

LORD HOWE ISLAND BOARD

MINUTES OF THE MEETING OF THE LORD HOWE ISLAND BOARD

HELD ON LORD HOWE ISLAND ON MONDAY 21 & TUESDAY 22 NOVEMBER 2016

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

LM joined the meeting at 2.03 pm on Monday 21 November.

Board staff present at all sessions were Penny Holloway (Chief Executive Officer - PH), Bill Monks (Manager Business & Corporate Services - BM), Andrew Logan (Manager Infrastructure & Engineering Services - AL), and Megan Bennett (Acting Manager Environment & Community Services - MB). David Kelly (Manager Environment & Community Services - DK) attended by telephone for agenda items 7 (i) onwards during the Closed Session, and all of the Open Session. Andrew Walsh (Project Manager Rodent Eradication Program – AW) attended for agenda item 8 (vii), “Cattle Compensation – Rodent Eradication Project” and 12 (i) “Rodent Eradication Program update”. Sue Bower (Flora Management Officer – SB) attended for agenda item 8 (viii) , “Draft Weed Management Strategy 2016”.

The Board’s external Planning Consultants were represented by Peter Laybutt (PL) from RPS.

The Closed Session commenced at 1:30 pm at the Public Hall on Monday 21 November 2016 and closed at 4:40 pm.

The Open Session commenced at 9:02 am at the Public Hall on Tuesday 22 November 2016 and closed at 12:43 pm, and was attended by approximately 60 members of the public.

Unless otherwise specified, all Board decisions were unanimous.

SS declared the meeting open and thanked members of the public for their attendance. She also acknowledged the attendance of the Hon Leslie Williams MP.

SS called for conflict of interest declarations.

No conflict of interest declarations were made.

1 MINUTES OF PREVIOUS MEETING

The Board noted the endorsed minutes of the previous meeting, held in September 2016.

2 OUT OF SESSION MATTERS

PH gave an overview of the paper.

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.

The Board members noted the information provided in the report.

4 CHIEF EXECUTIVE OFFICER'S REPORT

PH gave an overview of the Report.

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.

The Board members noted the information provided in the Report.

6 FINANCIAL IMPACT REPORT FOR PROPOSALS ON AGENDA

Closed session

7 DEVELOPMENT APPLICATIONS

SS stated that all Board members other than LM, who was off the island at the time, carried out site inspections on the morning of Monday 21 November in relation to agenda items 7 (iv) (Nursery Redevelopment), 7 (vii) (Capella Lodge) and 7 (viii) (Airport Terminal).

7 (i) DA2017-05 Renewable Energy project: Stage 2 Wind Turbines

PL gave an overview of the paper.

Each of the Board members other than the Chair gave a brief explanation of their current position on the matter.

Island residents Jim McFadyen, Peter Busteed and Anthony Riddle spoke against the installation of the wind turbines.

Island resident Craig Thompson, on behalf of the Sustainable Energy Working Group, spoke in favour of the installation of the wind turbines.

A question was raised as to whether the NSW Government's draft Wind Energy Planning Framework, when finalised, would apply to the Lord Howe Island development.

DK stated that:

- The draft Framework applies to large scale wind energy development proposals that are State Significant Development and, as the Lord Howe Island development is not a State Significant Development, does not apply to the current application, and
- the draft Framework does not specify a distance from residences, but instead requires an impact assessment.

LM stated, for the benefit of people in the public gallery, that the recommendation under consideration was for “conditional approval with deferred commencement”. She added that this is conditional upon:

- revised plans and supporting documentation,
- a revised noise impact assessment,
- a revised visual impact assessment, and
- the preparation, and approval, of an Adaptive Management Plan.

SS proposed additional conditions as follows:

- Implementation of the recommendation will require Board approval after all conditions have been satisfied,
- The Australian Government’s response to the proposal under the *Environment Protection and Biodiversity Conservation Act 1999* will be considered by the Board as part of the decision-making process,
- Once finalised, NSW Government’s Wind Energy Planning Framework will be an input for consideration by the Board.

RP supported the additional conditions proposed by SS.

JK moved that the additional conditions be added.

It was moved JR, seconded CW, that the project be deferred until the results of the Government’s research into the health effects of wind turbines, due for completion in 2020, is completed.

The motion was not supported by any other Board members.

It was moved JK, seconded RP, that the Development Application for the installation of up to two wind turbines and associated infrastructure be approved subject to the deferred commencement conditions and other conditions recommended in the Assessment Report, and the following additional conditions:

- Implementation of the recommendation in the Report will require Board approval after all conditions have been satisfied,
- The Australian Government’s response to the proposal under the *Environment Protection and Biodiversity Conservation Act 1999* will be considered by the Board as part of the decision-making process, and
- Once finalised, NSW Government’s Wind Energy Planning Framework will be an input for consideration by the Board.

