliance) shall be deleted and replaced with the following:

3. BCA Compliance

- a) The proposed alterations to the Carport/Garage/Shed to house a Gin distillery will change the use of the building from a Class 10a – Non-habitable Building (Carport/Garage/Shed) to a Class 8 – Processing Building and a Class 6 Retail Building.

Before the approved amended use commences and the building occupied for same, the applicant is to submit to the Lord Howe Island Board a formal Occupancy Certificate, issued by a Principal Certifying Authority (PCA), certifying that the building is suitable for occupancy as a Class 8 – Processing Building and a Class 6 Retail Building.

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

Report prepared by:	Endorsed by:
	
Peter Chapman Date: 7 th March 2024 LHI Consultant Town Planner All About Planning	Suzie Christensen Chief Executive Officer Date: 13 March 2024 Lord Howe Island Board

Board Meeting: March 2024	Agenda Number: 11.04	Record Number: ED24/1626
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Extension of time to satisfy a time-limited condition of consent – Crooked Post

Recommendations

1. **Approve** in principle an 18-month extension of time to satisfy condition 1. of DA2019.5 and MDC2019.5.2 from 19 March 2024 (a time limited condition).
2. **Note** that the CEO will assess and determine the s4.55 modification
3. **Note** the imminent lodgement of a development application to construct additional sanitary facilities in the vicinity of the Crooked Post, thereby satisfying the outstanding condition of consent
4. **Note** the next steps outline in this business paper.

Current position

A time limitation imposed on satisfying a condition development consent attached to Crooked Post Bar is approaching expiration. The condition of consent relies upon a Board commitment from 2018 to instal additional public facilities in the CBD/vicinity of the bar.

While the sanitary facilities are not yet constructed, the Board has:

- procured a report informing capacity of the area to support additional wastewater management installations (received in March 2023)
- sourced a design and specifications for a suitable waterless system (November 2023)
- received grant funding and allocated budget to plan and construct the facilities
- appointed a project manager to deliver the outcome (KPMG)
- a development consent in preparation to be submitted for assessment and determination at the August 2024 Board meeting.

The proprietor of the bar has requested advice on a way forward and consideration of the situation which confines his business operation through no fault of its own.

Background

At the March 2019 Board meeting, the Board consented to development application DA2019-05 for 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.

The consent was subject to various conditions, most of which have been addressed, with the following currently unable to be met:

- 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 new complying disabled access ramp into the premises shall be provided via the north-eastern end of the proposed rear deck, the ramp to be achieved within the proposed deck area, together with an associated pathway connection from the required ramp to connect to the existing paved area between the existing Co Op and the Old Post Office buildings. It is noted that at this location there will only be a minor difference in levels between the existing ground level and the proposed new deck which it is anticipated will facilitate viable provision of this access.

At the April 2021 Board meeting, MDC2019.5.2 was considered and the following conditions of consent of DA2019.5, were modified in the following manner:

- 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).

The consent for DA2019.5 was issued on 19 March 2019. Therefore the time limited consent lapses on 19 March 2024.

Next steps

- The proprietor of the Crooked Post be advised to prepare a s4.55 modification (noting a future modification may be made to address other aspects of operation once the sanitary facilities are installed)
- The CEO to assess and determine the s4.55 application providing for an 18-month extension to satisfy condition 1. and for the Board to deliver the new sanitary facilities in the CBD
- The Board prepare and submit a development application for sanitary facilities
- Board tie in the facilities with existing paved areas and an access ramp to the back deck of the premises.

Attachments

Attachment	Title
A	Development consent DA2019.5
B	Modification of development consent MDC2019.5.2
C	Business Paper December 2023 and attachments

Approval and contact

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

LHIB Ref: DA2019.05
Enquiries: Justin Sauvage

17 June 2019

Tim Cruikshank
PO Box 176
LORD HOWE ISLAND NSW 2898



ADMINISTRATION OFFICE
P.O. Box 5
Lord Howe Island NSW 2898

Phone: 02 6563 2066
Facsimile: 02 6563 2127
Email: administration@lhib.nsw.gov.au

Dear Mr Cruikshank

RE: NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION UNDER ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

I am writing in reference to your owner consent and development application for 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.

Pursuant to section 4.16(1)(a) and section 4.17 of the Environmental Planning & Assessment Act, notice is hereby given of the determination by the consent authority for Owner Consent OC2019.02 & Development Application DA2019-05.

Your application has been conditionally approved by the Board at the March 2019 Board meeting.

Date from which consent applies	:	19 March 2019
Date in which consent will lapse	:	19 March 2024
Proposed Development	:	OC2019.02 DA2019-05
Location	:	Part Lot 44, DP 757515 (previous post office premises)

The application has been determined by granting consent subject to the following conditions of consent and advisory notes:

CONDITIONS OF CONSENT

Owners Consent and Development Consent Recommendation (Conditional Approval)

That Owner Consent OC 2019-02 and DA 2019.05 at Part Lot 44, DP 757515 (ex-Post Office premises), fronting Neds Beach Road near its intersection with Lagoon Road, Lord Howe Island, for a Change of use to an Allied Health Clinic, Day Spa and Food and Drink Premises (bar), including associated alterations and additions, be approved subject to the following conditions and advisory notes:

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.

2. Approved Plans and Supporting Documentation

The development is to be carried out in accordance with the plans and documentation provided with OC 2019-02 and DA 2019.05 as listed below and endorsed with the Lord Howe Island Board's stamp, except where amended by the conditions of this consent. To the extent of any inconsistency between the plans and conditions of consent, the imposed conditions of consent are to prevail.

- a) Completed DA Form prepared by Tim Cruikshank, dated 07/08/2018.
- b) Statement of Environmental Effects in the DA Form prepared by Tim Cruikshank, dated 07/08/2018
- c) The following revised plans prepared by Tim Cruikshank and attached to the applicants Additional Information Submission to the LHIB dated 9 November 2018:
 - Appendix 2 Revised Site Plan,
 - Appendix 3 Seating Plan
 - Appendix 4 Eastern Perspective
 - Appendix 5 Western Perspective
 - Appendix 6 Southern Perspective
 - Appendix 7 Exterior Changes Detailed on Plan
 - Appendix 8 Interior Layout of Equipment Detail
 - Appendix 9 Plan of Overall Dimensions of Proposed Works
 - ~~DA Floor Plan, Elevations and Perspective, - Deleted 31 May 2019~~

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

3. Amendments to Approved Development

The subject approved development shall be amended in the following manner. Plans and details confirming compliance with these requirements shall be submitted with the Construction Certificate for the proposal:

- a) The proposed dedicated disabled carparking space within Neds Beach Road adjoining the Tourism Association Information Bay shall be deleted.
- b) A new complying disabled access ramp into the premises shall be provided via the north-eastern end of the proposed rear deck, the ramp to be achieved within the proposed deck area, together with an associated pathway connection from the required ramp to connect to the existing paved area between the existing Co Op and the Old Post Office buildings. It is noted that at this location there will only be a minor difference in levels between the existing ground level and the proposed new deck which it is anticipated will facilitate viable provision of this access.
- c) All new windows and doors are to be vertically proportioned, painted timber framed windows and doors, consistent with the existing building style and complementary to the nearby heritage listed Community Hall. A window and door schedule is to be provided with the CC documentation which demonstrates consistency of all new windows and doors with this condition.
- d) Each of the two day spa/consulting rooms are to be provided with one hand wash facility consistent with the NSW Public Health standard, being provision of a minimum one hand wash basin per treatment room and it is noted that a minimum one additional communal wash facility for the treatment rooms is also required.

