

# **NORFOLK ISLAND GAMING AUTHORITY (NIGA)**

## **Review of Operational Structures and Associated Costs to License and Regulate Gaming and Wagering Operations**

**FINAL: October 2016**

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## EXECUTIVE SUMMARY

### INTRODUCTION

In April 2016, Centium was engaged by the Department of Infrastructure and Regional Development (the Department) to conduct a Performance Review (the 'Review') into the adequacy and effectiveness of the Norfolk Island Gaming Authority (the Authority).

The Review assessed the Authority's internal control framework (including the legislative framework, management, operations and governance arrangements) in managing its key strategic and operational activities and risks.

Following receipt of the Review report, and recognising that the Authority has subsequently been suffering reputational damage, the Department engaged Centium to identify an appropriate operating model (incorporating an organisational structure and associated costs) that would enable the Authority to fully perform its regulatory function in accordance with its legislated requirements, in addition to being able to accommodate enhanced regulatory requirements arising from the recent O'Farrell Review.

### ISSUES IDENTIFIED IN THE PERFORMANCE REVIEW

Centium's Performance Review identified critical areas for improvement including:

- The Authority had failed to fulfil its regulatory role to an acceptable level
- Internal controls over the Authority were inadequate and could give rise to fraud and corruption
- The Authority had been operating in a non-transparent way with little or no reporting or communication with the Administration of Norfolk Island
- The Authority had been under-resourced
- Basic control elements were 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 documented policies and procedures.

The Performance Review further identified that the Authority's focus had been on increasing revenue and issue licences without proper regard to its regulatory obligations. The Authority had not been performing in line with its legislative duties.

Centium's Performance Review recommended that the Authority not continue to operate in its current form.

The Department of Infrastructure and Regional Development subsequently engaged Centium to provide a report on the costs associated with the structure, resourcing and costs under current legislative requirements and under a 'better practice' model.

## TERMS OF REFERENCE FOR THIS REVIEW

The Terms of Reference for this review, as provided by the Department, are to outline model operational structures and associated costs to license and regulate gaming and wagering operations licensed from Norfolk Island under two scenarios:

- Existing legislation
- Better practice.

In particular, the Department requires this report to include the following detail:

1. Identify an organisation structure and associated cost of providing adequate regulatory oversight and due diligence of the Authority's operations within the existing legislative framework for gaming and wagering licensed from Norfolk Island.

Key aspects to consider included (but not limited to):

- Due diligence prior to approving new licenses, variations or transfers to other parties
  - Compliance testing of equipment and systems
  - Monitoring compliance and licensing conditions
  - Complaints handling
  - Harm minimisation procedures
  - Reporting
  - Collection of duties
  - ICT operating system requirements and skilled technical support.
2. Identify the resourcing requirements of a better practice gaming regulator, based on the models applied in other Australian jurisdictions.

This review examined a broad range of issues that included the legislative framework under which the Authority operates, necessary infrastructure, resourcing, funding and the feasibility of outsourcing elements of its services and operations in a cost effective manner.

Our examination of the Authority's operations included its:

- Functions
- Capabilities
- Resources
- Location and environment
- Performance
- Market confidence

We closely examined the changing landscape of the gaming environment, including the likely impact of forthcoming consumer protection and harm minimisation initiatives arising from the 2015 Review of The Impact of Illegal Offshore Wagering (ie the “O'Farrell Review”).

## SUMMARY OF OUTCOMES

We found the Authority in its current form to be barely viable. It has suffered reputational damage, with loss of confidence creating a situation where a number of gaming licence holders are expected to surrender or not renew their licences, including the operator that has historically been the major source of revenue.

Significant resources would be required to be invested in the Authority to meet better practice regulation and to address the findings of Centium's Review. Such resources would need to address the Authority's reputation and confidence in its capacity as an effective regulatory body.

We also noted the requirement to introduce effective probity investigation protocols to address integrity issues regarding the Authority's regulatory function in licence applicant assessment, in order for it to be consistent with Australian mainland State and Territory required practices.

A better practice environment would further include obligations on the Authority, consistent with Australian mainland States and Territories, to comply with forthcoming legislation (arising from the O'Farrell Review) addressing harm minimisation and consumer protection.

The loss of confidence in the Authority has been evident in the gaming market, including the confidence of the New South Wales and Victorian racing regulators. This poses significant problems for the Authority in attracting prospective licensees.

In addition, we noted the difficulty in attracting and retaining staff with the necessary skills and experience to administer the Authority, as a presence on Norfolk Island.

The Authority would need to invest heavily in new compliance and online software to fulfil its regulatory responsibilities, or to outsource functions through the engagement of an alternate regulator. We noted that this option of engaging another Australian State regulator to administer the Authority is likely to present issues for the relevant State through business and revenue conflicts, recognising that Australian gaming regulators currently operate similar activities within their own State or Territory jurisdictions.

We also noted that the outsourcing of elements of the Authority's functions and operations to another regulatory body would necessitate the management of contracts and service level agreements, and hence, any cost efficiencies would be off-set by the requirement for such measures.

Also relevant to this, we noted that start-up gaming licence applicants may be ineligible for licensing outside the jurisdiction of the Authority (ie in other Australian states), and new product specific IT Systems would need to be developed to service and manage licensee operations under the Authority's regulatory requirements and environment.

We further formed a view that the Authority would require significant *market presence* investment to restore confidence in its ability as a competent regulator. Realistically, we make no firm prediction of the timeframe or degree of market confidence that may renew the Authority's presence as a competent gaming regulator and serve to attract prospective licensees and future revenue.

Furthermore, the resultant imposition of user charges to off-set the Authority's operating costs would be severely limited by the financial capacity of the remaining licensees.

## EXECUTIVE SUMMARY

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While an investment by Government to address the Authority's market placement and operations may facilitate its immediate viability, it is our view that it would be questionable that the Authority would be competitive with other States, and any such investment may well necessitate a significant ongoing subsidised operation of the Authority with no guarantee of return.

Accordingly, there are no assurances that a funding investment made by government to address the problems with the Authority could be recouped in the short, medium or long term.

We also formed a view that should the Authority continue operations and prospective licence applicants were not forthcoming, the future financial viability of the Authority could not be assured. This could result in additional costs associated with winding down the Authority.

Our considered view is that there must be a high degree of caution exercised by the Department, as there can be no assurance that the Authority would be viable even in the unlikely event that existing licensees were to remain and the current levels of licence applications continued.