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

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

7 (ii) 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 (iii) 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 (iv) DA2017-01: Nursery Redevelopment (Kentia Fresh)

PL gave an overview of the paper.

CW asked how many staff would be accommodated on site.

Mike Maxwell replied that two staff would be accommodated on site.

It was moved BN, seconded, JR, that the Development Application for the construction of second stage works in the masterplan for the redevelopment of the Nursery be approved subject to the deferred commencement conditions and other conditions recommended in the Assessment Report, and subject to Condition 20, "Hours of Operation", being changed to the following:

- The nursery and greenhouse operations may take place seven days per week between 6:30 am and 6:00 pm.
- The café/bar operations may take place seven days per week between 6:30 am and 9:30 pm Sunday to Thursday, and 6:30 am to 10:00 pm Friday and Saturday.
- Baking operations are permitted to take place from 5:00 am, but with no service of customers until 6:30 am.

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

7 (v) DA2017-02: WMF Wastewater Management System

DK gave an overview of the paper.

LM noted the UV disinfection system proposed for the wastewater management system, and asked if the chlorine disinfection system used in domestic situations was detrimental to the environment.

AL replied that the chlorine disinfection system was not generally detrimental to the environment due to the very small quantities involved, however, due to the particular sensitivity of this site with the potential presence of placostylus, UV disinfection was preferable. He added that, generally speaking, UV disinfection was preferable to chlorine disinfection.

A member of the public, Peter Curtin, stated that the site for the disinfection system appeared to be less than 200 metres from the lagoon and from his dwelling, which would make it a Designated Development. He further stated that he didn't understand why it wasn't moved further north so that it wouldn't be within 200 metres of a dwelling, and that it was within 60 metres of a well. He understood that this was a breach of the Board's policy and the State legislation.

AL replied that the Board's Wastewater Strategy specified a 50 metre buffer around groundwater wells and bores, and a 35 metre buffer from standing water bodies such as the ocean. He added that the proposed irrigation area meets both of these requirements. He further added that the site was selected because the irrigation area would be the simplest shape, however, it could be moved further north.

DK replied that the proposal has an intended processing capacity of 1,490 litres per day and is well below the 6,000 litres per day requirement to be designated development under the EP&A Regulation.

It was moved RP, seconded LM, that the Development Application for a replacement commercial wastewater management system at the Board's Waste Management Facility be approved subject to the conditions recommended in the Assessment Report.

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

7 (vi) DA2017-04: Dolls House Wastewater Management System

DK gave an overview of the paper.

It was moved JR, seconded JK, that the Development Application for a new surface irrigation area at the Dolls House be approved subject to the conditions recommended in the Assessment Report.

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

7 (vii) DA2017-06: Alterations and additions to Capella Lodge

PL gave an overview of the paper.

CW asked the manager of Capella Lodge, Mark McKillop, if an approval would lead to a reduction in the number of residences (currently two) Capella was renting to accommodate staff.

Mr McKillop replied that Capella employed between 18 and 20 staff, depending on the season, and expected that one of the two properties currently rented would not be required after the development was complete.

SS stated that the Owner's Consent specified a condition that the proposed two and three storey buildings (alterations and additions) must appear as a single storey when viewed from outside of the site, however, the Development Application does not comply with this condition. She added that, in view of this, other options needed to be considered.

JR stated that Condition 13 of the Report specified a maximum of 10 occupants in the staff accommodation, and recommended that this maximum be removed, to take account of couples occupying the rooms.

It was moved RP, seconded JK, that the Board approve the Development Application for alterations and additions at Capella Lodge subject to the following:

1. The deferred commencement conditions and other conditions recommended in the Assessment Report,
2. Amendment of Condition 1 a, "Design Amendments", to read:
 - o Revised architectural plans indicating the following design changes are to be provided to the Lord Howe Island Board:
 - i. Deletion or modification of the attic level of the new staff accommodation building; and
 - ii. Deletion or modification of the first floor extension to the manager's residence and adjoining spa treatment area within the main lodge building.
3. Removal of "(maximum 10 occupants within 10 rooms)" from Condition 13.

DK stated, as this matter was in the public interest, that the full Board would be required to approve the amended plans.

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

7 (viii) DA2017-07: Rebuild Airport Terminal Building

PL gave an overview of the paper.

JK suggested that there was a need to ensure that the demolition and construction do not impact or impede the safe and efficient operations of the airport, and that it complies with all relevant operating conditions.

