

Lord Howe Island Board

MINUTES OF THE MEETING OF THE LORD HOWE ISLAND BOARD

LOCATION Lord Howe Island Community Hall, corner Lagoon Road and Neds Beach Road.

DATE Tuesday 22 April 2021

BOARD MEMBERS PRESENT

- Mr Atticus Fleming (Chair, Department of Planning, Industry and Environment – AF)
- Mr Robert Pallin (Member, Conservation– RP) – joined by teleconference from 9:19am
- Mr James Lonergan (Elected Member - JL)
- Mr Matthew Retmock (Elected Member – MR)
- Ms Therese Turner (Elected Member - TT)

APOLOGIES

- Mr David Kirk (Member, Business and Tourism - DK)
- Mr G Crombie (Elected Member – GC)

BOARD STAFF PRESENT

- Peter Adams (Chief Executive Officer - PA).
- John van Gaalen (Manager Business and Corporate Services - JV).
- Justin Sauvage (Manager Environment & Community Services - JS)
- David Waterhouse (Manager Infrastructure & Engineering Services - DW)

The Open Session commenced at 9:08 am at the Community Hall on Thursday 22 April 2021 and closed at 1:06pm. Nine members of the public attended all or part of the open session.

Unless otherwise specified all Board decisions were unanimous.

1 CONFLICT OF INTEREST DECLARATIONS

James Lonergan

- Item 8(iv) Assessment Report MDC2019.5.2 - Amendments to conditions of the Crooked Post - Cruikshank Tim
- Item 10 (ii) Review of compliance with Residency condition of Perpetual Leases (marked on form as 9 (ii) in error)

Consensus of the Board that JL could remain in the meeting for this report as it was for noting only

Matthew Retmock

- Item 8(vi) Assessment Report OC2021.02 & DA2021.02 - Subdivision - Boundary Adjustment - Oxley Rod and Makiiti Lisa

2 MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION

The Board noted the adoption of the December 2020 Minutes.

3 OUT OF SESSION MATTERS – STATUS REPORT

The Board noted the information in the April 2020 Out of Session Matter Status Report.

4 ACTIONS FROM PREVIOUS MEETINGS - STATUS REPORT

The Board noted the information in the Actions from Previous Meetings Status Report.

5 CHIEF EXECUTIVE OFFICER'S REPORT

The Board noted the information provided in the Chief Executive Officer's Report.

6 MOTOR VEHICLE IMPORTATION OR TRANSFER – STATUS REPORT

The Board noted the information provided in the Motor Vehicle Importation or Transfer Status Report.

7 FINANCE AND BUSINESS MANAGEMENT

7(i) Finance Report

The Board noted the information provided in the Finance Report.

7(ii) Revised Fees and Charges – Biosecurity Inspections

It was moved by JL and seconded by MR that the Board approve an alternate resolution:

The Board adopt the update to Biosecurity Fees and Charges as per Tables 2 and 3 to be implemented from May 10 2021.

Note that the decision does not pre-empt the review of the biosecurity strategy in relation to the percentage of vessels to be inspected.

The Board adopted the motion.

8 DEVELOPMENT APPLICATIONS

8(i) Owner Consent approved under Delegated Authority

The Board noted the report as submitted for information.

8(ii) DAs Determined Under Delegated Authority

The Board noted the report as submitted for information.

8(iii) Assessment Report OC2020.01 & DA2019.10 - s8.3 (1) Review of Determination - Makiiti Janelle

It was moved by JL and seconded by TT that the Board approve the revised recommendation:

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

17. Decommissioning of Cottage and Shed for Studio.

a) The existing cottage shall be de-commissioned within 3 months of this determination with an inspection of the modified structure undertaken by an appropriate LHIB Officer to ensure the residential decommissioning of the building is done to the satisfaction of the Lord Howe Island Board.

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b) No Occupancy Certificate of any kind, for any of the development under DA2019.10, is to be issued until such time that the Board is satisfied that the above decommissioning on the retained shed/ decommissioned cottage has been carried out.

c) All demolition works (including of the existing shed) is to be carried out in accordance with AS2601-2001: The Demolition of Structures, so that the risk of injury to the residents, workers and other site personnel, and the risk of damage to adjacent property and the immediate environment is minimised.

The Board adopted the motion.

8(iv) Assessment Report MDC2019.5.2 - Amendments to conditions of the Crooked Post - Cruikshank Tim

JL left the meeting declaring a Conflict of Interest.

