



Brisbane Casino Agreement Amendment Bill 2016

Report No. 24, 55th Parliament

Infrastructure, Planning and Natural Resources Committee

April 2016

Infrastructure, Planning and Natural Resources Committee

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Acknowledgements

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Chair's foreword

This report presents a summary of the Infrastructure, Planning and Natural Resources Committee's examination of the Brisbane Casino Agreement Amendment Bill 2016.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank those organisations who lodged written submissions on the Bill.

I would also like to thank the departmental officials who briefed the committee; the committee's secretariat; and the Technical Scrutiny of Legislation Secretariat.

I commend the report to the House.



Jim Pearce MP

Chair

April 2016

Abbreviations

The departments	The Departments of Justice and Attorney-General; State Development; and Infrastructure, Local Government and Planning
BCC	Brisbane City Council
DBC	Destination Brisbane Consortium
DJAG	The Department of Justice and Attorney-General
The Act	The <i>Brisbane Casino Agreement Act 1992</i>
The BCA	The Brisbane Casino Agreement
MEDQ	The Minister for Economic Development Queensland

Recommendation

Recommendation 1

2

The committee recommends that the Brisbane Casino Agreement Amendment Bill 2016 be passed.

1 Introduction

1.1 Role of the committee

The Infrastructure, Planning and Natural Resources Committee (the committee) was established by the Legislative Assembly on 27 March 2015 and consists of government and non-government members.

The committee's areas of portfolio responsibility are:

- Infrastructure, Local Government, Planning, and Trade and Investment
- State Development, Natural Resources and Mines
- Housing and Public Works.¹

1.2 The referral

The Brisbane Casino Agreement Amendment Bill (the Bill) was introduced into the Legislative Assembly on 23 February 2016 by the Hon Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills and initially referred to the Legal Affairs and Community Safety Committee. The Committee of the Legislative Assembly varied the committee responsibility for the Bill to the Infrastructure, Planning and Natural Resources Committee, as advised to the House on 23 February 2016. The committee was required to report to the Legislative Assembly by 12 April 2016.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill
- the application of the fundamental legislative principles to the Bill.

1.3 The committee's inquiry process

On 2 March 2016, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of stakeholders. The closing date for submissions was 18 March 2016. The committee received two submissions (see Appendix A).

On 16 March 2016, the committee held a public briefing with the Departments of Justice and Attorney-General, State Development, and Infrastructure, Local Government and Planning (see Appendix B).

Copies of the submissions and transcripts of the public briefing are available from the committee's webpage.²

¹ Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 17 July 2015). Schedule 6 was amended on 16 February 2016. Prior to 18 February 2016, the committee was responsible for Transport, Infrastructure, Local Government, Planning, Trade, State Development, Natural Resources and Mines.

² See www.parliament.qld.gov.au/ipnrc.

1.4 The Government's consultation on the bill

The explanatory notes state that 'consultation was undertaken with the Star Entertainment Group to draft the revised Brisbane Casino Agreement'.³

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed. The committee considered the Bill, information provided by the departments and the information and views expressed in submissions.

After considering the policy issues discussed in this report, and considering whether the Bill has sufficient regard to the fundamental legislative principles, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends that the Brisbane Casino Agreement Amendment Bill 2016 be passed.

³ Brisbane Casino Agreement Amendment Bill 2016, explanatory notes, p 2.

2 Background to the Bill

2.1 Former Act and introduction of current legislation

The *Brisbane Casino Agreement Act 1992* (the Act) provides the authority for the Minister (the Attorney-General and Minister for Justice and Minister for Training and Skills) to enter into the Brisbane Casino Agreement (BCA), on behalf of the state, for the development and operation of the Brisbane Casino.⁴

The Brisbane casino (known locally as the Treasury Casino) is located in the heart of Brisbane and is custodian of the state owned Treasury and Land Administration Buildings.⁵ It opened in April 1995. It includes a five star heritage hotel, six restaurants, five bars and a casino.⁶

The Bill proposes to amend the Act to replace the current BCA⁷ with a replacement BCA. The committee were told:

The agreement needs to be amended because it was drafted a long time ago now and it does not really cater for the new development of the site. The new development redevelops a significant part of this city block up to the current casino and then the current casino gets repurposed, they call it. It actually gets redeveloped into a different type of use, so it is a very different development scenario we are looking at on this site, including the current operation. The current hotel will continue as a hotel as we understand it, but the current casino—and there are plans and things available—will be redeveloped into a retail type area.

