



THE STAR

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Committee Secretary
 Legal Affairs and Safety Committee
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Dear Committee Members

Casino Control and Other Legislation Amendment Bill 2022

The Star Entertainment Group welcomes the opportunity to provide a submission to the Legal Affairs and Safety Committee's review of the *Casino Control and Other Legislation Amendment Bill 2022* (Qld) (the **Bill**).

Introduction

The Star is one of largest employers in the Queensland tourism, hospitality and entertainment industry currently employing around 4,200 team members across our properties in Brisbane and the Gold Coast. The Star and its partners are proudly investing around \$6 billion in major construction projects in Queensland to deliver thousands of new jobs and significant ongoing economic benefit for the state.

Construction is well underway on the \$3.6 billion Queen's Wharf Brisbane development being delivered by The Star and its project partners. On track to open next year to the public, the Queen's Wharf Brisbane precinct will deliver thousands of direct and indirect jobs for Queenslanders, provide ongoing economic stimulus to Brisbane and Queensland and offer new world-class dining and hospitality venues for Brisbane. The precinct will boast more than seven hectares of public space, a signature Sky Deck, more than 50 restaurants, bars and cafes, retention and restoration of nine heritage buildings, over \$10 million of public art installations, and a pedestrian bridge connecting the precinct to South Bank.

It is important to note that the gaming component of the Queen's Wharf Brisbane development will represent less than five percent of this vibrant public, hotel, arts, culture and hospitality precinct. Once complete, the project will breathe new life into Brisbane's CBD by activating previously underutilised parts of the city's river frontage with exciting new meeting places, world-class food and wine experiences, and vibrant public spaces.

The Star Gold Coast has also undergone a major transformation in recent years including the opening of The Darling, the redevelopment of The Star Grand Hotel, and the opening of the Dorsett Hotel in December 2022, while The Star Residences welcomed its first residents and guests earlier this month. A new five-star hotel and residences tower is currently under construction and is expected to open in 2024, further super-charging the tourism and hospitality industry in the lead up to the 2032 Olympic and Paralympic Games.

THE STAR
 SYDNEY

TREASURY
 BRISBANE

THE STAR
 GOLD COAST

Opportunities for further reform

The Star has a long-standing commitment to responsible gaming and the prevention of gambling related harm in the community. The provision of a safe and responsible entertainment environment is a fundamental platform for our staff, management and the company, as is the prevention of criminal influence and exploitation. The Star recognises the ongoing efforts of the Queensland Government and in particular the Office of Liquor and Gaming Regulation (**OLGR**) to work proactively with the gaming and hospitality industries in Queensland to modernise regulation. Accordingly, we have been directly engaged and have provided feedback in the development of the *Gambling Harm Minimisation Plan for Queensland 2021-25* and the Bill.

In addition to providing a submission on the Bill, The Star would welcome the opportunity to continue to engage with the Committee, OLGR, and the Queensland Government more broadly on opportunities for further legislative reform for the gaming industry in Queensland, including with respect to the enhancement of regulations related to anti-money laundering and counter-terrorism frameworks.

On that front, The Star has also been engaged proactively with the Queensland Police Service and law enforcement agencies regarding a package of reforms to improve safeguards for anti-money laundering and counter-terrorism and deliver greater transparency and ethical standards. This will include running a series of ongoing presentations, discussions, and joint exercises with law enforcement agencies in Queensland to identify any new opportunities for improvement and ensure tight controls are in place prior to the opening of the new Queen's Wharf Brisbane precinct next year.

These initial discussions have identified opportunities to tighten legislative controls relating to exclusions for identified patrons, for greater information-sharing between law enforcement and casino operators and adding the ability under legislation to exclude patrons from an entire hospitality precinct (and not just a gaming floor).

There are also other identified opportunities to modernise the gaming legislation in Queensland, provide greater legislative safeguards in the transition to cashless gaming in the future and promote the health and safety of our workforce. As a large operator and significant employer of thousands of casino, hospitality and hotel staff in Queensland, it is vital that The Star is proactively engaged in leading the way on further reforms that promote best practice in harm minimisation in accordance with our shared objectives outlined in the *Gambling Harm Minimisation Plan for Queensland 2021-25*.

