



# ***ECONOMICS AND GOVERNANCE COMMITTEE***

**Members present:**

Mr LP Power MP—Chair  
Mr MJ Crandon MP  
Mrs MF McMahon MP  
Mr DG Purdie MP  
Mr RA Stevens MP  
Mr A Tantari MP

**Staff present:**

Ms L Manderson—Committee Secretary  
Ms R Mills—Assistant Committee Secretary

## **PUBLIC BRIEFING—INQUIRY INTO THE COVID-19 EMERGENCY RESPONSE AND OTHER LEGISLATION AMENDMENT BILL 2021**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 22 MARCH 2021**

**Brisbane**

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**The committee met at 9.45 am.**

**CHAIR:** Good morning. I declare this public briefing open. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country where we have two of the oldest continuing cultures in the world in Aboriginal and Torres Strait Islander peoples. My name is Linus Power, member for Logan and chair of the committee. The other members of the committee are Ray Stevens MP, the member for Mermaid Beach and deputy chair; Michael Crandon MP, the member for Coomera; Melissa McMahon MP, the member for Macalister; Dan Purdie MP, the member for Ninderry; and Adrian Tantari MP, the member for Hervey Bay.

The purpose of today's briefing is to assist the committee with its examination of the COVID-19 Emergency Response and Other Legislation Amendment Bill 2021. The briefing is a proceeding of the Queensland parliament and is subject to the standing rules and orders of the parliament. It is being recorded and broadcast live on the parliament's website. Before we continue, I ask everyone to please turn mobile phones off or to switch them to silent.

**BLAGOEV, Ms Bronwyn, Executive Director, Strategy and Service Delivery, Local Government Division, Department of State Development, Infrastructure, Local Government and Planning**

**DEVESON, Ms Kristina, Acting Senior Director, Courts Innovation Program, Magistrates Court Service, Department of Justice and Attorney-General**

**McKARZEL, Mr David, Executive Director, Office of Regulatory Policy, Liquor, Gaming and Fair Trading, Department of Justice and Attorney-General**

**WATTS, Mr Jordan, Acting Director, Legislation Governance and Capability, Local Government Division, Department of State Development, Infrastructure, Local Government and Planning**

**CHAIR:** Welcome. Thank you for agreeing to brief the committee. I invite your departments to make an opening statement before I turn to the committee members for any questions. I understand that you might wish to address the committee separately, so we might commence with our representatives from the Department of Justice and Attorney-General and then hear from the Department of State Development, Infrastructure, Local Government and Planning, if that is the way you would wish to do it. We are pretty flexible. Mr McKarzel and Ms Deveson, would one of you wish to commence with your statement?

**Ms Deveson:** Thank you, Chair, for the opportunity to brief the committee today about the COVID-19 Emergency Response and Other Legislation Amendment Bill 2021. I would like to start by respectfully acknowledging the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. As you have mentioned, Chair, my name is Kristina Deveson, Acting Senior Director, Courts Innovation Program, Magistrates Court Service in the Department of Justice and Attorney-General and I am joined by Mr David McKarzel, also from the department.

If you are agreeable, I will provide the committee with background about the amendments in the bill relating to extending the expiry of existing temporary measures, Mr Watts will provide an outline of the amendments related to local government and we will then invite the committee to ask questions.

**CHAIR:** Thank you very much.

**Ms Deveson:** By way of general background, the bill amends the COVID-19 Emergency Response Act 2020 to extend the operation of temporary measures introduced during 2020 in response to the challenges of the COVID-19 public health emergency. Those temporary measures were introduced or extended by three pieces of legislation: the COVID-19 Emergency Response Act Brisbane

2020 in April, the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act in May and the COVID-19 Emergency Response and Other Legislation Amendment Act 2020 in December.

In April 2020, the COVID-19 Emergency Response Act 2020, which I will now refer to as the emergency response act, introduced regulation-making powers to deal with the impacts of the COVID-19 public health emergency on residential tenancies and rooming accommodation and to facilitate implementation of the 2020 national cabinet decision in relation to good faith leasing principles for relevant non-residential leases. It also introduced a legislative modification framework of general application across the statute book, which I will refer to as the modification framework, allowing legislative requirements to be modified by secondary instruments under the following global heads of power: reducing physical contact between persons, statutory time frames and proceedings of courts and tribunals. The emergency response act did also include other amendments. Those have now lapsed or are not relevant to the amendments in this bill.

