

|  |
| --- |
| Planning ProposalWastewater Management System Amendment  |
| Prepared by:RPS Australia East Pty LtdLevel 9, 17 York StreetSydney NSW 2000GPO Box 4401, Sydney NSW 2001T: +61 2 9248 9800F: +61 2 9248 9810E: sydney@rpsgroup.com.auClient Manager: Jaime Ustin Report Number: PR122575Version / Date: Rev 1 / September 2014 | Prepared for:Lord Howe Island BoardBowker AvenuePO Box 5Lord Howe Island NSW 2898T: +61 2 6563 2066F: +61 2 6563 2127 |

**IMPORTANT NOTE**

Apart from fair dealing for the purposes of private study, research, criticism, or review as permitted under the Copyright Act, no part of this report, its attachments or appendices may be reproduced by any process without the written consent of RPS Australia East Pty Ltd. All enquiries should be directed to RPS Australia East Pty Ltd.

We have prepared this report for the sole purposes of Lord Howe Island Board (“**Client**”) for the specific purpose of only for which it is supplied (“**Purpose**”). This report is strictly limited to the purpose and the facts and matters stated in it and does not apply directly or indirectly and will not be used for any other application, purpose, use or matter.

In preparing this report we have made certain assumptions. We have assumed that all information and documents provided to us by the Client or as a result of a specific request or enquiry were complete, accurate and up-to-date. Where we have obtained information from a government register or database, we have assumed that the information is accurate. Where an assumption has been made, we have not made any independent investigations with respect to the matters the subject of that assumption. We are not aware of any reason why any of the assumptions are incorrect.

This report is presented without the assumption of a duty of care to any other person (other than the Client) (“**Third Party**”). The report may not contain sufficient information for the purposes of a Third Party or for other uses. Without the prior written consent of RPS Australia East Pty Ltd:

1. this report may not be relied on by a Third Party; and
2. RPS Australia East Pty Ltd will not be liable to a Third Party for any loss, damage, liability or claim arising out of or incidental to a Third Party publishing, using or relying on the facts, content, opinions or subject matter contained in this report.

If a Third Party uses or relies on the facts, content, opinions or subject matter contained in this report with or without the consent of RPS Australia East Pty Ltd, RPS Australia East Pty Ltd disclaims all risk and the Third Party assumes all risk and releases and indemnifies and agrees to keep indemnified RPS Australia East Pty Ltd from any loss, damage, claim or liability arising directly or indirectly from the use of or reliance on this report.

In this note, a reference to loss and damage includes past and prospective economic loss, loss of profits, damage to property, injury to any person (including death) costs and expenses incurred in taking measures to prevent, mitigate or rectify any harm, loss of opportunity, legal costs, compensation, interest and any other direct, indirect, consequential or financial or other loss.

###### Document Status

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version | Purpose of Document | Orig | Review | Review Date |
| Rev A | Draft to client | JU | PM | 13/08/2014 |
| Rev 0 | For lodgement to LHIB | JU |  | 20/08/2014 |
| Rev 1  | For submittal to DoPE | JU | PM | 22/09/2014 |

###### Approval for Issue

|  |  |  |
| --- | --- | --- |
| Name | Signature | Date |
| Jaime Ustin | JaimeUstin Sig.jpg | 22 September 2014 |

Contents

1. [1.0 Introduction 1](#_Toc395713845)
2. [2.0 Background 2](#_Toc395713846)

[2.1 Lord Howe Island and wastewater management 2](#_Toc395713847)

[2.2 Lord Howe Island Local Environmental Plan 2010 3](#_Toc395713848)

[2.3 Lord Howe Island Regulations 3](#_Toc395713849)

[2.4 LHI On-Site Wastewater Management Strategy 4](#_Toc395713850)

1. [3.0 Part 1 – Objectives or Intended Outcome 5](#_Toc395713851)
2. [4.0 Part 2 – Explanation of Provisions 6](#_Toc395713852)

[4.1 Lord Howe Island Location Environmental Plan 2010 6](#_Toc395713853)

1. [5.0 Part 3 – Justification 11](#_Toc395713854)

[5.1 Section A – Need for Planning Proposal 11](#_Toc395713855)

[5.1.1 Is the Planning Proposal a result of a study or report? 11](#_Toc395713856)

[5.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way? 11](#_Toc395713857)

[5.1.3 Is there a net community benefit? 11](#_Toc395713858)

[5.2 Section B – Relationship to Strategic Planning Framework 12](#_Toc395713859)

[5.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)? 12](#_Toc395713860)

[5.2.2 Is the Planning Proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan? 12](#_Toc395713861)

