

***Charitable and Non-Profit Gaming
(Two-up) Amendment Bill 2011
and
Criminal Code (Anzac Day Betting)
Amendment Bill 2011***

Report No. 9

Finance and Administration Committee

November 2011

Finance and Administration Committee

Chair	Mr Wayne Wendt MP, Member for Ipswich West
Deputy Chair	Mr Ray Stevens MP, Member for Mermaid Beach
Members	Ms Ros Bates MP, Member for Mudgeeraba Hon Desley Boyle MP, Member for Cairns Mr Michael Crandon MP, Member for Coomera Ms Peta-Kaye Croft MP, Member for Broadwater
Staff	Ms Deborah Jeffrey, Research Director Ms Josephine Mathers, Principal Research Officer (to 28 October 2011) Mr Peter Rogers, Principal Research Officer (from 7 November 2011) Ms Marilyn Freeman, Executive Assistant Ms Lynette Whelan, Executive Assistant
Technical Scrutiny Secretariat	Ms Renée Easten, Research Director Mr Ian Caulfield, Principal Research Officer Ms Dianne Christian, Executive Assistant
Contact details	Finance and Administration Committee Parliament House George Street Brisbane Qld 4000
Telephone	+61 7 3406 7576
Fax	+61 7 3406 7500
Email	fac@parliament.qld.gov.au
Web	www.parliament.qld.gov.au/fac

Acknowledgements

The Committee thanks those who briefed the Committee, made submissions, gave evidence and participated in its inquiry. In particular the Committee acknowledges the assistance provided by the Department of Justice and Attorney-General.

Contents

Abbreviations	v
Glossary	v
Chair’s Foreword	vi
Recommendations	vii
1 Introduction	1
1.1 Role of the committee	1
1.2 Referral	1
1.3 Committee Process	2
1.4 Public briefing	2
1.5 Submissions	2
1.6 Public hearing	2
1.7 Policy objectives of the <i>Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011</i>	3
1.8 Policy objectives of the <i>Criminal Code (Anzac Day Betting) Amendment Bill 2011</i>	3
1.9 Should the Bill be passed?	3
2 Examination of the <i>Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011</i> and <i>Criminal Code (Anzac Day Betting) Amendment Bill 2011</i>	4
2.1 History of two-up	4
2.2 Lawfulness of two-up	5
2.3 Why is there a problem?	6
2.4 Which Act is the appropriate one to amend?	7
2.5 Why should RSL and Services Clubs have exclusive rights to hold two-up games?	9
2.6 On what days should the playing of two-up be allowed?	10
2.7 Revenue to RSL and Services Clubs	11
2.8 Licensing	11
2.9 Costs of implementation	12
3 Fundamental legislative principles	13
3.1 Charitable and Non-Profit Gaming (Two-Up) Amendment Bill 2011	13
3.2 Criminal Code (Anzac Day Betting) Amendment Bill 2011	13
3.3 Explanatory notes	13
3.3.1 <i>Charitable and Non-Profit Gaming (Two-Up) Amendment Bill 2011</i>	13
3.3.2 <i>Criminal Code (Anzac Day Betting) Amendment Bill 2011</i>	13
Appendices	Error! Bookmark not defined.
Appendix A – List of Submissions	15
Appendix B – Table 1: Summary of Submissions	16
Appendix C – Witnesses at public departmental briefing – 12 October 2011	23
Appendix D – Witnesses at public hearing – 16 November 2011	24

Abbreviations

Acts	All Acts referred to in this report refer to Queensland Acts unless otherwise specified
FAC	Finance and Administration Committee
FLP	Fundamental Legislative Principles under the <i>Legislative Standards Act 1992</i>
NSW	New South Wales
QHA	Queensland Hotels Association
RSL	Returned and Services League

Glossary

Two-up	A gambling game in which coins are spun in the air and bets placed on showing of two heads or two tails ¹
the Committee	Finance and Administration Committee
the Government Bill	<i>Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011</i>
the Private Member's Bill	<i>Criminal Code (Anzac Day Betting) Amendment Bill 2011</i>
the department	The Department of Justice and Attorney-General

¹ Australian War Memorial,, *The game of two-up*, <https://www.awm.gov.au/encyclopedia/two-up/> [21 November 2011]

Chair's Foreword

The then Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State, the Hon Paul Lucas MP, introduced the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* to the Legislative Assembly on 7 September 2011. The Bill was referred to the Finance and Administration Committee that same day.

The *Criminal Code (Anzac Day Betting) Amendment Bill 2011* was introduced, as a Private Member's Bill, on 11 May 2011 by the Member for Kawana, Mr Jarrod Bleijie MP. The Legislative Assembly referred the Bill to the Finance and Administration Committee on 8 September 2011.

The Legislative Assembly also agreed a motion on 8 September 2011 to treat the Bills as cognate Bills.

The Committee is required under Standing Orders to report to the House within six months of the referral, ie 7 March 2012. However, the Committee agreed to a timetable which anticipated a reporting date of 1 December 2011.

The Committee found that the basic objective of both Bills is to ensure that those participating in two-up games whilst celebrating Anzac Day are not at risk of prosecution. The two Bills under consideration by the Committee offer two alternatives of achieving that objective.

After due consideration of both Bills, the Committee considered the Government Bill to be the better alternative. The Committee heard evidence that Remembrance Day should not be one of the days on which two-up is allowed, due to the more sombre nature of this day. The Committee also considered that the definition of 'game' needs to be clarified to include two-up.

The Committee received six submissions, including a written submission from the Member for Kawana; held a public briefing with departmental officers on 12 October 2011; and a public hearing with industry representatives on 16 November 2011.

On behalf of the Committee, I would like to thank those that took the time to provide submissions and those who met with the Committee and provided additional information during the course of this inquiry.

I also wish to thank the departmental officers for their cooperation in providing information to the Committee on a timely basis. In particular, the Committee appreciated the attendance of the departmental officers, at short notice, at the Committee's public hearing. Their presence assisted the Committee greatly in resolving and clarifying issues as they arose.

Finally, I would like to thank the other Members of the Committee for their continuing hard work and support.

Wayne Wendt MP
Chair

Recommendations

Standing Order 132 states that a portfolio committee report on a bill is to indicate the Committee's determinations on:

- whether to recommend that the Bill be passed
- any recommended amendments
- the application of fundamental legislative principles and compliance with the requirements for Explanatory Notes.

The Committee has made the following recommendations:

Recommendation 1 **3**

The Committee recommends that the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* be passed.

Recommendation 2 **3**

The Committee recommends that the *Criminal Code (Anzac Day Betting) Amendment Bill 2011* not be passed.

Recommendation 3 **9**

The Committee recommends that the definition of the meaning of game in section 11 of the *Charitable and Non-Profit Gaming Act 1999* also be amended to include two-up as an example of game.

