

LORD HOWE ISLAND BOARD

MINUTES OF THE EXTRAORDINARY MEETING OF THE LORD HOWE ISLAND BOARD

HELD ON LORD HOWE ISLAND ON MONDAY 8 & TUESDAY 9 AUGUST 2016

Present: Ms S Stewart (Chair – SS)
Mr B Nichols (Deputy Chair - BN)
Ms L Makiiti (Member – LM)
Mr R Pallin (Member – RP)
Mrs J Riddle (Member - JR)
Mr J King (Member - JK)
Mr C Wilson (Member - CW)

Board staff present at all sessions were Penny Holloway (Chief Executive Officer - PH), Bill Monks (Manager Business & Corporate Services - BM), James Lonergan (Acting Manager Environment & Community Services- JL), and Andrew Logan (Manager Infrastructure & Engineering Services – AL).

The Hon Mark Speakman, SC MP, Minister for the Environment, was present for the Closed Session until 12:35 pm, at which time the meeting was adjourned for lunch.

The Board's external Planning Consultants were represented by Mia Fay (MF) from RPS via telephone.

The Closed Session commenced at 10:03 am at the Public Hall on Monday 8 August 2016 and closed at 2.22 pm.

The Open Session commenced at 9:03 am at the Public Hall on Tuesday 9 August 2016 and closed at 11:40 am, and was attended by approximately 20 members of the public.

Unless otherwise specified, all Board decisions were unanimous.

At the beginning of the Closed Session SS declared the meeting open and thanked the Minister for making the time to visit Lord Howe Island.

At the beginning of the Open session SS gave an overview of the Minister's visit. She stated that the Minister had met with Board members and staff, and with members of the community. She added that the Minister had wanted to visit the island before finalising the Government's draft response to the Handley Review, and that he has now undertaken to release the Report, along with the government's draft response, before Christmas this year.

SS then called for conflict of interest declarations. JR declared conflicts of interest as follows:

- Items 3.3 and 3.4: The applicant is her sister, and
- Item 3.5: The proposed business may compete with a business in which she is a part owner.

1 FINANCE AND BUSINESS MANAGEMENT

No agenda items.

2. LEASING AND LAND ADMINISTRATION

2(i) Estate of the Late Patricia Dignam

JL gave an overview of the paper.

JR stated that she would like the issue of Islander status for Mr Jeremy and Mrs Jeremy to be considered separately, as Mr Jeremy has lineal ancestry and Mrs Jeremy doesn't.

Board members agreed to deal with the applications separately.

RP moved that the Board recommend to the Minister that Mr Jeremy be granted Islander status due to special circumstances.

LM supported the motion.

CW supported the motion. He added that action needed to be taken to strengthen the Board's ability to legally enforce residency requirements on the lease.

JR stated the following:

“While I appreciate Mr Jeremy's claim as a lineal descendant of the original lessees of Thornleigh, I cannot see the justification for the granting of Islander status under special circumstances to a person who does not live on the island at the time of such application and who has never resided on the island”.

JK stated that he supported the application due to the lineal connection to the lease for many years. He added that it is important that the residency requirements be met.

SS stated that she supported the application.

A member of the public, Gary Crombie, stated that the Board is forgetting what the Act says, and is setting itself up to make decisions on eligibility not based on any firm policy.

SS replied that the Board makes decisions within a legal framework that is established within an Act, and that the Board has to have regard to that Act when making decisions – so it is not a discretionary decision-making process.

BN stated that the application merited approval under “special circumstances” in view of:

- Robert Jeremy being a lineal descendant of the Dignam family, and
- Robert Jeremy's plans to become a local primary producer on the property which aligns with BN's long held view that the island should become more self-sufficient.

Gary Crombie stated that the Board needed to establish clearly what “special circumstances” will be supported and which will not.

CW stated that the property in question is not listed on any heritage register. He added that the Board should work with Mr Jeremy to rectify this situation.

RP's motion that the Board recommend to the Minister that Mr Jeremy be granted Islander status due to exceptional circumstances was seconded by LM.

SS, JK, BN and CW supported the motion. JR opposed the motion.

The Board then adopted the motion.

In regard to Mrs Jeremy's application, JL stated that, given that the Board has resolved to recommend to the Minister that Mr Jeremy be granted Islander status, he can now apply to have the perpetual lease transferred to himself and his spouse. In the case of Mrs Jeremy, however, having not been recommended to be granted Islander status, the Board would have to be satisfied that there is no Islander in a position to take that part of the lease ahead of Mrs Jeremy. The Board has a policy, the *Transfer of Perpetual Lease Policy*, which says that the Board will accept that in the case of a transfer to joint tenants who are spouses and where one of the spouses is not an Islander, that there is no Islander in a position to take the transfer ahead of the non-Islander transferee.