It was moved by TT and seconded by RP that the Board approve the recommendation:

- a) That the following proposed amendments contained in MDC2019.5.2 regarding DA2019.5 for the approved change of use to an Allied Health Clinic, Day Spa

and Food and Drink Premises (Bar), including alterations and additions, at Part Lot 44, DP 757515 (previous post office premises), fronting Neds Beach Road near its intersection with Lagoon Road, Lord Howe Island, be determined in the following manner:

- i. **Refused: (as the wastewater servicing of the development has not been adequately resolved and an assessment of these modifications cannot be completed):**
 - **Condition 1. Time Limited Consent**
 - **Condition 9. Health Amenity and Wastewater**
 - **Condition 10. Food Safety**
 - **Condition 20. Number of Patrons**
 - **Condition 23. Hours of Operation**
 - ii. **Refused: (in the context of a demonstrated social impact being experienced by the community in the form of anti-social behaviour resulting from drinking, the proposal for takeaway liquor sales is likely to accentuate this):**
 - **Condition 21. Plan of Management (to allow liquor takeaway sales)**
 - iii. **Approved:**
 - **Condition 11. Water**
- b) That arising out of the consideration of MDC2019.5.2, the following conditions of consent of DA2019.5, be modified in the following manner:
- i. **Condition 1 (Time Limited Consent):** be amended to refer to a four (4) year time period applying from the date of consent of DA2019.5 (ie two (2) additional years beyond the existing requirement).
 - ii. **Condition 23 (Hours of Operation and Maximum Staff and Patron Numbers):** be amended through the deletion of the first two dot points and their replacement with the following:
 - **The Licenced Bar will operate only between 12.00pm and 9.00pm.**
 - **The Day Spa and Allied Health components will operate only between 6.00am and 9.00pm (with no loud activities, music played, or PA systems used before 8.00am or after 7.00pm).**
 - **Requests for variations to the above for special events can be made in writing to, (and will be at the discretion of), the CEO, LHIB, a minimum of two weeks in advance. Any specifications arising shall be complied with.**

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.

The Board adopted the motion.

JL returned to the meeting.

8(v) Stage 1 Planning Proposal - Report on Public Exhibition and Government Agency Consultation

It was moved JL and seconded TT that the LHIB resolve:

- 1) To note the information provided on the results of the public exhibition and government agency consultation of the PP for the Stage 1 LHI LEP review,
- 2) To adopt the recommendation to make minor modifications to the Planning Proposal as outlined in the report
- 3) a) To retain the existing item in the PP for the Stage 1 LHI LEP review to delete Clause 24(1)(c) regarding the family occupancy requirement of dual occupancies.
- 4) That the Blackburn House boundary adjustment & rezoning remain excluded from the current LHI LEP Stage 1 review and,
- 5) To submit the Planning Proposal for the Stage 1 LEP review with the subject proposed amendments to NSW DPIE with a request that the PP be finalised.

The Board adopted the motion.

8(vi) Assessment Report OC2021.02 & DA2021.02 - Subdivision - Boundary Adjustment - Oxley Rod and Makiiti Lisa

MR left the room declaring a Conflict of Interest.

It was moved JL and seconded TT that the Board approve the recommendation:

- a) That OC2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road, Lord Howe Island be approved.
- b) That DA2021.2 for a Subdivision (Boundary Adjustment) between Lot 4 DP 1216390, & Lot 2 DP 1174920, Lagoon Road, Lord Howe Island be approved subject to the application of the following conditions: (conditions listed in assessment report).

The Board adopted the motion.

MR returned to the meeting.

9 POLICY AND STRATEGY

9(i) Corporate and Operations Plan Update

The Board noted the report on progress as at the end of March 2021, against the Operations Plan for the Financial Year 2020/2021.

9(ii) Review of Vehicle Importation, Transfer and Use Policy

It was moved by JL and seconded by AF that the Board defer this item.

The Board adopted the motion.

10 LEASING AND LAND ADMINISTRATION

10(i) Proposed Permissive Occupancy for Marine Rescue

It was moved RP and seconded MR that the Board adopt an alternate recommendation:

The Board seek the Minister’s approval for the granting of a Permissive Occupancy over a portion of the unnamed Reserve Land illustrated in Figure 1 of Attachment A for the purposes of the Volunteer Marine Rescue NSW – Lord Howe Island Operations Facility. The Permissive Occupancy to be subject to the conditions set out in Attachment A “Permissive Occupancy Agreement” with rental set by negotiation between Volunteer Marine Rescue NSW and the Lord Howe Island CEO with the CEO delegated to make this decision.

The Board adopted the motion.

10(ii) Review of Compliance with Residency Condition on Perpetual Leases

The Board noted the outcomes of the review of compliance with the residency condition of leases.

