

LORD HOWE ISLAND BOARD

MINUTES OF THE MEETING OF THE LORD HOWE ISLAND BOARD

HELD ON LORD HOWE ISLAND ON MONDAY 21 & TUESDAY 22 MARCH 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), David Kelly (Manager Environment & Community Development - DK), and Andrew Logan (Manager Infrastructure & Engineering Services – AL).

The Board's external Planning Consultants were represented by Mia Fay (MF) and Liz Coker (LC) from RPS.

The Closed Session commenced at 10:50 am at the Public Hall on Monday 21 March 2016 and closed at 4.25 pm.

The Open Session commenced at 9:00 am at the Public Hall on Tuesday 22 March 2016 and closed at 12:28 pm, and was attended by approximately 20 members of the public.

Unless otherwise specified, all Board decisions were unanimous.

SS declared the meeting open and stated the following:

- Agenda items 7 (vi), 10 (i) and 10 (ii) had been withdrawn as the Board is awaiting further information, and
- The meeting was being recorded, as was normal practice, to assist with the preparation of the minutes of the meeting.

SS called for conflict of interest declarations. JR declared a conflict in regard to agenda item 12 (ix) as she is a shareholder in Lord Howe Island Sea Freight. LM declared a conflict in regard to agenda item 7 (v) as she was the applicant, and agenda item 9 (iv) as she would be the recipient of the public accommodation licences, if approved.

1 MINUTES OF PREVIOUS MEETING

The Board noted the endorsed minutes of the previous meeting held in November 2015.

2 OUT OF SESSION MATTERS

PH gave an overview of the paper.

JR questioned the meaning of “open session” and “closed session” in the context of Out of Session papers.

PH explained that open session papers were made publically available, whereas closed session papers were not.

SS requested that the above be made clearer in future papers addressing this agenda item.

PH replied that this would be done.

The Board members noted the information provided in the Out of Session paper.

3 ACTIONS FROM PREVIOUS MEETINGS - STATUS REPORT

PH stated that most of the action items from previous meetings had been completed, whilst work was in progress on the others.

LM queried whether Item 11 (viii) regarding Commercially Leased Buildings would be the subject of a future Board paper.

PH confirmed this was the case.

The Board members noted the information provided in the report.

4 CHIEF EXECUTIVE OFFICER'S REPORT

PH gave an overview of the Report.

LM expressed the strong view that the Mutton Bird Point walking track should be repaired and re-opened as a matter of the highest priority, as it is a major tourism asset.

AL stated that a geotechnical consultant would be undertaking studies shortly after ANZAC Day and, based on the outcomes of that study, a plan of action would be developed.

CW asked if the Board had the necessary funds for a new Vertical Composting Unit.

AL replied that funds were available in this year's budget to engage a consultant to prepare an options assessment for an upgraded composting facility, and a capital proposal has been submitted to Treasury for the purchase of a new composting system to replace the existing system.

LM asked for more details of the Research Centre usage.

DK replied that the visitors over the past three months comprised of marine park researchers, wedge tail shearwater researchers and volunteer weeders and provided a significant benefit to the Island.

The Board members noted the information provided in the CEO's Report.

5 MOTOR VEHICLE IMPORTATION OR TRANSFER

PH gave an overview of the Motor Vehicle Importation and Transfer Status Report. She added that there was an error in the report in that the number of vehicles on the island had increased by one, not none as stated.

The Board members noted the information provided in the Report.

6 FINANCIAL IMPACT REPORT FOR PROPOSALS ON AGENDA

Closed session.

7 DEVELOPMENT APPLICATIONS

7 (i) Owner Consent Approved Under Delegated Authority

PH advised the Board of the Owner Consent applications approved by the CEO since the last Board meeting.

The Board members noted the information provided in the Owner Consent under Delegated Authority paper.

7 (ii) Development Applications dealt with under Delegated Authority

PH advised the Board of Development Applications determined by the CEO since the last Board meeting.

The Board members noted the information provided in the Development Applications dealt with under Delegated Authority paper.

7 (iii) OC2016-12 RMS (Navigation Leads)

MF gave an overview of the paper.

BN stated that Figure 6 in the assessment report incorrectly indicated the position of the pine tree leads, and therefore greatly exaggerated the degree of deviance. He added that he questioned whether the leads were really necessary, as local vessels had no problem navigating Erscotts Passage, and visiting vessels are not supposed to enter the lagoon without local authority guidance.

