

# 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. David Kirk by teleconference.

**DATE** Tuesday 8 December 2020

### BOARD MEMBERS PRESENT

- Ms A Levy (Chair – AL)
- Mr C Wilson (Deputy Chair - CW)
- Mr D Kirk (Member - DK) – by teleconference.
- Mr R Pallin (Member – RP)
- Mr M Retmock (Member – MR)
- Ms T Turner (Member - TT)

### APOLOGIES

- Mr G Crombie (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)
- Darcelle Matassoni (Project Officer - DM)

The Open Session commenced at 9:11 am at the Community Hall on Tuesday 8 December 2020 and closed at 1.08 pm. Two members of the public attended part of the open session.

Unless otherwise specified, all Board decisions were unanimous.

## 1 CONFLICT OF INTEREST DECLARATIONS

Board Member Therese Turner declared a conflict of interest with Item 10 (ii) – Board Member's property.

## 2 MINUTES OF PREVIOUS MEETING – NOTICE OF ADOPTION

**The Board noted the adoption of the September 2020 Minutes.**

The October 2020 Minutes for the Out of Session meeting was endorsed by the Board previously by email.

## 3 OUT OF SESSION MATTERS – STATUS REPORT

**The Board noted the information in the September 2020 Out of Session Matters 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.**

AL moved a vote of thanks to the COVID team for their assistance.  
CW made a request for greater focus on road maintenance.

## 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

**It was moved by MR and seconded by CW that the Board approve the recommendation:**

- 1. Note the information provided in this paper**
- 2. Approve the proposed budget adjustments as per Attachment C**
- 3. Approve the temporary recruitment of a Works Officer to June 2021**

**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) DA 2020.12 – Three lot subdivision, Lot 285 DP 48687 L & E Wilson

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

**That the application for Development Application DA2020.12 for a three-lot subdivision at Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island be approved subject to the application of the conditions listed in the Business Paper report.**

**The Board adopted the motion.**

## 8(iv) OC2020.10 and DA2020.13 – Alterations and Additions to Existing Garage to create a Studio – Chris and Rosalind Wade

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

- 1. Grant Owners Consent for application 2020.10 Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island.**
- 2. That DA2020.13 for Alterations and Additions to Existing Garage to Create a Studio at Lot 331 DP 46194, No. 331 Anderson Road, Lord Howe Island, be refused for the following reasons:**

i. inconsistencies in the submitted plans for the application regarding the existing and proposed boundary setbacks and in relation to existing facilities on the ground floor of the development.

ii. The proposal does not comply with the clause 2 aims and strategies of the LHI LEP 2010 as outlined in the preceding assessment and in particular 3(a) “to apply general land use controls to land within each zone and special provisions for particular kinds of development or for development on particular land”.

iii. The proposal will not comply with the Objectives of the Zone 2 Settlement referenced in clause 14, and clause 11(a) LHI LEP 2010 as sought to be applied by the LEP setback requirements of cl. 32.

iv. the proposed numerical non-compliances with the LEP setbacks are likely to create a negative precedent for consideration of future development and that is not in accordance with Clause 11(h) of the LEP regarding the appearance of the development involving a significantly adverse impact on the locality.

v. The proposed variations to the boundary setback requirements of clause 27, LHI LEP 2010 and s3.2 of the LHI DCP 2005 are numerically significant and are not supported. Based on the LHIB’s calculated setbacks and applying the 10m required setback to the larger southern side boundary, the proposal includes a 2.5m variation to the 10m setback and 1.9m to the 5m setback requirements of the LEP. These are variations of 25% and 38% of each standard respectively.

vi. The proposal does not demonstrate compliance with Clause 33, LHI LEP Page 27 2010 in that the proposal will likely have a significant adverse impact on the existing landscaped character and dispersed pattern of housing in the Settlement 2 Zone and approval of the variation would create an undesirable precedent.

vii. The proposal is inconsistent with the LHI DCP 2005, s2.2 Objectives in relation to the proposed setback variations and how they relate to encouraging good design of buildings which respect the special landscape character of the Island and encouraging maintenance of the existing scale of Island buildings and the likely creation of an undesirable precedent for consideration of future development.

viii. In relation to LHI DCP 2005, Section 2.3 Design Context, the proposal numerically (in as far as setbacks are concerned) will be inconsistent with the character and nature of the site and locality and the likely creation of an undesirable precedent for consideration of future development.

ix. In relation to LHI DCP 2005, s2.4 Bulk and Scale, the proposed alterations and additions to the existing garage will increase the bulk and scale of the existing structures on the site, it will not be setback from the site boundaries in accordance with the LEP, it will not maintain the dispersed pattern of buildings on the Island in sympathy with existing development and likely create an undesirable precedent for consideration of future development.

x. A BASIX Certificate for the development (required for the proposed change of use from an uninhabitable building to a habitable building) has not been submitted under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. In addition, the BASIX Certificate is likely to require additional work and/ or installation of certain fixtures and/ or systems which need to be detailed in the application and plans.

xi. The current design/ floor plan does not comply with Building Code of Australia (BCA) Volume 1, Part 2.4 (Health and Amenity) requirements including the following:

- Location of laundry facilities within the bedroom and the means to manage water vapour and condensation and avoid resultant health impacts on occupants
- Evidence and details that the proposed internal double door between the ground floor bedroom and the new garage addition has been designed to be completely sealed from carbon monoxide entry from the garage
- The current ground floor material is unsealed pavers. This material is not adequate to provide a barrier for rising damp. Moisture from the ground must be prevented from causing unhealthy or dangerous conditions and no new floor is proposed complying with the BCA.

xii. The current Septic wastewater system servicing the site must be upgraded due to the increased occupancy related to the proposal in accordance with the LHI On-site Wastewater Management Strategy 2015. The subject application has not addressed this requirement which also requires development consent.

xiii. For the preceding reasons, the site is not considered suitable for the proposed development and will not be in the public interest.