CW suggested that the new terminal be used as a test case for going, at least partially, off grid. It has a huge roof area, so there is the real possibility of self-sufficiency with a solar array and battery storage.

SS supported CW's suggestion, and requested that the Administration investigate this option.

AL stated that the centralised solar panel farm and battery system proposed for the area to the north of Transit Hill remained the most cost effective means of achieving self-sufficiency. He further stated that it was possible to install conduits within the new terminal building so that the future installation of solar panels would be more easily achieved, noting that they would need to be placed on frames on the roof to be most effective.

Peter Curtin questioned the design of the building and its ability to withstand 'cyclonic' winds. AL noted that the building had been designed in accordance with the wind rating for the island and the terrain conditions at the airport site, but could not specify the specific wind speed rating at the time.

It was moved SS, seconded BN, that the Board approve the Development Application for the demolition of an existing passenger terminal, erection of a new airport terminal and use of an existing aircraft hangar as a temporary passenger terminal at Lord Howe Island Airport be approved subject to the conditions recommended in the Assessment Report, and subject to the following additional conditions:

- All legislative requirements pertaining to operating conditions must be met, and
- The building must meet the relevant Australian Standards and Building Code of Australia wind classification for the site.

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

7 (ix) DA2017-08: Pandanus Rebuild

DK gave an overview of the paper, noting that condition 5 refers to disabled access. He added that at recent discussions with the applicant it was agreed that the disabled access requirements were inconsistent with the Building Code of Australia. In view of this, DK proposed that Condition 5 be deleted and replaced with an Advisory Note stating that the applicant be encouraged to incorporate universal design principles to improve disabled accessibility on the site wherever possible.

LM asked that, in regard to wastewater, whether UV disinfection should be specified rather than chlorine.

AL replied that it was reasonable to stipulate UV disinfection.

It was moved JR, seconded CW, that the Board approve the Development Application for alterations and additions to Pandanus Lodges (including the rebuilding of a second permanent dwelling, an extension to the other existing permanent dwelling on site and a tourist accommodation refurbishment, associated landscaping and site services) subject to the conditions recommended, other than Condition 5 of the Assessment Report, and the following Advisory Note:

- The applicant is encouraged to incorporate universal design principles to improve disabled accessibility on the site wherever possible.
- The site's wastewater system include UV disinfection, rather than chlorine disinfection.

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

7 (x) Planning and Assessment Bi-annual Report

The Board noted the information provided in the paper.

8 POLICY AND STRATEGY

8 (i) Transfer of Public Accommodation Licences Turk to Baillie

BM gave an overview of the paper.

CW stated that he did not support the transfer of the licences until the works as per the DA had been completed.

Bronwyn Tofaeono spoke on behalf of her mother, Valerie Turk. She guaranteed that works would commence on 1 May 2017, at the beginning of the low season.

SS proposed that Option 3 be amended to read as follows:

“Approve the transfer of four Public Accommodation Licences from Valerie Turk (Hideaway) to James Baillie (Capella), noting that works will be completed as per DA 2017-03”.

LM expressed concern about approving the transfer when the capacity to accommodate tourists at Hideaway would significantly exceed the maximum number licensed.

SS stated that DA 2017-03 has been approved and that, given what the Board had heard at the meeting, a defined date for commencement of the works could be agreed.

CW stated that allowing the transfer to occur now, which would result in Hideaway being licensed to accommodate nine people, but having the physical capacity to accommodate 18 people for the next six months, could leave the Board open to criticism.

Bronwyn Tofaeono stated that Hideaway would comply with the nine person limit, as per the replacement licence.

It was moved RP, seconded JK, that the Board approve the transfer of four Public Accommodation Licences from Valerie Turk (Hideaway) to James Baillie (Capella), on the conditions that:

1. The works at Hideaway will be completed as per DA 2017-03, with a commencement date no later than 1 May 2017,
2. Valerie Turk provide the Board with regular progress reports in relation to the planning and progress of works approved in DA 2017-03, and
3. Hideaway comply with the conditions of their replacement licence.

The Board then adopted the motion.

8 (ii) Draft Lord Howe Island Walking Track Strategy

DK thanked MB for her excellent work in comprehensively reviewing the Walking Track Strategy.

DK gave an overview of the paper.

JK recommended that the following Principal Objective be added:

“Encourage the promotion of the Lord Howe Island walking track network to add to the visitor appeal and the economic benefit of the island community”.

