

# PERFORMANCE REVIEW NORFOLK ISLAND GAMING AUTHORITY

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## TABLE OF CONTENTS

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<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
BACKGROUND .....	3
OBJECTIVE.....	3
TERMS OF REFERENCE .....	3
OVERALL CONCLUSION .....	4
POSITIVE FINDINGS .....	6
AREAS FOR IMPROVEMENT.....	6
MANAGEMENT COMMENT FROM THE NORFOLK ISLAND GAMING AUTHORITY .....	7
<b>DETAILED REPORT .....</b>	<b>8</b>
1 KEY STRATEGIC & OPERATIONAL RISKS .....	8
2 LEGAL DUE DILIGENCE REVIEW.....	11
3 STRATEGIC & BUSINESS PLANNING FRAMEWORK.....	20
4 INTERNAL CONTROL FRAMEWORK.....	23
5 COMPLIANCE .....	31
6 STRUCTURE, ROLES & RESPONSIBILITIES .....	46
7 PRICING & COLLECTION OF MONIES.....	53
8 EXPENDITURES .....	61
9 STAKEHOLDER EXPECTATIONS .....	63
<b>ATTACHMENTS .....</b>	<b>67</b>
ATTACHMENT A: RISK REGISTER .....	67
ATTACHMENT B: RECOMMENDATIONS .....	74
ATTACHMENT C: CONTROL AND RISK RATING METHODOLOGY .....	80
ATTACHMENT D: ACCOUNTABILITY AND RESPONSIBILITY STATEMENT .....	82

## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Centium was engaged by the Norfolk Island Administration to undertake a performance review of the Norfolk Island Gaming Authority (“the Authority”). The review was undertaken during April and May 2016.

Throughout the world, the regulation of the gambling industry continues to create challenges. Its inherent nature and complexity requires regulators to adopt and enforce comprehensive and rigid legislative systems to maintain and enhance its integrity. It is self-evident that the industry needs to be heavily regulated. It is in this environment that any gambling regulator has to be vigilant and consistent in administering its obligations.

However, Norfolk Island's isolation, lack of infrastructure, limited financial resources and difficulties in sourcing appropriately skilled and experienced resources pose significant challenges in ensuring an efficient, effective and reputable gambling regulatory environment.

This report sets out the results of our review along with recommendations to mitigate identified risks and to improve governance, risk and compliance as well as overall performance.

As Norfolk Island is integrating with the Commonwealth effective 1 July 2016, any references throughout the report concerning “Minister” or “Executive Member” relate to the former office holders of the Norfolk Island Legislative Assembly.

Centium thanks each of the parties consulted during the review for their assistance and cooperation.

### **OBJECTIVE**

The objective of this review was to assess the adequacy and effectiveness of the Authority’s internal control framework (including the legislative framework, management, operations and governance arrangements) in managing its key strategic and operational risks.

### **TERMS OF REFERENCE**

Our review addressed the following areas:

- Establish the Norfolk Island Gaming Authority’s key strategic and operational risks;
- Conduct a legal due diligence review of the Authority, incorporating an assessment of the legislative framework under which it operates, to determine whether this adequately addresses key strategic and operational risks;
- Review the adequacy of the Authority’s overall strategic and business planning framework
- Assess the adequacy of the Authority’s internal control framework, including Board oversight, management review and reporting, relevant policies, procedures and other documents relating to the management and operations of the Authority;

- Assess the Authority’s compliance with legislative requirements and internal policies and procedures;
- Assess the adequacy of the Authority’s structure, roles and responsibilities and coordination across the business;
- Review the adequacy of the methods of pricing to applicants and licenced operators, the collection of monies and for reporting to and monitoring by senior and executive management;
- Examine approval and payment processes in relation to Authority expenditures; and
- Assess the expectations of key stakeholders including applicants and licenced operators and the extent to which they are being/should reasonably be met by the Authority.

This review was *not* an investigation.

### OVERALL CONCLUSION

**The Authority has failed to fulfil its regulatory role to an acceptable level.**

**Internal controls over the Norfolk Island Gaming Authority are inadequate and can give rise to fraud and corruption. The Authority has been operating in a non-transparent way with little to no reporting or communication with the Administration. The Authority has been grossly under-resourced. Basic control elements are not in place, such as: governance and reporting structures, a risk register, contracts with key personnel, segregation of duties, controls to prevent conflicts of interest, staff remuneration processes and policies and procedures.**

**The Authority’s focus has been to increase revenue and issue licences while disregarding its supervisory obligations. The Authority has not been performing in line with its legislative duties. We recommend that it not continue to operate in its current form.**

Overall Conclusion	Largely Ineffective
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Our overall conclusion is based on the following ratings assigned to each of the Terms of Reference items (please refer to **Attachment C** for information regarding assigned Control Effectiveness and Risk Rating scores):

Terms of Reference Items	Rating
Key Strategic & Operational Risks	Largely Ineffective
Legal Due Diligence Review	Partially Effective
Strategic & Business Planning Framework	Largely Ineffective
Internal Control Framework	Largely Ineffective
Compliance	Largely Ineffective
Structure, Roles & Responsibilities	Largely Ineffective
Pricing & Collection of Monies	Partially Effective
Expenditures	Largely Ineffective
Stakeholder Expectations	Partially Effective

While the overall findings of our review outline a number of deficiencies in the operation of the Authority, there are a number of compelling factors that contributed to this outcome, viz:

- The Legislative Assembly and the Executive appears to have paid little regard to the considerable risks associated with licensing and regulating internet gaming operations. Unlike other Australian jurisdictions, no public inquiries or reports were undertaken to inform the public or the Parliament of these risks and what strategies should be in place to mitigate them.
- The responsible Minister in introducing the Gaming Supervision Act into the Legislative Assembly in 1998 stated “After all, the major purpose is to ensure that those persons whom we do eventually licence continue in their business in proper and responsible functions. We are not really wanting to be closing them down, we are wanting to be continuing to own a revenue stream from them and to assist them in such proper ways as we can to ensure that they are profitable and we as a result do well.” [Hansard 15 April 1998].
- Despite section 11 of the Gaming Supervision Act 1998 requiring the Authority to ensure that an efficient and effective system of supervision existed, the major focus of the Authority was to promote the opportunity for gaming operators to be licensed by the Authority. The focus on collecting revenue while neglecting its regulatory obligations had the effect of exposing the the Authority to greater risk.
- In its early years the Authority appears to have been well organised and supported by appropriate appointments, documentation, agreements with the Australian Federal Police to undertake detailed probity reports and the like. The Commonwealth Interactive Gambling Act 2001 decimated the number of licences issued by the Authority from 18 to one. This has since risen back to around 40.
- The Authority’s focus over the last ten years has been on revenue collection. At the same time, the Authority has had a lack of adequate resources and oversight of its operations has been poor. This has resulted in only superficial probity investigations being conducted and minimal operational supervision of licensees being applied which, ultimately, has delivered a weak and ineffective regulatory environment.
- We were advised that a former Minister (and Chief Minister) is the brother-in-law of the current Director of the Authority (and previously an Authority member). While not formally recorded or disclosed publicly, this relationship was “*known throughout the Island*”. Although the former Executive Member appeared to have no direct oversight of the Authority, we were informed that recommendations of an internal audit review into the Authority’s administration were not pursued on the advice of the former Executive Member. While the authenticity of this disclosure was not examined further, it raises serious concerns about whether the Authority operated independently at all times.
- Our review found that, since the Authority’s inception, the relationship between the Authority and the Administration was almost non-existent. Reporting by the Authority either to the Minister or the Administration was very limited; usually only concerning the budget process.
- Agreements on taxes and fees have been negotiated without appropriate supervision or consultation. The 2011 decision to substantially reduce taxes and lower caps should not have been taken without consultation with the Administration and/or the appropriate Ministers. Conversely, the alleged influence exerted by the former Minister and Chief Executive Officer to direct the Authority to seek an increase in duty from a licensee outside of normal duty arrangements is inappropriate.

- The Authority is seen as a professional services provider rather than as a government regulator as evidenced by receiving a recent industry award. This is inappropriate.
- Recently the Authority engaged a contractor to undertake a number of compliance audits of licensees. We are of the opinion that these audits are superficial and do not meet the aspirations of the Authority's supervisory obligations. Additionally the engagement is a clear conflict as the contractor also holds the position of Chief Operating Officer for a licensed operator. This fact does not appear to have been disclosed to the Authority members or licensees that were audited.
- Overall there is a lack of rigour in pursuing the Authority's legislative mandate, a lack of transparency in its decision making, a lack of consultation with appropriate authorities and a lack of appropriate oversight of the Authority's operations.
- The above factors and the strong industry support of the Authority (and the Director) suggests that it is subject to "*regulatory capture*" - that is the public interest in properly supervising licensees in the jurisdiction has become subservient to the needs and wishes of the licensees.

## POSITIVE FINDINGS

Various positive controls were identified, including the following:

- **Legislative framework:** Generally speaking, the legislative framework is reasonable compared to other jurisdictions, however some revision is required.
- **Industry relationships.** The Authority is highly regarded by licensees.
- **Sound foundation.** The Authority was built on a reasonably sound basis, however this has degenerated over time.

## AREAS FOR IMPROVEMENT

The key areas identified as requiring improvement are as follows:

- **Regulatory Role.** The Authority has failed to fulfil its regulatory role to an acceptable level. [Extreme risk].
- **Capacity & Capability.** The Authority does not have sufficient resources or expertise to fulfill its legislative roles. [Extreme risk].
- **Internal Controls.** Suitable internal controls are not in place to help govern the operations of the Authority and to help mitigate risk, fraud and corrupt practice. We observed a number of practices that do not meet good internal control and good governance standards. [Major risk].
- **Communication & Transparency.** The Authority has not been operating in a transparent and open manner; there has been little to no communication with the Administration or the Minister. As such, the Authority has been operating as a "black box". [Major risk].

Each of these matters, and others, are expanded upon in the next section of this report, which also includes our recommendations for improvement. A summary of these recommendations is also included at **Attachment B**.

This report should be read together with **Attachment D: Accountability and Responsibility Statement**.

## MANAGEMENT COMMENT FROM THE NORFOLK ISLAND GAMING AUTHORITY

The Authority Members together with the Director have fully considered the Report and the outcomes.

The Authority was set a Mandate by the Norfolk Island Government to pursue a number of growth goals. This Mandate has remained in place through successive Governments and the Administration of Norfolk Island. The goals have been achieved despite a continued lack of support for the Authority's requests for regulatory resourcing. This Authority has always been cognisant of its responsibilities as Regulators.

The Authority is very disappointed by the Overall Conclusion. In many cases, matters raised in the report seem to stem from predetermined assumptions of the Authority's shortcomings and ignore the underlying causes deriving in most cases from the lack of policy direction from either the mandated political or Administrative Government of Norfolk Island. To recommend the Authority not continue is an alarming recommendation. A number of comments that attack reputations are considered very unfair and unjustified.

Comments targeted at the Members of the Authority and the Director will require individual decisions as to their future involvement.

The Authority stands by its decisions and its actions. The Business Model is sound and through a lot of hard work has provided a substantial framework for future Economic Development. The Authority enjoys a sound reputation and support from all jurisdictions. Our Licensees are exceptional people and have made this Jurisdiction – they deserve the utmost support.

We trust that the Commonwealth Minister will look to provide the necessary resources so as to enable the positive recommendations to be supported and a future Authority continue for the benefit of Norfolk Island and its people.

# DETAILED REPORT

## 1 KEY STRATEGIC & OPERATIONAL RISKS

### Objective

The objective of this section of the engagement was to establish the Authority’s key strategic and operational risks.

### Overall Finding

The Authority faces a number of strategic and operational risks which we have set out in a Risk Register at **Attachment A**. These should be considered and assessed in line with the Authority’s risk management framework, taking into account the Authority’s risk appetite.

#### 1.1 Key strategic risks

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Major</b>	<b>Almost Certain</b>	<b>Extreme</b>

### What we found

The Authority faces a number of strategic risks. The most significant of these are as follows:

- (a) *Regulatory Role*. The Authority has failed to fulfil its regulatory role to an acceptable level.
- (b) *Political ambiguity/ uncertainty*: The future of the Authority is unknown due to impending changes in the administration and governance of the Island. Licensees are nervous about their future and may look to operate elsewhere.
- (c) *Capability*: There is a lack of local resources with essential skillsets required to fill Board, Director and Deputy Director roles in areas such as governance, risk, compliance, probity, legal, financial, technology, licensee regulation etc.
- (d) *Capacity*: The Authority is not fulfilling its regulatory/ compliance checking functions due to limited capacity.

### What caused this

There has been no formal risk management process in place to identify, capture, manage and track risks.

### **What this means**

Should they materialise, the identified strategic risks could impact on the Authority's ability to meet its objectives as set out in its Strategic Plan. The Authority and the Administration could lose significant revenue streams.

### **What we recommend**

- 1.1 Consider and implement each of the strategic risk treatments set out at Attachment A.

1.2 Key operational risks

RISK RATING	Consequence	Likelihood	Rating
	Major	Almost Certain	Extreme

**What we found**

The Authority faces a number of operational risks. The most significant of these are as follows:

- (a) *Communication & transparency:* Lack of ongoing and open reporting and communication with the Administration.
- (b) *Succession planning:* The current structure of the Authority does not allow for any skill sharing or knowledge transfer. There is sole reliance on a key person (the Director) and his accumulated knowledge.
- (c) *Poor internal control:* Inadequate governance, risk management, compliance, probity (in terms of applications) and internal controls can give rise to fraud and corruption.
- (d) *Read across risk:* The impact of the ineffectiveness of the Authority’s operations on the overall aims and objectives of the Administration. (i.e. the risk that the Authority’s identified risks impact other stakeholders). Licensees are also exposed to ongoing financial and operational risks.

**What caused this**

There has been no formal risk management process in place to identify, capture, manage and track risks.

**What this means**

Should they materialise, the identified operational risks could impact on the Authority’s ability to meet its business objectives as set out in its Strategic Plan. The reputation and integrity of the Authority may suffer. Operators and licensees may withdraw their support. Other states and territories (e.g. Racing VIC) may withdraw their recognition of the Authority’s licences.

**What we recommend**

We recommend the following:

- 1.2 Consider and implement each of the operational risk treatments set out at **Attachment A**.

## 2 LEGAL DUE DILIGENCE REVIEW

### Objective

The objective of this section of the engagement was to conduct a legal due diligence review of the Authority, incorporating an assessment of the legislative framework under which it operates, to determine whether it adequately addresses key strategic and operational risks.

### Overall Finding

Generally speaking, the Norfolk Island gaming legislation addresses each of the key elements that we would expect to find compared to other jurisdictions. However, it has not been reviewed or updated since it was written. We have recommended a number of improvements that will further ensure it adequately addresses the Authority’s key strategic and operational risks. The legislation should be reviewed in light of this Report's recommendations. Formal reviews should be undertaken on a regular basis to ensure the objectives of the legislation are being met.

#### 2.1 Assessment of the legislative framework

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Moderate</b>	<b>Likely</b>	<b>High</b>

### What we found

The Authority is governed by, and subject to, three key legislative instruments:

- The Gaming Supervision Act 1998
- The Gaming Act 1998
- The Bookmakers and Betting Exchange Act 1998 (B&BE Act).

The Authority also has regard to the Interactive Gambling Act 2001 and the Norfolk Island Act 1979.

Up until 30 June 2016, most other Commonwealth laws **do not** apply unless they specifically include Norfolk Island. From 1 July 2016, the reverse will be true – ie all Commonwealth laws **will** apply unless they specifically exclude Norfolk Island.

We examined each of the three current key Acts to determine whether they address the key matters we would expect to find in similar legislative instruments, based on our experience with other jurisdictions. We note the following:

- Alignment with “best practice” legislation – functions of a gaming authority:* Generally speaking, the Norfolk Island gaming legislation addresses each of the key elements that we would expect to find in such legislation as compared to other jurisdictions. They provide for: the establishment and constitution of an independent gaming approval body; the definition of the gaming approval body’s roles and responsibilities, as well as its staff, and others (eg police, etc); a regulated framework within which applicants (or their staff) can seek the granting of gaming

licences (sometimes includes appeal processes); a regulated framework within which licensees must operate; operational review mechanisms and powers for the gaming approval body or others to investigate whether licensees meet the required regulatory framework; and a disciplinary framework that enables the gaming approval authority (or others e.g. a Court or Tribunal) to take appropriate action where licensees do not meet their regulatory obligations. However, a sound legislative framework is not sufficient, with the key concern being whether the Authority and its administration has the necessary capability and capacity to adequately carry out the legislative intent. Our observations (as noted elsewhere within this report) indicate that this is not the case.

