

Western Australia

Casino (Burswood Island) Agreement Amendment Bill 2023

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Western Australia

LEGISLATIVE ASSEMBLY

**Casino (Burswood Island) Agreement
Amendment Bill 2023**

A Bill for

An Act to amend the *Casino (Burswood Island) Agreement Act 1985*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Casino (Burswood Island) Agreement Amendment*
3 *Act 2023*.

4 **2. Commencement**

5 This Act comes into operation as follows —

6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;

8 (b) the rest of the Act — on the day after that day.

9 **3. Act amended**

10 This Act amends the *Casino (Burswood Island) Agreement*
11 *Act 1985*.

12 **4. Section 3 amended**

13 (1) In section 3 insert in alphabetical order:

14

15 *Seventeenth Supplementary Agreement* means the
16 Seventeenth Supplementary Agreement, a copy of
17 which is set out in Schedule 18;

18

19 (2) In section 3 in the definition of *Agreement*:

20 (a) in paragraph (b)(vii) delete “Agreement;” and insert:

21

22 Agreement; and

23

24 (b) after paragraph (b)(vii) insert:

25

26 (viii) the Seventeenth Supplementary
27 Agreement;

28

1 **5. Section 4H inserted**

2 After section 4G insert:

3

4 **4H. Seventeenth Supplementary Agreement ratified and**
5 **implementation authorised**

6 (1) The Seventeenth Supplementary Agreement is ratified
7 and its implementation is authorised.

8 (2) Without limiting or otherwise affecting the application
9 of the *Government Agreements Act 1979*, the
10 Seventeenth Supplementary Agreement is to operate
11 and take effect despite any other Act or law.
12

13 **6. Schedule 18 inserted**

14 After the last Schedule insert:

15

16 **Schedule 18 — Seventeenth Supplementary**
17 **Agreement**

18

[s. 3]

19

Casino (Burswood Island) Agreement

20

SEVENTEENTH SUPPLEMENTARY AGREEMENT

21

THIS AGREEMENT made the 9th day of November 2023

22

BETWEEN:

23

THE HONOURABLE REECE WHITBY MLA, the Minister of the
24 Crown for the time being charged with the administration of the *Casino*
25 *Control Act 1984* acting for and on behalf of the State of Western Australia
26 and its instrumentalities from time to time ("**the State**");

27

AND

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1 **BURSWOOD NOMINEES LIMITED** (ACN 078 250 307) of 201 Great
2 Eastern Highway, Burswood in the State of Western Australia as trustee of
3 the Burswood Property Trust (“**the Trustee**”);

4 **AND**

5 **BURSWOOD RESORT (MANAGEMENT) LIMITED**
6 (ACN 009 396 945) of 201 Great Eastern Highway, Burswood in the State
7 of Western Australia as manager of the Burswood Property Trust (“**the**
8 **Manager**”).

9 **RECITALS:**

10 A. The State, the Trustee (by virtue of the *West Australian Trustees*
11 *Limited (Merger) Act 1989*) and the Manager (by virtue of a deed of
12 retirement and appointment of manager made on 13 August 1990 and
13 a deed of assumption and covenant made on 13 November 1991) are
14 parties to an agreement dated 20 February 1985 ratified by and
15 scheduled to the *Casino (Burswood Island) Agreement Act 1985* as
16 amended by:

- 17 (a) the Supplementary Agreement made on 14 September 1987;
18 (b) the Second Supplementary Agreement made on 3 May 1990;
19 (c) the Third Supplementary Agreement made on
20 13 November 1991;
21 (d) the Fourth Supplementary Agreement made on 30 March 1992;
22 (e) the Fifth Supplementary Agreement made on 3 April 1995;
23 (f) the Sixth Supplementary Agreement made on 22 June 1996;
24 (g) the Seventh Supplementary Agreement made on 9 June 1997;
25 (h) the Eighth Supplementary Agreement made on 18 June 2003;
26 (i) the Ninth Supplementary Agreement made on
27 23 November 2005;
28 (j) the Tenth Supplementary Agreement made on 2 November 2006;
29 (k) the Eleventh Supplementary Agreement made on 28 March 2007;

- 1 (l) the Twelfth Supplementary Agreement made on 12 May 2011;
2 (m) the Thirteenth Supplementary Agreement made on
3 16 March 2015;
4 (n) the Fourteenth Supplementary Agreement made on
5 6 October 2016;
6 (o) the Fifteenth Supplementary Agreement made on 7 May 2019;
7 and
8 (p) the Sixteenth Supplementary Agreement made on 14 April 2023,
9 which agreement as so amended is referred to in this Agreement as
10 “**the State Agreement**”.
- 11 B. The parties have agreed to further amend the State Agreement for the
12 purpose of more efficiently or satisfactorily implementing or
13 facilitating its objectives.