It was moved BN, seconded CW, that:

1. the Draft Lord Howe Island Walking Track Strategy be placed on public exhibition for a period of 28 days,
2. the Walking Track survey be made available during the Draft Lord Howe Island Walking Track Strategy public exhibition period,
3. the Lord Howe Island Permanent Park Preserve Community Advisory Committee be invited to assist in the review of the submissions analysis report and survey responses following public exhibition, and

4. the following be added to the Principal Objectives:

“Encourage the promotion of the Lord Howe Island walking track network to add to the visitor appeal and the economic benefit of the island community”.

The Board then adopted the motion.

8 (iii) Annual Report 2015/16

The Board noted the Lord Howe Island Board Annual Report 2015/16, inclusive of Financial Statements, and the Statutory Audit Report.

8 (iv) Electricity Network Safety Management System

AL gave an overview of the paper.

It was moved CW, seconded RP, that the Board adopt the Electrical Network Safety Management System Policy and documents for implementation by the Administration, noting that any IPART recommendations would be brought to the Board’s attention.

The Board then adopted the motion.

8 (v) Electricity Network Upgrades – Developer Contributions

AL gave an overview of the paper.

RP suggested that it would be more equitable to charge for all new connections, and proposed that for all standard new connections, a charge of \$1,000 per residence and \$2,000 per business be applied.

CW and BN supported RP’s suggestion.

It was moved RP, seconded BN, that:

1. the Board note the information provided in the report,
2. for all standard new connections, a charge of \$1,000 per residence and \$2,000 per business be applied, and
3. customers remain responsible for the connection of their site to the nearest Distribution Pillar, known as the Consumer Mains.

The Board then adopted the motion.

8 (vi) Lord Howe Island Land Allocation Review

SS stated that the Preliminary Government Response to the recommendations of the Handley Review had been released. She added that members of the Island community may provide written feedback on the Preliminary Government Response until 28 November, and encouraged those who wished to make a submission to do so.

PH recommended that the Board make a submission in regard to Recommendation 15, as the creation, maintenance and preparation of one set of accounts for the Permanent Park

Preserve and one set of accounts for the Settlement area of the Island would be confusing, expensive, resource intensive and unduly onerous.

JR stated that, in relation to the Government Response to Recommendation 6, which addresses restrictions on who can occupy a dual occupancy dwelling, she would like the words "in accordance with the Act" added to the sentence "The LEP will be amended to remove this restriction, allowing for occupancy by those other than family members".

It was moved JR, seconded CW, that PH write a submission, on behalf of the Board, in regard to Recommendations 15 and 6 as discussed above.

The Board then adopted the motion.

8 (vii) Closed session

8 (viii) Draft Weed Management Strategy 2016

SB gave an overview of the paper.

PH stated that the Strategy is a "living" document, and changes to it will be required from time to time.

It was moved RP, seconded LM, that the Board adopt the Draft Lord Howe Island Weed Management Strategy 2016 subject to making changes to align it with the *Biosecurity Act 2015*, and noting that there will be changes to it from time to time.

The Board then adopted the motion.

9 FINANCE AND BUSINESS MANAGEMENT

9 (i) Closed session

10 LEASING AND LAND ADMINISTRATION

10 (i) Estate of the Late Ysobel Heffernan

DK gave an overview of the paper.

It was moved JR, seconded CW that the Board recommend to the Minister to:

- a) grant a certificate to transfer the Perpetual Lease (1954.09) pursuant to section 23(10)(b) of the *Lord Howe Island Act 1953*, and
- b) grant approval to the transfer of Perpetual Lease (1981/01) being Lot 205 DP40355 Anderson Road, Lord Howe Island to Denise Robyn Rickard pursuant to the Will of the late Ysobel Allen Heffernan, to the Deed of Family Arrangement and section 23 of the *Lord Howe Island Act, 1953*.

LM was absent during the vote.

The Board then adopted the motion.

10 (ii) Estate of the Late Jann Garton

DK gave an overview of the paper.

It was moved JR, seconded RP that the Board recommend to the Minister for the Environment that Mr Francis Reed, as the Executor of the Estate of the Late Jann Lillian Garton, be granted approval to hold Perpetual Lease 1954/31 of Lot 33 in Deposited Plan 46194 Lord Howe Island until 17 June 2017 to enable him to complete the administration of the estate.

The Board then adopted the motion.

10 (iii) Estate of the Late Norma Margaret Whitfield

DK gave an overview of the paper.

It was moved LM, seconded CW that the Board recommend to the Minister to grant approval to transfer Perpetual Lease 1954/40 to Ms Christine Dorothy Daggar and Mr Gregory Robert Whitfield, pursuant to the Will of the late Norma Whitfield, and section 23 of the *Lord Howe Island Act, 1953*.