Submissions on the Bill

The Star would be pleased to assist the Committee at its upcoming deliberations on the Bill and touch on the matters referred to in this letter further at your hearing on 11 July 2022. In the meantime, The Star makes selected submissions for the Committee's consideration in relation to the Bill as set out below:

Amended section 30(2) – forming a view on suitability by considering findings of an investigation by State authority or under a law of the State or the Commonwealth

1. Section 30(1) of the *Casino Control Act 1982* (the **Act**) (incorporating the amendments proposed by the Bill)¹ provides for the Minister to undertake such investigations as necessary to consider the ongoing suitability of casino licensees, lessees, operators or their associates to be associated or connected with the management and operations of either a hotel-casino complex or casino. In these submissions The Star refers to this topic as **Ongoing Suitability**.
2. The proposed amended section 30(2)² of the Act provides that, in these investigations, the Minister can consider the findings of State or Commonwealth inquiries. This proposed amendment will not limit the matters the Minister may consider in an investigation under section 30(1).³
3. That the Minister can consider the findings of State or Commonwealth inquiries is very sensible. As the Statement of Compatibility points out, this section would allow consideration by the Minister of the findings of

¹ Clause 7(1) of the Bill.

² As proposed to be amended by clause 7(2) of the Bill.

³ Confirmed by the introductory words of proposed amended section 30(2) – "without limiting the matters the Minister may have regard to in undertaking an investigation under subsection (1)".

inquiries that were "led by prominent former and serving judges and involved multiple months of investigation and testimony".⁴

4. Under proposed amended sections 30(2)(a) and (b) of the Act, the Minister may consider findings of State or Commonwealth inquiries about "an entity mentioned in [section 30(1)] or an associate of the entity".
5. As noted above The Star considers the purpose of the amendment appropriate. However, the current drafting may give rise to some issues which The Star respectfully suggests should be considered further:
 - (a) firstly – a Queensland casino entity⁵ may not have necessarily had the opportunity to be heard before, or make submissions to, the State or Commonwealth inquiry whose findings the Minister is considering. That potentially denies the Queensland casino entity procedural fairness in decisions the Minister is making as to Ongoing Suitability;
 - (b) secondly – the Minister can consider findings from a State or Commonwealth inquiry about the associates of a Queensland entity, when making findings about that Queensland entity. There is scope for the Minister to form views on a Queensland casino entity's Ongoing Suitability based on findings about its associates – when the associate operations may be quite different than the Queensland casino entity; and
 - (c) thirdly – under existing section 30(1), the Minister can investigate (amongst other matters) the Ongoing Suitability of persons "associated or connected ... with the ownership, administration or management of the operations or business of the licensee, lessee or operator". Under proposed amended section 30(2), the Minister can have regard to State or Commonwealth inquiry findings about an "associate" of an entity mentioned in section 30(1). Hence, on the current proposed drafting of amended section 30(2), the Minister can consider a Queensland casino licensee, lessee or operator's Ongoing Suitability based on findings about associates of associates of that Queensland casino licensee, lessee or operator. It seems that it is, in fact, the intention that findings about associates of associates can be considered.⁶ Respectfully though, there is a question to be considered further around the relevance of findings about parties distanced from the Queensland casino entity when assessing Ongoing Suitability.
6. To address these three issues, the Committee could consider amendments to the drafting of proposed amended section 30(2) of the Act to:
 - (a) provide a procedural right of reply for a Queensland casino entity or its associates (as described in section 30 of the Act) to make submissions to the Minister in respect of the findings of a State or Commonwealth inquiry, if the Minister is proposing to use those findings to form a view about Ongoing Suitability. That affords that party procedural fairness and natural justice which may otherwise only have an opportunity to respond to the Minister on the findings of the State or Commonwealth inquiry after the Minister or Governor in Council had already relied on those findings to form a view of non-Ongoing Suitability, and had proceeded to issue a show cause notice for possible disciplinary action under section 31 of the Act; and
 - (b) clarify that the Minister may consider findings from a State or Commonwealth inquiry about a Queensland casino entity or an associate of that entity. That resolves the "associates of associates" issue raised above. The Star notes that this amendment could be achieved, for example, by replacing in proposed amended sections 30(2)(a) and (b) the words "an entity mentioned in subsection (1)" with

⁴ Statement of Compatibility, page 12. This refers to the findings of the Bergin, Finkelstein and Owen Inquiries.

