

# Caulfield Racecourse Reserve Bill 2017

## Introduction Print

### EXPLANATORY MEMORANDUM

#### Clause Notes

##### Part 1—Preliminary

- Clause 1 states the purposes of the Bill. The purposes of the Bill are—
- (a) to establish the Caulfield Racecourse Reserve Trust (Trust) to manage the Caulfield Racecourse Reserve for racing, recreation and public park purposes; and
  - (b) to confer functions, duties and powers on the Trust in relation to the management of the Caulfield Racecourse Reserve, including leasing and licensing powers; and
  - (c) to allow the Minister to give directions to the Trust in relation to the carrying out of the Trust's functions, duties and powers; and
  - (d) to allow the Minister to appoint, suspend and remove members of the Trust; and
  - (e) to create a mechanism to define certain areas of the Caulfield Racecourse Reserve that may be used for each of the purposes for which the land is permanently reserved; and
  - (f) to provide for other related matters in relation to the management of the Caulfield Racecourse Reserve; and
  - (g) to revoke a Crown grant and provide for the dissolution of the appointment of the trustees under the grant; and

- (h) to make consequential amendments to the **Conservation, Forests and Lands Act 1987**, the **Cultural and Recreational Lands Act 1963** and the **Filming Approval Act 2014**.

Clause 2 provides for the commencement of the Bill. Part 1 Preliminary, Part 7 Revocation of Crown grant—Caulfield Racecourse Reserve land and Schedule 1—Caulfield Racecourse Reserve will commence upon the day after Royal Assent of the Bill. This will enable the revocation of the existing Crown grant and dissolution of the trustees appointed thereunder. It will also preserve certain leases and related interests issued by the trustees.

The remaining provisions of the Bill will come into operation on a day or days to be proclaimed. If not proclaimed to commence earlier, they will come into operation on 1 August 2018.

Clause 3 defines terms used in the Bill including—

*Caulfield Racecourse Reserve event*, which means an event to which an event declaration applies;

*corporate planning document*, which means—

- (a) a statement of corporate intent; or
- (b) a corporate plan; or
- (c) a business plan;

*Council*, which has the same meaning as in the **Local Government Act 1989**;

*event declaration*, which means a declaration made by the Trust under clause 33 in respect of a Caulfield Racecourse Reserve event;

*film friendly principles*, which has the same meaning as in the **Filming Approval Act 2014**;

*film permit*, which has the same meaning as in the **Filming Approval Act 2014**;

*land use order*, which means an order made by the Minister under clause 32;

*local Council*, which means the Council that governs the municipal district in which the Reserve is located;

***municipal district*** which has the same meaning as in the **Local Government Act 1989**;

***Reserve***, which means the land described in items 1, 2 and 3 of Schedule 1 to the Bill, subject to any authorised additions, excisions or revocations;

***setting aside determination*** which means a determination under section 34(2);

***strategic management plan***, which means a strategic management plan made by the Trust under clause 28;

***Trust***, which means the Caulfield Racecourse Reserve Trust established by clause 5;

***Victoria Amateur Turf Club (incorporating Melbourne Racing Club)*** has the same meaning as in the **Victoria Amateur Turf Club (incorporating Melbourne Racing Club) Act 1963**.

- Clause 4 provides that the Bill is filming approval legislation within the meaning of the **Filming Approval Act 2014**. The **Filming Approval Act 2014** sets out film friendly principles that public agencies must comply with when performing any functions or duties, or exercising any powers, under any filming approval legislation in relation to commercial filming on public land.

## **Part 2—Caulfield Racecourse Reserve Trust**

- Clause 5 establishes the Caulfield Racecourse Reserve Trust.

Subclause (2) provides that the Trust is a body corporate with perpetual succession, has a common seal, may sue or be sued in its corporate name, is capable of acquiring, holding and disposing of real and personal property, and is capable of doing or suffering anything which by law a body corporate may do or suffer.

Subclause (3) provides that the common seal must be kept as directed by the Trust and must not be used except as authorised by the Trust.

Subclause (4) provides that all courts must take judicial notice of the imprint of the common seal of the Trust on a document, and, until the contrary is proved, must presume that the document was properly sealed.

Clause 6 specifies the functions and powers of the Trust. These functions are—

- (a) to be responsible for the planning, development, management, operation, care, promotion and use of the Reserve for the purposes of racing, recreation and a public park;
- (b) to undertake proper financial management of the Reserve;
- (c) to accept appointment and act as a committee of management of Crown land under the **Crown Land (Reserves) Act 1978**; and
- (d) to perform any other function conferred on or given to the Trust by or under this Bill or any other Act.