In May 2020 the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act, which I will refer to as the amendment act, amended a range of legislation to make temporary adjustments to support the response to the COVID-19 public health emergency. Those temporary measures, including the secondary instruments made under them, were initially to expire on 31 December 2020.

In December the COVID-19 Emergency Response and Other Legislation Amendment Act, which I will refer to as the extension act, extended the operation of the temporary measures that were still required and introduced new temporary measures to allow for COVID-safe state by-elections if they were required. Those measures that were no longer required in December 2020 were not extended, and a list of those measures that were no longer required was included in the written briefing material that was provided to the committee.

The extension act extended the operation of those measures that were still required until the COVID-19 legislation expiry day, which means 30 April 2021, or an earlier day prescribed by regulation. The extension act also introduced a transitional regulation-making power to provide for the return from modified arrangements under the temporary measures to the substantive law where that was necessary. A summary of the temporary measures that expire on COVID-19 legislation expiry day was also included in the written briefing material provided to the committee. Without further legislative amendment, these temporary measures introduced by the emergency response act, the amendment act and the extension act, as well as the secondary instruments made under them, will expire on the COVID-19 legislation expiry day, currently 30 April.

Chair, I do note for the committee that, in addition to the information regarding approaches in other jurisdictions that we provided in our written briefing material, each of the Victorian and New South Wales parliaments passed bills last week extending, or in some cases making permanent, comparable measures. However, we understand that neither of those bills extends extraordinary regulation-making powers in those jurisdictions.

Turning to the amendments in the bill, clause 12 of the bill amends the definition of COVID-19 legislation expiry day in the emergency response act to 30 September 2021 or an earlier day prescribed by regulation. Section 36 and schedule 1 of the Acts Interpretation Act 1954 applies this definition across the statute book, meaning the amendment that the bill makes to the emergency response act affects all relevant temporary measures without requiring individual amendments to be made to each act or regulation. A list and brief summary of the measures that will be affected by the amendment in the bill, and therefore be extended, was also included in the written briefing materials provided to the committee at addendum 1. The expiry date of 30 September 2021 aligns with the operation of temporary provisions in the Public Health Act, including the emergency powers provided to the Chief Health Officer to make public health directions to limit or respond to the spread of COVID-19 in Queensland. An earlier expiry date can be prescribed by regulation.

Clause 13 of the bill provides for the transitional regulation-making power, previously inserted by the extension act, to be exercised by the minister responsible for the relevant affected law. This is consistent with the structure of the regulation-making powers of the modification framework and ensures the subordinate legislation can be recommended to the Governor in Council by the most appropriate minister. For example, and this is a purely hypothetical example, the Minister for Health and Ambulance Services could exercise that transitional regulation-making power as amended by the bill to the modifications made to the Food Act 2006 and the Pest Management Act 2001 under the Health Legislation (COVID-19 Emergency Response) Regulation 2020. Again, that is just a hypothetical example.

Clause 9 of the bill amends the Justice Legislation (COVID-19 Emergency Response—Proceedings and Other Matters) Regulation 2020 to remove the modifications to the Coroners Act 2003 which were intended as a temporary one-off extension for the 2019-20 annual report of the Domestic and Family Violence Death Review and Advisory Board.

Chair, thank you for the opportunity to address the committee about the extension of the operation of temporary measures in the bill which, as you know, fall under the administrative responsibility of a range of government agencies. We will provide what assistance we can to the committee today. However, representatives of the Department of Justice and Attorney-General are not in a position to provide specific or detailed advice in relation to measures extended by the bill that fall under the administrative responsibility of other agencies and we may ask to take questions on notice to obtain that information from the relevant agencies to provide to the committee if required. I will now ask Mr Watts to provide an overview of the local government amendments in the bill before inviting questions.

**Mr Watts:** I thank the committee for the opportunity to brief you on the local government provisions contained in the bill. These amendments were developed in consultation with the Electoral Commission of Queensland, the Local Government Association of Queensland and the Local Government Managers Association of Queensland.

