Major Sports Facilities and Other Legislation Amendment Bill 2016

Explanatory Notes

Short title

The short title of the Bill is the Major Sports Facilities and Other Legislation Amendment Bill 2016 (the Bill)

Policy objectives and the reasons for them

Amendments to the Gaming Machine Act 1991 and Keno Act 1996

The objectives of the amendments are to:

1. Amend the way in which tax is calculated under the *Gaming Machine Act 1991* (the Gaming Machine Act) for clubs with additional premises.
2. Amend the *Keno Act 1996* (Keno Act) to provide that the keno licensee may enter into jackpot pooling arrangements with keno licensees in other jurisdictions.

The Bill seeks amendments to the Gaming Machine Act to adjust tax methodology to the benefit of clubs that operate more than one premises. This is intended to balance the existing controlled approach to club expansions. Currently, only a very small number of clubs operate from more than one premises. Removing a taxation disincentive may result in greater take up of additional premises, which will serve to strengthen the club industry, preserve existing facilities and may assist in creating club premises in greenfield areas where no club facilities would otherwise exist. The proposal will not, however, result in any increase to the existing state-wide cap on club-operated gaming machines in Queensland.

Amendments to the Keno Act seek to enable Queensland's sole keno licensee, Keno (Qld) Pty Ltd (Keno (Qld)), to combine, under a keno pooling agreement, the jackpot growth component of jackpot keno games with the jackpot growth component offered in other jurisdictions for the same jackpot keno games so as to allow potentially bigger jackpot prizes.

Amendments to the Land Act 1994

The *Land Act 1994* (Land Act) is to be amended to provide for the leasing of a functioning non-tidal boundary watercourse or lake to the State under the Land Act.

Currently, the Land Act provides for the allocation of land within a non-tidal boundary watercourse or lake only if the allocation applies to part of a no-longer functioning watercourse or lake that has been declared, by gazette notice, as former watercourse land.

The State will apply for a lease over a functioning non-tidal boundary watercourse or lake where occupation and use of the watercourse or lake cannot be authorised under the *Water Act 2000* (Water Act). A lease will be sought where it is proposed to build infrastructure over or under the beds and banks of the watercourse or lake. The occupation and use of the lease will benefit the local community. The State may sublease the lease to another party to give effect to the purpose of the lease.

On 7 May 2010, provisions dealing with non-tidal boundary watercourses and lakes were inserted into the Land Act under the *Natural Resources and Other Legislation Amendment Act 2010* (NROLAA).

NROLAA amended the Water Act and the Land Act by separating the right to access and use water from the rights of adjoining owners to occupy and use, for access and grazing purposes, land within a non-tidal boundary watercourse or lake. These 'riparian rights' were made subject to the rights of the State to deal with watercourse or lake under the Water Act.

In addition, NROLAA provided for the State to allocate non-tidal watercourse land or non-tidal lake land under the Land Act, only if such land has effectively ceased to be part of a functioning watercourse or lake. However, no provision was made for the State to allocate 'non-tidal watercourse land' or 'non-tidal lake land' if the land is still part of a functioning watercourse or lake.

Amendments to the Major Sports Facilities Act 2001

The *Major Sports Facilities Act 2001* (MSF Act) establishes Stadiums Queensland as a statutory authority responsible for operating facilities declared by regulation to be major sports facilities. Stadiums Queensland currently operates the nine facilities identified in Schedule 1 of the Major Sports Facilities Regulation 2014.

The facilities are hired out by Stadiums Queensland to sporting and other organisations for events. The majority of events are sporting events such as National Rugby League, Australian Football League, football, cricket and tennis matches. However, facilities can be hired for special events such as entertainment or religious events.

Part 4B of the MSF Act is about advertising near major sports facilities during declared event periods. The purpose of this part is to protect event sponsors from unauthorised advertising by rival businesses which have not contributed to the event. This is an important consideration for the event organisers who hire the facilities.

Part 4B provides a process for the declaration of events and event periods for the purpose of regulating advertising near venues during declared event periods. The prescribed process requires the declaration of events and event periods by the Governor in Council through publication in the *Queensland Government Gazette* at least 28 days prior to the commencement of the event period.

In practice this requires a lead time of over eight weeks, comprising the statutory 28 days' notification period, the Governor in Council process and processing by the department responsible for administering the MSF Act. This lead time can be impractical on occasions when late scheduling or rescheduling of events is unavoidable due, for example, to weather or unforeseeable events.

To mitigate this risk, three-day event periods have generally been declared to allow for minor rescheduling within the three days. This places unnecessary restrictions on potential advertisers as it regulates advertising over three days instead of applying only on event days. Despite this practice, there have been circumstances where unavoidable late rescheduling meant that events could not be protected from unauthorised advertising due to inadequate lead times.

The Bill will provide an additional, alternative process for the declaration of events and event periods at major sports facilities to ensure that events can be protected from unauthorised advertising despite the risk of late scheduling. The proposed new process will allow for minor rescheduling of events by event organisers whilst reducing the potential regulatory burden on advertisers that are not event sponsors.