**The Board adopted the motion.**

## 9 POLICY AND STRATEGY

### 9(i) Vehicle Importation, Transfer and Use Policy - Review

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

1. That the reviewed Vehicle Importation, Transfer and Use Policy (Attachment B to this report) including proposed changes be placed on exhibition for six weeks over the Christmas period, with the exhibition to be notified by Householder.
2. That a report be presented to the Board at its March 2021 meeting to consider submissions and a draft Policy for adoption.

The Board adopted the motion.

### 9(ii) Electoral Districts Redistribution Report

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

That the CEO do not send an urgent submission to the Electoral Districts Redistribution Panel with a copy of this report, opposing the proposed change of Lord Howe Island to the Electoral District of Sydney and that it remain in the Electoral District of Port Macquarie.

The Board adopted the motion.

## 10 LEASING AND LAND ADMINISTRATION

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

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

TT left the meeting at 11:27am citing a Conflict of Interest.

### 10(ii) Creation of Special Lease – Therese Turner – December 2020

It was moved by CW and seconded by DK that the Board approve the recommendation:

1. The Board recommend to the Minister that a Special lease over Lot 7 DP1130548 be granted to Therese Turner.
2. That the lease conditions be as set out in Attachment 1.
3. That the Expiry date for the Special Lease be set at 31 December 2021

The Board adopted the motion.

TT returned to the meeting at 11:31am.

### 10(iii) Creation of Special Lease – Robert Jeremy – December 2020 - Open

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

- 1. That the Board recommend to the Minister to grant a Special Lease to Robert Jeremy over Portion 32 Lagoon Drive, locally known as Thornleigh.**
- 2. That the lease conditions be as set out in Attachment 1**
- 3. That the expiry date of the special lease be set at 31 December 2021.**

**The Board adopted the motion.**

### 10(iv) Transfer of Perpetual Lease 1954.31 to Branko Pavlica

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

**That the Board recommend to the Minister to grant approval to the transfer of Perpetual Lease 1954.31 from the estate of the late Jann Garton to Branko Pavlica.**

**The Board adopted the motion.**

### 10(v) Update on Category B Special Lease Restitution

**The Board noted the update.**

### 10(vi) Modification of Perpetual Lease Conditions for 2016.03 to provide easement access

**It was moved by CW and seconded by MR that the Board approve the recommendation:**

- 1. The Board recommend to the Minister to modify the Perpetual Lease Conditions for Perpetual Lease 2016.3 to enable driveway access to Perpetual Lease 2016.04 consistent with the Figure 1 in this report.**
- 2. That prior to the request being made to the Minister the Board administration receive notification from the mortgagee indicating concurrence with the proposed lease amendments.**

**The Board adopted the motion.**

## 11 GOVERNANCE

### 11(i) Audit and Risk Committee Report

**The Board noted the information submitted in the report.**

### 11(ii) Operations Plan Mid-term Review

**The Board noted the report on progress against the Operations Plan Financial year 2021.**

## 12 GOVERNANCE

### 12(i) Biosecurity Update

**It was moved by CW and Seconded by TT that the Board:**

- 1. Note the Biosecurity update**
- 2. Place on public exhibition for a period of six weeks over Christmas the proposed fee and charges outlined in Table 2 in the body of this report.**
- 3. Note that the fees do not apply to RPT air passenger services or the Island Trader Service.**
- 4. That the Board Administration review the fee as required to ensure cost recovery for biosecurity services to visiting vessels and aircraft.**
- 5. Following the exhibition period a paper be presented to the Board at the March 2021 meeting.**

**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

### OPEN SESSION

LHI Tourism Association – Stephen Sia

## 15 GENERAL BUSINESS & QUESTIONS ON NOTICE

### 15(i) Questions on Notice

**Questions on Notice were received and were answered by JS as follows:**

***Question from Peter Curtin was:***

- 1. What is the allowable level of Brodifacoum contamination of fish sold on LHI for human consumption?***

The Board is only able to answer this question in the context of the APVMA permit and studies commissioned to inform the methodology and environmental monitoring criteria for the REP. Questions relating to the relevant legislative criteria for Brodifacoum levels in food produce sold on the island should be directed to the relevant authority.

Under the APVMA Permit number PER85459 the allowable level of Brodifacoum in fish sold for Human consumption is not explicitly stated.

Condition 47 states:

Residents and tourists must be advised to not consume the liver of any fish caught in the shore area of Lord Howe Island until the permit holder confirms, on the basis of residue monitoring, there are no detectable residues of brodifacoum in the fish population.

Under the Human Health Risk Assessment undertaken by RAMBOLL on behalf of the LHIB the safe environmental limit for human consumption of seafood (edible flesh) was deemed to be 0.45mg/kg of flesh.

The RAMBOLL report was reviewed by the NSW Chief Scientist and Engineer who supported the methodology adopted by RAMBOLL.

The Board has adopted the 0.45mg/kg as the environmental monitoring criteria for brodifacoum in fish flesh.

The Open meeting closed at 1.08pm on 8 December 2020.

## NEXT MEETING

29 March 2021 – Closed Session

30 March 2021 – Open Session

31 May 2021 - Closed Session

1 June 2021 – Open Session