Subclause (2) provides that the Trust must not accept appointment and act as a committee of management under the **Crown Land (Reserves) Act 1978** in respect of land outside the Reserve without the approval of the Minister and the Minister responsible for administering the **Racing Act 1958**.

Subclause (3) provides that the Trust has all powers necessary to perform its functions and duties under this Bill.

Clause 7 specifies the membership of the Trust.

Subclause (1) provides that the Minister is to appoint a minimum of 5 but not more than 7 members to the Trust.

Subclause (2) provides that the Minister must appoint one of the Trust members as chairperson of the Trust.

Subclause (3) provides the criteria to be applied by the Minister in making an appointment to the Trust. The Minister must consider a person's capacity to perform the functions of the Trust and any qualifications, skills or experience that the Minister considers relevant to the management of the Reserve.

Clause 8 sets out terms and conditions of the appointment of members to the Trust.

Subclause (1) provides that a member is appointed for a term not exceeding 3 years, with the exact term to be specified in the instrument of appointment. A member may be reappointed and

is otherwise subject to the terms and conditions specified in the member's instrument of appointment.

Subclause (2) provides that a member is entitled to receive any remuneration, fees or allowances fixed by the Minister from time to time (unless the member is a member of the Legislative Assembly or the Legislative Council).

- Clause 9 provides for resignation and removal of members of the Trust.
- Subclause (1) enables a member to resign in writing sent to the Minister.
- Subclause (2) enables the Minister to remove a member of the Trust at any time.

- Clause 10 specifies the circumstances when the office of a member becomes vacant.
- A vacancy arises if the member becomes bankrupt, is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence, is absent from 3 consecutive meetings of the Trust without the prior leave of the Trust or resigns or is removed under clause 9.

- Clause 11 provides for the appointment of acting members of the Trust.
- Subclause (1) enables the Minister to appoint a person to act as a member of the Trust during a period of vacancy, where the vacancy arises under clauses 9 or 10 or where a member is unable to perform their duties because of illness or some other reason.
- Subclause (2) provides that a person appointed as an acting member has the rights, powers and duties of the member for whom that person acts. An acting member is entitled to receive any remuneration, fees or allowances fixed by the Minister from time to time for the member for whom that person acts.

- Clause 12 provides that any defect or irregularity in the appointment of a member, or vacancy in membership of the Trust, will not invalidate a decision of the Trust. In addition, a decision will not be invalid because the occasion for an acting member to act has not arisen.

Clause 13 provides for declarations of pecuniary or other interests by members of the Trust.

Subclause (1) provides that a member must, as soon as practicable after the relevant facts have come to a member's knowledge, declare at a meeting the nature of any direct or indirect pecuniary interest, or conflict of interest, the member has in relation to a matter being considered or about to be considered by the Trust.

Subclause (2) requires a person presiding at a meeting at which a declaration is made to record the declaration in the minutes of the meeting.

Subclause (3) provides that a member who has made a declaration under subclause (1) must not be present during any deliberation with respect to that matter (unless the Trust otherwise directs) or vote on that matter.

Subclause (4) disallows any subsequent vote by a member on a matter that is the subject of any declaration made by that member.

Clause 14 provides that membership of the Trust is not an office or place of profit under the Crown, and will not prevent a member from sitting, voting, being elected or continuing as a member of the Legislative Assembly or Legislative Council. However, clause 8(2) prevents a member who is a member of the Legislative Assembly or the Legislative Council from receiving remuneration for the performance of their duties as a member of the Trust.

Clause 15 prescribes the procedures for meetings of the Trust.

Subclause (1) provides that the chairperson must preside at a meeting of the Trust at which the chairperson is present.

Subclause (2) requires the members present at a meeting to elect one of those members to preside at the meeting if the chairperson is absent.

Subclause (3) provides that a majority of members for the time being constitutes a quorum.

Subclause (4) requires that a question arising at a meeting be determined by a majority of votes of members present and voting.

Subclause (5) provides that the person presiding at a meeting has a deliberative vote and, in the event of an equality of votes on any question, a second or casting vote.

Subclause (6) provides that the Trust may allow members to participate in a meeting by electronic or other means of communication.

Subclause (7) allows the Trust to regulate its own meeting proceedings, subject to the provisions of this Bill.

