



New South Wales

Lord Howe Island Regional Environmental Plan 1986 (Amendment No 5)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning make the following regional environmental plan under the *Environmental Planning and Assessment Act 1979*. (S96/01016)

CRAIG KNOWLES MP

Minister for Urban Affairs and Planning

Sydney, 24 December 1997

1 Name of plan

This plan is *Lord Howe Island Regional Environmental Plan 1986 (Amendment No 5)*.

2 Aims of plan

This plan aims:

- (a) to enable the more flexible application of certain development standards, and
- (b) to modify the definition of *utility undertakings* so that it more clearly reflects the range of functions carried out by the Lord Howe Island Board, and
- (c) to update the range of matters which are to be contained in an environmental impact report, and
- (d) to conserve and enhance the heritage value of the War Memorial, Lagoon Road.

1998 No 20

Clause 3 Lord Howe island Regional Environmental Plan 1986 (Amendment No 5)

3 band to which plan applies

This plan applies to the land to which *Lord Howe Island Regional Environmental Plan 1986* applies.

4 Amendment of other environmental planning instruments

Lord Howe Island Regional Environmental Plan 1986 is amended as set out in Schedule 1.

5 Determination of pending development applications

Lord Howe Island Regional Environmental Plan 1986 applies to development applications lodged but not finally determined before the commencement of this plan as if this plan had been exhibited but had not commenced.

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Omit the definition of *demolition* in clause 5 (1). Insert instead:

demolishing, in relation to a heritage item, means wholly or partly destroying or dismantling the heritage item.

[2] Clause 5 (1)

Omit “or drying yards” from the definition of *landscaped area*. Insert instead “, drying yards, or covered walkways, pergolas, and the like”.

[3] Clause 5 (1)

Insert “(which may consist of human remains)” after “evidence” in the definition of *relic*.

[4] Clause 5 (1)

Omit the definition of *renovation*.

[5] Clause 5 (1)

Insert after paragraph (a) of the definition of *utility undertakings* :

(a1) the provision of waste disposal, waste transfer or waste recycling services, or

[6] Clause 11

Omit the clause, insert instead:

11 Setbacks in Zones Nos 1, 2 and 4

(1) A person must not, on a Portion of land within Zone No 1, 2 or 4, erect a building:

(a) closer than 10 metres to any boundary of the Portion adjoining a road, unless paragraph (b) applies, or

1998 No 20

Lord Howe Island Regional Environmental Plan 1986 (Amendment No 5)

Schedule 1 Amendments

- (b) closer than 5 metres to one of the boundaries adjoining a road or closer than 10 metres to any other boundary of the Portion adjoining a road, if the Portion has more than one boundary adjoining a road and the building is erected with the consent of the Board, or
 - (c) closer than 5 metres to any other boundary of the Portion.
- (2) However, a person may, with the consent of the Board, erect a building that does not comply with a requirement made by subclause (1) (a) or (c) because:
 - (a) of the physical features of the land, or
 - (b) in the opinion of the Board, compliance with the requirement would be unreasonable and unnecessary.
- (3) The Board must not consent to the erection of a building in a case in which, in its opinion, compliance with a requirement made by subclause (1) (a) or (c) would be unreasonable and unnecessary, unless:
 - (a) the setbacks prescribed by subclause (1) (a) and (c) are not reduced by more than 20 per cent, and
 - (b) it is satisfied that the proposed building, when erected, will not have any adverse impact (either when considered by itself or in conjunction with existing development) in terms of appearance, loss of vegetation, overshadowing, reduction of privacy, or in any other way.
- (4) Subclause (1) (c) does not prevent a person, with the consent of the Board, from rebuilding, making structural alterations to, enlarging or extending a building that was lawfully erected.

[7] **Clause 12**

Omit the clause, insert instead:

12 Site coverage in Zone No 2

- (1) When a building is erected in Zone No 2, the site coverage of the Portion on which the building is erected must not exceed 15 per cent of the Portion.

-
- (2) However, a person may, with the consent of the Board, erect a pergola, covered walkway or other structure that is predominantly open in construction that, when erected, will result in the site coverage of the Portion on which it is erected exceeding 15 per cent.
 - (3) The Board must not grant consent to the erection of a structure as referred to in subclause (2) unless it is satisfied that the proposed structure, when erected, will not have any adverse impact (either when considered by itself or in conjunction with existing development) in terms of appearance, loss of vegetation, overshadowing, privacy, or in any other way.
 - (4) In granting consent to the erection of a structure as referred to in subclause (2), the Board may require the applicant to provide additional landscaped area on the Portion in the form of trees, grass, gardens or the like.