In addition to streamlining the processes behind the regulation of advertising, the Bill will also progress minor amendments to the Major Sports Facilities Act to:

- provide an explicit power for the chief executive of the administering department to seek criminal history checks on Stadiums Queensland board members and candidates being considered for appointment to the board, where the relevant person has given written consent for these checks to be undertaken;
- remove redundant provisions, in particular provisions related to the Major Sports Facilities Employing Office and major sporting events held in 2011; and
- make further minor amendments.

Amendments to the Transport Infrastructure Act 1994

The Bill will also amend the *Transport Infrastructure Act 1994* (TI Act) to facilitate a change to the tolling arrangements for the Logan Motorway and Gateway Motorway (the QML network) to fund the Logan Motorway Enhancement Project at no cost to government. The Logan Motorway Enhancement Project is a $450 million Transurban Queensland proposal under the Government's Market-Led Proposals framework to upgrade sections of the Logan Motorway and Gateway Extension which forms part of the QML network, and the surrounding road network.

In 2010, section 93AA was inserted into the TI Act to prevent toll increases beyond the consumer price index on the QML network. An amendment to section 93AA is now required to facilitate the Logan Motorway Enhancement Project.

Achievement of policy objectives

Amendments to the Gaming Machine Act 1991

The Bill amends the Gaming Machine Act to remove taxation disincentives to the controlled expansion of community clubs. These changes are intended to assist clubs in establishing new premises in greenfield areas that might otherwise go without sporting, social and other facilities. The changes are also intended to assist clubs in helping smaller struggling clubs that may otherwise fail, thus risking the loss of their facilities to the community.

The changes arise from the way in which clubs are licensed under the Gaming Machine Act to operate from multiple premises. Under the Gaming Machine Act, clubs, unlike hotels, are and will remain limited to holding a single gaming machine licence. This single-licence rule is based on a longstanding view that clubs have constitutionally-based community objectives that generally relate to a defined localised area.

However, the Gaming Machine Act allows clubs a limited ability to expand within or beyond their original locality by adopting or establishing additional gaming machine premises to which their single licence also relates. This approach to club expansions, controlled through the single licence rule and through limitations on the maximum number of gaming machines that can be operated by a single club licensee, seeks to prevent the domination of the club industry by a powerful few, which would potentially see the community benefit of gaming more narrowly delivered.

Revenue from gaming machines is subject to a monthly gaming machine tax. For clubs, the rate of taxation is progressive. A tax-free threshold of $9,500 applies, above which the taxation rate increases in brackets from 17.91% (on monthly metered win between $9,501 and $75,000) to 35% (on monthly metered win over $1.4M).

Section 312 of the Gaming Machine Act currently requires that where clubs operate additional premises, monthly gaming machine revenue from all the club's premises is aggregated before the progressive tax rate is applied. This results in clubs with additional premises paying more tax than they would if the sliding scale tax rate was applied separately to the non-aggregated gaming machine revenue of each individual premises.

To achieve its objectives in regard to assisting clubs, the Bill proposes an amendment to section 312 of the Gaming Machine Act that will remove the aggregation of gaming machine revenue, thus requiring clubs to be taxed on a per-premises, rather than per-licence, basis. By removing the taxation disincentive, a financial barrier to the adoption or establishment of additional premises is removed. However, no facet of the gaming machine licensing or harm minimisation framework will be impacted by the proposal. As stated above, the proposal will not result in any increase to the existing state-wide cap on club-operated gaming machines in Queensland, which has remained at 24,705 since its introduction into legislation in 2009.

Amendments to the Keno Act 1996

The Bill also amends the Keno Act to provide for keno jackpot pooling.

A keno jackpot normally consists of a regular fixed prize, a jackpot fill amount (a prize of a fixed amount that is approved by the chief executive as a jackpot fill for the relevant game) and a jackpot growth amount (a prize which consists of a small percentage of ticket sales for the relevant game). Part 3 of the Bill amends the Keno Act to provide that keno licensee may enter into an agreement with the keno licensee of another jurisdiction for the purpose of pooling keno jackpot growth contributions.

Under a jackpot pooling arrangement, a small percentage of ticket sales that would normally be set aside for each jurisdiction's individual jackpot growth will instead be added to a shared jackpot growth pool which will be available to be won by players from any of the participating jurisdictions. To ensure fairness under the arrangement, it is intended that the game odds for jackpot keno games across all participating jurisdictions will be the same; an equal percentage from sales in all participating jurisdictions will be contributed to the jackpot growth pool; and the cost per game entry in all participating jurisdictions will be the same.

Each participating jurisdiction will remain responsible for paying out its own regular fixed prize and jackpot fill. Each participating jurisdiction will also continue to operate its own separate keno draws although the draws will be conducted at the same time. Currently, section 143(1) of the Keno Act prohibits the keno licensee from conducting keno during prescribed prohibited periods. In order for the Queensland keno licensee to facilitate synchronised jackpot draws with other participating jurisdictions, the Bill amends the Keno Act to provide that a keno licensee does not commit an offence under section 143(1) of the Keno Act if the keno licensee is a party to a keno pooling agreement and during a prescribed prohibited period, conducts a keno draw for the purposes of the keno pooling agreement.

