

20 July 2022

Our ref: WD/YHF-NFP

Confidential

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street Brisbane Qld 4000

By email: lasc@parliament.qld.gov.au

Dear Committee Secretary

Casino Control and Other Legislation Amendment Bill 2022 – Response to question on notice

Thank you for the opportunity to appear before the Legal Affairs and Safety Committee in relation to the Casino Control and Other Legislation Amendment Bill 2022 (**Bill**).

The Queensland Law Society (**QLS**) took one question on notice, which relates to the proposed amendments to the *Casino Control Act 1982* (Qld) to impose a duty on specified parties to do everything necessary to ensure that the management and casino operations of the relevant casino operator are conducted honestly and fairly.¹ Specifically, QLS took the following question on notice:²

The act creates new obligations on four types of parties, predominantly casino licensees and associated entities. One such licensee has suggested that the proposal in the bill for a new obligation to do 'everything necessary' to ensure fair and honest management of casinos should be effectively watered down so that it requires that they do 'everything reasonably necessary' to ensure certain outcomes. As a general proposition, would that change effectively make enforcement of that obligation substantially more difficult for the department and give more latitude to the licensees?

We expect the question arises following the issues raised in The Star Entertainment Group's submission. In their submission, The Star Entertainment Group have recommended that proposed section 30A be amended, so that the new 'duty to cooperate' would require an entity

¹ Casino Control and Other Legislation Amendment Bill 2022 cl 8; Explanatory Notes, Casino Control and Other Legislation Amendment Bill 2022 (Qld) p. 7.

² Transcript of Proceedings, Public Hearing – Inquiry into the Casino Control and Other Legislation Amendment Bill (11 July 2022) p. 3 <<https://documents.parliament.qld.gov.au/com/LASC-C96E/CCOLAB2022-A034/Public%20hearing%20-%2011%20July%202022.pdf>>.

to 'do everything *reasonably* necessary' to ensure that the management and casino operations of the relevant casino operator are conducted in a manner that is fair and honest.³

In particular, The Star Entertainment Group is concerned that the drafting in the Bill introduces an absolute obligation.⁴

QLS also notes that the Department of Justice and Attorney-General, in their Response to public submission to the Casino Control and Other Legislation Amendment Bill 2022 (July 2022), has specifically considered this point and offered its view on the effect of the proposed amendment.⁵ The Department has also noted that proposed section 30A is modelled on a similar provision under section 25A of the *Casino Control Act 1991* (Vic), which imposes an absolute duty.⁶

QLS recognises that legislation in many different contexts will frequently include a 'reasonableness' element in duties or obligations. An element of reasonableness in legislation ensures that a court has an appropriate discretion to determine matters before it, taking into account all relevant facts and circumstances. An absolute obligation fetters the discretion of a court and could lead to unintended consequences.

QLS welcomes the opportunity to consider this question. However, ultimately, the final expression of the proposed obligation is a matter for Parliament, taking into account its objectives in introducing this legislation and any advice or recommendations from the portfolio department.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED] or by phone on [REDACTED]

Yours faithfully,



Kara Thomson
President

³ The Star Entertainment Group, Submission No. 006 to Legal Affairs and Safety Committee, Casino Control and Other Legislation Amendment Bill 2022 (22 June 2022) p.4 <<https://documents.parliament.qld.gov.au/com/LASC-C96E/CCOLAB2022-A034/submissions/00000006.pdf>>.

⁴ Ibid.

⁵ Department of Justice and Attorney-General, Response to public submission to the Casino Control and Other Legislation Amendment Bill 2022 (July 2022) <<https://documents.parliament.qld.gov.au/com/LASC-C96E/CCOLAB2022-A034/DJAG%20-%20Response%20to%20issues%20raised%20in%20submissions.pdf>>.

⁶ Ibid.