Reason: To ensure that relevant details and plans are prepared and assessed to ensure compliance with relevant legislation and desired design outcomes for the site.

4. Construction Certificate

The applicant is required to apply for a Construction Certificate for the proposed works. No works can commence until a valid Construction Certificate for the works has been issued.

If the applicant is proposing a Performance Solution for any requirements of the BCA/NCC, the relevant Performance Requirements must be determined in accordance with A0.7 of the BCA/NCC. A report outlining any proposed Performance Solutions must be compiled by an appropriate person and submitted with the application for a Construction Certificate.

In the application for a Construction Certificate the applicant is to provide **detailed structural engineering plans** for the works. All the structural plans are to address compliance with construction in Wind Zone A, and are to be certified by an appropriately qualified Structural Engineer in accordance with AS1170.2.

The applicant is to ensure the Construction Certificate Plans align with the approved Development Application Plans, as may be amended by any imposed condition of consent.

In the application for a Construction Certificate the applicant is to provide evidence of payment of a Long Service Levy as per Section 34 of the Building and Construction Industry Long Service Payments Act 1986.

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

5. Ecology and Habitat

- a) If any live LHI Gecko or LHI Placostylus are detected during works they must be moved to similar habitat structures in the adjacent area (e.g. fallen timber within dense native vegetation etc) away from the development site so they can escape predation by predators such as LHI Currawong, LHI Woodhen and rodents.
- b) All construction and building materials are restricted to being stock piled on cleared open areas away from bushland.
- c) Damage to, or removal of Significant Native Vegetation is prohibited, as per Clause 11 of LEP 2010.

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

6. Access for People with a Disability

- a) The applicant is to ensure compliance with the Disability (Access to Premises – Buildings) Standards 2010 (DS) and the National Construction Code (NCC). Compliance includes, but not limited to:
 - o Access to and within all areas normally used by the occupants
 - o Doorway widths, access ramp gradients and facilities for personal hygiene
- b) Full disability access compliance will need to address the following clauses of the DS and NCC (aligned):
 - i.D3.1 to D3.12;
 - ii.F2.2; and
 - iii.F2.4.

Reason: To ensure access for persons with a disability is provided.

7. Safe Movement and Access

- a) Balustrading/barriers for the verandas and any walkways must be provided to prevent people from falling greater than 1m. Balustrading/barriers must be continuous and extend for the full length of the verandas and walkways where required. The balustrading is to be constructed to:
 - o Prevent people from falling through; and
 - o Be capable of restricting the passage of children; and
 - o Have the strength and rigidity to withstand the foreseeable impact of people and, where appropriate, the static pressure of people pressing against it.
- b) The balustrade/barrier construction is to be detailed in the structural engineering plans.
- c) The proposed transport service to and from the subject development shall be provided. The drop off and pick up of patrons shall only be undertaken in Neds Beach Road. No formal parking space is approved on Neds Beach Road. One of the existing parking spaces in this section of Neds Beach Road may be used to park a transport vehicle.

- d) No additional access stairs (or any other means) are to be provided to the development other than the existing front access ramp on Ned's Beach Road or the rear disabled access on the north-eastern end of the proposed rear deck (as required in these conditions).

Reason: To ensure the safety of patrons & others.

8. Fire Safety

- a) The applicant is to ensure that fire-fighting equipment is installed as per the requirements of the NCC for a Class 6 building and the intended use.
- b) The applicant is then to ensure that an Annual Fire Safety Statement for the Old Post Office Building is supplied to the Board as a record of the functionality and ongoing maintenance of any fire safety measures installed.

Reason: To ensure the resulting development is fire safe.

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:
 - o 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.

10. Food Safety

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. Details confirming compliance with these requirements shall be included in the Construction Certificate submission for the development.

Reason: To protect public health, and ensure compliance with relevant standards for food preparation, display, storage and handling are maintained.

11. Water

- a) The applicant is to ensure that all plumbing work, including all disconnections and connections to the wastewater system, are to be undertaken by a licensed plumber.
- b) The applicant is to ensure all stormwater from the new roof structures is diverted to existing rainwater tanks. The method of management of the stormwater is to be shown on the construction drawings.
- c) The applicant must demonstrate that the drinking water supplied to the premises will consistently meet the *Australian Drinking Water Guidelines 2011* and any subsequent amendments to the Guidelines.
- d) An appropriate drinking water management system, in compliance with NSW Health requirements and the *Public Health Act 2010* and Regulation 2012, is to be provided prior to the issue of the Construction Certificate.
- e) There is no potable water provided to the subject Old Post Office Building. If the development is approved additional potable water supply is to be provided onsite sufficient to cater for the subject requirements for a proposed bar and allied health and day spa uses. Certification from a qualified and experienced person confirming the adequacy of the proposed water supply shall be submitted with the Construction Certificate. Any potable water provided to the building will be required to meet the Australian Drinking Water Guidelines 2011 and any subsequent amendments to the Guidelines.
- f) The LHIB owned water tanks in the vicinity of the Old Post Office Building are not sufficient to provide ample potable supply for the proposed activities within the building. Additional water storage facilities are to be provided in accordance with Condition 11(e) above.

Reason: To ensure provision of essential utilities

12. Waste Management

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

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

13. Waste Management – Asbestos

If any material containing asbestos is found on site during the demolition/ construction process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.

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

14. Construction and Demolition

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

Reason: To ensure works are undertaken appropriately and in a safe manner.

15. Inspections

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

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

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

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

16. Construction Hours

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

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

17. Notice of Commencement

Written notice must be given to the Lord Howe Island Board and the lessee of the adjoining portion 295 at least two (2) weeks prior to the commencement of building work.

Reason: This is a legislative requirement.

18. Erection of construction signs

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

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

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

19. Materials and Colours

The materials and colour selection for the proposed works are to complement the existing development on the site and the natural landscape and built setting of the subject locality.

- a) Painted, timber framed vertically proportioned windows and doors are to be used for the building renovations, in keeping with the existing built form and openings of the premises and in keeping with nearby historic building elements within the Powerhouse Park precinct.
- b) The new window fronting Neds Beach Road is to be timber vertically proportioned window consistent with the historic double hung timber window in that location.

Details of the selected materials and colours shall be submitted with the construction certificate application.

Reason: To ensure that the proposed development complements the surroundings and the style of the existing building.

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.

