

Luna Park Site Amendment (Noise Control) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Luna Park Site Act 1990* (***the principal Act***), in relation to noise emissions from the Luna Park site, so as:

- (a) to set a maximum permissible noise level for future noise emissions, and
- (b) to protect both past noise emissions, and future noise emissions not exceeding the maximum permissible noise level, from legal proceedings and other noise abatement action, and
- (c) to provide that neither past noise emissions, nor future noise emissions not exceeding the maximum permissible noise level, are to be taken to constitute a public or private nuisance.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date on which it is assented to.

Clause 3 is a formal provision that gives effect to the amendments to the *Luna Park Site Act 1990* set out in Schedule 1.

Schedule 1 Amendments

Future noise emissions

Schedule 1 [3] inserts a new section 19A into the principal Act. The proposed section protects future noise emissions from legal proceedings and other noise abatement action. It also provides that noise emissions from the Luna Park site do not constitute a public or private nuisance. The proposed section will not give protection to noise emissions that exceed the maximum permissible noise level, in which regard the maximum permissible noise level is to be 85 decibels or, if the regulations under the principal Act prescribe some other noise level, that other noise level. The proposed section will not generally limit or otherwise affect the operation of the *Environmental Planning and Assessment Act 1979* or any instrument under that Act. Consequently, maximum noise levels imposed by the conditions of any development consent for land within the Luna Park site will still be effective and enforceable under that Act.

Schedule 1 [1] and [2] make consequential amendments to section 4 (Definitions).

Past noise emissions

Schedule 1 [5] inserts a new Part 3 into Schedule 2 (Savings, transitional and other provisions). The new Part consists of a single clause, proposed clause 3, which protects past noise emissions from legal proceedings and other noise abatement action, regardless of the noise level of those emissions, and provides that any such emission is not to be taken to have constituted a public or private nuisance. The proposed clause will not affect any existing final determination of any court or tribunal, except to the extent to which it would otherwise limit or restrict the use of land within the Luna Park site after the commencement of the proposed Act.

Schedule 1 [4] amends clause 1 of Schedule 2 to enable the regulations under the principal Act to make provisions of a savings or transitional nature consequent on the enactment of the proposed Act.