

Major Sports Facilities Amendment Bill 2022

Explanatory Notes

Short title

The short title of the Bill is the Major Sports Facilities Amendment Bill 2022 (the Bill).

Policy objectives and the reasons for them

The main objectives of the Bill are to:

- implement Government-supported recommendations arising from both the Stadium Taskforce Interim Report (the Interim Report) (Recommendation 1.3) and Stadium Taskforce Final Report (the Final Report) (Recommendations 1.1, 1.2, 1.3, 1.4 and 1.6); and
- support Stadiums Queensland (SQ) to become a more contemporary, agile and responsive agency.

The *Major Sports Facilities Act 2001* (the MSF Act) establishes SQ as the statutory body whose functions are to manage, operate, use, develop and promote major sports facilities in Queensland. SQ is governed by a board which is responsible for the overall corporate governance of the Authority, which has portfolio responsibility for major sports facilities declared under the Major Sports Facilities Regulation 2014.

In 2018, a Stadium Taskforce was established to address concerns raised by some hirers of major sports facilities within the SQ portfolio, including issues related to the operation of venues, costs related to venues, particularly those located beyond Brisbane, costs of government services and venue infrastructure needs.

The findings and recommendations contained within the Interim Report and the Final Report applied a balance between the needs of venue users and broader community objectives. The Interim Report and the Final Report, as well as the Queensland Government response to both reports, is available on the Department of Tourism, Innovation and Sport website.

Achievement of policy objectives

To achieve the policy objectives of implementing relevant Government-supported recommendations from both the Interim Report and the Final Report, aimed at contemporising SQ governance arrangements and allowing for its improved agility and responsiveness, the Bill will:

- amend the functions of SQ to develop, or support the use of, land declared under the MSF Act or facilities associated with major sports facilities for commercial outcomes for the Authority, or major sports facilities leaseholders, where a compatible social or community benefit can be demonstrated (e.g., childcare centre or café that provides services to users of its facilities);

- provide for the required qualifications or experience of a person who may be appointed as a director to the SQ Board. The qualifications or experience listed are consistent with the objects of the MSF Act and would specify that a person may be appointed as a director to the SQ Board only if they hold qualifications or have at least three years' experience in one or more of the following areas: asset management; building and construction; commercial enterprise operations; event promotion; financial administration; law; property development; sports administration; or has other knowledge and experience the Governor in Council considers appropriate for appointment;
- provide that statutory minimum yearly board meetings be reduced from at least 12 times a year to at least nine times a year;
- clarify that a spent conviction does not disqualify a person from becoming, or continuing as, a director of the SQ Board (this provision was identified during targeted consultation on the draft version of the Bill and did not form part of the original recommendations made by the Stadium Taskforce);
- amend the powers stipulated in the MSF Act to allow the Responsible Minister to deal with property in lieu of Governor in Council. This will allow the Responsible Minister, rather than Governor in Council, to approve SQ's acquisition of a sports, recreation, entertainment or event/exhibition facility for its declaration as a major sports facility under the MSF Act; approve SQ's acquisition of freehold land to undertake the development of a sports, recreation, entertainment or event/exhibition facility for its declaration as a major sports facility under the MSF Act; and approve and impose conditions on SQ's sale of an estate in fee simple in facility land. This provision is not intended to override existing approval conditions under section 61A of the *Statutory Bodies Financial Arrangements Act 1982* which prescribes that a statutory body may enter into a type 2 financial arrangement with the Treasurer's approval;
- amend the functions to allow SQ to provide services (e.g., grounds keeping or facility maintenance) in relation to the operation and management of other facilities or land held or administered by the department administering the MSF Act and used for sport, recreational, or entertainment purposes or events, or special events (such as major concerts, public assemblies, religious events and exhibition/convention events), where these services do not adversely affect the performance and primary functions of SQ;
- provide that the Minister may give SQ a written direction about the performance of its functions, or exercise of powers, if satisfied it would be in the public interest to do so (e.g., a direction to use major sports or event facilities to support major events such as the Commonwealth Games or Olympic and Paralympic Games, or to support emergency responses);
- provide that the direction may require SQ to give the Minister information, including commercial-in-confidence information;
- provide that before giving the direction, the Minister must consult with the SQ Board about the direction. This would allow the SQ Board to advise the Minister on potential consequences, including commercial implications, of any Ministerial direction;
- provide that SQ must comply with the direction;
- provide that SQ must outline in its annual report, prepared under the *Financial Accountability Act 2009*, a summary of each direction given during the financial year as well as a statement about how SQ complied with each direction given during that financial year;

- provide for transitional arrangements in relation to existing Governor in Council approvals, existing requests for Governor in Council approvals and existing directors.

Alternative ways of achieving policy objectives

The majority of the Stadium Taskforce's 53 recommendations (all of which were supported or supported-in-principle by Government) have been addressed through non-regulatory approaches.

This Bill provides for amendments to the MSF Act that will address six of the 53 recommendations provided by the Stadium Taskforce across both the Interim Report and Final Report.

Estimated cost for government implementation

There are no anticipated costs to government to implement Government-supported recommendations from the Interim Report and the Final Report.