[5.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies? 12](#_Toc395713862)

[5.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)? 13](#_Toc395713863)

[5.3 Section C – Environmental, Social & Economic Impact 17](#_Toc395713864)

[5.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? 17](#_Toc395713865)

[5.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed? 17](#_Toc395713866)

[5.3.3 How has the Planning Proposal adequately addressed any social and economic effects? 18](#_Toc395713867)

[5.4 Section D – State & Commonwealth Interests 18](#_Toc395713868)

[5.4.1 Is there adequate public infrastructure for the Planning Proposal? 18](#_Toc395713869)

[5.4.2 What are the views of State and commonwealth public authorities consulted in accordance with the gateway determination? 18](#_Toc395713870)

1. [6.0 Part 4 – Community Consultation 19](#_Toc395713871)
2. [7.0 Conclusion 20](#_Toc395713872)

Tables

[Table 1 Options 11](#_Toc395624849)

[Table 2 S117 Directions 13](#_Toc395624850)

# Introduction

RPS acts on behalf of Lord Howe Island Board (LHIB) in preparing this Planning Proposal for Lord Howe Island (LHI). The Planning Proposal seeks to include domestic wastewater management systems (WMS) as exempt development within Zone 2 Settlement and to permit domestic and commercial WMS with development consent in other suitable zones.

The principal planning instrument applying to the site is the *Lord Howe Island Local Environmental Plan 2010* (LEP 2010). The overall aim of the LEP 2010 is to facilitate the proper management, development and conservation of the Island’s world heritage natural environment, the Island’s cultural heritage and the Island’s lifestyle.

Generally, any development can be carried out on land within Zone 2 Settlement with the consent of the consent authority. WMS are only permissible in other zones where they are ancillary to development that is permissible with consent in that zone. There are no other controls for WMS in LEP 2010.

Lord Howe Island is World Heritage listed, due to its natural landscapes and rich terrestrial and marine biodiversity. This unique flora and fauna on Lord Howe creates a highly constrained island. To manage the World Heritage listing and impact on biodiversity, development on the island, and in particular WMS, must ensure minimal or nil impact to the natural environment of the island. The upgrade of all WMS on the island will help ensure the unique values of the island are maintained.

The purpose of this Planning Proposal is to facilitate the upgrade of domestic and commercial wastewater management systems (WMS) on LHI in accordance with LHIB’s On-Site Wastewater Management Strategy (OSMS). This will allow residents and business owners to upgrade their WMS in a more efficient and timely manner to protect the Island and to meet the staggered timeframe adopted by LHIB to do this by April 2016 or October 2017, depending on the risk level. Therefore, the Planning Proposal seeks to:

* Exempt WMS development in Zone 2 Settlement subject to conditions to ensure nil or minimal environmental impact; and
* ‘Permit with consent’ WMS development in Zone 1 Rural, Zone 5 Special Use, Zone 6 Recreation and Zone 7 Environment Protection.

# Background

## Lord Howe Island and wastewater management

Lord Howe Island is located 760 kilometres north east of Sydney. The Island has a small permanent residential community of about 360 people with the main industry on the Island as tourism.

LHI was inscribed on the World Heritage List in 1982, in recognition of its superlative natural landscapes and scenery and its rich terrestrial and marine biodiversity as an outstanding example of an island ecosystem developed from submarine volcanic activity. The World Heritage listing covers the whole island region, including the central portion of the main island, of which a significant part was cleared for settlement and farming and occupied by the Islanders; and the LHI Permanent Park Preserve, which is managed in accordance with a Plan of Management.

LHI’s wastewater is currently treated by on-site systems. There are approximately 230 separate systems on the Island. Approximately 160 of these are septic tanks with the balance being secondary treatment on-site systems. To date the operation and maintenance of these systems has been poorly regulated and monitored and many of the systems are performing poorly. Secondary systems generally are not serviced regularly and are not performing according to specification. Relatively few systems disinfect the treated effluent prior to irrigation.

Poorly managed on-site sewage systems can contaminate surface and groundwater resources and increase the risk of health problems. As LHI is a highly sensitive environment with many systems located in close proximity to water resources, pollution is of particular concern.

The current practice of wastewater treatment and disposal is known to be having an impact on groundwater and the surrounding marine waters. Monitoring has revealed faecal contamination in the groundwater and elevated nutrient levels in the marine waters. Increased algal growth has been observed in the eastern area of the lagoon and a possible cause of this increased growth has been identified high levels of nutrients in poorly treated wastewater effluent.

