

# CASINO (BURSWOOD ISLAND) AGREEMENT AMENDMENT BILL 2023

## EXPLANATORY MEMORANDUM

### Overview

The purpose of the Casino (Burswood Island) Agreement Amendment Bill 2023 is to ratify the Seventeenth Supplementary Agreement, which in turn amends the Casino (Burswood Island) Agreement (the '**State Agreement**') scheduled to the *Casino (Burswood Island) Agreement Act 1985*.

The Seventeenth Supplementary Agreement increases the casino gaming licence fee, which is the fee payable by the casino licensee for the costs of administering the *Casino Control Act 1984* (the '**Casino Control Act**') and for regulating the casino. The increase will ensure that these costs, including an uplifted program of regulatory activity for casino operations resulting from the findings and recommendations of the Perth Casino Royal Commission, are recovered from the casino licensee.

Additionally, the Seventeenth Supplementary Agreement makes amendments at clause 23(1)(b) of the State Agreement to specify the Minister's ability to determine a variation to the annual specified amount of the casino gaming licence fee. This amendment provides the capacity for the Minister to appropriately manage the recovery of costs related to the regulation of casino operations as they may change over time.

Finally, the opportunity has been taken to make minor administrative amendments to outdated terminology, reference to repealed legislation, and the service address and method of delivery for Notices.

## CLAUSE NOTES

### PART 1 – Preliminary

#### Clause 1

##### Short Title

Names the *Casino (Burswood Island) Agreement Amendment Act 2023* as the amending Act.

#### Clause 2

##### Commencement

Provides that Part 1 of the Act commences on the day on which this Act receives Royal Assent, and the rest of the Act commences on the following day.

#### Clause 3

##### Act amended

Names the *Casino (Burswood Island) Agreement Act 1985* as the principal Act.

#### Clause 4

##### Section 3 amended

Sub-clause (1) defines the Seventeenth Supplementary Agreement as an agreement by that name and by reference to Schedule 18.

Sub-clause (2) amends the definition of Agreement in section 3 of the principal Act to include the Seventeenth Supplementary Agreement.

## **Clause 5**

### **Section 4H inserted**

Inserts new section 4H that ratifies the Seventeenth Supplementary Agreement and authorises its implementation, and specifies that the Seventeenth Supplementary Agreement operates and has effect despite any other Act or law.

## **Clause 6**

### **Schedule 18 inserted**

Inserts the Seventeenth Supplementary Agreement as Schedule 18 of the principal Act.

## **SCHEDULE 18 – SEVENTEENTH SUPPLEMENTARY AGREEMENT**

The State Agreement was made on 9 November 2023, between the Minister for Racing and Gaming for, and on behalf of, the State of Western Australia, Burswood Nominees Ltd, as Trustee of the Burswood Property Trust, and Burswood Resort (Management) Limited, as Manager of the Burswood Property Trust.

### **Recitals**

Cites the original Agreement (dated 20 February 1985) and all the amendments up to, and including, the Seventeenth Supplementary Agreement and indicates that the parties have agreed to further amend the State Agreement.

### **Clause 1**

Definitions and Interpretations

The intent is to use defined terms consistently in both the Supplementary Agreement and the State Agreement (unless the context requires otherwise). The same principles of interpretation will also be applied to both documents.

### **Clause 2**

Variation and Operation

Acknowledges the State's commitment to securing the passage of an Agreement Amendment Bill through Parliament as an Act to ratify the Agreement and provides that the matters in the Seventeenth Supplementary Agreement, except for clauses 1 and 2, do not come into operation until the Agreement Amendment Bill is passed by the Parliament and comes into operation as an Act.

### **Clause 3(a)**

Amends clause 23(8)

The addition of commas in this clause is an administrative amendment, consistent with new clause 15, to provide additional clarity to the operation of the clause.

### **Clause 3(b)**

Amends clause 23(10)(b)

This amendment ensures the Annual Specified Amount ('ASA') will no longer be calculated using clause 23(10)(b) after 23 December 2023. Instead, new clause 23(10)(c) will be used to calculate the ASA after this date.

### **Clause 3(c)**

Inserts new clause 23(10)(c)

Provides that, from the anniversary date of 24 December 2023, the ASA will be:

- \$12,000,000; or
- an alternative amount determined by the Minister in accordance with new clause 23(13); and
- subject to new clauses (15) and (16).

**Clause 3(d)**

Inserts new clause 23(13)

Pursuant to section 20(2) of the *Casino Control Act 1984*, this clause provides for the Minister to vary the ASA from 23 December 2023, having regard to the reasonable costs and expenses of the Commission in exercising its functions in relation to the casino. The casino licensee may be notified of a new ASA notifying of the reason for the new ASA and specifying an alternative amount, not less than 12 weeks from which the alternative amount is payable. For consistency, this clause has been drafted similarly to existing clause 23(6) of the State Agreement which is also provided for under section 20(2) of the *Casino Control Act 1984* and relates to Casino Tax.

Inserts new clause 23(14)

This clause defines the term “ASA Notice” as a notice issued by the Minister under clause 23(13).

An amount specified in an ASA Notice becomes the annual casino licence fee payable in accordance with clause 23(1)(b). The wording of this clause is based on the equivalent clause regarding Casino Tax (clause 6A), for consistency.

Inserts new clause 23(15)

Provides for a dispute resolution mechanism in relation to an ASA Notice issued by the Minister. The wording of this clause is based on the equivalent clause regarding Casino Tax (clause 23(8)), for consistency.

Inserts new clause 23(16)

Provides for the escalation of the ASA via a specified calculation methodology (change in CPI) for any year where an ASA Notice specifying an alternate amount is not issued. The method of calculating the increase is consistent with the existing clause used to calculate ASA (clause 23(10)(b)).

Inserts new clause 23(17)

Provides for the proposed increase to the ASA in the Supplementary Agreement to be effective from 24 December 2023. This will have retrospective effect if the Supplementary Agreement is not ratified by this date.

**Clause 4(a)**

Amends clause 33(1)

Minor administrative amendment to update terminology and remove reference to the *Arbitration Act 1895* which was repealed by the *Commercial Arbitration Act 1985*.

**Clause 4(b)**

Amends clause 33(3)

Consequential administrative amendment removing the reference to ‘umpire’ as amended by clause 33(1).

**Clause 5(a)**

Amends clause 36(b)

Minor administrative amendment to remove reference to outdated method of service and update contact and address information for service.

**Clause 5(b)**

Amends clause 36(c)

Minor administrative amendment to remove reference to outdated method of service and update address information for service.