Recommendation 4 **10**

The Committee recommends that Remembrance Day be excluded from the days on which two-up is allowed to be played.

1 Introduction

1.1 Role of the committee

The Finance and Administration Committee (the Committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 16 June 2011.² The Committee's primary areas of responsibility are:

- Premier and Cabinet;
- Reconstruction;
- Treasury;
- Finance;
- Arts; and
- Public Works and IT.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –

- a) the policy to be given effect by the legislation;
- b) the application of fundamental legislative principles to the legislation; and
- c) for subordinate legislation – its lawfulness.

Standing Order 132(1) provides that the Committee shall:

- a) determine whether to recommend that the Bill be passed;
- b) may recommend amendments to the Bill; and
- c) consider the application of fundamental legislative principles contained in Part 2 of the *Legislative Standards Act 1992* to the Bill and compliance with Part 4 of the *Legislative Standards Act 1992* regarding explanatory notes.

Standing Order 132(2) provides that a report by a portfolio committee on a Bill is to indicate the committee's determinations on the matters set out in Standing Order 132(1).

Standing Order 133 provides that a portfolio committee to which a Bill is referred may examine the Bill by any of the following methods:

- a) calling for and receiving submissions about a Bill;
- b) holding hearings and taking evidence from witnesses;
- c) engaging expert or technical assistance and advice; and
- d) seeking the opinion of other committees in accordance with Standing Order 135.

1.2 Referral

The then Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State, the Hon Paul Lucas MP, introduced the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* to the Legislative Assembly on 7 September 2011. The Bill was referred to the Finance and Administration Committee that same day.

² *Parliament of Queensland Act 2001*, s88 and Standing Order 194

The *Criminal Code (Anzac Day Betting) Amendment Bill 2011* was introduced, as a Private Member's Bill, on 11 May 2011 by the Member for Kawana, Mr Jarrod Bleijie MP. The Legislative Assembly referred the Bill to the Finance and Administration Committee on 8 September 2011.

The Legislative Assembly also agreed a motion on 8 September 2011 to treat the Bills as cognate Bills.

The Committee is required under Standing Orders to report to the House within six months of the referral, ie 7 March 2012. However, the Committee agreed to a timetable which anticipated a reporting date of 1 December 2011.

The Committee considered it appropriate that the issue of the legality of two-up games be resolved by the Parliament prior to Anzac Day celebrations in 2012.

1.3 Committee Process

The Committee's consideration of the Bills included calling for public submissions; a public briefing by officers from the Department of Justice and Attorney-General; a written submission from the Member for Kawana and a public hearing.

The Committee also considered expert advice on the Bills' conformance with fundamental legislative principles listed in Section 4 of the *Legislative Standards Act 1992*.

1.4 Public briefing

The Committee held a public briefing on the Bills with officers from the Department of Justice and Attorney-General on Wednesday 12 October 2011. A list of witnesses who gave evidence at the public briefing is contained in Appendix C. A transcript of the briefing has been published on the Committee's website and is available from the Committee secretariat.

1.5 Submissions

The Committee advertised its inquiry into the Bills in *The Courier Mail* on Saturday 17 September 2011. The Committee also wrote to stakeholder groups inviting written submissions on the Bills.

The closing date for submissions was Friday 21 October 2011. The Committee received five public submissions and a written submission from the Member for Kawana. A list of those who made submissions is contained in Appendix A. Copies of the submissions are published on the Committee's website and are available from the Committee secretariat. Appendix B contains a summary of the submissions and departmental response.

1.6 Public hearing

The Committee held a public hearing on Wednesday 16 November 2011 at Parliament House, Brisbane. The Committee invited the following industry groups to attend the hearing:

- Queensland Hotels Association (QHA)
- RSL & Services Clubs Association Queensland Inc
- Clubs Queensland
- Queensland Law Society
- Returned and Services League of Australia (Qld Branch) (RSL)

The Committee also invited representatives from the Department of Justice and Attorney-General to attend the hearing in order to provide responses to issues raised at the hearing.

A list of witnesses who gave evidence at the public hearing is contained in Appendix D. A transcript of the hearing has been published on the Committee's website and is available from the Committee secretariat.

1.7 Policy objectives of the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011*

The objective of the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* (the Government Bill) is to allow for the responsible, not-for-profit conduct of two-up games by the Returned and Services League (RSL) and Services Clubs on Anzac Day, Remembrance Day, and related dates prescribed in a regulation.

1.8 Policy objectives of the *Criminal Code (Anzac Day Betting) Amendment Bill 2011*

The objective of the *Criminal Code (Anzac Day Betting) Amendment Bill 2011* (the Private Member's Bill) is to amend the Criminal Code in order to insert 'an exempt two-up game'. The aim of the Bill is to remove any doubt that the criminal law of unlawful games under section 232 of the Criminal Code does not apply to a particular exempt two-up games.

The insertion of an exempt two-up game into the Code means, a two-up game held in licensed premises in conjunction with an Anzac Day celebration will be exempt from the criminal law.

1.9 Should the Bill be passed?

The Committee found that the basic objective of both Bills is to ensure that those participating in two-up games whilst celebrating Anzac Day are not at risk of prosecution. The two Bills under consideration by the Committee offer two alternatives of achieving that objective.

The Committee considered both alternatives and believes that the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* offers the best solution. Refer to the discussion in section 2.4 of this report for the reasons.

Pursuant to Standing Order 132(1)(a), the Committee recommends that the Bill be passed.

Recommendation 1

The Committee recommends that the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* be passed.

Recommendation 2

The Committee recommends that the *Criminal Code (Anzac Day Betting) Amendment Bill 2011* not be passed.

2 Examination of the *Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011* and *Criminal Code (Anzac Day Betting) Amendment Bill 2011*

In its consideration of the Bills, the Committee examined both Bills in order to decide which Bill is the more appropriate avenue to achieve the objective of legalising two-up for Anzac Day.

2.1 History of two-up

The game of two-up has been played in Australia since the first fleet arrived in 1788, even though it has been illegal for much of this time.

