

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

Planning Assessment Report

1 Item

OC 2020.04 proposes a three (3) lot subdivision at Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island.

2 Summary Assessment Report

Assessment Officer	Peter Chapman – Consultant Town Planner
Address/Property Description	Lot 285 DP 48687, Lagoon Road & Ocean View Drive, Lord Howe Island
Proposal	Three (3) Lot Subdivision
Owners Consent No	OC 2020.04
Applicant	Larry & Elizabeth Wilson
Estimated Cost of Development	N/A
Site Inspections	A site inspection has been undertaken.
Zone	Zone 2 Settlement. The proposed development is permissible with the consent of the LHI Board.
Significant Native Vegetation Map	Part of the lot contains mapped Significant Native Vegetation (SNV). A condition may be included in the approval that no internal boundary fences are to be erected within the subject site to ensure that no damage or removal of SNV will occur as a result of the proposed subdivision.
Notification	The OC application has not been publicly exhibited, in accordance with LHIB policy.
Submissions Received	No submissions have been received.
Recommendation	That the application for 'Owner Consent' OC2020.04 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 requirements listed in the report.

3 Consent Authority

Owners Consent

The Minister has authorised the Lord Howe Island Board's (LHIB) CEO to grant owners consent to the lodgement of development subject to the following conditions:

1. The value of the development must not exceed \$2,000,000.
2. The application must, in the opinion of the person granting owner's consent, comply with any Planning Instrument which is in force relating to the Island.
3. The owner's consent must not relate to a proposed development application for the subdivision of land.
4. The OC must not relate to the creation of new residential dwellings.

The subject OC relates to the subdivision of land. Therefore, the proposal cannot be determined under delegated authority, and is being reported to the LHIB for determination.

4 Site Description

The site is legally described as Lot 285 DP 48687, on the corner of Lagoon Road and Ocean View Drive, Lord Howe Island. As shown in the aerial photograph (refer *Figure 1*), the allotment has an irregular shape which adjoins eight (8) surrounding allotments. The site has a 204m frontage to Lagoon Road on its western side, and 95m frontage along Ocean View Drive on the southern boundary, 101m along the eastern boundary and 50m frontage along the northern boundary. The site has an existing area of 17,232m² (1.7232ha).

As indicated in *Figure 1*, the site currently has three existing dwellings, out-buildings and sheds, water tanks and on-site effluent disposal tanks and associated infrastructure. The proposal will enable each existing dwelling to be located in separate allotments created by the subdivision.

The property comprises areas of open grassed paddocks and established vegetation including palms and other mixed vegetation.

The site is located opposite the LHI lagoon (across Lagoon Road) and is in the vicinity of the LHI Wharf and Maritime area. The site is adjoined by a mixture of residential allotments, open grassed paddocks and a palm plantation.



Figure 1: Aerial View of subject site and adjoining land. Source: Six Maps

5 Proposed Development

The proposal seeks to subdivide Lot 285, DP 48687 into three allotments (refer to Figure 4). The site is presently 17,232m² (1.723ha). The allotments are shown on the proposed subdivision plan as Lots 1-3, each with areas of Lot 1 - 3001m², Lot 2 – 3001m², and Lot 3 – 1.123ha.

The proposal will subdivide the land so that each allotment will include an existing constructed dwelling, sheds, tanks etc as noted on the survey plan, and separate on-site waste management systems and associated land application areas. Proposed Lot 3 benefits from a direct road frontage to Lagoon Road and will also have a 4m driveway handle from Ocean View Drive. Proposed Lots 1 and Lot 2 have existing access off Ocean View Drive.

The application states that the subdivision will be likely completed in stages. This does not require a formal staged approval under the EPA Act 1979 as subdivision certificates can be subsequently issued for the individual lots as required once the DA is determined.