RP moved that, if the lease is to be in both names, the Board accept, in accordance with the *Transfer of Perpetual Lease Policy*, that there is no Islander in a position to take the transfer ahead of the non-Islander transferee, Mrs Jeremy.

CW seconded the motion.

The Board then adopted the motion.

In regard to the heritage nature of the property, SS stated that the Board needed to obtain further advice, and consider how the matter could be advanced in consultation with Mr and Mrs Jeremy.

JL recommended that a paper be prepared for the next meeting.

It was moved CW, seconded JK, that the Board's Administration prepare a paper for the next meeting on the heritage listing of the property and how the matter could be advanced in consultation with Mr and Mrs Jeremy.

The Board then adopted the motion.

3 DEVELOPMENT APPLICATIONS

3 (i) OC2016-26: D&A Young (convert existing garage)

MF gave an overview of the paper. It was recommended that the Board refuse the Owner Consent for the following reasons:

- It is considered that the proposed building conversion and extension could be used as a separate domicile and constitute a new 'dwelling', thereby adding to the dwelling limit under Clause 26 of the Lord Howe Island Local Environmental Plan 2010, and
- The proposal is not considered to be in the public interest, in accordance with Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*.

Other considerations mentioned by MF were:

- It has all the features of a dwelling other than a kitchen,
- It is intended as a permanent dwelling, it has separate access, and
- It could be separately rented.

Discussion followed as to whether or not the extension and conversion represented a new dwelling. Some members suggested that a scaled down version would be more acceptable.

RP moved that the matter be deferred until the next meeting in order that the applicants can be consulted in regard to possible conditions that may be imposed and possible changes to the design that may be more acceptable to the Board.

CW seconded the motion.

The Board then adopted the motion.

3 (ii) OC2016-29: V Turk (change existing tourist accommodation “Hideaway”)

MF gave an overview of the paper.

It was moved RP, seconded CW, that the Board approve the Owner Consent subject to the conditions and advisory notes listed, and subject to a further condition that the Transit Room is not to contain a bed.

The Board then adopted the motion.

JR left the room for the entire period while Agenda items 3(iii), 3(iv) and 3(v) were considered as she had a conflict of interest in each of them.

3 (iii) DA2016-26: D Owens (alterations/additions to existing infrastructure building)

MF gave an overview of the paper.

LM asked the applicant (who was present) to verify that the vehicle to be garaged in the building after the proposed development is the private use vehicle attached to the lease that has been recently approved. She added that Diane Owens’ daughter, Jessie, who does not reside on the lease, appeared to be the main user of the vehicle.

Diane Owens replied that the vehicle was parked on her property at the moment, and that Jessie was currently overseas.

PH stated that the vehicle is attached to Diane’s dwelling, and if the vehicle is to be moved elsewhere, an approved transfer is required.

Diane replied that the vehicle will be parked on her lease.

LM suggested that consideration of this matter be deferred until Jessie returned to the island and the issues surrounding the vehicle could be resolved.

Diane replied that the vehicle was in her name, attached to her dwelling, and assured the Board that the vehicle would be parked in the garage which forms part of the alterations and additions to the existing Infrastructure Building.

It was moved LM, seconded CW, that the Board approve the Development Application subject to the conditions listed.

The Board then adopted the motion.

3 (iv) MDC2017-01: D Owens (remove previous condition of consent DA1989-01)

MF gave an overview of the paper.

It was moved RP, seconded BN, that:

1. The Board approve MDC No. 2017-01 to modify DA1989.01, including change the use of the staff accommodation dwelling ('Cyclone Alley'), to a residential dwelling and the deletion of condition c at Lot 10 DP 1202580, Lagoon Road, Lord Howe Island, subject to the original conditions of consent, approved on 28 March 1989, and as modified as follows:

Deletion of the following condition:

(c) Any proposed use of the unit for accommodation of persons other than staff being subject of a further application.

2. That the following additional condition be inserted:

"That the Board's Administration be satisfied that wastewater is dealt with in a proper manner".

The Board then adopted the motion.

3 (v) DA2016-19: D&G Gardiner (boatshed modifications/change of use)

JL noted that the paper makes reference to the site as a Permissive Occupancy when, in fact, it is proposed to be a commercial lease agreement.

MF gave an overview of the paper.

CW stated that he would prefer to see a slimline water tank be placed in between Boatsheds 1 and 2, rather than the tank proposed. He asked if the proposed bicycle rack would be provided by the Board.

JL replied that, regardless of who provided the proposed bicycle rack, the Board's Administration would need to approve its location.

JK asked if it was possible to have a loading zone for loading and unloading.

AL replied that signage is an issue in that area, and would need to be considered.

PH stated that the loading zone issue needed to be considered as part of the Traffic Management Plan for the area, as the same would apply to other businesses in the area.