It is thought that the game of two-up originated either from the games of 'pitch and toss' or 'chuck-farthing', which was popular among the masses throughout England and Ireland, or from the game of 'tossing', which was played in the north of England. It is argued that these early games were adapted by resourceful individuals who reorganised the game to increase the winnings to the players thus making it more attractive for gambling. The game itself did not allow players to accumulate a sizeable amount of money whilst playing, however, the betting on the result amongst spectators allowed for increased winnings.³

Whilst some settlers took up the anti-gambling cause, the game thrived in the colony, organised by entrepreneurial prisoners and emancipists. The game was suited to the social and physical environment of the settlement as the game required only two coins and a reasonably level patch of ground. The simplicity of the game and its portability appealed to the early convicts, emancipists and military officers who were excluded from the card games of the colony's respectable elite.⁴

There is also evidence that two-up was played extensively by diggers on the goldfields. There is evidence of itinerant organisers of two-up travelling between country towns to conduct games among pastoral workers and miners searching for their fortune. Mining towns such as Kalgoorlie, Broken Hill, Mount Isa and Charters Towers became the focal point of regular two-up games. Those that organised the games were called scholars and over time this term applied to all players who frequented games, called a school. By the late nineteenth century, two-up schools operated in most cities and towns in Australia.⁵

The rules of the game were based on customs and traditions built on trust. Traditionally, the play is controlled by a boxer or ring-keeper who took a pre-arranged commission from winners. Often an extra percentage was agreed to raise money to assist a worthy cause or needy family. In mining towns, two-up games were frequently organised to assist families of workers killed or injured in mines.⁶

During the 19th century, two-up was condemned by some churches, the press and various anti-gambling lobby groups. In addition to the moral and class arguments against two-up, there was strong opposition to profiteering from gambling.⁷

³ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 11

⁴ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 11

⁵ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 12

⁶ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 13-14

⁷ Correspondence dated 11 October 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 2

Anti-gaming laws were introduced in the 1800's. The aim of early legislators was to ensure that gambling was removed from the public gaze. The mobility and informal betting structures of two-up created particular difficulties for authorities. The police were required to implement unenforceable and unpopular laws. Even when police raided two-up schools they were hampered by the elaborate precautions established to help players to escape arrest. The simplicity of the game enabled players to discard the equipment and coins, thus denying police the necessary evidence for conviction.⁸

The defiant and widespread popularity of two-up in the face of anti-gaming legislation commonly has been explained in nationalistic terms. Two-up assumed a character of its own during and following World War 1 when it became identified with a newly acquired sense of national identity. Celebratory accounts of defiant gambling by troops came to represent the essence of the Australian character.⁹

The legendary association between Australian diggers and two-up was institutionalised in ritualistic games of two-up held after the memorial service every Anzac Day. Many diggers had been introduced to the game whilst they were in the army and the annual Anzac Day game became an important link which united war veterans.¹⁰ The two-up tradition was carried on by a new generation of Australian soldiers in Africa and New Guinea during World War II.¹¹

2.2 Lawfulness of two-up

Two-up is an unlawful game if played in a public place outside of a casino under sections 234 and 230A of the *Criminal Code Act 1899*. The Criminal Code is enforced by the Queensland Police Service. Two-up is legal if played in a private place, as long as all money wagered is returned to players and no one charges an entry fee.¹²

The game of two-up was made illegal in most Australian jurisdictions during the second half of the 19th century. In Queensland, the *Suppression of Gambling Act 1895* and the *Vagrants, Gaming and Other Offences Act 1931* (both now repealed) explicitly identify two-up as an unlawful game.¹³

In 1931 Queensland undertook a major revision of its gaming laws. A clear distinction was drawn between respectable and non-respectable gambling with two-up outlawed indirectly through prohibitions on the conduct of a 'common gaming house' and gaming for profit.¹⁴ However, authorities recognised the nationalist impulses and community sentiments being celebrated in these illegal Anzac Day games and turned a blind eye.¹⁵

In the 1980's casinos were granted the exclusive right to conduct two-up games in Queensland when they were first established. The playing of two-up is authorised by the respective Casino Agreements which are commercial agreements between the State and the relevant operators authorised by the *Casino Control Act 1982* and the relevant Casino Agreement Acts. However, no casino in Queensland currently operates two-up games.¹⁶

The explanatory notes state that the Government Bill is not designed to remove the casino's rights to exclusive conduct of two-up, except on days of historical significance, when Australians commemorate those who have served their country and those who have paid the ultimate sacrifice.

⁸ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 15

⁹ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 17

¹⁰ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 18

¹¹ Correspondence dated 11 October 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 2

¹² Correspondence dated 11 October 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 1

¹³ Correspondence dated 11 October 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 2

¹⁴ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 16

¹⁵ McMillen, J, 'Two-Up from 1788 to the 1990s', *Gamblers' Paradise*, Royal Historical Society of Queensland 1996: 18

¹⁶ Correspondence dated 11 October 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 1

The department advised that they have approached the casinos about the impacts on them. As none of the casinos are currently offering the product, they were all in agreement with the process proposed in the Government Bill. The department advised that they have already signed variations with each of the casinos to vary the casino agreements under which casinos operate to specifically allow for this activity to happen in the way it is defined in the Government Bill. These variations will not prevent casinos from offering the product in the future, even on Anzac Day.¹⁷

2.3 Why is there a problem?

As the law currently stands in Queensland, people participating in the playing of two-up, outside a casino, will be breaking the law, even though it has commonly been accepted that playing the game is acceptable on Anzac Day due to the link with military tradition.

Mr Bleijie noted in his submission to the Committee that the reality is that two-up is presently played on particular days each year around Queensland and played unlawfully to the extent of the current law. He also noted that there is a tendency for law enforcement agencies to turn a blind eye to persons playing two-up on Anzac Day because of the historical significance of the game.¹⁸

The QHA advised the Committee that currently considerable confusion exists within the ex-Service and wider community with regards to the legal status of two-up. They consider that the majority believe that it is in fact legal to play two-up on Anzac Day.¹⁹

The QHA advised the Committee that they frequently have questions from their hotel members regarding the lawfulness of two-up on Anzac Day. They advised that without exception those members are surprised to learn that the playing of two-up is illegal.²⁰

The Chief Executive Officer of RSL and Services Clubs Association of Queensland Inc, who was previously with Clubs Queensland, confirmed that clubs asked the same question regarding legality and whilst they advised that they did not think there would be a problem she was nervous giving that advice because strictly speaking it is not legal.²¹

The QHA also noted that the playing of two-up is legal in a number of other Australian jurisdictions and the proposed amendments will align Queensland law with a majority of Australian states.²²

In New South Wales (NSW) two-up games can only be conducted on Anzac Day (25 April in any year); Victory in the Pacific Day (15 August in any year) and Remembrance Day (11 November in any year but only after 12 noon). Two-up is allowed to be played in Broken Hill all year round under a special licence from the NSW government.²³

In Victoria, two-up is declared to be an unlawful game under the *Gambling Regulation Act 2003* (Vic) with the exception that two-up may be played on Anzac Day at any premises being used on that day by any sub-branch of the RSL and any premises approved for the purposes by the Minister on the recommendation of the RSL. The legislation also allows for the game to be played at any function commemorating Anzac Day if the function is not more than 7 days before Anzac Day and is organised by a sub-branch of the RSL.²⁴

