



New South Wales

Major Events Bill 2009

Explanatory note

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

Overview of Bill

The object of this Bill is to attract, support and facilitate the conduct and holding of major events in New South Wales. In particular, the Bill:

- (a) provides for the declaration of major events, and the designation of authorities responsible for those events (*responsible authorities*), by regulation, and
- (b) enables statutory authorities that manage, co-ordinate or regulate major events to be established by regulation (*major event authorities*), and
- (c) facilitates the conduct and holding of major events by:
 - (i) providing that responsible authorities for major events may give directions to government agencies involved in the provision of transport and other government services relevant to ensure a co-ordinated approach to the provision of those services, and
 - (ii) enacting specific provisions in relation to major events and major event venues and facilities to deal with traffic management, commercial and airspace controls and safety and crowd management, and

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

- (iii) ensuring that activities and land uses associated with major events can be carried out despite the requirements of other legislation such as the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993*.

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 the date of assent to the proposed Act.

Clause 3 sets out the objects of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act. The term **government agency** includes NSW Government agencies, Divisions of the Government Service, public authorities, local councils and State owned corporations, but does not include the NSW Police Force.

Part 2 Major events

Clause 5 provides that the regulations may declare an event to be a major event (a **major event**) for the purposes of the proposed Act. The Minister administering the proposed Act (**the Minister**) may recommend the making of such a regulation only if the Minister has considered:

- (a) the nature of the event, and
- (b) the number of people expected to attend or participate in the event, and
- (c) whether it is in the public interest for the event to be declared a major event.

Such a regulation must, amongst other things, describe the event and specify the period for which the declaration of the major event is in force.

Clause 6 provides that regulations declaring a major event must designate a responsible authority for the event. The responsible authority may be:

- (a) a major event authority or other government agency, or
- (b) a public official (within the meaning of the *Protected Disclosures Act 1994*).

Clause 7 provides for the appointment of advisory committees to the responsible authority for a major event.

Part 3 Major event authorities

Clause 8 enables regulations to establish a corporation and constitute it as a major event authority for the purposes of a specified major event (a **major event authority**). Such major event authorities may be a chief executive governed authority or a board governed authority. A constituting regulation under the proposed section must

specify a corporate name for the major event authority, declare whether the authority is a chief executive governed authority or a board governed authority and set out the functions of the authority in relation to the major event.

Clause 9 provides that affairs of a major event authority are to be managed and controlled by:

- (a) the chief executive of the authority for chief executive governed authorities, and
- (b) the chief executive, subject to and in accordance with any directions given to the chief executive by the board of the authority, for board governed authorities.

However, each major event authority is subject to the control and direction of the Minister in the exercise of its functions.

Clause 10 provides for the constitution of major event authority boards for board governed authorities. The regulations are to determine the number of members of such boards. **Schedule 1** to the proposed Act makes further provision regarding major event authority boards.

Clause 11 deals with the appointment of chief executives for major event authorities.

Clause 12 provides that major event authorities may be dissolved, amalgamated or have their names or nature of governance changed by regulation. **Schedule 2** to the proposed Act makes further provision regarding such dissolutions, changes and amalgamations.

Part 4 Facilitation of major events

Division 1 Application of Part

Clause 13 provides that a provision of the proposed Part does not apply in relation to a major event unless a regulation declares that it applies.

Division 2 Co-ordination and co-operation of government agencies

Clause 14 requires a government agency to co-operate with the responsible authority for a major event in the exercise of the responsible authority's functions, comply with any road and transport plans prepared by the responsible authority, provide resources and assistance to the responsible authority if requested and notify the responsible authority of actions of the government agency that may impact adversely on the exercise of the responsible authority's functions.

Clause 15 empowers a government agency to comply with directions and requests of a responsible authority and to enter into agreements with a responsible authority for the purposes of the proposed Act.

Clause 16 enables the Minister, by notice in writing given to a government agency prescribed by the regulations, to direct the agency to comply with a request, direction or decision of a responsible authority made or given under the proposed Act.

Clause 17 provides that the State Emergency Service, the NSW Rural Fire Service and other persons and bodies prescribed by the regulations may assist a responsible authority in the delivery of services for a major event, including (but not limited to) crowd management services and access control services for venues or facilities and traffic or pedestrian control.

Clause 18 provides for the resolution of disputes between a responsible authority and a government agency concerning the operation of any provision of the proposed Act.

Division 3 Management of roads and traffic

Subdivision 1 Transport areas

Clause 19 authorises the Minister to declare transport areas to enable integrated road and transport services to be provided for a major event.