## DETAILED REPORT

### BACKGROUND

The initial Performance Review conducted by Centium identified numerous shortcomings and risks in the regulatory and operational activities of the Authority.

The Authority's inability to undertake its legislative mandate has directly resulted in a number of adverse outcomes.

An example of this inability resulted in Racing Victoria Limited withdrawing its approval for one of the Authority's licensees (BetHQ) to publish and use Victorian Thoroughbred Race Fields information.

Centium understands that Racing Victoria has written to all relevant Authority licensees (bookmakers) threatening to withdraw their approval based on the inability of the Authority to adequately regulate its licensees.

This situation has dramatic consequences for these licensees. The Victorian racing calendar - particularly the Spring Carnival - provides the majority of betting turnover for bookmakers, totes and internet providers.

It is likely that other State thoroughbred racing regulators will follow suit and withdraw similar approvals. It is also likely that harness racing, greyhound and sports associations would be under pressure to do likewise.

Without these approvals, the Authority's licensees will not be able to take bets on Australian racing or sporting events. In effect this will require the Authority's licensed bookmakers to become licensed in other jurisdictions to continue their present operations.

For industry regulatory bodies to reverse, or be persuaded not to withdraw approvals, a substantial change is required in the way that the Authority operates.

If all bookmakers presently licensed by the Authority were to cancel, not renew or surrender their licences, existing levels of tax revenue would decrease by an estimated 90%. A similar impact would flow to the Authority's existing workload.

The restoration in confidence in the Authority's ability to appropriately regulate its gaming environment may take a considerable period to achieve and would require a reasonable period of operating under a "best practice" regime to demonstrate its new-found capabilities.

Having regard to Racing Victoria's actions to date, we don't see it changing its position in the near future.

This situation has made it difficult to formulate an appropriate costing model and we have assumed that bookmakers presently licensed with the Authority will not continue in that capacity.

## OUR METHODOLOGY – HOW WE APPROACHED THE TASK

This review examined the current legislative framework under which the Authority operates. This included examining the Authority's:

- Functions
- Capabilities
- Resources
- Location and environment
- Performance
- Market confidence

We further considered the areas addressed in the Performance Review of the Authority, noting the shortcomings identified. We also sought to identify 'better practice' Australian gaming regulators, using Northern Territory Licensing (Department of Business) as a model regulator.

While we sought indicative costs for various operational elements of NT Licensing, we were unable to obtain definitive figures, and thus, needed to formulate indicative costs for ongoing operations of the Authority based on estimating what those costs may comprise.

We initially itemized the existing legislated roles under the various Norfolk Island Gaming Acts, then set out the activities and processes required to undertake those roles.

We then identified the positions required to undertake that work, suggested an appropriate structure, estimating the salary levels of those positions identified, based on NSW Crown Employees salary rates.

We also factored in other costs (travel, recruitment, telecommunications, etc) to estimate final costs.

The final costs relevant to employee remuneration rates are inclusive of 30% on-costs comprising workers' compensation, payroll tax, superannuation contributions etc.

While it is relatively straightforward to define the structure and associated costs, there are a number of contributing issues which make it difficult to provide a definitive opinion.

The first of these relates to the amount of resourcing required, given that the Authority's Board has advised, as at 1 July 2016, that 20 of the current 39 licences issued by the Authority are inoperable. If that entailed all licensed bookmakers becoming ineligible that would, in effect, reduce the workload of the Authority by 90%, significantly affecting the resources required.

The second issue relates to the ability to obtain personnel with the required skill, knowledge and experience to facilitate the continued functions of the Authority, particularly as this would be on a limited part time basis. We noted that even within other States and Territories in Australia there are a limited number of individuals with the required skill set. Recruitment and retention of such individuals by the Authority is likely to present significant difficulty into the future.

While the costings we have provided are on the basis of a fully functional Authority with a sufficient number of licensees to justify covering full time position resourcing, applying the assumption that 50% of current licensees will surrender or not renew their licences, would result in a need to adjust costs accordingly.

The other option available to the Department and/or the Authority would be to out-source the functions to other regulatory Australian jurisdictions. For example, probity investigations could be out-sourced to another State or Territory regulator, as could compliance functions. Systems evaluation could be outsourced to Authorised Testing Facilities (ATFs). This is a current practice with other State and Territory regulators. While this may provide a more cost effective approach, there will be a residual cost to the Authority to manage such out-sourced contracts and service the arrangements.

## CURRENT LEGISLATED ROLES – APPOINTMENT AND FUNCTIONS

Legislation covering the Authority comprises the following Acts:

- Gaming Supervision Act 1998
- Gaming Act 1998
- Bookmakers and Betting Exchange Act 1998.

The Gaming Supervision Act establishes the Norfolk Island Gaming Authority (Section 6) and enables the appointment of members by the Administrator.

The Act sets out, in Sections 15 to 17, the appointment provisions and functions of:

- The Director
- The Deputy Director - we note there is no currently appointed Deputy Director
- Authorised Officers (these perform Compliance functions as described under S.17 of the Act) - we note there are currently no Authorised Officers appointed to the Authority.

Centium's Performance Review on the Norfolk Island Gaming Authority commented (at 2.1 of its Performance Review Report) on aspects of this legislation.

Generally, it was found that the existing legislation is fit for purpose, but should be updated and subject to statutory review every five years.

It may be appropriate to integrate the Gaming Act and the Bookmakers and Betting Exchange Act into one piece of legislation and to include addressing such issues as price setting, harm minimisation objectives and key employee probity.

It may also be appropriate for the legislation to specify the skills and qualifications of Authority members, requiring at least one member to be legally qualified.<sup>1</sup>

## STRUCTURE AND FUNCTIONS – EXISTING LEGISLATION

The structure and areas of accountability of the Authority's positions as currently required by the relevant legislation, are suggested on the following schematic diagram (further detail is then explored in this report in relation to each of the major functional areas of: Probity, Compliance and IT/Systems).