21. Plan of Management

A Plan of Management is to be prepared by the applicant in conjunction with the LHIB staff and NSW Police and be submitted prior to the issue of an occupation certificate that includes the following matters:

- compliance with conditions of consent relevant to the operation of the development
- storage requirements for products to be held on-site,
- location and mechanisms for garbage bins, removal of waste and controlling litter
- compliance with preparation and food safety standard requirements
- compliance with the maximum number of allowable patrons and staff onsite, restriction of patrons to within the proposed development and not permitting them to spill outside of the building or proposed decks, control of Bar patrons including responsible service of alcohol, and the dispersal of patrons leaving the premises both during operating hours and after closing of business.
- traffic management including details of drop-off and pick up services

- live music events including procedures for notifying surrounding businesses and residents and noise compliance
- the hours of operation of the different mixed uses in the proposal and how they relate to each other.
- Applicable licencing requirements
- A restriction preventing the takeaway sales of liquor and that all liquor sold is to be opened and consumed on the premises

The Plan of Management shall be implemented for the lifetime of the approved use.

Reason: To ensure efficient and effective operation of the development and minimise potential amenity impacts on surrounding landuses.

22. Licencing Requirements

The Allied Health and Day Spa components of the development including those that are classified as 'skin penetration' procedures by NSW Health shall comply with all applicable NSW Health requirements and Australian Standards for licencing and registration, fitout of premises and carrying out of procedures.

Reason: To ensure the well being of patrons and that the development maintains compliance with NSW Government Health Standards and Requirements.

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 landuses, control total number of persons on site at any one time and minimise impacts on adjacent public areas and street parking.

24. Amplified Music

No amplified music is permitted within the development after 7.00pm. A maximum of two amplified live music events are permitted to be held per month at the premises. Music levels at the premises should not be louder than the established background noise level at any boundary of the property. The premises operator is to notify all surrounding residents and businesses of any amplified event with a householder notice issued no less than 7 days prior to the event occurring.

Reason: To protect the amenity of the surrounding landuses and public areas.

25. Liquor Licence

The Bar component of the approved development shall not commence operation until a liquor licence from the LHIB is issued for the development and all conditions of this licence have been complied with.

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.

Section 8.7 and 8.10 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 4.53 of the Act.

If you are carrying out residential building work using a licensed contractor(s) you are required to ensure the contractor has Home Warranty Insurance with a minimum cover of \$300,000 before you pay any money to the contractor and before starting any work under the contract. Home Warranty Insurance is not required where the contract price, or the cost of labour and materials does not exceed \$20,000.

Should you have any further enquiries regarding this matter please contact Justin Sauvage at the Board's office on (02) 6563 2066 extension 18.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Adams', with a long horizontal flourish extending to the right.

Peter Adams
CHIEF EXECUTIVE OFFICER

Ref: MDC2019.5.2
Enquiries: Justin Sauvage

12 May 2021

Mr Timothy Cruikshank
1a Anderson Road
LORD HOWE ISLAND NSW 2898

Dear Mr Timothy Cruikshank

RE: NOTICE OF DETERMINATION OF APPLICATION TO MODIFY DEVELOPMENT CONSENT UNDER ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

I am writing in reference to your application to modify development consent for MDC2019.5.2.

Pursuant to section 4.55 of the Environmental Planning & Assessment Act, notice is hereby given of the determination by the consent authority. Your application has been conditionally approved by the Board at the April.

Proposed Development	MDC2019.5.2
Property Description	Por: 44 PLN: 40
Description of Proposed Development	Change to DA conditions - Conditions 1, 9, 10, 11, 20, 21 & 23
Date from which Consent Applies	22 April 2021
Date in which Consent will Lapse	22 April 2026

The application has been determined by granting consent subject to the following conditions of consent and advisory notes:

CONDITIONS OF CONSENT

- 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.

Additional resolution: That a follow up paper be prepared to consider the food safety issue: Note that this is a commitment to build additional toilets and upgrade the waste water service subject to the availability of funding.

If you are dissatisfied with this determination you may have rights of appeal under the Environmental Planning and Assessment Act. These rights are set out below:

1. Section 8.9 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with the Lord Howe Island Board for a review of such determination. Any such review must however be lodged within 28 days from this determination. Should a review be contemplated sufficient time should be allowed for Lord Howe Island Board to undertake public notification and other processes involved in the review of the determination. See Section 8.9 (7) for details of determinations not subject to review under Section 8.9.
2. Part 8 (Appeals and Related Matters) of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court. 4. This Section 4.55 modification does not extend the lapsing date of the original development consent.

Should you require further clarification of this matter please contact Justin Sauvage on (02) 6563 2066 at your convenience.

Yours sincerely



Peter Adams
CHIEF EXECUTIVE OFFICER

Board Meeting: March 2024	Agenda Number: 12.01	Record Number: ED24/1215
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Creation of an easement in gross over Portion 109 – Bradley Wilson

Recommendations

The Board should decide between two available options:

1. **Approve** the creation of an easement in gross over Portion 109 being vacant Crown land under Board control, avoiding impact to significant native vegetation, or
2. **Refuse** the creation of an easement in gross over Portion 109, being vacant Crown land under Board control.

Current position

The Administration has received a request for an easement over vacant Crown land under Board control, being lot 109, 52 Old Lagoon Road, to provide legal access benefitting a proposed new lot that may be created through subdivision of lot 183 Old Lagoon Road.

The easement has been proposed by Bradley Wilson who has lodged an application for a dwelling allocation under the 2023 ballot process – refer to Business Paper 12.03, ED23/8487. The proposed easement is assumed to be approximately 50m in length and 3.5m in width but has not been ground-truthed or surveyed.

Legal and practical access

The easement is proposed over an existing cleared track, refer Figure A, which has been utilised in the past by the Board and others. The existing track runs along the assumed boundary of lot 183 and lot 109, Figure B. An application for the creation of a new lot (splitting 183) will need to demonstrate that both parent lot (183) and new child lot have or can achieve legal and practical access. Absent an easement over lot 109, a legal access would have to be provided over the parent lot 183 and adjacent lot 21 for a subdivision to proceed. A large proportion of lot 183 is mapped as Significant Native Vegetation and the Local Environmental Plan precludes damage to or removal of vegetation in these areas, limiting the ability to establish an access off Old Lagoon Road.

Easements on Lord Howe Island

There is no Policy that guides the creation of easements on public land on Lord Howe Island.

As the fee of the lands comprising Lord Howe Island remains Crown Title, easements cannot be created pursuant to s.88B *Conveyancing Act, 1919* as they can be on the mainland.

However, easements in gross in favour of statutory authorities may be created over lands on the island by:

- registration of a deposited plan defining by survey the site(s) of the proposed easement(s), and
- preparation of a notification in the Government Gazette acquiring the new easement.

Easements in gross, where there is no dominant tenement, might include easements for drainage of sewage, easements for drainage of water, and right of access (public not just single beneficiary).

Section 19 of the *Lord Howe Island Act 1953 (LHIA)* provides that:

The Minister on the recommendation of the Board may by notification in the Gazette reserve or dedicate Crown lands in such manner as may seem best for the public interest for any purpose declared by the Minister by notification in the Gazette to be a public purpose under this section.

Easements between Crown leases can only be created as rights stipulated in the terms of the individual leases, with the location of the easement identified in a registered or unregistered plan.