- (b) *Alignment with “best practice” legislation – issuing of licences:* Internationally accepted best practice for issuing gaming licences is for the approval body to make a finding that an applicant: is of good repute; is of sound and stable financial background; is competent, with access to the appropriate skills, knowledge and experience to undertake the proposed licensed operations, with appropriate corporate structures in place; and has no business association with persons not of good repute or who have unsatisfactory financial resources prior to that body issuing a relevant gaming licence. Broadly speaking the Norfolk Island legislation accords with these “best practice” standards. The legislative framework supports the Authority undertaking the usual two-step licensing process - that is, it undertakes a probity review on the applicant first, and if satisfied that person is suitable (fit and proper, sufficient financials and capacity, etc), it then reviews the operational aspects of the proposal with final operational approval when satisfied the applicant meets the statutory and policy requirements of the Authority. However our observations (as noted elsewhere within this report) indicate that an appropriate level of probity and analysis has not been performed for licence application assessments.
- (c) *Review and update of Acts:* The Gaming Supervision Act, The Gaming Act and The Bookmakers and Betting Exchange Act were each developed in 1998 but have not been updated since. The legislation was introduced in 1998 and while there have been a number of amendments since, all Acts are in need of review and updates, particularly in relation to harm minimisation. Refer further detail at 2.1(b) of this Report.
- (d) *Rationalisation of Acts:* Consideration could be given to folding the Gaming Act and the Bookmakers and Betting Exchange Act into one piece of legislation. At present both Acts have similar provisions in regard to Parts 1, 2, 4 and 5 - with Parts 3 and 3A dealing with the different types of licences. This step would simplify the legislative framework and provide a concise and uniform framework for all licences issued by the Authority.
- (e) *Flexibility:* The legislative framework is broad and non-prescriptive - unlike casino legislation of Australian States (NSW, Queensland and Victoria). This feature reflects the fact that at the time the legislation was enacted, the internet was just commencing to be applied to commercial ventures, and was limited by the width of broadband and development tools compared to today. Internet gaming was in its infancy with new products being developed and trialled. As a result, it needed to be adaptable to innovations on the internet and gaming products. In discussions with Authority members, the Director and gaming licensees, all agreed that the flexibility within the legislation has worked well but overall, the legislation is in need of review. These discussions did not identify any specific inhibitors in the legislative frameworks for the Authority or the Director to carry out their respective functions and responsibilities. The flexibility afforded to the Authority by the legislation has enabled the licensing of new forms of gaming not envisaged at the time of its introduction - for example fantasy sports betting and spread betting. There is a need to closely monitor industry developments such as fantasy

betting and spread betting and adapt the regulatory framework as appropriate in discussions with the Administration.

- (f) *Measure of success: Are the objectives of the legislation being met?* The legislation does not clearly articulate its objectives. These should be defined so that the success of the legislation can be objectively measured, with measures of success conducted as part of the five yearly statutory review. One measure of the relevance of the current legislation's success is to look at the numbers of licences granted. History shows a fluctuating number of licences since 1998. Up until the Cwlth Interactive Gambling Act 2001, there were 18 licences, however this fell to one (the local TAB) when the Cwlth Interactive Gambling Act 2001 came into effect (it prohibited internet gambling using an internet carriage service other than for racing and sports betting). The S92 Commonwealth Constitution issue regarding "free trade between states", particularly in relation to lotteries, may have contributed to the slowness of take-up over that period. However the number of licensees grew over time as operators became more comfortable with the legislation and developed successful products and software to meet the spirit of the legislation. The Authority actively courted and assisted applicants to become licensed in the jurisdiction. As at the period of the audit, there were 41 applications that either had been processed or in the various stages of processing. Of the 41 applications, 19 are operational, 10 have "suitability" approvals but are awaiting operational approvals, and 12 are new applications (involving seven different applicants).

### **What caused this**

The legislation has not been reviewed or updated since it was written in 1998.

### **What this means**

Legislation may not adequately addresses the Authority's key strategic and operational risks.

### **What we recommend**

We recommend the following:

- 2.1 Review and update The Gaming Supervision Act, The Gaming Act and The Bookmakers and Betting Exchange Act - particularly in relation to harm minimisation. Ensure legislation is formally reviewed at least every five years.
- 2.2 Consider folding the Gaming Act and the Bookmakers and Betting Exchange Act into one piece of legislation. This would simplify the legislative framework and provide a concise and uniform framework for all licences issued by the Authority.
- 2.3 Closely monitor industry developments such as fantasy betting and spread betting and adapt the regulatory framework as appropriate in discussions with the Administration.
- 2.4 Ensure the legislation clearly articulates its objectives. These should be defined so that the success of the legislation can be objectively measured. Measures of success should be conducted as part of the five yearly statutory review.

2.2 Whether the legislative framework addresses key strategic and operational risks

RISK RATING	Consequence	Likelihood	Rating
	Major	Likely	High

What we found

The Authority’s key strategic and operational risks are identified at 1.1 of this Report, with details at Attachment A. We assessed whether key risks from that list are adequately addressed by the three Acts noted at 2.1. We found the following:

Key risks	Coverage by Act	Further action required
Operational: Probity and assessment of licence applicants	<b>Partly covered.</b> Legislative provisions in relation to review of the suitability of applicants is poorly handled.	<p><i>Probity requirements should be better prescribed.</i> There are no requirements about the level of probity that should be undertaken on applicants in relation to different types of licences. It is usual for applicants for casino licences to be scrutinised more thoroughly than, for example, lottery licensees. While section 16(3) of the Gaming Act requires the Authority to obtain a law enforcement agency report on interactive gaming licence applicants, it affords discretion in relation to an internet lottery licence. This discretion should not be available as it increases risk.</p> <p><i>Finger and palm printing is not conducted.</i> The Gaming Act and the B&amp;BE Act enable the Authority to require applicants to be finger and palm printed. However, to Audit’s knowledge, this has not been undertaken. The converse is the case in Australian jurisdictions - in particular, applicants for similar licences in the Northern Territory are required to submit to finger and palm prints.</p> <p><i>Only minimal criminal name checks are conducted.</i> The B&amp;BE Act (section 17(3)) requires that the Authority must obtain from a law enforcement agency a report on any person whose suitability to be concerned in or associated with the management or operation of any operations authorised by a licence is to be assessed by the Authority. We were unable to find any law enforcement agency reports, other than simple criminal name checks, that would satisfy that requirement. Most law enforcement agencies that report in this area have significant amounts of information (criminal and intelligence) that could be available to assist the Authority in its determinations of an applicant's suitability.</p>

Key risks	Coverage by Act	Further action required
		<p><i>Agreement not leveraged.</i> During 2002, a former Authority member, forged an agreement with the Australian Police Force to provide extensive reports on applicants which included criminal, intelligence, immigration, InterPol and other checks. This agreement has not been leveraged.</p> <p>A stronger statement should be made as to the role of the Authority in undertaking probity checks so as to ensure an appropriate regulatory regime is enforced.</p> <p><i>The Citibet issue.</i> It is obvious that these shortcomings have contributed to the Citibet issue, where limited checks on Citibet’s background led to BetHQ engaging with Citibet in a “white label” arrangement.</p> <p>This raises the need to mandate (either via a specific legislative provision or licence condition) that no licensee can enter into any affiliate relationship unless approved by the Authority.</p> <p>This outcome has now placed all bookmakers licensed by the Authority in severe jeopardy. Racing Victoria has written to each licensee, questioning their integrity and their future ability to continue as an approved Race Fields wagering operator.</p>
<p>Strategic: Capability</p>	<p><b>Not covered.</b> The legislation should outline the skills and/or qualifications of the Authority members</p>	<p><i>Legal qualifications.</i> There is no legislative requirement for at least one of the members to be legally qualified. Section 7 of the NSW Gaming and Liquor Administration Act 2007 requires that one of the Authority members to be or has been a Judge, or has been an Australian lawyer for at least 7 years.</p> <p>By way of example, one applicant for a licence requested the Authority grant it exclusivity for a number of years. This request was discussed by the Authority and no real objection was raised despite the fact, in our view, that the Authority does not possess the power to do so. Ultimately, the question was deferred. Disregarding the <i>ultra vires</i> issue, such a decision would appear to be contrary to public policy and limit future applicants.</p> <p>By way of further example, the Authority has failed to take any disciplinary action against BetHQ following the Citibet arrangement (refer elsewhere within this Report for details).</p>

Key risks	Coverage by Act	Further action required
Strategic: Capacity	<b>Not covered.</b> Inadequate initial risk assessment and subsequent review and funding of the Authority's operations by the Executive and the Administration.	<i>Initial assessment of risk.</i> Our review of Hansard identified that the legislator did not assess risks associated with online gaming, including the sourcing of relevantly skilled and qualified personnel or the adequacy of operating systems. Hansard also reveals that the key aim was revenue raising without ensuring that a suitable regulatory framework was implemented and maintained.  <i>Annual reporting.</i> Legislation should require the tabling of an Annual report to Ministers and Parliament as well as other reporting and review mechanisms determined to be appropriate and required. For example, Section 39 of the NSW Gaming and Liquor Administration Act 2007 and 154 of the Casino Control Act.
Operational: Communication & Transparency	<b>Not covered.</b> Legislation should include rules for transparency, disclosure and probity for key employees.	<i>Public disclosure.</i> The legislation does not require the Authority to publish on its website details of all applications, licensees, transfers, licence assignments, licence conditions, breaches and disciplinary actions taken. <b>It should require applicants to nominate and seek approval of key employees (and their replacements) who should all be subject to probity reviews.</b>
Operational: Setting Levies/Fees/Taxes – currently solely determined by the Authority.	<b>Partly covered.</b>	<i>Determining taxes.</i> Legislation does not specifically prescribe that the legislator should determine the level of taxation. It should. Any ability in the legislation for the Authority to set fees or levies should be subject to the approval of the Administration. Refer to the Casino Control Act (NSW) 1992 section 114 by way of example.  See Part 7 of this report.
Operational: Poor internal control	<b>Not covered.</b>	<i>Internal control framework.</i> It would be unusual for an internal control requirement to be defined in legislation in the Australian context. However, given that risk has not been adequately addressed (as noted elsewhere in this Report), the legislation should mandate a framework for developing, implementing and maintaining an appropriate level of control.
Harm minimisation/responsible gaming	<b>Partly covered.</b> The legislation should incorporate provisions in relation to harm minimisation or responsible gambling -	<i>Harm minimisation.</i> Apart from restrictions on under age betting and some exclusion requirements, the legislation makes no reference to harm minimisation or responsible gaming. There should be objects in place similar to those in the NSW Gaming Machines Act (section 3) and the Northern Territory's Code of Practice. These should aim to: minimise harm associated

Key risks	Coverage by Act	Further action required
		<p>with the misuse and abuse of gambling activities; foster responsible conduct in relation to gambling; facilitate the balanced development, in the public interest, of the gaming industry; and ensure the integrity of the gaming industry.</p> <p>It wasn't until March 2016 that the Authority proposed to licensees to introduce Responsible Gaming Guidelines and to explore the opportunity of introducing a multi operator Self Exclusion scheme for operators licensed by the Authority.</p>
Gaming rules	<p><b>Not covered.</b> There is no legislative requirement for the Authority to approve rules of games, including casino games, other than for betting rules for bookmakers and betting exchange licensees (section 36 of the B&amp;BE Act).</p>	<p><i>Approval of rules.</i> The legislation should require licensees to seek formal approval of their rules or any amendments thereto prior to implementation.</p> <p>The flexibility within the legislation and licence conditions enables licensees almost free reign to make their own rules in regard to their betting operations. There needs to be greater review of these rules to ensure fairness for customers.</p> <p>It is unusual for a gaming authority not to approve the types of games and their rules offered by licensees. NT approves rules, and these cannot be changed without the NT's consent. The NI legislation should have a similar provision.</p>

It is not solely deficiencies within the legislation that have led to the current operational and performance shortfalls. Rather, such shortfalls have resulted from a combination of the following, among other matters raised throughout this report:

- The Authority and the former Administration have been more concerned about raising revenue from gaming licences than having due regard to its regulatory functions;
- The Authority and the former Administration did not adequately evaluate the considerable risks associated with licensing internet gaming activities and did not ensure that they are adequately mitigated;
- The Authority did not have the necessary people-resources to apply proper probity investigations and supervision of gaming licensees operations;
- The Authority did not have the necessary skills, knowledge and experience to adequately carry out the legislative intent.

Prior to introducing legislation to enable gaming licences, the responsible Minister or the Legislative Assembly did not undertake appropriate analysis of the considerable risks associated with a regulated gaming environment. A reading of Hansard on the introduction of the three NI

Gaming Acts reveals that little regard was paid to the importance of a sound regulatory environment. Instead, the driver for the legislation seems to have been revenue raising. Subsequent events have demonstrated that a simplistic approach to a complex matter does not end well.

While the legislation can provide a reasonable framework, the persons undertaking functions under the legislation must follow its instructions and intent. For example the Gaming Supervision Act (section 11(1)(b)) requires the Authority to ensure that an efficient and effective system of supervision is established and maintained over the operations authorised by or under any prescribed Act. In the case of the Authority, this did not happen.

A former head of the Queensland Casino Control Division (who oversaw the introduction of one of the first large casinos in Australia: Jupiters at the Gold Coast in 1995), assisted in the development of the supporting framework and policy advice following the commencement of the legislation. This expertise provided a firm foundation for the commencement of the Authority and its regulatory activities. However, many of the documents we reviewed still bear the former head's name and, while these are of good quality, there appears to be little or no revision of these since he retired from the position of Director in 2007. We also found little evidence of suitable probity and regulatory intervention over recent times.

### **What caused this**

The legislation has not been reviewed or updated since it was written. Risks associated with operating a gaming licence regulation function were not considered. The Authority and the former Administration have been more concerned about raising revenue from gaming licences than having due regard to its regulatory functions. The Authority has not had the necessary people-resources to apply proper probity investigations and supervision of gaming licensees operations. The Authority does not have the necessary skills, knowledge and experience to adequately carry out the legislative intent.

### **What this means**

The legislative framework, in its current form, does not help mitigate the Authority's current key strategic and operational risks. Some key controls and risk mitigation strategies have not been applied across the Authority.

### **What we recommend**

We recommend the following:

- 2.5 Require all applicants to be finger and palm printed per The Gaming Act and The B&BE Act.
- 2.6 Obtain thorough law enforcement agency reports and assess them for all persons who apply for the management or operation of a licence as required by The B&BE Act (section 17(3)). Do not just rely on criminal name checks.

- 2.7 Amend legislation so that it:
- a) mandates requirements about the level of probity that should be undertaken on applicants in relation to different types of licences;
  - b) makes a stronger statement as to the role of the Authority in undertaking probity checks so as to help ensure an appropriate regulatory regime is enforced;
  - c) requires at least one of the Authority's members to be legally qualified;
  - d) requires the tabling of an Annual report to Ministers/ Parliament as well as other reporting and review mechanisms determined to be appropriate and required;
  - e) requires the Authority to publish details of all applications, licence assignments, conditions, breaches and disciplinary actions taken;
  - f) specifically prescribes that the legislator should determine the level of taxation. Any ability in the legislation for the Authority to set fees or levies should be subject to the approval of the Administration. Refer to the Casino Control Act (NSW) 1992 section 114 by way of example;
  - g) mandates a framework for developing, implementing and maintaining an internal control and governance framework. We acknowledge that it would be unusual for an internal control requirement to be defined in legislation in the Australian context, however given that risk has not been adequately addressed (as noted elsewhere in this Report), the legislation should mandate such a framework;
  - h) mandates harm minimisation and responsible gaming requirements. There should be objects in place similar to those in the NSW Machine Gaming Act (section 3) and the Northern Territory's Code of Practice. These should aim to: minimise harm associated with the misuse and abuse of gambling activities; foster responsible conduct in relation to gambling; facilitate the balanced development, in the public interest, of the gaming industry; and ensure the integrity of the gaming industry; and
  - i) requires licensees to seek formal approval of their rules or any amendments thereto prior to implementation.

### 3 STRATEGIC & BUSINESS PLANNING FRAMEWORK

#### Objective

The objective of this section of the engagement was to review the adequacy of the overall strategic and business planning framework of the Authority.

#### Overall Finding

The Authority has been operating without a Strategic and Operational Plan since it was established. It is only since the Commonwealth’s intervention that any form of planning has been undertaken. Even then, the plans require improvement.

#### 3.1 Strategic and business planning framework

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Moderate</b>	<b>Almost Certain</b>	<b>High</b>

#### What we found

A draft Strategic Plan for the period 2015-2017 was tabled and approved by the Authority in September 2015. It was the first ever Plan for the Authority. We assessed the adequacy and effectiveness of the Authority’s overall framework for strategic and business planning, that is, the methodology and process it applies to deriving, implementing, measuring, reporting and improving its plans. We also assessed the Plan itself and note the following:

- (a) *Operating without a plan.* The 2015-2017 Strategic Plan was the first plan to have been developed for or by the Authority, meaning that the Authority had been operating without a documented strategy and operational plan since its inception.
- (b) *Limited consultation.* We were advised that although the Authority submitted a final version of the Plan to the Administration for comment, no response was received.
- (c) *Plans are not sufficiently detailed.* The Strategic Plan includes some of the elements we would expect to find in such a document, including: vision and strategy statements; SWOT analysis; customer analysis; strategic actions; a basic resource plan; and a basic financial budget. However these are defined at a very high level.
- (d) *The Plans have the wrong focus.* The Strategic Plan is “business development” and “revenue generating” focussed; it does not address regulatory functions. This is a key concern regarding the past performance of the Authority. The Strategic Plan, if implemented, would exacerbate and continue this problem. We recommend that it not be adopted/applied in its current form. We saw no evidence that stakeholders were consulted during the development of the Plan including an environmental scan of similar entities; it was developed in an insular way.