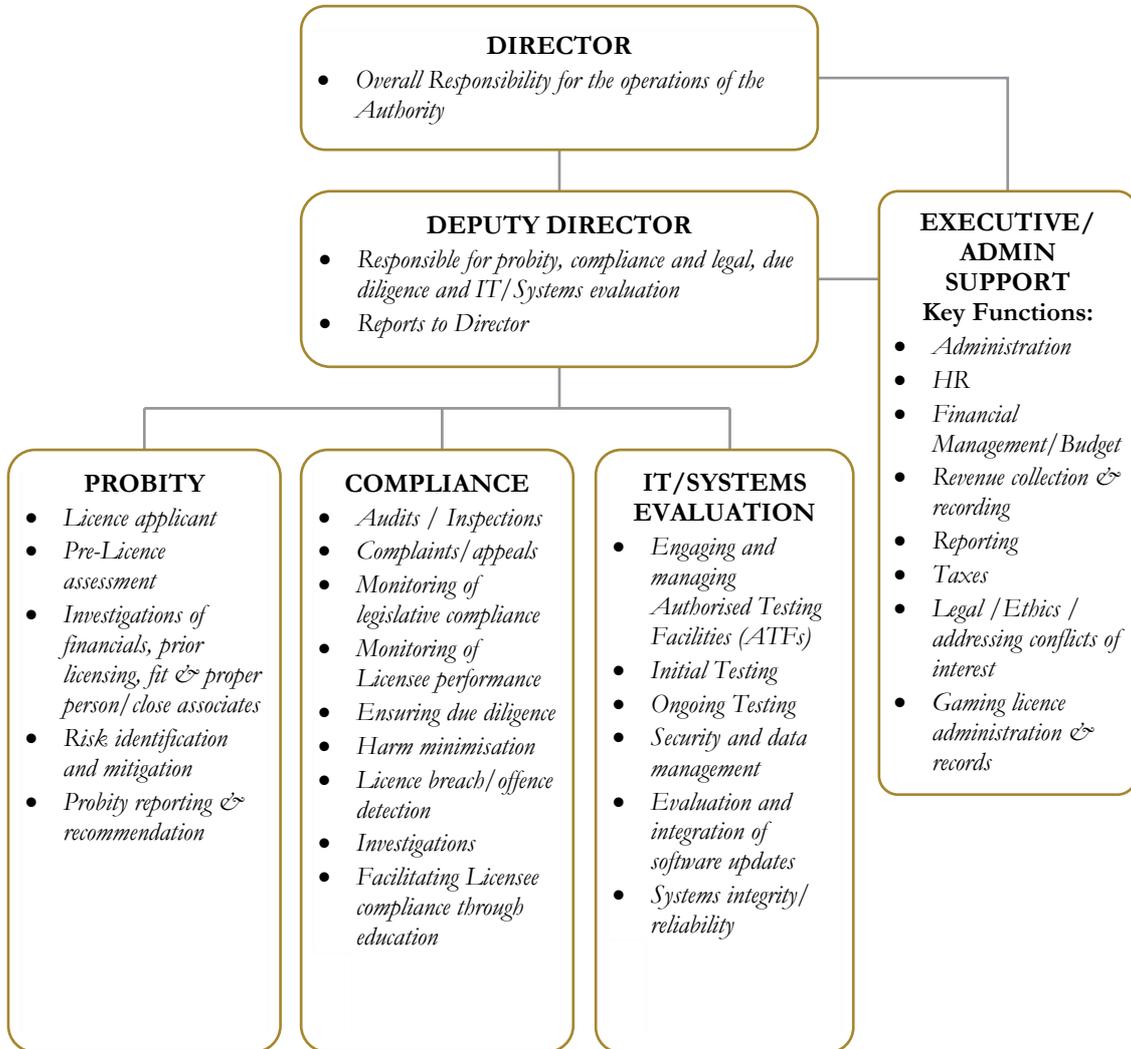
We have also included amongst Attachments 1 - 5 of this report draft Position Descriptions for positions under current operating requirements, and to address a 'better practice' model. These draft Position Descriptions are for:

- Director
- Deputy Director
- Executive Support
- Administrative Support
- Authorised Officer (Compliance Officer).

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<sup>1</sup> As an example, Section 7 of the of the New South Wales Gaming and Liquor Administration Act 2007 requires that one of its Authority members be, or has been, a Judge, or has been an Australian lawyer for at least 7 years

**PROPOSED STRUCTURE AND FUNCTIONS**



We have outlined the principle functions of these areas as follows:

**1. Probity (including probity investigations)**

Probity investigations are a required process under the existing Norfolk Island gaming legislation to ensure that applicants are fit and proper persons/companies, and have the financial capacity to commence and conduct licensed activities.

Since the introduction of mainland casinos in 1985, all States and Territories of Australia have adopted similar processes to review the reputation, financial background, competency of the applicants and business associates.

**DETAILED REPORT**

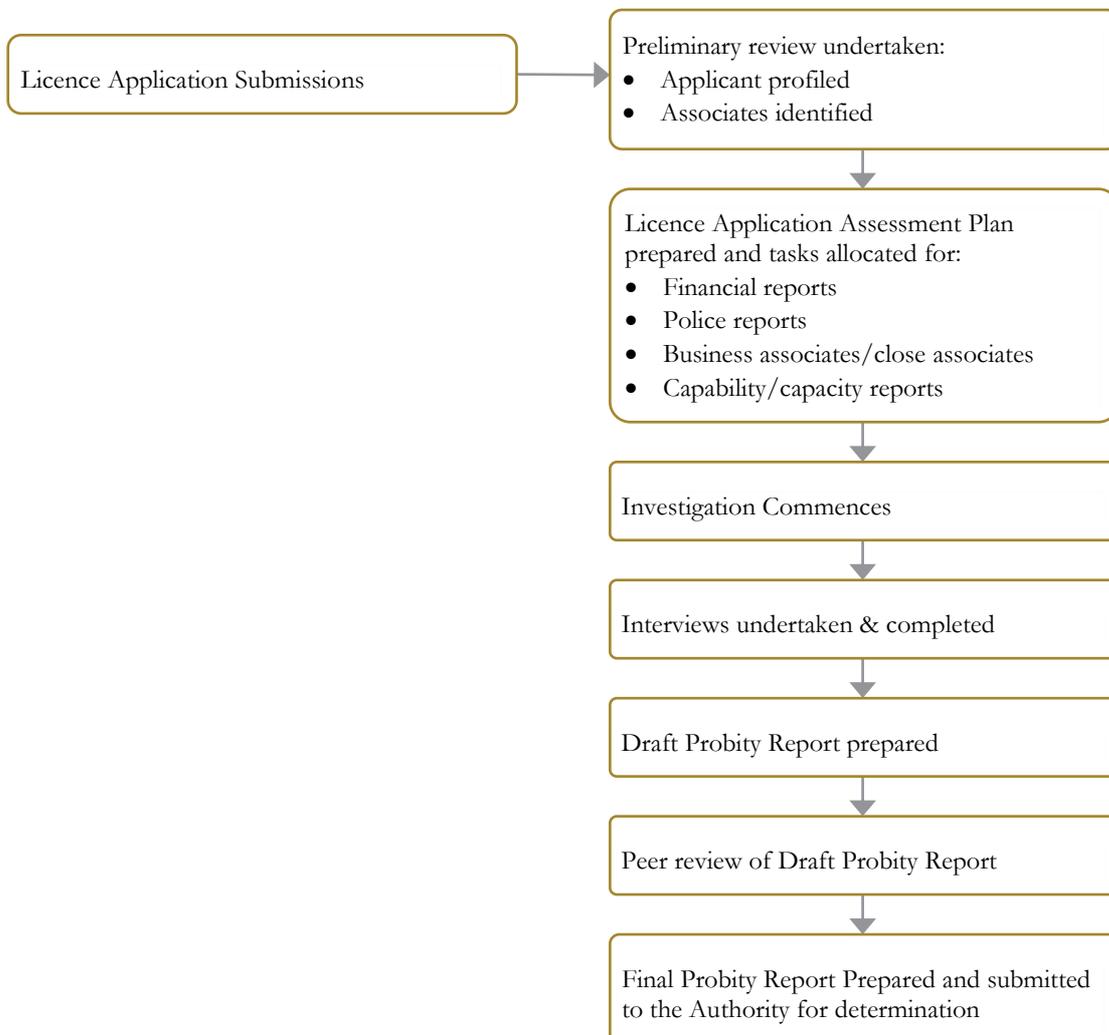
The Authority would also undertake probity investigations in relation to specific gaming products (such as 'bookie to bookie') that other Australian jurisdictions do not have.