Clause 16 requires the Trust to hold at least 4 meetings in any calendar year.

Subclause (2) provides that the chairperson is responsible for convening meetings.

Subclause (3) requires the chairperson to convene a meeting if a written request to hold a meeting is made by at least 2 members.

Clause 17 enables the Trust to appoint a chief executive officer of the Trust.

Subclause (2) provides that the chief executive officer is to assist the Trust perform its function and duties and exercise its powers under this Bill.

Subclause (3) provides that the chief executive officer has the power to do all things necessary to be done for, in connection with, or incidental to the performance of the chief executive officer's functions.

Clause 18 enables the Trust to employ any employees that are necessary for the performance of its functions and duties and exercise of its powers under this Bill.

Subclause (2) enables the Trust to engage any consultants required to perform its functions and duties and exercise of its powers under this Bill.

Subclause (3) enables the Trust to determine the terms and conditions of any appointment, employment or engagement.

Clause 19 provides the Minister with power to give directions to the Trust.

Subclause (1) provides that the Minister may give written directions to the Trust in relation to the performance of its functions and duties and the exercise of its powers under this Bill. This includes the power to give directions to the Trust in relation to the expenditure of funds.

Subclause (2) provides that the Minister must give the Trust 14 days' written notice of the Minister's intention to give a direction under subclause (1).

Subclause (3) requires the Trust to comply with a direction from the Minister.

Subclause (4) provides that the Trust must publish any direction given by the Minister in the Government Gazette within 14 days of receiving the direction. The Trust must also publish the direction on its internet site, and in its annual report.

Subclause (5) provides that upon request the Trust must give the Minister any information the Minister requires to assist the Minister to determine whether the Trust has complied with a direction.

Clause 20 enables the Trust to delegate, by instrument, any function, duty or power of the Trust, other than this power of delegation, to one or more members of the Trust or the chief executive officer.

Clause 21 provides that the Trust is a public body to which Part 7 of the **Financial Management Act 1994** applies. Part 7 of the **Financial Management Act 1994** provides for accountability and reporting requirements for Victorian public bodies.

Clause 22 provides that the Trust is a public entity within the meaning of the **Public Administration Act 2004**. This means that the governance principles and obligations relating to the operation of public entities in Part 5 of the **Public Administration Act 2004** apply to the Trust. The **Public Administration Act 2004** provides an overarching framework for good governance in the public sector and in public administration generally in Victoria, and establishes the Victorian Public Sector Commission.

### **Part 3—Planning and reporting obligations**

Clause 23 provides for the preparation of corporate planning documents by the Trust. A corporate planning document is a statement of corporate intent, a corporate plan or a business plan (see also clause 3).

Subclause (1) specifies that the Minister, in writing, may request the Trust to provide a corporate planning document.

Subclause (2) specifies that the Trust must prepare a corporate planning document if requested by the Minister.

Subclause (3) specifies that a request to prepare a corporate planning document must specify the date by which the document is to be prepared, the information to be included and the form in which the information must be provided.

Subclause (4) specifies the Trust may amend a corporate planning document at any time with approval of the Minister.

Subclause (5) specifies that the Minister may direct, in writing, the Trust to amend a corporate planning document at any time by including or omitting any specified information.

Subclause (6) specifies that the Trust must comply with a direction from the Minister to amend a corporate planning document.

Clause 24 provides that the Trust must notify the Minister of any matters which may prevent or significantly affect the achievement of the objectives of a corporate planning document.

Clause 25 provides that the Minister may issue a statement of obligations to the Trust specifying obligations of the Trust in performing its functions and duties and exercising its powers.

Subclause (2) provides that the Trust must comply with a statement of obligations.

Subclause (3) provides that the Minister may amend, vary or revoke a statement of obligations.

Subclause (4) provides that, before issuing a statement of obligations, or amending, varying or revoking a statement of obligations, the Minister must give written notice to the Trust of the proposed statement, amendment, variation or revocation.

Subclause (5) provides that written notice under subclause (4) must include that the Trust may make a written submission to the Minister and the date by which the written submission must be received by the Minister, being at least 28 days after the notice is given.

Subclause (6) provides that, after issuing a statement of obligations, or amending, varying or revoking a statement of obligations, the Minister must ensure that notice of the statement, amendment, variation or revocation is published in the Government Gazette.

Subclause (7) provides that a statement of obligations, or amendment, variation or revocation of a statement of obligations, takes effect on the date on which notice of it is published in the Government Gazette or any later date specified in the notice.

