



Planning Proposal

Significant Native Vegetation

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1.0 Introduction

RPS acts on behalf of the Lord Howe Island Board (LHIB) in preparing this Planning Proposal for Lord Howe Island (LHI). The Planning Proposal seeks to update the 'Significant Native Vegetation' (SNV) mapping and definition within the *Lord Howe Island Local Environmental Plan 2010* (LEP 2010) to properly identify SNV by map and to ensure that development does not result in its removal.

The principal planning instrument applying to LHI is the LEP 2010. The aims of LEP 2010 relevant to SNV include the following:

- (a) to conserve the World Heritage values of Lord Howe Island and to restore or enhance lost or disturbed natural resources of the Island,*
- (c) to protect threatened species, populations and ecological communities, and their habitats,*
- (d) to encourage the ecologically sustainable use of resources,*
- (e) to encourage community appreciation of the World Heritage values of the Island,*
- (g) to facilitate the proper management, development and conservation of the Island's World Heritage natural environment, the Island's cultural heritage and the Island lifestyle,*

One of the strategies of LEP 2010 (Clause 2(3)(c)) is *to identify significant native vegetation by a map and to ensure that development does not result in its removal.*

The protection of SNV is central to the LEP. SNV is crucial for the health of Lord Howe Island as it provides important habitat for a wealth of unique biodiversity including threatened species. Other benefits include:

- controls erosion through protecting soils and riverbanks
- reduces land degradation and salinity
- improves water quality and availability

Protection of SNV is demonstrated throughout LEP 2010. Any development must comply with Clause 11 'Matters that must be satisfied before development consent is granted,' specially, Clause 11(c)(i) as it relates to the prohibition of damaging or removing SNV. All other relevant provisions specific to the development must also comply

No part of any proposed development (including access) must result in any damage to, or the removal of, SNV. LEP 2010 defines SNV as *vegetation on land that is identified as having significant native vegetation on Sheet 3 of the map.*

The current SNV map was created by the Office of Environment and Heritage (OEH) (formerly the Department of Environment and Conservation) in the 1990's and was revised by Hunter in 2005 (Hunter, 2005; Hunter and Hodgson, 2005). The SNV map is limited by the resolution of the aerial photography and therefore contains a number of inaccuracies and inconsistencies.

In November 2011, the Board received advice from the Department of Planning and Infrastructure (DP&I) (now known as the Department of Planning and Environment (DP&E)) to revise and update the mapping of SNV, prior to the commencement of a comprehensive review of the LEP. It was noted that the mapping of SNV is a complex and contentious issue and is best addressed as a separate review process.

In January 2012, the NSW Land and Property Information (LPI) prepared a high resolution digital imagery (ADS40). This imagery, as well as previous mapping work by Pickard and extensive field investigation, informed the fine-scale mapping prepared by OEH, as outline in OEH's interim report on the upgraded vegetation mapping. Since then, LHIB has carried out further ground truthing and floristic surveys to improve this mapping to remove inaccuracies / inconsistencies.

The revised mapping was placed on public exhibited between July 2014 and February 2015 and contact has been made with each individual land owner to ensure the proper identification of SNV.

The purpose of this Planning Proposal is to provide a spatially accurate vegetation map that can be used operationally by the LHIB. The proposed map will assist the LHIB in proper identification of SNV on the island, as well as ensure appropriate development would not be incorrectly constrained due to erroneous mapping. The revised SNV definition will ensure proper identification of SNV on the island.

2.0 Lord Howe Island

Lord Howe Island is located about 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 being tourism.

Lord Howe Island 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 property covers Lord Howe Island, offshore islands and islets, 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.

2.1 Lord Howe Island Local Environmental Plan 2010

LEP 2010 is the primary planning instrument specific to the island. Because of the uniqueness of the island, the LEP does not follow the format of the Standard Instrument LEP. LHI LEP 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

LEP 2010 contains a map of identified Significant Native Vegetation (SNV) on sheet 3 of the LEP. SNV is defined as '*vegetation on land that is identified as having significant native vegetation on Sheet 3 of the map.*' In the current definition, SNV includes all vegetation within the mapped areas. SNV is located within all zones of LEP 2010, with the entire Zone 8 Permanent Park Preserve mapped as SNV. It is noted Zone 8 Permanent Park Preserve contains vegetation protected in accordance with the Permanent Park Preserve Plan of Management, and therefore identification of this land as SNV is redundant.