The probity workflow set out below represents the process that should be undertaken in assessing applicants' probity to ensure that they are fit and proper entities to become licensees.

These probity assessment activities need to be undertaken during the application process, and any time the licensee changes financial interested parties or operational co-partners.

In such circumstances a formal protocol is required for the licensee/applicant to fully notify the Authority by complete and accurate disclosure of any such change, without delay.

**PROBITY ASSURANCE FLOW CHART**



## Compliance

The Authority/ Director would need to develop a Compliance Framework that effectively:

- Reviews the on-going operations of licensees on a regular/ad hoc basis and reports on non-compliance with recommendations for action (this is functionally described in S.17 of the Gaming Supervision Act, as the 'Functions of authorised officers')
- Ensures licensees are complying with the relevant legislation, licence conditions, etc and report to the Authority on non-compliance with recommendations for action
- Reviews the licensee's operation in terms of the approved rules of gaming, advising the Authority on licensees' applications that are subject to modification
- Investigates complaints lodged against licensees, and recommends action by the Authority
- Ensures licensees are complying with harm minimisation requirements and reports to the Authority on non-compliance with recommendations for action.

### 2. IT/Systems Evaluation (Testing Gaming/Gambling Software and Equipment)

Following a successful probity review of an applicant, the Authority/Director should arrange for review of the proposed gaming products, approve rules of gaming products, and test any gaming hardware and software to be operated by the applicant/licensee.

This process requires detailed testing by competent personnel (or an external Authorised Testing Facility - ATF), with reports and recommendations to the Authority. Any subsequent hardware or software change to the configuration approved by the Authority for the licensee would require a similar process prior to "going live". In cases of emergency, software/hardware changes could be made but should be immediately reported to the Authority, with test results. The Authority should review the changes, and if satisfied, approve the amendments.

### 3. Administrative Support, IT Systems Maintenance, Finance & HR

The Authority/Director would require executive/administrative support for secretarial and other crucial services for the Authority's operations. Such support requires the position occupant to fulfil a major functional role for the Authority. An indicative Position Description for the Executive Support role has been drafted and is at **Attachment 3** to this report.

In addition to a generic executive support role this position is required to maintain an extensive data base of licence applications, approvals, financially interested parties, shareholders, transfers, addresses, contact details, etc.

There will be significant start-up costs for an IT system that records applications, licensing approvals, licence condition, business owners/operators, financially interested persons, etc. The Authority currently runs a paper system in this regard which is totally inadequate for a regulatory environment.

These administrative services should support the receipt of application fees, renewal fees, tax assessment and collections.

Such services need to be supported by an appropriate security-focused ICT strategy that ensures data cannot be manipulated and is maintained securely with adequate back-up facilities (preferably off-site to address disaster recovery and business continuity).

## DETAILED REPORT

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Financial support is required to ensure budgets are set and reported upon to the Director/Authority.

A Human Resource function is also required to ensure relevant employment contracts are in place, together with a payroll system, with clear segregation of duties in payroll authorisation payments.

The Authority/Director also occasionally requires access to legal advice. This may be fulfilled through provision of legal advice from a legal firm third party provider or from the NI Administration or Department.

## POSITION DESCRIPTIONS

In relation to the above functions, we have drafted positions descriptions to undertake these functions, including relevant/necessary qualifications. These are set out at **Attachments 1-5** of this report.

## RESOURCING AND FUTURE VIABILITY OF THE AUTHORITY

In reviewing the level of resources to undertake the above responsibilities and renew the operations of the Authority, regard must be taken to the unique situation that confronts Norfolk Island and potential employees.

We consider that the following points should be taken into account:

1. The costs associated with resourcing the Authority on Norfolk Island will be greater because of its unique circumstances – ie geographic isolation, shortage of skilled personnel, etc
2. Costs could be limited by applying user charges or out-sourcing.
3. These costs could be off-set by applying existing taxes and fees to the Authority.

### 1. Costs associated with maintaining business operations on Norfolk Island

Norfolk Island's population is approximately 2,000 persons, and while it has had previous limited internet and communication facilities, the new NBN Skymuster satellite is now operational and will improve internet Broadband capacity within the Island.

Additional communication options between Norfolk Island and the Australian mainland include the use of Skype and VOIP.

However, the Authority still does not have appropriate infrastructure and the requisite technical expertise necessary to maintain the mostly tailor-made operational systems utilized by the various licensees.

In addition, the Authority's capacity to find staff on the Island with sufficient skills, knowledge and experience to command a first world internet gaming regulatory environment is questionable.

As at 1 July 2016 there 39 licences of which 20 licences are inoperable. Centium has been advised that a significant number of licensees is expected to surrender or not renew their licences, including the operator that has historically been the major source of revenue.