- The details of the rights associated with the easement must be expressed in a specific condition in each Lease, including express requirement to 'create' or to be 'subject to' the easement
- The terms of the lease and notations section might reference a plan of the proposed easement and expression of positive obligations to be observed.

Section 21(8) of the LHI Act provides that:

(8) The Minister may annex to any such lease such conditions reservations and provisions as the Minister may think fit. Any such condition reservation or provision annexed to such lease may on application by the lessee in the prescribed manner and on the recommendation of the Board be varied modified or revoked by the Minister.

There is no lease over lot 109, therefore this avenue is not available in this case.

The NSW Land Registry Services (NSW LRS) will only register easements over crown land in limited circumstances, refer to issued guidance here [Lord Howe Island leases - Registrar General's Guidelines \(nswlrs.com.au\)](https://www.nswlrs.com.au)

Considerations

- As the easement proposed over public land is for private benefit, Section 19 of the *Lord Howe Island Act 1953* may not be available – it is not for public benefit or public purpose. If the easement was for access in favour of the public generally, an easement in gross may be a possibility.
- The Board has no need of the easement, as public access is already available.
- With major public benefit projects flagged for the waste transfer facility and airport precinct, care might be exercised in regard to fettering future public use of lands in the area.
- Consenting to an easement gives substantial private benefit to the lessee of Lot 183 and the value of the new lot will reflect the values of the access (which is currently not available).
- The Board should be wary of fettering its statutory planning discretion in relation to the reception and determination of development applications. This might arise if it signals it will assist with the creation of the easement and therefore a subdivision.

- The Board may consider the precedent set with regard to vacant public land and public funding being available to support a private development outcome.

Costs

This proposal was tabled at the December 2023 Board meeting. The Board requested further information on costs associated with establishing the easement.

Fees that can be charged for assessment of development applications are regulated fees.

If the easement is in gross, then it is for the public benefit, so no fees would be payable. All costs associated with the creation of a proposed easement would therefore be borne by the Board.

The costs of establishing the easement in gross are estimated at:

Item	Cost
Survey plan prepared by a registered surveyor for easement in gross for public access created under s.56(2) <i>Crown Lands Act 1989</i>	\$4000 estimated + Flights and accommodation
Appropriate dealing lodged and registered with Land Registry Service creating the easement	\$1500 estimated
Ministerial briefing consent to create the easement	\$1484
Administration (research, legal advice, engagement of surveyor, invoicing, reporting, drafting for Gazette etc)	
Board staff field time locating site with surveyor	\$160
Total costs	\$7144 + Flights and accommodation

*Awaiting formal quote

The Board has no identified budget for these costs.

Conclusion

If the Board determines to consent to the proposed easement, the preferred approach would be an easement in gross, for the non-exclusive access of Brad Wilson, thereby not restricting public access including Board access or use of lot 109 including for services.



Figure A: Existing track through significant native vegetation on lot 109.



Figure B: Approximate location of the existing track running along the boundary of lot 183 and lot 109

Attachments

Attachment	Title
	Nil

Approval and contact

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

Board Meeting: March 2024	Agenda Number: 12.02	Record Number: ED23/9675
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Cancellation of Permissive Occupancy - PO2007.02 – The Estate of John Francis Green

Recommendations

1. **The Board recommend to the Minister** pursuant to section 31A(3) of the *Lord Howe Island Act 1953* that Permissive Occupancy No. 130 – 2007.02 (Outdoor Dining Area) held by the late John Francis Green be cancelled.
2. **Approve** the payment of Valuer General's value in consideration of improvements, where there are improvements on the surrendered Permissive Occupancy, as per the policy (Attachment A – Policy Provision 5).
3. Note that cleanup will be ordered if required at the expense of the estate.
4. **Approve** in principle to make Permissive Occupancy available over the same or similar area as the surrendered Permissive Occupancy and seek expressions of interest from within the island community for the Permissive Occupancy or alternate public uses for the land as per the policy (Attachment A – Policy Provisions 6 and 7).

Current position

On 29/03/2007, The Minister approved the granting of a Permissive Occupancy (PO) to Mr John Francis Green over 60 square metres, adjacent to Portion 199 on Ned's Beach Road, with the approved purpose of 'Outdoor Dining' in associated with the existing restaurant known as Humpty Mick's, later renamed Anchorage Restaurant.

On 18/12/2023, the Board received a letter from Falvey Kay Lawyers, the legal representative for the estate of Mr Green, who passed away on 03/12/2023.

The letter advised that at the time of his death Mr Green had entered into a Contract for Sale for Anchorage Restaurant and that the sale was completed (with assistance and authority of his Executors) with the completion occurring on 14/12/2023.

The letter also requested the cancellation of the business licence, liquor licence and PO held by Mr Green with the benefit being transferred to the business purchaser Mr Timothy Burke.

New business and liquor licences have been issued to Mr Burke however, under the Boards Policy, the PO cannot be transferred and requires cancellation.

Policy context

The Minister, on the recommendation of the Board makes Crown Land available under PO to eligible persons for a variety of valid purposes which range from kitchen gardens to

communications infrastructure. 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 31A of the Act, which states:

31A Permissive Occupancies

- (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.

The Board adopted a PO Policy on 22 January 2007 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.

Under the Policy provisions:

- POs must be continually used and occupied by the person to whom they are issued, and for the purposes for which they were issued. POs which do not meet these requirements should be surrendered.
- POs may not be transferred. Where a holder no longer wishes, or is unable, to hold, use and occupy a PO it will be surrendered to the Board.
- Where there are improvements on a surrendered PO, the Board will pay to the owner Valuer-General's value in consideration of the improvements.
- In the event of a PO being surrendered, the Board may choose to make a new PO available over the same or similar area as the surrendered PO.
- If the Board chooses to make a PO available as per Provision 6 above, it will seek expressions of interest from within the island community for the PO or for alternative public uses for the land. Subsequent issuing of a PO will be at the absolute discretion of the Board.

Conclusion

As this PO was created specifically for the approved purpose of 'Outdoor Dining' for this restaurant, which Mr Burke has purchased. It is recommended that the Board make the PO available over the same area as the surrendered PO.

Attachments

Attachment	Title
	NIL

Approval and contact

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

Board Meeting: March 2024	Agenda Number: 12.03	Record Number: ED24/465
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Application for consent to transfer PL1975.08 by way of gift from Marie Thompson to Janine Phillipps and Peter Phillipps

Recommendations

1. **Approve** to recommend to the Minister the transfer of PL1975.08 by way of gift from Marie Thompson to Janine Marie Phillipps and Peter Andrew Robertson Phillipps as Joint Tenants.

Current position

On 13/02/2024, an application was received for consent to transfer PL1975.08 by way of gift from Marie Thompson to Janine Marie Phillipps (daughter) and Peter Phillipps (son in law) as joint tenants.