¹⁷ Mr Ford, Transcript 12 October 2011: 4

¹⁸ Submission 6: 2

¹⁹ Submission 1: 1

²⁰ Mr O'Connor, Transcript 16 November 2011: 3

²¹ Ms Wilson, Transcript 16 November 2011: 3

²² Submission 1: 1

²³ NSW Department Communities, Office of Liquor, Gaming & Racing, *Fact Sheet – Two-Up*, April 2011: 1

²⁴ *Gambling Regulation Act 2003* (Vic), s2.3.1; s2.3.2

In Western Australia, a permit may be granted to play two-up at country race meetings to country race clubs located more than 100km from Burswood Casino. The Minister may also issue a two-up permit to RSL clubs each Anzac Day. The Minister may also issue a two-up permit for Anzac Day events not conducted by the RSL, provided the Minister is satisfied the event is sufficiently connected to the celebration of Anzac Day. The same principle applies to RSL clubs who wish to hold an Anzac Day event away from premises normally used for social functions and activities of members. Two-up is also permitted on the anniversary of the Battle of Long Tan, Vietnam (Veteran's Day) on 18 August. The same process of issuing a permit applies for both days.²⁵

In Tasmania, the game known as 'Anzac Day Two Up' is permitted during the period commencing at 0600 hours and ending at 1800 hours on the 25th of April in any year; and the premises upon which the game is conducted is occupied on a permanent basis by an organisation, the majority of the members of which, are former members of the defence forces.²⁶

The QHA advised the Committee that they have been consistently advised by the Queensland Police Service and the Office of Liquor Gaming Regulation that 'although two-up is not legal, no-one will be charged if they play it' on Anzac Day. They consider this to be a rather ambiguous position which has added to the confusion around the legal status of the game and almost invited usually law-abiding citizens to flaunt or break the law.²⁷

The department advised that consultation was undertaken during May 2011 with all other Australian jurisdictions' gambling regulatory agencies regarding the legal status of two-up in their respective jurisdictions. Queensland is the only Australian jurisdiction where two-up is a casino exclusive game. All other jurisdictions allow the playing of two-up outside casinos, on a restricted basis.²⁸

2.4 Which Act is the appropriate one to amend?

The majority of submissions, whilst agreeing with the intent of the Private Member's Bill, supported the Government Bill as the better solution to how the playing of two-up could be legalised on Anzac Day.

The Private Member's Bill proposes that two-up be allowed to be played in licensed premises in conjunction with an Anzac Day celebration. The explanatory notes to the Government Bill counter this alternative on the basis that allowing the authority to conduct two-up games to all clubs and hotels, without any association to the RSL or Services clubs has the potential to erode the links two-up has with Australia's military tradition, which is the basis for community acceptance for playing of the game.

The department advised that the Private Member's Bill does not conform with the normal practice in Queensland when legalising forms of gambling through appropriate enabling legislation which creates a regulatory framework around the gambling activity rather than simply decriminalising it.²⁹

The QHA advised that they support the Government Bill on the basis that the occasional playing of the game on Anzac Day will not contribute to community abuse and the conditions for legal play are reasonable and accord with community standards.³⁰

²⁵ Western Australian Gaming and Wagering Commission, *Two-Up Policy*, September 2011: 3

²⁶ Tasmanian Department of Treasury and Finance, *Minor Gaming – Exempt Games*
<http://www.treasury.tas.gov.au/domino/df/df.nsf/all-s-v/914C5D45F9E0DBEECA25735B00050C03> [19 October 2011]

²⁷ Submission 1: 2

²⁸ Correspondence dated 11 October 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 1

²⁹ Mr Reed, Transcript 12 October 2011: 2

³⁰ Mr O'Connor, Transcript 16 November 2011: 2-3

The RSL and Services Clubs Association of Queensland Inc advised the Committee that they were previously made aware of the Private Member's Bill and had advised Mr Bleijie that they felt that the playing of two-up needed to be confined to licensed RSL & Services Clubs premises or those premises that have been sanctioned by the RSL to hold commemorative events.³¹ They therefore supported the Government Bill.

The RSL (Queensland Branch) also supported the Government Bill for similar reasons to those outlined above.³²

The Queensland Law Society advised that whilst they are keen to see that the final amendments contain important particulars, such as the prohibition of minors and the restriction of legal two-up games to be conducted only by appropriately licensed RSL and Services Clubs as proposed in the Government Bill, they are not sure that the proposal fits within the scope of any of the existing gaming Acts.³³

They contended that as none of the existing gaming Acts are the appropriate place to locate the substance of the Government Bill the most appropriate location for the provisions is in the *Criminal Code Act 1899* as the Criminal Code creates the general prohibition with respect to unlawful gaming and it would be advantageous to have this limited exception to the general rule placed here. They further argued that it seems logical that if wagering on two-up makes the game unlawful then proposed limited exemption to the offence should be located within the Act that creates the offence.³⁴

The Queensland Law Society's submission contends that the approach to permit wagering in the Bill does not fit well with the nature of the games regulated by the *Charitable and Non-Profit Gaming Act 1999* and if not for clause 3 (proposed section 179(2)(f)) there would be no revenue of any kind flowing to the hosting RSL or Services Club.³⁵

The department responded that games regulated under the Act do not necessarily have to be for a fundraising purpose but can simply be not-for-profit. The operator can derive no personal gain from the game and therefore the game provided for in the bill is consistent with games permitted under the Act. The government response also states that if the person or organisation charges an entry fee, they must use the funds raised for charitable purposes.³⁶

The definition of the meaning of game under the *Charitable and Non-Profit Gaming Act 1999* is:³⁷

A game is a game, scheme or arrangement offering prizes, whether or not tickets are sold or distributed, in which the winners are decided –

(a) entirely or partly by chance; or

(b) by a competition or other activity having an outcome depending on chance, for example, a guessing competition.

Examples of game –

1 a calcutta sweep

2 an art union

3 a promotional game

4 bingo

5 lucky envelopes

³¹ Submission 2: 1

³² Submission 5: 2

³³ Submission 4: 4

³⁴ Submission 4: 4

³⁵ Submission 4: 3

³⁶ Correspondence dated 1 November 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 4

³⁷ *Charitable and Non-Profit Gaming Act 1999*, s11

The Queensland Law Society's submission contends that two-up does not fit easily into the definition of a game as there is no offer of prizes in the playing of the game, rather the game is played to wager upon the outcome of the toss of the coins.³⁸

The Queensland Law Society advised the Committee that their concern in relation to the definition of game in the Act, is that they were not completely sure whether two-up in the context was going to be a game or arrangement where there was an offering of prizes because it is actually wagering that is occurring between the participants in the game. So there is no prize being offered by the RSL for winning the game. It is simply wagering between the people who are spectators at the game.³⁹

The department responded that two-up can be considered to be a game under the definition of game in the Act, as winnings returned to players from wagers can be considered to be a prize. They state that no section of the act excludes prizes being derived from wagers by other players. They also advise that section 18 specifies all proceeds for the game conducted by an individual are to be returned to the players as prizes.⁴⁰

Ultimately, however, the Queensland Law Society considered the Government Bill to be a more rigorous scheme and considers key issues around precluding minors from being able to play; there being a direct cultural connection to the host institution; and fees for play being for a charitable purpose.⁴¹ They advised that they consider the amendments proposed in the Government Bill to be good amendments.⁴²

Recommendation 3

The Committee recommends that the definition of the meaning of game in section 11 of the *Charitable and Non-Profit Gaming Act 1999* also be amended to include two-up as an example of game.

