

# **Breakwater Island Casino Agreement Amendment Bill 2006**

## **Explanatory Notes**

### **General Outline**

#### **Policy Objectives of the Bill and the Way in which they will be achieved**

The objective of the Bill is to amend the *Breakwater Island Casino Agreement Act 1984* (“Agreement Act”), authorise the making of changes to the Breakwater Island Casino Agreement (“Agreement”) and cease the ancillary agreements as defined in section 5 of the Agreement Act (being the Townsville Harbour Board Agreement and the Townsville City Council Agreement) from continuing to have the force of law. The Bill will authorise the establishment of a significant part of the legislative framework to be used to facilitate the development of a Townsville Ocean Terminal and associated development.

Specifically, the amendments will:

- give approval to the amendment of the Agreement (through a replacement) via a schedule to the Agreement Act which once signed will have the force of law and will:
  - in part, provide the legislative framework for the planning and development of a Townsville Ocean Terminal, the Surplus Casino Land and the Future Development Area;
  - include deeming provisions in relation to other legislation to facilitate the establishment or reconfiguration of tenure and other arrangements for the Future Development Area (including the Townsville Ocean Terminal) and the Surplus Casino Land;
  - in respect of the Surplus Casino Land and the Future Development Area Schemes, approve each scheme as a preliminary approval under the *Integrated Planning Act 1997*

which will have the effect of the scheme overriding existing Planning Instruments but only to the extent that there is an inconsistency with a particular Planning Instrument;

- refine the limits and application of other legislation with respect to the Breakwater Island Casino-Hotel Complex (“Complex”);
- update the Agreement and make it more consistent with other recently amended casino agreements including authorisation to terminate the founder concept and update references to other laws; and
- remove an existing Henry VIII provision in the Agreement Act with respect to the ancillary agreements so as to comply with fundamental legislative principles and cease those agreements from continuing to have the force of law; and
- repeal all current regulations made pursuant to the Agreement Act which will not affect the Agreement as made.

In addition to assisting to facilitate the Townsville Ocean Terminal project, the proposed amendments will result in a restructure of the Agreement Act and Agreement in a form similar to previous amendments to the *Brisbane Casino Agreement Act 1992* and the Brisbane Casino Agreement and the *Jupiters Casino Agreement Act 1983* and Jupiters Casino Agreement.

### **Administrative Cost to the Government**

There are no administrative costs to the Government in relation to the Bill.

### **Fundamental Legislative Principles**

The Bill was drafted with regard to fundamental legislative principles.

The Bill removes an existing Henry VIII provision in the Agreement Act with respect to the ancillary agreements so as to comply with fundamental legislative principles and cease those agreements from continuing to have the force of law.

The *Judicial Review Act 1991* will not apply to certain decisions made under the Agreement with respect to development of the Complex and any determination to approve the Future Development Area Scheme. The limits on the operation of the *Judicial Review Act 1991* is consistent with the approach adopted for other casinos and the existing limitations contained within the Agreement Act and Agreement.

Specifically, the exclusion of judicial review is an approach that has been previously agreed to by Parliament on the basis of the significant costs and capital requirements for such development and the need to limit the ability of third parties to unreasonably delay the development and operation of such projects. Also, any determination to approve the Future Development Area Scheme is not subject to third party appeal rights on the basis that such application under the *Integrated Planning Act 1997* would involve either exempt development or code assessable development.

Provision is made in the Agreement for an internal review procedure and appeals in respect of development applications concerning the Complex.

## **Consultation**

Representatives of TABCORP/Consolidated Properties Group, Breakwater Island Limited, the Department of the Premier and Cabinet, the Coordinator-General, the Department of State Development, Trade and Innovation, the Department of Transport, the Department of Natural Resources and Mines, the Department of Local Government, Planning, Sport and Recreation, the Department of Justice and Attorney-General, Queensland Treasury, the Environmental Protection Agency, the Great Barrier Reef Marine Park Authority, Tourism Queensland, the Townsville Port Authority and Townsville City Council were consulted in relation to the Bill.

## **Notes On Provisions**

Clause 1 states the short title of the Act being the *Breakwater Island Casino Agreement Amendment Act 2006*.

Clause 2 provides that this part amends the Agreement Act.

Clause 3 (1) amends section 3(1) of the Agreement Act to authorise a variation of the Agreement on the terms set out in schedule 2.

Clause 3(2) inserts new section 3(3) to confirm that the further agreement in schedule 2, part 2, varies the Agreement to the extent the further agreement contains a variation of the Agreement as in force immediately before the making of the further agreement.

Clause 4 omits sections 4 and 5 of the Agreement Act.

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Clause 5(1) removes references to the Townsville Harbour Board Agreement and the Townsville City Council Agreement from section 6 of the Agreement Act.

Clause 5(2) changes the wording of section 6 of the Agreement Act to reflect removal of the references to the Townsville Harbour Board Agreement and the Townsville City Council Agreement.

Clause 5(3) renumbers section 6 of the Agreement Act as section 4.

Clause 6 omits sections 7 and 8 of the Agreement Act.

Clause 7 sets out the proposed further agreement which may be entered into.

Clause 8 repeals the *Breakwater Island Casino Agreement Variation Regulation 1997* (SL No.11).