- (e) *An Operational Plan is not in place.* We would expect to find a lower level Operational Plan (sometimes referred to as a Tactical Plan) that sets out detail on how the Strategic Plan is to be realised and achieved. We were provided with a very brief “Business Plan Outline”, however our assessment of the document identified that it is unsuitable in its current form; it lacks sufficient detail and does not link back to the Strategic Plan.
- (f) *A Resource Plan is not in place.* A suitably detailed Resource Plan (including a budget and financial plan) is also not in place and should be defined. There has also been a lack of constructive dialogue between the Authority and the Administration (and vice versa) regarding resourcing and budget; particularly given the increase in the number of licences and corresponding workload in the recent past. Headcount has remained the same, with the level of distrust between the Administration and the Authority inhibiting the collective will to progress this matter further. The former Minister and the former Administration should have taken a more concerted effort to understand and appreciate the impact that the lack of suitable resourcing would have on the Authority’s ability to meet its statutory obligations.
- (g) *A Risk Register is not maintained.* A risk assessment has not been conducted and a Risk Register is not maintained. We would expect to find an active, integrated, regularly monitored and actioned Risk Register in place that sets out the Authority’s key strategic and operational risks in line with its Strategic and Operational Plans. We would also expect to find regular monitoring and reporting of risk mitigation strategies to the Administration, however this does not occur.
- (h) *Performance monitoring is not in place.* We would expect to find regular monitoring and reporting of performance and achievement of strategic and operational objectives (i.e. against the Strategic and Operational Plans) to the Minister and/or the Administration, however this does not occur. As such, the Authority is operating as a “black box”. We understand that this occurred because the Authority reports directly to the Minister and not to the Administration. We were advised that KPIs will be reported to Authority members and Executive Director of the Administration. We consider this to be too little too late. The lack of reporting and no continuous formalisation of stakeholder consultation to date has not assisted the Authority’s ability to promote its case for additional resourcing.

### **What caused this**

A formal strategic and operational planning framework has not been defined or applied. Performance monitoring is not in place. Risks are not formally identified, tracked and managed.

### **What this means**

The Authority has been operating without a Strategic or Operational plan since its inception. It has lost its way. Its focus has turned to one of business development and revenue generation and it has not been undertaking its regulatory obligations to the extent required by legislation.

### **What we recommend**

We recommend the following:

- 3.1 Ensure a Strategic Plan is defined, regularly reviewed, updated, monitored and reported against. Ensure all relevant stakeholders are consulted and undertake an environmental scan of similar entities.
- 3.2 Change the focus of the existing Strategic Plan from “business development” / “revenue generating” to one that addresses the Authority’s regulatory functions.
- 3.3 Define, regularly review, update, monitor and report against an Operational Plan (sometimes referred to as a Tactical Plan) that sets out detail on how the Strategic Plan is to be realised and achieved.
- 3.4 Define, regularly review, update, monitor and report against a suitably detailed Resource Plan (including a budget and financial plan).
- 3.5 Document, regularly review, monitor and report against a Risk Register based on the one we have prepared at **Attachment A**.
- 3.6 Document, regularly review, monitor and report against a Performance Management Plan and ensure performance and achievement of strategic and operational objectives is reported to the Minister and/or the Administration.

## 4 INTERNAL CONTROL FRAMEWORK

### Objective

The objective of this section of the engagement was to assess the adequacy of the Authority’s internal control framework, including Board oversight, management review and reporting, relevant policies, procedures and other documents relating to the management and operations of the Authority.

### Overall Finding

An internal control framework is not in place. As an independent statutory body, the Authority is not subject to the Administration’s internal control policies and procedures. Notwithstanding, it has none of its own.

#### 4.1 Board oversight

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Major</b>	<b>Likely</b>	<b>High</b>

### What we found

As a regulator, stakeholders have a rightful expectation that the Authority applies and maintains a stringent internal control framework. The slightest media or public perception that the Authority has “stepped out of line” would incur significant media and public backlash. Even during the period of our review, media stories were published questioning the integrity and governance of the Authority. We accounted for this in assessing the Authority’s internal control framework.

The Authority is governed by a Board that includes a Presiding Member and two additional Members. We interviewed all three members during our engagement. We note the following:

- *Better Board oversight required.* The Board meets as required but at least twice a year and each meeting is minuted. Some Board members noted that the geographic spread of the members, coupled with the telecommunications limitations on the Island, makes efficient and effective discussion difficult. Given the Authority’s limited resources and budgetary constraints, the cost to travel to/from the Island also makes more regular meetings challenging. However considering the media difficulties and perceived governance shortfalls that the Authority has been recently experiencing, we would expect more regular Board meetings and more stringent oversight.
- *A Board Charter is required.* Beyond the basic statements in the Acts, the Board does not adhere to a Charter or Terms of Reference; a cornerstone of good governance. We would expect to find a documented and sanctioned Charter or Terms of Reference that sets out the specific roles and responsibilities of the Board. For example, it should define its responsibilities to ensure: good governance; an appropriate risk management process; good financial and resource management; succession planning; meeting corporate objectives; meeting compliance and regulatory obligations; an appropriate complaints management framework; an effective audit function is in place; and the ongoing integrity and effectiveness of Board members etc.

The Charter or Terms of Reference would also be used as a mechanism to gauge Board performance.

- *Board members' terms have expired.* Each of the Board members' three year terms have expired and have not been renewed. Some Board members were not aware of this.
- *There is no succession plan.* Each of the members of the Board, and the Director, are senior and possess a lot of accumulated knowledge and experience, however there is no process in place to ensure this experience is transferred and shared. The Authority could lose significant corporate knowledge as a result. Audit acknowledges that due to the uncertainty of arrangements post 1 July 2016, it is doubtful that there is any short term solution to mitigate this situation.
- *Board Members have not remained informed.* The Authority Members periodically attend regulators' conferences which includes discussion on jurisdictional updates. However, beyond this, we saw no other evidence of Authority members informing themselves of current industry issues, or updating their industry and regulatory knowledge and management expertise to enhance their capability to meet their duties. However the Authority Members believe they are receiving all the information they need and have sufficient capacity to undertake their duties.

In determining its policies with regard to internal control, and thereby assessing what constitutes a sound system of internal control in the particular circumstances of the Authority, the Board's deliberations should have included consideration of the following factors:

- The nature and extent of the risks facing the Authority;
- The extent and categories of risk which it regards as acceptable for the Authority to bear;
- The likelihood of the risks concerned materialising;
- The Authority's ability to reduce the incidence and impact on its operations of risks that do materialise; and
- The costs of operating particular controls relative to the benefit thereby obtained in managing the related risks.

The Board should ultimately have been responsible for the system of internal control. Boards may delegate to management the task of establishing, operating and monitoring the system, **but they cannot delegate their responsibility for it.**

The Board should have set appropriate policies on internal control and should have regularly assured itself that appropriate processes were functioning effectively to monitor the risks to which the Authority is exposed and that the system of internal control is effective in reducing those risks to an acceptable level.

However, whilst the 'tone at the top' should have been set by the Board, the operation and monitoring of the system of internal control should have been undertaken by Authority personnel who collectively possess the necessary skills, technical knowledge, objectivity, and understanding of the Authority and the industry in which it operates.

### **What caused this**

A formal internal control framework has not been defined or applied. Governance, risk and compliance controls have not been formalised. A Terms of Reference or Charter for the Board has not been defined. There has not been due focus on governance or internal controls.

### **What this means**

Suitable internal controls are not in place. There has not been sufficient focus on governance, risk and compliance for the Authority or its operations.

Without an appropriate internal control framework, the Authority is subject to greater risk and reputational damage.

### **What we recommend**

We recommend the following:

- 4.1 Ensure more regular Board meetings and more stringent oversight, especially during periods of crisis and controversy, such as adverse media reports.
- 4.2 Document a Charter or Terms of Reference that sets out the specific roles and responsibilities of the Board, including its role to ensure: good governance; an appropriate risk management process; good financial and resource management; succession planning; meeting corporate objectives; meeting compliance and regulatory obligations; an appropriate complaints management framework; an effective audit function is in place; and the ongoing integrity and effectiveness of Board members etc. The Charter or Terms of Reference should also be used as a mechanism to gauge Board performance.
- 4.3 Ensure all Board members' appointments are current.
- 4.4 Document and apply a succession plan to ensure corporate knowledge is not lost.
- 4.5 Ensure Authority members are kept informed of current industry issues, industry and regulatory knowledge and management expertise to enhance their capability to meet their duties.
- 4.6 Ensure the Board recognises and meets its responsibility to ensure an appropriate system of internal control and governance is applied and continually improved.

## 4.2 Management review and reporting

RISK RATING	Consequence	Likelihood	Rating
	Major	Almost Certain	Extreme

### What we found

We interviewed key personnel and reviewed key documents and instruments such as legislation and Hansard Reports to help assess the adequacy of management review and reporting. We note the following:

- Under resourced.* The day to day operations of the Authority are undertaken by two part time people: a Director and a Secretary. The Director is engaged for a variable number of hours per week depending on workload (including complaints handling) and the Secretary is engaged for 45 minutes per day. This has been mandated by her full time employer, NI Telecom, rather than on the basis of need. We consider this to be inadequate and far too short of required resource levels. This has in part contributed to key processes, such as the Authority’s regulatory functions, not being undertaken. We appreciate that workload levels vary from year to year and are contingent on the number of licences and the volume of complaints.
- No contract for key position.* There is no contract in place between the Director and the Authority. All that exists is a draft Position Description. This incurs key risk to both parties. The Secretary is employed under the Public Sector Management Act (Section 10.2). This was also identified in the 2011 Internal Audit Report.
- No performance monitoring.* There is no formal or effective process in place to monitor and review the performance of the Director or the Authority. This was also identified in the 2011 Internal Audit Report. However the Authority submits a high level activity report to the Executive Director each month showing matters such as licensee statistics and applications received and being processed. This reporting regime only commenced in September 2015 following the dissolution of the Legislative Assembly.
- There was a relationship conflict.* There was a conflict between 2010 – 2013, in that the Director is the brother in law of the former Minister Tourism, Industry & Development and the former Chief Minister. While this was generally known and acknowledged across the Authority and Administration, it was not formally declared and we found no formal documented declaration or a documented plan to manage the potential conflicts that could have arisen. This relationship, and the lack of formal declaration, resulted in a perceived conflict of interests. Our examination of records associated with a 2011 internal audit of the Authority identified instructions from the Minister to authorise and pay various expenses that were claimed by the Director which were being queried and contested by the Deputy Chief Executive of the Administration.
- A Deputy Director’s role has remained vacant.** The role was advertised, but not filled. The role has been partly resourced through the engagement of a third party contractor who has been engaged to undertake some licensee/operator compliance testing. However we note that the contractor is the Chief Operating Officer of one the lottery licensees. It is grossly inappropriate for a licensee to be inspecting sensitive materials, including code associated with IT systems, of his competitors. This incurs an outright conflict of interest. The appointment of this contractor was not adequately assessed other than tabling the contractor’s resume with the Authority. The Minutes of the Authority Meeting of the 13<sup>th</sup> September 2015 indicate that

the contractor's work is "*well known to the Authority ... as he prepares compliance documentation for a number of our clients.*" Not only is the contractor's appointment inappropriate in terms of the conflict arising from the contractor's engagement with a licensee, but having prepared compliance documentation for the Authority's clients, the contractor should not be engaged to oversee/review the documentation on the Authority's behalf. This conflicts with Clause 7 (Conflicts of Interest) of the contractor's Engagement Contract. As well, it is inappropriate for such a contractor to have access to confidential documentation of a competitor licensee.

- *Poor communication.* There is a lack of communication between the Director and the Secretary, with limited sharing of information between the two. This results in key person dependency given that official records and vital knowledge is held by one person. Risk is exacerbated by the fact that most of the information is retained on the Director's personal laptop with backups stored at his residence. We were advised that a copy of the laptop was provided to the Administration during our audit.
- *Superficial probity and application checks.* Ladbrokes Digital Australia Pty Limited (Live betting product) was reviewed and approved in a day (27<sup>th</sup> April 2015). Ladbrokes (betting on lotteries) was also reviewed and approved in less than a day. Appropriate probity and review cannot be undertaken within such short timeframes. It was well known at the time that the system was subject to Commonwealth government investigation per the O'Farrell review. We saw no evidence of any technical review of software or gaming equipment as required by the legislation.

In essence, other than for its Board members, the Authority has been operating as "a one-man show". In terms of internal controls, this incurs significant risk. It is usually the management team that is operationally responsible for applying the internal control framework. However, in this case, this has not occurred at all and there has only been one internal audit throughout the life of the Authority.

Put simply, the principal aim of the Authority's system of internal control should have been the management of risks that threatened the achievement of its business objectives. Therefore, in order to have operated an effective internal control framework, the Authority should have:

- Identified its business objectives (refer previous observations in our Report that identified this was only done in April 2016 and even then, inadequately);
- Identified and assessed the risks which threaten the achievement of those objectives;
- Designed internal controls to manage those risks;
- Operated the internal controls in accordance with their design specification; and
- Monitored the controls to ensure they were operating correctly.

There should have been a defined process for management's review of the effectiveness of internal control - a process starting with the identification of the business objectives and the identification and assessment of the related risks that would prevent the Authority achieving those objectives. By expressly identifying business objectives, the likelihood of overlooking key business risks would have been reduced. It should be remembered that key risks include not only those that threaten the survival of the Authority, or could seriously weaken it, but also the risk of failing to identify significant opportunities.

**What caused this**

A formal management review and reporting framework has not been defined or applied. Even basic levels of internal controls are not in place.

**What this means**

Lack of a sound framework of internal control has resulted in risks materialising in terms of regulatory risk, financial risk, compliance risk and reputation risk.

**What we recommend**

We recommend the following:

- 4.7 Ensure the Authority is suitably resourced so that an appropriate level of internal control can be maintained.
- 4.8 Ensure formal contracts and agreements are in place with all employees and positions concerning the Authority. Ensure that formal Position Descriptions are defined for all positions.
- 4.9 Apply a formal process to monitor and review the performance of all positions and of the Authority as a whole.
- 4.10 Ensure all existing conflicts are formally declared and documented and that a plan to manage potential conflicts that could arise is documented and applied.
- 4.11 Immediately terminate the engagement of the contracted compliance assessor, given that the contractor is the Chief Operating Officer of one of the Authority's licensees. Ensure all future engagements are properly assessed and evaluated to avoid this type of conflict.
- 4.12 Ensure appropriate communication between the Director and the Secretary with appropriate sharing of information between the two. Ensure all Authority data is maintained on Authority-owned computers and that the data is regularly backed up and maintained in a secure manner.
- 4.13 Ensure an appropriate level of probity and checking is applied to all licence applications and modifications: Ensure all technical reviews of software and gaming equipment is conducted as required by the legislation.

### 4.3 Policies and procedures relating to management and operations of the Authority

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Moderate</b>	<b>Almost Certain</b>	<b>High</b>

#### What we found

*No policies or procedures.* Beyond the licence application process, there are no documented policies or procedures in relation to the management, operation, governance or internal control framework of the Authority. As the Authority is an independent statutory body it is not subject to the policies, procedures or internal control framework of the Administration. However, it has none of its own.

None of the following key policies and procedures in place: a Code of Conduct & Ethics, a Risk Management & Audit Policy, a Delegations Manual, a Purchasing & Expenditure Policy, a Strategic & Business Planning Policy, a Compliance Management Policy, a Records Management Policy, an Assets Management Policy, an Information Security Policy, a Business Continuity Management Policy etc.

*No defined internal control framework.* A defined and documented internal control framework is not in place. We would also expect to find a documented internal control framework that sets out:

- *The Authority’s control environment.* The control environment sets the tone of the Authority, influencing the control consciousness of its people and stakeholders. It is the foundation for all other components of internal control, providing discipline and structure. Control environment factors include the integrity, ethical values and competence of the Authority’s people (including the Board, management, consultants and contractors); management’s philosophy and operating style; the way management assigns authority and responsibility, and organises and develops its people; and the attention and direction provided by the Board.
- *Identification and evaluation of risks and control objectives.* The Authority faces a variety of risks from external and internal sources that must be assessed. A precondition to risk assessment is establishment of objectives, linked at different levels and internally consistent. Risk assessment is the identification and analysis of relevant risks to achievement of objectives, forming a basis for determining how the risks should be managed. Because economic, industry, regulatory and operating conditions will continue to change, mechanisms are needed to identify and deal with the special risks associated with change particularly for the volatile and rapid pace of the (online) gaming industry.
- *Control activities.* Control activities are the policies and procedures that help ensure that management directives are carried out. They help ensure that necessary actions are taken to address risks to achievement of the Authority’s objectives. Control activities include a range of activities as diverse as approvals, authorisations, verifications, reconciliations, reviews of operating performance, security of assets and segregation of duties. None of these critical matters have been defined or documented for the Authority.
- *Information and communication processes.* Pertinent information must be identified, captured and communicated in a form and timeframe that enables the Authority and its Board to carry out its responsibilities. Information systems should produce reports containing operational, financial and compliance-related information that make it possible to run and control the business of the Authority. They should deal not only with internally generated data, but also

information about external events, activities and conditions necessary to informed business and regulatory decision-making and external reporting. Effective communication must also occur in a broader sense, flowing between the Authority and the Administration. All stakeholders must receive a clear message from the Authority that control and regulatory responsibilities must be taken seriously. They must understand their own role in the internal control system, as well as how individual activities relate to others. There also needs to be effective communication with external parties, such as licensees, the Administration, other regulators and other stakeholders.