[8] Clause 14 Landscaping in Zones Nos 1 , 2 and 4

Insert “trees,” after the word “with” in clause 14 (3A).

[9] Clause 14 (3B)

Insert after clause 14 (3A):

- (3B) However, in the case of a Portion which has less than 50 per cent landscaped area, the Board may consent to the carrying out of development on a site on that Portion if:
 - (a) the development will not involve the erection of a building, but will involve rebuilding, making structural alterations to, enlarging or extending a building that was lawfully erected, and
 - (b) the proposed development, when carried out, will not reduce the amount of landscaped area on the Portion before the development was carried out, and
 - (c) at least 25 per cent of the Portion will be planted out with trees, grass, gardens or the like after the development has been carried out.

1998 No 20

Lord Howe Island Regional Environmental Plan 1986 (Amendment No 5)

Schedule 1 Amendments

[10] Clause 19 Advertising of certain development applications

Omit clause 19 (3) and (4). Insert instead:

- (3) The Board must not grant consent to an application to carry out development to which this clause applies unless it has considered an environmental impact report containing the matters specified in Schedule 1.

[11] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Contents of an environmental impact report

(Clause 19)

- 1 Justification of the proposal in the context of the *Lord Howe Island Regional Environmental Plan 1986*.
- 2 A summary of the environmental impact report.
- 3 A statement of the objectives of the development.
- 4 An analysis of any feasible alternatives to the carrying out of the development, having regard to its objectives, including:
 - (a) the consequences of not carrying out the development, and
 - (b) the reasons justifying the carrying out of the development.
- 5 An analysis of the development, including:
 - (a) a full description of the development, and
 - (b) a general description of the environment likely to be affected by the development, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and
 - (c) the likely impact on the environment of the development, having regard to:
 - (i) the nature and extent of the development, and

-
- (ii) the nature and extent of any building or work associated with the development, and
 - (iii) the way in which any such building or work is to be designed, constructed and operated, and
 - (iv) any rehabilitation measures to be undertaken in connection with the development, and
- (d) a full description of the measures proposed to mitigate any adverse effects of the development on the environment.
- 6 A compilation (in a single section of the environmental impact report) of the measures referred to in item 5 (c) (iv).
- 7 The reasons justifying the carrying out of the development in the manner proposed, having regard to biophysical, economic and social considerations and the principles of ecologically sustainable development.
- 8 A list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out.
- 9 An assessment of the compatibility of the proposal with the objectives underlying the Island's inclusion as a World Heritage site.
- 10 Details of any existing development that may be superseded by the proposal.
- 11 A detailed evaluation of the visual impact of the proposed development and measures to be taken to reduce any detrimental visual impact, including the extent to which vegetation may be used to restore a natural landscape character.
- 12 A detailed evaluation of any effect of the proposed development upon a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations.

1998 No 20

Lord Howe Island Regional Environmental Plan 1986 (Amendment No 5)

Schedule 1 Amendments

For the purposes of this Schedule, *the principles of ecologically sustainable development* are as follows:

- (a) The precautionary principle: namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (b) Inter-generational equity: namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
- (c) Conservation of biological diversity and ecological integrity.
- (d) Improved valuation and pricing of environmental resources.

Note. *The matters to be included in item 5 (c) might include such of the following as are relevant to the proposed development:*

- (a) *the likelihood of soil contamination arising from the development,*
- (b) *the impact of the development on flora and fauna,*
- (c) *the likelihood of air, noise or water pollution arising from the development,*
- (d) *the impact of the development on the health of people in the neighbourhood of the development,*
- (e) *any hazards arising from the development,*
- (f) *the impact of the development on traffic in the neighbourhood of the development,*
- (g) *the effect of the development on local climate,*
- (h) *the social and economic impact of the development,*
- (i) *the visual impact of the development on the scenic quality of land in the neighbourhood of the development,*
- (j) *the effect of the development on soil erosion and the silting up of rivers or lakes,*
- (k) *the effect of the development on the cultural and heritage significance of the land.*

[12] Schedule 2 Heritage items

Insert at the end of the Schedule:

War Memorial, Lagoon Road, Portion 35.