It needs to be amended so that the current operation can continue, but it also enables the Economic Development Act to commence on this site and be effective so that they can put their development application in for the future development. ...It lets them continue with their existing use rights... but we are also enabling them to make an application for the new development that they want to put on this site and the rest of the site.⁸

2.2 Queens Wharf Brisbane and the Brisbane casino-hotel site

The Brisbane casino-hotel site is part of the Queens Wharf Brisbane priority development area. The committee heard that:

The Brisbane Casino Agreement Amendment Bill is a companion bill to the Queen's Wharf Brisbane Bill 2015, which was introduced late last year and is also being considered by this committee. Originally, the amendments proposed in the Brisbane Casino Agreement Amendment Bill were to be progressed as part of the Queen's Wharf Brisbane Bill 2015, but were subsequently deferred. The deferral was necessary to allow more time to fully consider how best to align the proposed Queen's Wharf Brisbane development regime with the regime currently operating under the Brisbane Casino Agreement. These amendments are now the focus of the Brisbane Casino Agreement Amendment Bill.⁹

The Attorney-General in her introductory speech noted that Queens Wharf Brisbane is located in an under-utilised area of state owned land in the heart of the Brisbane CBD. In addition, that the

⁴ *Brisbane Casino Agreement Act 1992*.

⁵ <https://www.treasurybrisbane.com.au/about> [accessed 16 March 2016].

⁶ <https://www.treasurybrisbane.com.au/about> [accessed 16 March 2016].

⁷ The original agreement was made on 6 May 1993 and has been varied on 15 June 1993, 21 October 1994, 6 April 1995, 3 February 1997, 17 January 2002, 5 April 2002 and 4 October 2011, Brisbane Casino Agreement Amendment Bill 2016, p 13.

⁸ Public briefing transcript, 16 March 2016, p 4.

⁹ Public briefing transcript, 16 March 2016, p 1.

development of the area would stimulate the tourism and construction sectors of Queensland's economy.¹⁰

The current BCA is the agreement between the State of Queensland and Jupiters Limited for the establishment of the Brisbane casino-hotel site. Jupiters Limited is the current casino licensee and also the signatory to the BCA.¹¹

According to the current BCA, the State of Queensland acknowledged that the establishment of the Brisbane casino-hotel complex was a large scale development project requiring large capital expenditure, and that it was necessary to give Jupiters Limited security and assurances provided in the agreement to enable to provision of capital for the establishment of the site.¹²

The integrated resort development proposal is quite a large development that covers from here right through to Queen Street. It is a significantly different development compared to what currently exists, so we needed to look at new types of legislation to deal with that. The current legislation was drafted in the late '80s and early '90s. Planning legislation has moved on since then and we also have the Economic Development Act, which was set up to deal with this sort of development. To try to bring it up to speed with contemporary times and how we want to manage this type of development into the future, there was a need to reform this piece of legislation. Effectively, it enables the current operation to continue under the current rules and the proposed development of the site that the current casino is on, as well as the balance of the area to be dealt with under the Economic Development Act.¹³

The department told the committee that the current BCA expires in 2022.¹⁴ In addition, at the end of the lease in 2022:

...a new lease over that site will commence and that will force it into the new Queen's Wharf development regime. That agreement will end and we will have a new one covering the whole precinct for Queen's Wharf. At that time in 2022, when the Queen's wharf casino opens, the Brisbane casino will close and the Brisbane Casino Act will be repealed.¹⁵

3 Examination of the Bill

3.1 Policy objectives of the Bill

The explanatory notes state that the objectives of the Bill are to:¹⁶

- progress amendments to the Act to replace the current BCA with a replacement BCA which introduces a new planning and development arrangement for the existing Brisbane casino-hotel complex
- reflect the intention of the parties (the State of Queensland and Jupiters Limited) to require any future redevelopment or repurposing applications for the casino-hotel complex and the site to be assessed and approved by the Minister for Economic Development Queensland

¹⁰ Queensland Parliament, Record of Proceedings, 23 February 2016, p 395.