CW agreed with BN, stating that the pines had served the island well for nearly 100 years, and that there had been no incidents at Erscotts Passage that he was aware of. He added that the leads would have an adverse visual impact, particularly from Lovers Bay, which is a popular place for weddings and wedding photos. He further added that footings for the leads could be put in place, and the leads inserted when a special need arises.

JK stated that the Board needed to be conscious of potential liability, given the advice from RMS and Police, and that legal advice should be sought before finalising this matter.

Senior Constable Simon Meehan, the local police officer and Port Operations Officer, presented several arguments in favour of the leads remaining in place permanently in order to mitigate risk. He noted that the error in the labelling of pine trees in Figure 6 in the report was an indication of the errors that yachts may make when entering the passage. He added

that just because there had not been an incident to date did not mean that there would not be an incident in the future.

It was moved RP, seconded LM, that consideration of the Owner Consent be deferred pending legal advice on liability and pending further discussions with RMS on other options that may have a lesser visual impact.

The Board then adopted the motion.

7 (iv) OC2016-14 Turk (Change of Use)

MF gave an overview of the paper.

LM stated that the assessment paper could have been more efficient as it didn't address the issue of the transfer of four accommodation licences from Hideaway to Capella and the capacity on the lease before and after the proposed change of use. She added that consideration of the application should be deferred until this issue is addressed.

MF explained that the owner consent process considered issues under the EP & A Act, while the transfer of accommodation licences is dealt with separately under the LHI Regulation. MF said that the recommendation had been worded so that the applicant may potentially rely on the consent should the LEP be changed in the near future.

RP stated that the Owner Consent could be approved now, and issues resolved prior to moving on to the Development Application stage.

JK supported RP's view.

It was moved RP, seconded, JK, that the Owner Consent application be approved, subject to the conditions listed.

The Board then adopted the motion subject to the conditions specified.

7 (v) OC2016-16 Makiiti (Alterations to Tourist Accommodation)

LM left the room due to a conflict of interest.

MF gave an overview of the paper.

It was moved JR, seconded BN, that the Board approve the Owner Consent application, subject to the conditions listed.

The Board then adopted the motion subject to the conditions specified.

7 (vi) OC2016-17 Krick (Proposed Tourist Accommodation)

Paper withdrawn pending further information.

7 (vii) DA2016-17 Maxwell (Alterations to restaurant / dwelling)

MF gave an overview of the paper.

RP addressed the gallery, stating that he had heard a rumour that this action was being forced on the applicant by the Board, but assured those present that this was not the case, which was confirmed by the applicant, Mike Maxwell.

It was moved JK, seconded BN, that the Board approve the Owner Consent application, subject to the conditions listed.

The Board then adopted the motion subject to the conditions specified.

Mike Maxwell, the applicant, stated that he was sad to have to close Pandanus, but it was a commercial decision and there was simply insufficient space on the site to accommodate both a restaurant and a house.

7 (viii) DA2016-18 Van Gelderen (Subdivision)

MF gave an overview of the paper.

It was moved CW, seconded LM, that the Board approve the Owner Consent application, subject to the conditions specified.

The Board then adopted the motion subject to the conditions specified.

8 POLICY AND STRATEGY

8 (i) Biosecurity Strategy

DK gave an overview of the paper.

BN asked if the proposed two full-time staff were needed.

DK replied that the Board currently spends \$90,000 per annum on rodent control and that, subject to the rodent eradication program being implemented, the plan is to reallocate most of these funds to the employment of one full-time person on the island. A second person, based in Port Macquarie, would be required to work on a part-time basis, subject to funding.

BN asked if accommodation would be required for the person on the island.

DK replied that accommodation would not be provided, and that he hoped a local person could be recruited for the role.

LM stressed the importance of having a biosecurity strategy in place, regardless of whether the rodent eradication proceeds or not.

It was moved LM, seconded RP, that the Board adopt the Draft Lord Howe Island Biosecurity Strategy 2016.

The Board then adopted the motion.

8 (ii) Mooring Management Policy

DK gave an overview of the paper.

It was moved CW, seconded BN, that the Board adopt the amended Mooring Management Policy.

The Board then adopted the motion.

8 (iii) Review of Commercial Film and Photography Policy

DK gave an overview of the paper.