Section 23 of the *Lord Howe Island Act 1953* (the *Act*) governs the transfer of perpetual leases, Section 23 (1A) provides that:

“A lease under this Part may be transferred in the prescribed form and manner as to the whole or a part of the land comprised in the lease or may be sublet at any time, but the consideration for the transfer shall not exceed the fair market value of the interest of the transferor in the unimproved land the subject of the lease, the fair market value of the improvements on the land at the commencement of the lease and of any improvements subsequently effected thereon with the approval of the Board and, in the case only of a lease of land used for commercial purposes, a sum for the goodwill of the business conducted thereon, being goodwill transferred to the transferee in connection with the transfer of the lease or accruing to the transferee in consequence thereof. Such fair market values and, as the case may require, such sum for goodwill shall be as determined by the Valuer-General.

Section 23(4) of the *Act* provides that:

“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 a transfer or sublease, as the case may be, of the lease”.

The proposed transfer is consistent with the relevant sections of the *Lord Howe Island Act* and the Transfer of Lease Policy, specifically:-

- The applicants have submitted an application in the prescribed form with the appropriate statutory declarations and supporting evidence of their Islander status.
- Both Janine Phillipps and Peter Phillipps satisfy the definition of an Islander under the Act.
- Janine Phillipps and Peter Phillipps do not currently hold a perpetual lease on Lord Howe Island.
- Both applicants currently reside on the said lease (PL1975.08) in their own dwelling and therefore satisfy *Section 21(7)* of the Act.

There are no other impediments under the Act or matters of policy that prevents the Board recommending to the Minister the transfer of PL1975.08 to Janine Phillipps and Peter Phillipps.

Attachments

Attachment	Title
A	NIL

Approval and contact

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

Board Meeting: March 2024	Agenda Number: 12.04	Record Number: ED24/1526
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

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

Recommendations

1. **Approve** 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. 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.

Current position

At the December 2022 board meeting, approval was given for the transfer of two public accommodation licences from Diane Owens to Jessica Owens. At that time, Jessica Owens had development approval to construct a tourist accommodation unit, however, construction had not commenced (DA2021.3.1 and MDC2021.3.2).

On 22 February 2023, an application was received from Fletcher Owens and Jessica Owens to use Jessica's two idle public accommodation licences in Unit 1 at Lorhiti until construction of her tourist accommodation unit on PL1954.37 is complete on 01/02/2024.

At the May 2023 board meeting, the Board resolved to:-

- **Approve** 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 01/02/2024. 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.

Unit 1 Lorhiti

As a result of the Board's resolutions at May 2023 board meeting, use of Unit 1 Lorhiti should have ceased immediately on 01/02/2024.

On 28/02/2024, letters advising Fletcher Owens and Jessica Owens of the expiry of their approval were issued, requesting an inspection of Unit 1 be arranged to confirm compliance.

Page 1 of 2

Construction of Jessica Owens' tourist accommodation has commenced on PL1954.37, however, due to the passing of a close family member and shipping delays, the completion date is unknown and a request for the extension of their previous approval has been received, this time without an end date for the approval.

On 01/03/2024, Fletcher Owens and Jessica Owens applied for approval to continue to use Jessica Owens' two idle public accommodation licences in Unit 1 at Lorhiti until construction of her tourist accommodation on PL1954.37 is complete.

At this time, Unit 1, Lorhiti Apartments will be decommissioned, and its use will cease immediately in accordance with development application DA2021.3.1 approved on 06/07/2021 and MDC2021.3.2 approved 16/12/2021.

Attachments

Attachment	Title
A	NIL

Approval and contact

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

Board Meeting: March 2024	Agenda Number: 12.05	Record Number: ED24/1339
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Risk Assessment – Lord Howe Island Radio Station Association, “The Radio Station” commonly referred to as The Shack

Recommendation

1. **Note** the Risk Assessment of The Radio Station operation.
2. **Endorse** the proposed risk mitigation treatment plans

Current position

The Lord Howe Island Radio Station Association Incorporated (the Radio Station) broadcasts music, providing the Lord Howe Island community with a local media outlet and a seasonal evening social interaction. The Radio Station provides access to Triple J when the local content is not being broadcast. Reception coverage is island wide. The Radio Station has been managed by Gary Millman for approximately 35 years, with 24 years of hosting a nighttime slot on Thursdays. Over time, people have attended the station when music is being played and broadcast, and it has been a popular Thursday evening social venue for some years.

The Administration has received very few complaints regarding the Radio Station’s activities (see attachment A), however concerns were raised by Board members about the Board’s potential liability as the broadcast and associated social gathering occurs from and around a Board building. The administration was asked to undertake a risk assessment.

The assessment for the Radio Station identified risks to community relations, health and safety, environment, property, infrastructure, and service delivery. Existing controls vary from occupancy agreement conditions, insurance and police patrolling. The data indicates medium to high inherent risks, with corresponding treatment plans aimed at mitigating these concerns.

Additional risk treatment plans have been identified and are presented for the Board’s endorsement and comprise:

- Renewal and enforcement of occupancy agreement
- Collaboration with law enforcement for regular patrols to address potential drinking and driving incidents
- Continued implementation of environmental management practices
- Strict enforcement of no-smoking policy by the operator
- Compliance with requirements
- Request for development consent application

- Implementation of physical security measures, such as installing cameras and locks.
- Periodically review and improve strategies for adaptability and effectiveness in risk mitigation across various categories.

Once implemented, these treatment plans should result in the residual risk ratings moving to low or medium, within the risk tolerance of the Board.

Attachments

Attachment	Title
A	Risk Analysis – Lord Howe Island Radio Shack Association
B	Timeline of Complaints and Financial Figures