SNV is vegetation of high conservation value which provides important habitat for threatened fauna and flora species. Under Clause 11 of LEP 2010, the LHIB must not consent to the carrying out of development, which will result in any damage to, or the removal of, SNV.

2.1.1 Significant Native Vegetation Map –Sheet 3

In 1983, Pickard produced a vegetation map using 1:15,000 black and white aerial photography, as well as a complete classification and mapping program encompassing the whole island. In the 1990's, OEH created a digital version of this map for operational purposes. This map has since been revised by Hunter in 2005; however the map that was included in the LEP did not accurately position SNV on the map.

This Planning Proposal seeks to replace the existing SNV map with a more spatially accurate upgraded map at the scale of 1:1,000. The proposed map was created with high resolution digital imagery (10cm) supplied by LPI in January 2012 for the settled land on the island. Aerial Photography Interpretation (API) was undertaken using ArcGIS 9.0 with an orthorectified image (or without a stereo view) in normal colour and an enhanced image, referred to as a stretched image. The mapping was undertaken in six stages as follows:

- (1) Manual identification and mapping of native woody vegetation versus cleared areas, including remnant

vegetation and individual paddock trees to upgrade the spatial accuracy of the vegetation map.

- (2) Refinement of vegetation type boundaries with Pickard vegetation boundaries as a reference.
- (3) Scoring the reliability of the digitised polygons and field checking of all polygons labelled with a low reliability (score of 4).
- (4) Application of exclusion areas and buffer zones to mapping.
- (5) Draft maps placed on public exhibition and consultation with individual leaseholders.
- (6) Ground truthing and refinement of vegetation mapping.

As part of stage 4, the LHIB developed a number of selection criteria for the mapping. In order to provide a more accurate map, the following exclusions were applied:

- established gardens
- palm plantations
- approved buildings and buffer zones
- existing formed roads
- primary access to leases
- easements for essential infrastructure, services, drainage
- predominately exotic vegetation

In general, the upgraded SNV map product has vastly superior ground accuracy than the current map. Delineating vegetation communities was improved considerably. It is also noted the current map provides a predicated vegetation distribution before settlement, whereas the revised map shows actual vegetated areas.

The proposed map provides a 1:1,000 scale SNV to update the existing Schedule 3 SNV map in the LEP 2010.

2.1.2 Significant Native Vegetation Definition

SNV is defined in LEP 2010 as '*vegetation on land that is identified as having significant native vegetation on Sheet 3 of the map.*' This definition is confusing as it states all vegetation that is identified within the relevant mapped areas as being SNV. However, the intent of the definition is to protect only vegetation that is native to the island. Therefore, to provide clarity on the definition and properly identify SNV, this Planning Proposal seeks to revise the definition of SNV to include only vegetation that is native to LHI.

3.0 Part I – Objectives or Intended Outcome

The intended outcome of this Planning Proposal is to:

- Update the SNV map to provide for a more accurate identification of SNV on the island in order to protect the SNV.
- To ensure development is not prohibited in areas where SNV is incorrectly identified as being present.
- Amend the definition of SNV to help properly identify SNV as such that it is limited to native vegetation that is native to Lord Howe Island and does not include all vegetation within the relevant mapped areas.

Currently, the SNV map provides a number of inaccuracies and inconsistencies on the map. The table below provides a summary of the existing identified areas of SNV per zone and the proposed changes due to more accurate mapping. These changes will provide a more accurate map to better protect and identify SNV on the island. It is noted Zone 8 Permanent Park Preserve will contain no SNV as the land is protected by the Permanent Park Preserve Plan of Management, and therefore identification of SNV is redundant.

Table 1 SNV areas

| Zone | Existing Area (Hectares) | Proposed Area (Hectares) |
|-----------------------------|---------------------------------|---------------------------------|
| 1 – Rural | 9.27 | 13.30 |
| 2 – Settlement | 34.21 | 35.69 |
| 5 – Special Uses | 6.28 | 6.24 |
| 6 – Recreation | 12.01 | 12.36 |
| 7 – Environment Protection | 49.41 | 57.68 |
| 8 – Permanent Park Preserve | 73.99 | 0 |
| 9 – Marine Park | 0 | 0 |
| Uncoloured | 2.09 | 5.90 |
| Total | 187.25 | 131.18 |

4.0 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).