Currently, the process to install or upgrade a WMS on the island is timely and costly. Owners consent application (OCs) and development applications (DAs) are unnecessarily required for nil or minimal impacted applications in Zone 2 Settlement. In any other zone, WMS are prohibited unless they are ancillary to a permitted use in the zone. This Planning Proposal seeks to ensure the upgrade of WMS on the island can be facilitated in an efficient and expedited manner to protect the island.

The opportunity to upgrade WMS systems on a subject property is constrained by:

* Allotment area
* Significant Native Vegetation which under LEP 2010, must not be damaged or removed.
* Flood prone land.
* A high number of threatened flora and fauna species.
* Soil types.
* The island’s listing (Lord Howe Island Group) as a State heritage item and individual heritage items listed within LEP 2010.

As such, the use of adjoining or nearby land is sometimes the only option or the most feasible option to treat wastewater to an appropriate standard in respect of these constraints.

## Lord Howe Island Local Environmental Plan 2010

LEP 2010 is the primary planning instrument of the island. Because of the uniqueness of the island, the Minister of Department of Planning and Environment granted LHI with an exemption from conforming to the Standard Instrument LEP. Currently LEP 2010 does not include a definition for a WMS.

LEP 2010 contains the following zones:

* Zone 1 Rural
* Zone 2 Settlement
* Zone 5 Special Uses
* Zone 6 Recreation
* Zone 7 Environment Protection
* Zone 8 Permanent Park Preserve
* Zone 9 Marine Park

Currently, the only zone which permits the installation of a WMS with consent is Zone 2 Settlement. WMS are not listed as being permissible with consent in any of the other zones and therefore this type of development is prohibited unless it is ancillary to the use of a permitted development in the zone. It is noted *Public Utility Undertaking* is permitted with consent in all zones, therefore the installation of a WMS carried on or on behalf of the LHIB or any government agency acting under any Commonwealth or State Act.

Relevant to this proposal, Clause 11 of LEP requires that the consent authority must be satisfied that:

* There is an adequate area available for the disposal or treatment of any effluent arising from a proposed development by an appropriate effluent treatment or disposal system and any such system will not have any adverse effect on groundwater quality, prior to granting consent.
* No part of the proposed development:
	+ Will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island.
	+ Will result in any damage to, or the removal of, significant native vegetation.
* The proposed development will not be adversely affected by any landform limitations, including flooding, landslip, unstable soils and steep slopes.

Clause 39 relates to heritage conservation and identifies additional types of development that require consent where a heritage item listed in Schedule 2 of LEP 2010 is involved.

## Lord Howe Island Regulation

The *Lord Howe Island Regulation 2004* (LHI Reg 2004) currently provides the legal framework for the care, control and management of LHI to protect its unique values and the interests of its residents. The *Lord Howe Island Regulation 2014* (LHI Reg 2014) replaces the LHI Reg 2004 which was repealed on 1 September 2014 under section 10 (2) of the *Subordinate Legislation Act 1989* and therefore the LHI Reg 2014 is the relevant regulation for the purpose of this Planning Proposal.

The Clause 98 of LHI Reg 2014requires that a person must not, except in accordance with the approval of the Board, install, construct or alter a septic tank or other human waste storage or treatment facility or a drain connected to any such tank or facility.

## LHI On-Site Wastewater Management Strategy

The OSMS has been prepared to assess, regulate and manage the selection, design, installation, operation and maintenance of all WMS on LHI including public, commercial and domestic facilities. The document clarifies the issues and requirements of the regulations and provides a flexible approach to on-site sewage management for both leaseholders and LHIB by using a performance based criteria for the approval of systems. It includes design and maintenance recommendations to ensure optimum on-site system operation and the prevention of pollution and disease outbreak.

The management responsibilities of the LHIB under the LHI Regand the *NSW Environment and Health Protection Guidelines 1998 (Guidelines)* are detailed within the strategy.

In May 2008 the LHIB recognised that septic tank effluent represented a threat to public health and the Island’s World Heritage Values. The Board agreed to have all septic tanks removed or upgraded within the next 5 years.

During 2009 and 2010 the LHI Wastewater Management Committee worked with consultant Worley Parsons to produce the first draft of the OSMS. From there, the LHIB undertook community consultation to identify the community’s preferred options. The results of the community consultation were presented at the May 2011 Board meeting.

At this meeting, the Board decided to pursue an onsite wastewater treatment solution for the island. The LHIB then finalised the OSMS to include the community feedback September 2012 Board meeting.

Following approval of the strategy the LHIB commenced the implementation phase.

Therefore, according to the advice provided by the LHIB in November 2013, all WMS are required to be compliant with the Strategy by April 2016 or October 2017, depending on their risk level.