It is expected that improved governance arrangements and flexibility in operations provided by amendments to the functions and powers provided for in the MSF Act, will improve the efficiency and effectiveness of SQ's operations.

It is also expected that amendments relating to SQ's functions allowing the Authority to provide services (such as grounds keeping or facility maintenance) for the operation and management of land or a facility not declared under the MSF Act, but held or administered by the department administering the MSF Act, could yield efficiencies for the department where this does not adversely affect the performance of SQ's primary functions under the MSF Act.

Consistency with fundamental legislative principles

The proposal to stipulate the required qualifications or experience of a person who may be appointed as a director of the SQ Board is consistent with the objectives of the MSF Act. This proposal could be seen as limiting the rights and liberties of individuals who may wish to participate in public office such as serving on the SQ Board. The delimiting of persons who may be considered eligible to serve on the SQ Board, however, is considered reasonable and justifiable to ensure only competent, qualified persons play a role in managing a significant Government-owned portfolio of infrastructure assets to ensure achievement of Government objectives and maximise return on public investment.

Consultation

In 2018, the Stadium Taskforce consulted a comprehensive list of stakeholders and examined SQ business and operating models, Queensland Government policies and hirer activities that impacted hirer arrangements, operating models, usage and the financial performance of SQ. SQ and the SQ Board have also been consulted on the Bill which will implement six out of the 53 recommendations from the Interim Report and the Final Report.

Consistency with legislation of other jurisdictions

The MSF Act is specific to the State of Queensland and is not uniform with, or complementary to, legislation of the Commonwealth or any other state.

Notes on provisions

Major Sports Facilities Act 2001

Clause 3 expands SQ's function in section 7(1)(a) to include managing, operating, using and promoting facility land, including for a community purpose. *Clause 3* also expands SQ's functions to provide services in relation to the operation and management of other facilities or land held or administered by the department (i.e., not declared under the MSF Act) where this does not adversely affect the performance of SQ's primary functions. Whilst this Clause expands SQ's powers under section 7 of the MSF Act, the provision of these services will be for those provided on other facilities or land used for sport, recreational, or entertainment purposes or events, or special events (such as major concerts, public assemblies, religious events and exhibition/convention events).

Clause 4 replaces requirements in sections 8(3) and 8(3A) of the MSF Act for SQ to obtain Governor in Council approval to exercise certain powers with requirements to obtain the Minister's written approval. These powers relate to the acquisition of a sports, recreational or entertainment facility for its declaration as a major sports facility under the MSF Act, and the power to acquire freehold land to undertake the development of a sports, recreational or entertainment facility for its declaration as a major sports facility under the MSF Act.

Clause 5 replaces the requirement in Section 9 of the MSF Act for SQ to obtain Governor in Council approval to sell an estate in fee simple in facility land with a requirement to obtain the Minister's approval. *Clause 5* also amends Section 9 of the MSF Act to provide that the Minister, rather than Governor in Council, may impose conditions on any sale so approved.

Clause 6 inserts new Section 9A into the MSF Act to provide that the Minister may give SQ a written direction about the performance of its functions or the exercise of its powers if satisfied it would be in the public interest to give the direction. *Clause 6* also provides that: the direction may require SQ to give the Minister information, including commercial-in-confidence information; that before giving the direction, the Minister must consult with the SQ Board about the direction; and that SQ must comply with direction. Furthermore, *Clause 6* requires SQ to include in its annual report, prepared under the *Financial Accountability Act 2009* a summary of each direction given during the year and a statement about how SQ has complied with each direction given during the year.

Clause 7 replaces the existing Section 14 of the MSF Act regarding qualifications for appointment to the SQ Board with a new section that makes explicit the qualifications or minimum experience persons must possess to be appointed as a director to the SQ Board, namely: asset management, building and construction, commercial enterprise operations, event promotion, financial administration, law, property development, sports administration or any other knowledge and experience the Governor in Council considers appropriate. *Clause 7* also amends Section 14 of the MSF Act to prescribe that a person is not qualified to be, or to continue as, a director to the SQ Board if the person is an

insolvent under administration under the *Corporations Act 2001* or has a conviction, other than a spent conviction, for an indictable offence. The purpose of this amendment is to clarify that a spent conviction does not disqualify a person from becoming, or continuing as, a director of the SQ Board.

Clause 8 amends Section 17(A)(6) of the MSF Act to omit the definition of spent conviction as it provides that a criminal history report only relates to convictions for indictable offences, other than spent convictions.

Clause 9 amends Section 19(1) of the MSF Act to provide that board meetings are to be held at least nine times a year rather than at least 12 times a year.

Clause 10 inserts transitional provisions relevant to the MSF Act, in relation to existing Governor in Council approvals, existing requests for Governor in Council approvals, and existing directors to the SQ Board, who would not be subject to the new qualification or experience requirements implemented by *Clause 7*.

Clause 11 amends Schedule 2 (Dictionary) within the MSF Act to include a definition of both a conviction and spent conviction which will apply to both Sections 14 and 17A of the MSF Act.