Subclause (8) provides that the Trust must publish notice of a statement of obligations, or amendment, variation or revocation of a statement of obligations, on its internet site within 14 days of publication of the notice in the Government Gazette.

Subclause (9) requires the Trust to include in its annual report a statement as to how the Trust has complied with any statement of obligations issued to the Trust by the Minister.

Clause 26 specifies that the Trust must prepare a draft strategic management plan for the Reserve.

Subclause (2) specifies that the plan must include a statement of strategic objectives and directions for the promotion, management, use and development of the Reserve and a long-term plan for the Reserve that sets out a clear direction for the future promotion, management, use and development of the Reserve in a manner consistent with the objectives of this Bill and the purposes for which the land is reserved.

Subclause (3) provides that, in preparing a draft strategic management plan, the Trust must consult with the Minister, the Minister responsible for administering the **Racing Act 1958**, the local Council, the holders of any lease or licence over the Reserve and any other persons or bodies that the Trust considers are likely to be affected by the plan.

Clause 27 provides for publication of and consultation on a draft strategic management plan.

Subclause (1) provides that the Trust must publish on its internet site a draft strategic management plan, a statement that any person may make a written submission to the Trust on the draft plan, and a date by which the submission must be received by the Trust being at least 28 days after publication of the draft plan.

Subclause (2) provides that the Trust must publish in a newspaper circulating in the municipal district of the local Council and in a newspaper circulating throughout the State details as to where a copy of the draft plan may be obtained, a statement that any person may make a written submission to the Trust on the draft plan, and the date by which the submission must be received by the Trust being at least 28 days after publication of the draft plan.

Clause 28 provides for making and publication of a strategic management plan following consultation on the draft plan.

Subclause (1) provides that after considering any written submissions in relation to a draft plan, the Trust may make a strategic management plan.

Subclause (2) provides that the Trust must publish a strategic management plan on its internet site as soon as practicable after making the plan.

Clause 29 provides that the Trust may amend a strategic management plan at any time.

Subclause (2) provides that the Trust must publish an up-to-date consolidated version of a strategic management plan on its internet site as soon as practicable after amending the plan.

Subclause (3) provides that clauses 26, 27 and 28 apply to the amendment of a strategic management plan as if the amendment were a draft strategic management plan. This means that, before making an amendment to a plan, the Trust must follow the same publication and consultation procedures as those that apply for a draft plan. However, those clauses do not apply where the amendment is a minor or technical amendment.

Clause 30 provides for review of a strategic management plan.

Subclause (1) specifies that, subject to subclause (2), the Trust may undertake a review of a strategic management plan at any time, but at least every 10 years after making the plan.

Subclause (2) provides that the Minister may direct the Trust to undertake a review of the strategic management plan at any time and the Trust must undertake that review.

Clause 31 provides that the Trust must prepare an annual report of operations each financial year under Part 7 of the **Financial Management Act 1994**.

Subclause (2) provides that the Trust must prepare an annual report despite section 46(2) of the **Financial Management Act 1994**. Section 46(2) of that Act only requires an annual report to be tabled where the expenses and obligations of a public body exceed \$5 million in a financial year.

#### **Part 4—Management of the Reserve**

Clause 32 provides for the making of land use orders by the Minister to delineate which parts of the Reserve are to be used for one or more of the purposes for which the land is reserved.

Subclause (1) provides that, upon receiving a plan of survey signed by the Surveyor-General of the whole or any part of the Reserve, or that land as nearly as practicable, the Minister may make an order specifying that the whole or part of the Reserve may be used for one or more of the purposes of racing, recreation or public park ("land use order").

Subclause (2) requires that a land use order must be published in the Government Gazette.

Subclause (3) provides that a land use order must include a copy of the plan of survey specifying the land to which the order applies.

Subclause (4) specifies that a land use order takes effect on the date it is published in the Government Gazette or any later day specified in the order.

Subclause (5) provides that the making of a land use order is not intended to revoke or affect in other way the legal status of the reservation of the land subject to the order or the status or continuity of any lease, licence or other agreement in relation to the land.

Clause 33 provides for the Trust to make event declarations which are intended to provide for the delivery and management of events in an efficient and coordinated way.

Subclause (1) specifies the Trust may declare an event to be a Caulfield Racecourse Reserve event by notice published in the Government Gazette.