2.5 Why should RSL and Services Clubs have exclusive rights to hold two-up games?

The Government Bill restricts the conduct of two-up on Anzac Day, Remembrance Day and related days prescribed by regulation, to RSL and Services Clubs or to functions at other licensed venues.

The RSL and Services Clubs Association of Queensland Inc advised the Committee that RSL clubs embody the Australian tradition of mateship, loyalty and the Anzac Spirit, which are highly valued attributes admired by Australian society as a whole.⁴³ They advised that the game of two-up is synonymous with diggers and therefore their contention is that this privilege should be extended only to RSL and Services Clubs or other venues that are specifically catering to returned servicemen and women on Anzac Day.⁴⁴

³⁸ Submission 4: 2

³⁹ Mr Dunn, Transcript 16 November 2011: 9

⁴⁰ Correspondence dated 1 November 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 3

⁴¹ Mr Dunn, Transcript 16 November 2011: 3

⁴² Mr Dunn, Transcript 16 November 2011: 4

⁴³ Submission 2: 1

⁴⁴ Submission2 :2

Clubs Queensland advised the Committee that the game of two-up has a rich military tradition and given this tradition, they consider that RSL and Service clubs are best placed to conduct this activity. They consider that the playing of two-up in hotels or clubs other than RSL and Services Clubs is a business decision rather than a bona fide Anzac Day celebration. On this basis, they supported the Government Bill as the appropriate Bill.⁴⁵

The QHA indicated that they are interested in rendering legal a traditional activity that they reasonably see as being required to be legal.⁴⁶

2.6 On what days should the playing of two-up be allowed?

The Government Bill proposes to allow the playing of two-up on Anzac Day, Remembrance Day and related days prescribed by regulation.

The Committee was advised that the inclusion of the 'related days prescribed by regulation' will ensure that they do not have to amend the Act in order to enable extra days as suggested by the RSL to be included. The department advised that possible other days include Victory in the Pacific Day and Vietnam Veterans' Day^{47, 48}. The department advised that any additional days would be considered after consultation and be consistent with the linkage to the RSL.⁴⁹

The RSL (Queensland Branch) advised the Committee that they considered that two-up should only be played on Anzac Day because other designated days, such as Remembrance Day, are more sombre days of remembrance.⁵⁰

In response to this submission the department advised that allowing two-up on other days reflects the fact that there are a number of days where Australians commemorate the services of our military service men and women and that the majority of Australian jurisdictions allow for two-up to be played on a variety of commemorative days.⁵¹

The RSL and Services Clubs Association of Queensland Inc agreed with the RSL (Queensland Branch) that Remembrance Day is not really appropriate for the playing of two-up.⁵² The QHA indicated that they would defer to the judgement and recommendations of the RSL movement in regard to which days are appropriate.⁵³ The Queensland Law Society advised the Committee that there needs to be certainty as to which days are to be included.⁵⁴

Recommendation 4

The Committee recommends that Remembrance Day be excluded from the days on which two-up is allowed to be played.

⁴⁵ Submission 3: 1-2

⁴⁶ Mr O'Connor, Transcript 16 November 2011: 3

⁴⁷ <http://www.rslwahq.org.au/Commemoration/Vietnam-Veterans-Day.aspx> [30 November 2011]

⁴⁸ Mr Reed, Transcript 12 October 2011: 3

⁴⁹ Mr Reed, Transcript 12 October 2011: 4

⁵⁰ Submission 5: 2

⁵¹ Correspondence dated 1 November 2011 to FAC from Mr P Reed, Director-General, Department of Justice and Attorney-General: 5

⁵² Ms Wilson, Transcript 16 November 2011: 6

⁵³ Mr O'Connor, Transcript 16 November 2011: 6

⁵⁴ Mr Dunn, Transcript 16 November 2011: 6

2.7 Revenue to RSL and Services Clubs

Clause 3 (proposed section 179) stipulates that the playing of two-up will be lawful if the RSL or Services Club does not charge an entry fee for playing or charges an entry fee that is paid to the RSL or an RSL sub-branch to be used to support ex-service men and women and their families.

The department advised that the Government Bill will allow an entry fee if the money raised is donated to the RSL or RSL sub-branch and is used for purposes to support ex-service men and women and their families. They advised that the intent of the Bill is that all money raised will be used for this purpose and not to be used for club operating expenses or for other administrative purposes.⁵⁵ The department advised that the way the legislation is crafted, the only way money can be made out of running the game is to charge an entry fee.⁵⁶ The department confirmed that there is no problem with the profits from the sale of liquor going towards payment for a room or a facility where the activity is happening.⁵⁷

With respect to the charging of entry fees, the Committee was advised that the goal of the legislation is to create a very broad framework so that as much flexibility as possible is retained. It is the department's expectation that in many cases there will be no fees charged, just as there are currently no fees charged for many activities.⁵⁸

With respect to charges for room hire, the Committee was advised that if an entity is letting out space to the RSL or RSL sub-branch for a function in association with Anzac Day, whether two-up is played or not, they would still charge the same fee for that function. The proceeds that paid for that would have to be out of some other source, whether that is liquor sales or other revenues available to that body. This fee would have to be paid through something other than the two-up game being conducted. Whilst the legislation does not deprive an operator of a venue from charging a fee for room hire, it precludes the direct proceeds from the entry fee for two-up going towards the payment of that fee for room hire.⁵⁹

The Committee was also advised that the legislation specifically precludes the donating of funds raised to activities other than for the purposes to support ex-service men and women and their families.⁶⁰

2.8 Licensing

Both Bills propose a link to the *Liquor Act 1992* and licensed premises under that Act in order to ensure that minors are prohibited from participating in two-up games.

Clause 3 (proposed section 179(2)(a)) prescribes that RSL and Services Clubs are able to conduct two-up on their licensed premises under the *Liquor Act 1992*. In addition, an RSL sub-branch can approve a person in writing to conduct two-up at a function in other premises licensed under the *Liquor Act*.