- *Processes for monitoring the effectiveness of the system of internal control.* Internal control systems need to be monitored - a process that assesses the quality of the system's performance over time. This should be accomplished through ongoing monitoring activities, separate evaluations or a combination of the two. Ongoing monitoring occurs in the course of operations. It includes regular management and supervisory activities, and other actions personnel take in performing their duties. The scope and frequency of separate evaluations will depend primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures. Internal control deficiencies should be reported upstream, with serious matters reported to the Board, the Administration and the Minister.

### **What caused this**

Policies and procedures have not been documented, applied or enforced.

### **What this means**

The Authority's internal control system is lacking. There is a perception that this has created an environment that is highly susceptible to fraud and corruption. It should be noted that this performance review did not specifically examine or look for fraud or corruption.

### **What we recommend**

We recommend the following:

- 4.14 Document and enforce policies and procedures in relation to the management, operation, governance and internal control framework of the Authority. At the very least, this should include: a Code of Conduct & Ethics, a Risk Management & Audit Policy, a Delegations Manual, a Purchasing & Expenditure Policy, a Strategic & Business Planning Policy, a Compliance Management Policy, a Records Management Policy, an Assets Management Policy, an Information Security Policy, a Business Continuity Management Policy, a Performance Management Policy and a Communications Management Plan.

## 5 COMPLIANCE

### Objective

The objective of this section of the engagement was to assess the Authority’s compliance with legislative requirements and internal policies and procedures.

### Overall Finding

As noted in its Brief to Applicants: *“To ensure public confidence and trust, it is the intention of the Norfolk Island Government to extend soundly based regulation to all companies and individuals that/who are associated or connected with the monitoring, ownership, administration or management of interactive home gaming operations or bookmaking operations.”* This has not occurred. During the period of our review, Racing Victoria publicly announced that it would not pay regard to the Authority’s assigned licences and the Commonwealth Minister issued a legal direction banning the Authority from issuing, renewing or amending any licences. The Authority has not complied with its legislative requirements, nor has it complied with basic regulatory measures that are applied by other jurisdictions.

#### 5.1 Compliance with legislative requirements

RISK RATING	Consequence	Likelihood	Rating
	Major	Almost Certain	Extreme

### What we found

The Authority is directly subject to three key Acts: the Gaming Supervision Act 1998; the Gaming Act 1998; and the Bookmakers and Betting Exchange Act 1998. It is also subject to other legislation such as the Norfolk Island Act 1979 and the Interactive Gambling Act (Cwlth) 2001. A Ministerial Direction was also issued on the 6<sup>th</sup> April 2016 instructing the Authority about the performance of certain functions and duties under these Acts.

Each of these Acts prescribe various mandatory operating frameworks and requirements. On a sample basis, we assessed the extent to which the Authority complies with those requirements and note the following:

#### (a) *The Gaming Supervision Act 1998*

Ref	Requirement	Extent of compliance
6(1)	The Authority is constituted by three members appointed by the Administrator on the nomination of the executive member, one of whom will be appointed to preside at meetings of the Authority (“presiding member”) and another of whom will be appointed to preside at meetings of the Authority	<b>Complies.</b> The Authority consists of three members appointed by the Administrator; one of whom is the Presiding Member.  We found no evidence that there has been a need to have another member preside in lieu of the Presiding Member. Perhaps due in part to the quiet period from 2001 to the last 2 years.

Ref	Requirement	Extent of compliance
	from which the presiding member is absent.	
7(1)	A member is appointed for 3 years (or the lesser period specified in the member’s instrument of appointment) and is eligible for reappointment.	<b>Complies.</b> Per File Note 17 July 2012, each of the members (including the Presiding Member) were appointed for three years. However there terms have now expired.
11(b)	The functions of the Authority are to ensure that an efficient and effective system of supervision is established and maintained.	<p><b>Does not comply.</b> Although some elementary form of compliance checking commenced in November 2015, there has been no previous supervisory activity undertaken before this time. The Authority is not meeting its regulatory functions and has only commenced on a cursory basis to the extent that it should. We are advised that this has been due to limited resources (people and financial). However this has been a risk that has not been addressed during the life of the Authority.</p> <p>We are also advised that it is for the reason of limited resources that the Authority was not in a position to identify and action BetHQ’s “white label” relationship with CitiBet under which BetHQ transmitted bets made by its clients to Citibet (an offshore betting exchange operator which has not received approval from the Authority). We consider that there has not been appropriate due diligence undertaken by the Authority in addressing this matter, or for any other licensee who has affiliate relationships, which is an example of the lack of supervisory capability of the Authority. This has resulted in Racing VIC revoking BetHQ’s approval to publish Victorian thoroughbred racefields and questioning the Authority’s integrity and ability to perform its functions. The Federal Minister for Major Projects, Territories and Local Government subsequently issued a legal directive that prohibits the Authority from issuing and renewing gaming licences.</p>
11(c)	The functions of the Authority are to advise, and make recommendations to, the executive member in respect of the administration of the Act.	<b>Does not comply</b> - We understand that there has been very superficial advice provided to the Executive Member. There has been no evidence of formulating recommendations for the review and assessment of the Executive Member.
11(d)	The functions of the Authority are to liaise with other gaming control agencies, whether in Australia or elsewhere, on	<b>Partially complies</b> – while the Authority has engaged at times with other gaming control agencies, there has been no formal arrangements such as Memoranda of

Ref	Requirement	Extent of compliance
	matters relating to administration, operation or control of gaming.	Understanding put in place by the Authority, nor regular meeting schedule. At best there is only an ad hoc approach taken by the Authority to engage with other gaming control agencies
12(1)(b)	The Authority must, at the request of the executive member, hold an inquiry into any matter relating to the operation, administration and enforcement of any prescribed Act.	There have been no requests made to conduct an inquiry.
12(2)	The Authority must provide the executive member with a report of the Authority’s findings and recommendations for any action to be taken.	The Authority has not undertaken any inquiry since inception.
12(3)	Unless the Authority recommends that the report should remain confidential, the executive member must table a copy of the report in the Legislative Assembly within 2 sitting days after it is received.	No inquiry has been held for any report to be tabled to the Legislative Assembly
15(2)	<p>The Director has the following functions:</p> <ul style="list-style-type: none"> <li>to directly supervise and inspect the licensed operations undertaken under any prescribed Act; and</li> <li>to detect offences committed under any prescribed Act; and</li> <li>to assist the Authority generally, as the Authority sees fit; and</li> <li>any other function conferred on, or assigned to, the Director by or under this Act or any prescribed Act.</li> </ul>	<p><b>Improvement Required.</b> The Director of Gaming’s major responsibilities, as set out in his Position Specification, includes the four prescribed functions.</p> <p>Although some elementary form of compliance checking commenced in November 2015, the Authority has fallen short to a significant degree by not meeting its regulatory functions to the extent that it should.</p> <p>Also see commentary above re BetHQ and the Authority’s inability to meet its duties due to apparent limited resources.</p>
22(1)	A member of the Authority, the Director or an authorised officer must not engage in gaming activity to which the Authority’s statutory responsibilities extend.	No evidence of non compliance. However there is no formal process to verify, disclose or manage this obligation.
22(2)	<p>The Director of Gaming, Deputy Director of Gaming or an authorised officer must:</p> <ul style="list-style-type: none"> <li>disclose in writing to the Authority a conflict in respect of that person’s duties under this Act, or any prescribed Act, arising out of any direct or indirect financial or personal interest of the person; and</li> </ul>	<p><b>Does not comply.</b> The Director of Gaming was directly related to a former Executive Member. Although this was generally known, it was not formally disclosed and a formal conflict management plan was not defined.</p>

Ref	Requirement	Extent of compliance
	comply with any written direction given by the Authority in respect of that interest.	

**(b) *The Gaming Act 1998, The Bookmakers and Betting Exchange Act 1998***

Ref	Requirement	Extent of compliance
S. 6 <sup>1</sup>	Prohibition on Unlicensed Interactive Home Gaming	No evidence of non compliance
S. 7	Grant of licence	No evidence of non compliance
S. 7A	False representation	No evidence of non compliance
S. 8	Term and renewal of licence - A licensee can apply for renewal no later than three months before the expiry date.	<b>Partially complies.</b> We note that Top Beta was recently granted a new licence even though its original licence had two years to run. We fail to see how the Authority had the requisite power to issue a new licence when the original had not expired.
S. 9	Conditions of Licence	<b>Partially Compliant</b> but it was observed that the licence conditions failed to include obligations that would assist the Authority in meeting its supervisory functions – e.g. a condition to self-report non-compliant issues.  The Authority fails to maintain supervision over the conditions. Additionally, duty and other fees and charges should not be set by the Authority without reference to the Executive Member or the Administration.
S. 10	Variation of Licence	This provision has yet to be applied
S. 11	Transfer of Licence	This provision has yet to be applied
S. 12	Surrender of Licence	This provision has yet to be applied
S. 13	Licences to be tabled	<b>Partially complies</b> – evidence suggests that this has not been done in accordance with the spirit of this provision. It appears that the Authority has given tacit regard to this provision
S. 14	Applications	<b>Partially complies</b> – however, as noted elsewhere the Authority has not been diligent re probity review of applicants

<sup>1</sup> These references pertain to *The Gaming Act 1998*. We have combined our reporting of compliance with *The Gaming Act 1998* and *The Bookmakers and Betting Exchange Act 1998* as they include like provisions.

Ref	Requirement	Extent of compliance
S. 15	Suitability of applicants and close associates	<b>Does not comply:</b> As set out above.
S.16	Investigation of applications	This provision has not been applied. No investigations conducted by the Authority to date
S. 17	Costs of Investigation	<b>Complies.</b>
S. 18	Direction of Authority by Minister	No directions issued.
S. 19	No gaming by certain persons	This provision has not been applied. No evidence to date of any person engaging in gaming as set out in this provision
S.19A	Offences by players	This provision has not been applied. No evidence to date of any person engaging in gaming as set out in this provision
S. 20	Suitability of licensee and close associates	<b>Partially complies</b> – no evidence that these provisions have been rigidly enforced. Only tacit acknowledgment of this obligation.
S.21	Approval of game and internet lottery packages	<b>Non compliant</b> – no evidence that the Authority has enforced these provisions especially in relation to approval of rules for each internet game or lottery.
S.22	Approval of systems	<b>Partially complies</b> – No evidence that the Authority has enforced this provision to the extent necessary to ensure that systems are compliant
S. 23	Approval of equipment	<b>Partially complies</b> – No evidence that the Authority has enforced this provision to the extent necessary to ensure that systems are compliant
S. 24	Directions	No evidence that any Directions have been issued by the Authority
S. 25	Records	<b>Partially complies</b> – No evidence of any formal request from the Authority for licensee records
S.26	Audit	<b>Partially complies</b> – only until recently has the Authority exercised this provision by the engagement of Simon Muller.
S. 27	Evasion of duty	No evidence that a licensee has evaded payment of duty.
S. 28	Assessment of duty	This provision has never been applied

Ref	Requirement	Extent of compliance
S. 28B	Application for licence to conduct internet lottery	<b>Partially complies</b> - however refer to previous comment regarding lack of depth in probity investigation for applicants
S.28C	Authority may enter into an agreement	No evidence that this provision has been applied
S.28D	Authority may grant licence	No evidence that this provision has been applied. Although we note the granting of Affiliate Marketing licenses.
S. 28E	Duration of licence	<b>Partially complies</b> – however we noted one example of a licensee (Top Betta) seeking to renew licence before term expired
S. 28F	Cancellation or suspension of licence	A licence has been cancelled for no payment of fees.
S. 28G	Appeal or suspension	This provision has yet to be applied
S. 28H	Conduct of internet lottery business under licence	This provision has yet to be applied
S.28J	Assignment of licence	This provision has yet to be applied
S. 28K & S. 28L	Surrender of licence	This provision has yet to be applied
S. 28M	Duties	No evidence that a licensee has not paid their duties.
S.28N	Refund of application fee	This provision has yet to be applied
S. 28P	Powers of Authority in respect of internal lottery business	This provision has yet to be applied
S.28Q	Entry of place by Director, Authorised Officers etc	<b>Partially complies</b> – appears only recently that this provision has been applied by introduction of Visitation Program undertaken by a contractor
S.29	Statutory Default	This provision has yet to be applied
S.30	Effect of criminal proceedings	No licensee has been subject to any criminal proceedings
S.31	Compliance Notice	No licensee has been issued with a Compliance Notice
S.32	Expiration Notice	No licensee has been issued with an Expiration Notice

Ref	Requirement	Extent of compliance
S.33	Disciplinary action	The Authority has not taken any Disciplinary action
S.34	Investigation of complaints	No evidence of a complaint being dealt with by the Authority from a gaming or lottery activity
S.35	Interference with approved game packages, systems or equipment	No evidence that this has occurred
S.36	Mortgages, Charges or Encumbrances	No evidence that the Authority has applied this provision
S.37	Appointment of Manager if licence suspended, revoked or surrendered	No evidence that the Authority has applied this provision
S.38	Powers of Authorised officers	<b>Partially complies</b> – some evidence that the Authority has exercised its functions under this provision but not to the level required
S.39	Restriction on employment of persons	<b>Complies.</b> There is no evidence that this provision has been breached.
S.40	Right to be heard	No evidence that this provision has been applied
S.41	Review of decision of Director	This provision has yet to be applied.
S.42	Review of decision of Authority	This provision has yet to be applied
S.43	Reasons for decision	This provision has yet to be applied
S.44	Exercise of powers	<b>Partially complies</b> – concern re Top Beta renewal and therefore improper application of this provision
S.45	Information gathering for law enforcement purposes	This provision has yet to be applied
S.46	Reports	<b>Partially complies</b> – the Authority appears to have not fully complied with this provision
S.47	Continuing offences	This provision has yet to be applied
S.48	Forfeiture	This provision has yet to be applied
S.49	Regulations	None made to date

**(c) Minister’s Direction 6th April 2016**

Ref	Requirement	Extent of compliance
4(a)	As at 6 <sup>th</sup> April 2016, the Authority must not grant a licence under section 7 or subsection 28D(1) of the Gaming Act	<b>Complies.</b>
4(b)	The Authority must not enter into an agreement under section 28C(1) of the Gaming Act and must not carry out negotiations for the purpose of entering into such an agreement;	<b>Complies.</b>
4(c)	The Authority must not deal with or grant any application for renewal of a licence made under section 8 of the Gaming Act;	<b>Complies.</b>
4(d)	The Authority must not vary a licence under section 10 of the Gaming Act without prior approval from the Commonwealth Minister or a delegate of the Commonwealth Minister;	<b>Complies.</b>
4(e)	The Authority must not approve the transfer of a licence under section 11 of the Gaming Act without prior approval from the Commonwealth Minister or a delegate of the Commonwealth Minister	<b>Complies.</b>
4(f)	The authority must not assign a licence under section 28J of the Gaming Act without prior approval from the Commonwealth Minister or a delegate of the Commonwealth Minister;	<b>Complies.</b>
4(g)	The Authority must not destroy or dispose of any item of correspondence or other document, electronic or otherwise, that is held by the Authority or the Director at or after the commencement of this Direction, and that is relevant to the functions of the Authority or Director under the Gaming Act;	<b>Complies.</b>
5(a)	The Authority must not grant a licence under section 8 of the BBE Act;	<b>Complies.</b>
5(b)	The Authority must not deal with or grant any application for renewal of a licence made under section 9 of the BBE Act;	<b>Complies.</b>
5(c)	The Authority must not vary a licence under section 11 of the BBE Act without prior approval from the Commonwealth Minister or a delegate of the Commonwealth Minister;	<b>Complies.</b>

Ref	Requirement	Extent of compliance
5(d)	The Authority must not approve the transfer of a licence under section 12 of the BBE Act without prior approval from the Commonwealth Minister or a delegate of the Commonwealth Minister;	<b>Complies.</b>
5(e)	The Authority must not destroy or dispose of any item of correspondence or other document, electronic or otherwise, that is held by the Authority or the Director at or after the commencement of this Direction, and that is relevant to the functions of the Authority or Director under the BBE Act.	<b>Complies.</b>

**What caused this**

There has been a lack of people resources (capacity) and capability in terms of skills and experience.

**What this means**

The Authority does not comply with a number of sections of the legislation. As such, the Authority is not meeting its statutory obligations.

The risks associated with not fulfilling the Authority's legislative obligations, as outlined above, have resulted in adverse outcomes for the reputation of the Authority and financial implications for the NI Government and the Authority's licensees.

**What we recommend**

We recommend the following:

- 5.1 Remediate each of the areas of non-compliance as set out at Section 5.1 of this Audit Report in relation to legislative compliance.

## 5.2 Compliance with internal policies and procedures

RISK RATING	Consequence	Likelihood	Rating
	Major	Almost Certain	Extreme

### What we found

Beyond a requirement to comply with legislative requirements, the Authority is also bound to comply with its internal policies and procedures. As noted elsewhere within this Report, the Authority has no documented internal policies and procedures other than its Licensee Application Procedure and its Compliance Policy & Visitation Program.