Clause 20 enables a responsible authority to direct a government agency that has transport or traffic related functions in a transport area to exercise those functions in a particular way.

Subdivision 2 Road transport legislation

Clause 21 defines certain terms used in the proposed Subdivision.

Clause 22 states that the proposed Subdivision is to be construed as if it formed part of the road transport legislation (within the meaning of the *Road Transport (General) Act 2005*).

Clause 23 enables major event lane signs and end major event lane signs to be prescribed by regulations. Such signs are taken to be prescribed traffic control devices for the purposes of the *Road Transport (Safety and Traffic Management) Act 1999*.

Clause 24 makes it an offence for a person, who does not fall within specified exceptions, to drive in a major event lane during a major event period.

Clause 25 enables a responsible authority to issue a permit authorising a person to drive in a major event lane and gives police officers powers to inspect and confiscate such permits.

Clause 26 allows the Roads and Traffic Authority (*the RTA*) to close a road, at the direction of a responsible authority, within a transport area during a major event period in order to provide integrated road and transport services for the major event. Seven days' notice has to be given of a proposed closure.

Clause 27 enables a responsible authority to prepare a traffic management plan for roads on which activities associated with a major event are to be conducted. A traffic management plan must be approved by the RTA. A responsible authority may regulate traffic and close roads (whether or not within a transport area) in accordance with a traffic management plan.

Clause 28 enables the RTA, at the direction of a responsible authority, to close a road (whether or not within a transport area) without public notice for not more than 3 consecutive days during a major event period.

Clause 29 provides that any road closures are to be for periods no longer than is necessary to serve the relevant purpose.

Clause 30 makes it an offence for drivers and pedestrians to enter a road closed to them under the proposed Subdivision by a sign or barrier. It is also an offence for a driver on a closed road not to remove his or her vehicle, or a pedestrian on a closed road to remain, if given a direction to leave by an authorised officer.

Clause 31 provides that a road does not cease to be a road for the purposes of any law while it is closed under the proposed Subdivision.

Clause 32 enables a responsible authority to declare that section 76 of the *Road Transport (Safety and Traffic Management) Act 1999* applies to unattended motor vehicles and trailers standing unlawfully, or constituting a danger or obstruction, in certain areas during a major event period. The effect of such a declaration is to enable the RTA to tow away the vehicle or trailer.

Clause 33 enables the responsible authority to declare that section 76 of the *Road Transport (Safety and Traffic Management) Act 1999* applies to motor vehicles or trailers that are illegally parked on roads specified in the declaration during a major event period.

Clause 34 requires declarations under proposed sections 32 and 33 to be published in a newspaper circulating in New South Wales.

Clause 35 enables a responsible authority to direct an authorised officer (within the meaning of section 76 of the *Road Transport (Safety and Traffic Management) Act 1999*) to remove an unattended motor vehicle or trailer within a transport area during a major event period if the responsible authority considers it necessary to do so.

Clause 36 makes it clear that penalty notices may be issued under the road transport legislation (within the meaning of the *Road Transport (General) Act 2005*) in relation to offences created by the proposed Subdivision.

Division 4 Commercial and airspace controls

Clause 37 makes it an offence to sell or distribute articles of a class prescribed by the regulations, without a responsible authority's approval, during a major event period in certain areas close to a major event venue or facility or a transport facility or interchange defined by order of the Minister. If a person who is selling or distributing prescribed articles without approval fails or refuses to comply with a direction by an

authorised officer to remove the articles to a place outside the relevant area, the articles are forfeited to the Crown.

Clause 38 deals with the control of aircraft within airspace over certain major events.

Clause 39 controls certain unauthorised advertising material on buildings and structures, and enables a person authorised by a responsible authority to cover, obliterate or remove that unauthorised advertising material at certain sites (as specified by the Minister by order published in the Gazette).

Clause 40 deals with the control of advertising in airspace visible from certain major event venues or facilities.

Clause 41 makes it an offence to engage in certain commercial and other conduct at a major event venue or facility, except as authorised by the responsible authority.

Clause 42 makes it an offence for a person to use any official title or insignia of a major event for a commercial purpose without the written consent of the responsible authority concerned.

Division 5 Safety and crowd management at major events

Clause 43 gives the responsible authority for a major event a number of functions in relation to safety and crowd management at the event.