14 **THE PARTIES AGREE AS FOLLOWS:**

15 **1. Definitions and Interpretation**

16 Words and expressions defined in the State Agreement when used in
17 this Agreement have, unless the context otherwise requires, the same
18 meanings as in the State Agreement and the provisions of clause 2 of
19 the State Agreement as to interpretation apply to this Agreement.

20 **2. Variation and Operation**

- 21 (a) The State shall introduce and sponsor a Bill in the Parliament
22 of Western Australia to ratify this Agreement and endeavour
23 to secure its passage as an Act.
- 24 (b) The provisions of this Agreement other than this clause and
25 clause 1 shall not come into operation until:
- 26 (i) the Bill referred to in sub-clause (a) has been passed
27 by the Parliament of Western Australia and comes
28 into operation as an Act; and
- 29 (ii) the ratification provisions of the Bill referred to in
30 sub-clause (a) come into operation.

- 1 (c) On the said Bill commencing to operate as an Act and the
2 ratification provisions of the said Bill coming into operation,
3 this Agreement shall operate and take effect according to its
4 terms notwithstanding the provisions of any Act or law of
5 Western Australia.
- 6 **3. Clause 23 amended**
- 7 Clause 23 of the State Agreement is amended:
- 8 (a) in clause 23(8) by deleting the words "*clause 33 provided that*
9 *pending the determination upon such reference Casino Tax at*
10 *such higher rate shall be payable by the Trustee provided*
11 *further that*" and replacing them with "*clause 33 provided*
12 *that, pending the determination upon such reference, Casino*
13 *Tax at such higher rate shall be payable by the Trustee,*
14 *provided further that*";
- 15 (b) in clause 23(10)(b) by:
- 16 (i) inserting "*until 23 December 2023*" after the words
17 "*following the Completion Date*"; and
- 18 (ii) deleting the words "*preceding the Completion Date.*"
19 in clause 23(10)(b) and replacing them with
20 "*preceding the Completion Date; and*";
- 21 (c) by inserting after clause 23(10)(b) the following clause:
- 22 "*(c) on and from 24 December 2023,*
23 *\$12,000,000.00 or an alternative amount*
24 *pursuant to a notice issued under*
25 *clause 23(13), subject to clauses 23(15) and*
26 *(16)."; and*
- 27 (d) by adding the following clauses:
- 28 "*(13) The Minister may, with prospective effect from an*
29 *Anniversary Date at any time after 24 December 2023*
30 *and having regard to the reasonable costs and*
31 *expenses of the Commission in exercising its functions*
32 *in relation to the Casino, review the Annual Specified*
33 *Amount by not less than 12 weeks' notice to the*
34 *Trustee specifying an alternative Annual Specified*

- 1 *Amount, the Anniversary Date on and from which*
2 *such alternative Annual Specified Amount is payable,*
3 *and the reasons for specifying an alternative Annual*
4 *Specified Amount.*
- 5 (14) *If the Minister issues a notice under clause 23(13)*
6 *(“ASA Notice”), then the Annual Specified Amount*
7 *will be the amount specified in the ASA Notice and*
8 *will apply on and from the Anniversary Date specified*
9 *in the ASA Notice.*
- 10 (15) *If a dispute shall arise between the Minister and the*
11 *Trustee as to whether the amount specified in an ASA*
12 *Notice under clause 23(13) is reasonable having*
13 *regard to the costs and expenses of the Commission in*
14 *exercising its functions in relation to the Casino, such*
15 *dispute shall be referred to arbitration in accordance*
16 *with clause 33 provided that, pending the*
17 *determination upon such reference, the amount*
18 *specified in the ASA Notice shall be the Annual*
19 *Specified Amount for the purposes of clause 23(1)(b),*
20 *provided further that if the dispute is decided in*
21 *favour of the Trustee the State shall as soon as*
22 *practicable cause to be repaid to the Trustee any*
23 *portion of such amount so decided.*
- 24 (16) *The Annual Specified Amount is escalated on each*
25 *Anniversary Date in respect of which an ASA Notice*
26 *has not been given by the percentage by which the*
27 *CPI last published prior to such Anniversary Date has*
28 *increased over the CPI last published prior to the*
29 *later of 24 December 2023, or the last ASA Notice.*
- 30 (17) *To give effect to the parties' agreement that the*
31 *Annual Specified Amount specified in clause 23(10)(c)*
32 *takes effect from 24 December 2023, if an amount has*
33 *been paid by the Trustee under clause 23(1)(b) for the*
34 *period commencing 24 December 2023, then the*
35 *Trustee must pay to the Commission the difference*
36 *between that amount and the amount that would have*
37 *been payable if clause 23(10)(c) was inserted into this*
38 *Agreement on 24 December 2023. The difference is*