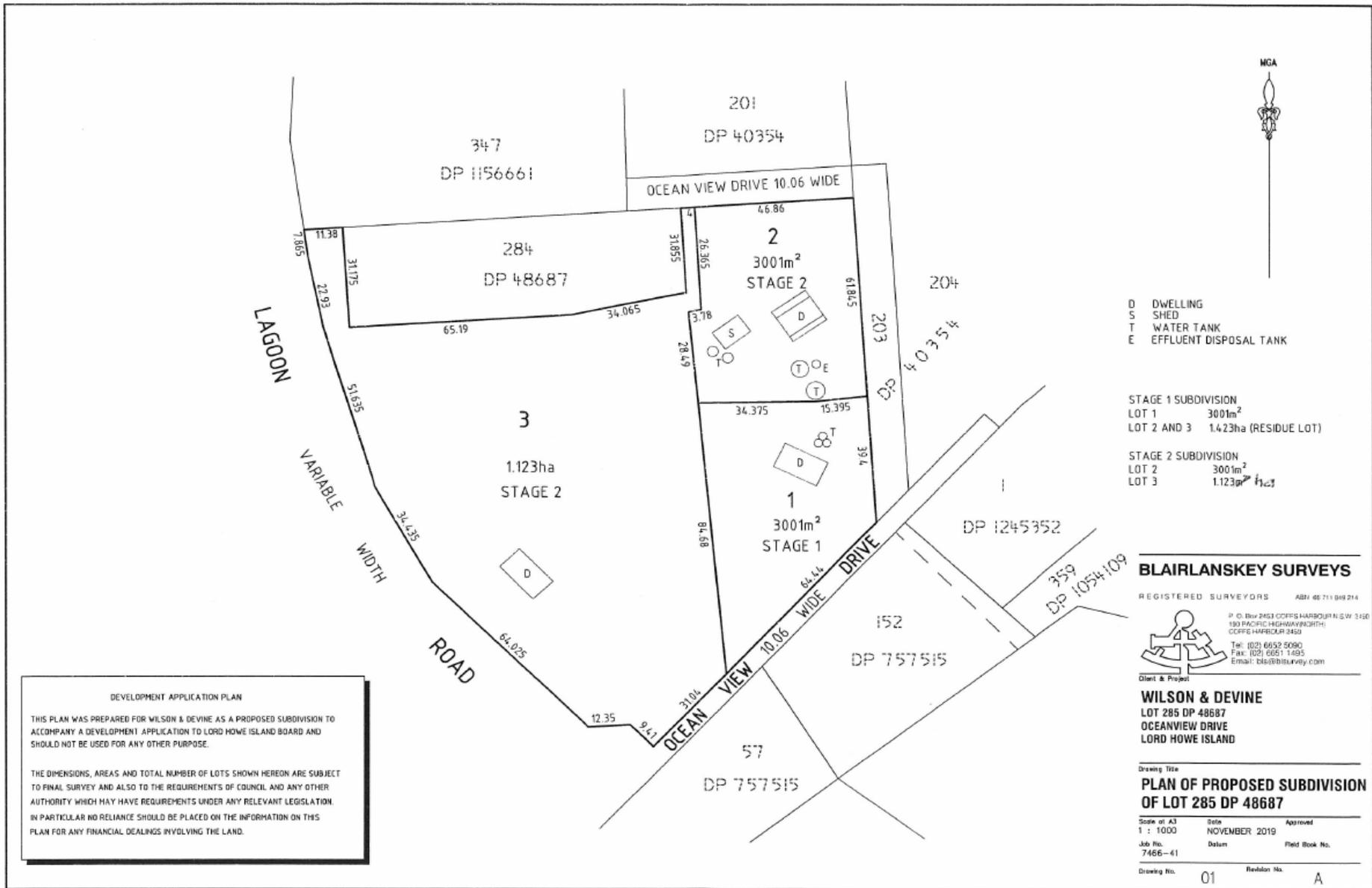


Figure 4: Applicant's submitted subdivision plan. Source: Blairlanskey Surveys

6 Preliminary Planning Assessment

The following preliminary planning assessment has been undertaken for the proposed OC taking into account the relevant statutory controls, and other relevant matters as detailed below.