Clause 44 makes it an offence for a person at a major event venue or facility:

- (a) to use indecent, obscene or threatening language, or
- (b) to behave in an offensive or indecent manner, or
- (c) to cause serious alarm or affront to a person by disorderly conduct, or
- (d) to obstruct a person in the performance of the person's work or duties, or
- (e) to fail to comply with a reasonable request or direction given for the purpose of securing good order and management and enjoyment of a major event venue or facility, or any part of a major event venue or facility, by the responsible authority concerned or an authorised officer.

Clause 45 provides that a person's entry to a major event venue or facility (or any part of a major event venue or facility) is subject to the condition that the person must undergo specified searches if requested. A failure to comply with such a request is not an offence. However, a person who refuses such a request may be excluded from entry to the major event venue or facility or part of the major event venue or facility concerned.

Clause 46 provides that an authorised officer may direct a person to leave a part of a major event venue or facility if the person is not authorised by a ticket or permit to be in that part of the major event venue or facility or the officer believes on reasonable grounds that:

- (a) the person is contravening or has contravened any provision of the proposed Act or the regulations or is committing or has committed any other offence at the major event venue or facility, or

- (b) the person is failing or has failed to comply with a notice or direction referred to in proposed section 43 (Crowd management), or
- (c) the person is failing or has failed to comply with a request:
 - (i) to open any bag, container or other thing in the person's possession in order that its contents may be inspected, and
 - (ii) to permit any thing in the person's possession, and the contents of any such thing, to be inspected, or
- (d) the person is causing a significant disruption or inconvenience or behaving in an offensive manner or in a manner likely to endanger the person or another person, or
- (e) the person is about to contravene a provision of the proposed Act or commit any other offence at a major event venue or facility.

The proposed section makes it an offence to fail to comply with such a direction. A person who fails to comply may be removed from the major event venue or facility by an authorised officer. Reasonable force may be used to effect the person's removal.

Clause 47 makes it an offence for a person to enter or remain on a playing field or other competition area within a sportsground that is a major event venue or facility unless the person:

- (a) is a participant in a sport or event held with the authorisation of the responsible authority, or
- (b) is engaged in the control or management of any such sport or event, or
- (c) has, or is a member of a class of persons that has, been authorised by the responsible authority to enter the playing field or other competition area.

Clause 48 provides that a responsible authority for a major event may ban a person from entering any major event venue or facility (or part of a major event venue or facility) for such period (not exceeding 6 months) as the responsible authority determines if the responsible authority is of the opinion that a person has contravened a provision of the proposed Act or any regulations made under it.

Clause 49 provides that the responsible authority may take a photograph or make another form of image of a person who is removed from a major event venue or facility under the proposed Act.

Division 6 Environmental Planning and Assessment Act 1979

Clause 50 states that the proposed Division is to be construed as if it formed part of the *Environmental Planning and Assessment Act 1979*.

Clause 51 allows a person to do anything on land, despite the terms of an environmental planning instrument, development consent or approval under Part 3A of the *Environmental Planning and Assessment Act 1979* applying to the land, if

authorised by or under the proposed Act or a policy, strategy or plan prepared under the proposed Act.

Division 7 Local Government Act 1993

Clause 52 states that the proposed Division is to be construed as if it formed part of the *Local Government Act 1993*.

Clause 53 allows a person to do anything on land, despite the terms of an approval under the *Local Government Act 1993* applying to the land, if authorised by or under the proposed Act or a policy, strategy or plan prepared under the proposed Act.

Clause 54 enables community land to be used, with the approval of the relevant local council, for a major event or temporary major event venue or facility despite the provisions of the *Local Government Act 1993* or the terms of any instrument under that Act, including a plan of management, applying to the land.

Clause 55 facilitates, during a major event period, the exercise of functions by an authorised employee of a local council on behalf of another local council.

Division 8 Protection of the Environment Operations Act 1997

Clause 56 states that the proposed Division is to be construed as if it formed part of the *Protection of the Environment Operations Act 1997*.

Clause 57 will enable a responsible authority for a major event, after consulting with the Environment Protection Authority, to declare that a person may carry out activities associated with the major event on such days during the major event period and during such hours as are specified in the declaration. Such a declaration has effect despite the terms of any other Act or statutory instrument, any approval or other authorisation given under any other Act or statutory instrument, or any restriction affecting the land specified in the declaration.

Clause 58 provides that the responsible authority for a major event is in relation to the emission of noise to be the appropriate regulatory authority for the purposes of the *Protection of the Environment Operations Act 1997* in relation to the activities to which a declaration under proposed section 57 applies and the premises on which those activities are carried out. Proceedings under that Act relating to the emission of noise cannot be taken in respect of anything done under the authority of a declaration.