Subclause (2) requires the Trust to make an event declaration if the Trust receives a request from the Victoria Amateur Turf Club (incorporating the Melbourne Racing Club) for an event declaration to be made because dates and times for horse-racing have been fixed by Racing Victoria to be conducted by the Club at the Reserve. The event declaration must be published in the Government Gazette. The Victoria Amateur Turf Club (incorporating the Melbourne Racing Club) is constituted under the **Victoria Amateur Turf Club (Incorporating the Melbourne Racing Club) Act 1963**. Racing Victoria has the same meaning as in the **Racing Act 1958**.

Subclause (3) provides that if the Minister and the Minister administering the **Racing Act 1958** are satisfied that there are exceptional circumstances that require an event in an event declaration made under subclause (2) to be cancelled or transferred to another venue, the Ministers may request the Trust to vary the event declaration and the Trust must make that variation.

Subclause (4) requires the Trust to publish in the Government Gazette any event declaration variation made under subclause (3) at least one day before the Caulfield Racecourse Reserve event to which it applies.

Subclause (5) provides that the Trust must not make an event declaration, other than an event declaration referred to in subsection (2), unless satisfied that the purpose of the proposed event is not detrimental to the purposes for which the land is reserved and the making of a declaration is in the public interest.

Subclause (6) provides that an event declaration must include the title and a short description of the Caulfield Racecourse Reserve event, the dates and times when the event is to take place, a description (in writing or on a map or other document) of the part of the Reserve to which the declaration applies, the name of the person or body who takes control of the part of the Reserve to which the declaration applies, any regulations made under this Bill that are suspended during the event, any event fees to be imposed and collected for the event and any other prescribed information.

Subclause (7) allows the Trust to grant a permit under clause 38 for any part of the Reserve for the purposes of a Caulfield Racecourse Reserve event.

Subclause (8) provides that any regulations made under this Bill applying to the part of the reserve to which an event declaration applies continue to apply during a Caulfield Racecourse Reserve event, unless the event declaration provides for the suspension of those regulations.

Subclause (9) provides that, subject to subclauses (10) and (11)—

- an event declaration made under subclause (2) must be published in the Government Gazette at least 7 days before the first race day that is a Caulfield Racecourse Reserve event; and
- any other event declaration must be published at least 7 days before the Caulfield Racecourse Reserve event to which it applies.

Subclause (10) provides that the Trust may make an urgent event declaration if there are exceptional circumstances that require the event declaration to be made at short notice. The Minister and the Minister responsible for administering the **Racing Act 1958** must be satisfied that the urgent event declaration needs to be made.

Subclause (11) provides that the Trust must publish an urgent event declaration made under subclause (10) in the Government Gazette at least one day before the Caulfield Racecourse Reserve event to which it applies. Subclauses 10 and 11 do not apply to an event declaration made under subclause (2).

Clause 34 provides that the Trust is responsible for the management of the Reserve.

Subclause (2) provides that, without limiting the general management responsibility of the Trust, the Trust may set aside an area of the Reserve for the purposes of planning, development, management, care or use of the Reserve. A set aside must be made by written determination published in the Government Gazette.

Subclause (3) provides that a setting aside determination may apply at all times or specified times, to all circumstances or to specified circumstances, to all persons or to any class or classes of persons. A determination must specify the period for which it is in operation, which must not exceed a period of 3 years. A determination may provide that a specified activity or class

of specified activity is permitted, prohibited or restricted in the set aside area. A determination may provide that all access to an area is prohibited or restricted and may confer a discretionary authority on, or impose a specified duty on, a specified person or class or person.

Subclause (4) provides that if regulations made under this Bill applying to the Reserve or an area of the Reserve are inconsistent with a setting aside determination for an area of the Reserve, those regulations do not apply to the area for the period that the setting aside determination is in operation.

Subclause (5) provides that a setting aside determination comes into operation on the date it is published in the Government Gazette or any later day specified in the determination.

Subclause (6) provides an offence for any person who contravenes a setting aside determination and sets the maximum penalty at 10 penalty units. This offence is a strict liability offence and it is anticipated that it will be included as an infringement offence in the Conservation, Forests and Lands (Infringement Notice) Regulations 2013.

Clause 35 provides that the Trust may determine and collect fees and charges for entry into the Reserve. Fees must be set by written determination published in the Government Gazette.

Subclause (2) specifies that no fee or charge can be determined or collected for entry into any part of the Reserve that is used for the purposes of a public park.

Subclause (3) provides that the power to determine fees and charges may be exercised by providing for different fees and charges for different activities and different classes of people, including the waiver of fees and charges.