As Figure 2 shows, Lot 285 is located in Zone 2 Settlement under the LHI LEP 2010. The site is also adjoined on its northern, eastern and part of its southern boundary with Zone 2 Settlement. The western boundary across from Lagoon Road is Zone 7 Environment Protection, and to the (part) south eastern boundary is Zone 6 Recreation land.

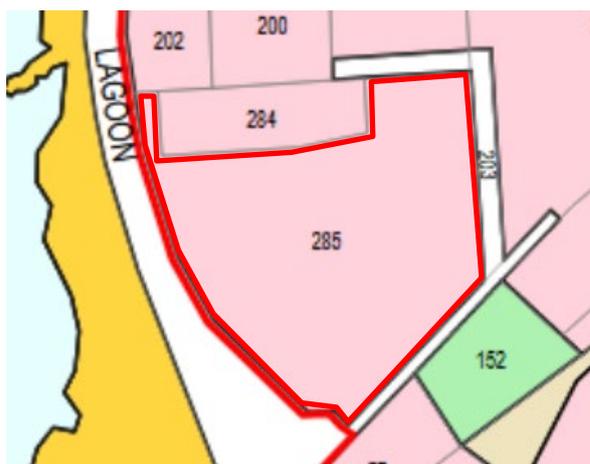


Figure 2: Extract from the LEP 2010 Zoning Map.
The site is Zone 2 Settlement

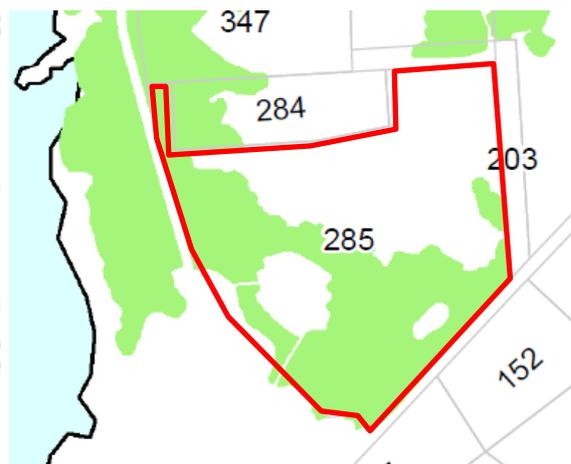


Figure 3: Extract from the LEP 2010 SNV Map.
SNV in green.

The land contains mapped Significant Native Vegetation under LEP 2010 (refer to Figure 3), and the land is landscaped with native species including planted palms.

Referrals

Whilst referrals to relevant internal specialists are not normally undertaken for Owners Consent applications (due to the preliminary nature of the assessment undertaken for such applications), the following preliminary consultations were considered relevant to the subject development and were thus completed.

Manager Environment World Heritage (Hank Bower): Parts of the proposed lot boundaries of the subdivision will extend through mapped SNV. As clearing or damage to mapped SNV is prohibited, an advisory note should be placed on any determination that the erection of boundary fences through these areas will not be permitted.

Team Leader - Compliance & Projects (Kate Dignum): The proposed subdivision will not conflict with the wastewater systems currently provided for each of the three dwellings on the site. One of these dwellings (Larry & Liz's) has a part shared system with the dwelling on the adjoining lot 284 however this can remain in place as is with the proposed subdivision.

Permissibility - Lord Howe Island Local Environmental Plan 2010

The proposal is not Exempt Development under Clause 9 of the LEP 2010.

As discussed above, the site is located within the 2 Settlement Zone. The LEP 2010 objectives for this zone are as follows:

- (a) *to provide opportunities for limited residential and commercial development that maintains the dispersed housing pattern of the settlement area and is in sympathy with existing development in relation to the following:*
 - (i) *setbacks,*
 - (ii) *building mass and style,*
 - (iii) *visual amenity,*
 - (iv) *landscaped character,*