⁵ Section 30 of the Act refers to "the casino licensee, lessee under the casino lease or casino operator under the casino management agreement". This terminology in section 30 is not proposed to be changed by the Bill. For convenience, these submissions will use the phrase "casino entity" to refer to these three types of entities – which is a defined term the Bill proposes be used in section 31 of the Act to capture these three types of entities (see clause 9(13) of the Bill).

⁶ Explanatory Notes, page 2 – "... regard may be given to ... the findings of certain investigations ... if the findings relate to the casino entity or their associates or associate's associates".

"a casino licensee, lessee under the casino lease or casino operator under the casino management agreement mentioned in subsection (1)".

New section 30A – a duty to cooperate which includes a duty to do "everything necessary to ensure management and casino operations are fair and honest"

7. The proposed new section 30A⁷ of the Act introduces a new "duty to cooperate".
8. While acknowledging that there are always opportunities for continuous improvement, The Star has endeavoured to cooperate and work openly with the regulators in Queensland.
9. The proposed new duty to cooperate is imposed on four parties – (1) a casino licensee, (2) a lessee under a casino lease, (3) a casino operator under a casino management agreement, and (4) any associates of these three entities.⁸ The meaning of 'associates' here can include directors and management of the casino licensee, lessee or operator.⁹
10. The proposed new section 30A(2) of the Act provides that there are two components of the duty to cooperate:
 - (a) per section 30A(2)(a) – a duty to comply with all reasonable requests by the Minister, chief executive or an inspector; and
 - (b) per section 30A(2)(b) – a duty to *"do everything necessary to ensure that the management and casino operations of the relevant casino operator are conducted in a manner that is fair and honest"*.
11. The use of the word "and" in section 30A(2) makes it clear that the duty to cooperate involves two separate, independent obligations – to comply with reasonable requests, and to do everything necessary to ensure fair and honest management and operations. (We note though the comments by the Minister in her first reading speech¹⁰ describe the duty differently stating that there will be *"a new duty on casino entities and associates to comply with all reasonable requests made by the minister or regulator to do everything necessary to ensure that the management and operation of a casino is conducted fairly and honestly"*.)
12. The Star agrees that those parties subject to the duty to cooperate should take steps to ensure that casino management and operations are fair and honest.
13. However, the obligation as presently drafted in proposed new section 30A(2)(b) is stated as an absolute obligation. It requires each of the four types of parties to do everything necessary to ensure fair and honest management and operations.
14. If, under the proposed amended legislation, any entity or its associates (which can include, as noted above, directors or managers) do not do everything within their power to procure fair and honest management and operations, then that entity or associate is subject to penalties of up to \$23,000.¹¹
15. Given the above, The Star respectfully suggests that proposed new section 30A(2)(b) of the Act be amended such that the duty to cooperate includes an obligation to *"do everything reasonably necessary"* [emphasis added] to ensure fair and honest management and operations. Indeed, such a change will ensure internal consistency within the new duty to cooperate – in 30A(2)(a), the duty to cooperate is said to include an obligation to comply with all reasonable requests by the Minister, chief executive or an inspector. 'Reasonableness' qualifications are common in legislative instruments, and The Star does not consider the inclusion of the same would detract from the objective of the amendment as stated in the Explanatory Notes.

⁷ Clause 8 of the Bill.

⁸ Proposed new section 30A(1) of the Act.

⁹ Proposed new section 30A(4)(b) & (6) of the Act.

