

Queensland



# **CAIRNS CASINO AGREEMENT ACT 1993**

**Act No. 42 of 1993**

# Queensland



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### TABLE OF PROVISIONS

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	4
2	Definitions .....	4
3	Interpretation—meaning of “development” .....	5
<b>PART 2—AUTHORITY TO AGREE TO DEVELOP AND OPERATE CAIRNS CASINO</b>		
4	Minister may make agreement for Cairns Casino .....	6
5	Agreement has effect as enactment .....	6
6	Amendment of casino agreement .....	7
<b>PART 3—APPLICATION OF OTHER ACTS</b>		
7	Heritage Act—whether registered place or otherwise .....	7
8	Land Act—development and operation of Cairns Casino .....	9
9	Planning Act—J. Special Facilities (Cairns Casino) Zone .....	9
10	Liquor Act—type of licence and ordinary trading hours .....	10
11	Control Act .....	10
12	Casino agreement not limited by this Part .....	10
<b>PART 4—MISCELLANEOUS</b>		
13	Regulations .....	10



Queensland



## **Cairns Casino Agreement Act 1993**

### **Act No. 42 of 1993**

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**An Act to authorise the entering into of an agreement for the development and operation of the Cairns Casino, and for related purposes**

*[Assented to 7 September 1993]*

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Cairns Casino Agreement Act 1993*.

### Definitions

2. In this Act—

“**Cairns Casino**” means a hotel-casino complex in the City of Cairns;

“**casino agreement**” means the agreement made under section 4, and includes the agreement as amended under this Act;

“**casino part**” means the part of the Cairns Casino that is a casino under the Control Act;

“**conduct engaged in for the purpose of making a decision**” has the meaning given by section 8 of the Review Act;

“**Control Act**” means the *Casino Control Act 1982*;

“**decision**” means a decision, report or recommendation made, proposed to be made or required to be made, and includes—

- (a) a matter appearing or purporting to be a decision, report or recommendation; and
- (b) a matter relating to, or appearing or purporting to relate to, a decision, report or recommendation;

“**development**” has the meaning given by section 3;

“**failure to make a decision**” has the meaning given by section 5 of the Review Act;

“**Heritage Act**” means the *Queensland Heritage Act 1992*;

“**Heritage Register**” has the meaning given by section 4 of the Heritage Act;

“**Land Act**” means the *Land Act 1962*;

“**Liquor Act**” means the *Liquor Act 1992*;

“**making of a decision**” has the meaning given by section 5 of the Review Act;

“**permitted use**” has the meaning given by section 1.4 of the Planning Act;

“**Planning Act**” means the *Local Government (Planning and Environment) Act 1990*;

“**planning scheme**” has the meaning given by section 1.4 of the Planning Act;

“**public official**” includes a Minister, an officer of the public service and an officer or employee of a State agency;

“**registered place**” has the meaning given by section 4 of the Heritage Act;

“**Review Act**” means the *Judicial Review Act 1991*;

“**site**” means the land comprised in the site mentioned in the casino agreement as the site for the Cairns Casino, and includes any part of the land;

“**special facility licence**” means a special facility licence under Division 8 of Part 4 of the Liquor Act;

“**State agency**” means an agency, authority or instrumentality of the State, and includes the Queensland Heritage Council.

### **Interpretation—meaning of “development”**

**3.(1) “Development”** of the Cairns Casino includes—

- (a) if the Cairns Casino is to be developed in relation to a registered place—changing the use of the place; and
- (b) the work necessary for the construction of the Cairns Casino; and
- (c) the fitting out of the Cairns Casino (whether or not the buildings that are fitted out are part of a registered place or another existing place or are to be constructed); and
- (d) any other activity in relation to the site that would be a development within the meaning of the Heritage Act.

*Examples if the Cairns Casino is to be developed in relation to a registered place—*

*Example 1—*

Construction of buildings at a registered place.

*Example 2—*

Relocation of fittings, monuments and other objects from a registered place.

*Example 3—*

Excavating, disturbing or changing the landscape of a registered place.

(2) For the purposes of subsection (1), a regulation may declare—

- (a) any specified activity is work necessary for the construction of the Cairns Casino; and
- (b) any specified activity is comprised in the fitting out of the Cairns Casino.

## **PART 2—AUTHORITY TO AGREE TO DEVELOP AND OPERATE CAIRNS CASINO**

### **Minister may make agreement for Cairns Casino**

**4.(1)** The Minister may make, on behalf of the State, an agreement with a person for the development and operation of the Cairns Casino.

(2) The Minister may make an agreement under subsection (1) only if the proposed agreement has been approved by regulation.

(3) The Minister must notify the date of the making of the agreement by Gazette notice.

### **Agreement has effect as enactment**

**5.(1)** The casino agreement has effect as if it were an enactment of this Act.

(2) If a provision of the casino agreement is inconsistent with an Act, the provision prevails and the Act is not effective to the extent of the inconsistency.