RP stated that the paper makes reference to Section 7.3.4, but such a section does not exist.

MF replied that she did not have a copy of the final Board paper, but would review the matter after the Board meeting.

It was moved JK, seconded CW, that the Board approve the Development Application subject to the conditions and advisory notes listed, and subject to the below matters relating to the future operation of the site under the commercial lease:

- That if a slimline water tank can be sourced that will fit in between Boatsheds 1 and 2, it will be installed instead of the proposed water tank,
- That all signage comply with the Board's *Signage Policy*,
- that the occupants acknowledge the erosion risk, and expressly agree to waive any claim for negligence, against the State of New south Wales, the Minister and the Board, and agree to indemnify the State of New south Wales, the Minister and the Board against any and all actions arising from loss or damage to the structures arising from coastal erosion; and
- that the commercial lease will be terminated when coastal erosion immediately threatens the structures, including the boatshed and decking.

The Board then adopted the motion.

SS requested that the Administration consider the introduction of a Loading Zone as part of the Traffic Management Plan for the area.

PH replied that this would be considered.

4 POLICY AND STRATEGY

4 (1) Bushfire Mitigation Hardship Policy

AL gave an overview of the paper.

It was moved RP, seconded BN, that the Board approve the Bushfire Mitigation Hardship Policy and its implementation.

The Board then adopted the motion.

4 (ii) Corporate Plan 2014-16 Review

PH gave an overview of the paper.

RP congratulated the Administration on its waste diversion achievements, stating that an 86 per cent diversion rate is probably the highest in the State.

JK requested that when the annual Operations Plan is being framed, the Board look at what resources may be necessary to improve its performance in those areas of the Corporate Plan where we fell short of achieving the agreed outcomes.

The Board noted the report on achievements against the Corporate Plan 2014-16.

SS stated that, in future reports and reviews, where an independent benchmark exists, the Board should measure and document its performance against the independent benchmark.

4 (iii) Operations Plan 2015-16 Review

PH gave an overview of the paper.

Board noted the report on achievements against the Operations Plan 2015-16.

4 (iv) Draft Corporate Plan 2017-19

PH gave an overview of the paper.

LM stated that, under the strategic direction *Outstanding Environment*, she would like see a Strategy to eliminate the sale of bottled water on the island. This would necessitate the creation of more drinking water outlets. She added that some small regional towns had already successfully introduced such an initiative.

PH suggested that this be added to the Corporate Plan.

LM agreed with this course of action.

RP referred to page 20 of the Corporate Plan regarding the Permanent Park Preserve (PPP). He asked if it would be appropriate in this section to refer to seeking more funding for the PPP.

PH replied that it would be perfectly fine to include in the Corporate Plan.

CW referred to Strategy 5.6, "Rehabilitate degraded areas", under strategic direction *Outstanding Environment*, requesting that Old Settlement Creek be included for management to reduce the impacts of erosion.

AL replied that action would be taken to address erosion at Old Settlement Creek.

JK referred to Strategy 2.1, "Market the island as a tourist destination", under strategic direction *Strong and Sustainable Economy*. Under Action 2 JK suggested adding the following; ".....in the ongoing implementation of the Destination Management Plan". He also suggested that an ongoing visitor monitoring survey be included. He further added that under Strategy 2.5, "Take action to ensure appropriate and adequate servicing of the island by a major airline", the Board has already gone beyond Action 1, and the formation of the Air Services Working Group should be included.

JK suggested that an action be included to develop and implement strategies to ensure the continuation of air services to the island as this is fundamental to the economy of the island. He also suggested that, as we are already endeavouring to get the funding for a feasibility study into the extension of the runway, the development of a long term solution to the issue of air services to the island should be included as an action.

SS flagged that the outcomes of the Handley Review may require some adjustment to the Corporate Plan.

SS requested that the above suggestions be incorporated into the Plan.

PH replied that they would be, and suggested that the Plan be adopted subject to the addition of the above suggested additions.

It was moved JK, seconded RP, that the Board adopt the draft Corporate Plan 2016 – 2019, subject to the inclusion of the above suggestions.

The Board then adopted the motion.

4 (v) Closed Session

5 OPERATIONS AND SERVICES

5 (i) Total Asset Management Plan Update

AL gave an overview of the paper.

SS stated that the Board would be writing to the South East Sydney Local Health Service seeking to formalise arrangements for the maintenance of the hospital. She added that a total budget of \$200,000 would be added to the Plan for the possible purchase of Met Houses 1 and 2.

The Board noted the Total Asset Management Plan, and the addition of the two items above.

SS thanked Board staff for organising such a successful visit to the island for the Minister, and thanked members of the public for their attendance.

The Open Session meeting closed at 11:40 am on Tuesday 9 August 2016.

Next Meeting

The dates for the next Board meetings are 12 and 13 September 2016.