¹⁰ Queensland, *Parliamentary Debates*, Legislative Assembly, 26 May 2022, 1430 (Grace Grace, Minister for Education, Minister for Industrial Relations and Minister for Racing).

¹¹ Proposed new section 30A(3) (clause 8 of the Bill) provides that the maximum penalty for failure to comply with the duty to cooperate is 160 penalty units.

Amended sections 31(3) & (4) – letter of censure may be issued by the Minister without a preceding show cause notice

16. The current provisions of the Act (section 31(10)) appear to already allow a letter of censure to be issued without a preceding show cause notice.
17. The proposed amended sections 31(3) and (4)¹² of the Act contemplate a similarly streamlined approach to certain disciplinary action. They provide that if the Minister is satisfied that an initiating incident (i.e. conduct the subject of disciplinary action) may be sufficiently addressed by a letter of censure, then the Minister may issue that letter without first issuing a show cause notice.¹³
18. A letter of censure will become a permanent part of the Department's records about the casino entity, and will become public when published on the Department's website.¹⁴ The Star supports the measures to lower the threshold for taking disciplinary action (including issuing a letter of censure) in order to promote public confidence and trust in a casino entity whilst noting that a censure letter obviously has the capacity to reflect negatively on a casino entity.
19. As such, consistent with natural justice and procedural fairness principles, The Star expects that casino entities will be afforded an opportunity to comment on any proposed letter of censure or the Minister's concerns that may prompt such a letter to be issued.
20. The Star looks forward to receiving further guidance from the Department and the Minister as to the level of consultation that they contemplate will be provided to a casino entity ahead of a letter of censure potentially being issued, where no formal show cause notice is first issued. The Star notes that such consultation could be achieved in a manner consistent with the streamlined approach favoured by Parliament for this process.
21. Consultation prior to the issuing of a letter of censure is consistent with the New South Wales¹⁵ and Victorian¹⁶ positions, where show cause notices precede letters of censure.

Amended section 31(23) –prohibiting review or challenge of a range of decisions by the Governor in Council

22. Section 31(23) of the Act presently states that a decision by the Governor in Council to cancel or suspend a casino licence, or to direct the cancellation of a casino lease or casino management agreement (to be collectively referred to in these submissions as a **Cancellation Decision**), is "*final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any court on any account whatsoever.*"
23. The proposed amendments to section 31(23) are brief, but significant.¹⁷ They now seek to insulate from review any decision by the Governor in Council to take any disciplinary action against a casino entity under section 31(12).
24. Whilst the supervisory jurisdiction of the Queensland Supreme Court may be available to review disciplinary action decisions of the Governor in Council affected by jurisdictional error (notwithstanding the privative clause), the amendments remove review rights that would ordinarily be available to a casino entity aggrieved by a decision by the Governor in Council to take disciplinary action against the entity.
25. The amendment in effect would shield significant decisions from review. For example, a decision by the Governor in Council, to impose a pecuniary penalty of up to \$50 million¹⁸ or to appoint an administrator¹⁹ will

¹² Clause 9(9) of the Bill.

¹³ This is achieved by proposed amended section 31(4), which provides that if the Minister is satisfied a letter of censure is all that is required, "*the Minister may give the casino entity a letter of censure censuring the entity for the incident without taking further action under this section.*"

¹⁴ Proposed amended section 31(13) of the Act.

¹⁵ Section 23, *Casino Control Act 1992* (NSW).

¹⁶ Section 20, *Casino Control Act 1991* (Vic).

¹⁷ Clause 9(12) of the Bill.

¹⁸ A power available under proposed new section 31(12)(b)(iv) of the Act, to be introduced by clause 9(9) of the Bill.

¹⁹ An administrator is empowered to assume full control and responsibility for the business of the casino licensee in respect of the hotel-casino complex for the casino and conduct or cause to be conducted casino operations in accordance with the Act. See section 31(14) of the Act, as proposed to be amended by clause 9(10) of the Bill.

now (it is proposed) not be capable of review or challenge by the casino entity. This, it is respectfully submitted, introduces an undesirable element of risk into the casino market in Queensland.