Since the OSMS was adopted a number of OCs and DAs have been determined, identifying a number of planning issues with the process.

# Part 1 – Objectives or Intended Outcome

The intended outcome of this Planning Proposal is to facilitate the upgrade of WMS across the island in accordance with the OSMS.

The requirements to obtain development consent for a domestic WMS in the Zone 2 Settlement where the WMS would have a minimal environment impact is currently onerous and requires a proponent to obtain OC, DA and approval under the LHI Reg. There are also no provisions within the LEP 2010 which allow a WMS to be upgraded or installed on land in an adjoining or nearby zone to avoid site constraints and to minimise environmental impact.

The objective is therefore to provide residents and business owners of LHI a more simple and efficient process to upgrade their WMS where appropriate.

In order to do this, this Planning Proposals seeks the following amendments to LEP 2010:

* Include WMS as ‘exempt development’ in Zone 2 Settlement, subject to meeting certain development standards.
* ‘Permit with consent’ WMS in the following zones:
	+ Zone 1 – Rural
	+ Zone 5 – Special Uses
	+ Zone 6 – Recreation
	+ Zone 7 – Environment Protection
* Include the following definition for WMS:

*Wastewater Management Systems means a device for holding, treating, transferring and disposing of human faecal matter, and urine and wastewater associated with kitchen, laundry and ablution activities, including a septic tank, septic closet, collection wells, composting toilet, aerated wastewater treatment system, greywater treatment and diversion system, constructed wetland treatment system, biological filter system and aerobic sand and textile filter systems; and associated land application areas.*

# Part 2 – Explanation of Provisions

The provisions to be included in the proposed LEP are outlined below, in accordance with Section 55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## Lord Howe Island Location Environmental Plan 2010

**Name of Plan**

This plan is *Lord Howe Island Local Environmental Plan 2010 (Amendment No. TBC)*

**Aims of the plan**

This plan aims to:

* Add the following definition for WMS:

*Wastewater Management Systems means a device for holding, treating, transferring and disposing of human faecal matter, and urine and wastewater associated with kitchen, laundry and ablution activities, including a septic tank, septic closet, collection wells, composting toilet, aerated wastewater treatment system, greywater treatment and diversion system, constructed wetland treatment system, biological filter system and aerobic sand and textile filter systems; and associated land application areas.*

* Add the following exemption for WMS in Zone 2 Settlement within Schedule1:

**Schedule 1 Exempt Development**

|  |  |
| --- | --- |
| **Column 1****Development** | **Column 2****Development standards and other requirements** |
| Wastewater Management System | 1. Must be installed on land within the Zone 2 Settlement.
2. Must be used for domestic purposes only.
3. Treatment and disposal areas must not be identified as mapped significant native vegetation.
4. Treatment and disposal areas must not be identified as flood hazard.
5. Must comply with the *Lord Howe Island On-site Wastewater Management Strategy*.
 |

* ‘Permit with consent’ the installation of a WMS in
	+ Zone 1 – Rural
	+ Zone 5 – Special Uses
	+ Zone 6 – Recreation
	+ Zone 7 – Environment Protection

In this regard, the following amendments to LEP 2010 are proposed (additions are **bolded** and underlined):

* + - * 1. Proposed amendments

|  |  |
| --- | --- |
| Zone | Proposed amendment |
| ***13   Zone 1 Rural*** | *(1)  The objectives of Zone 1 Rural are as follows:*1. *to enable sustainable agriculture,*
2. *to encourage the availability of Island grown products for both the local population and for tourists,*
3. *to provide a rural ambience in areas near Zone 2 Settlement,*
4. *to ensure that agricultural activities are not in conflict with the protection of the natural environment.*

*(2)  Except as otherwise provided by this Plan, development for the purposes of any of the following may be carried out on land within Zone 1 Rural without the consent of the consent authority:*1. *agriculture (other than buildings ancillary to agriculture and other than aquaculture or intensive agriculture),*
2. *vegetation restoration.*

*(3)  Except as otherwise provided by this Plan, demolition and development for the purposes of any of the following may be carried out on land within Zone 1 Rural only with the consent of the consent authority:*1. *buildings (other than dwellings) ancillary to agriculture,*
2. *intensive agriculture,*
3. *public utility installations,*
4. *public utility undertakings,*
5. *roads,*
6. *rural industries,*
7. ***wastewater management systems.***

