



New South Wales

Luna Park Site Amendment Bill 1997

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* to provide for a wider range of uses for the Luna Park site while preserving unrestricted public access to the boardwalk/foreshore area.

The Bill provides for a range of entertainment uses (such as restaurants, function rooms, markets and theatres) to be authorised uses for the Luna Park site, except the boardwalk/foreshore area. The Bill further provides for hotels, shops, office accommodation, car parking and other prescribed commercial uses to be additional authorised uses for the cliff top area (fronting Glen and Northcliff Streets).

The Bill also contains provisions:

- (a) to clarify the power of the Luna Park Reserve Trust and a lessee from the Trust to control and restrict access to and within the Luna Park site (at the same time making it clear that access to the boardwalk/foreshore area cannot be restricted except on health and safety grounds), and
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- (b) to update the description of land that comprises the Luna Park site to take account of recent additions to the site, and to give effect to a prohibition on the erection of permanent structures on one of those new sites, and
- (c) to enact consequential savings and transitional provisions.

Outline of provisions

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

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

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

Schedule 1 Amendments

Schedule 1 [1] inserts a new Part 2A in the *Luna Park Site Act 1990* which provides for an expanded range of uses for the Luna Park site. The new Part contains the following provisions:

- (a) Section 6A defines the boardwalk/foreshore area and the cliff top area by reference to a plan tabled with this Bill. The section provides for a more accurate description of those areas to be prepared within 3 months and published in the Gazette.
- (b) Section 6B provides that restaurants, cafes, functions, exhibitions, conventions, meetings, markets, theatres, and such other entertainment uses as may be prescribed by the regulations are authorised uses for the Luna Park site, except the boardwalk/foreshore area.
- (c) Section 6C provides that hotels, shops, office accommodation, car parking and other commercial uses prescribed by the regulations are authorised uses for the cliff top area (in addition to the entertainment uses authorised under section 6B).
- (d) Section 6D makes it clear that the existing dedication of the Luna Park site for the purposes of public recreation, public amusement and public entertainment does not prevent or otherwise affect the use of the site for the additional authorised uses provided for by sections 6B and 6C and does not prevent the grant of a lease or licence for those uses.

- (e) Section 6E makes special provision for the granting of a lease for the cliff top area for an additional authorised use. The section provides that the plan of management for Luna Park does not prevent the grant of such a lease and does not apply to the cliff top area during the term of the lease.
- (f) Section 6F makes it clear that the operation of the *Environmental Planning and Assessment Act 1979* is not affected by the new Part.
- (g) Section 6G makes it clear that the Luna Park Trust and a lessee from the Trust can control and restrict access to the Luna Park site. The section provides that access control measures must not limit public access to the boardwalk/foreshore area (except on grounds of public health or safety).
- (h) Section 6H makes it clear that the uses authorised by the new Part are additional uses and do not limit the range of uses to which the Park can be put.
- (i) Section 6I provides that the new Part is not to be read down by the statement in section 3 of the object of the Act.

Schedule 1 [2] makes a consequential amendment.

Schedule 1 [3] requires the plan of management for Luna Park to contain a prohibition on the erection of any permanent structure on a parcel of land that has been added to the Luna Park site.

Schedule 1 [4] and **[6]** insert consequential savings and transitional provisions.

Schedule 1 [5] updates the description of the Luna Park site to take account of recent additions to the site.

First print



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New South Wales

Luna Park Site Amendment Bill 1997

No. , 1997

A Bill for

An Act to amend the *Luna Park Site Act 1990* to make further provision with respect to the use of the Luna Park site, and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Luna Park Site Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Luna Park Site Act 1990 No 59

The *Luna Park Site Act 1990* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Part 2A

Insert after Part 2:

Part 2A Expanded range of uses for Luna Park site 5**6A Description of the boardwalk/foreshore and cliff top areas**

- (1) For the purposes of this Part:
- (a) *the boardwalk/foreshore area* is the part of the land comprising the Luna Park site that is shown as the boardwalk/foreshore area in the Plan described in this section, and 10
- (b) *the cliff top area* is the part of the land comprising the Luna Park site that is shown as the cliff top area in the Plan described in this section. 15
- (2) The *Plan* is the plan marked "Luna Park Site Boardwalk/foreshore and Cliff Top Areas", and presented to the Speaker of the Legislative Assembly (by or on behalf of the Member of the Assembly who introduced the Bill for the *Luna Park Site Amendment Act 1997*) when the Bill was introduced into the Assembly. 20
- (3) Within 3 months after the commencement of this section:
- (a) the Director-General of the Department of Land and Water Conservation is to cause to be prepared, as accurately as is reasonably possible, metes and bounds or other appropriate descriptions of land shown in the Plan as the boardwalk/foreshore area and the cliff top area, and 25
- (b) the Minister is to cause to be published in the Gazette a notification containing those descriptions together with a certificate of a registered surveyor to the effect that the land in the descriptions substantially accords with the land shown in the Plan. 30 35

- (4) On publication of that notification, the boardwalk/foreshore area and the cliff top area are, for the purposes of this Part, those areas as described in the notification.