s. 6

1 *payable at the same time and in the same manner as*
2 *the next quarterly instalment is due under*
3 *clause 23(1)(b)."*

4 **4. Clause 33 amended**

5 Clause 33 of the State Agreement is amended:

6 (a) in clause 33(1) by:

7 (i) deleting "*their umpire*" and substituting "*a third and*
8 *presiding arbitrator*"; and

9 (ii) deleting "*Arbitration Act 1895*" and substituting
10 "*Commercial Arbitration Act 2012*"; and

11 (b) in clause 33(3) by deleting the words "*or umpire (as the case*
12 *may be*".

13 **5. Clause 36 amended**

14 Clause 36 of the State Agreement is amended:

15 (a) in clause 36(b):

16 (i) by deleting the words "*facsimile (to be immediately*
17 *confirmed by postal or hand delivery) or*";

18 (ii) by deleting the notice details for the Trustee and
19 substituting the following:

20 *"Burswood Nominees Ltd*
21 *C/- Crown Perth*
22 *Great Eastern Highway*
23 *Burswood WA 6100*
24 *Attention: Chief Executive Officer*"; and

- 1 (iii) by deleting the notice details for the Manager and
2 substituting the following:
3 *"Burswood Resort (Management) Limited*
4 *C/- Crown Perth*
5 *Great Eastern Highway*
6 *Burswood WA 6100*
7 *Attention: Chief Executive Officer"; and*
- 8 (b) in clause 36(c):
- 9 (i) by deleting *"facsimile (to be immediately confirmed*
10 *by postal or hand delivery) or";*
- 11 (ii) by deleting the notice details for the Minister and
12 substituting the following:
13 *"Dumas House*
14 *2 Havelock Street*
15 *West Perth WA 6005";*
- 16 (iii) by deleting the notice details for the Commission and
17 substituting the following:
18 *"Gaming and Wagering Commission*
19 *Gordon Stephenson House*
20 *Level 2, 140 William Street*
21 *Perth WA 6000*
22 *Attention: Chairperson";*
- 23 (iv) by deleting the words *"if given or sent by facsimile*
24 *upon report of successful transmission to the correct*
25 *facsimile number or"; and*
- 26 (v) by deleting the words *"and or facsimile number or*
27 *advise a facsimile number".*
- 28

s. 6

1 EXECUTED as a deed.

2

SIGNED by **THE**)
HONOURABLE REECE)
WHITBY MLA for and on behalf)
of the State of Western Australia in)
the presence of:)
)

[Signature] _____
Signature of witness

[Signature] _____
Signature of **THE HONOURABLE**
REECE WHITBY MLA

Joseph Quick _____
Name of witness

3

THE COMMON SEAL of)
BURSWOOD NOMINEES)
LIMITED (ACN 078 250 307))
was hereunto affixed by authority)
of the Board of Directors in the)
presence of:)

[Signature] _____
Signature of authorised person

[Signature] _____
Signature of authorised person

Director _____
Office held

Company Secretary _____
Office held

Alan Frank McGregor _____
Name of authorised person

Adam B Simpson _____
Name of authorised person

4

THE COMMON SEAL of)
BURSWOOD RESORT)
(MANAGEMENT) LIMITED)
(ACN 009 396 945) was hereunto)
affixed by authority of the Board of)
Directors in the presence of:)

[Signature] _____
Signature of authorised person

Director _____
Office held

Alan Frank McGregor _____
Name of authorised person

[Signature] _____

Signature of authorised person

Company Secretary _____
Office held

Adam B Simpson _____
Name of authorised person

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