Approval and contact

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

Board Meeting - March 2024 - LEASING AND LAND ADMINISTRATION

Risk ID	Description	Risk Category	Risk Status	Risk Owner	Risk Manager	Inherent Consequence Rating	Inherent Likelihood Rating	Inherent Risk Rating	Existing Controls	Control Effectiveness Rating	Residual Consequence Rating	Residual Likelihood Rating	Residual Risk Rating	Treatment Plans	Notes
1	Community members concerned regarding noise and intoxication levels	Community Relations		LHB	Police	Minor	Likely	Medium	Existed Occupancy Agreement. Gary Millman enforcing no-smoking inside.	Not Effective	Minor	Likely	Medium	Communication/Handout to the community explaining roles and responsibilities regarding The Shack. Review of Occupancy Agreement ensuring that there is a time limit on opening hours. Review of Occupancy Agreement ensuring that there is a time limit of when alcohol can be brought onto the premises.	Police consulted. Few incidents reported over time.
2	Intoxication leading to antisocial behaviour	Health and Safety		LH Radio	Police	Moderate	Possible	Medium	Public nuisance laws.	Partially Effective	Moderate	Possible	Medium	Speak with local Police to patrol area on Thursday nights.	Police consulted. Few incidents reported over time.
3	Excess rubbish in surrounding areas of the Shack	Environment and Conservation		LHB	LHB	Minor	Likely	Medium	Bins in bin bay. Gary Millman tidying up at the end of the night. Board staff tasked to clean up the area on Friday mornings.	Substantially Effective	Minor	Possible	Low	Ensure enough bins are located in the bin bay. ES team to prioritise emptying and surveying the surrounding area first thing Friday. Report to supervisor if area is not kept neat and tidy. Speak to Gary Millman regarding responsibility of surrounding area neat, tidy and free of rubbish.	
4	Injury and/or death from people falling / jumping off the jetty at night.	Health and Safety		LHB	LHB	Moderate	Possible	Medium	Lighting at the end of the jetty	Partially Effective	Moderate	Possible	Medium	Extra lighting on the jetty. Ensure that the jetty is maintained to reduce slips.	Ensure if we are the risk owner for this, Civil Liability Act 2002 Part 6 is an interesting read. The question then lies, would they sue off at night if sober? And does the lighting actually promote people to the area? Civil Liability Act 2002 Part 6 Intoxication 47 Part applies to civil liability for death, injury or property damage 48 Part applies to civil liability of any kind for personal injury damages (as defined in Part 2) or damage to property. 49 This Part does not apply to civil liability that is excluded from the operation of this Part by section 48. 48 Definition of "intoxication" A reference in this Part to a person being intoxicated is a reference to a person being under the influence of alcohol or a drug (whether or not taken for a medicinal purpose and whether or not lawfully taken). 49 Effect of intoxication on duty and standard of care 50 The following provisions apply in connection with the effect that a person's intoxication has on the duty and standard of care that the person is owed— 51 In determining whether a duty of care arises, it is not relevant to consider the possibility or likelihood that a person may be intoxicated or that a person who is intoxicated may be exposed to increased risk because the person's capacity to exercise reasonable care and skill is impaired as a result of being intoxicated. 52 A person is not owed a duty of care merely because the person is intoxicated. 53 The fact that a person is or may be intoxicated does not of itself increase or otherwise affect the standard of care owed to the person. 54 This section applies in place of a provision of section 74 of the Motor Accidents Act 1988 or section 128 of the Motor Accident Compensation Act 1999 to the extent of any inconsistency between this section and the provision. 55 No recovery where person intoxicated 56 This section applies when it is established that the person whose death, injury or damage is the subject of proceedings for the recovery of damages was at the time of the act or omission that caused the death, injury or damage intoxicated to the extent that the person's capacity to exercise reasonable care and skill was impaired. 57 A court is not to award damages in respect of liability to which this Part applies unless satisfied that the death, injury or damage to property (or some other injury or damage to property) is likely to have occurred even if the person had not been intoxicated. 58 If the court is satisfied that the death, injury or damage to property (or some other injury or damage to property) is likely to have occurred even if the person had not been intoxicated, it is to be presumed that the person was contributorily negligent unless the court is satisfied that the person's intoxication did not contribute in any way to the cause of the death, injury or damage. 59 When there is a presumption of contributory negligence, the court must assess damages on the basis that the damages to which the person would be entitled in the absence of contributory negligence are to be reduced on account of contributory negligence by 25% or a greater percentage determined by the court to be appropriate in the circumstances of the case. 60 This section does not apply in a case where the court is satisfied that the intoxication was not self-induced.
5	Fire within the building due to people smoking	Property & Infrastructure		LH Radio	LHB	Moderate	Possible	Medium	Existed Occupancy Agreement. Gary Millman enforcing no-smoking inside.	Substantially Effective	Moderate	Unlikely	Medium	Discourage and remove patrons from building if smoking.	Board buildings are declared no smoking
6	Injury and/or death from drink driving	Health and Safety		LHB	Police	Major	Possible	High	Drink driving laws	Partially Effective	Major	Possible	High	Speak with local Police to patrol area on Thursday nights.	
7	Absence of development consent/development not in accordance with consent	Service Delivery		LH Radio	LHB	Moderate	Possible	Medium	No DA's associated with Radio Shack					Reissue DA to Gary Millman so that he is aware of the conditions	The shack would operate as a BYO business. Can't find any information in LH regulation nor act covering BYO premises. According to the Liquor Act 2007 a liquor license is not required for BYO to operate. They will however obtain DA from the LHB to comply BYO.
8	Activities not covered by insurance - public indemnity	Service Delivery		LH Radio	LHB	Major	Possible	High	We do not have a copy of certificate of currency	Partially Effective	Minor	Possible	Low	Ensure that LH Radio Assoc has insurance and that it is renewed annually.	
9	Damage to public property	Property & Infrastructure		LHB	LHB	Moderate	Possible	Medium	Camera installed at Marine Rescue's shed. Outside lighting.	Substantially Effective	Minor	Unlikely	Low	Increase outdoor lighting as a deterrent. Installation of cameras outside The Shack. Police patrols.	
10	Damage to LHB property	Property & Infrastructure		LHB	LHB	Moderate	Possible	Medium	Lighting. Locks on doors.	Substantially Effective	Minor	Unlikely	Low	Increase outdoor lighting as a deterrent. Installation of cameras outside The Shack. Police patrols.	
11	Absence of alcohol free zones	Community Relations		LHB	LHB	Moderate	Possible	Medium	all	Not Effective	Moderate	Possible	Medium	Community consultation. Consider creation of alcohol free zones according to the LH regulation 2024 clause 76. Further research required. Consultation with local police.	Land Rover Island Regulation 2004 76 Alcohol free zones (1) The Board may prohibit the drinking of liquor in an area in a public place by erecting conspicuous signs on the outer limits of the area and at suitable intervals in the area that indicate that the drinking of liquor is prohibited in that area. (2) A person must not drink liquor in such an area. 2024/03/26/14:00:00
12	Dispersed impacts and heightened risks in the absence of a regular controlled opportunity for social interaction and music	Community Relations		LHB	LHB	Moderate	Likely	High	Shack remains operational one night per week.	Substantially Effective	Moderate	Unlikely	Medium	Shack remains operational one night per week with additional controls.	Closure will likely lead to gatherings in public areas elsewhere on the island. This will make policing and cleanup challenging.
13															
14															
15															
16															
17															
18															
19															

LHIB Health & Safety Risk Matrix					
CONSEQUENCE	Insignificant	Minor	Moderate	Major	Catastrophic
PROBABILITY	May have little or no impact on health and safety	May have some impact on health and safety, but will be able to recover from or repair the damage within a relatively short term	A moderate permanent disability or long term impairment	A single fatality or severe permanent disability	Multiple fatalities or significant irreversible effects on the health of a large number of people
Likely There is a very good chance this event will occur in the near future	L	M	H	E	E
Probable This event has occurred several times or more in corporate experience	L	M	H	E	E
Possible This event might occur once or twice in corporate experience	L	L	M	H	E
Unlikely This event does occur somewhere from time to time, but very seldom	L	L	M	M	H
Rare It is theoretically possible for this event to occur, but extremely unlikely that it will	L	L	M	M	M
Key: L = Low manage by routine procedures M = Medium; management responsibility must be specified H = High; senior management attention needed E = Extreme; immediate action required					