6B Use of Luna Park site for entertainment uses

From the commencement of this section, the following uses are authorised uses for the land comprising the Luna Park site, other than the boardwalk/foreshore area: 5

- (a) restaurants and cafes,
- (b) functions, exhibitions, conventions, meetings and markets, 10
- (c) theatres,
- (d) such other uses related to the provision of entertainment as may be declared by the regulations to be authorised uses for the purposes of this section. 15

6C Additional authorised uses for cliff top area

From the commencement of this section, the following uses are authorised uses for the cliff top area (in addition to the uses authorised by section 6B):

- (a) hotels, 20
- (b) shops,
- (c) office accommodation,
- (d) car parking,
- (e) such other commercial uses as may be declared by the regulations to be authorised uses for the cliff top area. 25

6D Crown Lands dedication does not prevent authorised uses

The dedication under the *Crown Lands Act 1989* (pursuant to section 5 of this Act) of the land comprising the Luna Park site does not prevent or otherwise affect the use of any part of that land for any use that is an authorised use for it under this Part and does not prevent or otherwise affect the grant of a lease or licence that permits or otherwise provides for its use for any such authorised use. 30
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6E Grant of lease over cliff top area

- (1) The provisions of a plan of management for the Luna Park Reserve do not prevent the grant of a lease that permits or otherwise provides for the use of any part of the cliff top area for any use that is an authorised use for it under this Part. 5
- (2) If a lease permits the use of any part of the cliff top area for a use that is an authorised use for it under this Part, the provisions of a plan of management for the Luna Park Reserve do not apply to that part of the cliff top area while the lease is in force. 10

6F Planning Act not affected

This Part does not limit or otherwise affect the operation of the *Environmental Planning and Assessment Act 1979* or any instrument under that Act in its application to land comprising any part of the Luna Park site. 15

6G Control of access to Luna Park

- (1) The Trust is entitled to control and restrict access to or within any part of the Luna Park site, except the boardwalk/foreshore area. A lessee of land within the Luna Park site is (subject to the terms and conditions of the lease) entitled to control and restrict access to or within the land leased. 20
- (2) Measures to control and restrict access can include the erection of fences and gates and the charging of a fee for access. 25
- (3) Measures to control and restrict access must not interfere with the right of public access to the boardwalk/foreshore area at all times.
- (4) Neither this section nor the requirements of section 8 for a plan of management affect the power of the Trust or a lessee to control or restrict access to any part of the Luna Park site (including the boardwalk/foreshore area) on grounds of health or safety. 30

6H Uses authorised by this Part do not limit other uses

The authorised uses provided for by this Part are in addition to and do not limit any other uses to which any part of the Luna Park site can be put.

6I Part not limited by object of Act

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Section 3 (Object of this Act) is not to be read as limiting the operation of this Part.

[2] Section 8 Plan of management

Omit "There must be public access to the Luna Park Reserve and along the foreshore of that Reserve at all times." from section 8 (3).

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Insert instead "There must be public access to the boardwalk/foreshore area (within the meaning of Part 2A) at all times."

[3] Section 8 (3)

Insert at the end of section 8 (3):

The erection of any permanent structure (not including structure in the nature of landscaping) on the land comprised in Lot 1186 in Deposited Plan 48335 is to be prohibited.

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[4] Section 22A

Insert after section 22:

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22A Savings, transitional and other provisions

Schedule 2 has effect.

[5] Schedule 1 Luna Park site

Insert at the end of the Schedule:

7 The whole of the land comprised in former Lot 11 in Deposited Plan 841533 (now comprising part of Lot 10 in Deposited Plan 847338), being the land added to the Luna Park site by notification in Gazette No 174 on 23 December 1994 at page 7622.

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- 8 The whole of the land comprised in Lot 1186 in Deposited Plan 48335, being the land formerly comprised in Lot 121 in Deposited Plan 870371 and being the land reserved for the purposes of public recreation by notification in Gazette No 93 of 22 August 1997 at page 6545. 5

[6] Schedule 2 Savings, transitional and other provisions

Insert after Schedule 1:

Schedule 2 Savings, transitional and other provisions 10
(Section 22A)

Part 1 Preliminary

1 Regulations

- (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the following Acts: 15
- Luna Park Site Amendment Act 1997*
- (2) A provision of a regulation authorised by this clause may, if the regulations so provide, take effect from the date of assent to the Act concerned or from a later date. 20
- (3) To the extent to which a provision of a regulation authorised by this clause takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 25
- (b) to impose liabilities on any person (other than the State or an authority of the State), in respect of anything done or omitted to be done before the date of its publication. 30

Part 2 Luna Park Site Amendment Act 1997

2 Addition of land to the Luna Park site

- (1) The addition of land to the Luna Park site by the insertion of items 7 and 8 in Schedule 1 has effect for the purposes of this Act on and from the relevant operative date for the land and not before. The relevant operative date for the land to which item 7 applies is 23 December 1994 and the relevant operative date for the land to which item 8 applies is 22 August 1997. 5
- (2) Accordingly, sections 5, 6 and 8 apply in respect of that land as if references in those sections to “the commencement of this section” were references to the relevant operative date for the land under this clause. 10