Part 3 of the Bill will in effect allow the Queensland keno licensee, which is beneficially owned by Tabcorp Holdings Limited (Tabcorp), to join the existing jackpot pooling arrangement already entered into by the Tabcorp subsidiaries that hold the exclusive keno licences for New South Wales and Victoria; as well as any future jackpot pooling arrangements with other jurisdictions.

The Bill provides that the Minister responsible for the Keno Act will be able to request a copy of the pooling agreements to which the keno licensee is a party as well as any other information relevant to the pooling agreements from the keno licensee. If, after considering the information given and the contents of the agreement, the Minister responsible for the Keno Act believes the continuance of the agreement may jeopardise the integrity of the conduct of keno games or adversely affect the public interest, the Minister responsible for the Keno Act may (after a show cause process) direct the keno licensee to exit the agreement.

Amendments to the Land Act 1994

The policy objective of the amendments to the Land Act will be achieved by amending Chapter 1, Part 4, Division 1 of the Land Act, which provides for the creation of tenure in tidal and non-tidal boundary watercourses and lakes.

The Land Act already provides for the leasing of land subject to tidal water provided the lease will not unduly affect safe navigation and sound development of the State's waterways and ports. The Land Act does not provide for the leasing of a functioning non-tidal boundary watercourse or lake.

Since 1 March 1911, the commencement date for the *Rights in Water and Water Conservation and Utilization Act 1910* (1 Geo V No 25), the beds and banks of a non-tidal boundary watercourses or lakes have been the property of the State. As the long title for the Water Act states, this is "to provide for the sustainable management of water and other resources and the establishment and operation of water authorities, and for other purposes".

The Water Act provides for dealings with water, including the right to use and occupy a non-tidal boundary watercourse or lake under a development permit for operational works that take or interfere with water. However, the Water Act makes no provision for the creation of an estate or interest in the watercourse or lake that gives the titleholder the right to give other parties the right to use and occupy the watercourse or lake as if it were ordinary land.

In addition, the owners of land adjoining a non-tidal boundary watercourse or lake are provided with the right under the Land Act to take action against a person who trespasses on the non-tidal watercourse land or non-tidal lake land unless that person is authorised under the Water Act.

Under the amendments to the Land Act, non-tidal watercourse land and non-tidal lake land may be leased, provided the chief executive under the Water Act and the landowners adjoining the watercourse or lake have given consent to the proposal. The chief executive under the Water Act may give consent if satisfied the rights of the State to protect and deal with the watercourse or lake under the Water Act are not diminished and that the lease will not interfere with the right to take or use water under the Water Act. An adjoining landowner may give consent if satisfied the lease will not interfere with their right to access over, or their right to graze their stock on, the watercourse or lake.

Amendments to the Major Sports Facilities Act 2001

The additional, alternative events declaration process proposed by the Bill will enable categories of events to be prescribed in the Major Sports Facilities Regulation 2014 as '*prescribed events'* for the purposes of regulating unauthorised advertising. These categories will include ticketed sporting events that are organised, scheduled or endorsed by specified national or international sporting bodies and held at specified major sports facilities. It is proposed that unauthorised advertising within the vicinity of the event venue will be restricted from 6am to midnight on event days.

It is considered that the declaration of event categories by regulation is reasonable and appropriate as it retains the Governor in Council as the authority for declaring events, whilst allowing for the flexibility of rescheduling events. This process is also expected to result in a reduction of the potential regulatory impact on local advertisers, by up to two-thirds, for those events prescribed by regulation, as the event period for these events will only apply to event days.

While the new, alternative process will accommodate the majority of events at major sports facilities, the existing process for declaring events will be retained in the Act, to enable other events to be declared as and when appropriate.

Amendments to the Transport Infrastructure Act 1994

The Bill amends the TI Act to facilitate a change to the tolling arrangements for the QML network to fund the Logan Motorway Enhancement Project at no cost to government. The amendment will allow the Minister to make a tolling declaration under section 93, solely to facilitate the carrying out of the Logan Motorway Enhancement Project.

Beyond changes necessary and appropriate to facilitate the Logan Motorway Enhancement Project, the current restrictions under section 93AA in respect of the QML network remain.

Alternative ways of achieving policy objectives

Amendments to the Gaming Machine Act 1991 and Keno Act 1996

There are no alternative ways to achieve the objectives. The Keno Act amendments align the keno licensee's operations with conduct of keno in other jurisdictions, and could not be achieved without legislative amendment. The club tax proposal retains the controlled approach to club expansions, as appropriate to prevent the development of superclubs (and the subsequent narrowing of community benefit from club investment that would arise from the domination of the club industry by a powerful few). However, the amendment removes a large taxation disincentive to the expansion of clubs, as previously contained in legislation. As such, legislative amendment is again necessary.

Amendments to the Land Act 1994

There is no alternative way of achieving the policy objective of the amendment to the Land Act. Section 30 of the *Constitution Act 1867* recognises the Queensland legislature must make a law "for regulating the sale, letting, disposal and occupation of the waste lands of the Crown" in the State. Non-tidal watercourse land and non-tidal lake land is part of the "waste lands of the Crown".

The Land Act must be amended to enable the leasing of a functioning non-tidal watercourse or lake.

Amendments to the Major Sports Facilities Act 2001

The following alternative options for achieving policy objectives were considered:

1 Transferring the authority for declaring events from the Governor in Council to the Minister, with declaration by gazettal and the department's website.

