

LORD HOWE ISLAND BOARD POLICY

TITLE	Restricted Access to Lord Howe Island under the Public Health (COVID-19 Lord Howe Island) Order 2020 Policy		
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ASSOCIATED LEGISLATION	<i>Lord Howe Island Act 1953 (NSW)</i> <i>Public Health Act 2010 (NSW)</i> <i>Public Health (COVID-19 Lord Howe Island) Order 2020 (NSW)</i>		
ASSOCIATED POLICIES			

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1 Introduction

This policy sets out the restrictions on entry and access to Lord Howe Island (**the Island**) by reason of the public health risks presented by COVID-19. This policy is prepared in accordance with the *Public Health Act 2010*, *Public Health (COVID-19 Lord Howe Island) Order 2020* (**the Order**) and the *Lord Howe Island Act 1953* (**the LHI Act**).

1.1 Objectives and Purpose of the Policy

The objectives of this policy are to provide guidance on the Ministerial directions contained in the Order:

- a) that prohibits access to the Island while the Island remains a public health risk area (to be reviewed on or before 18 June 2020);
- b) that restricts access to categories of persons and to explain such exceptions;
- c) to deal with the public health risk of COVID-19 and its possible consequences on the Island, including for the elderly and the vulnerable community by reason of the limited capacity to provide critical medical care;
- d) regarding the measures to implement the Order, including (i) the application process for

persons seeking entry by reason of belonging to a restricted category under the Order; and
(ii) conditions placed upon new arrivals to the Island.

1.2 Background to the Policy

COVID-19 is highly contagious and can be fatal. The elderly and those with pre-existing medical conditions are particularly at risk. The Island's population has a comparatively high proportion of elderly residents. The Island's health care services has a very limited capacity to treat severe cases of COVID-19 infections.

The government and public health authorities in Australia and internationally have been monitoring international outbreaks of COVID-19 and responding to the risks presented.

On 20 March 2020 the Minister for Health and Medical Research signed the Public Health (COVID-19 Lord Howe Island) Order 2020 . The Order commenced on the 22nd of March 2020. The Order seeks to minimise the likelihood of COVID-19 reaching the Island by prohibiting entry to the Island and identifying restricted categories of people who may be allowed access. Further, there are conditions on entry, including a two week quarantine period.

This policy may be updated from time to time in response to future legislative amendments, ministerial directions, further identified public health risks and matters unique to the Island.

The Lord Howe Island Board (the Board) is *"charged with the care, control and management of the Island and of the affairs and trade of the Island"* (s.11(1) of the LHI Act, and has the power *"to do all things necessary from time to time for the promotion and preservation of public health, safety and convenience upon the Island"* (s.12(1)(b) of the LHI Act). Accordingly, except where the Order indicates otherwise, the Board is to assess and determine the majority of applications for entry to the Island and to make decisions as to which persons are required to provide, or support, health services and other essential services to persons on the Island.

It is an offence if a person fails to comply with the Order, which is punishable by imprisonment of up to 6 months or a maximum fine of \$11,000 (or both) plus a further \$5,500 fine each day it continues. Corporations who do not comply face more significant penalties.

1.3 The Ministerial directions contained in the Order

The Ministerial direction prohibiting and restricting access to and from the Island is in the following terms (clause 5 of the Order):

- The Minister directs that access to and from Lord Howe Island is restricted to the following persons—
 - (a) residents of Lord Howe Island,
 - (b) non-residents of Lord Howe Island but only to leave the Island,
 - (c) persons required to provide, or support, health services and other essential services to persons on the Island,
 - (d) persons who are part of the crew of an airplane or ship referred to subclause (2),
 - (e) a person approved under subclause (3).
- A person must not land an airplane on Lord Howe Island or dock a ship at Lord Howe Island other than.
 - (a) for the purposes of providing supplies to persons on the Island, or

- (b) for a purpose related to providing, or supporting, health services and other essential services to persons on the Island,
 - (c) for a reason approved under subclause (3).
- The Coordinator-General may approve, in writing, the following subject to any conditions the Coordinator-General considers appropriate—
 - (a) a person having access to or from Lord Howe Island,
 - (b) a person landing an aircraft on the Island or docking a ship at the Island.

This Policy provides further guidance on the main restricted categories, including the meaning of residents, health services and other essential services referred to in the Ministerial direction.

There is a further Ministerial direction that sets out conditions of quarantine for a period of 14 days and directs all persons who arrive on Lord Howe Island must (save for limited exceptions):

- a) travel from the point of arrival on the Island to premises suitable for the person to reside during the quarantine period (the Board may determine such suitability);
- b) except in exceptional circumstances, reside in the premises during the quarantine period,
- c) not leave the premises during the quarantine period except –
 - i. for the purposes of obtaining medical care or medical supplies, or
 - ii. because of an emergency, or
 - iii. in circumstances where the person is able to avoid close contact with other persons,
- d) not permit any other person to enter the premises during the quarantine period unless the other person –
 - i. usually resides at the premises, or
 - ii. is also complying with this direction for the same quarantine period, or
 - iii. enters the premises for medical purposes or because of an emergency,
- e) otherwise comply with the *NSW Health Self Isolation Guidelines* during the quarantine period.