Only one licensee has a presence on Norfolk Island. All the remainder are located along Australia's eastern seaboard. In terms of compliance strategies, this would increase the cost but also the efficiency of managing that workload, if a 'shared resource' was to be utilised.

A significant reduction in licences would result in a minimal workload for a full-time (or even a part time) executive support/administrative resource for the Authority.

We also considered other factors that included the need to re-establish the Authority's credibility with stakeholders. We formed a view that a significant positive marketing campaign may yield renewed interest, but this may take time, given that the Authority's reputation has been tarnished, which has included adverse media exposure.

We further considered the practicality of retaining the Authority's resources (or a major component of resources) on Norfolk Island.

Taking the above factors into consideration, the costs involved in retaining the Authority's resources on Norfolk Island are likely to include:

- Recruitment/retention costs for the Director, Deputy Director and Executive/Administrative Support
- Travel costs between the Australian mainland and Norfolk Island (via New Zealand, with necessary layovers and accommodation costs)
- Ensuring integrity of the Authority's infrastructure (including its IT Systems, records, payroll, and operational interactions with licensees)
- Establishing a framework of sound operational capability, integrity and regulation that meets legislated requirements (including any legislative changes)
- Re-engaging with stakeholders and potential stakeholders to restore the reputation of the Authority at a time where its integrity and capacity has been tarnished through the media.

## **2. User Charges associated with Outsourcing the Authority's Operations**

There is also a need to determine whether and what functions of the Authority should be outsourced, with service costs to applicants to be integrated into the annual gaming licence fee structure. Such costs would include applicant integrity/probity checking and investigations.

Costs would also include software system testing as part of the evaluation of the applicant's capacity to operate in accordance with the conditions of the gaming licence (if approved).

Whatever those costs, there are a number of ways in which revenues from licensees could be used to off-set the level of resources required by the Authority.

We noted that many licence schemes impose fees on a user charge basis. However, the Authority has not adopted this conventional cost recovery practice. It applied a \$10,000 fee for limited probity investigations, which did not meet the legislated requirements. From our review of comparable Australian jurisdictions, we estimate that full cost recovery for an appropriate level of probity investigation for a prospective licence would range between \$50,000 and \$100,000.

## DETAILED REPORT

It is doubtful that the remaining licensees would have the capacity to pay such substantially increased licence application fees and taxes to offset the costs of the regulatory regime, and operational costs of the Authority. This category of licensee represents the small end of the market with limited resources and financial backing.

### 3. Fees and Taxes

A consideration could be given to applying funds raised through taxes, application and renewal fees to the Authority's budget.

Centium has been advised that the current bookmaker licensees that now pay almost 90% of the fees and taxes collected by the Authority (estimated at \$850,000\*) may not continue to be licensed by the Authority. This factor could result in this avenue of funding being severely curtailed.

We obtained and analysed a listing of revenues and expenditures for the period 2012 to 2016. The two key sources of revenue are licence application fees and taxes. Estimated revenues for the year ending 30 June 2016 were \$60,000 (from application fees) and \$900,000 (from duties).

2012/13		2013/14		2014/15		2015/16 (YTD)	
Tax	Licence Fees	Tax	Licence Fees	Tax	Licence Fees	Tax	Licence Fees
\$653,000	\$0	\$544,000	\$19,000	\$412,000	\$82,000	\$724,000*	\$126,000*

(\*Actual to end April 2016)

Another form of revenue would be the retention of fines or penalties imposed on licensees for breaches of licence conditions. We note that the Authority presently charges one licensee a complaint handling fee of \$5,000 per annum.

### Existing Authority Costs

From information obtained during Centium's Performance Review, the key areas of expenditure for the Authority for the year ending 30 June 2016 were indicated to be:

Key Area	Amount
Employees' remuneration	\$112,000
Employees' (Director's) Travel	\$26,000
Members' Remuneration	\$45,000
Members' Travel	\$10,000
External marketing firm	\$20,000
External Software Developer	\$20,000
<b>Totals</b>	<b>\$233,000</b>

In effect, the Authority's work was undertaken by the former Director on a part time basis with limited assistance (45 minutes per day) from an Administrative Assistant.

Additional resources are required to undertake these functions which are necessary to ensure the Authority is operating to its statutory charter.

To our knowledge no external marketing firm was engaged.

**Appropriate Structure for Existing Legislation - Costed as Fully Operational**

The current Norfolk Island legislation requires an Authority with 3 members. We have suggested an annual stipend of \$15,000 pa per member. Based on review of structures, resourcing and costs with other regulatory bodies in Australia, we would suggest the following employee related costings:

Position	Assumed Percentage	Costs
3 Board Members	100%	\$58,500
Director - SES Grade 2	100%	\$284,200
Deputy Director Senior Officer Grade 1	100%	\$208,000
Executive Officer - Clerk Grade 11/12	100%	\$130,000
Authorised Officer - Clerk Grade 11/12	100%	\$130,000
Administrative Assistant - Clerk Grade 5/6	100%	\$65,000
Travel (Board Members and employees)	100%	\$145,000
Legals (Contingency cost for initiating disciplinary/legal actions against non-complaint licensees, including actions in Court)	100%	\$60,000
		<b>Total: \$1,080,700</b>

This proposed structure enables individuals to act in positions above their respective grade to open a career path and facilitate delivery of relevant training. It also provides for appropriate segregation of duties and supervision.

While one individual could undertake the various functions, as listed on page 8 of this report, providing they possess the various skills, knowledge and experience, this would greatly increase the risks associated with lack of segregation of duties, necessary for appropriate approval processes. We note that this situation occurred prior to Centium's performance review of the Authority.

Given the unique situation on Norfolk Island, the Authority should have recourse to additional resources as required, and have the ability to outsource the functions mentioned above.

It is difficult in the current situation to estimate with any certainty the future workload to be undertaken by the Authority, based on the assumption provided by the Department indicates that half the number of licensees may not continue, of which we have assumed that many bookmakers will not continue as licensees. Our best estimate of future workload and required resources under the existing legislation is as follows:

**Estimated Direct Employment Related Costings - Assumed Limited Operation under Existing Legislation**

Position	Assumed Percentage	Costs pa
Authority Board Members	100%	\$58,500
Director	50%	\$141,050
Deputy Director	25%	\$52,000
Executive Officer	25%	\$32,500
Authorised Officer	30%	\$42,900
Administrative Assistant	50%	\$32,500
Travel Costs	50%	\$72,500
Legals (Contingency cost for initiating disciplinary/legal actions against non-complaint licensees, including actions in Court)	50%	\$30,000
		<b>Total: \$461,950</b>

The above costs relate to direct employment costs. While we do not recommend the continuation of the Authority under the existing legislation, if that option was chosen there would be additional costs which are listed on page 18 of this report. These would include, for example, external consultancy fees, IT Systems services, and updating the technical capacity which would involve costs exceeding \$1M.