### **Amendment of casino agreement**

6.(1) The casino agreement may be amended by a further agreement between the Minister and the other parties to the casino agreement.

(2) The Minister may make a further agreement only if the proposed further agreement has been approved by regulation.

(3) The Minister must notify the date of the making of the further agreement by Gazette notice.

## **PART 3—APPLICATION OF OTHER ACTS**

### **Heritage Act—whether registered place or otherwise**

7.(1) If the Cairns Casino is to be developed—

- (a) in relation to a place that is a registered place—subsections (2) to (8) apply; or
- (b) in relation to a place that is not a registered place—subsection (9) applies.

(2) Division 1 of Part 5 of the Heritage Act does not apply to the development of the Cairns Casino.

(3) The proposed development of the Cairns Casino is taken to be a development to which section 37 of the Heritage Act applies.

(4) In relation to the proposed development of the Cairns Casino, the Minister is the Minister responsible for the proposed development or work mentioned in section 37 of the Heritage Act.

(5) A decision under the Heritage Act, or another decision, of a State agency or public official in relation to the development or operation of the Cairns Casino—



- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or questioned in any other way, under the Review Act or otherwise (whether by the Supreme Court, another court, a tribunal, an authority or a person); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal, an authority or a person on any ground.

*Examples of writs and orders to which the subsection applies—*

*Example 1—*

Writs of mandamus, prohibition and certiorari.

*Example 2—*

Certiorari orders, prohibition orders, prerogative orders, prerogative injunctions, and statutory orders of review, within the meaning of the Review Act.

*Example 3—*

Declaratory and injunctive orders.

**(6)** Without limiting subsection (5), the Review Act does not apply to—

- (a) conduct engaged in for the purpose of making a decision; or
- (b) other conduct that relates to the making of a decision; or
- (c) the making of a decision or the failure to make a decision; or
- (d) a decision;

under the Heritage Act or otherwise about the development or operation of the Cairns Casino.

**(7)** In particular, but without limiting subsection (6), the Supreme Court does not have jurisdiction to decide applications made to it under Part 3, 4 or 5 of the Review Act about matters mentioned in that subsection.

**(8)** The Minister's power under section 37(5) of the Heritage Act to decide whether to accept or reject a recommendation of the Queensland Heritage Council is not affected by subsection (5)(a) of this section.

**(9)** If the Cairns Casino is prescribed, by regulation, to be developed in relation to a particular place, the Council must not, under the Heritage Act

(on its own motion or on application)—

- (a) enter the place in the Heritage Register; or
- (b) consider or further consider whether the place should be entered in the Heritage Register.

### **Land Act—development and operation of Cairns Casino**

**8.(1)** For the purposes of the development of the Cairns Casino, the casino agreement may provide that permission to occupy the site is to be granted under section 371A of the Land Act.

**(2)** For the purposes of the operation of the Cairns Casino, the casino agreement may provide—

- (a) that a special lease is to be granted under section 203 of the Land Act; and
- (b) if a special lease is granted—the term of the lease, which may not be longer than 75 years.

**(3)** If the site is land reserved and set apart for a public purpose, the development and operation of the Cairns Casino is taken to be a purpose declared under the Land Act by the Governor in Council to be not inconsistent with the reservation or the Land Act.

**(4)** Sections 204A and 204B of the Land Act (and any other provision of the Land Act dealing with rental amounts, payments and periods) do not apply to the special lease mentioned in subsection (2).

**(5)** Matters in relation to rent for the permission to occupy and special lease may be provided for in the casino agreement.

### **Planning Act—J. Special Facilities (Cairns Casino) Zone**

**9.** The casino agreement may provide that, for the purposes of any planning scheme approved for the City of Cairns—

- (a) the site is taken to be zoned as a J. Special Facilities (Cairns Casino) Zone; and
- (b) the use of the site for the development or operation of the Cairns Casino (and for uses incidental to the development or operation)

is a permitted use and, if the agreement does provide, the Council of the City of Cairns may not require an application under the Planning Act for the permitted use of the site; and

- (c) the site remains zoned as a J. Special Facilities (Cairns Casino) Zone for the period of the special lease.

### **Liquor Act—type of licence and ordinary trading hours**

**10.(1)** The casino agreement may provide for the grant of a special facility licence for the Cairns Casino.

**(2)** For the purposes of granting the special facility licence, the Cairns Casino is a facility that forms part of the tourist development of the State.

**(3)** Despite section 9 of the Liquor Act but for the purposes of that Act, the ordinary trading hours during which the special facility licence permits the sale or consumption of liquor in the casino part are the same hours approved (under section 61 of the Control Act) for the operation of the casino part.

### **Control Act**

**11.** For the purposes of section 19 of the Control Act, the casino agreement is taken to be ratified by Parliament.

### **Casino agreement not limited by this Part**

**12.** This Part does not, by implication, limit what may be contained in the casino agreement.

## **PART 4—MISCELLANEOUS**

### **Regulations**

**13.** The Governor in Council may make regulations for the purposes of this Act (including the casino agreement).

