

Changes to the Lord Howe Island Regulation

FACTSHEET

The Lord Howe Island Regulation 2004 is being reviewed. To assist people to make a submission on the review, this Factsheet summarises some of the proposed changes to the Regulation and also includes details about how to have your say.

Why is the Regulation being reviewed?

The *Subordinate Legislation Act 1989* requires government agencies to review their regulations every five years and consider their ongoing relevance, the need for amendment or the value of non-regulatory alternatives.

What does the Regulation do?

The objective of the *Lord Howe Island Act 1953* (the LHI Act) and the Regulation is to provide for the care, control and management of Lord Howe Island (LHI) to protect its unique values and the interests of its residents.

Broadly, the Regulation deals with the following matters:

- The election of the Lord Howe Island Board;
- The application and transfer of perpetual leases and annual rent;
- Licensing of tourist accommodation and other commercial undertakings;
- The protection of the environment (including natural substances, flora and fauna);
- Motor vehicles and mooring of vessels;
- Various miscellaneous matters (including sale of alcohol and charge on tourists).

How will the review be conducted?

The Office of Local Government is undertaking the review of the Regulation on behalf of the Minister for the Environment.

The Lord Howe Island Board and other government departments and stakeholders will be invited to make submissions on the proposed Regulation and Regulatory Impact Statement.

What does the review involve?

As part of the review, the Regulation was examined for clarity, effectiveness and consistency with other legislation, where relevant, to ensure that the Regulation is achieving its objectives, avoids unnecessary duplication, and is not complicated to implement.

What is the purpose of the Regulatory Impact Statement (RIS)?

Before a new Regulation can be made, its costs and benefits must be estimated and assessed, and public consultation undertaken, to ensure that the new Regulation provides the best approach for achieving the objectives. The RIS must justify the proposed Regulation by showing that it provides the greatest net benefit or least cost to the community compared with its alternatives, including the option of not proceeding with any action and allowing the Regulation to lapse.

What are the changes in the proposed Regulation?

The majority of the Regulation remains the same. There are, however, some changes, many of which are minor or administrative, including:

Elections

- Clarify that, in elections for more than one vacancy, voters are able to vote for any number of candidates up to the number of vacancies on the Board, and require this to be reflected in the directions on the ballot paper (for example, this clarifies that a vote recorded on a ballot paper for a single candidate, in an election where multiple candidates are running for multiple vacancies, would be valid).
- Improve secrecy for postal and pre poll voting and ballot by requiring ballot papers to be placed in a secret outer envelope, ensuring that only the returning officer sees the inner envelope where the voters details are recorded.
- Require returning officers to initial on the front of the ballot paper (instead of the back).

Leases and licences

- Increase the cap on rent that the Board may charge under the LHI Act to reflect inflation since 1994 and enable to Board to increase the cap to reflect the Consumer Price Index.
- Provide for offences for non-compliance with licence conditions, including licences for tourist accommodation.

Environment protection

- Improve protection of the LHI Permanent Park Preserve modelled on parts of the National Parks and Wildlife Regulation 2009 relating to: regulation of inappropriate or damaging behaviour; taking animals into the Preserve; lighting fires; and interference with management of the Preserve.
- Protect the Rentz's strong stick insect (*Davidrentzia valida*).
- Provide that mulch can not be imported without Board approval and fruit and vegetables for human consumption can.
- Expand the current ban on the importation of animals to include pigs, rabbits, foxes, rats, mice, snakes and cane toads, as well as the semen of these animals.
- Remove duplication for the regulation of noxious weeds between the Regulation and the Noxious Weeds Act 1993, by removing noxious weeds provisions.
- Remove the exemption that Island residents have from the requirement to have Board approval to anchor a vessel greater than 5 metres in the Lord Howe Island Lagoon.

Community

- Introduce regulations for the responsible service of alcohol, modelled on Part 5 of the Liquor Act 2007, including: prevention of excessive consumption of alcohol; ability for a person to enter into a self-exclusion agreement; provide that an authorised person can ban a person from entering a licensed premises.

- Remove Board's power to direct the driver of a vehicle to produce a driver's licence.

How will the changes to the Regulation affect the Island and its community?

The proposed changes are not expected to change the way Lord Howe Islanders and visitors go about their lives. However, we are keen to hear your views on this.

The changes include measures to improve protection of the fragile Lord Howe ecosystem, including new penalties for damaging behaviour such as lighting fires and restrictions on importing animals.

They also propose to improve the privacy of the election processes on the Island to ensure that postal and pre-poll voting within the small community remains secret.

To improve safety and preserve the Island's unique atmosphere, the proposed changes include provisions which are already in place for the rest of NSW to prevent the excessive consumption of alcohol.

How long is the public exhibition period?

The proposed Regulation and RIS must be publicly exhibited for a period of at least 21 days. The public exhibition period will run from mid-April to May 2014.

How do I make a comment?

To make a comment on the proposed Regulation 2014 and RIS please write to:

Project Manager
Lord Howe Island Regulation Review
Office of Local Government
Locked Bag 3015
NOWRA NSW 2541

or send an email to
lordhoweislandregreview@dlg.nsw.gov.au

before XX May 2014.

What will happen if I make a comment?

All comments received will be thoroughly considered in the review of the Regulation. All comments received will be considered to be public and will be made available on the Office of Local Government website or on request.

Where to from here?

Following the public exhibition of the proposed Regulation and RIS, submissions will be considered and a final version of the Regulation will be submitted to the Minister for the Environment. It will become law on or before 1 September 2014 when the existing Regulation will be repealed.