
Queen's Wharf Brisbane Bill 2015

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills

Short title

Queen's Wharf Brisbane Bill 2015.

Objective of the amendments

On 3 December 2015, the Queen's Wharf Brisbane Bill 2015 was introduced into Parliament. The Bill was referred to the Infrastructure, Planning and Natural Resources Committee for consideration.

At the time the Bill was introduced, a proposed Queen's Wharf Brisbane (QWB) Casino Agreement was incorporated into Schedule 1, as the agreement had not yet been executed by the parties.

The casino agreement has now been executed by all parties.

These amendments replace the proposed casino agreement in Schedule 1 of the Bill with the executed agreement and make a number of consequential amendments to the Bill. The executed agreement is the same in all material respects to the proposed casino agreement, other than a limited number of minor formatting changes.

The amendments also refine the criteria for declaration of PDA-associated development included in the Bill's amendment of the *Economic Development Act 2012*. The scope of what may be captured as PDA-associated development was raised by a number of local governments and the Local Government Association of Queensland in submissions to the Infrastructure, Planning and Natural Resources Committee. The amendments address these concerns, including establishing different criteria for development infrastructure and other types of development.

Other amendments have also been proposed to ensure the effective operation of PDA-associated development.

Achievement of objectives

The objectives of the amendments are achieved by the replacement of:

- the proposed casino agreement in Schedule 1 with the executed agreement, and making consequential amendments to clauses 3, 9, 10, 11, 12 and Schedule 2 of the Bill.
- criteria for declaration of PDA-associated development in clause 93, and making a series of amendments to a number of other clauses.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Estimated cost for government implementation

There are no costs associated with the amendments.

Consistency with fundamental legislative principles

The proposal is consistent with fundamental legislative principles.

Consultation

The submissions from local governments and the Local Government Association of Queensland to the Infrastructure, Planning and Natural Resources Committee informed the amendments made to the criteria for declaration of PDA-associated development.

Notes on provisions

Amendment 1 amends clause 3(a) of the Bill to remove references to the agreement being ‘entered into’ as the casino agreement has now been made.

Amendment 2 amends clause 9 in relation to the meaning of casino agreement to describe the ratification process applying to the executed agreement rather than the process that applied to the proposed agreement.

Amendment 3 amends clause 10 to replace the making and ratification process that applied to the proposed agreement with the ratification process that applies to the executed agreement.

Amendment 4 amends clause 11(1) to clarify that the ‘agreement’ referenced in this clause is the original ratified agreement referred to in clause 10.

Amendment 5 amends clause 11(2)(a) to clarify that the casino agreement referred to in this subsection is the ‘original’ agreement referred to under section 10.

Amendment 6 amends clause 12 to clarify the different agreements that are referred to, that is, the ratified agreement under section 10 and any further agreements made and ratified under section 11.

Amendment 7 amends clause 93 of the Bill amending the Economic Development Act to insert an example of development to which the division about declaration of PDA-associated development applies. The example clarifies that the development that is outside the boundary of the Priority Development Area (PDA) is the development that may be declared to be PDA-associated development.

Amendment 8 amends clause 93 to replace paragraph (2)(b) in new section 40C of the Economic Development Act with revised criteria for proposed development that the Minister for Economic Development Queensland (MEDQ) must be satisfied are met when making a declaration. The amendment distinguishes between two sets of criteria, the first related to proposed development that provides development infrastructure for the PDA, and the second, to other types of proposed development.

The amendment requires development infrastructure to address the impacts of any development within the PDA and clarifies that the infrastructure is not limited in its function or purpose. Accordingly, the infrastructure may also serve development outside the PDA, or have a purpose other than addressing development impacts.

For proposed development that is not development infrastructure, the amendment requires that it meet three criteria: promotes the proper and orderly planning, development and management of the PDA in accordance with the relevant development instrument for the area, has an economic or community benefit for the State or the region in which the PDA is located, and cannot reasonably be located or accommodated entirely within the PDA.

Subparagraph (2)(b)(iii) in the amendment is a renumbering of subparagraph 2(b)(iv) in the Bill which relates to a third criteria that can be prescribed by regulation.

Amendment 9 amends clause 93 by inserting a definition of ‘development infrastructure’ for amended section 40C of the Economic Development Act, which deals separately with development infrastructure in stating the criteria for MEDQ to declare development to be PDA-associated development. The definition has the meaning given by the *Sustainable Planning Act 2009*, section 627. This includes development such as roads and water supply and sewerage infrastructure.