**OPTIONS IDENTIFIED UNDER 'BETTER PRACTICE' SCENARIO**

The existing legislation requires the Authority to undertake a number of responsibilities - probity, compliance, licensing, complaints handling, etc. In doing so, the Authority is required to undertake these activities to an appropriate standard irrespective of what governing legislation is in place. In a better practice model these activities would require enhancement and be supported by additional resources.

During the course of undertaking this review we examined better practice of Gaming Authorities in a number of Australian jurisdictions.

We noted a relatively consistent approach in addressing such areas as Probity, Compliance, IT/Systems evaluation and Administrative/Executive, support that complements the relevant Authority/s business needs and regulatory framework.

In particular, we identified the need for consistently rigorous background checking of gaming licence applicants to determine their identity, financial security and ability to maintain business continuity. This included investigations of applicants to identify any criminal history background or association, and whether the applicant had previously been rejected for a gaming licence in another jurisdiction.

We also noted the need for initial investigation processes to identify whether the applicant (Company or person) was Australian based or based overseas and may have been the subject of gaming licence cancellation or an adverse report, on any previous occasion.

We formed a view that thorough probity investigations, particularly where the applicant was an entity from outside Australia, may cost between \$50,000 and \$100,000. Australian State/Territory regulators often require tenderers for casino licences to lodge a deposit fee of \$100,000 or more to cover the cost of background/probity/financial checks - with the amount unspent being returned to the applicant.

In a 'user pays' model, such costs would be charged to the licence applicant as part of the licence application fee, as would applicant software evaluation costs through software testing facilities (ATFs).

We noted the extent and timeframe necessary for thorough background checking through the Australian Federal Police in relation to gaming licence applicants, which on present indications may take as long as 3 months.

We also noted the evaluation of risks associated with any minimally financed start-up venture, given the possibility that an approved licence holder could surreptitiously 'exit' the market with players' funds.

In the concept model of 'User Pays' further consideration was given to the inclusion of 'on-costs' in the gaming licence fee for start up ventures for applicant probity/integrity investigations, and for gaming software evaluation by a specialist, such as an Approved Testing Facility (ATF).

This raised issues of the 'ability to pay' for small or micro start up ventures at the outset. This could create a perception that only the bigger players in the field were eligible (or were being favoured) through their more established robust financial position at the time of licence application.

We also noted the need for Compliance Officers (Authorised Officers) to conduct inspections and investigations of licensees where issues of non-compliance were identified, as well as off-site and on-site compliance audits.

In examining 'better practice' gaming authorities in Australian jurisdictions, we noted the following deficiencies in the existing legislation which would need to be rectified and resources directed towards in implementing and maintaining those revised provisions:

- The identification, probity assessment and licensing of key employees
- Identification and probity assessment of close associates
- Employment of Compliance Officers to review ongoing licensee operations
- Initial testing and ongoing testing of licensee IT systems
- Identification, revision and approval of gaming rules
- Implementation and review of harm minimisation practices
- 'Right of entry' for Authorised Officers to access licensee premises and associated penalties for refusal of access

In a better practice environment resources would be required to cover such areas as:

- Probity
- Compliance
- Transparency and Reporting (including annual reporting)
- Gaming software evaluation and ongoing testing

- Player dividend evaluation and reporting
- Complaints and appeals
- Auditing of various aspects of gaming licences and licensees
- Investigations and audits by Compliance Officers (currently defined as 'Authorised Officers' under S.17 of the Gaming Supervision Act)
- Imposing penalties for licence conditions breaches, and related actions
- Risk identification and mitigation
- Legal due diligence for regulatory compliance, contracts and governance for the Regulator
- Stakeholder engagement (this would be a critical issue to re-establish NIGA with prospective gaming licence applicants)
- Educating licensees in ensuring proper and consistent compliance with licence requirements
- Clear segregation of duties within the Regulator to ensure a sound ethical framework
- Problem Gambling initiatives (harm minimisation).

Substantial additional resources would be required for the Authority to undertake such functions.

We examined the feasibility of putting in place extensive resources to cater for such functions on Norfolk Island.

As previously noted, there are also likely to be issues to contend with regarding recruitment and particularly, retention, of staff on Norfolk Island to provide such functions as are contemplated by this model.

We formed a view that recruiting staff to work for the Authority in order to demonstrate a presence on Norfolk Island to restore market confidence would present significant difficulties as the roles are likely to entail variable part time hours, with little or no opportunity for other employment for such staff on Norfolk Island. This may require a 'fly in fly out' model, resulting in additional travel costs and further diminishing opportunities to recruit and retain appropriately qualified and experienced staff for the Authority.

We suggest a fee for service model, as a cost to the licence applicant. This would include probity background investigations of applicants, and service charges imposed by an Authorised Testing Facilities for gaming software evaluation and ongoing testing through the life of the licence.

We noted the requirement in a 'better practice' scenario for extending the Authority's resources to provide a fully functional licensing authority. We noted the need for appropriate segregation of duties in the structure of such an authority which should include at least one member having legal qualifications (with clearly defined and segregated legal due diligence responsibility).

In order to attract a suitably qualified and experienced team for the Authority 'in residence' on Norfolk Island, there would be a need to contemplate providing:

- Fixed term contracts for office-holders/employees
- Suitable residential accommodation for office-holders/employees (possibly subsidised in part or in full, to enhance the attraction of quality applicants for positions)
- A suitable premise for the authority's location on Norfolk Island

- Regular return airfares to and from the Australian mainland (including the costs of layovers in New Zealand because of infrequency of flights and time difference between Australia and Norfolk Island)
- An upgrade to Norfolk Island's internet network to 4G to cope with effective monitoring of licensees' on-line gaming (particularly with emerging use of Cloud technology, and requirements of high speed on-line systems access, including the Authority's capacity to 'mirror' the licensee's system for compliance monitoring, and ensure effective backup and system fault rectification with an off-site IT Service provider)
- Effective off-site backup (on Australia's mainland) of Authority systems and records (including business continuity and disaster recovery procedures and capabilities)
- Facility for direct access to the Australian Federal Police for applicant licence checking/investigation
- Provision of travel to and from the Australian mainland for the Authority's authorised officers (Compliance officers) to conduct interviews of licence applicants, as part of probity checking, and subsequent audit and investigation processes for non-compliance
- Development and drafting of a range of policies and procedures covering all aspects of the Authority's regulatory framework and requirements, operations, risk identification and mitigation, business continuity, succession planning and sharing corporate knowledge.