1A As for option 1, with the ability to refer the Minister's power to the chief executive of the department.

2 Transferring the authority for declaring events to Stadiums Queensland with notification in newspapers or other media, whilst providing for a Ministerial power to rescind a declaration made by Stadiums Queensland.

3 Providing protection from unauthorised marketing for any event held at a Stadiums Queensland venue for which a venue hiring agreement exists, without further declarations being required.

Options 1, 1A and 2 would all significantly reduce the lead time for event declarations by eliminating the administrative processes associated with Executive Council submissions. However, it was considered that these options did not provide the appropriate level of government oversight.

Option 3 would eliminate the need for declarations altogether. However, it would remove altogether the government's oversight of declarations and advertising controls and pose a greater risk of breaching fundamental legislative principles by impacting the rights and liberties of individuals.

Amendments to the Transport Infrastructure Act 1994

There is no alternative approach to amendment of the TI Act for achieving the policy objective.

Estimated cost for government implementation

Amendments to the Gaming Machine Act 1991 and Keno Act 1996

The club tax proposal is expected to result in foregone taxation revenue of $2.52M in 2016-17, increasing to $2.72M by 2019. Minor costs associated with government database changes, for the purpose of tax calculation, may also be incurred.

Amendments to the Land Act 1994

There are no significant implementation costs for government associated with the amendments to the Land Act.

Current departmental fact sheets, application forms and work processes for the allocation of unallocated State land will be amended to take into account the proposed need to lease non-tidal watercourse land and non-tidal lake land to the State.

Amendments to the Major Sports Facilities Act 2001

There are no costs associated with the proposal. The amendments proposed will reduce the workload for Stadiums Queensland and government associated with proposing and administering event declarations under the Major Sports Facilities.

Amendments to the Transport Infrastructure Act 1994

There will be no additional administrative cost to Government associated with the amendments to the TI Act.

Consistency with fundamental legislative principles

Amendments to the Gaming Machine Act 1991 and Keno Act 1996

The amendments to gambling legislation are generally consistent with fundamental legislative principles.

Amendments to the Land Act 1994

The amendments to the Land Act have been drafted with regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. However, there may be potential concerns regarding the rights and liberties of the owners of land adjoining a non-tidal boundary watercourse or lake.

The beds and banks of a non-tidal boundary watercourse or lake (non-tidal watercourse land or non-tidal lake land) are the property of the State to facilitate operation of the Water Act. The Land Act provides the owner of land adjoining a non-tidal boundary watercourse or lake with certain 'riparian rights'. Those rights may be exercised to the middle of the watercourse or lake. For example, the owner has the right of access over, and the right to graze their stock on, the adjoining non-tidal watercourse land or non-tidal lake land. The owner may also bring action against a person who trespasses on the land accessed or grazed by the owner. However, these rights cannot be exercised against the State or a person authorised under the Water Act.

Under new section 13AA of the Land Act, the Minister will have the authority to lease non-tidal watercourse land or non-tidal lake land to the State. As an adjoining owner will also not be able to exercise their riparian rights against a person occupying or using a lease over the adjoining non-tidal watercourse or lake, new section 13AB of the Land Act will require the consent of an adjoining owner before the lease may be granted. If the proposed lease extends beyond the middle of the watercourse or lake, the consent of adjoining owners on both sides of the watercourse or lake will be required.

Information will be provided to adjoining landowners about the possible impact any proposed lease may have on the exercise of their and their successors' rights under section 13A of the Land Act. The consent of the adjoining owner to any proposed lease of non-tidal watercourse land or non-tidal lake land must be willingly provided.

Amendments to the Major Sports Facilities Act 2001

In streamlining the administrative processes around event declarations, the Bill will enable those events falling within the categories prescribed by regulation to be regulated for the purposes of unauthorised advertising. For those events, the requirement for a particular event and event period to be gazetted 28 days prior to the event will not apply. This raises the potential for events to be regulated with little notification and could be seen to impact the rights and liberties of individuals. However, as it is in the best interest of event promoters, events of the types proposed for prescription by regulation are generally widely publicised and enjoy high levels of public awareness. Local businesses near venues have already become familiar with the application of advertising constraints during the relatively regular competition schedules of major sport codes, which are well promoted by the sports and the venues. Since Part 4B of the Major Sports Facilities Act was introduced in 2006, Stadiums Queensland has not received any requests for authorisation of advertising during declared event periods.

Furthermore, the prescription of categories of events with standardised event periods, would remove the need to manage re-scheduling by declaration of three-day event periods. In effect, the potential imposition of advertising constraints should be reduced by up to two-thirds for those events prescribed by regulation.

Amendments to the Transport Infrastructure Act 1994

The Bill has sufficient regard to the rights and liberties of individuals and the institution of Parliament. The Minister's ability to change the tolling arrangements for the QML Network as a result of this Bill is limited to what is necessary and appropriate to facilitate the carrying out of the Logan Motorway Enhancement Project.

The Logan Motorway Enhancement Project will improve access to the QML network and surrounding road network as well as providing increased safety for motorists.

