



New South Wales

# Warnervale Airport (Restrictions) Act 1996 No 57

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New South Wales

## **Warnervale Airport (Restrictions) Act 1996 No 57**

Act No 57, 1996

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An Act to provide for restrictions on aircraft movements, and on the length and site of any runway, at Warnervale Airport; and for other purposes.  
[Assented to 1 July 1996]

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**The Legislature of New South Wales enacts:**

## **Part 1 Preliminary**

### **1 Name of Act**

This Act is the *Warnervale Airport (Restrictions) Act 1996*.

### **2 Commencement**

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

### **3 Definitions**

In this Act:

*aircraft* means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider.

*aircraft operator*, in relation to an aircraft, means a person who conducts an aircraft operation using the aircraft.

*airport operator* means the person who operates Warnervale Airport.

*Warnervale Airport* means any airport situated on land at Warnervale (being land comprised in Lot 12 in DP 605250, Lot 24 in DP 53936, Lots 1 to 4 in DP 239691, Lots 22 and 23 in DP 773449 and Lot 27 in DP 228750).

## **Part 2      Restrictions on aircraft movements**

### **4    Application of Part**

- (1) This Part does not apply to take offs and landings of aircraft at Warnervale Airport on an existing runway.
- (2) An existing runway is a runway that was constructed before the commencement of this section and that is not extended at any time after the commencement of this section.

### **5    Curfew**

- (1) There is a curfew period for Warnervale Airport that starts at 10 pm on each day and ends at 6.30 am on the next day. Aircraft must not take off from or land at Warnervale Airport during the curfew period.
- (2) An aircraft operator must not cause or permit an aircraft to take off or land in contravention of this section.  
Maximum penalty: 100 penalty units.
- (3) The airport operator must not cause or permit an aircraft to take off or land in contravention of this section.  
Maximum penalty: 100 penalty units.
- (4) This section is not contravened as a result of an aircraft taking off or landing in the circumstances described in section 7 (Emergencies). In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the defendant to establish that an aircraft took off or landed in those circumstances.
- (5) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, vary the curfew period for Warnervale Airport. The curfew period as varied has effect in place of the curfew period specified in subsection (1).

### **6    Limit on number of daily take offs and landings**

- (1) The total number of take offs and landings of aircraft at Warnervale Airport (added together) occurring between the end of the curfew period on a day and the start of the next curfew period on that day must not exceed 88.

- (2) The airport operator must not cause or permit an aircraft to take off or land if the take off or landing would result in a contravention of this section.

Maximum penalty: 100 penalty units.

- (3) An aircraft taking off or landing in the circumstances described in section 7 (Emergencies) is to be disregarded for the purposes of this section. In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the airport operator to establish that an aircraft took off or landed in those circumstances.

- (4) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, change the number 88 referred to in subsection (1) to any other number. The number as changed has effect in place of the number 88 in subsection (1).

## **7 Emergencies**

The curfew, and the limit on the number of daily take offs and landings of aircraft at Warnervale Airport, do not apply to an aircraft that takes off or lands at Warnervale Airport if

- (a) the aircraft is being used for or in connection with a search and rescue operation, a medical emergency or a natural disaster, or
- (b) the pilot of the aircraft has declared an in-flight emergency, or
- (c) the aircraft has insufficient fuel to be diverted to another airport, or
- (d) there is an urgent need for the aircraft to take off or land to ensure the safety or security of the aircraft or any person or to avoid any damage to property.

## **Part 3      Restrictions on length and site of runway**

### **8    Limit on length of runway**

- (1) The maximum length for any runway (existing or proposed) at Warnervale Airport is 1 200 metres.
- (2) The airport operator must not cause or permit an aircraft to take off from or land at a runway at Warnervale Airport if the runway exceeds the maximum length for the runway.

Maximum penalty: 100 penalty units.

- (3) The maximum length for any runway at Warnervale Airport may be increased to up to 1 800 metres by the Minister as provided for by this section.
- (4) Wyong Council may apply in writing to the Minister for such an increase.
- (5) The Minister may, after completion of the review and noise study referred to in Part 4, grant the increase or refuse to grant the increase.
- (6) The Minister grants an increase by specifying the increased maximum length in an order published in the Gazette. The increased maximum length so specified has effect in place of the maximum length specified in subsection (1) in respect of the runway concerned.

### **9    Site of runway**

- (1) A person must not carry out any work for the construction of a runway at Warnervale Airport, unless the site of the runway has been approved in writing by the Minister prior to the commencement of the work.

Maximum penalty: 100 penalty units.

- (2) This section extends to work that was started before the commencement of this section and for that purpose a reference in this section to the commencement of the work is to be read as a reference to the continuation of the work after the commencement of this section.

## **Part 4 Review of proposal to expand operations at Warnervale Airport**

### **10 Application of Part**

- (1) This Part applies only if Wyong Council applies in writing to the Minister for the grant of an increase in the maximum length for an existing or proposed runway at Warnervale Airport.
- (2) No more than one such application can be made unless the Minister otherwise directs.

### **11 Independent review of proposal**

- (1) The Minister is to appoint an independent person or persons to review any environmental impact study, and any other study, referred to the person or persons by the Minister that relates to a proposal to extend the runway at Warnervale Airport or to construct a new runway at that Airport.
- (2) The Minister is to put in place arrangements for community input on the review.
- (3) The person or persons appointed to conduct the review are to be appointed by the Minister following consultation with Wyong Council.

### **12 Noise study**

- (1) The Minister is to make arrangements for the carrying out of a new study of the impact of aircraft noise arising from proposed operations of Warnervale Airport.
- (2) A person appointed to conduct the study must be an expert in the field and must be appointed by the Minister following consultation with Wyong Council.
- (3) The arrangements for the conduct of the noise study are to include arrangements for a survey, conducted independently of Wyong Council, of all residents within a 7.5 kilometre radius of any runway or proposed runway at Warnervale Airport. Those arrangements are to include arrangements for those residents to be informed of the noise study and invited to make submissions on the advantages and disadvantages of the proposed operations of Warnervale Airport.



## **Part 5      Miscellaneous**

### **13 Injunction to prevent contravention**

- (1) If the Supreme Court is satisfied, on application, that a person has engaged in or is proposing to engage in conduct that constitutes or would constitute a contravention of this Act, the Court may grant an injunction, in such terms as the Court determines to be appropriate, restraining the person from engaging in any conduct and, if in the opinion of the Court it is desirable to do so, requiring that person to do any act or thing.
- (2) An application under this section may be brought by any person, whether or not any right of the person has been infringed by or as a consequence of the contravention.
- (3) If in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of the application.
- (4) The Court may rescind or vary an injunction granted under this section.
- (5) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
  - (a) whether or not it appears to the Court that the person intends to engage again, or continue to engage, in conduct of that kind, and
  - (b) whether or not the person has previously engaged in conduct of that kind, and
  - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.
- (6) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised:
  - (a) whether or not it appears to the Court that the person intends to fail again, or to continue to fail, to do an act or thing, and

- (b) whether or not the person has previously failed to do that act or thing, and
  - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person fails to do that act or thing.
- (7) If the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

#### **14 Evidence**

In proceedings against a person for an offence against this Act, or for an injunction under section 13, if it is established that an aircraft took off or landed in contravention of a provision of this Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted that take off or landing.

#### **15 Proceedings for offences**

Proceedings for an offence against this Act are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

#### **16 Regulations**

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

#### **17 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

[Member's second reading speech made in—  
Legislative Assembly on 20 June 1996  
Minister's second reading speech made in—  
Legislative Council on 25 June 1996]