



## Lord Howe Island Amendment Bill.

### Second Reading

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.39 p.m.]:  
I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

Honorable members, the Lord Howe Island Act has not been significantly updated since 1981 and a number of provisions are out of date. Recent reviews of the Act and the island's administration have identified a number of areas requiring legislative reform. The Lord Howe Island Amendment Bill will address issues raised by the national competition policy review of the Act and the Independent Commission Against Corruption [ICAC] discussion paper on the Lord Howe Island Board's governance issues. It will also provide a solid foundation for the continued protection and enhancement of the environment and maintenance of services to the island community and visitors.

The Lord Howe Island group is an outstanding World Heritage-listed area that attracts tourists from around the world to appreciate its biodiversity and great natural beauty. The island was listed under the World Heritage Convention in 1982 in recognition of its superlative natural phenomena and for its important and significant habitats for in situ conservation of biological diversity. There are 241 different species of native plants on the island, 105 of them occurring nowhere else on earth. There are more than 160 bird species, including a number of rare or endangered species such as the Lord Howe Island Woodhen.

The Government is committed to ensuring that the Board continues to function efficiently and effectively, to promote community, economic and social wellbeing and conserve the superlative natural phenomena of the area in line with ecologically sustainable principles and its status as a World Heritage site. In line with the recommendations of the May 2000 national competition policy review of the Act and subsequent recommendations by a Government interdepartmental committee, the bill proposes the removal of the anti-competitive provisions in the Act relating to Crown ownership of kentia palm seed where it occurs on perpetual leasehold land and Board control of its harvesting and sale. In future, leaseholders will be able to dispose of seed from their perpetual leases as they choose.

kentia palms once adorned the ballrooms and salons of Victorian England, and are still prized as indoor plants around the world. They occurred naturally only on Lord Howe Island. Although there is now an international nursery industry producing them, the palms grown on Lord Howe Island have retained a quality edge over those of competitors and there is significant market demand for island seedlings. Perpetual leaseholders will now have ownership and a financial stake in the cultivation and management of kentia palms and seeds on their leases.

Following on from the ICAC report recommendations, the Bill proposes to adopt provisions in line with those of local government for conduct of Board members. In future, the Minister administering the Lord Howe Island Act will be able to remove an elected Islander Board member for corrupt conduct where there is a report under the Independent Commission Against Corruption Act 1988. Appointed non-Islander members can already be removed. Other amendments provide a power to make regulations for meeting procedures, including disclosure and recording of Board members' pecuniary interests and procedures for dealing with Board members' conflicts of interest. These amendments will increase accountability and are in line with current local government administrative arrangements.

The Bill will introduce provisions requiring the Board to make monetary payments where special leases are withdrawn or not reissued because the land is required for home sites or other public purposes. Special leases are Crown land leased for up to 10 years for agricultural uses. They are generally cleared pasture or similarly modified. The Minister, on the recommendation of the Board, currently has the power to withdraw special leases for public purposes without recompense. A review of the current Lord Howe Island regional environmental plan is under way, and is due to be completed in 2004. The review will ensure that sustainability principles are firmly enshrined in the development control process for the island, and the protection of important native vegetation systems.

As part of the review, the most suitable sites for future development on the island will be identified, taking into account the need to protect the environment. This is likely to affect some special lease land within the settlement zone on the island. The amount of compensation will be determined by the Valuer-General, subject to any regulations under the Act, and will be appealable to the Land and Environment Court. The minimum period for the calculation of the amount of compensation will be five years. Currently there is no equivalent system to local government rating or charges on the island and no freehold land as all land is vested in the Crown. Perpetual leases provide the main tenure type for residential and commercial development.

The Board carries out many of the functions of a local council as a deemed local government authority under the regional environmental plan. However, there are also significant differences from the mainland. In order to maintain an adequate revenue base for the island's management and services, and for equity reasons, the Bill proposes a change to the current process for determining annual rentals for perpetual leases. In its current form, the Lord Howe Island Act sets the maximum perpetual lease rental at \$200 per hectare. This rental can be redetermined only every 10 years, and even then cannot be increased by more than \$100 per hectare.

The Bill will remove the rent-setting provisions from the Act and enable the Board to make regulations to set annual rentals. A regulatory impact statement will be prepared and exhibited for public comment in 2004. The regulatory impact statement will include the rental formula and component monetary amounts. Discounted rentals will continue to be available for eligible pensioners. The new time frame for redetermining annual rentals will be reduced to a minimum of three years. The setting of lease rentals will take into account advice from the Valuer-General as well as the budgetary circumstances of the Board and the island community.

A provision for a review of the Act after five years has also been included in the Bill. The impact of the changes in rental, including any impacts on island tourism, will be considered at that time. A range of other proposals in the Bill aim to improve the operational efficiency of the Board. An infringement notice system for minor breaches of the Act or regulations will be introduced. Currently, breaches are referred to the court on the mainland as the court has not sat on Lord Howe Island since 1997. The Bill will allow penalty infringement notices for minor offences—such as littering, the unlawful removal of native flora and unlawful importation—to be issued without resort to court hearings. The Bill increases the maximum penalties under the Act to make them consistent with those under the National Parks and Wildlife Act 1974. The Bill proposes a number of general amendments to bring the Act into line with legislation guiding local government, and contemporary environmental and natural resource management legislation. A contemporary charter will guide Board activities and service delivery. It promotes responsible governance, community wellbeing and environmental protection consistent with the principles of ecologically sustainable development. In future, employment of Board staff will be governed by the Public Sector Management Act 2002. The Board membership will be increased from five to seven, to broaden its range of expertise. A non-Islander with tourism-business experience will be appointed. The current Board majority of elected Islanders will be maintained by increasing the number from three to four. The option to appoint a non-government conservation member will also be introduced.

The requirement to appoint at least one member from the Department of Environment and Conservation, which includes the National Parks and Wildlife Service, will be retained. The Minister is given the power to make a determination or decision in cases where Board members cannot participate in decision making due to conflicts of interest and lack of a quorum. The Minister will have the power to consult any Islander, including Board members as members of the community without regard to their role as Board members, before making a determination or decision. The Minister is also given the power to suspend or remove an elected Islander Board member in respect of whom a section 74C report from the Independent Commission Against Corruption has been received. All these measures aim to improve the public accountability, transparency and effectiveness of the Board.

This is a timely and responsible Bill that addresses a number of recommendations from independent reviews as well as ensures that the operation of the Board is viable, accountable and in line with accepted best practice. The Bill maintains the current Islander majority on the Board. There will be public consultation on the formulation of regulations relating to compensation and annual lease rental charges. The Bill will ensure that Lord Howe Island continues to be managed in an ecologically sustainable manner and that its outstanding natural values are managed to retain their World Heritage status, and it will support the tourism economy of the island. I commend the Bill to the House.

---

[Your feedback](#) [Legal notice](#)

Refer updates to Hansard Office on 02 9230 2233 or use the feedback link above.