I will turn first to the local government electoral amendments. Amendments to local government legislation in early 2020 provided flexibility, if required, for the March 2020 quadrennial elections. These amendments were to help minimise serious risks to health and safety caused by the COVID-19 pandemic. Amendments to the Electoral Act 1992 made later in 2020 provide for COVID-safe measures to apply for state by-elections should they be required. For consistency with these recent amendments for state by-elections, the bill amends the City of Brisbane Act 2010, the Local Government Act 2009 and the Local Government Electoral Act 2011 to provide flexibility for local government by-elections and fresh elections. The amendments cover processes in relation to the time limits for the voters roll and nominations, in addition to postal votes, postal ballots, electronically assisted voting and electoral visitor voting. They also allow for adjournment or postponement of a poll under certain circumstances and provide for directions to be given about how-to-vote cards, the number of scrutineers allowed, the places where candidates or scrutineers may be and their movement at a relevant place. A returning officer may also direct the counting of votes to be carried out at a stated place and make arrangements for the counting of votes to be filmed. The amendments also allow the minister to give directions about filling vacancies in the office of a councillor, including the mayor. For example, the minister may in certain circumstances extend the current period within which a council must fill a vacant office.

To allow the necessary flexibility to respond to the pandemic, the bill also provides for regulations to be made where it would facilitate the holding of an election in a timely way that helps minimise serious risks to the health and safety caused by COVID-19. These electoral amendments are temporary and will expire on the COVID-19 legislation expiry day. Transitional provisions will apply, for example, when an election is called but not completed before the expiry.

Turning now to the amendments in relation to extraordinary decisions. Amendments in 2020 provided the ability for local governments to make what is called an extraordinary decision—that is, for a local government to decide by resolution at a meeting other than a budget meeting what rates and charges could be levied for the remainder of the 2020-21 financial year. These provisions were limited to the 2020-21 financial year only and expire on 30 June 2021. The bill amends the Local Government Act and the City of Brisbane Act to enable local governments to make an extraordinary decision for the 2021-22 financial year and for the annual budget to be amended at the meeting when the extraordinary decision is made. These amendments will expire on 30 June 2022. This will ensure local governments have the flexibility required to address changing economic circumstances in the upcoming financial year in response to COVID-19 should it be required.

Finally, turning to the amendments relating to COVID-safe local government and committee meetings, currently the Local Government Regulation 2012 and the City of Brisbane Regulation 2012 include temporary provisions allowing local government and committee meetings to be held by audio or audiovisual link. They also allow for meetings to be closed to the public for health and safety reasons associated with COVID-19. The bill extends these provisions beyond their current expiry of 30 June 2021 to provide instead for their expiry on the COVID-19 legislation expiry day. No other changes are made to these provisions. That concludes my opening remarks on the local government amendments. We are now happy to take questions you may have on the bill.

**CHAIR:** Thank you for the briefing; we really appreciate it. Obviously it is very important that we carefully think through our response to ensure that government is both proportionate and flexible in the face of the COVID-19 situation.

**Mr STEVENS:** Thank you all for your presentation today and making the importance of this particular piece of legislation, which we have supported previously, very clear. I am sure that the parliament will understand and go forward with it in a supportive manner. There is a matter that I find a little bit confusing, and perhaps, Mr Watts, you could assist me. We are coming up to 30 June, which is the time by which most local governments have to have their budget ready for the 2021-22 year ahead. I understand that extraordinary decisions and those sorts of matters may be necessary for local governments through the year. In terms of the financial capacities of a local government, we understand that they have dealt with the 2020-21 financial issues for this year. There are really almost three months to go for this particular year, so there is not much change coming through a local government in relation to the 2020-21 year. For the 2021-22 year coming up, in terms of financial commitments to ratepayers, why is it necessary to extend the financial capacity of councils to add or adapt a different approach to their financial rating for the year ahead when they have every opportunity now and for the next three months to plan and execute the financial program for 2021-22? Can you give me an example of where it might be appropriate for them to utilise this extraordinary power?

**Ms Blagoev:** You are right in saying that last financial year we are not aware of any council that used this power. We specifically went out to the LGAQ, the LGMA and the Local Government Finance Professionals Network to say, 'You didn't use it last time. Do you think you're going to use it again?' The overwhelming response we got from stakeholders was, 'It wasn't used last time because of the extent of support that councils did get,' also in Queensland because of the relatively short nature of the lockdown. You are right in saying that we are now in March and councils are well and truly into the swing of budgets and will soon be putting them out. They are making decisions now based on the information they have now. What councils are concerned about is if we get to July or August, post budget, and there is something that no-one really foresees—for example, we are back in a very deep lockdown. It might be unlikely, but I guess the point of this legislation is to provide for what we think is unlikely.