26. The amendment also creates a level of inconsistency by establishing a regime in which the same type of disciplinary action will be treated differently, in terms of amenability to review, depending on who has made the decision to take the disciplinary action. As to this:
- (a) the Explanatory Notes state that following the proposed amendments the "*Minister will be able to issue a judicially reviewable minor fine (of up to \$5 million), while the Governor in Council will be able to issue a non-reviewable major fine (of up to \$50 million).*"²⁰ Accordingly, a decision to impose a "minor fine" by the Minister would be subject to judicial review, while a more serious decision to impose a "major fine" by the Governor in Council would not be.
 - (b) both the Minister and Governor in Council may issue a censure letter or give a written direction under section 31. Because of the proposed expanded section 31(23) of the Act, such decisions by the Minister to take such disciplinary action are reviewable, but the decisions by the Governor in Council are not. The rationale for this disparity is unclear.
27. To address these issues, the Committee could consider proposing to retain the position under the current legislation that the privative clause only purports to insulate a Cancellation Decision from review. To that end, the Committee could consider amending the drafting of the proposed amendment to section 31(23) as follows:

"insert – take disciplinary action against a casino entity under subsection (15) ~~this section~~"

New section 152 – retrospective operation of increased penalties and other disciplinary action

28. The proposed new section 152(1) of the Act²¹ provides that new disciplinary action outcomes, as provided for in the proposed amendments to section 31 of the Act could apply to initiating incidents which occurred prior to the commencement of the Bill's proposed amendments.
29. "Initiating incident" is proposed to be defined as "*the act or omission that forms the basis of the grounds for taking the disciplinary action*".²² The term "disciplinary action" is not defined or referred to in the current Act, nor defined in the proposed amendments in the Bill. Nevertheless, the grounds for taking what plainly seems to be "disciplinary action" are to be expanded by proposed amended section 31(1) to include contraventions of the Act, and the scope of what may be considered "disciplinary action" now appears to be provided for in sections 31(9) & (12) of the Act²³ (though it is acknowledged that some but not all of the disciplinary actions are available under the current Act). Importantly, in the proposed sections 31(3) and (4), the Minister must assess initiating incidents as likely to be sufficiently addressed only by taking disciplinary action in order to enliven the power to give a show cause notice and take disciplinary action beyond issuing a letter of censure.
30. The proposed section 152(1) of the Act has the potential to create significant commercial uncertainty and, arguably, unnecessary complexity for a casino entity. This is because such casino entity may be required to be subject to the detailed process and new consequences provided for in proposed sections 31 and 31A with respect to incidents which (theoretically) could have occurred any time since an entity first became a casino entity. Such potential consequences include a decision by the Governor in Council that a penalty of up to \$50 million be imposed. This could arguably occur in circumstances where the initiating incidents may have already been subject to remedial or other investigative processes by OLGR under the Act (depending, presumably, on how formalised OLGR's action was at the time).
31. Noting that the Act already provides a show cause process, amongst other actions, The Star would submit that no significant prejudice to the objectives of the Bill arises from section 31 and 31A applying to initiating incidents which occur following commencement of the Bill. Alternatively, the retrospective operation of the

²⁰ Pages 10-11 of the Explanatory Notes.

²¹ Clause 32 of the Bill.

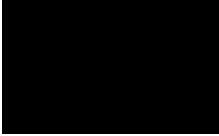
²² Proposed new section 31(24A) of the Act. Proposed to be inserted by clause 9(13) of the Bill.

²³ Clause 9(9) of the Bill.

disciplinary action provisions could be limited such that casino entities cannot be subject to the new significant pecuniary penalties for past conduct.

Thank you to the Committee for the opportunity to comment on the Bill. The Star would be pleased to assist the Committee at its upcoming deliberations on 11 July 2022. If you would like further information or to discuss this matter in the meantime, I can be contacted on [REDACTED] or by email at [REDACTED]

Yours sincerely

A large black rectangular redaction box covering the signature area.

Geoff Hogg
Acting Chief Executive Officer
The Star Entertainment Group