*(4)  Except as otherwise provided by this Plan, development is prohibited on land within Zone 1 Rural unless it may be carried out under subclause (2) or (3).* |
| ***15   Zone 5 Special Uses*** |  *(1)  The objectives of Zone 5 Special Uses are as follows:*1. *to provide utility services that are essential to the community’s needs in a manner that is in sympathy with the World Heritage values of the natural environment of the Island,*
2. *to maintain efficient services (such as education, health and transport services and the administration of the Island) and associated infrastructure.*

*(2)  Except as otherwise provided by this Plan, development for the purposes of vegetation restoration may be carried out on land within Zone 5 Special Uses without the consent of the consent authority.**(3)  Except as otherwise provided by this Plan, demolition and development for the purposes of any of the following may be carried out on land within Zone 5 Special Uses only with the consent of the consent authority:*1. *accommodation for seniors or people with a disability,*
2. *airports,*
3. *cemeteries,*
4. *depots,*
5. *dwellings, erected by or on behalf of the Board, for the accommodation of staff of the Board,*
6. *education facilities,*
7. *fuel storage depots,*
8. *hospitals,*
9. *places of assembly,*
10. *premises of a public authority,*
11. *public utility installations,*
12. *public utility undertakings,*
13. *roads,*
14. *telecommunications facilities*
15. ***wastewater management systems.***

*(4)  Except as otherwise provided by this Plan, development is prohibited on land within Zone 5 Special Uses unless it may be carried out under subclause (2) or (3).* |
| ***16   Zone 6 Recreation*** |  *(1)  The objectives of Zone 6 Recreation are as follows:*1. *to set aside land for open space,*
2. *to provide opportunities for the passive and active enjoyment of open space areas,*
3. *to provide utility services that are essential to the community’s needs in a manner that is in sympathy with the World Heritage values of the natural environment of the Island.*

*(2)  Except as otherwise provided by this Plan, development for the purposes of vegetation restoration may be carried out on land within Zone 6 Recreation without the consent of the consent authority.**(3)  Except as otherwise provided by this Plan, demolition and development for the purposes of any of the following may be carried out on land within Zone 6 Recreation only with the consent of the consent authority:*1. *boatsheds,*
2. *clubs,*
3. *public utility installations,*
4. *public utility undertakings,*
5. *recreation areas,*
6. *roads,*
7. *telecommunications facilities*
8. ***wastewater management systems.***

*(4)  Except as otherwise provided by this Plan, development is prohibited on land within Zone 6 Recreation unless it may be carried out under subclause (2) or (3).* |
| ***17   Zone 7 Environment Protection*** | *(1)  The objectives of Zone 7 Environment Protection are as follows:*1. *to protect areas that may be vulnerable to erosion or that are a habitat, or corridor, for animals that are native to the Island or significant native vegetation,*
2. *to protect the scenic amenity of land in the zone,*
3. *to restore lost or disturbed natural resources, particularly if this may enhance the World Heritage values of the natural environment of the Island,*
4. *to provide utility services that are essential to the community’s needs in a manner that is in sympathy with the World Heritage values of the natural environment of the Island.*

*(2)  Except as otherwise provided by this Plan, development for the purposes of vegetation restoration may be carried out on land within Zone 7 Environment Protection without the consent of the consent authority.**(3)  Except as otherwise provided by this Plan, demolition, subdivision and development for the purposes of any of the following may be carried out on land within Zone 7 Environment Protection only with the consent of the consent authority:*1. *observation platforms,*
2. *public utility installations,*
3. *public utility undertakings,*
4. *roads,*
5. *telecommunications facilities,*
6. *the control of erosion,*
7. *walking tracks*
8. ***wastewater management systems.***

*(4)  Except as otherwise provided by this Plan, development is prohibited on land within Zone 7 Environment Protection unless it may be carried out under subclause (2) or (3).* |

# Part 3 – Justification

## Section A – Need for Planning Proposal

### Is the Planning Proposal a result of a study or report?

The Planning Proposal to facilitate the upgrade of WMS is partially the result of the OSMS. All WMS are required to be compliant with OSMS by April 2016 or October 2017, depending on their risk level. As noted in Section 3.0, obtaining consent for a WMS is currently onerous. There are also no provisions within the LEP 2010 which allow a WMS to be upgraded or installed on land in an adjoining or nearby zone to avoid site constraints and to minimise environmental impact. In order to meet the timeframe of the OSMS, the LHIB seeks to make WMS applications more efficient and orderly and to permit WMS in zones other than zone 2 Settlement where appropriate.

To address these issues this Planning Proposal seeks the amendments detailed at Section 4.1.

### Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal to amend the development consent method for wastewater systems is considered the best means to achieve the objectives and intended outcomes set forth in Section 3.0 above.