JK stated that the draft policy should address the use of drones and unmanned aircraft, and should restrict their use to prescribed areas. He added that the policy ought to include CASA requirements, such as the use of drones and unmanned aircraft in the vicinity of the airport.

LM stated that, in reference to the *Local Government Filming Protocol*, the Board should only allow filming rated Ultra Low, Low and Medium. She further stated that the Chief Executive Officer should have the delegation to approve filming rated Ultra Low and Low, with filming rated Medium being referred to the full Board.

BN stated that the Board could consider filming rated High in special cases.

SS reminded Board members that the Board must comply with the requirements of the Premier's Memorandum regarding making New South Wales film friendly.

JK stated that filming rated High risk should be considered by the full Board in exceptional circumstances.

It was moved JK, seconded RP, that the Board place the Draft Commercial Filming Policy on public exhibition for a period of 28 days subject to the following amendments:

- That the approval of filming rated High in reference to the *Local Government Filming Protocol* require the approval of the full Board,
- That draft policy address the use of drones and unmanned aircraft,
- That the draft policy restrict the use of drones and unmanned aircraft to prescribed areas, and
- That the draft policy reflect CASA requirements, such as the use of drones and unmanned aircraft in the vicinity of the airport.

Six members voted for the motion. One member voted against the motion.

The Board then adopted the motion.

8 (iv) Local Environment Plan (LEP) Discussion Paper and Consultation

LC gave an overview of the paper. She added that, based on feedback from Board members, the Discussion Paper needed to address:

- Clarification of a several terms, such as 'dwelling' and 'tourist accommodation',
- Potential changes to sub-division provisions,

- A review of items listed in the heritage schedule,
- Potential areas to expand the cemetery, and
- Corrections to several diagrams in the *LEP 2010 Review Discussion Paper 2016*.

LC stated that the LEP review was a two stage process. The first stage aimed to improve and address shortcomings in the current LEP. This is likely to take about one year. The second stage will review the entire structure of the LEP, such as the zones that are included, additional zones, additional land uses inside zones and the limit on dwelling numbers. The second stage is likely to take about one year following the completion of stage one.

It was moved RP, seconded JR, that:

- The Discussion Paper be amended to address the issues raised by LC in her overview, based on feedback from Board members, and
- On completion of the above, the Discussion Paper, Fact Sheet and Community Survey be made available to all residents and placed on public exhibition for a period of 28 days for community consideration and feedback.

The Board then adopted the motion.

SS stated that community consultation sessions have been planned for 6, 7 and 8 April.

8 (v) LHI Weed Management Strategy

PH gave an overview of the paper.

RP stated that the Strategy is an excellent document, and requested the following changes to it:

- 'Endemic' be included in definitions,
- On page 15 there is an internet link, but the link does not appear to be correct, and
- On page 24 the name for Sea Spurge should be applied consistently.

It was moved CW, seconded JR, that the draft Weed Management Strategy 2016 be placed on Public Exhibition for 28 days after making the above amendments.

The Board then adopted the motion.

8 (vi) Air Services Strategy

PH gave an overview of the paper.

SS read a 'Statement from the Chair' on the future of air services to the island. Written copies of the Statement were then distributed to members of the public.

The Board members noted the information provided in the report.

9 FINANCE AND BUSINESS MANAGEMENT

9 (i) Finance Report

Closed session.

9 (ii) Fees and Charges 2016/17

Closed session.

9 (iii) Transfer of Tourist Accommodation Licences: Waimarie

BM gave an overview of the paper.

It was moved BN, seconded JK, that the Board the Board approve the request to transfer four public accommodation licences from Mavis and Jim Fitzgerald to Sharon and Peter van Gelderen.

The Board then adopted the motion.

9 (iv) Transfer of Tourist Accommodation Licences: Mary Challis

LM left the room due to a conflict of interest.

BM gave an overview of the paper.

It was moved RP, seconded CW, that the Board approve the request to transfer four public accommodation licences from Bill and Ginny Retmock to Lisa Makiiti and Rod Oxley.

The Board then adopted the motion.

10 LEASING AND LAND ADMINISTRATION

10 (i) Transfer of Perpetual Lease (Krick to Wade)

Paper withdrawn pending further information.

10 (ii) Transfer of Perpetual Lease (Rathgeber to Krick)

Paper withdrawn pending further information.

11 GOVERNANCE

Nil agenda items.

12 OPERATIONS AND SERVICES

12 (i) Rodent Eradication Program Update

PH gave an overview of the paper.

