

First print



New South Wales

Homebush Motor Racing (Sydney 400) Bill 2008

Explanatory note

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

Overview of Bill

The object of this Bill is to facilitate the conduct of an annual V8 motor race (and associated races and events) at Homebush to be known as the Sydney 400 (*the race*).

Outline of provisions

Part 1 Preliminary

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 a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act and contains certain other interpretive provisions.

Part 2 Homebush Motor Racing Authority

Clause 4 provides for the constitution of the Homebush Motor Racing Authority (*the Authority*) as a corporation.

Clause 5 provides that the Authority is a NSW Government agency.

Clause 6 provides that the Authority is subject to the direction and control of the Minister.

Clause 7 provides that the Chief Executive Officer of the Authority is responsible for the day-to-day management of the affairs of the Authority.

Clause 8 provides for the establishment of an Advisory Board to provide advice to the Chief Executive Officer on the functions of the Authority under the proposed Act and any other matter referred to the Advisory Board by the Chief Executive Officer.

Schedule 1 contains provisions relating to membership and procedure of the Advisory Board.

Clause 9 provides for the establishment of an Event Implementation Committee to provide advice to the Advisory Board on matters referred to the committee by the Advisory Board.

Clause 10 sets out the functions of the Authority. The functions of the Authority relate to the preparation for, and the management and conduct of, the race.

Clause 11 enables the Authority to delegate the exercise of its functions.

Part 3 Conduct of Homebush motor racing

Division 1 Authorisations

Clause 12 enables the Minister to declare, by order, any area within Sydney Olympic Park (except those areas subject to a lease) as the area within which the race may be conducted (the *declared racing area*) and to designate the period during which the race may be conducted (the *Homebush motor racing period*).

Clause 13 enables the Minister to approve, by order, a person (the *race promoter*) to apply to the Authority for authorisation to conduct a V8 motor race and associated races and events (the *Homebush motor race*).

Clause 14 provides that an order under proposed section 12 or 13 may only be made to enable the conduct of the Homebush motor race during a single period each year. Clause 14 also makes provision for the expiry and publication of, and consultation requirements relating to, such orders.

Clause 15 provides that a V8 motor race is not authorised to be conducted under the proposed Act unless the Authority authorises the conduct of the race. Clause 15 gives the Authority power to authorise the race promoter to conduct the race. Any such authorisation may be given subject to conditions. The contravention of any authorisation relating to public safety, environmental protection or insurance is an offence.

Division 2 Carrying out works

Clause 16 requires the race promoter to make a description of the proposed works to be carried out in relation to the race (and the land on which, and period during which, such works are to be carried out) publicly available.

Clause 17 makes provision for the race promoter to apply to the Authority for authorisation to carry out works associated with the race. The Authority may grant authorisation to the race promoter to carry out works on land within a specified area (the *works area*) during a specified period (the *works period*). An authorisation may be granted subject to specified conditions.

Clause 18 requires the Authority to be satisfied that the race promoter has done the following before granting authorisation to carry out works:

- (a) consulted relevant parties, and taken into account any representations made by such parties,
- (b) demonstrated that it will take adequate steps to prevent or minimise any harm to the environment and disruption of other lawful activities at Sydney Olympic Park.

Clause 19 makes it clear that an authorisation must be obtained from the Authority (rather than the Sydney Olympic Park Authority or a council) to carry out works associated with the race.

Division 3 General provisions

Clause 20 makes it clear that the race promoter is responsible for the land within the declared racing area during the Homebush motor racing period and that the rights or obligations of any other person in or in relation to the land are suspended for that period (except to the extent that an agreement between the parties provides otherwise).

Clause 21 enables the race promoter, with the authorisation of the Authority, to fence or cordon off the whole or any part of the declared racing area for the purposes of the race during a period not falling within the Homebush motor racing period. The race promoter is responsible for land within such areas and the rights or obligations of any other person in or in relation to the land are suspended for the period that the land is fenced or cordoned off.

Clause 22 makes provision for the removal of unattended motor vehicles, by a police officer or authorised officer, from the declared racing area during the Homebush motor racing period.

Clause 23 requires the race promoter to carry out reinstatement work following the Homebush motor racing period to any land affected by the race or the activities of the race promoter in connection with the race.