Subclause (4) provides that a fee determination comes into operation on the date it is published in the Government Gazette or any later day specified in the determination.

Subclause (5) provides that clause 35 applies despite anything to the contrary in the **Crown Land (Reserves) Act 1978**. Section 13 of the **Crown Land (Reserves) Act 1978** provides the Minister with the power to make regulations to set fees for reserves managed under that Act.

Clause 36 provides a power to the Trust to grant leases of the whole or any part of the Reserve, with the Minister's approval.

Subclause (2) provides that the Minister must not approve the granting of a lease unless the Minister is satisfied that the purpose of the lease is not detrimental to the purposes for which the land is reserved and the making of the lease is in the public interest.

Subclause (3) provides that, subject to subclause (4), the maximum term for any lease is 65 years.

Subclause (4) provides additional criteria that must be considered by the Minister before approving a lease with a term longer than 21 years. In addition to the requirements in subclause (2), the Minister must be satisfied that the proposed use, development, improvements or works that may be carried out under the lease are of a substantial nature and value to justify a longer-term lease.

Subclause (5) provides that a lease may contain options for the lessee to renew the lease for a further term and provision for a lessee to remain in occupation of the land under the same terms and conditions of the lease, at the discretion of the lessor Trust, for a period of not more than 3 months from the expiry of the lease. However, the aggregate of the original term and any further term or terms must not exceed the maximum term for which a lease may be granted under this clause.

Subclause (6) provides that a lease granted by the Trust may be subject to any covenants, exceptions, reservations and conditions that are determined by the Trust and approved by the Minister.

Subclause (7) provides that this clause applies despite anything to the contrary in the **Crown Land (Reserves) Act 1978** and the **Land Act 1958**. The **Crown Land (Reserves) Act 1978** provides specific leasing powers for Crown land reserved and managed under that Act. The **Land Act 1958** provides leasing powers for unreserved Crown land.

Clause 37 allows the Trust to grant a licence to enter and use the whole or any part of the Reserve.

Subclause (2) provides that the Trust must not grant a licence unless it considers that the purpose of the licence is not detrimental to the purposes for which the land is reserved and the granting of the licence is in the public interest.

Subclause (3) provides that a licence may be granted for a period not exceeding 3 years or, with the approval of the Minister, a period not exceeding 10 years.

Subclause (4) provides that this clause applies despite anything to the contrary in the **Crown Land (Reserves) Act 1978** and the **Land Act 1958**. The **Crown Land (Reserves) Act 1978** provides specific licensing powers for Crown land reserved and managed under that Act. The **Land Act 1958** provides licensing powers for unreserved Crown land.

Clause 38 provides the Trust with a power to grant permits over the whole or any part of the Reserve in relation to, or for the purpose of, a Caulfield Racecourse Reserve event or for any other purpose.

Subclause (2) provides that the Trust must not grant a permit in relation to, or for the purpose of, a Caulfield Racecourse Reserve event unless it considers that the purpose of the permit is not detrimental to the purposes for which the land is reserved and the granting of the permit is in the public interest.

Subclause (3) provides that the Trust must not grant a permit for any other purpose unless the Trust considers that the purpose of the permit is not detrimental to the purposes for which the land is reserved.

Subclause (4) provides that a permit may be granted for a period not exceeding 6 months.

Subclause (5) provides that this clause applies despite anything to the contrary in the **Crown Land (Reserves) Act 1978** and the **Land Act 1958**. The **Crown Land (Reserves) Act 1978** and the **Land Act 1958** include provision in relation to specific permits for uses or activities on Crown land.

#### **Part 5—Financial provisions**

Clause 39 enables the Trust to obtain financial accommodation subject to and in accordance with powers conferred under the **Borrowing and Investment Powers Act 1987**.

Clause 40 enables the Trust to open and maintain one or more accounts in the name of the Trust with any authorised deposit-taking institution.

Clause 41 requires the Trust to establish and maintain a fund called the Caulfield Racecourse Reserve Trust Fund.

Subclause (2) requires that all money received by or paid to the Trust in respect of the Reserve, all money required or authorised by or under the Bill or any other Act to be paid into the Caulfield Racecourse Reserve Trust Fund and any income received by the Trust from the investment of moneys in the Caulfield Racecourse Reserve Trust Fund must be paid into the Caulfield Racecourse Reserve Trust Fund.