¹¹ Queensland Parliament, Record of Proceedings, 23 February 2016, p 396.

¹² Brisbane Casino Agreement Amendment Bill 2016, p 13.

¹³ Public briefing transcript, 16 March 2016, p 2.

¹⁴ Public briefing transcript, 16 March 2016, p 4.

¹⁵ Public briefing transcript, 16 March 2016, p 6.

¹⁶ Brisbane Casino Agreement Amendment Bill, explanatory notes, pp 1-2.

- provide that the Brisbane casino-hotel complex site is no longer exempt from development or heritage legislation in force in the Brisbane local government area (unless otherwise provided for in the BCA)
- ratify the replacement BCA.

3.2 Differences between the current BCA and the replacement BCA

The departments told the committee that there are two key differences between the current BCA and the replacement BCA. The first difference is the introduction of a new planning and development arrangement for the existing Brisbane casino-hotel complex. The second difference is that the Brisbane casino-hotel site will no longer be exempt from development or heritage legislation in force in the Brisbane local government area.¹⁷

The primary purpose of the bill is to replace the Brisbane Casino Agreement, which is a schedule to the Brisbane Casino Agreement Act 1992, with a new agreement that no longer exempts the Brisbane casino-hotel complex and site from development legislation in force in the local government area... The bill also recognises the current rights of the operator under the current special lease and development relating to a material change of use, reconfiguration of a lot or building, or operational works related to the current use of the Brisbane casino-hotel complex will continue to be considered under the Brisbane Casino Agreement until the Brisbane Casino Agreement Act 1992 is repealed when the Queen's Wharf Brisbane Casino is opened.¹⁸

Planning and development under the replacement BCA

The explanatory notes provide that the current BCA is being replaced with a new agreement 'which introduces a new planning and development arrangement for the existing Brisbane casino-hotel complex.'¹⁹

The new planning and development arrangement will reflect the intention of the parties to require any future re-development or re-purposing applications for the Brisbane casino-hotel complex to be assessed and approved by the Minister for Economic Development Queensland (the MEDQ).²⁰ Development applications relating to the current use of the Brisbane casino-hotel complex will be assessed and approved under the current BCA framework.²¹

The current BCA exempts the Brisbane casino-hotel complex from the application of any development or heritage legislation in force in the Brisbane local government area. The exemption will no longer apply under the replacement BCA, unless otherwise provided for in agreement.²²

In regards to planning and development, the departments advised:

The exemption was originally designed to fast track the planning, development and construction of the casino-hotel complex under a single approving authority, being the Minister responsible for the administration of the Casino Control Act 1982.

Removal of this exemption means that development legislation, being the Economic Development Act 2012, will apply to the existing casino-hotel complex site, which will allow a development application to be lodged for the Queen's Wharf Brisbane integrated resort development and casino,

¹⁷ Public briefing transcript, 16 March 2016, pp 1-2 and Brisbane Casino Agreement Amendment Bill 2016, explanatory notes, p 1.

¹⁸ Public briefing transcript, 16 March 2016, pp 1-2.

¹⁹ Brisbane Casino Agreement Amendment Bill 2016, explanatory notes, p 1.

²⁰ The Establishment of the Minister for Economic Development is pursuant to section 8 of the *Economic Development Act 2012*. The Minister for Economic Development is the Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment.

²¹ Brisbane Casino Agreement Amendment Bill, explanatory notes, p 1.