The Committee was advised that the game would need to be conducted in an area covered by the venue's liquor licence.⁶¹

⁵⁵ Mr Reed, Transcript 12 October 2011: 2

⁵⁶ Mr Ford, Transcript 12 October 2011: 5

⁵⁷ Mr Ford, Transcript 12 October 2011: 5

⁵⁸ Mr Ford, Transcript 12 October 2011: 2

⁵⁹ Mr Ford, Transcript 12 October 2011: 5

⁶⁰ Mr Ford, Transcript 12 October 2011: 9

⁶¹ Mr Ford, Transcript 12 October 2011: 3

With respect to regional areas, the Committee was advised that once a liquor licence is granted, the provisions of the legislation will apply. In a country town, if the RSL or RSL sub-branch seeks to get a liquor permit for a community hall, for example, then that venue becomes part of the area in which two-up can be legally played.⁶²

Clause 3 (proposed section 179(2)(c)) ensures that minors cannot participate in two-up. The explanatory notes state that it is not appropriate for persons under 18 to participate in gambling.

2.9 Costs of implementation

The explanatory notes to the Government Bill indicate that there will be no estimated cost for Government implementation.

Mr Bleijie noted in his submission that he considered that the Government's approach in the Government Bill will add unnecessary burden and red tape.⁶³

The department advised that they are not expecting any form of formal return process from RSL and RSL sub-branches with regard to accounting for revenues and expenditures. These bodies would be subject to normal audit requirements. The department advised that they expect that the Office of Liquor and Gaming Regulation would audit these activities from time to time, particularly if there are any complaints.⁶⁴

⁶² Mr Reed, Transcript 12 October 2011: 4

⁶³ Submission 6: 2

⁶⁴ Mr Ford, Transcript 12 October 2011: 7

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' (FLP) 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 Bill's consistency with FLPs. This section of the report discusses potential breaches of the FLPs identified during the Committee's examination of the Bill and includes any reasons or justifications contained in the explanatory notes and provided by the department.

3.1 Charitable and Non-Profit Gaming (Two-Up) Amendment Bill 2011

In relation to whether the *Charitable and Non-Profit Gaming (Two-Up) Amendment Bill 2011* has sufficient regard to fundamental legislative principles, the Committee identified no clauses as warranting the attention of the House.

3.2 Criminal Code (Anzac Day Betting) Amendment Bill 2011

It should be noted that the *Criminal Code (Anzac Day Betting) Amendment Bill 2011* was considered by the former Scrutiny of Legislation Committee in Legislation Alert No 06 of 2011 tabled on 23 May 2011.

In relation to whether the *Criminal Code (Anzac Day Betting) Amendment Bill 2011* has sufficient regard to fundamental legislative principles, the Committee identified no clauses as warranting the attention of the House.

3.3 Explanatory notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. Subsection 22(1) states that when introducing a Bill in the Legislative Assembly, a member must circulate to members an explanatory note for the Bill. Section 23 requires an explanatory note for a Bill to be in clear and precise language and to include the Bill's short title and a brief statement providing certain information.

3.3.1 *Charitable and Non-Profit Gaming (Two-Up) Amendment Bill 2011*

The explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by section 23 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and genesis.

3.3.2 *Criminal Code (Anzac Day Betting) Amendment Bill 2011*

The explanatory notes were tabled at the first reading of the bill. They are drafted in clear and precise language and generally contain the information required by section 23.

Appendices

Appendix A – List of Submissions

Sub #	Name
1	Queensland Hotels Association
2	Returned Services League & Services Clubs Association Queensland Inc.
3	Clubs Queensland
4	Queensland Law Society
5	Returned Services League (Queensland Branch)
6	Mr Jarrod Bleijie MP, Member for Kawana

Appendix B – Table 1: Summary of Submissions

Submission Number	Organisation	Issues raised in submission	Departmental response
1	Queensland Hotels Association	<p>Support for both bills is offered for the following reasons:</p> <ul style="list-style-type: none"> • The legal status of two-up will be clarified; • Queensland will be aligned with other jurisdictions; • Playing two-up is not, and will not become subject to community abuse; • Proposed playing conditions accord with community standards and are sufficiently prescriptive without being too controlling. 	<ul style="list-style-type: none"> • The QHA submission supports the Government Bill.
2	RSL and Services Clubs Association Inc.	<p>The RSL and Services Clubs Association Inc. supports both bills but felt the Private Member’s Bill needed to be amended to limit the playing of two-up to licensed RSL and Services Club premises or clubs in receipt of and RSL sanction to hold a commemorative event because:</p> <ul style="list-style-type: none"> • Two-up is synonymous with diggers and therefore the privilege should be extended only to RSL and Services Clubs or other venues that specifically cater to Returned Service men and women on Anzac Day and Remembrance Day; • The proposed changes mirror provisions within the <i>Liquor Act 1992</i>. 	<ul style="list-style-type: none"> • The RSL and Services Clubs Association Inc. generally support the Government Bill. However, the Bill also authorises two-up to be played in licensed venues other than RSL and Services Clubs, if sanctioned by and RSL or RSL sub-branch. The extension of the conduct of two-up to clubs other than RSL and Services Clubs allows for the game to be conducted throughout Queensland, even in areas where no RSL club or Services Club is located. The requirement that the conduct of two-up be part of a function on a designated day and be approved by a relevant RSL Sub Branch ensures that the link to commemoration of current and ex-service men and women is retained.

Submission Number	Organisation	Issues raised in submission	Departmental response
3	Clubs Queensland	<p>Clubs Queensland supports, with qualification, the two-up amendment bills because:</p> <ul style="list-style-type: none"> • Two-up has a rich military tradition and many RSL and Services Clubs see fit to celebrate this tradition; • The proposed amendments will give confidence to RSL and Services Clubs to conduct legal two-up games; • The Government Bill proposes to restrict two-up to RSL and Services Clubs and activities that have an RSL link; • The Private Member's Bill does not make the distinction (proposing that two-up can be conducted by any licensed club or hotel on ANZAC or other designated days); • The association questions the need for hotels to conduct two-up and suggests playing the game in hotels may be a commercial decision rather than a bona fide ANZAC Day celebration – on this basis, Clubs Queensland supports the Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011 which proposes to restrict two-up to RSL and Service Clubs and activities that have an RSL link (such as ANZAC Day celebrations) conducted by an RSL Club on other licensed premises. 	Clubs Queensland supports the Government Bill.
4	Queensland Law Society	<p>The Society has considered the different approaches of both bills and finds merit in aspects of each. The Society's view is that neither bill is the ideal solution for the legalisation of two-up games in Queensland on specific days. The Society is of the view that the primary purpose of the Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011 is to make permissible wagering on the outcome of two-up games. For this reason the Society considered that the <i>Wagering Act 1998</i> could provide the right framework for the provisions of the Charitable and Non-Profit Gaming (Two-up) Amendment Bill 2011, notwithstanding that the actual content of the <i>Wagering Act 1998</i> is focused on issues such as licensing, permits and the regulation or totalisator and fixed odd schemes.</p> <p>The QLS states that it would be more appropriate for these provisions to be inserted in the <i>Criminal Code 1899</i>. This view is based on the following assertions:</p>	

Submission Number	Organisation	Issues raised in submission	Departmental response
-------------------	--------------	-----------------------------	-----------------------

- It seems logical that if wagering on two-up makes the game unlawful the proposed limited exemption to the offence should be located within the Act that creates the offence (i.e. the *Criminal Code 1899*).