As at 11<sup>th</sup> April 2016, the following companies were licensed or had applied to licensed by the Authority:

Company	Form	Status
Betting Ground Pty Ltd	Bookmaker – Retail	Not Operational
BETHQ Pty Ltd	Bookmaker – Retail	Operational
BetRoundtheClock Pty Ltd	Bookmaker – Retail	New
Blue Star Planet Holdings Ltd	Bookmaker – Retail	New
Bright Dragon Technology	Bookmaker	New
Bright Dragon Technology	Lottery	New
Bright Dragon Technology	Gaming/Casino	New
Cardinal House Pty Ltd	Bookmaker – Retail	New
Cardinal House Pty Ltd	Lotteries	New
Cardinal House Pty Ltd	On-line Gaming	New
Chances NI Pty Ltd	Bookmaker – Retail	Not Operational
Chances NI Pty Ltd	Gaming – Lottery	Not Operational
CrossBet Pty Ltd	Bookmaker	New
FanSports Pty Ltd	Bookmaker – Fantasy Sports	Operational
Fantasy Champs Pty Ltd	Bookmaker – Fantasy Sports	Not Operational
Fantasy Games Pty Ltd	Bookmaker – Fantasy Sports	Operational
Fantasy Kings Pty Ltd	Bookmaker – Fantasy Sports	Not Operational
Full House Pty Ltd	Bookmaker – Fantasy Sports	Not Operational
G1 Digital Pty Ltd	Bookmaker – Web Portal	Operational
Interactive Gaming Entertainment	Gaming On-line Casino	Stalled December 2015

Company	Form	Status
JR's Sportsbook Pty Ltd	Bookmaker	New
Ladbrokes Digital Australia Pty Ltd Betstar Bookmaker.com.au Ladbrokes.com.au	Bookmaker – Retail	Operational
Mad Bookie Pty Ltd	Bookmaker – Retail	Operational
Moneyball Pty Ltd	Bookmaker – Fantasy Sports	Operational
New World Gaming	Bookmaker – marketing Affiliate	Operational
NI TAB Pty Ltd	Bookmaker – Retail	Operational
Operis Momentum Pty Ltd TopBetta	Bookmaker – Tournament	Operational
Owners Wars Pty Ltd Top8 Pty Ltd	Bookmaker – Fantasy Sports	Operational
Plus Connect Pty Ltd	Gaming – Lottery	Not Operational
PointsBet Pty Ltd	Bookmaker	Not Operational
Puntaa Pty Ltd	Bookmaker – Fantasy Sports	Operational
Punters Pty Ltd	Bookmaker – Marketing Affiliate	Operational
Racenet Pty ltd	Bookmaker – Marketing Affiliate	Operational
Raximus Pty Ltd	Bookmaker – Marketing Affiliate	Operational
Roar Energy Pty Ltd	Bookmaker – Fantasy Sports	Operational
Sports Deck Pty Ltd	Bookmaker – Fantasy Sports	New
Sports Fantasy Pro Pty Ltd	Bookmaker – Fantasy Sports	Operational
Sports Fantasy Pro Pty Ltd	Gaming – Fantasy Sports	Operational
VGW Holdings Limited	Gaming Chumba Casino	New
Vonquest Pty ltd	Bookmaker – Game	Not Operational
Worldwide Wagering Pty Ltd	Bookmaker – Web Portal	Operational

On a sample basis, we assessed the extent to which the Authority complies with those requirements and note the following:

**(a) Licensee Application Procedure**

Ref	Requirement	Extent of compliance
-	Formal Application Process	<b>Partly Complies.</b> The Authority has a documented application process that consists of a number of application forms, personal and corporation history checks, the requirement for police checks and the definition of an Internal Control System and Technical

Ref	Requirement	Extent of compliance
		<p>Standards for internet gaming systems. However these procedures have not been reviewed or updated since they were written in 2000. For example, they still refer to the Y2K bug.</p> <p>The Internal Controls System document is seen to be too cumbersome and outdated. Parts of it relate to casinos as they were written by the Authority’s first Director who came from a casino background. We recommend that the documentation be reviewed and updated and that it be specific to the type of application sought e.g. a bookmaker’s package, a sportsbetting package etc.</p> <p>Nonetheless, we tested a sample of three new/ non operational applicants to determine whether the Authority has undertaken its compliance analysis: Plus Connect; BetRoundTheClock Pty Ltd; and JR’s Sportsbook Pty Ltd. In each instance we confirmed that the following mandatory assessments were completed: Internal Control Systems document; Accounting Policy; and Business Process.</p> <p>However probity checks appear to be superficial and cursory and only high level ratio checks are conducted in terms of ongoing compliance (see further analysis later in this report). This may have resulted in the Authority having approved BetHQ which has links to Citibet (known to be a global illegal operator). As noted elsewhere in this report, it is critical that the Authority remains “squeaky clean” and is seen to be applying a stringent regulatory framework with deep level testing and ongoing compliance checks.</p> <p>Even during the period of our review, the media reported that "the NIGA did not make the most rudimentary probity and background checks on BetHQ, let alone Citibet....the world’s biggest illegal operator?”. This resulted in a Ministerial Direction being issued that bans licence approvals, transfers and variations without Ministerial approval.</p> <p>The Authority only requested information about associated entities for the purposes of identifying issues like comingling, white labelling etc in April 2016 – after the adverse media release. This should have been done as part of initial probity checks.</p>
-	Probity investigations.	<p><b>Partly Complies.</b> There are no requirements about the level of probity that should be undertaken on applicants in relation to different types of licences. It is usual for applicants for casino licences to be scrutinised more thoroughly than, for example lottery licensees. While section 16(3) of the Gaming Act requires the Authority to obtain a law enforcement agency report on applicants</p>

Ref	Requirement	Extent of compliance
		<p>for an interactive gaming licence, it affords discretion in relation to an internet lottery licence.</p> <p>The Gaming Act and the B&amp;BE Act enable the Authority to require applicants to be finger and palm printed. However we saw no evidence that this has been undertaken. The converse is the case in Australian jurisdictions - in particular, applicants for similar licences in the Northern Territory are required to submit to finger and palm prints.</p> <p>The B&amp;BE Act (section 17(3)) requires that the Authority must obtain from a law enforcement agency a report on any person whose suitability to be concerned in or associated with the management or operation of any operations authorised by a licence is to be assessed by the Authority. We saw no law enforcement agency reports, other than criminal name checks, that would satisfy this requirement.</p> <p>Most law enforcement agencies that report in this area have significant amounts of information (criminal and intelligence) that could be available to assist the Authority in its determinations of an applicant's suitability.</p> <p>A stronger statement should be made as to the role of the Authority in undertaking probity checks so as to ensure an appropriate regulatory regime is enforced.</p> <p>These shortcomings have given rise to the BetHQ / Citibet issue. This outcome has now placed all bookmakers licensed by the Authority in severe jeopardy. Racing Victoria has written to each licensee, questioning their integrity and their future ability to accessing Victoria race fields products.</p> <p>We sighted an agreement between the Authority and the Australian Federal Police (AFP) setup by the Authority's first Director in terms of what checks it will conduct for the NIGA including InterPol checks. However we saw little evidence that this level of checking has been conducted since 2007.</p>
-	Review of gaming rules, software and gambling equipment	<p><b>Partly Complies.</b> The legislation requires the Authority to approve systems and equipment in relation to licensed gaming operators. While applicants submitted relevant documentation, we saw little evidence that the Authority had undertaken a review of this documentation prior to granting the application and it appeared that the Authority had simply accepted the documentation without question.</p> <p>In other jurisdictions, it would be usual for gambling software and equipment to be verified by an independent approved testing facility. The Director</p>

Ref	Requirement	Extent of compliance
		indicated that that process was costly and imposed a large financial burden on new applicants. There seemed to be no review that would enable the Authority to be confident that the gambling software and equipment functioned according to its approved rules.

**(b) Compliance Policy & Visitation Program**

Ref	Requirement	Extent of compliance
-	<i>Ongoing Compliance Checking:</i> Use a suitably qualified external consultant to review and assess the current operations of the operator by completing a policy checklist that covers: financial items; system review; and business process.	<p><b>Partly Complies.</b> The Authority only commenced undertaking compliance checks in April 2016 (when this performance audit commenced) and had only completed two checks to date:</p> <p>One for Mad Bookie (completed 13/04/2016); and Bet HQ (completed 13/04/2016).</p> <p>We recommend that other operators also be subject to these compliance checks.</p> <p>However the compliance checks were limited to the following analyses:</p> <p><i>Financial review:</i> The financial review component was limited to determining debt, equity, gaming and quick ratios. In each case, dependence was placed solely on data provided by the operator (no independent verifications were made);</p> <p><i>System review:</i> Only a very cursory and high level assessment was made; not to a level that a reasonable person would expect (e.g. no reasonable depth of assessment of system security, data integrity, system continuity, program change control, application processing completeness and accuracy, system interfaces, validation that audit trails and transaction logs have not been tampered etc.) In some instances, we note that requested data for verification was not provided by the operator.</p>
	<i>Physical Presence:</i> A Licensee must maintain some sort of a physical presence on the Island at a level acceptable to the Authority. It is mandatory for a mirror/audit server be located on Island, the actual locations of other activities such as graphic servers, call centres and the like can located externally at premises approved by the Authority.	<p><b>Complies.</b> The Director is not aware of any licenced operators that do not comply with this requirement. However, there is no capacity to monitor the data. The Authority has no capacity to monitor the data on anything but an ad hoc basis.</p>

### What caused this

There has been a lack of people resources (capacity) and capability in terms of skills and experience.

The Authority has almost exclusively focussed on attracting licensees to the jurisdiction rather than focus on its legislative charter.

### What this means

A number of the Authority's own policies and procedures in relation to the application process and the various artefacts required to be completed by applicants are in need of review and update.

The Authority is not complying with its statutory obligations to appropriately review applications, applicants and supervise licensees. This greatly increases the risk of unsuitable applicants being granted approvals and continuing to operate without appropriate review.

### What we recommend

We recommend the following:

- 5.2 Remediate each of the areas of non-compliance as set out at Section 5.2 of this Audit Report in relation to the Authority's compliance with its own internal policies and procedures.
- 5.3 Review and update the Authority's various policies and procedures in relation to the application process and the various artefacts required to be completed by applicants such as the Internal Control System and Technical Standards for internet gaming systems.
- 5.4 Undertake ongoing compliance checking of all licensees; not just the two conducted to date.
- 5.5 The Authority should assess its probity and application checking standards against those of other jurisdictions, including the following references from the Northern Territory Government website:
  - <https://nt.gov.au/industry/gambling/bookmaker-licences-and-permits/apply-for-or-renew-sports-bookmaker-licence>
  - <https://nt.gov.au/industry/gambling/bookmaker-licences-and-permits/apply-or-renew-racing-bookmaker-permit>
  - <https://nt.gov.au/industry/licences/police-and-probity-checks-for-licensing>
  - <https://nt.gov.au/industry/licences/licensing-police-and-probity-check-quick-reference>

## 6 STRUCTURE, ROLES & RESPONSIBILITIES

### Objective

The objective of this section of the engagement was to assess the adequacy of the Authority’s structure, roles and responsibilities and coordination across the business.

### Overall Finding

The Authority has not been operating with a sound or effective structure. It is under-resourced and those appointed to its Board and key management roles do not have all the required qualifications, skills or experience.

#### 6.1 Structure

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Major</b>	<b>Almost Certain</b>	<b>Extreme</b>

### What we found

The Authority was established in 1998. It is an independent, statutory body which consists of a Presiding Member and two other members. It operates in accordance with duties and responsibilities as set out in the Gaming Supervision Act of 1998. In addition to the members, Director and Secretary roles exist. The Director’s role is filled by a part time contractor and the Secretary operates under instruction from her main employer, Norfolk Telecom, for only 45 minutes per day. The rest of the Secretary’s time is spent as a NI Telecom employee, employed by the public service.

This structure is ineffective and inadequate. Many of the shortfalls highlighted within this report can be attributed to the lack of human resource capacity and, to an extent, capability. For a regulatory body responsible for overseeing the operations of the number of licensees that it currently has, we would expect to see a better structured and resourced organisation as follows:

However beyond the structure and resourcing issues, the overall reporting lines of the Authority and the Director should be reviewed.

While the Authority is an independent authority constituted by the Gaming Supervision Act, it and the Director report to the responsible Minister. We have not been advised of the post 1 July 2016 arrangements however the present arrangements have resulted in outcomes that are far from satisfactory for a first world gaming regulatory environment. This includes the fact that the current Director is the brother-in-law of a former Executive Member. This situation would draw adverse comment in most gaming jurisdictions.

We were informed that when various issues were raised by the Administration about the operation of the Authority, the Administration was advised by the then Minister that the Chief Minister (the former Minister responsible for gaming) did not want these inquiries pursued.

Most independent gaming authorities report directly to a Minister or the legislature, while the CEO and administrative arm come under the governance of the public sector. In the Authority's case both the Authority and the Director report to the Minister. Whilst the scope of this review did not include any form of investigation, and hence we did not look for evidence that any Minister has interfered with the independence of the Authority, it is unacceptable that due inquiries surrounding the administrative operations of the Authority were stopped by Ministerial interference.

There is no contract of employment between the Minister and the Director. Accordingly the tenure, duties (other than those outlined in the various Acts) and remuneration details are unknown to the Administration which, in turn, is required to account for remuneration expenses. There are no key performance indicators or agreements.

The legislation should be amended to ensure the Director is appointed by the Administrator and report to the Administration. A contract for employment of the Director should be introduced that covers tenure, duties, salary, performance and review.

### **What caused this**

There has been a lack of people resources (capacity) and capability in terms of skills and experience to enable the Authority to meet its legislative requirements. There is an ineffectual governance regime in place in relation to the Director and the Authority.

### **What this means**

The Authority does not have sufficient people resources to meet its statutory obligations. It is not an effective regulator. Reporting lines are inappropriate, which has resulted in the Authority operating in an opaque manner. There is a lack of appropriate governance and operational controls in relation to the Authority and the Director.

### **What we recommend**

We recommend the following:

- 6.1 Review and enhance the Authority's structure. Consider the organisational structure set out at Section 6.1 of our Report.
- 6.2 Review and improve the reporting lines of the Authority and the Director. Consider amending the legislation so that the Director is appointed by the Administrator and report to the Administration.

6.2 Roles and responsibilities

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Major</b>	<b>Almost Certain</b>	<b>Extreme</b>

**What we found**

**(a) Roles**

*Insufficient capacity.* The Authority is served through its Board, the part time Director and the part time Secretary. A Deputy Director role was created however it has not been filled. We do not consider this limited role structure to be suitable given the overall functions and responsibilities of the Authority as a regulatory body. There is simply insufficient head count to allow for appropriate levels of regulation to occur. The Authority has experienced rapid growth and additional workload over the past two years while resource levels have remained the same.

*Insufficient capability.* We appreciate there is a limited pool of appropriately skilled candidates from which to select Members of the Board, a Director, a Deputy Director and Secretary of the Gaming Authority. We were advised that current personnel were selected; no one applied. This has a direct impact on both capacity and capability as well as the Authority’s overall ability to meet its functions.

*No succession planning.* The issue of capacity and capability is exacerbated by the lack of succession planning; the Director has accumulated significant corporate history and experience and constitutes a point of failure should he no longer be available. We were advised during the period of our audit that the Director resigned<sup>2</sup>. We recommend that all relevant processes, procedures and knowledge be documented and formally handed over as part of a knowledge transfer process.

*Single point of failure.* Risk is exacerbated by the fact that all of the Director’s information relating to the Authority is on his personal laptop. He is not an employee and is not covered by an Employment Agreement that sets out ownership of information, intellectual property or other rights to data. The information is not backed up on Authority/Administration servers.

*No contracts in place.* Each of the Board members were appointed for a three-year term however their terms have since expired. Board members are operating without a current agreement. There is also no contract in place between the Director and the Authority.

**(b) Responsibilities**

*No Board Charter.* The Board’s responsibilities are broadly defined in the Acts however we would expect a more specific definition of its responsibilities to be defined in a Charter or Terms of Reference. No such document exists. Per common good practice, a Board should ultimately be responsible for the system of internal control however this is not defined as being a function or responsibility of the Authority’s Board. A Board may delegate to management the task of establishing, operating and monitoring the system, but they cannot delegate their responsibility for it.

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<sup>2</sup> However the Director has advised that he will remain throughout the transition, if required.

*No approved position description for key position.* The Director's responsibilities are broadly defined in the Acts as well as a draft Position Statement that was never formally approved. Those responsibilities include:

- Supervising and inspecting the licensed operations undertaken under any prescribed Act;
- Detecting offences committed under any prescribed Act;
- Assisting the Authority generally as it sees fit;
- Managing the day to day functions of the position;
- Acting in a role of Business Development Manager for the Authority;
- Assisting applicants with enquiries, applications and general advice regarding the Authority's requirements;
- Ensuring compliance with all requirements under the prescribed Act;
- Developing and maintaining strong business relationships with licensees;
- Developing budgets for Authority approval, maintaining expenditure controls and providing accurate reporting; and
- Ensuring all reporting to the Executive Member is completed in a timely manner.

*Wrong focus.* Most of the Director's focus has been centred on business development. The Authority should not be undertaking business development functions; its role is one of regulation as set out in the Acts. The fact that the role is responsible for complaints management is also of concern.

*Regulatory capture.* The present situation with its emphasis on business development and building relationships within the industry has undermined the Authority's independence, supervisory capacity and focus on regulation. In other words, the Authority appears to have been "captured" by the industry. As an example, the Authority was awarded the EGR Australia Award for "professional services partner"<sup>3</sup> – the Authority should not be viewed as being a "partner"; its role is that of a regulator.

*Conflicted relationships.* During the review, we became aware of an informal relationship between Addisons Lawyers and the Authority. Addisons are the preferred legal advisors for a majority of incoming applicants and has often provided informal advice to the Authority. This is understandable given the lack of capability and capacity of the Authority, however the relationship impacts the regulator's independence, including the perception that it could be adduced that there may be external influence and or assistance provided in the absence of any formal arrangement.