The following table outlines three options in achieving the desired outcome. Option 1 is the preferred option.

* + - * 1. Options

|  |  |
| --- | --- |
| Option | Response |
| 1. | Addition of the installation or upgrade of a WMS as exempt development in Schedule 1 within Zone 2 for applications with minimal impact. ‘Permit with consent’ the installation or upgrade of a WMS in Zone 1, 5, 6 and 7. | Option 1 is considered the most suitable approach. It allows for an expedited process for WMS with negligible or minimal impact in Zone 2 Settlement, noting that applicants will still need approval under LHI Reg. It also ‘permits with consent’ the installation and upgrade of WMS in Zones 1, 5, 6 and 7 to ensure environmental impacts are properly assessed against the aims of the Plan and the objectives of the zone.  |
| 2. | Addition of WMS as exempt development in Schedule 1 for zones 1, 2, 5, 6 and 7. | Option 2 is not preferable as the installation of a WMS in Zone 1, 5, 6 and 7 should be properly assessed to ensure the objectives of the zone are met and minimal impact to the environment.  |
| 3.  | Addition of installation or upgrade of WMS as ‘permit with consent’ development in Zone 1, 5, 6 and 7 and no exemption in Zone 2. | Option 3 is not preferable. The objective of the Planning Proposal is to provide a more efficient and expedited manner for WMS with negligible or minimal impacts. If there is no exemption for these types of applications in Zone 2, the process for approval is unnecessarily timely and costly. It is noted the exempt applications will still require approval under the LHI Reg and will still need to be consistent with OSMS. |

### Is there a net community benefit?

As discussed, all existing WMS are required to be compliant with OSMS by April 2016 or October 2017, depending on their risk level. There is a substantial cost associated with upgrading systems to comply with the OSMS. These costs vary depending on site constraints and the type and size of system required. There are also substantial costs associated with shipping, travel and accommodation associated with transporting equipment and suppliers/installers to the Island. Collectively, these costs generally start at around $15,000 for a domestic system.

On top of this cost are fees for submitting a DA to the Board and administrative costs for the Board to assess and determine the OC and DA being on average about $1,500 per application.

The Planning Proposal seeks to streamline the system in order to make the process more efficient. This would reduce the need for an applicant to submit an OC and DA for the installation or upgrade of a WMS in the Settlement zone where there would be negligible or minimal environmental impact. All other WMS installations or upgrades within zone 2 Settlement that would have more than a minimal environmental impact would require an OC and DA to be submitted to the Board for approval. Where appropriate, WMS could also be developed on land in an adjoining or nearby zone with or without consent where land is constrained and to minimise impacts on the environment.

As such, there will be a net community benefit for the residents of LHI, as the WMS application process would be simplified, in many cases unnecessary costs would be avoided, and impacts on the environment would be minimised as part of an accelerated program to implement improved effluent performance standards.

## Section B – Relationship to Strategic Planning Framework

### Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

There are no regional or sub-regional strategies applicable to LHI. Nevertheless, the Planning Proposal has merit on the basis that it will provide a more efficient and expedited process for the development of WMS in accordance with the OSMS.

### Is the Planning Proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan?

As discussed in Section 2.3, the OSMS has been prepared to assess, regulate and manage the selection, design, installation, operation and maintenance of all on-site sewage systems on LHI. The OSMS is based around three key elements:

* Effluent Performance Standards
* Effluent disposal including storage
* System management and maintenance

The plan requires all WMS to be compliant with the strategy by April 2016 or October 2017, depending on their risk level.

The Planning Proposal will provide an efficient and expedited process for residents to upgrade their system in a timely manner.

### Is the Planning Proposal consistent with applicable state environmental planning policies?

No State Environmental Planning Policy except *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies to the island. *Building Sustainability Index: BASIX* is not relevant to this Planning Proposal.

### Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The relevant Section 117 Directions are considered in the table below.