If we have another significant lockdown, I think you will see one of two things: some councils could say, 'We've had to shut down a lot of our revenue streams so we've shut the gyms, we've shut the pools and we've put staff off, so we've lost revenue streams so we need to increase rates to improve our revenue stream,' or they may actually say, 'We've had such a big lockdown that this is actually impacting on our ratepayers' ability to pay rates so we're going to reduce our rates to help out our ratepayers.' Somewhere like Cairns has obviously been heavily impacted. What if there was another lockdown and the extent of the impact on a place like Cairns is felt even more? Rates could go up; rates could go down. That is really up to each individual council to work out. You are right: I think it is unlikely, but we are trying to provide that flexibility.

**Mr STEVENS:** I understand completely that example you have given me, and that certainly justifies a council's reaction to an extraordinary event. What I am concerned about—and perhaps you can advise me if councils have the capacity—is that some councils, particularly some mayors, might see it as a popular way to go to make an extra-large expenditure on infrastructure, for instance, and say, 'This is my opportunity to hit the ratepayers up again for another piece of infrastructure'—an M1, if you like. I am just using that example jokingly, of course—something that might put an extra burden on ratepayers. Is that possible under this legislation?

**Ms Blagoev:** It is a broad power for the councils to re-rate, effectively. We had the same question posed to us. I had some councils ask us last financial year, 'Does this have to be related to COVID or not?' The policy intention is that it is supposed to be related to COVID, and that is how we would like to see councils use it. We also recognise there are safeguards in the legislation that allow the state to step in with respect to council decisions. They are used sparingly. If the minister is of the view that a council passed a rating resolution that was not in the public interest, there are grounds to step in.

**Mr TANTARI:** The bill extends the operation of the temporary meeting provisions with the provision they can be held through an audio link or audiovisual link. I note that, particularly in my electorate of Hervey Bay, there are members of my community who have issues with regard to accessing computers. Are there any considerations being given with regard to how individuals may be able to publicly participate in council meetings if they do not have a computer?

**Ms Blagoev:** That is a great question. The bill requires that if councils hold their meetings via audio or audiovisual link they must ensure there is real-time viewing or listening. You are right: that looks different based on individual councils. We are also aware that some councils actually do not have the technology at all to do that. That is why there is that rider in the legislation that allows them to not do that if the meeting has been closed by the chairperson on public interest grounds. Practically

speaking, we are aware that some councils are setting a room up, so there will be a separate room where people can either listen or watch the real-time. It is not like you have council chambers where you have councillors and the public all crammed in. They have a separate room where they space everyone out in accordance with COVID requirements, but that does vary. Some councils are doing that but not all. What I am hearing from councils is that they are trying to get back to normal in this regard. I am aware that most councils have their councillors back in the chamber. That has taken a while to happen. I think most councils are embracing the policy where they want the community to have some transparency around that. It is just that the degree of transparency, as you said, depends on people's IT and also what each council has the resources to do.

**Mr TANTARI:** With that, have you been monitoring the provision from councils? Obviously, there may be concern in the community that some councils, whilst they might be given this provision, do not utilise the provision or they utilise the provision to stop public face-to-face meetings.

**Ms Blagoev:** No, there is no formal monitoring. We do speak regularly to council CEOs as part of a forum and they will talk regularly around what they are doing in this space. They are all very interested to know what each other is doing. There is no formal monitoring, but I guess it is engagement with the stakeholders which is informing our understanding. As I said, it does very much vary across councils at the moment.

**CHAIR:** This is probably not to be included in the legislation, but the intent is very much to have as much transparency as possible. Where health guidelines allow public meetings, if they move to a much larger hall which is possibly not being utilised they could socially distance. Even smaller councils may find that they may be able to hold meetings outdoors and still meet all of those terms. How many councils have not moved back to some kind of public openness with their council meetings, without members of the public being able to watch?

**Ms Blagoev:** That is not information that the department collects. I do not know, is the answer to that. All I am hearing is that there is a mixture of approaches. What I have heard from stakeholders is that the focus was on getting councillors back in the chamber, which I understand most are now doing. As I said before, the policy intent is that there is as much transparency as possible. It is just that that looks different between a Brisbane City Council and an Aurukun Shire Council.