*Limited regulatory review.* A Deputy Director role was established but was never filled. We were advised that in November 2015, a resource was contracted to provide regulatory services in relation to existing licensees to meet part of the responsibilities of this unfilled position. This service involved a review of financial and operational outcomes. As at the period of our audit, only a few licensees had been reviewed.

However, the focus of those few reviews were limited to high level financial ratio analyses and issues and superficial IT system control assessments that are not supported by substantive testing

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<sup>3</sup> <https://www.eiseverywhere.com/ehome/146625/334215/>

or evidentiary data. At the very least, ongoing compliance checks should focus on probity matters, IT systems, rules and complaints handling mechanisms.

*Conflict of interest.* We are of the opinion that the appointment of the contractor is a serious error of judgment by the Director and the Authority. The Contractor is the Chief Operating Officer of one of the lottery licensees. There is a clear conflict of interest between the Authority and a person it regulates.

One of the Authority members advised us that he was not aware of that the contractor was employed by a gaming licensee, however emails addressed to the Director confirm that the Director knew of his position at the time the agreement for services was entered. The Board should have been advised of this conflict. Importantly, none of the licensees interviewed by us were aware of his senior position with a competing licensee.

In addition, the service was not put out to tender.

### **(c) Net results**

The net results of the above shortfalls, together with those raised elsewhere in this report, are akin to many of the observations raised in the Queensland Auditor-General's 1999 Report in relation to a probity investigation conducted by Queensland Office of Liquor and Gaming Regulation (QOLGR) for an application for an interactive gaming licence under the *Interactive Gambling (Player Protection) Act 1998* (see [www.qao.qld.gov.au](http://www.qao.qld.gov.au)). Although the Report was conducted in 1999 its findings are relevant to the Authority and this performance review. The only difference is that the Auditor-General's report was concerned about shortfalls relating to a specific probity review; our concern relates to the Authority's probity review approach and capability as a whole.

Although QOLGR had an established procedures manual at the time, the Report listed three areas of concern:

- QOLGR should have the necessary investigative expertise required to analyse complex company structures and the ability to effectively identify and interrogate associated persons;
- Inaccuracies, omissions and inconsistencies identified in the information provided by a number of persons should have prompted further investigation; and
- There was an absence of proper documentation of a management trail or systematic approach to the probity process.

We found the same issues within the Authority as noted throughout this Report. For example, we also noted "absence of proper documentation" and a "systematic approach to the probity process" in relation to the review materials that we sample-tested, including notations indicating that evidentiary information had not yet been submitted but that approval should be granted notwithstanding.

The Auditor-General made the following recommendations to the QOLGR and we see benefit in the Authority from applying these too:

- Incorporation of a formal probity investigation checklist that addresses the requirements of the Act and QOLGR policies to ensure completeness of the process and evidence of the work performed to enable sign off by the responsible persons on the various key requirements

- Development and implementation a formal co-ordinated risk management strategy to identify and manage all of the identified risks associated with the assessment of the licence application
- Further development of detailed documented policies and procedures to be adhered to by officers involved in probity investigations to facilitate consistency, equity, efficiency and effectiveness of probity investigations
- Preparation of a formal project plan to identify and prioritise tasks and to monitor progress
- Introduction of a formal internal and external communications strategy to deal with applicants and internal processes
- A structured probity investigation methodology to enable proper co-ordination and consideration of information factors within various QOGR Divisions
- Inclusion of a risk assessment of the possibility of attempts to conceal information by persons associated with applicants particularly where complex structures are involved
- Staff or external resources have appropriate skills and training to identify all necessary issues that emerge in complex commercial and financial environments
- Recognition of the possibility that incorrect or incomplete disclosure by applicants of details of directorships and shareholdings at the date of lodgement of the application
- Applicants are advised of the requirement that company records and ASIC records be up to date and in agreement
- An effective records management system and appropriate document standards to ensure a clear and accurate management trail
- The introduction of a formal quality assurance framework
- Probity reports include a specific risk management section to outline identified risks and how they were managed; highlighting of conflicts or perceived conflicts of interest and other issues; and be signed by senior management
- The final report to the Minister should include issues identified in the Probity Report and other issues identified from other activities.

### **What caused this**

There has been a lack of people resources (capacity) and capability in terms of skills and experience to enable the Authority to meet its legislative requirements.

### **What this means**

Lack of due process has resulted in perceived and actual conflicts of interest and responsibility. Overall, the Authority is not meeting its legislative charter and has greatly increased risk to its reputation as a competent gambling regulator.

### **What we recommend**

We recommend the following:

- 6.3 Avoid actual and perceived conflicts in engaging with Addisons Lawyers, given that they are the preferred legal advisors for a majority of incoming applicants and that they often provide informal advice to the Authority.
- 6.4 Learn from, and consider applying, the Queensland Auditor-General's recommendations made in the 1999 Report in relation to a probity investigation conducted by Queensland Office of Liquor and Gaming Regulation (QOLGR) for an application for an interactive gaming licence under the *Interactive Gambling (Player Protection) Act*.

## 7 PRICING & COLLECTION OF MONIES

### Objective

The objective of this section of the engagement was to review the adequacy of the methods of pricing to applicants and licensed operators, the collection of monies, and the reporting to and monitoring by senior and executive management.

### Overall Finding

In other jurisdictions, duties and fees are set by legislation in consultation with the Treasurer and/or the Minister via regulation. Fees are generally based on the amount of work/effort required of the Regulator in determining the outcome of the application. Annual fees are usually based on the cost of regulating the environment. This does not occur for the NIGA, with the current arrangements increasing risks for the Administration and presenting conflict, in that the Director determines the fee and ultimately receives the bulk of the fee through his role as a contractor.

#### 7.1 Adequacy of pricing methods

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Moderate</b>	<b>Possible</b>	<b>High</b>

### What we found

#### (a) Legislation

The Gaming Supervision Act of 1998 allows the Authority to grant multiple licence types to qualifying applicants:

- *Bookmaking licence:* This licence type allows for the sale of bookmaking (fixed odds), totalisator (parimutuel) and exchange (peer to peer) products online;
- *Interactive home gaming licence:* This licence type allows for the sale of casino products online; and
- *Internet/online lottery licence:* This licence type allows for the sale of lottery products online.

The legislation enables the Authority to impose fees and taxes on licensees by virtue of applying conditions on individual licensees.

#### (b) Pricing methods

*Pricing methods are not defined.* Methods of pricing to applicants and licensed operators are not formally defined. It appears that pricing is based on a process of scanning competitors (other jurisdictions) and varying prices so as to capture and retain business. The result being that not all applicants/licensees are dealt with in a consistent manner.

As at the period of our audit, applicants were being charged an initial fee of \$6,300 per application. In addition, \$10,000 was being charged to cover the cost of an initial probity review, with unused portions being refunded.

***(c) Setting of duties and rates***

*Informal process for determining duties and rates.* The duty rate was cut by half from 0.5% to 0.25% and a revenue cap of \$300K was put in place in January 2012 in order to remain competitive with other jurisdictions (especially NT and TAS). We were advised by the Director NIGA that an analysis was conducted to compare the Authority's rate with those of other jurisdictions, however we saw no business case to support this. This pricing cut was made within the context that one of the licensees turns over around \$60M per month. There was no formal consultation with the Administration nor with the Legislative Assembly to determine the impact of applying the cap or halving the duty.

*No formal agreements re duties and rates.* Following an approach by the Administration for the Authority to increase revenue, negotiations were held between the Director and Ladbrokes Digital Australia Pty Ltd – one of the Authority's licensees. Ladbrokes agreed to increase their revenue cap to \$400K on the basis that their licence (NIGA licence no. 20110511) also incorporates two other “brands”: Bookmaker.com.au and Betstar.com.au (both of which operate under the same licence number). It was agreed that each of these operations would increase their cap by \$50K. This was only formalised via correspondence; there was no formal contract nor was there any change to the conditions of the licence. The question remains whether the licensee requires separate licences for each of its “brands” and whether additional fees should be accordingly charged on a per licence basis and/or on a per brand basis. The Authority may wish to consider pricing duties based on the number of brands, different games and products; not a single duty for all.

***(d) Complaints fees***

*Informal process for determining complaints fees.* An additional \$5K per annum was negotiated with Ladbrokes to cover the costs of reviewing complaints made by customers. We saw no empirical analysis to determine this fee. It is appropriate that there is cost recovery in relation to the reviewing of complaints about licensees as it provides some incentive for the licensee to resolve the complaint or negotiate an appropriate outcome with the complainant in the first instance. Ladbrokes indicated that they receive over 50 complaints per year, not all of which that were referred to the Authority. Beyond this, complainants could lodge their complaints directly with the Authority. During the review, the Authority advised that around six complaints were outstanding. However, given these costs are ultimately paid to the Director, there is a potential conflict that should be avoided. The Director should at least have consulted with, and advised, the Administration so that the arrangements regarding complaints fees were understood and transparent.

*Inconsistent process.* These arrangements do not appear to apply to other licensees, notwithstanding the fact that complaints arise and are investigated for other licensees.

**(e) Responsibility for determining duties and rates**

*Unusual legislative provision.* Section 10 of the B&BE Act and section 9 of the Gaming Act provide that the Authority can impose duty as a condition of the gaming licence it issues. The Authority is not required to notify the Administration of the duty arrangement contained in the conditions and can change the duty payable as it chooses.

This is a most unusual provision as most duty and tax provisions are imposed by the legislation rather than the regulatory body. It raises risk and a potential budgetary impact for the Administration if duties are lowered without consultation, as occurred in January 2012.

**(f) Issuing of non-operational gaming licences**

*Duties should be considered.* Four of the operational licences involve “marketing affiliates”. While these companies are licensed, e.g. RaceNet, the licences are conditioned not to provide betting or gaming products and are merely licensed to satisfy the requirements of search engines (e.g. Google, Yahoo etc.) that services they provide require regulatory approval or licensing. The pricing model for such entities has not been formalised. The Authority should consider imposing a duty based on revenue/profit. The Authority currently imposes a fee of \$20K per annum, paid quarterly.

*Legislative provision required.* Our view is that the practice of issuing licences in these circumstances should be supported by specific legislation, rather than the Authority issuing gaming licences that are conditioned not to conduct gaming. No other Australian jurisdiction has provision for this type of licence.

**What caused this**

There has not been a formal process in place to determine duties and fees.

**What this means**

Current arrangements increase risks for the Administration and poses conflict in that the Director determines the fee and ultimately receives the bulk of the fee through his role as a contractor. There is no structure to the Authority's fee setting determinations, and lack of communication with the Administration can pose the risk of decreased revenue streams.

**What we recommend**

We recommend the following:

- 7.1 Define and apply a formal process to determine application pricing so that all applicants/licensees are dealt with in a consistent manner. Discuss and agree this method, and any changes thereto, with the Administration and the Legislative Assembly to determine their impacts.
- 7.2 Determine whether one of the current licensees requires separate licences for each of its “brands” and whether additional fees should be accordingly charged on a per licence basis and/or on a per brand basis.

- 7.3 Consider pricing duties based on the number of brands, different games and products; not a single duty for all.
- 7.4 Define and apply a formal process to determine the costs of reviewing complaints made by customers. Apply these fees to all licensees; not just one licensee.
- 7.5 Amend Section 10 of the B&BE Act and section 9 of the Gaming Act to bring it in line with other jurisdictions where most duty and tax provision are imposed by the legislation rather than the regulatory body.
- 7.6 Draft legislation to govern the issuing of “marketing affiliate” and other similar licences in line with other Australian jurisdictions rather than allowing the Authority to issue gaming licences that are conditioned not to conduct gaming.
- 7.7 Define and apply a formal process to determine pricing models for “marketing affiliates”. Consider imposing a duty based on revenue/profit.

7.2 Collection of monies

RISK RATING	Consequence	Likelihood	Rating
	Moderate	Unlikely	Medium

What we found

We obtained and analysed a listing of revenues and expenditures for the period 2006 to 2016. The two key sources of revenue are: application fees and duties. Estimated revenues for the year ending 30 June 2016 are \$60,000 (from application fees) and \$900,000 (from duties).

	2012/13		2013/14		2014/15		2015-16	
	Gaming	Licence Fee						
Best Poster	18,750.00		101.61		52.26		3,251.67	
Bet Around Clock								6,300.00
Bet HQ P/L					414.70	6,300.00	14,252.63	
Betting Group						6,300.00		
Book maker	300,000.00		300,000.00		300,000.00		400,000.00	
Bright Dragon								18,900.00
Cardinal House								18,900.00
Cross Bet								6,300.00
Fansport						6,300.00		
Fantasy Kings								6,300.00
Fantasy Pro						18,900.00		
Flutta								6,300.00
Full House Group						6,300.00		
iGC Pty Ltd				6,250.00				
Laker's Showtime								6,300.00
Med Bookie P/L					4,799.34	6,300.00	163,538.27	
Mark II	26,250.00		35,000.00		10,000.00		10,000.00	
New World Gaming						6,300.00	12,607.95	
NI TAB	299,999.84		178,598.76		32,012.19		3,954.19	
NI -WWT					3,851.18			
Owner Ware						6,300.00		
Plus Connect						6,300.00		
Points Bet								6,300.00
Proflity Deposits			12,231.40					
Puntae Pty Ltd						6,300.00		37.10
Punter's Paradise				6,300.00	17,849.31		20,000.00	
Racenet							5,328.77	6,300.00
Rasimus						6,300.00	24,213.44	
Roar P/L								6,300.00
Sportsbook							5,000.00	6,300.00
Topbetta	6,285.03		5,939.51		19,562.64		38,634.41	
Ultra Online				6,300.00				
Vapour Media								6,300.00
VGW Holdings								12,600.00
Vic Conn for Gaming					11,291.68			
Vonguest								6,300.00
WWW			12,500.00		12,500.00		18,750.00	
Misc - Unknown								4,623.84
	653,284.87	0.00	544,371.28	18,850.00	412,333.50	81,900.00	724,591.87	126,000.00

The above table shows actual receipts for the period 2012-2016. (“Licence fees” = one-off application fees; “Gaming” = annual duties based on turnover i.e. 0.25% pa).

We assessed the Authority’s process to collect those monies and note the following:

- (a) Since 2010, licensees and operators pay their fees and duties directly to the Administration; not to the Authority. Prior to that, monies were paid directly to the Authority. The Administration’s Finance team maintains records of income and receipts within the Administration’s finance system which is subject to ANAO external audit. This allows for independent oversight and monitoring of revenues.

- (b) *Reliance on key client.* Most of the Authority's revenue is derived from a single client. This incurs a risk to the Authority of significant revenue loss should the client not continue its licence. Another licensee is also a significant client and pays significant duties.
- (c) *Ineffective revenue forecasting.* In May 2011, the Director put forward a budget showing potential revenue of \$19.8M by 2015/2016 (actual revenue was only \$900K). The basis for this estimate had very little merit given the monopoly situation in Australian states and territories with regard to lotteries. Six months later, in November 2011, duties were cut from 0.5% duties to 0.25% which further prevented the target from being achieved. This exemplifies the lack of a formal and defensible process in managing the affairs of the Authority.

### **What caused this**

A formal budgeting and financial planning process has not been in place. The Authority has organically become dependent on a single major client.

### **What this means**

Accurate financial projections and budgets have not been prepared allowing for informed decision making. The Authority could suffer significant revenue loss should the largest licensee not continue its licence.

### **What we recommend**

We recommend the following:

- 7.8 Apply a more thorough and rigorous process of budgeting to ensure empirical and dependable financial projections and to allow for more effective decision making.

### 7.3 Reporting and monitoring by senior and executive management

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Moderate</b>	<b>Unlikely</b>	<b>Medium</b>

#### What we found

We assessed the adequacy of reporting and monitoring revenue collections and note the following:

- (a) Revenue collections are included in monthly reporting to the Executive Director of the Administration. Six monthly financial reports are provided to the Board.
- (b) *Audit reports are not distributed to the Authority.* Revenues are monitored by the CFO and Internal Audit and are subject to annual external audit by the ANAO. A number of concerns were raised and recommendations were made. However these were withheld from the Authority and concern has been raised that internal audit recommendations were not progressed due to alleged influence by a former Chief Minister.
- (c) *Legislative breaches re reporting.* A number of licence approvals were not tabled within timeframes required by legislation (section 14 of the Bookmaker & Betting Exchange Act and section 13 of the Gaming Act). There were significant time differences between Hansard tabling dates and dates the applications were tabled to the Board. This contradicts the requirements of both the Gaming Act and Bookmakers Act – see Compliance section of this Report. Consequently, there is no timely awareness of the number of licences issued and to whom they have been issued and hence what revenues may be derived.
- (d) *No communication.* There are no formal meetings with the Minister or the Administration to discuss financial or other matters. Overall, there is a lack of communication between the Authority, the Minister and the Administration with respect to financial and all other matters. Based on our observations, not one of these entities have proactively pursued meaningful communication with each other. This is of concern given the lack of resourcing confronting the Authority borne out of the Authority’s lack of supervisory capability and capacity.
- (e) *No reporting.* There is no reporting about internal controls or continuous improvement initiatives over the financial affairs of the Authority.
- (f) *No consultation.* There is no reporting or consultation between the Authority and the Minister or the Administration regarding pricing decisions prior to determining them.