The Board members noted the information provided in the paper.

12 (ii) Renewable Energy Program

AL gave an overview of the paper. The paper included the fact that ARENA, the Australian Government funding body, had agreed that an output of one megawatt was too much for the island, and a project in the order of 500kW to 800 kW is more suitable to the island's load.

This will result in lower projected project costs, leading to less funding from ARENA and a smaller loan from the NSW Government.

The Board noted the information provided in the paper.

12 (iii) Environmental Grants Progress Report

DK gave an overview of the paper.

The Board noted the information provided in the paper.

12 (iv) Windy Point Coastal Erosion

AL gave an overview of the paper.

The Board noted the information provided in the paper.

12 (v) LHI PPP Five Year Audit

DK gave an overview of the paper.

LM stated that she would like to see the priority to the reopening of Mutton Bird Point Walking Track elevated from Medium to High. She further stated that the control of kikuyu grass on Mutton Bird Point, as noted in the Audit, was being adversely impacted by the lack of access to the Point, indicating that environmental programs are also being impacted by the lack of track access.

It was moved LM, seconded CW, that:

- the LHI priority of Mutton Bird Point Walking Track be elevated from Medium to High, and control of kikuyu at Mutton Bird Point be given greater priority, and
- subject to the above amendment, the Permanent Park Preserve Plan of Management - 5 year self-audit be endorsed and used as the basis for the revision of the plan.

The Board then adopted the motion.

12 (vi) LHI PPP Advisory Committee

DK gave an overview of the paper.

It was moved JK, seconded LM, that the Board endorse:

- a) Establishment of the Lord Howe Island Permanent Park Preserve Community Advisory Committee (CAC),
- b) Preparation of a CAC Terms of Reference, and
- c) The preparation of a paper on the relationship and functions of the CAC, Lord Howe Island Biodiversity Management Plan Implementation Group and Lord Howe Island Board to ensure no duplication of function and propose communication and reporting between groups.

The Board then adopted the motion.

12 (vii) Norfolk Island Pine Removal for Airport Operations

AL gave an overview of the paper.

The Board noted the information provided in the paper.

12 (viii) Wastewater Strategy Update

AL gave an overview of the paper.

LM stated that there were some systems in or near public places that were particularly offensive and, given the impact on the public and tourists, asked if steps could be taken to address these as soon as possible.

AL replied that he would be contacting those leaseholders with a view to encouraging them to action as early as appropriate and reasonable.

It was moved JR, seconded CW, that the Board:

1. Extend the deadline for High Risk systems to be compliant with the Wastewater Strategy for one year to 30 April 2017, and
2. Implement *Licence to Operate* fees for High Risk systems from 1 May 2017 in accordance with the Fees and Charges for 2016/17.

The Board then adopted the motion.

12 (ix) Shipping Contract Tender Process

JR left the room as she had a conflict of interest.

AL gave an overview of the paper.

CW asked that, in view of the fact that the ship is currently up for sale, does the 10 year contract period preclude Lord Howe Island Sea Freight from selling the vessel during this period.

AL replied that if Lord Howe Island Sea Freight sold the vessel they would need to buy another vessel in order to meet their contractual obligations.

BN stated that he had spoken to the managing director of Lord Howe Island Sea Freight on several occasions over the past 12 months, and had been assured that the sale conditions include maintaining the service to Lord Howe Island.

It was moved RP, seconded JK, that the Board endorse:

1. Commencement of tendering for the new shipping contract before the middle of 2016, and
2. Management of the procurement process by Board staff.

The Board then adopted the motion.

12 (x) Crofton Weed Biological Control

PH gave an overview of the paper.

The Board noted the information provided in the paper.

13 WH&S AND PUBLIC RISK MANAGEMENT

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

PH gave an overview of the paper.

The Board noted the information provided in the paper.

14 INTERVIEWS

Closed session.

15 GENERAL BUSINESS & QUESTIONS ON NOTICE

Nil General Business or Questions on Notice.

The public meeting closed at 12:28 pm on Tuesday 22 March 2016.

Next Meetings

The dates for the next Board meetings are as follows:

- Special meeting on 20 April from 2:00 pm to 3:00 pm (attended by telephone by the appointed Board members) with the sole purpose of considering the draft Budget for the 2016/17 financial year, and
- Ordinary meeting 6 and 7 June 2016.