

Queensland



Subordinate Legislation 1997 No. 11

Breakwater Island Casino Agreement Act 1984

**BREAKWATER ISLAND CASINO
AGREEMENT VARIATION REGULATION
1997**

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PROPOSED FURTHER AGREEMENT

Short title

1. This regulation may be cited as the *Breakwater Island Casino Agreement Variation Regulation 1997*.

Approval of proposed further agreement—Act, s 3

2. The proposed further agreement set out in the schedule is approved.¹

¹ The Act, section 3 provides that the formal agreement may be varied by a further agreement between the Minister and the other parties to the agreement and that the Minister may make a further agreement only if the proposed further agreement has been approved by regulation.

SCHEDULE

PROPOSED FURTHER AGREEMENT

section 2

THIS AGREEMENT is made on 1997

BETWEEN THE STATE OF QUEENSLAND (“**State**”)

AND PERPETUAL TRUSTEES QUEENSLAND LIMITED
ACN 009 656 811 a company duly incorporated as trustee
of the Breakwater Island Trust (“**Perpetual**”)

AND BREAKWATER ISLAND LIMITED ACN 010 271 691 a
company duly incorporated and having its registered office
at Ground Floor, Garden Square, 643 Kessels Road, Upper
Mt Gravatt, Queensland (“**Breakwater**”)

RECITALS

A The parties are the parties to an agreement made on
27 November 1984 relating to the establishment and
operation of a hotel/casino complex in Townsville in the
State of Queensland which was authorised by the Act and as
subsequently amended.

B Perpetual has been appointed the trustee of the Breakwater
Island Trust.

SCHEDULE (continued)

- C Breakwater has been appointed the manager of the Breakwater Island Trust.
- D The parties have agreed to amend the Breakwater Island Casino Agreement in the manner set out in this document.

OPERATIVE PROVISIONS**Definitions**

1. In this document—
- “**Act**” means the Breakwater Island Casino Agreement Act 1984.
- “**Breakwater Island Casino Agreement**” means the agreement referred to in Recital A.
- “**Breakwater Royalty**” means the royalty payable by Jupiters Gaming to Perpetual pursuant to the Breakwater Surrender and Royalty Agreement.
- “**Breakwater Surrender and Royalty Agreement**” means an agreement arising out of acceptance by Perpetual and Breakwater of an offer by Jupiters Gaming dated 17 September 1996.
- “**Commencement Date**” means unless otherwise agreed in writing the date upon which an agent of Jupiters Gaming other than at a Licensed Casino first provides the game of Keno through Jupiters Gaming’s Keno operation or 31 March 1997 whichever is the earlier.
- “**Jupiters Gaming**” means Jupiters Gaming Pty Ltd ACN 071 366 446.
- “**Keno**” means the game of chance known as “Keno” promoted and operated by Licensed Casinos from time to time and to be promoted and operated by Jupiters Gaming upon grant of a licence pursuant to the Keno Act 1996.
- “**Licensed Casino**” means a casino licensed under the Casino Control Act 1982.
- “**New Licensee**” means any entity or person other than Jupiters Gaming.

SCHEDULE (continued)

Condition

- 2.1 This agreement is subject to and conditional upon Jupiters Gaming being granted by the State a licence to provide Keno throughout the State of Queensland.
- 2.2 If the condition outlined in clause 2.1 shall not have been satisfied on or before 31 March 1997 or such later date or dates as may be agreed upon in writing by the parties, this agreement shall automatically terminate at 5.00 pm on 31 March 1997 and shall thereafter cease to be of any effect whatsoever.

Amendment of Breakwater Island Casino Agreement

3. The parties agree that the Breakwater Island Casino Agreement is amended by—
 - (a) inserting at the end of clause 46(a) the sentence—

“Nothing in this Agreement shall be construed so as to limit or affect the power of the State to authorise, permit or approve in any manner whatsoever pursuant to any Act for the time being in force in the State the conduct or playing of keno.”;
 - (b) inserting into clause 46(b) the words and symbols “(other than keno)” after the words and number “Clause 45 hereof”.

Termination of Jupiters Gaming’s Keno licence

4. In consideration of Perpetual and Breakwater agreeing to amend the Breakwater Island Casino Agreement as provided for in clause 3, the State agrees that in the event that Jupiters Gaming’s licence to operate Keno is surrendered, terminated or revoked within the period of 10 years after the Commencement Date then the State shall not grant to any New Licensee a licence to operate Keno unless the New Licensee enters into an agreement to pay Perpetual an amount equal to the Breakwater Royalty (calculated on a basis that all references to Jupiters Gaming are replaced with references to the New Licensee) for the period commencing on the date the New Licensee commences operation of its Keno game and

SCHEDULE (continued)

expiring on the date which is 10 years after the Commencement Date.

Governing law

5. The interpretation and construction of this document shall be governed and determined in accordance with the law of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of that State.

SCHEDULE (continued)

EXECUTED AS AN AGREEMENT.

SIGNED by the Treasurer of **THE**)
STATE OF QUEENSLAND for and)
on behalf of the State of Queensland in)
the presence of:)

.....
Witness

.....
Name of Witness (print)

THE COMMON SEAL of)
PERPETUAL TRUSTEES)
QUEENSLAND LIMITED is)
affixed in accordance with its articles)
of association in the presence of:)

.....
Director

.....
Name of Director (print)

.....
Director/Secretary

.....
Name of Director/Secretary (print)

SCHEDULE (continued)

THE COMMON SEAL of)
BREAKWATER ISLAND)
LIMITED was hereunto affixed in)
accordance with its articles of)
association in the presence of:)

.....

Director

.....

Name of Director (print)

.....

Director/Secretary

.....

Name of Director/Secretary (print)

ENDNOTES

1. Made by the Governor in Council on 30 January 1997.
2. Notified in the gazette on 31 January 1997.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Treasury Department.