#### What caused this

There has not been a formal communication process in place between the Authority, the Administration and the Minister.

#### What this means

The Authority has not been operating in a transparent manner. Without a formal communication strategy and process to determine fees, the Administration risks reduction in revenue without notice.

### **What we recommend**

We recommend the following:

- 7.9 Review and implement internal and external Audit's recommendations.
- 7.10 Ensure all licence approvals are tabled within timeframes required by legislation (section 14 of the Bookmaker & Betting Exchange Act and section 13 of the Gaming Act).
- 7.11 Improve communication between the Authority, the Minister and the Administration with respect to financial and all other matters. Schedule regular, formal meetings with all relevant parties.
- 7.12 Report on internal controls and continuous improvement initiatives in relation to the financial affairs of the Authority.
- 7.13 Ensure effective reporting and consultation between the Authority and both the Minister and the Administration regarding pricing decisions prior to determining them.

## 8 EXPENDITURES

### Objective

The objective of this section of the engagement was to examine approval and payment processes in relation to Authority expenditures.

### Overall Finding

The Director is engaged as a contractor; not an employee. There is no formal agreement between the Minister and the Director in terms of the Director’s hourly rates. The number of hours to be expended is not capped. Current expense arrangements are convoluted and conflicted.

#### 8.1 Approval and payment of expenditures

<b>RISK RATING</b>	<b>Consequence</b>	<b>Likelihood</b>	<b>Rating</b>
	<b>Moderate</b>	<b>Possible</b>	<b>High</b>

### What we found

The four key areas of expenditure are: employee (Director’s) remuneration, employee (Director’s) travel, members’ remuneration and members’ travel. Estimated expenditure for the year ending 30 June 2016 are \$112,000, \$26,000, \$45,000 and \$10,000 respectively. Two additional expense items were budgeted for the period too: engagement of an external marketing firm (\$20,000) and engagement of an external software developer (\$20,000). We obtained and analysed a listing of payments made to the Director Gaming Authority and Members for the period 2012 to 2016.

We assessed the Authority’s approval processes for expenditures and note the following:

- (a) *Details of time spent are not submitted.* Prior to July 2015, the Director sent invoices to the Minister who reviewed them and signed them before they were paid. Since July 2015 however, all invoices are approved by the Presiding Member and/or a local member and then submitted to the NIA Executive Director/Minister. They are then processed and paid. The Director keeps a diary of activities and times but does not submit a copy of his diary with his invoice to justify the hours spent.
- (b) *Administration approval is not sought.* We are advised that the Director seeks the Presiding Member’s approval before incurring travelling expenses in terms of rates and allowances. We do not consider this to be suitable; the Administration should be reviewing and endorsing travel expenses before they are incurred.
- (c) *No formal agreement re rates and fee caps.* There is no formal agreement between the Minister and the Director in terms of the Director’s hourly rates and the number of hours to be expended is not capped. Two expense accounts are maintained by the NIA: an administrative account and a probity application account (similar to a Trust account). For both, the Director submits an invoice with relatively little documentation and with no cap. Remuneration rates for the Director are not defined as part of a formal employment contract. For example, the

Director's rates were reduced from \$125 to \$60 per hour without any agreement with the Administration or the Minister. These amounts are paid out of the licensee probity trust.

The Director's remuneration is not capped; it is left to the Director to claim as many hours as deemed by him which incurs the risk that the Administration may be overcharged in terms of hours required.

- (d) The Director's hourly charge in dealing with Ladbroke's complaints is charged against the \$5K revenue derived from the licensee.
- (e) *Expense arrangements are not clear.* The current expense arrangements are convoluted and conflicted; it makes it difficult for the Administration to monitor and track expenses at any given time. It also makes it difficult to budget for potential future expenses as an adequately detailed budget is not prepared. This complication would not arise if the Director was an employee of the Administration as a public servant and received a standard wage. This would also ensure that expenditures are kept in line with public sector rules, approvals and delegations.

### **What caused this**

There has not been a formal process in place to manage and control expenditures.

### **What this means**

Current expense arrangements are convoluted and conflicted; it makes it difficult for the Administration to monitor and track expenses at any given time. It also makes it difficult to budget for potential future expenses as an adequately detailed budget is not prepared.

### **What we recommend**

We recommend the following:

- 8.1 Formalise and improve the expense approval process so that the Administration reviews and endorses travel expenses before they are incurred.
- 8.2 Make the Director's role an employee position, not a contractor position, so that it is subject to standard public service salary and expense rules. Until this occurs, define and apply a formal agreement between the Minister and the Director in terms of the Director's hourly rates and cap the number of hours to be expended.

## 9 STAKEHOLDER EXPECTATIONS

### Objective

The objective of this section of the engagement was to assess the expectations of key stakeholders, including applicants and licensed operators and the extent to which they are being/should reasonably be met by the Authority.

### Overall Finding

There has not been a formal process in place to manage stakeholders. The Authority has been subject to “regulatory capture”. Regulatory functions have not been suitably performed and the Authority is therefore seen to be “a regulator of ease”.

#### 9.1 Extent to which stakeholder expectations are being/should be met

RISK RATING	Consequence	Likelihood	Rating
	Major	Likely	High

### What we found

The Authority’s two sets of stakeholders are as follows:

- *Government:* The Norfolk Island Administration and the Department of Infrastructure & Territories (Cwlth); and
- *Clients:* Licenced operators, applicants and their customers.

The expectations of Government (the Norfolk Island Administration and the Department of Infrastructure & Territories (Cwlth)) are as follows:

- The Authority meets its statutory and regulatory obligations
- The Authority conducts its business with a high level of integrity and probity
- The Authority conducts its business with due internal control, risk management and governance
- The Authority achieves the objectives as set out in its legislative framework
- The Authority generates appropriate revenue for the Administration on behalf of the community
- The Authority applies suitable harm minimisation and consumer protection measures.

The expectations of *Clients* (Licenced operators, applicants and their customers) are as follows:

- The Authority meets its statutory and regulatory obligations
- The Authority conducts its business with a high level of integrity and probity
- The Authority deals with all licensees and applicants on a fair and equal basis;

- The Authority allows operators to conduct their business in a flexible and not overly regulated environment
- The Authority provides a less invasive and less onerous application process (i.e. a “smooth, streamlined process”) compared to other Australian jurisdictions including an online application capability.
- The Authority and the legislation allows licensing of innovative products such as fantasy sports and affiliate marketing.
- The Authority provides a competitive duty and fee environment.
- The Authority does not apply preventive obstacles to entry and operation.
- The Authority provides a more personalised approach with clear engagement.
- The Authority provides quick and timely decisions.
- More opportunities to grow and add value to their business.
- The Authority maintains an efficient client complaints handling process.
- That the legislative framework meets the needs of licensees.
- Licensees should be able to operate their licences in their location of choice (without the need for operational infrastructure on the Island).
- The Authority should maintain current industry knowledge.

We consulted and conducted interviews with a sample of each of the above stakeholders to understand their expectations. We then assessed the extent to which they are being/should reasonably be met by the Authority based on our experience with other jurisdictions and our objective views. We note the following:

Expectations	Stakeholder	Extent to which they are/should be met
The Authority meets its statutory and regulatory obligations	Government	Not currently met. It should.
The Authority conducts its business with a high level of integrity and probity	Government	Not currently met. It should.
The Authority conducts its business with due internal control, risk management and governance	Government	Not currently met. It should.
The Authority achieves the objectives as set out in its legislative framework	Government	Not currently met. It should.
The Authority generates appropriate revenue for the Administration on behalf of the community	Government	Currently met. It should.

Expectations	Stakeholder	Extent to which they are/should be met
The Authority applies suitable harm minimisation and consumer protection measures.	Government	Only partly met. It should per s19 of the Bookmakers & Betting Exchange Act.
The Authority meets its statutory and regulatory obligations	Clients	Not currently met. It should.
The Authority conducts its business with a high level of integrity and probity	Clients	Not currently met. It should.
The Authority deals with all licensees and applicants on a fair and equal basis;	Clients	Currently met. It should.
The Authority allows operators to conduct their business in a flexible and not overly regulated environment	Clients	Currently met. But this is not done within the spirit of the legislation in terms of the Authority’s regulatory obligations.
The Authority provides a less invasive and less onerous application process (i.e. a “smooth, streamlined process”) compared to other Australian jurisdictions including an online application capability.	Clients	Currently met. But this is not done within the spirit of the legislation in terms of the Authority’s regulatory obligations.
The Authority and the legislation allows licensing of innovative products such as fantasy sports and affiliate marketing.	Clients	Currently met. However, a better risk based approach should be applied when evaluating new gaming products.
The Authority provides a competitive duty and fee environment.	Clients	Currently met. But better control should be applied in terms of pricing structures and determination.
The Authority does not apply preventive obstacles to entry and operation.	Clients	Currently met. But this is not done within the spirit of the legislation in terms of the Authority’s regulatory duties.
The Authority provides a more personalised approach with clear engagement.	Clients	Currently met. It should.
The Authority provides quick and timely decisions.	Clients	Currently met. However appropriate due diligence should be applied across all decisions; timeliness should not be at the expense of proper processes and considerations.
More opportunities to grow and add value to their business.	Clients	Currently met. It should but not to an extent that it incurs unsuitable risk to the Authority or Administration.

Expectations	Stakeholder	Extent to which they are/should be met
The Authority maintains an efficient client complaints handling process.	Clients	Currently met. It should.
That the legislative framework meets the needs of licensees.	Clients	Currently met. It should but not to an extent that it incurs unsuitable risk to the Authority or Administration. There should be better stakeholder consultation in this regard.
Licensees should be able to operate their licences in their location of choice (without the need for operational infrastructure on the Island).	Clients	Currently met. It should but with due controls.
The Authority should maintain current industry knowledge.	Clients	Not currently met. It should.

**What caused this**

There has not been a formal process in place to manage stakeholders. The Authority has been subject to “regulatory capture”.

**What this means**

The Authority is seen to be “a regulator of ease”. Regulatory functions have not been suitably performed and both the Authority and the Administration have been exposed to reputational and other forms of risk.

**What we recommend**

We recommend the following:

- 9.1 Define and enforce a formal Stakeholder Management Plan. The Authority should not accede to stakeholder expectations as a default, but rather carefully examine and assess each of those expectations in line with the Authority’s mandated legislative and moral obligations.

# ATTACHMENTS

## ATTACHMENT A: RISK REGISTER

We compiled the following key strategic and operational risk register as a result of workshops and consultations held during our engagement, in addition to drawing on our own experience. The register should be maintained on an ongoing basis and updated as events and matters arise.

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
<b>STRATEGIC RISKS</b>							
S.01	<b>Capacity: Regulatory role:</b> The Authority is not fulfilling its regulatory/ compliance checking functions due to limited capacity.	Licences may be granted to unsuitable candidates and may not continue to operate in a compliant manner.  The Authority's reputation may be adversely impacted.  Racing VIC have advised that they will not execute product agreements with NIGA licensees.	Some initial probity checks are conducted but not to the extent required by the legislation. There are no documented policies and procedures that set out the intended process.	Major	Almost Certain	Extreme	Undertake probity checks in a diligent manner in line with the requirements of the Acts.  Incorporate a formal probity investigation process including checklists, detailed policies and methodology.
S.02	<b>Capability:</b> Lack of skillsets given limited pool of talent on NI in terms of Authority members and the Director in areas such	Governance arrangements may not be suitably performed.	While Authority members have appropriate past experience in some areas, they lack	Major	Likely	High	Implement a succession plan that requires people with relevant skillsets and subject matter expertise. The persons responsible for appointing Authority members should

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
	as governance, risk, compliance, probity, legal, financial, technology, licensee regulation etc.	Inability to deal with well-resourced applicants/ licensees. The Authority's reputation may be adversely impacted.	subject matter expertise in the gambling industry; particularly in relation to internet gambling.				understand the required skills and expertise.
S.03	<b>Communication &amp; Transparency:</b> Lack of ongoing reporting and communication with the Administration, the Cwlth Minister and the NI Minister.	Lack of transparency and executive reporting has resulted in mistrust and created a "black box" insular environment.	Monthly reporting to the Executive Director has commenced but is limited. Subject to internal and external audit.	Major	Almost Certain	Extreme	Formal reporting lines should be defined and applied including results and risks. Internal and external audit reports should be communicated to the Authority who should oversee the implementation of recommendations.
S.04	<b>Inadequate risk analysis for new gambling products:</b> There is inadequate review and risk assessment of gaming rules, software and gaming equipment.	New products without due controls may adversely impact the welfare of licensees' customers and the reputation of the Authority.	Applicants are required to lodge details of their gaming rules, software and gaming equipment.	Major	Almost Certain	Extreme	Apply a more formal risk assessment approach when considering the approval of new gambling products. Formalise these processes as part of the documented Internal Control Procedures.
S.05	<b>Succession planning and handover:</b> Current Authority members have had long tenures and possess significant corporate knowledge.	Experience and knowledge may be lost especially given that the Presiding Member and the Director have	None noted.	Moderate	Likely	High	Develop a succession plan that ensures capture of corporate knowledge and handover.

## ATTACHMENTS

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
		tendered their resignations.					
S.06	<b>Maintaining currency of skills and industry knowledge:</b> The current structure of the Authority does not allow for any credible skill sharing or knowledge transfer. There is no formal process to keep Members up to date about industry and technology trends and risks.	The Authority may make uninformed decisions that impacts its reputation and gives rise to risk.	Periodic attendance at regulators' forums and informal / selective communication by the Director to the Members about industry news.	Major	Likely	High	Apply a formal process to maintain currency of skills and industry knowledge.  Undertake a skills and knowledge analysis to determine gaps and take steps to rectify those gaps.
S.07	<b>Political ambiguity/ uncertainty:</b> due to recent changes in the administration of the Island.	Operators are unsure of the regulator's future and are therefore reluctant to invest in new licensing opportunities.	None noted.	Major	Likely	High	Keep operators informed of updates as they are known.
S.08	<b>Duties and fees:</b> Pricing policies are inappropriate. The fact that the Authority determines these prices without consultation is also inappropriate.	The NI Government may lose revenue.	Limited market scanning of international duties and fees has been conducted.	Moderate	Possible	High	Continually review the Authority's pricing structure to ensure it remains on par with other jurisdictions. Amend the legislation to require the Treasury to set duties and fees.
S.09	<b>Poor governance:</b> Inadequate governance,	Reputational damage. Legislative breaches.	Engagement of external assurance	Major	Almost Certain	Extreme	Define, apply and measure compliance against a formal internal

## ATTACHMENTS

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
	risk management, compliance, probity and internal controls.	Loss of public and licensee confidence. Financial loss.	activities and reviews. Subject to internal and external audit.				controls framework that includes policies and procedures, a risk register, governance arrangements, compliance frameworks etc. Employment contracts must be in place for the Director which should include performance indicators and measures.
S.10	<b>Stakeholder relations:</b> Lack of strategy to build relationships with other regulators, State and Commonwealth government, law enforcement agencies.	Lack of business and operational intelligence. Reputational risk. May impact on decision making.	Limited and selective liaison and consultation with stakeholders.	Major	Almost Certain	Extreme	Establish a formal communication strategy. Apply Memos of Understanding with key stakeholders.
S.11	<b>Stakeholder expectation management:</b> Inability to manage and meet stakeholder expectations. Diminished independence.	Inappropriate relationship between the Authority and its key stakeholders including licensees and applicants. Loss of stakeholder confidence. Reputational risk. Impeded independence.	Licensees are supportive of the Authority and hold it in high regard.	Moderate	Almost Certain	High	Develop and apply a formal stakeholder management plan.
S.12	<b>Legislative risk:</b> Some aspects of the current legislation are outdated and	May not suitably help mitigate the Authority's risks. Restricts the	Much of the legislation is still relevant and sound.	Moderate	Likely	High	Update the legislation to cover: price setting, harm minimisation objectives,

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
	do not meet current requirements.	Authority's regulatory function.					key employee probity etc. Consider rationalising legislation.
<b>OPERATIONAL RISKS</b>							
O.01	<b>Complaints and investigations:</b> Lack of review and monitoring of complaints brought against operators.	Repeat complaints and trends may indicate an underlying problem and/or non-compliance with rules. Limited resourcing capacity to undertake investigations.	Complaints are referred to the Authority by operators/customers when they cannot be resolved.	Moderate	Unlikely	Medium	Define and document a formal complaints management framework with defined service levels.
O.02	<b>Capacity (limited resources):</b> Structures and resources not available to meet increased workload arising from rapid growth over the past two years. Secretary only available for 45 minutes per day.	Current resourcing levels are too restrictive and inadequate to allow the Authority to carry out its mandate. The Authority is not fulfilling its supervisory obligations as set out in the legislation.	A contractor has been engaged to assist with elements of compliance checking of licensees.	Major	Almost Certain	Extreme	Restructure the Authority. Employ the right level of resources and ensure they have the right skills and the industry knowledge to help the Authority achieve its goals.
O.03	<b>Records management:</b> Inadequate controls and practices in terms of making, storing and	Non compliance with legislative requirements. Inability to respond	Secretary maintains hardcopies of files in safe storage at NI Telecom.	Moderate	Possible	High	Define and apply a formal records management framework that ensures the ongoing integrity and availability of all Authority records.

