

LUNA PARK SITE BILL 1990*

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to return the Luna Park site to the people of New South Wales and to ensure that Luna Park and the associated harbour foreshore remain available and accessible for the enjoyment of the people of New South Wales.

The Bill seeks to achieve its object by making provision:

- to vest the land comprising the Luna Park site in the Crown freed from all encumbrances (including the current lease for the purposes of an amusement centre)
- to dedicate that land under the Crown Lands Act 1989 for the purposes of public recreation, public amusement and public entertainment and, in accordance with that Act, to establish the land as the Luna Park Reserve
- to enable the lessee under the current lease of the Luna Park site to be compensated, if appropriate, for its interest under the lease
- to provide for the removal of improvements from the Luna Park site
- to enable the appointment of an arbitrator for the purposes of the proposed Act and to provide for the general application of the Commercial Arbitration Act 1984 to any arbitration proceedings
- to enable, either by the creation of a separate reserve or as an extension of the Luna Park Reserve, the dedication and reservation under the Crown Lands Act 1989 of the adjoining railway land and, to that end, to authorise the closure of the railway line running from St. Leonards to the Luna Park site.

* Amended in committee — see table at end of volume.

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PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act. The provisions of Parts 2 and 3 and Schedule 1 may be commenced retrospectively.

Clause 3 specifies the object of the proposed Act.

Clause 4 defines certain expressions used in the proposed Act, being "appointed day", "arbitrator", "improvement", "Luna Park lease", "Luna Park Reserve", "Luna Park site" and "the lessee".

PART 2 — DEDICATION OF THE LUNA PARK SITE

Clause 5 vests the land comprising the Luna Park site in the Crown freed from all encumbrances affecting the land and provides that the land is to be taken to be dedicated under the Crown Lands Act 1989 for the purposes of public recreation, public amusement and public entertainment.

Clause 6 applies the Crown Lands Act 1989 to the land comprising the Luna Park site, except as provided by the proposed Act or the regulations made under it.

PART 3— THE LUNA PARK RESERVE TRUST

Clause 7 establishes the Luna Park Reserve Trust and appoints the Trust as trustee of the land comprising the Luna Park site (the Luna Park Reserve).

Clause 8 requires the preparation of a plan of management for the Luna Park Reserve and specifies several matters which are required to be included in the plan of

PART 4— COMPENSATION

Clause 9 prevents the making of claims against the Crown in respect of the Luna Park site or the current lease of the land comprising the Luna Park site except as provided by the proposed Part.

Clause 10 enables the lessee under the Luna Park lease to claim compensation as a consequence of the determination of the lease or the vesting of the land in the Crown. Any such claim is to be made and determined solely under the proposed Act. The lessee has no entitlement to claim compensation if a court has determined that the lease has been determined by forfeiture or otherwise and that the lessee is not entitled to relief against forfeiture of the lease.

Clause 11 provides for the assessment of compensation. The maximum amount of compensation is to be the market value, immediately before this Bill was introduced into the Legislative Council, of the estate or interest of the lessee under the lease. The clause sets out the matters to be taken into consideration in assessing compensation.

Clause 12 provides for the appointment, by the Governor-in-council, of an arbitrator for the purposes of the proposed Act. The clause also requires the Minister to notify the lessee of the arbitrator's appointment.

Clause 13 provides for the making of a claim for compensation by the lessee. Any such claim is to be made within 3 months after notice of appointment of the arbitrator is given to the lessee by the Minister.

Clause 14 enables the lessee to remove improvements from the Luna Park site with the Minister's approval. The clause requires an application for approval to be made within 3 months after a date notified by the Minister to the lessee and enables the lessee to submit a matter to the arbitrator for determination if an approval is not granted within 1 month after it is applied for.

Clause 15 requires the lessee to remove improvements from the Luna Park site if directed to do so by the Minister. If an improvement is not removed as directed, it is to be forfeited to the Crown and no compensation is to be payable in respect of its forfeiture.

Clause 16 provides that the lessee is not to be required to make any payment towards the fees and expenses of the arbitrator, but is otherwise subject to any order for costs made by the arbitrator.

Clause 17 applies the provisions of the Commercial Arbitration Act 1984, with certain specified exceptions, to any arbitration under the proposed Act.

PART 5 — DEDICATION AND RESERVATION OF THE RAILWAY SITE

Clause 18 defines "railway site".

Clause 19 vests the land comprising the railway site in the Crown freed from all encumbrances affecting the land. It provides that part of the land is to be taken to be dedicated under the Crown Lands Act 1989 for public recreation and the remainder is to be taken to be reserved under that Act for the purpose of assessment of future uses.

Clause 20 applies the Crown Lands Act 1989 to the land comprising the railway site, except as provided by the proposed Act or the regulations made under it.

Clause 21 requires the preparation of a plan of management for the land comprising the railway site and specifies matter which is to be included in the plan of management.

Clause 22 enables the railway site to be amalgamated with the Luna Park Reserve.

Clause 23 excludes the application of section 93 of the Transport Administration Act 1988 to the railway line situated on the railway site and authorises the State Rail Authority to close the railway line.

PART 6—MISCELLANEOUS

Clause 24 authorises the Luna Park Reserve Trust to take vacant possession of the Luna Park Reserve.

Clause 25 makes it an offence for a person, without lawful authority, to remove structures from the land comprising the Luna Park site. The maximum penalty for the offence is 100 penalty units. Under section 56 of the Interpretation Act 1987, the value of a penalty unit is currently \$100.

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Clause 26 provides that proceedings for offences are to be taken summarily before a Local Court.

Clause 27 excludes the operation of section 344 of the Local Government Act 1919 to prevent the vesting, by default, of any land to which the proposed Act applies in a council.

Clause 28 provides for the repeal of the Luna Park Site Act 1981.

Clause 29 enables the Governor-in-Council to make regulations for the purposes of the proposed Act.

SCHEDULE 1 — LUNA PARK SITE

Schedule 1 describes the various parcels of land that comprise the Luna Park site.

SCHEDULE 2 — RAILWAY SITE

Schedule 2 describes the various parcels of land that comprise the railway site. Part 1 describes the whole of the land. Part 2 describes the land which is to be dedicated for public recreation. Part 3 describes the land which is to be reserved for the purpose of assessment of future uses.