The above conditions are subject to determination of suitable accommodation for the quarantine period as set out in (a) above. Further, it is necessary to check the *NSW Health Self Isolation Guidelines* at the relevant time published on the website of NSW Health.

Upon approval of any access application, the Board will direct applicants as to quarantine measures required during the quarantine period. Any such measures will be informed by current health advice and individual circumstances.

2 Residents of the Island

The Order is intended to allow residents to return to the Island provided the person was a resident within the meaning of the LHI Act as at 22 March 2020. Reside and residence means a residing by the person continuously and in good faith on the land indicated as his or her usual home, without any other habitual residence, or through establishing the matters set out under section 3(2) of the LHI Act.

The Order was not intended to allow people who do not ordinarily reside on the Island to return, notwithstanding any ability to meet the definition of Islander within the meaning of the LHI Act.

As such, proof of the requisite residency status must be established through documentary support.

3 Meaning of a required Health Service

Health service is defined in the *Public Health Act* to include the following services, whether provided as public or private services:

- (a) medical, hospital, nursing and midwifery services,

- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry and psychology services,
- (j1) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services,
- (k) services provided in other alternative health care fields,
- (k1) forensic pathology services,
- (l) a service prescribed by the regulations as a health service for the purposes of the *Health Care Complaints Act 1993*.

The Board administration is responsible for determining whether a health service is required on the Island. This in turn will inform the Board’s determination as to whether a particular applicant [to enter the Island] should be approved because such a person is “required to provide, or support, certain health services”.

A person will only be permitted access on the grounds of providing a *required* health service. In arriving at a determination to grant or refuse access the Board administration will give consideration to the need for that service in the circumstances.

4 Meaning of a required Essential Service

An “essential service” is defined in the *Essential Services Act 1988* (NSW) to include the following:

- (a) *the production, supply or distribution of any form of energy, power or fuel or of energy, power or fuel resources,*
- (b) *the public transportation of persons or the transportation of freight (including the provision of rail infrastructure for those purposes),*
- (c) *the provision of fire-fighting services,*
- (d) *the provision of public health services (including hospital or medical services),*
- (e) *the provision of ambulance services,*
- (f) *the production, supply or distribution of pharmaceutical products,*
- (g) *the provision of garbage, sanitary cleaning or sewerage services,*
- (h) *the supply or distribution of water,*
- (i) *the conduct of a welfare institution,*
- (j) *the conduct of a prison,*
- (k) *a service declared to be an essential service under subsection (2),*
- (l) *a service comprising the supply of goods or services necessary for providing any service referred to in paragraphs (a)-(k).*

The Board administration is responsible for determining “essential services” for the purposes of the Island. This in turn will inform the Board’s determination as to whether a particular applicant [to enter the Island] should be approved because such person is “required to provide, or support ... essential services”.

A person will only be permitted access on the grounds of providing a *required* essential service. In arriving at a determination to grant or refuse access the Board administration will give consideration to the need for that service in the circumstances.

5 Application Process

5.1 Applications by residents

Persons seeking to return under this category should complete the Form – *Request to access LHI – returning residents*. All applications must be lodged 10 working days prior to the date of travel. Late applications may not be determined in advance of the anticipated travel date. All applications must be accompanied by supporting documentation. Failure to provide sufficient supporting documentation may result in the refusal of an application.

5.2 Applications by persons providing a health service or an essential service.

Generally, these applications will be developed and agreed at the request of or in direct consultation with the Board administration. Persons seeking to enter the Island under this category should complete the Form – *Request to access LHI – Other*. Unless otherwise advised, all applications must be lodged 10 working days prior to the date of travel.

From time to time emergency access requests may be granted by the CEO without the form being completed.

6 Other unanticipated circumstances

The Coordinator-General retains a general discretion to approve (clause 5(3)):

- (a) a person having access to or from Lord Howe Island,
- (b) a person landing an aircraft on the Island or docking a ship at the Island.

The Coordinator-General will provide any such approval in writing and subject to any conditions deemed appropriate. The Coordinator-General is the decision maker, however, the Board will receive, and inform the Coordinator General of any such application. Please complete the form – *Request to access LHI – Other*. Unless otherwise advised, all applications must be lodged 10 working days prior to the date of travel.

Please note: given the purpose of the Order and the relative risk to the Lord Howe Island community posed by COVID-19, the Coordinator-General is unlikely to exercise discretion unless there are compelling reasons to do so in exceptional cases.