## ATTACHMENTS

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
	preserving official records. No official EDRMS. Hardcopy applications.	to GIPA/FOI requests.					
O.04	<b>Business continuity:</b> Lack of procedures and capabilities to restore key business processes and associated resources (e.g. IT and data) within acceptable timeframes. Key data is stored on the Director's personal laptop.	Inability to recover from a business disruption event in a timely manner. Disruption to services and workflows. Financial loss. Reputational damage.	The Director backs up his laptop but in an ad hoc way.	Major	Likely	High	Document and test a Business Continuity Plan and IT Recovery Plan to ensure that key business processes and associated resources (including IT and data) can be recovered and restored within acceptable timeframes.
O.05	<b>Intellectual property management:</b> Poor processes to identify, protect and commercialise intellectual property assets such as its Internal Control Procedure	Loss of rights over IP assets. Loss of potential revenue arising from the commercialisation of IP assets.	Website has a copyright notice.	Moderate	Possible	High	Develop and implement a formal Intellectual Property management plan (including a register) and ensure that appropriate protective measures are applied.
O.06	<b>Fraud and corruption:</b> Failure to detect and prevent fraud or corruption.	Consequential financial and/or reputational damage to the Authority and Administration. Loss of credibility and public / operator trust.	All monies are paid directly to the Administration. Subject to internal and external audit.	Major	Possible	High	Develop, implement and monitor a formal fraud and corruption management plan that includes: Code of Conduct & Ethics. Whistleblowing Policy. Fraud & corruption prevention strategy.

## ATTACHMENTS

Ref	Risk Description	Implications	Current Controls	Risk Assessment			Risk Treatment
				C	L	R	
							Formal and verified framework of internal control. Staff vetting and background checks.
O.07	<b>Public relations:</b> Inability to effectively respond to, and manage, a public relations incident or crisis including negative media coverage.	Reputational damage to the Authority and Administration. Loss of credibility and public/ operator trust.	No media team. No crisis management plan. However recent media article is being responded to.	Major	Almost Certain	Extreme	Develop: a formal Crisis Management Plan; an Authority-wide policy for addressing media queries; and a proactive press strategy; and deliver media training.

## ATTACHMENT B: RECOMMENDATIONS

The following table is a summary of the recommendations contained in the body of the report.

Ref	Recommendation	Risk Rating
<b>1. KEY STRATEGIC &amp; OPERATIONAL RISKS</b>		
1.1	Consider and implement each of the <i>strategic</i> risk treatments set out at Attachment A.	High
1.2	Consider and implement each of the <i>operational</i> risk treatments set out at Attachment A.	High
<b>2. LEGAL DUE DILIGENCE REVIEW</b>		
2.1	Review and update The Gaming Supervision Act, The Gaming Act and The Bookmakers and Betting Exchange Act - particularly in relation to harm minimisation. Ensure legislation is formally reviewed at least every five years	Medium
2.2	Consider folding the Gaming Act and the Bookmakers and Betting Exchange Act into one piece of legislation. This would simplify the legislative framework and provide a concise and uniform framework for all licences issued by the Authority.	Low
2.3	Closely monitor industry developments such as fantasy betting and spread betting and adapt the regulatory framework as appropriate in discussions with the Administration.	High
2.4	Ensure the legislation clearly articulates its objectives. These should be defined so that the success of the legislation can be objectively measured. Measures of success should be conducted as part of the five yearly statutory review.	Medium
2.5	Require all applicants to be finger and palm printed per The Gaming Act and The B&BE Act	High
2.6	Obtain thorough law enforcement agency reports and assess them for all persons who apply for the management or operation of a licence as required by The B&BE Act (section 17(3)). Do not just rely on criminal name checks.	High

Ref	Recommendation	Risk Rating
2.7	<p>Amend legislation so that it:</p> <ul style="list-style-type: none"> <li>(a) mandates requirements about the level of probity that should be undertaken on applicants in relation to different types of licences.</li> <li>(b) makes a stronger statement as to the role of the Authority in undertaking probity checks so as to help ensure an appropriate regulatory regime is enforced.</li> <li>(c) requires at least one of the Authority's members to be legally qualified.</li> <li>(d) requires the tabling of an Annual report to Ministers/ Parliament as well as other reporting and review mechanisms determined to be appropriate and required.</li> <li>(e) requires the Authority to publish details of all applications, licence assignments, conditions, breaches and disciplinary actions taken.</li> <li>(f) specifically prescribes that the legislator should determine the level of taxation. Any ability in the legislation for the Authority to set fees or levies should be subject to the approval of the Administration. Refer to the Casino Control Act (NSW) 1992 section 114 by way of example.</li> <li>(g) mandates a framework for developing, implementing and maintaining an internal control and governance framework. We acknowledge that it would be unusual for an internal control requirement to be defined in legislation in the Australian context, however given that risk has not been adequately addressed (as noted elsewhere in this Report), the legislation should mandate such a framework.</li> <li>(h) mandates harm minimisation and responsible gaming requirements. There should be objects in place similar to those in the NSW Machine Gaming Act (section 3) and the Northern Territory's Code of Practice. These should aim to: minimise harm associated with the misuse and abuse of gambling activities; foster responsible conduct in relation to gambling; facilitate the balanced development, in the public interest, of the gaming industry; and ensure the integrity of the gaming industry.</li> <li>(i) requires licensees to seek formal approval of their rules or any amendments thereto prior to implementation.</li> </ul>	High
<b>3. STRATEGIC &amp; BUSINESS PLANNING FRAMEWORK</b>		
3.1	Ensure a Strategic Plan is defined, regularly reviewed, updated, monitored and reported against. Ensure all relevant stakeholders are consulted and undertake an environmental scan of similar entities.	Medium
3.2	Change the focus of the existing Strategic Plan from “business development” / “revenue generating” to one that addresses the Authority's regulatory functions.	Extreme
3.3	Define, regularly review, update, monitor and report against an Operational Plan (sometimes referred to as a Tactical Plan) that sets out detail on how the Strategic Plan is to be realised and achieved,	Medium

Ref	Recommendation	Risk Rating
3.4	Define, regularly review, update, monitor and report against a suitably detailed Resource Plan (including a budget and financial plan).	Medium
3.5	Document, regularly review, monitor and report against a Risk Register based on the one we have prepared at Attachment A.	Extreme
3.6	Document, regularly review, monitor and report against a Performance Management Plan and ensure performance and achievement of strategic and operational objectives is reported to the Minister and/or the Administration.	Medium
<b>4. INTERNAL CONTROL FRAMEWORK</b>		
4.1	Ensure more regular Board meetings and more stringent oversight especially during periods of crisis and controversy, such as adverse media reports.	High
4.2	Document a Charter or Terms of Reference that sets out the specific roles and responsibilities of the Board, including its role to ensure: good governance; an appropriate risk management process; good financial and resource management; succession planning; meeting corporate objectives; meeting compliance and regulatory obligations; an appropriate complaints management framework; an effective audit function is in place; and the ongoing integrity and effectiveness of Board members etc. The Charter or Terms of Reference should also be used as a mechanism to gauge Board performance.	Medium
4.3	Ensure all Board members' appointments are current.	High
4.4	Document and apply a succession plan to ensure corporate knowledge is not lost.	Medium
4.5	Ensure Authority members are kept informed of current industry issues, industry and regulatory knowledge and management expertise to enhance their capability to meet their duties.	Medium
4.6	Ensure the Board recognises and meets its responsibility to ensure an appropriate system of internal control and governance is applied and continually improved.	High
4.7	Ensure the Authority is suitably resourced so that an appropriate level of internal control can be maintained.	Extreme
4.8	Ensure formal contracts and agreements are in place with all employees and positions concerning the Authority. Ensure that formal Position Descriptions are defined for all positions.	High
4.9	Apply a formal process to monitor and review the performance of all positions and of the Authority as a whole.	Medium

Ref	Recommendation	Risk Rating
4.10	Ensure all existing conflicts are formally declared and documented and that a plan to manage potential conflicts that could arise is documented and applied.	High
4.11	Immediately terminate the engagement of the contracted compliance assessor given that he is the Chief Operating Officer of one of the Authority's licensees. Ensure all future engagements are properly assessed and evaluated to avoid this type of conflict.	High
4.12	Ensure appropriate communication between the Director and the Secretary with appropriate sharing of information between the two. Ensure all Authority data is maintained on Authority-owned computers and that the data is regularly backed up and maintained in a secure manner.	High
4.13	Ensure an appropriate level of probity and checking is applied to all licence applications and modifications: Ensure all technical reviews of software and gaming equipment are conducted as required by the legislation.	Extreme
4.14	Document and enforce policies and procedures in relation to the management, operation, governance and internal control framework of the Authority. At the very least, this should include: a Code of Conduct & Ethics, a Risk Management & Audit Policy, a Delegations Manual, a Purchasing & Expenditure Policy, a Strategic & Business Planning Policy, a Compliance Management Policy, a Records Management Policy, an Assets Management Policy, an Information Security Policy, a Business Continuity Management Policy, a Performance Management Policy and a Communications Management Plan.	Medium
<b>5. COMPLIANCE</b>		
5.1	Remediate each of the areas of non-compliance as set out at Section 5.1 of this Audit Report in relation to legislative compliance.	Extreme
5.2	Remediate each of the areas of non-compliance as set out at Section 5.2 of this Audit Report in relation to the Authority's compliance with its own internal policies and procedures.	Extreme
5.3	Review and update the Authority's various policies and procedures in relation to the application process and the various artefacts required to be completed by applicants such as the Internal Control System and Technical Standards for internet gaming systems	Medium
5.4	Undertake ongoing compliance checking of all licensees; not just the two conducted to date.	Extreme

Ref	Recommendation	Risk Rating
5.5	Assess probity and application checking standards against those of other jurisdictions, including the following from the Northern Territory: <a href="https://nt.gov.au/industry/gambling/bookmaker-licences-and-permits/apply-for-or-renew-sports-bookmaker-licence">https://nt.gov.au/industry/gambling/bookmaker-licences-and-permits/apply-for-or-renew-sports-bookmaker-licence</a> <a href="https://nt.gov.au/industry/gambling/bookmaker-licences-and-permits/apply-or-renew-racing-bookmaker-permit">https://nt.gov.au/industry/gambling/bookmaker-licences-and-permits/apply-or-renew-racing-bookmaker-permit</a> <a href="https://nt.gov.au/industry/licences/police-and-probity-checks-for-licensing">https://nt.gov.au/industry/licences/police-and-probity-checks-for-licensing</a> <a href="https://nt.gov.au/industry/licences/licensing-police-and-probity-check-quick-reference">https://nt.gov.au/industry/licences/licensing-police-and-probity-check-quick-reference</a>	High
<b>6. STRUCTURE, ROLES &amp; RESPONSIBILITIES</b>		
6.1	Review and enhance the Authority's structure. Consider the organisational structure set out at Section 6.1 of our Report.	High
6.2	Review and improve the reporting lines of the Authority and the Director. Consider amending the legislation so that the Director is appointed by the Administrator and reports to the Administration.	High
6.3	Avoid actual and perceived conflicts in engaging with Addisons Lawyers, given that they are the preferred legal advisors for a majority of incoming applicants and that they often provide informal advice to the Authority.	Medium
6.4	Learn from, and consider applying, the Queensland Auditor-General's recommendations made in the 1999 Report in relation to a probity investigation conducted by Queensland Office of Liquor and Gaming Regulation (QOLGR) for an application for an interactive gaming licence under the <i>Interactive Gambling (Player Protection) Act 1998</i> .	High
<b>7. PRICING &amp; COLLECTION OF MONIES</b>		
7.1	Define and apply a formal process to determine application pricing so that all applicants/licensees are dealt with in a consistent manner. Discuss and agree this method, and any changes thereto, with the Administration and the Legislative Assembly to determine their impacts.	Medium
7.2	Determine whether Ladbrokes requires separate licences for each of its "brands" and whether additional fees should be accordingly charged on a per licence basis and/or on a per brand basis.	Medium
7.3	Consider pricing duties based on the number of brands, different games and products; not a single duty for all.	Low
7.4	Define and apply a formal process to determine the costs of reviewing complaints made by customers. Apply these fees to all licensees; not just Ladbrokes.	Low
7.5	Amend Section 10 of the B&BE Act and section 9 of the Gaming Act to bring it in line with other jurisdictions where most duty and tax provision are imposed by the legislation rather than the regulatory body.	Medium

Ref	Recommendation	Risk Rating
7.6	Draft legislation to govern the issuing of “marketing affiliate” and other similar licences in line with other Australian jurisdictions rather than allowing the Authority to issue gaming licences that are conditioned not to conduct gaming.	Medium
7.7	Define and apply a formal process to determine pricing models for “marketing affiliates”. Consider imposing a duty based on revenue/profit.	Low
7.8	Apply a more thorough and rigorous process of budgeting to ensure empirical and dependable financial projections and to allow for more effective decision making.	Medium
7.9	Review and implement internal and external Audit’s recommendations.	High
7.10	Ensure all licence approvals are tabled within timeframes required by legislation (section 14 of the Bookmaker & Betting Exchange Act and section 13 of the Gaming Act).	Medium
7.11	Improve communication between the Authority, the Minister and the Administration with respect to financial and all other matters. Schedule regular, formal meetings with all relevant parties.	High
7.12	Report on internal controls and continuous improvement initiatives in relation to the financial affairs of the Authority.	High
7.13	Ensure effective reporting and consultation between the Authority and both the Minister and the Administration regarding pricing decisions prior to determining them.	High
<b>8. EXPENDITURES</b>		
8.1	Formalise and improve the expense approval process so that the Administration reviews and endorses travel expenses before they are incurred.	Medium
8.2	Make the Director’s role an employee position, not a contractor position, so that it is subject to standard public service salary and expense rules. Until this occurs, define and apply a formal agreement between the Minister and the Director in terms of the Director’s hourly rates and cap the number of hours to be expended.	Medium
<b>9. STAKEHOLDER EXPECTATIONS</b>		
9.1	Define and enforce a formal Stakeholder Management Plan. The Authority should not accede to all stakeholder expectations as a default, but rather carefully examine and assess each of those expectations in line with the Authority’s mandated legislative and moral obligations.	Medium

## ATTACHMENT C: CONTROL AND RISK RATING METHODOLOGY

### a) CONTROL EFFECTIVENESS DEFINITIONS

We adopted the following control effectiveness rating methodology and definitions:

Control Effectiveness	Definitions
Fully Effective	Controls are well designed, largely preventive and address root causes. Controls are effective and reliable at all times. Reactive controls only support preventive controls. No more to be done except ongoing monitoring and periodic review of controls.
Substantially Effective	Most controls are well designed, preventive and operating effectively. More can be done to improve control effectiveness, proactivity and/or reliability.
Partially Effective	While the design of the controls may be good, they may not be fully adhered to or effective in practice. Alternatively, controls are effective but not well designed or do not address root causes. There may be an over-reliance on reactive controls.
Largely Ineffective	There are significant gaps in controls. The controls may not address root causes, may not be preventive in nature, or may not be effective.
Totally Ineffective	Risks are not controlled. What control, if any, that does exist is ineffective in preventing risk events from occurring or mitigating their effects.

**b) RISK RATING DEFINITIONS**

We adopted the following risk rating definitions as set out in the Administration’s Enterprise Risk Management Framework:

	Consequences				
Likelihood	Insignificant	Minor	Moderate	Major	Catastrophic
Almost Certain	Medium 8	High 16	High 20	Extreme 23	Extreme 25
Likely	Medium 7	Medium 12	High 17	High 21	Extreme 24
Possible	Low 5	Medium 10	High 15	High 18	High 22
Unlikely	Low 2	Low 4	Medium 11	Medium 13	High 19
Rare	Low 1	Low 3	Medium 6	Medium 9	High 14

## ATTACHMENT D: ACCOUNTABILITY AND RESPONSIBILITY STATEMENT

This review was undertaken by the following senior Centium personnel:

- **Michael Foggo** – Michael is a Centium Senior Consultant. He was responsible for undertaking fieldwork and contributing to the draft and final reports.
- **Graham Gorrie** – Graham is a Centium Senior Consultant. He was responsible for undertaking fieldwork and contributing to the draft and final reports.
- **Stephen James** – Stephen is a Centium Director and Chief Consultant. He was responsible for leading this engagement, undertaking fieldwork, and preparing the draft and final reports.
- **Phil O’Toole** – Phil is Centium’s Managing Director. He was responsible for overseeing this engagement and peer reviewing the work.

Centium takes responsibility for this report, which is prepared on the basis of the following limitations:

- **Limitations:** The matters raised in this report are only those that came to our attention during the course of our review and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made.
- **Fraud:** There is an unavoidable risk in any assurance project that fraud or irregularity may not be detected. This is due to the sample basis upon which our testing is conducted and the inherent limitations of any system of internal control. This review therefore should not be relied upon to disclose fraudulent activities.
- **Recommendations:** Your entity should assess our recommendations for their full commercial and operational impact before implementing them.
- **Confidentiality:** This report is confidential, has been prepared solely for the use by your entity and ownership of the report and any attachments lies with your entity. It is the responsibility of your entity to determine whether to release this report, in whole or in part.
- **Responsibility.** No responsibility to any third party is accepted.
- **Information Requests - Costs.** Costs of information requests under any “freedom of information” legislation such as the NSW Government Information (Public Access) Act 2009, the Commonwealth Freedom of Information Act 1982 or subpoenas arising from actions taken by individuals or groups as a result of this report will be passed on to your entity.
- **Further information:** Please contact the Centium Directors listed above should you have any queries regarding the contents or use of this report.