Consultation

Amendments to the Gaming Machine Act 1991 and Keno Act 1996

As taxation proposals are exempt from the Regulatory Impact Statement system, no general consultation is required. However, the Responsible Gambling Advisory Committee (RGAC) was consulted on the proposal to amend the methodology for the taxation of clubs with additional premises.

The RGAC is an advisory body that provides advice to the Minister responsible for gambling on gambling-related issues and the minimisation of the negative impacts of gambling. Its main functions are to:

- provide advice to the Minister on gambling-related issues
- promote and monitor the development of partnerships between community, industry and Government to address gambling-related concerns
- provide a forum for the exchange of information and views between community, industry and Government concerning issues relating to responsible gambling.

RGAC members include nominees from peak representative bodies for the gambling industry, community groups, and government departments.

No significant issues were raised as a result of the consultation.

Consultation with Queensland clubs was undertaken through correspondence from its peak representative body, Clubs Queensland. Similarly, Tabcorp (as beneficial owner of keno licensee Keno (QLD) Pty Ltd) supports (and seeks) the proposed amendments to the Keno Act to provide for jackpot pooling. Tabcorp advised that the existing keno jackpot arrangement between Victoria and New South Wales has had a positive impact for customers and venues. Further consultation on the keno proposals was not undertaken as the amendments are minor and technical.

Amendments to the Land Act 1994

General consultation on these amendments was undertaken as part of a broader review of Land Act amendments.

The amendments to the Land Act have been prepared in consultation with the Office of the Queensland Parliamentary Counsel and other relevant government agencies

Amendments to the Major Sports Facilities Act 2001

Stadiums Queensland was consulted on the changes proposed within the Bill and supports the proposed new process. As the Bill will not change the protections from unauthorised advertising, offered under the Major Sports Facilities Act, and in effect only changes administrative processing of the protections, stadium hirers were not consulted in the development of the proposal. Hirer's were notified of the planned changes and their effects prior to the introduction of the Bill into the legislative assembly.

Amendments to the Transport Infrastructure Act 1994

The Department of Transport and Main Roads consulted with Queensland Treasury and the Department of the Premier and Cabinet were consulted in relation to the need to relax the current restriction on toll increases on the QML network. The Government has announced that the proposed Logan Motorway Enhancement Project, if approved, would be funded through toll increases for heavy vehicles and a toll point for all vehicles on new south-facing ramps at Compton Road.

Transurban Queensland has conducted wide and varied stakeholder engagement on the Logan Motorway Enhancement Project throughout 2015 and 2016, including the heavy vehicle industry on proposed toll increases for heavy vehicles. Many stakeholders have indicated their support for the proposal.

Transurban Queensland has been consulted on the need for legislative amendment for the proposed funding arrangement for the Logan Motorway Enhancement Project. Transurban Queensland has not been consulted on the specific drafting of the Bill.

Consistency with legislation of other jurisdictions

Amendments to the Gaming Machine Act 1991 and Keno Act 1996

While the laws regarding additional club premises are specific to Queensland, the amendments basically align taxation methodology with the approaches of other jurisdictions.

Amendments to the Keno Act to provide for jackpot pooling are broadly consistent with keno legislation in New South Wales and Victoria.

Amendments to the Land Act 1994

The amendment to the Land Act provides for the allocation of tenure over a functioning non-tidal boundary watercourse or lake, taking into account the riparian rights provided to adjoining owners under the Land Act and the rights of the State under the Water Act.

Although there is consistency with regards to dealing with watercourses and lakes under other States' 'water' legislation, 'land' legislation differs in each state with regards to tenure dealings with the beds and banks of a non-tidal boundary watercourse or lake.

In Australia, legislation for dealing with non-tidal boundary watercourses and lakes primarily provides for the management of water resources to enable "their sustainable use and development to meet the needs of current and future users" (as exampled by section 4 of Western Australia's *Rights in Water and Irrigation Act 1914*). Generally, authorisation for the occupation and use of a non-tidal boundary watercourses or lakes are provided under legislation similar to the *Water Act 2000* (Qld) and those authorities generally provide for the erection and use of infrastructure within and adjoining a watercourse or lake for the purposes of interfering or taking water.

In support, the beds and banks of non-tidal boundary watercourses and lakes in Queensland, New South Wales (NSW) and Victoria are the property of the State.

In NSW, section 172 of the *Crown Lands Act 1989* (NSW) acknowledges that an adjoining owner has no entitlement to access the beds of a non-tidal boundary lake and, with exceptions provided for a small number of tenures, also has no entitlement to access the beds of a non-tidal boundary watercourse.

In Victoria, section 386 of the *Land Act 1958* (Vic) acknowledges that an adjoining owner does have an entitlement to access to, and the right to graze stock on, the beds and banks of a non-tidal boundary watercourse or lake.

However, in NSW and Victoria, the beds and banks of a non-tidal boundary watercourse may be reserved and the land dealt with as a reserve under the *Crown Lands Act 1989* (NSW) or *Land Act 1958* (Vic).

Queensland legislation differs in that the beds and banks of a functioning non-tidal boundary watercourse or lake may be dealt with under the Land Act only if the beds and banks are no longer part of a functioning watercourse or lake and are declared as being former watercourse land.

Amendments to the Major Sports Facilities Act 2001

Other jurisdictions offer varying levels of protection to major events from unauthorised advertising using various regulatory tools, including acts, regulations and regulatory notices.

