

Lord Howe Island LEP 2010 (Amendment 1): Rezone land from Special Uses to Settlement

Proposal Title : Lord Howe Island LEP 2010 (Amendment 1): Rezone land from Special Uses to Settlement

Proposal Summary : The planning proposal seeks to rezone land known as Part Portion 30 and Part Portion 279, off Middle Beach Road, Lord Howe Island from Zone 5 Special Uses to Zone 2 Settlement.

The rezoning will facilitate the use of land formerly used and operated by the Lord Howe Island Board as a Palm Nursery for private purposes.

PP Number : PP_2013_LHOWE_001_00 Dop File No : 13/16719

Proposal Details

Date Planning Proposal Received : 02-Oct-2013 LGA covered : Lord Howe Island

Region : Northern RPA : Director General, Department of

State Electorate : PORT MACQUARIE Section of the Act : 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Middle Beach Road

Suburb : City : Lord Howe Island Postcode : 2898

Land Parcel : Part Portion 30 and Part Portion 279

DoP Planning Officer Contact Details

Contact Name : Luke Blandford

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RPA Contact Details

Contact Name : David Kelly

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DoP Project Manager Contact Details

Contact Name : Carlie Boyd

Contact Number : 0266416610

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Land Release Data

Growth Centre : N/A Release Area Name : N/A

Regional / Sub Regional Strategy : N/A Consistent with Strategy : N/A

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

RELEVANT PLANNING AUTHORITY

The department's legal branch provided advice regarding the identity of the relevant planning authority for amending the Lord Howe Island LEP 2010 (File S09/01397). This advice is summarised below.

In accordance with section 54(1) of the Environmental Planning and Assessment Act (the Act) 1979, the Board is not a relevant planning authority for the purposes of finalising the LEP amendment, because:

- Lord Howe Island is not a local government area under section 15A of the Lord Howe Island Act; and
- No regulation has been made to prescribe the Board as a relevant planning authority. Under Section 54(2) of the Act, the Minister may direct that the Director General is the relevant planning authority.

It is recommended that the Minister appoint the Director General as the relevant planning authority to allow progression of this LEP amendment. Given the requirement for this direction it is also recommended that the Minister issue the Gateway Determination for this proposal.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of the planning proposal are adequately expressed for the proposed amendment to the LHI LEP 2010.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

2.1 Environment Protection Zones

* May need the Director General's agreement

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

The LHI LEP 2010 is the key strategic planning document for the Island. It provides strict planning provisions in relation to environmental and heritage protection as well as development control. The LHI LEP 2010 does not conform to the Standard Instrument template given the unique qualities of the Island.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

In accordance with Clause 8 of the LHI LEP 2010, only SEPP BASIX applies to the Island. No other SEPPs apply.

The proposal is consistent with section 117 Directions 1.1 Business and Industrial Zones, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones and 3.4 Integrating Land Use and Transport. There are no identified inconsistencies with any relevant section 117 Directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The maps provided adequately identify the location of the site and contain sufficient information to explain the effect of the proposal, including existing and proposed zone maps.

A revision to the adopted Settlement Map under the LHI LEP 2010 is required and will be prepared by the department prior to exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has indicated a 14 day public exhibition/community consultation period.

A 14 day consultation period is adequate given that the proposal is considered to be a low impact planning proposal in accordance with the department's 'A guide to Preparing a LEP'.

A copy of the proposal should be exhibited by both the Board on the Island given the matter is of local significance, and also by the department given that the Director General is to be the relevant planning authority.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

The Director General will be the RPA for the proposed LEP Amendment. There are no additional requirements in addition to those recommended in this planning report.

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal generally satisfies the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the planning proposal to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4.. Providing maps which suitably identify the site and intended outcomes;**
- 5. Outlining a proposed community consultation program including public exhibition; and**
- 6. Providing a project timeframe which suggests completion within 6 months*.**

***The Director General will be the RPA for the LEP Amendment. A project timeline will therefore be managed internally within the department.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

Lord Howe Island LEP 2010 was notified on 12 March 2010. The Minister granted an exemption to Lord Howe Island from conforming to the Standard LEP template, due to the Island's unique controls, zones and world heritage status.