10(iii) Application to Transfer by way of sublease PL1978.01 - Riddle Judith Ann to Hickey Amy Louise

It was moved TT and seconded MR that the Board adopt the recommendation:

That the Board seek the Minister’s consent to the subleasing of Perpetual Lease 1978.01 from Judith Ann Riddle to Amy Louise Hickey for a period of five years to 16 February 2026.

The Board adopted the motion.

10(iv) Options for the Future Use of the Nursery Site

The Board noted the report on options for the future of the Nursery Site.

10(v) Lord Howe Island Land Allocation Review – Implementation Update

The Board noted progress to date on implementation of the Lord Howe Island Land Allocation Review.

11 GOVERNANCE

11(i) Audit and Risk Committee Report

The Board noted the information submitted in the report.

11(ii) Appointment of Deputy Chairperson

It was moved JL and seconded MR that the Board appoint Therese Turner as Deputy Chairperson.

The Board adopted the motion.

11(iii) Issues Raised from Minister's Visit - Status Report

The Board noted the information submitted in the report.

11(iv) Review of the effectiveness and efficiency of LHIB (late report)

It was moved JL and seconded TT that the Board adopt the recommendation:

The Board moves to:

- 1) Rescind the previous decision for a LHIB organisation review previously adopted by the Board on Tuesday 26 May 2020**
- 2) Approve an independent review of the efficiency and effectiveness of the LHIB administration**
- 3) Approve a sub-committee consisting the Chair, Mr Kirk and a resident Board Member**
- 4) Delegate authority to the sub-committee to develop a Terms of Reference and commission the review**
- 5) Note that the review will operate independent of the Administration of LHIB**
- 6) Note that a report to the Board and the Audit and Risk Committee will be made at the conclusion of the review**

The Board adopted the motion.

12 OPERATIONS AND SERVICES

12(i) Biosecurity Update

The Board noted the Biosecurity Update and the excellent response to the incursion.

It was moved TT and seconded AF that:

- 1. The Board provide a list to DPIE of priority actions to enhance biosecurity including estimated costs.**
- 2. That the Board provide a revised Biosecurity strategy.**

The Board adopted the motion.

12(ii) Lord Howe Island Flood Study Update

It was moved RP and seconded JL that the Board:

Note the draft Flood Study and approve its public exhibition.

The Board adopted the motion.

13 WH&S AND PUBLIC RISK MANAGEMENT

13(i) Workplace Health and Safety and Public Risk Management Update

The Board noted the information on the report.

14 INTERVIEWS

Nil

15 GENERAL BUSINESS & QUESTIONS ON NOTICE

15(i) Questions on Notice

Questions on Notice were received:

Questions from Peter Curtin:

The Ministerial media release on 2 February 2021 regarding the Lord Howe Island (LHI) Rodent Eradication Project (LHIREP) 2019 states: 'The \$15.5 million project was funded by the NSW Environment Trust (\$4.45 million) with the Commonwealth Government and the Lord Howe Island Board.' Which Lord Howe Island Board resolutions allocated LHI Board funds to the LHIREP, and how much has been allocated?

JV advised that this question is identical in its requirements to questions made at Item 15 (ii) of the April 2020 Board Meeting where Board Members directed that “the Administration prepare a public response to the question and the reply as minuted, for further clarification to the community”. The response is therefore included as an extract of the minutes included in Public Notices in May 2020 and also the minutes of the April 2020 Board Meeting.

1. *To determine whether the rats collected on 15 and 16 April are ‘new to the island’, genetic testing of the two rats collected by the Board will be undertaken – when will the results of the genetic testing be available?*

JS advised that there were two types of genetic testing and that mitochondrial DNA testing should be available in three to four weeks but is less accurate than the second type being genome sequencing for individuals collected could take three to four months.

2. *Has the ‘rodent incursion response plan’ been made available to the community for discussion at the 22 April Board meeting open session?*

JS advised that the plan has been tabled with the Board members and the Board will endeavour to put the plan up on the website in the coming days.

15(ii) General Business

Request from Esven Fenton:

The Board approach the Commonwealth regarding a variation to the Marine Order to facilitate livestock imports.

Request from Clive Wilson:

The Board consider the possibility of supporting Eastern Air in their application for flights between Norfolk Island and Lord Howe Island.

The Open meeting closed at 1.06pm.

NEXT MEETING

31 May 2021 - Closed Session

1 June 2021 – Open Session

6 September 2021 – Closed Session

7 September 2021 – Open Session

6 December 2021 – Closed Session

7 December 2021 – Open Session