- (b) *to ensure that any development is only permitted in locations where, in the consent authority's opinion:*
 - (i) *the development will not involve unacceptable infrastructure costs for the Board or the community of the Island, and*
 - (ii) *there is an adequate area available for the treatment or disposal of any effluent arising from the proposed development by an appropriate effluent treatment or disposal system, and*
 - (iii) *the land is capable of supporting the proposed development and is suitable in terms of the land's physical constraints (such as vulnerability to erosion, slip or flooding), and*
 - (iv) *the development (including any effluent treatment or disposal system referred to in subparagraph (ii)) will not adversely affect groundwater quality,*

- (c) *to avoid or minimise environmental damage and protect areas that:*
 - (i) *comprise significant habitat for species of animals that are native to the Island, or*
 - (ii) *have significant native vegetation.*

Under clause 14(3) of the LEP 2010 any (other) development may be carried out on land within Zone 2 Settlement with the consent of the LHIB, thus the proposed subdivision is permissible with consent requiring the submission of a future development application. Based upon the preliminary assessment undertaken in this OC report, the proposed subdivision will be able to notionally comply with the objectives of the LEP 2 Settlement zone.

The future DA assessment will be subject to Clauses 2, 3, 6, 7, 9, 11, 12, 14, 21, 23, 26, 32, 33, of the LEP being satisfied. These clauses relevant to this OC are considered and assessed below.

LEP 2010 compliance summary table

LEP 2010 Clause		Compliance Y/N	Comment
Part 1 Preliminary			
2	Commencement and Aims of Plan	Y	The proposed subdivision has been assessed as generally meeting the aims and objectives of the LEP 2010.

3	Land to which plan applies	Y	The LEP 2010 applies to the subject site which is part of Lord Howe Island, as defined in Section 3 of the Lord Howe Island Act 1953.
6	Who is the consent authority for this Plan?	Y	The Lord Howe Island Board (LHIB) is the relevant consent authority.
7	Maps	Y	Noted.
9	Exempt Development	N/A	The proposed works are not listed as Exempt Development within Schedule 1 of the LEP.
11	Matters that must be satisfied before development consent granted	Y	All relevant matters are further considered in the clause 11 assessment following.
Part 2 General Provisions applying in particular zones			
12	Land Use Zones	Y	The land is zoned Zone 2 Settlement
14	Zone 2 Settlement	Y	Refer to the above discussion of the Zone 2 Settlement objectives and permissible development under clause 14 of the LEP.
Part 3 Special Provisions			
Division 1 Provisions for particular kinds of development			
21(2)	Subdivision a) The area of each proposed allotment is to be at least 3000m ²	Y	Satisfied: proposed Lot 1 = 3,100m ² ; proposed Lot 2 = 3,001m ² , and proposed lot 3 = 1.123ha.
	b) If one or more existing dwellings (but no existing tourist accommodation, staff accommodation or commercial premises) on a proposed allotment – the total area of the allotment is at least the minimum dwelling area	Y	The present Lot 285 DP 48687 has three existing dwellings. There are no tourist or staff accommodation or commercial premises located on the subject site. As per above each proposed subdivided lot meets the required minimum 3,000m ² dwelling site area.
23	Erection of Dwellings (1)(a) Each new dwelling must have a GFA of not greater than 300m ² (b) The total area of the allotment is at least the minimum dwelling area of 3000m ² .	Y Y	The proposal does not include the construction of any new dwellings on the site. The three existing dwellings will each be respectively located (without alterations or additions) within the 3 proposed lots. As discussed under clause 21, the proposed subdivided allotments will all meet the minimum dwelling area of 3,000m ² .
26	Limit on number of dwellings	N/A	The proposal does not include the construction of any new dwellings on the site. The three existing dwellings will each be respectively located (without alterations or additions) within the 3 proposed lots.

Division 2 Provisions that apply to particular land			
32	Setbacks of buildings in Zone 1, 2 or 5	Y	As per earlier advice the three dwellings are existing. Each of these already comply with the setback requirements of the LEP.
33	Landscaping in Zone 2	Y	<p>The proposal will not create an adverse impact on the existing landscaped character and dispersed pattern of housing in the zone.</p> <p>The proposal will enable the subdivision of the subject site. The dwellings are existing therefore there will be no change in the pattern of existing settlement in the area.</p> <p>To avoid future ecological impacts on the mapped SNV within the site, a condition is recommended to prevent the erection of boundary fences through mapped SNV.</p>

6.3.1.2 CLAUSE 11 MATTERS

Clause 11 of the LHI LEP 2010 provides that the consent authority must not consent to the carrying out of development unless it is satisfied regarding the following matters. These requirements with respect to the proposed development are discussed below.