²² Brisbane Casino Agreement Amendment Bill 2016, explanatory notes, p 1.

including any redevelopment of the Brisbane casino-hotel complex and for this application to be assessed by the Minister for Economic Development Queensland. The bill also recognises the current rights of the operator under the current special lease and development relating to a material change of use, reconfiguration of a lot or building, or operational works related to the current use of the Brisbane casino-hotel complex will continue to be considered under the Brisbane Casino Agreement until the Brisbane Casino Agreement Act 1992 is repealed when the Queen's Wharf Brisbane Casino is opened.²³

Heritage protection

Several historic Queensland landmarks are contained within the current Brisbane hotel-casino site.²⁴ The Attorney-General, in her introductory speech, said:

The current hotel-casino site includes several historic Queensland landmarks such as the Treasury Building, Land Administration Building, Queens Park and the former State Library otherwise known as the John Oxley Library building. Any redevelopment proposed to be undertaken for repurposing these locations will now be approved by the minister for economic development Queensland in line with Queen's Wharf Brisbane and in accordance with the Queen's Wharf Brisbane Development Scheme. I would like to assure Queenslanders that these iconic landmarks will continue to be protected under the new development regime.²⁵

The Department of Justice and Attorney-General (DJAG) provided additional information to the committee about heritage protections under the current BCA and how this protection will be preserved under the proposed Queen's Wharf development scheme.²⁶

In relation to heritage protection under the current BCA, DJAG advised the committee that the BCA provides for a Heritage Management Plan (agreed between the Minister and Jupiters Limited) which sets out a 'methodology for determining the appropriate approval process for proposed works dependent on the effect the works have on the cultural heritage significance of the respective heritage places'.²⁷ In addition, 'these heritage places are considered to have cultural heritage significance, and, as a result, are subject to special care and attention in considering proposals for variation work'.²⁸

The department also told the committee that the Heritage Management Plan:

...provides direction in determining whether a proposal to carry out works to the heritage places constitutes permitted variation, minor variation or major variation works under the Act. Proposals that could seriously affect cultural heritage significance are considered major variation work and subject to careful examination. Other less serious proposals are dealt with as minor variation work. Proposals that don't affect cultural heritage significance are categorised as permitted variation work.

Under the [current] BCA, a heritage architect must be engaged by the casino operator to advise on all work which may impact on the conservation of the cultural heritage significance of the heritage place.²⁹

In relation to heritage protection under the replacement BCA, DJAG advised the committee that:

²³ Public briefing transcript, 16 March 2016, p 2.

²⁴ Queensland Parliament, Record of Proceedings, 23 February 2016, p 396.

²⁵ Queensland Parliament, Record of Proceedings, 23 February 2016, p 396.

²⁶ Department of Justice and Attorney-General, correspondence dated 24 March 2016 (response to questions taken on notice), p 1.

²⁷ Department of Justice and Attorney-General, correspondence dated 24 March 2016 (response to questions taken on notice), p 2.

²⁸ Department of Justice and Attorney-General, correspondence dated 24 March 2016 (response to questions taken on notice), p 2.

²⁹ Department of Justice and Attorney-General, correspondence dated 24 March 2016 (response to questions taken on notice), p 3.

One of the fundamental elements of the development scheme is the conservation and adaptive re-use of all heritage buildings. This means that all heritage buildings must remain but can be adapted for new purposes such as retail, hotel, bars or restaurants. Any development, major or minor, that includes a heritage place...is assessable development and requires a development application to the [MEDQ]. This development application will then be assessed by the MEDQ against the provisions of the development scheme.³⁰

Committee comment

The committee considered the additional information provided regarding heritage protection under the current and replacement BCAs and was satisfied that appropriate heritage protection plans are in place.