4.1 Lord Howe Island Location Environmental Plan 2010

Name of Plan

This plan is *Lord Howe Island Local Environmental Plan 2010 (Amendment No. 4)*

Aims of the plan

This plan aims to

- Amend LHI LEP 2010 Significant Native Vegetation Map (Sheet 3) – Refer to **Appendix 1**.
- Amend the definition of significant native vegetation to the following:
significant native vegetation means vegetation native to Lord Howe Island that is identified as significant native vegetation on Sheet 3 of the map.

5.0 Part 3 – Justification

5.1 Section A – Need for Planning Proposal

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

In November 2011, the Board received advice from the former DP&I (now DP&E) to revise and update the mapping of SNV, prior to the commencement of a comprehensive review of the LEP. This recommendation was received due to the inaccuracies and inconsistencies in the SNV map.

The existing SNV mapping was prepared in the 1990s and was revised in 2005. It was based on low resolution aerial photography and is inaccurate and inconsistent in some places. Since this time, technology and mapping abilities have advanced enabling improved accuracies and clarity in maps.

The Board undertook a review in 2013 -2014, using high resolution digital imagery together with the latest technology in air photo interpretation and data mapping.

Due to the inaccurate identification of SNV on the island, there are insufficient methods to effectively manage the vegetation. The inaccurate identifications also constrain appropriate development in areas which are incorrectly identified as containing SNV.

This Planning Proposal is also the result of previous legal advice which related to the clarification of the definition of SNV. The recommendation was to amend the definition to ensure only vegetation native to the island was defined as SNV.

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

A review of the current SNV map was recently undertaken. In order to update the identification of SNV, the only way to achieve this is to replace Sheet 3 of the LEP with the updated map.

5.1.3 Is there a net community benefit?

The Planning Proposal will provide significant community and environmental benefit in improving the accuracy of SNV identification on the island.

SNV is crucial for the health of Lord Howe Island as it provides important habitat for a wealth of unique biodiversity including threatened species. Other benefits include:

- controls erosion through protecting soils and riverbanks
- reduces land degradation and salinity
- improves water quality and availability

The Planning Proposal will provide accurate identification of SNV in order to properly manage vegetation and environmental planning issues. The overall benefit is to help maintain the rich terrestrial and natural landscapes on the World Heritage listed island. It will also benefit the community in ensuring that incorrectly mapped SNV does not prohibit development capabilities on the island.

5.2 Section B – Relationship to Strategic Planning Framework

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)?

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 up-to-date SNV identification map in order to manage and protect vegetation on the island.

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

There is no relevant local community strategy or plan that relates to SNV. The LHI LEP 2010 is the key strategic planning document for the island. One strategy in achieving the aims of the LEP is Clause 2(3)(c) which states:

To identify significant native vegetation by a map and to ensure that development does not result in its removal

The Planning Proposal will support this strategy in upgrading the SNV map to provide a more accurate identification of SNV on the island. The result will improve the protection and retention of SNV on the Island through increased awareness and greater relevance.

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

No state environmental planning policies apply to the island except *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (SEPP BASIX). SEPP BASIX is not relevant in this Planning Proposal.

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

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

Table 2 Relevant 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. | The Planning Proposal seeks to amend the SNV map within rural zones; however the Planning Proposal does not propose to rezone rural land nor does it allow for additional density within the zone. It is noted the changes within the rural zone will be generally consistent with the special lease conditions and individual property management plans for the allotment. |
| 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 | The Planning Proposal does not propose to rezone environment protection land nor does it allow for additional |