Amendment 10 inserts a new clause 93A to amend section 41(2)(a) and (b) of the Economic Development Act dealing with the cessation of a provisional PDA. This ensures that required amendments of a local government’s planning scheme before cessation occurs provide for any PDA-associated land as well as land within the provisional PDA. ‘PDA-associated land’ is defined in a new definition inserted by amendment 17.

Amendment 11 amends clause 98 which inserts a new section 51A into the Economic Development Act to deal with lawful uses related to PDA-associated development. The amendment makes section 51A consistent with section 51 dealing with lawful uses within a PDA.

Amendment 12 amends clause 108 which amends section 87 of the Economic Development Act to delete an incorrect inclusion of the word ‘relevant’.

Amendment 13 inserts a new clause 108A to amend section 99(4) of the Economic Development Act dealing with applications to change a PDA approval. The amendment changes a reference from section 84(1)(a) to section 84 so that the waiving of notification applies to all approvals, including an approval for PDA-associated development that was previously notified.

Amendment 14 inserts eight new clauses 109A to 109H to amend a number of sections in the Economic Development Act to accommodate PDA-associated development, mostly by referring to PDA-associated land so that this land may be dealt with in a similar way to land within a PDA. The exception is clause 109E which amends a division heading to a more general reference. ‘PDA-associated land’ is defined in a new definition inserted by amendment 17. The new clauses in amendment 14 relate to the following sections of the Act:

- clause 109A: section 114(3) and (4) dealing with declarations of the Planning and Environment Court;
- clause 109B: section 115 dealing with levying special rates or charges;
- clause 109C: section 116A providing definitions for the division dealing with infrastructure expenses recoupment charges;
- clause 109D: section 116E dealing with the making and levying of a charge by a superseding public authority;
- clause 109E: heading of chapter 3, part 7 dealing with infrastructure agreements relating to PDAs;
- clause 109F: section 118 dealing with the application of part 7;
- clause 109G: section 121 dealing with the continuation of infrastructure agreements beyond cessation of a PDA;
- clause 109H: section 122 dealing with consultation with public sector entities before entering into particular infrastructure agreements.

Amendment 15 inserts new clause 113A to amend section 127 of the Economic Development Act dealing with directions to a government entity or local government to accept a transfer. The amendment refers to PDA-associated land so that this land may be dealt with in a similar way to land within a PDA. ‘PDA-associated land’ is defined in a new definition inserted by amendment 17.

Amendment 16 amends new section 218 in the Economic Development Act, which is a transitional provision providing for the application of amended chapter 3 of the Act, so that the amended chapter applies to PDA-associated land as well as PDA-associated development. ‘PDA-associated land’ is defined in a new definition inserted by amendment 17.

Amendment 17 amends the dictionary in schedule 1 of the Economic Development Act in three places. Firstly, the definition of ‘PDA-associated development’ is replaced with an amended definition that excludes the words ‘other than development to be carried out entirely within the area’. These words are unnecessary in the definition as they are included in section 40A dealing with the application of chapter 3, part 2, division 2A, which provides for declaration of PDA-associated development. Secondly, a new definition of ‘PDA-associated land’ is inserted to refer to land on which PDA-associated development is located or proposed to be located as described in the declaration or identified in the relevant development instrument. This definition aids in amendments to a number of provisions that provide for PDA-associated development to be dealt with in a similar way to development on land within a PDA. The third aspect of the amendment, inserts a reference to PDA-associated land in the definition of superseding public sector entity so that the definition applies to PDA-associated land in the same way it applies to land that ceases to be in a PDA.

Amendment 18 amends clause 122 that amends the definition of assessable development in section 4 of the *South Bank Corporation Act 1989* to exclude both development carried out in a PDA and PDA-associated development. The amendment deletes the words ‘carried out’ in the reference to development in the PDA, as they are not necessary and also inconsistent with the reference to PDA-associated development.

Amendment 19 amends clause 124 to replace the reference to PDA-associated development with the term ‘PDA-associated land’ in section 99BRAT of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*. PDA-associated land is defined in a new definition inserted by amendment 17.

Amendment 20 inserts a new clause 124A to amend section 99BRCF of the *South-East Queensland Water (Distribution and Retail Restructuring) Act* to include a reference to PDA-associated land. The amendment provides for PDA-associated development to be dealt with in a similar way to development located on land within a PDA. ‘PDA-associated land’ is defined in a new definition inserted by amendment 17.

Amendment 21 amends Schedule 1 to remove the ‘proposed’ casino agreement and replace it with the executed casino agreement.

Amendment 22 amends Schedule 2 to remove the definition of ‘approved’ as this was originally included to describe the approval process of the ‘proposed’ casino agreement by regulation. As the executed casino agreement is being inserted into Schedule 1 and is ratified by the Legislative Assembly, there is no longer a need to define ‘approved’.