3.3 Replacement BCA agreement

Clauses 5 and 7 amend sections 4 and 6 of the Act respectively to provide that the Bill will ratify the replacement BCA. If a provision of the agreement is inconsistent with an Act, the agreement prevails and the Act is not effective to the extent of the inconsistency.³¹

3.4 Amendments to the Act

The Bill makes the following amendments to the Act:

- new definition of the term ‘casino agreement’ to refer to the replacement agreement (clause 4)
- new definition of the term ‘former agreement’ which references the current BCA made under the Act (clause 4)
- clause 6 replaces section 5 of the Act to reflect that the current BCA has come to an end and the replacement BCA is ratified by the Legislative Assembly
- clause 8 inserts new sections 6 and 6A which provide that the replacement BCA may be amended by a further agreement between the parties. It provides that if the further agreement is ratified by the Legislative Assembly, it will amend the replacement BCA. New section 6A provides that the department must publish the consolidated replacement BCA on its website.

3.5 Transitional provisions

New section 9 of the Act provides that the Minister was authorised to make the replacement BCA and that the current BCA does not end until the commencement of the Act.³²

Proposed section 10 of the Act provides that the replacement BCA does not invalidate anything done under the current BCA, and new section 11 provides that existing applications (made under the current BCA) and not yet decided by the Minister will be decided under the current BCA.³³

3.6 Submitters’ views

The Brisbane City Council (BCC) provided a submission, which they had previously provided to the committee’s inquiry into the Queen’s Wharf Brisbane Bill 2015. BCC’s keys concerns were in regard

³⁰ Department of Justice and Attorney-General, correspondence dated 24 March 2016 (response to questions taken on notice), p 3.

³¹ Section 4(2) *Brisbane Casino Agreement Act 1992*.

³² Clause 9, Brisbane Casino Agreement Amendment Bill 2016.

³³ Clause 9, Brisbane Casino Agreement Amendment Bill 2016.

to the Queen's Wharf Brisbane and the establishment of PDA-associated developments. Specifically BCC's concerns were:

- the proposal to extend the planning authority of the Minister for Economic Development Queensland
- the insertion of a new concept of PDA-associated development and the extent of where PDA-associated development could apply
- the need for formal coordinated mediations between EDQ and Council to address the impacts of the proposal.³⁴

The issues raised by the BCC submission were outside the scope of this inquiry and have been addressed in the committee's report on the Queen's Wharf Brisbane Bill 2015.

The committee also received a submission from Destination Brisbane Consortium (DBC). DBC expressed support for the bill as it is 'integral to support the delivery of the Queen's Wharf Brisbane project'. DBC held the view that the bill will:

...provide alignment between the planning and development approval frameworks for the current Treasury Brisbane Hotel and Casino complex site and the remainder of the Queen's Wharf Brisbane precinct for the repurposing of the Treasury Brisbane site as part of the Queen's Wharf Brisbane development.³⁵

³⁴ Brisbane City Council, submission 1, p 1.

³⁵ Destination Brisbane Consortium, submission 2, p 1.

4 Compliance with the Legislative Standards Act 1992

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that 'fundamental legislative principles' (FLPs) are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee examined the application of FLPs to the Bill and considers that the Bill does not raise any issues in relation to FLPs.

4.2 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

Appendices

Appendix A – List of submitters

Sub #	Name
1	Brisbane City Council
2	Destination Brisbane Consortium

Appendix B – List of witnesses at the public briefing held on 16 March 2016

Witnesses	
Department of Justice and Attorney-General	
1	Mr Craig Turner, General Manager, Licensing, Office of Liquor and Gaming Regulation
2	Ms Linda Woo, Executive Director, Policy and Projects, Office of Regulatory Policy
3	Ms Karen Jackson, Senior Policy and Research Officer, Office of Regulatory Policy
Department of State Development	
3	Mr Matthew Lawson, Project Director, Queen's Wharf Brisbane
4	Ms Hannah Jorgensen, Principal Project Officer, Special Projects Unit
Department of Infrastructure, Local Government and Planning	
5	Mr Simon Banfield, Director, Economic Development Queensland
6	Mr Tom Leach, Manager, Economic Development Queensland