In NSW major events are declared under the *Major Events Act 2009* by regulations. Declarations have been made for the AFC Asian Cup 2015 and the ICC Cricket World Cup 2015. Limited regulation of advertising through legislation for specific venues is also provided through acts and regulations associated individual venues, including Sydney Olympic Park, Moore Park, Sydney Cricket Ground and Sydney Football Stadium.

Victoria's *Major Sporting Events Act 2009* identifies a range of events where advertising is regulated. Examples of specified events include:

- the Boxing Day cricket test;
- the Australian Open Tennis Championships;
- the Australian Formula One Grand Prix;
- the AFL Grand Final;
- Caulfield Cup Day;
- Cox Plate Day; and
- the Melbourne Cup Carnival.

In Victoria, advertising can be regulated for further events through major sporting event orders made by Governor in Council and published in the Government Gazette.

In South Australia, major events are declared by the making of regulations, by the Governor. Regulations may apply provisions prohibiting 'ambush marketing' and may declare airspace within sight of a venue to be advertising controlled airspace for the period prescribed by the regulations.

In Western Australia an international or national level event may be protected from unauthorised aerial advertising by declaration of the event under the *Major Events (Aerial Advertising) Act 2009*. Under this legislation, the Minister can declare an event by an order published in the Gazette. This occurs each year when specific venue operators lodge schedules of events for declaration and protection from aerial advertising. These include, for example, AFL matches, A-League matches and cricket.

Amendments to the Transport Infrastructure Act 1994

In addition to Queensland, there are toll roads in NSW and Victoria. Each jurisdiction takes a different legislative approach to the regulation of toll roads in their respective states. While there is a move toward a national approach to broader transport-related legislation, there is no consistent approach between Queensland, NSW and Victoria with regard to toll roads.

Notes on provisions

Part 1 Preliminary

Clause 1 specifies the short title by which the Bill is to be known once enacted.

Clause 2 provides that Parts 2 and 3 commence on a day to be fixed by proclamation.

Part 2 Amendment of Gaming Machine Act 1991

Clause 3 provides that Part 2 of the Bill amends the *Gaming Machine Act 1991*.

Clause 4 amends section 312 of the Act to remove a requirement that metered win from category 2 (club) premises is aggregated before the application of the sliding scale tax rate prescribed in the Gaming Machine Regulation 2002. In effect, subsection (3) is amended to apply the appropriate tax rate on a per-premises basis to clubs, regardless of how many premises they operate. The change does not affect the taxation of hotels (which are not subject to the single licence rule and which are subject to a flat taxation rate) in any way

Part 3 Amendment of Keno Act 1996

Clause 5 provides that Part 3 of the Bill amends the *Keno Act 1996*.

Clause 6 amends the Keno Act by inserting a new section 137A which provides that a keno licensee may enter into a keno pooling agreement with an interstate entity to provide for a range of matters associated with the retention, application and transfer of pooling contributions; the coordination of the conduct of jackpot keno games by parties to the keno pooling agreement; and any other matter the chief executive believes is necessary for the integrity of the conduct of keno games or to ensure that public interest is not affected in an adverse or material way.

The new section 137A further provides that an interstate entity is taken not to conduct a keno game in Queensland merely because it is a party to the keno pooling agreement; or conducts a jackpot keno game in another State; or pays, or is required to pay, to a person a prize for a jackpot keno game.

The new section 137A specifies that a prize for a jackpot keno game conducted in Queensland must not include an amount received by an interstate entity that is not part of the pooling contribution. Similarly, the new section 137A enables the Queensland keno licensee to pay part or all of Queensland's pooling contribution to a winner in another participating jurisdiction.

Clause 6 also inserts a new section 137B in the Keno Act to provide that sections 135 to 137 of the Keno Act apply to a keno pooling agreement. The effect of section 137B is to enable the Minister to, by written notice to the keno licensee, request a copy of the keno pooling agreement and any other information about the keno pooling agreement. If, after considering the information given, the Minister believes the continuance of the agreement may jeopardise the integrity of the conduct of keno games by the keno licensee or affect the public interest

adversely, the Minister may (following a show cause process), direct licensee to exit the agreement.

Clause 7 amends section 143 of the Keno Act by inserting a new section 143(1A) which provides that a keno licensee does not commit an offence under section 143(1) of the Act if the keno licensee is a party to a keno pooling agreement under the new section 137A and the keno licensee conducts a draw for a keno game for the purposes of the keno pooling agreement and does not pay a prize to a person during the prohibited periods prescribed under a regulation for section 143(1).

Clause 8 amends schedule 4 of the Keno Act to provide a definition for *keno pooling agreement*.

Part 4 Amendment of Land Act 1994

Clause 9 provides that Part 4 of the Bill amends the *Land Act 1994*.

Clause 10 amends section 8 of the Land Act, which provides the definitions for Chapter 1, part 4 of the Land Act

Clause 11 inserts new section 8A in Chapter 1, Part 4, Division 1 of the Land Act and provides a definition for *adjacent owner* for non-tidal watercourse land and non-tidal lake land.

