

Lord Howe Island LEP 2010 – Review of Significant Native Vegetation.

Proposal Title : **Lord Howe Island LEP 2010 – Review of Significant Native Vegetation.**

Proposal Summary : **The planning proposal seeks to amend the Lord Howe Island LEP 2010 (LHI LEP 2010) by adopting an updated "Significant Native Vegetation Map" and altering the definition of significant native vegetation to only apply to vegetation native to Lord Howe Island.**

PP Number : **PP_2015_LHOWE_001_00** Dop File No : **15/06672**

Proposal Details

Date Planning Proposal Received : **20-Apr-2015** 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 : **Policy**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **The proposal applies to all land on Lord Howe Island which is identified as Sensitive Native Vegetation.**

DoP Planning Officer Contact Details

Contact Name : **Paul Garnett**

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RPA Contact Details

Contact Name : **Dave Kelly**

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

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) :	
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 has provided advice regarding the identity of the relevant planning authority for amending the LHI 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 (LHI) 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 Secretary is the relevant planning authority.

It is recommended that the Minister appoint the Secretary as the relevant planning authority to allow progression of this LEP amendment. Given this requirement 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 Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the LHI LEP 2010 by adopting an updated Significant Native Vegetation Map and amending the definition of significant native vegetation to only apply to vegetation native to Lord Howe Island.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal seeks to amend the LEP by adopting a**

new Sensitive Native Vegetation Map and altering the definition of significant native vegetation.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

* May need the Director General's agreement

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

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

d) Which SEPPs have the RPA identified?

SEPP (Building Sustainability Index: BASIX) 2004

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

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains a copy of the updated significant native vegetation map, and an example of a map for an individual lease. The maps are adequate to show the changes to the mapping of sensitive native vegetation.

It is not necessary to include the individual lease maps for all leases in the planning proposal. There are approximately 180 leases on the Island and to include them all would make the planning proposal too cumbersome. As stated in the planning proposal the Board has provided the individual lease maps to each lease holder during a period of community consultation relating to the revised SNV mapping in July 2014. The Board has indicated that these maps will be available during community consultation for the planning proposal should lease holders need to view them again.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has indicated a 28 day community consultation period is proposed. This is considered to be appropriate as the mapping of significant native vegetation has a direct impact on the development potential of land on the Island and a longer community consultation period will allow lease holders time to properly review the mapping.

Additional Director General's requirements

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

If Yes, reasons :

The Secretary is recommended to be the RPA for the proposed LEP Amendment. There

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are no additional requirements in addition to those recommended in this planning report.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal by the end of 2015. However because the Board meets only every three months it is considered that a 9 month time frame for completion of the planning proposal is appropriate.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

LHI 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 has been prepared in response to inaccuracies with the existing significant native vegetation (SNV) map. The presence of SNV on land may restrict the development potential for the land as a result of provisions in clause 11(c) of the Lord Howe Island LEP 2010 (the 'LEP') which state:

"(c) no part of the proposed development:

- (i) will result in any damage to, or the removal of, significant native vegetation, or
- (ii) will have a significantly adverse impact on the habitat of any plants, or animals, that are native to the Island,"

Therefore inaccuracy of the SNV map is a contentious issue and it was considered necessary to resolve the mapping inaccuracies before a wholesale review of the LEP is undertaken.

The current SNV map was prepared in the 1990s and was reviewed in 2005. However inaccuracies still exist in the map. Improvements in mapping technology resulted in a far more accurate map being prepared in 2012. This map has been refined and the information ground truthed to ensure a very high degree of accuracy.

The revised map was place on public exhibition by the Lord Howe Island Board (the 'Board') in July 2014 and the vegetation on each lease on the Island was checked.

The proposal to amend the LEP to include this updated SNV map is the most appropriate means of achieving the intent of the proposal.

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Consistency with strategic planning framework :

Regional Strategy.

There are no regional or local strategies applicable to Lord Howe Island (LHI). The Lord Howe Island LEP 2010 (the LEP) is the principal strategic planning instrument for the Island. The proposal is consistent with the aims and strategies of the LEP for the following reasons:

- it will result in a more accurate map of SNV thereby ensuring that development on the Island does not result in the removal of SNV;
- it will facilitate the protection of threatened species, populations, ecological communities and their habitats on the Island;
- it will facilitate the proper management of the Island's natural environment; and
- it will not have an adverse impact on the World Heritage values of LHI.

SEPPs

In accordance with Clause 8 of the LHI LEP 2010, only SEPP (Building Sustainability: BASIX) 2004 applies to the Island. The proposal is not inconsistent with the Basix SEPP. No other SEPPs apply to LHI.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

The proposal is not inconsistent with any of these S117 Directions.

Environmental social economic impacts :

The proposal will not have any adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats. The proposal will improve the accuracy of the mapping of SNV which will strengthen its protection by giving greater certainty to proponents and the Board when assessing proposed development on the Island.

The proposal will not have any adverse social or economic impacts. Improvement in the accuracy of the SNV mapping will ensure that development is not incorrectly constrained by inaccurate mapping. The amendment of the definition of SNV will clarify the type of vegetation to which the controls apply, thereby strengthening the protection of SNV, ensuring the natural ecosystems and amenity of the Island, and the businesses which rely on the natural environment will be benefitted.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 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 :			

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Identify any additional studies, if required. :

If Other, provide reasons :

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 - Lord Howe Island LEP 2010 planning proposal Significant Native Vegetation.pdf	Proposal Covering Letter	Yes
Planning Proposal - Significant Native Vegetation Lord Howe Island.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information : **The Planning Proposal should proceed as a "routine" Planning Proposal however the Minister's approval is required to appoint the Secretary 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 Secretary of the Department of Planning and Environment 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 to be made publicly available for a minimum of 28 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).**

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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.

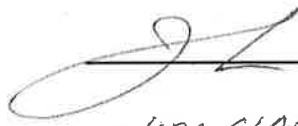
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge the relevant planning authority from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission).

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. The proposal will improve the accuracy of the Significant Native Vegetation Map for Lord Howe Island LEP 2010, providing environmental, social and economic benefits for the Island.
2. The proposal is consistent with the provisions of the relevant planning strategies.
3. 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.

Signature:



Printed Name:

JIM CLARK

Date:

24 April 2015

Team Leader Local Planning