**Mr Watts:** It is important to note that the other regular requirements in the regulation for meetings still apply as well; that is, the requirement to take minutes and make the minutes available for inspection by the public. There is certainly still a level of transparency there; it just might be the immediacy of the actual meeting itself not being able for the public to attend.

**Mr PURDIE:** In relation to the temporary Small Business Commissioner, the bill proposes to extend the operation of that role. Are you able to give us any indication or data as to the activities of the Small Business Commissioner to date?

**Ms Deveson:** I can tell you that the bill will not affect the Small Business Commissioner. Changes made in the extension act in December provided for the continuation of the Small Business Commissioner under the COVID-19 Emergency Response Act at this stage. It does not currently expire on the COVID-19 legislation expiry day, so the amendments in the bill will not have any direct impact on the Small Business Commissioner itself. My understanding is that a decision has been made by government to make the Small Business Commissioner permanent, but that is a separate matter to the bill.

**Mr PURDIE:** That was going to be my next question: is there any talk of making it permanent? Do you have any data or stats there as to the activity of the Small Business Commissioner?

**Ms Deveson:** I do not have any data, but if you give me a moment I will see what information I have available about the Small Business Commissioner. The functions of the Small Business Commissioner are, as I said, in the COVID-19 Emergency Response Act. They include: providing information and advisory services to the public about matters relevant to small businesses, particularly in relation to COVID-19 response measures; to assist small businesses in reaching an informal resolution for disputes in relation to small business leases; and to administer a media process prescribed by regulation in relation to small business tenancy disputes.

The Small Business Commissioner has played a critical role in avoiding lengthy and costly commercial leasing disputes during the COVID-19 pandemic with early information, advice and mediation services. The function assisted Queensland businesses to successfully manage the impact of COVID-19 and resolve leasing issues in an effective and timely way, in many cases through informal mechanisms. The Small Business Commissioner is continuing to receive demand for its dispute resolution services. Its ongoing operation will enable leasing dispute matters received already to be finalised by the Small Business Commissioner, avoiding the need for them to transfer to any Brisbane

other resolution mechanisms. My understanding is that the government will introduce a permanent Queensland Small Business Commissioner—this would bring Queensland into line with other mainland states that already have a small business commissioner—to provide support services and advocacy for small business.

**Mrs McMAHON:** The questions that I have are probably more directed to Mr McKarzel. There are two aspects I wanted to have a look at in relation to your department: one is the continuing support of takeaway liquor sales for venues that would not otherwise, prior to COVID, have relied on that as an income stream; and the second is the impact that is having on the usual takeaway providers. Given that, by and large, we are back to business as usual particularly within the sector, could you comment on the impact that you have been made aware of from stakeholders who are being advantaged by the continuing takeaway sales and those who may find their revenue or their portion of sales disappearing?

**Mr McKarzel:** Before government made the decision to further extend the provisions, there was reasonably significant consultation done with the various stakeholders. In November 2020 and February 2021, consultation occurred with the QHA, Queensland Hotels Association; Clubs Queensland; RSL & Services Clubs Association; the Restaurant and Catering Industry Association of Australia; and the Foundation for Alcohol Research and Education, FARE. There was general support for the continuation of the provisions. However, the QHA expressed concerns over restaurants being allowed to sell 2.25 litres of takeaway liquor with a takeaway food order on the basis that it would economically impact on hotels.

The RCA, the Restaurant and Catering Industry Association, stated that the takeaway liquor requirements remain necessary for the viability of restaurants and cafes while the COVID-19 restrictions continue to apply. The provisions themselves only allow for the commissioner to issue a notice for a takeaway liquor authority if the business is still impacted by COVID restrictions. In the case of restaurants and cafes, at the time of the last notice that was issued—which I think was at the end of December—they were still subject to the social distancing density requirements. It was one person for every two square metres, if I recall.

Having spoken both to the Small Business Commissioner and to the RCA, it was clear that at that point restaurants and cafes were not able to ramp up back to where they were prior to the COVID emergency. If the bill's provisions actually refer to whether or not a public health direction in relation to the emergency is in place and whether that affects the ability of that business to trade in the way that it traded beforehand, the commissioner made a decision to issue a temporary takeaway liquor authority based on considering that evidence. The QHA has said that there is a risk from their perspective that there might be some what they call cannibalisation of the market. There has not been any data that we are aware of at this stage, but we have invited them to provide us with data.