An adjacent owner is an owner whose land adjoins a non-tidal boundary watercourse or lake that is the subject of the proposed lease to the State. Where the proposed lease will cover an area beyond the middle line of the bed of the watercourse or lake, the adjacent owner will include the owner of land adjoining the watercourse or lake on both sides of the watercourse or lake.

An adjacent owner is not the owner of land adjoining a non-tidal boundary watercourse or lake that is not the subject of the proposed lease to the State.

The definition is needed to identify who has the right to make an objection, or who is required to give approval, to an application made for a proposed lease of the land under new section 13AA (Clause 13).

Clause 12 inserts a new provision, subsection (6), in section 13A and this new provision confirms that the rights provided to a relevant owner under subsection (4) may not be used to an extent that they may interfere with use of the non-tidal boundary watercourse or lake under a lease granted under section 13AB of the Land Act. In addition the new provision also limits the right of a relevant owner to bring an action of trespass under section 13A(6) against the lessee or other person authorised under the lease using the leased land.

Clause 13 inserts new sections 13AA & 13AB in Chapter 4, Part 1, Division 1 of the Land Act. These new sections provide the authority for, and restrictions on the exercise of the authority of, the Minister to lease land in a non-tidal boundary watercourse (non-tidal watercourse land) or non-tidal boundary lake (non-tidal lake land).

Section 13AA confirms that non-tidal watercourse land and non-tidal lake land is not unallocated State land for the purposes of the Land Act but may be leased under the Land Act as if it were. Unallocated State land may be leased to the State.

Section 13AB provides the terms for leasing non-tidal watercourse land or non-tidal lake land to the State under the Land Act. The new section takes into account the rights held by a relevant owner under section 13A(4) and (5) of the Land Act and the rights of the State to control and deal with a non-tidal boundary watercourse or lake under the Water Act.

Non-tidal watercourse land will not be leased if the adjacent owner does not give consent to its leasing. For the purposes of the section 13AB, adjacent owner is defined under new section 8A and will include the registered owner of freehold land, the lessee of lease land or trustee of a reserve under the Land Act.

In addition, non-tidal watercourse land will not be leased if the chief executive under the Water Act considers the leasing would interfere with a right of the State, or a person to take or use water, under that Act. If the chief executive under the Water Act is satisfied the land may be leased, consent may be given and, where the consent is conditional, the terms of the consent must be met.

Clause 14 amends section 13B of the Land Act by omitting a number of definitions that have been moved to another section (clause 15) or are no longer needed (for example, '*appropriately qualified'* is omitted because the term is defined under the *Acts Interpretation Act 1954*).

Clause 15 amends schedule 6 (the dictionary) of the Land Act as a result of the changes made to Chapter 4 Part 1 Division 1 of the Act by clauses 9 to 14 above.

Part 5 Amendment of Major Sports Facilities Act 2001

Clause 16 provides that Part 5 amends the *Major Sports Facilities Act 2001*.

Clause 17 amends section 14 of the Major Sports Facilities Act which provides that a person is not qualified to be, or continue as, a director on the Stadiums Queensland board if they are insolvent under administration. The amendment clarifies that this relates to insolvency under administration 'under the Corporations Act, section 9'. This clarification is being moved from the existing definition for *insolvent under administration* currently located in the Act, Schedule 2 (Dictionary).

Clause 18 will insert the new sections 17A (Criminal history report), 17B (Criminal history reports confidential) and 17C (New convictions must be disclosed).

New section 17A clarifies that, to decide if a person is qualified to be, or continue as a director, the chief executive of the department may ask the commissioner of the police service for a report about the criminal history of the person. New subsection 17A(2) provides that the chief executive may only make this request with the written consent of the relevant person. The clause, which supports the intent of the existing section 14(b) in the Major Sports Facilities Act, also includes provisions to ensure natural justice and privacy for the proposed or continuing director.

New section 17B provides an offence carrying a maximum penalty of 100 penalty units where a person who possesses a criminal history report or information in a report, through their position as an officer, employee or agent of the department, inappropriately discloses information from the report. Subsection 17B(3) identifies circumstances under which the disclosure of information is permitted.

New section 17C requires a person who is a director of the Stadiums Queensland board to immediately notify the chief executive of the department, providing details of any conviction for an indictable offence, where the conviction occurs during the term of the director's appointment. Failing to do so, without a reasonable excuse, will be an offence incurring a maximum penalty of 100 penalty units. Subsection 17C(3) specifies the information that must be included in the notice given to the chief executive.

Clause 19 removes section 25A of the Major Sports Facilities Act relating to work performance arrangements with the employing office, or another government entity. Section 25A and related provisions were introduced to the Act by the *Statutory Bodies Legislation Amendment Act 2007* to ensure the employees of statutory bodies affected by the federal Work Choices legislation could be returned to the State's industrial relations system. These provisions have never been used and are now redundant.

Clause 20 removes section 30(1)(b) of the Major Sports Facilities Act to remove reference to the employing office, and subsequently renumbers the following subsection. This provision has never been used and is now redundant.

Clause 21 removes Part 3A (Major Sports Facilities Employing Office) of the Major Sports Facilities Act. These provisions have never been used and are now redundant.