* + - * 1. S117 Directions

|  |  |  |
| --- | --- | --- |
| Direction | Requirement | Comment |
| 1.2 Rural Zone | **Objective**(1) The objective of this direction is to protect the agricultural production value of rural land.**What a relevant planning authority must do if this direction applies:**(4) A planning proposal must:(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.(b) not contain provisions that will increase the permissible density of land within a rural zone(other than land within an existing town or village). | The Planning Proposal does not propose to rezone rural land nor does it allow for additional density within the zone. The Planning Proposal seeks to ‘permit with consent’ WMS in Zone 1 Rural. Any applications for a WMS on rural zone land will be assessed on their merits against the zone objective. |
| 2.1 Environment Protection Zones | **Objective**(1) The objective of this direction is to protect and conserve environmentally sensitive areas.**What a relevant planning authority must do if this direction applies:**(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.(5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 *“Rural Lands*”*.* | The Planning Proposal seeks to ‘permit with consent’ WMS in Zone 7 Environment Protection. For the consent authority to grant consent to the installation or upgrade of WMS, the development must meet the objections of the zone which are:1. to protect areas that may be vulnerable to erosion or that are a habitat, or corridor, for animals that are native to the Island or significant native vegetation,
2. to protect the scenic amenity of land in the zone,
3. to restore lost or disturbed natural resources, particularly if this may enhance the World Heritage values of the natural environment of the Island,
4. to provide utility services that are essential to the community’s needs in a manner that is in sympathy with the World Heritage values of the natural environment of the Island.

It is also noted that the installation of a WMS must comply with the requirements of the OSMS, which aims to protect and enhance public health and the state of the environment. Therefore, this Planning Proposal will be consistent with the direction.  |
| 2.3 Heritage Conservation  | **Objective**(1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.**What a relevant planning authority must do if this direction applies**(4) A planning proposal must contain provisions that facilitate the conservation of:(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. | The Planning Proposal will continue to conserve any items, areas, objects and places of environmental heritage significance and indigenous heritage significance on the island. The installation of a WMS must be consistent with Clause 39 of LEP 2010 which relates to heritage conservation and identifies additional types of development that require consent where a heritage item listed in Schedule 2 is involved. It is also noted Clause 9(h) of LEP 2010 states a development is not exempt if it is carried out on a heritage item. Therefore, WMS applications within a heritage site in Zone 2 will still require consent through Clause 39 mentioned above. No heritage conservation is minimised through this Planning Proposal and therefore the Planning Proposal will be consistent with the direction.   |
| 3.1 Residential Zones | **Objectives**(1) The objectives of this direction are:(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and(c) to minimise the impact of residential development on the environment and resource lands.**What a relevant planning authority must do if this direction applies:**(4) A planning proposal must include provisions that encourage the provision of housing that will:(a) broaden the choice of building types and locations available in the housing market, and(b) make more efficient use of existing infrastructure and services, and(c) reduce the consumption of land for housing and associated urban development on theurban fringe, and(d) be of good design.(5) A planning proposal must, in relation to land to which this direction applies:(a) contain a requirement that residential development is not permitted until land is adequatelyserviced (or arrangements satisfactory to the council, or other appropriate authority, havebeen made to service it), and(b) not contain provisions which will reduce the permissible residential density of land. | The Planning Proposal seeks to exempt the installation of WMS in the equivalent residential zone of LHI (Zone 2 Settlement), subject to nil or minimal environmental impact on the environment. The Planning Proposal will not discourage the provision of housing, rather allow for an ancillary development to service the needs of residents. Therefore the Planning Proposal is consistent with the direction.  |
| 4.3 Flood Prone Land | **Objectives**(1) The objectives of this direction are:(a) to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.**What a relevant planning authority must do if this direction applies**(4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* (including the *Guideline on Development Controls on Low Flood Risk Areas*).(5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.(6) A planning proposal must not contain provisions that apply to the flood planning areas which:(a) permit development in floodway areas(b) permit development that will result in significant flood impacts to other properties,(c) permit a significant increase in the development of that land,(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).(8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the *Guideline on Development Controls on Low Flood Risk Areas*) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). | The Planning Proposal will not impact any flood prone land on the island. The installation of a WMS must be consistent with the OSMS. WMS are not permitted to be installed in flood prone land, therefore the Planning Proposal will not impact flood prone land.  |
| 6.1 Approval and referral requirements | **Objective**(1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.**What a relevant planning authority must do if this direction applies**(4) A planning proposal must:(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:(i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and(c) not identify development as designated development unless the relevant planning authority:(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. | This Planning Proposal does not include the provision to require concurrence, consultation or referral to a Minister or public authority, therefore it is consistent with the direction.  |

## Section C – Environmental, Social & Economic Impact

### Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Critical habitat or threatened species, populations or ecological communities and their habitats play an important role in keeping the natural landscapes and rich terrestrial and marine biodiversity of the island. LEP 2010 includes many provisions to ensure the protection of these species, populations and communities on the island. In particular, the aims of the Plan include:

*to protect threatened species, populations and ecological communities, and their habitats,*

WMS are required to be consistent with the aims of LEP 2010.