Subclause (3) provides that money in the Caulfield Racecourse Reserve Trust Fund may be used for payment or discharge of debts and liabilities of the Trust in, or in connection with, the performance of the functions and exercise of powers of the Trust in respect of the Reserve, or for payment of the costs of managing the Reserve or the provision of services on that land or in payment of any amount authorised or required to be paid from the Fund under this Bill.

#### **Part 6—Enforcement and regulations**

Clause 42 provides that any civil proceedings under this Bill or the regulations may be commenced by the Trust or a person authorised by the Trust, or the chief executive officer or a person authorised by the chief executive officer.

Clause 43 provides a power for regulations to be made, which will support proper management of the reserve for all its reserved purposes.

Subclause (1) provides that the Governor in Council may make regulations for or with respect to the planning, development, management, care and use of the Reserve, the prohibition or regulation of any activity on the Reserve, the protection of persons on the Reserve, the removal of any structures or other works which do not comply with the requirements of the Trust or in respect of which a lease, licence or permit has expired or has been cancelled, the exclusion or expulsion of persons found contravening the regulations from the Reserve or prescribing any other matter or thing required or permitted by this Bill to be prescribed or necessary to be prescribed to give effect to this Bill.

Subclause (2) provides that the regulations may be of general or limited application, may differ according to differences in time, place or circumstance, may confer a discretionary authority or

impose a duty on a specified person or class of persons and may impose a penalty not exceeding 20 penalty units for a contravention of the regulations.

Subclause (3) provides that any regulations made under this Bill that relate to the issuing of film permits must not be inconsistent with the film friendly principles, which are outlined in the **Filming Approval Act 2014**.

### **Part 7—Revocation of Crown grant—Caulfield Racecourse Reserve**

Clause 44 provides for the revocation of Crown Grant Volume 7275 Folio 814.

Clause 45 provides for the dissolution of the Caulfield Racecourse Reserve Trust.

On the revocation of the Crown grant by clause 44—

- the Caulfield Racecourse Reserve Trust is dissolved and the persons appointed or holding office as trustees go out of office;
- the land to which the Crown grant applies is divested from that Trust and is vested in the Minister administering the **Crown Land (Reserves) Act 1978** to be managed under that Act until Part 2 of the Bill commences and the new Trust is established;
- all rights, property and assets that, immediately before the revocation, were vested in the dissolved Trust are vested in the Minister administering the **Crown Land (Reserves) Act 1978**;
- all debts, liabilities and obligations of that Trust existing immediately before the revocation become debts, liabilities and obligations of the Minister administering the **Crown Land (Reserves) Act 1978**;
- the Minister administering the **Crown Land (Reserves) Act 1978** is substituted as a party to any proceeding pending in any court or tribunal to which that Trust was a party immediately before the revocation; and
- the Minister administering the **Crown Land (Reserves) Act 1978** is to hold any funds of that Trust during the

period of management until Part 2 of the Bill commences and the new Trust is established.

Clause 46 provides for the preservation of certain leases and related interests.

Subclause (1) provides that nothing in Part 7 of the Bill affects the status or continuity of 2 leases over the land in the Crown grant in force immediately before the revocation of the Crown grant. These leases relate to the Neerim Road Stables and the Western Stables. Any sublease, licence, agreement or other interest arising under the leases is also saved.

Subclause (2) provides that the preserved leases have effect from the revocation of the Crown grant until the commencement of Part 2 of the Bill as a lease between the Minister administering the **Crown Land (Reserves) Act 1978** as lessor and the lessee for the time being under the lease, as if it has been assigned to the Minister administering the **Crown Land (Reserves) Act 1978** and as if the lease referred to that Minister instead of the trustees of the Caulfield Racecourse Reserve.

Subclause (3) provides that Part 7 of this Bill is not to be regarded as placing any person in breach of, or as constituting a default under, any provision of a preserved lease, including any provision prohibiting, restricting or regulating the assignment of the lease. Part 7 is not to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of, or to terminate, any agreement or obligation. In addition, the application of Part 7 does not release any surety or other obligor wholly or in part from any obligation.

Clause 47 provides that nothing in Part 7 of the Bill affects the status or continuity of the permanent reservation of the Reserve, as defined in Schedule 1 to this Bill.

Clause 48 provides a power to the Minister administering the **Crown Land (Reserves) Act 1978** to grant leases of the whole or any part of the Reserve to the Victoria Amateur Racing Club (incorporating the Melbourne Racing Club) if the Minister is satisfied that the purpose of the lease is not detrimental to the purposes for which the land is reserved and the making of the lease is in the public interest.