Assessment Criteria

Need for planning proposal :

The proposal to amend the LEP is not the result of any specific strategic study or report.

The land is currently used and operated by the Board as a nursery for the growing and sale of Kentia Palm seedlings. The Board has resolved to cease its operations and use of the nursery as it is no longer considered, by the Board, to be economically viable. The Board is currently reviewing expressions of interest from private operators for alternative uses of the land. Furthermore, the land will be leased independently of the Board to the successful private operator/party.

The current zoning for the land, Zone 5 Special Uses, prohibits general accommodation or commercial type uses on this site, generally limiting uses to infrastructure, community facilities and public administration operated by the Board.

Rezoning the land to Zone 2 Settlement will facilitate the use of the land for the full range of private purposes. This may include the continued use of the site as a nursery; however it would no longer be operated by or on behalf of the Board.

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Consistency with strategic planning framework :

As discussed above, the LHI LEP 2010 is the key strategic planning document for the Island.

Rezoning the site to Zone 2 Settlement is consistent with the existing zones and land uses to the east, south and west of the site and considered compatible with the environmental protection land to the north.

The site is heavily vegetated with cleared land only occurring where the current nursery exists. This vegetation is mapped 'significant vegetation' under the LHI LEP 2010 and cannot be removed. Any future operation or development works within the site will be limited to the existing cleared areas.

The proposed rezoning is consistent with the provisions of the LHI LEP 2010.

No relevant SEPPs apply to this proposal. No inconsistencies with section 117 Directions have been identified.

Rezoning the land to permit its use for private purposes would contribute to the Island's economy and tourism and therefore have a positive net community benefit.

Environmental social economic impacts :

Rezoning the land to Zone 2 Settlement will permit future private use of the site which is compatible with the surrounding land.

No significant adverse environmental, social or economic impact has been identified as potentially resulting from the proposal.

Any future settlement uses/development on the site would be required to comply with the provisions of the LHI LEP 2010, and would be assessed under a DA to consider any potential environmental, social and economic impacts. This would include a review of the potential to impact threatened species as well as the demand for additional services/infrastructure.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **DG**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage**
Other

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter.pdf	Proposal Covering Letter	Yes
PP 230913.pdf	Proposal	Yes
Locality Map.pdf	Map	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 **Business and Industrial Zones**
- 2.1 **Environment Protection Zones**
- 2.2 **Coastal Protection**
- 2.3 **Heritage Conservation**
- 3.1 **Residential Zones**
- 3.4 **Integrating Land Use and Transport**

Additional Information : **The Planning Proposal should proceed as a "routine" Planning Proposal however the Minister's approval is required to appoint the Director General as the relevant planning authority.**

Accordingly, the following direction is required to be agreed to by the Minister and included on the letter supporting the Gateway Determination:

In accordance with section 54(2)(e) of the Environmental Planning and Assessment Act 1979, I have determined to appoint the Director General of the Department of Planning and Infrastructure as the relevant planning authority to finalise this matter.

The following conditions should be included on the Gateway Determination:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) **the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 days; and**
- (b) **the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).**

2. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act:

- **Commonwealth Department of the Environment**
- **NSW Office of Environment and Heritage (Heritage and Environment issues)**

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

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3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge the relevant planning authority from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission).

4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :


The reasons for the above recommendations for the planning proposal are as follows:

1. Lord Howe Island is not a LGA and no regulation has been made to prescribe the LHI Board as a relevant planning authority for the purposes of section 54(1)(b) of the EP&A Act.

2. The proposal is consistent with the provisions of the relevant planning strategies.

3. The recommended conditions to the Gateway are required to provide adequate consultation and accountability.

Signature:

 (Acting Team Leader Local Planning)

Printed Name:

Carlie Boyd

Date:

15/10/13