On the basis of a 'better practice' model we have formulated estimated costs encompassing set-up and ongoing costs to the Authority (with indicative first year operational costs) on the basis of the following two models:

1. Fully Operational; and
2. Assumed Limited Operation.

## DETAILED REPORT

### 1. Fully Operational Costing - Appropriate Structure for Better Practice

On the basis of a 'better practice' model we have formulated a table of estimated costings encompassing set-up and ongoing costs to the Authority (with indicative first year operational costs).

Position/Resource	Percentage	Estimated Costs (pa)
Recruitment Costs for positions (recurrent costs if staff retention is comprised by location and facilities on Norfolk Island)	100%	\$25,000
Board Members at \$15,000 pa per member	100%	\$58,500
Director (equivalent SES Grade 2)	100%	\$282,100
Deputy Director (equivalent Senior Officer Grade 1)	100%	\$208,000
Executive Support remuneration	100%	\$130,000
Authorised Officer (Compliance)	100%	\$130,000
Admin Assistant	100%	\$65,000
Board Member/Director/Deputy Director Travel	100%	\$60,000
Employees' travel (incl Compliance activities of licensee inspections)	100%	\$55,000
Costs of layovers for employee travel (including Compliance Officer travel)	100%	\$30,000
Residential accommodation subsidy	100%	\$80,000
Acquisition of Authority premises	100%	\$25,000
Marketing consultancy services	100%	\$60,000
Consultancy/Legal Policy Development	100%	\$100,000
External IT Systems Services, including software development, gaming activity monitoring, reporting and external/off-site backup facilities, fault diagnosis, critical system activities and recovery (including FTP Service using a Government Data Centre - enabling licensees to submit documents, performance data and taxation returns securely); Relational database within Government data centre hosting all performance data (turnover, gross profit and tax)	100%	\$250,000:  Includes: <ul style="list-style-type: none"> <li>• Government FTP Hosting Service of up to \$20,000 pa); and</li> <li>• Relational database within Government data centre hosting all performance data (turnover, gross profit and tax); up to \$20,000 pa</li> </ul>
Miscellaneous Resources and Operating costs - eg rent, telecommunications, staff equipment (mobile phones, laptops, iPads, printers and associated materials), Annual Report preparation and printing, Payroll services for Directors and employees, Authority web-site maintenance, Utility expenses, premises security with off-site security monitoring/alarms, etc	100%	\$60,000
Start-up Costs - Development and Implementation of Policies and Procedures	100%	\$100,000
Contingency cost for initiating disciplinary/legal actions against non-complaint licensees, including actions in Court	100%	\$60,000
		<b>Total: \$1,778,600</b>

## DETAILED REPORT

### 2. Assumed Limited Operation Costing - Appropriate Structure for Better Practice

Again, we note the difficulty in the current situation in estimating with any certainty the future workload to be undertaken by the Authority. Our best estimate of future workload and required resources under a 'better practice' model is as follows:

Position/Resource	Percentage	Estimated Costs
Recruitment Costs for positions (recurrent costs if staff retention is comprised by location and facilities on Norfolk Island)	100%	\$25,000
Board Members at \$15,000 pa per member	100%	\$58,500
Director (equivalent SES Grade 2)	50%	\$141,050
Deputy Director (equivalent Senior Officer Grade 1)	25%	\$52,000
Executive Support remuneration	25%	\$32,500
Authorised Officer (Compliance)	30%	\$42,900
Admin Assistant	50%	\$32,500
Board Member/Director/Deputy Director Travel	60%	\$36,000
Employees' travel (incl Compliance activities of licensee inspections)	50%	\$27,500
Costs of layovers for employee travel (including Compliance Officer travel)	50%	\$15,000
Residential accommodation subsidy	100%	\$80,000
Acquisition of Authority premises	100%	\$25,000
Marketing consultancy services	100%	\$60,000
Consultancy/Legal Policy Development	100%	\$100,000
External IT Systems Services, including software development, gaming activity monitoring, reporting and external/off-site backup facilities, fault diagnosis, critical system activities and recovery (including FTP Service using a Government Data Centre - enabling licensees to submit documents, performance data and taxation returns securely); Relational database within Government data centre hosting all performance data (turnover, gross profit and tax)	100%	\$250,000 Includes: <ul style="list-style-type: none"> <li>• Government FTP Hosting Service of up to \$20,000 pa); and</li> <li>• Relational database within Government data centre hosting all performance data (turnover, gross profit and tax); up to \$20,000 pa</li> </ul>
Miscellaneous Resources and Operating costs - eg rent, telecommunications, staff equipment (mobile phones, laptops, iPads, printers and associated materials), Annual Report preparation and printing, Payroll services for Directors and employees, Authority web-site maintenance, Utility expenses, premises security with off-site security monitoring/alarms, etc	100%	\$60,000
Start-up Costs - Development and Implementation of Policies and Procedures	100%	\$100,000
Contingency cost for initiating disciplinary/legal actions against non-complaint licensees, including actions in Court	50%	\$30,000
		<b>Total: \$1,167,950</b>

# ATTACHMENTS

## ATTACHMENT 1 - ROLE DESCRIPTION FOR DIRECTOR

### POSITION'S KEY FUNCTIONS

- Directs the overall operations of the Authority, including legislated responsibilities of direct supervision and inspection of licensed operations
- Ensures the Authority's resources and funds are able to meet its regulatory and legislated obligations
- Liaises at a strategic level with Government and other stakeholders on all aspects of the Authority's areas of responsibility that include licensing, regulatory, compliance and harm minimisation
- Ensures the Authority has in place effective policies and processes across all regulated and legislated requirements

### KNOWLEDGE AND SKILL REQUIREMENTS

- Demonstrated experience at a senior executive level in a regulatory gaming environment
- Demonstrated achievements in outcomes based change strategies including planning and implementing proactive organisational strategies in a shifting licensing landscape
- Demonstrated ability and extensive experience in positive engagement with high level stakeholders in Government
- Proven ability to represent the Authority in various jurisdictional environments and forums
- Proven ability for strategic decision making in a regulatory or similar environment including formulating, implementing and sustaining positive stakeholder engagement strategies
- Commitment to sound ethical and transparent governance principles and practices and the ability to lead an organisation based on those principles
- Outstanding high level communications, negotiation skills and political acumen

