



LORD HOWE ISLAND BOARD

PLAIN LANGUAGE GUIDE TO THE LORD HOWE ISLAND ACT

Information Sheet 2: NSW and Commonwealth Laws on Lord Howe Island

Do NSW laws generally apply?

Yes. Lord Howe Island was included as part of the Colony of NSW in 1855 and the laws of NSW continue to apply on the Island today. In general, NSW laws apply on the Island just as they do in the rest of NSW. However, there are some NSW laws that do not apply on the Island or apply in a modified way. Examples are given below.

The NSW Parliament has also passed special laws that apply only to Lord Howe Island. These are contained in the *Lord Howe Island Act 1953*, which continues to apply today. The Act has been changed a number of times since it was first enacted and the history of the more significant changes are outlined in the fact sheet entitled "Legal History of Lord Howe Island".

Lord Howe Island Act 1953

This Act, supported by the *Lord Howe Island Regulation 2014*, contains provisions dealing with the following topics:

- Governance of the Island – the constitution, powers and functions of the Lord Howe Island Board and the role of the Minister;
- Election of members to the Board to represent the Island community;
- Administration of all land on the Island, including the creation and management of leases, reserves and parks;
- Licensing of all businesses on the Island;
- Importation and use of motor vehicles on the Island;
- Construction and use of moorings on the Island;
- Importation of animals and birds to the Island and the keeping of livestock;
- Importation of seeds and plants to the Island;
- Sale and consumption of alcohol on the Island;

- Waste treatment and management on the Island.

Under the Act, the Lord Howe Island Board is required to manage the Island's affairs subject to the control and direction of the Minister responsible for the Island. The Board's custodial duties and powers are greater in some respects than local councils. For example, it provides services, issues development approvals, oversees lease creation and lease transfers and has wide planning powers, especially with regard to tourism.

Are there any NSW laws which do not generally apply on Lord Howe Island?

Yes. The most significant example of laws that do not generally apply on Lord Howe Island are those contained in the *Crown Lands Act 1989*. Although, all the land on the island is Crown land, it is subject to the *Lord Howe Island Act 1953* and not the *Crown Lands Act 1989*.

Which NSW laws apply on Lord Howe Island with modification?

The *Lord Howe Island Regulation 2014* lists the particular provisions of the *Local Government Act 1993* that have been adopted to apply on the Island.

For example:

- Approvals by the Lord Howe Island Board are to be made and determined in the same manner as required for council approvals;
- Orders by the Board to carry out work, such as an order to repair, maintain or replace a septic tank, are to be made and enforced the same manner as is required for councils;

- The Board and Board members are required to comply with the same code of conduct as is required for a Council and for councillors.

The Environmental Planning and Assessment Act 1979 applies on the Island as if:

- The Island is a region within the meaning of that Act; and
- The Lord Howe Island Board is the council of the Island ; and
- The Board is the consent authority for the purposes of Part 4 of that Act.

The Board is required to carry out and give effect to the plan of management for the Permanent Park Reserve as if it were a national park under *the National Parks and Wildlife Act 1974*.

Lord Howe Island Local Environmental Plan 2010

This plan has been made under the *Environmental Planning and Assessment Act 1979* and came into effect in 2010. The plan controls planning and development on the Island and is the key instrument in protecting the unique values of the Island.

The plan places a limit on the total number of future dwellings to 25 during the 20 year period up to 2025.

The plan acknowledges the importance of tourism to the Island economy and aims to permit future development of tourism, but within limits. The total number of persons permitted to be accommodated in all forms of tourist accommodation on the Island must not exceed 400 people at any time. An important aim of the plan is to ensure that tourism on the Island does not adversely affect the lifestyle of residents, or the World Heritage environmental qualities of the Island.

World heritage

The Lord Howe Island Group is one of 6 world heritage listings in NSW. The Group comprises Lord Howe Island,

Admiralty Islands, Mutton Bird Island, Ball's Pyramid, and associated coral reefs and marine environments.

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, provides protection of matters of national environmental significance including world heritage areas. Under the Act, any action that is likely to have a significant impact on the Island requires the approval of the Federal Environment Minister.

Marine Parks

The Island is surrounded by NSW waters out to 3 nautical miles and Commonwealth waters from 3 to 12 nautical miles.

The NSW Lord Howe Island Marine Park was created in 1999 to protect the marine environment and comprises all ocean waters and the ocean bed contained between mean high water mark to 3 nautical miles from the territorial sea baseline of Lord Howe Island, the Admiralty Islets, Ball's Pyramid and South –East Rock, covering an area of some 48,000 hectares. There is a zoning plan for the park and activities within the park are regulated under the *Marine Parks (Zoning Plans) Regulation 1999*.

The Lord Howe Island Marine Park (Commonwealth Waters) was created in 2000 to protect the marine environment of the Commonwealth waters and is estimated to be over 300,000 hectares in area.

There is a management plan for the park and activities within this park are also regulated under the *Environment Protection and Biodiversity Conservation Act 1999*.

Other legal fact sheets forming part of this series include the following titles:

- Information Sheet 1: History of the Lord Howe Island Act 1953
- Information Sheet 2: NSW and Commonwealth Laws on Lord Howe Island
- Information Sheet 3: Owning and Inheriting Land on Lord Howe Island
- Information Sheet 4: Who is a Lord Howe Islander?
- Information Sheet 5: Perpetual Leases on Lord Howe Island
- Information Sheet 6: Special Leases on Lord Howe Island
- Information Sheet 7: Permissive Occupancies on Lord Howe Island