Clause 22 replaces the word 'Suncorp' in the heading of Part 3B, with the word 'Brisbane' to change the reference from Suncorp Stadium to Brisbane Stadium. This amendment provides consistency with the naming of major sports facilities in the Major Sports Facilities Regulation 2014.

Clause 23 removes Part 3B, Division 1 (Major sport events during 2011) as this division has no ongoing effect.

Clause 24 removes the heading for Part 3B division 2 'Major Sport events after 2011' as this heading will no longer be required once clause 23 is given effect.

Clause 25 amends section 30AL to replace references to the 'division' with references to the 'part' of the Act, as clauses 23 and 24, above, result in an undivided Part 3B. Clause 25 also inserts definitions for '*relevant development approval*' and '*relevant development approval condition*' into section 30AL. These definitions were previously located in section 30AI, which will be removed by clause 23.

Clause 26 amends section 30AM to change references to the 'division' to refer to the 'part'. It also amends the reference to 'Suncorp Stadium' to be 'Brisbane Stadium', to be consistent with the facility's prescribed name in the Major Sports Facilities Regulation 2014.

Clause 27 amends references in section 30AN from 'Suncorp Stadium' to 'Brisbane Stadium', to be consistent with the facility's prescribed name in the Major Sports Facilities Regulation 2014.

Clause 28 removes the existing definition for '*declared period*' from section 30D and inserts definitions for '*prescribed event*', '*restricted advertising event*', and '*restricted advertising period*'.

The definition of '*prescribed event*' enables particular events or categories of events held at major sports facilities to be prescribed by regulation for the purpose of regulating advertising.

The definition of '*restricted advertising event*' includes prescribed events and also declared events. '*Declared events'* are those events declared by the Governor in Council under Section 30E of the Major Sports Facilities Act.

The definition of '*restricted advertising period'* provides for the time period when advertising is regulated within the vicinity of restricted advertising events. For prescribed events this is from 6am until midnight. For declared events the restricted advertising period is the period declared by the Governor in Council under section 30E(1)(b).

Clause 29 replaces the term '*declared period*' with the term '*restricted advertising period*' in section 30F of the Major Sports Facilities Act. This enables section 30F to continue to be applied for all relevant events, whether they are declared under section 30E or through prescription by regulation.

Clause 30 replaces the term '*declared period*' with the term '*restricted advertising period*' in section 30G of the Major Sports Facilities Act and replaces the term '*declared event*' with the term '*restricted advertising event*'. This enables the section to continue to be applied for all relevant events, whether they are declared under section 30E or through prescription by regulation.

Clause 31 removes transitional provisions related to the *Statutory Bodies Legislation Amendment Act 2007.*

Clause 32 replaces a reference to section 30AI, which is removed under clause 23, with a reference to section 30AL. The change maintains the existing effect of Schedule 1A.

Clause 33 removes definitions no longer in use and inserts references to the new definitions added by clauses 25 and 28. Clause 33 also makes a minor amendment to update the reference to *Super 14* (Rugby) events in the second example provided under paragraph (c) for the definition of '*national or international'*.

Part 6 Amendment of Transport Infrastructure Act 1994

Clause 34 provides that Part 6 amends the *Transport Infrastructure Act 1994.*

Clause 35 amends section 93AA of the *Transport Infrastructure Act 1994* by replacing subsection (1) and introducing definitions for the terms '*Logan Motorway Enhancement Project', 'original declaration' and QML network operator*.

New subsection (1) replaces the previous prohibition on new declarations for the QML network under section 93, with a requirement that the Minister may only make a declaration for a toll road on the QML network if the Minister is satisfied the new declaration will be consistent with the *original declaration* or is otherwise necessary and appropriate to facilitate the carrying out of the *Logan Motorway Enhancement Project*. This is to ensure that a new tolling declaration made under section 93 for the QML network will only differ from the *original declaration* to the extent necessary to facilitate the *Logan Motorway Enhancement Project*. The *Logan Motorway Enhancement Project* (also known as the Logan Enhancement Project) is the project first proposed to government in 2015, with a detailed proposal under the Market-Led Proposal framework to be submitted for government consideration in late 2016.

Part 7 Other amendments

Clause 36 provides that Schedule 1 amends the Acts it mentions.

Schedule 1 Acts amended

Liquor Act 1992

1 Section 142AE(4)(b)(ii), 'Suncorp'—
Section 142AE(4)(b)(ii) will be amended to replace the reference to '*Suncorp*' Stadium with '*Brisbane'* Stadium, to be consistent with the facility's prescribed name in the Major Sports Facilities Regulation 2014.

Planning (Consequential) and Other Legislation Amendment Act 2016

1 Section 322, hdg 's 30AI (Definitions for div 1)'—
The heading of section 322 in the *Planning (Consequential) and other Legislation Amendment Act 2016* will be amended to replace a reference to section 30AI of the Major Sports Facilities Act with a reference to section 30AL.

2 Section 322, 'Section 30AI'—
Section 322 will be amended to replace a reference to section 30AI of the Major Sports Facilities Act with a reference to section 30AL.

3 Section 323, hdg 'Suncorp'—
Section 323 will be amended to replace a reference to '*Suncorp*' Stadium with '*Brisbane*' Stadium, to be consistent with the facility's prescribed name in the Major Sports Facilities Regulation 2014.