Division 9 Miscellaneous

Clause 59 makes it an offence for a person to operate a car park during a major event period within 5 kilometres of any major event venue or facility if its operation is unlawful under the *Environmental Planning and Assessment Act 1979*.

Clause 60 enables regulations to specifically authorise certain activities undertaken under the proposed Act for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and of the *Competition Code of New South Wales*. Section 51 of that Act and of that Code empowers the making of such authorisations

by State legislation, with the result that the authorised matters will be disregarded in deciding whether a person has contravened Part IV of that Act and that Code. Part IV of that Act deals with restrictive trade practices.

Clause 61 provides that anything done pursuant to the proposed Act and the regulations does not constitute a nuisance.

Clause 62 provides that compensation is not payable by or on behalf of the State, an authority of the State, a local council or an officer, employee or agent of the State, an authority of the State or a local council, for an act or omission that is a major event-related matter or that arises (directly or indirectly) from a major event-related matter (being the holding of any major event, the administration or purported administration of the proposed Act or the exercise or purported exercise of functions under the proposed Act).

Clause 63 provides that the responsible authority for a major event may bring proceedings in the Supreme Court for an order to remedy or restrain a contravention (or a threatened or an apprehended contravention) of the proposed Act or certain agreements, or classes of agreements, prescribed by the regulations.

Part 5 Miscellaneous

Clause 64 provides for the way in which proceedings for offences against a provision of the proposed Act are to be dealt with.

Clause 65 provides that the operation of the proposed Act is not to be regarded as a breach of contract or confidence or otherwise as a civil wrong or giving rise to any remedy under any contract or other instrument.

Clause 66 protects certain specified persons from personal liability in respect of acts done in good faith for the purpose of executing the proposed Act.

Clause 67 provides that the Minister may delegate certain of the Minister's functions conferred or imposed by or under the proposed Act to specified authorised persons.

Clause 68 provides that a responsible authority may delegate certain of the responsible authority's functions conferred or imposed by or under the proposed Act to specified authorised persons.

Clause 69 provides for the recovery of money due to a responsible authority under the proposed Act.

Clause 70 provides that a responsible authority is to issue identification cards to authorised officers (other than police officers) carrying out functions under the proposed Act.

Clause 71 ensures that provisions of the proposed Act that are to be construed as if they formed part of another Act or statutory instrument may be enforced in accordance with the enforcement provisions of that other Act or statutory instrument.

Clause 72 enables the Governor to make regulations for the purposes of the proposed Act, including for or with respect to the following:

- (a) the fees and charges that may be imposed for the purposes of the proposed Act,

- (b) regulating the use by the public of, and the conduct of the public in or on, major event venues and facilities,
- (c) regulating, restricting or prohibiting the bringing of liquor into, or consumption of liquor within, a major event venue or facility during a major event period,
- (d) regulating the provision of services by responsible authorities,
- (e) requiring the payment of fares or other charges for the use of any facility operated or service provided by a responsible authority or a government agency for the purposes of the proposed Act.

Clause 73 enables penalty notices to be issued for prescribed offences against the proposed Act or the regulations.

Clause 74 deals with the commission of offences under the proposed Act by corporations.

Clause 75 provides for the review of the proposed Act in 5 years.

Schedule 1 Constitution and procedure of board governed major event authorities

Schedule 1 contains provisions relating to the constitution and procedure of board governed major event authorities.

Schedule 2 Dissolutions, amalgamations and changes of name or nature of governance of major event authorities

Schedule 2 contains provisions dealing with dissolutions, amalgamations and changes of name or nature of governance of major event authorities.

Schedule 3 Savings, transitional and other provisions

Schedule 3 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 4 Amendment of Sporting Venues (Invasions) Act 2003 No 44

Schedule 4 [2] substitutes section 7 of the *Sporting Venues (Invasions) Act 2003*. Section 7 currently provides that a person who is banned under certain other legislation from entering a sporting venue as a result of a contravention of a law at a Rugby World Cup match is also banned from entering all Rugby World Cup matches in the State.

The substituted section extends that ban to sporting venues that are major event venues for a major event (within the meaning of the proposed Act) that is a sporting competition. The effect of the substituted section is that a person who is banned under certain specified provisions from entering a major event venue as a result of a contravention of a law at a major event match is (while so banned) also banned from entering any other venue of that major event on any day that a major event match is held there.

Schedule 4 [1] makes a consequential amendment.