

[Act 1996 No 74]



New South Wales

Hawkesbury Racecourse Bill 1996

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to provide for the continuation of the Hawkesbury Racecourse as a public reserve for horseracing and other public purposes, and
- (b) to clarify its status as a reserve under the *Crown Lands Act 1989*, and the status of the existing racecourse trust as a reserve trust under Part 5 of the *Crown Lands Act 1989*, and
- (c) to remove any impediment to the incorporation of the Hawkesbury Race Club, and
- (d) to make provision for the transfer of the assets, rights and liabilities of the unincorporated club to the incorporated club once it is formed, and
- (e) to repeal the *Hawkesbury Racecourse Act of 1890*.

Hawkesbury Racecourse is located on land that was granted in 1883 to trustees to hold for racing and other public recreational purposes. An unincorporated association called the Hawkesbury Race Club has conducted the races since those times.

The *Hawkesbury Racecourse Act of 1890* made it possible for the trustees to grant leases of up to 21 years (for example to the club) for the purposes of the grant, and gave the club various powers including that of making by-laws. The Act did not directly affect the club's status as an unincorporated association, but made its chairman a corporation sole. It conferred on the chairman various functions, notably those of holding the club's assets in trust for the club and being the one to sue and be sued on behalf of the club. The assets of the club included infrastructure installed at the racecourse and, more importantly, the lease of the land on which the racecourse stands.

The trustees of the land on the one hand; and the club (and its chairman) on the other, were clearly two different entities. The land is now treated as a reserve under the *Crown Lands Act 1989*, but this change was not reflected (and did not have to be reflected) by amending the 1890 Act. The nature of the club (and its chairman) and their respective roles have not changed over the past century.

This Bill aims to make it clear that the land is to be treated as a reserve under the *Crown Lands Act 1989* and that the trustees are to be a reserve trust within the meaning of Part 5 of that Act and consequently have the powers, duties and functions of a trust under that Part. The powers include a power to make by-laws and the duties include various duties of accountability. The Bill also aims to remove any obstacle implicit in the 1890 Act to the incorporation of the club under the normal laws of incorporation and to allow the club itself to hold property and to sue and be sued in its own name.

Outline of provisions

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 to be proclaimed.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 widens the purposes for which the land of the Hawkesbury Racecourse may be used, to include use:

- (a) as a racecourse, and
- (b) as a training ground, and
- (c) as a sports ground, and
- (d) for any form of public amusement or public purpose declared by the Governor-in-Council.

Clause 4 also revokes the 1883 deed-poll that granted the same land to various trustees and confirms and continues the application of Part 5 of the *Crown Lands Act 1989* to the racecourse land.

Clause 5 confirms and continues the present reserve trust and its membership for the racecourse land under the *Crown Lands Act 1989*.

Clause 6 removes any impediment to the incorporation of the Hawkesbury Race Club contained in the 1890 Act and enables the Minister to declare that club, once incorporated, to be the club for the purposes of the new Act.

Clause 7 automatically vests the assets, rights and liabilities of the former club (actually held on its behalf by its chairman) in the newly incorporated club. This is to take effect immediately on the publication of the Minister's declaration under proposed section 6. Clause 7 also sets out the conditions under which the vesting takes place, including a number of conditions that are typical of corporatisation legislation.

Clause 8 declares that no stamp duty is to be charged on any transfer related to that vesting.

Clause 9 provides for the repeal of the 1890 Act (and any by-laws under it), but only on a proclaimed date that is no earlier than the date of the publication of the declaration under proposed section 6.

Clause 10 enables saving, transitional and other regulations to be made.

Clause 11 is the standard provision requiring the Minister to review the appropriateness of the Act 5 years after the date of assent to the Act.

Schedule describes the land of the Hawkesbury Racecourse.