The point about the temporary authority, particularly for restaurants and cafes, is that the commissioner cannot make a further notice if there are not any COVID public health related directions in place. They were in place at the end of December. Whether or not they will still be in place at the end of April, when the current notice expires, we will just have to wait and see. These provisions relate to whether or not a group or an industry has been substantially affected, obviously affected, by a public health direction. In the case of restaurants and cafes, you can go into restaurants now and you will see people in them, but they are not packed in like they once could be.

When people could dine in a restaurant—there are a number of people who can now go into a restaurant but not the full complement—it was always possible for them, after they had had their meal, to take away an open bottle and a closed bottle as takeaway. Restaurants already had that capacity. What this provision did was to say, 'Okay, if people are unable to sit down because of COVID restrictions'—or a number of people still are not able to get into the relevant restaurant—if they buy takeaway food, they can buy up to 2.25 litres of takeaway alcohol but only with the takeaway meal.' It is not like a bottle shop where you can go in and buy alcohol. Does that assist in terms of the context?

**Mrs McMAHON:** For these temporary arrangements with restaurants and cafes, each of them has had to apply for the authority?

**Mr McKarzel:** No. The provision allows us to do it across a class of licence. The reason we did that was that the public health direction applied to all restaurants and cafes across the state. It was not necessary to put each one of them through an application because they all have to follow the same public health restrictions under the Chief Health Officer's direction.

**Mrs McMAHON:** Do we have any data or records that indicate how many cafes and restaurants are using this temporary authority?

**Mr McKarzel:** I would have to take that on notice. They all have the authority. They would provide takeaway liquor with a meal based on their own business model. If they have worked out some other way to keep themselves afloat, obviously it is not compulsory. There are probably more doing so, say, in the south-east or in the more urban areas.

Anecdotally—there is no data here—it is likely that a number of restaurants and cafes are sourcing their takeaway alcohol from their local bottle shops anyway. It is not necessarily a direct increase or proliferation. It is the restaurant going to Dan Murphy's, as it were, and stocking up. It depends. It is different from region to region.

**Mrs McMAHON:** I was only asking because the QHA's point of view is that it is cutting into their market. It would be good to know exactly how much of that is occurring in the first place.

**Mr McKarzel:** Yes.

**Mr STEVENS:** I understand many of the Uber Eats deliveries are bringing a sixpack along, which probably gives you about 1.8 litres with your delivery. It has been quite a little business, as I understand, for Uber Eats and those sorts of deliveries and the people who rely on that sort of trade.

The QHA have made a request that this particular temporary licence, if you like, expire on 30 September if this legislation goes forward. Doesn't that seem like a reasonable request considering that restaurants are almost back to normal now? Depending on whether something raises its head again between now and that period, that should be a reasonable thing to consider for the government.

**Mr McKarzel:** I take your point. The provisions as they stand now have to hook back into the Chief Health Officer's direction in order for the commissioner to issue the notice. If come September or even July those density arrangements are gone and there is no other Chief Health Officer direction that affects those businesses—in other words, they can then operate as they did prior to when the whole pandemic started—the power cannot be exercised. The power is linked directly to a direction being in place.

Whether this provision is extended from 30 April, when it expires now—that is, the ability to make the notice for temporary liquor authority—or whether it is an extended to 30 September, if the Chief Health Officer's direction ceases and restaurants and cafes are no longer affected by that then a further notice cannot be issued. Under these provisions, because they are temporary, because they are COVID related, once the COVID issue is gone these provisions cannot be used.

**CHAIR:** There is a difference in the nature of the provisions. At the moment we are down to one patron per two square metres. I imagine a lot of restaurants are not over capacity. Originally this was seen as providing something similar to when people could get a meal from their favourite restaurant. Because they were unable to attend the restaurant, they could then perhaps have the same level of service that they would have had if they had been able to attend the restaurant. It is only for those restaurants that are held back by the two-person-per-square-metre rule, which these days is not particularly something that is reducing their capacity, is it?

**Mr McKarzel:** When the commissioner made the notice, there was major consultation done with all of the relevant stakeholders. It was apparent at that time—and remember that this is back in December—that restaurants and cafes appeared not to be at full throttle. The feedback is that the current CHO direction means they are not seating absolutely everyone they would normally have seated prior to the issue of the CHO direction.