Board Meeting - March 2024 - LEASING AND LAND ADMINISTRATION

FILE REF	WHO	DETAILS
OR0014	Gary Millman	Request for ongoing grant funding of \$1000
OR0014	Gary Millman	Request for ongoing grant funding of \$500
OR0014	Aust Gov - Australian Communications and Media Authority	Site - Southern Dish - near Lovers Bay
OR0014	Gary Millman	Request for ongoing grant funding of \$1200
OR0014	LHB	<p>I am aware that the Lord Howe Island Community Radio Station Association Inc (the Association) currently occupies a room in the Lord Howe Island Board's (the Board) Jetty building as identified in the attached floor plan (Attachment 1 - the premises) for the purpose of operating a community radio station. I cannot find any record of a formal agreement with the Association for the occupancy of the building and believe that this is a matter which should be resolved. In the interim, I am happy to ratify your occupation of the building for 12 months, during which time a more formal arrangement will be developed.</p> <p>The Lord Howe Island Community Radio Association may occupy the premises for a period of 12 months, commencing January 1, 2007 and finishing December 31, 2007, subject to the following conditions: 1. That the sole purpose of occupation of the building by Lord Howe Island Community Radio Association (The Association) is for the purpose of operating a community radio station and associated activities. 2. The Association will not use or permit the use of the premises for any purpose other than that prescribed in Condition 1. 3. The Association acknowledges that in the matter of proof of whether the Association is complying or has complied with the provisions of this agreement as to usage of the premises the onus of proof shall be on the Association. 4. That for the period of this agreement, no rent will be payable to the Board in relation to the occupation of the premises. 5. That the Association will take all reasonable precautions to minimise the risk of fire and ensure that adequate devices and appliances to prevent or retard the spread of fire are provided and maintained in good working order and condition and kept readily available. 6. That smoking will not be permitted on the premises. 7. The Association will indemnify and keep indemnified the Lord Howe Island Board, and the Government of NSW from and against all actions, suits, claims, demands, proceedings, losses, damages, compensation costs (including solicitor and client costs), charges and expenses whatsoever to which the Board, or the Government of NSW shall or may be or become liable in respect of or arising from any accident loss death damage or injury occurring on the premises. 8. That Condition 7 has effect notwithstanding that any of the actions suits claims demands proceedings losses damages compensation costs charges and expenses referred to in Condition 7 shall have resulted from any act or thing which the Lessee may be authorised or obliged to do under this agreement and notwithstanding that any time waiver or other indulgence has been given to the Association by the Board in respect of any such obligations. 9. That Condition 8 has no effect to the extent that any accident loss death damage or injury referred to in Condition 7 is caused by any willful negligent act or omission of the Lessor. 10. That the Association ensure that any person involved in the operation of the community radio station is not under the influence of or affected by liquor or drugs and will conduct themselves in a sober and proper manner and are clean and suitably attired having regard to the nature of work to be performed. 11. The Association will maintain repair replace paint review and keep the whole of the premises in good and substantial repair order and condition, damage by fire flood lightning storm temper and impact only excepted. 12. The Association will ensure that the premises are actively managed maintained controlled and promoted at all times in good faith and in a proper orderly efficient reputable and businesslike manner for the purposes authorised by this Lease. 13. The Association will at their expense observe and comply with and cause to be observed and complied with the requirements of all statutes ordinances and regulations, and all notices orders and directions which may be given under them, applying to or in respect of: any plan present or future affecting the premises and/or surrounding area, or; any business conducted on the premises, or; the conduct of any person using or on the premises, or; the use of the premises, and; all other requirements which may be made or notices or orders which may be given by any authority having jurisdiction in respect of the premises. 14. The Association will not carry on or permit or suffer to be carried on or upon the premises any unlawful, noxious or offensive use act trade business occupation or calling. 15. The Association will not permit or suffer any riotous disorderly offensive or improper conduct upon or near the premises or permit or suffer any person who is drunk or behaving in a riotous disorderly offensive or improper manner to be or remain upon or near the premises. 16. The Association will not cause, allow or suffer to occur any annoyance nuisance injury disturbance or obstruction to the Board or other persons rightfully using or being upon the premises. 17. The Association will not carry on or allow any activities of a standard or kind which are not in keeping with the purposes of this agreement, or in the Board's reasonable opinion are unsuitable or objectionable or may damage the image of the premises or the Board.</p>
OR0014	Heartland FM / LHB	Application to establish Heartland FM using Free to Air broadcasting. Potential of the equipment being decommissioned
OR0014	Rhonda Wilson / LHB / Gary Millman	<p>Complaints from Rhonda</p> <p>Meeting between Station users and local residents</p> <p>Trail agreement stating:</p> <ul style="list-style-type: none"> - All music is to cease no later than 11:00pm - The radio station facility is to be vacated no later than 11:30pm - Participants are to leave the area quietly, with no revving of engines, wheel spinning or shouting - No musical equipment or instruments to be used outside the radio station room - Participants outside the radio facility to act in an orderly manner
DA2010/05	Rhonda Wilson & Ed Gowan	Concern of noise if proposed deck was built
DA2010/05	Policeman - Andrew Mackay	If deck was to be built, the police and LHB would have to monitor situation and put conditions in place with will assist managing the Thursday night usage of the facility.
OR0014	Frank Schuttig	
OR0014	Aust Gov - Australian Communications and Media Authority	Site - Southern Dish - near Lovers Bay
OR0014	Aust Gov - Australian Communications and Media Authority	Site - BOM
OR0014	LHB/ Music Radio	Unable to broadcast Music Radio due to LHB infrastructure being decommissioned
OR0014	LHB	<p>The Lord Howe Island Community Radio Station Association may occupy the premises for a period of one year, effective 20 January 2015, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. All music is to cease at 11:00 pm. 2. The radio station facility is to be vacated no later than 11:30 pm. 3. Participants are to leave the area quietly, with no revving of engines, wheel spinning or shouting. 4. No musical instruments or equipment is to be used outside the radio station room. 5. Participants outside the radio station room are to act in an orderly manner. 6. That the sole purpose of occupation of the building by Lord Howe Island Community Radio Association (The Association) is for the purpose of operating a community radio station and associated activities. 7. The Association will not use or permit the use of the premises for any purpose other than that prescribed in Condition 6. 8. The Association acknowledges that in the matter of proof of whether the Association is complying or has complied with the provisions of this agreement as to usage of the premises the onus of proof shall be on the Association. 9. That for the period of this agreement, no rent will be payable to the Board in relation to the occupation of the premises. 10. That the Association will take all reasonable precautions to minimise the risk of fire and ensure that adequate devices and appliances to prevent or retard the spread of fire are provided and maintained in good working order and condition and kept readily available. 11. That smoking will not be permitted on the premises. 12. The Association will indemnify and keep indemnified the Lord Howe Island Board and the Government of New South Wales from and against all actions, suits, claims, demands, proceedings, losses, damages, compensation costs (including solicitor and client costs), charges and expenses whatsoever to which the Board, or the Government of New South Wales, shall or may be or become liable in respect of or arising from any accident loss death damage or injury occurring on the premises. 13. That Condition 12 has effect notwithstanding that any of the actions, suits, claims, demands, proceedings, losses, damages, compensation costs, charges and expenses referred to in Condition 12 shall have resulted from any act or thing which the Lessee may be authorised or obliged to do under this agreement and notwithstanding that any time waiver or other indulgence has been given to the Association by the Board in respect of any such obligations. 14. That Condition 13 has no effect to the extent that any accident loss death damage or injury referred to in Condition 12 is caused by any willful negligent act or omission of the Lessor. 15. That the Association ensure that any person involved in the operation of the community radio station is not under the influence of or affected by liquor or drugs and will conduct themselves in a sober and proper manner and are clean and suitably attired having regard to the nature of work to be performed. 16. The Association will maintain repair replace paint review and keep the whole of the premises in good and substantial repair order and condition, damage by fire flood lightning storm temper and impact only excepted. 17. The Association will ensure that the premises are actively managed maintained controlled and promoted at all times in good faith and in a proper orderly efficient reputable and businesslike manner for the purposes authorised by the Lease. 18. The Association will at their expense observe and comply with and cause to be observed and complied with the requirements of all statutes ordinances and regulations, and all notices orders and directions which may be given under them, applying to or in respect of: any plan present or future affecting the premises and/or surrounding area, or; any business conducted on the premises, or; the conduct of any person using or on the premises, or; the use of the premises, and; all other requirements which may be made or notices or orders which may be given by any authority having jurisdiction in respect of the premises. 19. The Association will not carry on or permit or suffer to be carried on or upon the premises any unlawful, noxious or offensive use act trade business occupation or calling. 20. The Association will not permit or suffer any riotous disorderly offensive or improper conduct upon or near the premises or permit or suffer any person who is drunk or behaving in a riotous disorderly offensive or improper manner to be or remain upon or near the premises. 21. The Association will not cause, allow or suffer to occur any annoyance nuisance injury disturbance or obstruction to the Board or other persons rightfully using or being upon the premises. 22. The Association will not carry on or allow any activities of a standard or kind which are not in keeping with the purposes of this agreement, or in the Board's reasonable opinion are unsuitable or objectionable or may damage the image of the premises or the Board.
OR0014	Val Turk	<p>Concerns of:</p> <ul style="list-style-type: none"> The Shack opening on Sundays until 7pm Jetty jumping Safety of children and people
PRO033	LHB	<p>The Lord Howe Island Community Radio Station Association may occupy the premises for a period of three years, effective 20 January 2016, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. All music is to cease at 11:00 pm. 2. The radio station facility is to be vacated no later than 11:30 pm. 3. Participants are to leave the area quietly, with no revving of engines, wheel spinning or shouting. 4. No musical instruments or equipment is to be used outside the radio station room. 5. Participants outside the radio station room are to act in an orderly manner. 6. That the sole purpose of occupation of the building by Lord Howe Island Community Radio Association (The Association) is for the purpose of operating a community radio station and associated activities. 7. The Association will not use or permit the use of the premises for any purpose other than that prescribed in Condition 6. 8. The Association acknowledges that in the matter of proof of whether the Association is complying or has complied with the provisions of this agreement as to usage of the premises the onus of proof shall be on the Association. 9. That for the period of this agreement, no rent will be payable to the Board in relation to the occupation of the premises. 10. That the Association will take all reasonable precautions to minimise the risk of fire and ensure that adequate devices and appliances to prevent or retard the spread of fire are provided and maintained in good working order and condition and kept readily available. 11. That smoking will not be permitted on the premises. 12. The Association will indemnify and keep indemnified the Lord Howe Island Board and the Government of New South Wales from and against all actions, suits, claims, demands, proceedings, losses, damages, compensation costs (including solicitor and client costs), charges and expenses whatsoever to which the Board, or the Government of New South Wales, shall or may be or become liable in respect of or arising from any accident loss death damage or injury occurring on the premises. 13. That Condition 12 has effect notwithstanding that any of the actions, suits, claims, demands, proceedings, losses, damages, compensation costs, charges and expenses referred to in Condition 12 shall have resulted from any act or thing which the Lessee may be authorised or obliged to do under this agreement and notwithstanding that any time waiver or other indulgence has been given to the Association by the Board in respect of any such obligations. 14. That Condition 13 has no effect to the extent that any accident loss death damage or injury referred to in Condition 12 is caused by any willful negligent act or omission of the Lessor. 15. That the Association ensure that any person involved in the operation of the community radio station is not under the influence of or affected by liquor or drugs and will conduct themselves in a sober and proper manner and are clean and suitably attired having regard to the nature of work to be performed. 16. The Association will maintain repair replace paint review and keep the whole of the premises in good and substantial repair order and condition, damage by fire flood lightning storm temper and impact only excepted. 17. The Association will ensure that the premises are actively managed maintained controlled and promoted at all times in good faith and in a proper orderly efficient reputable and businesslike manner for the purposes authorised by the Lease. 18. 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The Association will not permit or suffer any riotous disorderly offensive or improper conduct upon or near the premises or permit or suffer any person who is drunk or behaving in a riotous disorderly offensive or improper manner to be or remain upon or near the premises. 21. The Association will not cause, allow or suffer to occur any annoyance nuisance injury disturbance or obstruction to the Board or other persons rightfully using or being upon the premises. 22. The Association will not carry on or allow any activities of a standard or kind which are not in keeping with the purposes of this agreement, or in the Board's reasonable opinion are unsuitable or objectionable or may damage the image of the premises or the Board.
ED17/7746	Cindy Charlton-Shick	Request for more bins at the jetty for overflow of bottles
ED18/2245	Rhonda Wilson	Noise complaint
ED18/2248	Gary Millman	Response to noise complaint