Subclause (2) provides that, subject to subclause (3), the maximum term for any lease is 65 years.

Subclause (3) provides that the Minister must be satisfied before granting a lease with a term longer than 21 years, in addition to the requirements in subclause (1), that the proposed use, development, improvements or works that may be carried out under the lease are of a substantial nature and value to justify a longer term lease.

Subclause (4) provides that a lease may contain options for the lessee to renew the lease for a further term and provision for a lessee to remain in occupation of the land under the same terms and conditions of the lease, at the discretion of the lessor Minister, for a period of not more than 3 months from the expiry of the lease. However, the aggregate of the original term and any further term or terms must not exceed the maximum term for which a lease may be granted under this clause.

Subclause (5) provides that a lease granted by the Minister may be subject to any covenants, exceptions, reservations and conditions that are determined by the Minister.

Subclause (6) provides that this clause applies despite anything to the contrary in the **Crown Land (Reserves) Act 1978** and the **Land Act 1958**. The **Crown Land (Reserves) Act 1978** provides specific leasing powers for Crown land reserved and managed under that Act. The **Land Act 1958** provides leasing powers for unreserved Crown land.

Subclause (7) provides that clause 48 is repealed on the commencement of Part 2 of the Bill.

Clause 49 provides for the saving and transfer of certain leases.

Subclause (1) provides that on and from the commencement of Part 2 of the Bill, any lease referred to in clause 46(1) or entered into under clause 48 has effect as a lease between the Trust established under clause 5 of the Bill as lessor and the lessee for the time being under the lease, as if it had been assigned to the Trust and as if the lease referred to that Trust instead of the Minister administering the **Crown Land (Reserves) Act 1978**.

Subclause (2) provides that clause 49 is not to be regarded as placing any person in breach of, or as constituting a default under, any provision of a lease referred to in subclause (1), including any provision prohibiting, restricting or regulating the assignment of the lease. Clause 49 is not to be regarded as fulfilling any condition which allows a person to exercise a right

or remedy in respect of, or to terminate, any agreement or obligation. In addition, the application of clause 49 does not release any surety or other obligor wholly or in part from any obligation.

Clause 50 provides for the Reserve land to vest in the Trust on commencement of Part 2 of the Bill.

On commencement of Part 2, the land referred to in clause 45(b) is divested from the Minister administering the **Crown Land (Reserves) Act 1978** and vests in the Trust established under clause 5 and becomes part of the Reserve, all rights, property and assets that immediately before that commencement were vested in the Minister administering the **Crown Land (Reserves) Act 1978** are vested in the Trust, all debts, liabilities and obligations of the Minister administering the **Crown Land (Reserves) Act 1978** existing immediately before that commencement become debts, liabilities and obligations of the Trust, the Trust is substituted as a party to any proceeding pending in any court or tribunal to which the Minister administering the **Crown Land (Reserves) Act 1978** was a party immediately before that commencement and any funds held by the Minister administering the **Crown Land (Reserves) Act 1978** are transferred to the Trust.

Clause 51 requires the Registrar of Titles to make any recordings in or amendments to the Register kept under the **Transfer of Land Act 1958** that are necessary because of the operation of any of the provisions of Part 7.

#### **Part 8—Consequential amendments to other Acts**

Clause 52 amends the **Conservation, Forests and Lands Act 1987** to insert the **Caulfield Racecourse Reserve Act 2017** in Schedule 1A. This will have the effect of making this Bill a relevant law for the purposes of the **Conservation, Forests and Lands Act 1987**.

Clause 53 amends the definition of *recreational lands* in section 2 of the **Cultural and Recreational Lands Act 1963** to include a specific reference to the Bill by inserting paragraph (ba) to refer to the Reserve within the meaning of the **Caulfield Racecourse Reserve Act 2017**.

Clause 54 amends the definition of *filming approval legislation* in section 3 of the **Filming Approval Act 2014** to include a specific reference to this Bill by inserting paragraph (aa) which refers to the **Caulfield Racecourse Reserve Act 2017**.

Clause 55 provides that Part 8 is repealed on 1 August 2019.

The repeal of this Part does not affect the continuing operation of the amendments made by this Bill (see section 15(1) of the **Interpretation of Legislation Act 1984**).

#### **Schedule 1—Caulfield Racecourse Reserve**

Schedule 1 provides a description of the land included in the Caulfield Racecourse Reserve by reference to the relevant Crown Allotments and their respective reservations details.