CLAUSE 11 REQUIREMENT	COMPLIANCE Y/N	DISCUSSION
a) <i>The proposed development is consistent with the aims of this plan and the objectives of any zone, as set out in the plan, within which the development is proposed to be carried out,</i>	Y	Refer to discussion provided in the above LEP Compliance table. The proposed subdivision meets the aims and objectives of the LEP 2010.
b) <i>There is an adequate area available for the disposal or treatment of any effluent treatment or disposal system and any such system will not have any adverse impact on groundwater quality,</i>	Y	The wastewater treatment facilities for the three existing dwellings within the site will be maintained.
c) <i>No part of the proposed development:</i> <ul style="list-style-type: none"> i. <i>will result in any damage to, or removal of, significant native vegetation, or</i> ii. <i>will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,</i> 	Y	<p>The approval for Owner Consent in itself will not result in the damage or removal of SNV.</p> <p>To avoid future ecological impacts on the mapped SNV within the site, a condition is recommended to prevent the erection of boundary fences through mapped SNV.</p>

d) <i>Access is, or will be, available to the site of the proposed development and the provision of any such access will not:</i> i. <i>result in any damage to, or the removal of, significant native vegetation, or</i> ii. <i>have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island</i>	Y	The access arrangements for each of the existing dwellings will be maintained as is currently the case. Each currently benefits from a direct frontage to a public road. No additional clearing will be associated with the above.
e) <i>Any proposed landscaping will provide various species of plants that are native to the Island and common in the locality to enhance any significant native vegetation,</i>	N/A	
f) <i>The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes,</i>	N/A	There are no known landform limitations which will adversely impact on the subdivision proposal.
g) <i>Adequate services in respect of the proposed development can be provided without significant additional cost to the Board or the community of the Island,</i>	Y	The subject site is already serviced by the required utilities and these will remain available for the proposed subdivision.
h) <i>The appearance of the proposed development (when considered by itself or in conjunction with existing buildings and works) will not have any significantly adverse impact on the locality,</i>	Y	The appearance of the proposed development will remain in keeping with the character and nature of the area.
i) <i>The proposed development will not cause any significant overshadowing of adjoining land,</i>	Y	As assessed earlier under the discussion of clause 32, LHI LEP, the proposal will not create any overshadowing of any adjoining land.
j) <i>The proposed development will not cause any significant reduction in the privacy of occupiers of adjoining land</i>	Y	The proposal will not reduce the privacy of any adjoining property.

8 Conclusion

OC 2020.04 has been assessed with regard to the provisions of Section 4.15 of the EP&A Act, the LEP 2010 and DCP 2005 and the relevant codes and policies of the Lord Howe Island Board.

In light of the above comments and the preceding preliminary development assessment, the OC application for the 3 x lot subdivision of the subject land is supported subject to the application of a number of requirements included in the following recommendation.

9 Recommendation (Conditional Approval)

That the application for 'Owner Consent' OC2020.04 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 following requirements:

ADVICE TO APPLICANT:

1. Parts of the proposed lot boundaries for the subdivision will extend through mapped SNV within the site. As clearing or damage to mapped SNV is prohibited and to avoid ecological impacts, the erection of boundary fences through these areas will not be permitted.
2. Provision shall be maintained for the part shared wastewater treatment system between the existing dwelling on the subject site located closest to Lagoon Road and the adjoining Lot 284. This shall be confirmed with the future subdivision certificate submissions for the lots.

Recommended:	Recommended for approval:
	
Peter Chapman Date: 13 March 2020 LHI Consultant Town Planner & Director All About Planning Pty Ltd	Peter Adams Date: 20 April 2020 Chief Executive Officer Lord Howe Island Board