Board Meeting - March 2024 - LEASING AND LAND ADMINISTRATION

	Sir Con Joel Merchant & Ash	Joel called Ash after she emailed him asking for info on The Shack. Joel has no concerns about The Shack. There hasn't been any assaults or any issues there since he has been on the island. Therese Turner has complained but Joel isn't concerned.
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Board Meeting: March 2024	Agenda Number: 12.06	Record Number: ED24/1849
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LORD HOWE ISLAND BOARD

BUSINESS PAPER

OPEN SESSION

Item

Request for out of session consideration for expected application for consent to transfer PL1976.04 Sandra Beaumont to Sandra Beaumont and Mackenzie Beaumont

Recommendations

1. **Endorse** the plan to consider consent to transfer PL1976.04 from Sandra Beaumont to Mackenzie Beaumont by way of out of session before the May 2024 meeting.

Current position

The Board Administration has acknowledged the notification and engaged in discussions with Sandra Beaumont concerning the transfer of PL1976.04 from Sandra Beaumont to Sandra Beaumont and Mackenzie Beaumont.

A fully completed application and its required accompanying documentation are yet to be submitted for the Board's evaluation prior the March 2024 Board meeting. The applicants have been advised of what additional documents are required, and are expressing a strong desire for a resolution of their matter prior to the May 2024 meeting.

Should the Board approve an out-of-session consideration before the May 2024 meeting, it will ensure a timely assessment of the Beaumonts' personal affairs, aligning with their objectives.

Attachments

Attachment	Title
NIL	

Approval and contact

Approver	Position
Suzie Christensen	Chief Executive Officer
Preparer	Position
Chelsea Holden	Executive Assistant