The Criminal Code was identified by the Government as an inappropriate instrument for the following reasons:

- The approach is inconsistent with the approach for all legalised forms of gaming in Queensland. Under section 234 of the Criminal Code, if a person conducts an unlawful game they commit an offence. 'Unlawful game' is defined in section 230A as *a game not authorised under an Act*. No specific gambling activities are currently authorised under the Criminal Code. Instead, seven gaming Acts authorise legalised gaming in Queensland with each Act placing limitations and regulations on how, where and when games are to be conducted. It should also be noted that all Australian jurisdictions authorise two-up under gaming Acts.
- Due to its inconsistency with the current approach in authorising legalised gaming in Queensland, authorising two-up under the Criminal Code would reduce the clarity of the regulatory framework for legalised gaming. The Criminal Code would essentially need to fulfil the role of a gaming Act in prescribing and regulating how, when and where legalised two-up games can be conducted.
- The Department of Justice and Attorney-General's Office of Liquor and Gaming Regulation (OLGR) regulates gaming in Queensland and is authorised to perform its regulatory functions under the gaming Acts. Authorising two-up under the Criminal Code would mean that OLGR are unable to regulate the conduct of two-up.
- A gaming Act provides a broader, overarching framework to ensure gaming activities are conducted with integrity (for example the *Charitable and Non-Profit Gaming Act 1999* requires that the advertising of the conduct of a game is not indecent, offensive, false or misleading). Authorising the game under the Criminal Code would mean that no broader framework exists for ensuring the integrity of the conduct of two-up, unless significant new provisions to perform this regulatory function were inserted into the Criminal Code, thus reducing its clarity.

Submission Number	Organisation	Issues raised in submission	Departmental response
		<ul style="list-style-type: none"> The objects of the <i>Charitable and Non-Profit Gaming Act 1999</i> refer to general gaming. General gaming is defined as ‘<i>playing a game</i>’, and ‘<i>game</i>’ is defined as, ‘<i>a game, scheme or arrangement offering prizes, whether or not tickets are sold or distributed, in which the winnings are decided entirely or partly by chance or by a competition or other activity having an outcome depending on chance (for example a guessing competition)</i>’. QLS contend that winnings from a wager staked by a player in a two-up game are not a prize and therefore the <i>Charitable and Non-Profit Gaming Act 1999</i> should not cover two-up gaming. 	<ul style="list-style-type: none"> The Government identified the <i>Charitable and Non-Profit Gaming Act 1999</i> as the more appropriate instrument for the following reasons: A stated intent of the Government Bill is that the game of two-up not be used for profit making, though the conduct of two-up, through the charging of entrance fees, can be used to raise funds for a charitable purpose (for ex-service men and women and their families). The <i>Charitable and Non-Profit Gaming Act 1999</i>, as indicated by its name, is designed to regulate gaming activities that are for charitable and non-profit purposes. It is therefore the most appropriate gaming Act/Act to regulate two-up as authorised by the Bill. Two-up can be considered to be a game under the definition of game in the Act, as winnings returned to players from wagers can be considered to be a prize. No section in the <i>Charitable and Non-profit Gaming Act 1999</i> excludes prizes being derived from wagers by other players as prizes. Indeed, under section 18, it specifies all proceeds for a Category 1 game conducted by an individual are to be returned to the players as prizes. A wager is defined as ‘<i>something staked or hazarded on an uncertain event; a bet</i>’. Therefore money staked by a person playing any gaming activity (such as bingo) could be considered to be a wager (and it is considered acceptable for a person conducting bingo under the <i>Charitable and Non-Profit Gaming Act 1999</i> to use all or part of the money staked by players as prize money for the winning players). In addition, the Explanatory Notes also clearly refer to two-up as a ‘game’. The prescribing of legalised two-up requires more than an exemption from it being an unlawful game under the Criminal Code. It also requires a framework to ensure there is a clear definition of what is meant by two-up and that it is conducted appropriately (such as not allowing minors to participate). Such a framework is not an appropriate fit in the Criminal Code. Rather gaming Acts are the appropriate Acts to provide for frameworks for legalised gaming.

Submission Number	Organisation	Issues raised in submission	Departmental response
5	RSL (Qld Branch)	<p data-bbox="573 889 1220 935">RSL (Queensland Branch) supports the amendments with the following recommendations:</p> <ul data-bbox="617 326 1262 1068" style="list-style-type: none"> <li data-bbox="617 326 1262 456">• The approach in the Bill does not fit well with the other forms of gaming permitted under the <i>Charitable and Non-Profit Gaming Act 1999</i>. The Law Society states ‘... indeed if it were not for proposed clause 179(2)(f) there would be no revenue of any kind flowing to the hosting RSL or Services Club’. <li data-bbox="617 472 1262 659">• With respect to the Criminal Code (Anzac Day Betting) Amendment Bill 2011, the Society is keen to see that the final amendments contain the important particulars, such as the prohibition of minors and the restriction of legal two-up games to be conducted only by appropriately licensed RSL and Services Clubs, as proposed in the Charitable and Non-Profit Gaming (Two-Up) Amendment Bill 2011. <li data-bbox="617 992 1262 1068">• Two-up only to be played on Anzac Day. Other designated days such as Remembrance Day are more sombre days of remembrance. 	<ul data-bbox="1335 326 1950 1234" style="list-style-type: none"> <li data-bbox="1335 326 1950 870">• Games regulated under this Act do not necessarily have to be for a fundraising purpose but can simply be not-for-profit. For example, an individual can conduct a Category 1 game under section 18, if they do not derive a personal gain from conducting the game and all proceeds of the game are returned to players as prizes. Therefore, the game of two-up as provided for in the Government Bill is consistent with games permitted under the <i>Charitable and Non-Profit Gaming Act 1999</i>. However, under the Bill, if the person or organisation conducting the playing of two-up charges an entry-fee, they must use the funds raised for charitable purposes (for ex-service men and women and their families), which fits with other charitable games regulated under the <i>Charitable and Non-Profit Gaming Act 1999</i>. Alternatively, if the person or organisation conducting the playing of two-up does not charge an entry fee, and therefore no funds are raised for charitable purposes, this has clear parallels to requirements for some Category 1 games and is therefore appropriate to be regulated under the <i>Charitable and Non-Profit Gaming Act 1999</i>. <li data-bbox="1335 992 1950 1234">• The Government Bill allows for two-up on Anzac Day, Remembrance Day, and other related days as prescribed in a regulation. This reflects the fact that there are a number of days where Australians commemorate the services of our military service men and women. It should be noted that the majority of Australian jurisdictions allow for two-up to be played on a variety of commemorative days. For example, New South Wales allow for the game to be played on Remembrance Day and Victory in the Pacific Day.