### QUALIFICATIONS

Relevant tertiary qualifications that may include financial, legal and management qualifications

## ATTACHMENT 2 - ROLE DESCRIPTION FOR DEPUTY DIRECTOR

### POSITION'S KEY FUNCTIONS

- Accountable to the Director for supporting all activities of the Authority, including where appropriate, performing the functions and exercising the powers of the Director
- Ensures the Authority meets its regulatory and legislated obligations across all its activities with a particular focus on its Probity, Compliance, and licensee systems evaluation strategies and activities
- Supports the Director and the Authority at a strategic level in relation to interactions with Government and other key stakeholders
- Ensures the Authority has in place effective policies and processes across all of its regulated and legislated requirements
- Devises, communicates and implements the Authority's legal due diligence, risk management, and business continuity strategies and practices
- Undertakes the role of General Counsel for the Authority

### KNOWLEDGE AND SKILL REQUIREMENTS

- Demonstrated experience at an executive level in a regulatory gaming environment
- Demonstrated experience in effectively dealing with a wide range of stakeholders both as clients of the Authority and in Government
- Ability to represent the Authority in Government forums and across jurisdictions
- Proven ability for strategic decision making in a regulatory or similar environment
- Commitment to sound ethical and transparent governance principles and practices and the ability to support and contribute to the leadership of an organisation based on those principles
- Outstanding high level communications, negotiation skills and political acumen
- Highly developed interpersonal skills that foster trust and develop cooperative working relationships with a range of stakeholders
- Proven ability to analyse and provide sound advice on issues that may involve or lead into complex legal matters
- Highly developed financial management, analytical and project management skills
- Well developed communications, interpersonal and negotiation skills and political acumen

### QUALIFICATIONS

Relevant legal qualifications

## ATTACHMENT 3 - DRAFT POSITION DESCRIPTION FOR EXECUTIVE SUPPORT ROLE

### POSITION'S KEY FUNCTIONS

#### Financial Management

- Developing and maintaining financial management systems including account structures, operating budgets, preparation of statutory reports, revenue collection and recording, Tax returns and internal audit procedures
- Preparing submissions to Government agencies and the management and reporting of revenue generated and collected through gaming licences.

#### Administration and Human Resources

- Coordinating all secretariat activities for effective operations of the Authority, including agenda and business papers, minuting meetings, ensuring actions from meetings are acted upon, and organising and managing events
- Preparing draft documentation to gaming licence applicants
- Maintaining and managing on-site NIGA equipment and resources
- Maintaining and coordinating engagement contracts for the Director, Deputy Director, Compliance Officer, and manage remuneration matters.

#### Consultant Management

- Developing and implementing consultant management plans for all NIGA projects including supervision of external contractors, provision of executive support to consultant teams, management of associated funding and budgets
- Developing and implementing corporate relationship strategies including corporate project involvement and financial support. This may be required by representing NIGA through Regulatory jurisdiction committee membership, working group memberships, industry functions and stakeholder meetings.

### KNOWLEDGE AND SKILL REQUIREMENTS

- Demonstrated experience in the provision of high-level executive support in a regulatory gaming environment
- Highly developed interpersonal skills that foster trust and develop cooperative working relationships with a range of stakeholders
- Proven ability to analyse and provide sound advice on issues that may involve legal matters
- Proven ability to manage priorities and workload, meet deadlines and sustain high level support in an environment where there may be significant variations in workflow
- Sound understanding of economic, social and cultural diversity issues at regional and/or local community level
- Well-developed financial management, analytical and project management skills
- Detailed understanding of and commitment to sound ethical and transparent governance principles and practices
- Highly developed communications, interpersonal and negotiation skills and political acumen

### QUALIFICATIONS

Relevant tertiary qualifications preferred.

## **ATTACHMENT 4 - ROLE DESCRIPTION FOR ADMINISTRATIVE SUPPORT**

### **POSITION'S KEY FUNCTIONS**

Provide administrative support across the functional areas of:

- Strategic and Business Operations
- Financial Management
- Day to day administration
- Stakeholder liaison
- Secretarial assistance within the Authority

### **KNOWLEDGE AND SKILL REQUIREMENTS**

- Demonstrated well developed administrative skills in a standalone support role
- Ability to manage multiple priorities and variable workloads
- Well developed interpersonal skills that support cooperative working relationships with a range of stakeholders
- Proven ability to analyse and provide sound advice on complex stakeholder and Authority issues, that could involve legal aspects
- Well developed analytical and project management skills with financial management skills
- Understanding of and commitment to sound ethical and transparent governance practices

### **QUALIFICATIONS**

Relevant tertiary qualifications preferred.

## ATTACHMENT 5 - ROLE DESCRIPTION FOR AUTHORISED OFFICER

### POSITION'S KEY FUNCTIONS

Undertake Compliance activities for the Authority including:

- Supervising and inspecting licence operations
- Assisting in the detection of offences in relation to licence operations and activities
- Conducting investigations into potential licence breaches
- Entering licensee premises and conducting inspections
- Notifying the Authority and documenting reports of offences (and other non-compliance) in relation to licence operations and activities

### KNOWLEDGE AND SKILL REQUIREMENTS

- Well developed compliance skills in a Regulatory gaming environment
- Detailed understanding of the gambling and gaming industries and associated licensing requirements and compliance
- Ability to identify and investigate possible licence breaches in a timely manner, and to prioritise appropriate actions
- Demonstrated understanding of the functions of a Compliance officer in a standalone regulatory role within a 'better practice' jurisdiction
- Ability to set and manage multiple priorities
- Proven ability to engage with license holders, as appropriate, including managing conflict
- Demonstrated decision making skills on disciplinary and other appropriate actions in relation to licence breaches
- Demonstrated ability to facilitate licensee compliance through stakeholder education under a 'better practice' model
- Proven ability to analyse licence conditions and potential breaches, and to provide sound advice on issues that may involve complex legal matters
- Well developed analytical, financial, project management and investigative skills
- Detailed understanding of and commitment to sound ethical and transparent governance principles and practices
- Well developed interpersonal and negotiation skills with the ability to address conflict to achieve positive outcomes

### QUALIFICATIONS

Relevant tertiary qualifications preferred.