| Direction | Requirement | Comment |
|---------------------------|--|--|
| | <p>applies:</p> <p>(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(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 “<i>Rural Lands</i>”.</p> | <p>density within the zone.</p> <p>The Planning Proposal seeks to amend the SNV map in order to improve the accuracy of the map. Any applications on environment protection zone land will be assessed on their merits against the zone objective.</p> |
| 2.3 Heritage Conservation | <p>Objective</p> <p>(1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(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,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(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.</p> | <p>The Planning Proposal will continue to conserve any items, areas, objects and places of environmental heritage significance and indigenous heritage significance on the island.</p> <p>The conservation of heritage items, areas and objects will not be reduced through this Planning Proposal and therefore the Planning Proposal will be consistent with the direction. There is no evidence of Aboriginal occupation on Lord Howe Island.</p> |
| 3.1 Residential Zones | <p>Objectives</p> <p>(1) The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p> <p>What a relevant planning authority must do if this direction applies:</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> | <p>The Planning Proposal seeks to amend the SNV map, with a large portion of this located in the equivalent residential zone of LHI (Zone 2 Settlement).</p> <p>The Planning Proposal will not unreasonably discourage the provision of housing and therefore is consistent with the direction.</p> <p>Future development in the residential zone are restricted to areas which will not disturb existing SNV.</p> |

| Direction | Requirement | Comment |
|--|--|--|
| | (b) not contain provisions which will reduce the permissible residential density of land. | |
| 6.1 Approval and referral requirements | <p>Objective (1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>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.</p> | 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. |

5.3 Section C – Environmental, Social & Economic Impact

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?

The planning proposal will strengthen the protection of threatened species, populations or ecological communities and their habitats. 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*

The Planning Proposal promotes this aim by providing accurate identification of SNV, which provides important habitat to these species, populations and ecological communities.

It is noted no areas of critical habitat under the *Threatened Species Conservation Act 1995* are listed on LHI.

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?

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

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

The Planning Proposal provides a social benefit to the island as the protection of SNV promotes the unique biodiversity of the island that is enjoyed by residents and tourists. The protection and preservation of SNV on the island will help maintain the:

- natural landscape;
- rich terrestrial qualities;
- existing character of the rural and settlement landscapes; and
- amenity on the island in terms of shade, wind protection and privacy.

It is not anticipated that the Planning Proposal will have any negative economic effects which need to be addressed as part of the proposal.

5.4 Section D – State & Commonwealth Interests

5.4.1 Is there adequate public infrastructure for the Planning Proposal?

Not applicable.

5.4.2 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.

In February 2015, OEH requested to DP&E that Sheet 3 of LEP 2010 be revised and updated to reflect the fine scale vegetation mapping developed by OEH for the LHIB.

6.0 Part 4 – Mapping

The Planning Proposal provides amendments to Sheet 3 SNV Map of LEP 2010.

The changes to this map are shown in **Appendix 1**. The map provides a more accurate identification of SNV on the island.

7.0 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 1979 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. Draft maps have been placed on public exhibition between July 2014 - February 2015. During this time, Board staff have met and discussed the mapping with individual leaseholders. Individual lease maps were prepared for each leaseholder (example at **Appendix 2**), as well as SNV fact sheets provided to each resident (**Appendix 3**). The community consultation process was onerous and detailed oriented to ensure the best possible outcome. Maps were then updated based on inspections and ground truthing.

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.

A 28 day exhibition period is proposed to allow leaseholders another opportunity to review mapping on their allotments. Normal exhibition material would be made available by the relevant planning authority during the exhibition period. In addition, a revised sheet 3 and mapping of individual leases will be available at the LHIB Administration Office. The relevant planning authority will consider any submissions received concerning the proposed LEP amendment and will prepare a submission report for endorsement by the LHIB, prior to writing to Parliamentary Counsel requesting legal drafting of the LEP Amendment.

8.0 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 June/July 2015. No studies are anticipated to be required to complete the Planning Proposal. Government agency consultation and public exhibition are proposed to occur in July/August, with an advertisement in the local newspaper in August allowing for public exhibition for 28 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. 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 2015.

9.0 Conclusion

This Planning Proposal has been prepared to update the SNV mapping for LEP 2010.

The Planning Proposal will accurately identify SNV in order to help preserve and protect the biodiversity of the island. It will also ensure that appropriate development would not be incorrectly constrained as is currently the case in some instances due to erroneous mapping.

There will be negligible or minimal environmental impacts to the island. Specifically, the Planning Proposal will promote 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.

Appendix I

Significant Native Vegetation Map – Sheet 3

Appendix 2

Example individual lease map

Appendix 3

SNV fact sheet