Submission Number	Organisation	Issues raised in submission	Departmental response
		<ul style="list-style-type: none"> The ability for an RSL Sub Branch to play a game of two-up on Anzac Day in a venue other than a licensed venue – such as a community hall (not including school grounds). This would be required by and specific to regional and remote areas of Queensland where there may be no access to an available licensed venue. The term RSL Sub Branch is to be defined as the RSL Sub Branch [which is a chartered Sub Branch under the RSL (Queensland Branch) Constitution] which is the local RSL Sub Branch for that area. The RSL Sub Branch is to approve in writing the playing of two-up and the venue in which it is played. If there is no RSL Sub Branch to conduct this approval, the closest RSL (Qld Branch) District Office may approve the game and location. Entry fees should be defined as a donation to the RSL Sub Branch to play a game of two-up which will allow the RSL Sub Branch to continue its vital welfare services. These donations are not to be received by a Services Clubs which may be operated by an entity other than an RSL Sub Branch. 	<ul style="list-style-type: none"> The Government Bill authorises two-up to be played in a licensed venue other than an RSL or Services Club, if approved in writing by an RSL Sub Branch. This does not prevent two-up being conducted in halls or similar venues if a liquor permit was applied for and granted to the venue for the day on which the game is conducted. The cost of a community liquor permit is currently \$55 per day. The intention when drafting the Government Bill was that the term ‘RSL’ has the same meaning as it does under the <i>Liquor Act 1992</i>. Where the term ‘RSL’ appears in the Bill, unless specifically stated otherwise, it refers to an RSL (Queensland Branch) or an individual Sub Branch. As with the <i>Liquor Act 1992</i>, no definition of RSL is considered to be required. Any game of two-up conducted on licensed premises other than an RSL Club or Services Club is required to be approved in writing by an RSL Sub Branch. While the Government Bill does not specify that it is the local RSL Sub Branch that approves the conduct of the game, it is not considered necessary for this to be prescribed in the Bill. Generally, the local Sub Branch would authorise the conduct, but no issue is identified for another, non-local Sub Branch to authorise the conduct of two-up in a licensed venue. The Government Bill allows an entry fee to be charged, if all money raised is donated to the RSL or an RSL Sub Branch and is used for purposes to support ex-service men and women and their families. It is stated in the Explanatory Notes that it is the intent of the Bill that all money raised will be used for this purpose, and not be used for club operating expenses or other administrative purposes. The Bill does not allow for Services Clubs to use or distribute funds raised from entrance fees. Any money that might be raised by a Services Club from the conduct of two-up in their licensed premises must be directed to the RSL for distribution. Therefore, it is considered that the provisions in the Bill already adequately cover this recommendation.

Submission Number	Organisation	Issues raised in submission	Departmental response
6	Mr Jarrod Bleijie MP, Member for Kawana	<p>Mr Bleijie raises two issues in relation to the Government Bill:</p> <ul style="list-style-type: none"> • The Bill discriminates between the types of licensed premises that can play two-up. • The Government Bill adds unnecessary burden and red tape. 	<ul style="list-style-type: none"> • In line with community expectation, the amendments in the Government Bill seek to make two-up legal if conducted by an RSL or Services Club, or in other licensed premises if approved in writing by an RSL Sub Branch, on key days on which Australians commemorate those who have served Australia in wartime. Therefore, the Bill allows for two-up to be played in licensed premises other than RSL and Services Clubs, but retains the links the game has to Australia's military tradition by ensuring that the conduct of the game in other licensed premises is approved by an RSL Sub Branch. • As two-up is currently illegal, if played outside a casino; the Government Bill does not impose any additional regulatory burden on industry. The Bill was designed to allow for a broad framework for legalised two-up in Queensland, so that the game can be played with minimal regulatory oversight, but also to mitigate potential legal and social risks of legalising a form of gambling. It is noted that industry submissions have been supportive of the provisions in the Bill. • The restrictions on the conduct of two-up imposed by the Bill are minimal and provide a necessary framework to ensure the game is conducted with integrity and in accordance with the Government policy to minimise the potential of harm of gambling in the community, and also to mitigate the risk that the Government is subject to compensation claims from the casino industry (who currently have an exclusive right to conduct two-up in Queensland). The Government Bill prescribes what is meant by two-up (to ensure the game is played in the spirit of the traditional rules), prohibits minors from participating, ensures any money raised is used to support ex service men and women and their families, and that the conduct of two-up is linked to RSL and Services Clubs, in accordance with its traditional link to service men and women. The relevant provisions have been inserted in a Gaming Act, which is designed to provide for gambling regulatory frameworks.

Appendix C – Witnesses at public departmental briefing – 12 October 2011

Witnesses
Mr Philip Reed, Director-General, Department of Justice and Attorney-General
Mr David Ford, Deputy Director-General, Gaming and Fair Trading, Department of Justice and Attorney-General
Ms Linda Woo, Executive Director, Office of Regulatory Policy, Department of Justice and Attorney-General
Ms Susan Greber-Sokimi, Acting Director, Office of Regulatory Policy, Department of Justice and Attorney-General
Mr Stephen Nicolson, Principal Policy and Research Officer, Office of Regulatory Policy, Department of Justice and Attorney-General

Appendix D – Witnesses at public hearing – 16 November 2011

Witnesses
Mr Matt Dunn, Principal Policy Solicitor, Queensland Law Society
Ms Raylene, D’Cruz, Policy Solicitor, Queensland Law Society
Mr Justin O’Connor, Chief Executive, Queensland Hotels Association
Ms Penny Wilson, Chief Executive Officer, RSL & Services Clubs Association Queensland Inc.
Ms Leanne Clements, Commercial Manager, Commercial Operations, RSL (Qld Branch)
Mr Philip Reed, Director-General, Department of Justice and Attorney-General
Ms Linda Woo, Executive Director, Office of Regulatory Policy, Department of Justice and Attorney-General
Ms Susan Greber-Sokimi, Acting Director, Office of Regulatory Policy, Department of Justice and Attorney-General
Mr Stephen Nicolson, Principal Policy and Research Officer, Office of Regulatory Policy, Department of Justice and Attorney-General