Subject to approval of the transfer of lease above, two separate Perpetual Lease documents will be issued in the prescribed form following cancellation of the original lease, as follows:

- a) lease in perpetuity for the purpose of a residence, over Lot 1 DP1183351 to Ms Christine Dorothy Daggar, subject to the standard perpetual lease conditions; and
- b) lease in perpetuity for the purpose of a residence, over Lot 2 DP 1183351 to Mr Gregory Robert Whitfield, subject to the standard perpetual lease conditions.

The Board then adopted the motion.

11 GOVERNANCE

Closed session

12 OPERATIONS AND SERVICES

12 (i) Rodent Eradication Program Update

AW 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 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) Island Clean-Up Progress Report

AL gave an overview of the paper.

The Board noted the information provided in the paper.

12 (v) Airport Terminal Upgrade Project Update

AL gave an overview of the paper.

The Board noted the information provided in the paper.

12 (vi) Detection, Containment and Eradication of Myrtle Rust

DK gave an overview of the paper.

The Board noted the information provided in the paper.

12 (vii) Commercial Tour Operator Licensing System

DK gave an overview of the paper.

JK stated, in regard to accreditation, that Ecotourism Australia already have an accreditation program that is recognised not only throughout Australia by the broader tourism industry, but also internationally. It has an accreditation program that is endorsed by the Director of National Parks federally and by the NSW National Parks and Wildlife Service. JK recommended that the Board link into it, rather than develop its own accreditation program.

RP supported JK's recommendation. He added that, if the Board is going to ask operators to develop a manual or operating procedures, the Board should provide a template or guidelines to assist tour operators. He further added that tour operators needed to be involved in the whole process of getting the accreditation program up and running.

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

1. adopt an 'Eco Pass' licensing system for commercial recreation and tour operators in the Lord Howe Island Permanent Park Preserve,
2. investigate opportunities to align with Ecotourism Australia accreditation program,
3. liaise with NSW Industry & Investment in order to establish a single licensing system which applies to all commercial operators operating on Lord Howe Island, and
4. In implementing the program, provide tour operators with a template or guidelines to assist in their development of manuals and operating procedures, and involving them in the whole process of getting the accreditation program up and running.

The Board then 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 provided in the paper.

14 INTERVIEWS

Closed session

15 GENERAL BUSINESS & QUESTIONS ON NOTICE

Nil General Business or Questions on Notice.

Air Services

SS briefed members of the public on the outcomes of closed session meetings with representatives of Transport for NSW and Qantas in regard to the future of air services to the island. A summary is as follows:

- Transport for NSW will commence the licensing process for the 2018 to 2023 period in March 2017 with an expression of interest process and, if there is only one party, Transport for NSW will move to a direct negotiation with that party,
- Once direct negotiations are complete, the Minister for Transport will be asked to announce the award of the licence immediately,
- A workshop, to be attended by key stakeholders, including Qantas, the Lord Howe Island Tourism Association and travel wholesalers, will consider how to attract visitors in the low season and the low times during the week,
- Qantas is considering the possibility of distributing flights more evenly over the week, rather than having a concentration on the weekend,
- The impact on forward bookings of accommodation providers and tour operators was discussed, agreeing that the greatest amount of notice needed to be given regarding flight schedules after March 2018,
- The Board is playing a role in facilitating closer cooperation between Qantas and the Bureau of Meteorology, with initiatives being taken to improve operational effectiveness,
- Qantas is taking steps to ensure that they have adequate numbers of the “right” pilots, properly trained, to service the route,
- Qantas is considering maintenance planning in order to achieve the necessary maintenance without having to raise prices any more than necessary, and
- Qantas, the Board and the Tourism Association would work together to improve the customer experience.

SS added that she would be working with Qantas to prepare a short statement for distribution to the public.

Cattle Compensation Plan

SS briefed members of the public on the outcomes of the Closed Session discussion of the plan to compensate cattle owners for the destruction of their cattle prior to the implementation of the rodent eradication operations, stating that the compensation plan that had already been communicated to cattle owners would continue, and the valuations that were undertaken in September 2016 would apply.

Board Self-Assessment

SS stated that the Board had conducted a self-assessment of its performance, particularly in light of the results of the recent Communications and Community Engagement Survey. As a

consequence the Board would be working towards achieving more community involvement in Board decision-making and forward planning.

SS thanked members of the public for attending, and thanked Board members and Board staff.

The public meeting closed at 12:43 pm on Tuesday 22 March 2016.

Next Meeting

The dates for the next Board meeting are 13 and 14 March 2017.