Clause 24 requires a government agency to co-operate with the Authority in the exercise of the Authority's functions, to provide resources and assistance to the Authority if requested and notify the Authority of actions of the government agency that may impact adversely on the exercise of the Authority's functions. Clause 24

also empowers a government agency to comply with directions and requests of the Authority and empowers the Minister to direct certain government agencies to comply with a request, direction or decision of the Authority (after consultation with the Minister responsible for that other agency).

Clause 25 requires the race promoter to comply with a direction given by the Authority in relation to public safety and environmental protection matters associated with the race. Any authorisation given to the race promoter to conduct the race is subject to compliance with any such direction as a condition of the authorisation.

Part 4 Application of other laws

Clause 26 modifies the application of the *Environmental Planning and Assessment Act 1979* in respect of the conduct of the race and the carrying out of works as authorised by the proposed Act.

Clause 27 provides that any act that is authorised or permitted by or under the proposed Act is taken to be a defence to a prosecution for various offences contained in Part 8A of the *National Parks and Wildlife Act 1974*.

Clause 28 provides that a person who is authorised or permitted to do anything by or under the proposed Act may do that thing despite the fact that the doing of it is not authorised (when it is required to be) by, or is contrary to or inconsistent with the terms and conditions of an approval granted under, the *Local Government Act 1993*.

Clause 29 provides that a person who is authorised or permitted to do anything by or under the proposed Act may do that thing despite the fact that the doing of it is not authorised (when it is required to be) by, or is contrary to, or inconsistent with, the provisions of the *Sydney Olympic Park Authority Act 2001* or any regulations made under that Act.

Clause 30 provides that the provisions of the *Motor Vehicle Sports (Public Safety) Act 1985* and section 40 of the *Road Transport (Safety and Traffic Management) Act 1999* do not apply in respect of a Homebush motor race during a Homebush motor racing period. The provisions of the *Roads Act 1993* do not apply within the declared racing area during the Homebush motor racing period. The clause also provides that the provisions of the *Protection of the Environment Operations Act 1997* that relate to noise do not apply in respect of any activity that is carried out in accordance with any authorisation given under the proposed Act during the Homebush motor racing period.

Clause 31 provides that anything done or omitted to be done by a person pursuant to the proposed Act does not constitute a nuisance.

Clause 32 makes provision for the circumstances in which compensation is not payable by the State, the Authority or a local council in relation to the race and related matters.

Clause 33 makes provision for the circumstances in which compensation is not payable by the race promoter in relation to the race and related matters.

Clause 34 protects the exercise of certain functions of the Minister and the Authority from challenge or review before a court or administrative review body or from being restrained, removed or otherwise affected by any proceedings.

Part 5 Miscellaneous

Clause 35 prohibits a person (other than the race promoter or a person who has written consent from the race promoter) from using any official title or insignia in relation to the race for a commercial purpose. The race promoter may grant consent to the use of an official title or insignia subject to conditions including a condition requiring payment to the race promoter.

Clause 36 prohibits a person from filming the race for the purpose of profit or gain except with the consent of the race promoter. The race promoter is entitled to charge a fee for giving such consent.

Clause 37 enables the Minister to designate an area within which the Authority may control advertising on buildings and structures.

Clause 38 prohibits advertising in the airspace that is within the unaided sight of the declared racing area (and such other areas as may be prescribed by the regulations) within the period specified in the regulations, except with the authorisation of the Authority.

Clause 39 provides that the Authority is, for the purposes of the *Public Finance and Audit Act 1983*, the *Annual Reports (Departments) Act 1985*, or any other Act prescribed by the regulations, taken to be part of the Department of State and Regional Development.

Clause 40 makes provision for the effect of the proposed Act on contracts, instruments and other related matters.

Clause 41 provides that directors, and other persons concerned in the management of a corporation, who knowingly authorise or permit the contravention of a provision of the proposed Act are to be taken to have contravened that same provision.

Clause 42 provides that proceedings for an offence under the proposed Act or the regulations may be dealt with summarily before a Local Court.

Clause 43 enables the Governor to make regulations for the purposes of the proposed Act, including in relation to fees and charges, the regulation of the provision of services by the race promoter and the regulation of access to the declared racing area and the conduct of persons in that area.

Clause 44 is a formal provision that gives effect to the savings, transitional and other provisions set out in Schedule 2.

Clause 45 effects an amendment to the *Subordinate Legislation Act 1989*.

Clause 46 provides for the review of the proposed Act.

Schedule 1 Membership and procedure of Advisory Board

Schedule 1 contains provisions relating to the membership and procedure of the Advisory Board.

Schedule 2 Savings, transitional and other provisions

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.