In accordance with Clause 9 of LEP 2010, for any development to be ‘exempt development’ it must, amongst other things, meet the following requirements:

*(1)  Development listed in Column 1 of Schedule 1 that is of minimal environmental impact is exempt development if:*

*(b)  it does not require the removal of any significant native vegetation, and*

*(g)  it is not carried out on land that is critical habitat (within the meaning of the* [*Threatened*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1995%20AND%20no%3D101&nohits=y) *[Species](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1995%20AND%20no%3D101&nohits=y" \t "main)* [*Conservation Act 1995*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1995%20AND%20no%3D101&nohits=y) *or Part 7A of the* [*Fisheries Management Act 1994*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1994%20AND%20no%3D38&nohits=y)*), and*

This Planning Proposal also seeks to include additional development standards specific to WMS to be exempt development. These are the WMS:

* Must comply with the LHI OSMS.
* Treatment and disposal areas must not be identified as mapped significant native vegetation.

It is also noted all applications for WMS, whether exempt or ‘permitted with consent’, will require approval under the LHI Reg*.* The approval will further ensure that the development is consistent with the OSMS, which provides regulations to protect the environment.

### Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

There are no other likely environmental effects of the planning proposal which have not already been addressed in this assessment.

### How has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal seeks provide residents and business owners of LHI a more simple and efficient process to upgrade their WMS where appropriate. This will be an economic benefit for those on the island who are required to upgrade a system under the OSMS. For those with negligible or minimal impact in Zone 2, DA fees would no longer be required. It will also expedite the WMS approval process.

The Planning Proposal will also provide a social benefit to the island as the installation and upgrade of the WMS will improve the public health of the island. These improvements are likely to include preventing the risk of spreading diseases, improved swimming water and lagoon health, and reducing odours thereby enhancing community amenity.

## Section D – State & Commonwealth Interests

### Is there adequate public infrastructure for the Planning Proposal?

Not applicable as this Planning Proposal is only for development for private lease holders.

### What are the views of State and commonwealth public authorities consulted in accordance with the gateway determination?

This would be determined following consultation with the State and Commonwealth Authorities identified in a Gateway Determination.

Any issues raised by these authorities would be summarised and addressed as appropriate.

# Part 4 – Mapping

No changes to LEP mapping are necessary for the proposed amendment.

# Part 5 – Community Consultation

A Gateway Determination would specify community consultation to be undertaken, in accordance with Section 56 (2)(c) of the EP&A Act as part of the LEP amendment process.

Community consultation would be commenced by the placing of a public notice in the local newspaper and on the LHIB website and/or the DP&E.

The DP&E’s *‘*A guide to preparing local environmental plans’ provides timeframes for the exhibition of ‘low impact proposals’ and ‘all other planning proposals’ of 14 days and 28 days respectively. Low impact proposals are where, in the opinion of the person making the Gateway determination, the planning proposal is:

* *consistent with the pattern of surrounding land use zones and/or land uses*
* *consistent with the strategic planning framework*
* *presents no issues with regard to infrastructure servicing*
* *not a principal LEP*
* *does not reclassify public land.*

It is considered this application is a low impact proposal, therefore a 14 day exhibition period is proposed. Normal exhibition material would be made available by the relevant planning authority during the exhibition period. The community consultation process would be completed when the relevant planning authority has considered any submissions received concerning the proposed LEP amendment and has forwarded those reports to the DP&E for final consideration by the Minister.

# Part 6 – Project Timeline

This Planning Proposal provides a detailed level of information to enable the plan making process to be completed within a reasonable time.

It is anticipated the gateway determination would occur at late September/early October 2014. No studies are anticipated to be required to complete the Planning Proposal. Government agency consultation and public exhibition are proposed to occur in October, with an advertisement in the local newspaper on 26 September 2014 allowing for public exhibition for 14 days

Following public exhibition, the Board will review all submissions for the Planning Proposal within 14 days.

All responses to submissions and any other queries for government agencies will be assessed and reported to the Board for the 25 November 2014 Board meeting. If no major amendments to the Planning Proposal are required following exhibition, it is expected that the Planning Proposal will be finalised by the end of November 2014 or early in December 2014.

# Conclusion

This Planning Proposal has been prepared to facilitate the upgrade of domestic and commercial WMS on LHI in accordance with LHIB’s OSMS.

The Planning Proposal will allow for a more efficient and expedited process to install or upgrade WMS on the island.

There will be negligible or minimal environmental impacts to the island. Specifically, the Planning Proposal will ensure the protection of critical habitat or threatened species, populations or ecological communities and their habitats and the world heritage values of the Island.

It is therefore recommended that this Planning Proposal be favourably considered by LHIB and that they resolve to forward it to the DP&E for a Gateway determination in accordance with the EP&A Act.