**CHAIR:** So they are at full throttle except for capacity constraints?

**Mr McKarzel:** What I am saying is they are not at full throttle.

**CHAIR:** Theoretical capacity constraints or actual capacity constraints?

**Mr McKarzel:** No. What I am saying is that it would be as simple as: normally they can fit 100 but with the square metreage rule they can only fit 75.

**CHAIR:** How often are they turning people away over 75?

**Mr McKarzel:** In detail I could not tell you that. All the legislation says is: if there is a Chief Health Officer direction that restricts their ability to do their normal trade that existed prior to the issue of the health direction—go back to the end of February last year—then the commissioner may issue a takeaway liquor authority.

The other issue is that it is not automatic that the commissioner would extend the current TLA in force again beyond 30 April. It gives the CHO the ability to do that if it became necessary. As an example, when we had the Brisbane lockdown at the end of January we had to issue a TLA. There is a complicated reason for this, and I can explain it if you want me to. We had to issue a TLA for hotels because hotels could not have individuals inside the hotel drinking. Hotels can normally do  
Brisbane



takeaway, but if they are not offering on premises the Liquor Act stops them from doing takeaway as well. It would have been unlawful for hotels during the lockdown to supply takeaway when the bar was not open. The commissioner took into account that the CHO lockdown direction had affected those businesses, and the hotel received a temporary liquor authority to continue to trade takeaway both at the hotel and in a bottle shop so that the Liquor Act did not stop them from keeping afloat for those four days.

**Mr CRANDON:** In relation to gambling taxes and levies, the bill proposes to extend time limited provisions to allow for the deferral or waiver of gambling taxes and levies. There are two parts to my question. Can you comment on any engagement you have had with stakeholders in relation to these provisions and the necessity for extension, noting possible implications for government revenue? Secondly, is there a knock-on effect to the Gambling Community Benefit Fund in relation to where their revenues might come from to go back out into the community?

**Mr McKarzel:** I am just looking through the figures so that I can tell you the right figure. The government to date has only deferred the taxes that were incurred in March 2020. Obviously in the few months after that there were no taxes to collect because gaming was shut down. The amount all up was \$46 million, and that amount has been subject to repayment arrangements that should kick in under the Gaming Tax Notice by the middle of this year, by June.

In terms of the \$46 million, at this point it is a deferral. I know the act allows for waiver and deferral, but the minister and the Treasurer decided it was a deferral that they were prepared to approve, not a waiver. Under the arrangements, under the tax notice for repayment, the money will flow back in but with the opportunity for repayment because there is no cash flow; we do not put pubs and clubs under cash-flow issues. The Gambling Community Benefit Fund is funded directly from the Consolidated Fund now. Obviously there is an amount of tax that goes straight to the Consolidated Fund, but then it is an appropriation out of the Consolidated Fund via the Treasury to that fund. My understanding is that it is still the same bucket of money.

**Mr CRANDON:** So there has not been any reduction or any—

**Mr McKarzel:** No, not to my knowledge, at all. The grants applications and the rounds are still going on now.

**Mr CRANDON:** Yes, they are.

**Mr McKarzel:** It is only the one month in last year.

**Mr CRANDON:** So far.

**Mr McKarzel:** What the act currently allows is only for an amount paid between March and December of 2020—one of those months. Only the tax paid in those months could be deferred or waived. That would require government to refund—say, pick August and refund it. Obviously that is not likely to happen, but if there was a complete Melbourne style three-month shutdown again and government took the view that there needed to be some assistance, these provisions, having been extended through to September, could be used. As with the local government scenario, this is worst case scenario. We are being really cautious and putting things in just in case, because around the world we have seen that things can happen quite quickly. In terms of the actual Gaming Tax Notice at the moment, it will not change even with the change in the bill. All the bill does is allow the power to do something in the future to continue. The current Gaming Tax Notice provides that they will pay the money back by the middle of the year.

**CHAIR:** That brings our proceedings to a close. Thank you very much for your attendance and thanks for the information you have provided today. Thanks to Hansard, who do a fantastic job, and, of course, thanks to the parliamentary broadcast staff and our many viewers. The transcript of these proceedings will be available on the committee's webpage in due course. I note that no questions have been taken on notice so there is no requirement for any response. I declare this public briefing closed.

**The committee adjourned at 10.34 am.**